

An Investigation of Effects of Receiving Protection Orders on Abused Women around Thohoyandou Area

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ABSTRACT Domestic violence is prevalent in South Africa. In 1998, the Government introduced a clause in the Domestic Violence Act 116 of 1998, which provides for protection orders to alleviate the problem of domestic violence. Since the new dispensation, victims can now apply for protection orders against their abusers. This study evaluated the effectiveness of protection orders in deterring future abuse on women who have applied and received protection orders. The research is an evaluative study which used qualitative measures with women aged between twenty and forty-five years who obtained protection orders from Thohoyandou magistrates. Their experiences were then analyzed using qualitative instruments. The study revealed that domestic violence continues unabated in people's lives. The effects include that protection orders are catalysts for future violence, killings, harassment, communication breakdown, withdrawal of economic support and neglect, all leading to separation and divorce within the families.

INTRODUCTION

Domestic abuse, spousal abuse or wife battering is a serious global problem. It affects all societies and social groups, irrespective of race, social status and educational level. Domestic violence is as old as human history and pervades all societies. Gelles and Loseke (1993) uphold that violence within the family is as complex as it is disturbing. Compressed into one assault are our deepest human emotions, our sense of self, our power, and our hopes and fears about love and intimacy, as well as the social construction of marriage and its place within the larger society.

Abusive relationships have been observed in many cultures throughout history. As Dobash and Dobash (1999) noted, "history is replete with laws, customs and legends that show that women have been beaten, tortured and killed by their spouses. If abusers were not commended for their actions, their acts were at the least ignored".

Women in South Africa, regardless of race and class, have been victims of a patriarchal system that teaches men to view women as possessions. Prevailing stereotypes encourage male domination from an early age. As a rule, patriar-

chal societies promote economic and legal conditions that legitimize wife battering. For example, women were, most often, dependent on men economically. This is because men have, historically speaking, been more privileged in the area of employment and women continue to be afforded fewer opportunities. In most cases, educating women was not encouraged, as it was assumed that a woman's place is in the kitchen. Abusive behaviour hence, has to be understood against the background of gendered inequalities and power imbalances.

It is extremely difficult to measure the extent of wife battering, although many scholars agree that it is very extensive. Gelles and Loseke (1993) note that domestic violence has been seen as "dirty laundry" - not to be hung outside for the public to see, which makes it very difficult to establish reliable statistics. In addition to under-reporting, the way in which it is recorded if it is reported at all, also makes neat statistics impossible. For example, in South Africa, the police statistics available comprise domestic violence, minor assault, assault with grievous bodily harm and murder in a single category. In other words, because the various types of abuse are not recorded separately, police records are not a useful indication of degrees of domestic abuse, even though they ought to represent a good source for establishing prevalence in a given area.

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Objectives

The research is set to evaluate the effectiveness of protection orders in deterring future abuse.

MATERIAL AND METHOD

Domestic violence is not limited to African countries only. A look at international statistics reveals that women in developed countries experience battering too. In the United Kingdom (UK), statistics indicate that one in four women has been abused at some point in her life. Other statistics reveal that one in four women seeking care in an emergency department for any reason is a domestic survivor; one in six pregnant women is abused during pregnancy, and of women who attempt suicide, one in four is a victim of abuse. In addition, women in the United States of America (US) are more likely to have been injured, raped or murdered by a male partner than any other type of attacker. Acts of physical aggression between domestic partners occur in one in six US homes. Every year, two to four million (2-4 000 000) women are assaulted by a male partner in the US. Again, twice as many women report sexual assault by their husbands than by strangers (Vetten and Khan 2000).

A brief look at Canada also reveals that at least seven per cent (7%) of women who are married or in a common law relationship are physically assaulted by their mates and that one in every five Canadian women will be sexually assaulted in her life. In Canada again, sixty-two percent (62%) of the women murdered in 1987 died at the hands of an intimate male partner (Canadian Centre for Justice Statistics) in Zimbabwe domestic violence is also reported to be very high. More than sixty percent (60%) percent of the murder cases that go through the high court of Zimbabwe are related to domestic violence (Vetten and Khan 2002). It has been found that, in the State of Uttar Pradesh, India alone, up to forty-five percent (45%) of married men had acknowledged that they physically abused their wives, according to a 1996 survey of six thousands nine hundred and two men (6902). In South Africa, one in four women are survivors of domestic violence women inaction (2017).

Social/Sociological Theories

Sociologists and anthropologists unlike psychologists have attempted a more thorough description of human behaviour in terms of the systems and structures that surround and influence individuals and human group interactions. They give much less attention to the mind or personality at least as original sources of behaviour and much more attention to society and culture, the behavioural structures and the webs of significance that exists before we were born and persist after we die. According to Gelles and Loseke (1993), the core of the sociological perspective is the assumption that social structures affect people and their behaviour. The major social structural influences on social behaviour include age, sex, position in the socio-economic structure, and race and ethnicity. It is believed that the structure of the social institutions influences social behavior in human life. Thus it can be added that modern family and its structure have an influence on the occurrence of family violence.

Factors such as age and sex are studied to make predictions and generalizations on the outcomes on how they contribute to violence within families. The structure of the social institution influences violence and in this case it will be the structure of the modern family (Gelles and Loseke 1993). Among the major Sociological theories that explain women abuse are: the labeling theory, general system theory, the resource theory, the subculture of violence theory, society in transition, feminist and the social exchange theory. For this study the researchers chose society in transition theory as of more relevance to the present study in explaining abusive behavior suffered by women at the hands of their loved ones which lays the basic foundation motivating women to seek help (protection orders).

