

# A Primer on Women's Rights

Answers to questions most commonly asked



A PRIMER



NATIONAL COMMITTEE  
PHILIPPINES

United Nations Entity for Gender Equality  
and the Empowerment of Women

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## FOREWORD

In the past, domestic violence was looked upon as cause for shame, and for a long time the culture of silence was the norm. It has to be stopped!

Many Filipino women have no idea what is in the law that protects them. This explains why women never have the chance for justice against abuses, whether physical, sexual, psychological or economic in nature.

The passage of R.A. 9262 otherwise known as the "Anti-Violence Against Woman and their Children Act of 2004" or Anti-VAWC Law on March 8, 2004, was a milestone in the history of Filipino women's struggle for genuine gender equality and women's empowerment. Definitely, R.A. 9262 is a door opener for all Filipino women to understand their rights and be equipped with knowledge on how to protect themselves and their children from abuse. One of the most significant features of R.A. 9262 is the involvement of the citizenry in addressing domestic violence and deterring further acts of violence against women and children.

It is for this reason that the UN Women Philippine National Committee has embarked on the printing of this Primer on R.A. 9262 as a response to the call of advocating awareness on the implementation of the law thereby upholding the rights of women and their children as violations against them constitute a public crime.

This primer discusses the problem of domestic violence and ways of dealing with or preventing it from happening. Presented in a friendly manner, it answers the call for dissemination of information on the many important provisions of R.A. 9262 to as wide an audience as possible so as to address the plight of those women and children who remain victims of domestic abuse.

We are confident that together, we can pursue this advocacy to prevent domestic violence and promote women's human rights through proper education. Together, let us shout as one **"STOP, SAY NO TO VIOLENCE AGAINST WOMEN."**

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## **RA 9262: Anti-Violence Against Women And Their Children Act of 2004**

A 2004 National Demographic survey showed that three out of five Filipino women have suffered at least one incident of domestic violence. In 1999, 35.3% of the perpetrators in cases of violence against women were either husbands or live-in partners of victims. And in 2003, 24% of women victims actually believed that the actions of their husbands, boyfriends, and live-in partners were justifiable.

These are the problems that RA 9262, or the Anti- Violence Against Woman and their Children Act of 2004, hopes to Address. In a press conference a few months after its passage, DSWD Secretary Dinky Soliman said, "With RA 9262...[women victims'] grievances can now be aired and have the full force of the law. What was supposedly perceived as a private family problem is now a public criminal act."

RA 9262 was signed by President Gloria Macapagal-Arroyo on March 8, 2004 and took effect on March 27, 2004.

# PRIMER ON WOMEN'S RIGHTS

## ENTERING MARRIAGE

### 1. When am I allowed to get married?

Under the Family Code, the legal age to get married is 18 years for both male and female. This is a change from the Civil Code provision that a female may get married at the age of 14 and a male may get married at the age of 16.

If you get married between the ages of 18 to 23, parental consent is needed. Between the ages of 23 to 25, you must get parental advice. This applies to both males and females.

If you get married below the age of 18, the marriage is null and void from the beginning, even if your parents consented to the marriage. If you get married between the ages 18 to 23 without parental consent, the marriage is voidable. This means that the marriage can be annulled, unless the parties freely live together as husband and wife after they reach the age of 23. If you intend to get married between the ages 23 to 25 without parental advice, there is a 3-month waiting period before the marriage license can be issued. The marriage is valid even if this waiting period is not complied with, but there may be criminal liability for the premature issuance of the license.

### 2. What steps must I take to ensure that my marriage is valid?

The essential requisites for a valid marriage are (a) the parties must be one female and one male, both of whom must be at least 18 years old, who have not been married before (or if previously married, the prior marriage has been dissolved in accordance with law); and (b) both parties freely give their consent to the marriage.



The formal requisites for a valid marriage are: (a) authority of the solemnizing officer; (b) valid marriage license; and (c) a marriage ceremony.

The absence of any of the essential and/or formal requisites can affect the validity of your marriage.

- **Solemnizing Officer**

The solemnizing officer may be a judge (but only within the area of the court's jurisdiction; for example a Makati judge can solemnize a marriage only in Makati) or a priest, rabbi, imam or minister must be duly authorized by his religious sect to solemnize marriages and his authority must be registered with the office of the civil registrar general.

It is a widespread belief that the captain of a ship or an airplane can solemnize marriages. This is true only if the marriage is in *articulo mortis*, that is, that one of the parties is at the point of death. A military commander of a unit can also solemnize a marriage in the absence of a chaplain, but again, only if the marriage is in *articulo mortis*. In both of these cases, a marriage license is not required. If the party who was at the point of death survives, the marriage is still valid.

A consul-general, consul or vice consul can solemnize marriages between Filipino citizens in the foreign post where he is designated.

- **Marriage License**

There are three exceptions to the requirement of a valid marriage license. The most commonly used exception is where a man and a woman have lived together as husband and wife for at least five years and there is no legal impediment to their marriage (neither one has been previously married, which marriage has not been legally dissolved).

There have been many cases where, in order to avoid having to get a license, the parties execute an affidavit or sworn statement saying, that they have been living together for at least five years, If what is said in the affidavit is not true, not only is the marriage defective, but there is also criminal liability on the part of the person who signed the affidavit.

- **Ceremony**

There is no particular ceremony required for the celebration of a marriage.

What is important is that both parties affirm their consent to the marriage before the solemnizing officer and two witnesses.

### 3. **Where do I get a marriage license?**

You must go to the office of the Local Civil Registrar in the city or municipality where you are residing. This office is usually found in the City or Municipal Hall. The personnel there should be able to tell you what you must submit and the procedure you must follow in order to get a marriage license.

4. **What if I am of the Muslim faith or a member of an indigenous cultural community? Will the same rules apply?**



The Code of Muslim Personal Laws (P.D. No. 1083) governs marriages of those who are of the Moslem faith. They are not exactly the same as the rules in the Family Code and you should consult someone who is knowledgeable in Muslim law.

