

An Evaluation Study:
TWO LAWS ON RAPE: TWIN IMPERATIVES
FOR JUSTICE AND HEALING

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The Policy Content for Women's Right

The affirmation of women's rights as human rights are strategically valuable because they express, in the broadest terms, basic values of human dignity and social justice, which have been denied to women for centuries.

The struggle of women for the recognition of their rights as human beings has been long and arduous, and it is only in recent times that the fruits have started to be harvested.

While the 1948 Universal Declaration of Human Rights reaffirmed "faith in fundamental human rights, in the dignity and worth of the human person, (and) in the equal rights of men and women", it was not until 1979 that the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted. The Convention essentially constitutes the international bill of rights for women.

The Convention does not explicitly address gender-based violence against women, but, in its subsequent General Recommendations, particularly General Recommendation No. 19, it clearly defines gender-based violence against women, whether

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perpetrated by a state official or a private citizen, in public or in private life, as sex discrimination and a violation of internationally guaranteed human rights. By defining gender-based violence against women as sex discrimination, CEDAW defines the responsibility of States Parties under the Convention to include an obligation to ensure its elimination.

In December 1993, the Declaration on the Elimination of Violence Against Women (DEVAW) was adopted by the UN General Assembly. Article 4 states that:

States should condemn violence against women and should not invoke any custom, tradition or religious considerations to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women.

The Beijing Platform for Action has copied verbatim the CEDAW definition of VAW. Based on this common definition, both the Women's Convention and the BPFA therefore adopt the same perspective on violence against women. General Recommendation No. 19, the DEVAW and the BPFA pose similar strategic actions for governments to undertake in order to specifically address VAW. This includes the enactment/implementation/periodic review of domestic legislation on VAW.

The Philippines is a signatory to the Convention on the Elimination of Discrimination Against Women (CEDAW). It is also committed to the implementation of the 1993 Declaration on the Elimination of Violence Against Women and the 1995 Beijing Declaration and Platform for Action.

Now that women's rights are acknowledged, there is no time that should be lost in ascertaining that these rights are translated into policies that will be implemented by the governments of the world, including our own.

Women's groups in the Philippines have been active in organizing and lobbying so that these rights shall be translated into policies that will be implemented by the government.

The passage of the revised law on rape involved a long process of advocacy work among Filipino men and women struggling to advance women's rights—from the time of the Ninth and Tenth Congress of the Philippines. Finally, on July 28, 1997, then Pres. Fidel V. Ramos signed into law RA 8353: "An Act Expanding The Definition of the Crime of Rape, Reclassifying the same as a Crime Against Persons, Amending for the same purpose Act No. 3815, As amended, otherwise known as the Revised Penal Code, and for other purposes." However, the implementing rules on Populations on the law were approved only last July, 2002.

On February 13, 1998, a law which provides state support to rape victims was passed: RA 8505—"An Act Providing Assistance and Protection for Rape Victims, Establishing for the Purpose A Rape Crisis Center in every province and city, authorizing the appropriation of funds therefore, and for other purposes."

In September 2000, the Philippine Legislators' Committee on Population and Development (PLCPD) commissioned a study funded by the Ford Foundation to evaluate the status of implementation and impact of the twin laws against rape, R.A. No. 8353 (The Anti-Rape Law of 1997) and R.A. No. 8505 (The Rape Victim Assistance and Protection Act of 1998), more or less three years after their passage in the Philippines.

Objectives of the study

This study aims to provide concerned legislators, women's groups and other anti-rape advocates both with new and updated

information and analysis on the rape situation, prosecution and victim assistance, and with alternative solutions and possible actions, along the themes of justice and healing.

The findings of the evaluation study could help in the exercise of the rarely exercised oversight function of the legislative branch of government.

Methodology and Limitation

On the whole, the study is not theoretical but empirical and practice-oriented, although occasional references are made to the related literature on rape, much of which are written from a feminist perspective.

