

# **Training Guide for Clerks of Court on the Combating of Domestic Violence Act (Act 4 of 2003)**



Legal Assistance Centre  
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**T**his training guide was written by the **Gender Research and Advocacy Project of the Legal Assistance Centre (LAC)**. It has been developed following feedback from clerks of court requesting training on their role in implementing the Combating of Domestic Violence Act.

The training guide is **intended for self-directed use by individual clerks of court**. The guide consists of 6 modules. Each module has questions and answers so that clerks can test themselves and get immediate feedback on their level of understanding.

The training guide could also be used as part of a workshop-based training session with clerks.

**Please complete the assessment form at the end of this guide and return it to the LAC by fax, by post or by scanning and emailing it.** (The LAC contact details are provided below.) This will help us to determine whether this guide has been useful, and will inform the development of future training materials.



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An Adobe Acrobat (pdf) version of this guide  
is posted on the LAC website.

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# Module 1

## Domestic violence in Namibia

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### The prevalence of domestic violence

Worldwide, one out of every three women will be victims of abuse at some point in their lives.<sup>1</sup>

Domestic violence by an intimate partner is the most common form of gender-based violence.<sup>2</sup>

While international statistics vary slightly, women are victims of violence in approximately 95% of the cases of domestic violence.<sup>3</sup> Moreover, 40-70% of all female murder victims worldwide are killed by an intimate partner.<sup>4</sup>

**The situation in Namibia is no different to the picture of violence worldwide.<sup>5</sup>**



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1 This frequently-quoted international statistic is based on findings of studies discussed in UN General Assembly, *In-depth study on all forms of violence against women: Report of the Secretary-General*, A/61/122/ Add.1, 6 July 2006.

2 World Health Organisation, *World Report on Violence and Health*, Geneva: WHO, 2002 at 15.

3 Stop Violence against Women, "Prevalence of Domestic Violence", 1 February 2006, available at <[www.stopvaw.org/Prevalence\\_of\\_Domestic\\_Violence.html](http://www.stopvaw.org/Prevalence_of_Domestic_Violence.html)>.

4 This figure is based on studies of femicide from Australia, Canada, Israel, South Africa and the United States of America. UN General Assembly, *In-depth study on all forms of violence against women: Report of the Secretary-General*, A/61/122/Add.1, 6 July 2006 at paragraph 115.

5 Information on the situation in Namibia comes from Legal Assistance Centre, *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, 2012.

See how much you can guess about domestic violence in Namibia. Fill in the blanks in the images below, and then check the answers at the bottom of the page to see if your guesses are correct.



Answers: (a) 1 in 5; (b) 1 in 10; (c) 1 in 5; (d) 1 in 10; (e) 1 in 4

# Reporting domestic violence

Many victims of domestic violence suffer in silence and never seek help, or else wait for years or until the violence has escalated to dangerous severity before seeking assistance from anyone.

Some victims may be silent due to the shame and stigma surrounding the issue, as well as the widespread cultural perception that problems which occur within families should remain private.

Others remain silent because of fear or because they are financially dependent on the abuser. Still others fail to speak out because they do not recognise domestic violence as being anything other than normal.



**If you were a victim  
of domestic violence,  
what would you do?**



## A story about domestic violence

I had a boyfriend once that I really loved. He really loved me too. You know how I knew? Well, he used to *tell* me he loved me. All the time. He used to buy me things – cell phones, clothes, jewellery. He used to buy me *nice* jewellery. But there was something about him that I didn't like – he never let me go out with my friends. Sometimes he would leave town and I would have nothing to do. So I would call up my friend, Tessa, and see if she wanted to go out – you know, just to have a drink or something. When David found out, he was not happy. The first time I tried to go out without him, just me and the girls, he started yelling and screaming, calling me all sorts of names. At first I couldn't even understand why he didn't want me to go. After a lot of yelling I finally understood that he was worried that I might start looking at other men. I almost laughed out loud. I tried to tell him I loved him and that I didn't want to look at other men – I just wanted to see my friends. But that made him even angrier – he thought I was being disrespectful to him. Then I started to get angry. “Why don't you trust me?” I yelled at him. Then he hit me. Hard. On the face. I stopped yelling. Then in a very quiet voice he told me one final time – you will not go out without me. Then he left. I didn't go out with Tessa.



This happened several more times. After a few black eyes and one trip to the hospital for stitches, I learned my lesson not to put up a fight. At least then he wouldn't beat me. Plus, sometimes he could be so nice about it. He would tell me that he didn't want me to go out because he loved me and he wanted us to do things together as a couple. He loved me, he said. He loved me. I kept telling myself that over and over. It was true, right?

One time he was leaving town for two weeks. It was the same old thing – before he left he made sure to tell me not to go out. The first day, I was very obedient. The only place I went was Shoprite. The second day, I didn't go *anywhere*. I tried to call my mom who lived 200 kilometres away, but I didn't have enough credit on my phone. The third day I started to get bored, and lonely. But I didn't leave because I wanted to show David that I loved him. Plus, I knew the consequences if I did go out. The days passed. I didn't have anything to do. I didn't even have a television to watch because David had given it to one of his friends to use while he was gone. I couldn't leave. I was a caged bird.

When David returned I was so excited. To show that he loved me he had brought me a beautiful necklace. I loved it, but it didn't make me feel better about sitting at home for two weeks. I decided that maybe I could talk to him about it. He was leaving town again the next week, so after dinner, I brought it up. That was a mistake – a mistake that left me with a bruised cheek, a dislocated shoulder, and a broken finger. But afterwards, he told me he was sorry. And that he loved me. I tried to tell myself that that made it okay. He loved me, right?

Wrong. I finally realised it. He didn't love me. What he does to me is not love. It's not even close to love. I realised that *everything* he had been doing was wrong. He has no right to tell me what I can and can't do. I am *not* his possession. I am *not* an animal. I am a person. A free person. An independent person. A strong person. I have just as much right as he does to come and go as I please. Why does he think he has the control?

Is it because he's physically stronger? Is it because that's what he saw in his own family? Because it is his culture to tell women what to do? Culture can change. It just wasn't right! I couldn't believe I had put up with it for so long. Now I saw the truth. He was no better than those colonizers who oppressed Namibia, than those who oppress any country or people. He was the *same*. Why couldn't he see that? He who talked so hatefully of racist oppressors, but why couldn't he see that he was doing the same thing? I didn't see it for a while either, but all of a sudden I did. And I had had enough.