The Family Code also recognizes that indigenous cultural communities and indigenous peoples may have customs, rites or practices that are different from those of other Filipinos. Marriages between members of such communities may be valid even without a license, if the marriages are celebrated in accordance with their customs, rites or practices.

5. **We live in a remote barangay and cannot get a marriage license because the Office of the Civil Registrar is so far away. Does this mean we cannot get married?**

You can still get married. This is another exception to the requirement of a license. If the residence of either contracting party is so located that there is no means of transportation to enable such party to appear personally before the local civil registrar, a license is not required.

However, the solemnizing officer must state in an affidavit executed before the civil registrar that the residence of either party is so located that there is no means of transportation to enable that party to appear before the civil registrar personally. He must also state that he took the necessary steps to ascertain the ages and relationship of the contracting parties and the absence of any legal impediment to the marriage. The original of the affidavit and a legible copy of the marriage contract must be sent by the solemnizing officer to the local civil registrar within 30 days after the marriage.

6. **My boyfriend and I are both overseas workers. We want to get married, but cannot go home to the Philippines to get a marriage license from the Civil Registrar. Does this mean we cannot get married?**

Keep in mind that the law of nationality governs Philippine citizens even if they are living abroad. If you choose to get married in accordance with the laws of the place where you are living, and not in accordance with Philippine law, all questions relating to marriage, divorce or legal separation, to the conjugal property, etc., are still governed by Philippine law.

**7. I cannot get a marriage license or register my child because I have no birth certificate. My friend's birth certificate was burned in a fire. Mine was lost when I moved to Manila. What can I do?**

You need your birth certificate to apply for a marriage license. If you cannot present your birth certificate, then you can present your baptismal certificate. The purpose of this certificate is to show that you are old enough to get married. If you do not have these documents, you can do the following:

- Get a copy of your birth certificate from the National Census and Statistics Office (NCSO) or from office of the civil registrar in the city or municipality where you were born. You may have lost your copy but the original should be with the civil registrar.
- If you cannot get a copy, then you can appear personally before the civil registrar. If he can see, just by looking at you, that you are of age for marriage, there will be no need to submit a certificate.
- If the civil registrar doubts whether you are old enough, ask your parents to appear personally and swear to your correct age.
- If your parents are both deceased and you cannot get a copy because the original copy of your birth certificate was destroyed or lost (for example, the city hall records got burned) then ask at least two persons, preferably your nearest relatives, to execute an affidavit stating your name, residence and citizenship, your parents' name and the place and date of your birth.
- If you have no relatives, then ask two persons of good reputation in your locality, who know your family well and can swear to your birth date to execute this affidavit.
- The parent's birth certificate is not needed to register the birth of a child.

**8. Will I lose my Philippine citizenship if I marry a foreigner?**

No. The 1987 Constitution provides that you retain your Philippine citizenship. Further, if your husband's country covers his citizenship on you, without entailing loss of your own, then you can possess two citizenships.

**9. How can I legalize a common-law marriage?**

See a notary public who can execute an affidavit stating that you are above 21, have been living together for five years, and neither of you is under any legal impediments (this means both of you are single and have the legal capacity to marry).



Then ask an authorized person (priest, pastor, or government official) to perform your marriage and issue your marriage certificate.

## HOME MANAGEMENT

### 10. Can I live apart from my husband?

Spouses have the legal duty to live together. You may be exempted from living with your husband by court order, if he lives abroad or there are other valid and compelling reasons.

If your husband is abusive (physically, psychologically, etc.), you have valid and compelling reason to live apart from him. The grounds for legal separation are valid and compelling for not living with your spouse. These include repeated sexual infidelity or sexual perversion, physical violence against you or your children, attempt to induce you or your child to engage in prostitution, drug addiction or habitual alcoholism, and attempt on your life.

Someone might say to you that under the law, there must be a court order to exempt you from living with husband. There is such a legal provision, but this does not mean you cannot leave your husband until you obtain a court order. The courts will not punish you for leaving an abusive husband. **You must always act for your interest and for your children's interest, and protect yourself and your children from abuse.**

### 11. Do I have to obey my husband?

In the Civil code as well as in the Family Code, the duty of obedience is not imposed; instead mutual respect between the couple is prescribed.

### 12. Who has the right to decide where the family will live?

You as much as your husband decides together where the family will live. This is a change from the rule under the Civil Code, where the husband had the right to decide.



### 13. Who is in charge of managing the household and caring for the children?

The husband and the wife are both responsible for the household chores and caring for the children. This is another change from the Civil Code rule where the management of the household was the responsibility of the wife. This rule addresses the problems of woman carrying the double burden, as provider and as homemaker.

While the law imposes on the husband the obligation to help in the household chores, the wife often finds it hard to make her spouse do his share because of the culturally ingrained belief that household chores are the woman's responsibility. This is an aspect of our culture that we must try to change.

**14. Who is responsible for supporting the family: my husband or me?**

Both of you, together, are responsible for support of the family because you are now joint administrators of the family for conjugal property. This is a change from the Civil Code rule where only the husband was responsible for the support of the wife and the rest of the family.

**15. Who is in charge of decision-making on matters such as expenditures, support of the children's education, manner in which salaries are spent whether or where to work?**

Both of you decide together on expenditures, support of children's education and the manner in which salaries are spent.

You are joint administrators of the community property, and are jointly responsible for the support of the family and the management of the household. You exercise joint parental authority over your children.

It is best that you both decide whether to work and where to work. Under the Family Code the wife can work, engage in business and exercise a profession even without the consent of the husband. If you cannot agree, it is ultimately up to each spouse to decide. However, the spouses can go to court and the court will decide.

**16. Do I have a right to know how much my husband earns and how he spends it?**

Yes, you have the right. If needed, you can go to court and ask for an accounting of his income and its use because you are an equal owner of this income.

