

**Baker
McKenzie.**

Fighting Domestic Violence

Pro Bono Initiative

Asia

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The Philippines

Domestic Violence Legislation



“...is groundbreaking legislation in the Philippines, particularly because of how it recognizes different forms of violence, namely, those that result in or are likely to result in physical, sexual or psychological harm or suffering, or economic abuse.”

The Philippines

1 Legal provisions

1.1 What are the relevant statutes and codes?

The primary statute addressing domestic violence in the Philippines is Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004 ("**VAWC Act**") and its Implementing Rules and Regulations (IRR). The VAWC Act was enacted to address violence committed against women and their children in keeping with the fundamental freedoms granted under the Philippine Constitution, the Provisions of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child and other international human rights instruments to which the Philippines is a party.¹

"Violence against women and their children" is defined under the VAWC Act as any act or a series of acts committed by any person against a woman who is his wife, former wife, or a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, whether or not the act is committed within or outside the family abode.² The VAWC Act is groundbreaking legislation in the Philippines, particularly because of how it recognizes different forms of violence, namely, those that result in or are likely to result in physical, sexual or psychological harm or suffering, or economic abuse.³

Perpetrators of domestic violence may likewise be held accountable under the Revised Penal Code of the Philippines (RPC). The RPC is the general criminal law of the Philippines and it penalizes crimes that are usually gender-based, such as rape,⁴ acts of lasciviousness,⁵ seduction,⁶ abduction,⁷ intentional and unintentional abortion,⁸ physical injuries,⁹ and threats and coercion.¹⁰

The Philippines also addresses the issue of trafficking persons, where women and children are often the victims, through Republic Act No. 10364 or the Expanded Anti-Trafficking in Persons Act of 2012 ("**Anti-Trafficking Act**"). Among others, this law makes it criminal to: (i) match Filipino women to foreign nationals for marriage for the purpose of exploiting Filipino women to engage in forced labor, slavery, sexual exploitation or debt bondage;¹¹ (ii) offer or contract marriage for the purpose of offering prostitution, pornography and sexual exploitation;¹² and (iii) maintain or hire a person to engage in prostitution or pornography.¹³

The Philippines has legislation addressing sexual harassment. Republic Act No. 7877 or the Anti-Sexual Harassment Act of 1995 ("**Anti-Sexual Harassment Act**") is the main law defining and punishing acts of sexual harassment. Republic Act No. 11313 or the Safe Spaces Act ("**Safe Spaces Act**") penalizes gender-based sexual harassment in streets, public spaces, online workplaces, and educational and training institutions.

Several bills are pending before the Philippine Senate and House of Representatives, which if passed into law would also seek to address domestic violence issues. Some of these bills are as follows.

1. Senate Bill No. 978 — An Act Granting Additional Leaves For Victims of Domestic Violence Act
 - The bill seeks to amend the VAWC Act by increasing the present paid leave of absence from 10 days (as found in Section 43 of the current law) to an aggregate of 20 days.
 - It has been pending in the Committee on Women, Children, Family Relations and Gender Equality since 28 August 2019.
2. Senate Bill No. 268 — Absolute Divorce Act of 2018
 - The bill cites physical violence and marital abuse as grounds for a judicial decree of divorce. Further, having a spouse sentenced to imprisonment for six years, even if pardoned, is a ground for absolute divorce by summary judicial proceedings.
 - It has been pending in the Committee on Women, Children, Family Relations and Gender Equality since 30 July 2019.
3. Senate Bill No. 356 — Divorce Act of 2019
 - The bill states that physical violence and gross abusive conduct are grounds for a judicial decree of absolute divorce. It also states that all acts categorized as domestic violence under the VAWC Act are grounds for absolute divorce.
 - It has been pending in the Committee on Women, Children, Family Relations and Gender Equality since 31 July 2019.
4. House Bill No. 534 — An Act Granting An Additional 15 Day Paid Leave for Victims of Domestic Violence Act
 - The bill seeks to amend the VAWC Act by increasing the present paid leave of absence from 10 days (as found in Section 43 of the current law) to an aggregate of 15 days.
 - It has been referred to the Committee on Women, Children, Family Relations and Gender Equality.
5. House Bill No. 1629 — Older Filipino's Protection From Violence Act
 - The bill seeks to protect older or disabled persons from institutional, community, and domestic violence and sexual assault. It defines "domestic violence" as any act or threat of violence, committed by the following:
 - current or former spouse of the victim
 - person related by blood or marriage to the victim
 - person who is cohabiting or has cohabited with the victim
 - person with whom the victim shares a child in common
 - person who is or has been in a social relationship of a romantic or intimate nature with the victim
 - person similarly situated to a spouse of the victim
 - It has been pending with the Committee on Senior Citizens since 21 January 2020.
 - Other house bills are pending in the committee with substantially the same provisions. These are House Bill Nos. 4973, 6594, 6869 and 1017.

6. House Bill No. 5273 — An Act Requiring Employers to Provide Employment Leave for Victims of Domestic Violence
 - The bill seeks to grant a 10-day leave to victims of domestic violence.
 - The bill has been pending with the Committee on Labor and Employment since 13 September 2011.
7. House Bill No. 5584 — 2017 Anti-Domestic Violence Act Against Individuals Including Members of the LGBT Community Other Than Women and Children
 - The bill seeks to punish crimes of domestic violence when committed against those who are not women and children.
 - The bill has been under deliberation in the Committee on Women, Children, Family Relations and Gender Equality since 9 August 2019.
8. House Bill No. 0100 — Absolute Divorce Act of 2019
 - The bill cites physical violence as one of the grounds for an absolute divorce.
 - The Committee on Population and Family Relations approved the bill on 4 February 2020. It is expected to be referred to the full house for analysis and debate.

1.2 What is the controlling case law?

Since its enactment in 2004, the VAWC Act has been the subject of several Philippine Supreme Court ("**Supreme Court**") cases. Some of the notable decisions by the Supreme Court on the VAWC Act for the past two years are discussed below.

In *Reyes v. People*,¹⁴ the Supreme Court held the following:

... [t]he express language of R.A. No. 9262 reflects the intent of the legislature for liberal construction as will best ensure the attainment of the object of the law according to its true intent, meaning and spirit — to promote the protection and safety of victims of violence against women and children.

In *AAA v. People*,¹⁵ the Supreme Court enumerated the elements that must be present for a conviction under the VAWC Act, as follows:

(1) The offended party is a woman and/or her child or children; (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode; (3) The offender causes on the woman and/or child mental or emotional anguish; and (4) The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar such acts or omissions.

In *Pension and Gratuity Management Center v. AAA*,¹⁶ the Supreme Court held that retirement benefits may be automatically deducted for direct remittance to its recipient's legal spouse, as support, in compliance with a protection order issued by a trial court under the VAWC Act. The VAWC Act is an exception to the law that renders retirement benefits exempt from execution.

In *Provincial Bus Operators Association of the Philippines v. DOLE*,¹⁷ the Supreme Court held that the VAWC Act does not violate the equal protection guarantee under the Philippine Constitution because of the following:

... the unequal power relationship between women and men; the fact that women are more likely than men to be victims of violence; and the widespread gender bias and prejudice against women justify the enactment of a law that specifically punishes violence against women.

In *Melgar v. People*,¹⁸ the Supreme Court held that "the deprivation or denial of financial support to the child is considered an act of violence against women and children" and "the act of denying support to a child is a continuing offense." In cases of support, "it must be first shown that the accused's denial thereof — which is, by itself, already a form of economic abuse — further caused mental or emotional anguish to the woman-victim and/or to their common child."

In *AAA vs. BBB*,¹⁹ the Supreme Court held that the Philippine courts may exercise jurisdiction over an offense constituting psychological violence under the VAWC Act, even if the act causing the psychological violence was done outside the country. In this case, the husband committed marital infidelity abroad, which allegedly caused mental anguish to the wife based in the Philippines. The Supreme Court discussed that the law contemplates that acts of violence against women and their children may manifest as transitory or continuing crimes, such that some acts material and essential to it occur in one territory while some occur in another. Thus, a person may be validly tried in any territory where the offense was in part committed. As the "anguish suffered by the victim" was in this particular instance a material element of the crime charged, the fact that the victim resided in the Philippines gave the Philippine courts jurisdiction to try the case.

In *Araza y Jarupay v. People*,²⁰ the Supreme Court held the following regarding a conviction based on Section 5(i) of the VAWC Act:²¹

... [it] does not require proof that the victim became psychologically ill due to the psychological violence done by her abuser. Rather, the law only requires emotional anguish and mental suffering to be proven. To establish emotional anguish or mental suffering, jurisprudence only requires that the testimony of the victim be presented in court, as such experiences are personal to this party.

In this case, the court held that "marital infidelity, which is a form of psychological violence" was the proximate cause of the wife's emotional anguish and mental suffering.

1.3 What are the specific parts of the court system that address domestic violence?

Cases of domestic violence are heard in the regional trial courts that are specifically designated as family courts pursuant to Republic Act 8369 or the Family Courts Act of 1997 ("**Family Courts Act**"). Family courts have exclusive original jurisdiction to hear and decide cases of domestic violence against the following:

1. Women: This includes acts of gender-based violence that result or are likely to result in physical, sexual or psychological harm or suffering to women, as well as other forms of physical abuse such as battering or threats and coercion that violate a woman's personhood, integrity and freedom of movement.
2. Children: This includes committing all forms of abuse, neglect, cruelty, exploitation, violence and discrimination, and all other conditions prejudicial to their development.²²

Family courts are empowered to provide special provisional remedies, including issuing a restraining order against the accused or defendant in cases of violence among immediate family members living in the same domicile or household; ordering the temporary custody of children in all civil actions for their custody; and ordering the giving of support *pendente lite* (pending the litigation).

