



Division for the Advancement of Women



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*"Violence against women: Good practices in  
combating and eliminating violence against women"*

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**Addressing domestic violence in South Africa:  
Reflections on strategy and practice**

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## **Introduction**

Violence against women has been one of the most prominent features of post-apartheid South Africa. While estimates of the extent of violence vary<sup>1</sup>, the issue has dominated national public debates and galvanized community-based activism and NGO intervention. The extent of the problem was also recognised by the ANC government from relatively early in its tenure. The National Crime Prevention Strategy (NCPS) of 1996 established crimes of violence against women and children as a national priority (a status such crimes have continued to enjoy in subsequent national policing strategy documents) and a number of legislative reforms have also been instituted in this area. These include mandatory minimum sentences for certain rapes (the Criminal Law Amendment Act, no 105 of 1997); tightening bail conditions for those charged with rape through the Criminal Procedure Second Amendment Act (no 85 of 1997); and passing, in 1998, the *Domestic Violence Act* (DVA) (no. 118 of 1998). *National Policy Guidelines for the Handling of Victims of Sexual Offences* were also finalised in 1998<sup>2</sup> and the *Policy Framework and Strategy for Shelters for Victims of Domestic Violence in South Africa* in 2003 (Department of Social Development, 2003). Specialist facilities have also been set up such as family courts<sup>3</sup>, specialist sexual offences courts and Thuthuzela centres.<sup>4</sup> Thus the first ten years post-1994 have been marked by increasing state intervention into the problem of violence against women. This paper critically reflects on aspects of these

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<sup>1</sup>One study surveying 1 306 women in three South African provinces found that 27% of women in the Eastern Cape, 28% of women in Mpumalanga and 19% of women in the Northern Province had been physically abused in their lifetimes by a current or ex-partner. The same study investigated the prevalence of emotional and financial abuse experienced by women in the year prior to the study and found that 51% of women in the Eastern Cape, 50% in Mpumalanga and 40% in Northern Province were subjected to these types of abuse (Jewkes et al, 1999). Another study, undertaken with a sample of 168 women drawn from 15 rural communities in the Southern Cape, estimated that on average 80% of rural women are victims of domestic violence. Interviews conducted with 1 394 men working for three Cape Town municipalities found that approximately 44% of the men were willing to admit that they abused their female partners (Abrahams et al, 1999). National figures for intimate femicide (men's killing of their intimate female partners) suggest that this most lethal form of domestic violence is prevalent in South Africa. In 1999 8.8 per 100 000 of the female population aged 14 years and older died at the hands of their partners - the highest rate ever reported in research anywhere in the world (Mathews et al, 2004).

At present the true extent of sexual violence in South Africa is unknown. StatsSA found that one in two rape survivors reported being raped to the police (Hirschowitz, Worku and Orkin, 2000), while the Medical Research Council (MRC) found that one in nine women reported being raped (Jewkes and Abrahams, 2002). Both studies clearly find rape to be under-reported although their findings differ as to the extent of such under-reporting. On the basis of the above studies it can be extrapolated that the 52 733 rapes reported by the SAPS in their 2003/04 released data is more accurately calculated as falling somewhere between the region of 104 000 and 470 000 actual rapes having taken place.

<sup>2</sup>These guidelines are applicable to police officers, health workers, prosecutors, social workers and lay counsellors, as well as parole boards and institution committees of the Department of Correctional Services.

<sup>3</sup>Family court centres include a divorce court, a maintenance court, Children's court and family violence court. Five such pilot projects have been established in four provinces in South Africa.

<sup>4</sup> These centres act as a 'one-stop shop' for rape-care management, streamlining a network of existing investigative, prosecutorial, medical and psychological services in the hospital where they are located.

interventions in order to draw some tentative conclusions about strategies and good practices in relation to reforming legislation addressing violence against women.

A brief history of the enactment of the DVA introduces the discussion. This highlights at least some of the conditions necessary to passing a progressive piece of legislation. The paper then describes some of the key innovations of the DVA, before examining how some of the Act's provisions have been implemented. It also examines which women have been most likely to benefit from the DVA. This is followed by an overview of efforts to hold the state and its actors accountable, both through the introduction of statutory obligations as well as through public interest litigation. It concludes by using these reflections as a basis for recommendations around good practice in the area of law reform.

