

DOMESTIC VIOLENCE

Combating of Domestic Violence Act 4 of 2003

Summary: This Act ([GG 3002](#)) provides for the issuing of protection orders by magistrates' courts in domestic violence cases, deals with matter relating to domestic violence offences and provides for police duties in respect of domestic violence. It was brought into force on 17 November 2003 by GN 234/2003 ([GG 3094](#)).

The initial publication of [GG 3002](#), dated 24 June 2003, contained an inaccurate version of the law which failed to incorporate the amendments made on the floor of the National Assembly. The correct Gazette bears the same number and date but contains a notation at the top stating “*This Gazette replaces Gazette No. 3002 of 24 June 2003*”.

Amendments: Section 14 is amended by the Child Care and Protection Act 3 of 2015 ([GG 5744](#)), which was brought into force by GN 4/2019 ([GG 6829](#)).

Regulations: Regulations are contained in GN 235/2003 ([GG 3094](#)).

Cases:

Valindi v Valindi & Another 2009 (2) NR 504 (HC) (divorce case which discusses a protection order application and the resulting protection order at 518G-ff)

LS v MB 2010 (2) NR 655 (HC) (applicants must show reasons why an application for a protection order should be heard on an *ex parte* basis; High Court as upper guardian of minor children has inherent jurisdiction to stay interim protection order relating to minor child pending return date)

Katjivikua v The Magistrate: Magisterial District of Gobabis & Another 2012 (1) NR 150 (HC) (interim protection order reviewable under inherent powers of High Court and section 20 of High Court Act 16 of 1990 and set aside on basis of procedural irregularities)

FN v SM 2012 (2) NR 709 (HC) (excessive violence applied to children for the purpose of discipline found to constitute domestic violence and justified final protection order and re-assessment of abusive parent's custody of children; duty of clerk of court to notify Ministry of Gender Equality and Child Welfare of protection orders involving children)

S v EZ 2014 (1) NR 18 (HC) (failure to pay maintenance is a form of economic abuse; a factor to consider in sentencing under the Maintenance Act 9 of 2003)

LTS v GPS & Others 2017 (2) NR 412 (HC) (application of section 18(3)).

Commentary:

Dianne Hubbard & Daina Wise, *Domestic Violence: Proposals For Law Reform*, Windhoek: Legal Assistance Centre, 1998; summary prepared in 2000 available [here](#)

Law Reform and Development Commission, *Report on Domestic Violence*, LRDC 10, 2000, available [here](#)

Legal Assistance Centre, *Guide to the Combating of Domestic Violence Act*, 2005, available [here](#) (languages: English, Afrikaans, Oshiwambo, Otjiherero, Khoekhoegowab)

Legal Assistance Centre, *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, 2012, available in detailed and summary versions [here](#).

SELECTED CASES

S v Bohitile 2007 (1) NR 137 (HC) (context of domestic violence (1) as an aggravating factor in sentencing)

S v Kanguro 2011 (2) NR 616 (HC) (effect of diminished capacity on sentence in case of one-year-old child killed by mother who had longstanding history of epilepsy and attempted suicide at the same time)

S v Ruben 2018 (1) NR 115 (HC) (domestic relationship between offender and victim as an aggravating factor in sentencing)

Violence against women has reached a crisis point. It is continuing unabated despite the harsh sentences that the courts impose. Society is crying out for the courts to impose severe sentences against those who commit crimes against women and children. (para 7)

Cases on infanticide:

S v Glaco 1993 NR 141 (HC)

S v Muzanima (1) (CC 12 of 2006) [2006] NAHC 15 (25 April 2006)

S v Shaningwa 2006 (2) NR 552 (HC)

S v Uupindi (CC 15 of 2007) [2007] NAHC 31 (20 April 2007)

S v Kaulinge (CC 14 of 2007) [2007] NAHC 30 (19 April 2007)

Akwenye v S (CA 117 of 2010) [2011] NAHC 106 (08 April 2011)

See also *S v Seas* 2018 (4) NR 1050 (HC) (murder of 3-year-old child by mother).

COMMENTARY

Dianne Hubbard & Daina Wise, *Domestic Violence: Proposals for Law Reform*, Legal Assistance Centre, 1998, summary prepared in 2000 available [here](#)

Legal Assistance Centre/Law Reform & Development Commission, *Domestic Violence Cases Reported to the Namibian Police: Case Characteristics and Police Response*, LRDC 9, 1999, available [here](#)

Law Reform and Development Commission, *Report on Domestic Violence*, LRDC 10, 2000, available [here](#)

Legal Assistance Centre, *Guide to the Combating of Domestic Violence Act*, 2005, available [here](#) (languages: English, Afrikaans, Oshiwambo, Otjiherero, Khoekhoegowab)

Legal Assistance Centre, *Guidelines for Service Providers on the Combating of Domestic Violence Act*, 2005, available [here](#)

Legal Assistance Centre, *Baby-dumping and Infanticide, Monograph 1*, 2008, available [here](#)

Legal Assistance Centre, *Stalking: Proposed New Legislation for Namibia, Monograph 3*, 2008, available [here](#)

Legal Assistance Centre, *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, 2012, available in detailed and summary versions [here](#).