Society in Transition

Society in transition explanations elucidates that violence is a result of transition from a traditional culture to a modern urbanised society... social change and men's threat in the face of this transition that is, inability to support multiple wives, extended family, women independence and the inability to perform household work in

traditionally expected ways as people today work in cash economy. According to Randall (2008), traditional norms that previously hold the society together when there is transition in society ends up failing to control men's behaviour in a variety of ways. Observed is the fact that urban life makes it difficult for families of origin to mediate on domestic disputes as it was traditionally the case. Family elders do not have the same authority to regulate daily lives as they previously used to. The influence of family members in modern life has weakened in other ways as well. The past was marked by collective resources in the households but today (in the cash economy) resources and income become more individualized. Quarrels over the division of resources among multiple wives are the result of the transitions within the society is rife. It was easier for a man in agrarian setting to support more than one wife equally but in the cash economy it is difficult. The transition to a different economy and system of social relations, due to the sense of threat experienced may lead to violence. Randall (2008) argued that in Africa violence may be explained in a multi causal theory. He concluded that multiple remedies are also needed in addressing the problem of domestic violence in Africa.

Application for the Protection Order (Section 4 of the Domestic Violence Act 116 Of 1998)

A domestic violence order includes conditions that restrain, restrict and prohibit the behaviour of the respondent in order to prevent further domestic violence. In the Domestic and Violence Prevention Act No.166 of 1998, a domestic violence order means either: a protection order; or a temporary protection order. Any complainant may in a prescribed manner apply to the court for a protection order. The court may, by means of a protection order prohibit the respondent from: committing any act of domestic violence, enlisting the help of another person to commit any such act; entering a residence shared by the complainant and the respondent. The court may also prohibit the respondent from entering a specified part of such a shared residence; entering the complainant's residence; entering the complainant's place of employment and committing any other act as specified in the protection order. The court imposes this prohibition only if it appears to be in the best interest

of the complainant. The court may impose any additional conditions which it deems reasonably necessary to protect and provide for safety, health or wellbeing of the complainant (Justice, gov.za/legislation/acts/1998-116 accessed online- 2017) (Retief 2013).

The court grants the order if the respondent has committed an act of domestic violence against the aggrieved; and the respondent is likely to commit an act of domestic violence again; or if the act of domestic violence was a threat and if the respondent is likely to carry out the threat. A domestic violence order can protect the aggrieved and relatives and associates of the aggrieved who are named in the order. The order is a civil order and not a criminal matter. However a respondent who breaches the order commits a criminal offence (Justice, gov.za/legislation/acts/1998-116) (Retief 2013).

The Domestic Violence Act broadens the definition of domestic violence to include not only married people, but unmarried people who are in relationships. So, people in same sex relationships, couples living together and members of a family are included - even people who share a living space but who are not in an intimate relationship (such as live-in domestic workers and employers, mothers and sons (Justice, gov.za/legislation/acts/1998-116) (Retief 2013).

According to the Domestic Violence Act No 116 of 1998, a person can be charged and convicted with marital rape, whether the parties are married or not according to civil, customary or religious law. When police arrive at a scene of domestic violence, they must inform victims that they have a right to ask for police assistance to protect themselves and their children. Police are allowed to seize firearms and other weapons. Victims can ask police to help them find a place of safety and for help to move them there (Justice, gov.za/legislation/acts/1998-116) (Retief 2013).

Police explains to tell victims how to get a protection order and it is up to the victim whether they apply for one or not. The Act gives police the right to arrest an abuser at the scene of an incident of domestic violence without a warrant of arrest, if the police reasonably suspect that the abuser has committed an offence involving physical violence. The Act recognises that abuse can take many different forms: domestic violence; sexual abuse; economic abuse; emotional and psychological abuse. The appli-

cant can be a complainant in the form of a man or women, child or any person with material interest in the wellbeing of the complainant (Justice, gov.za/legislation/acts/1998-116).

The protection order is applied at the office of the clerk of the court, that is, magistrate's court where the applicant resides or work, where the abuser lives or work or where the violent incident happened. In the case where the complainant is not represented by a legal representative, the clerk of the court must inform the complainant, in the prescribed manner, about the relief available in terms of the Act and the right to also lodge criminal complaint against the respondent, if the criminal offence has been committed by the respondent (Justice, gov.za/legislation/acts/1998-116). The applicant will have to go to court on two separate days. The first time he or she applies or complete the forms. The magistrate gives the applicant an interim order if he/she believes there is a threat to the applicant's safety. If the magistrate gives the applicant an interim order, he/she will set a return date when the applicant has to go back to the court. The abuser is also called to appear in court on the same day. The abuser may contest the interdict if he/she believes it should not be permanently granted. The protection order does not cost anything, but there may be costs attached to delivering the protection order to the abuser. If the clerk of the court or the police gives the order to the abuser, there are no costs. If the order is sent by the sheriff, there will be costs, depending on how far away the abuser lives, or if he or she is hard to find. If the applicant cannot afford the costs, he or she must tell the clerk of the court when the victim apply. The government will then help the applicant to pay for the cost of sending the order to the abuser (Justice, gov.za/legislation/acts/1998-116).