**17. If my husband earns more money, can I ask more support?**

Yes, you are also entitled support if your needs increase and he can still afford it. Support is dependent on the means of the giver and the needs of the receiver.

**18. Does a common-law wife co-own her man's property?**

Yes, if the property was acquired during the common-law union through his work, effort or salary. However, if one of the partners in the common-

law union is married to someone else, different rules apply (this is discussed in no. 24).

**19. What should I know about the rights of my legitimate children? How about the rights of my illegitimate children?**

The basic rights of every child, legitimate or illegitimate, include the right to the love and support of his parents and family. Grandparents must support their grandchildren, legitimate or illegitimate. Brothers and sisters must support each other, whether their relationship is legitimate or illegitimate, whether full or half blood.

Support includes everything needed for sustenance, dwelling, clothing, medical attention, education and transportation in keeping with the financial capacity of the family.

Education includes schooling or training for some profession, trade or vocation even after reaching the age of majority.

**20. Can a wife exclude her husband's illegitimate children from the conjugal home?**

Yes, however, the husband is bound to give shelter and support to his illegitimate children.

**21. Does the wife have to support the illegitimate children of her husband after his death?**

No. a father's obligation to support his children, legitimate, ceases upon death. The right of illegitimate children to support cannot be imposed on his widow or heirs.

However, illegitimate children are entitled to inherit from their father to the extent of  $\frac{1}{2}$  of the share of a legitimate child. The father's estate must be settled and the illegitimate children must receive their rightful share.

## **PROPERTY RIGHTS**

**22. I got married after under the family Code (that is, after August 3, 1988).**

You are governed by the regime of absolute community of property, unless you executed a written agreement stipulating another property regime before you got married.

Under the regime of absolute community, all property owned by either spouse at the time of the marriage and acquired thereafter are

the property of both of the spouses. Therefore, if you were able to acquire property before your marriage, when you get married  $\frac{1}{2}$  of that will automatically belong to your spouse. In the same manner,  $\frac{1}{2}$  of all property owned by your spouse at the time you got married are automatically owned by you.

However, property acquired during the marriage by gratuitous title (by inheritance, donation, etc.) by either spouse and the fruits as well as the income thereof, are not community property. Property for the exclusive and personal use of either spouse is also not part of community property.

**23. I got married before August 3, 1988. What is the property relation between my husband and me?**

If you were married under the Civil Code (that is, before August 3, 1988), you are governed by the regime of conjugal partnership of gains, unless you entered into an agreement before your marriage that stipulate another property regime.

All properties accumulated during marriage through the efforts, work, salary of good luck of either or both spouses, and whatever gains are obtained from the investment or the employment of the exclusive property of either spouse, are included in the conjugal partnership of gains.

Whatever property or money a spouse already had before marriage, whatever she or he received gratuitously (by inheritance, donation, etc.) during marriage, and whatever she or he bought or exchanged with the first two belong exclusively to such spouse. As in the case of an absolute community, property for the exclusive and personal use of either spouse belongs to her or to him exclusively, but jewelry is considered part of the conjugal property.

**24. What are my property rights if I do not have a valid marriage with the man I live with?**

If you both have the capacity to marry each other (neither one of you is married to someone else) and you live exclusively with each other as husband and wife, then salaries and wages are to be divided equally, even if only one of you earns them. Property acquired by both through work or industry (not inherited) shall be co-owned.

However, if your "husband" has a previous marriage that is still valid, then even if he lives exclusively with you, there is no co-ownership of property, in this case, only properties acquired by both of you through actual joint contribution of money, property and industry are owned in common and only in proportion to your respective contributions. If you are not working and have no income of your own from business or other sources, you may find

it difficult to establish that you are entitled to a share in the property, even if acquired during the time you were living together as husband and wife.

Remember that in this situation, your "husband" has a conjugal partnership of gains or an absolute community property with his wife, and all his earnings should accrue to that partnership. You must also keep in mind that it may be difficult to establish ownership of the property.

**25. Do I have to turn over my exclusive property to my husband?**

No. You can administer these yourself.

**26. What about the profits or gains from my exclusive property?**

As gross proceeds, you administer them. Unless they are reduced to their nets, they cannot be assigned to the conjugal partnership.

**27. Can my husband sell or transfer any conjugal real property without my consent?**

No, because you are an equal owner of the conjugal property.

**28. What if my husband enters deals regarding our conjugal property that I feel are disadvantageous to my interest?**

You can have the court undo it within 10 years from the deal. If you did nothing, after his death, you can still demand indemnification for the loss you incurred owing to the transaction.

## MARITAL RELATIONSHIP

**29. Can I bring my husband to court if he forces sex on me?**



Your husband's conjugal right to have sex with you does not include the use of force. You can bring him to court on charges of physical injuries. You can also charge him with rape.

The Anti-Rape Law of 1997 (R.A. No. 8353) does not expressly define marital rape. However, it does recognize that a legal husband may be the offender in a rape charge and the wife may be the offended party. This means that the law recognizes marital rape, which was not the case under the old law. Prior to the Anti-Rape

Law, a husband could not be guilty of rape on his wife because of the matrimonial consent which she gave when she married him.

**30. What can I do to an unfaithful husband? If I am the one who is unfaithful, what can my husband do?**

If your husband is unfaithful, you can either: a.) prosecute him for concubinage, b.) file action for legal separation, or c) sue for damages.

If you are the one who is unfaithful, your husband can either: a) prosecute you for adultery, b) file an action for legal separation, or c) sue for damages.

If the infidelity is habitual or repeated, a spouse may have a case for psychological incapacity to comply with the essential marital obligation of fidelity, in which case he or she can file a petition for annulment of the marriage on the ground of psychological incapacity to comply with the essential marital obligations. (Refer to No. 33 below)

You must bear in mind that concubinage, a crime that can be committed by the husband, is different from adultery, a crime that is committed by a wife. One act of infidelity on the woman's part is ground for a charge of adultery against her. In the case of the husband, the wife cannot charge him with concubinage unless he has sexual relations with an other woman under the scandalous circumstances or he lives with another woman as husband and wife, introducing her to the community as his wife. Concubinage is normally harder to prove than adultery.