Before proceeding to this discussion, some points need to be made about two aspects of the South African context: the women's movement to address gender-based violence, as well as a state emerging out of a nationalist liberation struggle. Firstly, apart from a brief flowering during South Africa's negotiated transition to democracy in the early 1990's, the South African women's movement generally remains weak and fragmented (Hassim, 2005). What activism does exist, has emerged sporadically and perhaps most often in relation to reproductive rights and violence against women. There is limited sustained, active networking, or sharing of experiences and lessons between organisations around the country. Many projects and initiatives remain undocumented and rigorous evaluations of the impact projects is rarely conducted. Divisions on the basis of race, geography, education, sexual orientation and political belief (to name but a few), as well as competition for scarce resources, hamper organisations' ability to work together.

The South African state also demonstrates a number of features distinctive to post-colonial states. Rai (1996) suggests that the nationalist elites of such states see themselves as agents of social and economic transformation and engage in their own projects to effect change and development. This is particularly true of the South African state, which is noted for its responsiveness to improving various aspects of women's status, including quotas for female representation in parliament. Indeed, with notable exceptions, it is more likely to have been the state which has driven the agenda for legislative change, than women's organisations.

Third world states may also have weak infra-structural power, with the result that the implementation of directives becomes dependent upon the personal attributes of the enforcers rather than the state's capacity to implement its laws and policies. Finally, corruption is another factor significantly affecting how states function, as well as impacting upon how men and women engage with state officials (as when women are expected to trade sexual favours for assistance).

### **The Domestic Violence Act (DVA) (no 118 of 1998)**

#### *The passage of the DVA*

The first piece of legislation to specifically address domestic violence in South Africa was the Prevention of Family Violence Act (PFVA)(no 133 of 1993). However, soon after the PFVA was introduced aspects of its provisions were questioned by attorneys who thought men's right to a fair hearing was being violated by the PFVA. Others countered that the departure from the *audi alteram partem* rule was justified by the victim's urgent need for protection from harm. After soliciting the opinion of both the Department of Justice as well as the Family Advocate, the South African Law Commission (SALC) established in February 1996 a project committee comprising a number of feminist lawyers and experts in the area of domestic violence to review the legislation (Meintjes, 2003). The product of the committee, the DVA was

passed in 1998 and operationalised a year later on December 15 1999. Its passage was not without controversy, with some of its key innovations challenged by two male non-feminist committee members. According to Meintjies, the fact that the more progressive version of the Act was adopted was the outcome of the following conditions: that women's organisations addressing domestic violence mobilised around the Act; that key networks between women politicians and bureaucrats existed within the state; the presence of a democratic discourse and framework that integrates gender; civil society organisations with the skills and knowledge to intervene in and negotiate with complex state processes and apparatuses; and finally, key individuals in leadership positions committed to championing issues constantly (*ibid*: 141).

#### *The content of the Domestic Violence Act*

It is the purpose of this Act to afford the victims of domestic violence the maximum protection from domestic abuse that the law can provide; and to introduce measures which seek to ensure that the relevant organs of state give full effect to the provisions of this Act, and thereby to convey that the State is committed to the elimination of domestic violence. (*Preamble to the Domestic Violence Act No 116 of 1998*)

One of the key innovations of the DVA is its broad definition of domestic violence which includes a range of behaviours within its ambit. Acts constituting domestic violence include physical, sexual, emotional, verbal and psychological abuse<sup>4</sup>; economic abuse<sup>5</sup>; intimidation; harassment; stalking; damage to property; entry into the complainant's residence without consent, where the parties do not share the same residence; and any other controlling or abusive behaviour where such conduct harms, or may cause imminent harm to the safety, health or well-being of the complainant.

The DVA is applicable to a range of familial<sup>6</sup> and domestic<sup>7</sup> relationships and covers both heterosexual and same sex relationships. Under the DVA, a victim of domestic violence may apply for a protection order to stop the abuse and to stop the abuser from entering the mutual home, the victim's residence, or the victim's place of employment.<sup>8</sup> The court may place other conditions on the order, including that the police seize any weapons or help the victim retrieve property from her home.<sup>9</sup> The court can evict the abuser from the home

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4 Described as a pattern of degrading or humiliating conduct towards a complainant including repeated insults, ridicule, or name calling; repeated threats to cause emotional pain; or the repeated exhibition of possessiveness or jealousy which is such to constitute a serious invasion of the complainant's privacy, liberty, integrity or security.

