

The Law & IRR of the Safe Spaces Act R.A. 11313

By. LORNA PATAJO-KAPUNAN



Safe Spaces Act or the Anti-Bastos Law

An Act Defining Gender-Based Sexual Harassment in
Streets, Public Spaces, Online, Workplaces, and
Educational or Training Institutions, Providing
Protective Measures and Prescribing Penalties Therefor



I. HISTORY & BACKGROUND of the Safe Spaces Act



Policies of the State:

Values the **dignity of every human person** and guarantees **full respect for human rights** (Consti. Art. 2 Sec. 11)

Recognizes the **role of women** in nation-building and ensures the **fundamental equality before the law of women and men** (Consti. Art. 2 Sec. 14)

Recognizes that both men and women must have **equality, security, and safety** not only in private but also on the streets, public spaces, online, workplaces, and educational and training institutions.



The UN Safe Cities and Safe Public Spaces Program

88% of women aged 18-24 experienced sexual harassment in public spaces

2 in 5 women, that is 41%, aged 15 to 49 have never sought help to end sexual harassment nor told anyone about the harassment.



C. Laws that existed before the Anti-Bastos Law

1. Anti-Sexual Harassment Act of 1995 or RA 7877
2. RPC on unjust vexation
3. Anti-Violence Against Women and Children Act



RA 7877: The Anti-Sexual Harassment Act of 1995

Punished sexual harassment

In workplaces, educational, or training environment

Committed by a superior, teacher, coach

Who demands, requests or otherwise requires any sexual favor from the victim, regardless of whether the demand, request or requirement for submission is accepted

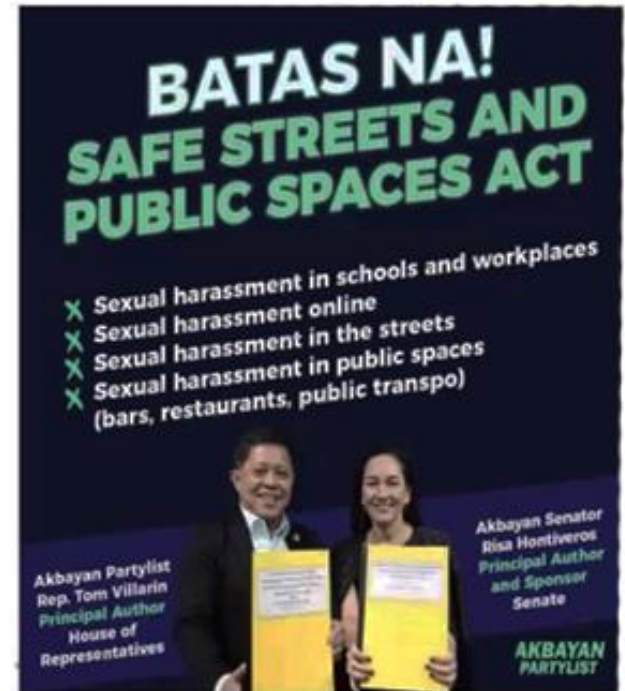
One of the elements of unjust vexation is that the offender should have acted with criminal intent.

In the case of Safe Spaces Act, gender based streets and public spaces sexual harassment is committed through any unwanted and uninvited sexual actions or remarks regardless of the motive.



► **Important features**

- Expanded concept of sexual harassment: Personal spaces of safety
- Streets, public spaces, online, aside from workplaces, and educational and training institutions
- Graduated penalties for severity and repetition
- Expanded duties and liabilities of employers in workplaces and heads of educational/training institutions
- LGUs and National Gov't Agencies (NGAs) are obliged to be duty-bearers
- First piece of legislation in Philippine History that not only expressly recognizes transgenders but also accords them special legal protection
- First time that Philippine legislation expressly recognizes transphobia and homophobia as a wrong to be deterred



II. COVERAGE

What acts are considered
Gender-Based Streets and
Public Spaces Sexual Harassment?



A. First Degree/Light Offenses

1. Catcalling

Refers to unwanted remarks directed towards a person, commonly done in the form of wolf-whistling and misogynistic, transphobic, homophobic, and sexist slurs.

2. Wolf-whistling

3. Leering and intrusive gazing

4. Taunting


5. Unwanted invitations

6. Cursing



7. Misogynistic remarks or slurs

Any statements in *whatever form or however delivered*, that are indicative of the feeling of hating women or the belief that men are inherently better than women.



"kaya kayo narerape kasi nagsusuot kayo ng shorts"

"kayong mga babae pang sex lang kayo, wala kayong kwenta kundi pang kama lang."



Courtesy: ALEXIS HART GARCIA



24
WEEKEND

VIRAL NA 'TO

MIYEMBRO NG LGBT, NAGSAMPA NG REKLAMO
LABAN SA BABAENG NANGUTYA AT NAGBANTA
UMANO SA KANYA

LPA, NAGBABADYA RIN SA MOA LUGAR NA SINALANTA NG S






9. Homophobic remarks or slurs

Any statements in *whatever form or however delivered*, which are indicative of fear, hatred or aversion towards persons who are perceived to be or actually identify as lesbian, gay, bisexual, queer, pansexual and such other persons of diverse sexual orientation, gender identity or expression, or towards any person perceived to or actually have experienced same-sex attraction.

(insisting that a person act in accordance with heteronormative gender norms, suggestions that a lesbian should have sex with a man to "correct" her)




Hoy, bawal dumaan ang mga bakla dito!

Other Examples: Ay bakla! Hindi kita mapagkakatiwalaan, kasi lahat ng bakla nagnanakaw para sa pangsustento ng boyfriend." "Lahat ng LGBT may sira sa ulo." "Kayong mga bakla kahit sinong lalaki na may ... papatulan ninyo." "Ang mga bakla at tomboy, laging nang-uumpisa ng gulo. Mahirap kayong makasama sa trabaho."

10. Sexist remarks or slurs

Statements in *whatever form or however delivered*, that are indicative of prejudice, stereotyping, or discrimination on the basis of sex, typically against women.



Ay babae yan, bobo
yan kulang sa utak
yan.

11. Persistent uninvited/unwanted comments or gestures on one's appearance
12. Relentless requests for one's personal details (name, contact, social media details, destination)
13. Use of words, gestures or actions that ridicule on the basis of sex, gender or sexual orientation; identity and/or expression
14. Persistent telling of sexual jokes (sexual comments on a woman's breasts or legs)
15. Use of sexual names, comments, and demands
16. ***ANY ADVANCES, WHETHER VERBAL OR PHYSICAL, THAT HAS MADE AN INVASION ON ONE'S SENSE OF PERSONAL SPACE OR THREATENS THE PERSON'S SENSE OF PERSONAL SAFETY***



Penalties for First Degree/Light Offenses

1st Offense

Fine of P1,000.00 and community service of 12 hours inclusive of attendance in a Gender Sensitivity Seminar to be conducted by the PNP/LGU/PCW.

2nd Offense

Arresto menor (6 to 10 days imprisonment) or a fine of P3,000.00.