The research methodology combined both macro and micro, quantitative and qualitative, national and sub-national, macro and micro, desk and field. It purposively sought to look at the rape question at several levels. Levels refer not only to territorial subdivisions (national, regional, provincial, city/municipal, and barangay) but also to institutions of the criminal justice system (the courts, the national prosecution service, and the police).

To find the human face of the rape survivors, three in-depth case studies were prepared. The study team interviewed Kim, a 40-year old successful businesswoman at the time of her rape by another businessman; Christina, a 28-year old religion teacher raped by a policeman; and Agnes Rio, a 16-year old child raped by 16 barangay councilmen.

The study team also looked into available services for rape victims, problems encountered in handling rape victims, and positive and negative experiences in assisting rape victims. Interviews were conducted among doctors and staff from nine Women and Children Protection Units (WCPUs) of the Department of Health (DOH), including five in the National

Capital Region (NCR). Sixteen police officers from 16 PNP Women and Children Concerns Desks (WCCDs) from the NCR, five female police officers from Region XI (Southern Mindanao), three policewomen officers from Camarines Sur in Region V (Bicol), and the Regional Policewomen Chief from Region VII (Central Visayas) were also interviewed. Inquiries were made among the concerned agencies mandated to implement RA 8505, namely, the lead Department of Social Welfare and Development (DSWD), DOJ, Department of the Interior and Local Government (DILG), DOH and lead NGOs in handling sexual abuse cases.

Limited time and lack of resources for field research precluded the conduct of a national or nation-wide survey, but the authors sought to piece together a reliable picture that provides both overview and in-depth view.

FINDINGS

Analysis of provisions of RA 8353 and RA 8505

Most of the basic features of a women-sensitive anti-rape law are provided in RA 8353; First, we have the **reclassification of rape from a crime against chastity to a crime against persons** (Sec. 2 of RA 8353). The significance of this is the policy change in the way the state views rape; no longer as a sexual crime but as a violation of women's human rights.

Second, the definition of the crime of rape has been expanded to include acts other than penile penetration of the vaginal orifice. In addition to the classic definition is added a non-traditional category of rape (Art. 266-A-2 of the RPC) "by any person" who, under any of the circumstances (e.g. through force, threat, or intimidation, etc.) of classic rape, "commits an act of sexual assault by inserting:"

1. "his penis into another person's mouth or anal orifice, or
2. "any instrument or object, into the genital or anal orifice of another person."

The first act of sexual assault rape is committed by a male against another person, whether male or female, and obviously still involves penile penetration. The second act of sexual assault rape may be committed by any person, whether male or female, against another person, whether male or female, and does not involve penile penetration. This latter sexual assault particularly reflects the experiences of women whose rapes of their person were not limited to penile penetration.

Third, marital rape has been criminalized, albeit implicitly. (Second paragraph, Art. 266-C of the RPC) stated this way: "In case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty." Considering that the proposal for express criminalization of marital rape was the most contentious issue of the congressional debate, even posing a threat to the final approval of the bill on third reading, the final provision should still be seen as a gain.

The twin laws of RA 8353, RA 8505 has provisions which were part of the original rape bill filed by the women's groups. These include a rape shield ruling out the sexual history of the offended party as an issue, and protective measures for rape survivors.

RA 8505's **declaration of policy** (Sec. 2) is clear enough: "It is hereby declared the policy of the State to provide the necessary assistance and protection of rape victims. Towards this end, the government shall coordinate its various agencies and non-governmental organizations to work hand in hand for the establishment and operation of a rape crisis center in every

province and city that shall assist and protect rape victims in the litigation of their cases and their recovery.”

Section 3 of RA 8505 provides that the rape crisis center shall be multi-purpose in terms of providing psychological, medical and legal services for rape victims; ensuring the privacy and safety of victims; undertaking training programs for sectors concerned; and implementing recovery programs.

RA 8505 plainly states that the police officer and the examining physician must be of the same gender as the offended party. A woman's desk shall be established in every police precinct to provide a police woman for the investigation of complaints of women rape victims. Likewise, their preliminary investigation or inquest must be assigned to a female prosecutor.