**31. What can a married woman do if the husband enters another marriage?**

Prosecute him for bigamy.

**32. Can my husband, who has committed concubinage, prosecute me for adultery?**

No, because he is himself guilty and as such is deservedly disqualified in law from taking action against you.

**33. If my husband is not capable of performing his obligations as husband and father, do I have a legal remedy?**

Yes. Under the Family Code (Art. 36) you can file an action for declaration of nullity of marriage. This is a new provision not found in the Civil Code. An action for declaration of nullity of marriage can be filed on the grounds of psychological incapacity which simply means that your husband is incapable of complying with the essential obligations of marriage such as fidelity, mutual trust and love, support for the wife and children, etc. The marriage may be declared void even if the incapacity becomes manifest only after the solemnization of the marriage.

If the Court declares the marriage annulled, you are free to marry again and the conjugal property relationship is dissolved. The children born before the Court's declaration of nullity of marriage remain legitimate and custody of the children is awarded to the parent who is not psychological incapacitated.

**34. Is there a deadline or time limit for filing an action for annulment on the ground of psychological incapacity?**

There is no time limit; the action does not prescribe. When the Family Code was first enacted, actions to annul marriages celebrated before August 3, 1988 had to be filed within 10 years. The law has been amended to remove this prescriptive period.

**35. If the man I married turns out to have been previously married, do I have to go to court?**

Yes. Under the Family Code, you must file a petition for declaration of nullity of previous marriage which may be invoked for purposes of re-marriage on the basis of a final judgment declaring such previous marriage void. The rule was different under the Civil Code, where no such petition had to be filed since the marriage is null and void.

**36. If I married a man knowing he is already married to someone else, can I file for annulment?**

You must file a petition to declare the marriage void, particularly if you want to get married again. But remember that you can be charged as a principal by indispensable cooperation if you knowingly entered into a bigamous marriage.

**37. My husband obtained a divorce abroad. What is our status now?**

You are still husband and wife. Divorced obtained abroad is not recognized here.

However, if you married a foreigner and the divorce is valid under the laws of his country, then the Family Code provides that you are free to marry again. If you married a Filipino who later became a naturalized citizen of another country and then divorced you, the rule will not apply if the Family Code is to be literally applied. You are still married to him, even if he is not married to you. There is a need to clarify this provision, as a literal interpretation will result in unfairness to the spouse who remains a Filipino.

**38. On what grounds may I get a legal separation from my husband?  
Or vice versa?**

There used to be only two grounds for legal separation. Now, under the Family Code, there are 10:

- a. repeated physical violence against spouse and children;
- b. moral pressure to change religion or political affiliation;
- c. encouraging a family member to engage in prostitution;
- d. spouse's imprisonment, more than six years even if pardoned;
- e. drug addiction and alcoholism;
- f. lesbianism or homosexuality;
- g. bigamous marriage whether in the Philippines or abroad;
- h. sexual infidelity or perversion;
- i. attempt on the life of spouse and children; and abandonment without justifiable cause for more than a year.



**39. Is there a time limit or deadline for filing an action for legal separation?**

The action must be filed within five years from the time the cause for legal separation occurred. This period starts to run even if the innocent spouse did not know of the cause. For example, if your husband was unfaithful and you only learned of the infidelity six years after it happened, you cannot file an action for legal separation any more. This is because the law does not encourage legal separation.

**40. If I obtain a decree of legal separation, can I get married again?**

No, you cannot get married again. Legal separation is only separation of bed and board. You and your spouse remain husband and wife. This is different from annulment, where the marriage is declared to have been void from the beginning, and the marital tie in effect never existed.

**41. Who is responsible for the children if we are separated?**

The court designates the parent, although the general rule is that no child under seven years old will be separated from the mother, unless the court decides otherwise.



If the court gives custody to one parent, it does not mean that the other parent is relieved of the responsibility to give support to the children. He or she must nevertheless contribute to their support.

**42. What surname do I use after separation?**

In the case of an annulment, you revert to your maiden name. In the case of a legal separation, you have to continue using your husband's surname.

**43. If my husband is the guilty party in our legal separation, does he still get his share of the conjugal property?**

Your husband forfeits his share, unless he can prove to the court that most of it came from his own capital and work. You divide the property with your children; you get half and they get the other half.

**44. After legal separation, do I return the gifts my husband gave me?**

No, unless he can prove the court you were gravely ungrateful as specified by law.

**45. Can we dissolve our conjugal partnership even without legal separation?**

Yes, if both of you agree and petition the court for separation of property. Your agreement must provide for the support of minor children and the payment of outstanding debts of minor children and the payment of outstanding debts and obligations.

**46. What if my husband does not agree?**

You can go to court and explain why the dissolution is advisable, practical and beneficial.

## **CONTRACTUAL EQUALITY**

**47. Can a married woman exercise a profession or occupation, or engage in business, even against her husband's will?**

Yes. The husband's consent is not necessary for the wife to exercise any legitimate profession, occupation, business or activity. The husband can object only on valid, serious and moral grounds. If the spouses cannot agree on this, the court decides.

**48. Can I enter into contracts without my husband's consent and involvement?**

Before RA 7192 (Women in Development and Nation Building Act) was approved, married men could enter into contracts without their spouse's consent, but married women could not.

Since its effectively (Feb. 1992) in all contractual situation-ns where married men have the capacity to act, married women shall have equal rights.

**49. May I be granted a passport, visa or any other travel documents without my husband's consent?**

Yes, under RA 7192, you are entitled to a passport, visa or any travel documents without your husband's consent.

**50. Can I get a loan without my husband's signature?**

Yes, you can. You do not need your husband's or father's or any male's signature on the form.