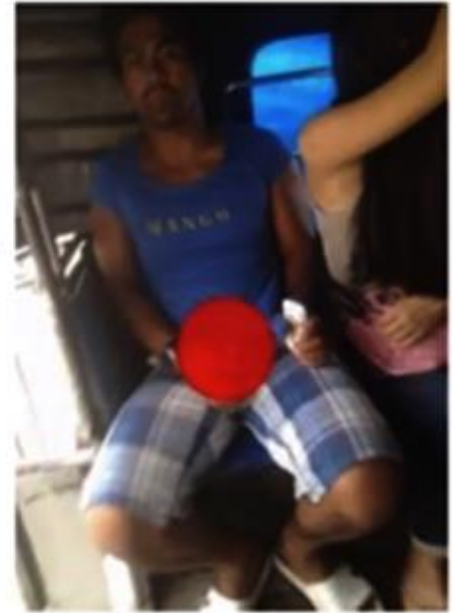
3rd Offense

Arresto menor (11 to 30 days imprisonment) **and** a fine of P10, 000.00.



B. Second Degree Offenses/ Less Grave Acts

- ▷ Making offensive body gestures at someone
- ▷ Exposing/flushing of private parts
- ▷ Public masturbation
- ▷ OTHER SIMILAR
- ▷ LEWD SEXUAL ACTIONS



Penalties for Second Degree Offenses

1st Offense

Fine of P10,000.00 and community service of 12 hours inclusive of attendance in a Gender Sensitivity Seminar to be conducted by the PNP/LGU/PCW.

2nd Offense

Arresto menor (11 to 30 days imprisonment) or a fine of P15,000.00.

3rd Offense

Arresto mayor (1 month and 1 day to 6 months imprisonment) **and** a fine of P20,000.00.



C. 3rd Degree Offenses / Serious Offenses

Stalking

Refers to conduct directed at a person involving the **repeated** visual or physical proximity, **non-consensual** communication, or a combination thereof that **cause or will likely cause a person to fear for one's own safety or the safety of others, or to suffer emotional distress.**



Penalties for the 3rd Degree Offenses

Serious Offenses

1st Offense

Arresto menor (11 to 30 days) or a fine of P30,000.00, provided that it includes attendance in a Gender Sensitivity Seminar, to be conducted by the PNP/LGU/PCW.

2nd Offense

Arresto mayor (1 month and 1 day to 6 months imprisonment) or a fine of P50,000.00.

3rd Offense

Arresto mayor in its maximum period (6 months imprisonment) **or** a fine of P100,000.00.

*** why "or" only



III. DIFFERENT CONTEXTS OF SEXUAL HARASSMENT

Gender-based sexual harassment can be found in various places:

- ▷ Streets and public spaces
- ▷ Online
- ▷ Workplace
- ▷ Educational and training institutions



A. Gender-Based Streets and Public Spaces Sexual Harassment:

- ▶ Committed through any **unwanted and uninvited** sexual actions or remarks against any person **regardless of the motive** for committing such action or remarks.
- ▶ Include, among others:
 - Catcalling, wolf-whistling, unwanted invitations, misogynistic, transphobic, homophobic, and sexist slurs;
 - Persistent uninvited comments or gestures on a person's appearance;
 - Relentless requests for personal details;



What are “Streets”? What are “Public Spaces”?

Under Section 4 of the Safe Spaces Act: Gender Based Streets and Public Spaces Sexual Harassment can occur in -buildings, schools, churches, restaurants, malls, public washrooms, bars, internet shops, public markets, transportation terminals, spaces used as evacuation centers, government offices, common carriers, public utility vehicles (PUVs) as well as private vehicles covered by app-based transport network services.

Under Section 5 of the Safe Spaces Act: Gender Based Sexual Harassment in privately owned places open to the public and specifically mentioned are restaurants, cafes, bars, and clubs, resorts and water parks, hotels and casinos, cinemas, malls, buildings, and other privately owned places open to the public, including other places of recreation.

And lastly, according to the IRR, public spaces include “all other areas, regardless of ownership, openly accessible or offered to be accessed by the public”. Please note that this catch all definition of public spaces was not mentioned at all in the law but was only inserted with a view towards elaboration.



Duties of privately owned places (establishments) open to the public

- ▷ The **management** of restaurants, bars, cinemas, malls, buildings and other privately-owned places open to the public shall adopt a **policy of zero tolerance** in their establishments against gender-based streets and public spaces sexual harassment. Such policy will apply to ***all persons*** who are within its area or vicinity.



Duties of privately owned places open to the public

- ▶ Such zero tolerance policy shall include **measures to prevent the occurrence of GBSH** in such places, including among others:
 - Installation in their business establishments of ***clearly visible and readable warning signs*** against gender-based public spaces sexual harassment, including the anti-sexual harassment ***hotline number(s)***, which may include that of the ***nearest police station, in bold letters***.
 - Designation of at least **one (1) anti-sexual harassment officer to receive GBSH complaints**. **Security guards** in these places may be deputized to apprehend the perpetrators caught in the act and are **required to immediately coordinate** with local authorities



Duties of privately owned places open to the public

- ▶ Such zero tolerance policy shall include **measures to address the occurrence of GBSH** in such places, including, among others:
 - Provision of a *safe gender-sensitive environment to encourage victims to report* GBSH as soon as it happens.
 - *Development of protocols* to be followed *in cases of GBSH* in their establishment.



Whenever **GBSH** happens, a security guard or any person who witnessed the crime may conduct a **citizen's arrest** and apprehend the perpetrator in accordance with law.



Citizen's Arrest

- ▷ When any **private person** may arrest, without need of warrant under the following circumstances:
 - When, in the presence of the private person, the person to be arrested *has committed, is actually committing or is attempting to commit* GBSH; and
 - When GBSH has in fact *just been committed, and the private person has personal knowledge of facts* indicating that the person to be arrested has committed it.



Awareness/Training

To ensure that the security guards are knowledgeable on GBSH, awareness of the law will form part of topics or modules for trainings which are conducted before security agencies and security guards may renew their licenses.



What is Gender-Based Sexual Harassment in Public Utility Vehicles (PUVs)?



What is Gender-Based Sexual Harassment in Public Utility Vehicles (PUVs)?

Common Carriers

Refer to persons, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public.

PUVs include motor vehicles considered as public transport conveyance or common carrier duly registered with the LTO and granted a franchise by the LTFRB including special PUVs such as school services. As per clarification from the DOTr, the term PUV also includes public water transport utilities and air carrier or operator as registered with and/or regulated by the Maritime Industry Authority (MARINA), the Civil Aviation Authority of the Philippines (CAAP), or the Civil Aeronautics Board (CAB)



GBSH in Public Utility Vehicles (PUVs)

- ▶ GBSH in PUVs where the **perpetrator is the driver** of the vehicle shall also constitute a **breach of contract of carriage**, for the purpose of creating a presumption of negligence on the part of the owner or operator of the vehicle in the selection and supervision of employees and rendering the owner or operator solidarily liable for the offenses of the employee.

