

**KINGDOM OF CAMBODIA**

**NATION-RELIGION-KING**

**"DRAFT LAW ON THE PREVENTION OF DOMESTIC VIOLENCE"**

**CHAPTER I - GENERAL PROVISIONS**

**Article 1**

The purpose of this law is to establish legal mechanisms to prevent Domestic Violence and respond to the victim/s thereof.

**Article 2**

For the purposes of this Act, **Domestic Violence** means violence occurring between household members, and includes:

- i. Physical abuse; means any act or threatened act of physical violence towards a person
- ii. Sexual abuse; means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of a person
- iii. Emotional, verbal and psychological abuse; mean a pattern of degrading or humiliating conduct towards a person including:
  - (a) Repeated threats to cause emotional pain;
  - (b) Control of family member/s intended to cause emotional or psychological harm to person; or
  - (c) The repeated exhibition of obsessive possessiveness or jealousy that is such as to constitute a serious invasion of a person's privacy, liberty, integrity or security;
- iv. Coercion means forcing a person using emotional or physical force:
  - (a) Do something they would ordinarily abstain from doing of their own free will; or
  - (b) Abstain from doing something they would want to of their own free will
- v. Economic abuse means any behaviour, which would have the purpose of or result in the following:
  - (a) The unreasonable deprivation of economic or financial resources to which a person is Entitled under law or which a person requires out of necessity, including household necessities for a person, and mortgage bond repayments or payment of rent in respect of the shared residence; or
  - (b) The prevention of a person, against his/her will, from following a profession of their own choice or from earning an income in any other way, or
  - (c) The unreasonable disposal of household effects or other property in which a person has an interest
- vi. Harassment which means engaging in a pattern of conduct that induces the fear of harm to a person including:
  - (a) Repeatedly watching, or loitering outside of or near the building or place where a person resides, works, carries on business, studies or happens to be;
  - (b) Repeatedly making telephone calls or inducing another person to make telephone calls to a person, whether or not conversation ensues;
  - (c) Repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to a person;
- vii. Intimidation means uttering or conveying a threat, or causing a person to receive a threat, which induces fear;
- viii. Stalking means repeatedly or continuously following, pursuing, or accosting a person

- ix. Willfully causing damage to property, which is owned or being used by a person
- x. Entering a victim's domicile, with out consent of the person where the respondent and the person do not share a common domicile;
- xi. Unreasonable demands on household workers, and mean any demand, which is unreasonable including
- (a) Long and uninterrupted hours of work with out rest,
  - (b) Demands to perform tasks that are beyond the capacity of a person
- xii. Poor living conditions for household workers mean conditions for living which do not provide for basic human needs and include:
- (a) The deprivation of food or medical care, the deprivation of rest, leisure and fresh air, and
  - (b) The prevention of a person from communicating and meeting with members of their family, relatives or friends.
- xiii. Any other controlling or abusive behaviour where such conduct harms or may cause harms to the safety, health or well being of a person /s

### Article 3

For the purposes of this act, the following definitions shall apply, unless indicated otherwise:

**"Victim"** means any household member, who is or has been or is likely to be the object of domestic violence,

**"Respondent"** means any person who has committed, or allegedly committed or is likely to commit an act of domestic violence against a household member

**"Household member"** in relation to a person means:

- (a) The spouse of that person; or
- (b) A person who has or has had an intimate personal relationship with that person; or
- (c) A person who is or has been a relative of that person; or
- (d) A child who normally or regularly resides with that person; or
- (e) A child of whom that a person is guardian; or
- (f) A household worker; or
- (g) A dependent
- (h) Another person who is or has been ordinarily a member of the household of that person.

**"Child"**, means a person who is under the age of 18 years.

**"Spouse"** means a person with whom one has or had or will have a marital relationship, and includes former spouse, de facto spouse and fiance/fiancee

**"De facto spouse"**, means a person who is living or has lived with another person as if the other person were the spouse of that person although not married to that person. .

**"A relative, in relation to a person"** means a person related either by blood, or marriage and includes:

- (a) A father, mother, grandfather, grandmother, step-father, step-mother, father in law or mother in law; or
- (b) A son, daughter, grandson, granddaughter, step-son, step-daughter, son in law or daughter in law of that person; or
- (c) A brother, sister, half-brother, half-sister, brother in law or sister in law of that person; or
- (d) An uncle, aunt, uncle in law or aunt in law of that person; or
- (e) A nephew or niece of that person; or
- (f) A cousin of that person and includes, in the case of de facto spouses, a person who would be such a relative if the de facto spouses were married to each other.

**"Household worker"** is any person who does work related to the household, for a particular family, in consideration either for money or for kind, which includes but is not limited to food, shelter and clothes.

