

**Submission for People Opposing Women Abuse (POWA) on Protection Order and Shelters as Two Ways of Prevention and Protection of Violence against Women: Submitted to the Special Rapporteur on Violence against Women for the thematic report for the 34<sup>th</sup> Session of the Human Rights Council in June 2017**

People Opposing Women Abuse (POWA) is a feminist, women's right organisation based in South Africa within the Gauteng Province. It was established in 1979 by a group of women volunteers who saw a need to provide shelter and referral services to women experiencing domestic violence. POWA currently has six (6) branch offices around the Province and two communal shelters and one second stage housing as an alternative place of safety for abused women and their children. Branch offices provides direct service in a form of counselling and legal services as well as shelters for survivors of violence against women and their children. POWA also engages in advocacy in order to ensure the realization of women's rights and thereby improves women's quality of life. This is done through outreach and media, training and skills development, feminist research and knowledge production.

It is against the shared background that information that we have on this submission is based on available research documents, national legislative framework on protection orders and shelters, and experiential data of the organisation in dealing with survivors of violence against women as we provided direct services of counselling and legal advice on a daily basis, as well as providing shelter to survivors and their children when necessary.

**SHELTERS**

- **Legislative Framework :**

- ✓ National Policy Guideline for Victim Empowerment developed by the South African Department of Social Development.
- ✓ Domestic Violence Act 1998, -South African Police Services (SAPS) duties at the incident of domestic violence include finding a suitable shelter for the survivor for safety.
- ✓ Victim Charter and the minimum standards – The national integrated plans and strategies need to align with this document.
- ✓ Minimum Standards on Shelters for abused Women.

- **Shelters Operations Procedures**

Section 2 (a) of the Domestic Violence Act of 1998 provides for the importance of shelters that, any member of the South African Police Services, at the scene of an incident of domestic violence or soon thereafter as is reasonably possible, or when the incident of domestic violence is reported, render such assistance to the complainant as may be

required in the circumstances, including assisting or making arrangements for the complaint to find a suitable shelter.

The South African Minimum Standards on Shelters for Abused Women provides for the operational procedure of shelter (pg. 5-7). The reference of the document is given at the end of this document and it is also attached for easy referral. However some of the procedures are the following:

- ✓ The shelter has to be a residential facility providing short term intervention for women and children in crisis. The intervention should include catering for basic needs as well as providing support, counselling and skills development. A shelter has to be linked to a credible organisation registered with the Department of Social Development. The department of Social Development has to implement monitoring and evaluation processes.
- ✓ There has to be adequate screening process of survivors in terms of assessment as soon as they arrive for admission. This includes, the type of problem experienced by the survivor, social circumstances, an appropriate plan on intervention, and an appropriate shelter for admission, whether second stage if available or the safe house.
- ✓ The shelter is also supposed to provide proper referral of survivors guided by their type of problem.

- **Type of Shelters and number of shelters**

The Minimum standards on Shelters for abused women (page 7)

Temporary accommodation: This offers the abused women time to recover from the abuse, and consider options for changing her situation. Without the immediate threat of attack around her. (1 week to 6 months).

Safe houses: Provincial counterparts within the Victim Empowerment Programme were encouraged to identify Safe houses as an interim measure to protect abused women and their children from further abuse. (Duration 1–5 nights)

Second Stage Housing: This is a supportive long-term communal accommodation for employed women who need a continued supportive environment and have few or no other options in terms of accommodation. Residents can stay for 12 months. POWA is one of the very few organisations that has such a facility. Women accommodated are expected to pay minimum rent towards security and maintenance of the house.

## Number of shelters:

Provincial database of shelters registered under the Department of Social Development are as follows:

PROVINCE	NUMBER OF EXISTING SHELTERS
Gauteng	22
KwaZulu-Natal	14
Western Cape	12
Eastern Cape	19
Mpumalanga	7
Northern Cape	3
Limpopo	8
North West	11
Free State	9
Total	105

This information is consolidated from the database of shelters available at <http://www.justice.gov.za/vg/Shelter-Database.pdf> ) information accessed on the 17/01/2017.

(Research paper by Johanna Jacoba Groenewald, on evaluation of programmes of shelters for victims of abuse in Gauteng province, march 2006, page 49, Republic of South Africa combined second periodic report under the African Charter on Human and People`s Rights and initial report under the Protocol to the African Charter on the Rights of Women in Africa, page 128, paragraph 126.

