

National Assembly of Pakistan

THE PREVENTION OF DOMESTIC VIOLENCE BILL, 2005

Preamble.— Whereas it is expedient to provide special legislation for the protection of women, children and the family; And whereas Pakistan is a signatory to the UN Convention on the Elimination of Discrimination Against Women, which obligates the State to take action for the protection of women from gender-based violence.

1. Short Title, Extent and Commencement. — (1) This Act may be called the Prevention of Domestic Violence Act, 2005.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.— (1) In this Act, unless the subject or context otherwise requires:

(a) **'Chairperson'** means the Chairperson of the Committee;

(b) **'Child'** means any child under the age of eighteen [18], irrespective of gender, over whom the respondent exercises or has, actual or constructive control;

(c) **'Committee'** means the Family Conciliatory Committee constituted under section 8 of this Act;

(d) **'Complainant'** means the victim, or any person who on behalf of the victim, who initiates a complaint of an incident of domestic violence before the Protection Team or initiates any proceedings before the Magistrate under this Act;

(e) **'Dependant'** means any person, within or without the prohibited degrees, who is financially dependant on the respondent through contract, formal or informal, written or unwritten, or other obligation arising out of law;

(f) **'Domestic relationship'** means any of the following relationships between the victim and the respondent:

(i) They are or were married to each other, including marriage according to any law, religion, custom or usage;

(ii) They are family members related by consanguinity;

(iii) They are family members through marriage;

(iv) They share or recently shared the same residence;

- (v) The victim is a dependant;
 - (vi) The victim is a child;
 - (vii) The victim is an incapacitated adult;
- (g) **'Domestic violence'** means one or more of the following acts committed by the respondent against any person or persons with whom the respondent is in a domestic relationship:
- (i) Hurt, as defined in section 319 of the Pakistan Penal Code;
 - (ii) Wrongful confinement, as defined in section 340 of the Pakistan Penal Code;
 - (iii) Criminal Force, as defined in section 350 of the Pakistan Penal Code;
 - (iv) Assault, as defined in section 351 of the Pakistan Penal Code;
 - (v) Mischief, as defined in section 425 of the Pakistan Penal Code, against the property of the victim, including causing economic loss or damage to property;
 - (vi) Criminal Intimidation, as defined in section 503 of the Pakistan Penal Code;
 - (vii) Economic abuse;
 - (viii) Emotional, psychological and verbal abuse;
 - (ix) Entry into the victim's place of residence, without the victim's consent, where the parties do not share the same residence;
 - (x) Harassment;
 - (xi) Sexual abuse;
 - (xii) Stalking;
 - (xiii) Willful and negligent abandonment of dependant;
 - (xiv) Any other controlling or abusive behavior towards the victim, where such conduct harms, or may cause imminent harm to the safety, health or wellbeing of the victim;
 - (xv) Attempt, as defined in section 511 of the Pakistan Penal Code, to commit any of the offences enumerated in this section 2(1)(g);
- (h) **'Economic abuse'** means-
- (i) The unreasonable deprivation of economic or financial resources to which a victim is entitled under law or which the victim requires out of necessity, including household necessities for the victim, and any payments required by law in respect of the shared residence;
 - (ii) The unreasonable disposal of household effects or other property in which the victim has a proprietary interest;
- (i) **'Emotional, psychological and verbal abuse'** means a pattern of degrading or humiliating conduct towards the victim, including but not limited to:

- (i) repeated insults or ridicule;
 - (ii) repeated threats to cause pain;
 - (iii) repeated threats of malicious prosecution.
 - (iv) repeated exhibition of obsessive possessiveness or jealousy, constituting a serious invasion of the victim's privacy, liberty, integrity or security;
- (j) **'Harassment'** means engaging in a pattern of conduct that evokes the fear of harm to a victim and includes, but is not limited to:
- (i) repeatedly making unwelcome telephone calls or inducing another person to make telephone calls to the complainant, whether or not conversation ensues;
 - (ii) repeatedly sending, delivering or causing the delivery of unwelcome letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant;
- (k) **'Incapacitated adult'** means a person who is wholly or partially incapacitated or infirm, by reason of physical or mental disability or ill-health or old age, over whom the respondent exercises or has, actual or constructive control;
- (l) **'Local Government Ordinance'** means the laws that have been developed by the National Reconstruction Bureau, and promulgated by the provincial Governments as Provincial Ordinances in the Year 2001 and by the Islamabad Capital Territory in the year 2002.
- (m) **'Magistrate'** means a Judicial Magistrate of the First Class;
- (n) **'Monetary compensation'** means monetary compensation awarded to the victim by the Magistrate and to be paid by the respondent to the victim;
- (o) **'Protection Team'** is the body of persons constituted under section 4 ;
- (p) **'Protection Order'** means the Protection Order issued under this Act, and includes an Interim Protection Order;
- (q) **'Respondent'** means any person accused of domestic violence;
- (r) **'Service provider'** means any voluntary association registered under any law for the time being in force, with the objective of protecting the rights and interests of the victim by any means, including legal aid, medical, financial or other assistance;

