

**WOMEN'S EXPERIENCES AND EXPECTATIONS
OF THE DOMESTIC VIOLENCE ACT 116 OF 1998**

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2.7	The South African Context	20
2.8	The Domestic Violence Act 116 of 1998	22
2.9	Limitations to the Domestic Violence Act 116 of 1998	24
2.10	Towards Action: Practical Approaches	29
2.11	Conclusion	32

CHAPTER THREE: METHODOLOGY

3.1	Introduction	34
3.2	Qualitative\Quantitative Research Paradigm	34
3.3	Research design	35
3.4	Sampling methods	36
3.5	Data collection	39
3.6	Data analysis	47
3.7	Limitations of the research design	49
3.8	Ethical Considerations	50
3.9	Conclusion	51

CHAPTER FOUR: ANALYSIS OF DATA WOMEN'S EXPERIENCES OF DOMESTIC VIOLENCE AND THEIR EXPECTATIONS OF THE DOMESTIC VIOLENCE ACT 116 OF 1998

4.1	Introduction	52
4.2	Types of abuse	55
4.3	Women's actual experiences of abuse.	58
4.4	Factors contributing to abuse	62
4.5	Length of abuse and reasons for addressing it at this point	65
4.6	Women's expectations of the Protection Order	70
4.7	Application and granting of Protection Orders	78
4.8	Challenges women face	81
4.9	Conclusion	86

APPENDICES

Appendix one	DOMESTIC VIOLENCE ACT 116 OF 1998
Appendix two	APPLICATION FOR A PROTECTION ORDER
Appendix three	INTERIM PROTECTION ORDER
Appendix four	WARRANT OF ARREST
Appendix five	APPLICATION FOR VARIATION OR SETTING ASIDE PROTECTION ORDER.
Appendix six	NOTICE TO RESPONDENT
Appendix seven	FINAL PROTECTION ORDER

LIST OF TABLES AND GRAPHS

LIST OF TABLES

Table one:	Summary of data collected from eight women at the Durban Magistrates Court.
Table two:	Regulation for State Apparatus.
Table three:	Economical and Medical needs.
Table four:	Women reclaim control over space.
Table five:	Contact with Children.
Table six:	Magistrates Orders – Interim Protection Order.
Table seven:	Application for setting aside and varying Protection Order.
Table eight:	Final Order.

LIST OF GRAPHS

Graph one	Types of Abuse (from the forty-six court files)
Graph two	Women's request to respondent on committing acts of abuse.

CHAPTER ONE

CONTEXTUAL AND THEORETICAL FRAMEWORK OF THE STUDY

1.1 Introduction

Gender based violence is a phenomenon present in the lives of many women worldwide, women are raped, physically and emotionally abused, forced to undergo genital mutilation, flogged or stoned to death or subjected to forcible sterilization. Violence against women is pervasive and systematic and has no racial, class, political or cultural barriers. Women are victimized primarily because of their gender.

Violence against women narrows their options in every sphere of life. It limits their choices, disrupts their lives and erodes their self-confidence and self-esteem. It hinders women's full participation in society. Fedler J & Tanzer Z (2000) maintain that women's lives are not only governed by violence but by the constant threat of violence. Women go through extraordinary lengths to avoid violence. Every aspect of their lives is potentially affected and women's life choices are limited. From the manner in which they conduct themselves to the type of employment they undertake are affected.

These systematic cruelties against women persist, despite the existence of instruments such as the Universal Declaration for Human Rights that decree that all human beings are born free and equal in dignity and rights. Oppressive social, political and economic policies still prevail and the non-enforcement of constitutional rights perpetuate the high levels of violence experienced by women. In instances where progressive laws have been implemented to stop the violence, the socio-economic realities of women prevent this ideal from being realized.

Violence against women is a complex phenomenon. No one single approach can remedy the problem and a holistic and multidisciplinary approach is vital. Strategic interventions need to be devised based on an understanding of factors that contribute to and maintain

its continuance. Hence, it is important to examine social, political, economic and cultural systems that shape women's lives.

This dissertation examines some of the above arguments and dynamics. It focuses specifically on women's experiences of domestic violence in South African society. This is achieved by examining women's experiences and expectations of the Domestic Violence Act 116 of 1998. Violence against women is one of the most prevalent and challenging issues faced by South African society. High incidences of sexual, physical and emotional abuse are evidence of this. According to existing local statistics, it is estimated that one in every three women are assaulted by their partners (Fedler et al, 2000). These figures prevail despite the adoption of the new constitution, which guarantee freedom from violence and oppression

Until recently, domestic violence was deemed a 'private' affair and discussions around it revolved mainly within this realm. It was seen primarily as 'personal' and hence viewed as an event that stemmed from cultural and traditional practices. Whilst 'public' instruments of the past, the law and constitution enacted policies to address domestic violence, clearly defined categories and mechanisms that were necessary to ensure the prevention of violence against women were not well developed hence failing to urgently address the problem. Thus, in principal it was accepted that domestic violence was incorrect, but the urgency to address and eradicate this was not prioritized.

In keeping with the democratic processes, in 1998 the South African government introduced the Domestic Violence Act 116 (referred to the Act hereafter) in an attempt to address the issue of domestic violence. This Act attempts to recognize the unacceptable levels of domestic violence in South Africa and aims at affording victims of domestic violence maximum protection under the law. One of the most progressive features of the Act is its attempt to address the multiple needs of victims of violence. This is achieved by enabling abused persons to obtain a Protection Order that prevents the abuser from committing any specific acts of domestic violence. Furthermore, it ensures that the relevant organs of the state give full effect to the provisions in the Act. It also affords

victims the power to exercise control over their spaces, public space (work) and private space (home). The Act also provides for interim monetary relief in which victims of violence are entitled to relief for a period of three months. The Act also allows for the maintenance and protection of children of victims.

The Act however, does not 'criminalize' the act of domestic violence. Instead, it only criminalizes the breach of the Protection Order. This has many underlying assumptions, especially that domestic violence is not viewed as a human rights violation. The Act also fails to understand violence within a broader context and at the intersection of race, class, and gender. In some instances, the Act may be more a theoretical exercise than a pragmatic one. This is more apparent in the inconsistent and faulty application of the law by the police and other criminal justice systems.

Most interventions on domestic violence in many countries, including South Africa focus on legal redress and secondary prevention through protection orders, shelters, counselling services, specialized police units and courts, and mandatory arrest laws. Although these are essential, their effectiveness in addressing domestic violence is limited. Women's oppression ought to be perceived in relation to the intersection of racial, class, gender, ideological and cultural contexts.

The scope of understanding violence against women needs to be broadened. Issues of assessing women's political and socio-economical status need to be incorporated and developed into this system. These factors are a constant in most women's lives and they further impact on women's realities. More importantly, the patriarchal culture that prevail at every level of these realities need to be deconstructed. Hence, a more integrated approach is needed. One that addresses the causes of domestic violence as well as some of the factors that maintain the violence.

As Bunch C & Carrillo R (1991:7) maintain "victims are chosen because of their gender. The message is domination: stay in your place or be afraid. Contrary to the argument that such violence is only personal or cultural, it is profoundly political. It results from the

structural relationships of power, domination and privilege between men and women in society. Violence against women is central to maintaining those political relations at home, at work, and in all public spheres.”

1.2 Methodology

The Act is a fairly new piece of legislation and a great deal of research as far as the researcher can ascertain, has been conducted primarily on service provision of the Act (Artz, 1999; Artz 2001; Quenet, 2001; Parenzee P, Artz L & Mounlt K , 2001; Van Zyl, 1991). To date minimal research has been conducted on other aspects and dynamics such as the social, political and economic aspects of domestic violence. While the issues raised above have many ramifications, it is beyond the scope of this study to examine all. The study focuses on women’s expectations and experiences of the Domestic Violence Act of 1998 within the Durban Metropolitan Area. This will allow for some of these dynamics to emerge. It is important to note that the timing of this study coincided with the passing of the Domestic Violence Act. The topic was chosen in the year 2000 at the beginning of the researcher’s studies.

In order to investigate this more intensely, both qualitative and quantitative data collection strategies were utilized. Information was gathered from primary and secondary sources. One to one unstructured interviews with eight women at the Durban Magistrates Court, one to one unstructured interviews with service providers at the Durban Magistrates Court and the analysis of court documents of women that have made applications for Protection Orders were conducted.

1.3 Theoretical framework

The theoretical framework guiding this study included both the ecological systems perspective and feminist perspective.

Ecological Systems Perspective

Pardeck (1996) maintains that the ecological perspective is built on the realization that the social environment plays a crucial role in the social functioning of human beings. It is a dynamic approach that emphasizes the importance of the person-in-environment perspective and views the individual on various levels, the micro (individual and family) and the macro-level (social and cultural). A person is seen as being influenced by multiple and interacting factors. It stresses a transactional relationship between environmental conditions and the human condition. The environment contributes to the client's adjustment, and the client's behavior creates a unique response with the environment, thus both affect each other.

Systems theorists believe that a whole is made up of mutually interdependent parts that constantly interact with one another thus, influencing one another (Berger, 1994). Furthermore, it focuses on the whole, and how parts of the whole interact. A systems perspective provides a model that focuses on multiple levels of phenomena simultaneously. It helps view behavior in context. Ecological systems maintain a holistic view of human behavior. These theorists maintain that four interacting dimension influence human behavior. These dimension include the biological, psychological, social and cultural (Pardeck, 1996. Berger et al, 1996). These dimensions are constantly interacting and constantly shaping behavior. These theorists believe that understanding this allows for a holistic view and an integrated framework for human behavior.

An ecological systems approach allowed the researcher to understand domestic violence more holistically. As discussed above and in more detail in the literature review chapter domestic violence has many dimensions, social, cultural, economic and political. The ecological systems approach maintains that an individual functions at a micro-level (individual and family) and a macro-level (social and cultural) and that these levels are constantly influencing and interacting with one another. The utilization of this theoretical framework allowed the researcher to examine this topic at this level. It helped to view violence against women in a broader context.

The ecological systems perspective also allowed the researcher to examine whether legal reforms of domestic violence influence other aspects, such as the cultural, social and economic realities of women's lives. The researcher sought to understand whether reforms are needed in the social, economic and cultural dimensions as well in order for legal reform to be more successful.

However, the ecological systems perspective has been criticized for its lack of consideration of the concept of power. Berger et al (1996) maintains that all human interaction contains some exercise of power. Power within and between social institutions is distributed unequally and is often based upon ethnicity, gender, and socio-economic status. This issue of the unequal distribution of power within and between institutions is of essences to this topic. This criticism allowed the researcher to understand and prove that whilst the Domestic Violence Act attempts to address the multiple aspects of women's lives, it falls short in understanding the unequal distribution of power operating at other levels. It proceeds on the assumption that a homogenous and just order exists and it fails to perceive women's oppression at the intersection of race, class, gender and culture.

Feminist Perspective

Feminist theories provide a greater account of women's lives because of its women-centered stance. This helps create a context that demands accountability for crimes against women by incorporating a gender perspective that challenges patriarchal practices. There are many different types of feminist theories and each has its unique assumptions on how women are characterized in society and how women should organize in any given society to overcome their oppression. The most basic and underlying assumption of these theories is that in most modern societies women are seen as inferior to men and this provides the basis for much of the oppression they are exposed to. Below are some of the underlying assumptions and arguments the different feminist groupings pose on domestic violence.

Liberal feminism is rooted in the liberal philosophy where rationality is seen to be the core of every human being. Liberal feminists believe that every human being should be given full human rights. The state is seen as the proper and legitimate body for ensuring women's equality. They believe through law, women must be given the same opportunity and equal access as men to the public sphere in order to realize their full potential. (Jagger, 1983 & Eisenstein, 1984). According to Van Zyl (1991) liberal feminists main preoccupation in challenging marriage laws are concerned with laws on violence against women. Some of the most significant action is taken on behalf of women who are sexually abused. However, liberal feminists have been criticized for their preoccupation with the victimization of individual women. This prevents them from analyzing the extent and degree to which history and social structures determine everyday life. They do not challenge the foundations of the social structures that reinforce women's oppression.

Radical feminists, on the other hand, examine the structural inequalities of male dominance. They are known to have coined the slogan 'the personal is political'. They believe that women are seen as home-based. Therefore their contribution to history is made invisible. Sewpaul (1994) is of the contention that the personal and political world of women are linked and dependent on one another. This relationship, Sewpaul (1994) maintains shapes women's social, economic, political and cultural identities.

Women's experiences are vital and radical feminists adopt a women centred analysis, which they believe free women from the structures of patriarchy. Thus, the main focus is on how social structures uphold the sexual power dynamics in personal relationships, in this manner the intimate oppression of women can be uncovered. Radical feminists believe that men's control over women is at the center of violence against women. This is one of the primary reasons the Rape Crisis Movement drew strongly from radical feminism (Jagger, 1983 & Eisenstein, 1984).

Radical feminists have been criticized for idealizing women's relationships with each other as co-operative and they underestimate the established relations of power.

Furthermore, by creating a theory of separatism, they exclude men and devaluation of men occurs.

Socialist feminists, on the other hand, utilize historical materialist methods to feminist analysis. They believe that humans are created historically through a dialectical interaction with biology, society and environment. Furthermore, they believe that men and women fall into different structural positions, such as race and class. Their main focus is to examine how gender works within the sexual division of labor. People and institutions are changing over time, therefore power relations between men and women will change as well over time. Whilst they examine control and power between men and women within the economy, they also take into account the sexist ideology that operates in philosophy, politics, law, religion and culture. (Jagger, 1983 & Eisenstein, 1984)

Socialist feminists have been criticized for seeing women's oppression as part of society and all its institutions but failed to examine issues on an individual level. They failed to examine the way in which different patriarchies exercise control differently over different women.

Feminist theories guided the researcher in providing a more holistic understanding of the research project. This approach will allow the researcher to examine concepts such as violence against women as a political issue, violence against women is a form of male dominance and control and violence as a product of patriarchy. Furthermore, it allowed the researcher to adopt a women centered analysis and to focus on women's experiences of the topic being investigated.

1.4 Research Questions

- What factors contribute to women's decisions to make an application for the Protection Order?
- What do women expect when making an application for a Protection Order?

- What factors in women's lives might inhibit the effective implementation of the Protection Order?
- What are some of the needs and demands of women to control/stop the violence?
- What are some of the challenges women think they will face once they apply for and obtain the Order?

1.5 Underlying Assumptions

- Legal reform alone will not ensure the protection of women against domestic violence.
- Socio-economic and cultural factors contribute to and reinforce domestic violence.
- A more integrated approach is needed to successfully address the issue of domestic violence.

1.6 Value of the Study

Domestic Violence is currently one of the most debated issues in South Africa. The Domestic Violence Act is a fairly new piece of legislation and the investigation into this topic provided a better understanding of women's views and expectations of the Domestic Violence Act. Most research to date has been on service provision and most of the findings have concluded insufficient and inadequate service provision have contributed to the unsuccessful implementation of the Act (Artz, 1999; Artz 2001; Quenet, 2001; Parenzee et al, 2001; Van Zyl, 1991). To date minimum research has been conducted on the social, cultural, economic and religious aspects of domestic violence in relation to the provisions of the Domestic Violence Act.

The researcher therefore, felt it important to investigate whether government's decision to enact this legislation will effectively eradicate family violence. Is legal reform alone effective? Does this ensure changes in the social, cultural and economic aspects of women's lives? Do we need to empower women at all levels, social, economic, political

and cultural levels as well? More importantly, do these aspects hinder women from using the Protection Order? What are some of the systems of patriarchy and the constraints and mechanisms that hamper women's development and empowerment? Do we need to increase public awareness in order to change attitudes and behaviors?

In the light of these questions, the researcher felt such a study was vital.

1.7 Structure of the Dissertation:

Contextual and theoretical framework of the study. This chapter provided the motivation and relevance of this study. It also focused on the form and process the study utilized.

Chapter one: Literature Review. This chapter examined current local and international debates surrounding domestic violence. This included an analysis of the Domestic Violence Act of 1998 and some of the challenges women face.

Chapter two: Methodology. This chapter examined in detail the methodology this dissertation utilized. It examined the tools and apparatus utilized in this study and some of the shortcomings of these methods. The type of research paradigm, the research design, the sampling method, data collection method and data analysis were discussed.

Chapter three: Analysis of data. This chapter consists of the presentation, analysis and interpretation of the data. Women's experiences of domestic violence, women's expectations of the Domestic Violence Act of 1998, and some of the challenges these women face are discussed.

Chapter four: Conclusion. Summaries of the findings, conclusions and broader implications are discussed.

CHAPTER TWO: LITERATURE REVIEW

DOMESTIC VIOLENCE AND WOMEN

2.1 Introduction

This chapter examines domestic violence toward women globally as well as locally. It explores some of the dynamics around domestic violence, the causes of domestic violence, international and local aspects of domestic violence as well as the strengths and limitations of the Domestic Violence Act 116 of 1998. Thereafter, it examines practical approaches in addressing the issue of domestic violence.

United Nations defines violence against women as physical, sexual, emotional, and economical abuse within the family, rape and sexual assault, sexual harassment and trafficking of women, involuntary prostitution, and pornography. All share the use of coercion to make women do things against their will.

According to Carrillo (1991:19), ‘gender violence, whether in its most overt and brutal or more subtle forms, is a constant in women’s lives.’ and affects all women worldwide of all races and income groups.

Within the local context, domestic violence received recognition as an official definition through the Domestic Violence Act 116 of 1998. The Act describes domestic violence as abuse that encompasses physical, sexual, emotional, verbal, psychological and economical abuse; intimidation, harassment, stalking, damage to property, entrance into property without consent; and any other controlling behavior which may cause imminent harm to the safety, health or well-being of the complainant.

2.2 Definitions

One of the most progressive features of the Domestic Violence Act is that it provides a more comprehensive definition of domestic violence. It encompasses a detailed terrain

that includes a wider range of physical, emotional and sexual abuses. Below are brief descriptions of these as defined in the Domestic Violence Act 116 of 1998.

- Physical abuse means any act or threatened act of physical violence.
- Sexual abuse means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant.
- Emotional, verbal and psychological abuse includes a pattern of degrading or humiliating conduct toward the complainant, including repeated insults, ridicule or name calling; repeated threats to cause emotional pain; or the repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of privacy, liberty, integrity or security.
- Economical abuse includes the unreasonable deprivation of economic or financial resources and the unreasonable disposal of household effects and other property.
- Intimidation means uttering or conveying a threat, or causing a complainant to receive a threat, which induces fear.
- Harassment means engaging in a pattern of conduct that induces the fear of harm.
- Stalking means repeatedly following, pursuing, or accosting the complainant.
- Damage to property means the willful damaging or destruction of property belonging to the complainant or in which the complainant has a vested interest
- Entrance into property without consent
- Any other controlling behavior, which may cause imminent harm to the safety, health or well-being of the complainant.

All the above refer to the overall physical, psychological and social realities of violence that women are exposed to.

2.3 Statistics

Violence against women has reached alarming proportions. The following are examples of statistics indicating the extent of domestic violence globally: sexual and physical

violence by an intimate partner affects 20 - 50% of women at some stage of their lives and up to 50% of women have experienced it in the last year (Jewkes, 2002).

Locally, no official statistics exist. This is due to the fact that domestic violence cases are not reported as such because no crime such as domestic violence exists. These cases are reported as common or sexual assault or assault with the intention to do grievous bodily harm. As a result it is difficult to establish the accurate extent of domestic violence. This is evident in the following reports:

Rape Crisis estimated that one in every three women are assaulted by their partners, while the Women's Bureau estimated that it is approximately one in four. The Advice Desk for Abused women suggested that one in six women are regularly assaulted by their partners (Vetten, 2000).

