

Gender Law and Transformative Justice

Adoracion P. Cruz-Avisado¹

Introduction

Gender Law and Transformative Justice is a subject matter which government lawyers have just been recently exposed to as a result of the Philippine Government's policy to make the pillars of the justice system gender sensitive. This policy is a response to the efforts of non-government organizations, alternative law groups and developmental lawyers to spearhead the mainstreaming of gender and development (GAD) in the country. Various departments and offices of the Government have initiated GAD-related projects.

In particular, the Supreme Court has created a Committee on Gender Responsiveness while the Philippine Judicial Academy (PHILJA) has established a Sub-Committee on Social Context and Gender. The Department of Justice (DOJ) has started in training some prosecutors as well as agents of the National Bureau of Investigation (NBI) in the gender-sensitive manner of handling family-related cases, especially those involving violence against women and children (VAWC). The Philippine National Police (PNP) begun sensitivity trainings for its members while the Department of Social Welfare and Development (DSWD) conducted similar seminars for its social workers.

While other government agencies and instrumentalities only recently responded to the call for gender mainstreaming and development, the National Commission on the Role of Filipino Women (NCRFW), has been purposive in extending assistance to the introduction of this important subject. The Government is commended by advocates for transformative justice in coming up with laws and policies that comply with its international commitments under various instruments, such as the Universal Declaration of Human Rights

¹ Atty. Adoracion P. Cruz-Avisado is the Executive Director of the Transformative Justice Institute (TJI) as well as the Avisado Advocacy, Consultancy, Counseling and Training Services Center (AACCTS Center); a member of the Society for Judicial Excellence and the Sub-Committee on Social Context and Gender of the Philippine Judicial Academy (PHILJA); a resource person for the National Commission on the Role of Filipino Women (NCRFW) and the Department of Justice for trainings in the Gender Sensitive Manner of handling cases; and, a member of the Board of Trustees of the Ateneo de Davao University. She teaches gender subjects at the Graduate School of the Ateneo de Davao University and is a staunch advocate of gender and development (GAD), the rule of law, peace and development, human rights, women and children's rights, and access to justice for all.

(UDHR), the United Nations Convention on the Elimination of all Forms of Discrimination against Women (UNCEDAW), the Declaration for Elimination of Violence Against Women (DEVAW), and the United Nations Convention on the Rights of the Child (UNCRC). However, while the Government is focused on passing progressive laws and policies, the structures are poor and weak in the implementation and enforcement of such laws.

To complement the efforts of the government sector and to assist in the proper implementation as well as application of the laws on women, it has become imperative for private legal practitioners to undergo trainings similar to those undergone by their counterparts in the government sector. Like the lawyers in the government sector, private legal practitioners also have to be equipped with the knowledge, skills and attitude necessary to enable them to better assist in the delivery and administration of justice. As of now, very few private legal practitioners have been given the opportunity to undergo gender sensitivity trainings or have been exposed to the special subject of Gender, Law and Transformative Justice. Only traditional subjects are often discussed during the Mandatory Continuing Legal Education (MCLE) seminars. While the new laws on women and children have been introduced in some MCLE seminars, no in-depth interactive discussion has been initiated.

While there is no substitute for an actual and interactive gender sensitivity seminar, this article will attempt to fill in some gaps in order to provide lawyers, law professors, law students and special development workers with a glimpse of the subject on Gender Law and Transformative Justice, and to encourage them to become gender sensitive when handling cases involving women and children. Hopefully, victim-blaming would be minimized if not fully eradicated.

Understanding Gender

To understand gender we also have to discuss sex. Sex is what makes one male or female. It is biologically determined. It refers to the physical characteristics of an individual, such that a male person is born with a penis and a scrotum, while a female person is born with a vagina and a uterus. Sex is constant across time and across different societies and cultures. On the other hand, gender is the culturally specific set of characteristics that explains social behavior of women and men, and the relationship between them. Gender is an analytical tool for understanding social processes. It refers to the economic, social and cultural attributes and opportunities associated with being male or female. Gender differs from sex in that it is social or cultural, rather than biological.

Gender attributes differ from society to society and change over time. Roles associated with gender are not in-born; they are learned in the early stages of childhood. These are shaped by the economy, culture, religion and traditional values peculiar to a place where an individual grows up. Accordingly, gender socialization is influenced by the family, school, religion, mass media and the State.

Family

Families tend to promote gender stereotyping or traditional concepts of gender roles through verbal instructions, verbal appellation, and activity exposures. There is gender stereotyping when the male children are allowed to go out of the house and play while the girls are restricted to doing household chores; when girls are made to play with dolls while boys are made to play with guns and other war toys; and, when girls are taught how to be gentle and kind while the boys are allowed to be rude and sometimes violent.

Gender stereotyping tends to be reinforced when people say, "*Oy! Ang anak mong lalaki ay gwapo, maraming paiiyaking babae!*" (You have a handsome son. He will make many women cry!). This connotes that a man can have multiple romantic and sexual relationships and then leave the women behind, thereby implying that it is alright for men to be irresponsible in their relationships. Likewise, the statement "*Oy! Ang anak mo babae, pambayad utang ha!*" (Your female child shall serve as payment for debts!) gives the impression that girls can be treated as property as they can be used to atone for whatever irresponsible acts their fathers committed in their previous relationships. The above statements reinforce the "macho culture."

Parents traditionally train only their female children to do household chores, such as cleaning the house, cooking, doing the laundry, and taking care of younger siblings. Ergo, when the boys grow up and become husbands they neither expect nor are they expected to perform household chores. When men in Philippine society perform household chores, they are labeled as "*under de saya*" (literally, "under the wife's skirt" or subordinated). Consequently, those who perform household chores prefer to do so secretly. Informal surveys conducted during gender sensitivity seminars showed that 25% of married Filipino men admitted to doing laundry work but only half of them wash clothes in the open where they can be seen by their neighbors or friends. They also refrain from being seen hanging clothes on the clothesline. The survey showed that only one person out of that 25% openly tells his friend "*dili ko puwede bay kay maglaba pa ko*" (I cannot join you because I still have to do laundry work). That particular person said, "I do not see anything wrong in washing clothes and letting others know what I do. I never get embarrassed because it is decent work. If I help my spouse and the children in the household chores whenever there is an opportunity to share the work, it lessens the workload of everyone, thereby giving all of us time for rest and recreation. That way, we share the joy of work and play." The rest of the male participants in the seminars nevertheless agreed that they can change their mindset and attitude towards household chores.

