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Domestic violence: a sad South African reality

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The plight of violence against women in our country has been given much media attention in recent times, especially during Women's month, in August. The media has reported on women being physically assaulted, raped and even killed, at the hands of men.

According to statistics, one in five women in South Africa experience violence from an intimate partner. We can therefore accept that domestic violence is a serious social ill in South Africa, perpetrated mainly against the most vulnerable members of our society, being women and children.

One of the saddest aspects of domestic violence is that it is usually surrounded by secrecy and shame. As such, this crime often goes unreported and victims find themselves trapped in abusive relationships for a number of reasons, including fear, lack of financial resources or knowledge in respect of where to obtain the necessary assistance.

Some ways in which we can deal with domestic violence in our homes and society at large, are contained in the Domestic Violence Act 116 of 1998 ("the Act") which was enacted in 1999, with one of its primary purposes being to provide effective remedies and the maximum protection to victims of domestic violence.

A good understanding of the definition of "domestic violence" and "domestic relationship" in terms of the Act is important in order to enable persons to enforce their rights.

The Act lists, in broad terms, the various ways in which domestic violence can be perpetrated, which include: physical, sexual, emotional and economic abuse. Conduct such as, stalking, harassment, damage to property and any other abusive behaviour are also included in the definition of domestic violence.

A domestic relationship refers to the nature of the relationship between the victim and the abuser. Parties are considered to be in a domestic relationship, in terms of the Act, if they are, or were married to each other (including customary and religious marriages), they live or lived together in a relationship in the nature of marriage (irrespective of whether they are of same or opposite sex), they are parents to a child or have or had parental responsibility towards a child, they are family members related by affinity, consanguinity or adoption, they were engaged, dating or in a customary relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration or they share or shared the same residence.

In instances where there has been domestic violence, and the parties involved are in a domestic relationship, the victim of abuse can seek recourse against the abuser in terms of the Act. Such recourse includes obtaining a Protection Order against the abuser.

A Protection Order is a Court Order issued in terms of the provisions of the Act. A Protection Order essentially directs an abuser to abstain from perpetrating acts of abuse against the victim. Contravention of the terms of a Protection Order is an offence which can be punishable by a fine or imprisonment.

A victim of abuse may approach a Magistrates Court to apply for a Protection Order. The matter is usually heard immediately after an application for an Interim Protection Order has been made and all the necessary forms and affidavits have been completed. If the Court finds that a *prima facie* case of domestic violence has been established, it will issue an Interim

Protection Order in favour of the applicant. Once served on the respondent by a Sheriff or members of the South African Police Service, the Interim Protection Order provides immediate protection and it is valid throughout South Africa.

The Interim Protection Order has a date on which both the applicant and the respondent are required to attend court in order for the respondent to show cause as to why a Final Protection Order should not be granted.

Should the respondent fail to appear in Court on the specified return date, in instances where the Court is satisfied that the Interim Protection Order was served and that there is *prima facie* evidence of domestic violence, the Court must issue a Final Protection Order. A Final Protection Order will also be issued if the Court finds, on a balance of probabilities, that there was/is acts of domestic violence committed by the respondent.

A Protection Order, whether interim or final, will be accompanied by a suspended warrant of arrest which is issued by the Court. If an abuser contravenes the terms of the Protection Order, the victim must inform the police and the perpetrator must then be arrested and may be charged. It is, however, imperative to note that such a warrant may only be used once. If it has been used, the victim must return to Court for another warrant to be issued.

It is good that our country has legislation in place to deal with domestic violence, however, with that being said, we as a community have a duty to confront our social problems. One of the ways to achieve this is by accepting that domestic violence exists. It is not something that happens to "those" people or in "that" community, but it is happening to our people and in our communities and we are the only ones (with assistance of the authorities) to say enough is enough in order to contribute to ending this ongoing problem.

It all starts with us.

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Director

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