

## **COPING WITH AN ABUSIVE RELATIONSHIP (PART 1)**

I was recently involved in running a working with a group of women serving long-term prison sentences for murder. Each of them could have been prevented had they had the right help or coping resources. Each of them was in an abusive relationship which eventually, after years, became unbearable. In prisons in SA today there are dozens of such women. Their sentences range from several years to life.

Each of us has the capacity to do something desperate should our situation become totally unbearable. Judith Herman refers to the situation of someone in a long term relationship of abuse as that of "captivity". Each of the women in my group describes their life in prison as less unbearable to the total loss of self and life of terror they had before. They have ended up swapping one type of captivity for another. This should be preventable.

The situation of those who cannot get away from abusive relationships is always difficult for others to understand and, indeed often very annoying for those who try and help.

I do not believe that anybody can even begin to think of leaving an abusive relationship without a vast amount of support, planning and direction.

For today's article I am going to focus on the legal remedies for abuse in South Africa

## **THE DOMESTIC VIOLENCE ACT (1998)**

### **WHAT DOES IT COVER?**

The Act recognizes all forms of abuse – sexual, economic, physical, emotional and psychological. It makes marital rape a crime. It also covers

- stalking
- intimidation
- harassment
- damage to property
- entering the complainants home where they are not living together
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### **WHO DOES IT PROTECT**

- married couples, whether married by law, custom or religion
- couples living together who are not married
- homosexual or heterosexual couples
- people in a dating relationship
- family members
- people sharing the same house which includes e.g. university residences, boarding hostels, and housemates.

### **THE MAIN PROVISIONS**

The magistrate can tell the abuser

- not to enter your home or workplace
- not to enter a portion of your home (if living together)
- to refrain from committing acts of violence
- not to stop you entering or leaving your home
- to pay money to help you survive.

The magistrate can also instruct the police to take away the abuser's weapons.

### **HOW TO GET A PROTECTION ORDER**

You don't need a lawyer to get a protection order

Getting a protection order does not cost anything. You only have to cover the costs of it being delivered by the sheriff, to the person it is being served on. This is negligible. If you can't afford it you can ask for the court to help with this.

#### **Where**

Go to the magistrates court where

- You work, live or own a business
- The abuser works, lives or owns a business
- The abuse occurred.

#### **When**

- Ordinary work hours
- After hours or weekends in emergencies and the police will get a magistrate i.e. any time of the day or night.

#### **Process**

- Fill in an application form for a protection order
- This will be taken by the clerk to the magistrate
- They will either issue a protection order immediately or an interim order
- The respondent has a number of days to respond once it has been served by the sheriff
- On the day of the hearing the magistrate hears both parties
- Once you have a protection order against someone you are given a temporary warrant of arrest. If the abuser breaks the terms of the interdict, you phone the police, tell them you have a warrant and they have to arrest and jail the person.

There are also other legal options available to use with it i.e. laying criminal charges of assault, rape and claiming for damages depending on what is appropriate.

A Family Violence Interdict can be a very useful tool in delivering a message about using the law to back you up when living with or leaving an abusive person. However it is not useful unless you are prepared to use it to its full extent i.e. to have the person arrested if they break it.

In all likelihood it will help you to have support of some organization or therapeutic support to enable you to gain the courage to do this and to deal with the aftermath. Your safety needs to be your first concern.