

RA 9262, Anti-VAWC Law

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Philippine Commission on Women

2017 3rd Quarterly Seminar & Meeting / October 4-7, 2017
Cystate Asturias Hotel, Puerto Princesa City, Palawan

Objectives

- Understand the legal precept of RA 9262, AVAWC Act;
- Validate knowledge about VAWC as a public crime, and the procedures and protection accorded to victims;
- Understanding VAWC through case studies and the constitutionality of RA 9262



1987 Philippine Constitution

(Article II Declaration of Principles and State Policies)

- ✓ Sec. 2 “adopts the generally accepted principles of international law as part of the law of the land (CEDAW, CRC, other Conventions)
- ✓ Full respect for human rights
- ✓ Sec. 14. “fundamental equality before the law of women and men”
- Section 14. The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.



THE ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT Rep. Act 9262 March 2004



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RA 9262 AVAWC Act Of 2004

- Effective March 27, 2004
- A special law protecting women and their children from all forms of abuse
- Criminal statute, public crime
- Civil action – Temporary & Permanent Protection Order
- With remedy of *Barangay* (village) Protection Order



IRR ON RA 9262

- **Section 2. Purpose.** – These Rules and Regulations are hereby promulgated to prescribe the guidelines and procedures for the implementation of Republic Act No. 9262 in order to ensure that women and their children have effective access to justice and to services and programs. These Rules and Regulations shall serve as the **minimum guidelines and standards for service providers including government officials and personnel of national government agencies and local government units.**
- **Section 3. Declaration of Policies.** – It is hereby declared that **the State values the dignity of women and children and guarantees full respect for human rights....** 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 (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and other international human rights instruments to which the Philippines is a party.
- **Section 4. Construction.** – These Rules and Regulations shall be liberally construed to promote the protection and safety of victims of violence against women and their children (VAWC). **All doubts in the implementation and interpretation hereof shall be resolved in favor of women and their children consistent with the spirit and letter of the law**



Definition of VAWC

It is the law penalizing acts of violence against women and their children as a public crime. These acts include physical violence, sexual violence, psychological violence and economic abuse

- any act or series of acts committed by any PERSON
- against a WOMAN who is his wife, former wife, or with whom the person has or had a sexual or dating relationships, or
- with whom he has a common child, or
- against her child/child under her care
- Which result 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



VAWC includes but is not limited to the following acts:

1. **Physical violence** refers to acts that include bodily or physical harm;

2. **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; and

c) prostituting the woman or her child.



VAWC includes but is not limited to the following acts:

3. **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 marital 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.

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

a) 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;

b) 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;

c) destroying household property; and

d) controlling the victim's own money or properties or solely controlling the conjugal money or properties.



VAWC Terminologies

- **Battery** – refers to an act of inflicting physical harm upon the woman or her child resulting to physical and psychological or emotional distress.
- **Battered Woman Syndrome** – refers to a scientifically defined pattern of psychological and behavioral symptoms that have resulted from cumulative abuse found in women living in battering relationships.
- **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 thereof.



VAWC Terminologies

Dating relationship – refers to a situation wherein the parties live as husband and wife without the benefit of marriage or are romantically involved over time and on a continuing basis during the course of the relationship. A casual acquaintance or ordinary socialization between two individuals in a business or social context is not a dating relationship.

Sexual relation - refers to a single sexual act which may or may not result in the bearing of a common child.

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 for the purposes of the Act or any other suitable place the resident of which is willing to temporarily receive the victim.



VAWC Terminologies

Children – refer to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in the Act, it includes the biological or adopted children of the victim and other children under her care including foster children, relatives or other children who live with her.

Psychosocial services - refer to the provision of help or support for the total well-being of an individual who has suffered as a result of physical harm and psychological or emotional distress that further resulted in an unpleasant or traumatic experience. The services are provided to restore the impaired physical, social, emotional, psychological, and spiritual aspects of the person to ensure the victims' safety and security, and involves the process of recovery and re-integration into community life.

Victim-survivor –refers to the women and children victims of VAWC



Elements or What constitutes VAWC

- Relationship, past or present
- Married or not; living in or not
- Sexual or dating relationship
- Including lesbian relationships
- With common child
- Falling under Sec. 5 (punishable acts)



FACTS AND FIGURES

Spousal Violence

- Emotional and other forms of non-personal violence are the most common types of spousal violence (23% of ever-married women). One in seven ever-married women experienced physical violence by their husbands while 8 percent experienced sexual violence by their husbands.
- Patterns in prevalence of spousal violence are similar to those of violence experienced by woman 15-49. Most likely higher among separated, widowed and divorced; currently married women who have married more than once; and in CARAGA region, Central Visayas and SOCCSKSARGEN.

Source: <http://pcw.gov.ph/statistics/201405/statistics-violence-against-filipino-women>