1.4 What are potential causes of action?

Victims of domestic violence have grounds to file criminal actions against the perpetrator, actions that have for its purpose the provision of support, as well as actions to prevent further violence such as a *barangay* protection order, temporary protection order and permanent protection order. Damages may also be awarded to a victim of domestic violence, as the VAWC Act provides that any victim of violence under this law is entitled to actual, compensatory, moral and exemplary damages.²³

2 Introduction: framework guiding domestic violence law

2.1 Are there civil and criminal legal remedies for domestic violence victims?

Victims of domestic violence have grounds to file criminal actions against the perpetrator, actions that have for its purpose the provision of support, as well as actions to prevent further violence such as a *barangay* protection order, temporary protection order and permanent protection order. Damages may also be awarded to a victim of domestic violence, as the VAWC Act provides that any victim of violence under this law is entitled to actual, compensatory, moral and exemplary damages.

2.2 Is protection from domestic violence identified in national law as a human right?

Yes. The Philippines recognizes domestic violence as a violation of human rights. This is expressed in Section 2 of the VAWC Act:

Sec. 2. Declaration of Policy.- It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

Towards this end, the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party.

2.3 Has your country signed and ratified the Conventions?

Yes, the Philippines signed and ratified the CEDAW on 5 August 1981 and its Optional Protocol on 12 November 2003.

2.4 If it has ratified the Maputo Protocol, how has it been implemented into national law (African Union member states only)?

This does not apply to the Philippines.

2.5 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?

The recommendations part of General Comment No. 35 was implemented into national law through the enactment of the VAWC Act in 2004 and the Safe Spaces Act in 2018.

2.6 If the Conventions have not been ratified or signed, is it envisaged that your country will do so?

This does not apply to the Philippines, as it has ratified the CEDAW and its Optional Protocol.

3 Similarities and differences in terminology

Term	Definition
Domestic violence	Under the VAWC Act, domestic violence is referred to as violence against women and children, which is defined as any act or a series of acts committed by any person against a woman who is his wife, former wife or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or outside the family abode, which results in or is likely to result in physical, sexual or psychological harm or suffering, or economic abuse. ²⁴
Stalking	According to the VAWC Act, stalking refers to an intentional act committed by a person who, knowingly and without lawful justification, follows the woman or her child or places the woman or her child under surveillance directly or indirectly, or a combination of both. ²⁵
Harassment	Harassment has no specific definition in the VAWC Act. However, the Anti-Sexual Harassment Act defines sexual harassment. The law provides that sexual harassment can be committed in any of the following scenarios: (i) in a work-related or employment environment when the sexual favor is made as a condition to being hired or in the employment, reemployment or continued employment of the individual, or in granting the individual favorable compensation, terms of conditions, promotions or privileges, among others; or (ii) in an education or training environment when the sexual favor is made as a condition to giving a passing grade, or granting honors and scholarships, or paying a stipend, allowance or other benefits, privileges or consideration, among others. ²⁶
Victim	According to the VAWC Act, a victim refers to a woman who is the abuser's wife, former wife or a woman with whom the abuser has or had a sexual or dating relationship, or with whom the abuser has a common child, or against the woman's child whether legitimate or illegitimate, within or outside the family abode, who experiences physical, sexual or psychological harm or suffering, or economic abuse. Moreover, the law defines children as those persons below 18 years old or those who are older but are incapable of taking care of themselves as defined under Republic Act No. 7610. It includes the biological children of the victim and other children under her care. ²⁷
Abuser	The abuser in the VAWC Act refers to any person who commits any act or a series of acts against a woman who is his wife, former wife or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against the woman's child whether legitimate or illegitimate, within or outside the family abode, which results in or is likely to result in physical, sexual or psychological harm or suffering, or economic abuse. ²⁸

Term	Definition
<p>Civil protection order</p>	<p>The Philippines does not have "civil protection orders," but has several other types of protection orders.</p> <p>According to the VAWC Act, a protection order is issued to prevent further acts of violence against a woman or her child and to grant other necessary relief. The relief granted under a protection order serves the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order will be enforced by law enforcement agencies. The protection orders under the VAWC Act are a <i>barangay</i> protection order, temporary protection order and permanent protection order.²⁹</p>
<p>Causes of action</p>	<p>The acts that may trigger a criminal action under the VAWC Act include the following:³⁰</p> <ul style="list-style-type: none"> (a) causing physical harm to the woman or her child (b) threatening to cause the woman or her child physical harm (c) attempting to cause the woman or her child physical harm (d) placing the woman or her child in fear of imminent physical harm (e) attempting to compel or compelling the woman or her child to engage in conduct that the woman or her child has the right to desist from, or to desist from conduct that the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or the threat of force, physical or other harm or the threat of physical or other harm, or intimidation directed against the woman or her child (f) inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions (g) causing or attempting to cause the woman or her child to engage in any sexual activity that does not constitute rape, by force or the threat of force, physical harm or through intimidation directed against the woman or her child, or her immediate family (h) engaging in purposeful, knowing or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child

Term	Definition
	(i) causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and the denial of financial support or custody of minor children of access to the woman's child/children
Marital rape	<p>Marital rape has no specific definition in the VAWC Act.</p> <p>However, the RPC defines rape in such a way that an act of rape can be committed even during a marriage. This is because, under the RPC, rape can be committed without any qualification as to whether the perpetrator and the victim are married, so long as it involves a man who has sexual intercourse with a woman under any of the following circumstances:</p> <ul style="list-style-type: none"> (a) through force, threat or intimidation (b) when the offended party is deprived of reason or otherwise unconscious (c) by means of fraudulent machination or grave abuse of authority <p>when the offended party is under 12 years old or mentally disabled, even if none of the circumstances mentioned above are present³¹</p>

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

Other domestic violence terms worth noting are as follows:

Term	Definition
Physical violence	Physical violence refers to acts that include bodily or physical harm. ³²
Sexual violence	<p>Sexual violence refers to an act that is sexual in nature, committed against a woman or her child. It includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> (a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films of it, forcing the wife and lover to live in the conjugal home or to sleep together in the same room with the abuser (b) acts causing or attempting to cause the victim to engage in any sexual activity by force, the threat of force, physical or other harm, or the threat of physical or other harm or coercion (c) prostituting the woman or child³³

Term	Definition
Psychological violence	Psychological violence refers to acts or omissions causing or likely to cause mental or emotional suffering to the victim such as, but not limited to, intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, to witness pornography in any form, to witness abusive injury to pets, or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children. ³⁴
Economic abuse	Economic abuse refers to acts that make or attempt to make a woman financially dependent, which includes, but is not limited to, the following: <ul style="list-style-type: none"> <li data-bbox="587 725 1410 927">(a) withdrawing financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases where the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code of the Philippines <li data-bbox="587 949 1410 1039">(b) depriving or threatening to deprive the victim of financial resources, and the right to use and enjoy the conjugal, community or property owned in common <li data-bbox="587 1061 1091 1106">(c) destroying household property <li data-bbox="587 1128 1362 1173">(d) controlling the victims' own money or properties, or solely controlling the conjugal money or properties³⁵
Battery	Battery refers to an act of inflicting physical harm upon the woman or her child resulting in physical and psychological or emotional distress. ³⁶
Battered woman syndrome	Battered woman syndrome refers to a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse. ³⁷
Safe place or shelter	Safe place or shelter refers to any home or institution maintained or managed by the Department of Social Welfare and Development (DSWD), or by any other agency or voluntary organization accredited by the DSWD, or any other suitable place the resident of which is willing to temporarily receive the victim. ³⁸

4 Protection for domestic violence victims and relief granted

4.1 Civil protection orders

4.1.1 Are there civil protection orders available to victims of domestic abuse?

The Philippines does not have "civil protection orders," but has a *barangay* protection order, temporary protection order and permanent protection order.³⁹

4.1.2 Who can petition for civil protection orders?

Under the VAWC Act, the following may apply for protection orders:

- (a) the offended party (victim)
- (b) parents or guardians of the offended party
- (c) ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity
- (d) officers or social workers of the DSWD or social workers of local government units
- (e) police officers, preferably those in charge of women and children's desks
- (f) *Punong Barangay* or *Barangay Kagawad*⁴⁰
- (g) lawyer, counselor, therapist or healthcare provider of the petitioner
- (h) at least two concerned responsible citizens of the city or municipality where the violence against women and their children occurred who have personal knowledge of the offense committed⁴¹

If the petitioner is not the victim, the petition for the civil protection order should be accompanied by an affidavit of the petitioner attesting that the person has the authority to file the petition. It must outline the circumstances of the abuse suffered by the victim, as well as the consent given by or refusal of the victim to file the petition.⁴²

If the victim files for the protection order, this suspends the right of all the other authorized parties above to file similar petitions. However, if an authorized party has previously filed a petition and the victim later files one, the latter's petition will not be dismissed but it will be consolidated with the petition filed earlier.⁴³

4.1.3 Are there temporary custody of a child or child support orders?

A victim under the VAWC Act may ask for temporary or permanent custody of her children.⁴⁴

The court may also direct the payment of child support through the temporary protection order or permanent protection order if the woman and child are entitled to it. The court may order a percentage of the abuser's income to be withheld by his employer for the same to be automatically remitted directly to the victim.⁴⁵

In any event, the woman will be entitled to the custody and support of her child/children. Even if the woman suffers from battered woman syndrome, she is not disqualified from having custody of her children. Moreover, the perpetrator of battered woman syndrome cannot be given custody of minor children.⁴⁶

The IRR of the VAWC Act provides that the DSWD will take protective custody of the abused child whether or not a protection order has been issued under the VAWC Act.⁴⁷

4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

Yes. The abuser may be temporarily or permanently removed and excluded from the residence of the victim regardless of whoever owns the residence, where no property rights are violated. The respondent may also be directed to stay away from the petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment or any specific place frequented by the petitioner, as well as any designated family or household member.⁴⁸ Reliefs may be granted under a temporary protection order or permanent protection order.⁴⁹

4.1.5 Are there any other types of emergency, preventive and civil protection orders?

No. Only the three types of protection orders mentioned earlier exist under Philippine law.