5 Described as the unreasonable deprivation of economic or financial resources to which a complainant is entitled under law or which a complainant requires out of necessity, including household necessities for the complainant, and mortgage bond repayments or payment of rent in respect of the shared residence.

6 Married, divorced or separated couples; couples living together; parents of a child; family members (including the extended family); people who are or were engaged or dating one another - including those circumstances where one party (but not the other) perceives some form of romantic, intimate or sexual relationship to be in existence; and children.

7 Such as people who share or have recently shared the same residence (such as flatmates, housemates)

8 Sec. 4.

9 Sec. 7(2).

and force him to pay rent for and/or emergency maintenance to the victim.<sup>10</sup> The court also has the power to limit the abuser's custody rights to children.<sup>11</sup> If the court grants an interim or final protection order, it must issue a suspended warrant for the arrest of the abuser that will become active if the abuser violates the order.<sup>12</sup>

#### *Police obligations in terms of the DVA*

A second key innovation of the DVA is its attempt to introduce statutory monitoring and oversight of police enforcement of the law. Legislators placed particular obligations in the DVA upon the police in an effort to challenge their long history of neglect of domestic violence. Briefly, the police are required to explain to complainants that they are there to provide whatever assistance the circumstances require, which may include helping the complainant to find suitable shelter or obtain medical treatment. In addition they should inform the complainant of her right both to apply for a protection order, as well as lay criminal charges. Where reasonably possible this information should be provided to the complainant in the form of a notice. The notice also sets out the steps required to apply for a protection order, explains what the complainant should do in the event of a breach and sets out the type of relief or protection the complainant may request from the court. Where complainants cannot read the notice, police officers should read it to them in the language of their choice. They are also obliged to arrest the abuser if he does not obey the protection order.

Failure to comply with these obligations constitutes misconduct and the National Commissioner of the SAPS is required to submit six-monthly reports to Parliament detailing the number and nature of complaints against the police for failing to adhere to these statutory obligations; disciplinary proceedings instituted; and steps taken as a result of recommendations made by the Independent Complaints Directorate (ICD).

Police failure to uphold either the Act or its regulations must also be reported to the ICD, the civilian oversight body established in terms of the 1995 South African Police Service Act. Theirs is primarily a monitoring and oversight function with the police obliged to institute disciplinary proceedings against recalcitrant officers, unless the ICD directs otherwise. The ICD is also required to submit six-monthly reports to parliament recording the number and nature of complaints received against the police, as well as the recommendations made around such complaints.

#### **Monitoring the DVA**

Since the operationalisation of the DVA in December 1999, two studies (Parenzee, Artz and Moul, 2001; Mathews and Abrahams, 2001) have assessed its implementation (with a third currently in progress in the province of Gauteng). Both studies have been undertaken in the Western Cape, an affluent and relatively urbanised province in South Africa. What follows is a summary of some of their key findings.

#### *Women's circumstances and their access to justice*

The legacy of apartheid legislation such as the Group Areas Act, as well as the under-resourcing of rural areas shifts costs on to women which obstruct their access to justice. In 1994 for instance, 74% of the

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10 Sec. 7 (1)(c), (3) and (4).

11 Sec. 7(6).

12 Sec. 8.

country's police stations were located in white suburbs or business districts (Department of Safety and Security, 1998). The consequence of this is to impose what are often prohibitive travel costs upon black women. Drawing on research based in poor, black rural communities in the Southern Cape, Artz (1999:10) lists the following obstacles that women must overcome in trying to seek help with domestic violence:

- limited or no taxi or bus services, with what does exist being expensive;
- slow response times by the police and ambulance services;
- poor and expensive telecommunication services;
- large distances to public services means child care is a bigger problem if travel is necessary;
- few support services for abused women and no safe accommodation for women if they need to leave their homes;
- high rates of unemployment and underemployment, resulting in women struggling to pay for basic necessities, travel, accommodation or the costs of separation or relocation.

