



JUDICIAL EDUCATION NEWSLETTER

SOUTH AFRICA

September 2020 | Issue 9

**STOP
GENDER-
BASED
VIOLENCE**



Enhancing Judicial Excellence



TABLE OF CONTENTS



1. EDITORIAL TEAM.....	2
2. FROM THE DESK OF THE CEO.....	3
3. FROM THE DESK OF THE EDITOR-IN-CHIEF.....	4
4. NORMS AND STANDARDS CORNER.....	5
5. RECENT JUDGMENTS AND COMMENTS.....	7-9
6. PATRIARCHY OVER PROTECTION QUESTION: TO WHAT EXTENT DOES THE DOMESTIC VIOLENCE ACT PROMOTE GENDER-BASED VIOLENCE?.....	9-10
7. COMMENTARY ON THE PRESCRIBED DOMESTIC VIOLENCE FORMS.....	11-12
8. DOMESTIC VIOLENCE: SHOULD THE COURT EVICT THE RESPONDENT FROM THE SHARED RESIDENCE.....	13-14
9. THROUGH THE MAGNIFYING GLASS: UNPACKING THE DOMESTIC VIOLENCE AMENDMENT BILL.....	15-16
10. SHOULD MEDIATION BE ALLOWED WHERE THERE IS AN ORDER ISSUED IN TERMS OF THE DOMESTIC VIOLENCE ACT?.....	17-18
11. JUDICIAL DIALOGUE ON GENDER-BASED VIOLENCE AND GENDER STEREOTYPES.....	19-20
12. PROGRESSIVE LAWS AND POLICES... SO WHAT? GENDER-BASED VIOLENCE IN SOUTH AFRICA REVISTED.....	21-23
13. IN MEMORIAM: MR RUDZANI NETHENGWE.....	24
14. LIST OF LEGAL PRACTITIONERS STRUCK OFF THE ROLL.....	24-32
15. UPCOMING SAJEI WORKSHOPS.....	33-35



EDITORIAL TEAM & CONTRIBUTORS



Editorial Committee

- Mr Vincent Ratshibvumo - Editor-in-Chief (Regional Magistrate)
- Mr Dario Dosio – Regional Magistrate
- Mr Ignatius Du Preez - District Magistrate
- Ms Jinx Bhoola – SAJEI Judicial Educator
- Dr Gomolemo Moshoeu – SAJEI Chief Executive Officer (CEO)
- Ms Poso Mogale – Executive Support to the CEO
- Mr Bradley Swanepoel - Law Researcher

Contributors

- Mr. V. Ratshibvumo
- Ms. T. Moalusi
- Mr. S.A.. Gräbe
- Ms. S. Kusche
- Ms. C. Singh
- Ms. J. Ledwaba
- Ms. N. Memka
- Mr. A. Ntanjana
- Ms. P. Mogale

Editorial Enquiries

Telephone: +27 10 493 2621

Email: pmogale@judiciary.org.za

Design By:

Ngwato Thomas Maseko



@OCJ_RSA



Judiciary RSA



@OCJ_RSA



TheSouthAfricanJudiciary





FROM THE DESK OF THE CEO



Dr Gomolemo Moshoeu

CEO of SAJEI

Gender-based violence is a global cross cutting challenge. It knows no status, race, age and profession. It is indeed imperative that the SAJEI Editorial Committee of the Newsletter deemed it fit to call for contributions on gender-based violence for this special edition.

On behalf of SAJEI, I would like to thank honorable members of the Judiciary who spent time on preparing contributions despite their hectic schedules. SAJEI officials are also regular contributors and their efforts are appreciated. The unwavering commitment and sacrifice of the Editorial Committee under the leadership of Mr Vincent Ratshibvumo, Regional Magistrate makes this Newsletter a resounding success.

Lastly, in this issue we acknowledge the heartfelt loss of Mr Rudzani Nethengwe, popularly known as Mr R, a dedicated, respectful and kindhearted SAJEI Director. He is sorely missed. He played a critical role in the operations of SAJEI especially training of Traditional Leaders. May his soul rest in eternal peace and rise in glory.



FROM THE DESK OF THE EDITOR-IN-CHIEF



Mr TV Ratshibvumo

Editor-in-Chief

I wish to pay tribute to members of the judiciary and the court support staff who stood firm in delivering justice to our people in the face of the killer virus. While everybody stayed at home, these people were working daily to dispense much needed services to the public through the courts. These are the men and women who put their lives at risk for the sake of the nation. We knew that some of us would die in the line of duty. Apart from those whose names we published in our last issue, today we mourn the passing of the following Magistrates: **Mr. Sam Petoors of Tsakane in Gauteng, Mr. Abraham Moshole of Volksrust in Mpumalanga, Mr. McDonald Mosimane of Lichtenburg in North West, Mr. Mpho Sejanamane of Mmabatho in North West, Mr. Christopher Dunywa of Elliotdale in Eastern Cape, Mr. Neill Caroll of Uitenhage in Eastern Cape, Mr. Bruno van Eeden of Westonaria in Gauteng and Regional Magistrates, Ms. Nonesi Dlamini of Port Shepstone in Kwazulu-Natal, Mr. Mokone Moloto of Pretoria in Gauteng and Mr. Sibusiso Msani of Durban in Kwazulu-Natal.** You are our heroes and we salute you. Your death was not in vain.

Over 34 million people tested positive for Covid-19 globally with South Africa contributing over 670 000 to this number. Over 1 million have succumbed already with South Africa contributing about 17 000 to this number. We salute the men and women who laid down their lives in order to save others. These would entail the medical staff who died in the line of duty. Looking at the mortality and recovery rates, we seem to be doing well as a country comparatively speaking – at over 90% recovery rate. We are grateful to our leaders in government for all the steps taken to slow down the spread of the virus. It is our understanding that we are now on level 1 lockdown mainly to allow the country to recover economically. The virus remains lethal and we still do not have a vaccine for it. For these reasons we have to stay more alert than before.

As they say, every cloud has a silver lining. With all the negatives that Covid-19 brought to us, we have learned a lot through this devil. Many businesses now know they do not need rented offices to operate, for they can function and operate from home. Office rental will never be the same in the post Covid-19 era. The usage of masks has seen so many of us sail through winter without any flu attack even without vaccinating. Funerals have never been this cheap. It has always worried me that even as we lay to rest the bread-winners in families, those who depended on them would go out of the way to spend the money they do not have to feed the mouths in attendance; only to remain in debts. Fewer cows were slaughtered as there were no people to feast on them. My wish is that this trend continues. Courts were not spared either. We have learned to conduct court proceedings virtually without being in the courtroom especially in motion proceedings. Judgments can be handed down via emails. We can keep what we have learned and allow the Covid-19 to depart in peace, for we do not need its company to implement the new normal it has taught us.