However, these protection orders already cover several reliefs such as paying medical expenses, directing the lawful use of the petitioner of essential personal effects, prohibiting the respondent from communicating with the petitioner and prohibiting the abuser from using or possessing any firearm or deadly weapon.⁵⁰

4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

Yes. Under the VAWC Act, the following may apply for protection orders:

- (a) the offended party (victim)
- (b) parents or guardians of the offended party
- (c) ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity
- (d) officers or social workers of the DSWD or social workers of local government units
- (e) police officers, preferably those in charge of women and children's desks
- (f) *Punong Barangay* or *Barangay Kagawad*⁶¹
- (g) lawyer, counselor, therapist or healthcare provider of the petitioner
- (h) at least two concerned responsible citizens of the city or municipality where the violence against women and their children occurred who have personal knowledge of the offense committed⁵²

4.1.7 Are there different types of civil protection orders, e.g., for a short-term period?

Yes. A *barangay* protection order and temporary protection order are short-term protection orders, while the permanent protection order is permanent. A *barangay* protection order is effective for 15 days, while a temporary protection order is valid for 30 days.

The head of the *barangay*, which is the smallest local government unit in the Philippines, issues the *barangay* protection order. A *barangay* protection order orders the perpetrator to desist from causing or threatening to cause physical harm to the woman or her child. A *barangay* protection

order can also prohibit the abuser from contacting or communicating with the victim-survivor, directly or indirectly.⁵³ In the *barangay* proceedings, nonlawyer advocates may accompany the parties.⁵⁴

A temporary protection order is issued by the courts, granting any, some or all of the reliefs allowed under the VAWC Act. The determination of whether the order can be issued is *ex parte*. The court will schedule a hearing on issuing a permanent order prior to or on the date of the expiration of the temporary protection order.⁵⁵

A permanent protection order is also issued by the court after notice and a hearing, but it has a more permanent character. Much like the temporary protection order, the court may grant any, some or all of the reliefs under the VAWC Act. Regardless of whether the aggressor is convicted of a violation of the VAWC Act or is acquitted, the court has to determine whether the permanent protection order will become final. This would include a situation where there is no clear evidence showing that the act from which the order might arise did not exist. The lapse of time between the act of violence and filing the application for a permanent protection order will not be a ground to deny issuing the permanent protection order to the victim.⁵⁶

Applying for a *barangay* protection order or being granted one will not prevent the victim from applying for a temporary protection order/permanent protection order with the courts or for the courts to grant a temporary protection order/permanent protection order. However, once the courts grant a temporary protection order/permanent protection order, the *barangay* can no longer grant a *barangay* protection order.⁵⁷

4.1.8 Are *ex parte* orders permitted without the aggressor being present?

Yes. A *barangay* protection order is granted *ex parte*, without notice or a hearing, to the respondent.⁵⁸

For temporary protection orders, whether they are granted is also determined *ex parte*.⁵⁹ If the court has reasonable grounds to believe that the imminent danger of violence against women and their children exists or is about to recur, the court may issue *ex parte* a temporary protection order.⁶⁰

Permanent protection orders are issued by the court after notice and a hearing.⁶¹ However, even if the aggressor does not appear despite prior notice, has no lawyer or his lawyer is unavailable, these would not be grounds to reschedule the hearing on the merits for issuing the permanent protection order.⁶² The *ex parte* presentation of evidence is allowed if the respondent has filed his opposition but fails to appear at the preliminary conference of the case.⁶³

4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

Yes, they may be extended to family members. Protection orders may extend other forms of relief to designated family or household members of the victim if she files for one. Should the victim pursue this protection, both the victim and the designated family or household member should consent to the relief.⁶⁴ One of these reliefs includes directing the respondent to stay away from the designated family or household members of the victim and to stay away from the residence, school, place of employment or any specified place frequented by the designated family or household member of the victim.⁶⁵ Directing the respondent to stay away from these places would assist in preventing abuse or intimidation of the victim's family or household members.

4.1.10 How long do the orders last?

A *barangay* protection order is effective for 15 days.⁶⁶ A temporary protection order is effective for 30 days.⁶⁷ A permanent protection order is effective until the court revokes it. It can be revoked if the person in whose favor the permanent protection order was issued requests the same.⁶⁸

4.1.11 Please provide any resources or hyperlinks to websites displaying data on how often civil protection orders are granted and any demographic information from the last two to four years, e.g., police complaints related to domestic violence, prosecutions of domestic violence and convictions on domestic and sexual violence.

<https://www.psa.gov.ph/content/domestic-violence-4>

<https://psa.gov.ph/content/domestic-violence-3>

<https://psa.gov.ph/content/one-four-women-have-ever-experienced-spousal-violence-preliminary-results-2017-national>

<https://www.api-gbv.org/resources/dvfactsheet-filipino/>

4.2 Steps for receiving a protective order

4.2.1 What documentation is needed to obtain a civil protection order?

There is no specific type of documentation/form of evidence needed to obtain a protection order under the VAWC Act.

However, under the Rules on Violence Against Women and Children, the requirements for a valid petition for a protection order include the personal information of the parties involved; a description of the relationship between the offended party and the respondent; a complete description of the alleged act constituting violence (including the date, time and place of occurrence); and the relief from violence prayed for, including protection orders to cover any designated family or household member who consents to the relief.⁶⁹ The respondent may file an opposition, which must be accompanied by the affidavits of witnesses and show cause why the protection order should not be issued.⁷⁰ If he fails to do so, the court will issue the protection order as may be warranted by the facts alleged in the petition.⁷¹

A *barangay* protection order may be issued *ex parte* by the *Punong Barangay* or, in his absence, the available *Barangay Kagawad*⁷² based on an application that is in writing, signed and verified under oath stating the circumstances of abuse.⁷³

A temporary protection order may be issued *ex parte* by the court if it is satisfied from the verified allegations of the petition that there are reasonable grounds to believe that the imminent danger of violence against women and their children exists or is about to recur.⁷⁴ It may also be issued at a later point in the proceedings, within five days of the termination of the preliminary conference, if the court is satisfied that it is necessary based on the pleadings, stipulations or admissions made by the parties.⁷⁵

A permanent protection order is issued after trial. During trial, documentary, object and/or testimonial evidence may be received to prove that it is necessary.⁷⁶

4.2.2 Does the victim need to attend a hearing?

For a *barangay* protection order, no hearings are conducted prior to its issuance.⁷⁷ For a temporary protection order, the court may issue the same *ex parte* or it may do so after a preliminary conference, which involves prior hearings.⁷⁸ However, the rules issued by the court do not require that the victim attend the hearings. A person who is not the offended party may file the petition. This person is required to be present in the preliminary conference as the "petitioner."⁷⁹ However, if the victim desires to testify, then the victim must personally appear in court subject to special allowances, such as testimony via a live television link or the judge ordering the exclusion of persons from the court to ensure the comfort of the victim.⁸⁰

4.2.3 Can you request remedies?

Yes, the reliefs available under a protection order are not exclusive. The judge is permitted to grant other forms of relief to protect the offended party and any designated family or household member who consents to the relief.⁸¹ Thus, a prayer for other reliefs and remedies may be included in the petition.

4.2.4 Are there time limits?

Yes, a *barangay* protection order is effective for 15 days.⁸² Temporary protection orders are effective for 30 days⁸³ but may be extended for 30 more days each time until a final judgment is rendered.⁸⁴ There are no time limits for permanent protection orders.

4.2.5 Are there different rules in emergencies?

The law and rules allow for the *ex parte* issuance of *barangay* protection orders and temporary protection orders if the situation calls for it.⁸⁵

4.3 Judicial discretion

4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

The judge possesses a wide range of discretion in determining whether a permanent protection order should be granted.

Under the Rules on Violence Against Women and Children, the requirements for a valid petition for a protection order include the personal information of the parties involved; a description of the relationship between the offended party and the respondent; a complete description of the alleged act constituting violence (including the date, time, and place of occurrence); and the relief from violence prayed for, including protection orders to cover any designated family or household member who consents to the relief.⁸⁶ The respondent may file an opposition, which must be accompanied by the affidavits of witnesses and show cause why the protection order should not be issued.⁸⁷ If he fails to do so, the court will issue the protection order as may be warranted by the facts alleged in the petition.⁸⁸

While the rules do not specify the threshold or standards against which the judge must evaluate the merits of the petition, it is clear from the above that the evaluation of whether a protection order should be issued largely depends on the judge's evaluation of the facts provided.

To issue a protection order, only a preponderance of evidence is necessary.⁸⁹ The requirement for a valid petition is only a description of the alleged act, without the need to present affidavits of witnesses, in contrast to the requirement for an opposition to the petition. In addition, the rules

enumerate a wide variety of reliefs that may be included when granting a protection order.⁹⁰ Other than the 12 examples of reliefs, the court may grant other forms of relief to protect the offended party and any designated family or household member who consents to the relief.⁹¹

4.3.2 Are there age limits on who can obtain orders?

No, there are no age limits on who can obtain protection orders.