It is hoped that the provisions of the twin laws on rape shall help the rape victims/survivors in their journey towards justice and healing. But the meat of the law is in the implementation. Passing a law is only one battle in the war to changing people's attitudes in the field of women's human rights.

Impact of the laws on filing of rape cases/complaints

By the best estimates, only 20% of rape incidents are reported. As for the filing of rape cases, one lead NGO with proven track record and experience in handling sexual abuse cases, noted an increase in recent years (since 1994) from 30 to 40% in cases filed by their clients who are rape victims. It is safe to say that there are more rape victims who do not report their rapes and do not file cases. Needless to say, in these situations, the twin laws cannot be made use of by their intended beneficiaries.

In recent years, since 1997 in fact, when the new anti-rape law was passed, there has been a perceptible rise in *reported* rape

cases. Because of the lack of reliable baseline data and statistics on rape *incidence*, it is hard to say whether this reflects an increase in incidence or in reporting, and if the latter, whether this is due to the impact of the twin laws.

Those who are in the frontline receiving end of reporting, the policewomen's desk officers, tend to attribute this to increased public awareness and victim confidence coming with the establishment of new mechanisms, programs and efforts. For example, in Camarines Sur, Bicol, the report of rape cases filed for the calendar year 1999 when the PNP WCCD was opened, shows that 22 rape cases committed in previous years were filed only in 1999, thus increasing the incidence of reported cases by 100%. In the first six months of the year 2000 as many as 28 rape cases committed in the previous years were reported in addition to 24 new rape cases.

The awareness itself may not be necessarily due to the operation of the laws but also to media reports and public information and education about a new anti-rape law. There is, therefore, a crucial role for the latter to be undertaken by all concerned.

The study shows a number of factors that account for non-reporting and non-filing. The most important insight here is that it is not poverty which is the decisive factor but lack of support—familial, institutional and societal—for the rape victim, given the unfavorable socio-cultural and policy environment for her to come out.

Ms. Martha Daguno, coordinator of the Women's Crisis Center (WCC) Legal Assistance Program since 1996, states the following reasons why filing cases for rape victims is not easy. First, there is a pattern in the psychological state of mind of the survivor. There is confusion. Being victimized is a heavy burden

for the woman: there is self-blaming and guilt. Denial is a way of coping.

Ms. Daguno decries that women can not reach a position of asserting their rights, if they do not recognize that they have rights that were violated.

The second difficulty is the attitude of the outside world—the family, circle of friends, the workplace, the community. They do not know how to handle the situation, so their attitude vacillates from sympathy to blaming. This confuses the victim even more. It sometimes swings to the extreme, continuous victim-blaming. Sometimes, there's only pity and sympathy.

Third, is the state which is unsympathetic and hostile to the victim. The barangay, the police, and members of the courts are not sensitive to women because of the patriarchal nature of the state.

When asked if their experiences show improvements in the handling of rape cases after the law was passed in 1997, Ms. Daguno replied:

Sad to say, *wala* (none). Although when the law was passed, we had expectations. *Akala namin may dating talaga*. (We thought there really was a strong impact.) Maybe the difference is that more victims develop confidence to file cases because they have heard about the new Anti-rape law. But attitude wise, as I said, there has been no change in society and the state.

Implementation of RA 8353

In evaluating the implementation of the twin laws against rape during this still early period of their effectivity (more or less three years), it might be said that there is not much to report on. During the three years after the approval of RA 8353, there is only one significant SC decision applying it, particularly the

important evidentiary presumptions therein bearing on resistance or consent. There is also the first marital rape conviction under RA 8353 by a Regional Trial Court.