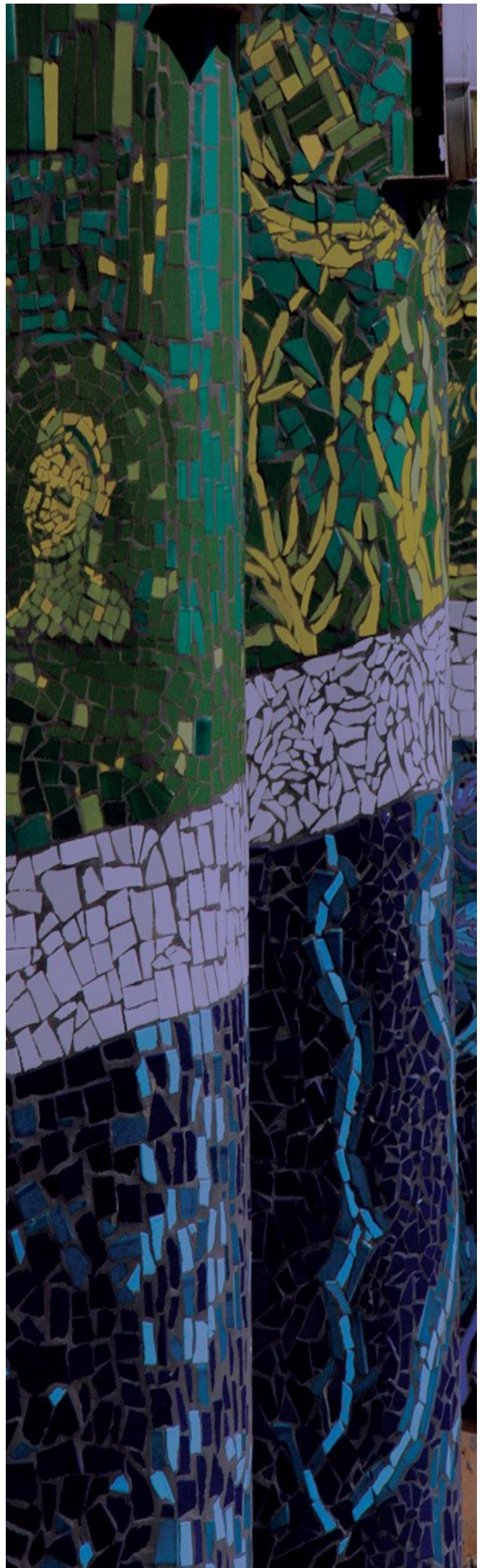


Covid-19 also exposed how we cannot cope in spending time with our families. This is a clear indication that for some of us, we would not easily survive our pension years with our partners and loved ones. This is laid bare in the statistics released by the Police Ministry which reflect a drop in crime rate by more than half except for domestic violence which doubled during the lockdown period. Men need to stand and declare that gender-based violence has no space in the 21st century. To all the men who perpetrate these crimes, we say: not in our name – enough is enough. Men who revert to violence to resolve issues between them and their partners are cowards. On that note, we dedicate this publication to all the victims of gender-based violence.

Covid-19 will not be with us for ever and as such our days in lockdown are also numbered. I still pray that when we meet on the other side of the storm, those of us in the Lower Court Judiciary so far spared will all be fully accounted for. We shall overcome. May God guide and protect us all!

TV Ratshibvumo
Editor-in-Chief

Reminder: Every magistrate is welcome to contribute by writing articles on law, judgments analysis or any topic that can enhance the judiciary. Articles will be edited by the editorial team before publication. Articles need not exceed 600 words (not more than two pages). You are all encouraged to take part in this, for it is your newsletter.





NORMS AND STANDARDS



Norms and Standards Corner

Extract from Norms and Standards issued by the leadership of the Judiciary:

5.2.3 DETERMINATION OF THE SITTING SCHEDULES AND PLACE OF SITTING FOR JUDICIAL OFFICERS

The Head of a Court shall determine the sitting schedules and places of sitting for Judicial Officers. Without derogating from the above-mentioned general standard, presiding Judicial Officers shall retain the discretion to arrange sittings in the cases before them to make efficient use of court time.



RECENT CASES OF INTEREST TO JUDICIAL OFFICERS



Mr TV Ratshibvumo

Regional Court Magistrate - Johannesburg

I.

MZAYIYA v RAF (Case no. 480/2020, EC – East London CLD, Date: 17 September 2020).

This was an application for a default judgment in which the Plaintiff's counsel handed in a draft order to be made an order of court. He further informed the court that the RAF had agreed and settled the matter at R720 000.00. The court questioned the etiquette of the legal practitioners as it appeared to be a fraudulent claim against the RAF. It also appeared that RAF had agreed to settle the matter due to misrepresentations. The plaintiff did not disclose that the claim had long prescribed. If there was a road accident, it would have happened on 15 February 2007.

This was however reported to the police more than 12 years later. In an apparent move to avoid a plea of prescription, the date of the accident as contained in the police docket was ignored. The date of accident was misrepresented as 20 March 2019.

The matter was struck off the roll with orders that it should not be re-enrolled without full explanation by the legal practitioners involved on the misrepresentations made in the case. The Legal Practice Council was also sent the judgment for further steps to be taken against the practitioners involved.

II.

LIMPOPO PROVINCIAL COUNCIL v GADABENI (Case no. 5909/20 Limpopo Polokwane, Date: 18 September 2020):

The High Court in Limpopo also questioned the etiquette of an advocate who in an open court addressed a judge as being "stupid, nonsensical and an embarrassment to the legal profession." It also appeared that the same legal practitioner had appeared in the Regional Court in Musina and presented a written brief from the instructing attorneys who are based in Pretoria. The Regional Magistrate informed him to appear alongside the instructing attorney on the remand date. The magistrate did not know that the letter presented to him as the brief was forged, not representing the true letterhead or the signature of the attorney. The attorney did not know the clients and had not given the advocate any brief. Not surprisingly, he again appeared without the attorney. When questioned he subjected the magistrate to similar humiliating attack calling him a disappointment to the profession.



The Limpopo Provincial Council of the LPC brought an application on an urgent basis for his suspension from practice while they investigated his conduct for purposes of disciplinary inquiry. The application was granted.

III.

S v VAN DER WALT (Case no. 180/2019, Constitutional Court. Date: 21 July 2020).

A Regional Court in Mpumalanga had convicted a medical doctor of culpable homicide following the death of his patient while delivering a baby. An appeal to the High Court was unsuccessful and so was his petition to the SCA. The conviction was only set aside by the Constitutional Court on technicalities regarding irregular conduct of proceedings, which impacted on his constitutional rights. The matter will now undergo a fresh trial if the DPP decides to recharge the accused.

During the trial, the accused had closed his case without giving evidence; only to hear the trial court make rulings on admissibility of certain documents when handing down the judgment. He claimed that it was only then that he learned how strong the case he faced was. At that stage, the court admitted what he had argued to be inadmissible and ruled that which favoured him to be inadmissible. According to him, his right to a fair trial was impacted negatively in that he did not know what evidence would be admitted when he chose to close his case without giving evidence. The Constitutional Court agreed with him, and the principles in *Molimi* were restated: When the admissibility of evidence is challenged, the court should rule on its admissibility when it is presented or at the very least, before the case for the State is closed.