4.4 Restitution and remedies available to victims

4.4.1 Can victims obtain reimbursement for costs and restitution paid?

Yes, victims can ask for costs and restitution to be paid. Victims may file a civil action for damages separate from the petition for a protection order. One of the reliefs that may be granted with the petition for a protection order is the award of actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income, as well as compensatory, moral and exemplary damages.⁹²

The petition may be filed ahead of the civil action and it may proceed separately. Upon a motion of the petitioner, the court may consolidate the petition with the civil action. If the petition is not filed ahead of the civil action, it is deemed instituted with the civil action for damages.⁹³

4.4.2 Can they recover wages and profits lost?

Yes, please see the answer to the first question of Section 4.4.

4.4.3 Is a separate civil process required?

Yes. To claim damages, the remedy of the offended party is to file a civil action for damages.⁹⁴ The award of damages as a relief that may be included in a petition for a protection order is expressly made subject to Section 35, which states that the 1997 Rules of Civil Procedure govern the civil action for damages.

5 Prosecutorial considerations

5.1 Police procedures

5.1.1 When do the police get involved in domestic disputes or legal actions?

The police generally get involved in domestic disputes or legal actions when they receive a complaint relating to a violation of the VAWC Act, when they encounter an ongoing act of domestic violence *in flagrante delicto* (caught in the act) and when they enforce a warrant of arrest issued by a court relating to a legal action arising out of a domestic dispute.

5.1.2 What circumstances affect law firm involvement?

Police involvement does not generally affect law firm involvement. The law firm can assist in preparing and filing a complaint before law enforcement agencies and in coordinating with the police when effecting a warrant of arrest.

5.2 Standard of proof

5.2.1 Is proof required by any legal means?

Yes. Proof is required throughout the criminal prosecution process, which is a two-stage process. A preliminary investigation is held before a public prosecutor requires proof sufficient to establish probable cause that a crime has been committed and that the respondent has committed the same. Once a formal charge is filed in court, the proof required is proof beyond a reasonable doubt that a crime has been committed and the accused has committed the same.

5.2.2 Are there any requirements regarding evidence and documents?

Yes. Evidence, whether testimonial or documentary, should be relevant and admissible in accordance with the Revised Rules on Evidence of the Philippines.

5.2.3 Is proof "beyond a reasonable doubt" required?

Yes, but only once a formal charge has been filed in court. During the preliminary investigation, only "probable cause" is required.

5.2.4 Is the standard of proof different for *ex parte* orders?

Yes. The Rules on Violence Against Women and Children only require the court to have "reasonable ground to believe that an imminent danger of violence against women and their children exists or is about to recur" for it to issue *ex parte* a temporary protection order.

5.3 Affirmative defenses

5.3.1 Are affirmative defenses available to the accused?

Yes. Under the RPC, there are circumstances that may justify or exempt someone from criminal liability. Under Article 11, self-defense may be invoked by the accused to justify his actions and exempt him from liability.⁹⁵ Admission of insanity can also exempt one from criminal liability.⁹⁶

However, it is not a valid ground for exemption from civil liability. The following circumstances also exempt the accused from criminal liability:

- any person who, while performing a lawful act with due care, causes an injury by mere accident without fault or intention of causing it
- any person who acts under the compulsion of an irresistible force
- any person who acts under the impulse of an uncontrollable fear of an equal or greater injury
- any person who fails to perform an act required by law when prevented by some lawful or insuperable cause⁹⁷

5.3.2 Is willful intent required?

It may or may not be required depending on the cause of action used as a basis for filing a criminal case. Filing a criminal case based on a crime under the RPC requires willful intent to commit a crime.

On the other hand, a criminal case based on the VAWC Act or other special laws outside of the RPC may proceed without proof of willful intent to commit a crime. However, at the least, there should be willful intent to perpetrate the act that is the subject of the criminal case.

5.3.3 Are false accusations punishable for the victim?

Yes. False accusations are punishable as libel or slander under Philippine law. Under the RPC, libel includes the public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit or contempt of a person.⁹⁸ It may be committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition or any other similar means.⁹⁹ Slander refers to oral defamation or libel.¹⁰⁰

5.3.4 How is consent discussed in the law?

Consent is mainly discussed in the RPC. It is not discussed in the VAWC Act. Under the RPC, rape is considered generally committed by force, threat or intimidation or upon a person deprived of reason or otherwise unconscious, or by means of fraudulent machination or grave abuse of authority.¹⁰¹ However, if the victim is under 12 years old or mentally disabled, the accused may be guilty of rape even with the consent of the victim.¹⁰²

Furthermore, a person may be charged with acts of lasciviousness with the consent of the offended party if the victim is a woman who is a virgin, single or a widow of good reputation (above 12 years old but below 18 years old), or a sister or descendant (regardless of reputation or age).¹⁰³

Under the RPC, the marriage of the offender to the offended party will extinguish the criminal action or remit the penalty already imposed upon him in cases of seduction, acts of lasciviousness and rape.¹⁰⁴

5.3.5 Is self-defense or insanity a defense?

Yes, insanity or self-defense is a defense that the accused can invoke to exempt himself from criminal liability.

5.4 Witness status

5.4.1 What is a witness's duty to testify honestly and completely?

Under Rule 132 of the Philippine Rules on Evidence, a witness has the obligation to answer questions, although their answer may tend to establish a claim against them.¹⁰⁵ However, a witness can only testify on facts on which they have personal knowledge.¹⁰⁶

5.4.2 Who may abstain from testifying in certain situations?

The accused may abstain from testifying in criminal proceedings.¹⁰⁷ A person cannot be compelled to testify against their ascendants or descendants, except when the testimony is indispensable in a crime against that person or by one parent against the other.¹⁰⁸

5.4.3 What potential "excuses" can a witness raise to refuse to testify in a domestic violence action?

Under Rule 132 of the Philippine Rules on Evidence, a witness has the following rights:

1. to be protected from irrelevant, improper or insulting questions, and from a harsh or insulting demeanor
2. not to be examined, except only regarding matters pertinent to the issue
3. not to give an answer that will subject them to a penalty for an offense, unless otherwise provided by law
4. not to give an answer that will degrade their reputation, unless it is the very fact at issue or a fact from which the fact at issue would be presumed¹⁰⁹

However, generally, a witness may not refuse to testify. A witness may only refuse to answer certain questions.

5.4.4 What is the impact of domestic violence on witnesses who are children?

The Rule on the Examination of a Child Witness will apply to child witnesses who are victims of a crime, accused of a crime and witnesses to a crime. The rule includes provisions on appointing a guardian *ad litem*,¹¹⁰ an interpreter,¹¹¹ a facilitator¹¹² or support persons¹¹³ during hearings. The rule also includes provisions on special modes of conducting hearings such as live television link testimony¹¹⁴ in criminal cases, providing screens or one-way mirrors to shield the child from the accused¹¹⁵ and excluding the public when a child testifies.¹¹⁶

Furthermore, evidence offered to prove that the alleged victim engaged in other sexual behavior and evidence to prove the sexual predisposition of a victim will not be admissible in criminal proceedings involving child sexual abuse.¹¹⁷

5.4.5 Can children be called upon to testify?

Yes, children can be called upon to testify. Under Section 6 of the Rule on the Examination of a Child Witness, every child is presumed qualified to be a witness. However, the court may conduct a competency examination, on its own or upon the motion of a party, where there is a doubt regarding the ability of the child to perceive, remember and communicate their testimony.

5.4.6 What is the effect of a child victim on the charges against the offender?

Where the victim of the crime is a child, the circumstances can aggravate the imposable penalty or they become subject to a special penal law, which would commonly have higher penalties than those imposed under the RPC.

For example, in the crime of rape under the RPC, when the victim is a minor and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree or the common law spouse of the parent of the victim, the penalty of death will be imposed. Rape without aggravating circumstances is penalized by *reclusion perpetua*, which is a penalty lower in degree than death. Presently, the penalty of death is suspended by law. Thus, the highest penalty imposed is *reclusion perpetua*, which translates to 30 years of imprisonment.

5.5 Penalties and sentencing; penalty enhancements

5.5.1 What are the penalties and sentencing laws for first-time domestic violence offenses?

There are no separate penalties for first-time domestic violence offenses. All acts of violence committed against women and their children are punishable in the same measure, regardless of whether it is a first-time offense or a subsequent offense.¹¹⁸ The criminal penalty to be imposed varies and it is dependent on the act of violence committed by the abuser.¹¹⁹

5.5.2 Are there criminal penalties?

There are criminal penalties for the crime of violence against women and their children as provided for in the VAWC Act. The criminal penalty to be imposed varies and it is dependent on the act of violence committed by the abuser.¹²⁰

5.5.3 What is the result of a violation of an existing order for protection?

The VAWC Act provides that all temporary protection orders and permanent protection orders are enforceable anywhere in the Philippines, and a violation of these orders is punishable with a fine ranging from PHP 5,000 (approximately USD 100) to PHP 50,000 (approximately USD 1,000) and/or imprisonment for six months.¹²¹

5.5.4 What fines and other penalties are imposed besides incarceration and liberty restriction?

Any victim of violence under the VAWC Act will be entitled to actual, compensatory, moral and exemplary damages.¹²² Furthermore, in addition to imprisonment, the perpetrator will be subjected to the following penalties: (i) paying a fine in the amount of no less than PHP 100,000 (approximately USD 2,000) but no more than PHP 300,000 (approximately USD 6,000); and (ii) mandatory psychological counseling or psychiatric treatment.¹²³

5.6 Post-release restrictions

5.6.1 Does the law notify the victim of the offender's release from custody?

The VAWC Act does not specifically provide any information or any mandatory obligation regarding whether the victim will be notified of the offender's release from custody.

6 Special issues

6.1 Battered woman syndrome

6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered woman syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations.)