This is not surprising because the new law applies to rapes definitely not earlier than 30 September 1997, and it is a rare thing that, within three years time, any case filed in the RTC would have already gone all the way up to a SC decision. Be that as it may, many of the SC rape decisions during that period make mention of R.A. No. 8353 even though it was not applied based on the effectivity date. A computer search shows as many as 36 such decisions. The earliest of these decisions was that on 9 July 1998 in the case with the notable name *people vs. Esteban Victor y Penis* (292 SCRA 186). And so it may be said that not later than July 1998 the new anti-rape law had come into the decisional consciousness of the SC.

But those early gains as well as other potential gains will be negated by at least two judicial factors. First are the existing and continuing judicial doctrines, foremost being the *three fundamental guiding principles in the review of rape cases* (emphasis by the author), which perpetuate the various rape myths. And these are carried down the line of the pillars of the criminal justice system, from the SC to the lower courts and judges, to the DOJ and its public prosecutors, and to the PNP—the very implementors of the law.

Rape Myths

Though there have been no R.A. No. 8353 cases during the three-year period after its approval (October 1997 to September 2000), there are many SC decisions which state and restate what it considers as the three fundamental guiding principles in the review of rape cases. In other words, three years of the new anti-

rape law has so far had no appreciable impact on a rethinking of these principles. Because of the crucial role these principles play in deciding rape cases, the study focused on them with a view to legislative and judicial reforms that the new anti-rape law has not (yet) brought about.

The principles are invariably stated as follows:

- (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove it;
- (2) in view of the intrinsic nature of the crime where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and,
- (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.

Even not counting the third principle that is a general rule for all kinds of criminal cases, the gender bias against rape victims is very clear in these guidelines. And yet, they continue to be perpetuated in case after case of SC rape decisions, very much part of the full law on rape. We now proceed to deconstruct the first two principles.

The first principle can be traced back to the cautionary instructions given to jurors based on the words of Sir Mathew Hale, Lord Justice of the King's Bench, in the 17th century that rape is an accusation "easily to be made and hard to be proved, and harder to be defended by the party accused, tho' never so innocent." This most explicitly reflects the attitude or myth that

women lie and make false reports. These instructions have in fact been abolished already in most American states but the belief is perpetuated by the fear that men will be wrongly condemned and victimized by women's false charges: (Spenser: 56).

As for the second principle, why must the testimony of the complainant, but not the accused, be scrutinized with extreme caution? This also reflects the myth and stereotype about woman as the "lying temptress." And in Western culture, Spenser shows this can be traced back to the story of Adam and Eve in *Genesis* (55). With more reason is this attitude entrenched in Catholic Philippines.

Speaking of rape myths, especially those entrenched in jurisprudence, it is these which would undermine whatever gains were made in the new anti-rape law. It is, therefore, important to be conscious of these myths which persist lest the application and interpretation of the law be tainted by them. The 1995 Women's Legal Bureau (WLB) survey of 478 SC decisions on rape from 1961 to early 1992 sought to validate or disprove at least ten prevalent notions about rape:

1. Rape happens only to young, pretty or desirable women.
2. Rape is a crime of lust or passion.
3. Rape involves the loss of a woman's most prized possession, her "chastity."
4. Men can have sex freely with women deemed to be of loose morals because these women have nothing to lose.
5. Rape is committed by sex maniacs or perverts.
6. Rape happens in poorly lit or secluded places.
7. Sexy clothes incite men to rape.
8. When a woman's "chastity" is threatened she exerts every effort to protect it, whether by violent resistance, escape attempts, or screams for help.

9. When violated, a woman's first reaction is to tell her family, particularly her menfolk — father, brother, husband — who must be informed of the assault upon the woman's, and thus the family's, honor.
10. Rape charges are fabricated by women seeking to avenge a slight or to extort money.

Contrary to these myths and attitudes about rape, the WLB study counterposes the following summary of realities and truths based on the facts about rape:

1. Rape can happen to any woman, any time, at any place.
2. Rape is not a crime of lust or passion but an abuse of power.
3. Rape is not about chastity lost but about personhood, dignity and bodily integrity violated.
4. No woman "deserves" to be raped, even if she happens to have been wearing sexy clothes.
5. Rape can be committed by perverts and by "normal" men.
6. Delay in reporting a rape should not diminish the credibility of the report because, given the usual circumstances of rapes, such delay is, more often than not, excusable.
7. Fabrication of a rape charge is not impossible, but such possibility is negligible and not any more serious than the risk of believing fabrications of other crimes.

