

POSITION PAPER ON THE ANTI-ABUSE AGAINST WOMEN IN INTIMATE RELATIONSHIPS BILL

The past few years witnessed the increase in the cases of violence against women in all forms. To date, however, there is no specific legislation that appropriately addresses abuses committed against women in intimate relationships. Existing legislation is either inadequate or inappropriate. Clearly, what is urgently needed is a law that specifically responds to this reality, one that is crafted by, and based on women's own experiences.

The 2001 Philippine Baseline Report on Abuse against Women in Intimate Relationships¹ presented by the Women's Legal Bureau, Inc. showed data on VAW based on studies of NGOs² for women victims.

The abused women who sought the help of the NGOs are generally in their late 30s and have been in the abusive relationship for an average of 9.70 years. Most of them obtained some formal schooling, with even some (32.6% or 1046 of 3208 VAW clients³) who reached the college level. Majority of these women were employed mainly in the informal sectors (laundry women, market vendor, sari sari store operator, etc.). Only a handful were professionals and in managerial positions. This shows that they exhibit capacity for gainful employment.

There is no general profile of the abusers. Most of them belong to the age range of 20-39 years, with the youngest and oldest at 18 and 60 years old respectively. They are generally educated, and almost half were college graduates. Of the 2208 women surveyed, 57% (1833 of 2208) reported that their intimate partners were gainfully employed in various fields including professional and managerial positions. This access both to education and other resource networks undermine the great degree of influence and power they wield over the women.

Women clients were subjected to various forms of abuse such as physical, sexual, economic and psychological. These abuses escalate in intensity, severity and frequency over time. Almost all (93.56%) of these abuses were committed by the women's husband, live-in partners, boyfriends, and other intimate partners.

¹ Facilitating the Fulfillment of State Obligations Towards Women's Equality, Philippine Baseline Report on Abuse of Women in Intimate Relationship presented by Women's Legal Bureau Inc. and International Women's Rights Action Watch-Asia Pacific on January 31, 2002 at Rembrandt Hotel, Quezon City.

² The report made use of the studies of the following institutions: the Women's Crisis Center (WCC) Action Research, Project Haven-EAMC, Arugaan ng Kalakasan, UPCWSFI, and UP Manila and WorldSafe.

³ This is the combined number of clients serviced by the five institutions.

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For

**Sama-samang Inisyatiba ng Kababaihan sa Pagbabago ng Batas at Lipunan
CLD;DSWP;ISSA;MAKALAYA;SARILAYA;WCC;WEDPRO;WOMANHEALTH;WLB**

The following statistics reveal the prevalence of abuse against women in intimate relationships:

In the 2000 PNP Surveys, the top three (3) most common reported cases of violence against women (VAW) are physical injuries, rape and acts of lasciviousness.

Physical abuse, which includes wife battering, registered at 4,545 cases, or 48% of all gender-based crimes against women. This figure represents an increase of 27% from the 1999 statistics. Rape was pegged at 1,575 representing 16% of all the cases. This is 16% higher than the 1999 surveys.

Females comprised more than 90% of all the victims of all forms of abuse and violence. More than 80% of these reported cases were committed by the women's intimate partners such as their husbands (27%) and live in partners (7.6%).

Majority (70%) of the crimes of violence against women (and children) happened inside their homes, although abuses are also perpetrated against women in open and public spaces (almost 30%).

These statistics represent only the cases reported to authorities and do not include the thousands (perhaps millions) of undocumented cases. These data indicate that most of the VAW cases are committed against women in intimate relationships, thus the immediate passage of the Anti- AWIR Bill is of extreme urgency.

A CALL FOR A WOMEN- SPECIFIC LEGISLATION

Every form of violence is wrong and must be addressed. A law that intends to respond to the specific needs of women must therefore depend on the character of the abuse, and not the locus or the place of the abuse. This character of the abuse is defined by the nature of the relationships between the abused and the abuser. Thus, the kind of abuse that occurs in the household differs from that which is committed within an intimate relationship.

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DEFINITION AND NATURE

Abuse of Women In Intimate Relationships (AWIR) is a crime of gender-based violence, that is violence against a woman because she is a woman or that affects women disproportionately. It is an exercise of unequal power by men over women that is accorded to them by virtue of a system that subordinates women. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. It is a form of discrimination that has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The context of these abuses is marriage, cohabitation or some form of intimate relationship. It is characterized by some degree of sexual abuse and power that normalizes male dominance and privileged status.

It is therefore this distinct nature of abuse against women in intimate relationships that distinguish it from abuses against men and other people such as children, household members and relatives. Since the nature of abuse and the nature of relationship is different from all other forms of abuses in another relationships, the remedies that the law should give must not be the same for all.

SALIENT FEATURES OF THE ANTI-AWIR BILL

THE FOCUS

The Anti-AWIR bill recognizes the distinct nature of abuse against women in intimate relationships, such as in marriage, cohabitation, and sexual or dating relationships. This is why the bill seeks to penalize the *acts of abuse committed against wives, former wives, female live-in-partners, female former live-in-partners and women with whom the abuser has or had a sexual or dating relationship*. Under the bill, *offenders may be either male or female*.

The contention on the unconstitutionality of the bill for violation of the Equal Protection Clause and gender-neutrality is without merit. The Anti-AWIR bill is sanctioned both by our Constitution - through the provision allowing class legislation based on reasonable classification - and international laws - based on the General Recommendation no. 19 to the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Declaration Against Violence on Women.

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The bill is also criticized for its limited scope, for excluding children as primary beneficiaries, and other household members. The Anti-AWIR bill however focuses on women in intimate relationships because of the distinct nature of abuse committed within intimate relationship.