(Sanction may be imposed upon **order** by the proper court **OR** upon order of **LTO/LTFRB** in an administrative proceeding)



Examples of Harassment in Public Vehicles

- In 2016, a jeepney driver got fired and his driver's license was suspended when he was tried for sexually harassing a woman that shown in a viral video on social media.
- In 2017, another woman narrated how she was traumatized when she caught a man doing a lewd act in front of her while riding a jeepney.
- In 2018, a female passenger captured on video a man showing off his manhood to her in a crowded bus ride.

Source:

<https://interaksyon.philstar.com/trends-spotlights/2019/03/25/146214/women-sexual-harassment-public-transportation-viral-groping-post/>



What happens if GBSH in Streets and Public Spaces is committed by minors?

- In case the offense is committed by a minor, the **Department of Social Welfare and Development (DSWD)** shall take necessary disciplinary measures and **diversion program** as provided for under R.A. No. 9344, otherwise known as the "Juvenile Justice and Welfare Act of 2006".

The program shall include age-appropriate gender sensitivity training and anti-sexual harassment awareness activities.



Role of Local Government Units (LGUs)

Local Government Units (LGUs) shall bear primary responsibility in enforcing the provisions under Article I (Gender-Based Streets and Public Spaces Sexual Harassment) of R.A. No. 11313.



Duties of local government units (LGUs) under the Safe Spaces Act

- ▶ **Pass an ordinance** that shall localize the applicability of the law within sixty (60) days from its effectivity. Such an ordinance shall consider and address the particular circumstances prevalent in their respective jurisdictions. (The passage of an ordinance shall not serve as a prerequisite for the implementation of the law by LGUs)
- Disseminate or post** in conspicuous places a **copy of the law** and the corresponding ordinance.
- Provide **measures to prevent GBSH in educational institutions**, such as information campaigns and anti-sexual harassment seminars;



Duties of local government units (LGUs)

- ▷ Discourage GBSH and impose fines on acts of GBSH as defined in the law;
- ▷ Establish an **anti-sexual harassment hotline**;
- ▷ Coordinate with the **Department of the Interior and Local Government (DILG)** on the implementation of the law;
- ▷ Establish a referral system for complainants of GBSH in streets and public spaces.



Duties of Local Government Units (LGUs)

- Provide **training on the law** for the Punong Barangay and members of the Lupong Tagapamayapa in cases covered by the Katarungang Pambarangay system, for traffic enforcers under their jurisdiction, and adopt training modules for concerned LGU personnel down to the barangay level;
- Set up **Anti-Sexual Harassment (ASH) desks** in all barangay, city and municipal halls, preferably staffed by a woman.
- Create a mechanism for **handling and documentation of complaints**.

Sec 9c of the RA11313. Providing capacity-building and **training activities to build the capability of local government officials** to implement this Act in coordination with the Philippine Commission on Women (PCW), the Local Government Academy (LGA) and the Development Academy of the Philippines (DAP).



Role of the DILG

- ▶ Inspecting LGUs if they have **disseminated** or **posted** in **conspicuous places** a copy of the law and the corresponding ordinance.
- ▶ Conducting and disseminating **surveys** and **studies** on **best practices** of LGUs in implementing the law.
- ▶ Providing **capacity-building** and **training activities** to build the capability of local government officials to implement the law in coordination with the Philippine Commission on Women (PCW), the Local Government Academy (LGA) and the Development Academy of the Philippines (DAP):

Assisting the LGUs in **localizing the applicability** of the law.

Conduct safety audits every three years to assess the efficiency and effectivity of the implementation of the law within their jurisdiction. In conducting safety audits, **provinces shall assess the implementation of cities and municipalities within their jurisdictions, and the cities and municipalities shall assess the barangays, in the exercise of their general supervision.**



Who can apprehend and enforce the law?



The Metro Manila Development Authority (MMDA), the local units of the **PNP** for the provinces, and the Women and Children's Protection Desk (WCPD) of the PNP shall have the authority to apprehend perpetrators and enforce the law.

B. Gender-Based Online Sexual Harassment

Refers to an online conduct targeted at a particular person that causes or is likely to cause another-mental, emotional or psychological distress, and fear of personal safety.

Sexual harassment acts including unwanted sexual remarks and comments, threats, uploading or sharing of one's photos without consent, video and audio recordings, cyberstalking and online identity theft.



Gender-Based Online Sexual Harassment:

- Includes acts that **use information and communications technology in terrorizing and intimidating victims** through:
 - Physical, psychological, and emotional threats, unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online **whether publicly or through direct and private messages (Sec.12. Art.2 SSA);**
 - Invasion of the victim's privacy through cyberstalking and incessant messaging;



Gender-Based Online Sexual Harassment:

- Uploading and sharing without the consent of the victim any form of media that contains photos, voice, or video with sexual content;
- Any unauthorized recording and sharing of any of the victim's photos, videos or any information online;
- Filing false abuse reports to online platforms to silence victims.
- Impersonating identities of victims online or posting lies about victims to harm their reputation



Julia Barretto vs Jay Sonza

Actress Julia Barretto on Friday filed a cyberlibel complaint against former broadcaster Jay Sonza for his malicious social media posts regarding the ABS-CBN talent's rumored pregnancy.

Fact: In his online post, (Facebook public post on Sept. 21) Sonza said Barretto was pregnant with actor Gerald Anderson, the actress' rumored boyfriend. "Dito muna tayo sa mga balitang may katotohanan, may pag-iibigan, may pinagsaluhang nakakapanginig ng laman at higit sa lahat, nagbunga."

"Napatunayan nina Visoy (visayan tisoy) Gerald Anderson at anak nina Dennis Padilla at Marjorie Barretto na si Julia Barreto na kapuwa hindi sila bago. After months of love lockdown and ESQ (exact sex quadrant) – may nabuo sa sinapupunan ni Julia.

"Nahinayak ang batang Dadiangas, Nasiyot man jud oi. Kapugngan pay tren, dili ang gugmang gauros uros tawon. Happy Monday po. Makikibalita ako kung kaolin ang kasal sa aking neighbor.



JULIA BARRETTO GAINS SUPPORT OF FELLOW CELEBS, FANS IN FILING COMPLAINT

Julia Barretto has gained massive support from fellow celebrities and fans alike just a few hours after she filed criminal complaints against Jay Sonza, who posted **pregnancy rumors** about her online.

PHOTOGRAPH BY SALVADORITTE

@inquirerdotnet

INQUIRER.NET

Cyberstalking

A form of stalking that is committed through an electronic medium in which online communication takes place.

Stalking

Refers to conduct directed at a person involving the **repeated** visual or physical proximity, **non-consensual** communication, or a combination thereof that **cause or will likely cause a person to fear for one's own safety or the safety of others, or to suffer emotional distress.**

"Stalking" an online profile which is publicly accessible in itself does not constitute an offense.



Implementing Bodies for Gender-Based Online Sexual Harassment

The PNP Anti-Cybercrime Group (PNP ACG) is the national operational support unit of the PNP primarily responsible for the implementation of pertinent Philippine laws on cybercrime.