- (s) **'Sexual abuse'** means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the victim, and includes force or threat of force in any sexual conduct towards the victim;
- (t) **'Shared Residence'** means a residence shared by the victim and the respondent, including a residence solely owned or procured under any arrangement or title by the respondent or a residence jointly owned or procured by the victim and the respondent;
- (u) **'Stalking'** includes, but is not limited to:
- (i) repeatedly following, pursuing or accosting the victim in violation of the wishes of the victim;
 - (ii) repeatedly watching or loitering outside or near the building or place where the victim resides, works, carries on business, studies or visits;
- (v) **'Victim'** means a victim of domestic violence.
- (2) Words and phrases not defined in this Act shall have the meaning ascribed thereto in the Pakistan Penal Code (Act XLV of 1860) and the Code of Criminal Procedure (Act V of 1898).
3. **Act not in derogation of any other law.**—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force in Pakistan.
4. **Protection Team.** — (1) Within the jurisdiction of each Union Council, there shall be a Protection Team, consisting of a female Union Councillor nominated for this purpose by her Union Council under the Local Government Ordinance; one female police officer and one male police officer; Provided that neither police officer is below the rank of ASI, with powers provided under this Act.
- (2) The Female Union Councillor on the Protection Team shall be nominated by the Union Council for such purpose for the tenure of her office.
- (3) The Police Officials shall be provided by their police stations to the Protection Team, as and when so required by the Female Union Councillor.
5. **Providing Information to Protection Team.**—(1) Any person or victim who has reason to believe that an act of domestic violence has been, is being or is likely to be committed, may give information to the Protection Team through the Female Union Councillor.
- (2) Any person who provides information in good faith shall be exempt from civil and criminal liability.

- (3) Sources of information provided under this section shall not be disclosed by the Protection Team.

6. Duties of Protection Team. – Where, after inquiry, the Protection Team, either *suo moto* or on the basis of information received from any person, believes that an act of domestic violence requiring remedial or preventive action, has been, is being, or is likely to be committed, it shall be the duty of such Protection Team to :

- (1) forthwith go to and enter upon the place where it has reasonable suspicion of domestic violence or eminent domestic violence likely to cause physical harm to the victim, and shall remain there until the requisite protection is secured to the satisfaction of such Protection Team;
- (2) assist the victim in obtaining any medical treatment necessitated due to the domestic violence;
- (3) if necessary, and with the consent of the victim, assist the victim in relocating to a safe place acceptable to the victim, which may include the house of any relative or family friend or other safe place, if any, established by a service provider;
- (4) inform the victim of the victim's rights provided under this Act or any other law for the time being in force, and the remedies and help that may be provided by any service provider;
- (5) assist the victim in the preparation of any application under this Act or any other law for the time being in force;
- (6) file an application for a Protection Order, if so desired by the victim;
- (7) report the incident to the Committee;
- (8) coordinate with and facilitate the Committee in performing its duties;
- (9) submit the Report of the Committee to the Magistrate, if necessary;
- (10) keep an official record of the incidents of domestic violence in the area of jurisdiction, whether on the basis of information received or upon *suo moto* inquiry, irrespective of whether or not action is taken under this Act. Such record should include:
 - (a) the first information received about the incident of domestic violence;
 - (b) the assistance, if any, offered by the Protection Team to the victim;
 - (c) where applicable, the reason for not taking action under this Act when an incident was brought to the notice of the Protection Team;
 - (d) where applicable, the reason for refusal of victim to take assistance from Protection Team;
 - (e) where applicable, the grounds for entering any premises; and
 - (f) the name and contact details of the service provider, if any, from whom the victim sought help;
- (11) maintain a record of applications, Protection Orders and the service providers operating in the area of jurisdiction; and

(12) perform any duties that may be assigned to the Protection Team under this Act.