MATERIAL AND METHODS

Participants

Pecar and Burke (2014) define a population as a set of complete objects to be considered in the study. It includes all individuals in the universe who possess specific characteristics the researchers are interested in. In addition Babbie and Mouton (2002) and De Vos (2008) agree on the idea that a population is the set of elements that the researchers focus on and to which ob-

tained results should be generalised. It is the totality of persons, events, case records with which the research problem is concerned. In this study the population comprised of women who have applied and were granted protection orders from the Thohoyandou magistrates between the year 2000- 2005. From the population twenty women who had been granted protection orders were sampled. Sample can be defined as a proportion or subset of a population under study (Pecar and Burke 2014). Babbie and Mouton (2002: 132) define sampling as the probability sampling procedures which involve some form of random selection of elements from a target population. This study was limited to the use of one of the non- probability sampling methods named target sampling. De Vos (2008) defined target sampling as a strategy for obtaining systematic information when random sampling is impossible and accidental sampling cannot be implemented as a consequence of the hidden nature of the problem. This sample is purposeful, systematic where in controlled lists of specified populations within geographical districts are developed and detailed plans made to recruit adequate number of cases within each of the targets. All the women were Venda- speaking Africans. To recruit participants with known domestic violence histories, names were obtained from police reports. One participant dropped from the study after acceptance and two participants died before the interviews commenced as a result of domestic violence.

Measures

The researchers developed a semi-structured interview questions to gather data on the effects of protection orders on abused women around Thohoyandou area. The survey instrument contained the following aspects: demographic (age, present marital status, education), accessibility of domestic violence services, availability of domestic violence services and officials attitudes in helping victims. According to De Vos (2008), semi-structured interviews are used to gain a detailed picture of the participant's belief perceptions or accounts of a particular topic. They are suitable where one is particularly interested in complexity or process, or where an issue is controversial or personal. Questions used in the study were open-ended as the study was qualitative in nature. Qualitative re-

search is as an approach which research takes as its departure point the inside perspective and which occur in the natural setting (Babbie and Mouton 2014).

The researchers entered the field with pre-determined questions that were formulated to guide the researchers during the interview. However, the questions were structured in such a way that they could not dictate to the process at all, as the participants had the capacity to introduce new issues that the researchers had not thought of. In combination with semi-structured interviews, the researchers used documents such as magazine and newspapers articles, media reports and data from the internet. All this data was integrated with the data obtained for analysis. The data from these documents was compared with previous findings, but then added as new information to the present study for use. All the data utilized was integrated to finalize the data collection stage (De Vos 2008).

Procedure

The researchers asked for permission from the Thohoyandou magistrate to use their clients and to access data on cases. Permission was granted by the manager of Thohoyandou Magistrates Offices. Women chosen from list of those who applied and received protection orders were contacted to find out if they would be willing to participate in the study and to make further appointments if they would be willing to do so telephonically. Those who agreed to participate made an appointment to see the researchers and sign the consent form prior to the commencement of the interview. The consent form clarified the issues pertaining to the study and the ethics thereof.

RESULTS

In this section the researchers present the findings and later discuss the results of the findings for interpretation purposes. Twenty women were quantitatively interviewed in this study. Nineteen respondents had been married at the time when they applied for protection orders. Only one woman had been cohabiting and she had just come out of another marital union. At the time of the interview thirteen of the respondents were no longer living with their husbands. Among the respondents who were still with their

husbands, two had just come back from separation. Of the women who were still married, only one family one appeared to be functional. The remaining women said that they are still staying within their marriages because of circumstances that forced them to do so despite the negative experiences they were going through in their marriages. This information was solicited to evaluate if protection orders had been helpful in solving problems within respondents' marriages. The study showed that protection orders could not help to rebuild relationships in the lives of the respondents as the couples ended up divorcing or separating. Some women indicated that the relationship did not improve though they remained with their partners after receiving protection orders. The next part looks at the narratives of experiences given by women during the interview. The researchers shall now focus on results based on the themes deduced from the study.

Effects Resulting From Obtaining the Protection Orders

Protection Order are Catalyst for Domestic Killings and Suicide

The results of the study showed that after receiving the protection orders, it had happened that the recipients of the protection orders had become more violent and to some extent they had ended up killing their spouses and children and or even commit suicide. In the process of sampling the researchers found that some women could not be part of the study because they were killed by their spouses with their protection orders at hand, even though their dockets were sampled for the studies. Some women escaped death and ran away from their matrimonial homes. Therefore, this assertion is supported by both the interviews and also stories from the newspapers, including cases where it has not been possible to reach the respondents as they had been late due to domestic killings. It should be clear that the researches is not stating that the root cause of such killings is a protection order but, as the findings showed, it would appear that a protection order might have acted as a catalyst in such killings. For example, one woman when asked if protection order deterred her husband from abusing her, she answered;

“No, the protection order worsened my situation. I received it on the 22nd of July. The same Sunday my husband throw my cooking pans out of the house. He now comes back after midnight every day. On the 2nd of August I was beaten. On the 8th he broke the plates; on the 12th he broke my phone and wall mirrors, saying he will kill me. Nothing has changed comparing the period before and after receiving the order” (Avhaphani 15/05/2008v).

Other women felt from the study expressed the same feelings of hopelessness as they continued suffering abuse after applying for protection orders.

“In my situation, after receiving me the protection order I experienced increased levels of abuse from my husband. I blame the law in South Africa. People can breach the order and never be arrested. In my situation my husband was called to appear in court after breaching, he never came and was not arrested. Officials do not understand protection orders and always refer people to apply these protection orders” (Arehone 2/06/2008v).

The other women shared the same experiences as showed below.

“My husband used to threaten to kill me, choke and beat me” (Langanani 27/05/08v). “My husband threatened me with a gun. When I was in court, I failed to prove that he threatened me with a gun and they told me they need tangible evidence. The case was dropped (Arehone 21/06/08v).

