



# REFRAIN OR BE RESTRAINED

## UNPACKING THE DOMESTIC VIOLENCE ACT

### What is domestic violence?

Domestic violence means any controlling or abusive behaviour that harms the health or safety of another person whom they have a domestic relationship with i.e. married, cohabiting, family members, shared residence, dating or having an intimate or sexual relationship.

Domestic violence includes physical abuse or threat of physical abuse, sexual abuse or threat thereof, emotional, verbal or psychological abuse, economic abuse, intimidation, harassment damage to property, entry into the other person's home without their consent, unlawful detainment and stalking.

You probably already know what physical and sexual abuse is. **What is emotional, verbal or psychological abuse?** This is where one deliberately and systematically breaks down and destroys the mental well-being of another through insults, name-calling, ridiculing, obsessive and possessive behaviour and harassment constituting fear of harm. It can also be inflicted through loitering around another's residence or work, making numerous telephone calls whether or not a conversation ensues; sending letters, packages, emails and facsimiles or other objects to another's home or work.

**What is economic abuse?** Depriving or threatening to deprive another person of economic resources to which they are entitled under the law, or which they require out of necessity, including household necessities. It could also be the disposal of another person's household effects which they have interest in.

Now that you have been acquainted with the forms of abuse, you may ask, **WHY IS THE DOMESTIC VIOLENCE ACT IMPORTANT?**

The Act came into effect in 2008. Before then, not all forms of abuse were documented as offences or actionable against a perpetrator. While physical abuse could be reported as assault under the Penal Code, psychological and economic abuse were not actionable. So the Domestic Violence Act crystalizes certain abusive tendencies into social injustices that are actionable.

### **WHAT TO DO IF YOU ARE EXPERIENCING DOMESTIC VIOLENCE?**

Go to the nearest Magistrate's Court and make an application! The Magistrate Court has the forms. The Court will hear the matter within 7 days of lodging the application. The Magistrate will hear the matter in camera (that is, privately in the Magistrate's chambers, not in open court). You can always request the presence of another person.

You can make an application yourself. If you are unable to make the application yourself (for reasons that include unconsciousness, being a minor or mentally challenged) the application may be brought by a social worker, your teacher if you are school-going, a health service provider, your counsellor, a police officer or the District commissioner. So let them know!

### **WHAT ORDERS CAN THE COURT GRANT?**

**Interim order:** The perpetrator does not have to know that you applied to court, so the court may make an order that immediately ensures your immediate protection: for example, the Court may order that the Police remove you from a place or help you take your belongings. The court may also order the arrest of the perpetrator.

**Occupancy/tenancy order:** The Court may order that you have an exclusive right to live in the residence you occupy even if the perpetrator owns or pays rent for the place.

**Restraining order:** This is an order to keep away from the victim with limits on the distance.

If the perpetrator contravenes an order issued under the Act they shall be guilty of an offence and liable to a fine not exceeding P5,000 or to imprisonment for a term not exceeding two years or to both.

**For More Information:**  
olebile@bookbinderlaw.co.bw  
(+267) 3912397