

No Women Left Behind: Examining Public Perspectives on South African Police Services' Handling of Violence against South African Women

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Introduction: South Africa's Democracy

Looking back on twelve years of democracy one can credit South Africa with many excellent achievements. South Africa has entrenched a new Constitution said by some to be the most progressive in the world. Detractors have however criticized it for being dated. The protection afforded by the Bill of Rights, has according to Mc Quoid Mason and Dada (1999) been influenced by human rights bills in other countries, the Universal Declaration of Human Rights and other protective international instruments. The Constitution is the highest law in the land, and Common and Customary law must be interpreted, applied and developed in compliance with its provisions thereof.

The Constitutional Court, presided over by world-class jurists, was instituted to interpret and defend the Constitution. Several other institutions give effect to the Constitution, such as the Human Rights Commission, the Commission for Gender Equality, the Public Protector, inter alia.

The Constitution guarantees and safeguards the rights, freedom and equality of every citizen, particularly women (and children). The neglect of the said rights, and the consequent neglect and abuse meted out to women and children, can be directly attributed to past legislation which simply forgot about them. Also to blame are culturally defined beliefs and practices

which entrench(ed) their subservience and invisibility. A general climate of violence and mayhem, both leading up to and after democracy, is equally responsible for the position in which women (and children) found themselves, and still do.

It is worth noting that while violence against women continues unabated, paradoxically and ironically, convictions against perpetrators have not seen corresponding increases.

Protections Afforded Women in South Africa

A society can be judged by how it treats its most vulnerable people. Women (and children) who fall into this category are, as in any developing country, almost invisible in economic, political and social domains.

On the positive side, the Domestic Violence Act (1998), the National Crime Prevention Strategy (1996), the Services Charter for Victims (2004) and the White Paper on Safety and Security (1998), are all State interventions directed at reducing the exceptionally high levels of violence against women.

In addition to this, there now exists at the time of writing, a proliferation of State and non State victim empowerment strategies to ameliorate and minimize the effects of violence, and which provide coping mechanisms for the distressed.

The Victim's Charter of Rights and a schedule of Minimum Standards on Services for Victims of Crime are central to the Victim Empowerment policy in South Africa. The Charter identifies the following seven key rights which may be demanded by victims in their interaction with the criminal justice system:

The right to be treated with fairness and with respect for dignity and privacy

The right to offer information

The right to receive information

The right to protection

The right to assistance

The right to compensation

The right to restitution

Artz and Smythe (2005) argue that while the Victim's Charter represents an important aspirational shift, to what extent at a pragmatic level will it do to shift entrenched criminal justice attitudes and practices.

Until recently in South Africa, the criminal (Artz & Smythe 2005) justice system dealt ineffectively with domestic violence, particularly through the marginalization and dismissal of the severity of gender-based violence. As a result, domestic violence was treated as something that should remain behind closed doors and be remedied by the parties themselves. This view was largely reinforced by police responses, as illustrated by a rural woman's account of domestic violence and marital rape. On reporting the incident to the police she says women are ridiculed by the police who seldom believe that husbands rape. They tell women they are full of s**** and that they are wasting their time. She further claims that even with scars and bleeding the police send you home and tell you to sort it out with him (Artz 1999).

The Prevention of Family Violence Act (Act 133 of 1993) was the first attempt by the legislature to deal specifically with domestic violence. It also finally outlawed marital rape. The Act was, however limited in a number of respects. From a victim's perspective it limited who could apply for protection and the types of abuse actionable, while perpetrators claimed that the process was unfair and potentially unconstitutional. Only individuals who were married, by civil or customary law or those in common law marriages could access an interdict under this Act. This meant that many people in relationships, such as dating couples not living together and same sex partners had to find recourse in other, less accessible, legal remedies such as High Court interdicts. The Act also did not define 'family violence' and judicial officers exercised wide discretion in determining what behavior constituted abuse (Artz & Smythe 2001). Human Rights Watch (1997) maintain that this resulted in differing opinions between jurisdictions about who qualified for an interdict and who did not. Family violence had no clear legal meaning and was left to the determination of individual magistrates and judges, untutored in basic notions such as the cycle of violence or learned helplessness.