The above statistics – as 'inaccurate' as they might be, are still alarming. In spite of this, efforts to address and eradicate domestic violence have been minimal and have been primarily in the legal arena. It is important to explore why. Why is the system so unresponsive in acknowledging and addressing domestic violence issues? Why is this issue not pursued with greater determination and compassion? Does this stem primarily from viewing violence against women as a private matter, as a cultural and family issue and pertinent to social welfare policies only? Are women's issues not political issues? In order to answer some of these questions, it is important to examine some of the causes and dynamics around violence against women. Once this is established, the issue of what has to be done and what can be done to eradicate it will be discussed.

2.4 Domestic Violence and Women

In almost every cultural context women are seen explicitly or implicitly as men's property. This sexist ideology places women in social positions relative to men – as wives, lovers and mothers and the position of men is socially determined through the economy and politics. When women asserting their independence challenge the status

quo and system, violence as a form of control and repressive measure is used to control them (Van Zyl, 1991).

The impact of violence against women is immensely damaging. Violence against women places many constraints on women's development and the development of society as a whole. The following section presents some ways in which violence erodes the quality of life of women in society as well as the functioning of society as a whole.

As a form of control, violence disrupts women's lives and denies them the ability to pursue options. Violence against women is a significant cause of ill health – physical, psychological and reproductive - in women. 'It undermines women's confidence and sense of self-esteem, physically and psychologically; and it destroys women's health; denies their human rights, and undermines their full participation in society' (Carrillo 1991:24). Many women contract sexually transmitted diseases through sexual violence. Sexual violence may also result in unwanted pregnancies, back street abortions, infanticide and unwanted children.

Furthermore, it deprives women of the ability to earn or attend the public arena, therefore hampering economic development. Violence results in absenteeism, low productivity, and increased use of medical benefits. It also contributes to the loss of government resources such as increased police work time as well as legal, medical, mental health and social services. Moreover, women who suffer from violence from their partners are often unable to protect their children from becoming victims of violence. Children suffer both physical and emotional harm.

2.5 Causes of Domestic Violence

Attempts to isolate a single causal factor that gives rise to domestic violence is an over-generalization and over-simplification of the complexity of domestic violence. According to Feldler et al (2000:27) a cluster of 'social, economical, political, cultural, psychological, and ideological' factors operate within society 'to create a climate in which women became the targets of male aggression and in which the perpetrators go

unpunished' (27). These factors constantly interact and crosscut one another, as reflected in the ecological systems theoretical framework described in chapter one.

Jewkes (2002) in reviewing international literature found three contributing factors to domestic violence. It was found that domestic violence is absorbed through socialization, it is reinforced by poverty and it can be associated with heavy alcoholic abuse. Felder et al (2000) have acknowledged the following: gender roles and stereotypes; societal upheaval; unresponsive legal system; religion, tradition and culture; the media, a complacent society and drug abuse. These themes are elaborated below.

Gender inequality, gender roles and stereotypes

Although domestic violence is prevalent in societies where violence is a norm and it is absorbed through socialization, it is substantially the product of gender inequalities present in those societies. Gender inequality is prevalent in almost all cultures and it assumes various forms. According to Sen (2001) gender inequality can be located in the following: Mortality inequality, natality inequality, basic facility inequality, special opportunity inequality, professional inequality, ownership inequality and household inequality. In almost every aspect men are seen as superior and women inferior and as a result men enjoy greater privileges than women.

The manner in which society defines masculinity and femininity is a fundamental contributing factor to gender inequality. Different gender roles and stereotypes are emphasized. Girls are generally socialized into being submissive, complying and passive, whereas men are generally socialized into being domineering, challenging and aggressive. These patterns and expected stereotypes have a direct impact on interactional patterns later in life. Women's socialization patterns make them more vulnerable to violence than men.

According to Carrillo (1991) women's vulnerability to violence can be understood within the socially constructed dependency of women on men. This dependency can be

economic, psychological, social and cultural. Much of women's work is unpaid labour at home and in subsistence farming. These are not viewed as valuable work. Moreover, women often work longer hours in lower status and badly paid jobs with fewer benefits and less security than men. This contributes to women's economic dependence on men, which plays a major role in keeping women in abusive relationships.

Furthermore, women are socialized to believe that their value is attached to the men in their lives. Often they are socially ostracized if they displease or disobey them. Women are also socialized to view their self-esteem as linked to the ability to satisfy the needs and desires of others and thus see themselves as inadequate or bad if men beat them. This psychological, social and cultural dependency is reinforced by culture where a woman is constantly diminished, her sexuality rendered a commodity, her work devalued, her identity that reduces her to her most biological function, and where she is still blamed for causing and deserving the abuse by men. These dependencies make it difficult for women to leave their environment, and for those women that want to leave there is often nowhere to go. Abdel (1994) points out that:

'This dependency has become the source of and the reason for the submission by women who treat their subordination as a matter of survival and a mark of respectability.'

In exploring gender violence in African societies, Abdel (1994) notes that the lives of women are shaped around tradition and/or religion, depending on which one more easily achieves male dominance. These practices are sacrosanct and untouchable where women are concerned. Abdel (1994) asserts that tradition and religion are tools of suppression.

Poverty

Poverty is one of the most outstanding social and demographic characteristics that define women who are abused, and perpetrators of violence. Poverty reduces a man's ability to strive toward being a successful individual. It is a threat to the hegemonic construct of

masculinity, and violence is frequently used to resolve this crisis. Women are affected by poverty as well, as poverty reduces women's economic and education power, hence increasing women's risks to domestic violence. Many women in these instances remain in domestic violent situations, for fear of destitution and homelessness. Thus, poverty both exacerbates and causes violence against women.

Alcohol and drug abuse

Domestic violence is also associated with heavy alcohol/drug abuse. Very often the obvious effects of alcohol and drug consumption causes violence – domestic and non-domestic. Fedler et al (2000) assert that alcohol and drug abuse do not cause the violence, but play a disinhibiting role with abusive men and may increase the frequency and severity of violence. Holder (1999) & Parry C D H & Bennetts (1998) indicate that alcohol increases the risks of all types of injuries or violence. The acute effects of alcohol may increase violent behavior of either spouses. Holder (1999) emphasizes the fact that family violence, for many years, was not discussed publicly. In recent years, the issue of family violence has come to be defined as a problem, and the effects of alcohol in family violence is more recognized in the community. Parry et al (1998) notes that recent studies identify alcohol misuse as one of the greatest precipitating factors leading to spouse abuse and domestic violence.

Societal upheaval

Throughout history violence against women has been an integral part of militarization and war. Gender specific forms of violence – rape, sexual assault and prostitution are some examples. According to Fedler et al (2000) reports suggest that gender based violence are not accidents of war. These forms of persecutions reflect the inequalities that women face in their everyday lives. They may also constitute a strategy to humiliate and undermine the community.

Unresponsive legal system

Despite the legal system's role to uphold equality, it is often unresponsive to gender acts of violence. As a result women experience alienation from the legal system and are reluctant to make use of it. Secondary victimization and failure to successfully prosecute offenders are a few examples of this unresponsive legal system (Motara S & Fedler J & Webster N P, 2000). (discussed more in depth later.)

Media and a complacent society

The media often portray women in an oppressive and degrading manner. It reinforces stereotypes with a women's value being attached to her body and to her domestic role. Furthermore, media often glamorize violence and this projects the acceptance of violence as a means of conflict resolution. The dominant media images endorse the subjugation of women though violence as a norm – pornography is an example of this.

Fedler et al (2000: 32) asserts that the 'media in most societies is controlled by and reflects the status quo and the dominant patriarchal culture.' In most instances society absorbs these as normal and rarely challenge this.

2.5.1 Why do women stay in abusive relationships?

From the above explanation it can be deduced that many women stay in abusive relationships because they are attached to their spouses - socially, emotionally, psychologically, ideologically and economically. Furthermore, the cycle of violence plays an important part. The cycle of violence refers to the patterns of violent outburst. Abusers are not abusive all the time and this gives women some hope. More importantly, after a violent outburst the abuser apologizes for his/her behavior and creates the impression that this will never happen again. The abuser in many instances has the tendency to make the victims feel guilty of the abuse by creating the impression that she

is to be blamed for the abuse. This is an ongoing pattern and in many instances, it becomes more intense and occurs more frequently (Mariah, 2003).

Violence against women is a constant in many women's lives and efforts to address this, has been mainly in the legal arena. Jewkes (2002) comments that few programs address these symptoms when seeking to reduce domestic violence. Most interventions on domestic violence in many countries focus on legal redress and secondary prevention through protection orders, shelters, counseling services, specialized police units and courts, and mandatory arrest laws. Although these are helpful, their effectiveness in addressing domestic violence is limited.

2.6 International Debates

The link between gender violence and gender inequality was not made at an international political level, until very recently. This only received recognition as late as 1992. According to Fedler at el (2000) there are a number of possible explanations why violence remained imperceptible. Firstly, it occurs in the private sphere of the home, which is generally undervalued and de-politicized. Secondly, there seems to be an 'unnatural' silence against it. Many victims prefer to keep this a secret for what ever reasons. Thirdly, this silence maybe caused by and reinforced by cultural and legal norms that sustain patriarchal practices. And finally, few laws reflect or even criminalize the violence women experience. These crimes are recorded as assault and murder crimes.

The United Nations recognized the problem of violence against women within the context of the UN Decade for Women and launched the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).¹ It was during this convention that violence was specifically named and condemned as a form of discrimination. The focus is on the constraints violence places on women's full participation in society. The official documents reflect the discrimination that women face in all countries, regions and cultures and provide a useful foundation for the different understandings of gender related violence.

These documents acknowledge the responsibility of governments and all members of society to eradicate violence.ⁱⁱ Some of the resolutions call for the creation of preventative policies and institutionalized means of assistance to women victims of the various forms of violence experienced in everyday life in all societies. Furthermore, resolutions insist on special training of law enforcement officials for dealing with women victims of violent crimes, urge legislature to end the degradation of women, stress the promotion of human rights, insist on favoring a preventative approach that includes institutionalized economic and other forms of assistance, and suggest the establishment of national machineries to deal with the question of domestic violence.

It further demands that government increase public awareness of violence against women as a societal problem, establish policies to prevent and eliminate such violence especially in suppressing degrading images and representation of women in society and to encourage the development of educational and re-educational measures for offenders.

Lekubu-Wilderson (1997) critiques this effort by highlighting the fact that the implementation of these will not be achieved through legislation and the policies of government departments alone. Attitudinal changes towards implementation and an awareness that the Convention is a living instrument which requires proactive measures towards making women's rights a reality is required. Inter-departmental collaboration and rights education is required in order to change social conditions. Once these are achieved, it becomes easier to implement these recommendations into the mainstream of policy or practice. It is also vital for both government and civil society to work hand in hand (Lekubu-Wilderson, 1997).

2.7 The South African Context

During the 1950s, the Federation of South African Women (FEDSAW) attempted to organize women on a broad front on political issues but it did not address violence against women. It was re-launched in the Western Cape in 1987. The Rape Crisis in Cape

Town became an affiliate and violence against women was taken up as a campaign in 1990 – culminating in a march to ‘take back the night’.

Over the years many other groupings in South Africa such as Rape Crisis Center and Women’s Legal Status Committee have addressed the issues of sexual violence towards women. These organizations have mainly argued for legal changes and reform in the social justice system. Bennett (2001) has noted that these were organized largely by white middle class women, whose feminisms were largely influenced by western writings. Van Zyl (1991) asserts that these efforts have not analyzed violence against women as a systematic part of women’s oppression.

Since 1994 and after the adoption of the new constitution and democratic process, the issue of violence against women has commanded much attention from feminist and gender activist groups and a range of independent experts, NGOs, researchers, and stakeholders.ⁱⁱⁱ Once again the focus has been primarily on legal issues and the demand to challenge violence within policing, health, and housing budgets. In addition, recent labour laws have recognized sexual harassment as a form of discrimination in the workplace and the criminal definition of rape has been challenged. The most eminent piece of legislation that was passed in 1998 - Domestic Violence Act, has given women greater protection against violence.^{iv} Other focuses have been on improving service provision by police and judicial officers, informing the public of their legal rights and in some instances advocating for stronger sentences for offenders.

While these initiatives have, to an extent, addressed the issue of domestic violence, there is still an inability to link gender based violence in other areas such as human rights, development and HIV transmission. Gender based violence against women is acknowledged but rarely included in ‘planning or implementing any project aimed at strengthening resistance to inequality, pain, deprivation, or powerlessness.’ (Bennett, 2001:89). Bennett (2001) maintains that the international community, African Based feminist and gender activists, and the state are all guilty of these. Violence against women in many instances may be ‘heard’ but there seems to be a ‘deafness’ in addressing

and eradicating it in a holistic and proactive manner. Bennett (2001) asserts that we need to move across boundaries of specialization in order to tackle the daily realities and complexities of domestic violence.

2.8 The Domestic Violence Act (116 of 1998)

Prior to 1993, domestic violence was not recognized as a form of violence in South African law. Remedies available to women were to lay a charge of common assault. In 1993 the Prevention of Family Violence Act 133 was introduced and it created a procedure for obtaining an interdict against certain types of relationships. This was administered via the Magistrates courts and if granted the interdict was final.

The Prevention of Family Violence Act was a radical step in the right direction, toward recognizing the prevalence and the nature of violence in intimate relationships, and it attempted to find legal solutions to the problem. However, the Act was flawed in many respects. It failed to recognize the complexities of domestic relationships, as well as the types of violence that form part of the pattern of domestic violence. The Domestic Violence Act 116 of 1998 is an attempt to address the inadequacies of this Act.

The Domestic Violence Act aims at affording victims of domestic violence maximum protection under the law. The Act recognizes the unacceptable levels of domestic violence in South Africa. It acknowledges that victims of domestic violence are amongst the most vulnerable members of society and that the remedies available to them have proved to be ineffective. The act recognizes that domestic violence takes up many forms and may be committed in a wide range of domestic relationships.

This Act attempts:

- To define domestic violence more comprehensively.
- To recognize that domestic violence is committed in a wide range of domestic relationships, including people who are or who were married to each other (where they live together or not); same sex partners (whether they live together or not);

any person who is or was in an engagement, dating or customary relationship, including an actual or perceived relationship; intimate or sexual relationship of any duration; parents of a child; and people who share or recently shared the same residence.^v

- To ensure that the relevant organs of the state give full effect to the provisions in the Act.

The Act offers greater protection against violence than any other piece of legislation. Under this Act, persons who have been abused are entitled to a protection order. This Protection Order aims to 'protect' a person from abuse by legally prohibiting the perpetrator from any one or a combination of the following:

- Committing any acts of domestic violence;
- Enlisting the help of another to commit any act of domestic violence;
- Entering the home or the shared residence or any part of it;
- Entering the work place;
- Preventing the abused or any of the children who normally lived in the shared residence, from entering or remaining in the residence or any part thereof;
- Order that a peace officer accompany the applicant to retrieve personal property from residence;
- Order the seizure of any dangerous weapons and arms under the control of the respondent;
- Order the respondent to pay rent, mortgage, or other monetary relief (loss of earnings, medical and dental relief, relocation and accommodation expenses, and household necessities);
- Refuse the respondent contact with children;
- Committing any other act determined by the court.

From the above it can be ascertained that while this Act attempts to address legal protection against domestic violence, it also attempts to address the multiple needs of those exposed to domestic violence. This is evident in its attempt to make provision for rent, mortgage and monetary relief as well as the protection of children.^{vi} The Act grants

Magistrates with greater power, in certain circumstances such as to prevent the abuser from entering the shared residence. The Act recognizes that victims often have nowhere to go.

Furthermore, the Act recognizes that the victims of domestic violence may require more than legal support and instructs the South African Police personnel to assist victims of domestic violence in accessing shelter and medical needs at the scene of the incident of domestic violence or soon thereafter as is reasonably possible, or when the incident of domestic violence is reported.

One of the most important features of the Act is that it is more available to victims of violence. A protection order can be obtained from any Magistrates court 24 hours a day.^{vii} In rural areas where courts are not very accessible, a justice of peace has the power to issue a temporary protection order until the matter can be presented at court. Any person acting in the interests of the victim can apply for a protection order. Moreover, if the applicant cannot afford the costs of the protection order, the State bears the cost.

2.9 Limitations of the Domestic Violence Act 116 of 1998

The Act marks a distinct shift in South African Law in that violence against women has been defined and reflected in law as it is experienced by women. Furthermore, it has fulfilled its international commitments and obligations in its stated intention toward ending violence against women as contained in the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). However, the Act does have some short falling. These are discussed below.

The Domestic Violence Act enables abused victims to apply for a civil order, that is a protection order from the court. The order restricts respondents from committing certain acts of violence. The Act however, does not 'criminalize' domestic violence. It only criminalizes the breach of the protection order, and the abused needs to lay a criminal charge of assault separately. It is maintained that this practice is indicative of society's

attitude towards domestic violence. Such crimes are not recognized as a civil or political emergency or a gross violation of the victim's humanity and rights. These attitudes indicate 'a token commitment' to women's equality as a basic human right (Bunch et al, 1991).

Artz (2001) maintains that this 'progressive' legislation may in some instances be more a theoretical exercise than a pragmatic one. This is more apparent in the inconsistent and faulty application of the law by the police and other criminal justice system personnel. Law reforms are ineffectual if agents responsible for implementing it have limited understanding of the problem. There is a need to examine how structural and procedural shifts within the system can address these problems (Artz, 2001). This limitation is also highlighted by Parenzee et al (2001), who criticise the 'transformable tool' necessary in addressing violence as inefficient and, thus not allowing for the effective implementation of the Act. This criticism is apparent and was a concern highlighted at a provincial workshop hosted by the KwaZulu-Natal Network on Violence Against Women in partnership with the Durban Safer City Project on 9 August 2001 in Durban. The main objective of the workshop was to examine some of the shortcomings of service delivery with regard to the implementation of the Domestic Violence Act, Customary Marriage Act and the Maintenance Act. The following were noted with regard to the Domestic Violence Act: a shortage of Magistrates for after hour applications, lack of resources in terms of personnel and funds, uncertainty of police personnel on how to handle the implementation of the Act, lack of shelters for women, especially rural women are having difficulty in gaining access to the courts.

Pillay (1993) noted another limitation of the Act. This was a comment on the Domestic Violence Bill but can still be argued with the Domestic Violence Act. Pillay (1993) observes that it proceeds on the assumption that a homogenous, just and equal order exists. It fails to understand the individual realities of women's lives and predominantly views the eradication of family violence as a legal remedy. It fails to understand violence in a broader gender context. Women's oppression needs to be perceived as an intersection of race, class, gender and cultural realities. This critique can be realized by a study Artz

(1999) did on rural women in the Southern Cape. The study has shown that these women face additional barriers both within the communities and the legal system in accessing justice in South Africa. The following are barriers and obstacles that were found:

- Women in rural areas lack services close by and the cost of accessing these services decreases women's ability to deal with domestic violence.
- The lack of child care facilities poses a problem if travelling is necessary.
- There is a lack of safe houses and shelters.
- Many victims of domestic violence fear community gossip or alienation.
- Socio-economic disempowerment of women, especially in rural areas where men retain economic control is another barrier. Women do not have direct ownership of their home and properties, rendering them economically powerless. In many instances women do not want to leave an abusive relationship for economic reasons, including loss of their homes and having to relocate themselves and their children from their common home.
- Kinship and community play a role in 'silencing' domestic violence victims. In African families, in particular, abused women are expected to approach their husband's family for advice, in most cases these women are reprimanded and sent back to their husbands. Women are met with a bit more sympathy by their own families, but they receive similar responses. There is an inability of family members to provide financial support and temporary shelter for women in need.

