

REPORT

OF THE

**NATIONAL COALITION AGAINST
DOMESTIC VIOLENCE COMMITTEE**

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1. INTRODUCTION

1.1 BACKGROUND

According to the UN High Commissioner for Human Rights, Ms Navi PILLAY (2013), *“Eliminating violence against women necessarily encompasses measures to empower women to stand for their rights, make decisions on their lives and participate fully in the life of their communities. Preventing violence from happening in the first place must be central to any strategy to eliminate violence against women.”*

Violence against women is a pervasive phenomenon common in developing and developed countries alike. Violence against women manifests itself in multiple behaviours including rape, sexual coercion, incest, honour killings, female genital mutilation, acid burnings, stalking and trafficking. Perpetrators of violence against women can be intimate partners, family members, members of the community or strangers. Across cultures, the most common experience for women is violence by intimate partners.

Unfortunately, Mauritius has not been spared by this phenomenon. In spite of legislations and on-going improvements in terms of institutional support in order to address this issue, there is a widespread feeling that violence against women is a serious social problem facing Mauritian women. It is also a belief that many victims deny or choose not to report or prosecute their assailants, presumably due to cultural pressures and their position of economic dependence on their husbands/partners/perpetrators.

Statistics on the number of reported cases of domestic violence through the *Police Family Protection Unit* for the years 2010 to October 2015 are as follows:

No of cases reported	2010	2011	2012	2013	2014	2015 Jan to Oct
Total	3,078	3,046	3,285	2,842	3,062	2,375
Out of which, male	263	195	214	176	174	113

1.2 SETTING UP OF THE COMMITTEE

In view of addressing the scourge of domestic violence, the Government has set up a *National Coalition against Domestic Violence Committee* under the aegis of the Prime Minister’s Office.

1.2.1 Para 144 of the **Government Programme 2015-2019** provides the following:-

“Government will set up a National Coalition against Domestic Violence Committee under the aegis of the Prime Minister’s Office. The Committee will liaise with the Ministry of Gender Equality, Child Development and Family Welfare and the Ministry of Social Security, National Solidarity and Reform Institutions to ensure that victims of domestic violence are given immediate shelter in a Government institution and provided with a job and a house within a reasonable time frame to lead a normal life anew.”

Following the announcement in the Government Programme 2015-2019 in January 2015, the Prime Minister's Office proceeded with the composition of the National Coalition Against Domestic Violence Committee with representatives from the following Ministries/ Departments/Organisations:-

- (i) Prime Minister's Office (Home Affairs Division)(**Chair**);
- (ii) Ministry of Gender Equality, Child Development and Family Welfare;
- (iii) Ministry of Social Security, National Solidarity and Reform Institutions;
- (iv) Police Department;
- (v) Ministry of Social Integration and Economic Empowerment;
- (vi) Ministry of Health and Quality of Life;
- (vii) Ministry of Housing and Lands;
- (viii) Ministry of Labour, Industrial Relations, Employment and Training (Employment and Training Division);
- (ix) Attorney General's Office;
- (x) MACOSS;
- (xi) SOS Femmes; and
- (xii) The Private Sector.

1.2.2 The involvement of NGOs and the Private Sector were considered essential for the adoption of a holistic approach to the problem of domestic violence.

1.2.3 The representatives of the organizations listed above are set out in Appendix 4.1.

1.2.4 **BEST PRACTICES IN OTHER COUNTRIES**

1.2.4.1 **UNITED STATES**

- ◆ In the United States, there is a National Coalition against Domestic Violence, which is an NGO established since 1978. The Board of Directors is composed of the following:-
 - (i) *A President with wide experience in the judiciary, police and media*
 - (ii) *A Secretary;*
 - (iii) *Activists in domestic violence matters;*
 - (iv) *A Psychotherapist; and*
 - (v) *Volunteers.*
- ◆ The functions of the US National Coalition against Domestic Violence are as follows:-
 - (1) It works to raise awareness about domestic violence.
 - (2) It educates and creates programmes and technical assistance.
 - (3) It collaborates with national organisations to promote legislation and policies that serve and protect victims and survivors of domestic violence.

(4) It monitors and provides input, guidance and leadership in policy and legislative matters affecting victims of domestic violence and their children.

- ◆ Programs include domestic violence and HIV/AIDS, cosmetic and reconstructive surgery, reproductive coercion, and hope and power for personal finances.

1.2.4.2 SOUTH AFRICA

- ◆ The **Gender-Based Violence Command Centre (GBVCC)** launched in South Africa in March 2014 was awarded the Best Technology Innovation Award.
- ◆ The Command Centre operates through a hotline and provides immediate care and counselling and offers help, hope and the chance of a better life to thousands of victims of gender-based abuse, even in the remotest and most underdeveloped corners in South Africa.
- ◆ It uses mobile technology to estimate the location of a victim, assign the closest social worker in the field to the case and record and receive continuous feedback on the case.
- ◆ The functions of the **GBVCC** in South Africa are as follows:-
 - (1) *To ensure equity and freedom from discrimination and harassment in the workplace and in the services provided by the department.*
 - (2) *To work in partnership with the people and with other stakeholders.*
 - (3) *To deliver on the Government's priorities in the most efficient, effective and innovative ways.*
 - (4) *To be transparent and accountable for its decisions, actions and performance.*
 - (5) *To enable the poor, the vulnerable and the excluded within South African society to secure a better life for themselves, in partnership with them and with all those who are committed to building a caring society.*
 - (6) *To be a caring and integrated system of social development services that facilitates human development and improves the quality of life.*

1.3 TERMS OF REFERENCE OF THE NATIONAL COALITION AGAINST DOMESTIC VIOLENCE COMMITTEE

The announcement in the Government Programme referred to specific "Government institutions", and during discussions it was revealed that there was no existing appropriate Government infrastructure to accommodate victims of domestic violence at the level of the Ministry of Gender Equality, Child Development and Family Welfare and the Ministry of Social Security, National Solidarity and Reform Institutions. Accordingly, the Terms of Reference were enlarged with a view to allowing the enlistment of NGOs, more specifically as regards proposals on accommodation.

The Terms of Reference of the National Coalition against Domestic Violence Committee was therefore approved as follows:-

- (a) *To ensure that an appropriate framework is put in place for the protection of victims of domestic violence so that they get proper accommodation under the care of institutions and have sufficient means to lead normal lives;*

- (b) *To put in place a fast track system with all stakeholders for assistance and support to victims of domestic violence; and*
- (c) *To keep updated statistics on cases of domestic violence and to ensure that appropriate follow up is taken in respect of each case.*

1.4 **MEETINGS OF THE COMMITTEE AND METHODOLOGY**

1.4.1 Eleven meetings of the Committee were held on a monthly basis over the period March to December 2015. Representatives on the Committee came from diverse backgrounds comprising stakeholders having a very long experience in the sector. This enabled very rich and fruitful brainstorming sessions with exchange of innovative ideas.

1.4.2 The Committee proceeded with an assessment of all existing, policies and practices when it comes to addressing the problems faced by victims of domestic violence. Being given the scope of the issues raised during discussions and based on the weaknesses in the present system, the Committee divided the responsibilities among the following two Sub-Committees:-

- ◆ Streamlining of Procedures for victims of domestic violence; and
- ◆ Housing and Training issues.

1.4.3 The composition of the two Sub-Committees is at Appendices 4.2 and 4.3 respectively.

1.4.4 The Sub-Committee on Streamlining of Procedures met during the period May to July 2015 in order to:-

- (i) *undertake a mapping of existing procedures followed by the victims of domestic violence at the level of the Police Station of each locality, the Police Family Protection Units, the Ministry of Gender Equality, Child Development and Family Welfare (Family Support Bureaux), Ministry of Health and Quality of Life, Office of the Director of Public Prosecutions and SOS Femmes;*
- (ii) *identify the shortcomings in the procedures mapping from the point of view of the victims;*
- (iii) *make specific recommendations for a review of procedures at the level of Police Stations, Police Family Protection Units, Family Support Bureaux of the Ministry of Gender Equality, Child Development and Family Welfare and other stakeholders; and*
- (iv) *propose general recommendations for a review of the existing framework, taking into consideration that the legislative framework has been covered by the Advisory Committee on Reinforcement of Framework for Protection against Domestic Violence.*

1.4.5 The Sub-Committee on Housing and Training of victims met during the period June to August 2015 in order to come up with proposed mechanisms for the accommodation and employment of victims of domestic violence. In view of the specificity of each case regarding victims of domestic violence, the support of other institutions and NGOs was considered crucial for the success in the implementation of the proposals. An assessment was made on the demand for accommodation facilities by victims of domestic violence and the availability of such facilities. As regards training opportunities for the victims, in view of non-existence of such schemes for victims of domestic violence, new proposals had to be worked out.

- 1.4.6 The Sub-Committees co-opted representatives from Ministry of Health and Quality of Life, Office of the Director of Public Prosecutions, National Empowerment Foundation, Ministry of Social Integration and Economic Empowerment, Ministry of Housing and Lands, Ministry of Labour, Industrial Relations, Employment and Training, SOS Femmes, Ministry of Gender Equality, Child Development and Family Welfare, and Police Department in order to carry out a detailed assessment of the existing system and identify the shortcomings.
- 1.4.7 All the proposals of the two Sub-Committees were then thoroughly debated at the level of the National Coalition against Domestic Violence Committee and the full implications looked into prior to the finalisation of the recommendations.

2 FINDINGS OF THE COMMITTEE

2.1 STREAMLINING OF PROCEDURES

2.1.1 POLICE DEPARTMENT AND POLICE FAMILY PROTECTION UNIT

The Police Family Protection Unit (PFPU) was set up in September 1994 as a response to the pressing need, at that time, for providing priority attention and the required necessary support and assistance to women and children victims of child abuse and domestic violence. Initially, PFPU, formerly known as the Children and Women Protection Unit, was operational as a single unit at Line Barracks and shortly after, this Unit was decentralised to the six Police Divisional Headquarters found in different regions of the island so that victims can have better access to its services. PFPU has seven sub-units in Mauritius and one in Rodrigues as follows:-

- | | |
|----------------|------------------|
| 1. Abercrombie | 5. Rose Hill |
| 2. Piton | 6. Vacoas |
| 3. Flacq | 7. Rose Belle |
| 4. Moka | 8. Port Mathurin |

A flowchart describing the current structure of the PFPU is at page 9.

PFPU operates under the supervision of the Officer in Charge of the Central Criminal Investigation Division (CCID). Its role, responsibilities and duties are laid down in the Standing Orders (SO 84) and it is manned by trained personnel in the field. The PFPU is headed by a Woman Assistant Superintendent of Police and the personnel comprise 2 Women Chief Inspectors, 4 Women Police Sergeants and 29 Women Police Constables posted at the PFPU Headquarters and Divisional Sub Units.

Despite the setting up of PFPU aimed at improving the service delivery in respect of victims of domestic violence, the following few shortcomings are still noted:-

- a. All Police recruits receive a basic training on domestic violence during the Recruits' Foundation Course at the Police Training School before being posted to police stations, but this is by far inadequate for them to fully understand the complex, dynamic and eclectic nature of domestic violence and the need for a sensitive and empathetic Police response. Experienced front line officers also need further training on the subject matter to improve the service and to curb the criticisms for not giving due attention and for mishandling such cases.
- b. Victims of domestic violence, who lodge their complaints at Police Stations, are referred to PFPU sub-units for counselling, mediation/reconciliation, application for restraining orders under the **Protection from Domestic Violence Act 1997** and/or referral to other support services such as legal advice, psychotherapy, further counselling, rehabilitation and cure and thus, they have to explain their traumatic experience twice. This situation creates a hassle for victims who expect a prompt response from the authorities.
- c. Moreover, in cases of application of Orders under the Protection from Domestic Violence Act as at **Appendix 4.4**, there is an established procedure that divides the country in differently attributed catchment areas for the Ministry of Gender Equality, Child Development and Family Welfare and the PFPU. Accordingly, when the case falls outside the catchment area of Family Support Bureaux

(FSB) of the Ministry of Gender Equality, Child Development and Family Welfare Unit, the victim is referred back to PFPU sub-unit concerned and vice versa. The victim is further hassled by being referred to different directions in his/her bid to find a solution to his/her problem.