IV.

Van Meyeren v Cloete (Case no. 636/2019, SCA, Date: 11 September 2020).

This was a pauperian action following an unprovoked attack by dogs on a passer-by causing him serious bodily injuries. The dog owner was held liable by the High Court. He was displeased because he believed that he had taken the necessary precautions of keeping them locked in his yard. On appeal, the SCA remarked that, “many people in South Africa choose to own animals for companionship and protection. That is their choice, but responsibilities follow in its wake... the reality is that animals can cause harm to people and property in various ways. When they do so and the victim of their actions is innocent of fault for the harm they have caused, the interests of justice require that as between the owner and the injured party it is the owner who should be held liable for that harm... People are entitled to walk our streets without having to fear being attacked by dogs and, where such attacks occur, they should in most circumstances be able to look to the owner of the dog for recompense.” Appeal was as such dismissed.



Patriarchy over Protection

Question:

To what extent does the Domestic Violence Act promote gender-based violence?



Ms. Theresa Moalusi

District Court Magistrate - Protea

Introduction

The Domestic Violence Act 116 of 1998 defines domestic violence as *inter alia* any physical, sexual, emotional, verbal, psychological and economic abuse. Gender-based violence is rooted in gender inequality and is defined as violence that is directed against a person because of their gender (European Institute for Gender Equality, 2020). Gender-based violence is executed through means of infringing the fundamentals of the Domestic Violence Act.

This article will illustrate how the Domestic Violence Act to a certain extent, promotes gender-based violence with direct focus on femicide. It will focus on illustrating the power dynamics between men and women and discuss how protection orders transfer power to women; and how power is automatically taken away from men thus fueling gender-based violence because of the temperament occurring within the patriarchal system.

Patriarchy over Protection

Patriarchy

Gender-based violence is the assertion of male dominance. Patriarchy is a system of society or government in which men hold power and women are largely excluded (www.thefreedictionary.com 2020). Patriarchy is illustrated during acts of gender-based violence as a display of asserting male dominance over women through force compliance during acts of assault, rape and murder.

Protection Orders

Protection orders are granted in situations in which individuals require legal protection. Recent micro-analysis suggests that women who live in countries with domestic violence laws have seven percent lower odds of experiencing violence compared with women living in countries without such laws (Klugman, 2017). However, statistics show that women are five times more likely to be killed due to gender-based violence committed by men in South Africa than in any other country (Alberton Record, 2019). These statistics illustrate that laws are intended to protect citizens, they are however only effective if citizens abide by them and are aware of the repercussions to follow if they are broken.

The Domestic Violence Act was legislated with the aim of preventing intimidation; harassment; stalking; damage to property; entry into a complainant's residence without consent, or any other controlling or abusive behaviour towards the complainant; where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the complainant. These legal restraints result in granting power to the complainant, woman.

Disturbance in Patriarchy

Protection orders disturb the system of patriarchy. Women who are granted protection orders reclaim their power. Protection orders are perceived by men as laws that remove their systematic power.

These protection orders legally assure women that they are "safe" however, safe only in alignment with the law. Gender-based violence is fuelled by male dominance. Male dominance is perceived through hegemonic masculinity. Hegemonic masculinity entails that only "manly men" have power. Manliness, during the act of gender-based violence, is asserted by men having power and control over a woman. The alteration of power unfortunately promotes gender-based violence because of the law being viewed by certain men as favouring women.



Implementation of Protection orders

During the application processes for protection orders victims have to wait in potentially harmful situations until SAPS officers can be sent out or victims are informed to come to the police station (May & Mudarikwa, 2017). Complainants also reported that members of the SAPS would attend to crime scenes only to warn the offenders. This left the victims open to further abuse. Complainants also reported failures or delays on SAPS members serving notice of the application or orders in which the perpetrators are prevented from entering the complainants' premises; which left the victims open to further abuse by the perpetrators (May & Mudarikwa, 2017).

Victims are placed in situations of harm whilst waiting for protection orders to be granted, issued and served. However, even after the granting of protection orders women are still at risk of gender-based violence because a legal form of restraint doesn't serve as physical protection over women.

Nonviolent Acts

When most people think of domestic abuse the first thing that comes to mind is most likely verbal abuse alongside physical abuse/assault. However, research shows that financial abuse occurs just as frequently in relationships as other forms of abuse.

The effects of financial abuse are often devastating with regards to short-term effects. This is because economic abuse leaves victims vulnerable to physical abuse and violence. Without access to any financial assets it is extremely difficult to partake in any type of financial planning. For instance, if an abuser is particularly violent and the victim needs to leave in order to stay safe because of financial restraints the victim will be forced to stay with the abuser in order to survive.

Nevertheless, the Domestic Violence Act raises awareness for various social ills. It does to a certain extent promote social justice as it provides availability for complainants to remove themselves from the abuse by resorting to stay in a crises shelter, that creates room for legal implications to be administered within social areas thus allowing for the complainant to have an easier connection route to the law.

However, it does not fully cover the needs put forth by victims of domestic abuse. The Domestic Violence Act should not be repealed but rather amended in the following aspects:

- Respondents should be placed under surveillance in the same format as convicts released on parole.
- Victims should be required to report back to the clerk of the court to ensure their safety on a monthly bases after the issuing of the protection order for a certain period.
- Grants should be issued to victims having undergone financial abuse for three months, thus allowing room for victims to find assistance in financial independence.

Conclusion

In conclusion the Domestic Violence Act to a certain extent promotes gender-based violence as it fuels the reclaiming of power by men from women, illustrated by the assertion of male dominance during an act of femicide.

Therefore, with the power shift there must be an accompanying will to arrest and vigorous prosecutions met by harsh sentences. Mediation should not be considered even on violent acts. Rather an order should be granted forcing the abuser to pay a certain amount of money towards the maintenance of the family. This order will ease the fear of reporting abuse. Thus, there is a need to amend the Domestic Violence Act to provide for grants. This will promote the reporting of abuse and reduce the level of domestic violence abuse in South Africa.

Commentary on the prescribed domestic violence forms



Mr. S.A Gräbe

District Court Magistrate - Breyten

The purpose of this commentary is to draw the attention of all court officials to certain mistakes on the above-mentioned forms. The mistakes on the forms lead to confusion in both the bringing of the application and the orders issued by the court. It is therefore important to bear these mistakes in mind when dealing with matters under the Domestic Violence Act, 1998 (the Act).

In terms of Section 7(6)(b) of the Act the court may, if it is in the best interest of a child, order a respondent to have contact with such child under such conditions as it may consider appropriate. However, in terms of par. 8(f) of the application form (form 2)(J480E) a complainant may request that a respondent be granted contact with a child and in par. 4.1.5 of both the interim protection order (form 4)(J507E) and the protection order (form 7)(J566E) the court may order that a respondent be allowed contact with a child. This may lead to the mistaken impression that the court is empowered to authorize a respondent's visitation rights to such child, which, it is submitted, the court is not empowered to do under the Act. The Act clearly has the best interest of the child in mind whereas the forms seem to place the focus on the interest of a respondent.

