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Laws on Violence against Women in the Philippines

Expert Paper prepared by:

Rowena V. Guanzon*

Professor, University of the Philippines College of Law
Steering Committee Member, Asia Cause Lawyers Network

** The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

Background:

Since 1995, violence against women (VAW) has captured the attention of the government and legislators in the Philippines, propelled by the demand of a growing women's human rights movement and the Convention on the Elimination of All Forms of Discrimination Against Women, its Optional Protocol¹ as well as other international conventions. The Beijing Conference on Women in 1995 heightened the demand of women's rights advocates for laws protecting women from violence.

Progressive reforms in laws protecting women was brought about by several factors beginning with the democratization process that began in the 1986 People Power Revolution after the fall of the Marcos dictatorship, the 1987 Constitution² that has specific provisions on the rights of women and fundamental equality before the law of men and women, the increasing number of women's organizations in the provinces with links to Metro Manila based women's rights organizations,³ and the participation of women legislators who are becoming increasingly aware of the need for gender equality and the elimination of VAW. This period marks the contribution of women legislators who were elected in the 1988 elections and thereafter⁴.

Laws on VAW before the 1987 Constitution*In Criminal law:*

¹ Ratified by the Philippine Senate on November 12, 2003.

² The 1987 Constitution was formulated by a Constitutional Commission composed of sectoral representatives appointed by former President Corazon C. Aquino.

³ Such as Kalayaan, Pilipina, Women's Crisis Center, Inc., SIBOL, Likhaan and Kalakasan.

⁴ Women legislators comprise only about 10% of total members of the House of Representatives and at present, (2008) there are only four women senators out of twelve (12).

Before special laws addressing VAW were passed, women could only resort to the Revised Penal Code⁵ for offenses committed against them by their husbands such as physical injuries or attempted or frustrated parricide. If committed by their intimate partners, they could be charged for physical injuries, attempted or frustrated homicide, or rape. A woman could not charge her husband with rape. There was no offense of “battering,” so that the offense would fall under “physical injuries.” There was no offense called “sexual harassment,” and instead, such acts would fall under “Acts of Lasciviousness.”⁶

Other forms of violence, e.g., verbal, emotional, psychological, or economic abuse (such as deprivation of support) were not punishable under the Revised Penal Code or any special law before the Anti-Violence Against Women and Their Children Act of 2004 were passed.

There was no recognition of crimes against women as gender-based violence. Rape was classified as a “crime against chastity,” until it was amended as a “crime against persons.” Its classification as a crime against chastity reflected the gender bias against women and stereotyping about rape, which required women to prove in court that they were chaste or “virgins” so that the judges could believe that they were indeed raped, even though “chastity” is not an element of the crime.

In Civil Law:

Before the Family Code of the Philippines (August 1988), there were provisions in New Civil Code that treated the wife as a subordinate subject of the

⁵ Enacted on January 1, 1932

⁶ Punishable with imprisonment of 6 months and 1 day to 6 years. For offenses with penalty of less than (6) years imprisonment, the first –time offender can apply for probation and avoid imprisonment.

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husband. For example, the husband was the sole administrator of the conjugal partnership. Under the Family Code, the husband and the wife now have joint administration of the conjugal or community property. In reality, the husband controls the conjugal or community property, although the law provides that in case of disagreement, the husband's decision shall prevail but the wife can go to court to void the contract entered into by the husband within five (5) years from his action⁷.

Battered women have no easy recourse because there is no divorce law in the Philippines.⁸ Instead, the Family Code provides for "psychological incapacity" as the only ground for nullity of marriage.⁹ It provides for legal separation on the grounds of *repeated* physical abuse, grossly abusive conduct, abandonment for at least one year and attempt on the life of the spouse. A woman has to prove physical abuse committed at least two times before she can be granted legal separation and forfeit the share in the conjugal or community property of the guilty husband in favor of common children.

The 1987 Constitution

There are provisions on women in the 1987 Constitution which were absent in the previous Constitution. These, as well as UN Conventions, are the basis for the special laws protecting the rights of women. They are as follows:

ART II. Declaration of State Principles and State Policies

PRINCIPLES

⁷ FAMILY CODE OF THE PHILIPPINES, Art. 124.