Avhaphani was asked to report the case to the police as the protection order had been breached and her husband could be arrested. When she was asked the reason for not reporting the case to the police since he breached the protection order, she stated that she did not want her husband to be arrested. She indicated that his relatives will hate her and added that, since she was not working, she would not be able to feed either her child or herself. She added that she wished she could leave her husband but the situation at her own home is worse as her stepfather did not want her. *“I fear for my life, he will kill me. It is known everywhere that he is dangerous. His other wives ran away from him some time ago” (Avhaphani 15/05/2008v).*

The researchers also came across many similar cases of husbands who killed their spouses and later killed themselves after being served with protection orders around Thohoyandou

area. A case in 2005 in Khakhanwa Village next to Mudi Secondary School is a typical example. A business man who had received a protection order from his wife who was still seeing him ended up shooting her and then himself with the same gun, leaving their children without parents. They were buried next to each other. A protection order was applied for in respect of a traffic officer in the Mavunde Extension. It was applied on 8 May 2006. The court date was set for 14 June 2006. As in many such cases, the situation included extramarital affairs. On 7 August 2007, the man concerned decided to shoot his wife to death and then also shot himself (Mushiana 2007: 1).

Tshikhudo (2008: 1) in Mirror reported a similar story of a woman who died after receiving a protection order. This happened when women were supposed to be celebrating Women’s Month countrywide. The woman, who was 27 of her death, was living in Maluvha Village outside Muomvani. Her case is one of the many examples of women who became the victims of killings by people who are expected to love and to protect them. The sister of the deceased woman indicated that the relationship had been the object of envy in the community. However, the couple started quarrelling and the boyfriend assaulted the woman and threatened to kill her. He started harassing her telephonically and even followed her to her place of employment. She then decided to obtain a protection order. She reported a breaching of the protection order to the police when they were called on the Monday. However, not far from the satellite police station, the man shot her in cold blood the same day. The offender was a nurse working at Muomvani Clinic.

Mandiwana (2007) in Mirror reported a case of a Mulezhe Village taxi owner who shot and killed his wife and her two granddaughters before committing suicide. It was reported that the man, aged 66 years old, had evidently become frustrated after the wife and the son had obtained a protection order against him because of his violent behaviour. He went to discuss the matter with the family concerned. An argument followed and the man shot and killed the wife of 55 years, and two granddaughters aged six years and four months respectively. The man then turned the pistol on himself. The bereaved’s son stated that the family problems had started in March the same year when a protection order

was applied for to prevent the man from entering the homestead. This angered the man who insisted that the son should leave so that there would be peace in the home. Before the incident the man had threatened the son with a gun and she had reported this to the police who called the man and talked to him.

There was also the case of a girl, aged 17, of *Ha-Maranga* Village, who was murdered. The girl, who was a Grade 11 learner, was stabbed 28 times in the neck, chest, breast, and back. She died instantly. The boy who committed the murder was a grade 11 learner. The body was discovered in a pool of blood on a footpath that the girl often used on her way home from school. After allegedly stabbing the schoolgirl the suspect had disappeared without trace for a day. The girl had previously been beaten by the boy and then abducted to a nearby donga. The boy had threatened the mother saying that she would soon mourn her daughter. The mother also obtained a protection order from the police against the boy so that he should stop abusing her daughter. The police stated that they would not lock the boy up because, once released, he would open a case against the daughter.

Makana (2006: 1) in *Mirror* narrated the story of a woman who had escaped an acid attack from a man who had been threatening to kill her. A 31-year-old woman had been accused by her lover of having affairs with other men. She had laid a charge of attempted murder the previous year. The man threatened to kill her and he said that he will serve a sentence in jail. The female victim decided to obtain help from an organization which assisted her in obtaining a protection order, but in vain. The man was arrested and then granted bail. As he passed the woman on the street he threatened to finish what he had started. Despite the fact that the protection order was at hand the woman was still living in fear and she decided to get two boys to guard her day and night. The woman appeared on the front page of the newspaper with a deformed face from the acid attack. It was indicated that the woman was still living in fear as the man continues to threaten her with a statement that he will finish what he has started.

A similar incident happened at *Murembeni* outside *Thohoyandou*, where a man went berserk on a Saturday evening and mercilessly bludgeoned three children and his wife to death with a spade. As in many other cases the argument

always broke around issues of extramarital affairs. The deceased wife was 27 years old and the children aged 9 and 3 years and 3 months respectively. A month before this incident two promising young lives had been lost after a jilted lover had shot and killed a former girlfriend and the boy with whom he had suspected that she was involved romantically. The incident had happened at *Tshidzombe* Secondary School.

Protection Orders Lead to Divorce and Separation

The results from the study show that those women who applied and received protection orders against their husbands ended up being divorced by their spouses. One respondent stated that a protection order is like a snake. She asked; "How is it possible to live with someone and trust them, when you know that the very person will hand you over to the police if you make a mistake?" (Thavhiwa 10/08/2008v). The data collected from women indicate that spouses divorce their partners after receiving protection orders and the divorce itself was handled with a vengeance on the side of the reported males. More threats were made by husbands after receiving protection orders. Husbands wanted their wives totally out of their lives and their houses for applying protection orders against them. One woman reported that:

"I applied for three protection orders. The first one failed because I couldn't find my husband to sign. He was threatening to kill me. The second time he locked me outside the house. He was ordered to unlock for the children's sake. The third time he got into the house through the roof. They refused to open an order to forbid him to come to the house because they said there is no proof. Last year he wanted to sell our house. He is married somewhere. He lodged the divorce after the protection order. My husband ended up divorcing me. It never helped me at all" (Avhaphani 15/05/2008v).

