Fighting Domestic Violence - Uganda

3. Similarities and differences in terminology

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# 3.1 Domestic violence

In order to understand Uganda's response to domestic violence, it is crucial to have a thorough understanding of relevant definitions in terms of the Domestic Violence Act. The below table contains a number of key definitions relevant to domestic violence.

**Domestic violence**

Section 2 (definitions) Domestic Violence Act

This constitutes any act or omission of a perpetrator that achieves the following:

harms, injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the victim or intends to do so and includes causing physical abuse, sexual abuse, emotional, verbal and psychological abuse and economic abuse

harasses, harms, injures or endangers the victim with a view to coercing him/her or any other person related to him/her to meet any unlawful demand for any property or valuable security

has the effect of threatening the victim or any person related to the victim by any conduct mentioned in paragraph (a) or (b)

otherwise injures or causes harm, whether physical or mental, to the victim

**Domestic relationship**

Section 3 read together with Section 2 Domestic Violence Act

A domestic relationship means a family relationship, a relationship similar to a family relationship or a relationship in a domestic setting that exists or existed between a victim and a perpetrator and includes a relationship where the following occur:

the victim has been married to the perpetrator

the perpetrator and the victim are family members related by consanguinity, affinity or kinship

the perpetrator and the victim share or shared the same residence

the victim is employed by the perpetrator as a domestic worker or house servant and the victim does or does not reside with the perpetrator

the victim is an employer of the perpetrator and does or does not reside with the perpetrator

the victim is or was in a relationship determined by the court to be a domestic relationship

# 3.2 Stalking

N/A

# 3.3 Harassment

Section 2 (definitions)

This means engaging in a pattern of conduct that induces fear of harm, annoyance and aggravation with the intention of inducing fear in a person, including the following:

(a) repeatedly watching or loitering outside of or near the building where the victim resides, works, carries on business, studies or happens to be
(b) repeatedly making abusive telephone calls or causing another person to make abusive telephone calls to the victim, whether or not a conversation ensues
(c) repeatedly sending, delivering or causing the delivery of offensive or abusive letters, telegrams, packages, facsimiles, electronic mail, telephone text messages or similar objects to the victim
(d) repeatedly following, pursuing or accosting the victim with the intention of inducing fear, harm, annoyance or aggravation

# 3.4 Victim

Section 2 (definitions)

This means a person in a domestic relationship who directly or indirectly suffers threatened or actual domestic violence.

# 3.5 Abuser

N/A

# 3.6 Civil protection order

Section 2 (definitions)

This means a court order prohibiting domestic violence, restricting a person from harassing or threatening another person or restraining a person from contacting or approaching another person.

# 3.7 Causes of action

N/A

# 3.8 Marital rape

N/A

# 3.9 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

**Economic abuse**

Section 2 (definitions) Domestic Violence Act

This includes the following:

(a) deprivation of all or any economic or financial resources to which the victim is entitled under any law or custom, whether payable under an order of a court or otherwise or which the victim requires out of necessity, including but not limited to the following:

household necessities for the victim and his/her children, if any

property, jointly or separately owned by the victim

payment of rent related to the shared household and maintenance

(b) disposal of household effects, alienation of assets whether movable or immovable, shares, securities, bonds or similar assets or property in which the victim has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the victim or his/her children or any other property jointly owned or separately held by the victim

(c) prohibiting or restricting access to resources or facilities that the victim is entitled to use or enjoy by virtue of the domestic relationship, including access to the shared household

**Emotional, verbal and psychological abuse**

Section 2 (definitions) Domestic Violence Act

This means a pattern of degrading or humiliating conduct toward a victim, including but not limited to the following:

(a) repeated insults, ridicule or name-calling

(b) repeated threats to cause emotional pain

(c) the repeated exhibition of possessiveness or jealousy that constitutes a serious invasion of the victim's privacy, liberty, integrity or security

(d) any act or behavior constituting domestic violence, within the meaning of the Domestic Violence Act, where it is committed in the presence of a minor or member of the family and that is considered abuse against the minor member and likely to cause him/her injury

**Perpetrator**

Section 2 (definitions) Domestic Violence Act

This means a person who is alleged to have committed an actual or threatened act of domestic violence.

**Physical abuse**

Section 2 (definitions) Domestic Violence Act

This means any act or conduct that is of such a nature as to cause bodily pain, harm or danger to life, limb or health or that impairs the health or development of the victim, including assault, criminal intimidation and criminal force.

**Sexual abuse**

Section 2 (definitions) Domestic Violence Act

This includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of another person.
Victim Section 2 (definitions) This means a person in a domestic relationship who directly or indirectly suffers threatened or actual domestic violence.

**Prohibition against domestic violence**

Section 4 Domestic Violence Act

A person in a domestic relationship should not engage in domestic violence. A person who engages in domestic violence commits an offense and is liable on conviction to a fine not exceeding 48 currency points or imprisonment not exceeding two years, or both.

**Compensation**

Schedule 2 Domestic Violence Act

In addition to the other remedies provided under the Domestic Violence Act, the court may determine that the offender pay compensation to the victim of an amount determined by the court.