Quenet (2001) in analyzing the implementation of the Domestic Violence Act noted that this Act will only provide justice if civil society becomes more proactive in providing resources, understanding, compassion, and on-going practical assistance at a micro-level. The key to this according to Lekubu-Wilderson (1997) is education. It is crucial to popularize the concept and context of women's rights amongst individuals within society. Legal instruments that prohibit or discourage social norms will not successfully undo internalized social practices.

Parenzee et al (2001) brings in another dynamic to the use of the Protection Order that might constitute another limitation of the Act. It is maintained that in reality the

Protection Order may make victims of domestic violence more vulnerable to further violence. The victims' defiance may aggravate the abuser when the Protection order is utilized. In this light the Act fails to stop the violence completely.

Another short-coming is secondary victimization within the legal system, within which the Domestic Violence Act operates. The experiences of abused women attempting to assert their rights within an 'androcentric' and 'conservative' legal system has been described as secondary victimization. According to Motara et al (2000) many women do not make use of the legal system because of secondary victimization. Below are some of the reasons:

Firstly, in order to lay a charge or to invoke the operation of the legal system people have to identify themselves as 'victims'. Most abused women are not self-identified as such. To do so is to assume a position of powerlessness vis-a-vis the abuser. Most victims minimize conflict and stress in their lives, already encumbered with economic and social pressure. Consequently, victims avoid describing themselves as victims. They attribute positive images to themselves, for example I'm a good wife/mother/friend. Furthermore, universalizing the prevalence of abuse, the notion that it happens to everyone prohibit many women from utilizing the legal system. Most women prefer the dignity found in their anonymity. Abused women may survive abuse by denying the realities of their situation, and by finding ways to be identified as survivors. The easiest route to survive may in fact involve an avoidance of any adversarial encounter and the active shunning of the legal system.

Secondly, the law has been criticized as being 'androcentric' by legal feminists, who argue that the law does not reflect the lives and experiences of women. Gender biases in law are numerous. Most judges and magistrates are male, whose attitudes are deeply rooted in gender stereotypes and myths. In addition, women face a legal system that bends over backwards to protect the rights of the accused. The accused is entitled to legal representation whereas women must appoint their own lawyers. She must give evidence where the assailant has the right to remain silent. Martin (date unknown) notes that the

gender biases includes the exclusion of women because they are women, the improper use of incorrect and unchosen stereotypes, the use of double standards, the use of male defined norms, the failure to incorporate or to be sensitive to the perspective of women, being gender blind to gender specific realities, and using sexist language.

Thirdly, due to the 'androcentric' nature of the law, legal remedies are often premised upon an 'ideal' complainant. When laying a charge, the law assumes that the complainant will be a reliable witness, will have no emotional attachment to the accused, and will remain impartial through the proceedings. Abused women do not fit this stereotype. Women who end up in court have either been raped or battered by the person they are accusing. Their accusers in most instances are people they share a life and family with. They are someone upon whom they are financially dependent on. As a result, women experience fear of what may happen outside the courtroom but also the fear of putting the breadwinner behind bars. This creates an impossible conundrum for women as a result they are found by the courts to be unimpressive, unreliable witnesses. This in turn creates the impression that women lie about abuse - they lay charges one day and withdraw them the next, they change their stories.

Artz (1999:59) asserts that "we need to broaden the scope of sociological understandings of violence against women to include issues of access, development (economic) and women's socio-political status. A radical shift is needed towards a gender empowerment model which provides women with opportunities to participate in male dominated social and economic structures and one that sees women as agents of social change, rather than passive recipients. Current government reforms falsely assume that the community and the family are healthy sites from which development can take place. This approach however, only succeeds in concealing abuse and silencing victims. Development models that do not take into account the specific socio-economic needs of women simply serve to exploit women even further."

Whilst the Domestic Violence Act, in its attempt, tries to address the multiple needs of women, there are still some shortcomings. Perhaps one needs to broaden the scope and

include other aspects that are relevant to women. Discussed below are some of these dynamics.

2.10 Towards Action: Practical Approaches

Bunch (1991) has observed four basic approaches in addressing violence against women. These are women's rights as political and civil rights, women's rights as socioeconomic rights, women's rights and the law and feminist transformation of human rights.

According to Bunch (1991), it is vital that these approaches are complementary in order to effectively address the issue of domestic violence. Most women experience abuse on the grounds of race, class, culture and gender, which are interrelated and little benefit comes from separating these. The strategies for change involve connecting these approaches in order for women to live lives free from domination and violence. These will be discussed in detail below.

1. Women's rights as Political and Civil Rights.

It is vital to consider women's specific rights as political and civil rights. This, Bunch (1991) asserts, involves both enhancing the visibility of women who suffer general human rights violations as well as calling attention to particular abuses women encounter because they are female.

Women's rights as political and civil rights are addressed internationally by the United Nations Declaration and locally through the Constitution of South Africa. However, Bunch (1991) argues that this is not enough by itself. The right to women's socio-economic needs have to be considered as well. Rights to food, shelter, health care and employment are examples of this.

2 Women's Rights as Socioeconomic Rights.

Political human rights are meaningless without socioeconomic rights. Women's socioeconomic subordination is considered as one of the key factors that contribute to women's vulnerability to violence. This particular focus examines issues such as women's rights to organize as workers, feminization of poverty, women's access to land ownership and access to credit, since women remain in a disadvantaged position in employment, education, health and government (Carrilla, 1991).

One of the limitations of this approach has been its tendency to reduce women's needs to the economic sphere, which implies that women's rights will follow automatically with development. There is a need to create a link between women's political, economic and cultural empowerment.

Women's rights as political and civil rights, women's rights as socioeconomic rights and the Constitution of South Africa

In 1994, South Africa adopted the new constitution. The constitution has the Bill of Rights, which embodies the supreme values against which all legislative and administrative action must be measured. In addition it enshrines a number of rights - political, civil and socioeconomic rights, which are directly relevant to women's lives.

The most important of these are:

- the right to equality (section 9)
- the right to human dignity (section 10)
- the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sourced (section 12)
- the right to access to adequate housing (section 26)
- the right to have access to health care, food, water and social security (section 27)
- the right to access to courts (section 34)

However, in a society where there is massive economic, social and political inequalities, granting all citizens equal rights does not guarantee that they will be able to enjoy those

rights. Furthermore, government's duty toward granting these rights are limited by the Constitution. The Constitution makes provision that the state must take reasonable legislative and other measures within its available resources to achieve the progressive realization of these rights.

3. Women's Rights and the Law

Legal mechanisms need to be created to counter women's exposure to violence. This approach seeks to make legal and political institutions responsible for any violations women are exposed to. These measures enable women to fight for their rights within the legal system. However, it is vital to consider the law and the legal system that are imbued with gender bias as discussed previously.

4. Feminist Transformation of Human Rights.

This approach according to Bunch (1991) gives a greater account of women's lives because of its women-centered stance. This will help to create a context that demands accountability for crimes against women by incorporating a gender perspective.

There are many different types of feminist theories and each has its unique assumptions on how women are characterized and how women should organize in any given society. Thus, each of these theories examines the different structure operating in society, that oppresses women. Each of these feminists gives insight on understanding women's oppression at various levels. However, the most basic and underlying assumption of these theories is that in most modern societies women are seen as inferior to man. (This section was discussed in detail in chapter one. Liberal feminism, radical feminism and socialist feminism views were discussed)

2.11 Conclusion

From the above discussion, it can be observed that domestic violence has many repercussions on both the individual and society. Despite this, efforts to address these have been minimal. Most of the focus thus far has been primarily within the legal sphere. In South Africa, the enactment of the Domestic Violence Act 116 of 1998 is one such example. This Act attempts to provide maximum protection to victims of domestic violence under the law. It also attempts to address the immediate social and economic realities of women by making provision for immediate monetary relief, addressing children's needs and ensuring that victims have immediate access to shelter and medical attention. However, these are only interim measures and the success of these may not be fulfilled due to incorrect applications and procedures.

It would be naïve to conclude that women in South Africa have and will attain freedom and equality readily. The reality of the lives of most South African women is different to the picture the legal system paints. Most laws that have been enacted to protect women's rights do not take into account the fact that most women are literally and legally illiterate, that they are dependent on men, and that the court procedures as they are currently practiced are alienating and hostile toward women. Laws may confer rights, but exercising those rights may be beyond the reach of ordinary women. To the extent that the law can bring about structural and attitudinal changes within society that will, over time, prevent women from becoming targets of abuse is encouraging. However, from the discussions it has also been noted that domestic violence needs to be viewed more holistically in order to address it in a more proactive fashion. Women's psychological, emotional, social, economic and ideological realities need to be incorporated. Gender inequalities, poverty, alcohol/drug abuse, societal upheaval, unresponsive legal systems, media and society's compliance need to be addressed as these impact on domestic violence. It is important to address the causes of domestic violence and rehabilitate offenders to ensure that non-violence against women becomes a universal norm, because violence is an impediment to human equality and human dignity.

It is proposed that a holistic approach include women's equal access to: political and civil rights, socio-economic rights, women's legal rights and more importantly, a consideration of feminist influences that advocate a women centered approach. However, these cannot be effective if issues regarding domestic violence and women's rights are not popularized. More effort has to be focused on imparting this to the masses of people in order to challenge and change both public attitudes and responses toward domestic violence. Violence against women must be understood as a political issue.

The following chapter examines the methodology this research dissertation utilized to explore the research topic.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter discusses the research methodology utilized in this study. According to Bailey (1987), methodology is defined as a 'philosophy' of a research process and includes the following: the articulation of assumptions and values, the standards and criteria the researcher will use to interpret data and the reaching of a conclusion. The researcher during this process decides how best to conduct his/her research by examining the appropriate research design necessary to conduct the research, the sampling and the data collection techniques he/she will utilize, and how the data will be analyzed. The researcher also examines some of the limitations of adopting the type of methodology and examines some of the ethical issues he/she might be confronted with during research.

3.2 Qualitative\Quantitative Research Paradigm

In conducting research, a researcher may follow a qualitative or quantitative research paradigm. Qualitative research involves detailed explanations and in-depth information on underlying meanings and patterns of relationships. It involves the non-numerical examination of phenomena. This research is based on the assumption that reality is socially constructed and that people's behavior cannot be observed objectively. The researcher and the subject create reality through their interaction (Marlow, 1993). Bailey (1987) maintains that qualitative variables are used extensively in observational studies. Quantitative research on the other hand, is derived from the positivist approach to research and it assumes the research must be carried out objectively. In this approach quantifiable observations/data are collected and subjected to statistical analysis, which can be generalized (Marlow, 1993).

This research sought to explore women's experiences of domestic violence, women's expectations of the Domestic Violence Act of 1998 and some challenges these women

face. In order to collect this information more methodically, a triangulated research design incorporating both qualitative and quantitative methods of data collection was utilized. Three separate sets of data were collected from three different sources.

The first set of data examined women's experiences of domestic violence, women's expectations of the Domestic Violence Act of 1998 and some of the challenges these women faced. As this research sought to explore women's subjective realities of the Domestic Violence Act, a qualitative paradigm was employed. This approach provided an in-depth and detailed account of these women's lives. One to one in-depth interviews were conducted with eight women making applications for Protection Orders at the Durban Magistrates Court. The second set of data examined women's needs and demands to control and/or eradicate the violence they experienced. This data were accumulated through the inspection of secondary sources. Forty-six court files of women that have made applications for the Protection Order were examined. This data were also utilized to assess the extent of women's choices to finalize the Protection Order. The third set of data was qualitative as it once again was collected through one to one in-depth interviews with service providers at the Durban Magistrates Court. This set of data examined these service providers experiences and opinions on some of the challenges women face with domestic violence. These reflect some of the reasons for women's choices to successfully utilize the Protection Orders.

3.3 Research Design

A research design of this nature may be descriptive, exploratory or explanatory. Exploratory research is conducted when very little is known about the topic being investigated or about the context in which the research is being investigated. It is essentially used to gain a better understanding of what is going on and how it might be researched. Blaikie (2000:73) asserts that "while exploratory research is usually conducted at the beginning of a research project it may also be necessary at other stages to provide information for critical design decisions, to overcome unexpected problems, to better understand an unanticipated finding, and to establish which avenues of explanation

would be worthwhile pursuing.” Explanatory research on the other hand, seeks to explain why some phenomenon behave in a particular way or why particular regularities occur. It seeks to account for patterns in phenomena. According to Blaikie (2000) it makes the obscure plain to see.

Descriptive research is rigorous in that it is focused and is directed by clearly stated research questions. It generally seeks to present an accurate account of phenomena or to examine the patterns of relationships in a social context or to examine the distribution of characteristics in some population. Descriptive research allows the researcher to learn more about a phenomena or situation. Bailey (1987) maintains that descriptive studies attempt to describe phenomena in detail – it attempts to describe *what* happens. The researcher decided to utilize a descriptive research design. The topic relating to women’s experiences of domestic violence, women’s expectations of the Domestic Violence Act of 1998, and the challenges these women face, essentially seeks to describe in detail the patterns of behavior and relationships in a social context.

3.4 Sampling method

Sampling involves decisions about who will participate in the study and how will these participants be selected. Bailey (1987) asserts that sampling entails the subset of some predetermined size from the population being studied.

Generally, there are two types of sampling methods: probability and non- probability. In the former, the probability of selection of each respondent is known and this type of sampling, according to researchers include: random sampling, systematic sampling, stratified random sampling and cluster sampling. The basic principle behind this type of sampling is that the sample is representative of the population and these findings can be generalized (Bailey, 1987). In non-probability sampling, the probability of sampling is not known. This type of sampling is much less complicated, less expensive and may be done on a spur-of-the-moment basis with available respondents. This type of sampling includes: convenience sampling, quota sampling, dimensional sampling, purposive

sampling and snowball sampling (Bailey, 1987). In this type of sampling, the sample is not representative of a larger population and hence the findings cannot be generalized. Given the particular focus of this study, both probability and non-probability sampling methods were utilized.

Probability Sampling

Probability sampling was utilized to accumulate data through the inspection of secondary sources. Forty-six court files of women that have made applications of the Protection Order were examined. A systematic random sampling data collection method was utilized.

There are approximately 250 applications for these Protection Orders per month at the Durban Magistrates Court. These applications include all types of relationships, including those between heterosexual spouse - husband/wife, ex-husband/ex-wife, boyfriend/girlfriend, ex-boyfriend/ex-girlfriend. In order to capture data systematically, the researcher (on the advice of the Clerk of Court) collected data from the files of the month of May 2002. The reason for this was that most of these applications would have been properly processed. This data were collected in the month of October 2002. A total number of 46 files were examined in order to make the sample more representative. The researcher collected data from every fifth file. The purpose of this research was to examine women's experiences of violence in heterosexual relationships. If the fifth file was not an application made by a woman in a heterosexual relationship, the next file was examined. Below is a Table of the types of the relationship these women shared with the abusers.

Table 1: Indication of the relationship of the Respondent to the Applicant.

Relationship	No
Husband	30
Ex-husband	2
Boyfriend	10
Ex-boyfriend	4
Total	46

Non-Probability Sampling

The nature of the research was both qualitative and descriptive. As a result, non-probability sampling was utilized as well. The type of sampling chosen was convenience sampling and purposive sampling. According to Denscombe (1998:16) ‘Convenience sampling is built upon selections which suits the convenience of the researcher and which are first to hand.’ This process entails the deliberate selection of respondents according to the needs of the research. These respondents are more likely to produce the most relevant and valuable data. However, De Vos (1998) warns that this type of sampling is hard to equate with good research as it runs counter to the rigor of scientific research and that good research selects its items in terms of specific reasons linked to the subject matter of the research, and the requirements of the investigation and not on the basis that they are the easiest to obtain. The sample is based entirely on the judgment of the researcher.

According to Strydom H & Vos A S (1998:189) purposive type of sampling consists of elements which contain the ‘most characteristic, representative or typical attributes of the population (Singleton et al., 1988,153)’. This type of sampling is based entirely on the judgment of the researcher. Denscombe (1998) maintains that the sample is ‘hand picked’ for the research. This sample is deliberately selected because they are likely to produce the most valuable data. Once again we need to heed De Vos (1998) critique discussed under convenience sampling above.

Convenience sampling was utilized for the first sample group. These were the eight women making applications for Protection Orders at the Durban Magistrate Court. The researcher conducted these interviews over a period of three weeks. No specific criteria were used to screen these women. The researcher visited the courts, speak to the women there, and conduct interviews with those willing to participate in the study.

Purposive sampling was utilized for the second group. These were the service providers at the Durban Magistrates Court, which included a Clerk of the Court, Two Family Court Magistrates and a Senior Counselor from the Advice Desk for Abused Women. These service providers are based at the Family Courts and interact constantly with women that are exposed to domestic violence. It could be argued that these sample sizes are small and that these findings are not representative and therefore, cannot be generalized. It should be noted that these were qualitative studies. Intense, in-depth and the most relevant information about people's subjective experiences were collected through one to one in-depth interviews with these participants. Furthermore, this research was done primarily for academic purposes. A small sample size was essential in order to allow the researcher maintain control over the research process.

3.5 Data Collection

Two types of data collection methods were used for the purpose of this study. One type of data collection entailed unstructured one to one in-depth interviews with the eight women. This data collection method was also used with the service providers. A document study of secondary sources, forty-six court files of women making applications for Protection Orders was the second type of data collection method used.

Interviews

Kerlinger (1986:441) defines an interview as a 'face-to-face interpersonal role situation in which one person, the interviewer, asks a person being interviewed, the respondent, questions designed to obtain answers pertinent to the research problem.' According to

Robson (1993) interviews are a kind of conversation with a purpose. It is a 'flexible and adaptable' way of finding things out. Face-to-face interviews offer the possibility to modify one's enquiry and following up interesting responses. This type of data collection tool provides rich and in-depth information on the subject that is researched and offers an immediate means of validating data.

Kerlinger (1986) writes that there are two broad types of interviews – structured interviews and unstructured interviews. In a structured interview the questions, their sequence and their wording are fixed. The interviewer may be allowed relatively little liberty to modify these. Unstructured interviews are more flexible and open. The interviewer is at liberty to structure the questions, their content, sequence and wording as the interview proceeds. However, the research purpose governs these. Interviews as a data collection method, have been criticized as often being time consuming, biases are difficult to rule out and lack of standardization raises concerns about the reliability of the study.

Eight women making applications for Protection Orders

One to one unstructured interviews were conducted with eight women making applications for a Protection Order against their heterosexual partners at the Durban Magistrates Court. These unstructured interviews generated enormous amounts of sensitive data of women's experiences of domestic violence, their expectations of the Domestic Violence Act of 1998 and some of the challenges they faced. These interviews ranged from 30 minutes to 60 minutes each. Women, making applications for a Protection Order at the Durban Court, were approached and those most willing to participate were chosen. One of these participants was interviewed twice. Once on her own and once with her spouse, who was at the court for a Protection Order against her. In all, nine interviews were conducted.

The length of the interviews was determined by a number of factors. Firstly, most women it seemed did not have the energy to participate, they seem emotionally exhausted and their only purpose was to obtain a Protection Order. On more than one occasion the

researcher was confronted with the phrase 'I'm tired'. Secondly, these women needed to comply with court procedures. There are only three Magistrates at the courts and they are inundated with caseloads. Limited time and lack of resources were prime factors. Thirdly, language was a barrier with three of the participants, whose first language was Zulu. These interviews were shorter. And finally, the researcher was unsuccessful in obtaining a separate venue at the court due to lack of space. Most of the interviews were held at the offices of the Advice Desk in the presence of counselors as well as applicants.

