

Domestic Violence

Written by

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Most victims of domestic violence (battering) are women. Domestic violence happens when a woman/man regularly gets hurt by his/her spouse because he/she beats the other or tortures him/her mentally, for example, by swearing at him/her or criticising him/her all the time.

Statistics show that 1 out of every 6 women is battered by her husband or boyfriend. But domestic violence is still not talked about openly. People think the home is supposed to be a safe and happy place. Here, a woman is beaten and nobody finds out, because everyone keeps quiet about it. The husband or boyfriend generally don't get punished.

There are lots of false ideas about domestic violence. Some people think it is only poor women who get battered. Some think that battered women are mentally unstable or that they provoke a fight or quarrel. People often wonder why the woman doesn't simply leave the home. Domestic violence can happen to any woman. No one wishes for such treatment and no one has the right to beat another.

Even though domestic violence is a crime, most people don't think it is. They see it as a domestic or family affair. This makes it hard for battered women to look for help.

The Domestic Violence Act 1994

The Domestic Violence Act recognizes that domestic violence is not a private matter - it is a serious crime against society. The Act aims to give greater protection to people who have been abused.

The Domestic Violence Act protects anyone in Malaysia and includes married women/men and children, de facto wife/husband, former spouses, children below the age of 18, incapacitated adults who live as family members or other adults that the court may deem fit to be covered by the Act.

The Act recognizes domestic violence in the following forms:

- (a) causing physical injury where it is known or ought to have been known that physical injury would be a result
- (b) sexual abuse
- (c) emotional and psychological abuse
- (d) intimidation/harassment/stalking/abusive behaviour that harms or may cause harm to a person

Relief for victims of domestic violence

- Restraining Order can be obtained from the High Court provided that a Petition for Divorce/Nullity has been filed
- A police report may be made and the police will prosecute the aggressor, who upon conviction may be jailed/fined
- Seek an Interim Protection Order under the Domestic Violence Act.

Steps to be taken by a victim of domestic violence

- Lodge a police report
- Lodge a complaint at the nearest District Social Welfare Department. It is the duty of the Social Welfare Officer to:

- (i) assist a victim in getting medical aid and lodging a police report (if one has not been made)
- (ii) apply for an Interim Protection Order from the Magistrates Court
- (iii) initiate investigations on the abuse and meet the parties at counseling sessions
- (iv) provide temporary shelter to the victim who has nowhere else to go
- (v) make new arrangements for the children's schooling, accommodation and others.

Note: Besides the victim, a guardian or relative of the victim can also lodge a complaint on behalf of the victim. An enforcement officer, for example, a welfare officer or police officer can lodge a complaint on behalf of a child.

Steps to be taken by the Police

- The police will contact the Welfare department and if the victim is injured, the victim will be sent to the hospital.
- An investigation into the alleged abuse will be conducted by the Investigating Officer

- (i) If required, the police will detain the aggressor for 24 hours
- (ii) The police may detain the

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aggressor for more than 24 hours but not more than 14 days after obtaining an Order from the Magistrates Court

Powers vested in the Court

The Court has the power to grant:

- A Protection Order restraining an aggressor, which is valid for 12 months and can be renewed for a further 12 months.
- Right of exclusive occupation of the home regardless of whether it is jointly or solely owned or rented.
- An order prohibiting entry into the victim's school or place of work.
- Any other Order that may be required for the safety of the victim.