**Proceedings in local council courts**

Section 6 Domestic Violence Act

(a) A complaint of domestic violence may be made to a local council court where the victim or perpetrator resides.

(b) Upon receipt of a complaint, the court will make a record of the complaint and proceed to hear the matter in the manner prescribed under the Local Council Courts Act, 2006.

(c) The Domestic Violence Act prescribes certain information that must be documented in the recording of a case of domestic abuse.

**Order by local council court**

Section 6(5) Domestic Violence Act

As already mentioned in Section 1.3 above, the local council court may make a variety of orders.

**Police involvement from the court**

Section 6(6) Domestic Violence Act

A written referral should be made to the police and the magistrates' court, by a local council court, where the following occur:

(a) the perpetrator is a second or repeat offender

(b) in the opinion of the court, taking into account all the circumstances, the perpetrator is likely to inflict further harm on the victim

(c) in the opinion of the court, the degree and nature of the violence warrants the involvement of the police and the court, the local council court will make a written referral to the police

**Children**

Section 6(7)-(8) Domestic Violence Act

(a) The local council court is required to inquire into and establish whether there are children involved in the domestic relationship in all complaints of domestic violence.

(b) Where it is established that there is a child, the local council court will make a written order to the probation and social welfare officer to make an inquiry and take necessary action regarding the welfare of the child in accordance with the provisions of the Children Act, as amended by the Children (Amendment) Act 2016 ("Children Act").

**Urgency**

Section 6(10)-(11) Domestic Violence Act

(a) The local council court is to treat all cases of domestic violence as matters of urgency and will hear a case as soon as possible, but not later than 48 hours after the filing of the complaint.

(b) For domestic violence matters, the local council court may hear cases on days that are not ordinarily working days.

**Police**

Section 7 Domestic Violence Act

A complaint of domestic abuse may be made to a police officer, who must thereafter assist the victim in various ways.

**Magistrates' court**

Section 9 Domestic Violence Act

(a) Every magistrates' court may hear and determine a matter of domestic violence in terms of the Domestic Violence Act.

(b) The court may issue a protection order.

(c) The court is to apply the procedure prescribed by the Family and Children Court Rules in all domestic violence matters.

**Application for a protection order**

Section 10 Domestic Violence Act

(a) A victim or representative of a victim may apply to the magistrates' court for a protection order.

(b) This application must be supported by an affidavit and any reports or documents that will be relied on must be attached.

(c) This application will be in Form 1 of the third schedule.

(d) Upon receiving an application under this section, the court will issue a summons to the respondent directing him/her to appear in court.

(e) An application for a protection order will be heard by the court within 48 hours after filing the application.

(f) An application may be brought outside ordinary court hours or on a day that is not an ordinary court day where the court is satisfied that the victim may suffer undue hardship if the application is not dealt with immediately.

**Interim protection order**

Section 11 Domestic Violence Act

(a) Where the perpetrator has committed, is committing or is threatening to commit an act of domestic violence and it is necessary or desirable to issue an immediate order to protect the victim from harm or discomfort or inconvenience because of the domestic violence, then the court will issue an interim protection order.

(b) The maximum duration for an interim order is three months, but the court may prescribe a lesser period.

**Issuing a protection order**

Section 12 Domestic Violence Act

(a) On the hearing date for an interim protection order, the court may issue a protection order.

(b) A protection order may be issued ex parte if the court is satisfied that the perpetrator has been served with a notice of the application for the order.

(c) A protection order is to be served immediately (not later than 48 hours) upon the perpetrator.

**Contents of a protection order**

Section 13 Domestic Violence Act

Where appropriate, a protection order may achieve the following:

(a) prohibit the perpetrator from committing or enlisting the help of another person to commit an act of domestic violence

(b) direct the perpetrator to stay away from the premises or place where the victim resides or any part of the premises or place where the victim works, frequents, attends or any part of the premises or place

(c) prohibit the perpetrator from entering or approaching any place or premises where the victim works, frequents, attends or any part of the premises or place

(d) direct the perpetrator to pay maintenance in respect of the victim's needs or the needs of any child or dependent of the perpetrator, including necessaries

(e) award the temporary custody of any child or dependent of the perpetrator to any person or institution and regulate the rights of access by the perpetrator to the child or dependent

(f) direct the perpetrator to afford the victim or any child or dependent of the victim access to their place of residence and use of the facilities associated with it

(g) direct the perpetrator to do or omit to do any act or thing that the court considers necessary or desirable for the well-being of the victim of any child or dependent of the victim

(h) where the court considers it expedient to do so, issue an order to the perpetrator to vacate the matrimonial home or another home

(i) the protection order will remain in force until it is varied or revoked by a competent court

**Variation, revocation or discharge of orders**

Section 14 Domestic Violence Act

(a) A court may vary, revoke or discharge an interim protection order or a protection order on an application or notice by a complainant or respondent.

(b) Where the court is satisfied that good cause has been shown, it may vary, revoke or discharge any interim protection order or protection order or it may extend the order.

**Family and children court**

Section 17 Domestic Violence Act

(a) A family and children court may hear and determine a matter of domestic violence under the Domestic Violence Act whether or not it involves a child.

(b) Furthermore, a family and children court may issue an interim protection order or a protection order in the same manner as a magistrates' court.

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