⁸ The Philippines is the only country in Asia that has no divorce law, and the only other country aside from Malta that has no divorce law all over the world.

⁹ Art. 36 of the Family Code of the Philippines was patterned after Art. 39 of the Canon Law.

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Sec. 2. The Philippines renounces war as an instrument of national policy, and adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

STATE POLICIES

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

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

ART XIII Social Justice and Human Rights

Sec. 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.

Laws on Violence Against Women (VAW)

Since 1995 there are six (6) laws on VAW in the Philippines, and a Family Courts Act¹⁰ that provides for the jurisdiction of Family Courts in cases involving domestic violence, violence against women, and cases wherein the complainant or defendant is a child. These are the Anti-Sexual Harassment Act of 1995, the Anti-Rape Act of 1997, the Rape Victims Assistance Act, An Act Declaring Unlawful the Matching of Filipino Mail Order Brides to Foreigners, Anti-Trafficking in Persons Act of 2003, and Anti-Violence Against Women and Their Children Act of 2004.

¹⁰ Republic Act No.8369, (1997).

**The Anti –Sexual Harassment Act of
1995 or Republic Act No. 7877 (February
14,1995)**

The Anti-Sexual Harassment Act of 1995 covers work, education or training-related sexual harassment. It requires employers in the public and private sector to create a committee on decorum and investigation of cases on sexual harassment, and to promulgate policies and rules on sexual harassment. However, it has a restricted definition of the offense, which requires that the offender has to have authority, influence or moral ascendancy over the victim, thus excluding peer sexual harassment. The penalty of imprisonment of one month to six months or a fine or both fine and imprisonment is too light and does not deter offenders. Because the penalty is less than six years imprisonment, a first-time offender can escape jail term by applying for probation.

The Civil Service Commission has a more progressive Administrative Disciplinary Rules on Sexual Harassment (hereafter referred to as the “Administrative Disciplinary Rule”) which applies to all officials in government, including presidential appointees and elective officials, state colleges and universities, including government–owned or controlled corporations. This Administrative Disciplinary Rule defines sexual harassment as “an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by a government employee or official in a work-related training or education related environment of the person complained of.” It includes sexual harassment by a peer, by a person of lower rank, or of the same sex. It provides a procedure which is easy to use, and imposes appropriate penalties for grave, less grave, and light offenses, ranging from suspension to dismissal.

The Supreme Court also has its administrative rule on sexual harassment covering all employees but excluding judges. The latter are covered by the New Code of Conduct for the Judiciary. The Supreme Court has dismissed judges who were found guilty of sexual harassment.

The Anti-Rape Act of 1997 or Republic Act No. 8353 (September 30, 1997)

This law amended the provisions on Rape in the Revised Penal Code¹¹. It is notable for its gender perspective in the law and in the process of law making. Legislators, women's human rights advocates and organizations were involved in a participatory process which led to a progressive quality of the laws on VAW starting 1997, and the use of UN Conventions as the basis for the state policies in these laws. The role of women's rights organizations¹² was notable in the passage of Republic Act No. 8353 and other laws addressing VAW that followed.

Some salient features of the Anti-Rape Act of 1997 are :

- a. Women, girls, men and boys can be complainants in rape, because aside from rape by carnal knowledge of a woman through force, threat, intimidation, when offended party is deprived of reason or otherwise unconscious, or by means of fraudulent machination or grave abuse of authority, and when the offended party is under twelve (12) years old or is demented even though none of the circumstances above mentioned is present, the law provides for rape by sexual assault,

¹¹ REVISED PENAL CODE, Art. 266-A, 266-B, 266-C, and 266-D.

¹² SIBOL, Women's Crisis Center, Inc., Democratic Socialist Women of the Philippines, among others.

committed by inserting the penis into another person's mouth or anal orifice, or any instrument or object, into the genitalia or anal orifice of another person

- b. Marital rape is punishable, although forgiveness by the wife erases the liability.

Unlike in Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 1994, the Supreme Court does not have a Rule specifically for trial of rape cases, which could, for example, include the rape shield rule and the decorum for lawyers, judges and prosecutors in the conduct of the trial. The rape shield rule for women victims of rape is provided for in Section 6 of Republic Act No. 8505 or the Rape Victims Assistance Act, not in the Anti-Rape Act of 1997.