**"Dependent"** means any person, who is not a relative or spouse or household worker, but shares the same household and is dependent on the respondent for shelter, living expenses, food and clothes amongst others.

#### **Article 4**

For the purposes of this act, unless indicated other wise, the meaning of the following terms shall be:

**"Monetary relief"** means compensation for monetary losses suffered by a victim at the time of the issue of a protection order as a result of the domestic violence, including

- (a) Loss of earnings;
- (b) Medical and dental expenses;
- (c) Relocation and accommodation expenses; or
- (d) Household necessities;

**"Protection order"** means an order issued in terms of Article 6 or 7 of this Act,

**"Interim Protection Order"** means an order issued in terms of Article 8 of this Act,

**"Domicile"** means the place where a person normally lives and includes institutions for children, the elderly and the disabled;

**"Weapon"** means any object meant to kill or to wound.

Or any other object being susceptible to present a danger for the persons in the following cases considered as a weapon:

- 1-the object is used to kill, to wound or threaten;
- 2-the object is meant to kill, to wound or to threaten.

**"Property"**, in relation to a household member, means movable or immovable property owned by the member, which includes:

- b) Property of any person situated in premises in which the household member lives or works; and
- c) Property of any person that is being used by the household member.

## **CHAPTER II - PROTECTION ORDERS**

#### **Article 5**

The Court shall make protection order in respect of a person if reasonably satisfied that the person has or is likely to commit an act of domestic violence.

The Court shall, in addition to granting a protection order under this Act, refer any matter to the Prosecutor, provided it is satisfied that the matter deserves criminal prosecution.

The Court shall make a protection order even if a criminal, civil or administrative proceeding has been or can be initiated.

#### **Article 6**

The Court shall by means of a protection order prohibit a person from one or more of the following:

- (a) Committing any act of domestic violence
- (b) Enlisting the help of another person to commit any such act
- (c) Approaching or entering a domicile, shared by the victim/s and the person, provided that the Court may impose this prohibition only if it appears to be best interest of the victim
- (d) Entering a specified part of such shared domicile
- (e) Approaching or entering the victim domicile
- (f) Entering the victim place of employment

- (g) Preventing the victim who ordinarily lives or lived in a shared domicile as contemplated in sub paragraph (d) from entering or remaining in the shared domicile or specified part of the shared domicile; or
- (h) Contacting the victim in any manner
- (i) Committing any act of destruction of property of the victim/s or his/her household members

#### **Article 7**

The court may impose any additional conditions, which it deems reasonably necessary to protect and provide for the safety, health or well being of the victim including:

- (a) Evicting a person from a domicile shared by the victim and the person
- (b) To confiscate any arm or dangerous weapon, in the possession or under the control of the person
- (c) That a member of the National Police or the Gendarmerie must accompany the victim to a specified place to assist with arrangements regarding the collection of personal property
- (d) Relating to custody and/or access to children keeping in mind the safety and welfare of the children
- (e) To impose on a person obligations as to the discharge of rent or mortgage payments, having regard to financial needs and resources of the victim and the person,
- (f) Requiring the person to pay monetary relief having regard to the financial needs and resources of the victim and the person,

#### **Article 8**

The Court may issue an interim Protection Order on receiving a complaint, with out hearing the respondent, whether or not a copy of the complaint for the Protection order has been served on the respondent, if the Court is satisfied that it is necessary to ensure the safety or well-being of the victim/s or other persons, or to preserve any property of the victim pending the hearing and determination of the complaint.

An interim protection order may impose any restrictions or prohibitions on a person that may be imposed by the protection order.

The interim protection order made in the absence of the respondent only operates until the time specified in the order or till the final hearing of the complaint

A final hearing of the complaint will held with in two months of the interim protection order having been made.

#### **Article 9**

The Court may specify in a Protection Order a period for which the order is to remain in force.

A Protection Order remains in force-

- (a) For the period (if any) specified by the court, unless it is revoked earlier by the court or reversed or set aside on appeal; or
- (b) If no period is specified in the order, until it is revoked by the court or reversed or set aside on appeal.

#### **Article 10**

A complaint for a Protection Order may be made by anyone of the following-

- (a) The victim or
- (b) A person acting on behalf of the victim; or
- (c) A member of the National Police; or Gendermerie or
- (d) Any person having knowledge of an incident of domestic violence if it is shown that the victim is:
  1. A Child,
  2. Mentally retarded,
  3. Unconscious, or
  4. A person whom the court is satisfied is unable to make such complaint.

**Article 11**

The Court may not engage in any reconciliation effort with either party, unless requested to do by the victim/s.