Staff at rural courts also noted the prohibitive costs of transporting witnesses from outlying areas, which were added to when witnesses were required to stay within courts' jurisdiction in order to testify (Artz, 2003).

Interviews with 23 women who had obtained protection orders highlighted police negligence and impotence, difficulties such as finding the money for documents to be served on the respondent and lack of information regarding due court process, as impediments to complainants' access to justice. Some women withdrew their applications because they experienced the process as too overwhelming. Others experienced the courts as being unable to cope with the administrative requirements of the Act (Mathews and Abrahams, 2000).

While South Africa has eleven official languages, the application forms for the protection order are available in only two of these languages. Over and above language, the written completion and reading of the application forms challenges women with varying degrees of literacy. Further, the forms are not available in Braille, and sign language interpreters for Deaf women are not readily available at courts.

#### *Resourcing the criminal justice system*

In theory the clerks of the court should be available to assist women to complete the application forms. In practice, criminal justice personnel think the legislation unimplementable due to limited or non-existent resources (Parenzee et al, 2001). Too few personnel in combination with a lack of police vehicles, fax machines and photo-copiers were thought to not only place additional burdens on law enforcement agents, but also compromise complainants' safety. Magistrates also expressed frustration with their resource constraints, pointing out that there had been an increase in all components of legal work without there being any corresponding increase in staff numbers (Artz, 2003).

The Department of Justice is not unaware of its staff shortages. Data from the Department of Justice (in Stack and Soggott, 2001) indicates a decline in the overall number of administrative officers and clerks from 6 897 to 4 101 between 1996 and 2000 - a loss of 2 796 employees. Further, in its briefing on budget 2001 to the portfolio committee, the Department stated that the implementation of new legislation such as the DVA has placed 'severe pressure' on its offices. The department went on to say that the 2001/02 budget for personnel 'appears to be less than that required for the number of approved posts; fewer persons can therefore be employed.'<sup>13</sup> The Department did not appear to consider how the broader definition of domestic violence, as well as the more inclusive understanding of family and domestic relationships, was

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13 Briefing to the Portfolio Committee on Justice: Budget 2001.

going to impact upon the courts. To provide one illustration: Alberton Court in Gauteng received 374 applications in 1999 for interdicts in terms of the Prevention of Family Violence Act. In 2000, the first year of the DVA's implementation, 1 696 applications were received for protection orders. Alberton received no corresponding increase in staff.

As a consequence of such under-staffing, NGOs have stepped into the breach in order to provide such services. Such services are either provided on a voluntary basis, or funded by foreign donors (Vetten and Khan, 2002a). Where this occurs, it may be argued that NGOs are effectively subsidising the state. This is not to criticise or devalue the importance of such interventions but rather to highlight a concern around organisations becoming the welfare and delivery arm of the state, and what the impact of this function may be on their capacity for critical advocacy.

**Subsidising the Department of Justice:  
Mosaic Training Service and Healing Centre for Women**

Mosaic is a community-based organisation providing a range of services to abused women in the Western Cape. Mosaic Court Support Desks at Wynberg, Goodwood, Belville, Cape Town, Simons Town, Kuilsriver and Paarl courts help applicants, mainly women, complete applications for protection orders. They are not charged by the Department of Justice for the use of these courts.

During the period April 2000 to February 2001, Mosaic assisted 15 142 applicants to obtain protection orders. From January 2001 to November 2001, Mosaic spent a total of R373 364.15 providing this service to women (Vetten and Khan 2002a: 23).

Studies' findings regarding police ineffectiveness in implementing the DVA have been given further weight by no less than national Police Commissioner Jackie Selebi. In 2001 he was quoted as saying that the DVA was not practical or implementable and was "made for a country like Sweden, not South Africa" (Louis Oelofse and Siyabona Mkhwanazi, 'Well-meaning laws can't be policed - Selebi', *The Star*, August 14, 2001; Jeremy Michaels, 'Selebi summoned for domestic violence remarks', *The Mercury*, August 22, 2001).

In addition to the under-resourcing of courts and police stations, effective implementation of the Act has been undermined by other factors, including police perceptions of domestic violence, fragmented service provision from the courts, the police and the health sector and the lack of information for applicants regarding the application procedure.