These women were briefed on issues of confidentiality. It was made known that the information they were sharing would be used for academic purposes. Furthermore, the issue of sharing personal information that might trigger off intense emotional feelings was also discussed. These participants were more than willing to share their life stories.

Of the eight participants, three were Indian women, one White woman, one Colored woman and three African women. The ages of these women ranged from 20 years to 45 years. The nature of the relationship to their partners was that 5 were married and 3 were living with their partners/boyfriends. All of these relationships were current. Of these participants 4 were employed, 3 were at home and 1 received a disability grant. The types of the abuse ranged from physical to emotional to sexual and in some instances the abuse consisted of a combination of these two or three types. Below are brief descriptions of these women.

Interviews with the Service Providers

In-depth one-to-one interviews were conducted with Service Providers at the Durban Family Court. The Clerk of the Court, a counselor of the Advice Desk and two Magistrates were interviewed. The focus of these interviews was to gain information on their understanding of women's experiences of the Domestic Violence Act and some of the challenges these women face.

The roles and responsibilities of the Magistrates and the Clerk of the Court are outlined in the Magistrates' Court Act No 32 of 1944. They are appointed as public servants to

effectively implement the Domestic Violence Act of 1998. It is the Magistrate's responsibility to make judgments to ensure that basic human rights are protected. The Clerk of the Court is responsible for the basic administration of the Court.

The Advice Desk for Abused Women is a Non Government Organization working with the Durban Magistrates Family court. The Advice Desk provides basic counseling services to applicants, informs applicants of other existing services and assists them in filling out the Applications for Protection Order. The counselor of the Advice Desk had the following to say of the role of the Advise Desk at the court: "We complement the court. We are more compassionate, show more empathy and sympathy. And when they (applicants) come to us, we empower them by counseling them.....They (applicants) come here helpless. But by us assisting them we are helping them. Because we direct them in the sense. If there is alcohol, we refer them to places where they can get help for their spouses - SANCA. Or FAMSA for counseling. Or we do it ourselves. We help them compromise. To solve their problems out."

The interviews with these service providers ranged from 45 minutes to an hour each. The length of these interviews was determined by the availability of these service providers. Very often they are inundated with work and time was of essence.

Document Study

A document study entails the study of any written material that contains information about the phenomena being researched. This process allows research to be conducted on subjects the researcher does not have physical access to and they allow for a much larger sample (Bailey, 1987). Descombe (1998) notes that it is a cost effective method of data collection. Furthermore, documents generally provide a source of data that is permanent and available in a form that is open to public scrutiny. Descombe (1998) identifies the following as limitations: the authority of the source needs to be evaluated and validated, especially since this data is secondary data that is open to secondary interpretation.

One of the objectives of this research was to determine women's needs and demands to control/stop the violence and to assess the extent of women's choices to finalize the Protection Order. This was achieved by examining the documents in the women's court files. Some of the documents found in these files included an Application for a Protection Order, an Interim Protection Order (issued by the Magistrate to the perpetrator), the final Protection Order, Application for Variation or Setting Aside of the Protection Order.

Each applicant is required to complete a process to successfully acquire a Protection Order as outlined in the Domestic Violence Act of 1998. First and foremost, applicants are required to fill in an Application for Protection Order in which the applicant has the right to indicate their needs and demands to control/stop the abuse. The Magistrate examines these and at his/her discretion grants an Interim Protection Order to the applicant. At this point a court date is set at which time the respondent has an opportunity to contest this application. Once this is finalized, a final Protection Order is granted. Both the applicants and respondents also have the opportunity to set aside or vary these Orders.

The analysis of these documents allowed the researcher to assess some of the needs and demands of these women, whether women were granted what they originally requested in their application for a Protection Order by the Magistrate and some of the dynamics and processes that have transpired until the Order was made final. These documents also allowed the researcher to assess the extent to which women finalized these Orders. This was accomplished by examining the numbers of successfully confirmed applications at the end of October 2002, five months later.

Below are brief explanations of the process of acquiring a Protection Order and the documents that require completion. Each section examines the content of these documents and provides a rationale for examining these.

The Process of Acquiring a Protection Order.

1. Application for a Protection Order

First and foremost, the applicant is required to fill in a prescribed form, Application for Protection Order Form (see Appendix two), when applying for a Protection Order. This form requires the complainant to provide the following information

- The complainants particulars
- The particulars of the person making the application on behalf of the complainant (if applicable).
- The particulars of the alleged abuser.
- Details of all persons affected by the violence, and the nature and effect of such violence upon such persons.
- Details regarding the acts of violence.
- Reasons for the urgency of the application.

Terms of protection order. This section deals specifically with meeting the complainant's needs by ordering the respondent not to commit one or a combination of the following:

- a) Not to commit any act of domestic violence.
- b) Not to get the help of another person to commit any act of domestic violence.
- c) Not to enter the shared residence of the complainant.
- d) Not to enter a specific part of the shared residence of the complainant.
- e) Not to enter the Complainant's residence.
- f) Not to enter the Complainant's place of employment.
- g) Not to prevent the Complainant or any child who ordinarily live(s) or lived in the shared residence from entering or remaining in the shared residence or any part thereof.
- h) Not to commit any other acts.

Additional conditions provide further conditions that may be imposed on the respondent for the protection of the complainant. These include:

- a) The complainant's right to an escort from a peace officer and assistance with arrangements to collect personal property. Section nine makes provisions for these
- b) A direction for the police to seize any dangerous weapons in the possession of the respondent.
- c) A direction to the respondent to continue making mortgage or rent payments.
- d) An order that the respondent pays the complainant emergency monetary relief.
- e) The respondent be refused any contact with children.
- f) The respondent be granted contact with the children and under the following restrictions.
- g) The physical address of the complainant not be disclosed to the respondent.
- h) Other conditions requested.

The examination of these documents allowed the researcher some indication of women's needs and demands when making this application. The Protection Order allows the complainant the power to stop the abuse to an extent as well as the power to exercise some form of control over their lives and space. Whilst abuse is inflicted mainly in the private spaces of the complainant it has an impact on the social, psychological, ideological and economic aspects of women's lives. The conditions/request outlined in the Protection Order allow the complainants the opportunity to explore these multiple aspects. The research categorized this information into four themes. These were police intervention and protection, immediate economic and medical needs, control over space, and contact and interim maintenance of children.

2. Interim Protection Order

After the above application was made by the applicants, the Magistrate considers this and issues an Interim Protection Order (see Appendix three) together with a Warrant of Arrest (see Appendix four). The sheriff notifies the respondent of the Order. The Interim Protection Order is only effective after this notice is served upon the respondent.

The Interim Protection Order comprises of the particulars of the respondent, the particulars of the applicant, the order by the court and the particular orders as well as additional orders. These requests follow through from the Application of the Protection Order. A warrant of arrest is authorized if the respondent contravenes any of the above conditions. The applicant is also required to give details of the police station where a copy of the warrant of arrest must be send. The date of confirmation of order is put in the document as well. This section notifies the respondent of the court date of appearance and even serves to inform the respondent that failure to appear would confirm the protection order.

The examination of this document, the Interim Protection Order, enabled the researcher to assess whether the Magistrate, after some discussion with the complainant, has granted the complainant's requests.

3. Application for a Variation or Setting Aside of the Protection Order

The Protection Order has an indefinite life-span until specifically varied or set aside. Both the complainant or the respondent has a right to make an application for a variation or setting aside of the Protection Order (see Appendix five). The applicant and the respondent need to provide reasons for these requests. The court considers the application and once satisfied fills in a Notice of Variation or Setting Aside of Protection Order (see Appendix six) in which the request becomes an order.

The examination of these documents allowed the researcher to examine reasons for setting aside or varying an Order. It allowed the researcher to assess the success of the original expectations of these applicants as well as some of the reasons why these requests are necessary.

The researcher was interested in those cases where an application for variation and setting aside of the Protection Order was made and reasons for these. Whilst in-depth explanations for reasons are not provided in these files, the researcher found that the documents provided some indication of some of the issues that these women faced once

applications have been made. This type of information allowed the researcher to gain some insight on some of women's social, cultural and economic realities.

4. Final Protection Order

In addition, the court issues a Notice to the respondent indicating a specified date to come to court to explain why the Interim Protection Order should not be made as a Final Order. Once that Magistrate has made a decision a Final Protection Order (see appendix seven) is issued. This Order allows the court to confirm the orders that are attached in the Interim Protection Order, amend the orders, or set the Interim Protection Order aside. If the respondent does not appear in court, the court may grant the Final Protection Order in favor of the complainant.

The examination of the Final Protection Order allowed the researcher to examine whether complainants were finally granted, that which they originally requested after respondents were given an opportunity to oppose the initial Application for a Protection Order. Furthermore, it also allowed the researcher to examine the extent of confirmed applications.

3.6 Data analysis

The data obtained from this research process was both quantitative and qualitative. As a result, the research adopted a data analysis approach to suit both these paradigms. Since there is no one or correct way to analyze and present data, the researcher used Hycner's (1985) guidelines for qualitative data analysis. A Statistical Program for Social Scientist (SPSS) was utilized to code the data from the quantitative analysis. Windows EXCEL was utilized for graph presentations.

Hycner's (1985) guidelines for qualitative data analysis constituted a detail procedure in which the researcher extracted information such as common themes, similarities and differences, which were relevant to the research questions.

Hycner's (1985) suggested guidelines for analyzing data are:

1. Transcription. All the interviews were taped (the eight women and the Service Providers) and transcribed by the researcher. This included literal statements as well as significant non-verbal and para-linguistic communications.
2. Bracketing and the phenomenological reduction. This process entailed listening to the recordings and reading the transcripts with an openness to whatever meanings emerged. This process allowed the researcher to suspend/bracket meanings and interpretations of these interviews and allowed the researcher to enter into the world of the respondent.
3. Listening to the interview for a sense of whole. This process involved listening to the tapes and reading the transcripts several times in order to provide a context of meaning and themes.
4. Delineating units of general meaning. This process entailed reading through the transcripts and analyzing every word, phrase, sentence paragraph, in order to elicit the participant's meaning.
5. Delineating units of general meaning relevant to the research question. The researcher addressed the research questions to the units of general meaning to determine whether what the participant have said responds to or illuminates the research question.
6. Training independent judges to verify the units of relevant meaning and eliminate redundancies. The researcher did not fulfill this requirement. One of the reasons being that this research was for academic purposes resulting in lack of resource and time constraints of research.
7. Clustering units of relevant meaning and determine themes from clusters of meaning. The researcher examined whether there were common themes that unite several discrete units of relevant meaning and determined the essence of these themes that gave meaning to a context. Thereafter, the researcher determined if there was one or more central themes which expressed the essence of these clusters.
8. Writing a summary of each individual interview

9. Conducting a second interview and modifying themes and summaries, identifying general and unique themes for all the interviews and the conceptualization of themes, and do composite summaries. - These requirements were not fulfilled by the researcher. Once again this research was conducted purely for academic purposes. Furthermore, it was a difficult task to make contact with the sample group, especially the eight women who wanted to remain anonymous.

In order to analyze the quantitative data SPSS was utilized. SPSS is a statistical program available for social scientists. This program amongst many other functions allows for data to be quantified. Windows EXCEL was utilized to present data in a graph form.

3.7 Limitations of the research design

This section discusses the limitations embodied in the research methodology used in this study as well as some of the challenges posed by the study and the efforts made to meet these challenges.

First and foremost, the type of sampling that was utilized was not a random sample. This study required a particular type of respondent, so convenience sampling and purposive sampling were adopted as a data collecting means. These methods place some queries on the representation and the generalization of the data. However, it could be argued that qualitative research generates profound and in-depth information that is relevant to the research question. Thus, the reliability of the information accumulated is quite substantial.

Furthermore, only a limited number of people were interviewed. This constituted eight women and four Service Providers. Once again, it may be argued that the results of the research cannot be generalized. The number of people interviewed were limited for several reasons. The most important once again being that this research was conducted primarily for academic purposes and that it had to be completed within a definite period

of time. Hence, limited resources and time constraints were factors playing an important part. It was also difficult to secure women who were willing to participate in the study. Many of these women's most important priority was attaining the Protection Order. However, once again it is important to note that a qualitative paradigm was utilized, where the emphasis is depth of the information, rather than numbers.

Another limitation of this study could be the subjective involvement of the researcher in both the interview and the analysis of the data. This involvement, it could be argued influences the objectivity and accuracy of the data presented which in turn raises doubt about the reliability and validity of the research. Furthermore, participant biases can be identified as another limitation, influencing the research. It could be argued that the participants may preempt the researcher's expectations and respond in a manner that meets the expectations of the researcher. The researcher overcame these limitations by ensuring that each interview were taped recorded. Furthermore, the researcher is a trained social worker that possesses skills such as interviewing skills and observation skills to ensure that the information accessed from the participants were as objective as can be.

One of the major shortcomings and limitations of this research was language. The researcher did not speak fluent Zulu. Hence, this influenced the research process in that the researcher could only interview participants that spoke mostly English. This hampered the representation of the sample. Whilst it can be argued that an interpreter could have been appointed, the researcher did not have the resources to pay an interpreter. Also some of the Zulu speaking participants spoke a 'broken' English. The researcher had to use her discretion in translating and interpreting this.

Below the researcher discusses some of the ethical issues that were confronted.

3.8 Ethical Considerations

Ethical considerations are to conform to acceptable professional practices. One of the most basic underlying ethical premises is not to harm anyone in the course of research,

especially if it without consent from the person. According to Bailey (1987) this includes deceiving the respondent about the true purpose of the study, asking about issues that may cause extreme trauma, embarrassment, or guilt or invade his or her privacy. Consent and confidentiality is essential. Furthermore, the researcher must be accurate in his/her analysis of the data. He/she must not only reveal only parts of the facts or present facts out of context in order to rationalize his/her research (Bailey, 1987).

Some of the following issues were addressed in order to overcome some of these ethical considerations:

Informed consent. The researcher made the participants fully aware of the purpose of the study, its possible dangers, and the credentials of the researcher. Some of the possible dangers that were discussed were invasion of privacy and the emotional trauma that might be experienced with disclosing information on domestic violence. Another danger discussed before the interview was the possibility that the participants might not want to make the application of the protection order after the interview. The researcher made participants understand that the interview process might put things into perspective and this might deter the applicant from making the application.

Confidentiality and anonymity. All the respondents were assured absolute confidentiality in that their identities and personal details will not be revealed.

Dissemination of information. The researcher informed the participants that the outcomes of this research would be available to the public as the findings might be published.

3.9 Conclusion

This chapter documents the research methodology. It explored the type of research paradigm used, the research design, the sampling methods, the data collection method, data analysis, limitations of the study and ethical considerations. The following chapter presents the data collected and deals with the analysis of the data accumulated.

CHAPTER FOUR

ANALYSIS OF DATA: WOMEN'S EXPERIENCES OF DOMESTIC VIOLENCE AND THEIR EXPECTATIONS OF THE DOMESTIC VIOLENCE ACT 116 OF 1998

4.1 Introduction

In order to examine domestic violence against women, a triangulated method of data collection was utilized. Three sets of data were collected from three different sources. The first set of data examined women's experiences of domestic violence, women's expectations of the Domestic Violence Act of 1998 and some of the challenges these women face. One to one in-depth interviews were conducted with eight women making applications for Protection Orders at the Durban Magistrate Court. The second set of data examined some of the needs and demands women made in the Protection Orders to control and/or eradicate the violence they experienced. This data were accumulated through the inspection of forty-six court files of women that made applications for the Protection Order. This data were also used to assess whether women choose to finalize the Protection Order. The third set of data was collected through one to one in-depth interviews with service providers at the Durban Magistrates Court. This set of data examined some of the challenges these women face with domestic violence, and reflects some of the reasons for women's rights to successfully utilize the Protection Orders.

Below are the profiles of eight of the women interviewed.

Personal profiles of eight women

***MERVASHNIE** was a forty-five year old Christian Indian woman married to a forty-year old Christian Colored man for the past ten years. She had two children from a previous marriage and two more from the present marriage. Both Mervashnie and her husband were employed. Mervashnie claimed that two years into their marriage and after their first born, her husband started having affairs. According to Mervashnie, that was when the problems in the marriage started. The abuse then was more emotional. The

physical abuse started around five years into their marriage. Mervashnie alleged that she has been physically, emotionally and sexually abused. This was her first application for a Protection Order. She had recently moved in with her sister. Her intentions were to move into her own place once she had acquired the Protection Order.

***TASNEEM** was a thirty seven year Muslim Indian woman married to a Hindu Indian man by Hindu rites for four years. She was not employed and was financially dependent on her husband. They had one child together - an eight year old daughter. Tasneem had another child, a son (age sixteen), from a previous marriage. Her son did not live with them. Tasneem claimed that her husband has been having an affair for the past four years and that he has denied this for a long time. She befriended a male friend late last year and this is when the abuse started. Tasneem's husband had abused her twice since. She alleged both physical and emotional abuse. She had, since the last incident moved in with her brother. She planned to move back in with her husband after she had made an application for the Protection Order.

***LISA** was a thirty-one year old Christian White woman married to a forty year old Christian White male. Lisa had been married for four months only, but had a relationship with her spouse a year prior to this marriage. She had a child from a previous relationship and so does her husband. Lisa was not employed. She alleged emotional abuse on two occasions from her spouse and she claims that both these times he was under the influence of alcohol. Lisa's spouse had, two days prior to the interview with the researcher, called the police and asked them to escort her and her son off his premises. She was in a safe house. She had come to the court to make an application for a Protection Order. She wanted desperately to move back into their shared premises.

Joint interview: Lisa's spouse claims that she had been having an affair with her ex-lover. He claimed that he was initiating divorce proceedings. He identified communication as a problem between them and claimed that Lisa treated his son differently from hers. He claimed that she would treat her son more 'special'. He had come to the court to make an application for a Protection Order against her.

***SIPHIWE** was a thirty-four year old Christian African woman married for eleven years to a forty year old Christian African male. They had three children, two boys aged 11 years and four years and a girl aged seven years, from the marriage. Both were employed full time. Sipiwe was an educator and her husband was a taxi driver. She claimed that her husband had many extra-marital affairs. Sipiwe claimed that the abuse started before marriage. She alleged physical, sexual and emotional abuse. She had moved out of their common house into her own premises. She had come to court to make an application for a Protection Order. Her concerns were to stop the abuse and to claim maintenance for her children.

***FLORENCE** was a forty-year old Christian African woman. Her boyfriend, a fifty-two year old Zion Christian African man, has been living with her for ten years. They have two children from this union. Florence was a cleaner at a primary school and her boyfriend was a contracted painter. Florence claimed that when her boyfriend consumed alcohol and got drunk he became abusive. She alleged emotional and physical abuse which she claimed started early in the year. She was applying for a Protection Order because she wanted him out of her premises and she wanted maintenance for the children.

***THANDI** was a twenty year old Christian African woman living with her 26 year old Christian African boyfriend. She had an eight month old baby from this relationship. She claimed that her boyfriend has been having an affair. She alleged emotional abuse for the past five months. She was applying for a Protection Order for her boyfriend to stop the abuse. Thandi was making an application for maintenance for the child.

***NATASHA** was a forty-year old Christian Colored woman who was living off a disability grant. Her boyfriend, a twenty-five year old Christian Indian male, was unemployed and had been living with her for the past five years. They did not have any children from their relationship. Natasha had two daughters, both married, from a previous relationship. She claimed that her boyfriend has had affairs from the very

beginning of the relationship. He also consumed alcohol and abused drugs. He had in this time exposed her to physical, sexual and emotional abuse. She was applying for a Protection Order to have him removed from her premises and to stop the abuse.