**Rape Victims Assistance Act or Republic Act
No. 8505 (February 13, 1998)**

After the Anti-Rape Act of 1997, Republic Act No. 8505 was passed which provides for assistance and protection for rape victims, and mandates the establishment of a rape crisis center in every province or city. These centers should provide psychological counseling, medical services, free legal assistance, ensure privacy of victims, outlines the duties of the police, and mandates training programs on human rights and gender sensitivity of medico-legal officers, social workers, *barangay* (village) officials, law enforcers, public prosecutors and lawyers.

The rape shield rule is provided for in Section 6 of this law which provides that, past sexual conduct, opinion thereof or reputation of the complainant may not be asked, although it may still be allowed by the judge if it is relevant. The major problem with this law is the lack of funds of local government units (provinces, cities and municipalities), which are tasked with putting up rape crisis centers with trained personnel.

**An Act declaring unlawful the matching of
Filipino mail order brides to foreigners or
Republic Act No. 6955 (February 13, 1988)**

This law penalizes the matching of Filipino women for marriage to foreigners by “mail order.” The penalty is imprisonment of not less than six years and one day but not more than eight years and a fine, and if the offender is a foreigner he shall be deported and forever barred from entering the country after serving his or her sentence.¹³

**Anti-Trafficking in Persons Act of
2003 or Republic Act No. 9208 (May
26, 2003)**

It is in this law and the Anti-Violence Against Women and Their Children Act of 2004 where UN Conventions are cited in the section on State Policies, specifically, the UN Declaration on HR, the UN Convention on the Rights of the Child, UN

¹³ A German national was convicted under this law by the Honorable Judge (now Court of Appeals Justice) Edgardo De Los Santos.

Convention on the Protection of Migrant Workers and their Families, UN Conventional Against Transnational Organized Crime including its Protocol to Prevent, Suppress, and Punish Trafficking In Persons, Especially Women and Children. The Senate was keen on passing the Anti-Trafficking in Persons Act after it had ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in persons, Especially Women and Children. As a result, the law defines trafficking in persons following the definition the UN Protocol.

The salient features of this law are:

- a) It emphasizes the vulnerability of victims, so that trafficking can be committed with or without the consent of the trafficked persons, who are considered victims.
- b) It imposes a penalty of 20 years imprisonment and a fine for acts of trafficking and 15 years and a fine for acts that promote trafficking
- c) The penalty is maximum (life imprisonment) when the victim is below 18 years old, when offender a syndicate of three or more, when offender is an ascendant, parent, sibling, guardian or person who exercised authority over the victim, or a public officer or employee or military or law enforcer, or committed by a syndicate of three or more persons or if committed against three or more persons, when the trafficked person is recruited to engage in prostitution with any member of the limitary or law enforcement agencies
- d) It penalizes the person who buys or engages the services of a trafficked person
- e) Trafficking is a public crime, so that any person who has personal knowledge of the crime may file the complaint

- f) It provides for mandatory services for trafficked persons such as emergency shelter, counseling, free legal services, medical or psychological services, livelihoods and skills training, education assistance.
- g) It provides for an Inter-Agency Committee on Trafficking composed of government agencies and non-government organizations¹⁴. The Inter-Agency Committee formulated the Implementing Rules and Regulations for this law, describing the duties of implementers and guidelines for compliance¹⁵.

**Anti-Violence Against Women and
Their Children Act of 2004 or
Republic Act No. 9262 (took effect on
March 27, 2004)**

The Anti- Violence Against Women and Their Children Act of 2004 (hereinafter referred to as the “Anti-VAWC Act”) is the result of a decade of advocacy of victim-survivors, women’s human rights advocates and organizations, women legislators, government agencies and the National Commission on the Role of Filipino Women¹⁶. The passage of this law marks the state’s compliance with its obligations under the Convention on the Elimination of Discrimination Against Women (CEDAW) which the Philippines ratified in

¹⁴ Department of Justice, Department of Social Welfare and Development, Department of Interior and Local Government, Philippine National Police, National Commission on the Role of Filipino Women, and three non-government organizations including the Coalition Against Trafficking in Women-Asia Pacific.