FACTS AND FIGURES

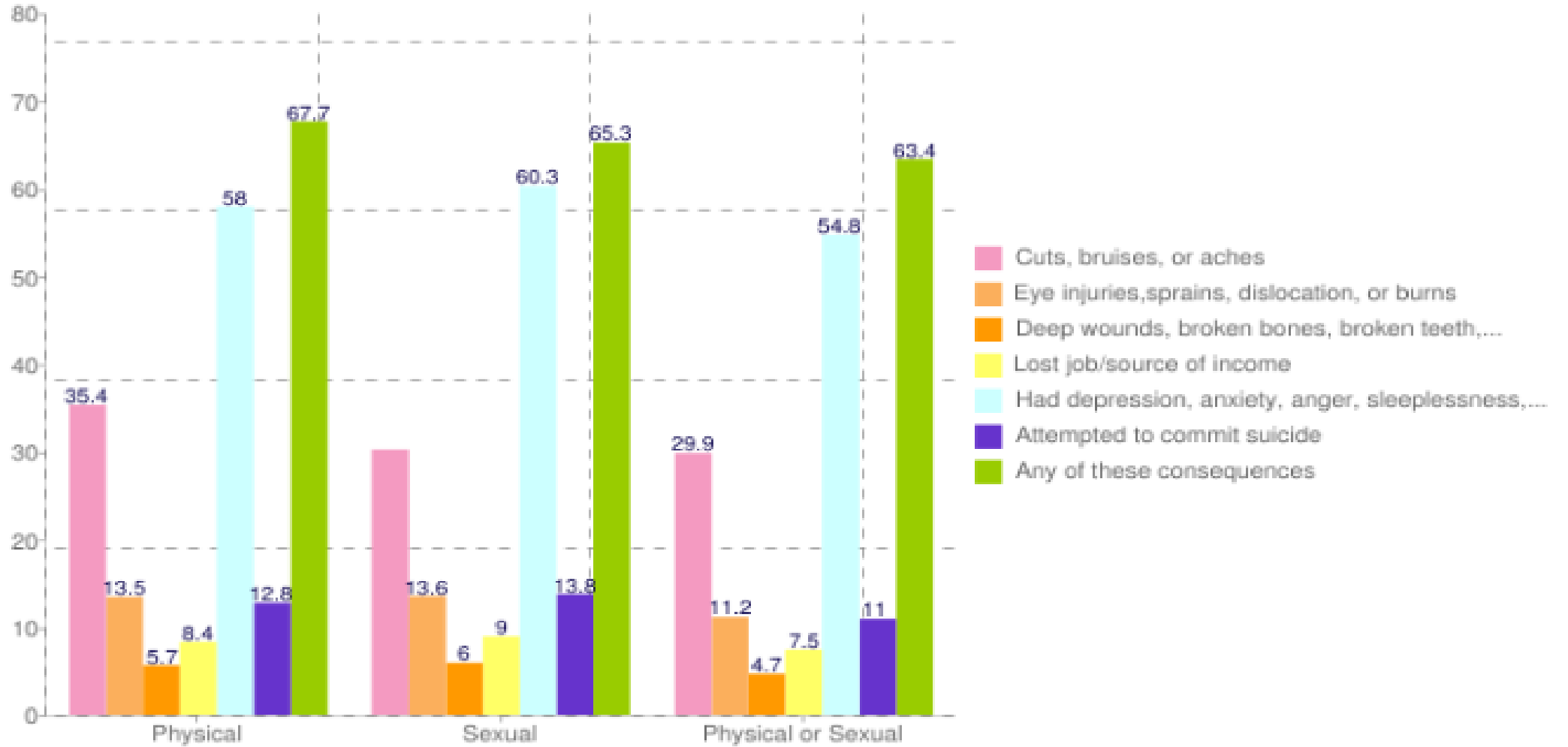
Consequences of Spousal Violence

- One in three women who experienced physical/sexual violence reported having physical injuries such as cuts, bruises or aches. More than 10 percent reported to have suffered eye injuries, sprains, dislocations or burns, and about the same proportion reported that they attempted to commit suicide.
- Three in five women who experienced physical/sexual violence reported having experienced psychological consequences like depression, anxiety and anger.