A recent journal article by Dan Gatmaytan, focuses on the judicial construction of the typical Filipina in SC rape decisions since 1991. The credibility of the complainant is significantly determined by using a judicially-crafted model of a typical Filipina which is basically a romanticized version of the country

lass who is modest and unsophisticated. When the complainant fits this mold, the accused is usually convicted. The atypical Filipinas among the complainants — the older, sophisticated, educated, urbanite, and those with prior sexual experience — are disadvantaged in SC rape decisions. The article's author advocates the abandonment of the use of the "typical Filipina" notion in deciding rape cases because those who do not fit this cast are unjustly held responsible for their own rape tragedy.

In his epilogue on the two new laws (R.A. No. 8353 and R.A. No. 8505), he notes that neither law seriously addressed this issue "and as a result, the Filipina still faces the dangers of judicial construction."

A coming law journal article by Josef Garcia also surveys SC rape decisions from 5 August 1991 to 26 July 1995, updating by three years the WLB study. It lists myths on rape of two kinds. The first are those which are "not at first blush found in the law but are still very much part of the law because of the way they have prejudiced rape victims. . . myths are still mostly held by society although they figure in legal doctrine every now and then through slips in the writing of judicial decisions." Among these myths are:

1. All rape victims are attractive, young women.
2. The victim provokes the rape because she wants to be raped or because she puts herself in dangerous positions for which she must be held responsible.
3. Rapists are perverted strangers in dark alleys or grassy lots, by the roadside waiting for the first woman that comes along.
4. A non-virgin suffers no real injury when raped.
5. Revealing clothes provoke rapists for which the woman should also be held responsible.

The second kind of myths on rape are those which have become part of the law itself as valid doctrines in the judicial determination of rape cases:

1. Women of loose morals (e.g., engage in pre-marital and extra-marital sex) most probably consented.
2. The same unchaste women, because of this character trait, most probably lie about being raped.
3. All women are potential fabricators of rape charges for purposes of blackmail, vengeance, etc.
4. When a woman's chastity is threatened, she will exert every effort to protect it, whether by violent resistance, escape attempts, or screams for help. If she doesn't fight back, it means she gave her consent.
5. A rape victim will always give the "hue and cry" about the assault upon her chastity by crying hysterically all the way to the police and her family and menfolk who must be notified about the assault on her, and hence, the family honor.
6. "Real rape" involves the presence of physical injuries as a result of the force inflicted upon and resisted by the woman.
7. Although the sexual encounter might have started out as rape, it is probable for women to give tacit consent by giving in, probably because they discover the joy of it.

And the myths go on. The article's author properly puts legislative and judicial reforms in perspective:

If anything, a reading of how the Supreme Court treats rape cases will suggest to the law reformer that it would take more than legislation to correct courtroom abuses suffered by rape victims throughout the years. This is because much of the cause of the suffering undergone by the victims in court is not found in the black letter of the substantial law on rape. Much of the source of abuse is the set of judicial doctrines on rape cases enunciated by the Court. Most, if not all, of these doctrines are largely based on rape mythology.

"Gender bias in the courts persist in the form of sexist beliefs about women and myths about rape crystallized as judicial dogma. Legislative reform must therefore take into account the judges and the court. A progressive and feminist rape law is but a weapon that is to be tested in the battlefield that is the courtroom. Without judicial reform to counter the traditional beliefs about women, rape victims, and rape, a great part of the abuse in the courts won't be stopped by a new rape law."