"I wasted my time. After the protection order my husband stopped maintaining our children, paying our medical aid and everything. It never worked for me. My husband also breached it and when I reported, I was told that the protection order was not put right. My husband even threatened me with a gun after getting the protection order. I went to report it but, in court, I lost the case because they said I

should have said he pointed me with a gun. How can I saw how he pointed it to me when I ran to protect my life? The same day the police came for questioning him regarding the gun and he left the house for good. I heard he is now married to another girl” (Tshifhiwa 25/06/2008v).

Most of the women who obtained protection orders in this study ended up losing their marriages. It may be concluded that protection orders in marriages are not just a catalysts for further violence but they also create a wall between the partners which makes it difficult for a man who feels that he was reported to the police to have a good relationship with his spouse. Trust and love is lost and men in those situations resort to abandoning their families. The chance for communication and good relationship is compromised and divorce becomes the best option for the man who fears that his wife will report him again and he will be arrested. This may be an indication of anger and a way of punishing a woman for applying for a protection order. Corry (2009) asserts a question as to whether it will not be reasonable to assume avoiding a protection order, as it is a catalyst for further violence, to reduce violence during separation. He added that not taking a protection order to get state enforced custody of the kids, and possession of the house, car and bank account, would also seem to be wise if violence is to be avoided.

Protection Orders increase Violence in Relationships

People often resorted to protection orders because they were seeking a solution to a problem they wanted to solve. Respondents in this study indicated that after receiving protection orders violence increased in their relationships. In this study women reported that they were beaten by their husbands after receiving protection orders. Some of the cases were extremely bad, as in the case husband who burned his in-laws' house (*Vhakoma*) and even the chief assistant's house after his wife applied and obtained a protection order against him. Women reported increased victimization; including seeking help by their husbands, including the 'use' of witchcraft. Some husbands threatened to kill the victims, some women's clothes were burnt and kitchen utensils were broken. One woman reported being harassed with a lasher.

Some women stated that:

“After getting a protection order my husband was beating me and, actually, it made the situation worse. I thought getting an order would make him stop abusing me. He then decided to burn my parents' house and the chief's assistant's two huts. He said that he will burn the houses and now he ended up doing it. As I speak he is moving around with an axe threatening to kill me. During the court he lied and said that he is influenced by beer but he never stopped beating me” (Lizzy 11/04/2008v).

“I applied for the protection order the previous year against my husband and it failed. Police told me that he is my husband and I should speak to him. He was threatening to kill me by then. Then this time I got the protection order but it made my husband very angry. He became more violent. I don't feel safe anymore. He told me that he will never stay with me anymore and he continued to beat me. For two weeks now we were not talking to each other. I think it is better to leave the person than getting the protection order. My husband is now consulting witchdoctors to bewitch me. When my child died I was told at the Zion Christian Church that he will kill me” (Funanani 20/04/2008v).

“After getting the order my husband continued to beat me with a lasher. He always says he will kill me” (Rofhiwa: 2/06/2008v).

There are instances reported where men continued abusing their wives physically and after arrest they were released. One of the respondents' fingers was broken and during the interview it emerged that the fingers were permanently damaged. The husband was jailed for three months and after a month he was released and he then asked for forgiveness from his wife. Although he was forgiven, after a while incidences of incidences of abuse started again. It may be assumed that in such cases arrest was not helpful but more intervention was needed to help both the abuser and the victim.

Some respondents indicated that even though they reported a breach of the protection order after the incidences of subsequent- abuse with the protection orders at hand, the perpetrators were not arrested. There are incidences where men mentioned that a protection order is just a piece of paper and is meaningless, which indicated that they do not value or have no fear for the protection orders. In the real sense the

protection orders becomes meaningful only when there are measures implemented against the abuser if they violate these orders. It was reported during the interview that when men did not fear protection orders more levels of violence happen. Destruction of household utensils reported by the women was an indication of the escalation of violence wherein men seem to be punishing their wives

Protection Orders Failed to Resolve Problems within the Family

The findings in the study revealed that protection orders were incapable of bringing solutions to marital problems. It was found that after receiving protection orders women experienced the escalated of domestic problems. Many women from the study mentioned that their marriages ended up falling apart as the result of receiving protection orders though they would not have opted to get divorce as they never intended to see their marriages dissolving. Two women expressed their thoughts in the following way:

“My husband told me that a protection order is just a paper with no meaning at all. He mentioned it even in court. I was abused with it more by my husband. He burnt my clothes and the kitchen utensils I bought for the club with other women like food warmers, buckets and plates. We are now divorced for good. How can one live with a protection order in someone’s house? I understand that if I have it or not he can still willingly do what he wants” (Musiiwa 12/09/2008v).

“Protection orders are problematic. They make people hate each other. How can I stay with somebody who awaits my mistake in order to call the police to arrest me? It is he was telling people of this false accusation. He was also telling people that I have cancer of the breast and my breast was removed. When I tried to talk to him he asked me if I want him to be arrested. He even stopped taking care of our children. I was then forced to go back and apply for maintenance. He went for a DNA test claiming that children are not his. There was a time when he told me that he knew the magistrate so I will not get favour from the law. He even bought someone to testify against me saying I wanted to kill him. What hurt me more is that he told people that the children are not his. I can say that, after getting the protection

order, the situation got worse and we ended up divorcing” (Rudzani 2008).