Women of legal age (married or unmarried) shall have the capacity to act and enter into contracts which shall in every respect be equal to that of men under similar circumstances (Section 5, RA7192).

**51. As a woman farmer or fisher folk, can I obtain loans and execute security and credit arrangement from government and other financial institutions under the same conditions as men?**

Yes. Under the law, you are entitled to equal access to all government and private sector programs in agriculture.

**52. As a housewife, am I entitled to Pag-ibig, GSIS or SSS coverage?**

Yes. Under the Women in Development and National Building Act (RA7192), married persons who devote full time to managing the household and family affairs shall, upon the working spouse's consent, be entitled to voluntary coverage to the extent of one half of the salary and compensation of the working spouse. The contributions due will be deducted from the salary of your working spouse.

**53. Can I borrow money for the needs of my family or for myself?**

Yes, if your husband does not provide adequately, or if you can relate your borrowing to your role as wife, mother or homemaker.

- 54. I have a small business and I need capital for it. There are moneylenders who are willing to give me a loan, but their interest rates are very high. Is there any law intended to help women who are in my situation?**



You may be qualified to borrow from government financial institutions such as the DBP, Land Bank, etc. R.A 7882 provides that any woman who at the time the law was enacted (February 1995) shall have been engaged in any micro and cottage business with a daily inventory of goods worth not more than P25, 000 or with any business equipment with a book value of not more than P50, 000 shall have priority to obtain a loan at prime interest rate or at the rate of 12% per annum, whichever is lower, from government financial institutions (DBP, PNB, Land Bank, etc.). The amount of the loan shall not exceed the value of her business equipment.

The law also provides that there "shall be earmarked from the loan portfolio of all government financial institutions such amount of money equivalent to five percent (5%) thereof for purposes of implementing the provisions of this Act." Thus if you are qualified under the provisions of this law, then you cannot probably obtain a loan from these government financial institutions.

- 55. I want to enter into a business but I have no capital. Will this law (RA 7882) also help me?**

If you are entering into business after RA 7882 was passed, you can also borrow from DBP, PNB, etc. under the same terms and conditions as discussed in No. 52. However, you must undergo appropriate training by the Technical Education Skills Development Authority (TESDA) or any government or government-accredited training institution. After the training, you must be certified by TESDA or the training institution as eligible to operate a micro and cottage business with maximum capital of P25,000. However, no loan can be granted for the operation of retail store. So if you want to borrow to open a grocery, sari-sari store or a gift shop, you would not be qualified to get a loan.

## **RIGHTS IN THE WORK PLACE**

### **56. What rights do I have under the Labor Code? For example, minimum age, safety and health?**

You must be at least 16 years old to work. However, those below 16 may be employed to perform light work which is not harmful to their safety, health or normal development and which is not prejudicial to their studies.

There are no safety and health standards for women employees, only comfort standards. The Secretary of Labor is authorized to require an employer, in appropriate cases, to provide facilities such as seats, separate toilets and lavatories for women and men, a dressing room for women, a nursery, to help women perform their duties without detriment to efficiency.

There are no requirements for insurance coverage under the Labor Code. There is compensation for work-related injuries under the Rules on Employee Compensation (Employee Compensation Commission).

### **57. May I complain if I am given unequal treatment and wages as a female employee, compared to a male employee?**

Yes, under the RA 6725 enacted on May 12, 1989, employers cannot discriminate in terms of remuneration for work of equal value and promotion, training opportunities, study and scholarship on account of sex. Non-compliance is considered a criminal offense, and if you are an aggrieved employee, you can file an entirely separate and distinct action for money claims.

### **58. What are the legal grounds of a company for terminating me?**

If you are a regular employee, you may be terminated by your employer only for cause. Whether or not there is cause to terminate your employment will always depend on the circumstances of each case.

Criminal acts such as stealing, fraud, etc. may be grounds for termination. Insubordination, excessive absences, habitual tardiness, may also be grounds, depending always on the circumstances of every case.

The best thing to do if you are terminated from work is to consult a lawyer or other person knowledgeable about labor laws to find out if your termination was lawful.

**59. I work the day shift in a factory that operates for 24 hours. Those who work between 10pm and 6am get higher pay, but my supervisor says that because I am a woman, I cannot work on this shift. Is this true? Are there any expectations?**

Yes. The Labor Code limits the time that women may work at night.

In the case of industrial concerns (factories, plants, etc.), no woman regardless of age shall be permitted or allowed to work in any industrial undertaking or branch thereof between 10 in the evening and 6 in the morning the following day.

However, women in agricultural work are allowed to work at night if she is given a period of rest of not less than nine consecutive hours.

There are some exceptions:

- a. In case of an emergency or urgent work;
- b. If the woman employee holds a responsible position of managerial or technical nature, or where she has been engaged to provide health or welfare service (such as nurses);
- c. Where the nature of the work requires the manual skill and dexterity of women workers and the same cannot be performed with equal efficiency by male workers; and
- d. Where the women employees are immediate members of the family operating the business or establishment.

These limitations on the time that women may work are perceived by many to be unfair because it places women workers on an unequal footing with their male counterparts. They restrict the options of women as to hours of work and in some case may deprive them of opportunity for better pay or job advancement.

**60. I wanted to apply for a job but was told that the position was open for single women only. Is this legal?**

No. it is illegal for an employer to require as condition for employment that women must be single. It is also illegal to require as a condition for continuation of employment that a woman remain single, or to stipulate late (expressly or by implication) that if a woman employee gets married, she shall be deemed resigned or separated. A woman employee cannot be prejudiced merely because she is married.

**61. Is pregnancy sufficient ground for being terminated?**

No. it is prohibited and unlawful for an employer to discharge you for getting pregnant or to refuse admission for fear that you may again be pregnant.