Heavier penalties for online sexual harassment than those occurring in physical public spaces

- ▶ *Prision correccional* in its medium period (2 years, 4 months, and 1 day to 4 years and 2 months) and/or P100,000-P500,000 fine
- ▶ If the perpetrator is a juridical person, its license or franchise shall be automatically deemed revoked, and the persons liable shall be the officers thereof, including the editor or reporter in the case of print media, and the station manager, editor and broadcaster in the case of broadcast media
- ▶ Alien who commits GBOSH shall be subject to deportation proceedings after serving sentence and payment of fines



Qualified Gender-Based Streets, Public Spaces and Online Sexual Harassment

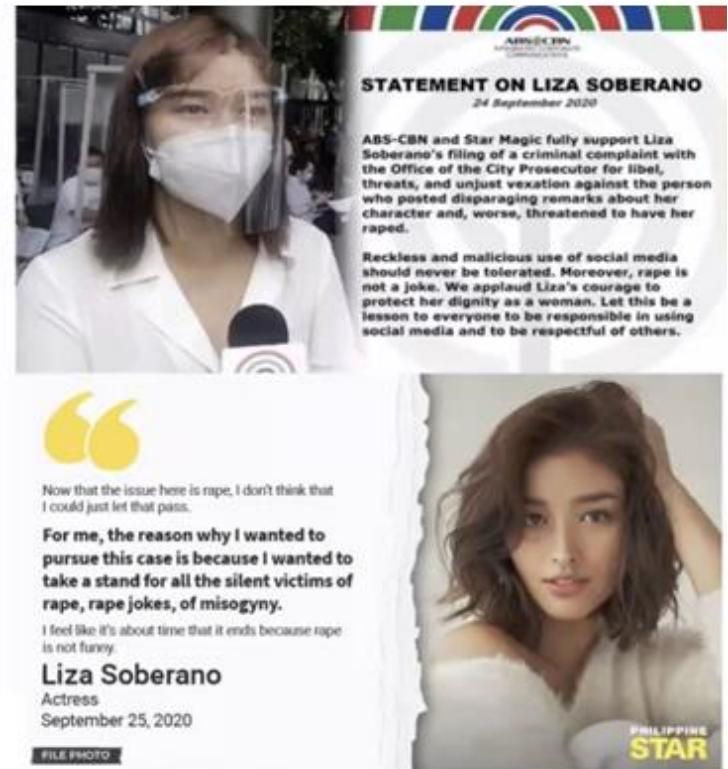
- ▶ The penalty next higher in degree will be applied in the following cases:
 - If the act takes place in a common carrier or PUV, including but not limited to jeepneys, taxis, tricycles, or app-based transport network vehicle services, where the perpetrator is the driver of the vehicle and the offended party is a passenger;
 - If the offended party is a minor, a senior citizen, or a person with disability (PWD), or a breastfeeding mother nursing her child;
 - If the offended party is diagnosed with a mental problem tending to impair consent;
 - If the perpetrator is a member of the uniformed services, such as the PNP and the Armed Forces of the Philippines (AFP), and the act was perpetrated while the perpetrator was in uniform; and
 - If the act takes place in the premises of a government agency offering front-line services to the public and the perpetrator is a government employee.



Liza Soberano vs Olaes

Popular actress Liza Soberano filed a formal criminal case against an employee of Converge and holds the position of Sales Head Personnel, who posted a rape threat about her on social media.

Fact: Olaes' Facebook post: "Wala tayong magagawa, wala ng trabaho, kaya di bale ng masira ang image, magkapera lang. Sarap ipa-rape sa mga... ewan!"



C. Gender-Based Sexual Harassment in the Workplace

Employer

Refers to a person who exercises control over an employee.



Gender-Based Sexual Harassment in the Workplace:

- ▶ An act or series of acts involving any **unwelcome sexual advances, requests or demand for sexual favors** or any **act of sexual nature**, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems, that has or could have a **detrimental effect on the conditions of an individual's employment or education, job performance or opportunities;**



Gender-Based Sexual Harassment in the Workplace:

- ▶ A conduct of sexual nature and any other conduct-based on sex affecting the dignity of a person, which is unwelcome, unreasonable, and offensive to the recipient, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems;
A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient.



GBSH in the workplace may also be committed between **peers**, and by a subordinate to a superior officer.



Duties of the Employer

- ▶ Employers or other persons of authority, influence or moral ascendancy in a workplace shall have the **duty to prevent, deter, or punish** the performance of acts of GBSH in the workplace.



The employer or person of authority, influence or moral ascendancy shall:

- ▶ Disseminate or post in a conspicuous place a **copy of the law** to all persons in the workplace.
- ▶ Provide measures to prevent GBSH in the workplace, such as the conduct of **anti-sexual harassment seminars**, which shall be provided to **all** employees, regardless of rank and status.



Committee on Decorum and Investigation (CODI)

Within one hundred fifty (150) days from the effectivity of these rules, employers shall constitute a Committee on Decorum and Investigation (CODI) that shall serve as an independent internal grievance mechanism that will act as the main body in the investigation and resolution of cases involving GBSH in the workplace.

Sec. 28. These Rules and Regulations shall take effect immediately upon approval by the Commission.



- Every CODI shall be headed by a woman and not less than half of its members shall be women.
- Every CODI shall be composed of members who should be impartial and not connected or related to the alleged perpetrator within the fourth degree of consanguinity or affinity and have no prior record of involvement as a respondent, defendant or accused in any case of whatever nature on Sexual Harassment.



e) The CODI shall ensure the protection of a complainant from retaliation without causing her/him any disadvantage, diminution of benefits or displacement, and without compromising his/her security of tenure.



**VICTIM / WITNESS
ASSISTANCE
PROGRAM**

Duties of the Employee/Co-Worker

- ▷ Refrain from committing acts of GBSH;
- ▷ Discourage the conduct of GBSH in the workplace;
- ▷ Provide emotional or social support to fellow employees, co-workers, colleagues or peers who are victims of GBSH; and
- ▷ Report acts of GBSH witnessed in the workplace.

A report maybe made by any person to the employer.

A report maybe anonymous and shall constitute sufficient notice to the employer who shall refer the matter to the CODI.

- ▷ Employee may report directly to the CODI.



Liability of Employers

- ▷ In addition to liabilities for committing acts of GBSH, employers may also be held responsible for:
 - a. Non-implementation of their duties under Section 17** of the law, as provided in penal provisions.
 - Penalty of a fine of not less than Five thousand pesos (P5,000.00) nor more than Ten thousand pesos (P10,000.00).
 - b. Not taking action on reported acts of GBSH** committed in the workplace.
 - Penalty: fine of not less than Ten thousand pesos (P10,000.00) nor more than Fifteen thousand pesos (P15,000.00).



***Independent Action for Damages

Nothing shall preclude the victim of work-related GBSH from instituting a separate and independent action for damages and other affirmative relief

Routine Inspection

The DOLE for the private sector and the CSC for the public sector shall conduct yearly spontaneous, random, and unannounced inspections to ensure compliance of employers and employees in accordance with their rules on inspection and their obligations under the law.