The "Second Victimization"

The second deterrent to the quest for justice and healing of rape survivors is the court ordeal, *the second victimization*, that continues to be experienced by rape complainants. This is perhaps the single biggest institutional factor that militates against reporting and especially filing of cases. It is a trauma not limited to rape complainants but one that extends to and is also felt by police officers and even psychiatrists who testify in court.

Kim, an educated businesswoman and rape survivor, wrote in her reflections on her experience, "The initial nightmare is nothing compared to the ordeal of the fight in court and in the media. I was exposed to the realities of rape and to what seems to be a never-ending anguish of having come out and told society that I have been raped and I seek redress. . . I have come face to face with trying to fight a system that is not sympathetic to the victim; rather it seeks to '*protect the defendant from languishing in jail for the remainder of his lifetime. . .*' because rape is '*. . . an accusation easy to be made, but hard to be defended by the party accused. . .*' (Acting City Prosecutor's Resolution of 7 August 1996). It is only in cases of rape that society puts the victim on trial and not the perpetrator."

Ms. Daguno of the WCC has accompanied a number of rape survivors to the fiscals and the courts. She describes the woman's ordeal:

It is like a *via dolorosa*, the victim is always upset because she is uncertain. This is part of the second victimization: she cannot sleep, she fears what the fiscal will say, the tone of his voice. The preliminary investigation alone can last from six months to one year. She needs to follow-up: those are six months of sleepless nights. She has to deal with the family, community, and state. She struggles at those three levels, *walang tulog iyan* (She doesn't sleep. She cannot sleep). The woman is fortunate if her family is immediately supportive. It lessens her suffering.

Implementation of RA 8505

Since its passage in 1998, one can say that RA 8505 has not been implemented yet. The final draft of the implementing rules and regulations still has to be approved by the Cabinet. No appropriations for the establishment and operation of its centerpiece rape crisis centers have been allocated in the budget. As a consequence, no RCCs as provided for by RA 8505 have been set up. Even the RA 8505 provision on rape shield, which requires no funds, seems to be unavailing to rape complainants in the heat of court battle.

What we have are *existing* institutions, programs and efforts addressing the various aspects of rape victim assistance and protection, including the WCPUs, WCCDs, and a number of NGO programs for victims/survivors of Violence Against Women and Children (VAWC). There are at least a handful of model "best practices" involving government, NGOs, the academe, or a combination of these. Considering chronology, it cannot be said that RA 8505 on RCCs inspired these existing efforts, especially our "best practices." Rather, it might be said that the latter can and should inspire the implementation of RA 8505 and the shaping of RCCs. Stated otherwise, we must learn

from both the positive and negative experiences of existing efforts.

Among the “best practice” which the PLCPD came across are:

The Multidisciplinary Team Strategy (MTS) project in Cebu:

The DSWD, the DOJ prosecutor’s office, the PNP Regional Office, the Vicente Sotto Memorial Medical Center WCPU (called the Pink Room) and an NGO (*Kauswagan*) are working together to provide a one-stop shop for responding to victims of child abuse. The representatives of the different agencies come together under one roof to interview the child, thus sparing her from the ordeal of repeating her story and traveling to different agencies.

The Pink Room of the Vicente Sotto Memorial Medical Center (VSMMC) in Cebu: The program, which was established in 1996, provides a one-stop shop for medical and psychological counseling needs of VAW victims. They provide 24 hour services; and all these services are free due to the full support given by the Hospital Chief. They are now in the process of helping to establish RCCs in district hospitals in Cebu by giving trainings.

The Child Protection Unit (CPU) of the University of the Philippines (UP) Philippine General Hospital (PGH) in Manila: Began in 1991, this pioneer against child abuse is classified as a tertiary child protection unit. It has the following services: integrated medical intervention, training and research; full psychosocial services; full laboratory services; and a resource center. It provides multidisciplinary direct care to maltreated children.

