

Second Reading Speech by the Minister for Justice on the Family Protection (Amendment) Bill 2022

Thank you, Mr. Speaker, for giving me this opportunity to present to this honourable House and the people of Papua New Guinea, this important Bill to amend the *Family Protection Act* 2013 entitled “Family Protection (Amendment) Bill 2022” (the Bill).

Mr. Speaker, domestic violence remains as one of the most pervasive forms of violence in the country. It is a violation of human rights that is deeply rooted in gender inequality whereby the overwhelming majority of perpetrators are men and the majority of victims are women. Men’s use of violence in a relationship is a deliberate choice to maintain power and control in that relationship. In a national demographic survey that was conducted in 2019, it was found that 63% of women reported having experienced domestic violence and 57% of those women reported experiencing injuries as a result of the violence.

Mr. Speaker, this is also supported by anecdotal evidence from the various social service providers such as women’s groups and human rights defenders that indicate high levels of violence against women across the country and the significant difficulties that are continuously encountered by victims in accessing effective support. In the last year we have seen and heard about atrocious acts of domestic violence committed against Papua New Guinean women. Family units and foundations are being affected by this evil that is eating away the fabric of our society. Mr Speaker, the sad reality is that we only hear about a few cases through print and social media but there are countless number of individuals who struggle in the privacy of their homes.

The Government has heard the concerns raised by Papua New Guineans and has taken measures through the review of the *Family Protection Act* 2013. The *Family Protection Act* 2013 is the main piece of legislation that criminalises domestic violence and affords protection for victims of domestic violence through court ordered Family Protection Orders with conditions and enforcement when there is a breach of the order granted by the court.

Mr. Speaker, I am pleased to inform this Parliament and the people of Papua New Guinea that the Bill addresses some key areas that were noted from key stakeholders who assist in the referral process to provide support to a survivor of domestic violence including law enforcement authorities. The following are the areas that the Bill addresses:

1. Increase in penalty provisions:

The penalty provision for the offence of domestic violence has been increased from the current which is a fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years to, a minimum fine of K1,000.00 and not exceeding K10,000.00 or imprisonment for a term not less than two years and not exceeding five years. This reform means that the courts when sentencing a perpetrator cannot set fines lower than K1,000.00, and also cannot sentence a perpetrator to imprisonment for less than 2 years, the sentencing must start from a fine of K1,000.00 minimum and two years minimum. The penalty provision for a breach of a family protection order now has a minimum fine of not less than K5,000.00 so the courts will not impose a fine for less than K5,000.00 and a minimum imprisonment term of not less than 12 months and not exceeding seven years.

2. New aggravated offence of domestic violence

A new offence has been included in the current reform, which is, aggravated domestic violence. The penalty for aggravated domestic violence is much higher than the domestic violence offence and does not include a fine. The minimum threshold penalty is imprisonment of not less than five years and not more than seven years. With this new provision, where a person commits the act of domestic violence in particular circumstances, the person may be charged with aggravated domestic violence. It will not be a defence that the defendant has paid an amount of money or given other valuable consideration to the complainant. The types of circumstances include, where the person committed the act of domestic violence-

- in relation to a person under 18 years of age; or
- in the presence of a person under 18 years of age; or
- in relation to a person with special needs or a person living with disability; or
- in relation to a pregnant woman; or
- in relation to a person incapable of resisting; or
- using a dangerous and offensive weapon or instrument; or
- whilst under the influence of a drug or controlled substance or alcohol; or - repetitively.

3. Authorised person to issue urgent protection notice in urgent circumstances

A new set of provisions have now been included in this Bill. Unlike, court issued orders, this provision allows for the Minister to appoint ordinary members of the community as authorised persons to issue Urgent Protection Notices for up to 14 days in circumstances where there is an urgent need to do so. These individuals can may be authorised by the Minister as authorised persons to issue the notice. They must be of good reputation and character and have good standing in the community. It is an offence where a person breaches the urgent protection notice. Urgent Protection Notice may be issued against the perpetrator where there is an imminent risk that the defendant will commit an act of domestic violence against the complainant or a family member.

In issuing the Urgent Protection Notice, the authorised person can also include a family member or any person providing assistance to the complainant. The policy rationale behind this reform is to allow victims to get immediate protection whilst the interim protection order and the protection order can be applied for in due course. As long as a member of your community is appointed and within a particular suburb or community, they have the power to issue the urgent protection notice against the perpetrator and prevent the victim from being further abused while he or she seeks further interim protection order or a protection order.

Obstruction of Service Provider

A new offence provision is now included in this Bill. It criminalises the conduct of obstructing and threatening service providers such as counsellors, health practitioners or other persons that provide service to a person that has been subject to domestic violence. The penalty for obstruction is a term not exceeding 12 months, and for a threat, is a term not exceeding three years.

In conclusion, Mr. Speaker, I would like to stress that the State can intervene and do only so much, however, there are many facets of this issue that need to be critically investigated to arrest the problem. We need the academia and practitioners to be working closely to research and understand the underlying root of the problem in the PNG context. We can legislate, increase penalties, include new solutions in law, but that is not the only solution to addressing domestic violence. These are just bandages to the wound. There is a need for leadership in changing this vicious cycle of violence. I challenge all you leaders in this Parliament and those who have leadership and influential roles in your families and communities to intervene and adopt better ways to arrest the issue of domestic violence and look at preventive measures.

Mr. Speaker, finally, I would like to acknowledge the hardworking frontliners who work day in day out to ensure another life is not lost to domestic violence. These are the real heroes that need all our support. I would also like to thank all the stakeholders who have participated during the consultations of the review of the *Family Protection Act 2013* and thank the support of our donor partners, particularly, the Australian Government in providing financial and technical support to the review process.

With that, I now commend the *Family Protection (Amendment) Bill 2022* to this honourable House.

Hon. Bryan Kramer, MP
Minister for Justice