So when he left, I decided to go out! I called up Tessa and we went to get something to eat. I don't even remember what we ate. I didn't care. I was just so excited to be there. Excited, and a little nervous about what would happen if David found out. He didn't find out this time, or the next time. But eventually he did find out. That night, when David was supposed to come back from one of his trips, I got a phone call from a friend telling me he knew I had been out and was on his way home, madder than ever. For a minute I panicked. I knew exactly what was going to happen when he got home. What should I do? Should I run? Should I hide? I knew he would find me eventually. I thought about it for a minute and then made my decision. I was going to take a stand. I would not live with this any longer. I felt chills all over – for the first time in my life I was standing up for the rights I deserved. Of course I still had one problem – David was still much stronger than me. What would I do when he attacked me? I knew he would be home soon, so I had to think quickly. And then I came up with an idea, not a good idea, but an idea. I heard him get out of the taxi outside. As he was walking to the door he had already started yelling. I heard the keys in the door. Then the doorknob turned. David came rushing through the door, but stopped short, in midsentence. There I stood – my clothes stuffed with pillows, wearing a motorcycle helmet that bounced around on my skinny head and holding a child's plastic hockey stick, up in a swinging position. I don't know what I thought I could do. I had stuffed so many pillows in my clothes I could barely move. I must have been a sight! But I was fired up and ready to fight! But then something happened I didn't expect. David started laughing. And he kept laughing. He laughed so hard tears started streaming down his cheeks. As hard as I tried to resist it, his laughter was contagious. I let out a small giggle. Then another. Then another. Soon we were both on the floor laughing hysterically. Though inside I was still a little scared of what might happen when we stopped, I felt like the tension was gone and I was okay.

Eventually the laughing did stop. I looked at David. He looked back at me. After a long silence he said he was sorry that I was so scared of him and that he just wanted to protect me.

I told him I just wanted to spend time with my friends. He nodded and said he understood. He paused for a few minutes. He didn't say anything for so long that I thought maybe he had fallen asleep. Then he said it would be okay if I went out with Tessa while he was gone, I just had to tell him in advance so he would know where I was. I thought about it. Was it worth it to stay? Would he really change? What should I do?

I left him. I didn't need to put up with his abuse any longer. I deserve to be able to make decisions for myself and to be free, and it was clear that would never happen as long as I was with David. It would be hard without him, I knew. He bought me a lot of things I wanted, and needed. Plus it was nice to have somebody there, to be part of a "couple." But I knew I would make it without him. And do you know what? I did.

story written by Legal Assistance Centre intern



# Withdrawing applications for protection orders

Court staff often complain that victims of violence start applications for a protection order but do not finish them. This may be because people are using the process to deal with petty issues, or it might be because the victim has been intimidated by the abuser to withdraw the application. Many abusers also go through a cycle of violence, which circles from extremely loving behaviour, to tension, to violence. Between the periods of violence, the abuser may be able to convince the victim that he or she still loves them and that there is no need for a protection order. Alternatively the victim might be worried that making an application will make the violence worse.

It can be very frustrating for court staff when cases are continually opened and withdrawn. Complete the table below to develop ideas about how the court can address some of the reasons why people withdraw their applications.

<b>Reason for withdrawing or discontinuing an application for a protection order</b>	<b>Ideas to address the problems</b>
<b>Complainant is applying for a protection order for a petty reason</b>	
<b>Abuser has intimidated the complainant into withdrawing the application</b>	
<b>Abuser has convinced the complainant, without the use or threat of violence, to withdraw the application</b>	
<b>Complainant is worried that an application for a protection order will make the violence worse</b>	

Reason for withdrawing or discontinuing an application for a protection order	Ideas to address the problems – possible answers
<b>Complainant is applying for a protection order for a petty reason</b>	<p>Ensure that people are aware of the purpose of a protection order. But remember that petty incidents can escalate. Ensure that the complainant has enough information about the process of applying for a protection order to continue the case if they feel it is warranted. Offer to refer the complainant to a social worker or counsellor who can provide information and support.</p>
<b>Abuser has intimidated the complainant into withdrawing the application</b>	<p>In some cases, a threat of harm – such as a threat of violence – is also a crime. The victim should be informed of the possibility of opening a criminal case in such situations. If the victim wishes to proceed with a protection order, treat the matter as a very urgent one and be sure that the application form includes information about the threat.</p>
<b>Abuser has convinced the complainant, without the use or threat of violence, to withdraw the application</b>	<p>Offer to refer the complainant to a social worker or counsellor who can provide information and support.</p>
<b>Complainant is worried that an application for a protection order will make the violence worse</b>	<p>Tell the complainant about shelters or other support services which are available in the community.</p> <p>Provide the victim with information about all options for dealing with the violence, including how to lay a criminal charge.</p> <p>Explain that the main purpose of a protection order is to inform the abuser to stop the abuse.</p> <p>Question the complainant about the basis for these fears and be sure that all relevant information reaches the magistrate so that the protection order can be tailored to suit the situation.</p>

# Barriers and bridges at court

Whether or not a victim of violence seeks help can depend a lot on the barriers and bridges he or she faces when starting to speak out about the violence. What barriers and bridges are there at your court? Complete the list below.

Barriers (negative things that inhibit reporting)	Bridges (positive things that encourage reporting)	How can you change barriers to bridges?
EXAMPLE: No private room for reporting	EXAMPLE: A private room is available for a complainant to use whilst completing an application form for a protection order and discussing it with the clerk of court.	EXAMPLE: Is there some unused space at your court which could be used a private room for the complainant? If you can't find a completely private room, can you arrange a shared area in a different way that provides more privacy?
EXAMPLE: Work pressure means that the clerk of the court has little time to assist victims of violence	EXAMPLE: The clerk is able to give as much time to a victim of violence as he or she needs	EXAMPLE: What is your least busy time of day? Could you ask complainants who need more of your time to come to the court then?

# Module 2

## Applying for a protection order

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### **Guidelines for assisting a complainant to apply for a protection order**

Introduce yourself and explain your role in the process. Give the complainant your name and contact telephone number.

Find a quiet and private place where the complainant can complete the form.

If the complainant was raped as part of the domestic violence incident, explain the importance of prompt medical intervention to obtain preventative medication that can reduce the risk of HIV and other sexually-transmitted infections, as well as the risk of pregnancy. Help the complainant get such medication as quickly as possible.

Find out if the complainant would like to see a social worker or a counsellor. If the answer is yes, arrange this as soon as possible.

Allow the complainant to provide the information for the application in the language of his or her choice. Arrange a translator if necessary. Record the information in English. Indicate on the form what language the complainant used and what language was used to verify the information with the complainant. Use words that the complainant feels comfortable with. Avoid using difficult or advanced terms.

Complainants may omit their current physical address from the application if they do not want the respondent to have access to this information. But explain to the complainant that if he or she wants the court to include a provision saying that the respondent may not enter the complainant's residence, then a physical address must be provided when the order is made.

Ask questions in a calm and matter-of-fact tone. Be calm and patient. Be sensitive to the horrible experience the complainant has been through. Let the complainant know that you believe him/her and want to help him/her. Show support with your tone of voice, with eye contact and by the way that you phrase your questions. (For example, don't say "I cannot believe that he really broke your arm!"; say "Can you give me any more details about that?")

