Fighting Domestic Violence - The Philippines

7. Endnotes

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

[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,

"*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:

"*Physical Violence*" refers to acts that include bodily or physical harm;

"*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.

*"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.

*"Economic abuse"* refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

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;

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;

destroying household property;

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, trainor, 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.

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

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;

The above acts would impair the employee's rights or privileges under existing labor laws; or

The above acts would result in an intimidating, hostile, or offensive environment for the employee.

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

Against one who is under the care, custody or supervision of the offender;

Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;

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

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:

Threatening to deprive or actually depriving the woman or her child of custody to her/his family;

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;

Depriving or threatening to deprive the woman or her child of a legal right;

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:

Stalking or following the woman or her child in public or private places;

Peering in the window or lingering outside the residence of the woman or her child;

Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;

Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and

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:

By a man who shall have carnal knowledge of a woman under any of the following circumstances:

Through force, threat, or intimidation;

When the offended party is deprived of reason or otherwise unconscious;

By means of fraudulent machination or grave abuse of authority; and

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

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:

facts showing the authority of the petitioner to file the petition;

circumstances of the abuse suffered by the offended party; and

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 theVAWC 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:

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

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:

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.

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.

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.

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.

Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.

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:

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:

A private communication made by any person to another in the performance of any legal, moral or social duty; and

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:

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 prision 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.

Acts falling under Section 5(c) and 5(d) shall be punished by arresto mayor;

Acts falling under Section 5(e) shall be punished by prision correccional;

Acts falling under Section 5(f) shall be punished by arresto mayor;

Acts falling under Section 5(g) shall be punished by prision mayor;

Acts falling under Section 5(h) and Section 5(i) shall be punished by prision 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.

[127]  Section 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.

[129]   Section 8 of the VAWC Act.

[130]   Section 10 of the VAWC Act.

[131]   Section 11 of the VAWC Act.

[132]   Section 3(a) of the VAWC Act.

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

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

[135]   Section 43 of the VAWC Act.

[136]   Section 11 of the Supreme Court Rule on VAWC.

[137]   Section 8(c) of the VAWC Act.

[138]   Section 8(d) of the VAWC Act.

[139]   Section 8(k) of the VAWC Act.

[140]   Article 158 of the Family Code of the Philippines.

[141]   Article 235 of the New Civil Code.

[142]  Article 158 of the Family Code of the Philippines.

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