Par. 3.1.2.2 of both the interim protection order (form 4) (J507e) and the protection order (form 7)(J566E) refer to a par. 3.1.3. However, there is no such paragraph on the said forms. Par. 3.1.2.2 is clearly intended to prevent a respondent from enlisting the help of another person to commit any of the acts referred to in par. 3.1.2.2.

Should magistrates fail to rectify this error when issuing the order, a respondent is not properly informed of the orders against him. If a respondent is arrested in that he enlisted the help of another person to commit an act of domestic violence he might institute a civil claim against the Department.

Par. 3.2 of the Notice to show cause (form 5)(523E) should be deleted as a respondent may only anticipate the return date of an interim protection order. (Section 5(5) of the Act)

Section 1 of the Act defines the word "complainant" as "any person who is or has been in a domestic relationship with a respondent and who is or has been subjected or allegedly subjected to an act of domestic violence, including any child in the care of the complainant" and the word "respondent" as "any person who is or has been in a domestic relationship with a complainant and who has committed or allegedly committed an act of domestic violence against the complainant". Effect must be given to these definitions "unless the context indicates otherwise". However, the government forms refer to "Applicant" instead of "Complainant".

This may not be a problem until we have to deal with an application for variation or setting aside of a protection order. The legislator has decided to retain the use of the words “complainant” and “respondent” under section 10 of the Act. Consequently the definitions referred to above also apply to applications for variation or setting aside of the protection order. The use of the word “Applicant” in Form 12 (J649E) leads to confusion. A respondent may also apply for the variation or setting aside of the protection order. If a respondent’s name is inserted next to “Applicant”, the complainant in the original application now becomes the respondent

This would be contrary to the definitions set out above. The correct procedure would be to retain the words “Complainant” and “Respondent” as a reference to the parties in all instances where the context does not indicate otherwise. It is submitted that, in order to avoid confusion, par. 4 of form 12 (J649) should be amended to show which party is bringing the application. The words “I am the complainant and” or “I am the Respondent and” should merely be inserted before the words “I wish to apply for:”.

Par. 3.1.1 on both the interim protection order (form 4)(J507e) and the protection order (form 7)(J566E) states “The application for a Protection Order is dismissed; or” and must be deleted as it should form part only of the magistrate’s minutes.

Domestic Violence: Should the court evict the Respondent from the shared residence ?



Ms. S. Kusche

District Court Magistrate - Mkhondo

Most Magistrates dealing with domestic violence on a daily basis have to make the decision whether to grant an interim order or not. In considering this, the court must first evaluate if there is prima facie evidence of domestic violence and secondly whether the complainant may suffer undue hardship as a result of the domestic violence if an interim order is not granted. The problem arises when the court has to decide whether to prohibit the respondent in terms of Section 7(1)(c) of the Domestic Violence Act 116 of 1998 from entering the shared residence.

Section 7(1)(c) reads that “ the Court may, by means of a protection order referred to in section 5 or 6, prohibit the respondent from entering a residence shared by the complainant and the respondent: Provided that the Court may impose this prohibition only if it appears to be in the best interest of the complainant.”

Prohibiting the respondent from entering the shared residence has the same effect as an eviction order. Section 26(3) of the South African Constitution provides that “No one may be evicted from their homewithout an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.”

However this right can be limited as provided for in section 36 of the Constitution:

“The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:

- (a) the nature of the right;
- (b) the importance of the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the relation between the limitation and its purpose; and
- (e) less restrictive means to achieve the purpose.”

The Preamble of the Domestic Violence Act (No116 of 1998) provides, “It is the purpose of this Act to afford the victims of domestic violence the maximum protection from domestic abuse that the law can provide...”



The Domestic Violence Act clearly limits the right of the respondent not to be evicted. In *Omar v Government of the Republic of South Africa and Others (Commission for Gender Equality, Amicus Curiae)* 2006 (1) SACR 359 (CC) it was held that “Domestic Violence in our country is utterly unacceptable. It causes severe psychological and social damage. There is clearly a need for an adequate legal response to it.”

The Legislature provided Magistrates with the power to legally assist complainants. We should use it.

A magistrate, must never forget that “home is a shelter from storms – all sort of storms” (William J Bennett : The Moral Compass: Stories for a Life’s Journey). We may see it only as a residence but to that complainant it is a home, a place where she/he should feel safe and secure and protected.

Considering the relevant factors and if it appears to be in the best interest of the complainant a respondent may be prohibited from entering the shared residence, whether respondent has alternative accommodation or not. In *PSH v PH & another* (2138/2012) [2013] ZAECGHC 90 (23/8/2013) an interim order that prohibited the respondent from entering the shared residence

In *PPS v TLS (A239/2019)* [2020] ZAWCHC 90 (2/9/2020) the Honourable Judge Rogers stated that ... “I do not think that the lawmaker intended that exclusion from a shared residence should be the norm.”

We must ensure that all the evidence is before the court to make a proper and impartial order. If needed, not to traumatize the complainant by forcing her/him to share a residence with her/his abuser. Failure to do so, we empower the respondent to continue the abuse.

Therefore, when deciding whether to evict or not, magistrates should carefully consider the application and whether the facts supports the relief sought, including an order that the respondent may not enter the shared residence. If the facts support the application we must issue an appropriate order by providing shelter from the storms.

Through the Magnifying Glass: Unpacking the Domestic Violence Amendment Bill



Ms. C. Singh

District Magistrate Evander

The ratification of CEDAW spawned a number of pieces of domestic legislation relating to the protection and enhancement of the rights of women and children, notably, the Domestic Violence Act 116 of 1998 (“the Act”).

Twenty years later, the Act faces a revolutionary overhaul by the promulgation of the Domestic Violence Bill (“the Bill”). This article will highlight a few of the important changes suggested in the Bill.

The concept of Domestic Violence has been vastly refined by the Bill. It is encouraging to note a broadening of categories of “domestic violence” which include the abuse of an elder, or exposure of a child to a violent domestic environment in any of the enumerated categories. “Sexual Harassment” is now regarded as a separate listed category containing sub-categories.

“Spiritual abuse” is inserted as a separate category of abuse. The inclusion of spiritual abuse as a practice or the denial thereof so as to control and dominate a person means that presiding officers will need to actively engage, if not at least familiarize themselves, with the cultural order of the factual matrix so presented.

In addition, the Bill regards entry into the victim’s workplace without consent, as a specific act of abuse which can be claimed in application proceedings. However, it remains to be seen whether such a sole act will qualify for the grant of an interim protection order unless accompanied by other extraneous evidence of abuse.

Where the physical abuse of children is noted in the application, magistrates should take care to align themselves with the definition of “abuse” as found in the Children’s Act 38 of 2005. The factual matrix of the alleged abuse must then be assessed against the definition of “abuse” in the Children’s Act to found physical abuse under the Bill.