***SAMANTHA** was a thirty-eight year old Christian Indian woman married to a forty-two year old Christian Indian man. They had been married for the past two years. Two of her children, ages thirteen and fifteen, from her previous marriage lived with them. She is employed in insurance and he is an attorney. She claims verbal and emotional abuse from him. She was applying for a Protection Order to have him removed from her premises.

****Real names not used in the research***

The women's experiences of abuse were very intense, disempowering, degrading, and in some instances humiliating. Below are some extracts that highlight some of these dynamics and describe some of the types of abuse the women were exposed to.

4.2 Types of abuse.

Most research found that domestic violence comprises physical, emotional and sexual abuse and affects women of all ages, races, religion and class. According to Carrillo (1991:19), 'gender violence, whether in its most overt and brutal or more subtle forms, is a constant in women's lives.' and affects all women worldwide of all races and income groups. Felder et al (2000:18) states that "violence against women has become a feature of life for all women in all countries, spanning cultural, racial and ethnic differences."

This was evident from the data collected from the research project. In the one to one interviews conducted with the eight women (see table One below), the sample of women affected by abuse were from all ages, religions, and races. The ages of these women range from twenty years to forty-five years. The racial identities of these women fell into one of the four racial categories. Three were African (their ethnicity was not determined), one woman was a white, one a colored, and three were Indian (their ethnicity was not

determined). Of these eight women, one was a Muslim and seven were Christian (religious dominations were not determined). Unfortunately women from other religions were not represented in this study. The major reason being that the scope of this research was small and it was difficult to access women to participate Discussed in more detail in the methodology chapter.).

It was difficult to correctly ascertain the demographics (race, age, religion) data of the women that were affected by abuse from the data collected from the forty-six court files and this is because the application forms do not have this information. Age was determined through the identity numbers, but many of these forms were not completely filled in. The name of the applicant was used as a factor to determine race and religion. (It is important to note that the names may not correctly indicate race and religion.) Thus, through the criteria described the researcher used her discretion and came to the conclusion that women of all ages, races and religions were affected by abuse and were making applications for Protection Orders.

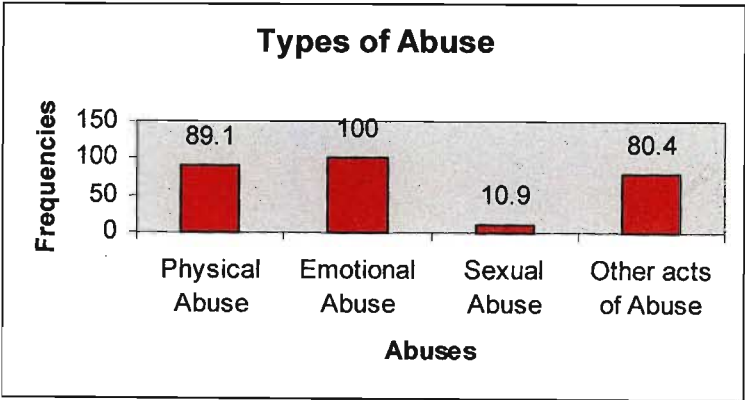
Table One: Summary of data collected from eight women at the Durban Magistrate Court

Participant	Age	Race	Religion	Type of Abuse	Length of Abuse	Factors contributing to Abuse
Mervashnie	45 yrs	Indian	Christian	Physical, Emotional Sexual	5 years	Affairs
Tasneem	37 yrs	Indian	Muslim	Physical Emotional	4 years	Affair
Lisa	31 yrs	White	Christian	Emotional	Under 1 year	Alcohol abuse
Siphiwe	34yrs	African	Christian	Physical Emotional Sexual	Over 10 years	Affair
Florence	40 yrs	African	Christian	Physical Emotional	Under 1 year	Alcohol
Thandi	20 yrs	African	Christian	Emotional	Under 1 year	Affair
Natasha	40 yrs	Coloured	Christian	Physical Sexual Emotional	5 years	Affairs Alcohol/Drug abuse
Samantha	38 yrs	Indian	Christian	Emotional	2 years	Challenging Spouse's Masculinity

Furthermore, it can also be ascertained from the above Table that all of these women were exposed to one form of abuse or another and in most instances these abuses were multiple. This points to the intensity of the abuse. Three of these women alleged sexual abuse and in all of these cases emotional and physical abuse were prevalent as well. Three participants alleged emotional abuse and two alleged physical abused accompanied with emotional abuse. In total: five participants were exposed to some form of physical abuse, eight to some form of emotional abuse and three to some form of sexual abuse. Emotional abuse was prevalent in all these women's experiences of abuse.

Women’s experiences of multiple abuses can be supported from the data collected from the secondary source, the forty-six court files collected by the researcher. Refer to graph below.

Graph One: Types of Abuse (From the forty-six court files.)



From the above graph it can be deduced that in 100% of the cases emotional abuse was present. In 89.1% of the cases physical abuse was prevalent and in 10.9% of the cases sexual abuse was present. It is interesting to note that 80.4% of these women have identified other conditions that fall might or might not fall into one of the three categories of abuse. These conditions were as follows: the respondent should not remove the children from home or school, the respondent should not phone or SMS (short message

system) the complainant, the respondent should not sell the home or remove the furniture, that the visitation rights with the children be supervised, and the respondent does not remove the complainant's personal belongings from the home.

Whilst most literature and research have categorized abuse against women to fall into three categories – physical, emotional and sexual, the Domestic Violence Act of 1998 has allowed women the right to describe the violence they experience more unambiguously. One of the more progressive features of the Act is that it defines domestic violence more comprehensively. This allows understanding violence against women in a more specific context. This fact overshadows Pillay's (1993) critique to an extent. Pillay (1993) maintains that the Domestic Violence Act fails to understand the individual realities of women's lives. As shown above, it allows this with regard to women's actual experiences of domestic violence. However, it does as Pillay (1993) observes proceed on the assumption that a homogenous, just and equal order exists. It fails to understand violence in a broader gender context (this will be discussed more in detail below).

The nature of the study was qualitative and this allowed for the subjective realities of these women's experiences to emerge. Whilst it can be ascertained that women were exposed to various types of abuse, below are some of these women's actual experiences of the different types of abuse.

4.3 Women's actual experiences of the abuse

The women's experience of abuse were very intense, disempowering, degrading and humiliating. Below are some extracts from the in-depth interviews conducted with the eight women to indicate some of these dynamics. These extracts further highlight other issues that emerge from the abuse as well. These stories are reflective of the lives of many women.

Sexual Abuse

With regard to sexual abuse this is what one of the woman had to say.

“Like he want me to try things. Like you know. Indian women don’t do these funny things. It’s horrible... use the carrot and things like that. I don’t feel comfortable.”

This extract highlights the discomfort and humiliation experienced by women. It also indicated the lack of control and the violation of ones dignity and integrity. This description of sexual abuse complies with the definition of sexual abuse as described in the Domestic violence Act of 1998. According to the Act sexual abuse means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant.

Many women contract sexually transmitted diseases through this violation. This form of abuse includes rape as well. It is generally accepted that many women do not report rape, especially marital rape. Sexual offences have many repercussions such as abortion, suicide and infanticide.

Physical Abuse

According to the Domestic Violence Act physical abuse means any act or threatened act of physical violence. The following is a description of physical violence as experienced by one woman.

Mervashnie had the following to say about her experience:

“Whenever he hit me, he throws me on the floor. Bangs me, he boots me. If he has something on hand he uses it. He does it in the presence of the children. Like my daughter is with us. Nobody can say anything.”

This extract highlights some of the actual acts of physical violence. It shows the force used by the abuser. Women that are abused often suffer from physical injuries. Fedler et al (2000) maintain that estimates reveal that one in fifty South African women annually

require medical care for injuries due to violence. These physical injuries women experience frequently result in hospitalization and often leave women permanently damaged.

'Nobody can say anything' shows the extent of control and power the abuser has. Discussions in previous chapters have shown that violence is about men asserting power by controlling women. This argument deals with the construction of gender identities as discussed in Chapter Two.

Emotional Abuse

Some extracts from these eight interviews with regard to emotional abuse are:

"...he put me down. That is on a everyday basis. Either I'm too fat. I mustn't sit if I'm sitting. And he has something to say about that. I'm useless, I'm a stupid. He tells you things that will affect my mind. And you tend to.... I just sit quiet. I just think about it and then I calm down my mind."

And,

"The last time he had a knife. He bought a new knife. He was going to use it on me. The following day, he said he was just joking. He got it for protection. He got a very bad temper. Because he said killing a person, isn't a problem, because he can do it like he kills a chicken. I can't take the chances."

Thandi had the following to say:

"...sometimes three times a week, sometimes four times. He goes somewhere and come. He got girlfriend but he don't want to tell you...."

From the extracts above one can get a sense of the degradation and humiliation women are exposed to. These extracts also paint a picture of the erosion of women's self-esteem and self-confidence. These acts are a violation of self-integrity and are disruptive to women's lives. These dynamics are also highlighted in the Domestic Violence Act. The Act describes emotional, verbal and psychological abuse to include a pattern of degrading or humiliating conduct toward the complainant, including repeated insults, ridicule or name calling; repeated threats to cause emotional pain; or the repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of privacy, liberty, integrity or security.

Emotional and Physical abuse

Below is an example of a women's experience of physical and emotional abuse

“he beat me so much that I went to McCords Hospital. My whole body was aching. So, afterwards, he would beat me and apologize the next day. So I decided just to leave him (not to do anything about the abuse). But now it's enough, because he got this girlfriend and the girlfriend got the baby, which means he has unprotected sex. So I decided to leave him.”

Once again this extract highlights some of the issues discussed above; the physical injuries, the humiliation and degradation experienced by women. It also points to issues of power and control. This extract brings out two other dynamics. The cycle of abuse – ‘he would beat me up and apologizes’ and women's vulnerability to HIV/AIDS – ‘...which means he has unprotected sex.’

Walker (cited in Mariah, 2003) identified the cycle of abuse as consisting of three stages known as the tension build-up stage, the abusive episode and the honeymoon stage. During the tension build up phase, tension builds up that leads to the abusive stage in which the abuse occurs. During the honeymoon stage, the perpetrator shows remorse for the abuse and showers the victim with love and affection. The abuser doesn't accept responsibility for the abuse and justifies and rationalizes his behavior by projecting blame on to the victim. This cycle is a feature of many abusive relationships and accounts for the reason why women stay in abusive relationships for a long period of time.

Multiple partners and engaging in unprotected sex have many repercussions for women, the most pivotal being the prevalence of HIV/AIDS. Morrell R, Aabdool Karim, Qepstein D & Unterhalter E (2002) quoting Whiteside and Sunter (2000) noted that in South Africa women are estimated to comprise 56 % of those infected with HIV. The way in which this is transmitted reflects patriarchal power and the construction of masculinity and femininity. Men may feel that they have the right to engage in polygamous relationships and women may not be able to negotiate for protective sex with her partner who refuses to use contraception. Thus, for this and several other reasons women are more vulnerable to HIV/AIDS

4.4 Factors contributing to abuse

The data accumulated from the one to one in-depth interviews with the eight women indicated three factors that might have contributed to their abuse (see Table One). It is important to note that the scope of this dissertation was limited and it was qualitative in nature. Only eight women were interviewed. This could have accounted for the fact that only three factors were identified in this research study. These were extramarital affairs that their partners were engaging in, their partner's abuse of alcohol and/or drugs and one woman identified her independence that challenges her spouse's masculinity as a factor that contributed to her abuse. In some instances these factors were overlapping and a combination of these contributed to the abuse. According to Feldler et al (2000: 27) a cluster of 'social, economical, political, cultural, psychological, and ideological' factors are operating in society. These factors constantly interact with and influence one another.

Whilst only three factors were identified in this study there are others. Researchers Jewkes (2002) & Feldler (2000) have identified the following: it is absorbed through socialization, gender roles and stereotype; it is reinforced by poverty; it can be associated with heavy alcohol abuse; it can be caused by societal upheaval; it is reinforced by an unresponsive legal system; religion, tradition and culture play a role; the media and a complacent society and drug abuse.

Affairs and Extra-marital relationships

Five out of eight of the women identified affairs their partners were engaging in as a contributing factor to the abuse. In most of these instances, conflict occurred when the women questioned their partners of these events and their partners became aggressive toward them. As one woman, Mervashnie put it:

“.....he started having this affairs, which I just let go. And then it became serious about five years ago. He got involved with the family, mother and daughter. If I say something I get pushed around. I get shot at. He abuses me physically. You know mentally. You name it. You know the way he gets drunk he waves his gun. He has shot me three times, which I did not even report.”

Tasneem said:

“Because I used to know that he’s having this affair for the past four years and every time I asked him about it, he denied it. People used to tell me that he’s buying things for this woman, he’s seeing this other woman and he’s doing things but every time that I brought the story about, he like became aggressive towards me. So I kind of got fed up.....”

It is evident from the extracts above that affairs or relationships that these women’s partners engage in could be one of the factors contributing to violence. The ideological thinking around affairs and extramarital relationships could stem from two sources. The first could be the manner in which society defines masculinity and femininity. The second could be the manner in which society defines or creates women’s dependency on men and this leads to viewing women as male property. When the status quo and system is challenged, by women asserting their independence, violence as a form of control and repressive measure is used as discussed in the literature review in chapter two.

Different gender roles and stereotypes are emphasized for girls and boys, women and men. Girls are generally socialized into being submissive, complying and passive; whereas men are generally socialized into being domineering, challenging and aggressive. This pertains to the construction of sexualities as well. Boys are socialized into being more virile and girls into being prudish. Furthermore, in almost every cultural context women are seen as men’s property. These sexist ideologies place women in subordinate social positions – economically, socially, politically and psychologically - relative to men. Furthermore, these patterns and expected stereotypes have a direct impact on interactional patterns later in life. Women’s socialization patterns make them more vulnerable to abuse and violence than men.

In other instances these affairs contributed to the women becoming aggressive towards their partners. As Natasha put it:

“And that very same woman he used to bring her in the yard without me seeing and pushing her in the rooms. He drink and drink. He is in the back room. I actually caught him I don’t know what got me to think there is something suspicious here. What is this women coming and standing by my door. Normally she don’t come stand here and keep me occupied. I went. I stood by the door. I

saidI was finish. I collapsed. I said: 'what'. I took the broom. I started hitting both while they where having intercourse on the bed.”

Sometimes, abuse and/or extramarital affairs leads to crimes of passion. These are instances were women use force and violence out of desperation. This at times have lead to women killing their spouses. According to Motara et al (2000) the law is not sympathetic toward these women and this is mainly because most battered women do not kill in the ‘heat of the moment.’ This act is interpreted by the courts as premeditated and vindictive. It is important that the courts allowed the admission of evidence to explain the context within which these killings took place.

Alcohol and Drug Abuse

Four of the eight women interviewed identified alcohol and/or drug abuse as a contributing factor to the abuse. These women claimed that excessive alcohol intake caused loud and rowdy behaviors and it was in these instances their spouses became abusive. These abuses ranged from physical, to emotional, to sexual and in some instances were a combination of these.

Florence had the following to say:

“I’ve got a boyfriend and I’m staying with him, so if it(he) is drunk, she(he) hit me in front of the children, she(he) want to do sex in front of the children, so my children scared to go back at home.... he’s fighting always. If he is drinking, he talk loud and fighting with me. If he didn’t fight me, he fighting the children.....so I’m not happy, if it is Friday, I’m not happy, because all over the whole weekend, he’s drunk. ...ya, because if it isn’t drunk, ahh shame, the nice man. If it is drunk, worse”

Below is an incident of alcohol abuse that might have initiated sexual abuse as related by Natasha:

“Then last night he went to the back. He drank the Zulu beer with another guy. They drank. From there he came back for me. The whole night I skip from this side to that side. My panty torn, I brought it with me. I was praying: when is it going to be morning. I’m scared to go outside at night.”

An incident of emotional abuse that is linked to alcohol abuse, as related by Lisa:

“My husband is not violent, he’s a loving husband. But he has a problem with alcohol, um , twice now he’s gotten into alcohol and he gets very aggressive and then he moans, and he shouts at me, he screams at me. But mostly it’s mental abuse.”

Research has found that domestic violence can also be associated with heavy alcohol/drug abuse. Very often the obvious consequence of alcohol and drug consumption leads to violence. Fedler et al (2000) assert that alcohol and drug abuse do not cause the violence, but they play a disinhibiting role with abusive men and may increase the frequency and severity of violence. Holder (1999) & Parry (1998) indicate that alcohol increases the risks of all types of injuries or violence. This could explain some women’s exposure to sexual, emotional and physical abuse.

Challenge to spouse’s masculinity

One of the women, Samantha identified her economic independence as a factor contributing to the abuse. She claimed that she supported her husband and her two children. His contributions to the family’s monthly expenses are minimum. Most of the assets, the house and car belonged to her. She felt that her independence was a threat to his masculinity.

In most instances, society expects men to be providers. When he cannot do so, he perceives this a threat to his masculinity and aggression/violence is used to assert power and control. Once again this can be tied in with theories of masculinity and femininity and to socially constructed roles of men and women as described in Chapter Two.

4.5 Length of abuse and reasons for addressing it at this point

Research has shown that many women endure abuse for a time before actually addressing it. Once again the most basic underlying reason is society’s construction of gender as discussed above. Many women stay in abusive relationships because they are defined in relation to their spouses. This explanation also supports the reasons why women don’t

address violence immediately. Below are extracts from the data collected from the interviews conducted with the women.

From the data collected (see Table One), three of the women were exposed to abuse for under a year. One woman spoke of abuse in the last two years, one woman had been experiencing abuse for four years, two women in the last five years and one woman over ten years. The reason these women provided for not coming forward earlier were: fear of abuser, impact of abuse on self-concept and self esteem, the abuser's intention to change his behavior, they did it for the children, financial constraints, they tried to access social support within the community as culturally expected of women, or that they were unaware of this process. Below are extracts of these women's experiences.

Fear of the abuser

Mervashnie had the following to say

“.... He is an ex-police. He is a very macho type. You know he projects that image..... He says he will prove that I'm an unfit mother. I won't get my children.”

From this extract one can once again draw on the issues of control and power that stems from our constructions of masculinity and femininity. One can also bring out the erosion of women's self-esteem and self-integrity. These were discussed above. Most often such threats are used to keep women in the relationship.

Impact of abuse on self-concept and self-esteem

“being a women and working in the place I work, you feel ashamed..... you feel like its your fault.....because I loved this man.”

Another woman had the following to say:

“Maybe I was scared. Because, I am very afraid of him. Because of the things he has been doing to me. Because he always says, you know no one can tell him anything. And his got friends in high places. Like police station. Like wherever you walk everyone knows him. His got taxi permits. He says I am a nothing.”

As discussed above, abuse impacts on ones self-esteem and self-concept. The abuser make the victims feel guilty and responsible for the abuse. This ensures that victims stay in the abusive relationships. This also reflects on the abused wife syndrome, where

women eventually begin to believe the negative messages received from their partners and do not trust their own strength and independence to leave the relationship.

Abuser's intention to change behavior

Siphiwe prolonged her struggle because she claimed her husband would apologize every time he abused her.

“So, afterwards, he would beat me and apologize the next day. So I decided just to leave him. But now it's enough,”

Once again, the cycle of violence plays an important part. The cycle of violence refers to the patterns of violent outburst followed by remorse. Abusers are not abusive all the time and this gives women some hope. (Mariah, 2003)

For the children

“I stayed for the children. They love their father. No matter what he does to me he loves his children.”

And

“He says he will prove that I'm an unfit mother. I won't get my children.”

Many abused victims stay in abusive relationships because of the children. In some instances, children are used as threats or pawns to ensure that these victims remain in these relationships. Fedler et al (2000) takes note of the fact children often become victims of violence. Young girls and boys who have either witnessed violence or have been victims of violence suffer enormous developmental setbacks that have severe impact on their well-being. Very often these children are prone to perpetrating or accepting violence in their adult lives.