**CHAPTER III - PROCEDURES**

**Article 12**

The National police or the Gendarmerie, upon request for assistance that indicates that domestic violence has been committed, is being committed or is likely to be committed, shall

- (a) Restrain and remove the person from the property on which the incident of domestic violence happened, is happening or is about to happen, including the shared domicile if any,
- (b) Render such assistance to the household member as may be required in the circumstances, including providing security in the residence, assisting or making arrangements for the household member to find a suitable shelter, and obtain medical assistance, and
- (c) Inform the household members about his/her about their rights under this law, especially about the right to demand monetary relief, to file criminal charges against the person and claiming civil compensation, and
- (d) Seize any weapons used, being used or likely to be used by the person, and cause any firearms license to be suspended
- (e) Apply to the Court for Protection Order, as per Articles 6, 7 and 8, on behalf of the household member, in addition to assisting in filing for monetary relief, if so requested by the household member

**Article 13**

A member of the National Police or the Gendarmerie may, without warrant, enter any premises where the member on reasonable grounds believes a person to be in order to fulfill the duties outlined in Article 12 (a) to (d), provided: -

- (a) The member believes that the person has committed an act of domestic violence in the past 48 hours, or
- (b) The member believes that the person is likely to commit an act of domestic violence as defined in Article 2 (i) and (ii) in the next 24 hours, or
- (c) The member believes that the person is on the premises in breach of a protection order.

**Article 14**

A member of the National Police or the Gendarmerie under this article, may with out warrant, arrest a person flagrant delicto for a criminal offence against a household member or breach of a protection order.

A member of the National Police or the Gendarmerie may also arrest a person with out warrant where there is substantial incriminating evidence which is specific and consistent and indicates that the person participated in the commission of the criminal offence against the household member or breached a protection order.

In all other cases for criminal offences against a household member and breach of protection order, a warrant issued by the investigating judge or prosecutor is required.

The person arrested shall be brought to Court with in twenty-four hours.

**Article 15**

In all cases, where it appears that a criminal offence has been committed against a household member, the Investigating Authority shall treat the complaint as a normal criminal complaint and forward the case filed to the Court, even if parties have come to terms.

Criminal acts committed against the household members cannot be settled by any arrangement of the investigating authority.

**Article 16**

In all cases of applications filed by or on behalf of children, the Court shall invite relevant

government agency or Non-government organizations working with children, to attach itself to the case, and ensure the interests and well being of the children concerned.

The Prosecutor or any responsible person so recognized for that purpose by the court, may make enquiries about the welfare of the children from time to time and submit reports as required.

#### **Article 17**

The Court shall consider inviting other relevant state or non-state agencies to provide support and ensure the well-being and interests of the victim/s.

The Court shall make adequate arrangements for the security and well being of the victims during the hearing of matters relating to these applications.

All the hearings of a case pertaining to this Act shall be held in private, if so requested by the victims.

### **CHAPTER IV – MISCELLANEOUS PROVISIONS**

#### **Article 18**

If -

- (a) A notice to hear an application for a protection has been served on the respondent;  
and
- (b) The respondent fails to appear in person at the time fixed for the application

The Court may-

- (a) Proceed to hear and determine the matter in the defendant's absence; or
- (b) If satisfied that it is appropriate to do so, adjourn the matter and issue a warrant to arrest the respondent and bring him or her before the court.

#### **Article 19**

The Court may order the revocation, variation or extension of an order on an application under this article.

If an order is in force, a party to the proceedings in which the order was made may apply to the court for an order varying or revoking the order or extending the period the order remains in force. The court must cause a copy of the application to be served on each other party to the proceedings.

#### **Article 20**

If an order is made or varied by the court, the court must

- (a) Arrange for the order to be drawn up and filed in court; and
- (b) Cause a copy of the order to be served on the respondent; and
- (c) Cause a copy of the order to be forwarded to;
  - a. The Commissioner of the Municipal/Provincial Police
  - b. Each person who was party to the proceedings
  - c. The officer in charge of the police post nearest the place of residence of the victim.

#### **Article 21**

A person against whom an order has been made who-

- (a) Has been served with a copy of the order or has had notice of the order given to him/her, and
- (b) Contravenes the order in any respect is guilty of an offence and liable, for a first offence, to a penalty of a fine of 1000,000 Riel or imprisonment of 6 days to 2 years, or both and for subsequent offence to 2000,000 Riel, or imprisonment of 3 months to 5 years, or both.

Provided, the fine may be waived by the Court if the respondent is an indigent person.

**Article 22**

The Prosecutor shall ensure the implementation of all orders and judgments granted under this act.

**Article 23**

All parties shall have the right to legal representation to all matters pertaining to this Act.

**Article 24**

The Ministry of Women's and Veteran's Affairs will formulate regulations for this Act, with in six months of its adoption by the National Assembly.