

Domestic Violence (Offence and Punishment) Act, 2066 (2009)

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Act No. 1 of the year 2066 (2009)

An Act relating to control the Domestic Violence

Preamble: Whereas, it is expedient to make provision to respect the right of every person to live in a secure and dignified life, to prevent and control violence occurring within the family and for matters connected therewith and incidental thereto making such violence punishable, and for providing protection to the victims of violence;

Now, therefore, be it enacted by the Constituent Assembly pursuant to Sub-article (1) of Article 81 of the Interim Constitution of Nepal, 2063 (2007).

1. **Short Title and Commencement:** (1) This Act may be called the "Domestic Violence (Crime and Punishment) Act, 2066 (2009)".
(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or context otherwise requires, in this Act,-
 - (a) "Domestic Violence" means any form of physical, mental, sexual and economic harm perpetrated by person to a person with whom he/she has a family relationship and this word also includes any acts of reprimand or emotional harm.
 - (b) "Domestic relationship" means a relationship between two or more persons who are living together in a shared household and are related by decent (consanguinity), marriage, adoption or are family

members living together as a joint family; or a dependant domestic help living in the same family.

- (c) "Physical harm" means an act of committing or causing bodily harm or injury holding as a captive, inflicting physical pain or any other act connected therewith and incidental thereto except the act of breaking the limbs of body (*Angabhanga*).
- (d) "Mental harm" means any act of threatening the Victim of physical torture, showing terror, reprimanding him/her, accusing him/her of false blame, forcefully evicting him/her from the house or otherwise causing injury or harm to the Victim emotionally and this expression also includes any discrimination carried out on the basis of thought, religion or culture and customs and traditions.
- (e) "Sexual harm" means sexual misbehaviour, humiliation, discouragement or harm in self respect of any person; or any other act that hampers safe sexual health.
- (f) "Economic harm" means deprivation from using jointly or privately owned property or deprivation of or access to employment opportunities, economic resources or means.
- (g) "Victim (Aggrieved person)" means any person who is, or has been, in a domestic relationship with the defendant and who alleges to have been subjected to an act of domestic violence by the perpetrator.
- (h) "Perpetrator" means the person having family relations with the Victim and for whom the victim alleges to have been subjected to an act of domestic violence and this word also includes any person involved in the domestic violence or in the accomplice of the crime.

- (i) "Police Office" means a Police Office closest to the residence of the Victim, the perpetrator or that office which is closest to the scene of crime and this word also includes the Children or Women Cell or Police Post or Police Sub-post under the District Police Office.
 - (j) "Court" means a court appointed by the Government of Nepal by a Notification in the Nepal Gazette.
 - (k) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules made under this Act.
3. **Domestic Violence not to be committed:** (1) No one shall commit; or aid or abet; or incite for the commission of for the act of domestic violence.
- (2) A person who commits an act pursuant to Sub-section (1) shall be deemed to have committed an offence under this Act.
4. **Filing of complaint:** (1) A person who has knowledge of an act of domestic violence has been committed, or is being committed, or likely to be committed, may lodge a written or oral complaint setting out the details thereof, with the Police Office, National Women Commission or Local body.
- (2) In case a complaint is received pursuant to Sub-section (1), in a written form, it shall be registered immediately and if it is received in an oral form it shall be registered upon setting out details in a written form and putting the signature of the complainant.
- (3) In a case the complaint is filed before the National Women Commission, necessary action shall be taken in accordance with Prevailing National Women Commission law.
- (4) In a case the complaint is filed before the Police Office, the Police Office shall produce the perpetrator within 24 hours of the

complaint, excluding the time of travel and make arrest if he/she refuses to appear for the statement.

(5) In a case the complaint filed in the Local Body, the Local Body shall produce the perpetrator within 24 hours of the complaint, excluding the time of travel and requesting to arrest to the Police Office if he/she refuses to appear for the statement.

(6) If the Victim has been physically wounded or mentally tortured as a result of the act of domestic violence, he/she shall be immediately sent to the nearest hospital or health post for necessary check-up and an injury report shall be drawn up. If the medical report is caused to be prepared by the Local Body, a copy of it shall be sent to the Police Station.

(7) If it is found necessary, to provide protection to Victim and his/her dependants from the preliminary investigation on the complaint pursuant to Sub-section (1) of section 4, it shall be provided with immediately with the assistance of the Police Office.

(8) The police officer or local body upon recording the statements pursuant to Sub-sections (4) or (5) of Section 8 finds reason to believe that an act of domestic violence has been committed and the Victim so desires, may, within Thirty days from the date of registration of the complaint, conduct reconciliation between the parties.

(9) The assistance a psychologist, sociologist, social activist and a family member trusted by the Victim and any other witness as per necessity and availability may be taken while conducting reconciliation pursuant to Sub-section (8). In the course of such reconciliation psychological of and social effects on the Victim, as well as his/her right to privacy shall be taken into consideration.

(10) The Police Officer or Local Body Officer shall ensure the presence of the perpetrator on the due date during the investigating, prosecuting and decision making process of the complaint.

(11) If the perpetrator fails to appear pursuant to Sub-sections (4) and (5); or he/she cannot be made present; or the parties fail to settle their dispute through reconciliation, the Police Officer and Local body, with the consent of the complainant shall, within fifteen days after the expiry of Thirty days as per Sub-section (8) shall forward to the court, the complaint mentioning all details, along with evidence and other legal documents incidental thereto.