Encourage the complainant to give full information. For example, if the complainant had consumed alcohol or drugs at the time of the attack being described, it is best to include details about this in the statement. Full disclosure of all facts will make the complainant more credible. But questions about the complainant's behaviour should at all costs avoid creating the impression that the complainant was in any way to blame for what happened.

Tell the complainant about shelters or other services which are available in your community. Call ahead to arrange a specific referral if possible.

**Test your knowledge! See what you already know about the application procedure for a protection order. If you do not know the answer to any of these questions, look on pages 13-15 to find out what the law says.**

**1. Under the Combating of Domestic Violence Act, a victim of violence can**

- apply for a protection order;
- ask the police to give the abuser a formal warning;
- lay a criminal charge with the police.

**Which statement below is true?**

- (1) A complainant has to choose only one of these options.
- (2) A complainant can take a combination of these steps.

**2. The complainant needs to make a sworn statement about the abuse, or sign the application form which contains details about this, in front of a Commissioner of Oaths.**

**Who is a Commissioner of Oaths?**

- (1) The clerk of the court
- (2) The principal clerk
- (3) The cleaner

**3. If a victim of violence gives written permission, someone else can make the application for a protection order on their behalf. Under what circumstances can an application be made on behalf of someone else without written permission from the victim?**

Hint: There are 5 situations. You can count your answer to this question right if you can list at least 3 of them.

**4. Can a minor apply for a protection order without the assistance of an adult?**

- (1) Yes, for certain forms of domestic violence
- (2) Yes, for all forms of domestic violence
- (3) No

**5. Jane lives with her boyfriend in Windhoek. He has been abusing her for over a year. Finally she leaves him and returns to her family in Oshakati. Can she apply for a protection order at the Oshakati magistrates court?**

- (1) No
- (2) Yes



6. Nearly half of the complainants for a protection order will report physical abuse in the most recent incidence of violence. However an analysis of court files shows that few complainants provide supporting evidence of their injuries. Can an application proceed to the magistrate without a letter or other evidence from a doctor?
- (1) No
  - (2) Yes
7. Elizabeth is applying for a protection order against her boyfriend. She has a 22-year-old son, Lukas, from a previous relationship. The application form provides space to request a no-contact provision covering the victim and any other person, and also space to request an order denying access to children of a complainant. If Elizabeth does not want her boyfriend to have contact with Lukas, which part of the form should the clerk tell her to complete?
- (1) No contact
  - (2) No contact –but she must have permission from Lukas
  - (3) No access
  - (4) No access – but she must have permission from Lukas
8. It is an offence to make a false statement on an application for a protection order. What is the potential punishment?
- (1) Writing “this statement is not true” 100 times
  - (2) A fine up to N\$4000 or imprisonment for up to one year, or both
  - (3) A fine up to N\$8000 or imprisonment for up to two years, or both
9. If a person keeps opening and closing an application for a protection order, what should the clerk do?
- (1) Refuse to open any more applications
  - (2) Charge the complainant a fee to open another case
  - (3) Involve other service providers such as a social worker
10. Which of the following people cannot apply for a protection order?
- (1) A married couple
  - (2) A boyfriend and girlfriend
  - (3) A couple in a same-sex relationship
11. True or false, a person in a same-sex relationship could apply for a peace order if he or she was a victim of domestic violence
- (1) True
  - (2) False



Protection order applications must be dealt with as a matter of urgency, and the regulations issued under the Act specifically state that the court may sit outside ordinary court hours and days to hear such applications if the need arises. Describe the protocol your court has in place to deal with out-of-hours applications. If your court does not have such a protocol, draft one that could be put in place.

## Answers

1. The correct answer is (1). A complainant can pursue more than one response to domestic violence. There is no prohibition on pursuing multiple legal avenues at the same time. In fact, a protection order might help to protect a victim who has laid a criminal charge if the accused is released on bail until the criminal trial takes place. Where a person has been accused of a domestic violence offence, a no-contact order and an order prohibiting the possession of any firearm or other specified weapon should be automatically imposed as conditions of bail.<sup>6</sup> However, protection orders offer a wider range of protective measures which can be imposed. A protection order might also be useful if there is a delay between the laying of the charge and the arrest of the accused; for example, the police might need time to investigate a criminal charge.

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<sup>6</sup> Section 62(3) of the Criminal Procedure Act 51 of 1977, as amended by the Combating of Domestic Violence Act 4 of 2003.

2. The correct answer is (1). All clerks of the court are commissioners of oaths.<sup>7</sup> This means that a complainant does not have to go to the police station to make a sworn statement about the abuse, or to swear that the information on the application form is true. Sometimes complainants are referred to police or other Commissioners of Oaths because of time pressures on clerks, but such referrals should not take place because of lack of clarity on the authority of clerks to commission a sworn statement.
3. An application can be made by someone else without such written consent if the complainant is:
- (1) a minor;
  - (2) mentally incapacitated;
  - (3) unconscious;
  - (4) regularly under the influence of alcohol or drugs; or
  - (5) at risk of serious physical harm.

The last two exceptions require permission from the magistrate.

4. The correct answer is (1): *Yes, for certain forms of domestic violence*. A minor may bring an application without the assistance of an adult in cases of physical abuse, sexual abuse or intimidation, as long as the magistrate is persuaded that the minor has sufficient understanding to act alone.
5. The correct answer is (2): *Yes*. The jurisdiction requirements are very broad. A magistrate's court can issue a protection order in the place where the complainant or the respondent resides or works, or the place where the abuse took place. There is no minimum period of residence for the complainant for this purpose. This rule was intended to take care of the possibility that the complainant might have fled from his or her usual home to avoid the violence. Any protection order is enforceable throughout Namibia.
6. The correct answer is (2): *Yes*. The complainant does not have to provide evidence of the abuse. However, the more information the complainant provides, the easier it will be for the magistrate to decide whether to issue a protection order. The clerk should assist the complainant to see what evidence could be provided. The clerk has to be careful not to discourage the complainant from making a complaint, while helping the complainant think about what supporting information might help to show that the abuse is real. Remember, it is not the clerk's job to decide whether a complainant should receive a protection order or not; this decision will be made by the magistrate. The magistrate considering the application also has the discretion to call for further documentary evidence or oral evidence before making a decision. Some examples of supporting information are:
- a letter from a doctor or a health passport;
  - a J-88 form (forms usually used by doctors to record injuries of rape or other forms of sexual abuse when rape charges are filed, but also sometimes used to report injury in other criminal cases);

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<sup>7</sup> Commissioners of Oaths are governed by the Justices of the Peace and Commissioners of Oaths Act 16 of 1963. In terms of this Act and the notices issued under it, clerks of court are Commissioners of Oaths by virtue of their office.