This then clarifies for us that regardless of these remedies and initiatives in South Africa, 'gender inequality, both in terms of popular attitudes and the inadequate service offered by the Criminal Justice System

to women, contributes to the high levels of violence perpetrated against them' (National Crime Prevention Strategy). In fact so critical is the issue that gender violence (and crimes against children) is listed as one of the seven priority crimes targeted for action by the NCPS. The NCPS is hailed as a multi-faceted, multi-agency approach to proactive crime prevention which engages Government and civil society in creating a crime resistant society.

South Africa's Criminal Justice System

The reality for women (and children) who suffer neglect and abuse is that the law in action and the law in the books are at odds with one another. While it is laudable to have a world class Constitution, it is of little or no consequence to women if the judiciary, law enforcement, Correctional Services and Department of Social Welfare do not observe the 'spirit, purpose and objective' enshrined therein. In other words theoretically the Criminal Justice System has been redesigned to meet women's needs, but anecdotal evidence suggests a chasm between the two.

The Human Rights Watch Women's Rights Project (HRWWRP) established in 1990 to research and investigate violence and discrimination against women in Sub-Saharan Africa, states

women victims of rape and assault in South Africa face a Criminal Justice System that is too often unable or unwilling to assist them in their efforts to seek redress. The police are often callous or disinterested in the treatment of women and the court system is little better.

Dorothy Q. Thomas, Director of the HRWWRP, went on to add that

too often, the treatment they receive when they report rape or other abuse simply traumatizes them further, without offering them any hope of punishing their attackers. (<http://www.africaaction.org/docs97/sa9708.hrw.htm>)

The question to be asked is, 'how much has really changed 15 years later?'

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Bearing in mind that official statistics represent only reported crimes and are therefore grossly underestimated, a conviction rate of 8.1% i.e. 4,100 convictions from 50,481 reported cases in 1996, attests to the inability of the justice system to uphold the security, protection and dignity of abused women.

Further problems relate to the inaccessibility of medico-legal services in Black townships and rural areas.

The most recent statistics released by the Minister of Safety and Security (2006) reveal that the picture is in fact worse now. From a report in the Sunday Times it is clear that women and children bear the brunt of crime in six categories namely, murder, attempted murder, rape, common assault, indecent assault, and assault with intent to do grievous bodily harm. Women and children account for 58.5% of the 558,325 cases reported in these categories indicating exceptionally high levels of violence being directed at them daily. The dire situation is compounded when one considers that only one person out of every nine who is a recipient of violence/abuse, reports it to the police. (Sunday Times, 1 Oct 2006)

Theoretical Underpinnings

Men's violence against women has to be understood in the context of social patterns of gendered power relations - what might be called 'the problem of men'. Men's violence against women is part of men's use of power, violence and control. Men remain the specialists in the doing of violence and violent crime. In the UK about 84 % of all recorded crime is by men; about 97 % of those in prison are men; a quarter of all men are convicted of an offence by the age of 25; and two-thirds of all male offenders are under 30 (Cordery and Whitehead, 1992). About 98 % of assaults reported on spouses are by men to women; and about 25 percent of all crimes recorded and telephone calls logged by the police are 'domestic' assaults by men on women.