7. Powers, privileges and immunities of Protection Team.— (1) Members of the Protection Team shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860), and shall enjoy all rights and privileges as such in relation to the performance of duties under this Act.

(2) The Protection Team, acting or purporting to act under this Act, shall have all the powers of an Investigation Officer under the Criminal Procedure Code.

(3) The Protection Team shall file an application for obtaining a Protection Order under section 9, if so desired by the victim; Provided that the Protection Team may file an application, suo moto, for a Protection Order when the Protection Team deems it necessary so to do.

(4) The Protection Team may procure the assistance of any person or authority; and any person or authority so requested by the Protection Team, shall be under legal obligation to provide the desired assistance to the Protection Team.

(5) The Protection Team may, without warrant, arrest any respondent reasonably suspected of domestic violence; Provided that there is a reasonable belief that the domestic violence is physical; Provided further that the arrest is made at the place of occurrence.

(6) The Protection Team shall attend the proceedings of the Committee.

(7) No suit, prosecution or other legal proceedings shall lie against the Protection Team or any member thereof for any act done or purported to be done in good faith in the discharge of duties under this Act, except as provided for in section 15.

8. Family Conciliatory Committee.—(1) There shall be constituted a Family Conciliatory Committee in each Union Council under the Local Government Ordinance, which Committee shall consist of five members, at least three of whom shall be women.

(1) The Committee shall be nominated by the Union Council.

(2) The Chairperson shall be appointed from amongst the members of the Committee, by a majority of the votes of all the members of the Committee.

(3) Proceedings to terminate, replace, substitute Committee members will be initiated by the Chairperson of the Committee, either *suo moto* or upon application by a member of the Committee or the Protection Team, and shall be decided by a majority vote of all the members of the Committee.

(4) The Committee members shall hold office during their tenure as members of the Union Council.

- 9. Proceedings before Committee.**—(1) The Chairperson shall call a meeting either *suo moto* or on receipt of a request by the Protection Team.
- (2) The meeting of the Committee shall be attended by all members of the Committee, the affected parties and their representatives if any, and the Protection Team; Provided that the absence of any member will not vitiate these proceedings of the Committee; Provided further that a quorum of at least three [3] members of the Committee is present at such meeting.
- (3) The Committee shall use all reasonable and legitimate measures to resolve the dispute amicably.
- (4) If conciliation fails, the Chairperson shall cause a report to be prepared of the incident, the proceedings before the Committee, the attempted efforts and the conduct of the parties, especially their attitudes towards conciliation.
- (5) The report will be approved and signed by all present members of the Committee.
- (6) The Committee shall conclude its proceedings within a period of seven [7] days and the report of the Chairperson will be issued within a further period of seven [7] days.
- (7) The Committee shall have all the privileges and immunities enjoyed by the Protection Team.

- 10. Procedure for obtaining Protection Order.** — (1) The Complainant or, where applicable, the Protection Team with the written consent of the victim, may file an application before the Magistrate seeking relief under this Act; Provided that, where the victim is a child, such application may be filed by the guardian of person, relative or person responsible for the care of the child.
- (2) Consent of the victim before filing of application under sub-section (1) by a Complainant or Protection Team shall not be required in circumstances where the victim is a person of unsound mind, unconscious or a person whom the Magistrate is satisfied is unable to provide the required consent.
- (3) An application under sub-section (1) shall be heard as a criminal case and proceedings shall be treated as criminal proceedings for the prevention of offences provided under Part IV of the Code of Criminal Procedure (Act V of 1898).
- (4) The application shall be decided, as nearly as possible, in accordance with the provisions of Chapters XX and XXII of the Code of Criminal Procedure (Act V of 1898) but without framing of a charge.
- (5) On application being made under sub-section (1), the Magistrate shall cause summons to be served on the respondent, no later than fifteen [15] days from the date of presentation of the application, to appear before him on a specified date, no later than fifteen [15] days from the

date of serving of summons, and to show cause why the order prayed for should not be passed.