FACTS AND FIGURES

Consequences of Spousal Violence

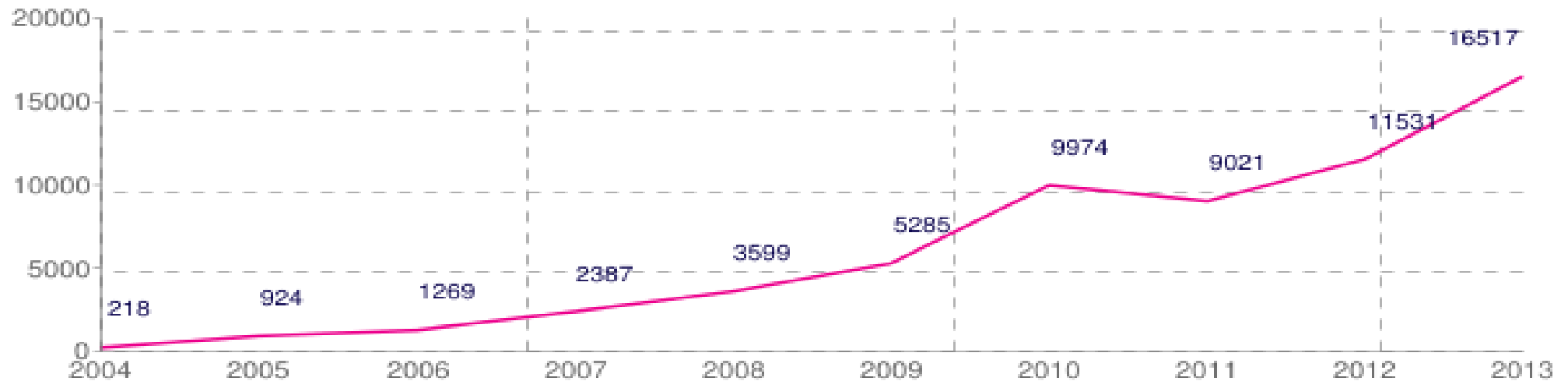


FACTS AND FIGURES

Violence Initiated by Women Against Husbands

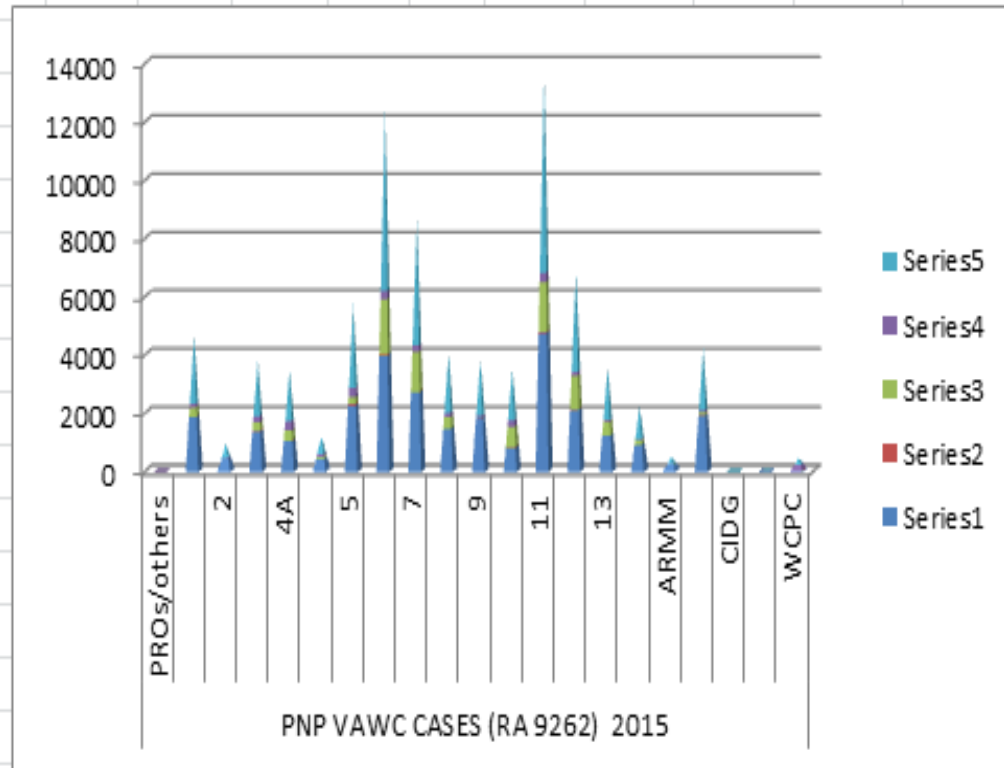
- Women were asked, "Have you ever hit, slapped, kicked, or done anything else to physically hurt your (last) husband at times when he was not already beating or physically hurting you?". 16 percent answered "Yes, ever" and 9 percent answered "Yes, in the last 12 months"

RA 9262 Cases Reported to the Philippine National Police 2004-2013



PNP VAWC CASES (RA 9262) 2015

PROs/others	1	2	3	4A	4B	5	6	7	8	9	10	11	12	13	COR	ARMM	NCRPO	CIDG	MG	WCPC	TOTAL
Physical Abuse	1866	420	1372	1039	419	2263	3975	2711	1450	1845	815	4746	2098	1219	912	208	1899	0	19	17	29293
Sexual Abuse	9	0	24	21	0	46	42	10	10	9	11	35	34	2	2	0	30	0	0	3	288
Psychological	308	10	276	339	81	225	1884	1372	404	0	702	1714	1132	480	155	12	84	0	0	4	9182
Economic	133	23	215	319	77	333	282	217	136	44	220	320	153	64	14	8	82	0	0	184	2824
	2316	453	1887	1718	577	2867	6183	4310	2000	1898	1748	6815	3417	1765	1083	228	2095	0	19	208	41587



Section 6. Public Crime

Violence against women and their children shall be considered a **public offense**, which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.



Sec. 7 Acts of VAWC

- a) b) c) Causing, threatening, attempting to cause physical harm
- d) Placing the woman or her child in fear of imminent physical harm
- e) Attempting or compelling the woman or her child to engage in conduct which they have a right to desist from, or to desist from conduct which the woman or her child has the right to engage in .. which includes:
 1. threatening to deprive or actually depriving the woman or her child of custody or access to her/his family



Sec. 7 Acts

2. depriving or threatening to deprive the woman or her child 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 from engaging in any legitimate profession, occupation, business or activity, or controlling her own money or properties or solely controlling conjugal or common money or properties



Sec. 7 Acts

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..., by force or threat, physical harm, intimidation directed against the woman, her child, or immediate family *



Sec. 7. Acts

h) Engaging in purposeful, knowing or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress including: *

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;
- 5 Engaging in any form of harassment or violence;*



Sec. 7 Acts

i) Causing mental or emotional anguish, public ridicule, humiliation including but not limited to **repeated verbal and emotional abuse***

denial of financial support or custody of minor children or denial of access to the woman's child/children *

Section 9. PRESCRIPTIVE PERIOD:

- Section 7 a) to f) – may be filed within 20 years
- Section 7 g) to i) - prescribe in 10 years *



Sec 8. 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 7(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 *prision 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 7(b) shall be punished by imprisonment of two (2) 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*.



Penalties.

- (b) Acts falling under Section 7(c) and 7(d) shall be punished by *arresto mayor*;
- (c) Acts falling under Section 7(e) shall be punished by *prision correccional*;
- (d) Acts falling under Section 7(f) shall be punished by *arresto mayor*;
- (e) Acts falling under Section 7(g) shall be punished by *prision mayor*;
- (f) Acts falling under Section 7(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 this 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(P300,000.00);
- (b) **undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.**



Section 11. Protection Orders

- The victim-survivor may obtain the remedy of a protection order from the barangay or from the court. A protection order is an order issued under the Act for the purpose of preventing further acts of violence against a woman or her child specified in Section 7 of these Rules and granting other necessary reliefs. The relief granted under a protection order should serve the purpose of safeguarding the victim-survivor from further harm, minimizing any disruption in the victim-survivor's daily life, and facilitating the opportunity and ability of the victim-survivor to independently regain control over her life.
- The provisions of the protection order shall be enforced by law enforcement agencies. The protection order that may be issued by the barangay shall be known as a Barangay Protection Order (BPO). The protection order that may be issued by the court may be a Temporary Protection Order (TPO) or a Permanent Protection Order (PPO).