Hester, Kelly and Radford (2002) argue that differences in women's positions in relation to the power structures of race, class and sexuality inform the responses to violence against women by the state, professionals and the voluntary sector. They further maintain that while women from all backgrounds are open to abuse, class influences the amount of respect a woman is accorded when dealing with professionals like solicitors, social

workers and psychologists. Radford and Stanko (quoted in Hester et al. 2002) argue that sexual violence is used by men as a way of securing and maintaining the relations of male dominance and female subordination, which are central to the patriarchal social order. They recognize that patriarchy is crossed through and is in interaction with other power structures namely those of race class, age and status regarding disability. They further maintain that these variables shape women's experiences of sexual violence and the response of the police and others. They believe that it is through challenging the patriarchal order by increasing women's autonomy that men's violence must be confronted. MacKinnon (1989) quoted in Hester et al (2002) reminds us that the central feminist explanation for the widespread existence of men's violence to women and children is that it is essential to a system of gender subordination. Much of violence against women, captured by the feminist surveys, remains outside the realm of criminological thinking about crime (Radford & Stanko in Hester et al. 2002). This they further argue is a consequence of attempting to locate feminist definitions based on women's experiences into man-made legal categories. Basically they just don't fit. They also maintain that legal definitions are drawn from dichotomies: lawful as against unlawful; crime and no crime; innocence and guilt; the good polarized against the bad. Women's experiences generally and even more so in relation to violence, are much more complex (Radford & Stanko in Hester et al. 2002). While the most frequent and routinised forms of male sexual violence are shielded from public view, lost in the discourse of dysfunctional families and female inadequacies, what does come to the attention of the public are the crimes of the psychopathic stranger, the deranged rapist or the serial killer. The attention drawn to public danger to women is not however a commentary about the gendered nature of this danger (Cameron 1988; Caputi 1988 quoted in Hester et al. 2002), only that it is dangerous for women to be in public.

Methodology Employed in the Study

Purpose of the Study

The purpose of the study was to:

- determine the views of the public on how violence is dealt with by the SAPS;

- determine whether survivors who reported incidents of violence to the SAPS were satisfied or not; and
- Determine whether police modus operandi relating to reports of violence had changed or not.

Nature of the Study

The study was qualitative in nature. It was conducted in Adelaide, Eastern Cape, and comprised mainly Coloured, African and White residents. Two were Indian.

Interviews were conducted by the researchers with 100 respondents ie 50 males and 50 females and took approximately three months to complete. The researchers conducted a house to house interview that is they selected 'the closest live persons on hand', until the desired sample size and gender distribution was obtained using availability / convenience sampling. This method was opted for because of time, monetary and safety considerations.

Seventy five percent of the total sample comprised Africans and Coloureds (only two Indians), the remaining twenty five percent were White.

In order to obtain a deeper understanding of the protocols observed by the SAPS, and it's role in protecting women against violence, two focus group discussions with twenty five percent of the sample were held. Each group comprised between eight to ten survivors. Focus group interviewees were purposely selected (purposive sampling) from the larger population of 100 on the basis of having personally experienced violence, and that they had reported to the SAPS.

The purpose was to generate primary source data from survivors on their experiences.

In addition, three management personnel from the local police station were interviewed in an attempt to ascertain the protocols that police are mandated to observe in response to reported incidents of violence against women, and whether they are observed or not.

There was only one police station serving the area under study and comprised between twenty three to twenty five police personnel. Three of these volunteered to participate in the focus group. The rest were either unable or unwilling to participate.

Limitations of the Study

The area in which the study was conducted was predominantly Afrikaans speaking, thereby presenting a challenge to the researchers whose spoken language is English. This difficulty would have been obviated by using field workers drawn from the local community. This was not done because of the expenses that would have been incurred. It was for this reason (apart from time, monetary and safety concerns)that a purposive/judgemental sampling technique was chosen for the interviews.

Given the limited usage of the purposive sampling technique, the results can not be widely generalisable, and are therefore applicable to the present study.

Findings: Interviews

An analysis of the responses to the interviews reveals largely negative perceptions of the ways in which police in the study area react to victims of violence.

They also reveal ignorance on the part of victims regarding the protocols the police are expected to observe, although the majority, almost eighty percent, was aware of their own rights. They expressed the view that the SAPS make them feel as though they have no rights when it comes to violence against women and believe that the duly elected democratic Government is failing women dismally.

