

Submissions on behalf of the National Shelter Movement of South Africa in respect of the provisions of the Victim Support Services Bill, 2020. **October 2020**

This submission is addressed on behalf of the National Shelter Movement of South Africa by Dr. Zubeda Dangor, Head of the Executive of the National Shelter Movement of South Africa. Dr. Dangor can be contacted on zubeda@nisaa.org.za and 083 289 9818.

The National Shelter Movement of South Africa (NSMSA) is a non-profit organisation established in 2008 to be the united voice on sheltering for women and children affected by Gender Based Violence in South Africa. Its membership consists of some 90 shelters spread across all nine provinces of South Africa. The NSMSA was formed to network, advocate and lobby provincial, national and international stakeholders, and to engage in service provision, legislation and capacity building on GBV and sheltering of abused women and their children in South Africa.

These submissions will address the following sections of the Victim Support Services Bill, 2020 (the Bill):

- Failure to register a facility (section 20 (14))
- Service providers to ensure that there are adequate human and financial resources to achieve the realisation of the objects of the legislation (section 9(2))
- Entering of a facility by officials to conduct an investigation, interview victims and procure documents (section 30 (3))
- The management and control structure of the facility will be prescribed by the Minister in regulations (Section 32)
- Registration certificates to be valid for a period of five years (Section 20(7))

And finally, the submissions will address section 38 of the Bill and the issue of the need for adequate funding of shelters from government in order for them to be placed to adequately implement the provisions contained in the Bill.

Section of Bill	Proposal	Motivation
Section 20 (14) “ A person who contravenes or fails to comply with this section, or any condition imposed thereunder, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.”	Deletion of criminalisation mechanism in its entirety.	The criminalisation of the failure to register a facility will negatively impact on survivors in that organisations that are more informal in nature may cease to render services to survivors in these circumstances. This will be especially impact on those survivors in areas that do not have support services like rural areas.

<p>Section 9 (2) “Every relevant department and service provider must ensure that there is adequate human and financial resources to achieve the realisation of the object of the Act.”</p>	<p>Adequate and uniform funding to achieve the objectives of the Act to be the responsibility of the Department of Social Development</p>	<p>Shelters are currently underfunded by government. The imposition of new obligations with greater financial implications is both unreasonable and unachievable and will lead to the closure of shelters.</p>
<p>Section 30 (3) “A member of the provincial committee for victim support services, social worker in the employ of the Department or a provincial department, or a police officer may upon written instructions of the Director-General or a provincial head of the Department, at any time – (a) Enter any premises....; (b) Interview any victim ...; (c) Direct any person who has possession or custody of any record or document relating to such facility, to submit such record or document to him or her for inspection...”</p>	<p>Include a provision for a notice period for monitoring and provision of reasons for monitoring together with an opportunity for facilities to respond thereto prior to the physical investigation.</p>	<p>This heavy-handed approach is indicative of the tenor of the bill in its current iteration: punitive, “top down” and favouring facility control over the centring of survivor services as an objective.</p> <p>The lack of notice and consultation is both unjustifiable and unreasonable.</p> <p>Moreover, sanction by way of the criminalisation of the failure to comply as provided for in section 30 (4) which includes imprisonment for a period not exceeding three years or a fine is unjustifiable, these objectives can be reached by other less punitive means including notice to comply and a sanction of suspension of registration in the event of an unreasonable refusal to co-operate.</p>
<p>Section 32(1) “The Minister may prescribe the management and control structure of a facility.”</p>	<p>Delete the provision in its entirety.</p>	<p>The loss of operational autonomy by shelters is both unreasonable and unnecessary and speaks to a “top down” approach that is antithesis to the principle that shelters are fulfilling a function of the DSD in their stead and also of the objective of survivor-centric legislation.</p>
<p>Section 20(7) A registration certificate granted by the provincial head</p>	<p>Extend the period of registration to eight years</p>	<p>The burden of monitoring and reporting, accreditation and registration procedures place a</p>

of department is valid for a period of five years...”		heavy administrative duty on shelters which traditionally are understaffed - the certification period should be extended to allow for the proper implementation of support services.
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Funding of Shelters – Section 38 of the Bill read together with section 10(1)

Currently, many shelters in South Africa face the threat of closure because of inadequate funding by government and because, in addition thereto, traditional private sector funders are themselves facing budget cuts.

The Department of Social Development currently funds shelters in South Africa up to 39% of their annual budget. It bears mentioning that shelters are not uniformly funded by the Department and that in some provinces shelters may receive funding of R71 per women per day and in others as little as R9 per women per day. The Commission for Gender Equality in 2018 conducted an investigation into the state of shelters in South Africa and concluded that there is a lack of adequate funding of shelters by government and that late payment of tranches and lack of co-operation by government impacts on service delivery by shelters <http://www.cge.org.za/wp-content/uploads/2014/05/State-of-Shelters-in-SA.pdf>.

Shortly after the release of the CGE report the NSMSA presented a memorandum to the National Department of Social Development calling on the department to address the issues raised in the report. Since the release of the report by the Commission for Gender Equality, *some two years ago*, not only have the failures highlighted not been remedied by the Department of Social Development but the NSMSA has also to date not received a reply from the National Minister of that department.

On 20 August 2020 the NSMSA sent a letter to the President of South Africa and the Minister of Social Development highlighting the fact that shelters in certain provinces of South Africa had not received their *agreed* funding for periods of up to six months and were in critical need of funding urgently <https://www.nsmsa.org.za/2020/08/21/letter-to-president-urging-immediate-intervention-on-funding-of-womens-shelters/>. To date no reply has been received from either the President or the Department of Social Development.

It is difficult then to escape the conclusion that the Department considers themselves unable to adequately fund **the current shelter model**. The inescapable question then needs to be raised about the wisdom of further burdening extremely financially strapped shelters with additional costs like a new registration process, the legislated obligation to ensure adequate human and financial resources to realise the onerous provisions of the Bill and the costs of mandated management and control structures.

Shelters, in the absence of additional and adequate funding, will simply be financially unable to meet the obligations imposed on them by the Bill in its current form and will be forced to close. Survivors will bear the consequences.

In a sector that has been blighted by the inability to successfully implement legislation aimed at supporting survivors of Gender Based Violence, to the detriment of survivors themselves, the issue of the costing of the Bill by government themselves is critical and needs to be rigorously addressed by the committee.

In conclusion, the Bill in its current iteration is punitive, “top down” and favours facility control by the Department over survivor-centric support. The financial implications alone will lead to the loss of support facilities and programmes.

The committee is urged to consult meaningfully with those that render these services to gain a clear understanding of the needs of survivors of Gender Based Violence and the financial realities that shelters face.

The National Shelter Movement of South Africa welcomes the opportunity to address the portfolio committee in person in respect of these submissions.

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National Shelter Movement of South Africa