Concerns for financial position

Furthermore, Siphiwe indicated that she was concerned for her financial position.

“...I didn't know about it (the Protection Order) and again I was not sure whether to move out or stay. In fact I was thinking more of the financial side. If I move out of the house and go to rent how am I going to afford it. But then I decided this year that I can't stand it any longer. With or without money I had to get out of the house.”

The extract above highlights some of the dynamics of women's economic dependence. Women often are the victims of lack of income that inhibits sustainable livelihoods. Thus, women's vulnerability to violence is exacerbated. Fedler et al (2000) maintain that women both remain in abusive relationships and do not report abuse in the homes for fear of destitution and homelessness. Women who leave abusive relationships often become homeless and homeless women became targets of further acts of violence.

Social support within the community

Some of the women also indicated that they have been to social systems or structures within their communities for help, before they made this application. This could account for one of the delays in utilizing this system. Most of them first sought help from family members and friends, pastors, social workers, neighbors and/or community structures. Going via these channels, they indicated was more culturally expected. One woman got her mother and brother from the farm to speak to her boyfriend. She then approached her neighbours and the pastor. She finally went to the informal 'community structures' and they advised her to make this application.

Patriarchal thinking – defining roles and duties of women

Whilst social structures may provide some form of support in the community, three of the women spoke of their mothers not being 'supportive'. Two of these women's mothers attitudes were simply 'you are getting everything, why challenge this'.

One of the women had the following to say

“...like I said the older generation come from this culture where you must preserve. Whatever the situation. He is your husband. There is nothing you can do, you must listen to whatever he says. He brings food to your children. The younger ones, I think they understand because they are a little bit more realistic than the older ones.”

Fear of social stigma

Furthermore, three of these women didn't want to seek assistance from their pastors, they didn't want them to know of the abuse. They felt ashamed. One felt that the church was

not realistic and that they did not support such courses. Divorce or separation was not favored and that it was difficult to get them and the community to understand.

“...ya, so that I’ve decided not to go to church because when I go there I won’t have a place to sit, there is a place for married people. There is a place for single people. So if you say this one is divorced, where do you stay. There is no place for you in church. You must just go there and do what. Just be angry. No one will understand because I’m divorced.”

Whilst religion and the church could be a potential source for support and strength there are instances where they tend to reinforce patriarchal norms. This can be a potential danger for women who are victims of violence who could feel excluded and feel ostracized from the community.

One woman spoke of her neighbors helping her when she was locked out of the house or if her husband abused her, but she rather not get them involved for she feared gossip.

Lack of awareness of the Protection Order

Sadly, most of these applicants were initially unaware of the use of the Protection Order. Three of the women were informed of it through the police, one through a social worker at the hospital (counselling was not for abuse, but for her depression in relation to her son's death) and one at a safe house. One woman came to court to make an application for maintenance for her children and was made aware of the Protection Order, and one woman was informed by the community structure formed in her neighborhood. One woman was informed of it by an acquaintance who had previously made an application.

It is also evident from these findings that there seems to be a lack of awareness of the Protection Order. These women felt more effort was needed to disseminate information. As one woman noted “there are all types of alcohol advertisements on television and yet there is absolutely nothing out there that informs us of our rights. It seems that the community is determined to promote alcohol which is one of the factors of abuse rather than to stop the violence. Society needs to view this more seriously.” One of the women

spoke of creating an awareness of this in the nine official languages of South Africa and ensuring that this information be available in the remotest parts of South Africa

4.6 Women's expectations of the Protection Order .

'I can't take it anymore', 'I can't take this hiding', 'it's now enough', 'the children are scared to come home' 'Now, I'm tired', 'Its embarrassing to me and my kids', 'I want things to change' are some of the words of these women. It seems that these women were determined to break the silence, expose the abuse and change their situations. One way of ensuring this is through a Protection Order. Women seemed to reach a point of intolerance and determination to resolve their situation. These women seemed optimistic to make this application.

The Domestic Violence Act aims at affording victims of domestic violence maximum protection under the law. The Act recognizes the unacceptable levels of domestic violence in South Africa. It acknowledges that victims of domestic violence are amongst the most vulnerable members of society. This Act attempts to define domestic violence more comprehensively; recognizes that domestic violence is committed in a wide range of domestic relationships. It aims to ensure that the relevant organs of the state give full effect to the provisions in the Act, and it attempts to address the multiple needs of abused persons.

From the data collected the following themes were present with regard to what women expected from the Protection Order. These women expected protection and safety from the abuse that they were exposed to. Women were expecting protection, to break the silence, empower themselves and increase their self-esteem. The women also expected police intervention and assistance. The women expected that their immediate economic and medical needs be addressed. They expected to exercise control over their space, and finally, the women expected protection and maintenance for their children. Below these themes are discussed in more detail..

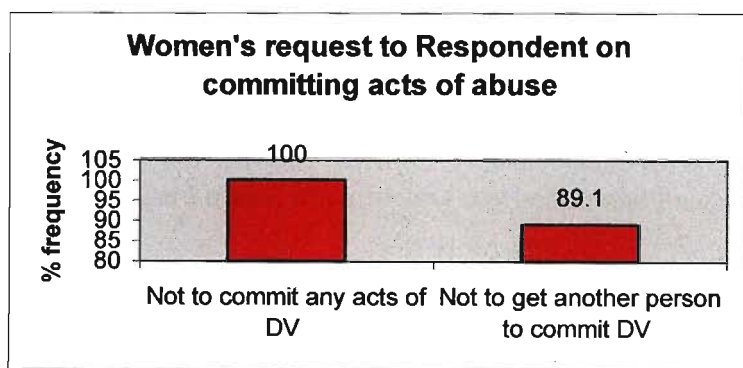
Protection

Data collected from the one to one interviews with the service providers indicated that women came to the court mainly for 'protection' and 'relief'. These women want help, they need help because of the domestic violence they are experiencing. They want something to be done immediately because 'they don't want to be abused anymore.' Service providers see abuse as a form of control – men's control over women. They believe that the Protection Order gives women back some of this control. According to them the Domestic Violence Act gives women "the right to protect themselves". It also gives women "a right to control their lives".

The Domestic Violence Act offers greater protection against violence than any other piece of legislation. Under this Act, persons who have been abused are entitled to a protection order. This Protection Order aims to 'protect' a person from abuse by legally prohibiting the perpetrator from any acts of abuse.

That women are seeking maximum protection is evident from the data collected from the forty-six court files. See graph below.

Graph Two: Women's request to respondents on committing acts of abuse.



put it: “A lot of abusers even don’t realize – they will keep on abusing because they feel that the outside world does not know. Because a lot of them appear to the outside world as those good people. People look up to them, yet behind four walls he is a total different person. And he doesn’t feel that he is doing anything wrong. Because everyone treats him as if he has done nothing wrong. He is never going to change.” Others may want more drastic protection like total separation.

However, the Clerk of the Court also maintained that in some instances these women come to courts to reinforce or maintain this “silence” within their communities. Many women may not want the community members to know of the abuse and they use the law as a tool to address this.

Police intervention and assistance

Women were expecting police assistance and intervention. One woman had the following to say:

“...protection. If he handles me I can call the police. They will assist me immediately. They have told me that last night. They can lock him up. Even if he picks up the phone and does something to me, they going to be there.”

One of the women was a bit skeptical of the effective role that the police and the law played. She didn’t seem confident that they could protect her. She felt that the “law was very lenient on the perpetrators and that stricter measures should be put in place so as to stop this abuse completely.”

The Protection Order also allows for these women to request that a peace officer to accompany the applicant to retrieve personal property from their residence. The women requested an order to seize any dangerous weapons and arms under the control of the respondent. The following data were gained by inspecting the forty six court files. See Table Two.

Table Two: Request for state apparatus

Request for state apparatus	Percent
Request to be escorted by a peace officer to collect personal property	10.9
Police to seize dangerous weapons	21.7

From the above table it can be deduced that 10.9% of the applicants had requested that a peace officer accompany them to collect their property. These applicants may have left in a hurry and didn't have time to collect their belongings, or they may have been asked to leave their residence. The Table also reflects 21,7% of the women requested that the Magistrate order that police to seize the opponents weapons. There seems to be some concern that these weapons might be used against them.

Addressing immediate economic and medical needs

The Protection Order makes provision for the respondent to pay rent, mortgage, or other monetary relief such as loss of earnings, medical and dental relief, relocation and accommodation expenses, and household necessities. The Act attempts to address the multiple needs of those exposed to domestic violence

The following data were extracted from the forty-six court files. See Table Three below.

Table Three: Economic needs.

Economic needs	Percentage
Mortgage and rent payments	26.1
Emergency monetary relief	37.0

Twenty-six percent of the applicants requested that their partners continue to pay mortgage and rent payments. 37% of the respondents requested emergency monetary relief for either immediate medical expenses or house hold expenses.

The Act makes this provision because it tries to place women within their socio-economic context, and to accommodate women's dependence on their spouses. However, this is only a short-term relief. It fails to examine the actual realities of women's lives, and in this manner it fails to address the real needs of women. Most women are socially and economically powerless, and measures have to be put in place to ensure women's long term economic independence.

Reclaiming Space

The Act also attempts to allow women power to exercise control over their space. The Act makes provision for women to determine whether or not the abuser could: enter the shared residence or any part of it; enter the work place; or prevent the abused or any of the children who normally lived in the shared residence from entering or remaining in the residence or any part thereof. (See Table Four below)

From the data extracted from the interviews with the eight women this was evident. One woman wanted to be protected from emotional abuse and wanted to move back into her home. She was thrown out of her home and was in a safe house.

Two of the women wanted their spouses to be removed from the premises. They indicated that they needed space to reflect, to think. As one of the woman put it:

“... for him to give me space, to see if I reflect on my past, to see if I want to entertain anything from my past, also to give him that break, to see what do I want. He wants me to change. In what area can I change. And being apart is the only time you are going be able to relate to that. As long as we are together, he is going to have his attitude, I'm going have my attitude. Because we are coming from under the same roof. No ones prepared to budge. No one is prepared to go forward in any positive manner. He is happy and content to stay there. He has got the house, he has got access to everything. Nothing is changing in his life style. It's us. It's not normal to me.”

The following data were extracted from the forty-six court files.

Table Four: Women reclaim control over space

Women reclaim control over space	Percentage
Not to enter the shared residence	19.6
Not to enter specific parts of the shared residence	4.3
Not to enter the applicant's residence	56.5
Physical address of complainant not to be disclosed	2.2
Not to prevent the complainant or any child from entering or remaining in the shared residence or part thereof	23.9
not to enter the complainant's place of employment	45.7

From Table Four above, 19.6% of these women requested that their partners not enter their shared residence. In these incidences these women are requesting that the Magistrate make an order that their partners leave their shared residence because of the intensity of the abuse. Approximately, four percent of these women requested that their spouses not enter a specific part of their shared residence. In these instances these women may request that their partners not enter their room or the outbuilding. Approximately fifty-seven percent of these women requested that the respondent not enter their residence. In these cases these women have moved out of the shared residence and are staying elsewhere. Approximately twenty-four percent of these women requested that the Magistrate orders the respondent not to prevent the applicant or any of the children from remaining in the shared residence or part thereof. In addition, 2.2% of these women requested that their physical address not be disclosed to the respondents. And 45.7% have requested that the respondents do not enter their place of employment.

From this data it can be concluded that women fear abuse in the private(homes) and public(employment) spheres. This can point to other connotation. Is it that violence against women is becoming a public issue? Approximately 50% of women requested that

the abuser not enter their place of employment. Is it that women are now entering the public arena and men need to impose their power and control in this sphere as well?

Maintenance and Contact with children

In its attempt to address the multiple needs of women the Act makes provision for contact with children as well as intermediary maintenance of the children. This is one of the most immediate concerns of women. Women are mainly the primary care-takers of children and in most instances are concerned for the future well being of their children.

As one woman interviewed for the purpose of this study, said:

“She just pushes thing to the back of her mind. She’s a very playful child. The big one is very emotional. And the school even called me and said you have to do something about it because it is affecting the child, she clamps up and she doesn’t open up. Ya, and he takes them away. He gets drunk. He take them away in the car and say that he is going to kill himself driving with them.”

Research has shown that children are often affected by abuse and in instances children are used as pawns in the relationship. The Act attempts to recognize this and makes provision for women to exercise control over this issue. Women’s concerns are supported by the data collected from the forty-six court files. These findings are reflected in the Table Five.

Table Five: Contact with Children

Contact with Children	Percentage
Refused any contact with children	6.5
Granted contact with the children under regulation	19.6

From the above Table, it can be deduced that 6.5% of these women refused the respondent contact with the children. 19.6% of these women allowed the respondents contact with their child but under conditions.

Furthermore, women were also concerned about the financial needs of their children. Some of the women were expecting maintenance for their children. The Protection Order provides interim relief in this regard until maintenance through the maintenance court is finalized. These requests were made in the emergency monetary relief section.

4.7 Application and granting of Protection Orders

From the above analysis the research may draw certain conclusions. First and foremost, women making these applications have an opportunity to control the abuse to an extent. These requests give women some power and control in that they are allowed to determine conditions and set limitations to some of the dynamics that may arise out of these relationships. For example, women are allowed to request that the abuser not enter their residence, or that the abuser not have access to their children and even if he is allowed, these women are given an opportunity to stipulate other conditions. Furthermore, from the data provided above, it can be seen that each applicant may require a combination of different requests, since each applicant has her own, different experiences of domestic violence. Hence, one finds the varying percentages in these requests.

The researcher also found from the analysis of the interim Protection Order of the forty-six court files that in 80.4% of the cases the Magistrate grants all the requests of these women (see Table below). In 23.9% of these cases the Magistrate assisted women in adding on more conditions. One can conclude at this level that most women's expectations are being fulfilled and furthermore, the Magistrates are providing further empowerment and fulfillment by adding on more requests.

Table Six: Magistrate’s Orders – Interim Protection Order

Magistrate’s Orders	Percentage
Granted all orders applicant requested	56.5
Added on orders to applicant’s requests	23.9
Deleted some orders from applicant’s requests	6.5
Added and deleted orders from applicant’s request	8.7
Interim Protection Order not in file	4.3
Total	100.0

The researcher also found that a small percentage of applications were for Variations and Setting Aside of the Protection Orders (10.9% and 13% respectively). See table below.

Table Seven: Application for setting aside and varying Protection Order.

	Setting aside	Varying
Applicant	2.2%	2.2%
Respondent	10.9%	10.9%

A very small percent use this facility. Interestingly, most of these requests are with regard to the financial aspects. In examining the respondent’s request one finds that these requested were: that the mortgage and rent payment could not be met, the amount for the emergency relief was too high or that the hearing be brought forward because respondent could not afford the maintenance stipulated in the Order. As a result it may be concluded that women’s expectations of economic requests are being challenged by respondents, even though this percentage is very small.

However, the researcher found that after a five month period only 30.5% of the women’s orders were finally confirmed. 30.5% of the Orders were pending and 39% of these Orders were set aside. See table below.

Table Eight: Final outcome of Orders

ORDERS CONFIRM	Percentage
Order confirmed without variations, applicant and respondent in court	8.7
Order confirmed with variations, applicant and respondent in court	10.9
No appearance of respondent in court, order confirmed	8.7
No appearance of applicant in court, order confirmed	2.2
Total	30.5
ORDERS PENDING	Percentage
Case pending	2.2
Court date extended	23.9
Court date extended - applicant forgot proof of service	2.2
Respondent jailed - breach of order	2.2
Total	30.5
ORDER SET ASIDE	Percentage
Order set aside	8.7
No appearance of applicant in court, order set aside	2.2
No appearance of both in court, order set aside	26.1
Order not served on respondent, therefore invalid	2.2
Total	39.0

From Table Eight, it can be deduced that 8.7% of these orders were confirmed without any variations and both the applicant and respondent were present. Approximately, 11%

of these orders were confirmed by the Magistrate with variations and once again both the applicant and the respondent were present. 8.7% of the Orders were confirmed in the absence of the respondent and 2.2% of the orders were confirmed in the absence of the applicant. In total 30.5% of these applications were confirmed. It is important to note that these applications were made in the month of May. The researcher extracted this information at the end of October.

Approximately 28.3% of these applicants court dates were extended. 2.2% of these cases were pending – applicant and respondent opted to go in for counseling. In 23.9% of these cases, the Magistrate decided to extend the court date with no reasons given. And one of the applicants forgot her proof of service so she needed to come back another day.

Thirty-nine percent of the orders were set aside. One of the respondents was jailed. In 8.7% of these orders were set aside with no reasons provided. In 2.2% of the cases these orders were set aside because there was no appearance of the applicant in court. In 26.1% of these cases both parties did not appear in court and the Order was set aside. In one case, the order was not served on the respondent and therefore the case was invalid.

Despite the apparent support of the Magistrates where in 80.4% of the cases they granted all the requests of these women (see Table six) more that 2/3 of the applicants have not finalized their applications (see Table eight), for various reasons. These findings prompts the questions: Why might this be so? Does the optimism initially experienced by women on application diminish? Is the legal system failing these women? Are there other variables that come in to play? Below some of the challenges these women face are discussed. These could provide some of the answers to the above questions.

4.8 Challenges women face

The Protection Order is a form of legal reform that attempts to control/stop the abuse that women experience. It also attempts to address the multiple needs of women by affording women interim monetary relief and addressing the needs of the children. However, this

may not adequately address the needs of women. Other factors come into play that may inhibit women to utilize this avenue. Below are some of the challenges women face that might inhibit the use of the Protection Order.

Further abuse

While most of the women were confident that the Protection Order would be effective, some were unconvinced that this would stop their partners from interfering or abusing them again. Below is an extract from the interviews that highlight some of the dynamics.

“see I’m not worried where looking after my children are concerned. I’m capable. My children will be my first priority. I will continue to work. I have a full time maid that will be with me. My fear is this man still interfering.”

Other Abuses

Access to these Orders could have other repercussions. It could lead to the termination of marriage or to other abuses, including economic abuse.

One woman seemed to think that the Protection Order would not stop the abuse. If her husband breaches it, he may be thrown into prison for a while. However, when he is released, he could start abusing her again. She maintained that stricter punishment needed to be imposed.

These concerns were also highlighted by a Magistrate. The Magistrate felt that these men feel “threatened”, “out of control” when these women assert themselves. Mostly these women are advised by these service providers to try other means such as counseling first.

Effective police intervention

Some of the women feared that police intervention may not be helpful. As one participant indicated that in the past it had not been effective

“I’ve been phoning the police. They have been taking him. Throwing him far.....but he just comes back. Every time.”

The service providers were of the opinion that police intervention was not effective in that it was not properly implemented. They expressed the view that more training of police was needed.

Training

The women and service providers felt that more training was necessary amongst the agencies that provide these services. This training is necessary at the level of the Magistrates and police personal in order to implement proper procedures and processes of the Act.

Jurisdiction

One of the Magistrates identified the issue of jurisdiction – accessing the courts in certain areas only, as an issue. It was felt that this creates other difficulties like accessing transport which placed financial burden on women. This deters people from applying for the Protection Order.

Lack of resources and an integrated system

Another issue identified was lack of resources within the Family Court. The service providers identified a lack of trained personnel, counselors, child welfare officers, interpreters and the advocate within the court system. These were also identified as a gap in service provision within the court. As a Magistrate indicated “the solution of abuse is a long tedious process ... what we need is counseling. Some social work intervention. On

the spot. The problem comes here, whether it goes to the Magistrate or the Courts, there should be a social worker or a child welfare officer in place who can do counseling.....When it comes to the question of access and visitation, we don't have a family advocate available for the whole court process. Like the high court has the family advocate, who interviews the parties, get social workers, makes an analysis, get reports, makes a recommendation. We don't have that service."