Schools

In schools, there are several factors that contribute to gender stereotyping, including the language used in textbooks, sex segregation system, curriculum

formatting as well as identification of choices of college degree and career options.

Textbooks used in schools refer to someone who takes care of the house as a housewife, a person who enforces the law as a policeman, one who heads an organization as a chairman. The masculine pronoun, "he" or "him," is used in referring to a lawyer, doctor, manager, president, or engineer. On the other hand, the feminine pronoun, "she" or "her," is used to refer to a nurse, secretary or teacher.

Recent developments in the educational system however, have, corrected the sexist language. More neutral expressions have been adopted. Thus, to show that either a man or a woman can take care of the household the term "homemaker" is now used instead of "housewife." Instead of saying "policemen," we now say "police officers." Instead of "mankind," we now refer to the human race as "humankind." The head of an organization or a committee is now called a "chairperson" rather than a "chairman."

Religion

Many women have made significant contributions, not just to the development of nations but also to the development of religion, particularly, the Catholic religion. The Bible mentions in the Book of Judges a woman named Deborah,² who led an army into battle and defeated the enemy. The Book of Acts cites Lydia³ who was engaged in the business of buying and selling purple cloth. The Book of Proverbs identifies a virtuous woman⁴ as a wife of noble character who performs the work of an investor, entrepreneur, career person and at the same time a homemaker. The Bible thus recognizes that a good woman need not be a housewife. Yet, the history of the Roman Catholic Church disclose that its structure and hierarchy recognize only the men leaders. As a result, women are seldom given significant roles in Church planning and decision-making despite the fact that many women have contributed to the Church's growth and history.

Mass Media

Mass media through advertisements, radio and television soap operas, and news items oftentimes depict women as mere sex objects or martyrs, thus, reinforcing the culture that leads to the human rights violations of women and children. Scantly clad women are placed side by side with cigarettes, alcoholic drinks or cars. Women are also depicted as dumb, panicky or unable to make wise decisions.

² Chapters 4 and 5, Book of Judges, Old Testament, Holy Bible (NIV)

³ Chapter 16 verses 13 to 15, Book of Acts, New Testament, Holy Bible (NIV)

⁴ Chapter 31 verses 10 to 31, Book of Proverbs, Old Testament, Holy Bible (NIV)

Worthy of praise are those instances where the media projects women as capable of performing tough jobs or decision-making, or when advertisements project men as capable of performing nurturing roles such as caring for the baby or doing household chores. These gender sensitive media productions help in raising the gender consciousness of the public and break the stereotyping of roles.

State Laws and Policies

In the past, laws barred the participation of women in certain important endeavors. They were barred from joining the Philippine Military Academy (PMA) or the Police Academy. They had no right to vote. Some academic courses in school were closed to them. There were job positions or opportunities offered exclusively to men. Married women, women with children or single mothers were subjected to discrimination.

Recently, laws have been passed to correct the discriminatory treatment of women in the Philippines including, but not limited to:

- ▶ Republic Act 7610, commonly known as the "Child Protection Law," which provides for stronger deterrence and special protection against child abuse, exploitation and discrimination;
- ▶ Republic Act 7877, the Anti-Sexual Harassment Act of 1995, which declared sexual harassment unlawful in the employment, education or training environment;
- ▶ Republic Act 8353, known as the "Anti-Rape Law," which expanded the definition of the crime of rape and reclassified the same as a crime against persons;
- ▶ Republic Act 8505, the Rape Victim Assistance and Protection Act of 1998, which provides assistance and protection to rape victims;
- ▶ Republic Act 9208, the Anti-Trafficking in Persons Act of 2003, which instituted policies to eliminate trafficking in persons especially of women and children, provided penalties therefor and established the necessary mechanisms for the protection and support of trafficked persons; and
- ▶ Republic Act 9262, the Anti-Violence Against Women and Their Children Act of 2004, which defines violence against women and their children, penalizes such acts of violence, and provides for protective measures for the victims.

Despite these progressive laws, however, there remain in the Revised Penal Code highly discriminatory provisions that promote two (2) distinct standards of morality for men and women. Article 333 holds a married woman criminally liable for adultery she should have sexual intercourse with a man

not her husband; the man who has carnal knowledge of her is equally liable if he knew her to be married. On the other hand, Article 334 holds a married man criminally liable for concubinage if he should keep a mistress in the conjugal dwelling, have sexual intercourse under scandalous circumstances with a woman who is not his wife, or cohabit with her in any other place. Evidently, the crime of concubinage is more difficult to prove than adultery.

Gender discrimination

The Asia Pacific Forum on Women, Law and Development (1990) defined "gender discrimination [a]s any act involving use of force or coercion with the intent of [maintaining hierarchic gender relations...]" The United Nations Declaration against VAW defined "gender discrimination" as any act of gender-based violence that results in psychological, physical or sexual harm of women.

Gender discrimination tends to lead to violence against women. It can be prevented or avoided with the right knowledge, skills and attitude in applying the various laws. This requires training and a change in attitude in dealing with cases involving women and children. In cases of domestic violence, for instance, it is hard to effectively correct violent behavior without an understanding of the cycle of violence. The cycle of violence refers to an established sequence of events that repeats itself over and over again. A perpetrator or abuser who is unable to control his anger inflicts harm on his wife or partner and thereafter seeks forgiveness. He then woos her, professing never to hurt her again. Once the abuser and his victim have reconciled, they go through a honeymoon phase. Soon, something will cause the abuser to become angry anew and he will again be unable to control his anger. He again hurts his wife or partner and the entire cycle is replayed. The cycle continues to repeat itself unless someone puts a stop to it.⁵

Since gender discrimination is a product of society and culture, many resist the change in attitude as well as the training. As a result, society remains partly instrumental in violating human rights of the victims and in obstructing the enforcement of the laws. When a judge refuses to issue a temporary protection order (TPO) against a man who has inflicted harm on his wife or family because of a belief that the family should remain intact at all times, that judge is actually exposing the victim to further harm and is therefore placing her life in danger. It is also possible that the woman who is forced to stay in a violent or abusive relationship can develop a battered woman syndrome (BWS)⁶ that could drive her to kill her husband or partner. A judge with a proper understanding of RA 9262 could require the abuser and his victim to undergo

⁵ Definition of Terms. Study of Adoracion P. Cruz-Avisado: Republic Act 9262 and the Women Victims of Violence in Davao City

⁶ See sections 3 (c), 26 and 28 of RA 9262.

counseling⁷ to facilitate the healing of traumatized victims and the correction and rehabilitation of the perpetrators of violence. Only when the victims have been healed or the perpetrators have been corrected or rehabilitated should reconciliation of the spouses or partners be initiated.