The research document gives us an indication of available shelters in 2006 when it was completed. However these shelters have increased as indicated in the table above.

PROVINCE	Number of Shelters - June 2000	Number of shelters established from 2000 to 2002	Projections for the establishing of shelters from 2003 and ongoing	Existing shelters as on January 2005
Gauteng	16	1	4	24
KwaZulu-Natal	9	0	4	10
Western Cape	8	0	4	10
Eastern Cape	3	0	4	10
Mpumalanga	2	1	0	3
Northern Cape	1	1	1	4
Limpopo	0	0	1	4
North West	0	0	1	2

Free State	0	0	10	10
Total	39	3	27	86

- **Shelters Shortcomings**

There is a lack of shelters in South Africa, however other Provinces especially in rural areas are mostly affected, and Gauteng is well resourced with shelters even though they are not in every community.

Women face challenges when its time to exit the shelter, due to lack holistic funding for shelter programming women face a challenge of survival. The shelters are only funded for providing safe housing only. This type of funding has huge gaps because women continue to be dependent financially on the abusive partners. The gaps in programming for abused women increases the number of women who go back to the partners because they cannot afford safe housing, they remain unemployed and cannot maintain their children outside the shelter life. Programming for continuum of care after the women have exited the shelter is also problematic as women are not regarded as individuals who aspire to different lifestyles and dreams to better themselves. Most programmes in the shelter and outside the shelter still channel women into the same gender stereotypes of soft skills like sewing, baking and backyard food gardening.

Unavailability of realistic and useful programmes supporting women after exiting shelter in order to help them continue getting support in skills development beyond shelter allowing them to break the cycle of abuse.

The limited time that survivors are offered to stay is insufficient to allow the intervention offered at the shelter to assist her break the cycle of abuse.

Due to challenges of lack of resources and limited options survivors stay in the shelter for beyond their exit time, especially when children’s schooling cannot be disturbed, thereby occupying space for other survivors needing shelter.

Abuse leave women with the responsibility of taking care of children even in most cases of divorce, custody remains with the mother especially for children of a tender age, hence often when women are admitted in shelters they are accommodated with their children. Therefore when they exit the shelter housing becomes a priority need, and they always face a challenge to get shelter as the government does not prioritise them when offering Reconstruction Development Programme (RDP) houses which are given to needy people for free as a social service. (Vulnerability and the burden a taking care of children)

Improper implementation of the policies and legislations remains a challenge, and this is caused by insensitivity of the law enforcement agencies and their negative attitudes in offering services. For instance, police at times return the survivors to their abusive homes instead of taking them to the shelters, this is contributed to by socialisation as they are part of the patriarchal societies that have normalised violence against women, they also bring their religious believes to work and at times they do not know where the shelters are

located. (Policy brief report, Shelter housing women who have experienced abuse, policy, funding and practice, published by Tshwaranang legal advocacy centre and the Heinrich Boll foundation, Oct. 2013, by Claudia Lopes)

- **Condition to access shelter for women with their children ( in particular boys and specific age restrictions and children with special needs)**

Every shelter has its own criteria for accommodation. Many shelter do not accommodate boys above the age of 12 due to challenges that manifest around teenage stage. Women are required to either leave their child in the care of someone they know or the child is placed in a children's home while the mom resides at the shelter. This is not an ideal situation for a family trying to heal from the trauma already suffered. Women may opt to remain in an abusive relationship so as not to be separated from her children. The Department of Social Department should identify shelters that are able to accommodate whole families. (Policy brief report, Shelter housing women who have experienced abuse, policy, funding and practice, published by Tshwaranang legal advocacy centre and the Heinrich Boll Foundation, page 7, Oct. 2013, by Claudia Lopes). However, there are exceptional cases where shelter bend the rules and accommodate older boys with strict supervision.

Nonetheless in this kind of circumstance Second stage housing becomes a solution for boys, though they are very limited in number and are only available in Gauteng province, without any in other Provinces. POWA is one of the very few organisations that has such a facility. Women accommodated are expected to pay minimum rent towards security and maintenance of the house, however this is challenge because most cannot afford. Women are accommodates with their boy children irrespective of age.

- **Length of Time for admission at the shelter**

Temporary accommodation: This offers the abused women time to recover from the abuse, and consider options for changing her situation. Without the immediate threat of attack around her. (1 week to 6 months).

