

INCLUSION OF THOSE
MOST LEFT OUT

Hands-on

Learning from our implementing partners

Masimanyane Women's Support Centre

Using international policy instruments to address gender-based violence and abuse in South Africa

Gender based violence, often expressed as sexual abuse of both women and children, is rampant in South Africa and reports from NGO's suggest it is increasing¹. Women's Rights Groups as a sector, have not been able to stem or reverse the practice. Government initiatives mainly intervene in the form of protective legislation, but these are poorly implemented, resourced and monitored. The political will to seriously address the problem seems to be lacking in South Africa. In the absence of any impact after local advocacy efforts, it has been imperative to look at the international community as a means to secure greater protection and safety for the women in South Africa.

Masimanyane Women's Support Centre, based in East London, focuses on the promotion and protection of women's social, emotional, physical and economic well-being. In 2011, The DG Murray Trust funded Masimanyane to coordinate the preparation and submission of an inquiry request to the United Nation's Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Its purpose was to investigate the high rates of violence against women in South Africa². Every eight hours a woman is killed by her intimate partner in South Africa and for the period 2009-2012 the National Prosecuting Authority reported more than 72 000 applications per year for protection orders from people (of which most will be women) experiencing domestic violence. This learning brief focusses on both sharing our experience in coordinating the development

of the South African inquiry and on increasing awareness of a relatively unknown advocacy tool, the Optional Protocol Inquiry Procedure of CEDAW, that is available to NGOs and women's groups to promote women's rights.

Background on CEDAW

The CEDAW Convention

CEDAW was adopted by the United Nations General Assembly on December 18, 1979. It is an international human rights treaty, made up of 23 experts on women's issues from around the world. A country becomes a state party to CEDAW by acceding to the convention like South Africa has done. By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms. State parties report to CEDAW every four years and country reports are submitted to the United Nations by the Ministry of Foreign Affairs. After evaluation CEDAW makes recommendations to state parties, but these recommendations are however not enforceable through international treaty.

Shadow Reports to CEDAW

In order to get a balanced view of the status of women within countries, CEDAW also accepts input from Non-Government Organisations (NGO's) in the form of shadow reports. Information provided in shadow reports is used by the CEDAW committee to interrogate country reports. Masimanyane presented its first shadow report to CEDAW in 1997 and a second one in January 2011

¹ It is difficult to assess the true incidence as reporting rates may also change over time.

² Abrahams, Mathews, Jewkes, Martin, Lombard. 2012. Medical Research Council.



when the South African government presented their reports to CEDAW.

The Optional Protocol Mechanism of CEDAW

The Optional Protocol is a separate mechanism to Shadow Reports. It gives individuals and groups of women the right and opportunity to complain in writing to CEDAW about state violations of the Convention. This mechanism enables the Committee to conduct inquiries into serious and systematic abuses of women's human rights in countries that are signatories.

The Inquiry Procedure is an additional mechanism set-up under the Optional Protocol to the CEDAW Convention (OP-CEDAW), through which the CEDAW Committee can issue comments and recommendations on grave or systematic violations of rights contained in the CEDAW Convention. Alternatively, the CEDAW Committee may decide to initiate an inquiry that addresses grave or systematic violations resulting from acts or omission from the State party concerned.

Preparing the South African Inquiry

Noticing that high levels of violence against women were being reported by NGOs in shadow reports during the 48th session of the CEDAW in January 2011, the CEDAW committee suggested that these NGOs explore the provisions of the Optional Protocol to CEDAW in order to enforce greater protection and promotion of women's safety and security in South Africa.

Initial meetings were held with various organisations, government officials and academics to provide feedback on the session and to share the opportunity to request an inquiry. There was general agreement, interest and excitement, but acknowledgement of the lack of knowledge on how to utilise the Optional Protocol mechanism. It became clear that an inquiry request could not be prepared without training on CEDAW and the inquiry process. The first national consultation meeting was held with women leaders from six provinces. No one present knew of the Optional Protocol and only two knew of CEDAW.

The Women's Legal Centre placed an attorney at Masimanyane's office to assist with the preparation

of the inquiry. The International Women's Right's Action Watch (IWRAP) Asia Pacific provided support and guidance in designing a training programme on CEDAW. Importantly, it was emphasised by the IWRAP that the training needed to be strongly focused on substantive equality, non-discrimination and state accountability as this understanding is what creates impetus to take action. The training material was edited and changed in-house for domestic relevance. A group of six trainers, with experience of CEDAW, was trained to deliver training. Training focused on explaining what CEDAW is, its intent and, importantly how to utilise it as an advocacy tool by monitoring the extent to which the state works to meet the concluding recommendations made by the committee. It also included training on data collection tools and analytical tools to assess if discrimination had taken place resulting in violence against women.