Progressive Laws and Policy Trail

The Philippine Government has responded very well to the call for gender and development (GAD) by ratifying international covenants and passing gender fair laws and policies through the years. It signed the Universal Declaration of Human Rights (UDHR) in 1948.⁸ In essence, the UDHR provides:

- All human beings are born free and equal in dignity and rights and they are endowed with reason and conscience and should therefore act towards one another in a spirit of brotherhood/ sisterhood (Article 1);
- Everyone is entitled to all the rights and freedoms set forth in the UDHR, regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, or the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty (Article 2);
- Each one has the right to life, liberty and security of person (Article 3);
- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms (Article 4);
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5);
- Everyone has the right to recognition everywhere as a person before the law (Article 6); and
- All are equal before the law and are entitled without any discrimination to equal protection of the law (Article 7).

⁷ See sections 40 and 41.

⁸ The Preamble of the UDHR reads:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of (hu)mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if (hu)man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

In 1980, the Philippine Government signed the United Nations Convention for the Elimination of All Forms of Discrimination against Women (UNCEDAW). Its signing the UNCEDAW coincided with the period from 1975 to 1985, which was declared by the United Nations as the International Decade for Women. During that time, issues and concerns regarding women all over the world were given much attention and focus. Below are the salient features of UNCEDAW:

- "Discrimination against women" is defined as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." (Article 1);
- Discrimination against women in all its forms is condemned and the signatories agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, they undertake (a) to embody the principle of equality of men and women in their national constitutions or other appropriate legislation and to ensure, through law and other appropriate means, the practical realization of this principle; (b) to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; and (c) to repeal all national penal provisions which constitute discrimination against women (Article 2); and
- States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation or prostitution of women (Article 6).

In compliance with our international commitments, the 1987 Philippine Constitution includes provisions on human rights and on women to ensure

Whereas it is essential to promote the development of friendly relations between nations.

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

that all forms of discrimination and bias against women would be eliminated. In particular, Article II on the Declaration of Principles and State Policies, in part, provides:

Section 11. The State values the dignity of every human person and guarantees full respect for human rights.

Section 14. The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

Article XIII on Social Justice and Human Rights provides:

Section 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.

In 1988, the Family Code of the Philippines took effect. Three gender-fair provisions were incorporated as Articles 68, 71, and 211 and these have been popularized by the advocates for gender and development. Article 68 deals with mutuality in the relationship between spouses as it provides:

The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

Article 71 provides for shared household management between spouses while Article 211 provides for shared parenting.

In 1992, Republic Act 7192, the Women in Nation Building Law, was passed, promoting the integration of women as full and equal partners of men in development and nation building. It is very clear from the provisions of this law that the restrictions and limitations imposed upon Filipino women in the past have been lifted. In part, provides :

Section 2. Declaration of State Policy. - The State shall provide women rights and opportunities equal to that of men.

To attain the foregoing policy:

1. A substantial portion of official development assistance funds received from foreign governments and multilateral agencies and organizations shall be set aside

and utilized by the agencies concerned to support programs and activities for women;

2. All government departments shall ensure that women benefit equally and participate directly in the development programs and projects of said department, specifically those funded under official foreign development assistance, to ensure the full participation and involvement of women in the development process; and

3. All government departments and agencies shall review and revise all their regulations, circulars, issuances and procedures to remove gender bias therein.

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Section 5. Equality in Capacity to Act. - Women of legal age, regardless of civil status, shall have the capacity to act and enter into contracts which shall in every respect be equal to that of men under similar circumstances.

In all contractual situations where married men have the capacity to act, married women shall have equal rights.

To this end:

1. Women shall have the capacity to borrow and obtain loans and execute security and credit arrangements under the same conditions as men;

2. Women shall have equal access to all government and private sector programs granting agricultural credit, loans and non-material resources and shall enjoy equal treatment in agrarian reform and land resettlement programs;

3. Women shall have equal rights to act as incorporators and enter into insurance contracts; and

4. Married women shall have rights equal to those of married men in applying for passport, secure visas and other travel documents, without need to secure the consent of their spouses.

5. In all other similar contractual relations, women shall enjoy equal rights and shall have the capacity to act which shall in every respect be equal to those of men under similar circumstances.

Section 6. Equal Membership in Clubs. - Women shall enjoy equal access to membership in all social, civic and recreational clubs, committees, associations and other similar organizations devoted to public purpose. They shall be entitled to the same rights and privileges accorded to their spouses if they belong to the same organization.

Section 7. Admission to Military Schools. - Any provision of law to the contrary notwithstanding, consistent with the needs of the services, women shall be accorded equal opportunities for appointment, admission, training, graduation and commissioning in all military or similar schools of the Armed Forces of the Philippines and the Philippine National Police not later than the fourth academic year following the approval of this Act in accordance with the standards required for men except for those minimum essential adjustments required by physiological differences between sexes.

Also in 1992, the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act also known as Republic Act 7610, was passed. Its Declaration of Policy in Section 2 states that:

It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial to their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention of the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.

Republic Act 7877, the Anti-Sexual Harassment Law, declares sexual harassment unlawful in the employment, education or training environment. It directs the State to uphold "the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education." It requires an employer to abide by the following mandate:

Section 4. Duty of the Employer or Head of Office in a Work-related, Education or Training Environment - It shall be the duty of the employer or the head of the work-related, educational or training environment or institution to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment. Towards this end, the employer or head of office shall:

a) Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the procedures for the investigation of sexual harassment cases and the administrative sanctions therefore.

Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.

The said rules and regulations issued pursuant to this sub-section (a) shall include, among others, guidelines on proper decorum in the workplace and educational or training institutions.

b) Create a committee on decorum and investigation of cases on sexual harassment. The committee shall conduct meetings, as the case may be, with officers and employees,

teachers, instructors, professors, coaches, trainers and students or trainees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of alleged cases constituting sexual harassment.