Parenzee et al (2001) suggested that unwillingness to intervene in "household disputes" remained pervasive in the SAPS and that domestic violence was rife among police officers. They concluded that progressive legislation, combined with unprogressive attitudes among law enforcement agents, created negative attitudes towards complainants, resulting in secondary victimisation of abused women and/or a failure to act according to the legal obligations set out in the legislation. Negative attitudes towards complainants were found to be related to complainants' withdrawal of charges.

### **Holding the state accountable for implementation**

#### *State accountability mechanisms*

Oversight of the DVA is not being satisfactorily accomplished, with only one report (Independent Complaints Directorate, Domestic Violence Report to Parliament, March 2001) ever submitted by the ICD

to parliament since the Act's operationalisation.<sup>14</sup> The SAPS have submitted no reports at all. According to both the ICD and SAPS, these reports have been compiled but never tabled because parliament has not requested these reports - so failing to exercise its statutory oversight function.

The Department of Justice and Constitutional Development has also not developed an adequate approach to assessing courts' performance in relation to the DVA. Medium term output targets for the specialised and lower courts include:

Sub-programme	Output	Output Measure/ Indicator	Target
Specialised Courts	Case flow management	Number of Cases Finalised	All cases on outstanding roll at 31 March 2004 plus 50% of new cases received in 2004/05.
Lower Courts	Case flow management	Number of Cases Finalised  Court Hours Worked  Case cycle time	40 per month per district and 15 cases per month per Regional Court in 2004/05.  5 hours per District Court and 4 hours per regional court  75% cases not older than 6months

None of these indicators or targets is particularly appropriate to assessing court performance in terms of the DVA. These targets are all based around trial processes and not applications for court orders. DVA matters will only go trial when there is a breach of the order (which occurs very rarely).

Indicators for the National Prosecuting Authority are equally silent on prosecution performance in relation to the DVA; all prosecutors are required to do is run awareness and education campaigns in schools, as the table below illustrates.

Subprogramme	Output	Measure/Indicator	Target
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<sup>14</sup>This report revealed that 8 police stations visited in KwaZulu-Natal failed to submit a record of complaints received from the public regarding police action (or lack thereof). In addition, over the second six month period in 2000, there were 115 reports to the ICD of police not fulfilling their obligations in terms of the Act. The same report to parliament states that protection orders were left to pile up in the Community Service Centres of police stations visited in Gauteng, KwaZulu-Natal and the Eastern Cape due to a shortage of police vehicles and the refusal of the Sheriffs to assist the police in serving protection orders

Public Prosecutions	Access to justice for women and children	Number of public awareness and education campaigns about sexual offences, domestic violence, maintenance and child justice	1 campaign per subject per province reaching 50 schools and 40 000 pupils per province
	Prosecution of cases involving women and children	Conviction rate in sexual offences cases	70% in 2004/05

*Litigating around domestic violence*

Litigation is an emerging area of strength for the small number of legal organisations<sup>15</sup> concerned with making the Bill of Rights real for women. A number of Constitutional Court cases have begun exploring and outlining the duties imposed upon the police and courts in terms of the Bill of Rights. These cases have primarily centred on state duties in relation to rape and have begun establishing a delictual duty upon state agents.

In *S v Baloyi*<sup>16</sup> the Constitutional Court held that the Constitution imposes a direct obligation on the state to protect the right of all persons to be free from domestic violence. In *Carmichele v Minister of Safety and Security* the High Court held that the common law of delict required development in order to reflect the constitutional duty on the state and, in particular the police and the prosecution, to protect ‘the public in general, and women in particular, against the invasion of their fundamental rights by the perpetrators of violent crime.’ The court accordingly held that the test for unlawfulness (the legal convictions of the community) must be redefined in the light of the Constitution, and that the police and prosecution thus owed ‘the plaintiff a legal duty to protect her against the risk of sexual violence’ in the circumstances of the case.<sup>17</sup>In *Van Eeden v Minister of Safety and Security* the Supreme Court of Appeal held that the respondent owed a legal duty to the appellant to take reasonable steps to prevent an escaped serial rapist from causing her harm.<sup>18</sup>

Such test cases are important. Their costs however, ensure that only individual women with means will be able to rely upon this approach to holding the state accountable. Further, once the precedent has been set, public interest law organisations will typically not run such cases again. Arguably, for real impact such cases probably need to be run repeatedly to stamp both the principle and financial consequences upon criminal justice system practices. Such delictual consequences for non-compliance should, ideally be guaranteed, rather than exceptional.