Purpose of Protection Orders

- to prevent further acts of violence against a woman or her child.
- to safeguard the victim from further harm
- to minimize disruption in victim's daily life
- give her the opportunity and ability to regain control over her life.



Kinds of Protection Orders

- *Barangay* Protection Order – 15 days; not extendible
- Temporary Protection Order – 30 days + (shall be renewed by court)
- Permanent Protection Order



Protection Orders

- Prohibition from threatening or committing, any of punishable acts
- Removal and exclusion from the residence regardless of ownership, temporarily or permanently where no property rights are violated



Protection Orders

- Stay away from petitioner, any designated family or household member
- Temporary or permanent custody of child
- Support – automatic remittance of salary or income by employer
- Dept of Social Welfare & Dev to provide shelter and social services



Who may file for Protection Orders (P.O.)

- Offended party
- Parents or guardians
- Ascendants, descendants, collateral relatives within 4th degree of consanguinity or affinity
- Social workers of DSWD or LGUs
- Police officers, preferably those in charge of women and children's desks
- *Punong Barangay or kagawad*
- Lawyer, counselor, therapist, healthcare provider
- At least 2 citizens of the city or municipality who have personal knowledge of the offense



NOTE!

- If the applicant is NOT the victim, the application must be accompanied by an affidavit of the applicant attesting to:
 - The circumstances of the abuse suffered by the victim
 - The circumstances of the consent given by the victim for the filing of application



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.



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

- a) The application for a BPO shall be in writing, signed by the victim-survivor/petitioner, and in a language understood by her/him. It shall be attested before the Punong Barangay who has jurisdiction over the application. The Punong Barangay or Kagawad shall assist the victim survivor/petitioner in any application for a BPO. The *ex parte* determination on the application for a protection order shall have priority over all proceedings.
- 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.



- **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.



- **The BPO shall be issued free of charge.**
- Within twenty four (24) hours after a BPO is issued, the *Punong Barangay*, or in her/his absence or inability, any available *Barangay Kagawad* shall assist the victim-survivor/petitioner in filing for an application for a TPO or PPO with the nearest court in the place of residence of the victim-survivor.
- If there is no Family Court or Regional Trial Court, the application may be filed in the Municipal Trial Court, the Municipal Circuit Trial Court or the Metropolitan Trial Court.
- For indigent petitioner, the barangay shall ensure that transportation and other expenses are provided for in filing for an application for a protection order with the courts



- The *Punong Barangay* or *Kagawad*, or the Barangay Secretary, shall record all BPOs in a logbook specifically for cases of VAWC. This logbook is confidential and must be kept from the public especially the media.
- They shall submit a quarterly report of all BPOs issued to the local office of the Department of the Interior and Local Government (DILG).
- The DILG shall submit a summary report of the BPOs issued to the Secretariat of the Inter-Agency Council on Violence Against Women and Their Children (IAC-VAWC).



- All BPOs shall be enforceable within the barangay that issued the BPO. The *Punong Barangay* shall furnish a copy of all BPOs to the Philippine National Police-Women and Children Protection Desks (PNP-WCPD) who has jurisdiction in the city or municipality and shall be entered in a logbook for that purpose.
- 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.



How To Apply

- May be filed as an independent action or as an incidental relief in any civil or criminal case where subject matter partakes of a violence as described in the law.
- The application must be in writing, signed and verified under oath by applicant.



HOW TO APPLY A PETITION FOR A BARANGAY PROTECTION ORDER (BPO)

What the victim-survivor should do:

1. Go to Barangay Hall (Request Assistance from the PNP or DSWD or an NGO if necessary)
2. Ask for the Pro-formal Application for BPO
3. Complete the Form (fill it up)
4. Attach necessary evidence (if necessary)
 - a. Police Blotter
 - b. Medical Certificate
 - c. Affidavit of witnesses
5. Submitted complete form
6. Respond to clarificatory questions from the Bgy Captain or Bgy Kagawad (if there are)



Contents of Application Order

- Names and addresses of petitioner and respondent.
- Description of relationships between petitioner and respondent.
- Statement of the circumstance of the abuse.
- Description of the reliefs requested
- Request for counsel and reason for such
- Request for waiver of application fees until hearing
- Attestation of no pending application for a protection order in another court.



Contents of Application Order

- When disclosure of the address of the victim will pose danger to her life, it must be stated in the application.
- Mailing address must be provided.
- The application will be considered for both TPO and PPO.



Section 15. Where to Apply for a BPO

- Applications for BPOs shall follow the rules on venue under Section 409 of the Local Government Code of 1991 and its implementing rules and regulations Hence, it may be filed in the barangay where the victim-survivor/petitioner is located or resides.
- If the parties reside in different municipalities or cities, the Punong Barangay or any kagawad of the barangay where the victim survivor resides shall assist the victim-survivor/applicant in filing an application for a Protection Order from the court within two (2) hours from the request.
- The place of residence or location of the victim-survivor/petitioner may include the place where the victim-survivor temporarily resides or where she sought refuge/sanctuary to escape from and avoid continuing violence from the respondent.



Section 16. Violation of a Barangay Protection Order

- A complaint for a violation of a BPO issued under the Act must be filed directly with any Municipal Trial Court, Metropolitan Trial Court, for Municipal Circuit Trial Court that has territorial jurisdiction over the barangay that issued the BPO. Violation of a BPO shall be punishable by imprisonment of thirty (30) days without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed.



Section 16. Violation of a Barangay Protection Order

- A complaint for a violation of a BPO shall be initiated by the *Punong Barangay* or *Kagawad* who issued the BPO and if he/she is no longer in office or is incapacitated, a complaint for a violation of the BPO may be filed by any barangay official. It shall be the primary responsibility of these barangay officials to initiate complaints for violations of BPOs.
- In the event that the *Punong Barangay* or *Kagawad* or barangay official referred to in the preceding paragraph refuses to initiate a complaint for a violation of a BPO, the victim-survivor/applicant shall have the right to file such complaint, without prejudice to the right to file appropriate administrative, civil or criminal action against the barangay official concerned.