(6) At any stage during pendency of the application under sub-section (1) where the Magistrate is satisfied, on the basis of an affidavit or otherwise, that there is immediate and serious risk of harm being caused to the victim before such application may be decided, and the circumstances warrant intervention of the Court even before the respondent is heard or notice of application served, the Court may:

(a) issue an interim protection order restraining the respondent from engaging in any act which may constitute an act of domestic violence;

(b) require the respondent to execute a bond with or without surety for maintaining domestic peace;

Provided that the interim order passed under clauses (a) and (b) shall, unless the Court direct otherwise, remain in force until disposal of the application.

11. The powers of the Magistrate in issuing a Protection Order.— (1) By means of a Protection Order issued under this Act, the Magistrate so empowered may prohibit the respondent from:

(a) committing, directly or indirectly, any act of domestic violence;

(b) enlisting the help of another person to commit any such act;

(c) entering a shared residence;

(d) entering a specified part of a shared residence;

(e) entering the victim's residence;

(f) entering the victim's place of employment, educational institution or any other place or premises that the victim inhabits howsoever temporarily or infrequently;

(g) making any personal contact with the victim other than in the presence of the Protection Team;

(h) committing any other act so specified in the Protection Order;

Provided that in passing any order under this subsection, the Magistrate shall have regard, *inter alia*, to the following:

(i) the best interest of the victim;

(ii) protection of the victim;

(iii) the welfare of any child affected or likely to be affected by the conduct of the respondent;

(iv) any hardship that may be caused to the respondent or to any member of the family as a result of the order;

Provided further that the Magistrate shall not pass an order under clause (iii) and (iv) unless satisfied that there is no other way to secure the personal safety of the victim for the time being, and such order may be revoked if –

(A) suitable alternate residence is found for the victim; and

(B) the Magistrate is satisfied that such action is no longer necessary for securing the personal safety of the victim.

- (2) The Magistrate may give any such directions as are necessary and incidental for the proper carrying into effect of any order made under sub-section (1).
- (3) The Magistrate may impose any additional conditions deemed reasonably necessary to protect and provide for the safety, health or well being of the victim, complainant or any other person affected or likely to be affected by the conduct of the respondent, including but not limited to an order:
 - (a) to seize any weapon in the possession or under the control of the respondent;
 - (b) that the Protection Team must accompany the victim to a specified place, to assist with arrangements regarding the collection of personal property.
- (4) In ordering a prohibition contemplated under sub-section (1)(c) and (d), the Magistrate may impose on the respondent obligations as to the discharge of rent or mortgage payments, having regard to the financial needs and resources of the victim and the respondent.
- (5) The Magistrate may award to the victim, such monetary compensation as deems reasonable and fair, in case the victim has suffered personal injuries or damage to property; Provided that in awarding monetary compensation, the Magistrate may take into account, *inter alia*, the following factors:-
 - (a) the nature and extent of injuries, physical or mental;
 - (b) the cost of medical treatment;
 - (c) the extent of damage to the property; and
 - (d) the financial resources of the victim and the respondent.
- (6) If the Magistrate is satisfied that it is in the best interest of any child, the Magistrate may –
 - (a) refuse the respondent contact with such child;
 - (b) impose contact on the respondent with such child on such conditions as the Magistrate deems appropriate.
- (7) The Magistrate may direct the respondent specified to undergo compulsory counseling with any service provider for a specific time period.
- (8) While passing any order under this Act, the Magistrate shall take into consideration, the report of the Committee and tender of apology, if any, on behalf of the respondent.
- (9) Any application filed under section 10 shall be decided by the Magistrate within a period not exceeding 60 days: Provided that if the application is not decided within the said period, the Magistrate shall send the record of the case to the Court of Sessions for disposal by passing any order under this Act, within a period not exceeding 30 days.
- (10) The Magistrate or the Court of Sessions, as the case may be, shall not decline to exercise jurisdiction under the provisions of this act on

the ground that other legal remedies are available to the victim or the complainant.

- (11) The Magistrate or the Court of Sessions, as the case may be, shall cause a copy of any order passed under the provisions of this act, to be issued, free of cost, to the parties.