In the case of work-related environment, the committee shall be composed of at least one (1) representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees.

In the case of the educational or training institutions, the committee shall be composed of at least one (1) representative from the administration, the trainers, teachers, instructors, professors or coaches and students or trainees, as the case may be.

The employer or head of office, educational or training institution shall disseminate or post a copy of this Act for the information of all concerned.

On September 8, 1995 the President issued Executive Order No. 273, approving and adopting the Philippine Plan for Gender-Responsive Development. The plan was to be implemented within a period of thirty (30) years, from 1995 to 2025.⁹ During this period, all government agencies, departments, bureaus, offices, and instrumentalities, including government-owned and controlled corporations, at the national, sub-national and local levels are directed:

- 1.1 To take appropriate steps to ensure the full implementation of the policies/strategies and programs/projects outlined in the Plan;
- 1.2 To institutionalize Gender and Development (GAD) efforts in government by incorporating GAD concerns, as spelled

⁹ The rationale for the law is reflected in the following:

WHEREAS, pursuant to Section 14, Article II of the Constitution that provides "The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men," Executive Order No. 348, series of 1989, approving and adopting the "Philippine Development Plan for Women (PDPW) for 1989-1992" was promulgated;

WHEREAS, the passage of Republic Act No. 7192 otherwise known as the "Women in Development and Nation-Building Act" on February 12, 1992 and the expiration of the PDPW time frame in the same year, calls for a successor plan that shall address and provide direction for mainstreaming gender concerns in development;

WHEREAS, the National Plan for Women shall serve as the main vehicle for implementing in the Philippines the action commitments during the Fourth World Conference on Women in Beijing, China;

WHEREAS, through the concerted efforts of various government agencies and non-governmental organizations, a plan has been formulated for the purpose,

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out in the Plan, in their planning, programming and budgeting processes, but more specifically to:

1.2.1 Include/incorporate GAD concerns in the:

- a) formulation, assessment and updating of their annual agency plans;
- b) formulation, assessment and updating of their inputs to the medium/long-term development plans; and
- c) preparation of their inputs to sectoral performance assessment reports, public investment plans and other similar documents.

1.2.2 Incorporate and reflect GAD concerns in their:

- a) agency performance commitment contracts indicating key result areas for GAD as well as in their annual performance report to the President; and
- b) annual agency budget proposals and work and financial plans.

The responsibility of "mainstreaming" GAD in various government agencies was imposed on the heads of the various agencies and their respective offices, with the assistance of their Women in Development (WID)/GAD Focal Points. The initial funding therefor was to come from the appropriations of the government agencies while the budgetary requirements for the succeeding years were to be incorporated in the General Appropriations Bills to be submitted to Congress.

E.O. 273 also directs the National Commission on the Role of Filipino Women (NCRFW), in coordination with the National Economic and Development Authority (NEDA) to monitor the implementation of the GAD Plan by various government agencies, and conduct the periodic assessment and updating of the Plan every six years or upon every change in national leadership. For this purpose, the NCRFW is authorized to call upon the assistance of any government agency or instrumentality, including government-owned and -controlled corporations as well as existing inter-agency structures. NGOs and private entities are urged to assist and support in the implementation, monitoring, assessment and updating of the Plan.

On September 15, 1995, during the Beijing International Conference, the Philippine Government committed to act on the Twelve Platform for Action for Women, namely: (a) women and poverty, (b) education and training of women, (c) violence against women, (d) women and armed conflict, (e) women and the economy, (f) human rights of women, (g) women and media, (h) women and

environment, (i) women and health, (j) women in power and decision-making, (k) institutional mechanisms for the advancement of women, and (l) the girl child.

Rape as a Crime Against Persons

Until 1997, rape was considered as a crime against chastity under the Revised Penal Code. Republic Act 8353, the Anti-Rape Law, expanded the definition of the crime of rape and reclassified the same as a crime against persons. In 1998, Republic Act 8505 was passed supplementing RA 8353. RA 8505 provides assistance and protection to rape victims as follows:

Section 3. Rape Crisis Center. The Department of Social Welfare and Development (DSWD), the Department of Health (DOH), the Department of the Interior and Local Government (DILG), the Department of Justice (DOJ), and a lead non-government organization (NGO) with proven track record or experience in handling sexual abuse cases, shall establish in every province and city a rape crisis center located in a government hospital or health clinic or in any other suitable place for the purpose of:

- a) Providing rape victims with psychological counseling, medical and health services, including their medico-legal examination;
- b) Securing free legal assistance or service, when necessary, for rape victims;
- c) Assisting rape victims in the investigation to hasten the arrest of offenders and the filing of cases in court;
- d) Ensuring the privacy and safety of rape victims;
- e) Providing psychological counseling and medical services whenever necessary for the family of rape victims;
- f) Developing and undertaking a training program for law enforcement officers, public prosecutors, lawyers, medico-legal officers, social workers, and barangay officials on human rights and responsibilities; gender sensitivity and legal management of rape cases; and
- g) Adopting and implementing programs for the recovery of rape victims.

The DSWD shall be the lead agency in the establishment and operation of the Rape Crisis Center.

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Section 5. Protection Measures. At any stage of the investigation, prosecution and trial of a complaint for rape, the police officer, the prosecutor, the court and its officers, as well as the parties to the complaint shall recognize the right to privacy of the offended party and the accused. Towards this end, the police officer, prosecutor, or the court to whom the complaint has been referred may, whenever necessary to ensure fair and impartial proceedings, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial and that the name and personal circumstances of the offended party and/or the accused, or any other information tending to establish their identities, and such circumstances or information on the complaint shall not be disclosed to the public.

The investigating officer or prosecutor shall inform the parties that the proceedings can be conducted in a language or dialect known or familiar to them.

Section 6. Rape Shield. In prosecutions for rape, evidence of complainant's past sexual conduct, opinion thereof or of his/her reputation shall not be admitted unless, and only to the extent that the court finds, that such evidence is material and relevant to the case.

In 2003, Republic Act 9208, the Anti-Trafficking in Persons Act, was passed, embodying the following policy:

It is hereby declared that the State values the dignity of every human person and guarantees the respect of individual rights. In pursuit of this policy, the State shall give highest priority to the enactment of measures and development of programs that will promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons, and mitigate pressures for involuntary migration and servitude of persons, not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into the mainstream of society.¹⁰

RA 9208 calls upon the Integrated Bar of the Philippines (IBP) to coordinate with the Department of Justice (DOJ), DSWD and other NGOs to establish a mechanism for free legal assistance to trafficked persons.¹¹ It also provides that

¹⁰ See section 2.

