

- **if the accused was able to proceed to ejaculation, then the rape victim did not resist the sexual act and it is unbelievable for a man in his sixties to commit rape**
- According to the court, if the private complainant is to be believed, even with such resistance and pain as she implied by her testimony, the accused was still able to proceed to the point of ejaculation. "Considering that the accused in this case is already in his sixties, the implied sexual prowess necessary to achieve what the private complainant claims happened is simply unbelievable."

The CEDAW Committee in its Views and Recommendations stated that the Philippines as a State party is responsible for judicial decisions that violate its Convention. It is obliged to take appropriate measures to modify or abolish not only existing laws and regulations, but also customs and practices that constitute discrimination against women under Article 2 (c) and (f) and Article 5 (a) read in conjunction with Article 1 of CEDAW and General Recommendation No. 19. It is directed to pay the complainant appropriate compensation commensurate with the gravity of the violations of her rights.

The CEDAW Committee, explained in detail:

The guiding principle used by the courts that an accusation for rape can be made with facility' reveals in itself a gender bias.... Stereotyping affects women's right to a fair and just trial and that the judiciary must take caution not to create inflexible standards of what women or girls should be or what they should have done when confronted with a situation of rape based merely on preconceived notions of what defines a rape victim or a victim of gender-based violence, in general.

Rape constitutes a violation of women's right to personal security and bodily integrity, and its essential element is lack of consent.... In this regard, the Committee stresses that there should be no assumption in law or in practice that a woman gives her consent because she has not physically resisted the unwanted sexual conduct, regardless of whether the perpetrator threatened to use or used physical violence.

The CEDAW Committee advised that the definition of rape in the Philippine Penal Code should be amended to include lack of consent as an essential element of the crime. It recommended appropriate and regular training on CEDAW, its Optional Protocol, and general recommendations, in particular General Recommendation No. 19, for judges, lawyers and law enforcement personnel. The training should include an understanding of crimes of rape and other sexual offences in a gender-sensitive manner so as to avoid re-victimization of complainants and to ensure that personal mores and values do not affect decision-making.