Narvasa vs. Sanchez

A senior bookkeeper filed a case for sexual harassment against the municipal assessor.

Facts:

1. handed notes to the victim "Gay, I like you."
2. text messages saying "Ka date ko si Mary Gay... ang tamis ng halik mo." , "Pauwi ka na ba sexy?", "I slept and dreamt nice things about you.", "Have a date with me."
3. whisper to the victim "Oy flawless, pumanaw ka met ditan" while twice pinching her upper left arm near the shoulder in a slow manner.
4. tried to kiss the victim

The Supreme Court held the respondent guilty of sexual harassment.

Penalties:

first offense of light harassment - reprimanded

first offense of less grave sexual harassment - 30 days' suspension

grave sexual harassment - dismissed from the government service



Domingo vs. Rayala

A case involving a stenographer as the victim and the NLRC Chairman as the perpetrator.

Facts: Holding and squeezing the victim's shoulders, running his fingers across her neck and tickling her ear, having inappropriate conversations with her, giving her money allegedly for school expenses with a promise of future privileges, and making statements with unmistakable sexual overtones – all resound with deafening clarity the unspoken request for a sexual favor.

Held: He was found guilty of having committed the acts complained of, and first penalized with suspension for 6mos 1day; however this was later modified to dismissal, and later, to suspension for 1yr. SC held that the acts indeed constituted sexual harassment, albeit of the administrative kind, and that the proper penalty to be imposed was only 1yr and not dismissal since it was just his first offense. In ruling in such manner, SC says that the disciplining authority, the President in this case bec. the NLRC Chairman is a presidential appointee, does not have unfettered discretion in imposing penalties, since the latter should always be in accordance with the law and rules.



Digitel vs. Soriano

The Director for Market and Communications sued her superiors, who were the Senior Vice-President and Senior Executive Vice- President.

Facts: While they were seated in the sofa, one of the perpetrators crept his hand under a throw pillow and "poked" her vagina several times. She justified her failure to flee by claiming that she was hemmed in by the arm of the sofa. Furthermore, she claimed that thereafter, when she was dancing with one of the perpetrators, the latter groped her breasts and buttocks.

Held: The Supreme Court did not give credence to the allegations of the woman and dismissed the charges of sexual harassment. The Supreme Court ratiocinated that if indeed the perpetrators performed the condemnable act, why didn't the woman slap the perpetrators and left the event. The Supreme Court further held that any woman in her right mind, whose vagina had earlier been "poked" several times without her consent and against her will, would, after liberating herself from the clutches of the person who offended her, raise hell.



Atty. Maila Clemen F. Serrano vs. Atty. Jacinto C. Gonzales

This case arose from an administrative complaint filed by Atty. Maila Clemen F. Serrano (respondent) against her direct superior, Atty. Jacinto C. Gonzales (petitioner), Chief, Legal Division of the Philippine Racing Commission (PHILRACOM), for grave misconduct, sexual harassment and acts of lasciviousness.

- Fact:**
1. petitioner suddenly took hold of respondent's face and forcefully kissed her lips
 2. petitioner said: "Ang sarap pala ng labi ni Maila..." Then, he held her hand and said "Maila siges na..."
 3. petitioner had already degraded her person on four (4) separate occasions, namely: (1) on the very first day she met him in the office, he offered to purchase her a cell phone so that he can text her, which offer she straightforwardly refused; (2) on that same day, he wanted her to join him in his car in going home, which she likewise refused; (3) a week later, he asked her to eat out for lunch; again, she refused; and (4) on August 23, 2000, after her sick leave from office, petitioner called her in his office and scolded her . . .

Held: The Office finds substantial evidence that respondent JACINTO G. GONZALES is guilty of Grave Misconduct. Penalty of DISMISSAL from the service.



D. Gender-Based Sexual Harassment in Educational and Training Institutions

Who Can Commit Gender-Based Sexual Harassment in Educational and Training Institutions

GBSH may be committed by principals, school heads, teachers, instructors, professors, coaches, trainers, or any person who has authority, influence or moral ascendancy over another, students, and trainees.



GBSH in Educational/Training Institutions

- ▶ All schools, whether public or private, shall:
 - Designate an OIC to receive complaints regarding violations of this Act
 - Ensure that the victims are provided with a gender-sensitive environment that is both respectful to the victims' needs and conducive to truth-telling
 - Adopt and publish grievance procedures to facilitate the filing of complaints by students and faculty members



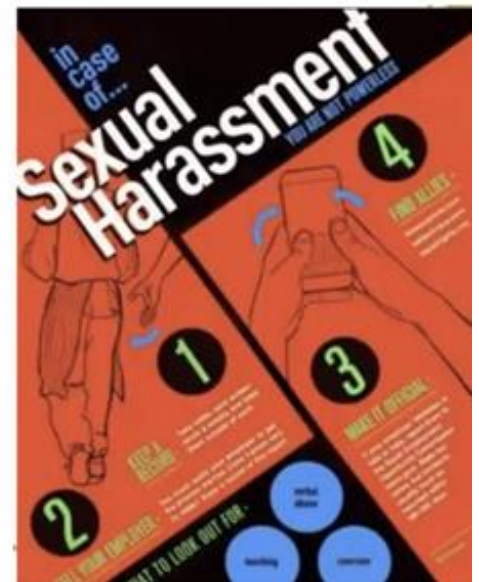
GBSH in Educational/Training Institutions

- If a school knows or reasonably should know about acts of gender-based sexual harassment or sexual violence being committed that creates a hostile environment, the school must **take immediate action to eliminate the same acts, prevent their recurrence, and address their effects**
- Once a perpetrator is found guilty, the educational institution may reserve the right to strip the diploma from the perpetrator or issue an expulsion order.



Duties of school heads

- ▷ Disseminate or post in a conspicuous place a copy of this Act to all persons in the workplace or educational institution;
- ▷ Provide measures to prevent gender-based sexual harassment in the workplace or in educational institutions, such as the conduct of anti-sexual harassment seminars and information campaigns;



- ▷ Create an independent **internal mechanism** or a **CODI** to investigate and address complaints of GBSH which shall carry out such functions as stated under Section 22(c) of the law and as further outlined in Section 33 of these rules;
- ▷ Provide and disseminate, in consultation with all persons in the workplace or educational institution, a **code of conduct** or workplace/school policy which shall
 - Expressly reiterate the prohibition on GSH;
 - Prescribe the procedures of the internal mechanism
 - Set administrative penalties.
- ▷ Designate an office or person to receive complaints of sexual harassment.



Liability of Students

Minor students who are found to have committed acts of GBSH shall only be held liable for administrative sanctions by the school as stated in their school handbook.



Cresencio Co Untian (Law Professor at Xavier University Cagayan de Oro) vs Students

Facts:

1. sent romantic text messages; Untian did not deny the incidents, but he claimed that his text messages like "luv u" were merely friendly and that his actions did not humiliate the students.
2. showed one a naked photo of a woman and told her it looked like her in front of other students, and
3. made a double entendre when a student requested him to repeat a question by saying, "Sir, come again?"