Section 16. Violation of a Barangay Protection Order

A judgment of violation of a BPO may be appealed according to the Rules of Court. During trial and upon judgment, the trial court where the petition is filed may *motu proprio* issue a protection order as it deems necessary without need of an application



Temporary Protection Order

- Issued by the Court on the day of filing
- *Ex parte* ; Priority over all other cases
- Effective for 30 days; extendible



Permanent Protection Order

- issued after notice and hearing
- In case respondent fails to appear despite proper notice, the court shall allow ex parte presentation of evidence by the applicant
- Regardless of the outcome of the case, court determines if PPO shall become final, can be granted even if there is dismissal
 - custody, support to the woman and/or her children
 - respondent to leave the residence permanently
 - with Bond to Keep the Peace



Relief under Protection Orders

- Prohibit respondent from threatening to commit or committing criminal acts
- Prohibiting respondent from harassing, annoying, telephoning, contacting or communicating with victim
- Removal and exclusion of respondent from house regardless of ownership of the residence
- Directing respondent to stay away from petitioner
- Directing lawful possession and use of a car and other personal effects, regardless of ownership



Relief under Protection Orders

- Granting the temporary or permanent custody of children to petitioner
- Directing the provision of support to the woman and order percentage of income to be withheld from salary. (Employer can be held in contempt.)
- Prohibit use of firearms and confiscate the same
- Restitution of damages
- Direct DSWD to provide shelter
- Other forms of relief.



Reliefs granted under TPO and PPO

- Stay away order, temporary custody and support to woman and/or her children, use of community/conjugal property
- Temporary or permanent custody of a child/children to the petitioner
- Support
- Bond to Keep the Peace
- Enforceable anywhere in the country
- No mediation; no conciliation



Enforceability of Orders

- Anywhere in the Philippines if issued by a trial court



Exemption from liability



- NO CRIMINAL, CIVIL, ADMINISTRATIVE LIABILITY :
- Any person, private individual, police authority, *barangay* official acting in accordance with law, who
- responds or intervenes without using violence or restraint greater than necessary to ensure safety of the victim



Rights of victims

- Right to be treated with respect & dignity;
- Legal assistance; support services from DSWD, local governments
- Privacy and confidentiality of records
- Additional 10 day paid leave from work aside from present paid leave benefits



Effectiveness of the law:

- The law is a product of cooperation of women's rights organizations and legislators, hence the comprehensive remedies
- Protection Orders are being increasingly used by women to protect themselves, get support, get back their minor children
- *Barangay* protection order is available to poor rural women who have no easy access to the courts



Effectiveness of the law

- Supreme Court issued a Rule on VAWC, governs the trial of the case
- Government officials, including judges are prohibited from mediating e.g. to influence the woman to give up her reliefs
- Local government units are tasked with education campaign to eliminate VAW



Effectiveness of the Law

- Mechanism for government implementers and support services
- Inter-Agency on VAW is provided in the law; government implementers have Implementing Rules and Regulations enumerating their duties
- Problem: lack of funds for training



Problems, gaps, lessons:

- The law does not provide for appropriations, funding for training of implementers and support services for the woman
- Corruption in the judiciary, prosecution service
- Low level of gender sensitivity among prosecutors



Problems, lessons

- Ignorance of the law by police officers who are not in the women's and children's desks
- Lack of quality gender sensitivity seminars for judges who are not family court judges, and prosecutors
- Misuse of the laws and rules by lawyers, e.g. retaliation suits against women who have protection orders



Lets review... VAWC

- Refers to any act or a series of acts committed by any person against:
 - A woman who is his wife
 - Former wife
 - A woman with whom he has or had a sexual or dating relationship
 - With whom he has a common child
 - Against the woman's child, whether legitimate or illegitimate



- Violence committed within or without the family abode
- Results in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse
- Includes threats of such acts, battery, assault, coercion, harassment or deprivation of liberty



Domestic violence

- Domestic violence is an issue of control, the result of the batterer's strong desire to exercise power over his victim. The abuser can exact control over his victim in many ways, such as:
 - Threats
 - Deprivation
 - Prevention, and many more



Domestic violence

- Children are in a powerless position in families in relation to domestic violence
- The impact of witnessing and living with domestic violence often has damaging effects on children
- Domestic violence is preventable
- **Victims and perpetrators** have a right to services



Who are protected by the law

- Women and their children.
 - **Children** – means the children of the abused woman below 18 years old, legitimate or illegitimate, or 18 years old and above who are incapable of taking care of themselves, including children who are not her biological children but under her care.



Who are liable?

- Husbands
- Former Husbands
- Present and former boyfriends or live-in partners
- Those with whom the woman has a common child
- Anyone with whom she has/had sexual or dating relationship



Definition of Terms

- Sexual Relations - refers to a single sexual act which may or may not result in the bearing of a common child.
- Dating Relationship – refers to a situation wherein the parties live as husband and wife without the benefit of marriage or romantically involved over time and on a continuing basis.



Physical Violence

- Refers to acts that include bodily or physical harm
 - Object Damage
The behavior ranges from throwing **crockery, breaking furniture, punching doors, destroying household goods** and **killing or harming family pets.**
 - Battery
Refers to an act of inflicting physical harm upon the woman or her child resulting in **physical** and **emotional distress.**



Sexual Violence

- Refers to an act which is sexual in nature, committed against a woman or her child.
- Sexual abuse - is an act that cause or attempt to cause the victim to engage in any sexual activity by force, threats, physical or other harm or coercion



Sexual Violence

- Includes, but is not limited to:
 - 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



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:
 - Threats
 - Stalking
 - Damage to property
 - Public ridicule or humiliation
 - Repeated verbal abuse
 - Marital infidelity



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 thereof



Psychological Violence

- 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
 - 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 victim's own money or properties or solely controlling the conjugal money or properties.