‘Whilst law-makers should be free to dream up completely innovative solutions to [gender inequality], they should make sure that they dream with their feet planted firmly on the earth. Empty promises echoing provisions of the UN Convention will not protect [women] or further the promotion of their rights. Law-makers must commit themselves to what can realistically be achieved in the country they are working in, and make sure that the laws have the best possible chance of being properly implemented.’ [own inserts]

In 1995, South Africa ratified the *Convention on the Elimination of All Forms of Discrimination against Women* (“CEDAW”) as a token of its commitment to eradicate violence against women.

In time, the term “Gender Based Violence” (“GBV”) came to be commonly associated with all forms of expressions of violence perpetrated against women. GBV refers to violence of a psychological, physical, economic or sexual nature, perpetrated against a woman.

The same care should be taken when assessing sexual abuse, since this definition in the Bill has been entirely replaced and realigned with the definition as found in the Criminal Law (Sexual Offences and Related Matters) Act 32 of 2007, as amended. Secondly, whereas emotional, verbal and psychological abuse in the Act had to be claimed in one clump, the deletion of the word “and” and its replacement with the word “or” in the Bill widens the leeway of scope in applications, especially those in which insults and humiliation dominate the *status quo* of the relationship.

The Bill has created an expanded definition of “weapon” to include dangerous objects or those capable of causing grievous bodily harm. This should alleviate the challenges experienced in the completion of interim orders.

“Domestic Relationships” have seen slight changes by the Bill. Firstly, the Bill now limits the time periods which apply to applications where parties previously cohabitated, by deleting the word “recently” and replacing it with the phrase “within the preceding year.” The Bill then widens the concept of domestic abuse in a relationship by the insertion of two definitions: “coercive behavior” and “controlling behavior.” Coercive behavior is defined as a single act or a pattern of physical abuse. Controlling behavior includes subordination of the victim through isolation from family, exploitation of the victim’s resources and a deprivation of the victim’s independence. It ought to be noted that this alleged behavior must be accompanied by the inspiration of the belief in the victim that harm will be caused. It is submitted that the test regarding the inspiration of belief of harm is an objective one.

The Bill places a positive duty on those in the health and education sector to screen, counsel and provide emergency medical treatment to victim. It places a more onerous provision on persons to report abuse of a child, elderly or disabled person to the police, and penalizes willful non-disclosure with a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

The most significant change to the Act is the process of applying for a protection order, which the Bill seeks to allow applicants the benefit of applying online. It is expected that this change will substantially ease the burden placed on those seeking urgent protection.

Undoubtedly, the process will require a host of changes relating to the manner in which the applications are dealt with, by presiding officers and court personnel. It would have been prudent for the Bill to consider inserting a prescribed leave period to be granted to a complainant in DV proceedings, as is the case elsewhere in the world. This would alleviate the burden of embarrassment carried by the applicant, especially where visible injuries are noted in the application.

Where the Bill now inserts statutory duties upon a medical officer to report DV, or anyone observing violence against a child or elderly person as alluded to above, it is worthwhile to consider the position in the UK, which is considering the implementation of a Domestic Violence Commissioner. Such Commissioner, if adopted here, can be a useful tool of interaction between the courts to *inter alia*, publish information about the provision of services to people affected by domestic abuse and make recommendations.

In conclusion, it would appear that a consideration of the Bill requires a two-fold approach: In-depth planning and a robust managerialist approach of multi-agency interaction. Planning is the key to effective implementation of a new scheme. An effective strategy should promote social change, instead of maintaining the status quo which will be reflected through the operational mechanism that it puts in place. The emphasis should be on transferring capacity, awareness and knowledge among officials dealing with gender inequality, and it therefore remains desirable to include all affected agencies and constituencies in further planning.

Should mediation be allowed where there is an order issued in terms of the domestic violence act?



Ms. J. Ledwaba

District Court Magistrate - Krugersdorp

Mediation was never viewed as mandatory in Family Court to domestic violence matters. It is within the discretion of the court to use mediation as one of the solutions to harmonize the situation hence before considering an interim order a court may in circumstances in terms of the Mediation in certain Divorce matters Act 24 of 1987 cause a investigation to be carried out. It is not a must to mediate in Domestic Court where a victim is faced with re-occurrence of domestic violence act .

When dealing with a victim of abuse -De Jong “*Opportunities for Mediation in the New Children’s Court*” 2008 *THRHR* at page 633 suggests that.

“in the case of family violence that mediators should be properly trained especially dealing with a battered woman and if mediation is used as mechanism to resolve an abusive relationship it might seriously impede her bargaining power. For this reason, mediation can be regarded as inappropriate where the spouses have been involved in abusive relationships”.

Of course each case should be determined according to its own facts and merits. Mediation is not a good endeavor to end domestic violence. One cannot mediate when there is continuous battering. Life should be protected. In terms of section 12 (1) of the Constitution of the Republic of South Africa, 1996 everyone has a right to freedom and security which includes the right to be free from all forms of violence and you cannot mediate when there is violence. In terms of *S v Baloyi* 2001 (1) BCLR 86 (CC) a victim’s right to dignity, being respected and to be free from all forms of violence must be the paramount consideration to end the curb of abuse by granting an interim or a final order than to resort to mediation to end domestic violence. Judge Sachs in *S v Baloyi* supra held that the state is obliged to respect, protect, and fulfill the rights in the Bill of Rights. Section 12 (1) obliges the state to protect everyone’s right to be free from private and domestic violence. Domestic violence compels constitutional concern and if there is a form of violence an interim order should be granted followed by final order and a warrant of arrest is also necessary when the other party is served with the order. Mediation is not a must in Domestic Court and it involves a neutral third party who is skillful, not a Presiding Officer, to facilitate an agreement between the two parties. However, mediation cannot be used where there is physical abuse, sexual abuse, emotional psychological and verbal abuse, intimidation and so forth as stipulated in section 1 of Domestic Violence Act 116 of 1998.



South Africa is becoming a violent place to be, even in family homes. The President of the country on 18 September 2019 in Parliament called a special joint sitting over what is described as “a dark and heavy shadow across our land, the scourge of violence against women and children plaguing South Africa. The abused woman in South Africa, and statutory implications and the use of mediation to resolve domestic violence dispute by Kasturi Moodaliyar December 2000”. It becomes disturbing when our courts dismiss domestic violence cases on a daily basis. Every case must not be taken lightly because they each have their own specific causes, and features of domestic violence show the crises of violence in our communities that must be resolved. Failure to do so by the courts would be condoning the violation by the very same perpetrators who increasingly show scant regard for the State, the police, and the rule of law. The President indicated that to enhance the safety of women, there is an urgent need to make necessary amendments to our laws and policies to ensure that perpetrators of gender-based violence are brought to book. The President further indicated that there is a need to direct resources to improve among others the functioning of Family Courts. The preamble to the Domestic Violence Act sets out the objectives of the Act as making sure that the rights enshrined in the Constitution of the Republic of South Africa, are respected. These include the right to dignity, privacy, equality and the right to be free from all forms of violence.