The above stories explain the disappointments the women experienced as protection orders failed to resolve problems within their marital lives that led them to consult the magistrate offices. In addition let us look at some documents that will give more weight to the data collected from women. A story that appeared on the front page of the Mirror newspaper of March 26, 2010 volume 28, expresses a tragedy resulting from a protection order. The Vumba Police arrested a 29 year old man following the discovery of a partly decomposed woman at Dziawa Village outside Thohoyandou. Vumba police spokesperson said the victim named Rangani (25) of Dziawa has been missing since March 20. It is alleged that she had an argument with her lover the Friday before the incident and it is said that they were breaking up. On the Saturday the victim was in the company of her new boyfriend when the suspect confronted them.

It is reported that the new boyfriend left the two together not far from the village and she was never seen again. The two were supposed to meet in court as the suspect had a protection order to answer the following Tuesday which was to be 23rd March 2010. A cousin of the deceased said the family had been spending sleepless nights trying to figure out what have happened to her. On Sunday as he was in church he was called and informed that they should come and pick up their whore at Lamabani Dam. The matter was reported to the police but at the mentioned scene they found nothing. A second call came on Monday directing them to a fig tree not far from the village. They went to look for the body as they sensed that something bad had happen to her but still found no trace of her. The new boyfriend was questioned and he told them that the victim was last seen with her former boyfriend. The boyfriend was then traced to a nearby Village; he was cross-questioned until he confessed to the murder and directed them to the place where the body was. On arrival they found a badly mutilated body. It is clear that the protection order received by the woman indeed for protection did not protect her. She got it, but it could not deter the abuser to finish what he planned. Actually one can say that it triggered the behaviour as the killing happened few days before the hearing of the protection order take place.

The local traditional leader of the Village said that young people were now resorting to killing as the way of solving their problems. Within a week a girl from the same village was buried after being killed by a boyfriend in Gauteng

If one obtains a protection order, it does not mean the abuser is associated with a criminal charge; the abuser may ignore the order as a piece of paper and re-injure the victim. The real value of a protection order is dependent only on the value the abusers/ respondents attach to it. It means that the protection order does not carry the same weight as criminal charges. If the respondent ignores the civil order or lie to the police it is up to the police to intervene.

Buzawa and Buzawa (2003) state that using protection orders as a sole means of addressing domestic problems have potential disadvantages indeed. Since a violation of protection order will result in a criminal charge, the order provides law enforcement officers with an effective mechanism through which to stop violence without having to prove that the battering occurred. The officers only have to prove that the respondent violated the order stipulations.

DISCUSSION

In this section the researchers present discussions emanating from the research. It was found that there is little literature on protection orders although a lot has been done on domestic violence. Very few studies done were in western countries and the results cannot really be generalised to South Africa or other African countries because of the differences in cultures which affects how protection orders are viewed in different countries. The study affirms that women are still abused at the hands of loved ones and the prevalence is very high. Women applied for protection orders but they experienced communication breakdown, continued violence and killings, divorce and separation where in solutions to their problems were did not materialize. There vast majority of women depends on their husbands for financial support and this makes it hard for them let alone report the cases in fear that their economic stability will be affected as their husbands are arrested.

These results are comparable to the findings of several studies on domestic violence, where it was found that women do not want their husbands to be arrested, especially for economic reasons.

Dissel and Ngubeni (2003) found that families are often dependent on the income generated by the male bread winner. If the breadwinner is imprisoned or is awaiting trial, the family is likely to suffer the consequent loss of income. Even if a man is sentenced to a fine, the woman is indirectly punished as well. Imprisonment may also result in the loss of a job and the result is economic insecurity and the stigma of imprisonment may jeopardize future employment prospects as well.

The study affirms that women has tried to apply for protection orders around Thohoyandou area in trying to avert the scourge of violence they experienced. The results showed that protection orders continued to be catalysts of violence for those who applied. Emanating themes as appearing on the results include continued violence leading to human killings. Narratives from women and stories solicited from local newspapers reports and the centre for domestic violence shows that indeed women continues to suffer with protection orders at hands. From the study we have many families where both children and women were brutally killed after a successful application of protection orders.

Although it is not possible to include every example in one study, the cases cited show that people continue to lose their lives as a result of domestic violence in the Thohoyandou area, despite the fact that victims has been granted protection orders after application. *It can be concluded that from example given above, protection orders have in many cases failed to protect the recipient's and has led to further victimization and death. If this is, indeed, true, then peddling them to women in real danger may be likened to administering aspirin tablets to cancer patients.* According to Corry (2009), it was not possible to find a case in the legal justice system either where a protection order had provided *any* documented level of protection, or even anecdotes about the way in which a protection order made a woman safe. This is borne out by what is heard from many women themselves.

It is highly unlikely that more draconian penalties for violating a protection order will change the rate at which such orders are transgressed but such stringent penalties will, probably, increase the catalytic effect of such orders on violence. Doucan (2001) as quoted by (Corry) states

that "... increases in the willingness of prosecutors' offices to take cases of protection order violation were associated with increases in the homicide of white married intimates, black unmarried intimates, and white unmarried females ...". One manifestation of insanity is to do the same thing over and over again and expect a different outcome. Instead of more iron-fisted laws what is needed are ways of protecting those women who are in danger.