Cycle of Violence

- **THIS HAS THREE PHASES:**
 - (1) the tension building phase**
 - (2) the acute battering incident**
 - (3) the tranquil, loving (or at least, non-violent) phase**



Tension-Building Phase

- Minor battering occurs – verbal or slight physical abuse or another form of hostile behavior.
- Woman tries to pacify him – all she wants is to prevent the escalation of the abuse.
- Her “placatory” and passive behavior legitimizes his belief that he has the right to abuse her in the first place.
- Each partner senses imminent loss of control and there is growing tension and despair.



Acute Battering Phase

- Characterized by brutality, destructiveness and, sometimes, death.
- She has no control; only the batterer may end the violence.
- Unpredictable explosion; unpredictable reasons for ending incident.
- She has a sense of detachment and apparent passivity: the batterer is physically stronger and it is futile to fight back.



Tranquil Period

- The couple experience profound relief.
- The batterer will exhibit tender and nurturing behaviour towards his partner. He knows that he has been viciously cruel and tries to make up for it.
- She convinces herself it will never happen again; that her partner will change for the better; and that this “good, gentle and caring man” is the real person whom she loves.
- She believes she is the sole anchor of his emotional stability. Psychological abuse begins.





Sometimes you have to try not to care, no matter how much you do because, sometimes, you mean nothing to someone who means everything to you. It's NOT pride. *Follow Your Dreams* It's called **SELF-RESPECT.**

Follow your dreams: <http://www.facebook.com/followyourdreams>



your mother
your sister
your partner
your daughter

1 in 4
women

Seminar Meeting / October 4-7, 2017

Citystate Asturias Hotel, Puerto Princesa City, Palawan



National GAD Resource Program
Philippine Commission on Women

I got flowers today

[GST videos\GST I Got Flowers Today.mp4](#)

I got flowers today.

It wasn't my birthday or any other special day.

We had our first argument last night,

And he said a lot of cruel things that really hurt me,

I know he is sorry and didn't mean the things he said

Because he sent me flowers today



I got flowers today

**I got flowers today.
It wasn't our anniversary or any other special day.
Last night he threw me into the wall and started to
choke me.**

**It seemed like a nightmare.
I couldn't believe it was real.
I woke up this morning and bruised all over.
I know he must be sorry
Because he sent me flowers today.**



I got flowers today

**I got flowers today,
And it wasn't Mother's Day or any other special day.
Last night he beat me up again.
And it was much worse than all the other times.
If I leave him what will I do?
How will I take care of my kids?
What about money?
I'm afraid of him and scared to leave.
But I know he must be sorry
Because he sent me flowers today.**



I got flowers today

**I got flowers today.
Today was a very special day.
It was the day of my funeral.
Last night he finally killed me.
He beat me to death.
If only I had gathered
Enough courage and strength to leave him,
I would not have gotten flowers today.**



Battered woman

- **A woman who has been repeatedly subjected to any forceful physical or psychological behavior by a man in order to coerce her to do something he wants her to do without concern for her rights.**
- **Battered women include wives or women in any form of intimate relationship with men. To be classified as a battered woman, the couple must go through the battering cycle at least twice. Any woman may find herself in an abusive relationship with a man once. If it occurs a second time, and she remains in the situation, she is defined as a battered woman.**



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.



FOR ACQUITTAL USING THE BATTERED WOMAN SYNDROME DEFENSE (per Genosa case)

- Each of the phases of the cycle of violence must be proven to have characterized **at least two battering episodes** between the woman and her partner
- The final acute battering episode preceding the killing of the batterer must have produced in the battered person's mind an actual fear of an imminent harm from her batterer and an honest belief that she needed to use force in order to save her life.
- At the time of the killing, the batterer must have posed probable – not necessarily immediate and actual – grave harm to the victim, based on the history of violence perpetrated by the former against the latter.



BATTERED WOMAN COMMON PERSONALITY TRAITS

- Low self-esteem
- Traditional beliefs about the home, the family and the female sex role
- Emotional dependence upon the dominant male
- Tendency to accept responsibility for the batterer's actions
- False hopes that the relationship will improve



BATTERERS COMMONLY:

- Deny their actions
- Minimize the severity of the abuse
- Always blame the victim



EFFECTS OF LEAVING ABUSER

- **American studies show that more than half of battered women who leave their partners are followed, harassed or attacked or killed by their partners.**
- **The number one cause of death in pregnant women, in the United States, is murder by their partner. 75% of all deaths.**
- **SAME IN THE PHILIPPINES , the reason why we have Protection Orders issued by Barangay and Courts**



Rights of victims

- Right to be treated with respect & dignity;
- Legal assistance; support services from DSWD, LGUs
- To be informed of their rights and services available
- Additional 10 day paid leave from work aside from present paid leave benefits



Civil Service
Commission
(CSC)
Memorandum
Circular 15
series of 2006
Guidelines in
the Availment
of 10- day
Leave under
RA 9262

LEAVES FOR VICTIMS OF VIOLENCE AGAINST WOMEN AND CHILDREN (VAWC)



Victims under **R.A. 9262** shall be entitled to take a paid leave of absence up to 10 days in addition to other paid leaves under existing labor laws, company policies or collective bargaining agreement, extendible when the necessity arises as specified in the protection order issued by the court or barangay.

REQUIREMENT: Certification issued by the Punong Barangay or Barangay Kagawad, Prosecutor, or the Branch Clerk of Court, that a legal action **relative to the matter is pending**

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Section 36. Hold Departure Order. – The counsel for the victim-survivor or applicant may request the court for a Hold Departure Order in the application or petition for protection order. The court shall expedite the process of issuance of a hold departure order in cases prosecuted under the Act.