#### Safe houses

Provincial counterparts within the Victim Empowerment Programme were encouraged to identify safe houses as an interim measure to protect abused women and their children from further abuse. (Duration 1–5 nights)

These are provided for by the Minimum Standards on Shelter for Abused Women and the Research paper by Johanna Jacoba Groenewald, on evaluation of programmes of shelters for victims of abuse in Gauteng province, March 2006, page 51.

- **Availability of alternative accommodation and of second and third stage housing**

Second stage housing offers affordable, supportive long-term communal accommodation for employed women who need a continued supportive environment and have few or no other options in terms of accommodation. Residents can stay for 12 months. POWA is one of the very few organisations that has such a facility. Women accommodated are expected to pay minimum rent towards security and maintenance of the house, however this is challenge because the programme is not subsidised like the emergency shelter and relies on private funding which is limited since South African has been declared a middle income country.

- **Landmark jurisprudence and good practices.**

The Second Stage Housing accommodates the whole family regardless of older boys. The rent is affordable for those women that have lower income.

At POWA, considering their circumstances women can be accommodated for more than their stipulated time. Survivors are accommodated together with their children including boys beyond the age of 12 years who cannot be accommodated in order shelters.

### **PROTECTION ORDERS**

- ✓ Domestic Violence Act 1998 – Section 4
- ✓ Criminal Procedure and Evidence Act of South Africa.

- **Shortcomings**

- ✓ Improper implementation of the domestic violence Act: Clerk of Courts do not do their work as prescribed in the Act, they do not inform the survivors of their rights, they also return survivors and at times inform them that cannot lodge protection orders against the husbands that they are married to and they also inform others that they do not have a case. This is caused by attitudes of the communities that they are part of and normalisation of violence against women, socialisation, culture and religious attitudes which are entrenched.

- ✓ Other Family courts give the subpoenas to the survivors who are applicants for the protection orders without ensuring that the Police are the ones who serve the perpetrator with the documents.
- ✓ The survivors are usually not given sufficient information after lodging application for a protection order. Such information include the fact that they do not have to worry about the perpetrators attendance of the court on the return date. This is because they normally do not come to court on their date simply because the partner or the perpetrator was not coming, or refused to sign the court documents or even teared it when given by the Police or the complainant.
- ✓ Police also do not inform the women when they lodge criminal cases that they have the right to also apply for a protection order at the same time for their protection.

- **Practicalities of Protection Orders**

They only work for short term relationships, not for parties who have been married for over 5 years and the abuse has been happening for years.

Women withdraw protection orders and this works to their detriment when they want protection orders again.

In our context women approach service providers like courts to apply for protection orders when the abuse would have been happening for years, women are cultured into persevering the abuse and not to divorce. So even when the clerk of court dismiss them because they feel that women do not have good cases they do so without assessing how long a woman would have been in an abusive relationship, which is usually over five to ten years, still trying other option, though they did not work. Usually the court is the last option and when turned down at that stage, women are left without an option and they lose confidence in the criminal justice system.

- **How protection order work?**

- ✓ The complainant must make an affidavit and complete an application form at a police station
- ✓ Supporting affidavits by persons who have knowledge of the matter in question, may accompany the application.
- ✓ These documents must be handed to the clerk of the nearest court. The court will consider the application immediately.

- **Who can issue them?**

Magistrates issue Protection Orders.

- **Length of a protection order**

There is no time limitation unless if the applicant decides to cancel it.

- **Types of a Protection Order**

- ✓ Interim Protection order ‘
- ✓ Protection order
- ✓ Peace Order

### **Legal consequences of a non-respect of a protection**

If the person against whom protection order issued contravenes that order, the complainant may hand the warrant of arrest together with an affidavit to any member of the South African police service.

Lodge a criminal for violation of a protection order and will be prosecuted with fine and imprisonment not exceeding five years or to both fine and imprisonment (Domestic violence act no. 116, 1998, section 17(a)).

However, in reality this provision is not properly implemented, the usual practice in courts is that violation of a protection order attracts a penalty of six (6) months imprisonment. This is far below what the law prescribes and the effect of this is continued violation of the Domestic Violence Act as the sentences do not serve the purpose of deterring potential perpetrators. The response of the courts on cases of domestic violence contribute in perpetuating and normalising violence against women in South Africa.



## **List of References**

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