In fact, a currently employed, covered female employee who has paid three monthly contributions in a 13-month period preceding the semester of her childbirth, abortion or miscarriage, shall be paid a daily maternity benefit equivalent to 100% of her basic salary, allowance and other benefits or cash equivalents of such benefits for 60 days subject to certain conditions:

- a. Notification by the employee of the employer who notifies SSS;
- b. Two advances by employer within 30 days from filing thereof;
- c. In case of caesarian delivery, employee shall be paid benefits for 78 days;
- d. In case of illness, the employee does not get leave or compensation during maternity leave;
- e. Only for first 4 deliveries;
- f. SSS will immediately reimburse the employer of 100% of the advance upon proof.



In the event that the employer is in violation of any of the above provisions, the employer must pay damages equivalent to the employee benefits to the SSS and the SSS shall, in turn, pay the employee.

(Note: this answer describes provisions under RA 7322 enacted on March 30, 1992 which superseded amendments of the Social Security Law Section 14-A, but which is no way shall be construed to diminish existing maternity benefits under present laws and collective bargaining agreements.)

## SEXUAL HARASSMENT

62. What is sexual harassment?



There is no simple definition of sexual harassment. Generally, it occurs when a person (regardless of gender) uses his or her authority or ascendancy over another person to gain sexual favors. For example, if your boss demands sexual intimacy as a condition for a promotion, there is sexual harassment. When a male co-employee repeatedly makes sexual innuendos, thus making your work environment intimidating or hostile, there is sexual harassment. It is often said that sexual harassment is really about power, or the abuse of it.

### **63. Is there a law against sexual harassment?**

R.A. 7877, enacted on February 14, 1995, declares as unlawful all forms of sexual harassment in the employment, education or training environment.

An employer, employee, manager, supervisor, or agent of the employer who, having authority influence or moral ascendancy over another in a work environment, demands sexual favors as a condition for hiring or for continued employment or for granting favorable compensation, terms of employment, or promotion or privileges, is guilty of sexual harassment. There is also sexual harassment when the refusal to grant the sexual favor results in limiting, segregating, or classifying the employee which in any way would deprive or diminish employment opportunities or otherwise adversely affect the employee from whom the sexual favor is demanded.

A teacher, professor, instructor, coach, trainer or other person who has authority or moral ascendancy over another in an educational or training-related environment commits sexual harassment when the grant of a sexual favor is made a condition to the giving of a passing grade, or the grant of a stipend, allowance or other benefits, privileges or considerations or when the sexual advances result in an intimidating or offensive environment for the student, trainee or apprentice.

Some simple illustration of sexual harassment prohibited under this law are: when an employer threatens (expressly or impliedly) the employee that he or she will not be promoted unless he or she has sex with the boss; when an employee is terminated because he or she refused the employer's sexual advances; when a teacher gives a low grade to a student because he or she refused to go on a date with the teacher.

### **64. What remedy do I have against sexual harassment?**

The victim of sexual harassment can file a criminal complaint for violation of R.A. 7877. You can also file an action for damages.

### **65. I repeatedly complained to the manager about the sexual harassment committed against me by my direct supervisor, but nothing was done. Can I complain against the manager or the company I work for?**

Yes, you can complain. Under R.A. 7877, the employer or head of the office, educational or training institution is solitarily liable with the offender for damages in the event the sexual harassment was called to his or her attention and no immediate action was taken.

R.A. 7877 also provides that the employer or the head of the work-related, educational or training environment has the duty to prevent or deter the commission of acts of sexual harassment. The employer or head of office

is obligated to promulgate rules and regulations on the investigation of sexual harassment cases and the administrative sanctions for such acts. Failure to take these actions is a violation of R.A 7877.

## THE ANTI-RAPE LAW

### 66. I have heard so much about the Anti-Rape law. What is the law about? Wasn't rape already a crime even before this law was passed?

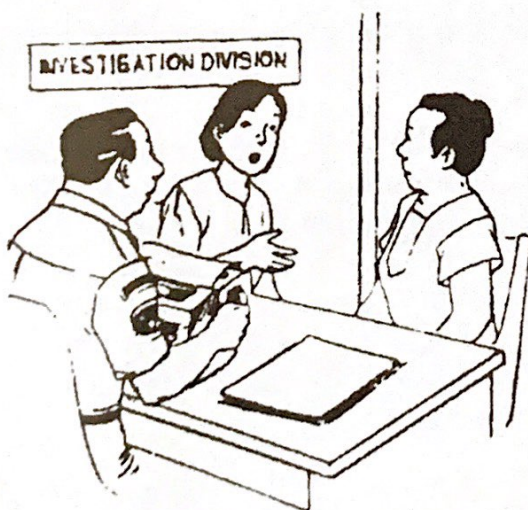
Rape was a crime even before R.A 8353 (the Anti-Rape Law of 1997) was enacted and was penalized under the Revised Penal Code.

The Anti -Rape Law made several changes to the law on rape.

*First*, rape is now a crime against person, and no longer a crime against chastity. This means that rape can be prosecuted by the State even without the complaint of the rape victim, which was required under the old law. When rape was a crime against chastity, it was easier for the offender to avoid prosecution, usually by making the victim afraid to file a case or by exerting pressure on the rape victim or her family. The new law tries to address this problem by making it possible for the authorities to prosecute rape even if the victim does not file a complaint. However, this does not completely resolve the problem, as the testimony of the victim is important. If the victim refuses to testify due to fear of the offender, it will be difficult to get a conviction.

*Second*, the crime of rape can now be committed by a male or female. Before the law was amended, rape could only be committed by a male, and only against a female.

*Third*, the manner by which rape can be committed has been broadened.



Rape can now be committed by means other than sexual intercourse, which is a radical departure from the Penal Code. When a person, through force or intimidation or by means of fraudulent machination or grave abuse of authority, or when the victim is unconscious, deprived of reason, or is under 12 years, inserts his penis into another person's mouth or anal orifice, or any instrument or object into the genital or anal orifice of another person, such act of sexual assault is considered a form of rape.