¹⁵ In *Abakada Guro Party List et al. v. Hon. Cesar Purisima, et al.*, G.R. No. 166715, 14 August 1994, the Supreme Court held that “Administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law.

¹⁶ The Chairperson of the National Commission on the Role of Filipino Women was Aurora Javate De Dios, former member of the CEDAW Committee. Among the women’s rights organizations that worked for the passage of the law were: SIBOL, Women’s Crisis Center, Inc., Democratic Socialist Women of the Philippines, and Kalakasan. Among the legislators who sponsored the law were Representative Josefina Josen, Representative Bellaflor Angara-Castillo, Senator Eloisa Ejercito, and Senator Loren Legarda.

1981, and the Optional Protocol on the CEDAW, which was ratified by the Philippine Senate in 2003.

The broad definition of VAW in the law was patterned after the Declaration on the Elimination of Violence Against Women, as referring to “any act or 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 covers all forms of violence, such as physical, sexual, psychological, and economic. Economic abuse includes deprivation of support of the lawful wife and minor children, which is a common problem in the Philippines.

The law is gender-specific, protecting the rights of women only and their children. Only women may file actions under the Anti-VAWC Act, while the offenders may either be men or women with whom the victims are or were in lesbian relationships, because the definition includes past or present sexual or dating relationships.

The Anti-VAWC acts provides for both the civil remedy of a protection order and a criminal action. An *ex parte* Temporary Protection Order shall be issued by the Judge within twenty-four hours from the filing of the verified application upon a finding that there is reasonable ground to believe that an imminent danger of violence to the woman and her children exists or is about to

recur. After hearing on the merits, a Permanent Protection Order may be granted.

The relief of Temporary and Permanent Protection Order may be filed as an independent action, or together with an action for damages, support, custody, legal separation, or nullity of marriage. If the offended party chooses to file a criminal action, the petition for protection order is deemed instituted with the criminal action¹⁷ so that a Temporary Protection Order may be issued during the trial. In case of conviction, the permanent protection order shall issue as a matter of course. If it results to an acquittal, where the judgment declares that the quantum of evidence is not enough to sustain a conviction beyond reasonable doubt, the court shall determine whether or not to issue a permanent protection order¹⁸.

Following the Framework for model legislation on domestic violence by the UN Special Rapporteur on VAW, the Anti-VAWC Act has:

(1) Complaints mechanism and duties of police officers, in:

Sec. 29. Duties of prosecutors and court personnel to inform the woman of her rights, remedies, procedure, and privileges for indigent litigants.

Sec. 30. Duties of *Barangay* (village) Officials and Law Enforcers: They must respond immediately to a call for help by entering the dwelling if necessary whether or not a protection order has been issued and ensure the safety of the victim; confiscate deadly weapon;

¹⁷ A.M. No. 04-10-11 SC (Rule on Violence Against Women and Their Children), Sec. 33 (b).

¹⁸ *Id.*

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transport the victim to a safe place of their choice or to a clinic or hospital; assist victim in taking personal belongings from the house; ensure enforcement of protection orders issued by the village official or by the courts.

Sec. 31. Duties of health care providers

Sec. 32. Duties of other government agencies and local government units, such as education and information campaign on VAW and the law

(2) *Ex parte* Protection Orders

An *ex parte* Temporary Protection Order (“TPO”) shall be issued by the Judge within twenty-four (24) hours from the filing of the verified application upon a finding that there is reasonable ground to believe that an imminent danger to the woman exists or is about to recur.

Who may file for protection orders

A petition for protection order may be filed by any of the following¹⁹ :

- a) offended party
- b) parents or guardians
- c) ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity

¹⁹ Republic Act No. 9262 (2004), Sec. 9.

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- d) officers or social workers of the Department of Social Welfare and Development or social workers of local government units (provinces, cities, municipalities)
- e) police officers, preferable those in women and children's desks
- f) *Punong Barangay* (chairperson of the village council) or *kagawad* (any council member)
- g) lawyer, counselor, therapist or healthcare provider of the petitioner
- h) At least two (2) concerned responsible citizens of the city or municipality where the violence occurred and who has personal knowledge of the offense.