Held: in 2002, the University decided not to renew his contract for violating their anti-sexual harassment policy.

In 2017, the Integrated Bar of the Philippines suspended him from practicing law for two years. IBP stopped short of calling Untian's behavior as sexual harassment because "there was no evidence to show that respondent demanded or requested sexual favors."

However, the Supreme Court overruled IBP's decision, saying in a **unanimous ruling** that sexual harassment need not result to being forced to have sex: "The Court [has] explained that the essence of sexual harassment is not the violation of the victim's sexuality but the abuses of power by the offender."



b) Specify the procedures in the filing of cases, investigation, and resolution and appeal thereof that will be the bases of the functions of the CODI.

Rules and procedures in case of a request for inhibition of any of the members of the CODI either from the parties or a member of the CODI shall also be developed;



Remedies and Psychological Counseling

A victim of gender-based street, public spaces or online sexual harassment may avail of appropriate remedies as provided for under the law as well as **psychological counseling services** with the aid of the LGU and the DSWD, in coordination with the DOH and the PCW. (Fees charged to the perpetrator.)



Exemptions

Acts that are legitimate expressions of indigenous culture and tradition, as well as breastfeeding in public shall not be penalized. Expressions of indigenous culture and tradition include, among others, the wearing of traditional attires of tribes or clans that may show partial nudity.



PNP Women, and Children Protection Centers/Desks

The women and children's desks and the Women and Children Protection Center **shall** act on and attend to all complaints covered under the law.

They shall coordinate with ASHE officers on the street, security guards in privately-owned spaces open to the public, and anti-sexual harassment officers in government and private offices or schools in the enforcement of the provisions of the law.



Educational Modules

All schools, whether public or private, including formal and non-formal systems, **shall educate students** from the elementary to tertiary level about the provisions of the law and how they can report cases of gender-based streets, public spaces and online sexual harassment committed against them. School courses shall include age-appropriate, inclusive and culturally-sensitive educational modules against gender-based streets, public spaces and online sexual harassment which shall be developed by DepEd, CHED, TESDA, and PCW.

Schools and agencies concerned shall ensure that all forms of GBSH shall be included in the development of said educational modules.



Appropriations

Such amounts as may be necessary for the implementation of R.A. No. 11313 shall be indicated under the annual General Appropriations Act (GAA).

National and local government agencies shall be authorized to utilize their mandatory gender and development (GAD) budget, as provided under R.A. No. 9710, otherwise known as the Magna Carta of Women for this purpose.

+ LGUs may also use their mandatory twenty percent (20%) allocation of their annual internal revenue allotments for local development projects as provided under the Local Government Code of 1991.



Prescriptive Period

Any action arising from the violation of any of the provisions of R.A. No. 11313 shall prescribe as follows:

a) Offenses committed under Section 11(a) of the law shall prescribe in one (1) year;

b) Offenses committed under Section 11(b) of the law shall prescribe in three (3) years;

(SEC. 11. Implementing Bodies for Gender-Based Sexual Harassment in Streets and Public Spaces.)



Anti-Violence against Women and their Children Act

- **Any act or a series of acts**
- **Committed by any person**
- **Against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate**



Anti-Violence against Women and their Children Act

- **Who are protected by the law?**
- **Women and their children**
- **Children = 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 who are under her care.**



Anti-Violence against Women and their Children Act

What acts are punishable under this law?

- (1) Economic abuse**
- (2) Psychological violence**
- (3) Physical abuse**
- (4) Sexual violence**



Anti-Violence against Women and their Children Act

- **Husbands, ex-husbands, present and ex-boyfriends or live-in partners, those with whom the woman has a common child, or anyone with whom she has/had sexual or dating relationship.**
- **Women can also be liable under “sexual or dating relationship” such lesbian partners**
- **Women acting in conspiracy with the abuser of the victim.**



Go-Tan v. Spouses Tan

- **While the law provides that the offender be related or connected to the victim by marriage, former marriage, or a sexual or dating relationship, it does not preclude the application of the principle of conspiracy under the Revised Penal Code (RPC).**
- **The parents-in-law of Sharica Mari L. GoTan, the victim, were held to be proper respondents as they and their son (Go-Tan's husband) had community of design and purpose in tormenting her by giving her insufficient financial support; harassing and pressuring her to be ejected from the family home; and in repeatedly abusing her verbally, emotionally, mentally and physically.**

G.R. No. 168852, 30 September 2008



Economic Abuse

- **NOT GIVING ADEQUATE FINANCIAL SUPPORT TO THE WIFE AND/OR MINOR CHILDREN**
- **CONTROLLING THE CONJUGAL BUSINESS OR CONJUGAL PROPERTY OR THE WOMAN'S OWN MONEY**



REYES v PEOPLE

- **Reyes committed psychological violence against AAA when he deprived her of financial support which caused her to experience mental and emotional suffering to the point that even her health condition was adversely affected.**
- **if properly indicted, Reyes can also be convicted of violation of Section 5(e), par. 2 for having committed economic abuse against AAA.**
- **Reyes, although gainfully employed, deliberately refused to provide financial support to AAA. because she filed a Bigamy case against him.**



Psychological violence

- **Marital Infidelity**
- **Concubinage**



ARAZA v PEOPLE

- **Araza committed the crime of psychological violence, when he left his wife AAA and had an extramarital affair with Fabillar and had three illegitimate children with, causing the latter emotional and psychological distress.**
- **AAA's psychological and emotional sufferings due to the said ordeals can also be gleaned from Dr Lindain's testimony, who was presented as an expert witness**

G.R. No. 247429 September 08, 2020



Psychological violence



**Threatening the woman
that she will lose her child**



**Actually depriving a woman
of custody of her child**



Psychological Violence



Repeated Verbal Abuse



Public Humiliation



Psychological Violence



ANG vs CA, SAGUD

- **Ex-boyfriend sent to the girl a picture of a naked woman with her legs spread, with the girl's face superimposed on it. He texted that he can create more pictures and spread them on the internet.**
- **Ex BF by inflicting anguish, psychological distress, and humiliation on the girl violated Section 5(h) of R.A. 9262.**
- **A "dating relationship" existed between Rustan and Irish, as defined in R.A. 9262**
- **A single act of harassment, like the sending of the nude picture, coupled with a threat to spread more of it in the internet, is a violation of Section 5(h) of R.A. 9262;**

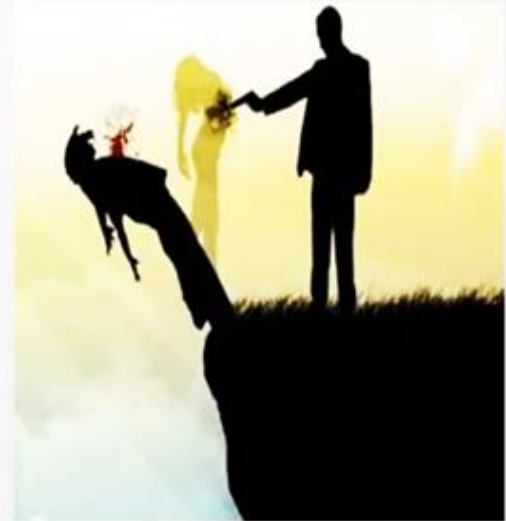
G.R. No. 182835 , 20 April 2010



Physical Violence



Battery



Homicide



Sexual Violence

- **Rape**
- **Causing or attempting to make the woman or her child to perform lascivious acts by use of force, threats, intimidation directed against the woman, her child, or her immediate family**
- **Prostituting the woman or her child**



People v Jumawan

A woman is no longer the chattel antiquated practices labeled her to be. A husband who has sexual intercourse with his wife is not merely using a property, he is fulfilling a marital consortium with a fellow human being with dignity equal to that he accords himself. He cannot be permitted to violate this dignity by coercing her to engage in a sexual act without her full and free consent.