Section 37. Exemption from Payment of Docket Fee and Other Expenses. – If the victim-survivor is an indigent or there is an immediate necessity due to imminent danger or threat of danger to act on an application for a protection order, the court shall accept the application without payment of the filing fee and other fees and of transcript of stenographic notes.



REMEDIES OF THE VICTIMS

- She can/or her children can request for:
 - Barangay Protection Order (BPO)
 - Temporary Protection Order (TPO)
 - Permanent Protection Order (PPO)
- File a criminal action for violation of RA 9262
- Mandatory Services such as emergency shelter, skills training, etc.
- Medical Assistance
- 10 days paid leave (Section 42)
- Counseling and treatment of offenders



Section 10. Venue

- The RTC designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against women and their children.
- In the absence of such a court, the RTC in the place where the offense or any of its elements was committed.



WHAT TO DO WHEN THERE IS DOMESTIC VIOLENCE

- Do not ignore complaints as domestic violence is a public crime.
- Ask for help from the women NGOs and the PAO if you are not sure what you should do.
- Enforce protection orders issued by both the Family Courts, ordinary courts, and even the barangays.



Law Enforcement Officers

- Remember it is your duty to decide to arrest.
- Do not rely on the victim's willingness to proceed with a prosecution: do not put burden on the victim.
- **Domestic violence is a public crime.**
 - There is no need for a private complainant.
- Make it clear that domestic violence is a crime and that the offender is to blame.
- Ask about her safety and, if necessary, help her move to a safe place.
- Refer her to a hospital.
- Help her file a complaint.
- Inform her of her options



ROLE OF THE Law Enforcer

- Protect the victim of domestic violence.
 - Otherwise, she will be in immediate danger.
 - Arrest the batterer
 - If you do not arrest, make a report – immediately – as to why. (This will also protect you.)



WHEN YOU ARREST

- Remember it is your duty to decide to arrest.
- Do not rely on the victim's willingness to proceed with a prosecution: do not put burden on the victim.
- Domestic violence is a public crime.
 - There is no need for a private complainant.



WHEN YOU DO NOT MAKE AN ARREST

- Fully document complaint for future use.
- Take statements from victim and relatives/friends
- Know where the shelters are and tell the victim.
- Know the therapists whom you can recommend to the victim.
- Alert the DSWD, especially if children are involved.



GUIDELINES FOR INTERVENTION

- Responding to a call.
- Handling a report.
- Action after intervention.



Responding to a Call

1. Approaching the scene

- Do you use force?
- Will you just give verbal directions?
- Make a strategy:
 - Gather information about incident, offender, victim, and people living at scene
 - Work as a team to assess and discuss strategy and plan intervention
 - Divide your tasks to ensure co-operation of both parties.



Responding to a Call

2. Making a Contact

- A. Secure willingness to cooperate from both:
 - (i). Calm them down.
 - (ii). Mutual understanding.
 - (iii). Separate victim from the offender.
- B. Assess safety before entering the scene
- C. Once you are in the house:
 - (i). Confiscate any deadly weapon within plain view
 - (ii). Separate the couple more distant from the hearing of the other
 - (iii). Calm both of them down.
 - (iv). Inform them of your duty to investigate complaints.
 - (v). Tell offender you just want to talk to him and want to hear all sides.



Responding to a Call

- D. Gathering Information
 - **From the Offender**
 - Tell offender you want to hear his story. Let him talk. Assure him. Agree with him.
 - Ask about the weapon he may be holding.
 - Ask about the injuries you have seen on his wife. Let him talk.
 - **From the Victim**
 - Ask about her injuries.
 - Ask what happened. Let her talk..
 - Ask about the history of the abuse.
 - **Never ask the victim what she wants to do in front of the offender.**



Responding to a Call

- E. Problem-solving
 - Ask victim if she wants to see a doctor..
 - Assure her that she is not to blame for abuse.
 - Explain what your duties are when a report is filed.



Handling a Report

- Offer protection to the victim.
- Let her know she can count on you for support, respect and protection.
- Interview her in a private room.
- Do not make judgments.
- Let her talk.
- Do not allow any interruptions.



Action after Intervention

- Make it clear that domestic violence is a crime and that the offender is to blame.
- Ask about her safety and, if necessary, help her move to a safe place.
- Refer her to a hospital.
- Help her file a complaint.
- Inform her of her options



Points to Remember

- Barangay Officials, Police, Social Workers cannot be sued for trespassing if they enter the house of the victim. They are exempt from civil, criminal or administrative liability.
- Private Individuals , including foreigners who intervene to help the victim are exempt from civil and criminal liability.



ACTION STEPS TO END DOMESTIC VIOLENCE

- **Cultivate a respectful attitude towards all persons regardless of gender.**
- **Model a non-violent conflict resolution in your family & community**
- **Find out about domestic violence services in your community**
- **Develop a project on human rights, esp. children's rights.**
- **Speak out against violence in media, video games.**



PHILIPPINE SUPREME COURT CASES ON DOMESTIC VIOLENCE

- Case where wife acquitted (Boholst-Caballero, 61 SCRA 181)
- Case where wife convicted (Teopista Canja, 86 Phil 518)
- “Battered woman syndrome” (Marivic Genosa, G.R. No. 135981, January 15, 2004)



Boholst-Caballero, 61 SCRA 181) Acquitted

- Couple were already separated because she was being battered when, in 1958, Cunigunda went caroling with her friends.
- She bumped into her husband who started being violent towards her and was choking her.
- To keep herself from falling, she held on to his waist and her right hand got hold of the knife on his belt.
- While he was choking her, she took hold of his knife and stabbed him. She surrendered to the police.



TEOPISTA CANJA (convicted)

- She was also a battered wife. One night her husband came home drunk and boxed her. When she regained consciousness, her husband threatened her again.
- She prepared supper, which her husband threw away and boxed her again. She confessed that she she struck her husband to death with a hammer and chisel while he was asleep.
- However, she retracted her statement and declared that that night she was being strangled by a man, so she grabbed a piece of wood and struck two blows on assailant. When she lit the lamp, she discovered she had killed her husband.