It is vital that a more integrated system of services be provided in order for women to gain optimal benefits to the Protection Order. The counselor from the Advice Desk indicated that there was a need for more involvement and integration all relevant community services, especially at the courts. She maintained that there were gaps in services. As she pointed out "there is no way of working with other organizations and in some instances we are not aware of other services that exist there. People in the field need to pull together and provide more effective services. While most of this is done by the Advice Desk at the court there is no guarantee when these referrals are done that these women follow it through." It was felt that these resources be available at the courts so as to ensure immediate access. And furthermore, she has indicated that more NGOs are needed in providing these services - both telephonic and counseling.

In addition to lack of resources and an integrated system a more efficient system is needed. One of the Magistrates indicated the tedious process of acquiring and applying the Protection Order as a challenge.

The whole process, which is tedious, is another factor that was identified as a challenge to women who need the Protection Order. It takes time to effectively gain and utilize the Order. As one Magistrate pointed out "You got to go through the vigorous process of getting the police involved. Submitting documents to the Police. Having him arrested. Coming to court to have him attend the criminal trial. The criminal trial involves a number of adjournments. The system gives you very little time to communicate with the prosecutors. He goes to court if he is found guilty of abuse or assault. He is given a suspended sentence..."

A suspended sentence has implications for women. Once the abuser is released women may be exposed to violence once again and this time it may be more severe. It might even lead to their deaths. This might further inhibit the use of the Protection Order.

Women's socio-economic dependence

One of the Magistrates asserted that the Protection Order would be effective only if women's socioeconomic dependence on the abuser is addressed and dealt with. The government has to embark on some sort of program for abused women. Even though women are moving up, this is a slow process. Access to housing, health facilities and education is a priority. This dependence hampers women's need to use the Order.

A Magistrate further indicated that: "more so the women won't use the warrant. She will come back again and again saying he breached it." She maintains that when women are advised to use their warrant, they respond with: "I can't do it. Because if he gets arrested, he will lose his job. Then I can't get the maintenance. What can I do."

Thus, the huge socio-economic realities of women's lives prevent them from moving away from abusive relationships and prevent them from using the Protection Order. As discussed before women worldwide suffer from lack of income. And it is precisely because women live in poverty their vulnerability to violence is exacerbated.

Lack of awareness

And finally, there needs to be an awareness of Domestic Violence in our communities. Many present day cultures and religions may condone much of this behavior. These beliefs need to be challenged. As long as these beliefs are still operating, the Protection Order cannot be as effective.

This awareness is also lacking with regard to the existence of the Protection Order. Many women do not know of the Protection Order, its uses and benefits. This awareness, the participants believe can be promoted through the media, by community based organization and community talks. As one of the participants put it: “Something should be done to address the issue of abuse to women. I’m not saying that it not being done. I’m saying that more should be done.”

The media in many instances reflect the status quo and reinforce the dominant patriarchal culture. Women are often portrayed in ways that objectifies and demean them. The media endorses the subjugation of women and tends to normalize violence.

4.9 Conclusion

From the above discussions one can deduce that the Protection Order as a legal reform is a tool that is used to address the violence experienced by women. Women are requesting protection through police intervention and the courts. Women also see the Protection Order as a tool that empowers them by assisting them to break the silence and increasing their self-esteem. Women are given the opportunity to reclaim their space and exercise control over it. The Protection order is also used to address the immediate economic and medical needs of the women and women are allowed to exercise control over access and maintenance of their children. However, it was found by the researcher that the Protection Order is not as effective in completely addressing the issue of violence against women.

Women have identified factors such as extramarital affairs, drug and alcohol abuse and challenge to masculinity as factors contributing to the abuse. The protection order does not address these causes.

The challenges the women and the service providers have identified are once again not addressed by the Protection Order. Further abuses and other abuses once the Protection Order is used is not addressed. Women’s socio-economic dependence on the abuser that inhibits the effective use of the Protection Order, is not addressed by the Order. Service

provision has been identified as a factor that inhibits the use of the Order. Ineffective police intervention, inadequate training the issue of jurisdiction, lack of resources and an integrated system are some of the issues identified in this study. And finally the Protection Order does not challenge the media that is used as a tool to reinforce and maintain the patriarchal culture. Thus awareness of the Protection Order is not a priority. However, it must be recognized that the Protection Order is a legal instrument designed to assist women within the criminal justice system. An inter-sectoral and inter-disciplinary approach is needed to fully address the multiple challenges that women are confronted with.

The next chapter examines the conclusions of the study and examines some recommendations to overcome some of the challenges discussed in this chapter.

CHAPTER FIVE
CONCLUSION AND RECOMMENDATIONS
A WAY FORWARD

5.1 Introduction

This chapter presents the major conclusions of the study and recommendations that would address the issue of violence against women. Through the detailed literature search and presentation, interviews with eight women, interviews with service providers and the analysis of the forty-six court files, all the research questions as stated in Chapter One have been answered. Furthermore, all the underlying assumptions stated in Chapter One have been supported.

Conclusion one

From the discussions in the previous chapter, several conclusions can be deduced. First and foremost, women of all races, ages, religions and class are exposed to one or several forms of physical, emotional and sexual abuse. This conclusion was supported by the qualitative study, the interviews with the eight women as well as by the quantitative study, the analysis of the forty-six court files.

Conclusion two

Secondly, whilst research found several factors including gender inequality, gender roles and stereotypes; poverty; alcohol and drug abuse; societal upheaval; an unresponsive legal system, the media and a complacent society, as the causes of abuse, the women of this study identified three. These were extra-marital affairs, alcohol/drug abuse and challenges to a partner's masculinity as factors that initiated the abuse.

As pointed out earlier, the reason for only three factors being identified was the study was qualitative in nature with a small sample size. Women may have identified the immediate factors, at a micro-level that they perceive contribute to abuse. They were not engaged in any process of reflecting mezzo and macro factors. This aspect needs serious

consideration. This could be attributed to women's lack of understanding of the link between their personal and political experiences. As Sewpaul (1994) so cogently noted the personal and political world of women are linked in profound ways. This link shapes and is shaped by women's personal, social, economic, political and cultural identities.

Conclusion three

Thirdly, the women had after some period of time made an application for the Protection Order. This data was accumulated from the qualitative study of the eight women. These women gave the following reasons for making use of the law after some time and after other efforts had failed. Firstly, they were afraid of making the application because they were afraid of the abuser and afraid of further abuse from the abuser. Secondly, these women felt disempowered for a long time and they lacked self-esteem and confidence. This points to the abused wife syndrome, where women lose a sense of who they are. But women finally reached a point where they needed to empower themselves. Women felt that it was vital to make this application in order to enhance their self-concept and self-esteem. Thirdly, one applicant mentioned that the abuser had indicated his intention to change his behavior. So she believed him and forgave him over again. This explanation points to the abuse wife syndrome. Fourthly, women indicated that they considered this application after a period of time because of the children. They believed that it was more important for the children to live with their fathers. Fifthly, women indicated financial constraints as a factor. Women were concerned about their financial positions should they leave the relationship, as they were economically dependent on their partners. Sixthly, women first went to other social support systems within the community. This they believe was a more culturally appropriate behavior. They were confident that these structures would help stop the abuse. And finally, some of these women were unaware of the process of applying for a Protection Order.

These factors point to the fact that there are other aspects of women's lives that inhibit the immediate use of the law and the Protection Order. Psychological, social, economical, cultural and political factors come into play. It is vital to consider these in order to holistically address this issue. More importantly, an awareness of domestic violence

issues and instruments that are available to address this is vital. If women are unaware of this they cannot effectively address it. As it was suggested in this research this information must be available in the nine official languages.

Conclusion four

Fourthly, the women had several expectations from the Protection Order. Women were expecting protection from any kind of abuse they were experiencing. This protection they sought through police intervention and assistance. Women were also expecting to break the silence and expose the violence. In this manner women were expecting to empower themselves and increase their self-esteem. Furthermore, women were expecting to exercise control over their space. The Protection Order gave women the right to exercise control and access to their private (homes) and public (employment) space. The Protection Order even allowed women to request immediate economic and medical relief that they required. Protection and maintenance for their children were also factors identified.

This process empowered women by giving them the opportunity to control/stop the abuse. These requests give women some power and control in that they are allowed to determine conditions and set limitations to some of the dynamics that may arise out of these abusive relationships. For example, women are allowed to request that the abuser not enter their residence, or that the abuser not have access to their children and even if he is allowed, women are given an opportunity to stipulate conditions. So the process of making this application is an empowering experience for women.

Conclusion five

Fifthly, one also finds from the data analysis of the court files, that in most of the cases the Magistrate grants these requests of women, when granting the Interim Protection Orders. In 80.4% (see Table Six in Chapter Four) of the cases the Magistrate granted all the requests of the women. So one can conclude that at this level most women's expectations are being fulfilled and furthermore, the Magistrates are providing further fulfillment by adding on more requests. One also finds a small percentage, approximately

25% (see Table seven in chapter four) of applications for Variations and Setting Aside the Protection Orders. It is important to note that this doesn't mean that the Magistrate considered these applications. Interestingly, most of these requests were with regard to the financial aspects. This once again indicates that economics is a factor that influences and challenges the use of the Protection Order.

However, it was found that only 30,5% (see Table Eight in Chapter Four) of these cases were finally successfully processed five months later. The other 69,5% (see Table Eight in Chapter Four) of these orders was either pending or set aside. The big question is why? Why are only approximately a third of women able to successfully attain the Order? Why are approximately seventy percent of these orders not successfully processed? Is the legal system failing these women? Are there other factors that come into play that prevent women from successfully achieving that which they so enthusiastically started? Below are some of the findings of this study on some of the challenges the women face that could inhibit them from successfully utilizing the legal system. These could provide some of the answers to the above questions. The recommendations to address these challenges are discussed as well.

5.2 Challenges and Recommendations

The following were factors that were identified by the eight women interviewed and by the service providers as factors that inhibit or provide challenges to women's successful utilization of the legal system. Recommendations to address these challenges are discussed as well.

Further abuse and lack of confidence

Women were concerned and were unsure if this process alone would stop their partners from interfering or abusing them again. Women fear further abuse from the abuser once he is challenged. Furthermore, abused women have low self-esteem and self-confidence. This accounts for women's hesitation to successfully make use of the law and the Protection Order.

An approach that considers women's private, psychological and emotional realities would provide a more holistic approach and will ensure the effective utilization of the law. This approach needs to recognize the multiple aspects of domestic violence in order to ensure the empowerment of women at this level. Direct counseling services, hotlines, and crisis management programs are essential. These services are essential for offenders as well.

Lack of training, resources and disintegrated services

Women feared that police intervention may not be effective. It was felt that more training was necessary amongst the agencies that provide these services. This training was necessary at the level of the Magistrates and police personal in order to implement proper procedures and processes of the Act. The issue of jurisdiction and the accessing of courts in certain areas were identified as a challenge. It was felt that this created other difficulties like assessing transport that places financial burden on women and this deterred women from applying for the Protection Order. The tedious process of obtaining the Protection Order was another factor that was identified as a challenge to women. It takes time to effectively make this application and utilize the Order.

Another issue identified was lack of resources within the Family Court. There is a lack of trained personnel, counselors, child welfare officers, interpreters and the advocate within the court system. These could also be identified as a gap in service provisions within the court. There is a need of more involvement and integration of all relevant community services especially, at the courts.

Integrated services, more training and more resources are essential. Effective policing and legislative measures are necessary. These maintain more effective service provision that ensure maximum results.

Women's socioeconomic dependence

Women's socioeconomic dependence on abusers was another factor identified as a challenge for women making use of the law as well as women's need to use the Order. Financial constraints for women and their children was a burning issue.

It was suggested that the government embarks on a socio-economic programme that allows abused women access to housing, to health facilities and education. These socio-economic programmes will ensure socio-economic independence from abuser. This step will empower women and assist in the eradication of violence.

Lack of awareness and dissemination of information

And finally, the lack of awareness of Domestic Violence and of the Domestic Violence Act in our communities is a crucial issue. Many women do not know of the Protection Order, its uses and benefits.

This awareness can be promoted through the media and through community based organizations and community talks. Many present day cultures and religions may condone violence against women. These beliefs need to challenge at a cultural and ideological level as the existence of these beliefs challenges aspects that might allow equality and non-violence between men and women. Increasing public awareness of violence against women as a societal problem is vital. Educating people regarding the issue and attempting to change both public attitudes and behaviors is essential. This education can only be effective if relevant research informs it.

These changes also need to be targeted via the media. Degrading images and representation of women in society need to be challenged. Feminist advocacy that allow a women centered approach can ensure that gender sensitive policies are maintained. More importantly, information about the Domestic Violence Act must be made available in the nine official languages of South Africa, as the data collected of this research suggested.

It would be naïve to conclude that women in South Africa have walked a short road to freedom and equality. The reality of the lives of most South African women is very complex and legal reform alone will not address the issue of domestic violence effectively. Most of the laws that have been enacted to protect women's rights do not take into account the fact that most women are literally and legally illiterate, that they live in poverty and are homeless, that they are dependent on men and that the court procedures as they are currently practiced are alienating and hostile toward women. Laws may confer rights, but exercising those rights may be beyond the reach of ordinary women. The law can, to a limited extent, bring about structural and attitudinal changes within society that may over time prevent women from becoming targets of abuse.

However, as the research has shown domestic violence needs to be viewed more holistically in order for it to be addressed more proactively. It needs to be assessed on a micro, mezzo and macro level. Women's psychological, emotional, social, economic and ideological realities need to be incorporated. Gender inequalities, gender stereotype and socialization, poverty, alcohol/drug abuse, societal upheaval, unresponsive legal systems, media and society's compliance, the symptoms and causes of domestic need to be addressed as well as how these impact on domestic violence. It is important to address the multiple aspects of domestic violence, its causes and prevention as well as the rehabilitation of its survivors and offenders to ensure that non-violence against women becomes a universal norm because violence is an impediment to human equality and human dignity.

It has been proposed by Bunch (1991) that a holistic approach include women's equal access to: political and civil rights, socio-economic rights, women's legal rights and more importantly, feminist influence (a women centered approach). However, these cannot be achieved if these concepts and approaches are not popularized. More effort has to be focused on imparting this to the masses in order to challenge and change public attitudes toward domestic violence. Violence against women has to be understood as a political issue.

5.3 Social work intervention and practice

Social work intervention and practice is vital in addressing the issue of domestic violence. According to McKendrick (1990:156) “the primary purpose of social work is to enable individuals, families and groups to deal with their problems in living through the utilization of society’s resources in the context of their social environment.” Thus, social work intervention is concerned with the interaction between the individual and the environment. Furthermore, social work intervention is targeted on direct services with individuals (physiological therapies, interpersonal therapies) and families (negotiation, mediation, family therapy), group work intervention (social group work, group therapy, social support network, self-help groups), community work (community education, community development) and community organization (political activism, feminist advocacies, legal advocacy, community based education). Thus, social work intervention has a dual mission of helping people and changing society especially with regard to addressing domestic violence issues. It provides a more holistic understanding of human behavior and hence domestic violence issues and enables intervention on several levels.

5.4 Conclusion

Neither the codification of women’s rights through the constitution nor the implementation of statutory laws, such as the Domestic Violence Act 116 of 1998, designed to protect women from abuse, has had any significant impact to stop the violence. This is precisely because domestic violence is caused by many factors. These include the biological, psychological, social, economic, cultural and historical circumstances as well as legal. Thus, new legislation should provide the impetus for broader social change to bring about equality between men and women and to challenge the imbedded patriarchy in all these structures. However, progressive laws allow progressive public service providers the opportunity to ensure justice at an individual level.

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ENDNOTES

ⁱ Three World Conferences on Women have been held – Mexico City (1975), Copenhagen (1980) and Nairobi (1985).

ⁱⁱ One such document is the Forward-Looking Strategies for the Advancement of Women.

ⁱⁱⁱ In 1996 the South African Constitution also entrenched the Rights of Gender Equality and Freedom from Violence.

^{iv} The Domestic Violence Act was designed to address the limitations and the gaps of the Prevention of Family Violence Act (1993).

^v The Act attempts to be gender neutral and focuses on both men's and women's experiences of violence as well as violence that is experienced across generations.

^{vi} This is an interim order made by the Magistrates of the Family Courts and is only valid until a maintenance order is set in place.

^{vii} Under the new Act an interim protect order can be obtained outside the court hours. This is based on the premise that attacks are more likely to occur after working hours, especially in the weekends. Moreover, the protection order can be used all over the country.

APPENDIX ONE:

THE DOMESTIC VIOLENCE ACT 116
OF 1998

(b) undue hardship may be suffered by the complainant as a result of such domestic violence if a protection order is not issued immediately,
the court must, notwithstanding the fact that the respondent has not been given notice of the proceedings contemplated in subsection (1), issue an interim protection order against the respondent, in the prescribed manner.

(3) (a) An interim protection order must be served on the respondent in the prescribed manner and must call upon the respondent to show cause on the return date specified in the order why a protection order should not be issued.

(b) A copy of the application referred to in section 4 (1) and the record of any evidence noted in terms of subsection (1) must be served on the respondent together with the interim protection order.

(4) If the court does not issue an interim protection order in terms of subsection (2), the court must direct the clerk of the court to cause certified copies of the application concerned and any supporting affidavits to be served on the respondent in the prescribed manner, together with a prescribed notice calling on the respondent to show cause on the return date specified in the notice why a protection order should not be issued.

(5) The return dates referred to in subsections (3) (a) and (4) may not be less than 10 days after service has been effected upon the respondent: Provided that the return date referred to in subsection (3) (a) may be anticipated by the respondent upon not less than 24 hours' written notice to the complainant and the court.

(6) An interim protection order shall have no force and effect until it has been served on the respondent.

(7) Upon service or upon receipt of a return of service of an interim protection order, the clerk of the court must forthwith cause—

- (a) a certified copy of the interim protection order; and
- (b) the original warrant of arrest contemplated in section 8 (1) (a),

to be served on the complainant.

6. Issuing of protection order.—(1) If the respondent does not appear on a return date contemplated in section 5 (3) or (4), and if the court is satisfied that—

- (a) proper service has been effected on the respondent; and
- (b) the application contains *prima facie* evidence that the respondent has committed or is committing an act of domestic violence,

the court must issue a protection order in the prescribed form.

(2) If the respondent appears on the return date in order to oppose the issuing of a protection order, the court must proceed to hear the matter and—

- (a) consider any evidence previously received in terms of section 5 (1); and
- (b) consider such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.

(3) The court may, on its own accord or on the request of the complainant, if it is of the opinion that it is just or desirable to do so, order that in the examination of witnesses, including the complainant, a respondent who is not represented by a legal representative—

- (a) is not entitled to cross-examine directly a person who is in a domestic relationship with the respondent; and
- (b) shall put any question to such a witness by stating the question to the court,

and the court is to repeat the question accurately to the respondent.

(4) The court must, after a hearing as contemplated in subsection (2), issue a protection order in the prescribed form if it finds, on a balance of probabilities, that the respondent has committed or is committing an act of domestic violence.

(5) Upon the issuing of a protection order the clerk of the court must forthwith in the prescribed manner cause—

- (a) the original of such order to be served on the respondent; and
- (b) a certified copy of such order, and the original warrant of arrest contemplated in section 8 (1) (a), to be served on the complainant.

(6) The clerk of the court must forthwith in the prescribed manner forward certified copies of any protection order and of the warrant of arrest contemplated in section 8 (1) (a) to the police station of the complainant's choice.