<sup>15</sup>These include the Women’s Legal Centre, the Legal Resources Centre, and the Centre for Applied Legal Studies.

<sup>16</sup> 2000 (2) SA 425 (CC).

<sup>17</sup> Having found that the police and prosecution had failed to discharge this duty, had done so negligently, and that the element of causation was satisfied, the High Court held the defendant liable for delictual damages. The High Court’s finding was confirmed by the Supreme Court of Appeal in *Minister of Safety and Security v Carmichele* 2004 (3) SA 305 (SCA).

<sup>18</sup> The respondent had failed to discharge this duty and was thus delictually liable. It had admitted the elements of negligence, vicarious liability and causation. [Ibid.]

It is primarily in criminal matters where arguments are being developed around state failure to uphold domestic violence law and policy. These failures are most stark in the cases of women who have killed abusive partners, and the focus of the Justice for Women Campaign, which aims to reform law and sentencing practices applied to women who kill their abusive partners and to obtain early releases for women already serving lengthy sentences for killing their abuser.

The most significant case to test arguments around the failure of the state to enforce and uphold the DVA was *S v Engelbrecht*, concluded in 2005. Evidence before the court showed that Mrs Engelbrecht had moved nine times to escape her abusive husband; made three attempts to divorce him (the sheriff failed on six occasions to serve the divorce summons, while the Family Advocate never compiled some of the documentation required to decide custody of a child); attempted on three occasions to obtain a protection order (on two occasions she failed to be informed of the court date and on the third the magistrate suggested that the couple go for coffee and resolve their differences); and made numerous calls to the 10111 police emergency service (these were played in court and clearly captured police dispatchers arguing with her about why they were not going to assist her). Police personnel also irregularly withdrew her charges, or refused to accept them, failed to comply with numerous aspects of the DVA and on one occasion advised her husband to obtain a protection order against her. In June 2002, after yet another assault (including one on her daughter), Ms Engelbrecht handcuffed her husband while he was sleeping and smothered him.

Ultimately while the judge in this matter decided that Mrs Engelbrecht had made all reasonable attempts to end the abuse, she was overruled by her two assessors and Mrs Engelbrecht convicted.

#### *Fiscal accountability*

A new strategy that is being adopted, is to cost the implementation of the DVA (Vetten, Budlender and Schneider, in progress). The assumption behind this approach is that a cost enables us to advocate for a particular budget, rather than just demand resourcing, which will address at least some implementation problems. In addition, the existence of a cost allows for comparison of budgets allocated to the implementation of other law and policy. Such comparisons could be a means of testing the state's commitment and political will to implementing policies promoting women's interests and rights, relative to other policy.

#### **Conclusions**

South Africa's DVA contains many laudable elements which could be held up as examples of good practice. Yet it remains difficult to evaluate the effectiveness of the Act when it has not been implemented effectively and thus cannot routinely meet its purpose to provide the maximum protection of the law to survivors of domestic violence.<sup>19</sup> Oversight and accountability mechanisms have also not functioned as they should - further undermining the purpose of the Act. Additionally, while the DVA obliges the police to find health care, counselling and shelter services for women, no corresponding obligation has been placed on either the Departments of Health or Social Development to make such services available.

This brief overview of South Africa's DVA also raises some broad questions relevant to identifying a 'good practice.' Firstly, good by whose standards and good for whom under what circumstances? As the brief

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<sup>19</sup>The implementation failures of the DVA provided important lessons to the gun control lobby who tried to ensure that similar mistakes were not repeated with the Firearms Control Act. Thus in budget 2004 for example, the setting up of the Firearms Register has been both costed and budgeted for.

discussion of the DVA showed, poor and/or rural women as well as women with disabilities, experience greater barriers in accessing legal protection than other women do. Secondly, it is not possible to design laws or policies that can be all things to all women, nor can all women's needs be addressed in any one piece of legislation. The law then is a powerful but limited tool. Given the many differences that exist between women, who is to be prioritised and what is a good enough minimum? What can a piece of legislation actually 'do' for women? Finally, context and state capacity are significant in considering what is actually going to be possible and how 'good' one's practice is ultimately going to be. The political conditions prevalent at the time, as well as the strength and capacity of the women's movement, will also significantly inform what is possible in terms of practice.