Current Structure of the Police Family Protection Unit

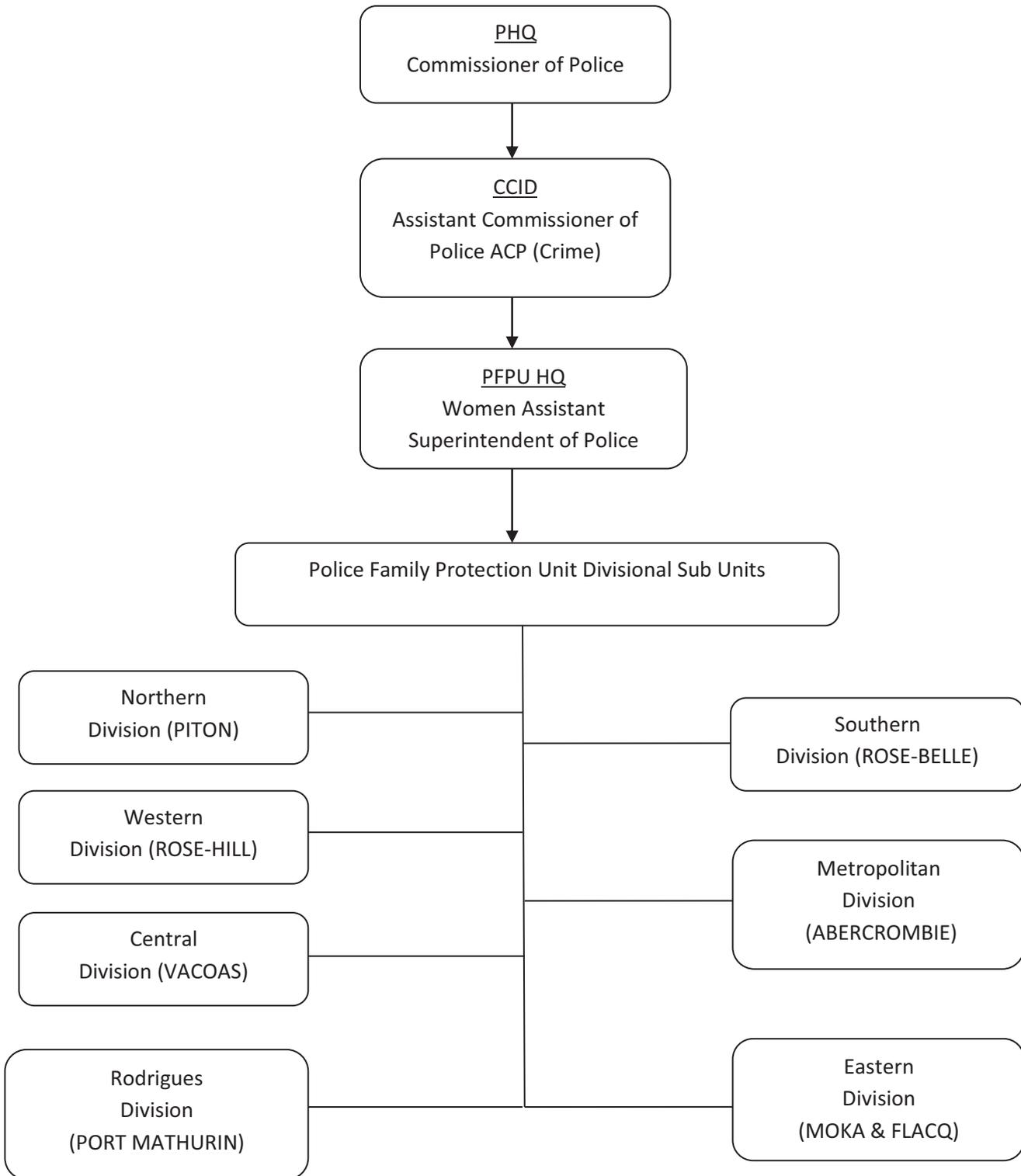


Diagram 1

Current Flowchart at the Police Station

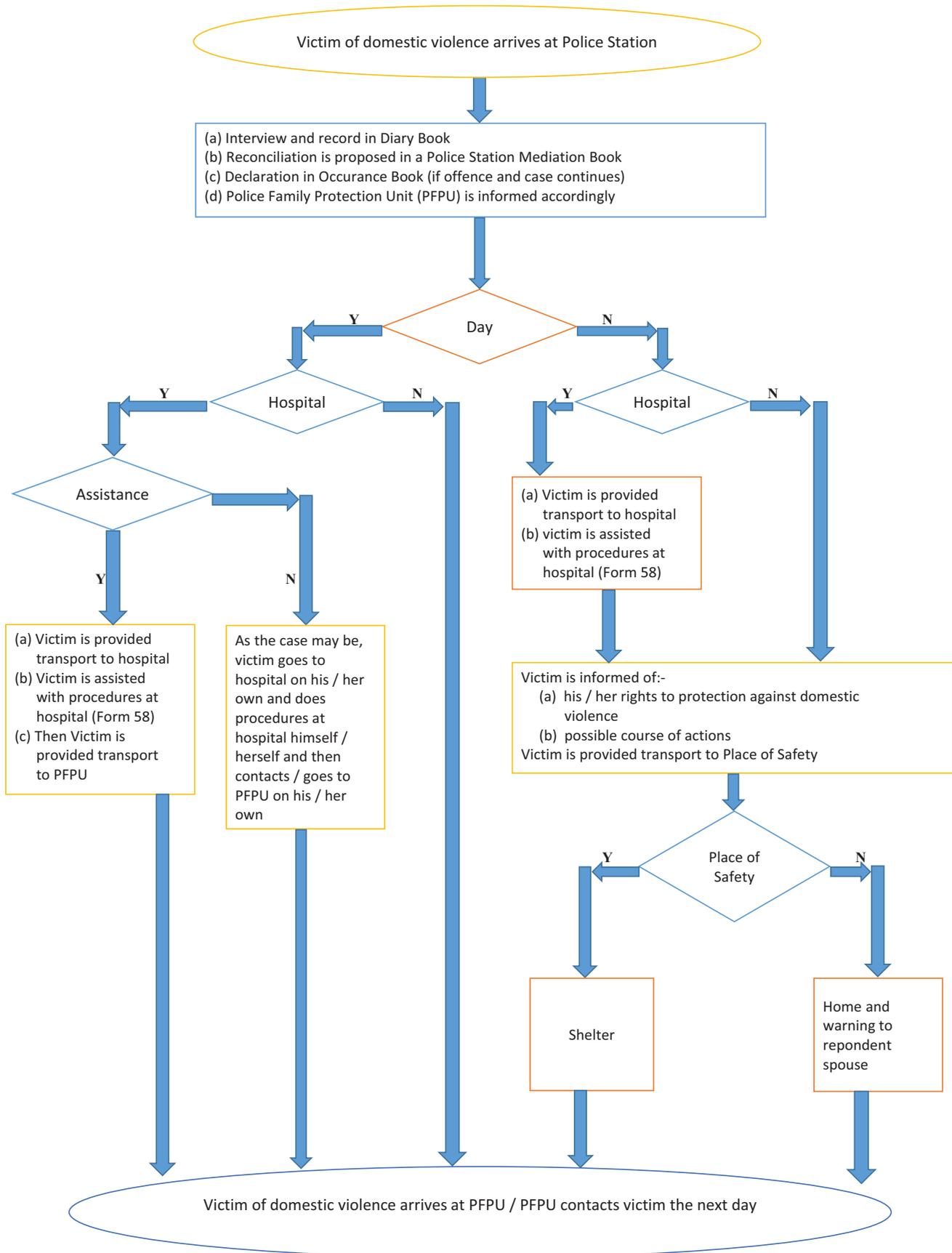
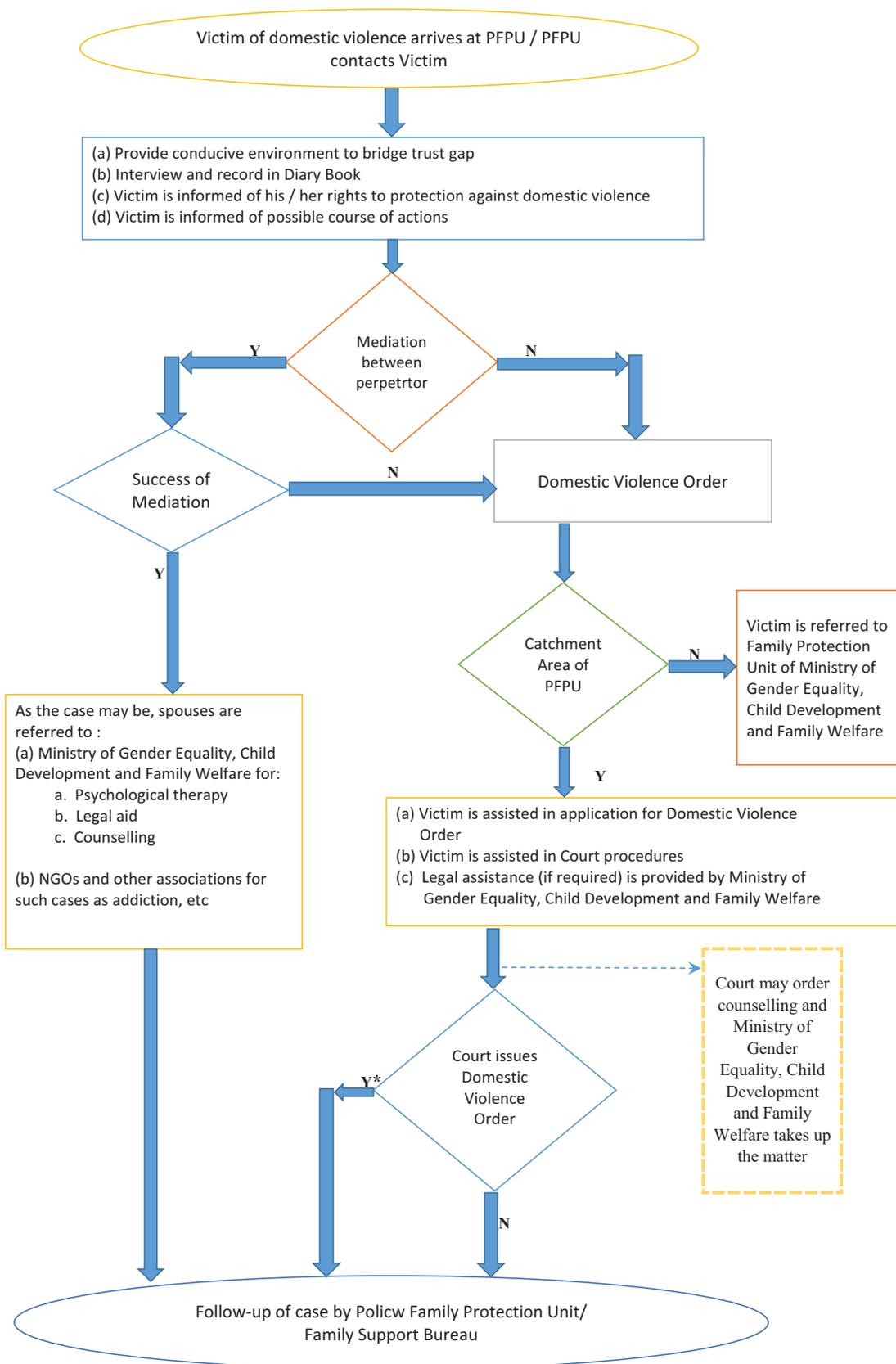


Diagram 2

Current Flowchart at the Police Family Protection Unit (PFPU)



*There is a follow-up by PFPU when there is breach of Domestic Violence Order

Diagram 3

2.1.2 **MINISTRY OF GENDER EQUALITY, CHILD DEVELOPMENT AND FAMILY WELFARE**

The Family Welfare and Protection Unit (FWPU) operates under the aegis of the Ministry of Gender Equality, Child Development and Family Welfare and has a network of six Regional Offices known as Family Support Bureaux (FSBx).

2.1.2.1 **Services provided at the FSBx**

- ◆ First hand counselling to individuals, couples and families by Family Counselling Officers;
- ◆ Psychological counselling by Psychologists;
- ◆ Assistance to victims of domestic violence in terms of applications for Court Orders and follow-up actions by Family Welfare and Protection Officers; and
- ◆ Legal counselling and advice by Legal Resource Persons.

A flowchart describing the services provided by the Family Support Bureaux (FSBx) is at page 11. A “**hotline 139**” which is dedicated to domestic violence is operational on a 24 hours basis since 2007 as a paid service.

However, the following shortcomings have been noted:-

- ◆ The Family Support Bureaux are closed at night and victims have to go to the Police Station or call on the **hotline 139** for assistance; and
- ◆ The framework between Police and Ministry of Gender Equality, Child Development and Family Welfare, including the issue of catchment area, is not convenient for victims residing outside the area.

Flow Chart

Services provided to victims of domestic violence

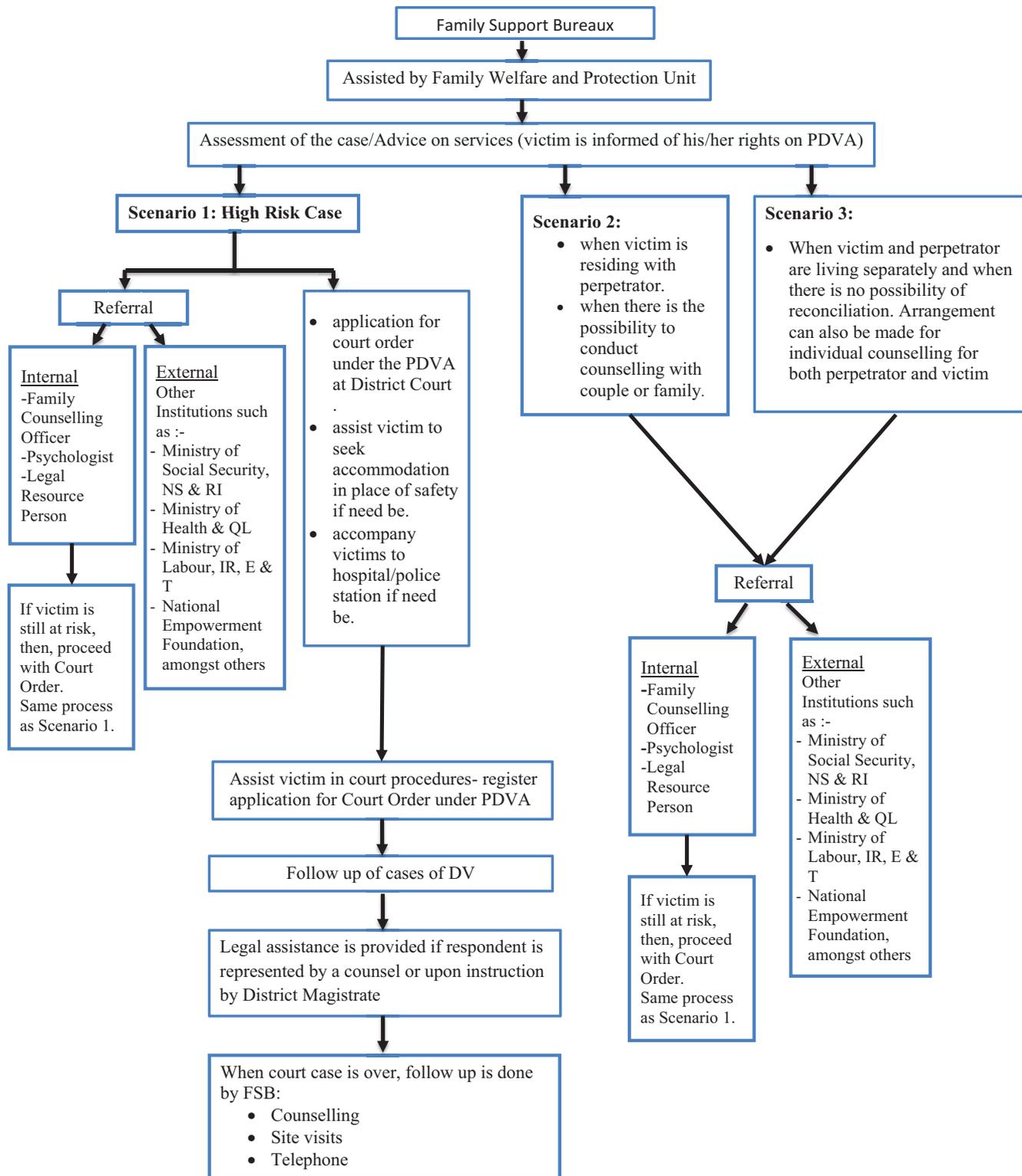


Diagram 4

National Platform to End Gender-Based Violence

A National Platform to End Gender-Based Violence was set up in 2011 by the Ministry of Gender Equality, Child Development and Family welfare. The Terms of Reference are:-

- (a) *to provide logistic support for the elaboration of judicial instruments and mechanisms to address gender-based violence;*
- (b) *to ensure coordination and reinforce protective services for victims of gender-based violence by adopting a holistic approach;*
- (c) *to lobby and mobilise resources from regional and international funding institutions to end gender-based violence;*
- (d) *to reinforce the intervention and prevention mechanisms to address gender-based violence with respect to both victims and perpetrators;*
- (e) *to sustain national campaigns against gender-based violence;*
- (f) *to encourage media to develop Code of Ethics when addressing gender-based violence; and*
- (g) *to set up an observatory for gender-based violence.*

Moreover, recommendations 71 of the Report of the Advisory Committee on the Reinforcement of Framework for Protection from Domestic Violence provides for the creation of specific, multi-sectoral mechanism to oversee implementation of legislation and other policy measures.