There are cases where protection orders were either withdrawn by women or follow up was neglected. The process of application itself, the use of English on the forms as a medium of instruction, unfit police who at times harass applicants or cases where women will wait for month before the protection orders are granted to the abuser for signatures all works against the victims who need protection. Though there is little written literature to support the view, Roberts (2008) found that victims of intimate partner violence withdraw protection orders because they are returning to their batterers. Individual reasons were organized along domains. The domains used and corresponding individual choices included the following reasons: protection orders were withdrawn because the victim needed the defendant for provision of food, shelter and health care. Added to the first domain was emotional attachment, concrete change, family issues and lastly bureaucratic issues, Keilts et al. (2006) avers that previous research has shown that the effectiveness of protection orders for victims of family violence depends on how specific and comprehensive the orders are and how they are enforced. Added was that victim's view on the effectiveness of protection orders. This varies with how accessible the courts are for victims and how well established the links are between public and private services and support resources for victims. Violation of the protection orders increase and reported effectiveness decrease as criminal record of the abuser becomes more serious. The protection order was found to be ineffective against abusers with a history of violent offences. Women in these cases were more likely to report a greater number of problems with violation of protection orders.

Kethineni and Beichner (2009) agree that the patterns of re-abuses indicate that permanent civil orders are not more effective in reducing physical abuse. This study has concurred with the above authors as it has been clearly speci-

fied through the results that women has been failed by the protection orders that were supposed to protect them. The cases have clearly showed the ineffectiveness of protection orders around Thohoyandou in addressing domestic violence where in women have experienced continuation of victimization, loose their families ad some ended up losing their lives.

CONCLUSION

Protection orders appeared to represent a breakthrough in terms of domestic abuse but, this study found that protection orders have several limitations in respect of its application. To the perpetrator of domestic violence the protection order might appear to be a piece of paper that might not deter him from carrying out what he has planned and, instead, might just incite more violent behaviour. Domestic problems are as unique as families and individuals and there is no common way of addressing these problems that have yet been found. One can say that from the study results it is not possible to define protection orders culturally or render them comprehensible to the Tshivenda-speaking people.

From the narratives accounts of women who have received protection orders, it is apparent that the aim of application and receiving of protection orders has failed to meet the anticipated purposes in their lives, which is to stop marital violence and to build happy marriages thereof. Protection orders might be helpful in cases where people are separated for divorce purposes with no intention of rebuilding a marriage. In addition, protection orders can be limited only to law-abiding citizens, as to others it might be just a worthless piece of paper without a deterring effect on domestic violence thereof. To a married man, it is a licence to give them autonomy to divorce their wives in protest. It is very clear from the statistics and daily news that domestic violence is a serious global problem which needs intervention.

RECOMMENDATIONS

In view of the major limitations and the deficiencies in the Domestic Violence Act to address domestic violence problems, the researchers recommend that government should reconsider serving protection orders on married couples and, instead, adopts measures that might offer

solutions to protect victims. The researchers recommends from the study the adoption of family clinic, anger management classes, shelter provision, workshops, the application of restorative justice in cases of domestic violence and limiting protection orders to separating or divorcing couples.

A Family clinic is a term used by the researchers to refer to a one -way stop for the victims of domestic violence. Such a family clinic would constitute a major breakthrough in respect of domestic problems. This clinic should be like a home for the victims of domestic violence. There should be elderly people who have retired from sectors where they used to work with people. These elderly people could serve as debriefers or victim supporters. These people may include teachers, social workers, nurses, police officers and civil servants or any one with experience of working with people who opt to help in voluntary bases. This would obviate the use of young people who are not experienced in family matters and who are found helping as domestic clerks in the courts for family violence. The idea to include elders who are retired is the fact that elders stem from the facts that in African traditions where the study is located, it is assumed that elders have more wisdom through their life experience, they are respected culturally and it can be easier for young couple to listen to them as compared to young ones, and the idea is that this would not be costly as these people should participate to offer their help as volunteers. It might not work for everyone but there are many people who feel tired of staying at home because they have retired but they still have good health so in this case they may volunteer to offer their services.

In addition, the family clinic should employ the services of psychologists who have specialized training in domestic issues or else family counselors, social workers and pastors. The aim in these clinics is not to go to the police, as people associate the police with the possibility of arrest and this could be construed negatively within the context of the clinic. The police should be used as a last resort only in situations which have spiralled out of control and the possibility exists of danger to the victim and the clinic workers. Sessions in the family clinics should include both members (husband and wife) and close relatives only when necessary.

In these counseling sessions the clinic staff should try to help the couple to discover or to identify their problems and, then, to assist them to deal with the root cause of their problems. The idea is to endeavour to rebuild the family and, in the process, to solve the problem in a more peaceful way. In a situation where the couple has decided to end their marriage, this means they would be able to accomplish their divorce peacefully without violence. However, it is not possible for the clinic to run without supporting structures. The researchers suggest that the clinic should run concurrently with a shelter and anger management classes.

Anger management classes will be helpful in teaching respondents how they can manage their anger when they are hurt. Anger management classes are class lessons that would be directed at the offender so that he or she would be empowered to learn strategies that will help to control his/her anger in the future. These classes may help these people to control their anger until they have succeeded in resolving the problem which they are facing. The perpetrators of domestic violence should also be encouraged to undergo compulsory counselling where they would acquire the necessary skills to co-exist with family members as they would all have learnt from their previous mistakes.

The study showed that some women remain in a dangerous situation and end up being killed by spouses because they do not have a place to run to with their children, if the husband fights them or sends them away. The shelter could house only those victims whose lives are in danger. However, in practice, shelters are nonexistent in the Thohoyandou area. In the whole of South Africa there are very few and, in any case, most of them are centered in the urban areas, such as Johannesburg, Durban, Port Elizabeth and Kimberly. These shelters are dependent on private funding. It is hoped for that the existence of shelters would provide women with a safer place before they are murdered. In many instances the government expects the NGOs to come up with solutions in respect of the provision of shelters. It is true that, in this respect, NGOs and churches may be of greater help even more than government institutions, but would be an expensive undertaking unless government may be of assistance financially.