¹¹ See section 16.

trafficked persons, being victims, "shall not be penalized for crimes directly related to the acts of trafficking enumerated in this Act or in obedience to the order made by the trafficker in relation thereto."

On March 8, 2004, Republic Act 9262, the Anti-Violence Against Women and Their Children Act of 2004, was signed into law. Section 3 (a) defines four (4) types of abuses or violence that may be committed against women and their children, to wit:

- (a) "Violence against women and their children" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:
- A. "Physical Violence" refers to acts that include bodily or physical harm;
 - B. "Sexual violence" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:
 - a. rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
 - b. acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c. Prostituting the woman or child.

- C. "Psychological violence" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.
- D. "Economic abuse" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:
 1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
 2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;
 3. destroying household property;
 4. controlling the victims' own money or properties or solely controlling the conjugal money or properties.

RA 9262 authorizes the issuance of protection orders which are designed to secure women and their children from being abused, as it provides:

Section 8. Protection Orders. A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. The reliefs granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be

issued under this Act are the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). The protection orders that may be issued under this Act shall include any, some or all of the following reliefs:

- a. Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the acts mentioned in Section 5 of this Act;
- b. Prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, directly or indirectly;
- c. Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent to the residence, remain there until respondent has gathered his things and escort respondent from the residence;
- d. Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;
- e. Directing lawful possession and use by petitioner of an automobile and other essential personal effects, regardless of ownership, and directing the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to the possession of the automobile and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;
- f. Granting temporary or permanent custody of a child/children to the petitioner;
- g. Directing the respondent to provide support to the woman and/or her child if entitled to legal support. Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld

regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court;

- h. Prohibition of the respondent from any use or possession of any firearm or deadly weapon and order him to surrender the same to the court for appropriate disposition by the court, including revocation of license and disqualification to apply for any license to use or possess a firearm. If the offender is a law enforcement agent, the court shall order the offender to surrender his firearm and shall direct the appropriate authority to investigate on the offender and take appropriate action on the matter;
- i. Restitution for actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income;
- j. Directing the DSWD or any appropriate agency to provide petitioner temporary shelter and other social services that the petitioner may need; and
- k. Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief.

Any of the reliefs provided under this section shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage.

The issuance of a BPO or the pendency of an application for BPO shall not preclude a petitioner from applying for, or the court from granting a TPO or PPO.

Domestic violence or violence against women and children is no longer considered just a mere family or a private matter. It is already treated as a public crime. Section 25 of RA 9262 provides:

Violence against women and their children shall be considered a public offense which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.

Two very important provisions of the law pertain to counseling of both the victims and the perpetrators of violence, to wit:

Section 40. Mandatory Programs and Services for Victims. The DSWD, and LGU's shall provide the victims temporary shelters, provide counseling, psycho-social services and/or, recovery, rehabilitation programs and livelihood assistance. The DOH shall provide medical assistance to victims.

Section 41. Counseling and Treatment of Offenders. The DSWD shall provide rehabilitative counseling and treatment to perpetrators towards learning constructive ways of coping with anger and emotional outbursts and reforming their ways. When necessary, the offender shall be ordered by the Court to submit to psychiatric treatment or confinement.

In his speech during the launching of the Rules of Court on Violence Against Women and Children on October 27, 2004, the Honorable Reynato S. Puno (now Chief Justice of the Supreme Court) commented on RA 9262 as follows:

RA 9262 harnessed the criminal justice system to solve the problem of domestic violence. Let me now discuss the rule approved by the High Court to implement this law. Under RA 9262, the principal weapon of the victim of domestic violence is the protective order which she can secure from the courts. Through the Rule, the High Court laid down the procedure in getting this protective order. Let me just highlight its main points.

FIRST. We took note of the fact that violence against women often takes place in families belonging to the low income group. The profile of victims of domestic violence will show that a lot of them: (a) are ill-educated; (b) suffer from financial incapacity; and (c) live in far away places where there are yet no Family Courts.

We addressed the first problem by drawing up a checklist to alleviate the difficulty of a petitioner in preparing a petition for protection order. We also prepared the standard form of the petition, whether filed by the victim or a representative. There

are boxes in the standard forms which can be checked by the petitioner without difficulty. We tasked the Clerk of Court to help a petitioner use the standard forms.

We addressed the problem of financial incapacity by exempting an indigent from the payment of docket fees and other expenses. It could happen that the offended party is not an indigent but the suddenness of the violence against her gives her no opportunity to have access to her finances and pay the fees required in filing a petition for protection order. In such an eventuality, the court is ordered to accept the petition where there is a showing of imminent danger or threat of danger to the life or limb of the petitioner.

We addressed the problem where there are yet no Family Courts in the vicinity of the victim of domestic violence by allowing the filing of the petition for protection order with the RTC, MeTC, MTC in cities, MTC or MCTC with territorial jurisdiction over the place of residence of the offended party.

SECOND. The acts criminalized by RA No. 9262 are many and far ranging. They include, among others, physical and sexual violence, psychological violence and economic abuse. These prohibited acts need to be prevented immediately for any vacillation may bring irreparable injury to the victim.

The Rule addressed this problem by granting the judge the right to issue an *ex parte* temporary protection order with a lifetime of 30 days. There need not be any fear that the judge may have no rational basis to issue an *ex parte* protection order. Under the Rule, the allegations of the petition are verified by the victim. Also, the Rule requires that the affidavits of her witnesses should be attached to the petition.

The protection order cannot be avoided by the offender by simply getting out of the territorial jurisdiction of the issuing court so it cannot be served on him. The offender can run but he cannot hide for, under the Rule, the protective order is enforceable anywhere in the Philippines.

The strict enforcement of the protective order was also taken into account by the Rule. The Rule requires law enforcement officers to submit a written report to the court within 24 hours showing how they implemented the order.

In addition, the Rule considered the personal safety of the victim of domestic violence. It requires a social worker to prepare a case study and program of intervention for the offended party, including referral to DSWD havens and other crisis intervention centers. The social worker is also mandated

to monitor compliance with the protection order by the offender.