MARIVIC GENOSA (mitigating only for battered wife syndrome)

- Marivic admitted she killed her husband after years of battery. at the time she killed him, she was 8 months pregnant.
- On appeal, she propounded the “battered woman syndrome” in her defense. While she was not acquitted, the Supreme Court found that the repeated beatings constituted a form of cumulative provocation that broke down her psychological resistance and self-control.
- The “psychological paralysis” she suffered diminished her will power. Also, she acted upon an impulse so powerful as to have naturally produced passion and obfuscation.
- Thus, with two mitigating circumstances, she was allowed to apply for parole.



People v. Marivic Genosa

GR 135981, Jan. 15, 2004

- The Supreme Court found that Genosa was suffering from “battered woman syndrome,” but that she was not acquitted as she did not prove “impending danger (based on the conduct of the victim in previous battering episodes) prior to the defendant’s use of deadly force.”
- However, Genosa is on parole as two mitigating circumstances were found: an illness that diminished the exercise of her will power (Arts. 9 and 10, RPC) and acting upon an impulse so powerful as to have naturally produced passion and obfuscation.



WARNING: Potential Batterer!

- **Extreme jealousy and possessiveness**
- **Controlling , domineering**
- **Cruelty to animals, subordinates**
- **Poor communication and coping skills**
- **Addiction to drugs , alcohol**
- **Anti-female attitude or male chauvinism**
- **Tendency to blame others**
- **Family history of domestic violence**
- **Unpredictability , extreme mood swings**
- **Using sex to control or for the wrong reasons**



Is Anti-VAWC Constitutional?

- **Jesus Garcia vs. RTC, Bacolod, G.R. No. 179267, June 25, 2013**
 - **Violative of the Equal Protection Clause of the Constitution**

R.A. 9262 does not violate the guaranty of equal protection of the laws.

- **Equal protection simply requires that all persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed.**



R.A. 9262 rests on substantial distinctions

- *Unequal power relationship between men and women*
- *Women are the “usual” and “most likely” victims of violence*
- *Gender bias and prejudices*



Unequal power relationship between men and women

- **Societal norms and traditions dictate people to think men are the leaders, pursuers, providers, and take on dominant roles in society while**
- **women are nurturers, men's companions and supporters, and take on subordinate roles in society.**



Unequal power relationship between men and women

- **This perception leads to men gaining more power over women.**
- **With power comes the need to control to retain that power.**
- **And VAW is a form of men's expression of controlling women to retain power.**
- **The Roman concept of *patria potestas* allowed the husband to beat, or even kill, his wife if she endangered his property right over her.**



Karlo Angelo Dabalos vs. RTC, Angeles City, G.R. No. 193960, Jan. 7, 2013

- he was no longer in a dating relationship with the complainant; hence, RA 9262 was inapplicable.
- being then the boyfriend of the complainant, x x x did then and there wilfully, unlawfully and feloniously use personal violence on the complainant, by pulling her hair, punching complainant's back, shoulder and left eye

The Supreme Court ruled:

- Notably, while it is required that the offender has or had a sexual or dating relationship with the offended woman, for RA 9262 to be applicable, it is not indispensable that the act of violence be a consequence of such relationship.



Ricky Dinamling vs. People, G.R. No. 199522, June 22, 2015

- **petition assails the findings of the Court of Appeals for allegedly disregarding his defenses of denial and alibi as well as in discounting the supposedly exculpatory nature of a part of a prosecution witness' testimony**
- **Allegedly, the witness, Dr. Diaz, testified that she was unsure if the abortion was a result of the mauling that AAA suffered or could have been caused by an infection or other factors**
- **Ricky Dinamling inflicts psychological violence upon AAA, a woman with whom he has two common children, resulting to mental and emotional anguish and public ridicule or humiliation by boxing the victim on the head, kicking her at the back and removing her pants and panty**



The Supreme Court ruled:

- **as for alibi, such a defense would prosper only if the accused was able to prove that not only was he at some other place when the crime was committed,**
- **but also that he could not have been physically present at the place of the crime, or in its immediate vicinity, during its commission**
- **Using such standards, Dinamling's alibi holds no water. Not only was his alleged location at the time of commission, that is, the XXX Police Station where he was on duty, in the same municipality as the crimes' place of commission, Dinamling himself also admitted that this police station is just “two to three minutes” away from AAA's boarding house.**



- **Where the accused admits that he was in the same municipality as the place where the offense occurred, it cannot be said that it was physically impossible for him to have committed the crime, and his defense of alibi cannot prosper.**
- **the allegedly exculpatory testimony of Dr. Diaz, or even the complete disregard of any evidence surrounding such fact does not lead to petitioner Dinamling's acquittal.**
- **the fact of AAA's miscarriage or incomplete abortion is not essential to proving the elements of the crime, unless it is alleged to have caused mental or emotional suffering.**



PP vs. Edgar Jumawan, G.R. No. 187495, Apr. 21, 2014

- *Among the duties assumed by the husband are his duties*
 - *to love, cherish and protect his wife,*
 - *to give her a home,*
 - *to provide her with the comforts and the necessities of life within his means,*
 - *to treat her kindly and not cruelly or inhumanely.*



- **Husbands do not have property rights over their wives' bodies.**
- **Sexual intercourse, albeit within the realm of marriage, if not consensual, is rape.**

MARITAL RAPE



Remember...

- **Men can also be victims of domestic violence at the hands of their wives. Treat all victims with sensitivity.**



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[GST videos\OPPRESSED MAJORITY \(Majorité Opprimée English\), by Eleonore Pourriat.mp4](#)

- [GST videos\Noel Cabangon 'Men move'.avi](#)



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