They challenged the Government to monitor practices at police stations when it comes to the handling of violence against women.

A small percentage, (ten percent) of respondents claimed that police officers are e more sympathetic towards them now than in the past. However they added that when they report violence they are encouraged to seek domestic solutions to their problems.

Transport and telecommunication difficulties are further impediments to victims accessing much needed interventions. Most respondents (ninety percent) were critical of the tollfree number provided by the police to citizens to report criminal activities. They argued that in rural areas where the infrastructure for telephone lines does not exist, the tollfree number is redundant. They further claimed that this number cannot be accessed via mobile phones.

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The data further revealed that the majority of the respondents, (ninety three percent), both male and female did not trust the SAPS to protect them against violence.

All (100%) of the African respondents claimed that because African police subscribe to cultural beliefs and tradition vis-a vis women, they treat women as subordinates. Violence against women is not then viewed as a crime as one respondent reported, *'They (the police) always refer to the matter to be resolved between the two parties without taking the proper steps to punish the offender'*. Another response in the same vein was, *'The attitude is not that serious in dealing with the scourge as violence against women is normally regarded by most people in the black community as disciplining of women'*.

Ninety six percent of the respondents believed that police officers continue to be gender biased when dealing with women victims from historically disadvantaged groups as is evidenced in the following statement, *'The police are responsible. They are gender biased against black women. They favour the male species'*.

At least 54 percent of the respondents claimed that police officers themselves are guilty of perpetrating violence against their own women thereby making it easier for them to condone such violence. The following statement bears testimony to this concern, *'Even if you have a problem you do not trust them because they are the criminals themselves'*.

Almost a hundred percent of respondents strongly expressed the view that males who had economic buying power bribed police officers and in this way circumvented facing criminal charges.

Most, namely ninety six percent, of respondents reported that the police are slow to respond to issues of violence against women. These are some of the responses,

'You just phone and get a response and the police do not come soon'.

'They tell you they will be there but after many hours they are still not there'.

'They are very slow. If a woman reports a case, domestic violence or rape, they take too much time to come and check what happened maybe two hours or the whole day'.

'The phone was dropped in a complainant's ear recently'.

At least 50 percent of the respondents maintained that the apartheid era police were less sympathetic towards males who were perpetrators of female violence and they therefore felt safer. They reported the following:

'They were very committed to their job. When a woman came to report a case they took it very seriously and they made sure that they did their job effectively'.

'They locked up the man who was hitting the woman'.

An overwhelming majority (ninety one percent) respondents were unaware of the community police forum or its role in dealing with crimes of violence.

At least seventy four percent of women respondents were unhappy at the lack of police patrols in their areas.

Stravrou and Huber (1991) argue that women are particularly vulnerable to certain forms of victimization inter-alia sexual violence. Stravrou and Huber further argue that victimization of women is closely linked with the way they are viewed by their specific community. Similarly Snyman (1986) maintains where there is not much respect for women they are regarded as 'second class citizens'. A perusal of the literature that may be deemed criminal justice system related research shows that concern by feminists on the way the criminal justice system responds to survivors of violence is increasing. Arguably, in South Africa inadequacies in the criminal justice system has created an environment where the different forms of violence are viewed differently for example marital rape is not viewed with the same severity as sexual violence by a stranger. Research has shown that it is relatively easy to commit an offence of sexual violence against women without any severe consequences as sexual violence against women has one of the lowest conviction rates of all serious crimes in South Africa (Snyman 1996; Van Dijk 1996; Camerer; 1996). Offenders frequently evade arrest and conviction and continue to intimidate their victims and the victims' family. Van remove the Van Dijk (1996) points out that helping victims is often not seen as part of the core business of the police or prosecutor. Snyman (1986) contends that empowerment of the victim reduces secondary victimization, encourages cooperation with the criminal justice process, reinforces socially desirable behaviour, acts as a deterrent to offenders and enhances public support for the criminal justice system.

