

General Discussions Elaborating a
Draft General Recommendation on Women and Access to Justice

Presentation of
KAREN VERTIDO

It is an honor to be with you today. I mean that sincerely. But having said that, I realize I have mixed feelings about my qualification that brought me here. I would have preferred to have been invited because I am the world's greatest expert at something. But I am not that, sorry. I am here though to tell you about my encounter with rape and seeking justice afterwards.

I was raped on March 29, 1997 in Davao City in the Philippines. As horrendous as the experience of a sexual attack by a man known to me was, the next decade was characterized with unspeakable pain. Mine is what therapists consider a text book rape. I knew the man who raped me. He was a former president of the organization of which I was executive director. It was done in a work situation. Extensive media coverage I guess was inevitable I guess because the rapist was of a high social and economic stature. It was a double edged sword. The widespread interest in the case aggravated the stigmatization for me. But on the other hand, I exposed him for who a really was: a criminal, a rapist, not the respectable man he projected himself to be.

To say that the trial lasted 9 years also meant 9 years of having wounds opened and re-opened just as they are about to heal. It also meant not being able to devote the required time and energy required of a new job, since I was fired from the one I had. Too divisive, the board said. But a new job was not for me because by the time I was liberated from the rigors of the trial and I had hit 50 and new employment issues applied. I lost one of things I valued most: economic independence.

Obstacles to Justice in the Philippines

In the years that followed between hearings at court, I educated myself on the situation I was in. I plowed through legal and psychological books, I met with women's rights advocates, I worked with the therapists, and I met with women who were in like situations as mine. But unlike them, I was different in one way: I

spoke against rape and all forms of violence in whatever forum or occasion open to me.

The culture of silence is very strong in the Philippines. Women who have been raped do not talk about it; much less report the crime to authorities. What for? Doing so would just aggravate the shame inflicted on them by making it a very public issue. Then there is the fact that the records are notoriously famous for acquitting men accused of rape.

Poverty is the primary obstacle to justice. If only for the lack of money, not too many women dare to go so public as I did. You might ask how was I able to sustain 9 years of litigation. Apparently because there are more cases of rape than we know of or we care to know, I received so much support from so many people for the litigation. There were a few donations that came with notes encouraging me to fight on. They came from people who invariably said they were fighting their own violations through me. It also helped that my lawyer, a staunch women's rights activist, gave her services pro bono.

Victim blaming is another downer to justice. A strong take-charge woman most oftentimes is considered arrogant while her male counterpart is admired for being resolute. Rape was considered my comeuppance for perhaps just having the job and the position I had. Besides I had no business attending a business meeting in the evening.

Lack of education has always been cited as basis for the generally accepted myths and misguided opinions surrounding women's issues. At this day and age, some Filipinos still believe that wearing shorts is a call to being raped. Embarrassed with their lack of education, many women are deterred from going to the authorities for assistance. Even judges are not exempt from a lack of education in women's realities. Many court decisions are premised on sexist myths. The man who raped me was acquitted of his crime because the judge believed a woman such I who was relatively highly educated cannot have been so stupid as to have been raped. Therefore, I could only have consented to be raped. She did not see the oxymoron in that.

I am extremely embarrassed and ashamed every time my country appears on the list of the most corrupt countries. Corruption does bear heavily upon the judiciary as well as in all branches of government and the private sector. The impeachment of the Supreme Court Chief Justice last year and the trial of the former president give me hope that we may eventually clean up the country. But for now, we just have to contend with corruption which has become so pervasive. I fear we need more time and a stronger political will to get the level of corruption down even a few notches.

There is no dearth of laws that are supposed to be for the promotion and for the protection of women in the Philippines. The Anti-Rape Law of 1997 redefined rape as a public offense. The Anti-Human Trafficking of Persons law penalizes trafficking with or without the consent of victims. In 2004, the law against Violence Against Women and their Children was passed. Finally, the “Magna Carta for Women” passed into law on August 2009 is now the cover-all law that protects women.

So why then do Filipino women continue to be objects of sexual discrimination, violation, and violence? I can only be the still widespread deficiency in gender sensitivity and strong of political will to enforce the law.

Pursuing Justice through the Optional Protocol of the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)

Take for example the communication I sent under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women. I died in court that day the rapist was acquitted, but the knowledge that there that there was recourse to justice outside of Philippine courts brought me back to life.

In November 2007 we sent off the communication to CEDAW. In July 2010, the views came from the Committee. It upheld my contention that indeed my rights were violated in the courts of the Philippines yet again after the original assault to my honor and to my body by a depraved man.

In subsequent years there was a series of exchange between my lawyers and representatives of the government of the Philippines coursed through the Committee. The official stand of the Philippine government was that it was not obligated by the views of CEDAW for basically two reasons: firstly I had not exhausted all means recourse to justice, meaning I did not go to the Supreme Court for a certiorari; and secondly, that the views impinged on my country's sovereignty. My lawyer responded by reiterating the conditions extant in Philippine legislature that made going to the Supreme another exercise in futility. In response to sovereignty issue, we contend that the Philippines ratified CEDAW and therefore voluntarily agreed to its conditions. Now we are at an impasse. I am bewildered as to how this business is going to end. Or if this is indeed the end. I earnestly hope not. Not like this.

In my perhaps simplistic thinking, I keep wondering why my government refuses to comply with the Convention which it ratified. My bemusement runs deep when I keep wondering why can't everyone see the wonderful benefits of not having any sector of society relegated to a subservient and exploited position? What is so objectionable about doing more for women starting with honouring its commitment to an agreement by complying with the views on my case? And if the Philippine government will not honor the views, will an external urging from UN CEDAW help? Is the Committee willing or able to give a gentle shove? Is it appropriate? What does that make of the Convention if governments refuse to honor it?

This may have to end hanging with more questions than answers. But I remain optimistic. The questions are reflections of dreams a world that is gentler and kinder to women; a better for everyone. And today I am so happy because I am with people who dream the same dream. With so many of us, how can we fail to eventually make the dream come true?