- a statement from another person who knows about the violence or saw the injuries, such as a relative, an employee or a co-worker or a social worker;
  - a report from a psychologist; or
  - a letter from a schoolteacher about the impact on children who have been affected.
7. The correct answer is (2): *No contact – but she must have permission from Lukas*. There are two reasons why the no-access section would not be relevant. Firstly, Lukas is a major. “Access” applies only to minor children. Secondly, Lukas is not the boyfriend’s child. Therefore the boyfriend does not have an automatic right to access. Automatic rights of access apply only to biological parents or other persons who have been given an access order by the court, so there is no need for an order to prohibit access in the example given in this question.
  8. The correct answer is (2): *A fine up to N\$4000 or imprisonment for up to one year, or both*.
  9. The correct answer is (3): *Involve other service providers such as a social worker*. The complainant may be being intimidated by the abuser or by family members to stop the application process. Repeated opening and withdrawing of cases may be a cry for help. Alternatively, it could be an indication that the complainant is misusing the protection order process to deal with trivial arguments. Either way, the involvement of a social worker or another service provider could assist the complainant.
- The court is not allowed to charge a fee for a protection order application. At the end of an enquiry, the magistrate can make an order relating to costs after taking into consideration the conduct of the parties involved and the means of the person against whom the order for costs is to be made. This rule allows the state, for example, to recover charges in a case where the process is being misused or where the parties have sufficient means.
10. The correct answer is (3): *A couple in a same-sex relationship*. The definition of “domestic relationship” in the Combating of Domestic Violence Act does not cover a couple in a same-sex relationship.
  11. The correct answer is (1): *True*. To get a peace order, the complainant must make a statement under oath to a magistrate, saying that someone is hurting or threatening them. After hearing both sides of the story, the magistrate can issue a peace order which is valid for up to six months. This order can require the abuser to deposit a sum of money with the court which will be lost if the order is not obeyed.<sup>8</sup>

An individual in a violent same-sex relationship could use the following options:

- (1) Lay a criminal charge such as assault or trespass.
- (2) Obtain a peace order.
- (3) Obtain an interdict from the High Court.
- (4) Bring a civil action for compensation for damages resulting from the violence, such as medical costs, loss of wages, or pain and suffering.

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<sup>8</sup> Criminal Procedure Ordinance 34 of 1963, section 370 (which is still in force).

# Module 3

## Administration

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1. **The Combating of Domestic Violence Act does not specify a particular procedure to be followed when transferring a file between courts (for example when the complainant moves away from the jurisdiction of the court and asks for the file to be transferred to a court closer to where he or she will now reside). Describe the protocol used for transferring files under the Maintenance Act.**
  
2. **Who should assist a complainant who would like witnesses to be summoned to court?**
  - (1) Complainants should do this by themselves because court staff have too many other duties
  - (2) The clerk
  - (3) The prosecutor



- 3. Whose duty is it to serve a protection order on the defendant?**
- (1) The complainant
  - (2) The clerk
  - (3) The police
- 4. If for some reason the police cannot serve the protection order on the defendant, what should the clerk do?**
- (1) Throw the protection order in the rubbish bin
  - (2) Send the protection order by registered post or arrange for service by the messenger of the court
- 5. True or false: The respondent can request an acceleration of the date of the enquiry.**
- (1) True
  - (2) False
- 6. Whose duty is it to serve a copy of the protection order on the complainant?**
- (1) The respondent
  - (2) The clerk
  - (3) The police

## Answers

1. The procedure is described in the Maintenance Act 9 of 2003, section 24(1), and the Maintenance Regulations, regulation 14. The clerk at the original court must retain copies of orders, judgements and records of payments and send the original documents by hand or registered post to the clerk of the new court. The clerk at the new court must number the case with the next consecutive number for maintenance cases for the year in which the file is received. The clerk of the new maintenance court must then give notice of the transfer to the defendant and any person who is required under the Act to deliver money or property (such as an employer, where an order for attachment of the defendant's wages is in place).
2. The correct answer is (2): *The clerk*. The complainant is entitled to get assistance from the court in summoning witnesses. Regulation 4(11) states: “Where a party wishes to arrange to summon witnesses through the court, the clerk of the court must assist such person to identify and summon such witnesses where the court considers it necessary, it may however limit the number of persons to be called as witnesses.” Regulations issued under the Combating of Domestic Violence Act 4 of 2003, Government Notice 235 of 17 November 2003 (Government Gazette 3094).
3. The correct answer is (3): *The police*. The Act makes it a duty of members of the Namibian Police to serve documents under the Act, and requires that police make “reasonable efforts” to serve the documents within 5 days of receiving them from the clerk of court.

It could be extremely dangerous for a complainant to serve an interim protection order on a respondent in person, especially given the recurring nature of domestic violence and the likelihood that the respondent will be angered because an interim protection order has been granted against him or her.

In the study entitled *Seeking Safety*, the Legal Assistance Centre found that many of the court files examined did not have information about the timeframes for service of interim protection orders, although several key informants interviewed for the study cited concerns about this issue. Based on the data that was available, it appears that many interim protection orders are not served promptly, with 40% apparently being served 10 days or more after being issued, 24% apparently being served 20 days or more later, 11% apparently being served only one month later, and a few apparently being served more than two months after being issued.

4. The correct answer is (2): *Send the protection order by registered post or arrange for service by the messenger of the court*. If the documents cannot be served by the police, the regulation requires that the clerk of the court arrange service “without delay”, by giving the document directly to the respondent (if he or she is at court), sending it by registered post, or arranging for service by the messenger of the court (at state expense). The messenger of the court may use personal service or service at the respondent's residence, place of business or place of employment.

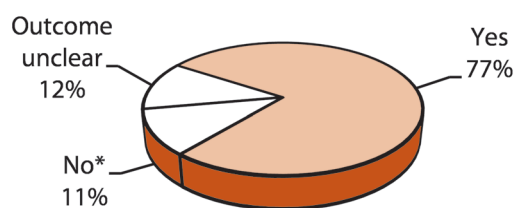
5. The correct answer is (1): *True*. The Act allows the respondent to request an acceleration of the date of the enquiry, so long as the complainant receives 24 hours notice of the change of date.
6. The correct answer is (2): *The clerk*. The Act says that on receipt of a return of service of the protection order, the clerk of the court must serve a certified copy of the interim protection order on the complainant. The regulations say this must be done in the same manner in which service of court process is carried out in any other case in the magistrate's court.