The Beijing Platform for Action, adopted at the 4th UN Conference on Women held in Beijing in 1995, identifies violence against women as one

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of its twelve priority areas or critical areas of concern. In each of these critical areas of concern, strategic objectives are proposed, with concrete actions to be taken by governments, the international community and civil society including non-governmental organizations and the private sector in order to achieve these objectives. Governments are called upon to take certain actions in order to address violence against women. These actions include duties to:

Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;

Adopt and/ or implement and periodically review and analyze legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders;

Take measures to ensure the protection of women subjected to violence and access to just and effective remedies, including compensation and indemnification and healing of victims;

Provide women who are subjected to violence with access to the mechanisms of justice, as provided for in national legislation, to just and effective remedies for the harm they have suffered;

Inform women of their rights in seeking redress through mechanisms of justice;

Create or strengthen institutional mechanisms so that women can report acts of violence against them in a safe and confidential environment, free from the fear of penalties or retaliation;

Create, improve or develop training programmes for judicial, legal, medical and police personnel to sensitize such personnel to the nature of gender-based acts of violence so that fair treatment of victims can be assured; and

Allocate adequate resources within the government budget for activities related to the elimination of violence against women.

Findings to this study clearly demonstrate the tensions that exist between state (police) practices and international standards on rights of women. Countries globally are grappling with treating women with the dignity and respect they deserve as is evident by the following statement by Ms. Hodan Addou, UNIFEM Regional Peace and Security Advisor for Africa, in her presentation on 'Addressing Gender-Based Violence in Humanitarian Settings', 'sexual violence and rape are often used as a weapon of war to torture and subjugate women and to tear apart social and familiar structures' (UNIFEM 2006).

Similarly a study of more than 1,300 cases reported to authorities between January 2003 and June 2005, found that violence against women—whether sexual, physical or psychological— affects all branches of Afghan society, regardless of the woman's marital status or her level of education or employment (UNIFEM 2006).

Findings: Focus Group Discussions

The focus group discussions provided insights into the several experiences and difficulties experienced by women when reporting incidents of violence. It should be borne in mind, that though these complaints may appear trivial to those of us who are free of abuse, they create frustrations which are disempowering to women whose self-esteem and self-confidence have already taken a beating due to long-term abuse.

The responses are presented largely in the words of the respondents.

The respondents were selected as a consequence of their experiences with the police in Adelaide.

They ranged in age from 24 to 45 years. They were employed in a variety of occupations such as seamstresses, hotel cleaners, educators, ex policewomen, shop owners, casual labourers and self-employed individuals.

All had between grades 6 to 12 schooling, and were affiliated to various cultural and linguistic groups.

Three held certificates, one in nursing, and two in police training.

Respondents claimed that the police in Adelaide are biased against

black women and poor black people in particular. People who are rich are treated differently to those who are poor. Strangers are treated worse than people in the location. When a woman reported violence against her the police response was that they could not interfere because the married couple should work out their own problems.

One woman reported that her husband tried to strangle her and that in self-defence she hit him with an ashtray, was apprehended by the police and kept in custody at the local police cell for 4 days without being allowed bail. The policeman's claim was that since he is related to the husband, he couldn't allow his relative to be beaten by a woman.

Women perceive the police as people they should be afraid of. They have to force themselves to be good to the police so that the police will do their jobs- jobs that they are paid to do. 'If a citizen says something against the police, they will not come to their aid in times of need.'

Another respondent felt that if the police really cared they would be able to prevent the rape of women.

A doctor in the district was not able to test one respondent after her rape because he was busy.

'Those who are supposed to help you won't help if they don't know you or if your beliefs are different to theirs. Your colour will not protect you from pain or else people will be free of pain. The police will spread it around the location. I was so ashamed of myself and I did not want to go to the police because of their attitude. My family forced me to go to the police. The police wanted me to find the perpetrator. Since I did not find the culprit there was no case.'

One respondent said the police said she deserved it. 'We don't trust the police.'