THIRD. If there is any factor that can negate the right of a victim of domestic violence, it is judicial delay. For this reason, the Court tightened the timeline in deciding petitions for protection order. The Rule requires the offender to file his Opposition to the petition within 5 days. The opposition must be verified and must be accompanied with the affidavits of his witnesses. At this early stage of the proceedings, all the evidence of the parties - the offended and the offender - will already be before the eyes of the judge.

The Court kept the proceedings on petitions for protection order as simple as possible. Under the Rule, the offender is barred from raising in his Opposition any counterclaim, cross-claim or third party complaint. If he has a cause of action for any such claim, he should file it in a separate proceeding. Impleading other parties and interposing other issues will hinder the quick disposition of petition for protection order. In accord with this approach, the Rule also prohibits pleadings with dilatory effects like motions for extension of time to file opposition, postponements, bill of particulars, memorandum, etc.

The Rule likewise requires the holding of an early preliminary conference. During the conference, the parties are to submit their position papers. With the evidence of the parties already on hand, plus their position papers, a competent judge can dispose most of the issues of the petition for protection order.

In the event a further hearing is necessary to decide the petition for protection order, the judge has to apply the Rule on Summary Procedure. This will further assure the early termination of the proceedings.

Considering all the above policies, laws, rules and regulations, there should be no reason why the human rights of women and children cannot be upheld or why there should not already be gender equality and equity. However, the situation obtaining as of now falls short of this expectation mainly due to the prevailing patriarchal culture or the so-called "macho culture" embedded in our system. It is not very easy for people to change their mindset, outlook and attitude. It is difficult to give up privileged positions or positions of dominance and allow transformation or change. Resistance for change is pervasive, not just among the people in the government sector but also among those in the private sector. Such resistance is a reflection of how little people understand

about GAD. Some people wrongly perceive GAD as a mere battle of the sexes, like boys versus girls or men versus women.

To address the problem, the Government came up with a Joint Circular from the Department of Budget and Management (DBM), NEDA and the NCRFW on April 5, 2004. It provides guidelines for the preparation of Annual Gender and Development (GAD) Plan and Budget and Accomplishment Report. In particular, it defines GAD concepts and principles as follows:

- a) Gender and Development (GAD) - is a development perspective that recognizes the unequal status and situation of women and men in society. Women and men have different development needs and interests as a result of said inequality, which is institutionalized and perpetuated by cultural, social, economic and political norms, systems and structures. As a development approach, GAD seeks to equalize the status and condition of and relations between women and men by influencing the processes and outputs of policymaking, planning, budgeting, implementation, and monitoring and evaluation so that they would deliberately address the gender issues and concerns affecting the full development of women.
- b) Gender Equality - means that women and men enjoy the same status and conditions and have equal opportunity to realize their potentials and to contribute to social, political, economic and cultural development.
- c) Gender Equity - means giving more opportunities to those who have less and those who are historically and socially disadvantaged based on their needs for them to operate on a level playing field. Focusing on the needs of women does not mean discriminating against men or putting them at a disadvantage. The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (UN-CEDAW) recognized the need to remove the biases against and provide special attention to women through affirmative action. It is a temporary measure that will be discontinued when the objectives of equality of opportunity and treatment have been achieved.
- d) Gender Equality and Women's Empowerment Framework (GEWEF) - Gender equality and women's empowerment are attained through an interconnected cycle of strategies and interventions progressing along five levels: welfare, access,

conscientization (consciousness-raising), participation, and control.

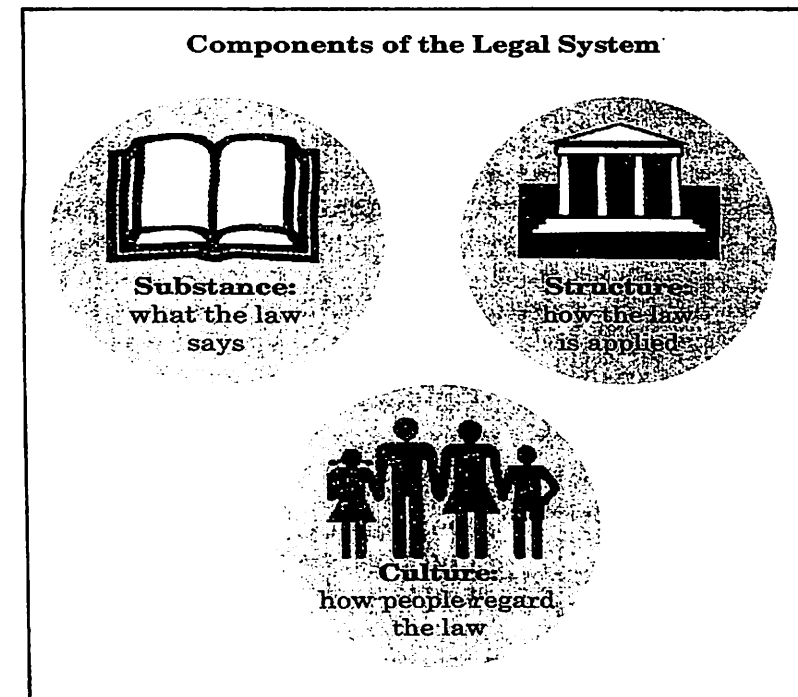
- e) Gender Mainstreaming - is the Philippine government's strategy for making agencies work for women's empowerment and gender equality. It is the process of analyzing existing development paradigms, practices and goals; assessing the implications for women and men of existing and planned actions in legislation, policies, programs, projects and institutional mechanisms; and transforming existing social and gender relations by consciously integrating gender concerns in development goals, structures, systems, processes, policies, programs and projects.

At the agency level, gender mainstreaming means raising people's GAD awareness and building GAD-related capabilities; putting in place policies, structures, systems, and mechanisms that would facilitate and institutionalize the pursuit of gender equality and women's empowerment; applying GAD-related skills and tools to develop programs, activities and projects addressing gender issues; continuously implementing, monitoring, evaluating and enhancing the agency's gender mainstreaming and women's empowerment efforts; and incorporating GAD in all aspects of the agency's operations.

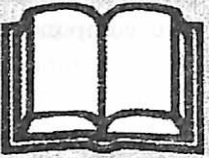
- f) Women's Empowerment - is a goal of and an essential process for women's advancement. It is the process and condition by which women mobilize to understand, identify and overcome gender discrimination and achieve equality. Women become agents of development, and not just beneficiaries. This kind of participation is development and enables them to make decisions based on their own views and perspectives. To empower women, access to information, training, technology, market, and credit is necessary.