# Module 4

## Converting interim protection orders to final protection orders

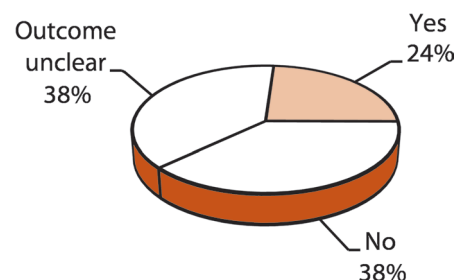
In an assessment of 1131 applications for protection orders opened between 2004 and 2006, three-quarters of applications resulted in interim protection orders but only one-quarter resulted in final protection orders. The actual number of final protection orders could be higher because the final outcome of the application was unclear in 38% of the files. The numerous incomplete files indicates that some magistrate's courts need to improve their file management. Records of case outcomes are important for statistical purposes as well as in the case of possible appeals.

**Interim protection order made?**



\* This includes four cases where a final protection order was issued without being preceded by an interim protection order.

**Final protection order made?**



These figures suggest that the protection order process may not be working to give complainants all the protections they need. Interim protection orders remain in place only until the date on which both parties are scheduled to appear before the magistrate, which is usually within one month after the interim protection order is issued. Final protection orders generally remain in place for 6 months to 3 years, depending on their provisions.

1. **If the respondent does not oppose the notice of the interim protection order, what should happen?**
  - (1) The court should keep trying to contact the respondent until he makes contact
  - (2) The interim protection order expires
  - (3) The interim protection order automatically becomes final

- 2. If the respondent does not oppose the notice of the interim protection order, whose duty is it to ensure the protection order is made into a final order?**
- (1) The complainant because he/she is the one that wants the order
  - (2) The clerk of the court
  - (3) The first person at the court to remember
- 3. What should the clerk do if, without providing an explanation, the complainant does not attend the enquiry?**
- (1) Dismiss the case from the court roll
  - (2) Notify the police to investigate why the complainant has not attended the enquiry
  - (3) Postpone the case and serve notice of the new date to the complainant and respondent
- 4. If the respondent attends an enquiry, which of the following options are not available to the magistrate?**
- (1) Confirm the interim protection order in part or as a whole as a final protection order
  - (2) Amend the interim protection order and make it final as amended
  - (3) Discharge the interim protection order and substitute a different final order for the interim order
  - (4) Discharge the interim protection order and issue no final order
  - (5) Go for a cup of coffee and leave the complainant and defendant to sort out their own argument
- 5. True or false: When a final protection order is made, the clerk must forward the final protection order to the police station indicated by the complainant on the application form.**
- (1) True
  - (2) False

If the name of a police station has not been indicated on the application or on the final protection order, the clerk should ask the complainant to indicate which police station should have been listed as the one where he or she would be most likely to seek help.

- 6. If children are involved in the final protection order, who must the clerk send a copy of the order to?**
- (1) The Permanent Secretary of the Ministry of Gender Equality and Child Welfare
  - (2) The child's school
  - (3) All of the child's relatives



## Answers

1. The correct answer is (3): *The interim protection order automatically becomes final.* The interim protection order automatically becomes final if the magistrate is satisfied that the interim protection order was properly served on the respondent. Combating of Domestic Violence Act, section 10.
2. The correct answer is (2): *The clerk of the court.* Under section 10 of the Combating of Domestic Violence Act, if the respondent does not give notice of an intention to oppose the confirmation of the protection order on or before the return date and the court is satisfied that proper service has been effected on the respondent, “*the court must confirm the interim protection order without holding the enquiry contemplated in section 12*”. However, the regulations and the forms do not explain the procedure which should be used to finalise a protection order under these circumstances. It is not clear whether the court should finalise the unopposed interim protection order on its own initiative, or if the complainant should return to court after the return date to request that the order be finalised. However a complainant may not know that he or she should return to court to ask that the interim protection order be finalised. Also, in some instances, the complainant may feel intimidated to return to the court. The best practice would seem to be for the clerk to take responsibility for putting the process in motion for converting an unopposed interim protection order into a final protection order.
3. The correct answer is (2): *Notify the police to investigate why the complainant has not attended the enquiry.* Section 12(15) of the Combating of Domestic Violence Act says that in such circumstances the court must direct the station commander of the police station named in the application to investigate why the complainant did not come to court, to make sure that no intimidation of the complainant has taken place, to provide appropriate police protection in the event of any intimidation, and to ascertain whether the complainant still wishes to proceed with the application.
4. The correct answer is (5): *Go for a cup of coffee and leave the complainant and defendant to sort out their own argument.* All of the other options are listed in the Combating of Domestic Violence Act.
5. The correct answer is (1) *True* . Section 13(3) of the Combating of Domestic Violence Act says that the clerk of the court must send a copy of the final protection order to the station commander of the police station named by the complainant on the application form. That station commander then has a duty to put all police personnel at that station on notice that the complainant and any other persons covered by the protection order are at particular risk.
6. The correct answer is (1): *The Permanent Secretary of the Ministry of Gender Equality and Child Welfare (MGEWCW).* The law does not specify that a copy of the order must be sent to anyone else. The MGEWCW should assign a social worker to monitor the case. As part of his or her role, the social worker may decide whether anyone else should be informed about the protection order – with due regard for the child’s best interests and the family’s privacy.

# Seeking Safety

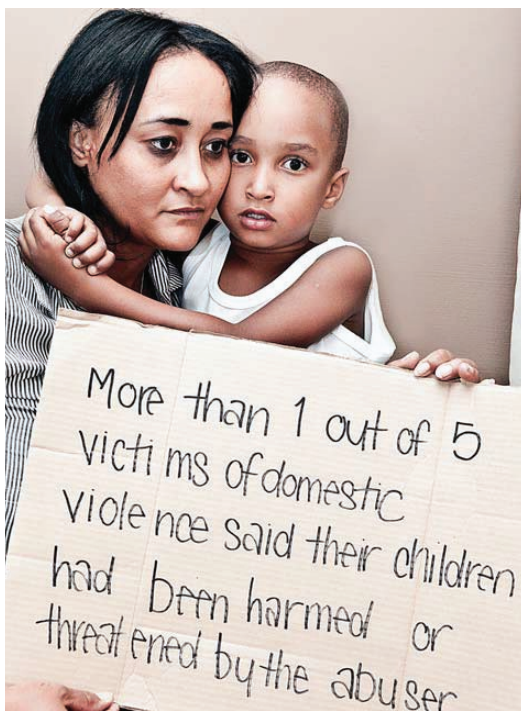
Increasing awareness of the **IMPACT OF DOMESTIC VIOLENCE** in Namibia



Legal Assistance Centre

Circular No. 1  
January 2013

## Protecting Children Affected by Domestic Violence



### THE IMPACT OF EXPOSING CHILDREN TO VIOLENCE

More than 1 out of 5 victims of domestic violence say that their children have been harmed or threatened by the abuser.<sup>1</sup>

Data also shows that in approximately half of the applications for a protection order, the victim said that one or more children had witnessed the most recent incidence of violence, with a similar percentage having witnessed past incidents of abuse. **In terms of the Combating of Domestic Violence Act, it is a form of psychological abuse to expose a child to domestic violence, or to put a child at risk of seeing or hearing such abuse.**

Child witnesses are most commonly aged between 5 and 14.<sup>2</sup> Exposure of these children to violence is not only detrimental to their development but is also likely to negatively impact their performance in school.