In fact, the recommendation is in line with Article 10 of the Council of Europe Convention on Prevention and Combating Domestic Violence Against Women and Domestic Violence - "Istanbul Convention" (11 May 2011).

Report of the Advisory Committee on Reinforcement of Framework for Protection from Domestic Violence

An Advisory Committee on the Reinforcement of Framework for Protection from Domestic Violence was set up in 2014 under the chairpersonship of MR ROSARIO DOMAINGUE.

The Report on the Advisory Committee on the Reinforcement of Framework for Protection from Domestic Violence was launched on 17 August 2015.

Main recommendations of the Report of the Advisory Committee on Reinforcement of Framework for Protection from Domestic Violence are as follows:-

- ◆ Adopting a more Comprehensive Definition of Domestic Violence;
- ◆ Further Criminalizing forms of Domestic Violence;
- ◆ Improving the Criminal Justice Response to Domestic Violence;
- ◆ Affording Better Protection, Support and Assistance to Victims;
- ◆ Providing Adequate Redress/Reparation for victims;
- ◆ Consolidating Preventive Mechanisms; and
- ◆ Improving Monitoring/Evaluation through:-
 - Collection of accurate data about prevalence or scope of a particular form of GBV; and
 - Monitoring the implementation of laws, the accessibility and responsiveness of services for victims.

Note:

Following a three-day consultative Workshop held from 8-10 September 2015, Strategic Plans have been devised to implement the recommendations of the Advisory Committee.

Domestic Violence Information System (DOVIS)

DOVIS is a computerized system for the registration of reported cases of domestic violence to be used as a tool to monitor, assess, record and generate specific reports on such cases dealt with at the six Family Support Bureaux (FSBx) under the aegis of the Ministry of Gender Equality, Child Development and Family Welfare.

It would improve record keeping system for faster answers to queries regarding domestic violence issues and it would provide a multi-user platform for performing different functions simultaneously and provide better coordination amongst the FSBx.

Project Objective

The setting up of the DOVIS would enable officers to have access to information at any time. The information would be restricted to a few authorised persons and thus the confidentiality of all cases would be ensured.

2.1.3 MINISTRY OF HEALTH AND QUALITY OF LIFE

The Ministry of Health and Quality of Life makes use of only one Protocol for handling of cases of sexual assault. Although cases of injury are given priority in the Accident and Emergency Department at hospitals, there is no particular arrangement or facility in place to handle cases of domestic violence. All the same, cases of domestic violence, once confirmed are referred to the Medical Social Worker for needful, including follow-up.

Following discussions at the level of the National Coalition against Domestic Violence Committee, the Ministry of Health and Quality of Life has prepared new Guidelines on handling of cases of Domestic Violence, which have been circulated to all Hospitals for implementation in all Accident and Emergency Departments with effect from 19 October 2015.

Guidelines for Care of victims of domestic violence attending casualty

Victims coming to Accident and Emergency Departments, that is Casualty, are attended as per the three scenarios:-

SCENARIO 1

Most victims attend the casualty as any other patient, that is, do not disclose the nature of their problem at the Registration Counter or to any other staff. It is only during consultation that cases of Domestic Violence are suspected. More often victims deny being aggressed by their partner. In case the Doctor convinces the victim to report the case, it is only then that the Police are informed. The victim is made aware that whatever information is gathered may have to be shared by third parties, i.e. the Police, the Ministry of Gender Equality, Child Development and Family Welfare, so as to provide him/her and his/her family with the required support.

In case victim gets admitted, he/she will be seen by the Medical Social Worker in ward depending on the time of admission (If admitted during office hours, he/she will be seen on the same day; if admitted after normal working hours, he/she will be attended to on the next day).

The Medical Social Worker will contact:-

1. Family, i.e. relatives/perpetrator for counselling, advice and follow-up; and
2. Family Support Bureaux for Protection Orders under the PDVA, Psychological support.

SCENARIO 2

Based on the type of injuries sustained and after receiving medical treatment victims who do not require admission, are either seen by the Medical Social Worker on the same day at the hospital or are contacted on the next day on a given phone number, for advice regarding facilities.

SCENARIO 3

Some victims seek Police assistance before attending hospital. They either call the Police who attend to their plea by going to their residence and subsequently accompany them to the hospital or the victims report to the Police Station by themselves and are then accompanied to the hospital by Police Officers. These victims are attended to, on a fast track basis as the Police are acquainted with the casualty premises and procedures.

Notwithstanding whether they are admitted or not, victims are referred to Medical Social Worker for:-

1. Interview/advice/counselling; and to liaise with relatives concerning support to victim; and
2. Contact with the Family Support Bureau- for application of Protection, Occupation and Tenancy Order; for services of a Psychologist.

2.1.3.1 VICTIMS OF DOMESTIC VIOLENCE WITH SEVERE INJURIES

- ◆ Victims with life-threatening conditions are taken for immediate care. If needed, he/she can even be transferred directly to ICU or even Major Operating Theatre.
- ◆ They are treated by different Specialists, are attended to by the Police Medical Officer (on case to case basis). All victims are referred to the Psychiatrist and are accordingly seen once the life threatening injuries have been dealt with, i.e once the victim is physically fit enough to communicate.
- ◆ For less severe cases victims receive treatment in Minor Operating Theatre, i.e dressing of wounds, application of Plaster, and so on.
- ◆ During assessment of victims of Domestic Violence, the following are required:-
 - *obtaining informed consent, as this is mandatory given that information may be shared with third parties;*
 - *history taking, general medical history is taken prior to probing the assault itself;*
 - *notes are handwritten, often Ad Verbatim, as they may have to be produced in Court; and*
 - *physical examination is carried out “top-to-toe”.*
- ◆ All victims are attended to by the Medical Social Worker.

2.1.4 JUDICIARY

Stakeholders often raise complaints about the following shortcomings at the level of the Court:-

- ◆ During Court sessions, there is physical contact between the perpetrator and the victim;
- ◆ Court proceedings including rulings take too long; and
- ◆ Proceedings held in Court are traumatic experiences for the victim of domestic violence.

2.2 HOUSING AND TRAINING

The Committee noted that there is no dedicated service with respect to housing and training opportunities available for domestic violence victims. With regard to housing, the Ministry of Housing and Lands only caters for eligible beneficiaries and not for domestic violence victims.

The following grants are given to those belonging to vulnerable groups:–

Family Income	Purchase Price of the Housing Unit	Government Subsidy
Rs 6,200 – Rs10,000	1/3 of the construction cost	2/3 of the construction cost
Rs10,001 – Rs15,000	1/2 of the construction cost	1/2 of the construction cost
Rs15,001 – Rs 20,000	4/5 of the construction cost	1/5 of the construction cost

- ◆ Moreover, in 2015, Government has abolished the 5% tax registration fee payable by buyers of NHDC housing units.
- ◆ Last but not least, 10% of the total number of housing units in all new projects will, henceforth, be reserved for beneficiaries of the Ministry of Social Integration and Economic Empowerment/National Empowerment Foundation (NEF), that is, for families earning less than Rs 6,200 per month.

2.2.1 ROOF SLAB GRANT SCHEME

Government has increased the grant for casting of roof slab from Rs 65,000 to **Rs 75,000** with effect from July 2015 for families earning a monthly income of up to **Rs 10,000**. This income limit was previously Rs 8,500.

Government has further revised the eligibility criteria to allow families earning between **Rs 10,000 - Rs 15,000** monthly to benefit from a grant of up to **Rs 40,000**.

A survey conducted on the availability of emergency accommodation facilities in Government owned infrastructure at the Ministry of Gender Equality, Child Development and Family Welfare; and the Ministry of Social Security, National Solidarity and Reform Institutions revealed that there is no spare capacity to accommodate victims of domestic violence.

The following numbers of Residential Care Home are licensed under the Residential Care Home Regulations:-

- i. One Government-owned at Pointe aux Sables;
- ii. 28 privately owned are subsidised by government; and
- iii. 30 are privately owned but not subsidised by government.

2.2.2 NGOs

The Committee has taken cognizance that SOS Femmes is the only NGO that is catering for the welfare of victims of domestic violence in terms of providing advice and counselling and shelter, free of charge on a 24/7 basis.

2.2.3 SOS FEMMES

SOS Femmes is the only non-governmental, non-profit women's association, set up in 1989 and registered with the Registrar of Association on 31 May 1990 to give advice, support and shelter to women survivors of domestic violence and their children, incest and rape. It also runs public awareness campaigns, educational workshops and publishes leaflets and pamphlets, which aim at eliminating violence within Mauritian families.

Statistics on the number of reported cases of domestic violence through the SOS Shelter from the year 2010 to 2014 indicates the following:-

YEAR	NO. OF RESIDENTS		NO. OF WOMEN WHO SOUGHT ADVICE	NO. OF TELEPHONE CALLS RECEIVED
	Women	Children		
2010	449	360	2,004	2,771
2011	462	440	1,998	2,801
2012	519	556	2002	2,857
2013	525	587	1994	2,723
2014	528	569	1925	2,003
TOTAL	2,483	2,512	9,923	13,155

2.2.3.1 Main objectives of the association

- ◆ *Eliminate violence against women by promoting non-violent ways of solving problems and working with both men and women.*
- ◆ *Empower women to fight and resist violence.*
- ◆ *Lobby for laws to protect and promote women's rights and for non-discriminatory practices against women.*
- ◆ *Promote a culture of zero violence against gender-based violence*

2.2.3.2 Programme of action

- ◆ *Offer legal and psychological advice support to women and children victims of domestic violence.*
- ◆ *Offer shelter to victims and their children.*
- ◆ *Operate a children service for their residents and ex-residents on a 24/7 basis, to enable the women to take employment even outside working hours while their children are in a safe and secure place.*
- ◆ *Rehabilitate women by helping them find a job and alternative accommodation.*
- ◆ *Undertake information and awareness campaigns on domestic violence against women, children and other gender issues.*

A flowchart describing the services provided by the SOS Femmes to victims of domestic violence is at page 21.

2.2.3.3 The shelter

The shelter is open to women regardless of their religious beliefs, social class, political opinions, level of education and ethnic group on a 24/7 basis. A hotline is also operational round the clock.

A Barrister and a Psychologist are employed by the association to give support; advice and assistance to the victims of domestic violence. Eight Social Workers are employed to work with the victims and two additional Social Workers work with their children.

2.2.3.4 **Other Services provided for the residents at the shelter**

1. Disseminate information about provision under the law for divorce, custody of children, occupancy of conjugal home and alimony and protection from Domestic Violence Act.
2. Victims assisted at Police Station, Hospital, and Court (by lawyers).
3. Assist in legal procedure for custody of children, Domestic Violence order, Divorce, Alimony, eviction of conjugal roof.
4. Assist victims/survivors to apply for Social Aid, Housing.
5. Refer to Family Welfare and Protection Unit (FWPU) of the Ministry of Gender Equality, Child Development and Family Welfare, Police Family Protection Unit (PFPU) of the Police department or Probation Office of the Ministry of Social Security, National Solidarity and Reform Institutions for mediation.

2.2.4 **PASSERELLE WOMEN CENTRE**

- ◆ A new non-governmental organisation known as Passerelle Women Centre will be operational in the near future to provide an emergency accommodation 24/7 for women victims of violence.
- ◆ It is composed of Social Workers, Professionals, Lawyers, Doctors and Psychologists. To fight against this scourge, Passerelle Women Centre will work with the collaboration of the different authorities of the country.
- ◆ The vision of Passerelle Women Centre is to provide a secure and welcoming environment to the victims, satisfying their immediate needs by offering programmes and services that correspond to their needs.

2.2.4.1 Based on the current state of affairs, the discussions and findings of the Committee are as follows:-

(i) **Legislative hurdles**

The attention of the Committee was drawn to the fact that different Orders under the Protection from Domestic Violence Act are available to a 'spouse', this does not seem to facilitate cases where unmarried couples are involved.

(ii) **Shelter for Domestic Violence Victims**

It has been found that it is the female spouse and children who are condemned to leave the place of residence while the male spouses, who are very often the culprits, stay behind. The right to secure the place of residence and personal effects has often been undermined or underestimated in cases where women are victims of domestic violence. This explains the rationale behind the need for shelters for women who are victims of domestic violence.

(iii) **Occupation and Tenancy Issues Orders**

There is no provision for the grant of an Interim Occupation Order or an Interim Tenancy Order for victims who have applied for an Occupation Order or a Tenancy Order where the situation so warrants.

(iv) **Emergency Accommodation**

Stakeholders have reported that it is not safe for people who have endured domestic violence or are at risk of becoming a victim to stay with relatives or friends as the abuser may easily spot them. It has been observed that these victims continue to face violence when they stay with their families.

(v) **Transitional Accommodation**

Currently there is no transitional accommodation available. It was considered necessary to provide a transitional accommodation to those people whose problems have not been resolved during the period of Emergency Refuge.

(vi) **Security**

Security is a major issue as very often the perpetrator threatens the residents and the staff of SOS Femmes. The collaboration and adequate assistance from the Police Force is essential.

(vii) **After School Care**

After school care for women in employment is required.