After the training information was collected by and from various women's groups in seven provinces to inform the inquiry request. The information focused on individual accounts of abuse, police statistics on reported cases of violence against women, rape statistics and the number of court orders issued. Information was also collected on the extent to which police stations are adequately resourced to deal with gender based violence cases. Two ex-CEDAW committee members provided guidance on the required structure and content of the report accompanying the inquiry request. The report included narratives of women's experiences as well as data from research and government reports. These were synthesized to prove that gross, systematic violations of women's rights occur in the country as a result of domestic violence. The South African inquiry request was submitted under the category of systematic violations of women's rights in October 2012. Our recommendations included the request for new legislation, including the adoption of gender equality legislation. Specifically:

- We want to have a review of the current legislation on domestic violence.
- We need government funded shelters for women who are the victims of domestic violence across the country.
- We would like to see more domestic violence



- courts that fast track domestic violence cases.
- We would like to see that the police receive comprehensive training on domestic violence. Currently it is not fully included in the training of all policemen.
 - We also want domestic violence included in the training of medical and legal students as an integrated programme throughout their training.
 - We want to see more police stations and police vehicles that increase access for women in rural communities.
 - We would also like a countrywide prevention programme that encompasses various different strategies and approaches to the prevention of domestic violence.

Outcomes and expected results

Our report has been returned to us with a request to re-frame some aspects and a request for additional information. We will resubmit by 31 January 2013. The time lines are lengthy as we have seen in other international cases, it can take up to a year after the inquiry request has been submitted for the inquiry to take place (if it is approved) and up to another half year or longer to receive the final report.

A series of sequential steps are set in motion once the inquiry request is submitted, contributing to the length of the process; these are:

- Governments are invited to examine and respond to the information provided and provide its own observations.
- Deliberation is held as to the reliability and content of the information before the committee
- If it is found that the information is reliable, provision is made for the committee to designate one or more of its members to conduct an inquiry and report back to the committee on its findings. An inquiry may include a visit to the state.
- The finding are provided to the state who in return is required to respond on measures taken in response to the findings of the inquiry.

In terms of outcomes, the inquiry procedure should be seen as an opportunity for the CEDAW committee members, to, in partnership with

governments, address systematic and widespread violations. Recommendations for addressing the problem could include:

- Support to develop directives and guidelines to address the problem
- The reviewing or amendment of laws
- Support to improve the effectiveness of investigation methods
- Guidance as to the establishment of programmes or centres to assist women
- Enactment of new laws
- Provision of legal and other support for victims to access the justice system
- Setting of a timeframe for the government to give feedback to the CEDAW Committee on steps taken to implement recommendations.

An example of a very positive outcome as a result of the inquiry process is the Philippines where a collective of reproductive rights groups lodged an inquiry request in 2008 to investigate their government’s failure to make contraception available to women. The case took almost three years to finalise, but shortly after the country visit the Philippines government passed new legislation on Reproductive Rights which was the focus of that Inquiry.

In the short term through the process of preparing this submission, participating women have gained knowledge of CEDAW and have developed confidence and skills in holding government accountable at all levels. Women who had never traversed political spaces were able to make the submissions in person and articulate their own concerns. For example, women spoke to local government officials about gaps in service delivery such as water, access to health care etc. They reported that a lack of water meant they had to travel across dangerous areas to access water and this made them vulnerable to rape and sexual assault. They pointed out that poor roads in rural areas prevented them from reporting cases of domestic violence to police stations. They engaged around the traditional courts bill that government wanted to put in place in 2012. Women wrote submissions attended the hearings and voiced their concerns and the bill was eventually scrapped. Some of the women who participated in the process will be going to national parliament in March this year to make submissions to various



government departments taking their concerns to the highest decision making bodies.

Lessons learnt

- There are international instruments available to women that can be used to advocate for women's rights and protection. A greater awareness of these instruments is needed. For example, the United Nations has Special Rapporteurs on Education, Health and Human Rights. All of these can be used in various ways. The Special Rapporteur on Violence against Women has already indicated that their office is not being used by South African organisations as an advocacy tool.
- It is important to build alliances, share knowledge, skills, resources and collaborate despite differences of opinion.
- The concluding remarks to country reports by CEDAW are strategic issues to focus advocacy on.

Conclusion

Understanding the CEDAW convention has given the women's sector a strong philosophical and practical framework for infusing state systems and processes while clarifying the role that women can and should play in those processes. This knowledge and awareness need to be spread more widely. A strong democracy can only be achieved if women are recognised and acknowledged on an equal basis with men. Women need to develop the agency to claim their rights. This is the basis of the CEDAW convention and one to which this project has contributed.

This learning brief tells of the hands-on experience of:



Address: 35 St Marks Road,
Southernwood,
East London
2196

Tel: +27 (0)43 743 9176

Email: maswsc@iafrica.com

Website: www.masimanyane.org.za