12. Duration and Alteration of Protection Order. — (1) The Protection Order shall remain in force for the time period specified in the order: Provided that the Protection Order shall not exceed one year in the case of an order under sub-section 4, 5 and 7 of section 11, and (6) months in the case of an order under clauses (c), (d), (e), (f), (g) of sub-section 1 of section 11 and sub-section 6 of section 11.

(2) Notwithstanding the content of sub-section (1), a complainant or respondent, upon written notice to the other party, to the Protection Team and the Magistrate or the Court of Sessions, as the case may be, may apply for a variation or setting aside of any order passed under section 11.

(3) If the Magistrate or the Court of Sessions, as the case may be, is satisfied that good cause has been shown for variation or setting aside of the Protection order, the Magistrate or the Court of Sessions, as the case may be, may issue an order to such effect; Provided that the Magistrate or the Court of Sessions, as the case may be, shall not grant such an application in favour of the complainant unless satisfied that the victim is not and has not been under any form of duress or undue influence in the processing thereof.

13. Enforcement of Protection Order.—(1) A Protection Order or any other order passed by the Magistrate or the Court of Sessions, as the case may be, under this Act shall, within 24 hours of the passing of such order, be implemented by the Station House Officer of the Police Station where the victim or offender ordinarily resides.

(2) In the event that the Station House Officer fails to implement the Protection Order within twenty four hours thereof, the Station House Master shall be liable to disciplinary action under the Police Rules, 2002.

14. Contravention of Protection Order.—(1) Any person who willfully contravenes a Protection Order, or any provision thereof, shall be guilty of an offence and shall, on conviction, be liable for a fine not exceeding Rupees Fifteen Thousand [Rs.15,000/-] or imprisonment for a term not exceeding one year or both.

(2) Any person who is convicted for a second or subsequent violation of a protection order under sub-section (1) shall be liable to imprisonment for a period of no less than six [6] months and no more than two [2] years and shall also be liable for a fine not exceeding Rupees Fifteen Thousand [Rs.15,000/-].

- (3) Any person who willfully contravenes a Protection Order by using violence on a victim shall, shall be guilty of an offence and shall, on conviction, be liable for a fine not exceeding Rupees Fifteen Thousand [Rs.15,000/-] and shall also be liable to imprisonment for a term no less than six [6] months and no more than two [2] years.
 - (4) Any person who is convicted for a second or subsequent violation of a protection order under sub-section (3) shall be liable to imprisonment for a period of no less than one year and no more than three [3] years, and shall also be liable to a fine not exceeding Rupees Fifteen Thousand [Rs. 15,000/-].
 - (5) Where a person against whom a Protection Order has been made contravenes the Protection Order, the Magistrate or the Court of Sessions may, in addition to any penalty provided for under the above sub-sections, make or renew, as the case may be, any one or more of the orders under section 11, to commence from such date specified in such a fresh order.
- 15. Protection Team complaint authority.**— (1) Failure of a Protection Team member from the Police to discharge obligations in accordance with this Act or any rules framed in pursuance of section 16 shall constitute misconduct as contemplated in the Police Order 2002.
- (2) A complaint under sub-section (1) shall lie, as the case may be, directly to the Federal Complaints Authority or the Provincial Complaints Authority established under the Police Order 2002, and shall be processed in accordance with that Order.
 - (3) Notwithstanding the provisions of sub-section (1) and (2), the complainant may have recourse to the Head of the District Police, within the meaning of Police Order 2002, for redress against an errant Protection Team member from the Police.
 - (4) It shall be the duty of the Head of District Police to assist the complainant in drafting and pursuing the relevant complaint application before the Federal Complaints Authority or the Provincial Complaints Authority, as the case may be.
 - (5) It shall be the duty of the Head of District police, either *suo moto* or based on information received from the complainant under sub-section (3) or any other person, to initiate action against the Protection Officer before the competent authorities set up under the Police Order 2002.
 - (6) In the event of a failure of the Union Council member of the Protection Team to discharge obligations in accordance with this Act, complaint shall lie to the Union Council and, in such event, the Union Council may terminate the appointment of such Union Council member and nominate a substitute in her place.
 - (7) The Union council may also take such disciplinary action as the Union Council may deem appropriate.

16. **Rules.** – The Government may frame rules for carrying out the purposes of this Act.

Member In charge

**Sherry Rehman
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