When a protection order is granted the court also issues a warrant of arrest in accordance with Form 8 Regulation 9 section 8 (1) (a) to be effective if the order is contravened. This gives police the authority to arrest and charge the abuser for contravening the order. Section 5(2) of the Act provides that in order for the court to grant an interim protection order, the complainant needs to have *prima facie* evidence of an act of alleged domestic violence. Section 6 (1) – (4) thereof provides that in order for the interim protection order to be confirmed, the order must have been served on the respondent. In the case of *Botha v Minister of Police and Another* 2014 (2) SACR 601 (GP) it was held that interim order has no force or effect before service has taken place. If not served, the interim order is ineffective because the respondent cannot contravene the order that was not communicated to him/her. Once the interim order is served then it can be acted on by a police official receiving an affidavit by the complainant stating that the protection order was contravened. In other words, once an interim order is granted and served, if contravened it is not advisable for the court to order or allow the matter to be mediated even when it is once off incident.

RECOMMENDATION AND CONCLUSION

The courts should treat domestic violence cases seriously and not dismiss them unnecessarily. Domestic Violence matters should be adjudicated fairly, expeditiously and with the necessary sensitivity to gender and culture of the parties involved. We need to protect the values that define our very essence as South Africans.

Judicial dialogue on Gender-based Violence and Gender Stereotypes



Ms. N. Memka

District Court Magistrate - Durban

The novel Coronavirus (COVID 19) has brought many challenges globally and in some instances has highlighted challenges that countries face. The Director General of the World Health Organisation, Mr. Tedros Adhanom Ghebreyesus, in April 2020, highlighted the increase in the cases of Gender-Based Violence (“GBV”) since countries around the world implemented lockdown measures to limit the spread of the virus.

South Africa is among those countries that implemented a nationwide lockdown to slow down the spread of the virus. The implementation of lockdown, in particular Level 5 and Level 4 meant that there was limited movement of people. The majority of people were as such forced to stay at home, as businesses and places of work were closed with the exception of those dispensing essential services. This also had a negative impact in the ability of citizens to access essential services, such as police stations, social services and shelters for abused women and children.

Thus the courts experienced an increase in the number of new applications for Protection Orders under the Domestic Violence Act 116 of 1998 and women seeking places of shelter, to shield them from abuse they were experiencing in their households. The domestic violence perpetrated, more specifically against women and children, was by their partners in relationships. Younger women and children from impoverished communities experienced more physical violence from their partners than any other form of GBV.

Unfortunately, the victims did not receive assistance from their local police stations when they went to report the physical abuse, but were and are still referred to the courts by the police to apply for Protection Orders against the perpetrators. This included instances where children suffered physical abuse when domestic violence was perpetrated against the mothers. In most instances the verbal and physical abuse occurred in the presence of young children who would then be traumatised by what they witness. In other instances, the children would attempt to defend their mothers from the physical abuse and unfortunately end up being injured in the process.

When the lockdown regulations were relaxed under Level 4 and the sale of alcohol was allowed, there was a significant increase in the number of GBV cases related to alcohol abuse and these manifested themselves in courts in the form of new applications for Protection Orders for Domestic Violence. The President of South Africa, has on more than one occasion, acknowledged that GBV is a scourge in our country and has labelled it as the “second pandemic” that our country is faced with. Due to lockdown regulations prevailing, the courts are seen as the places where victims of GBV can receive protection through Protection Orders and redress under the law.

In order to understand the GBV pandemic, we have to look at the underlying causes and not deal with the symptoms as they present themselves in the violence against women. One of the major underlying causes is patriarchy. Patriarchy manifests itself in how young girls and women are treated and their perceived roles in society. It further manifests itself in how young girls and boys are brought up and the different roles they are taught and expected to play. The society needs a mind shift in regard to the perception of women and their place in society. This is but one of the underlying causes of GBV. Boys need to grow up with strong male role models to guide them as they grow so that they are taught at a young age that males and females are equal and should therefore be treated equally.

All stakeholders in the criminal justice system also need to approach GBV in an integrated approach. Thus the Police need to play their part, in acting swiftly when crimes relating to GBV are reported and to give the investigations thereof the serious attention they deserve. On the other hand, women should not be afraid to report GBV offences at police stations for fear of being ridiculed or subjected to secondary victimisation. When GBV cases come before the court, they should have undergone thorough investigations so that the prosecution should be able to prosecute in order to facilitate the speedy finalisation whilst witnesses are still available and the incidences are still fresh in their memories. The judicial officers should ensure that GBV cases are not unnecessarily postponed and therefore unnecessarily delayed from being finalised.

The withdrawal of GBV cases by the prosecution should be properly interrogated before they are authorised by a senior prosecutor. It is my considered view, that cases involving GBV, in any form, should not be resolved through mediation in the court. The evidence should be presented before the court and the court after hearing the evidence should then have the onus of deciding on the guilt of those charged.

If all role players in the Criminal Justice System play their role, as outlined in the Constitution and do so in a credible and transparent manner, this may go a long way in restoring the confidence of the citizenry in the justice system as a whole.

Progressive Laws and Polices... So What? Gender-Based Violence in South Africa Revisited



Mr. Akho Ntanjana

Law Researcher: SAJEI

Gender-based violence (GBV), in particular senseless extreme killing of women - young and old (femicide), has reared its ugly head again in South Africa. Crime statistics reveal that 2,930 adult women were killed in a 12-month period from 2017 to 2018, which amounts to one murder every three hours. Many people, various political formations and civil society organisations (CSOs) have organised platforms or forums to discuss ways to curb the GBV scourge (see: <https://www.sowetanlive.co.za/news/south-africa/2020-06-23-sa-needs-more-social-workers-to-address-scurge-of-gbv-ramaphosa/>).

Section 7(2) of the South African Constitution obliges the State to respect, promote, protect and fulfil the rights in the Bill of Rights. These “rights” in this context refer to *inter alia* the right to life, the bodily integrity and the right to human dignity. When GBV statistics go through the roof as we see, we all must pause and ask the question, is the State in breach of its section 7(2) constitutional obligation? The State seems to be indeed in breach of its domestic and international obligations.

The objective of this article is to highlight some of the overarching gaps in resources, access to justice, gathering of statistics and programmatic implementation that aim to combat GBV in South Africa.

South Africa has progressive laws and policies that have been enacted to curb GBV and sexual-related violence. South Africa enacted the Domestic Violence Act, 116 of 1998 (DVA) and the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007 (Sexual Offences Act), in April 2019, it also published GBV and Femicide National Strategic Plan (GBVF-NSP). These statutes seek to give effect to various constitutional provisions such as equality, human dignity, life and freedom and security of the person.