Mapping of SOS Femmes

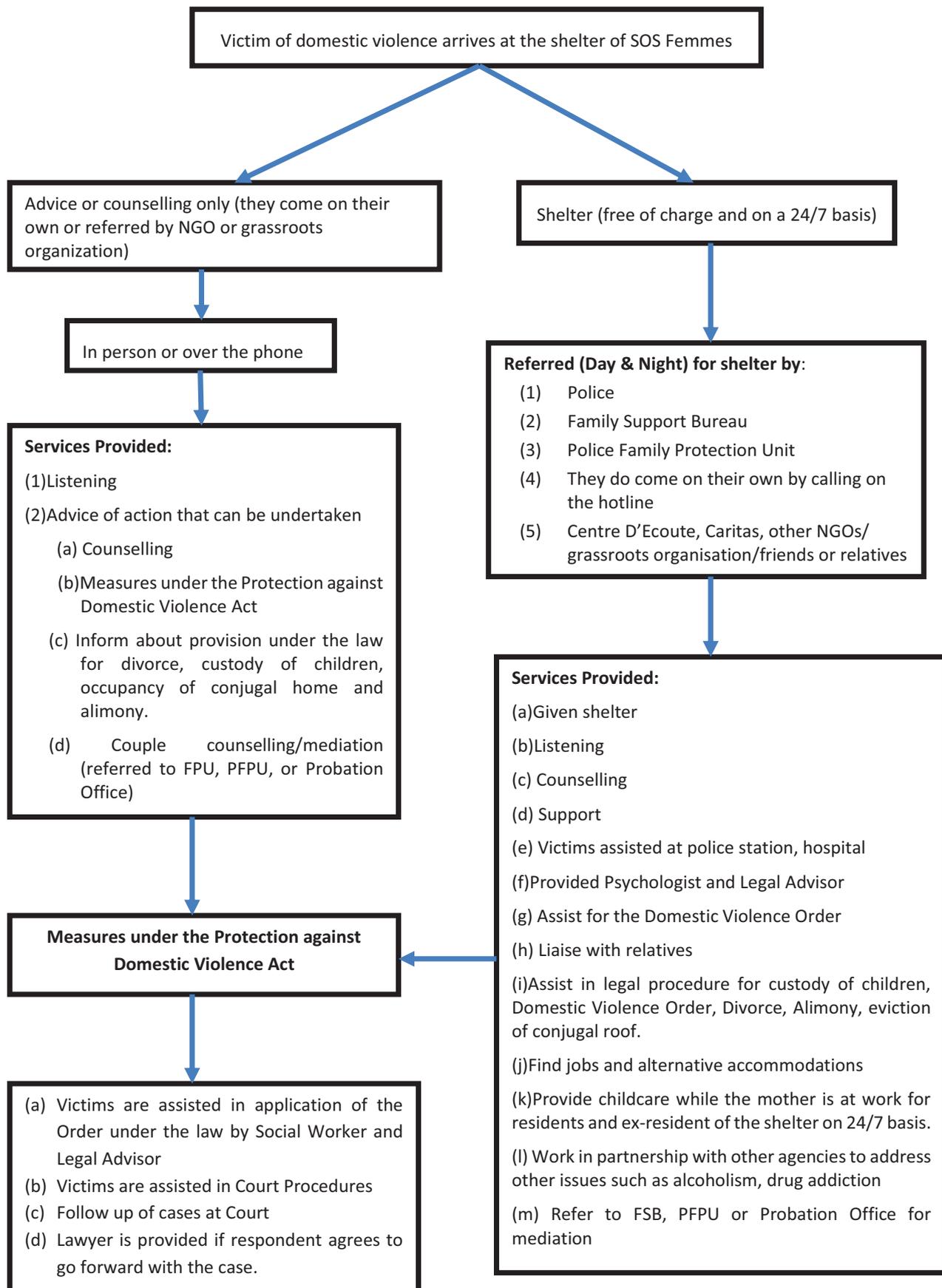


Diagram 5

3 RECOMMENDATIONS

3.1 STREAMLINING OF PROCEDURES

3.1.1 GENERAL

3.1.1.1 It is proposed to set up a **Command Centre Against Domestic Violence** under the Ministry of Gender Equality, Child Development and Family Welfare with the following responsibilities:-

- (i) Act as a **one stop department** for all issues pertaining to domestic violence including support to all members of family;
- (ii) Liaise with authorities concerned for accommodation and training to victims of domestic violence;
- (iii) Implement Domestic Violence Information System (DOVIS);
- (iv) Undertake training and awareness programs to combat domestic violence;
- (v) Recommend and implement appropriate policies to combat domestic violence;
- (vi) Provision of an integrated support service to victims including mediation;
- (vii) Multi-sectoral collaboration with Attorney General's Office, Ministry of Health and Quality of Life, Judiciary/Director of Public Prosecutions/Police, SOS Femmes and civil society organisations to ensure that victims are given fast track assistance and law is enforced; and
- (viii) Set up an Observatory for gender-based domestic violence.

3.1.1.2 The proposed institutional framework will therefore be as per Diagram 6 on page 23 with dedicated Coordinators to ensure the implementation of specific recommendations e.g. legislation, information system/database, policies/procedures, education and awareness, housing and employment.

Proposed Flowchart of Command Centre Against Domestic Violence

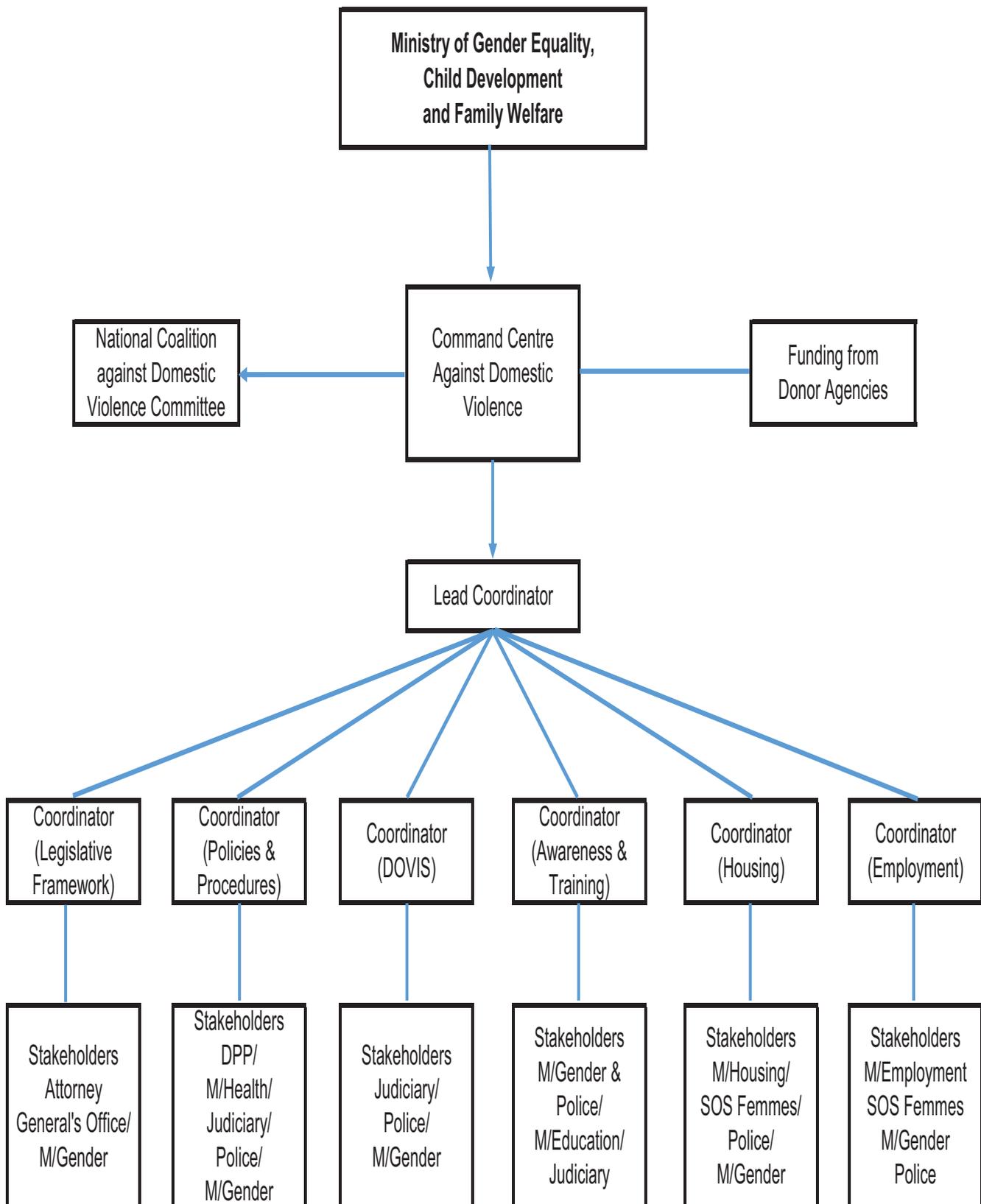


Diagram 6

3.1.1.3 It is proposed that services be divided in four phases as described in the table below:-

Phase	Service	Service Providers
1.	i) Intervention, Rescue, Protection, Mediation, Victim support ii) Medical Care iii) Emergency Shelter iv) Restraining Orders under PDVA	i) Police and Ministry of Gender Equality, Child Development and Family Welfare ii) Ministry of Health & Quality of Life iii) NGOs/others iv) Judiciary
2.	Treatment, Advice, Rehabilitation Psychological support, family therapy, legal advice, referral to other specialized agencies for treatment (alcohol or drug dependency) home visit and follow-up	i) Ministry of Gender Equality, Child Development and Family Welfare ii) NGOs
3.	Social needs (employment, housing etc)	Ministry of Housing & Lands/ Ministry of Labour, Industrial Relations and Employment (Employment Division)
4.	Prevention(awareness/sensitization)	All stakeholders

3.1.2 SPECIFIC

3.1.2.1 MINISTRY OF GENDER EQUALITY, CHILD DEVELOPMENT AND FAMILY WELFARE

- ◆ The existing hotline should use fast track mobile technology and should be available toll-free.
- ◆ To harmonise data collection, the Ministry of Gender Equality, Child Development and Family Welfare should share the software prepared by the Consultant on the Domestic Violence Information System (DOVIS) to the Police Department and the Judiciary.
- ◆ The Police Department would have to arrange for the provision of appropriate equipment to the Police Family Protection Units to enable them to keep track on data and ensure follow-up to the Ministry. The DOVIS will avoid duplication of records and will provide more accurate data in respect to the incidence of domestic violence in Mauritius.

3.1.2.2 POLICE DEPARTMENT AND POLICE FAMILY PROTECTION UNIT

- ◆ Legal provision should be made for cases of domestic violence to be treated as an aggravated offence. There is the need to recognize physical acts of

domestic violence other than simple assaults as an aggravated form of offence against the person. Drafting instructions will be given to the Attorney General's Office to amend the relevant legislation in order to empower Police Officers to arrest perpetrators of domestic violence in cases of physical assaults.

- ◆ It is recommended that mediation should in parallel be accompanied by a series of other measures to prevent the recurrence of domestic violence and particularly, in the case of a serious assault, the Police should, where necessary use power of arrest, continue the criminal investigation and refer the matter to the Office of the Director of Public Prosecutions.
- ◆ The Police Training School with the assistance of the Ministry of Gender Equality, Child Development and Family Welfare and the PFPU, should develop a full module on domestic violence including legal framework, International Conventions and treaties, information on domestic violence (forms, effects, causes, myths, repeated nature), communication and response, investigation and gathering of evidence, preventive and proactive policing.
- ◆ Refresher courses and further specialised training should be dispensed by the Police Training School on a yearly basis for Sergeants and front line Officers posted at Police Stations and the Police Family Protection Unit.
- ◆ At Police Stations, the following steps, which are reflected in the Flow Chart on pages 26-27, will be initiated to improve the service:-
 - A domestic violence officer will be on duty on each shift to ensure proper handling of reported cases of domestic violence.
 - A Domestic Violence Register will be kept to record all domestic violence cases to ensure proper follow up and data keeping.
 - A resume of all reported cases of domestic violence at Police Stations will be forwarded to PFPU sub units on a daily basis for further actions. Through this practice, victims will not be interviewed twice about their traumatic experience unless it is necessary to do so to clear up any ambiguity or to have full details of their abuse.
- ◆ PFPU will henceforth apply for Protection Orders even in cases falling outside the catchment area. In this respect, the strength of PFPU sub-units will be increased to have an adequate number of Officers to cover all the District Courts.
- ◆ Officers posted at the Police Family Protection Unit should be given opportunity to enrol for Certificate/Diploma/Degree courses in Psychology/Counselling and Social Work at the University of Mauritius with a view to enhancing the capacity of staff.
- ◆ Should Police Officers in Police Stations and at the PFPU need the services of Psychologists, their services could be roped in on sessional basis for counselling and therapy.