Most people are unaware of the existence of the police forum, and reported never seeing police officers at public gatherings.

Favouritism was also evident, 'if the police are not related to you they treat you differently, and black women are treated in an inferior way to white women. White policemen treat black people better (than Black policemen). They know their jobs and treat people fairly'.

'They are not properly trained if they were they will speak to people as people and be fair and not allow their relations to interfere with their jobs. They will know that their jobs should not interfere with their clan names'.

Findings: Focus Group Discussion with Police Officers

Unsurprisingly, data from the interviews with the police officers painted a somewhat different picture.

One respondent was critical of the manner in which they as a police service dealt with female violence, by claiming that the majority of officers are either untrained or insensitive toward women victims. He stated there are also some officers who experience tension in apprehending a perpetrator who happens to be a peer.

The other two respondents claimed that given the staffing challenges and inadequate resources within the police station, it does its best to deal effectively with reported cases of violence against women. However they had no control over what happened in cases where officers handle complaints outside of the station site.

They further claimed that all complaints are given equal priority regardless of cultural affiliation.

They also raised concerns at the lack of commitment on the part of the community in getting involved in the police forums. They maintained that although they tried to be as sensitive and accommodating as possible to the needs of the community (in terms of meeting times and venues), the response rate was very poor. They also reported that women were virtually absent in the police community forum. Even when women did attend, they made no verbal contributions. They claimed that in terms of black women's non participation, cultural orientation or pressure is to be blamed. The presence and input of women from all racial groups was minimal.

Conclusion and Recommendations

Sadly, this research demonstrates that abuse of the voiceless continues despite the mandatory introduction of legislation to protect women from abuse and discrimination.

The truth is that we are an unequal society divided historically along racial, ethnic, class and gender lines. The status of women provides fertile ground for discrimination by various institutions in the country, the police being one of them.

Complex cultural factors that elevate the position of men produce unequal power relations that discriminate against women and have

extraordinary consequences. Women and men respondents recognized that the police treat women unfairly, but the discourse stops there.

The police on the other hand are unable to recognize or acknowledge their discrimination against women since their focus appears to be on unfair labor practices in terms of workload, constrained resources and poor salary structures.

The findings clearly demonstrate the disjuncture between policy and practice. This is cause for concern especially in light of the attention that women internationally are receiving in terms of violence committed against them, and our Constitution which inherently guarantees the safety of all citizens, particularly women.

In South Africa as in the rest of the world 'no woman should be left behind'. Policy and practice are not in step with one another. Attitudes are resistant to change and violence generally, and specifically, erodes the democracy and threatens the lives and liberties of hard working, law abiding citizens.

it appears that women, particularly rural women, are faring no better now than a decade ago. If anything, the so-called rights they are perceived to hold may trigger more violence against them by men who see themselves as losing their 'power' over their women.

How can cultural attitudes, ways of thinking and behaving be changed when they have been ingrained historically?

Short term solutions would be more vigilant monitoring of police stations, perhaps by active members of community police forums, ombudsmen or the ICD; revitalization of community police forums with equal buy in by the two sectors involved; names and contact details of individuals to whom legitimate complaints can be addressed being prominently displayed at all stations; naming and shaming of problematic police stations and police personnel; an incentive scheme whereby good performance is rewarded and a demerit awarded for poor performance; protocols in respect of family violence being clearly articulated and stringently implemented; toll free numbers that do indeed fulfill the purpose they are intended to; on going in-service training for police, possibly linked to incentives / promotion. A possible means of ensuring discipline, efficiency within police services is for them to spend three months in the classroom and nine months of every year in the job. These are some of the

several measures which may enhance police performance, and renew communities' faith in the police and the larger judicial system.

In the long term, since women experience problems with violence, it is reasonable to suggest that they first and foremost must find solutions to them. A good start would be in the nurturing of offspring, especially the male children who should be inculcated with respect and love for female family members, which can in turn be generalized to others.

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