

In the submission before the CEDAW Committee, the complainant stated that the decision was discriminatory as defined in Article 1 of the Convention in relation to General Recommendation No. 19 on Violence against Women. According to the complainant, the ruling violated the positive obligations of the Philippines as a State party under Article 2 (c), (d) and (f) of the Convention to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions, including national tribunals, act in conformity with this obligation.

The complainant also argued that the decision was rendered in bad faith and without basis in law and in fact, which caused her great injury. It relied upon gender-based myths and misconceptions about rape and rape victims and violated her rights to a fair, impartial and competent tribunal:

When the rules on criminal procedure speak of proof beyond reasonable doubt as a requirement for conviction, it presupposes a fair, impartial and competent tribunal. A decision that is based on gender-based myths and misconceptions or one rendered in bad faith could hardly be considered as one rendered by a 'fair, impartial and competent tribunal'.

The following gender-based myths and stereotypes, without which the accused would have been convicted, were pointed out in the complainant's submission to the CEDAW Committee:

- **rape charges can be made easily** - Without citing statistics or empirical data, the Supreme Court established in a long line of cases a guiding principle that "unfounded charges of rape have frequently been proffered by women actuated by some sinister, ulterior or undisclosed motive." *People vs. Salarza* (1997);
- **a rape victim must try to escape at every opportunity** - When the judge ignored the evidence of the complainant's struggles to escape, the judge, in effect, blamed the complainant for employing ineffective means and failing to avoid the rape. "The responsibility for the sexual assault is laid at the door of the victim for not detecting and preventing it from happening, and not upon the felon who schemed and caused the event to happen." (Philippine Supreme Court Associate Justice Florenz Regalado in his dissenting opinion in *People v. Salarza*: 1997);
- **to be raped by means of intimidation, the victim must be timid or easily cowed** - By negating the rape of the complainant who, as admitted by the judge, was not a timid woman because "she had the courage to resist the advances of the accused," the court perpetuates a stereotype of a rape victim and suggests that the law protect only those who conform to this stereotype. The self-assured, sophisticated, educated, urbanite, among others, are immediately disadvantaged;
- **to be raped by means of threat, there must be a clear evidence of direct threat** - The court posited that there was no evidence of a gun or a direct threat to the complainant. Rather, the accused is "a Lothario, a dirty old man trying to seduce her with offers of material gain and placate her with promises that he would take care of her." The court ignored evidence presented of the complainant's struggle, including testimonies of three psychiatrists on rape trauma and the psycho-social consequences of rape;