*Fourth*, the penalties for rape have been increased.

*Fifth*, the Anti-Rape Law recognizes the possibility of marital rape and that a husband can be charged and convicted for rape committed on his wife (Please see No. 29, above).

- 67. A man assaulted me and inserted a soft drink bottle in my genital organ. I was told that I cannot charge him with rape because there was no actual sexual intercourse. Is this true?**

No, this is not true. Under the Anti-Rape Law, the insertion of any instrument or object into another person's genital or anal orifice is a form of rape.

- 68. I had sexual intercourse with an uncle into whose care my parents had entrusted me. I was 16 years old. I did not put up very great resistance. I was told I cannot charge him with rape because I did not put up a great struggle. Is this true?**

You can charge your uncle with rape. When the offender in a rape case has ascendancy or influence over the victim, it is not necessary that she put up a determined struggle. In fact, if you were misled into the sexual intercourse because of the trust you had in your uncle, you can charge him with rape, as it can be committed by means of fraudulent machinations or grave abuse of authority.

## **THE MAGNA CARTA OF WOMEN REPUBLIC ACT NO. 9710**

- 69. I am of legal age. What Rights do I have with respect to the contracting marriage and living a married life?**

The Magna Carta of Women specified the rights of a woman in relation to Marriage and family relation. Thus, the State shall ensure that the women shall have the same rights with that of their male counterparts to enter into and leave marriages, freely choose a husband, decide on the number and spacing of their children, enjoy personal rights including the choice of a profession, own, acquire, and the manage their property and acquire change, or keep nationality.

- 70. I was physically and sexually abused. How can I go after my abuser?**

You can go to the nearest Violence Against Women Desk and air your concern there. The Magna Carta of Women mandated local government units to establish women's desks in every barangay to address violence against women cases.

- 71. A television station aired a special program which undermines the dignity of women, without factual or logical bases. Can concerned women's group complain against the television station?**

Yes, the Magna Carta of Women's protects women against discrimination and demeaning disrespectful portrayal of women in media and film. The main objective of the law is to raise the consciousness of the general public in recognizing the dignity of women and the role and contribution of women in the family, the community, and society through the strategic use of mass media.

- 72. I was expelled from and/or readmitted to the university or college because I became pregnant outside of marriage. Can the university/ college where I am working or studying validly do that?**

No, under the Magna Carta of Women, one of the rights of women provided by law is the equal access and elimination of discrimination against women in education, scholarships and training. The same includes revision of educational materials, and curriculum to remove gender stereotypes and images, and prohibiting the expulsion non-readmission and other related discrimination against women students and faculty due to pregnancy outside of marriage.

- 73. I am a member of the military force of the country. Can I be promoted in like manner as my male counterparts in the military are promoted in rank?**

Yes, under the Magna Carta of women, women shall not be discriminated against in the employment in the field of the military, police and other similar services. In this regard, the women employed in the same field shall be accorded the same promotional privileges and opportunities as their male counterpart, including pay increases, additional benefits, and awards based on competency and quality of performance.

- 74. I am the most qualified athlete to represent the Philippines in an international competition. Can the Philippine government disqualify me because I am female?**

No. Under the Magna Carta of Women, women are accorded equal participation in sports which includes measures to ensure that gender-based discrimination in a competitive and non-competitive sport is removed. Women and girls should also benefit from sports development.

**75. The Magna Carta of Women guarantees the civil, political and economic rights of women in the marginalized sectors. Who are the marginalized sectors?**

The marginalized sectors are those who belong to the basic, disadvantaged, or defenseless groups who are mostly living in poverty and have little or no access to land and other resources, basic social and economic services such as health care, education, water and sanitation, employment and livelihood opportunities housing security, physical support and the justice system. In particular, these are, among others: the small farmers and rural workers, fisher folk, urban poor, workers in the formal economy, OFWs, indigenous people, Moro, children, senior citizens, persons with disabilities, and solo parents.

**76. How can Filipino women living abroad benefit from this law?**

Filipino women living abroad can go to the Philippines Embassy or consulate in their place. Section 37 of the Magna Carta of women orders the selection of a gender center in the consular Section of the Philippines embassies or consulates. The said officer who shall be trained on Gender Development shall be primarily responsible in handling gender concerns of women OFWs, especially those in suffering and pain.

**77. If a government agency or government office violated my rights under the Magna Carta of Women, what are the sanctions that may be imposed on it?**

If violations is committed by a government agency or any government office, including government-owned and controlled corporations and local government units, the person directly responsible for the violation, as well as the head of the agency or local chief executive shall be held responsible under the Magna Carta of Women.

The sanctions under administrative law, civil service or other appropriate laws shall be recommended by the Commission on Human Rights to the Civil Service Commission and the Department of the Interior and Local Government. Further, in cases where violence has been proven to be committed/done by agents of the State, such shall be considered aggravating offenses with corresponding sanctions depending on the severity of the offense.

**78. If a private individual violated my rights under the Magna Carta of Women, what are the sanctions that may be imposed on him?**

If violation is committed by a private entity or individual, the person directly responsible for the violation shall be responsible to pay damages. Further, the offended party can also pursue other remedies available under the law and invoke any of other provisions of existing laws, especially those that protects the rights of women.

## THE ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN LAW (VAWC)

### 79. What is Violence Against Woman and their Children?

It refers to "any act or a series of acts committed by any persons 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 code, 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."

### 80. Can a stranger commit VAWC under the Law?



No, Republic Act. No. 9262 or the Anti- Violence Against Women and Their Children Act of 2004 seeks to address the prevalence of violence against women and their children (VAWC) abuses on women and their children by their husband or ex-husband, live-in partner or ex-live in partner, boyfriend/ girlfriend or ex-boyfriends/ex-girlfriends, dating partner or ex-dating partner.

### 81. In the course of our misunderstanding, my boyfriend started hitting and kicking me. Can I be covered by a protection order under the Law?