(12) It shall be the duty of the Police Office to provide assistance pursuant to Sub-sections (5) and (7).

5. **Action to be taken by the Court:** (1) Upon receiving a complaint pursuant to Sub-section (11) of Section 4, the Court shall proceed the case as per this Act, on the basis of such complaint.

(2) Notwithstanding anything contained in Section 4, the Victim may directly file his/her complaint to the Court.

6. **Interim protection order may be granted:** (1) If the Court has reason to believe, on the basis of preliminary investigation of the complaint that the Victim needs to be given immediate protection, it may, till the time the final decision on the complaint is made, pass the following orders against the perpetrator:

- (a) To allow the Victim to continue to live in the shared house, to provide him/her with food, clothes, to not cause physical injury to him/her and to behave with him/ her in a civilized and dignified manner.

- (b) To manage for necessary treatment or to give money for the treatment of the Victim if he/ she has suffered physical or mental injury.
- (c) To make necessary arrangements for the separate stay of the perpetrator in a case that it's not conducive for them to live together, and make necessary arrangements for the maintenance of the Victim.
- (d) To not insult, threaten or behave in an uncivilized manner; or not to cause to do these acts.
- (e) To not harass the Victim by entering his/ her place of separate residence; or in public roads; or entering his/ her place of employment; or through the communication media or in any other manner.
- (f) To carry out or cause to carry out necessary and relevant actions for the protection and welfare of the Victim.

(2) If it is found necessary to provide protection pursuant to Sub-section (1) from the preliminary investigation of the complaint, the Court shall issue an appropriate order for the protection of the minor children or any other dependent of the Victim.

7. **Proceedings to be held in camera:** (1) If it is so request by the Victim, the court shall conduct in camera proceedings and hearings of the complaint relating to this Act.

(2) During in camera proceedings and hearings pursuant to sub-section (1), the claimant, defendant, their legal practitioners and those who are so permitted by the Court, shall be allowed to enter into the court room.

8. **Summary procedure to be Adopted:** The procedure mentioned in the Summary Procedure Act, 2028 (1971) shall be followed in the process and disposal of a case filed pursuant to this Act.
9. **Perpetrator to bear expenses of treatment:** (1) The total costs of treatment of the victim of the domestic violence, who has sustained physical or mental injuries so as to require medical help in the hospital, shall be borne by the perpetrator.
- (2) Notwithstanding anything contained in Sub-section (1), if the Court has reason to believe that the perpetrator is unable to pay such amount due to economic reasons, the court may order the Service Center to provide treatment expenses to the Victim.
10. **Compensation to be Provided:** The Court may, depending on the nature of the act of domestic violence and degree, the pain suffered by the Victim, and also taking into account the economic and social status of the perpetrator and Victim, order the perpetrator to pay appropriate compensation to the Victim.
11. **Service Centre:** (1) The Government of Nepal, as per necessity, may establish Service Centers for the purpose of immediate protection of the Victim, and for the separate accommodation of the Victim during the course of treatment.
- (2) For the purpose of Sub-section (1), an organization may establish and operate Service Centers upon receiving approval as prescribed.
- (3) Service Centers operating pursuant to Sub-section (2) may be given financial and other aid from the Fund established under Section 12.
- (4) The Service Centre shall provide, as per necessity, legal aid, psycho-consultation service, psychological Service and economic aid to the Victim.

(5) The provisions of management, operation and monitoring of Service Centre shall be as prescribed.

12. **Service Fund**: (1) The Government of Nepal shall establish a Service Fund for the operation of Service Centers established pursuant to Sub-section (1) of Section 11.

(2) The fund shall consist of the following amounts established pursuant to Sub-section (1):

- (a) The amount received from the Government of Nepal,
- (b) The amount received from any national or foreign organization, institution or individual,
- (c) The amount received from any other source.

(3) The management and operation of the Service Fund shall be as prescribed.

13. **Penalty**: (1) A person who commits an act of domestic violence shall be punished with a fine of Three Thousand Rupees upto Twenty Five Thousand Rupees or Six months of imprisonment or both.

(2) A person who attempts to commit domestic violence or abets the crime or incites others to commit the crime shall be liable to half the punishment of the perpetrator.

(3) A person who has been punished once for the offence of domestic violence shall be liable to double the punishment upon every repetition of the offence.

(4) If a person holding a public post who commits the offence of domestic violence, he/she shall be liable to an additional ten percent punishment.

(5) A person who disobeys the Court orders made pursuant to Section 6 shall be punished with a fine of Two Thousand Rupees upto Fifteen Thousand Rupees or Four months of imprisonment or both.

14. **Limitation**: The complaint, for an offence committed pursuant to this Act, shall be filed within Ninety days of the commission of the crime.
15. **No hindrance to file case pursuant to prevailing law**: Nothing in this Act shall prevent the investigation, trial and proceed in an offence which is punishable under this Act and prevailing law.
16. **To be as mentioned in the prevailing law**: This Act shall apply on matters mentioned herein and in other matters the prevailing laws shall apply.
17. **Power to frame Rules**: The Government of Nepal may frame necessary Rules to implement the objectives of this Act.