Proposed Flowchart of Police response to cases of Domestic Violence at Police Station

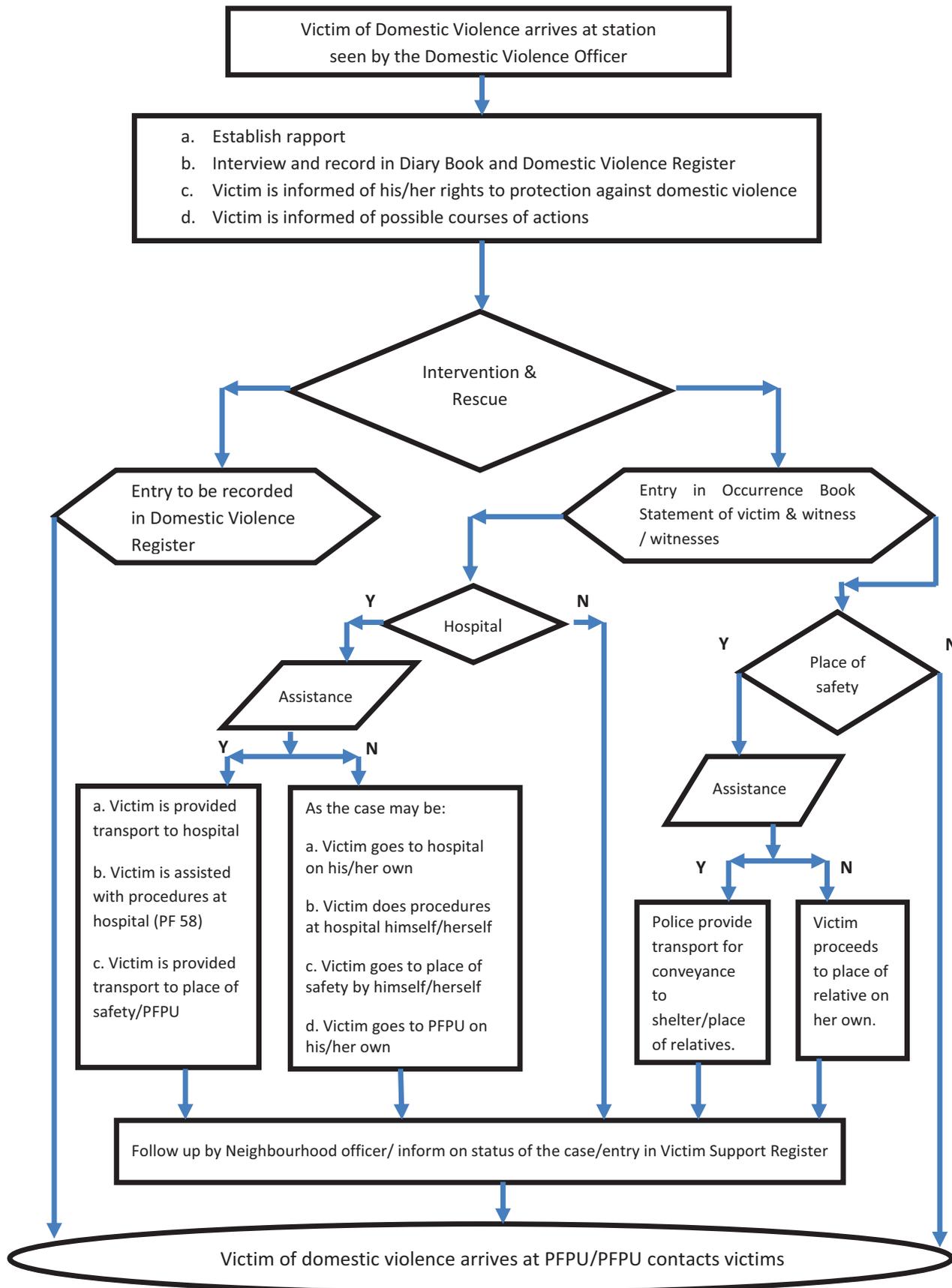
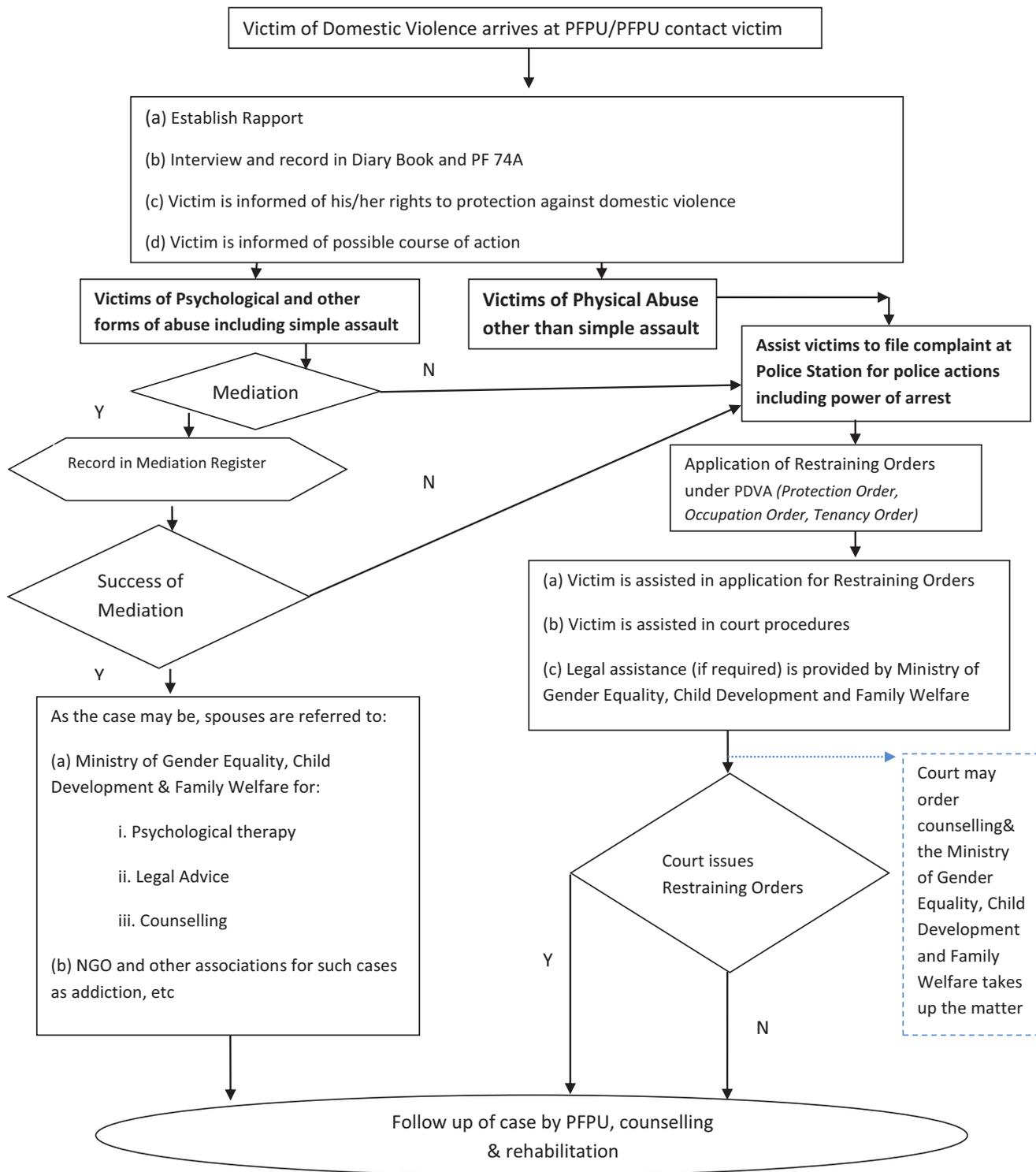


Diagram 7

Proposed Flowchart in cases of Domestic Violence at Police Family Protection Unit



NB: Police should treat all cases of Domestic Violence with seriousness and cases of breach of restraining orders should be given due attention.

Diagram 8

3.1.2.3 JUDICIAL PROCESSES

The Courts have a crucial role to play in the response to the problem of domestic violence. The successful resolution of cases under the Protection from Domestic Violence Act ensures that victims and perpetrators and the public at large are conveyed the message that domestic violence will not be tolerated. Therefore the following are recommended to help to improve the judicial efficiency in responding to cases of domestic violence:-

- ◆ Making arrangements to avoid proximity contact between the victim and the perpetrator during court sessions;
- ◆ Training of officers of the judiciary;
- ◆ Introducing victim support at the level of judiciary;
- ◆ Taking of measures to minimise the delay in court proceedings
- ◆ It is also proposed that a Committee composed of representatives from the Judiciary, the Attorney General's Office and the Office of the Director of Public Prosecutions be set up to improve responsiveness to domestic violence. This Committee would look into, inter alia:-
 - ▶ What the hurdles are to the grant of orders under the Protection from Domestic Violence Act and how the situation can be remedied; and
 - ▶ To establish guidelines for good practice in the handling of domestic violence cases by the courts.
- ◆ It is proposed to expedite applications for Occupation Orders, Tenancy Orders or Protection Orders and adopt a more standard approach. Pending the issue of the relevant Orders, Police must act diligently in order to safeguard the safety and security of victims. It is also recommended to have a dedicated Magistrate to be assigned in each Court to deal with cases of Domestic Violence once recruitment of new Magistrates is finalised; and
- ◆ Finally, it is desirable that applications under the PDVA be dealt with outside the rigid Court set up and mechanism so that the process is less confrontational.

3.2 HOUSING AND TRAINING

3.2.1 Emergency Accommodation

An Emergency Accommodation where the victims of domestic violence can be accommodated in a safe and secure environment pending the issue of the Occupation and Tenancy Orders should be set up. The Emergency Accommodation shall be operational on a 24-hour basis and shall ensure that all necessary support and assistance are given to the victims arriving at the Emergency Accommodation.

- ◆ As from day one, the proposed Emergency Accommodation shall have as major responsibility to provide the victims with **care & emotional support, safety & security and comfort**.
- ◆ On the next day at the proposed Emergency Accommodation, the domestic violence case would be referred to the proposed Command Centre against Domestic Violence.

- ◆ The length of stay of victims at the Emergency Accommodation would be **at most twelve weeks** depending on the gravity of cases.
- ◆ Depending on the nature of cases, those victims, who would be given the custody of the children, would also have to be provided with after-school-care to ensure safety of their dependent(s).
- ◆ For the purpose of coming forward with an Emergency Accommodation, the Committee proposes that the proper mechanism would have to be worked out and put in place. The personnel or Social Workers, attending to the victims, should be properly trained and equipped.
- ◆ In the short and medium term, suggestions have been made that an expression of interest could be made to all accredited NGOs which are willing to undertake the responsibility of the proposed Emergency Accommodation. Accredited NGOs shall all be responsible and answerable in case of non-compliance. It is expected that NGOs will be fully-committed, accountable and transparent. In so doing, an appropriate reporting mechanism as well as a code of ethics would have to be developed. Alternatively, the support services of the Ministry of Social Security, National Solidarity and Reform Institutions namely the Residential Care Homes or Centres could also be sought to be used as emergency accommodation for a period of at most 12 weeks.
- ◆ In the long run, a formal arrangement would have to be developed as Emergency Accommodation at the level of Government or otherwise.

3.2.2 Occupation Order or Tenancy Order

- ◆ Where an Occupation Order is made in favour of the victim or the tenancy of the residence is conferred to the victim:-
 - The victim moves from the Emergency Accommodation to his/her place of residence;
 - The perpetrator leaves the place of residence; and
 - The Command Centre should continue to monitor the case.

- ◆ The Committee recommends that appropriate regulations be made under the Protection from Domestic Violence Act to include certain considerations before the Court when deciding whether to grant an Occupation or a Tenancy Order.

The UK Family Law of 1996 lays down, in section 33, a balance of harm test as well as making reference to certain factors which are taken into consideration when deciding whether to grant an Occupation Order.

Thus, in the Mauritian context, the following may be considered for inclusion:-

- When deciding whether to grant an Occupation or a Tenancy Order;
- the likely effect of any order, or of any decision by the court not to exercise its powers to grant an Occupation Order or a Tenancy Order on the health, safety or well-being of the parties and of any relevant child;
- the conduct of the parties in relation to each other; and
- any other matter which the court finds relevant in the circumstances.

- ◆ Consideration may also be given to amending the Protection from Domestic Violence Act so that an occupation order applies to persons living under the same roof and may be restricted to part of a dwelling place.

3.2.3 **Transitional Housing Arrangements and other Accompanying Measures**

Different Scenarios will apply for different cases. In brief, they can be classified as per the following:-

3.2.3.1 **Scenario One – the case is resolved within the period of stay at the Emergency Accommodation that is to say the parties concerned have agreed to settle the matter without having recourse to the law.**

Emergency Accommodation as Transitional Accommodation

- (i) The case is resolved between the parties concerned within the maximum period of 12 weeks while the victim is being taken care by the Emergency Accommodation.
- (ii) The victim would be in a position to leave the Emergency Accommodation and return safely to his/her place of residence notwithstanding the fact that any Protection Order may have been issued and may still be in force.
- (iii) The proposed Command Centre Against Domestic Violence would continue to monitor the case. The victim, the culprit and other members of the family would have to be provided with the necessary family counselling support for a successful reintegration. Regular follow-up by the Centre would be made until the situation is redressed.

In such situation only an Emergency Accommodation service would be required.

3.2.3.2 **Scenario Two – The case is not resolved within the maximum period of 12 weeks at the Emergency Accommodation and there is no Occupation Order or Tenancy Order in force.**

Rented Houses, Residential Care Homes and Placement within Family Units as Transitional Accommodation

- (i) A temporary arrangement for a **Transitional Accommodation** would have to be made after the period of stay at the Emergency Accommodation.
- (ii) The Committee proposes that, in such cases, Temporary arrangement be made for a Transitional Accommodation on a rented basis.
- (iii) The duration of such transitional programme can last between three months up to a maximum of one year on an affordable rent. The transitional housing stage is crucial to prepare people for permanent housing.
- (iv) Permanent Home

The common options to acquiring independent ownership of a house are to be made available such as NHDC houses, CIS Houses, CCIS Houses, Integrated Social Housing Projects and loan facility. However, unless and until the victim has been empowered to undertake training and employment opportunities will this option be a viable one. The victim will have to be financially independent so that he or she can have access to a permanent housing arrangement.

3.2.4 **A Targeted Approach**

The next stage of support would, therefore, facilitate the entry of those victims, whose problems have not been resolved during the period of Emergency Refuge, into a transitional accommodation till the settlement of the case. However, this would necessitate a targeted approach as follows:-

(a) **The Middle Income Group and Above**

It is being proposed that for victims, who belong to the **middle income group and above**, or have the capacity to pay, the necessary support and guidance should be given by the proposed Command Centre to the victims to enable them to look for a transitional housing arrangement on an affordable rental basis.

(b) **The Lower Income Group or Unemployed**

For those victims, who belong to the **lower income group or are unemployed**, it is also expected that the necessary support and guidance should be given by the proposed Command Centre to the victims to look for a transitional housing accommodation on a relatively cheaper rental arrangement or to be placed within a family unit volunteered to host the victims and dependant(s), if any.

Defining the Lower Income Threshold

However, for the lower income group, the threshold of the lower income group would have to be aligned as per Statistics Mauritius.

3.2.5 **The Involvement of NGOs for Placement**

It is also being proposed that the monthly rent to be paid by victims of the lower income group or unemployed ones could be met from a grant which could subscribe towards the payment of rent for the temporary housing arrangement to sustain the day-to-day living of the victims and dependant(s). Such a noble responsibility could be conferred to the NGOs whose services could be called upon to assist vulnerable domestic violence victims. However, both the respective NGO and the proposed Command Centre would have to enter into agreement through a Memorandum of Understanding. An appropriate modus operandi would have to be developed to that effect.