This circular was produced by the **Legal Assistance Centre** and funded by the **British High Commission in Namibia**.  
Photos are by **Sylvia Kincses** and **Rachel Coomer**.

**Disclaimer:** The persons depicted in the photos are not actual victims.

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British High Commission  
Windhoek

Data from Namibia shows that the most significant impacts of domestic violence on others are emotional and psychological effects, changes in relationships with the respondent, exposure to threats and assault and fear, anxiety and other negative psychological reactions.<sup>3</sup> Complainants frequently report an intensifying effect of the domestic violence on children and other family members over time.

The exposure of children to domestic violence can produce a troubling legacy. Some impressionable

youths may model their own behaviour on the example which they observe. Other young people may be traumatised by witnessing violence between parents or other family members.

**Exposing children to violence against others in the home is so emotionally harmful that it is a form of domestic violence in itself.**

## REMOVING A CHILD FROM THE HOUSEHOLD

If a child affected by domestic violence is in danger, a social worker should be contacted to assess the situation. It is possible to remove the child from the household in terms of the Children's Act. Police or a social worker can put the child in a place of safety until the danger can be addressed. (When the Child Care and Protection Bill replaces

the Children's Act, it will be possible to remove either the child or the offender on an emergency basis.) This is significant because, for example, police or a social worker or a magistrate could act to protect the child upon hearing of the danger before a protection order is issued, or even if the protection order application is withdrawn.

## PROVISIONS TO PROTECT CHILDREN IN PROTECTION ORDERS

The Combating of Domestic Violence Act allows complainants to request that provisions are included in a protection order to protect children in their care or children affected by the violence.

Still, complainants sometimes mention instances of children in the family being physically abused along with themselves, but do not ask for the protection order to prohibit violence against the children. This may be because the complainants are not aware that they can make this request.

**Magistrates should include provisions in protection orders to protect children who are being affected by the domestic violence even when this is not requested, if there is evidence that children are being affected or are at risk of violence.**

Possible provisions could be:

- explicit prohibitions on violence against the affected children;
- no-contact provisions;
- a change of parental custody or restricted parental access;
- temporary maintenance; or
- some tailor-made provision to protect the children affected.





**Child abuse  
casts a shadow  
the length of  
a lifetime.  
It shouldn't  
hurt to be a child!**



www.kidsnalia.com

## **No-contact provisions**

Including children in no-contact provisions is one way of protecting them from the effects of domestic violence. The Combating of Domestic Violence Act allows complainants to request restrictions on contact or communication by the respondent with persons other than themselves. These “third parties” do not necessarily have to be in a domestic relationship with the complainant or the respondent.<sup>4</sup> The complainant can authorise such orders for children or other persons in their care, whilst other third parties must give their consent to be covered. If children other than children in the complainant’s care are to be covered by no-contact orders, consent is required from the parent or guardian of the children.

## **Temporary orders for custody and access**

A complainant may apply for a temporary custody order or a temporary order to restrict access. However, these provisions seem to be causing some confusion. The intention of the law was to refer to the parental powers of custody and access. Therefore, such orders would make sense only where the complainant or the respondent, or both, have parental rights and responsibilities in respect of the child in question. However, the law seems to be interpreted by some applicants and courts as referring to more general physical contact. This is evident from the fact that some applicants make inappropriate requests for custody or access – of adults, of children over whom they already have custody or access, or of children they are not even related to by blood or through a relationship.

Another problem is that some people approach the court under the Combating of Domestic Violence

Act when they should be using the Children’s Status Act (unmarried or divorced parents) or approaching the High Court (married parents). The provisions on custody and access in the Combating of Domestic Violence Act should be used only for temporary orders in emergency situations to protect children who may be at risk of harm. They were not intended to replace the normal legal procedures on the parental powers of custody and access.

Furthermore, the domestic violence context should not be the forum for giving a complainant or a respondent custody or access rights over a child of some other parentage. For example, a complainant might be caring for a niece, nephew or grandchild in the role of a primary caretaker, at the request of the child’s parent. In such a situation, it is possible that neither the complainant nor the respondent would have any formal custody or access rights over that child – so custody and access in such instances should not be addressed in an abbreviated domestic violence proceeding.

## **Temporary maintenance**

The Combating of Domestic Violence Act allows complainants to request an order for temporary maintenance for children of the respondent, for a maximum period of 6 months. The theory is that someone who is experiencing domestic violence is unlikely to be able to cope with a variety of simultaneous court procedures, but should not feel compelled to stay in a violent situation because of economic necessity.

A request for temporary maintenance is possible only where the respondent has a legal liability to maintain the person in question. For example, all parents have an obligation to maintain their

minor children, regardless of whether the children were born inside or outside marriage. But there is no legal obligation to maintain a step-child.

## Best interests of the child

As a party to the UN Convention on the Rights of the Child, Namibia is committed to basing all decisions concerning a child on the principle that the best interests of the child are paramount. A recent High Court case ruled that the best interests of the child are the paramount consideration in all matters concerning the child, on the basis of the Convention as applied to Namibia by the Namibian Constitution.

## ONGOING MONITORING OF CHILDREN AT RISK

If an interim protection order involves children in any way, the clerk of the court has a duty to notify the Ministry of Gender Equality and Child Welfare (MGEWC).<sup>5</sup> This is because children in

a violent situation might require monitoring by a social worker to see if other protective action is needed – such as removing the children from the home and putting them in a place of safety, or instituting social worker supervision of the family situation.

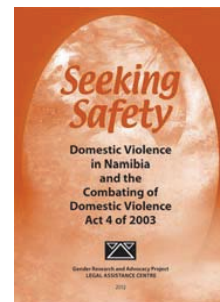
Once the MGEWC has received notice of a protection order that includes a child, the Ministry should assign a social worker to investigate and monitor the case as appropriate. The social worker should regularly review the family's situation to ensure that the children are not subjected or exposed to domestic violence.

Currently there is no specific form or procedure for this notification of the MGEWC. The Legal Assistance Centre recommends that a specific form be included in the regulations under the Combating of Domestic Violence Act for this purpose.

**Break the cycle of violence by protecting the children.**

## NOTES

- <sup>1</sup> *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, Windhoek: Legal Assistance Centre, 2012 at 316.
- <sup>2</sup> *Ibid* at 311.
- <sup>3</sup> *Ibid* at 282.
- <sup>4</sup> For example, the abusive spouse of a domestic worker might be harassing the domestic worker's employer in an attempt to get access to the domestic worker, or an abusive spouse might be intimidating the family's domestic worker in order to get information about the movements of the other spouse. A parent who is abusing a child might turn his or her wrath on the school teacher who assisted the child to seek a protection order. These are some examples of the kinds of situations the law was designed to cover.
- <sup>5</sup> Combating of Domestic Violence Act 4 of 2003, section 8(7).