Yes. Under Philippine law, battered woman syndrome may be pleaded as self-defense. In general, a successful invocation of self-defense requires the concurrence of three elements: (i) unlawful aggression; (ii) reasonable necessity of the means employed to prevent or repel it; and (iii) lack of sufficient provocation on the part of the person defending herself.¹²⁴

However, if a victim were found by the courts to be suffering from battered woman syndrome, she would not incur any criminal and civil liability, even in the absence of any of the elements required under Philippine criminal law to justify self-defense.

However, battered woman syndrome has only been discussed as a defense in the case of *People v. Genosa*, where the victim committed parricide by killing her spouse. It has yet to be determined whether battered woman syndrome would be applicable as a defense in other crimes, especially if they are less serious (e.g., physical injuries).

Under the law, "battered woman syndrome" refers to a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse.¹²⁵ In determining the woman's state of mind at the time of committing the crime, the courts will be assisted by expert psychiatrists/psychologists.¹²⁶

Battery under the law refers to an act of inflicting physical harm upon the woman or her child, resulting in physical and psychological or emotional distress.¹²⁷ The cycle of violence has three phrases: (i) the tension-building phase; (ii) the acute battering phase; and (iii) the tranquil phase.

To successfully invoke battered woman syndrome as self-defense, there are three requirements. **First**, there must be at least two battering episodes between the victim and her intimate partner. **Second**, the final acute battering episode preceding the killing of the batterer must have produced in the battered person's mind an actual fear of imminent harm from her batterer and an honest belief that she needed to use force to save her life. **Third**, at the time of the killing, the batterer must have posed probable grave harm to the accused based on the history of violence perpetrated by the former against the latter.¹²⁸

6.2 Domestic violence in the workplace

6.2.1 Can courts issue orders to protect employees suffering from domestic violence?

Under the VAWC Act, a victim of acts under this law may apply for a *barangay* protection order, temporary protection order or permanent protection order. The relief granted under a protection order serves to safeguard the victim from further harm, minimize any disruption in the victim's daily life, and facilitate the opportunity and ability of the victim to independently regain control over her life. Law enforcement agencies will enforce it.¹²⁹ The court with jurisdiction may issue either a

temporary protection order or a permanent protection order upon an application.¹³⁰ The application for a protection order must be in writing, signed and verified under oath by the applicant. It may be filed as an independent action or as incidental relief in any civil or criminal case filed based on the VAWC Act.¹³¹

However, the VAWC Act only applies to any act or a series of acts committed by any person against a woman who is his wife, former wife or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or outside the family abode.¹³²

The Philippine legal system does not have a specific law dealing with employee victims of domestic violence. The VAWC Act generally applies to any kind of setting so long as the requirements under the previous paragraph are satisfied.

6.2.2 Can departure be deemed "for good cause" if related to domestic violence?

Philippine law is silent on this matter. However, under the Labor Code of the Philippines, an employee may terminate the employee-employer relationship without just cause by serving a written notice on the employer at least one month in advance.¹³³

On the other hand, an employee may terminate the relationship without serving any notice on the employer for any of the following just causes:

1. serious insult by the employer or their representative to the honor and person of the employee
2. inhuman and unbearable treatment of the employee by the employer or their representative
3. committing a crime or offense by the employer or their representative against the person of the employee or any of the immediate members of their family
4. other causes analogous to any of the foregoing¹³⁴

6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?

No, there is no leave provided under the law for family members of domestic violence victims. However, under the VAWC Act, the victim is entitled to a 10-day paid leave of absence, extendable when the necessity arises as specified in the protection order.¹³⁵

6.3 Immigration

6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents of your country from using immigration laws to perpetrate domestic violence against their spouse?

No, Philippine law does not have any provisions intended to prevent abusers who are citizens or permanent residents of the Philippines from using immigration laws to perpetrate domestic violence against their spouse.

6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?

A battered immigrant cannot obtain special immigration remedies when cooperating with law enforcement. However, under Section 37(a)(3) of the Philippine Immigration Act of 1940, being

convicted of a crime involving moral turpitude is one of the grounds for deportation. As such, deportation proceedings may be commenced upon the conviction of a person involving moral turpitude.

6.3.3 Does domestic violence law discuss asylum accessibility?

Philippine domestic violence laws do not discuss asylum accessibility.

6.4 Armed forces

6.4.1 Can a victim seek a military protective order if the abuser is in active military?

No, no law in the Philippines allows for the issuance of a military protective order if the abuser is in active military.

6.5 Child custody and child/spousal support

6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?

Granting a victim custody of children in domestic violence cases is one of the available reliefs in a protection order. The Supreme Court has laid out the following standards in determining custody. The judge is to make use of the "best interests of the child" standard. The fact that a woman is suffering from battered woman syndrome should not disqualify her from having custody of the child. Lastly, in no case will the custody of minor children be given to the batterer of the woman.¹³⁶

6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?

Yes, the rules do not provide any limitation on witnesses who may testify.

6.6 Housing rights of domestic violence victims

6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?

Philippine law is silent on this matter.

6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?

Philippine law is silent on this matter. However, this is subject to contractual stipulations if they are part of the agreed grounds for the termination of the lease. There could be a broad provision in the contract under which domestic violence may fall that may be used as a basis for termination.

6.6.3 Can an order exclude the abuser from the residence?

Yes, an order can exclude the abuser from the residence. Under the VAWC Act, a protection order may include the following reliefs:

- removal and exclusion of the abuser from the residence of the victim, regardless of the ownership of the residence, either temporarily for the purpose of protecting the victim or permanently where no property rights are violated¹³⁷
- directing the abuser to stay away from the victim and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment or any specified place that the latter frequents¹³⁸

6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?

Protection orders under the VAWC Act may allow the removal or exclusion of the abuser from the residence of the victim, regardless of ownership. However, the law does not mention preventing the alienation or mortgage of the property or residence. Although, there is a catch-all relief enumerated under the same provision that states that the protection order may provide other forms of relief as the court deems necessary to protect and provide for the safety of the victim and any designated family or household member, provided that the victim and any designated family or household member consents to the relief.¹³⁹ This may be used as a basis for prohibiting the alienation or mortgage of the property.

Furthermore, the Rules on Family Homes should be considered. The rules depend on when the family home was constructed. For family homes constructed before 3 August 1988, the Civil Code of the Philippines applies. For those constructed after this date, the Family Code of the Philippines applies. However, both codes make it clear that family homes may be sold, alienated or encumbered with the consent of both the person who constituted the house and their spouse.¹⁴⁰ Under the Civil Code of the Philippines, alienation also requires the approval of the court.¹⁴¹ On the other hand, under the Family Code of the Philippines, the court only becomes involved when there is conflict.¹⁴²

Endnotes

- ¹ Section 2 of the VAWC Act.
- ² Section 3 of the VAWC Act.
- ³ Section 3 of the VAWC Act.
- ⁴ Article 335 of the RPC.
- ⁵ Article 336 of the RPC.
- ⁶ Articles 337-339 of the RPC.
- ⁷ Articles 342 and 343 of the RPC.
- ⁸ Articles 256 and 257 of the RPC.
- ⁹ Articles 262-266 of the RPC.
- ¹⁰ Articles 282-288 of the RPC.
- ¹¹ Section 4 (b) of the Anti-Trafficking Act.
- ¹² Section 4 (c) of the Anti-Trafficking Act.
- ¹³ Section 4 (e) of the Anti-Trafficking Act.
- ¹⁴ G.R. No. 232678, 3 July 2019.
- ¹⁵ G.R. No. 229762, 28 November 2018.
- ¹⁶ G.R. No. 201292, 1 August 2018.
- ¹⁷ G.R. No. 202275, 17 July 2018.
- ¹⁸ G.R. No. 223477, 14 February 2018.
- ¹⁹ G.R. No. 212448, 11 January 2018.
- ²⁰ G.R. No. 247429, 8 September 2020.
- ²¹ Section 5(i) of the VAWC Act:
Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or access to the woman's child/children.
- ²² Section 5 of the Family Courts Act.
- ²³ Section 36 of the VAWC Act.
- ²⁴ Section 3 of the VAWC Act:
Definition of Terms. - As used in this Act,
 - (a) "*Violence against women and their children*" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:
 - A. "*Physical Violence*" refers to acts that include bodily or physical harm;
 - B. "*Sexual violence*" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:
 - a.) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
 - b.) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c.) Prostituting the woman or child.
 - C. "*Psychological violence*" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.
 - D. "*Economic abuse*" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

-
1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
 2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;
 3. destroying household property;
 4. controlling the victims' own money or properties or solely controlling the conjugal money or properties.

²⁵ Section 3(d) of the VAWC Act.

²⁶ Section 3 of the Anti-Sexual Harassment Act:

Work, Education or Training-Related, Sexual Harassment Defined.- Work, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainer, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

(a) In a work-related or employment environment, sexual harassment is committed when:

- 1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms of conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;
- 2) The above acts would impair the employee's rights or privileges under existing labor laws; or
- 3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

(b) In an education or training environment, sexual harassment is committed:

- 1) Against one who is under the care, custody or supervision of the offender;
- 2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;
- 3) When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or consideration; or
- 4) When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.

Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Act.

²⁷ Sections 3(a) and (h) of the VAWC Act.

²⁸ Section 3(a) of the VAWC Act.

²⁹ Section 8 of the VAWC Act:

Protection Orders. - A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the *barangay* protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). The protection orders that may be issued under this Act shall include any, some or all of the following reliefs:

- a.) Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the acts mentioned in Section 5 of this Act;
- b.) Prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, directly or indirectly;
- c.) Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent has gathered his things and escort respondent from the residence;
- d.) Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;
- e.) Directing lawful possession and use by petitioner of an automobile and other essential personal effects, regardless of ownership, and directing the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to the possession of the automobile and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;
- f.) Granting a temporary or permanent custody of a child/children to the petitioner;
- g.) Directing the respondent to provide support to the woman and/or her child if entitled to legal support.

Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically

remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court;

- h.) Prohibition of the respondent from any use or possession of any firearm or deadly weapon and order him to surrender the same to the court for appropriate disposition by the court, including revocation of license and disqualification to apply for any license to use or possess a firearm. If the offender is a law enforcement agent, the court shall order the offender to surrender his firearm and shall direct the appropriate authority to investigate on the offender and take appropriate action on matter;
- i.) Restitution for actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income;
- j.) Directing the DSWD or any appropriate agency to provide petitioner may need; and
- k.) Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief.

Any of the reliefs provided under this section shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage. The issuance of a BPO or the pendency of an application for BPO shall not preclude a petitioner from applying for, or the court from granting a TPO or PPO.

³⁰ Section 5 of the VAWC Act:

Acts of Violence Against Women and Their Children. - The crime of violence against women and their children is committed through any of the following acts:

- a.) Causing physical harm to the woman or her child;
- b.) Threatening to cause the woman or her child physical harm;
- c.) Attempting to cause the woman or her child physical harm;
- d.) Placing the woman or her child in fear of imminent physical harm;
- e.) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:
 - 1. Threatening to deprive or actually depriving the woman or her child of custody to her/his family;
 - 2. Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;
 - 3. Depriving or threatening to deprive the woman or her child of a legal right;
 - 4. Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;
- f.) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;
- g.) Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;
- h.) Engaging in purposeful, knowing, or reckless conduct, personally or through another that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:
 - 1. Stalking or following the woman or her child in public or private places;
 - 2. Peering in the window or lingering outside the residence of the woman or her child;
 - 3. Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;
 - 4. Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and
 - 5. Engaging in any form of harassment or violence;
- i.) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children of access to the woman's child/children.

³¹ Section 2 of the Anti-Rape Law:

Rape as a Crime Against Persons. - The crime of rape shall hereafter be classified as a Crime Against Persons under Title Eight of Act No. 3815, as amended, otherwise known as the Revised Penal Code. Accordingly, there shall be incorporated into Title Eight of the same Code a new chapter to be known as Chapter Three on Rape, to read as follows:

Chapter Three

Rape

Article 266-A. Rape: *When And How Committed.* - Rape is committed:

- 1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a. Through force, threat, or intimidation;
 - b. When the offended party is deprived of reason or otherwise unconscious;
 - c. By means of fraudulent machination or grave abuse of authority; and

d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

³² Section 3(a)(A) of the VAWC Act.

³³ Section 3(a)(B) of the VAWC Act.

³⁴ Section 3(a)(C) of the VAWC Act.

³⁵ Section 3(a)(D) of the VAWC Act.

³⁶ Section 3(b) of the VAWC Act.

³⁷ Section 3(c) of the VAWC Act.

³⁸ Section 3(g) of the VAWC Act.

³⁹ Section 8 of the VAWC Act.

⁴⁰ This refers to either the head or other officials of the *barangay*, the smallest unit of local government in the Philippines.

⁴¹ Section 9 of the VAWC Act.

⁴² Section 10 of A.M. No. 04-10-11-SC ("**Supreme Court Rule on VAWC**") provides for certain requirements when the petitioner for the civil protection order is not the victim herself:

x x x

If the petitioner is not the offended party, the petition shall be accompanied by an affidavit of the petitioner attesting to the following:

(a) facts showing the authority of the petitioner to file the petition;

(b) circumstances of the abuse suffered by the offended party; and

(c) circumstances of consent given by or refusal to consent of the offended party to file the petition.

x x x

⁴³ Section 8 of the Supreme Court Rule on VAWC:

x x x

The filing of a petition for protection order by the offended party suspends the right of all other authorized parties to file similar petitions. A petition filed by the offended party after the filing of a similar petition by an authorized party shall not be dismissed but shall be consolidated with the petition filed earlier.

x x x

⁴⁴ Section 8 (f) of the VAWC Act, "(f) Granting a temporary or permanent custody of a child/children to the petitioner."

⁴⁵ Section 8 (g) of the VAWC Act:

(g) Directing the respondent to provide support to the woman and/or her child if entitled to legal support.

Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court.

⁴⁶ Section 28 of the VAWC Act:

Sec. 28. Custody of children. - The woman victim of violence shall be entitled to the custody and support of her child/children. Children below seven (7) years old older but with mental or physical disabilities shall automatically be given to the mother, with right to support, unless the court finds compelling reasons to order otherwise. A victim who is suffering from battered woman syndrome shall not be disqualified from having custody of her children. In no case shall custody of minor children be given to the perpetrator of a woman who is suffering from battered woman syndrome.

⁴⁷ Section 31 of the IRR of the VAWC Act:

Section 31. Protective Custody. - The DSWD, pursuant to Republic Act No. 7610, shall take protective custody of the abused child whether or not a protection order has been issued under the Act.

⁴⁸ Section 8 (c) and (d) of the VAWC Act:

x x x

(c) Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent has gathered his things and escort respondent from the residence;

-
- (d) Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;

x x x

⁴⁹ Sections 15 and 16 of the VAWC Act:

Sec. 15. Temporary Protection Orders.- Temporary Protection Orders (TPOs) refers to the protection order issued by the court on the date of filing of the application after ex parte determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in this Act and shall be effective for thirty (30) days. The court shall schedule a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service. The TPO shall include notice of the date of the hearing on the merits of the issuance of a PPO.

Sec. 16. Permanent Protection Orders.- Permanent Protection Order (PPO) refers to protection order issued by the court after notice and hearing. Respondents non-appearance despite proper notice, or his lack of a lawyer, or the non-availability of his lawyer shall not be a ground for rescheduling or postponing the hearing on the merits of the issuance of a PPO. If the respondent appears without counsel on the date of the hearing on the PPO, the court shall appoint a lawyer for the respondent and immediately proceed with the hearing. In case the respondent fails to appear despite proper notice, the court shall allow ex parte presentation of the evidence by the applicant and render judgment on the basis of the evidence presented. The court shall allow the introduction of any history of abusive conduct of a respondent even if the same was not directed against the applicant or the person for whom the applicant is made. The court shall, to the extent possible, conduct the hearing on the merits of the issuance of a PPO in one (1) day. Where the court is unable to conduct the hearing within one (1) day and the TPO issued is due to expire, the court shall continuously extend or renew the TPO for a period of thirty (30) days at each particular time until final judgment is issued. The extended or renewed TPO may be modified by the court as may be necessary or applicable to address the needs of the applicant. The court may grant any, some or all of the reliefs specified in Sec. 8 hereof in a PPO. A PPO shall be effective until revoked by a court upon application of the person in whose favor the order was issued. The court shall ensure immediate personal service of the PPO on respondent. The court shall not deny the issuance of protection order on the basis of the lapse of time between the act of violence and the filing of the application. Regardless of the conviction or acquittal of the respondent, the Court must determine whether or not the PPO shall become final. Even in a dismissal, a PPO shall be granted as long as there is no clear showing that the act from which the order might arise did not exist.

⁵⁰ Section 8 of the VAWC Act.

⁵¹ This refers to either the head or other officials of the *barangay*, the smallest unit of local government in the Philippines.

⁵² Section 9 of the VAWC Act.

⁵³ Section 13 of the IRR of the VAWC Act:

Section 13. Barangay Protection Orders. - *Barangay* Protection Orders (BPOs) refer to the protection order issued by the *barangay* ordering the perpetrator/respondent to desist from committing acts under Section 7 (a) and (b) of these Rules. These are causing (a) physical harm to the woman or her child; and (b) threatening to cause the woman or her child physical harm.

The reliefs that may be granted under the BPO are the following:

- a) Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the following acts mentioned in Section 7 (a) and (b) of these Rules; and
- b) Prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the victim-survivor, directly or indirectly.

⁵⁴ Section 14 of the VAWC Act:

Sec. 14. Barangay Protection Orders (BPOs); Who May Issue and How. - Barangay Protection Orders (BPOs) refer to the protection order issued by the *Punong Barangay* ordering the perpetrator to desist from committing acts under Sec. 5 (a) and (b) of this Act. A *Punong Barangay* who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after ex parte determination of the basis of the application. If the *Punong Barangay* is unavailable to act on the application for a BPO, the application shall be acted upon by any available *Barangay Kagawad*. If the BPO is issued by a *Barangay Kagawad* the order must be accompanied by an attestation by the *Barangay Kagawad* that the *Punong Barangay* was unavailable at the time for the issuance of the BPO. BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an ex parte BPO, the *Punong Barangay* or *Barangay Kagawad* shall personally serve a copy of the same on the respondent, or direct any *barangay* official to effect is personal service. The parties may be accompanied by a non-lawyer advocate in any proceeding before the *Punong Barangay*.

⁵⁵ Section 15 of the VAWC Act:

Sec. 15. Temporary Protection Orders. - Temporary Protection Orders (TPOs) refers to the protection order issued by the court on the date of filing of the application after ex parte determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in this Act and shall be effective for thirty (30) days. The court shall schedule a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court

shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service. The TPO shall include notice of the date of the hearing on the merits of the issuance of a PPO.

Section 15 of the Supreme Court Rules on VAWC:

SEC. 15. Ex parte issuance of temporary protection order. - (a) If the court is satisfied from the verified allegations of the petition that there is reasonable ground to believe that an imminent danger of violence against women and their children exists or is about to recur, the court may issue ex parte a temporary protection order which shall be effective for thirty days from service on the party or person sought to be enjoined.

(b) The temporary protection order shall include notice of the date of the preliminary conference and hearing on the merits. The following statements must be printed in bold-faced type or in capital letters on the protection order issued by the court:

"VIOLATION OF THIS ORDER IS PUNISHABLE BY LAW.