Why Transformative Justice?

As pointed out earlier, despite the fact that we have progressive laws and policies in this country, the structures of justice are weak in the area of implementation. The factors that affect implementation of the laws are better presented in Margaret Schuler's illustration of the components of a legal system, as shown below:¹²




¹² Schuler, Margaret (1992). *Legal System*. ed. Freedom from Violence: Women Strategies from Around the World. New York: UNIFEM




Substance:
What the law says

Substance: (Laws, constitutions, rules, regulations, etc.)



Structure:
How the law is applied

Structure: (Courts, law enforcement, administrative agencies, etc..)



Culture:
How people regard the law

Culture: (Share attitudes and behaviors toward the law)

Some law enforcers reportedly insist on treating VAWC as a private matter. Some of them even trivialize VAWC cases by labeling them as nuisance. In addition, lack of sufficient knowledge of the laws as well as their implementing rules and regulations hinder the effective implementation of the laws. Oftentimes, only junior police officers or those in lower positions attend gender sensitivity seminars. As a result, high ranking officers remain unable to fully appreciate the manner by which the laws on women and children should be enforced or implemented.

Some public prosecutors reportedly badger complainants into settling cases, especially if respondent is well-known or is a famous or influential person. Some are even instrumental in the delay of case disposal. Some are insensitive to the feelings of a child. Due to gender insensitivity some of them even blame the victims for the crimes committed against them. Similarly, some lawyers belonging to the Public Attorneys' Office (PAO) reportedly discourage women from filing cases against their husbands. Some of them are likewise gender insensitive and resort to victim blaming.

Despite the training seminars, the "macho culture" makes acceptance of women's rights an uphill battle even among judges. The traditional mindset of judges and gender insensitivity make victim blaming highly prevalent. Some judges choose to disregard expert opinions on behavior of victims of VAWC, such as post traumatic stress disorder (PTSD). Lack of knowledge on laws regarding women's rights among the court personnel also hinders them from performing their mandated tasks.

Frequent postponement of cases is a great financial burden for the victims. Many of them are poor and can hardly afford to pay for the cost of their transportation in going to and from the court. With women who are earning, it is equally burdensome as they have many financial concerns and a day's absence from work is a great loss to them. It also constitutes a great emotional burden on the victims who feel that their cases in court are not proceeding in accordance with law.

The DSWD and the local government's social development offices lack adequate facilities for women and children whose rights have been violated. Likewise, there is no shelter offered to perpetrators of violence who are required to stay away from home in cases where protection orders are issued against them.

According to those working at the Bureau of Jail Management and Penology (BJMP), they lack adequate facilities, proper security and safety measures for women inmates. There are not enough women jail guards or personnel for women's correctional facilities. There are also reported cases of sexual abuse, and corrupt and abusive practices by those who are supposed to protect women detainees. Minors are not immediately referred to the DSWD and are maltreated. In addition, there is no separate correctional institute for women in Mindanao. As a result, women who are meted out a sentence of imprisonment of more than three (3) years are brought to Mandaluyong in Metro Manila

unlike their male counterparts who are brought to the Davao Penal and Prison Farms (DPPF) or similar other facilities in Mindanao. Thus, it is easier for the loved ones and families of convicted men to visit them than for the loved ones and families of convicted women to do so. At present organization like the WOMYNET, Soroptimist International, Transformative Justice Institute, BJMP the JVA of TADECO are working closely with the Department of Justice in putting up the much needed Correctional Institute for Women (CIW) in Sto. Tomas in Davao del Norte.

Anent the mindset of those implementing the laws on women, a number of private legal practitioners frustrate the implementation of the same when they blame the victims of violence by asserting that a woman deserves to be raped because she stayed out late at night or she went to the club and got drunk. While it is ideal that people should not get drunk, in reality many people do, and this is true for men and women alike, whether minors or adults. The drunken state of a girl or a woman does not, however, justify her being raped. Nothing does. The blame entirely belongs to the person who takes advantage of the weakness of a woman or a girl and takes from her what is not willingly offered.

It is also wrong to justify rape or sexual harassment of a woman with the fact that she was wearing a sexy dress. Every person is entitled to wear any outfit that suits him or her. Significantly, many of those who are raped were wearing casual clothes when the acts of rape happened. In countries in the Middle East, some women are covered from head to toe and they still get raped. In a place in South Africa, women are almost naked but there are no incidents of rape reported because men highly respect the women and girls in their community.

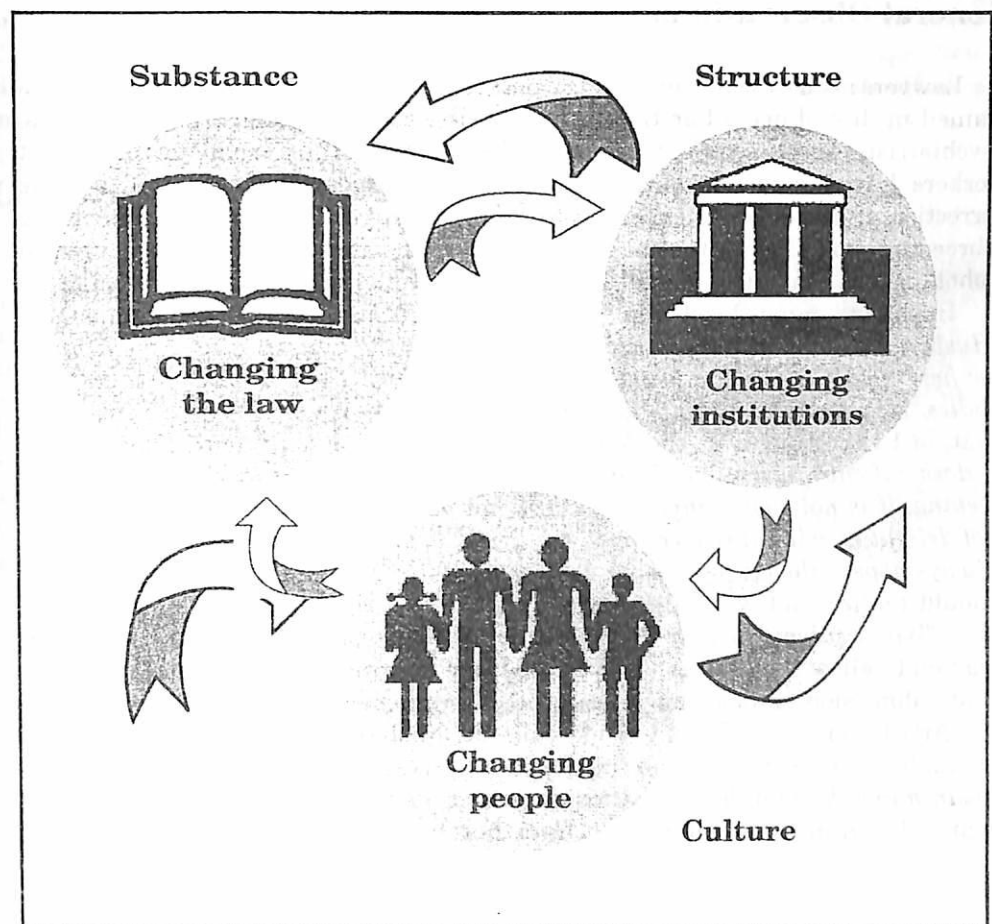
Many people, including lawyers, also believe that only pretty women get raped. So when the physical appearance of the rape victim does not conform to their standard of "beauty" they refuse to believe that she was raped. It is a fact that very young girls and very old women get raped regardless of how they look. Rape happens because of the mindset of the perpetrator.