G.R. No 187495 (21 April 2014)



RA No. 8353: Rape Law (1997)

Rape is committed:

1) By a man who shall have carnal knowledge of a woman xxx

a) through force, threat, or intimidation, or;

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

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

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

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



Anti-Violence Against Women and their Children Act

What are the available remedies?

- (1) Barangay Protection Order,**
- (2) Temporary Protection Order**
- (3) Permanent Protection Order**
- (4) Criminal action for violation of R.A. 9262**



BARANGAY PROTECTION ORDER

- **Issued by the Punong Barangay ordering perpetrator to desist from committing acts under S5(a) and (b) of this Act**
- **BPOs shall be effective for fifteen (15) days**
- **Parties may be accompanied by a non-lawyer advocate in proceeding before the Punong Barangay.**



APPLICATION FOR A PROTECTION ORDER

Application must be in writing, signed and verified under oath by applicant.

➤ **May be filed as:**

- **- an independent action; or**
- **- an incidental relief in any civil or criminal case, the subject matter or issues thereof partakes of a violence described in this Act.**
- **A standard PO application form: written in English, with translation to the major local languages**



APPLICATION FOR A PROTECTION ORDER

- **States the names and addresses of Petitioner and Respondent;**

Except if disclosure of victim's address will pose danger to her life, it shall be so stated in the application;

- **In case of danger to victim's life, applicant shall:**
 - **(1) attest that victim is residing in the municipality or city over which court has territorial jurisdiction, and**
 - **(2) provide a mailing address for purposes of service processing**



APPLICATION FOR A PROTECTION ORDER

- **Statement of the circumstances of the abuse;**
- **Description of the reliefs requested by Petitioner**
- **Request for waiver of application fees until hearing; and**
- **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; and**
 - **the circumstances of consent given by the victim for the filing of the application.**
- **An application for PO filed with a court shall be considered an application for both a TPO and PPO.**
- **Barangay officials and court personnel shall assist applicants in the preparation of the application.**



AAA v BBB

- **Even if the alleged extramarital affair causing the offended wife mental and emotional anguish is committed abroad, the same does not place a prosecution under R.A. No. 9262 absolutely beyond the reach of Philippine courts.**
- **It likewise remains imperative to acquire jurisdiction over the husband.**

G.R. No. 212448 January 11, 2018



Anti-Violence Against Women and their Children Act

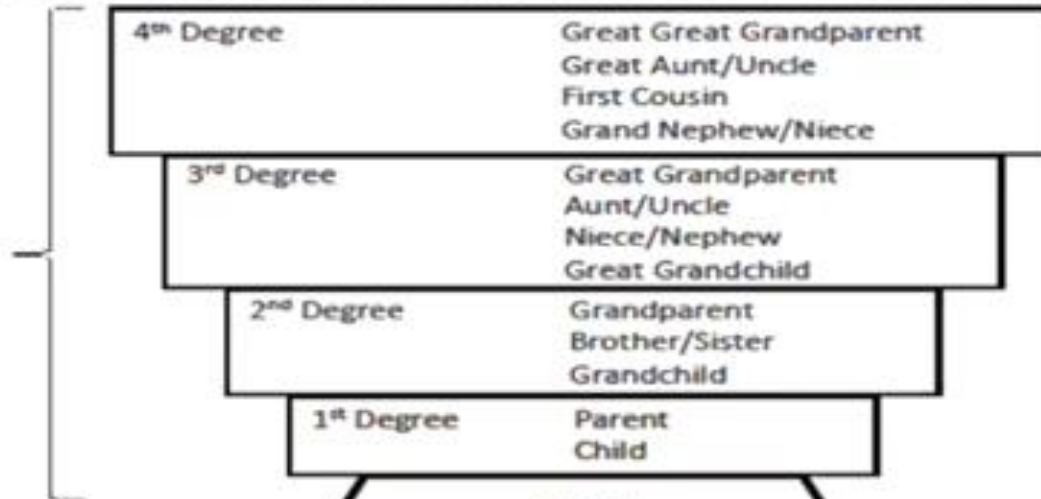
Who can apply for a BPO or a court protection order?

- (1) Offended party**
- (2) Parents or guardians**
- (3) Ascendants, descendants or collateral relatives within 4th civil degree of consanguinity or affinity**
- (4) Social workers of DSWD/LGU**
- (5) Police**
- (6) Punong Barangay or Kagawad**
- (7) Lawyer, counselor, therapist, healthcare provider of victim;**
- (8) At least 2 citizens who have personal knowledge of the commission of the crime**



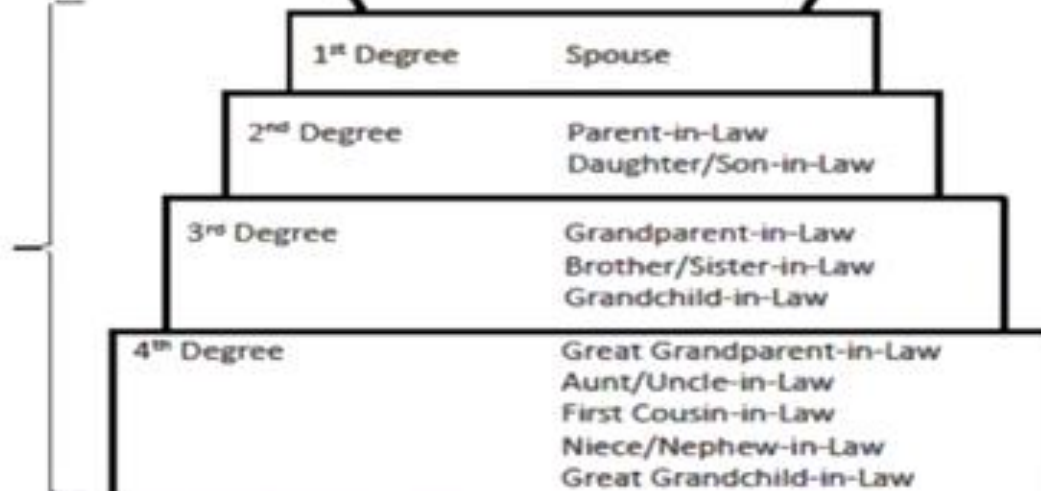
IMMEDIATE FAMILY MEMBERS

C
O
N
S
A
N
G
U
I
N
I
T
Y



YOU

A
F
F
I
N
I
T
Y



Note: Step relationships (step-brother, step-father, etc.) are considered to be the same as blood relationships.