Further, children and other members of the household are not without remedies. There are laws designed to protect women and other persons in general. For instance, the specific needs of children are addressed comprehensively by RA 7610, while abuses against domestic helpers are covered by the Labor Laws. Other persons in general may avail of the relief afforded by the existing laws such as Revised Penal Code (for criminal acts), Civil Code (for civil and action for damages), as well as the Family Code of the Philippines.

ACTS OF ABUSE OR OFFENSES DEFINED

While the Anti-AWIR bill defines specific acts of physical, sexual, psychological and economic abuse, it does not categorize them under different forms of abuse and violence. Abuse of women in intimate relationship has multiple dimensions which usually combined to exert control over a woman's body, mind, and emotions thereby affecting her social and economic life.

ABUSE OF WOMEN AS A PUBLIC CRIME

The bill makes the abuse of women in intimate relationships a public offense. An act of violence against a woman may be prosecuted upon the filing of a complaint by any citizen with or without the consent of the victim.

This provision is incorporated in the bill primarily to protect women from themselves. It is not an uncommon scenario that some abused women withdraw their complaints or pardon their abusive husbands or partners. Violence against women in intimate relationship take a toll upon their physical, mental, psychological and reproductive health, which in turn affects their social life and capacity for participation. When half of its population is injured physically, mentally and emotionally, and thus unable to participate productively in society and state affairs, the whole country suffers significantly. This shows that abuse against women is not merely a domestic internal affairs and as such becomes a public concern.

PENALTIES FOR THE OFFENSES ARE MADE STIFFER

The Anti-AWIR bill imposes penalties of imprisonment for crimes against women in intimate relationships that are at least one degree higher than that imposed under the Revised Penal Code for similar offenses. The aggravating circumstances of (1) commission of the abuse in the

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victim's dwelling, (2) abuse of confidence, and (3) repetition of the abuse are considered inherent in crimes of violence against women in intimate relationships.

THE RELIEFS PROVIDED IN THE ANTI-AWIR BILL

Under the Anti-AWIR bill, a victim of abuse may file a criminal complaint for AWIR against the abuser and apply for a protection order. She may also apply for protection order without filing a criminal complaint for the abuse. These protection orders may also be obtained in a case of legal separation, annulment or declaration of absolute nullity of marriage where AWIR is alleged.

There are three kinds of protection orders which may be issued under the bill:

Temporary Protection Orders (TPO) issued by the courts with out an adversarial hearing and which is effective for fifteen (15) days;

Permanent Protection Orders (PPO) issued by the courts after due hearing, and

Barangay Protection Orders (BPO) issued without an adversarial hearing by the barangay captain (or a barangay councilor in case of unavailability of the barangay captain) effective for fifteen (15) days, and the Pangkat ng Tagapagkasundo issued after due hearing and effective for six (6) months or permanently.

ACCESS TO PROTECTION MADE EASIER

These protection orders may be obtained from the Family Courts, Regional Trial Courts, Metropolitan Trial Curt, or Municipal Circuit Trial Court with territorial jurisdiction over the place of residence of the victim. This is intended to make the remedy of protection orders more accessible to women.

ADDRESSING THE IMMEDIATE NEEDS OF WOMEN

The bill gives the victim the option to obtain a Barangay Protection Order, which while limited in scope, nonetheless provides a woman who is intimidated by the court process, or who can not access the courts for economic or other reasons, a valuable alternative in securing necessary and immediate protection from her abuser. These protection orders maybe issued without an adversarial hearing within a 24-hour-period from filing the application for protection order.

The Barangay Protection Order covers only certain reliefs, but its importance lies in the fact that

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it addresses the special concerns and needs of women for immediate and more accessible remedies such as *removal of the abuser from the residence and a stay away order*.

Other reliefs available in the protection order under the Anti-AWIR bill include, but are not limited to, orders of *possession of automobile and other essential personal effects by the woman, custody of minor children, legal support, confiscation of any firearm or deadly weapon of the abuser and the payment of actual damages*.

A bill on AWIR cannot cover all the details needed for proper implementation and enforcement. The proponents of this bill intend to address these gaps by mandating the development of a protocol after the bill is passed into law. This protocol includes, but is not limited to, the following specific concerns: the extension of protection to service providers who assist the women victims, provision for counseling of the abused women, and the ways and means to prevent or curb the possible abuses committed by barangay officials in granting BPOs.

COMPLEMENTS OTHER LAWS ON ABUSES

The Anti-AWIR bill strengthens other laws against abuses. Other members of the family may avail of the protection orders when they are abused along with the women. For example, it strengthens the provision against child abuse as provided in RA 7610 by extracting the threat against the child or by removing him/her from an abusive surrounding.⁴ The bill also complements existing laws such as the laws on legal separation, annulment, rape (RA 8353) and sexual harassment.

A COMMUNITY SOLUTION

Recognizing that violence against women is not just a women's problem but a national issue as well, the bill includes provisions specifying certain responsibilities of the police officers, barangay officials and healthcare providers, which they must comply with to effectively respond to the plight of abused women in intimate relationships.

A COMPREHENSIVE APPROACH

Violence against women is systemic. The key to effectively address the problem of violence against women in intimate relationships is the understanding of the inter-related and

⁴ Sec.9 of the proposed bill includes among others as part of the reliefs provided by protection order the following: prohibition of abuser from harassing and annoying the petitioner, removal and exclusion of the respondent from petitioner's residence, and a stay away order from petitioner and any family or household member.

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intertwining factors causing discrimination and violence against women. Any law that attempts to solve this problem must address it directly from its root, which is the socialization and education of women. The bill mandates various government agencies to provide education and training programs that will sensitize the government on women's concerns and issues.

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