South Africa is a member-state to various international and regional human rights instruments, *inter alia* the Universal Declaration of Human Rights, 1948 (UDHR); International Covenant on Civil and Political Rights, 1966 (ICCPR), the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR), the Convention on the Elimination of all Forms of Discrimination against Women, 1979 (CEDAW), the African Charter on Human and People’s Rights, 1981 (African Charter), and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol). All these instruments promote the protection of women and discourage gender based violence.



Major judgments by South African courts to note include *Carmichele v Minister of Safety and Security* 2001 (4) SA 938 (CC); 2001 (10) BCLR 995 (CC) (16 August 2001), where the Constitutional Court held that the State is obliged in terms of the Constitution and international law to prevent violence against women and to protect their dignity, freedom and security. In *F v Minister of Safety and Security and Another* 2012 (1) SA 536 (CC); 2012 (3) BCLR 244 (CC) (15 December 2011), the Constitutional Court found that the Minister was vicariously liable for the damages suffered by Ms F as a result of the rape and assault by a police officer when she was 13 years old. In *Masiya v Director of Public Prosecutions and Another* 2007 (5) SA 30 (CC); 2007 (8) BCLR 827 (10 May 2007), the Court extended the definition of rape to include non-consensual anal penetration of females, which was previously not included in the definition of rape.

Despite these progressive steps, high levels of GBV remain unacceptably high. One notes that there is a lax attitude and lack of will by the State. The government must make it easier for the victims of GBV to access the criminal justice system. This problem is often mentioned whenever you ask a victim or a potential victim. In some isolated cases, they do not know where to complain, and even if they know police officers still make it hard for the victims to lay a charge by ridiculing or in some worst cases rape them (see, *K v Minister of Safety and Security* 2005 (6) SA 419 (CC); 2005 (9) BCLR 835 (CC) (13 June 2005); *F v Minister of Safety and Security and Another* (referred to above). There is also a problem of underreporting in South Africa, this is due to cultural, psychological, societal, institutional and practical red tape mentioned above.

The police as the primary agency of the State are responsible for the protection of the public in general and women and children in particular and should provide maximum protection from domestic abuse as required by the DVA. The victims must be provided with written information about their rights (and possibly remedies) in a simple language they understand.

In addition to other obligations bestowed upon them, the police officers must find suitable shelter for the victim if it appears the victim's life is in danger. There are a number of practical approaches that the police can adopt in GBV cases but it is hard to mention all of them here.

It is recommended that there should be fully funded and well-equipped police units dedicated to investigate and tackle GBV cases. The police officers that handle GBV cases must be trained on a regular basis and appraisals should be conducted to assess their readiness to handle GBV cases. The State must avail resources to assist in fighting GBV. The State must also invest in capacity-building programmes that include the boy-child.

Once GBV criminal cases have been properly investigated and the accused persons are arraigned before courts, then the courts must convict and sentence such people mercilessly. For instance, in *S v Nobade* (CC16/2018) [2019] ZAWCHC 76 (19 June 2019), in sentencing the accused, Judge Salie-Hlophe aptly remarked “...the increase of women being savagely murdered and butchered in their homes or by their partners remains an attack on humanity and our community. It can never be tolerated. It can never be seen to be the order of the day and in that way, by way of social fatigue, become an acceptable form of life. Our Courts need to continue sending a very strong message that this conduct is morally and legally reprehensible and that offenders will be punished accordingly, for if not, it could and would also result in society losing faith in the justice system and taking the law into their own hands to administer justice”.

It is concerning and troubling that despite the recognition and protection of fundamental women's rights as guaranteed in the Constitution, the high numbers of GBV cases in 2020 in the middle of COVID- 19 pandemic perpetrated against women and girls demonstrate the lack of a clear commitment by the government to prioritise the elimination of GBV. In conclusion, it is proposed that the State must strengthen and accelerate its rape-prevention programmes, particularly lack of trust in law enforcement; or a financial loss in incidences experienced by women, specifically black women.





In memoriam: Mr Rudzani Nethengwe



R.I.P Mr. Rudzani Nethengwe

It is with great sadness that SAJEI announces the passing of our dear colleague Mr Rudzani Nethengwe, SAJEI Projects Director on 15th August 2020 after a long illness. He was affectionately known as 'Mr R' by colleagues and was the third official to join SAJEI as Director after its inception. In the words of Dr Gomolemo Moshoeu, SAJEI CEO, Mr R laid an unforgettable brick in SAJEI's foundation.

A virtual memorial service was held in his honour on the 28th August 2020. Tributes were received from Judges (Judge T Mudau), Regional Magistrates (Ms Jakkie Wessels), District Magistrates (Mr O Krieling), Traditional Leaders (Nkosi N Ngonyama) and our colleagues at the Office of the Chief Justice. Many of these tributes remembered his dedication, his willingness and availability to assist, his respectful nature, that he was always laughing and was a gentleman of note.

The staff of SAJEI expressed their sincere loss with the following messages:

Ms Mampotse Mokgetle, Event Coordinator:

My encounter with Mr R (as he was affectionately known) was brief, but very memorable. He was very playful, basically young at heart.

As his subordinates we will carry the baton from henceforth. As a colleague the void might not be easily filled. He will be sorely missed.

Ms Kenalemang Hlalele, Event Coordinator:

Dear Mr R, thank you for your leadership. You motivated us and brightened up the darkest days. Your smile warmed our hearts and your laugh was like music to hear. A light from our team is gone. We have to mourn the loss of one we would have loved to keep. Memories we have of you shall live forever.

Ms Jinx Bhoola, Judicial Educator:

Friend, you are a shining star in a dark chamber. Friend, our early morning spiritual conversations will be memories that will not be forgotten.

Friend, there is a void, your footprints have left an indelible impression, shine bright like a diamond....

Ms Poso Mogale, Executive Support to the CEO

Dear Mr R, thank you for welcoming me at SAJEI and for everything you have taught me. You left an everlasting legacy in my career. I am who I am today because of you. May your soul rest in eternal peace

The name of Mr Rudzani Nethengwe will forever remain in the history of SAJEI. May his soul rest in eternal peace.

Mr Zongezile Baloyi, Chief Director; Mr Thomas Maseko, E-Learning Administrator; Mr Karabo Mokganya, Personal Assistant to the CEO

Over the years Rudzani you have dedicated yourself with commitment, hard work and dedication. All of this have laid a foundation for the establishment and growth of our Institute SAJEI. Your contributions have been immense in assisting us to achieve our mandates, you have been our pillar of strength a team player and a loyal colleague. Your role at SAJEI was carried with a sense of duty and a leader which epitomized your character, humility and professionalism. Your magnitude of work enabled us to reach our beneficiaries in the landscape of our country and your contributions felt by them. Your departure leaves a void, vacuum and uncontested space. Your cheerful spirit will be missed in our environment.