Workshops should be run within the communities to inform people about the effects of

domestic violence, the role of protection orders and any other assistance that the victim may be offered by different sectors. People should be familiarized with structures that offer assistance within their communities. In view of the fact that, on the whole, men are the major perpetrators of domestic violence they should be targeted so that they become an integral part of these workshops.

Support structures should be clarified so that people would know where to find help should a problem arise. These workshops would also inform the victims of domestic violence about relevant legislations. Formal school education on domestic violence is also necessary especially if it is included in subjects like Life Orientation. From the study it was found that many police officers who serve protection orders are also often not trained to do so and, generally, they do not explain what the protection order means to the recipient. The police do not explain the reason why the recipient needs to sign the protection order on receiving it. If the recipient signs, does this imply that the recipient agrees that he/she has committed an offence or it is, at least, an indication that the recipient did see the paper? Therefore more training should be offered to officers who work with domestic problems.

The researchers support the idea of applying restorative justice. Restorative justice is proposed as a method of future intervention in domestic violence instead of utilizing protection orders only. Lastly there should be strict control to ensure that people who abuse these orders by lying and, in the process, hurting innocent people, be arrested if it is proved that they have, indeed, lied.

REFERENCES

- Babbie E, Mouton J 2014. *The Practice of Social Research*. Oxford University Press: Southern Africa.
- Canadian Centre for Justice Statistics. From <www23.statcan.gc.ca/imdb-bmdi/instrument/3313_Q2_V13-eng.htm.> (Retrieved on 30 July 2016).
- Corry CE 2011. The Effects of Civil Protection Orders. PhD. From <www.dvmen.org/dv-14.htm> (Retrieved on 20 February 2014). Colorado: Equal Justice Foundation.
- De Vos AS, Strydom H, Fouche CB, Delpo CSL 2008. *Research at Grass Roots for the Social Sciences and Human service Profession*. Pretoria: Van Schaik Publishers.
- Dissel A, Ngubeni K 2003. Domestic Violence Act 116 1998. July 2003.
- From <Wits.ac.za/csvr/papers/padadk3.htm.> (Retrieved on 1 February 2014).
- Dobash ER, Dobash PR 1999. *Women, Violence and Social Change*. London: Routledge.
- Fagan J 1996. *The Criminalisation of Domestic Violence: Promises and Limits*. Washington DC: National Institute of Justice Research.
- Gelles RJ, Loseke DR 1993. *Current Controversies on Family Violence*. London: Sage Publications Inc.
- Justice. From <Gove.za/legislation/acts/1998-116.>. Domestic Violence Act 116 of 1998.
- Keilitz L, Courtenay D, Hillery, Efkenan S, Flango C, Paula L 1998 National Institute of Justice Research Preview. Civil Protection Orders: Victims' Views on Effectiveness. From <https://www.ncjrs.gov/pdffiles/fs000191.pdf.> (Retrieved on 7 May 2015).
- Kethineni S, Beichner D 2009. *A Comparison of Civil and Criminal Orders of Protection as Remedies for Domestic Violence Victims in Midwestern Country*. USA: Springer Science + Business.
- Klein AR 1996. Re-abuse in a population of court restrained male batterers. In: ES Buzawa, CG Buzawa (Eds.): *Do Arrest and Restraining Orders Work?* Thousand Oaks: Sage Publications, pp.192-213.
- Mirror 2004. Couple Buried After Tragedy. September 17, 2004, P. 1.
- Mirror 2006. Scarred for Life: Woman Talks About Ex-Boyfriend Acid Attack. August 4, 2006, P. 1.
- Mirror 2010. Young Woman Murdered at Dzwzerani. March 26, 2010, P. 1.
- Mirror 2008. Woman Shot in Cold Blood. August 15, 2008, P. 1.
- Pecar D, Burke S 2014. *Statistics for the Social Sciences*. Southern Africa: Oxford University Press.
- Randall C 2008. HM1121.C64 2008 303.60973—dc22 2007015426 British Library Cataloging-in-Publication. From <www.bl.uk/billivgrapluc/pdfs/uk/marufact-sheet> (Retrieved on 12 July 2011).
- Retief RT 2013. Police Officers' Experience of Policing Domestic Violence in the Western Cape Province. Doctoral Dissertation. From <https://scholar.sun.ac.za/bitstream/handle/10019.1/85678/retief_police_2013> (Retrieved on 21 June 2015).
- Roberts JC 2008. Why Victims of intimate Partner Violence Withdraw Protection Orders. From <citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.413.9029> (Retrieved on 27 July 2015).
- Statistics South Africa September 2002. *Labour Force Survey*. South Africa.
- Thohoyandou Victim Empowerment Programme 2014. *NGO Statistics*. Thohoyandou, South Africa.
- Tshwaranang Legal Advocacy Centre to End Violence against Women. 1999. National Legal Manual. From <http://search.info4africa.org.za/Organisation?Id=91307> (Retrieved on 12 March 2016).
- Vetten L, Khan Z 2002. We Are Doing Their Work For Them: An Investigation Into Government Support to the Non-Profit Organisations Providing Services to Women Experiencing Violence. From <Feminista.com.archives/v2n111/roopnarain.html.> (Retrieved on 20 January 2015).

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