

## **DOMESTIC VIOLENCE - HOW SOCIETY CAN HELP**

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*Domestic violence is abuse which occurs within a family, a household or an intimate relationship. It has been estimated on the basis of data from recent research that half of all Namibian women and children experience some form of domestic violence. In this column, Dianne Hubbard of the Legal Assistance Centre outlines possible strategies that can help.*

There is no single solution to the complex problem of domestic violence. A remedy that may help in one situation could exacerbate matters in another. Different people who experience domestic violence of varying types and degrees will also have different preferences -- some may want to try counselling in hopes of reconciliation, some may want help to remove themselves from the situation, others may be more concerned with punishment of the abuser or their own safety. Combating domestic violence requires a combination of legal and social efforts. This article presents a few ideas based on recent research in Namibia as well as information from other countries.

### **LEGAL APPROACHES**

#### **1. Create specific criminal offences aimed at domestic violence.**

In Namibia, as in many other countries, domestic violence falls under more general crimes, such as assault. But more general criminal laws do not take into account the special nature of such abuse. Domestic violence tends to be a cyclical problem arising from continued contact between the victim and the perpetrator. An abuser who is arrested will often quickly be free, and in a position to retaliate against the victim with more severe violence. Punishment for domestic violence under general criminal laws is often mild in comparison to similar offences between strangers, because the law fails to take into account the breach of trust involved.

There is sometimes a need for special evidentiary provisions which take into account the fact that domestic violence can be a cumulative problem which takes place in secret over long periods of time. Criminal provisions aimed at domestic violence also need special flexibility to take into account the possible financial interdependence of victim and perpetrator, or the fact that victims may want to preserve the family relationship.

Victims interviewed for a recent study by a team from the University of Namibia expressed a strong desire for legal reform around domestic violence, with more than half of the victims interviewed suggesting that domestic violence should be specifically criminalised.

#### **2. Provide a simple procedure for obtaining protection orders.**

Many countries have enacted laws which make it easy for someone who is in fear of domestic violence to get a court order designed to protect them. The court can order the abuser to stop the violent actions or to stay away from the complainant. The court can also order the abuser not to interfere with the complainant's property. Some laws

make it possible for the abuser to be evicted from the complainant's residence, regardless of whose name is on the title deed or the lease.

In some countries the court can order the abuser to reimburse the complainant for costs such as medical expenses or the costs of relocation. Protection orders in some countries can include interim orders for custody or visitation of any children who are affected, or interim maintenance orders. They may also deprive the abuser of the right to possess guns or other weapons.

Violation of a protection order is a crime, usually punishable by fines or prison sentences. The idea is to provide a simple procedure which gives the complainant meaningful protection, including attention to the practical difficulties which often prevent women and children from taking action to escape from a violent situation.

### **3. Give police specific powers and duties.**

Police have traditionally been reluctant to intervene in what they perceive as private matters. To change this attitude, some laws give police officers specific duties in domestic violence cases. For example, a law may require the police to make an active investigation of every domestic violence complaint they receive. Some laws give police the duty to help complainants get medical assistance, to transport them to a safe place, or to escort them to their homes to collect their belongings. Some laws also give police enhanced powers of arrest without a warrant in situations where there are reasonable grounds to suspect domestic violence.

Experts in other countries suggest that the law should set forth standard procedures for the investigation of domestic violence cases, and provide clear channels for getting help if the standard procedures are violated.

### **4. Make the legal environment more supportive.**

Some laws allow victims to make complaints to officials other than the police, such as judges, doctors and social workers. Victims could be paired with supportive community volunteers who can give them moral support during the legal process. Women could be allowed to give evidence by means of video recordings if this is necessary to ensure their safety. Police and court personnel also need intensive training in how to handle domestic violence cases sensitively.

Some countries have introduced special family courts to deal with domestic violence and other family matters. This is one way to bring a more sensitive, holistic approach to interrelated family problems such as domestic violence, marital disputes, divorce, maintenance and child custody. Specialised family courts can utilise more informal rules and procedures tailored to family problems. They can also provide more flexible outcomes which take into account the complexity of family relationships. Some laws allow courts which deal with family matters to refer the parties for counselling or mediation. Several victims interviewed in Namibia expressed a desire for specialised family courts to make the legal process less traumatic.

## **SOCIAL APPROACHES**

### **1 Provide shelters and support services.**

Many victims of domestic violence interviewed in Namibia have expressed a need for more shelters, to give victims and their children a temporary place of safety and respite while they plan the road ahead. Victims have also pointed to the need for support groups which could inspire greater personal confidence and provide practical advice. These services could be provided by community-based organisations with appropriate financial and technical assistance.

Women may need help to overcome their financial dependency on the abuser. For example, they may need a simple and reliable procedure for obtaining maintenance for their children. They may also need help to find a job or a niche in the informal sector so that they can support themselves. Improvements in the general economic and social condition of women will help empower them to stand up against abuse.

One possible approach would be to set up domestic violence assistance centres as a centralised point of access to a range of information and support services.

## **2. Increase access to counselling services.**

Counselling services can be preventative as well as remedial. For example, many Namibian victims have suggested pre-marital guidance counselling, in addition to more marriage counselling services. Both victims and abusers have suggested counselling and related support services for abusers.

## **3. Address alcohol and drug abuse.**

Every investigation of domestic violence in Namibia has cited alcohol and drug abuse as one of the strongest contributing factors to family violence. Increased attention to preventing and curing substance abuse could help to combat domestic violence as well.

## **4. Raise public awareness and promote gender equality.**

What happens in the home is ultimately a reflection of the conditions of the society at large. One factor which has emerged strongly in the various studies of domestic violence in Namibia is the community's tolerance for inequality in marriage relations. In many communities, the wife is expected to be the submissive partner, subject to the control of extended family members as well as her spouse. But victims are adamant that they themselves do not accept or support any cultural beliefs which endorse domestic violence.

Some community leaders have suggested that men should be targeted for awareness programmes that highlight the value of human dignity. Men should be equipped with social skills such as communication skills, assertiveness, self-image building and problem-solving strategies to encourage more peaceful and balanced relationships. Children must be taught respect for men and women from an early age, and they must be trained how to solve problems in a non-violent way.

There is a need for increased public awareness at various levels. One member of the public who filled out a research questionnaire suggested a "Domestic Violence Awareness Day" to inform women about their rights. General public awareness campaigns should also focus on the attitudes which lie at the root of inequality and violence. We should take a closer look at the way that violence is portrayed in the

media, and to the endorsement of sexual stereotypes in television and radio programmes, advertisements, and newspaper and magazine articles.

The term “domestic violence” is a bitterly ironic one, as the term “domestic” normally conjures up images of the home as a safe haven from the dangers of the outside world. But for many women and children, home is the place where they are most at risk. Internationally, domestic violence has come to be regarded as a serious human rights violation. Those in Namibia who believe that it is only a private problem may discover that it is like a cancer eating away at society from the inside.

*Some of the information in this article was drawn from a book entitled “State Responses to Domestic Violence”, published by Women, Law & Development International of Washington, DC.*