By Ms. Poso Mogale





LIST OF STRUCK OFF LEGAL PRACTITIONERS



KWAZULU NATAL

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Rajespre Naidoo		•		13 March 2020
Phila Dube		•		20 March 2020
Nasen Arunajalam Naicker		•		26 March 2020
Heinrich Theunus De Klerk		•		26 March 2020
Mzameleni Alexius Ntuli		•		26 March 2020
Delene Moonsamy		•		26 March 2020
Sganeko Lulama Jason Ndumndum		•		18 May 2020



LIST OF STRUCK OFF LEGAL PRACTITIONERS



KWAZULU NATAL

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Mfundo Xaba		•		18 May 2020
Roger Lance Lawrence		•		26 May 2020
Vivani Isidore Vincent Made		•		26 May 2020
Sipho Michael Cona		•		26 May 2020
Thomas Ignatius Hermanus Wessels		•		26 May 2020
Mandla Khanyisani Ndabandaba		•		18 June 2020



LIST OF STRUCK OFF LEGAL PRACTITIONERS



KWAZULU NATAL

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Monoshan Govender	•			19 June 2020
Joshua Lizwi Kwela		•		22 June 2020
Alban Khayelihle Gcinamasimango Msimango	•			03 July 2020
Thandi Chrishnah Sima		•		08 July 2020
Jennisha Phalad		•		08 July 2020
Rajeev Singh		•		08 July 2020



LIST OF STRUCK OFF LEGAL PRACTITIONERS



KWAZULU NATAL

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Bonisile Goodness Ngcobo		•		09 July 2020
June Debba		•		14 July 2020
Mzothule Jerome Mjoli		•		23 July 2020
Siphamandla Greagery Nyandeni		•		19 August 2020



LIST OF STRUCK OFF LEGAL PRACTITIONERS



GAUTENG

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Sekepe Hendrick Thobejane		•		17 March 2020
Michael Maurice Per	•	•		19 March 2020
Isaac Mokgobi		•		25 March 2020
Kodibang Isaac Pule		•		21 April 2020
Moses Morokwe Letsoalo		•		21 April 2020
Andreas Johannes Oberlechner	•			23 April 2020
Leon Etsebeth	•			23 April 2020
Johan George Viljoen		•		29 April 2020





LIST OF STRUCK OFF LEGAL PRACTITIONERS



GAUTENG

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Jabulani Cyprian Mtshali		•		19 May 2020
Rudolph Louw		•		21 May 2020
Edith Precious Mabunda	•			28 May 2020
Ramere Simon Mametja		•		09 June 2020
Sandile Bubele Siyaka		•		11 June 2020
Pamela Hlengiwe Goba		•		12 June 2020
Thabo Mamokgalake Chuene		•		15 June 2020



LIST OF STRUCK OFF LEGAL PRACTITIONERS



GAUTENG

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Johannes Karel Schaefer	•			22 June 2020
Titswa Modise		•		25 June 2020
Mabitsela Moses Maubane		•		17 July 2020
Lucky Bonang Mashabela		•		28 July 2020
Jonas Rawasa Kgopotso Thema	•			28 July 2020
Riaan Roux		•		28 June 2020



LIST OF STRUCK OFF LEGAL PRACTITIONERS



GAUTENG

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Selle Selby Malekane		•		13 August 2020
Christina Mai Jacobson		•		25 August 2020
John Sindiso Ngcebetsa	•			27 August 2020
Thabiso Jeremiah Ntsie		•		28 August 2020
Thabo Andrew Mogale	•			01 September 2020



LIST OF STRUCK OFF LEGAL PRACTITIONERS



FREE STATE

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Sibusiso Mzimasi Ntombela		•		26 March 2020
Corne Ackerman	•			14 May 2020

NORTH WEST

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Felicity Boitumelo Portia Motlhabani	•			07 May 2020

LIMPOPO

<u>PERSON</u>	<u>STRUCK</u>	<u>SUSPENDED</u>	<u>INTERDICTED</u>	<u>DATE</u>
Phamela Clinton Nkondo		•		27 May 2020



UP COMING WORKSHOPS



DATE	WORKSHOP	PROVINCE
DISTRICT COURT MAGISTRATES		
5 – 9 October 2020	Civil Court Skills – National Credit Act, Debt Collection Processes, and Debt Review Processes	Free State
5 – 8 October 2020	Adoptions Procedures and Trafficking in Persons	Gauteng
10 October 2020	Family Court Skills for Aspiring District Court Magistrates	Free State
12 – 16 October 2020	Adoption Procedures	Northern Cape
12 – 16 October 2020	Debt Collection and Debt Review	Western Cape
19 – 21 October 2020	Evictions	Western Cape
22 – 23 October 2020	Insolvency	Western Cape
19 – 23 October 2020	Equality Court Skills	Free State
29 – 29 October 2020 09 – 12 November 2020	Equality Court Skills	Western Cape
27 – 29 October 2020	Evictions	Gauteng
2 – 4 November 2020	Immigration and Related Matters	Gauteng



UP COMING WORKSHOPS



DATE	WORKSHOP	PROVINCE
DISTRICT COURT MAGISTRATES		
2 – 6 November 2020	Children's Court Skills	Gauteng
23 – 25 November 2020		
1 – 3 December 2020		
3 – 6 November 2020	Family Court Skills	Northern Cape
3 – 7 November 2020	Action Procedures	Gauteng
9 – 13 November 2020	Children's Court Skills	Free State
10 – 12 November 2020	Insolvency Proceedings	Gauteng
11- 13 November 2020	Judicial Ethics	KZN (Durban Cluster)
16 – 20 November 2020	Children's Court Skills	Western Cape
23 – 27 November		
17 – 20 November 2020	Execution Procedures and related matters	Gauteng
17 – 20 November 2020	Adoption Proceedings	North West
23 – 27 November 2020	Cost Orders	KZN (Durban Cluster)
23 – 25 November 2020	Stress Management	Free State



UP COMING WORKSHOPS



DATE	WORKSHOP	PROVINCE
DISTRICT COURT MAGISTRATES		
24 – 25 November 2020	Immigration and Related Matters	North West
30 November 2020	The Concept of Mental Illness in Criminal Proceedings and related matters	Northern Cape
1 – 3 December	Expert Evidence, Confessions and Admissions, Electronic Evidence	Gauteng
1 – 3 December	Mediation and related matters	Gauteng
3 – 4 December	Documentary Evidence and Hearsay Evidence	Gauteng
7 – 9 December	Unconstitutionally Obtained Evidence	Gauteng
8 – 10 December 2020	Foster Care Matters	Western Cape

DATE	WORKSHOP	PROVINCE
REGIONAL COURT MAGISTRATES		
6 October 2020	Child Pornography	ALL
20 October 2020	Judicial Oversight in Execution of Immovable Property	ALL
3 November 2020	Violent Crimes, Firearms and related issues	ALL
17 November 2020	New Developments in Civil Law	ALL
1 December 2020	Human Rights and HIV/AIDS	ALL



Enhancing Judicial Excellence

Telephone number:

+27 (0)10 493 2500

Website address:

www.judiciary.org.za

Physical address:

188 14th Road
Noordwyk
Midrand
1685

Postal address:

Private Bag X10
Marshalltown
2107