There is need also to decentralise the accommodation facilities in order to ensure that the whole island is properly covered. It is noted following discussions held that, there is need for the setting up of such facilities in the North and South as the remaining regions are being/will be covered by the following NGOs:-

- SOS Femmes (Coromandel-Centre)
- Chrysalide (Bambous-West)
- Kinouete (Curepipe-Centre)
- Passerelle (St Pierre-East)

3.2.6 **Ensuring Safety and Security of Victims against Perpetrators**

In the above two cases, the proposed Command Centre would have to ensure and guarantee the victims of their safety and security aspects of the transitional accommodation so that victims are kept away from perpetrators. The safety and security aspects would have to be developed and adopted as rigid procedures.

3.2.7 **Training Opportunities for Unemployed Victims**

It is being proposed that the Ministry of Labour, Industrial Relations, Employment and Training may provide a fast track service to ease access to training opportunities within the existing schemes, such as, Dual Training Programme (DTP) of the Ministry taking into consideration the profile and qualification of victims.

Training scheme opportunities may also be given to unemployed victims to increase their chances to find a job and earn a decent living.

3.2.8 **After-School-Care to Children of Victims**

Given that the victims would successfully be provided with training opportunities, provision for after-school-care should also be improvised for the safety of dependent children. Working parents, who have been given the custody of their children, should rest assured of the safety of their kids against perpetrators.

The participation of both the Government through the proposed Command Centre and NGOs would be solicited to undertake such initiative.

3.2.9 **The Elderly**

Elderly victims who meet the income criteria defined at para 3.2.4(b) would also be referred to a Non-Governmental Organisation as per para 3.2.5.

3.2.10 **In the Event of no Reconciliation and Reintegration**

If there is no reconciliation and reintegration then the choice would be left to the victims to decide on the way forward.

At this stage, the victims would have already been provided with the necessary information, advices on legal, financial and social aids, and benefited from training/empowerment programmes and employment opportunities.

It is being recommended that since victims would by then have been informed of their rights and already empowered by the Command Centre, they would be in a better position to decide on their future. And, like any citizen, he/she could have resort to the numerous common schemes and programmes put at the service of the nation at large.

3.3 **FINANCIAL RESOURCES FOR HOUSING**

It is proposed to work on a per capita grant to NGOs and Residential Care Homes registered with the Ministry of Social Security, National Solidarity and Reform Institutions which will provide accommodation, training and other financial support to victims of domestic violence as from March 2016.

It is expected that an initial sum of Rs 1 million will be needed as Government contribution for this project for the period up to June 2016.

3.4 **THE WAY FORWARD**

The **Command Centre against Domestic Violence** will operate under the Ministry of Gender Equality, Child Development and Family Welfare, which will provide all staff for the centre to operate effectively.

The roles and responsibilities of the **National Platform to End Gender-Based Violence** which do not fall under the purview of the Command Centre Against Domestic Violence will be taken over by the **National Coalition against Domestic Violence Committee**. These more specifically pertain to:-

- Ensure coordination and reinforce protective services for victims of gender-based violence by adopting a holistic approach; and
- Reinforce the intervention and prevention mechanisms to address gender-based violence in respect to both victims and perpetrators.

4. APPENDICES

4.1 COMPOSITION OF THE NATIONAL COALITION AGAINST DOMESTIC VIOLENCE COMMITTEE

- ◆ **Mrs C. R. SEEWOORUTHUN**
Permanent Secretary, Prime Minister's Office
- ◆ **Mrs B. RAJAHBALEE-CADER**
Deputy Permanent Secretary, Prime Minister's Office
- ◆ **Mrs J. BHUNJUN**
Head Family Welfare and Protection Unit, Ministry of Gender Equality, Child Development and Family Welfare
- ◆ **Ms S. KANGLOO**
Principal Social Security Officer, Ministry of Social Security, National Solidarity and Reform Institutions
- ◆ **Mrs M. D. S. RAJIAH**
Woman Chief Inspector of Police, Police Department
- ◆ **Mr N. SEEWOOCHURN**
Assistant Permanent Secretary, Ministry of Social Integration and Economic Empowerment
- ◆ **Mrs D. BRIGEMOHANE**
Officer in Charge, Technical Unit, Ministry of Social Integration and Economic Empowerment
- ◆ **Mrs A. D. POREEMA**
Acting Deputy Permanent Secretary, Ministry of Health and Quality of Life
- ◆ **Mr M. I. MANGOU**
Housing Development Officer, Ministry of Housing and Lands
- ◆ **Mr S. RAMSAWOCK**
Deputy Director, Employment Service, Ministry of Labour, Industrial Relations, Employment and Training
- ◆ **Mrs S. GAREEBOO**
Acting Assistant Parliamentary Counsel, Attorney General's Office
- ◆ **Mr G. BUCKTOWONSING**
Chairperson, MACOSS
- ◆ **Mrs S. SEETULPARSAD**
Senior Programme & Project Coordinator, MACOSS
- ◆ **Mrs A. JEANNE**
Director, SOS Femmes
- ◆ No Representatives of the Private Sector turned up to the Committee Meetings when convened.

4.2 COMPOSITION OF THE SUB-COMMITTEE ON STREAMLINING OF PROCEDURES

- ◆ **Mrs B. RAJAHBALEE-CADER**
Deputy Permanent Secretary, Prime Minister's Office
- ◆ **Mr P. WONG**
Analyst / Senior Analyst, Prime Minister's Office
- ◆ **Mrs J. BHUNJUN**
*Head Family Welfare and Protection Unit, Ministry of Gender Equality,
Child Development and Family Welfare*
- ◆ **Mrs A. D. POREEMA**
Acting Deputy Permanent Secretary, Ministry of Health and Quality of Life
- ◆ **Dr (Mrs) U. D. KOWLESSUR**
Medical Superintendent, Jeetoo Hospital, Ministry of Health and Quality of Life
- ◆ **Dr (Mrs) S. RAMSEWOCK**
Community Physician, Ministry of Health and Quality of Life
- ◆ **Mrs K. LOLLCHAND**
Acting Principal Medical Social Worker, Ministry of Health and Quality of Life
- ◆ **Mrs R. SAWOKY**
Woman Assistant Superintendent, Police Department
- ◆ **Mrs M. D. S. RAJIAH**
Woman Chief Inspector of Police, Police Department
- ◆ **Mrs S. GOORBIN**
Woman Police Sergeant, Police Department
- ◆ **Mrs M. RUJGOBEE**
Woman Police Constable, Police Department
- ◆ **Mrs A. JEANNE**
Director, SOS Femmes
- ◆ **Ms T. HUET**
President, SOS Femmes
- ◆ **Mrs J. MOUTOU-LECKNING**
*Senior Assistant Director of Public Prosecutions, Office of the Director of
Public Prosecutions*

4.3 COMPOSITION OF THE SUB-COMMITTEE ON HOUSING AND TRAINING

- ◆ **Mrs D. BRIGEMOHANE,**
Officer in Charge, Technical Unit, Ministry of Social Integration and Economic Empowerment
- ◆ **Mr N. SEEWOOCHURN**
Assistant Permanent Secretary, Ministry of Social Integration and Economic Empowerment
- ◆ **Dr (Mrs) N. KUREEMBOKUS – JUSUB**
Research Executive, Ministry of Social Integration and Economic Empowerment
- ◆ **Mrs N. BANGALEEA-BHORRA**
Psychologist, Ministry of Social Integration and Economic Empowerment
- ◆ **Ms H. APPA**
Community Project Executive, National Empowerment Foundation
- ◆ **Mr S. RAMSAWOCK**
Deputy Director, Employment Service, Ministry of Labour, Industrial Relations, Employment and Training
- ◆ **Mrs D. JUGOO**
Acting Chief Employment Officer, Ministry of Labour, Industrial Relations, Employment and Training
- ◆ **Mr M. I. MANGO**
Housing Development Officer, Ministry of Housing and Lands
- ◆ **Mrs A. JEANNE**
Director, SOS Femmes
- ◆ **Mrs M. SEEWORAM**
Treasurer, SOS Femmes

PROTECTION FROM DOMESTIC VIOLENCE ACT

Act 6 of 1997 – 15 August 1997

ARRANGEMENT OF SECTIONS

SECTION

1. Short title	9. Proceedings to be in camera
2. Interpretation	10. Registry
3. Protection order	11. Duties of Enforcement Officers
3A. Protection order against a person living under same roof	12. Protection from liability of informers
3B. Counselling	13. Offences
4. Occupation order	13A. Order to attend counselling sessions following conviction
5. Tenancy order	14. —
6. Effect of tenancy order	15. Service of documents
7. Permanent occupation and tenancy orders	16. Appeals
8. Ancillary order for household effects	17. Costs
8A. Report on compliance	18. Regulations
8B. Ancillary order for alimony	19. Rules
	SCHEDULE

PROTECTION FROM DOMESTIC VIOLENCE ACT**1. Short title**

This Act may be cited as the Protection from Domestic Violence Act.

2. Interpretation

In this Act—

“aggrieved spouse” means the spouse for whose benefit a domestic violence order is sought or is in force;

“child”, in relation to a spouse, includes any biological, adopted, step or foster child below the age of 18 and any other minor in his or her care or custody;

“Court” means the District Court of the area where the person, for whose benefit an order under this Act is sought or is in force, lives;

“domestic violence” includes any of the following acts committed by a person against his spouse, a child of his spouse or another person living under the same roof—

- (a) wilfully causing or attempting to cause physical injury;

Protection from Domestic Violence Act

- (b) wilfully or knowingly placing or attempting to place the spouse or the other person in fear of physical injury to himself or to one of his children;
- (c) intimidation, harassment, ill-treatment, brutality or cruelty;
- (d) compelling the spouse or the other person by force or threat to engage in any conduct or act, sexual or otherwise, from which the spouse or the other person has the right to abstain;
- (e) confining or detaining the spouse or the other person, against his will;
- (f) harming a child of the spouse;
- (g) causing or attempting to cause damage to the spouse's or the other person's property;
- (h) threatening to commit any act mentioned in paragraphs (a) to (g);

"domestic violence order" means any order issued under this Act;

"Enforcement Officer" means an officer of the Ministry responsible for the subject of family welfare, authorised by the Minister to act as such or a police officer;

"interim order" means a protection order, an occupation order or a tenancy order of an interim nature;

"Minister" means the Minister to whom responsibility for the subject of family welfare is assigned;

"occupation order" means an order issued under section 4;

"Permanent Secretary" means the Permanent Secretary of the Ministry responsible for the subject of family welfare, or any public officer designated by him to act on his behalf;

"property" includes any movable or immovable property of which a spouse has the sole or joint use or possession;

"protection order" means an order issued under section 3;

"residence" means the premises where the parties are or have been living together as members of the same household;

"respondent spouse" means a person against whom a domestic violence order is sought or is in force;

"spouse" means a person who—

- (a) has been civilly or religiously married to a person of the opposite sex and is living or has lived with that person as husband and wife;
- (b) whether living together or not, has the care and custody of a child;

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“tenancy order” means an order issued under section 5.

[S. 2 amended by s. 3 of Act 11 of 2004 w.e.f. 19 June 2004; s. 2A of Act 23 of 2007 w.e.f. 15 September 2011.]

3. Protection order

(1) Any person who has been the victim of an act of domestic violence and who reasonably believes that his spouse is likely to commit any further act of domestic violence against him, may apply to the Court, in Form A of the Schedule, for a protection order restraining the respondent spouse from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards the applicant.

(2) On an application being made for a protection order, the Court shall cause notice of the application to be served on the respondent spouse requiring him to appear before the Court on such day as may be specified in the notice (not later than 14 days of the date of the application) to show cause why the order applied for should not be made.

(3) Subject to such Rules as may be made by the Chief Justice, an application for a protection order shall be heard in such manner as the Court thinks fit.

(4) In determining an application for a protection order, the Court shall have regard to the following—

- (a) the need to ensure that the aggrieved spouse is protected from domestic violence;
- (b) the welfare of any child affected, or likely to be affected, by the respondent spouse’s conduct;
- (c) the accommodation needs of the aggrieved spouse, his children as well as those of the respondent spouse and his children;
- (d) any hardship that may be caused to the respondent spouse or to any of his children as a result of the making of the order; and
- (e) any other matter which the Court may consider relevant.

(5) Where a protection order is made, the Court may further—

- (a) prohibit the respondent spouse from—
 - (i) being on premises on which the aggrieved spouse resides or works;
 - (ii) being on premises specified in the order, being premises frequented by the aggrieved spouse;
 - (iii) approaching within a specified distance of the aggrieved spouse;
 - (iv) contacting, harassing, threatening or intimidating the aggrieved spouse;
 - (v) damaging property of the aggrieved spouse; or
 - (vi) causing or attempting to cause another person to engage in conduct referred to in paragraphs (d) and (e);

Protection from Domestic Violence Act

- (b) specify the conditions on which the respondent spouse may—
 - (i) be on premises on which the aggrieved spouse resides or works or which he frequents; or
 - (ii) approach or contact the aggrieved spouse or his child;
- (c) *proprio motu*, make an interim occupation or tenancy order for such time as it thinks fit, where it is satisfied that such an order, although not applied for, is essential for the effective protection of the aggrieved spouse.

(6) (a) A protection order shall be in Form C of the Schedule and shall remain in force for such period, not exceeding 24 months, as the Court may specify.

(b) Where a protection order contains a prohibition or condition of the kind specified in subsection (5), the Court may specify different periods, being periods none of which exceeds 24 months, as the period for which each prohibition or condition is to remain in force.

(7) Where the Court is satisfied that there is a serious risk of harm being caused to the aggrieved spouse before the application may be heard and that the circumstances revealed in the application are such as to warrant the intervention of the Court even before the respondent spouse is heard, the Court may—

- (a) issue an interim protection order in Form B of the Schedule, restraining the respondent spouse from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards his spouse; and
- (b) order the Commissioner of Police to provide police protection to the aggrieved spouse until such time as the interim order is served on the respondent spouse or for such time as the particular circumstances of the case may justify.

(8) Where an interim protection order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent spouse requiring him to appear before the Court on such day as may be specified in the order to show cause why it should not be confirmed, varied or discharged.

(9) An interim protection order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the protection order.

(10) (a) Where a protection order is in force, either party may apply to the Court for a variation or revocation of the order.

(b) The spouse applying for the variation or revocation shall cause a copy of the application to be served on the other spouse.

(c) In determining whether to vary or revoke a protection order, the Court shall have regard to the matters specified in subsection (4).

