

Dealing with domestic violence

Many women have experienced domestic violence or know someone who has.

Anneke Meerkotter explains the different forms domestic violence can take and how such violence can be dealt with.

We have all been faced with a friend, colleague, family member or neighbour who finds herself in an abusive relationship. We want to help and we want her to seek help to 'make things better' and prevent further abuse.

The first thing to realise is that there can never be a 'one size fits all' approach to domestic violence. Whatever we do in life, our actions are informed by our context which is influenced by social and individual factors.

A range of elements influence the choices open to victims in abusive relationships and how they choose to respond to the abuse. This includes how the person is treated by personal and larger community networks, personal history, socio-cultural background and access to resources. Unfortunately, these elements are sometimes combined in such a manner that women or men in abusive relationships are left with few options.

The dynamics within an abusive relationship change over time, as do the remedies available. Many people have managed to make positive changes in their lives and even leave abusive relationships. Such changes require being aware of the abuse, acknowledging it as a

problem, making plans to address it and following through and maintaining such plans.

It is important however to acknowledge that change can be difficult, and any person can regress for a range of reasons. Friends, family, police and court officials tend to blame women who withdraw charges or return to abusive partners. This response does not take into account the myriad of factors at play in a person's life and decision-making processes.

Defining domestic violence

The degree of control in an abusive relationship plays a definitive role in how to characterise the relationship and in choosing the interventions available. M Johnson in the book *Violence Against Women* suggests the following classification:

1. Situational couple violence - where one party is violent but not controlling and the other party is either not violent or also violent and not controlling.
2. Violent resistance - where one partner is violent and non-controlling but in a relationship with a violent and controlling partner. Most frequently, women would show violent resistance in such cases.
3. Intimate terrorism - where one partner is violent and controlling and the other partner is non-violent and non-controlling. Violence in such relationships tends to escalate and women in such relationships are more likely to resort to the use of shelters and the criminal justice system than women in situational couple violence.
4. Mutual violent control - both individuals in the relationship are violent and controlling.

Domestic violence refers to abuse that occurs within a domestic relationship. You are in a domestic relationship if you and the abuser:

- are or were married including marriage under any law, custom or religion;
- live or lived together in a relationship similar to marriage whether as the same or opposite sex;
- are parents of a child or have or had parental responsibility for a child;
- are or were in an engagement, dating or customary relationship including actual or perceived romantic, intimate or sexual relationship;
- share or recently shared the same residence; or

- are family members related by blood, marriage or adoption.
- Domestic violence includes various types of abuse:
- physical abuse or threat of physical abuse;
 - sexual abuse;
 - emotional, verbal and psychological abuse;
 - economic abuse;
 - intimidation which means uttering or conveying a threat, which induces fear;
 - harassment;
 - stalking;
 - damage to property;
 - entry into complainant's residence without consent;
 - any other controlling or abusive behaviour towards the complainant where such conduct harms, or may cause harm to, the safety, health or well-being of the complainant or children in the household.

It is clear that no matter how you define domestic violence, it is a mistake to expect all victims to respond in the same way to the violence. While some relationships are violent from the outset, others are preceded by a more harmonious period, with violence emerging out of a particular set of circumstances. Sometimes people live in abusive relationships for years, while others might report assault at its first instance.

Finding help

To access help, women in abusive relationships often seek assistance from friends, family and neighbours. Whilst some women report positive and caring responses from police, many report concerns about how the police deal with domestic violence. This includes that the abusive partner is sometimes friendly with the police officers who take his side; that officers prefer to mediate conflicts rather than follow criminal law procedures; that officers become

irritated by women's complaints; that women who have fought back are seen as guilty; or that in many cases police simply do not respond.


Currently, the health system does not respond to domestic violence and it is not a source of help for women. We need to challenge the many barriers that exist within our communities and within government institutions that lessen the possibilities for effective help.

Legally, there are various ways to respond to domestic violence. There is no crime called domestic violence, but a complainant can open a criminal case for some forms of domestic violence such as assault, assault with the intention to commit grievous bodily harm, attempted murder, *crimen injuria*, rape or sexual assault.

The complainant also has the right to apply for a protection order which orders the abuser to stop the violent behaviour. The complainant can open a criminal case or obtain a protection order, or do both. The clerks at the court and the police have a legal duty to inform every person who complains about domestic violence of the remedies in a manner that they understand.

If the court grants an interim or final protection order and the abuser violates the order, this is a criminal offence and the woman can lay a charge for breach of the protection order.

Other options include accessing counselling services, applying for a divorce, claiming maintenance from the abuser or entering a shelter. There are also options available to request the removal of an abuser's firearm.

For more information about legal remedies call Thshwaranang Legal Advocacy Centre in Braamfontein, Johannesburg at 011 403 4267, or the Stop Gender Violence tollfree helpline at 0800 150 150. 

Domestic violence Getting a protection order

You can make an application for a protection order at your nearest magistrates' court. The clerk of the court will give you an application form to fill in. Remember to indicate what you want the court to do.

The court can order the abuser not to commit any act of domestic violence or to enlist the help of others to commit violence; not to enter the shared residence; not to enter your residence or place of work; not to contact the children or commit any other act it stipulates. The court can also order the abuser to pay monetary relief for your immediate needs and to pay the rent or mortgage.

If you want an interim protection order, it is important to fill in the section on the urgency explaining the danger you are in. The magistrate will only give you an interim order if s/he is satisfied that

- the abuser has committed an act of violence
- you may suffer undue hardship as a result of such violence if an order is not issued immediately.

A suspended warrant of arrest is issued with the interim protection order which you give to the police. If the abuser breaches the order. The protection order is only valid once it is served on the abuser. Do not serve a protection order yourself, the police or sheriff must serve it.

The clerk will give you a return date on which you and the abuser must appear in court and the court will decide whether to give a final order. You can use the final protection order anywhere in the country and it is valid forever until set aside by a court. If circumstances change, you can apply for a variation of the terms of the order.