"IF THE RESPONDENT APPEARS WITHOUT COUNSEL ON THE DATE OF THE PRELIMINARY CONFERENCE AND HEARING ON THE MERITS ON THE ISSUANCE OF A PERMANENT PROTECTION ORDER, THE COURT SHALL NOT RESCHEDULE OR POSTPONE THE PRELIMINARY CONFERENCE AND HEARING BUT SHALL APPOINT A LAWYER FOR THE RESPONDENT AND IMMEDIATELY PROCEED WITH SAID HEARING.

"IF THE RESPONDENT FAILS TO APPEAR ON THE DATE OF THE PRELIMINARY CONFERENCE AND HEARING ON THE MERITS DESPITE PROPER NOTICE, THE COURT SHALL ALLOW EX PARTE PRESENTATION OF EVIDENCE BY THE PETITIONER AND RENDER JUDGMENT ON THE BASIS OF THE PLEADINGS AND EVIDENCE ON RECORD. NO DELEGATION OF THE RECEPTION OF EVIDENCE SHALL BE ALLOWED."

(c) The court shall likewise order the immediate issuance of a notice requiring the respondent to file an opposition within five days from service. It shall further order service of (1) the notices to file opposition and of dates of the preliminary conference and hearing, (2) the protection order, and (3) copy of the petition, upon the respondent by the court sheriff, or any person authorized by the court, who may obtain the assistance of law enforcement officers.

⁵⁶ Section 16 of the VAWC Act:

Sec. 16. Permanent Protection Orders. - Permanent Protection Order (PPO) refers to protection order issued by the court after notice and hearing. Respondents non-appearance despite proper notice, or his lack of a lawyer, or the non-availability of his lawyer shall not be a ground for rescheduling or postponing the hearing on the merits of the issuance of a PPO. If the respondent appears without counsel on the date of the hearing on the PPO, the court shall appoint a lawyer for the respondent and immediately proceed with the hearing. In case the respondent fails to appear despite proper notice, the court shall allow ex parte presentation of the evidence by the applicant and render judgment on the basis of the evidence presented. The court shall allow the introduction of any history of abusive conduct of a respondent even if the same was not directed against the applicant or the person for whom the applicant is made. The court shall, to the extent possible, conduct the hearing on the merits of the issuance of a PPO in one (1) day. Where the court is unable to conduct the hearing within one (1) day and the TPO issued is due to expire, the court shall continuously extend or renew the TPO for a period of thirty (30) days at each particular time until final judgment is issued. The extended or renewed TPO may be modified by the court as may be necessary or applicable to address the needs of the applicant. The court may grant any, some or all of the reliefs specified in Sec. 8 hereof in a PPO. A PPO shall be effective until revoked by a court upon application of the person in whose favor the order was issued. The court shall ensure immediate personal service of the PPO on respondent. The court shall not deny the issuance of protection order on the basis of the lapse of time between the act of violence and the filing of the application. Regardless of the conviction or acquittal of the respondent, the Court must determine whether or not the PPO shall become final. Even in a dismissal, a PPO shall be granted as long as there is no clear showing that the act from which the order might arise did not exist.

⁵⁷ Section 14 (g) of the VAWC Act:

g) The issuance of a BPO or the pendency of an application for a BPO shall not preclude the victim-survivor/petitioner from applying for, or the court from granting, a TPO or PPO. However, where a Temporary Protection has already been granted by any court, the barangay official may no longer issue a BPO.

⁵⁸ Section 14 of the VAWC Act:

Sec. 14. Barangay Protection Orders (BPOs); Who May Issue and How. - Barangay Protection Orders (BPOs) refer to the protection order issued by the *Punong Barangay* ordering the perpetrator to desist from committing acts under Sec. 5 (a) and (b) of this Act. A *Punong Barangay* who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after ex parte determination of the basis of the application. If the *Punong Barangay* is unavailable to act on the application for a BPO, the application shall be acted upon by any available *Barangay Kagawad*. If the BPO is issued by a *Barangay Kagawad* the order must be accompanied by an attestation by the *Barangay Kagawad* that the *Punong Barangay* was unavailable at the time for the issuance of the BPO. BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an ex parte BPO, the *Punong Barangay* or *Barangay Kagawad* shall personally serve a copy of the same on the respondent, or direct any barangay official to effect is personal service. The parties may be accompanied by a non-lawyer advocate in any proceeding before the *Punong Barangay*.

Section 14(b) of the IRR of the VAWC Act:

Section 14. How to Apply for a Barangay Protection Order.

x x x

- b) The *Punong Barangay* or *Kagawad* must issue the BPO on the same day of application, immediately upon the conclusion of the *ex parte* proceedings. The BPO shall state the last known address of the respondent, the date and time of issuance, and the protective remedies prayed for by the victim-survivor/petitioner pursuant to Section 13 hereof. If the *Punong Barangay* is unavailable to act on the application for a BPO, the application shall be acted upon by any available *Barangay Kagawad*. In such a case, the order must be accompanied by an attestation by the *Barangay Kagawad* that the *Punong Barangay* was unavailable at the time of the issuance of the BPO. A BPO is granted *ex parte*, without notice and hearing to the respondent. The victim-survivor/petitioner may be accompanied by any non-lawyer advocate in the proceedings before the *Punong Barangay*. The *Punong Barangay* or *kagawad*, law enforcers and other government agencies shall not mediate or conciliate or influence the victim-survivor/petitioner for a protection order to compromise or abandon the relief sought.
- c) The BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an *ex parte* BPO, the *Punong Barangay* or *Barangay Kagawad* shall personally serve a copy of the same to the respondent, or direct any barangay official to effect its personal service. The BPO is deemed served upon receipt thereof by the respondent or by any adult who received the BPO at the address of the respondent. In case the respondent or any adult at the residence of the respondent refuses, for whatever cause to receive the BPO, it shall likewise be deemed served by leaving a copy of the BPO at the said address in the presence of at least two (2) witnesses. The barangay official serving the BPO must issue a certification setting forth the manner, place and date of service, including the reasons why the same remain unserved.

⁵⁹ Section 17 of the IRR of the VAWC Act:

Section 17. Temporary Protection Order. - Temporary Protection Order (TPO) refers to the protection order issued by the court on the date of filing of the application after *ex parte* determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in the Act and shall be effective for thirty (30) days. The court shall schedule a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service of notice. The TPO shall include notice of the date of the hearing on the merits of the issuance of a PPO.

⁶⁰ Section 15 of the VAWC Act; Section 15(a) of the Supreme Court Rules on VAWC.

⁶¹ Section 16 of the VAWC Act.

⁶² *Id.*

⁶³ Section 23(e) of the Supreme Court Rule on VAWC:

(e) Effect of failure to appear.—

- (1) If the petitioner fails to appear personally, the petition shall be dismissed unless the counsel or a duly authorized representative of the petitioner appears in court and gives a justifiable reason for the non-appearance of the petitioner; however, if the petition is filed by a person other than the offended party, it shall not be dismissed if the offended party is present and does not agree to its dismissal.
- (2) If the respondent appears without counsel, the court shall not reschedule or postpone the conference but shall appoint a lawyer for the respondent and immediately proceed therewith; and
- (3) If the respondent has filed his opposition but fails to appear despite proper notice; the petitioner shall be allowed to present evidence *ex parte*. The court shall then render judgment on the basis of the pleadings and evidence on record.

⁶⁴ Section 8 (k) of the VAWC Act:

(k) Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief.

⁶⁵ Section 8 (d) of the VAWC Act:

(d) Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member.

⁶⁶ Section 14 of the VAWC Act:

Sec. 14. Barangay Protection Orders (BPOs); Who May Issue and How. - Barangay Protection Orders (BPOs) refer to the protection order issued by the *Punong Barangay* ordering the perpetrator to desist from committing acts under Sec. 5 (a) and (b) of this Act. A *Punong Barangay* who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after *ex parte* determination of the basis of the application. If the *Punong Barangay* is unavailable to act on the application for a BPO, the application shall be acted upon by any available *Barangay Kagawad*. If the BPO is issued by a *Barangay Kagawad* the order must be accompanied by an attestation by the *Barangay Kagawad* that the *Punong Barangay* was unavailable at the time for the issuance of the BPO. BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an *ex parte* BPO, the *Punong Barangay* or *Barangay Kagawad* shall personally serve a copy of the same on the respondent, or direct any barangay official to

effect is personal service. The parties may be accompanied by a non-lawyer advocate in any proceeding before the *Punong Barangay*.

Section 14(c) of the IRR of the VAWC Act:

- c) The BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an *ex parte* BPO, the *Punong Barangay* or *Barangay Kagawad* shall personally serve a copy of the same to the respondent, or direct any barangay official to effect its personal service. The BPO is deemed served upon receipt thereof by the respondent or by any adult who received the BPO at the address of the respondent. In case the respondent or any adult at the residence of the respondent refuses, for whatever cause to receive the BPO, it shall likewise be deemed served by leaving a copy of the BPO at the said address in the presence of at least two (2) witnesses. The barangay official serving the BPO must issue a certification setting forth the manner, place and date of service, including the reasons why the same remain unserved.

⁶⁷ Section 15 of the VAWC Act:

Sec. 15. Temporary Protection Orders.- Temporary Protection Orders (TPOs) refers to the protection order issued by the court on the date of filing of the application after *ex parte* determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in this Act and shall be effective for thirty (30) days. The court shall schedule a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service. The TPO shall include notice of the date of the hearing on the merits of the issuance of a PPO.