Project Haven of the Women's Crisis Center (WCC) at the East Avenue Medical Center (EAMC) in Quezon City: Project Haven began as a model project for a hospital-based crisis and healing center spearheaded in 1996 by the National Commission on the Role of Filipino Women supported by several government agencies. The Women's Crisis Center was designated as the implementing agency and the East Avenue Medical Center is the partner DOH hospital. It has since been renamed the Women and Children's Crisis Center and Protection Unit, intended to be a one-stop health service for survivors of battering, rape and incest and other forms of gender-based violence.

The Women Network (WOMENET) Group in Davao City: Since 1996, several women's groups comprising different sectors have been working together to advocate women's rights and mainstream gender and development concerns at all levels. The WOMENET members meet monthly to discuss and monitor cases involving rape, incest, child abuse and violence against women. Together with representatives from other NGOs and the local government, they have lobbied for the passage of the Davao Women Development Code. This code is a local translation of the Beijing Platform for Action and Philippine Laws, including RA 8353.

Recommendations of the study

With regards to RA 8353, legislative reform is not necessary, what is essential is judicial reform or more precisely reform of the justice system:

1. To reform the judicial doctrines that perpetuate the various rape myths, there could be at least two approaches, namely:

1.1 First is the more conventional and incremental changing of judicial doctrines through purposive efforts by women's legal groups or feminist lawyers in appropriate rape cases before the Supreme Court. A second, possibly faster track, approach would be the holding of symposia and dialogues with members of the Supreme Court, and for that matter other pillars of the criminal justice system, to purposively thresh out the issue of rape myths as reflected in judicial doctrines. This could include the presentation and discussion of legal papers on the matter as well as related studies from other disciplines. The latter should be an occasion for a renewal or updating of the interface between law and psychology/psychiatry, particularly on the issue of Post-Traumatic Stress Disorder (PTSD)/Rape Trauma Syndrome (RTS) in litigation. It has been said that "psychiatry has an obligation to assist the courts in accurately evaluating the various syndromes. Otherwise, . . . psychiatry may well suffer a loss of credibility and the judicial system a loss of accuracy" (Slovenko, 1995). Such symposia and dialogues on rape can be replicated at the local level, as shown by the experience of the Women Network (WOMENET) Group of Davao City.

To reform the court ordeal or abuse of rape complainants, more than symposia and dialogues will be needed. What is ultimately needed here is a new rule of court on the examination of rape complainants, following the model of the recent Rule on the Examination of a Child Witness. Women's legal groups should already think of forming a working group to draft a proposed rule. This rule might provide for the psychiatric evaluation and certification of PTSD and RTS in a rape complainant prior to the application of the rule when she is examined in court. It was a PNP officer who said, "What does justice for the victim mean? *Hindi lang ipakulong (ang rapist). Isama ang damdamin ng victim sa process ng justice system.*"

(Not merely to imprison the rapist but to consider the victim's feelings regarding the process of the justice system.) The interface between law and psychiatry could also study the amendment of the hearsay rule on evidence as far as psychiatric findings on rape victims are concerned.

While legislative reform is not as urgent as judicial reform, there is always room for improvement in the law. In RA 8353 itself, there can be some penalty reform, i.e., reform of the sentencing structure. The most important would be to remove the death penalty for qualified rape. Without going into a new debate on the abolition of the death penalty for all crimes, the death penalty for qualified rape has not been proven to deter rape but has instead shown that it tends to deter public prosecutors and judges from convicting the rapist because of the supreme penalty. The other area for penalty reform is to increase the penalties for sexual assault rape in order to bring it closer to or rationalize it with those for classic rape. Outside RA 8353, perhaps the most significant legislative reform would be a **Victim's Bill of Rights**. Let us start with a statutory one before going for a constitutional one.

With regard to the implementation of RA 8505, much of the positive experience of the "best practices" can be captured in its rich detail, consolidated and synthesized through a conference among stakeholders, which will, among others, revive and enrich the formulation of the implementing rules and regulations (IRR) for RA 8505. The Technical Working Group for the IRR or, better still, a higher level inter-agency committee of the concerned agencies led by the Department of Social Welfare and Development (DSWD), should be (re)convened to plan for such a conference.