[S. 3 amended by s. 4 of Act 11 of 2004 w.e.f. 19 June 2004; s. 3 of Act 23 of 2007 w.e.f. 26 September 2011.]

3A. Protection order against a person living under same roof

(1) Any person who has been the victim of an act of domestic violence by a person, other than his spouse, living under the same roof, and who reasonably believes that that person is likely to commit any further act of domestic violence against him, may apply to the Court, in Form AA of the Schedule, for a protection order restraining that person from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards the applicant.

(2) Where an application for a protection order is made under subsection (1), the Court shall cause a notice of the application to be served on the respondent ordering him to appear before the Court on such day as may be specified in the notice, which shall not be later than 14 days from the date of the application, to show cause why the order applied for should not be made.

(3) Subject to such Rules as may be made by the Chief Justice, an application for a protection order shall be heard in such manner as the Court thinks fit.

(4) In determining an application for a protection order, the Court shall have regard to the following—

- (a) the need to ensure that the applicant is protected from domestic violence;
- (b) the welfare of any child affected, or likely to be affected, by the respondent's conduct;
- (c) the accommodation needs of the applicant, his children, as well as those of the respondent and his children;
- (d) any hardship that may be caused to the respondent or to any of his children as a result of the making of the order; and
- (e) any other matter which the Court may consider relevant.

(5) Where a protection order is made, the Court may further—

- (a) prohibit the respondent from—
 - (i) contacting, harassing, threatening or intimidating the applicant;
 - (ii) damaging property of the applicant; or
 - (iii) causing or attempting to cause another person to engage in any conduct referred to in paragraphs (i) and (ii);
- (b) specify the conditions on which the respondent may—
 - (i) be on the premises on which the applicant resides or works or which he frequents; or
 - (ii) approach or contact the applicant or his child.

(6) (a) A protection order made under this section shall be in Form CA of the Schedule and shall remain in force for such period, not exceeding 24 months, as the Court may specify.

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(b) Where a protection order contains a prohibition or condition of the kind specified in subsection (5), the Court may specify different periods, being periods none of which shall exceed 24 months, as the periods for which each prohibition or condition is to remain in force.

(7) Where the Court is satisfied that there is a serious risk of harm being caused to the applicant before the application may be heard and that the circumstances revealed in the application are such as to warrant the protection of the Court even before the respondent is heard, the Court may—

- (a) issue an interim protection order in Form BA of the Schedule, restraining the respondent from engaging in any conduct which may constitute an act of domestic violence and ordering him to be of good behaviour towards the applicant; and
- (b) order the Commissioner of Police to provide police protection to the applicant until such time as the interim order is served on the respondent or for such time as the particular circumstances of the case may justify.

(8) Where an interim protection order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent requiring him to appear before the Court on such day as may be specified in the order to show cause why it should not be confirmed, varied or discharged.

(9) An interim protection order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the protection order.

(10) (a) Where a protection order is in force, either party may apply to the Court for a variation or revocation of the order.

(b) The person applying for the variation or revocation of a protection order shall cause a copy of the application to be served on the other person concerned.

(c) In determining whether to vary or revoke a protection order, the Court shall have regard to the matters specified in subsection (4).

[S. 3A inserted by s. 5 of Act 11 of 2004 w.e.f. 19 June 2004; amended by s. 4 of Act 23 of 2007 w.e.f. 26 September 2011.]

3B. Counselling

The Court may, subject to the consent of both parties, order, in addition to any order made under section 3 or 3A, the parties to attend counselling sessions organised by the Ministry.

[S. 3B inserted by s. 5 of Act 11 of 2004 w.e.f. 19 June 2004.]

4. Occupation order

(1) Any person who has been the victim of an act of domestic violence and who reasonably believes that his spouse is likely to commit any further act of domestic violence against him, may apply to the Court in Form D of the Schedule, for an occupation order granting him the exclusive right to live in the residence belonging to him, the respondent spouse or both of them.

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(2) On an application being made for an occupation order, the Court shall cause notice of the application to be served on the respondent spouse requiring him to appear before Court on such day as may be fixed by the Court (not later than 14 days of the date of the application) to show cause why the order applied for should not be made.

(3) Subject to such Rules as may be made by the Chief Justice, an application for an occupation order shall be heard in such manner as the Court thinks fit.

(4) The Court shall, on being satisfied that it is necessary for the protection of the aggrieved spouse or of his child and that it is in the best interest of the family, make an occupation order in Form F of the Schedule, for a period not exceeding 24 months.

(5) Where the Court is satisfied that there is a serious risk of harm being caused to the applicant before the application may be heard and that the circumstances revealed in the application are such as to warrant the protection of the Court even before the respondent spouse is heard, the Court may issue an interim occupation order in Form E of the Schedule granting the applicant the exclusive right to live in and occupy the residence.

(6) An interim occupation order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the protection order.

(7) Where an interim occupation order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent spouse requiring him to appear before the Court on such day as may be fixed by the Court to show cause why the said order should not be confirmed, varied or discharged.

(8) (a) Where an occupation order is in force, either party may apply to the Court for its variation or revocation.

(b) The spouse applying for such variation or revocation shall cause a copy of his application to be served on the other spouse.

(c) In determining whether to vary or revoke an occupation order, the Court shall have regard to the matters specified in subsection (4).

[S. 4 amended by s. 6 of Act 11 of 2004 w.e.f. 19 June 2004; s. 4A of Act 23 of 2007 w.e.f. 26 September 2011.]

5. Tenancy order

(1) Any spouse who has been the victim of an act of domestic violence and who reasonably believes that his spouse is likely to commit any further act of domestic violence against him may apply to the Court, in Form G of the Schedule, for a tenancy order so that the tenancy of the residence occupied by him should vest in him.

(2) On an application being made for a tenancy order, the Court shall cause notice thereof to be served on the respondent spouse requiring him to appear before the Court on such day as may be fixed by the Court (not later than 14 days of the date of the application) to show cause why the order applied for should not be made.

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(3) Subject to such Rules as may be made by the Chief Justice, an application for a tenancy order shall be heard in such manner as the Court thinks fit.

(4) The Court shall not make a tenancy order in Form I of the Schedule unless it is satisfied that such an order is necessary for the protection of the aggrieved spouse, of his child or of both of them and that it is in the best interest of the family.

(5) Where the Court is satisfied that there is a serious risk of harm being caused to the applicant before the application may be heard and that the circumstances revealed in the application are such as to warrant the protection of the Court even before the respondent spouse is heard, the Court may issue an interim tenancy order in Form H of the Schedule granting the applicant the exclusive right to live in the residence.

(6) An interim tenancy order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the tenancy order.

(7) Where an interim tenancy order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent spouse who shall be summoned to appear before Court on such day as may be fixed by the Court to show cause why the said order should not be confirmed, varied or discharged.

(8) (a) Where a tenancy order is in force, either party may apply to the Court for a variation or revocation of same.

(b) The spouse moving for such variation or revocation shall cause a copy of the application to be served on the other spouse.

(c) In determining whether to vary or revoke a tenancy order, the Court shall have regard to the matters specified in subsection (4).

[S. 5 amended by s. 7 of Act 11 of 2004 w.e.f. 19 June 2004; s. 4B of Act 23 of 2007 w.e.f. 26 September 2011.]

6. Effect of tenancy order

(1) On the taking effect of a tenancy order, the aggrieved spouse shall, subject to subsection (2), be deemed to become the tenant of the dwelling house subject to the terms and conditions of the tenancy in force at the time of the making of that order.

(2) Except where the Court orders otherwise, the spouse who, before the tenancy order was, by the terms of the contract of tenancy, responsible for the payment of the rent, shall continue to be so responsible.

7. Permanent occupation and tenancy orders

(1) Before any permanent occupation or tenancy order is made, notice of the application shall be given to any person having an interest in the property which may be affected by the order and any such person shall be entitled to appear and be heard in the matter as if he were a party to the application.

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(2) Where an application is made for an occupation or tenancy order, the Court may treat the application as one for occupation or tenancy, as appropriate, to ensure the right which the aggrieved spouse in fact needs for his protection.

8. Ancillary order for household effects

(1) On or after making an occupation or tenancy order, the Court may, subject to subsection (2)—

- (a) make an order granting to the aggrieved spouse the use, for such period and on such terms and conditions as the Court thinks fit, of all or any furniture, appliances and other household effects in the residence to which the order relates; and
- (b) where appropriate, order the aggrieved spouse, the respondent spouse or both of them, to contribute to the—
 - (i) loan or mortgage repayments;
 - (ii) repairs or maintenance,

of the residence.

(2) An order made under this section—

- (a) may, on the application of one of the parties, be varied or discharged;
- (b) shall, unless the Court otherwise directs, be deemed to be made for a period corresponding to the occupation or tenancy order to which it is ancillary;
- (c) shall, irrespective of the terms of the order, expire when the occupation or tenancy order expires or is discharged.

[S. 8 amended by s. 8 of Act 11 of 2004 w.e.f. 19 June 2004.]

8A. Report on compliance

The Court may, in addition to any order made under this Act and where it so deems appropriate, direct a probation officer to report to it on the compliance of such order, at such intervals as it thinks fit.

[S. 8A inserted by s. 9 of Act 11 of 2004 w.e.f. 19 June 2004.]

8B. Ancillary order for alimony

(1) Subject to subsections (2) and (3), the Court may, in addition to any order made under this Act and where it so deems appropriate, order a respondent spouse to pay to an aggrieved spouse and any child of the parties alimony on such terms and conditions as the Court thinks fit.

(2) An order made under this section—

- (a) may, on the application of one of the parties, be varied or discharged;
- (b) shall, unless the Court otherwise directs, be deemed to be made for a period corresponding to the order to which it is ancillary;

Protection from Domestic Violence Act

- (c) shall, irrespective of the terms of the order, expire when the order to which it is ancillary expires or is discharged.

(3) No order for payment of alimony shall be made under subsection (1) where the respondent spouse is already paying alimony to the aggrieved spouse or the child of the parties by virtue of a judicial order.

[S. 8B inserted by s. 5 of Act 23 of 2007 w.e.f. 15 September 2011.]

9. Proceedings to be in camera

The hearing of any proceedings under this Act shall, subject to section 10 (10) of the Constitution, be held in camera.

10. Registry

(1) The Registry of the Court shall maintain a record of all applications filed pursuant to this Act and of all protection, occupation and tenancy orders issued by the Court.

(2) The record shall contain—

- (a) the names, address, age, sex and relationship of the parties;
- (b) the domestic violence alleged, whether it involved any weapon or resulted in personal injuries and whether the injuries inflicted required medical treatment;
- (c) the effective date and terms of each order issued; and
- (d) the address of the property concerned by the order and, where applicable, the name of the landlord.

11. Duties of Enforcement Officers

(1) Where an Enforcement Officer reasonably suspects that a person is the victim of an act of domestic violence, he shall, as soon as possible, cause an investigation to be made into the matter.

(2) Where it is reported to an Enforcement Officer that a person has been or is likely to be the victim of an act of domestic violence, he shall immediately cause an entry to be made in the Police Station Occurrence Book or such other record maintained for that purpose and shall, as soon as possible, cause an investigation to be made in the matter.

(3) Where, after investigation, the officer reasonably believes that action should be taken to protect the victim of an act of domestic violence from any further violence, he shall—

- (a) explain to the aggrieved spouse his rights to protection against domestic violence;
- (b) provide or arrange transport for the aggrieved spouse to an alternative residence or a safe place of shelter, if such transport is required;

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- (c) provide or arrange transport for the aggrieved spouse to the nearest hospital or medical facility for the treatment of injuries, if such treatment is needed;
- (d) assist the aggrieved spouse in filing a complaint regarding the domestic violence; and
- (e) accompany and assist the aggrieved spouse to his residence or previous residence for the collection of his personal belongings.

(4) An Enforcement Officer may, with the consent of an aggrieved spouse, file on his behalf an application for an interim or permanent protection, occupation or tenancy order and shall to that effect swear an affidavit reciting the facts on which he relies to make the application on behalf of the aggrieved spouse.

12. Protection from liability of informers

(1) Any person who has reason to believe that an act of domestic violence has been, is being or is likely to be committed, may so inform an Enforcement Officer.

(2) No liability, civil or criminal, shall be incurred by an informer for information given in good faith for the purpose of subsection (1).

13. Offences

(1) Any person who wilfully fails to comply with any interim order, protection order, occupation order, tenancy order or ancillary order made under this Act shall commit an offence and shall, on conviction, be liable—

- (a) on a first conviction, to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years;
- (b) on a second or subsequent conviction, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Any person who commits an offence under subsection (1) may be arrested by the Police.

(3) (a) The Police shall act with diligence in any case where an offence under the Act is reported to it.

(b) Any police officer to whom an offence under this Act is reported shall report the matter forthwith—

- (i) to the nearest hospital or other medical institution, where the complainant is in urgent need of medical assistance;
- (ii) to the Permanent Secretary, where the complainant is in urgent need of counselling or any other form of psychological support.

(c) Where the matter has been reported to the Permanent Secretary under paragraph (b), he shall arrange for the complainant to consult a

Protection from Domestic Violence Act

psychologist or other suitable person forthwith for counselling or such other support as may be required.

[S. 13 amended by s. 10 of Act 11 of 2004 w.e.f. 19 June 2004; repealed and replaced by s. 6 of Act 23 of 2007 w.e.f. 15 September 2011.]

13A. Order to attend counselling sessions following conviction

(1) (a) In exceptional cases, where a Court by or before which a person is convicted of an offence under section 13 is of opinion that, having regard to the circumstances, including the nature of the offence and the character, antecedents, mental and psychological condition, age, health and home surroundings of the offender, it is expedient to do so, the Court may, instead of sentencing him, order him to attend counselling sessions organised by the Ministry.

(b) Where a Court is satisfied that the offender has failed to comply with an order made under paragraph (a), it may sentence him for his original offence, in accordance with section 13.

(2) The order to attend counselling sessions made under subsection (1) (a) shall be for such period, not exceeding 2 years, and on such terms and conditions as the Court thinks fit.

(3) The Court may require the Ministry to provide a report with a view to assisting the Court in determining the most suitable method of dealing with an offender.

(4) Before making an order under subsection (1), the Court shall explain to the offender, in a language he understands, the effect of the order and that, if he fails in any way to comply with the order, he shall be liable to be sentenced for the original offence.