⁶⁸ Section 16 of the VAWC Act:

Sec. 16. Permanent Protection Orders.- Permanent Protection Order (PPO) refers to protection order issued by the court after notice and hearing. Respondents non-appearance despite proper notice, or his lack of a lawyer, or the non-availability of his lawyer shall not be a ground for rescheduling or postponing the hearing on the merits of the issuance of a PPO. If the respondent appears without counsel on the date of the hearing on the PPO, the court shall appoint a lawyer for the respondent and immediately proceed with the hearing. In case the respondent fails to appear despite proper notice, the court shall allow *ex parte* presentation of the evidence by the applicant and render judgment on the basis of the evidence presented. The court shall allow the introduction of any history of abusive conduct of a respondent even if the same was not directed against the applicant or the person for whom the applicant is made. The court shall, to the extent possible, conduct the hearing on the merits of the issuance of a PPO in one (1) day. Where the court is unable to conduct the hearing within one (1) day and the TPO issued is due to expire, the court shall continuously extend or renew the TPO for a period of thirty (30) days at each particular time until final judgment is issued. The extended or renewed TPO may be modified by the court as may be necessary or applicable to address the needs of the applicant. The court may grant any, some or all of the reliefs specified in Sec. 8 hereof in a PPO. A PPO shall be effective until revoked by a court upon application of the person in whose favor the order was issued. The court shall ensure immediate personal service of the PPO on respondent. The court shall not deny the issuance of protection order on the basis of the lapse of time between the act of violence and the filing of the application. Regardless of the conviction or acquittal of the respondent, the Court must determine whether or not the PPO shall become final. Even in a dismissal, a PPO shall be granted as long as there is no clear showing that the act from which the order might arise did not exist.

⁶⁹ Section 10 of the Supreme Court Rule on VAWC.

⁷⁰ Section 20 of the Supreme Court Rule on VAWC.

⁷¹ Section 21 of the Supreme Court Rule on VAWC.

⁷² Section 14 of the VAWC Act.

⁷³ Section 11 of the VAWC Act.

⁷⁴ Section 15 of the VAWC Act.

⁷⁵ Section 24 of the Supreme Court Rule on VAWC.

⁷⁶ Section 30 of the Supreme Court Rule on VAWC.

⁷⁷ Section 15 of the VAWC Act.

⁷⁸ Section 24 of the Supreme Court Rule on VAWC.

⁷⁹ Section 23(e) of the Supreme Court Rule on VAWC.

⁸⁰ Section 28 of the Supreme Court Rule on VAWC.

⁸¹ Section 11 of the Supreme Court Rule on VAWC.

⁸² Section 14 of the VAWC Act.

⁸³ Section 15 of the VAWC Act.

⁸⁴ Section 26(b) of the Supreme Court Rule on VAWC.

⁸⁵ Sections 14 and 15 of the VAWC Act.

⁸⁶ Section 10 of the Supreme Court Rule on VAWC.

⁸⁷ Section 20 of the Supreme Court Rule on VAWC.

⁸⁸ Section 21 of the Supreme Court Rule on VAWC.

⁸⁹ Section 34 of the Supreme Court Rule on VAWC.

⁹⁰ Section 11 of the Supreme Court Rule on VAWC.

⁹¹ *Id.*

⁹² Section 11 of the Supreme Court Rule on VAWC.

⁹³ Sections 34 and 35 of the Supreme Court Rule on VAWC.

⁹⁴ Section 6 of the Supreme Court Rule on VAWC.

⁹⁵ Article 11 of the RPC:

Justifying Circumstances. — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.
3. Anyone who acts in defense of the person or rights of a stranger, provided that the first and second requisites mentioned in the first circumstance of this article are present and that the person defending be not induced by revenge, resentment, or other evil motive.
4. Any person who, in order to avoid an evil or injury, does an act which causes damage to another, provided that the following requisites are present:
 - First. That the evil sought to be avoided actually exists;
 - Second. That the injury feared be greater than that done to avoid it;
 - Third. That there be no other practical and less harmful means of preventing it.
5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.
6. Any person who acts in obedience to an order issued by a superior for some lawful purpose.

⁹⁶ Article 12 of the RPC:

Circumstances Which Exempt from Criminal Liability. — The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval. When the imbecile or an insane person has committed an act which the law defines as a felony (*delicto*), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

⁹⁷ Article 12 (4)-(7) of the RPC.

⁹⁸ Article 353 of the RPC:

Definition of Libel. — A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

Article 354 of the RPC:

Requirement for Publicity. — Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

⁹⁹ Article 355 of the RPC:

Libel by Means of Writing or Similar Means. — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prisión correccional* in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.

¹⁰⁰ Article 358 of the RPC:

Slander. — Oral defamation shall be punished by *arresto mayor* in its maximum period to *prisión correccional* in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.

¹⁰¹ Article 266-A of the RPC.

¹⁰² Article 266-A of the RPC.

¹⁰³ Article 339 of the RPC.

¹⁰⁴ Article 344 of the RPC.

¹⁰⁵ Section 3 of Rule 132 of the Revised Rules of Evidence.

¹⁰⁶ Section 22 of Rule 130 of the Revised Rules of Evidence.

¹⁰⁷ Article III, Section 17 of the Philippine Constitution.

¹⁰⁸ Section 25 of Rule 130 of the Revised Rules of Evidence.

¹⁰⁹ Section 3 of Rule 132 of the Revised Rules of Evidence.

¹¹⁰ Section 5 of the Rule on the Examination of a Child Witness (A.M. No. 004-07-SC).

¹¹¹ Section 9 of the Rule on the Examination of a Child Witness.

¹¹² Section 10 of the Rule on the Examination of a Child Witness.

¹¹³ Section 11 of the Rule on the Examination of a Child Witness.

¹¹⁴ Section 25 of the Rule on the Examination of a Child Witness.

¹¹⁵ Section 26 of the Rule on the Examination of a Child Witness.

¹¹⁶ Section 23 of the Rule on the Examination of a Child Witness.

¹¹⁷ Section 30 of the Rule on the Examination of a Child Witness.

¹¹⁸ Section 6 of the VAWC Act:

Penalties. - The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

- a) Acts falling under Section 5(a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punished in accordance with the provisions of the Revised Penal Code. If these acts resulted in mutilation, it shall be punishable in accordance with the Revised Penal Code; those constituting serious physical injuries shall have the penalty of prison mayor; those constituting less serious physical injuries shall be punished by prison correccional; and those constituting slight physical injuries shall be punished by arresto mayor. Acts falling under Section 5(b) shall be punished by imprisonment of two degrees lower than the prescribed penalty for the consummated crime as specified in the preceding paragraph but shall in no case be lower than arresto mayor.
- b) Acts falling under Section 5(c) and 5(d) shall be punished by arresto mayor;
- c) Acts falling under Section 5(e) shall be punished by prison correccional;
- d) Acts falling under Section 5(f) shall be punished by arresto mayor;
- e) Acts falling under Section 5(g) shall be punished by prison mayor;
- f) Acts falling under Section 5(h) and Section 5(i) shall be punished by prison mayor.

If the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of penalty prescribed in the section. In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

¹¹⁹ Section 6 of the VAWC Act.

¹²⁰ Section 6 of the VAWC Act.

¹²¹ Section 12 of the VAWC Act:

Enforceability of Protection Orders. - All TPOs and PPOs issued under this Act shall be enforceable anywhere in the Philippines and a violation thereof shall be punishable with a fine ranging from Five Thousand Pesos (P5,000.00) to Fifty Thousand Pesos (P50,000.00) and/or imprisonment of six (6) months.

¹²² Section 36 of the VAWC Act, "*Damages.* - Any victim of violence under this Act shall be entitled to actual, compensatory, moral and exemplary damages."

¹²³ Section 6 of the VAWC Act.

¹²⁴ Article 11 of the RPC.

¹²⁵ Section 3(c) of the VAWC Act.

¹²⁶ Section 26 of the VAWC Act:

Sec. 26. Battered Woman Syndrome as a Defense. - Victim-survivors who are found by the courts to be suffering from battered woman syndrome do not incur any criminal and civil liability notwithstanding the absence of any of the elements for justifying circumstances of self-defense under the Revised Penal Code. In the determination of the state of mind of the woman who was suffering from battered woman syndrome at the time of the commission of the crime, the courts shall be assisted by expert psychiatrists/ psychologists.

Section 32 of the IRR of the VAWC Act:

Section 32. Battered Woman Syndrome as a Defense. - Victim-survivors who are found by the courts to be suffering from battered woman syndrome do not incur any criminal and civil liability notwithstanding the absence

of any of the elements for justifying circumstances of self-defense under the Revised Penal Code In the determination of the state of mind of the woman who was suffering from battered woman syndrome at the time of the commission of the crime, the courts shall be assisted by expert psychiatrists/psychologists.

¹²⁷Section 3(b) of the VAWC Act, "(b) *Battery*" refers to an act of inflicting physical harm upon the woman or her child resulting to the physical and psychological or emotional distress."

¹²⁸*People v. Genosa*, G.R. No. 135981, 15 January 2004.

¹²⁹Section 8 of the VAWC Act.

¹³⁰Section 10 of the VAWC Act.

¹³¹Section 11 of the VAWC Act.

¹³²Section 3(a) of the VAWC Act.

¹³³Article 300(a) of the Labor Code of the Philippines.

¹³⁴Article 300(b) of the Labor Code of the Philippines.

¹³⁵Section 43 of the VAWC Act.

¹³⁶Section 11 of the Supreme Court Rule on VAWC.

¹³⁷Section 8(c) of the VAWC Act.

¹³⁸Section 8(d) of the VAWC Act.

¹³⁹Section 8(k) of the VAWC Act.

¹⁴⁰Article 158 of the Family Code of the Philippines.

¹⁴¹Article 235 of the New Civil Code.

¹⁴²Article 158 of the Family Code of the Philippines.

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