In formulating the IRR, it would do good to map and consider what is already existing along the same or similar lines

and to learn from the “best practices” in drawing up standards for RCCs. Given the small initial appropriations of P120 million, the key link would be not so much to establish new RCCs (which should still be done where there are no centers which serve the purpose) but to coordinate, improve on and accredit existing efforts.

One key point in RA 8505's declaration of policy is for government to coordinate its various agencies and NGOs “to work hand in hand” for the establishment of RCCs in every province and city. And because these are mandated to be “located in a government hospital or health clinic or in any other suitable place,” the obvious starting places to look at are the already existing 37 Women and Child Protection Units (WCPUs) of the Department of Health (DOH). Of course, these also have their share of gaps. Government should value more than before the role of NGOs with their proven track record and experience in victim-sensitive handling of sexual abuse cases. Qualified NGO crisis centers, while obviously not part of the government structure, can at least be accredited, if not supported.

If we look at the “best practices,” a number of elements stand out, some of which can go into the standards and guidelines in the IRR for RCCs. One is the concept of a “**one-stop shop**” with all the basic services needed by rape victims. Related to this, in terms of maximization of resources, is having crisis centers which serve not only victims of rape but also other forms of sexual abuse and violence against women and children. It is best that these crisis centers can handle both women and children because women victims who are also mothers should have their young children with them while in temporary shelter, if it can be helped. In terms of physical infrastructure, the need for such shelters may be even more urgent than the physical place for the center itself where already existing.

It is important that in the “one-stop shop” RCC, the provision of medical services and examination would already include the collection of evidence with victim-sensitive technology, in short, forensic medicine. One particular piece of technology worth investing in is the colposcope which can examine patients without touching them and take photographs for evidentiary purposes. The successful experience of the MTS project in Cebu in having only one forensic interview of each victim attended by a multidisciplinary team (a social worker, doctor, police officer, and prosecutor) is a model to go for in reducing the post-rape trauma of multiple interviews. While it may not be feasible or practicable to station a lawyer in a RCC for purposes of free legal assistance or services, the RCC can develop a network of lawyers who may be called upon to come over to the RCC.

One good thing about existing efforts is that they are taking care of their own funding, much of which comes from foreign funding agencies, and so do not have to depend on the meager budgetary allocations pursuant to RA 8505 that further drain an already cash-strapped government. But the best thing about existing efforts are the “best practices.” All concerned should start spreading the good news about them as part of a sustained public information and education campaign on the new anti-rape law and its women-sensitive assumptions, on understanding rape and debunking rape myths, and on the support infrastructure for rape victim assistance and protection.

In this way, we address the rape problem not reactively but proactively, not just to prosecute rape and rehabilitate victims but also to help prevent rape in the first place through public awareness and consciousness-raising as one strategy. As one psychologist in a WCPU said, “It is very expensive to rehabilitate. I opt for prevention.” The matter of preventing rape, however,

was not the subject of this study and requires a separate, much harder study.

Lisa E. Ledray speaks of three preventive strategies: personal, community and sociocultural (206-219). Allison and Wrightsman speak of three approaches: empowered individual, situational, and societal (247-259). The twin laws against rape are meant to achieve the two imperatives of justice and healing for rape victims. Some advocates of rape law reform have warned of a "risk that the passage of the law will be viewed as a solution, will dull social sensibilities to unresolved problems, will slow the impetus for further reform. Three years after the passage of the twin laws, and with the continuing *via dolorosa* of "Kim," "Christina," "Agnes Rio," and other brave women survivors of rape who fight the good fight, win or lose, it looks like it is time again for women power to effectively monitor and participate in the implementation of the letter and spirit of these laws.

Postscript:

1. The Implementing Rules and Regulations of RA 8505 were approved last February, 2002.

2. The rapist of Cristina, one of the women who participated in the research and talked about her court ordeal, was convicted for rape, and meted *reclusion perpetua* this October, 2002.

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