On the basis of the analysis offered here, this paper suggests some of the following as key issues to think through in evaluating and planning 'good' practice.

1. Practices and strategies should be dynamic and responsive to changing circumstances and conditions, rather than seen as fixed. They are iterative and incremental and should emerge from a process of ongoing reflection, evaluation and adaptation.
2. What do the women whom the intervention is intended to benefit think of it? How frequently are their opinions and experiences sought? How do their perspectives and needs match those of the implementers? How is a balance struck? Good practices and strategies should be explicit in identifying which women they are designed for and should prioritise marginalised women.
3. Human and material resources are required to effectively implement legislation. Feminist engagement with budgeting processes may be one means of ensuring that such resources exist.
4. Laws cannot function in isolation from the other essential social support required by abused women. Piecemeal and ad hoc changes designed to improve the implementation of legislation are ultimately limited if there is no larger framework guiding thinking around combatting and eradicating violence.

## REFERENCES

- Abrahams, N., Jewkes, R. and Laubsher, R. (1999). *"I do not believe in democracy in the home" Men's relationships with and abuse of women*. Tygerberg: CERSA (Women's Health) Medical Research Council.
- Artz, Lillian. (1999). *Violence Against Women in Rural Southern Cape: Exploring Access to Justice Through a Feminist Jurisprudence Framework*. Institute of Criminology, University of Cape Town,
- Artz, Lillian. (2003). *Magistrates and the Domestic Violence Act: Issues of Interpretation*. Institute of Criminology, University of Cape Town: South Africa.
- Hassim, Shireen. (2005). *Voices, Hierarchies and Spaces: Reconfiguring the Women's Movement in Democratic South Africa*. Paper produced for the Centre for Civil Society.
- Hirschowitz, Ros, Worku, Seble and Orkin, Mark. (2000). *Quantitative research findings on rape in South Africa*. Pretoria: Statistics South Africa.
- Jewkes, Rachel, Penn-Kekana, Loveday, Levin, Jonathan, Ratsaka, Matsie and Schrieber, Margaret (1999). *"He must give me money, he mustn't beat me": Violence against women in three South African Provinces*. Pretoria: CERSA (Women's Health) Medical Research Council.
- Jewkes R and Abrahams N. 'The epidemiology of rape and sexual coercion in South Africa: an overview.' *Social Science & Medicine*, 2002; 55(7):1231- 44.
- Mathews, Shanaaz, Abrahams, Naemah, Martin, Lorna J., Vetten, Lisa, van der Merwe, Lize and Jewkes, Rachel. (2004). *"Every six hours a woman is killed by her intimate partner": A National Study of Female Homicide in South Africa*. MRC Policy brief no. 5, June 2004.
- Mathews, Shanaaz and Abrahams, Naemah. (2001). *An Analysis of the Impact of the Domestic Violence Act (No. 116 of 1998) on Women*. The Gender Advocacy Programme & The Medical Research Council.
- Meintjes, Sheila. (2003). "The Politics of Engagement: Women Transforming the Policy Process - Domestic Violence Legislation in South Africa" in Anne Marie Goetz and Shireen Hassim (eds) *No Shortcuts to Power*. London: Zed Books Ltd.
- Paranee, Penny, Artz, Lillian and Moul, Kelley. (2001). *Monitoring the Implementation of the Domestic violence Act: First Research Report 2000-2001*, Institute of Criminology.
- Rai, S. (1996). "Women and the State in the Third World: Some issue for Debate" in Shirin M. Rai and Geraldine Lievesley (eds). *Women and the State*. London: Taylor and Francis Ltd.
- Stack, Louise and Soggott, Paula (2001). *Enhancing policy implementation: Lessons from the justice sector*. Research Paper 90, Centre for Policy Studies.
- Vetten, Lisa and Khan, Zohra. (2002). *"We're doing their work for them:" An Investigation into Government Support to Non-Profit Organisations Providing Services to Women Experiencing Gender Violence*. Braamfontein: Centre for the Study of Violence and Reconciliation.