# Module 5

## Protecting children affected by domestic violence

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Exposing children to violence against others in the home is so emotionally harmful that it is a form of domestic violence in itself. Section 2(2) of the Combating of Domestic Violence Act says that it is psychological abuse to repeatedly expose a child to the physical, sexual, or psychological abuse of a person with whom that child has a domestic relationship, or to repeatedly put that child at risk of seeing or hearing such abuse.

### Why is exposing a child to violence harmful?

The exposure of children to domestic violence can produce a troubling legacy. Some impressionable youths may model their own behaviour on the example which they observe (either behaving violently towards others or accepting violence from others). Other young people may be traumatised by witnessing violence between parents or other family members.

1. **Approximately how many complainants who apply for a protection order in Namibia report that their children have been harmed or threatened by the abuser?**

Hint: You guessed this figure at the start of this training.

- (1) 1 in 10
- (2) 1 in 5
- (3) 1 in 2

Given the high proportion of cases of domestic violence that involve children, you should be vigilant when receiving applications to see whether children are being affected.

2. **Can a complainant ask for provisions to be included in a protection order to protect children in their care or other children who are being affected by the violence?**

- (1) Yes
- (2) No

3. **If an interim protection order is made and it involves children in any way, which Ministry must the clerk of the court notify?**

- (1) Ministry of Education
- (2) Ministry of Gender Equality and Child Welfare
- (3) Ministry of Youth, National Sport and Culture

4. **Would the following case study be an example of domestic violence against the child? Yes or no?**

*Sarah comes to the court to apply for a protection order against her husband George. They have 2 children aged 8 months and 3 years old. She tells the clerk that George does not abuse the children although he is very strict with discipline. For example she tells the clerk that he beats their 3-year-old most days for some reason or another. Last week their son had bruises on his back from where George had disciplined him.*

5. **Would the following case study be an example of domestic violence against the child? Yes or no?**

*Jessie has a one-year old girl called Tracy. Jessie recently married John. John has a one-year old girl called Petra. John is the sole breadwinner in the family. Jessie recently lost her job as a domestic worker and she has not been able to find a new employer. John treats Tracy and Petra differently. He provides for all of the needs of his own child Petra, but does as little as possible for Tracy. Tracy has asthma and needs chronic medication but John is refusing to pay for it. It is winter and he also refuses to buy any warm clothes for Tracy and gets angry if Jessie puts her in Petra's clothes.*

## Answers

1. The correct answer is (2): 1 in 5.
2. The correct answer is (1): Yes. The Combating of Domestic Violence Act allows complainants to request provisions in a protection order to protect children in their care or children affected by the violence. When assisting a complainant, you should help him or her to think about possible provisions to request.

### Custody and access provisions

A complainant may apply for a temporary custody order or a temporary order to restrict access. However, these provisions seem to be causing some confusion.

The intention of the law was to refer to the parental powers of custody and access. Therefore, such orders would make sense only where the complainant or the respondent both have parental rights and responsibilities in respect of the child in question. But the law is being misunderstood by some complainants and courts as referring to more general physical control and contact. This is evident from the fact that some complainants make inappropriate requests for custody or access of adults, of children over whom they already have custody or access, or of children who are not even part of their family or household. If the complainant wants to apply for temporary custody or a restriction of access you should clarify whether the complainant has parental powers of custody or access.

**Custody** = legal responsibility for the day-to-day care of a child, including the power to make decisions relating to that care. Married parents have joint custody of the children they have together. If the parents are not married, only one parent will have custody over the child.

**Access** = the legal right to have contact with a child. If the parents are not married and not living together, the parent without custody has an automatic right of reasonable access to the child, unless a court decides that this access would be contrary to the child's best interests.

A complainant who simply wants to keep a violent person away from a third party – such as an extended family member or someone who lives in the same household – should be requesting a no-contact provision, not an order for temporary custody or denial of access.

The complainant can ask for a no-contact provision for another adult if that adult has given consent to be covered. If children other than children in the complainant's care are to be covered by the no-contact provision, the parent or guardian of the children in question must give consent. This rule helps prevent abuse of the procedure.

3. The correct answer is (2): *Ministry of Gender Equality and Child Welfare*. Children in a violent situation might require monitoring by a social worker to see if other protective action is needed – such as removing the children from the home and putting them in a place of safety, or arranging for regular social worker supervision of the family situation. Currently there is no specific form or procedure for notification of the MGECW.

### **Helping a child who is in need of protection**

Once a report is made to the MGECW, a social worker will investigate the case. In some cases it may be necessary to remove the child or the alleged offender from the home immediately, to keep the child safe while the investigation is underway.

The children's court will review the social worker's report and hold a hearing if necessary. The court can order a range of interventions to address the problem. If necessary, the court can order that the child must live somewhere else for a specified period, such as in kinship care, foster care or a children's home. The court might also order a particular person to stop abusing the child or having contact with the child. There are many options. The order will depend on the situation.

This step is important because police or a social worker or a magistrate could act to protect the child before a final protection order is issued.

4. The correct answer is yes. Abuse of a child which is so severe as to produce injuries can never be justified as discipline. The Child Care and Protection Act 3 of 2015, which is expected to come into force sometime in 2016, says that any person who has control of a child, including the child's parents, must respect a child's right to dignity. This means that only forms of discipline which respect the child's dignity will be allowed in the home. How this is understood in practice would probably develop over time, as alternative forms of discipline are popularised. But any form of discipline which produces physical injury to a child would certainly not respect the child's dignity as a person.
5. The correct answer is yes. The Combating of Domestic Violence Act 4 of 2003 would cover the relationship between many stepparents and stepchildren. The definition of "domestic relationship" in section 3(1)(d) includes "family members related by consanguinity, affinity or adoption" provided that there is a "connection of a domestic nature", including the sharing of a residence or financial dependence of one person on another. This definition would capture stepparents who live with or provide financial support for a stepchild (who is a family member related by "affinity"). Therefore any child abuse or neglect of a stepchild by a stepparent living in the same household or providing financial support would be covered by the law and could be a basis for a protection order. Stepparents do not have a legal duty to maintain stepchildren, but deprivation of the basic necessities of life could be a form of economic abuse which could be covered by a protection order.