(5) The Court shall not order an offender to attend counselling sessions unless he expresses his willingness to comply with the order and the victim has no objection thereto.

(6) The Permanent Secretary of the Ministry shall report any failure by an offender to comply with an order made under subsection (1) to the Court which made that order.

(7) On receipt of a report under subsection (5), the Court may—

- (a) issue a summons to the offender requiring him to appear at a place and time specified in the summons;
- (b) issue a warrant for the arrest of the offender.

[S. 13A inserted by s. 7 of Act 23 of 2007 w.e.f. 15 September 2011.]

14. —

15. Service of documents

Where it appears to the Court that it is not reasonably possible to serve a copy of an application under this Act personally, the Court may make an order for substituted service.

16. Appeals

(1) Subject to subsection (2), an appeal shall lie to the Judge in Chambers against any decision concerning a protection, occupation or tenancy order in the same way as an appeal lies from a decision of a District Court in the exercise of its civil jurisdiction.

(2) No appeal shall lie against any decision concerning interim protection orders, interim occupation orders or interim tenancy orders.

(3) An appeal against an order shall not have for effect to suspend its operation until the decision of the Judge in Chambers.

17. Costs

(1) Notwithstanding any other enactment, no costs shall be allowed in any proceedings under this Act, nor shall any aggrieved person appealing against any decision under section 16 (1) be required to furnish any recognisance to prosecute the appeal.

(2) Notwithstanding any other enactment, all civil, judicial and extra judicial acts, and all documents made use of or produced before the Court, in any matter arising out of or brought under this Act, shall be exempt from registration and stamp duties and from the payment of any fees.

18. Regulations

The Minister may make such regulations as he thinks fit for the purposes of this Act.

19. Rules

The Chief Justice may, after consultation with the Rules Committee set up under section 199 of the Courts Act and the Judges, make such rules as he thinks fit for the purposes of this Act.

[S. 19 inserted by s. 7A of Act 23 of 2007 w.e.f. 15 September 2011.]

SCHEDULE

FORM A

[Section 3 (1)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

APPLICATION FOR PROTECTION ORDER

In the District Court of
I
of
being the spouse of of
inasmuch as—

(a) we are civilly/religiously married;

Protection from Domestic Violence Act

SCHEDULE – continued

(b) we have lived together as husband and wife; and

I/we are the biological parents of a common child,

MAKE OATH/SOLEMN AFFIRMATION AND SAY THAT—

- 1. I have been the victim of an act of domestic violence inasmuch as my said spouse has ...
2. I have reasonable cause to believe that my said spouse is likely to commit further acts of domestic violence unless he/she is restrained from so doing.
3. I therefore move that my said spouse be summoned to appear before Court to show cause why a Protection Order, under section 3 (1) of the Protection from Domestic Violence Act, should not be issued restraining my said spouse from engaging in conduct which may constitute further acts of domestic violence and ordering him/her to be of good behaviour towards me.
4. I further aver that there is a serious risk of harm being caused to me before the present application for a Protection Order may be heard by the Court and that it is therefore urgent and necessary that an interim Protection Order be issued under section 3 (7) of the Protection from Domestic Violence Act.

Sworn before me

District Magistrate

This day of 20 ..

[Form A amended by s. 11 (a) (i) of Act 11 of 2004 w.e.f. 19 June 2004.]

FORM AA

[Section 3A (1)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

APPLICATION FOR PROTECTION ORDER

In the District Court of
I
of (Applicant)

MAKE OATH/SOLEMN AFFIRMATION AND SAY THAT—

- 1. I have been the victim of an act of domestic violence by (Respondent) a person living under the same roof, not being my spouse, in as much as the Respondent
2. I have reasonable cause to believe that the Respondent is likely to commit further acts of domestic violence unless he/she is restrained from so doing.

continued on page P44 – 13

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FORM AA – continued

- 3. I therefore move that the Respondent be summoned to appear before Court to show cause why a Protection Order, under section 3A (1) of the Protection from Domestic Violence Act, should not be issued restraining the Respondent from engaging in conduct which may constitute further acts of domestic violence and ordering him/her to be of good behaviour towards me.
- 4. I further aver that there is a serious risk of harm being caused to me before the present application for a Protection Order may be heard by the Court and that it is therefore urgent and necessary that an interim Protection Order be issued under section 3A (7) of the Protection from Domestic Violence Act.

Sworn before me

.....

District Magistrate

This day of 20

[Form AA inserted by s. 11 (b) (i) of Act 11 of 2004 w.e.f. 19 June 2004.]

FORM B

[Section 3 (7)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

INTERIM PROTECTION ORDER

In the District Court of

To of

Whereas I am satisfied by information ON OATH that—

Mr/Mrs

who has applied for a Protection Order under section 3 (1) of the Protection from Domestic Violence Act has reasonable cause to believe that he/she may be the victim of further acts of domestic violence and that it is urgent and necessary that an interim Protection Order be issued under section 3 (7) of the said Protection from Domestic Violence Act.

You the said

are therefore restrained from engaging in any conduct which may constitute an act of domestic violence against your said spouse and you are further ordered to be of good behaviour towards him/her pending the decision of this Court in the application filed by him/her for a Protection Order.

You are further summoned to appear before the District Court of on to show cause why the said interim Protection Order should not be confirmed, varied or discharged.

Warning you that, should you fail to appear before the Court as hereby requested, the Court may proceed to hear the application for the issue of the Protection Order in your absence.

Given under my hand at in the District Court of

.....

District Magistrate

This day of 20

[Form B amended by s. 11 (a) (ii) of Act 11 of 2004 w.e.f. 19 June 2004.]

Protection from Domestic Violence Act

FORM BA

[Section 3A (7)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

INTERIM PROTECTION ORDER

In the District Court of

To

(Respondent) of

Whereas I am satisfied by information ON OATH that—

..... (Applicant) who has applied for a Protection Order under section 3A (1) of the Protection from Domestic Violence Act has reasonable cause to believe that he/she may be the victim of further acts of domestic violence and that it is urgent and necessary that an interim Protection Order be issued under section 3A (7) of the said Protection from Domestic Violence Act.

You, the said are therefore restrained from engaging in any conduct which may constitute an act of domestic violence against the Applicant, and you are further ordered to be of good behaviour towards him/her pending the decision of this Court in the application filed by him/her for a Protection Order.

You are further summoned to appear before the District Court of on to show cause why the said interim Protection Order should not be confirmed, varied or discharged.

Warning you that, should you fail to appear before the Court as hereby requested, the Court may proceed to hear the application for the issue of the Protection Order in your absence.

Given under my hand at in the District Court of

District Magistrate

This day of 20

[Form BA inserted by s. 11 (b) (ii) of Act 11 of 2004 w.e.f. 19 June 2004.]

FORM C

[Section 3 (6)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

PROTECTION ORDER

In the District Court of

To

Take notice you the said that after hearing an application from your spouse Mr/Mrs

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FORM C—continued

for the issue of a Protection Order, the Court, in virtue of the powers conferred upon it by section 3 of the Protection from Domestic Violence Act, hereby restrains you from engaging in any conduct which may constitute an act of domestic violence against your said spouse and further orders you to be of good behaviour towards him/her.

The said Protection Order shall remain in force until

Take also notice that the Court, in virtue of the powers conferred upon it by section 3 (5) of the Protection from Domestic Violence Act, further prohibits you

.....
.....
.....

This prohibition order shall remain in force until

Given under my hand at in the District Court of

.....
District Magistrate
This day of 20

FORM CA

[Section 3A (6)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

PROTECTION ORDER

In the District Court of

To

(Respondent) of

Take notice you the said

that after hearing an application from (Applicant)

for the issue of a Protection Order, the Court, in virtue of the powers conferred upon it by section 3A of the Protection from Domestic Violence Act hereby restrains you from engaging in any conduct which may constitute an act of domestic violence against the Applicant and further orders you to be of good behaviour towards him/her.

The said Protection Order shall remain in force until

Take also notice that the Court, in virtue of the powers conferred upon it by section 3A (5) of the Protection from Domestic Violence Act, further prohibits you

.....
.....
.....

This prohibition order shall remain in force until

Protection from Domestic Violence Act

FORM CA – continued

Given under my hand at in the District Court of

District Magistrate

This day of 20

[Form CA inserted by s. 11 (b) (iii) of Act 11 of 2004 w.e.f. 19 June 2004.]

FORM D

[Section 4 (1)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

APPLICATION FOR OCCUPATION ORDER

In the District Court of

I of

being the spouse of of

inasmuch as—

- (a) we are civilly/religiously married;
(b) we have lived together as husband and wife; and
(c) we are the parents of a common child

MAKE OATH/SOLEMN AFFIRMATION AND SAY THAT—

- 1. I have been the victim of an act of domestic violence inasmuch as my said spouse has
2. I have reasonable cause to believe that my said spouse is likely to commit further acts of domestic violence unless he/she is restrained from so doing.
3. I further aver that given the conduct of my said spouse, it is necessary that he/she should not be allowed to live in our residence.
4. I therefore move that my said spouse be summoned to appear before Court to show cause why an Occupation Order, under section 4 (1) of the Protection from Domestic Violence Act, should not be issued granting me the exclusive right to live in the residence belonging to me/him/her/both of us.
5. I further aver that there is a serious risk of harm being caused to me before the present application for an Occupation Order may be heard by the Court and that it is therefore urgent and necessary that an interim Occupation Order be issued under section 4 (5) of the Protection from Domestic Violence Act.

Sworn before me

District Magistrate

This day of 20

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FORM E

[Section 4 (5)]

PROTECTION FROM DOMESTIC VIOLENCE ACT
INTERIM OCCUPATION ORDER

In the District Court of ...
To ... of ...
Whereas I am satisfied by information ON OATH that—
Mr/Mrs ...
who has applied for an Occupation Order under section 4 of the Protection from Domestic Violence Act has reasonable cause to believe that he/she may be the victim of further acts of domestic violence and that it is urgent and necessary that an interim Occupation Order be issued under section 4 (5) of the said Protection from Domestic Violence Act.
These are therefore to warn you that the said Mr/Mrs ... your spouse shall as from this day ... have the exclusive right to live at the residence now occupied by both of you, the tenancy of which is vested in him/her pending the decision of this Court in the application filed by him/her for an Occupation Order.
You are further summoned to appear before the District Court of ... on ... to show cause why the said interim Occupation Order should not be confirmed, varied or discharged.
Warning you that, should you fail to appear before the Court as hereby requested, the Court may proceed to hear the application for the issue of the Occupation Order in your absence.
Given under my hand at ... in the District Court of ...

District Magistrate

This ... day of ... 20

[Form E amended by s. 11 (a) (iii) of Act 11 of 2004 w.e.f. 19 June 2004.]

FORM F

[Section 4 (4)]

PROTECTION FROM DOMESTIC VIOLENCE ACT
OCCUPATION ORDER

In the District Court of ...
To ... of ...
Take notice you the said ...
that after hearing an application from your spouse Mr/Mrs ...

Protection from Domestic Violence Act

FORM F—continued

for the issue of an Occupation Order in respect of the residence owned by you/him/her/both of you and situated at the Court has, in virtue of the powers conferred upon it by section 4 (1) of the Protection from Domestic Violence Act, made an order granting to your said spouse the exclusive right to occupy the said residence, for a period of months as from this day.

Take notice that the present order shall remain in force until such time as it is varied or discharged.

Given under my hand at in the District Court of

.....

District Magistrate

This day of 20

FORM G

[Section 5 (1)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

APPLICATION FOR TENANCY ORDER

In the District Court of

I

of

being the spouse of of

inasmuch as—

- (a) we are civilly/religiously married;
(b) we have lived together as husband and wife; and
(c) we are the parents of a common child

MAKE OATH/SOLEMN AFFIRMATION AND SAY THAT—

- 1. I have been the victim of an act of domestic violence inasmuch as my said spouse has
2. I have reasonable cause to believe that my said spouse is likely to commit further acts of domestic violence unless he/she is restrained from so doing.
3. I further aver that given the conduct of my said spouse, it is necessary that he/she should not be allowed to live in our residence.
4. I therefore move that my said spouse be summoned to appear before Court to show cause why a Tenancy Order, under section 5 (1) of the Protection from Domestic Violence Act, should not be issued vesting in me the tenancy of the said residence and granting me the exclusive right to live in the residence.

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FORM G—continued

5. I further aver that there is a serious risk of harm being caused to me before the present application for a Tenancy Order may be heard by the Court and that it is therefore urgent and necessary that an interim Tenancy Order be issued under section 5 (5) of the Protection from Domestic Violence Act.

Sworn before me

.....

District Magistrate

This day of 20

FORM H

[Section 5 (5)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

INTERIM TENANCY ORDER

In the District Court of

To

Whereas I am satisfied by information ON OATH that—

Mr/Mrs

who has applied for a Tenancy Order under section 5 (1) of the Protection from Domestic Violence Act has reasonable cause to believe that he/she may be the victim of further acts of domestic violence and that it is urgent and necessary that an interim Tenancy Order be issued under section 5 (5) of the said Protection from Domestic Violence Act.

These are therefore to warn you that the said Mr/Mrs

your spouse shall as from this day ... have the exclusive right to live at the residence now occupied by both of you, the tenancy of which is vested in him/her pending the decision of this Court in the application filed by him/her for a Tenancy Order.

You are further summoned to appear before the District Court of

on to show cause why the said interim Tenancy Order should not be confirmed, varied or discharged.

Warning you that, should you fail to appear before the Court as hereby requested, the Court may proceed to hear the application for the issue of the Tenancy Order in your absence.

Given under my hand at in the District Court of

.....

District Magistrate

This day of 20

[Form H amended by s. 11 (a) (iv) of Act 11 of 2004 w.e.f. 19 June 2004.]

Protection from Domestic Violence Act

FORM I

[Section 5 (4)]

PROTECTION FROM DOMESTIC VIOLENCE ACT

TENANCY ORDER

In the District Court of

To of

Take notice you the said

that after hearing an application order from your spouse Mr/Mrs

for the issue of a Tenancy Order in respect of the residence rented by you/him/her/both of you and situated at, the Court, has in virtue of the powers conferred upon it by section 5 of the Protection from Domestic Violence Act made an order granting to your said spouse the exclusive right to live in and occupy the said residence and vesting in him/her the tenancy thereof.

The Court further orders you the Respondent spouse to continue to pay to the landlord of the said residence the rent due for same.

Given under my hand at in the District Court of

.....

District Magistrate

This day of 20