Possible Reliefs Given in Protection Orders

- (1) Prohibiting R from threatening to commit or committing, personally or through another, acts of violence against the offended party;**
- (2) Prohibiting R from harassing, annoying, telephoning, contacting or otherwise communicating in any form with the offended party, either directly or indirectly;**
- (3) Removing and excluding R from the residence of the offended party, regardless of ownership of the residence**



Possible Reliefs Given in Protection Orders

(4) R to stay away from P, designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place

(5) Possession and use by P of an automobile and other essential personal effects, regardless of ownership,

(6) Award of temporary or permanent custody of a child/children to P;



Possible Reliefs Given in Protection Orders

(7) Directing R to provide support to P and/or her child if entitled to legal support.

- **Court can order an appropriate percentage of the income or salary of R to be withheld regularly by the R's employer for the same to be automatically remitted directly to the woman.**
- **Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause = Indirect contempt of court for R or his employer**



DOLINA v VALLECERA

- **To be entitled to legal support, P must, in proper action, first establish the filiation of the child, if the same is not admitted or acknowledged.**
- **The child's remedy is to file through her mother a judicial action against Vallecera for compulsory recognition.**
- **If filiation is beyond question, support follows as matter of obligation.**
- **Illegitimate children are entitled to support and successional rights but their filiation must be duly proved**

G.R. No. 182367 [15 December 2010]



Possible Reliefs Given in Protection Orders

(8) Prohibiting R from use or possession of any firearm or deadly weapon

- **Order to surrender the same to the court for appropriate disposition by the court, including revocation of license and disqualification to apply for any license to use or possess a firearm.**
- **If offender is a law enforcement agent, the court shall order the offender to surrender his firearm and shall direct the appropriate authority to investigate on the offender and take appropriate action on matter;**



Possible Reliefs Given in Protection Orders

(9) Restitution for actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income;

(10) Directing the DSWD or any appropriate agency to provide P her needs; and

(11) Provision of such other forms of relief as the court deems necessary to protect,



Possible Reliefs Given in Protection Orders

(12) Program of intervention for the offended party that provides advocacy, temporary shelter, crisis intervention, treatment, therapy, counseling, education, training and other social services;

(13) R to receive professional counseling from agencies or persons in anger control, management of alcohol, substance abuse and other forms of intervention to stop violence.



People v Genosa

- **The existence of the syndrome in a relationship does not in itself establish the legal right of the woman to kill her abusive partner.**
- **Evidence must still be considered in the context of self-defense.**
- **Battered Woman Syndrome (BWS) as a defense - the state of mind of the battered woman at the time of the offense— she must have actually feared imminent harm from her batterer and honestly believed in the need to kill him in order to save her life.**

G.R. No. 135981, January 15, 2004



Other Damages

Sec. 36. Damages – V of violence entitled to:

- **1. actual damages**
- **2. compensatory damages**
- **3. moral damages**
- **4. exemplary damages**



CHILD CUSTODY, VISITATION, SUPPORT

- **W victim of violence – entitled to custody and support of her C**
- **2. C below 7 years old or older but with mental or physical disabilities – automatically given to mother, with right to support, unless court finds compelling reasons to order otherwise**
- **3. W suffering from BWS – not disqualified from having custody of her C**
- **4. Perpetrator of abuse – cannot have custody of minor children, may be denied visitation rights**



Tabujara v Judge Asdala

3 cases filed:

- 1) Violation of RA 9262 for the issuance of a TPO;**
- 2) Petition for declaration of nullity of marriage,
and**
- 3) Petition for a writ of habeas corpus**

Judge Bay ordered that the child remain under the custody of the father until the Court resolves the child custody issue



Other Legal Options

Administrative case

**Criminal case - RPC, Rape Law,
VAWC**

Legal Separation

Annulment

Declaration of Nullity



TO CONTROL THEIR VICTIMS, ABUSERS USE

- **Dominance**
- **Humiliation**
- **Isolation**
- **Threats**
- **Intimidation**
- **Denial and blame**



PERSONAL SAFETY PLAN IF A WOMAN IS STILL IN THE RELATIONSHIP

- **Make a choice to leave**
- **Get help and support**
- **Be prepared: have a ready emergency bag containing clothes for you, kids, money, car keys, spare mobile phone, important documents**
- **Safety plan for the children**
- **Important documents READY and ACCESSIBLE at all times: Marriage certificate, birth certificates, passports, property titles**
- **Document & keep record of all incidents of abuse**



PERSONAL SAFETY PLAN

If a woman has left the relationship

- **Seek shelter: friend/relative, private or public women's centers**
- **Change contact numbers and screen calls.**
- **Change on-line user names, passwords**
- **Secure bank accounts, credit cards**
- **Document all messages and other incidents involving the partner.**
- **If she has to meet with the partner, bring a companion along and if possible, conduct meeting in a public place.**
- **Notify children's school and her employer/office.**
- **See a clinical psychologist and/or psychiatrist**



Government organizations

- **Barangay office**
- **NBI – Violence against Women and their Children Division, Anti-Human Trafficking Division**
- **PNP - Women and Children Protection Desks (WCPDs) in every police station**
- **DSWD – Crisis Intervention, Protective Services Bureau, Haven for Women**
- **LGU social services office**
- **DOH: medical assistance to victims” through a socialized scheme by the Women and Children Protection Unit (WCPU) in DOH-retained hospitals or in coordination with LGUs or other government health facilities**
- **Public Attorneys’ Office**



NON-GOVERNMENT ORGANIZATIONS WHICH GIVE FREE LEGAL AID/ASSISTANCE

- **Integrated Bar of the Philippines (IBP)**
- **UP Women Lawyers' Circle (UPWILOCI)**
- **Women's Legal Education, Advocacy and Defense Foundation (WomenLEAD)**
- **Women's Legal Bureau, Inc. (WLB)**
- **Sentro ng Alternatibong Lingap Panligal (Saligan)**
- **Law schools legal aid clinics, ex. UP-OLA**



NON-GOVERNMENT ORGANIZATIONS WHICH ADVOCATE FOR WOMEN, OFFER OTHER SERVICES

- **Women's Crisis Centre** - hospital-based provides care and assistance, including medical, psycho-social, legal and financial services
- **General Assembly Binding Women for Reforms, Integrity, Equality, Leadership, and Action (GABRIELA)** - addresses issues such as domestic violence, sexual abuse, gender inequality, sex trafficking, and rape culture as well as issues that affect the Philippines, poverty, militarism, health, and globalization
- **Center for Family Ministries (CeFaM)**
- **Bantay Bata 163**
- **Manila Doctors Hospital**