Battery of a woman is likewise not justified by her constant nagging or refusal/failure to cook a meal. There can be no excuse for abuse.

When society shares the mindset of the perpetrators of abuse, curbing the abuse becomes really difficult. For as long as the individuals tasked with the administration of justice conform to such belief, there will always be miscarriage of justice. The refusal to set aside biases especially if one is tasked to administer justice can cause so much damage not only to individuals and/or family members but also to society at large. Studies show that due to gender biases in the justice system many women and children continue to suffer abuse at home. Dysfunctions in the family are not corrected. As a result, many children tend to hate their fathers. Workers in a rehabilitation center for drug dependents here in Mindanao reported to the Transformative Justice Institute that all of the drug dependents in their center claim that they have

abusive family situations and that they hate their fathers. Whenever children are exposed to violent situations, they become potential abusers themselves. When the abusive situation in a family is not corrected, the children are at risk of becoming victims themselves or even criminals.

It illustrates how strategies target actions toward the location of the problem within the system. It is for this reason that an accurate analysis needs to be undertaken. The graph also illustrates the dynamic interaction of strategies on the various components.



If the location of the problem is analyzed to be in:	The strategy will tend to emphasize:
• what the law says	• changing, abolishing or creating new laws and policies
• the structures of law enforcement	• engaging, using challenging institutions
• attitudes and behaviors of people	• enabling, empowering, educating, challenging people

General Observations

Lawyers need to be receptive to the possibility of learning from professionals trained in disciplines other than law, like the social workers, psychologists, psychiatrists, social scientists, anthropologists and other social development workers. Lawyers need to work with these other professionals to facilitate the correction of domestic violence and to help prevent the home from becoming a breeding ground for potential criminals. Doing this would be a step toward upholding the human rights of everyone, men, women, boys and girls alike.

Husbands must heed the words of the Apostle Paul in Ephesians, "*Husbands, love your wives, just as Christ loved the church and gave himself for her.*" In the same way, husbands ought to love their wives as their own bodies. He who loves his wife loves himself."¹³ They must likewise remember that, in 1 Corinthians 13, the Apostle Paul says, "*Love is patient, love is kind. It does not envy, it does not boast, it is not proud. It is not rude, it is not self-seeking, it is not easily angered, it does not keep record of wrongs. Love does not delight in evil but rejoices with the truth. It always protects, always trusts, always hopes, always perseveres. Love never fails.*"¹⁴ Wives, on the other hand, should realize that when the Apostle Paul wrote in Chapter 5 of Ephesians that "*Wives submit to your husbands as to the Lord,*"¹⁵ he did not mean for women to allow themselves to be treated like doormats. Bible scholars stress that submission to husbands refers to showing them respect.

Article 68 of the Family Code calls on husbands and wives to observe mutuality of love, respect and fidelity in marriage. The belief that "*ang lalaki bisan minyo kung duha ka metros na gawas sa tugkaran ulitawo na pud*" (a married man once two meters away from their house is single again) encourages,

rather than discourages, a man violating his matrimonial vow of fidelity. The belief is somehow reinforced when into a lawyer espouses it. Similarly, when men say, "*wala ko'y anak, ang asawa lang nako ang na'ay anak*" (I do not have children, only my wife has children) or "*ikaw man gud inahan wala nimo tudlui pag-ayo imong anak*" (as a mother, you have not taught your children well), these statements mirror the belief that men do not consider themselves in any way responsible for the upbringing of their children, which is a failure to comply with their obligation under Article 211 of the Family Code on shared parenting.

It bears stressing though that the protection of women and children does not always call for the permanent separation of family members. Sections 40 and 41 of RA 9262 provides for counseling and psychological/psychiatric therapy for the entire family. Counseling and therapy can, in certain cases, rehabilitate the abuser and, in many cases, help the victims to heal. Programs for counseling on marriage and family, as well as therapy, are offered by the DSWD, some Church-based organizations and NGO groups. Lawyers can encourage their clients to avail of these programs or refer them to the establishments offering programs when their clients wish to avail of such programs.

Conclusion

Today, the Philippines ranks 6th among nations that observe international policies of gender equality because of the progressive laws and policies that are already in place. That ranking can nevertheless still improve if everyone, especially lawyers, would help in the proper implementation of the laws. They can take part in the various programs initiated by the Integrated Bar of the Philippines (IBP), for instance, which are designed to achieve the needed change or transformation. Edwards (1989) quoting a development analyst said, "*We cannot change the world successfully unless we understand the way it works; but neither can we understand the world fully unless we are involved in some way with the process that change it.*"



¹³ Chapter 5 verses 25 and 28, Book of Ephesians, New Testament, Holy Bible (NIV).

¹⁴ Chapter 13 verses 4 to 7, Book 1 Corinthians, New Testament, Holy Bible (NIV).

¹⁵ Chapter 5 verse 22, Book of Ephesians, New Testament, Holy Bible (NIV).