

assessment, such as, "If she wants him back, I am not going to say no;""He can't be that violent if she wants him back"; She's lying and made up the whole thing". Rather than unquestionably subscribe to these stereotypes, judges should inquire into the context and understand factors that may affect the disposition of the woman victim in the case such as financial pressures or psychological inability to push away the batterer.

It must be emphasised that judges have be aware and understand the contexts in which they are making their decisions. "Contextual judging," or the consideration of social, economic, cultural and other factors that affect the litigants' situation is necessary to ensure fair and equitable judgments, particularly in cases involving violence against women. As demonstrated in the case of R. v. Ewanchuk where the trial court acquitted the accused of raping the complainant because of the way she dressed, judges should be wary of gender stereotypes underlying their judgments. Improper decisions have far reaching negative consequences on women's access to justice than just the failure of the complainant to seek judicial relief.

Advocating for Feminist Legal Theory and Practice¹⁶

Feminist Legal Theory and Practice (FLTP) is a framework of engaging with the law as a double-edged tool that has both transformative as well as oppressive attributes. It seeks to dissect, engage with and transform laws, legal practices and the systems that shape and inform them from a feminist perspective grounded in human rights. FLTP training conducted by the Asia Pacific Forum on Women, Law and Development (APWLD) examined:

- the starting point of FLTP, which is the recognition of the intersecting oppressions of women because of their sex, ethnicity, caste, class, religion, sexual orientation and other status;
- evolving feminist theories and principles and human rights standards that are used in the analysis of women's legal situations, taking into account issues around feminism and human rights;
- laws, as institutions, at the national and international level, for their role in women's oppression and what they can contribute to addressing it. Given the plurality of legal systems in many Asian and Pacific countries, customary and religious laws are also examined;
- theories, concepts and issues around feminism, human rights and laws that are considered in framing, planning and implementing strategies.

In essence, FLTP challenges the traditional notion that law is a neutral, objective, rational set of rules, unaffected by the perspective of those who possess the power inherent in legal institutions. It seeks to address the social, cultural and political contexts that shape legal systems and explores how the application of a feminist perspective to the law can transform women's legal situations. It also allows for greater understanding of gender, discrimination, law and human rights that are crucial when identifying and discussing issues encountered by legal advocates when addressing gender issues.¹⁷

16. Presentation of Virada Somswadi, Professor, Chiangmai University, Thailand, 4 September 2013

17. Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA) web site, <http://www.hurights.or.jp/archives/asia-pacific/section1/11%20Asia%20Pacific%20Forum%20on%20Women.pdf> accessed 25 September 2013