Yes, Under VAWC law, any kind of bodily or physical harm, such as hitting, slapping, or kicking, is already considered Physical Violence.

### 82. My stepfather made demeaning and sexually suggestive remarks. Can I be covered by a protection order under the law?

The act of your step-father of making demeaning and sexually suggestive remarks falls under the Category of Sexual Violence which justifies the issuance of a protection order. In particular, sexual violence refers to an act which is sexual in nature, and is committed against a woman or her child. It includes but it is not limited to: (1)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: (2) acts which cause or attempt to cause the victim to engage in any sexual activity by force or physical or other harm, threats of force physical or other harm, or coercion: and (3) prostituting the women or her child.

**83. My husband has been unfaithful to me for years. In fact, he introduces his mistress in public, much to my and my children's humiliation. Can I file a petition for issuance of a protection order?**

Your husband's act introducing his mistress to the public is clearly a form of Psychological Violence. It refers to acts or omissions which cause- or likely 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 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.

**84. I am a licensed doctor even before I met my husband. However, after a year of being married, my husband prevented me from practicing my profession without heeding my objections. Can I file a petition for issuance of a protection order?**

Yes, VAWC Law warrants issuance of protection order as a relief to Economic Abuse. Under the law, economic abuse refers to acts that make- or attempt to make- a woman financially dependent. This includes but is not limited to the following:

- (1) Withdrawal of financial support, or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
- (2) Deprivation, or threat of deprivation, financial resources and the right to be use and enjoyment of the conjugal, community or property owned in common;
- (3) Destroying household property; and

- (4) Controlling the victim's own money or properties; or solely controlling the conjugal money or properties.

**85. What can a woman, who has been the subject of physical, sexual, psychological, or economic abuse, do to be relieved of such abuses?**

The law allows women and their children to secure barangay protection order (BPO), and or temporary or permanent protection order from the courts. They can also file an independent civil action for damages and criminal action for the violation of anti- VAWC Act.

**86. What is a protection order?**

To prevent further abuse of or violence against women and her child, a provision for a protection order is prescribed in the Anti-VAWC Act. It also provides them relief from said abuse or violence.

**87. How can I obtain the BPO?**

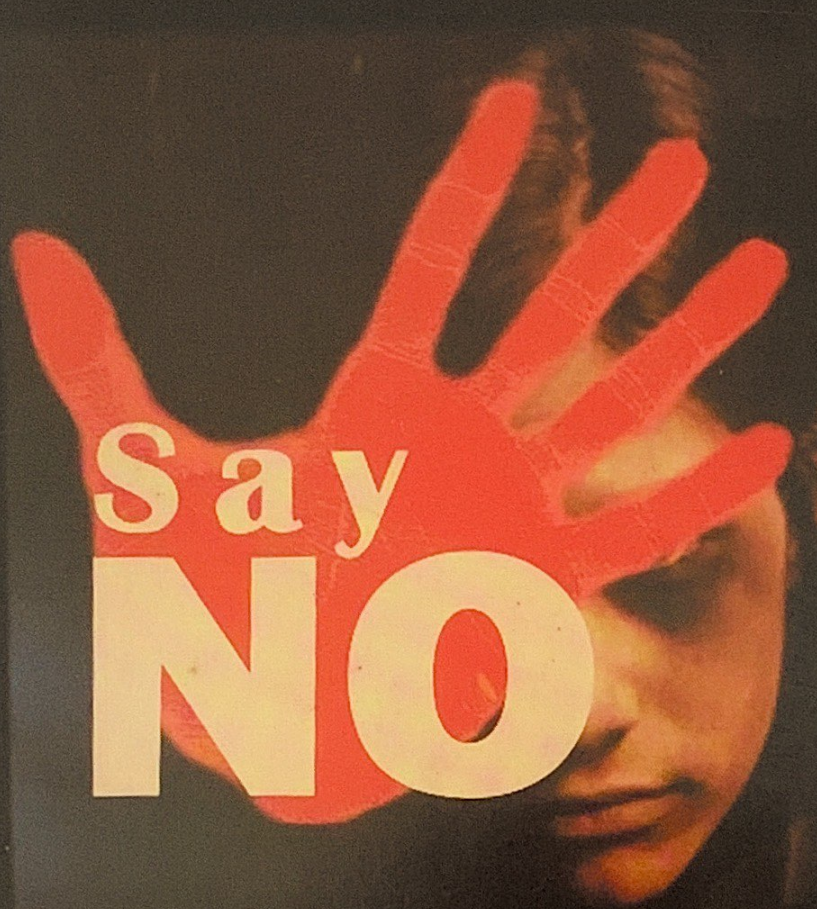
You can go to the Barangay chairman or councilor to submit a statement under oath to validate the complaint. BPO should be released on the day the complaint is filed. If not, the victim may file an administrative case against barangay officials.

## **FAMILY COURTS**

All cases involving petitions for guardianship of children, adoption, annulment of marriage, declaration of nullity of marriage, support and/or acknowledgment, dissolution of conjugal partnership, declaration of children as abandoned, cases of domestic violence, and child abuse shall be filed before the Family Court established under R.A. 8369, the Family Courts Act of 1997.



Criminal cases where one or more of the accused is below 18 but not less than 9, or where one or more of the victims is a minor at the time of the commission of the offense, shall likewise be filed before the Family Court.

All hearings and conciliation of child and family cases shall be treated in a manner consistent with the promotion of the child's and family's dignity and worth, and their privacy shall be respected at all stages of the proceedings. Records shall be dealt with utmost confidentiality and the identity of the parties shall not be divulged unless necessary and with the authority of the judge.



Say  
**NO**

**TO VIOLENCE  
AGAINST WOMEN**

 **UN WOMEN**  **NATIONAL COMMITTEE  
PHILIPPINES**  
United Nations Entity for Gender Equality  
and the Empowerment of Women