# Module 6

## Domestic violence and maintenance

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1. For how long can a temporary order of maintenance be made for in a protection order?
  - (1) 1 month
  - (2) 6 months
  - (3) An order for maintenance cannot be made in a protection order
2. What should the complainant do before the temporary order for maintenance expires?
  - (1) Come back to the court and ask for another protection order with another provision on temporary maintenance
  - (2) Try to cut back on food and clothes for the child to reduce expenses
  - (3) Use the procedure in the Maintenance Act 9 of 2003 to seek a maintenance order at the maintenance court.
3. A maintenance order in a protection order may only include maintenance for the victim of violence.
  - (1) True
  - (2) False



**Is failure to pay maintenance a form of domestic violence? Discuss.**

## Answers

1. The correct answer is (2): *6 months*. A protection order may include a maintenance order for any period set by the court up to a maximum of six months. The purpose of the temporary maintenance order is to allow the victim of violence to act quickly to protect his or her safety without having to use multiple court proceedings. Since it is a temporary emergency measure, it has a short duration.
2. The correct answer is (3): *Use the procedure in the Maintenance Act 9 of 2003 to seek a maintenance order at the maintenance court*. Any provision on maintenance in a protection order is just a short-term emergency measure. The procedure in the Combating of Domestic Violence Act is not intended to replace the procedure in the Maintenance Act.
3. The correct answer is (3): *False*. A temporary maintenance order may order maintenance for the complainant and any child of the complainant – if the respondent has a legal duty to support the complainant (which applies if they are married or if there is a divorce order containing spousal maintenance) or the child (which applies if the respondent is the child's biological parent).

## Is failure to pay maintenance a form of domestic violence?

The Combating of Domestic Violence Act defines domestic abuse to include economic abuse, which is “the unreasonable deprivation of any economic or financial resources to which the complainant or a family member or dependant of the complainant is entitled under any law, requires out of necessity or has a reasonable expectation of use...”. There may be situations when the court finds that failure to support someone is a form of domestic violence.



## CASE STUDY

### **Periodical imprisonment as a punishment for failure to pay maintenance and failure to pay maintenance as a form of domestic violence**

This [is] an appeal from the maintenance court for the Windhoek district. The appellant (whom I shall hereafter refer to as the ‘accused’) was properly convicted on his own plea of guilty for failing to pay maintenance in respect of his minor child. [The criminal charge was failure to comply with a maintenance order.] After his conviction, the magistrate imposed a sentence of 1 000 hours of periodical imprisonment on Fridays at 18H00 until Sunday at 16H00; and, in addition, ordered the accused to pay the arrear maintenance of N\$12 900 in the amount of N\$300 per month with interest at the rate of 20% per annum. The effect of the sentence is that he reports for incarceration on a Friday at 18h00 and is then released at 16H00 on Sunday. At the plea proceeding, the magistrate first explained to the accused that the law allows him the defence of ‘no means’, being the inability to pay and then asked him why he did not pay maintenance. The accused’s answer was startling: He initially stated that it was through human error that he did not pay, but upon further questioning said that that he really did not have any reason for not paying.

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In his reasons for sentencing, the magistrate stated that failure by fathers to pay maintenance is very prevalent and has become a serious problem in our society. He added that those most detrimentally affected by this failure are the children for whose benefit maintenance orders are granted.

The accused comes to this court on appeal, claiming that the sentence imposed on him was shockingly severe.

He says that the magistrate ought to have imposed a fine in preference to periodical imprisonment, considering that he is a first off ender who pleaded guilty.

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The court a quo correctly took into account the neglect of children by fathers and the effect that has on children.

The accused is not a man who had difficulty raising money to pay for the maintenance. He just chose not to do so, while knowing there was a court order obliging him to pay. He was completely unperturbed by the consequence this had on his child ...

Considering that the court order requiring accused to pay maintenance took effect on 1 September 2003, he only made payments for three months and ceased payment. He had therefore not paid maintenance for the child for a staggering period of eight years. What is more, the amount he was ordered to pay was very small in my view and probably counts for nothing in today’s money value. A maintenance order is for the benefit of a child and not the custodian parent.



It is important that fathers realise that the tide has turned against those who neglect their children; and that this court will not readily interfere with trial courts' sentences against those who are found guilty of the malpractice.

The Combating of Domestic Violence Act [4 of 2003] defines domestic abuse [in section 2(1)(c)] to, amongst others, include: 'the unreasonable deprivation of any economic or financial resources to which the complainant or a family member or dependant of the complainant is entitled under any law, requires out of necessity or has a reasonable expectation of use ...'

A child is in a domestic relationship with its biological father in terms of s 3[(1)(d)] of the Combating of Domestic Violence Act.

It must be clear therefore that failure to pay maintenance for a child is not a peccadillo to be visited with a slap on the wrist – even for first offenders. Economic abuse is a species of domestic violence as the Combating of Domestic Violence Act stipulates ...

The intent clearly behind the sentence imposed by the magistrate was two fold:

- i. to on the one hand ensure that he remains employed to earn an income from which to pay maintenance, and
- ii. to send a clear message, by imposing periodical imprisonment, that failure to pay maintenance will not be countenanced by the courts.

... [G]iven that the accused was unrepresented at his trial, the magistrate ought to have elicited more information to establish if imposing periodical imprisonment would not in the circumstances have the contrary effect. Although the court can take judicial notice that an employee such as the accused does not work on Sundays, it cannot take judicial notice that he does not work on Saturdays until at least the lunch hour. Had the magistrate elicited more information in that regard, it is possible that the accused works, on the very least, on Saturdays until the lunch hour.

In that case, the court might either not have imposed periodical imprisonment, or might have fashioned its order to meet the circumstances of the case. That failure constitutes a material misdirection.

We feel this is an appropriate case to remit the matter to the court a quo to consider the sentence afresh in the light of this judgment. We wish to make clear that our reversal of the sentence imposed is in no way a disapproval of the imposition of periodical imprisonment but is only intended to ensure that one of the key objects intended by the sentence is not defeated...

Izack v The State (CA 15/2013) [2013] NAHCMD 207 (23 July 2013) (footnotes omitted)

# Assessment form for the training guide for clerks on the implementation of the Combating of Domestic Violence Act

Please complete the following table to show the number of questions you got right for each module. This form is anonymous, therefore there is no correlation between your name and the number of answers you got right. We would like to know the number of right answers to determine whether the questions were too easy, too difficult or just right.

Module	Number of questions correct
Module 2: The application process	__ out of 11 questions
Module 3: Administration	__ out of 6 questions
Module 4: Interim to final protection orders	__ out of 6 questions
Module 5: Protecting children affected by domestic violence	__ out of 5 questions
Module 6: Domestic Violence and maintenance	__ out of 3 questions
<b>Total</b>	<b>__ out of 31 questions</b>

1. How long did it take you to complete the training guide?
2. Were the questions too easy, just right or too hard?
3. Did you learn anything new from the training guide? If so, please list one new thing that you learnt.
4. Did you find the training guide helpful?
5. What changes would you make to the training guide to improve it?
6. Would you like to receive similar training guides on other laws in future?