(7) Subject to the provisions of section 7 (7), a protection order issued in terms of this section remains in force until it is set aside, and the execution of such order shall not be automatically suspended upon the noting of an appeal.

7. Court's powers in respect of protection order.—(1) The court may, by means of a protection order referred to in section 5 or 6, prohibit the respondent from—

- (a) committing any act of domestic violence;
- (b) enlisting the help of another person to commit any such act;
- (c) entering a residence shared by the complainant and the respondent: Provided that the court may impose this prohibition only if it appears to be in the best interests of the complainant;
- (d) entering a specified part of such a shared residence;
- (e) entering the complainant's residence;
- (f) entering the complainant's place of employment;
- (g) preventing the complainant who ordinarily lives or lived in a shared residence as contemplated in subparagraph (c) from entering or remaining in the shared residence or a specified part of the shared residence; or
- (h) committing any other act as specified in the protection order.

(2) The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety, health or wellbeing of the complainant, including an order—

- (a) to seize any arm or dangerous weapon in the possession or under the control of the respondent, as contemplated in section 9; and
- (b) that a peace officer must accompany the complainant to a specified place to assist with arrangements regarding the collection of personal property.

(3) In ordering a prohibition contemplated in subsection (1) (c), the court may impose on the respondent obligations as to the discharge of rent or mortgage payments having regard to the financial needs and resources of the complainant and the respondent.

(4) The court may order the respondent to pay emergency monetary relief having regard to the financial needs and resources of the complainant and the respondent, and such order has the effect of a civil judgment of a magistrate's court.

(5) (a) The physical address of the complainant must be omitted from the protection order, unless the nature of the terms of the order necessitates the inclusion of such address.

(b) The court may issue any directions to ensure that the complainant's physical address is not disclosed in any manner which may endanger the safety, health or wellbeing of the complainant.

- (6) If the court is satisfied that it is in the best interests of any child it may—
- (a) refuse the respondent contact with such child; or
 - (b) order contact with such child on such conditions as it may consider appropriate.
- (7) (a) The court may not refuse—
- (i) to issue a protection order; or
 - (ii) to impose any condition or make any order which it is competent to impose or make under this section,

merely on the grounds that other legal remedies are available to the complainant.

(b) If the court is of the opinion that any provision of a protection order deals with a matter that should, in the interests of justice, be dealt with further in terms of any other relevant law, including the Maintenance Act, 1998, the court must order that such a provision shall be in force for such limited period as the court determines, in order to afford the party concerned the opportunity to seek appropriate relief in terms of such law.

8. Warrant of arrest upon issuing of protection order.—(1) Whenever a court issues a protection order, the court must make an order—

- (a) authorising the issue of a warrant for the arrest of the respondent, in the prescribed form; and
- (b) suspending the execution of such warrant subject to compliance with any prohibition, condition, obligation or order imposed in terms of section 7.

(2) The warrant referred to in subsection (1) (a) remains in force unless the protection order is set aside, or it is cancelled after execution.

(3) The clerk of the court must issue the complainant with a second or further warrant of arrest, if the complainant files an affidavit in the prescribed form in which it is stated that such warrant is required for her or his protection and that the existing warrant of arrest has been—

- (a) executed and cancelled; or
- (b) lost or destroyed.

(4) (a) A complainant may hand the warrant of arrest together with an affidavit in the prescribed form, wherein it is stated that the respondent has contravened any prohibition, condition, obligation or order contained in a protection order, to any member of the South African Police Service.

(b) If it appears to the member concerned that, subject to subsection (5), there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, the member must forthwith arrest the respondent for allegedly committing the offence referred to in section 17 (a).

(c) If the member concerned is of the opinion that there are insufficient grounds for arresting the respondent in terms of paragraph (b), he or she must forthwith hand a written notice to the respondent which—

- (i) specifies the name, the residential address and the occupation or status of the respondent;
- (ii) calls upon the respondent to appear before a court, and on the date and at the time, specified in the notice, on a charge of committing the offence referred to in section 17 (a); and
- (iii) contains a certificate signed by the member concerned to the effect that he or she handed the original notice to the respondent and that he or she explained the import thereof to the respondent.

(d) The member must forthwith forward a duplicate original of a notice referred to in paragraph (c) to the clerk of the court concerned; and the mere production in the court of such a duplicate original shall be *prima facie* proof that the original thereof was handed to the respondent specified therein.

(5) In considering whether or not the complainant may suffer imminent harm, as contemplated in subsection (4) (b), the member of the South African Police Service must take into account—

- (a) the risk to the safety, health or wellbeing of the complainant;
- (b) the seriousness of the conduct comprising an alleged breach of the protection order; and
- (c) the length of time since the alleged breach occurred.

(6) Whenever a warrant of arrest is handed to a member of the South African Police Service in terms of subsection (4) (a), the member must inform the complainant of his or her right to simultaneously lay a criminal charge against the respondent, if applicable, and explain to the complainant how to lay such a charge.

9. Seizure of arms and dangerous weapons.—(1) The court must order a member of the South African Police Service to seize any arm or dangerous weapon in the possession or under the control of a respondent, if the court is satisfied on the evidence placed before it, including any affidavits supporting an application referred to in section 4 (1), that—

- (a) the respondent has threatened or expressed the intention to kill or injure himself or herself, or any person in a domestic relationship, whether or not by means of such arm or dangerous weapon; or
- (b) possession of such arm or dangerous weapon is not in the best interests of the respondent or any other person in a domestic relationship, as a result of the respondent's—
 - (i) state of mind or mental condition;
 - (ii) inclination to violence; or
 - (iii) use of or dependence on intoxicating liquor or drugs.

(2) Any arm seized in terms of subsection (1) must be handed over to the holder of an office in the South African Police Service as contemplated in section 11 (2) (b) of the Arms and Ammunition Act, 1969 (Act No. 75 of 1969), and the court must direct the clerk of the court to refer a copy of the record of the evidence concerned to the National Commissioner of the South African Police Service for consideration in terms of section 11 of the Arms and Ammunition Act, 1969.

(3) Any dangerous weapon seized in terms of subsection (1)—

- (a) must be given a distinctive identification mark and retained in police custody for such period of time as the court may determine; and
- (b) shall only be returned to the respondent or, if the respondent is not the owner of the dangerous weapon, to the owner thereof, by order of the court and on such conditions as the court may determine:

Provided that—

- (i) if, in the opinion of the court, the value of the dangerous weapon so seized is below R200; or
- (ii) if the return of the dangerous weapon has not been ordered within 12 months after it had been so seized; or
- (iii) if the court is satisfied that it is in the interest of the safety of any person concerned,

the court may order that the dangerous weapon be forfeited to the State.

10. Variation or setting aside of protection order.—(1) A complainant or a respondent may, upon written notice to the other party and the court concerned, apply for the variation or setting aside of a protection order referred to in section 6 in the prescribed manner.

(2) If the court is satisfied that good cause has been shown for the variation or setting aside of the protection order, it may issue an order to this effect: Provided that the court shall not grant such an application to the complainant unless it is satisfied that the application is made freely and voluntarily.

(3) The clerk of the court must forward a notice as prescribed to the complainant and the respondent if the protection order is varied or set aside as contemplated in subsection (1).

11. Attendance of proceedings and prohibition of publication of certain information.—(1) (a) No person may be present during any proceedings in terms of this Act except—

- (a) officers of the court;
- (b) the parties to the proceedings;
- (c) any person bringing an application on behalf of the complainant in terms of section 4 (3);
- (d) any legal representative representing any party to the proceedings;
- (e) witnesses;
- (f) not more than three persons for the purpose of providing support to the complainant;
- (g) not more than three persons for the purpose of providing support to the respondent; and
- (h) any other person whom the court permits to be present.

Provided that the court may, if it is satisfied that it is in the interests of justice, exclude any person from attending any part of the proceedings.

(b) Nothing in this subsection limits any other power of the court to hear proceedings *in camera* or to exclude any person from attending such proceedings.

(2) (a) No person shall publish in any manner any information which might, directly or indirectly, reveal the identity of any party to the proceedings.

(b) The court, if it is satisfied that it is in the interests of justice, may direct that any further information relating to proceedings held in terms of this Act shall not be published: Provided that no direction in terms of this subsection applies in respect of the publication of a *bona fide* law report which does not mention the names or reveal the identities of the parties to the proceedings or of any witness at such proceedings.

12. Jurisdiction.—(1) Any court within the area in which—

- (a) the complainant permanently or temporarily resides, carries on business or is employed;
- (b) the respondent resides, carries on business or is employed; or
- (c) the cause of action arose,

has jurisdiction to grant a protection order as contemplated in this Act.

(2) No specific minimum period is required in relation to subsection (1) (a).

(3) A protection order is enforceable throughout the Republic.

(4) (a) Failure by a member of the South African Police Service to comply with an obligation imposed in terms of this Act or the national instructions referred to in subsection (3), constitutes misconduct as contemplated in the South African Police Service Act, 1995, and the Independent Complaints Directorate, established in terms of that Act, must forthwith be informed of any such failure reported to the South African Police Service.

(b) Unless the Independent Complaints Directorate directs otherwise in any specific case, the South African Police Service must institute disciplinary proceedings against any member who allegedly failed to comply with an obligation referred to in paragraph (a).

(5) (a) The National Director of Public Prosecutions must submit any prosecution policy and policy directives determined or issued in terms of subsection (2) to Parliament, and the first policy and directives so determined or issued, must be submitted to Parliament within six months of the commencement of this Act.

(b) The National Commissioner of the South African Police Service must submit any national instructions issued in terms of subsection (3) to Parliament, and the first instructions so issued, must be submitted to Parliament within six months of the commencement of this Act.

(c) The Independent Complaints Directorate must, every six months, submit a report to Parliament regarding the number and particulars of matters reported to it in terms of subsection (4) (a), and setting out the recommendations made in respect of such matters.

(d) The National Commissioner of the South African Police Service must, every six months, submit a report to Parliament regarding—

- (i) the number and particulars of complaints received against its members in respect of any failure contemplated in subsection (4) (a);
- (ii) the disciplinary proceedings instituted as a result thereof and the decisions which emanated from such proceedings; and
- (iii) steps taken as a result of recommendations made by the Independent Complaints Directorate.

19. Regulations.—(1) The Minister of Justice may make regulations regarding—

- (a) any form required to be prescribed in terms of this Act;
- (b) any matter required to be prescribed in terms of this Act; and
- (c) any other matter which the Minister deems necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2) Any regulation made under subsection (1)—

- (a) must be submitted to Parliament prior to publication thereof in the Gazette;
- (b) which may result in expenditure for the State, must be made in consultation with the Minister of Finance; and
- (c) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding one year.

20. Amendment of section 40 of Act 51 of 1977, as amended by section 41 of Act 129 of 1993 and section 4 of Act 18 of 1996.—Section 40 of the Criminal Procedure Act, 1977, is hereby amended by the addition in subsection (i) of the following paragraph:

“(g) who is reasonably suspected of having committed an act of domestic violence as contemplated in section (1) of the Domestic Violence Act, 1998, which constitutes an offence in respect of which violence is an element.”.

APPENDIX TWO
APPLICATION FOR A PROTECTION
ORDER

1080

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

URBAN FAMILY COURT CENTRE



DOMESTIC VIOLENCE COURT

Setho Pele- People First

APPLICATION FOR PROTECTION ORDER

J480E

SECTION 4(1) OF THE DOMESTIC VIOLENCE ACT, 1998 [ACT No. 116 OF 1998]
(IF THE SPACE PROVIDED IS INADEQUATE SUBMIT INFORMATION AS AN ANNEXURE TO THIS FORM)

APPLICATION TO BE COMPLETED BY THE APPLICANT REF NO

PARTICULARS OF COMPLAINANT [VICTIM OF DOMESTIC VIOLENCE]

Form for Particulars of Complainant with fields for Surname, Full Names, Number/Date of Birth, Home or Temporary Address, Work Address, Home/Contact Telephone Number, Work Telephone Number, and Nature of Domestic Relationship.

PARTICULARS OF PERSON MAKING THE APPLICATION ON BEHALF OF THE COMPLAINANT [IF APPLICABLE]

Form for Particulars of Person Making the Application on Behalf of the Complainant with fields for Name, Number/Date of Birth, Address, Home/Contact Telephone Number, and Telephone Number.

(e)	Not to enter the complainant's residence, situated at:	
(f)	Not to enter the complainant's place of employment, namely:	
(g)	Not to prevent the complainant or any child who ordinarily live(s) or lived in the shared residence from entering or remaining in the shared residence or any part thereof, to wit:	
(h)	Not to commit any other act, namely:	

8. ADDITIONAL CONDITIONS

It is also requested that the Court must order that [Mark appropriate box and complete where necessary]

(a)	A peace officer, namely, is to accompany the complainant to assist with arrangements regarding the collection of the complainant's personal property set out in paragraph 9 below.	
(b)	A member of the South African Police Services is to seize the following arm(s) or dangerous weapon(s) in the possession of the respondent:	
(c)	The respondent is to pay the following rent or mortgage payments:	
(d)	The respondent is to pay the following emergency monetary relief:	
(e)	The respondent is refused any contact with the following child(ren):	
(f)	The respondent is granted the following contact with the above-mentioned child(ren):	

(g)	The physical address of the complainant's residence not be disclosed to the respondent;	
(h)	Other conditions requested:	

9. **PERSONAL PROPERTY**

Property description	Grounds on which property is considered to be personal property	Address where property is kept

10. I am likely to report a breach of the Protection Order at the

.....
DEPONENT (Person who applies for order)

.....
DATE

Delete whichever is not applicable.

PART B: CERTIFICATION [FOR OFFICIAL USE ONLY]

I hereby certify that before administering the *oath/taking the affirmation I asked the deponent the following questions and noted *her/his answers in *her/his presence as indicated below:

- (a) Do you know and understand the contents of the above declaration: Answer.....
- (b) Do you have any objection to taking the prescribed oath: Answer
- (c) Do you consider the prescribed oath to be binding on your conscience? Answer

I hereby certify that the Deponent has acknowledged that *she/he knows and understand the contents of this declaration which was *sworn to/affirmed before me, and the Deponent's *signature/thumb print/mark was placed thereon in my presence.

Dated at this day of year

.....
Justice of the Peace/Commissioner of Oaths

Full names and surname (block letters):

Designation (rank):

Area for which appointed:

Business address (street address must be stated):

.....

APPENDIX THREE
INTERIM PROTECTION ORDER

3.1.2.3 *not to enter the shared residence at:
.....;

3.1.2.4 *not to enter the following parts of the shared residence:
.....
at:

3.1.2.5 *not to enter the complainant's residence at:
.....;

3.1.2.6 *not to enter the complainant's place of employment at:
.....;

3.1.2.7 *not to prevent the complainant or any child who ordinarily live(s) or lived in the shared residence
at:
from entering or remaining in the shared residence, or any part thereof;

3.1.2.8 *not to commit any of the following acts, to wit:
.....
.....
.....;

3.1.2.9 *to make rent or mortgage payments in the sum of R per month/annum;

3.1.2.10 *to pay the sum of R..... to the complainant as emergency monetary relief.

4. ADDITIONAL ORDERS

4.1 It is further ordered that:

4.1.1 *A peace officer, namely, accompanies the applicant to
the following residence in order to assist with arrangements regarding the collection of personal
property, i.e.:
.....
.....

4.1.2 *A member of the South African Police Service at:
seizes the following arm(s) or dangerous weapon(s) in the possession of the respondent, i.e.:
.....
.....

4.1.3 *The complainant's physical address is not to be disclosed to the respondent.

4.1.4 *The respondent is ordered not to have any contact with the following child(ren):
.....
.....

4.1.5 *The respondent is allowed contact with the following child(ren), i.e.:
.....
.....
on the following basis:
.....
.....
.....
.....

4.1.6 *The respondent
.....
.....
.....

4.2 A Warrant is authorised for the arrest of the respondent, the execution of which is suspended subject to the respondent's compliance with the provisions of the Protection Order as stated above.

4.3 A copy of this order and the warrant of arrest must be forwarded to the
..... Police Station, once this interim order has been served on the respondent.

5. DATE OF CONFIRMATION OF ORDER

5.1 The respondent is hereby informed of his/her right to appear in the Magistrate's Court at
..... on the day of year
at 08:30 in order to give reasons why the interim protection order should not be confirmed and made final;
and of his/her right to have the matter heard on an earlier date after at least 24 hours written notice to the
applicant and the aforesaid court.

5.2 The respondent is further informed that if he/she does not appear in court on the above-mentioned date and
time, and the court is satisfied that this notice was properly served on him/her, and is satisfied that he/she
committed or is committing an act of domestic violence, this order will be confirmed and made final.

.....
MAGISTRATE

.....
DATE

APPENDIX FOUR
WARRANT OF ARREST

APPENDIX FIVE
APPLICATION FOR VARIATION OR
SETTING ASIDE OF PROTECTION
ORDER

APPENDIX SIX
NOTICE TO RESPONDENT

**NOTICE TO RESPONDENT TO SHOW CAUSE (SUBMIT REASONS) WHY A
PROTECTION ORDER SHOULD NOT BE ISSUED**

SECTION 5(4) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT No. 116 OF 1998)

In the Magistrate's Court for the district of

held at Application No. /

In the matter between:

.....

APPLICANT

ID. No./Date of Birth:

..... /

and

.....

RESPONDENT

ID. No./Date of Birth:

..... /

NOTICE TO RESPONDENT:

1. Particulars of respondent

Home Address: Work Address:
.....
.....
.....
Tel. No.: (.....) Tel. No.: (.....)

2. Particulars of Application

On (date)..... the applicant applied for a protection order against you. The Court considered the application but has not issued an interim protection order but will on the undermentioned date decide whether or not to issue a protection order against you.

3. Protection Order

- 3.1 You are hereby called upon to give reasons why a protection order should not be issued against you by the above-mentioned Court on the day of year..... at 08:30, on the basis of the application and supporting affidavits, if any, of which certified copies are attached hereto.
- 3.2 If you so wish, the matter can be heard on an earlier date after you have given at least 24 hours written notice to the applicant and the Court.
- 3.3 The Court will issue a protection order against you if you do not appear in the court on the above-mentioned date and time, and if the Court is satisfied that this notice was properly served on you and that you have committed an act of domestic violence.

.....
CLERK OF THE COURT

.....
DATE

APPENDIX SEVEN
FINAL PROTECTION ORDER

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT



DURBAN FAMILY COURT CENTRE



APPLICATION NO.....

FORM 6 INTERIM PROTECTION ORDER [REG 8(a)]
ISSUED IN TERMS OF SECTION 6 of the DOMESTIC VIOLENCE ACT 116 OF 1998

THE MAGISTRATE'S COURT FOR THE DISTRICT OF DURBAN HELD AT DURBAN

the Matter between:

--	--

APPLICANT/COMPLAINANT

I.D. NUMBER: DATE OF BIRTH

VD

--	--

RESPONDENT

I.D. NUMBER: DATE OF BIRTH

IT IS HEREBY ORDERED IN TERMS OF SECTION 6(1) / 6(4) OF THE SAID ACT:-

that the Interim order relating to the attached [Form 4] Interim Protection Order issued against the Respondent on be and is hereby **MADE FINAL** as follows:-

The Interim Protection Order [Form 4] is **CONFIRMED** in it's entirety ; or

The Interim Protection Order [Form 4] is **CONFIRMED WITH THE FOLLOWING AMENDMENTS** which hereby form an integral part of the original order):-

.....

.....

.....

.....

.....

Copy of this order and the Interim Protection Order, as well as the warrant of arrest for the Respondent must be forwarded to the Police Station.

dated at Durban this..... day of.....

.....
Magistrate/Additional Magistrate