If the petitioner is not the offended party, the petition must be accompanied with an affidavit of the petitioner attesting to the fact that he or she has authority to file the petition, the circumstances of the abuse, and the circumstances of consent given or refusal to consent of the offended party to file the petition²⁰.

Contents of a protection order

A TPO can include: a) removal of the offender from the home regardless of ownership, b) delivery of financial support to the woman and minor children, c) automatic remittance of a percentage of the offender's salary or income as support for the woman, d) stay away order, 4) granting of temporary or permanent custody of minor children to the woman, 5) possession of a vehicle or automobile, 6) the

²⁰ A.M. No. 04-10-11 SC, Sec. 10.

posting of a Bond to Keep the Peace to ensure compliance with the protection order. A TPO is valid for thirty (30) days and shall be extended until judgment.

A Permanent Protection Order shall be issued after hearing on the merits following the Summary Procedure. It can include the reliefs in the TPO and permanent removal of the offender from the house, where ownership is not an issue. A Bond to Keep the Peace may be included in the Permanent Protection Order to ensure compliance.

Barangay Protection Order

A *Barangay* (village) Protection Order (“BPO”) shall be issued by the village official, ordering the offender to desist from committing further acts of physical abuse or threats of physical abuse. Mediation or conciliation of VAW cases in the village level is prohibited by the Anti-VAW Act²¹. The features of a BPO are:

- a) it is granted *ex parte* within twenty-four (24) hours from application
- b) it is granted on grounds of physical abuse or threats of physical abuse only
- c) it is valid for fifteen (15) days only
- d) violation of the BPO is a criminal offense punishable with thirty (30) days imprisonment

²¹ Republic Act No. 9262 (2004), Sec. 33.

- e) it may be availed of whether or not the woman seeks relief in court by applying for a protection order

(3) Addresses both criminal and civil proceedings:

The law gives the woman the remedy of protection order which she can file as an independent civil action or together with other civil actions such as legal separation or nullity of marriage, or an action for custody, support or for damages.

A woman may also file a criminal action for violation of the Anti-VAWC Act and a protection is deemed included in the criminal action unless reserved or filed separately.

(4) Provides for support services for victims:

Sec. 40. Programs and services for victims such as free legal assistance, counseling, psycho-social services, rehabilitation programs and livelihood assistance.

(5) Programs for perpetrators:

Sec. 41. Counseling and treatment of offenders; the Court can order the offender to submit to psychiatric treatment or confinement.

(6) Training for police and judicial officials²²:

The law provides that all agencies involved in responding to VAW and their children cases shall be required to undergo education and training on a) the nature and causes of VAW and their children; b) legal rights and remedies of victims, c) services available, d) legal duties of police officers to make arrests and offer protection and assistance, and,

²² Republic Act No. 9262 (2004), Sec.42.

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f) techniques for handling incidents of VAW. The Police in coordination with local governments shall establish an education and training program on how to handle VAW cases properly.

The Judiciary has its own training on gender equality and gender-sensitivity for judges conducted by the Philippine Judicial Academy. The Supreme Court has a Committee on Gender –Responsiveness of the Judiciary with Justices as chairpersons.

In addition, the Anti-VAWC Act has provisions:

- (7) Prohibiting the mediation or conciliation of VAWC cases in the village level (the Local Government Code requires mediation by village officials when complaints are punishable with imprisonment of less than one year or fine of Five Thousand Pesos), and a prohibition against judges and village officials from influencing the woman to compromise or abandon any of the reliefs in the protection order²³.
- (8) Providing for an Inter-Agency Council on Violence Against Women²⁴, composed of national government agencies tasked to have programs to eliminate VAW and to monitor the implementation of the law. The Inter-Agency Committee on VAW formulated the Implementing Rules and Regulations on Republic Act No. 9262, which provides for duties of and guidelines and training programs for implementers.

²³ Id. at Sec. 33.

²⁴ Id. at Sec. 39.

- (9) Providing for Battered Woman Syndrome as a justifying circumstance, where the woman does not incur any criminal or civil liability²⁵. In no case shall custody of minor children of a woman suffering from battered woman syndrome shall be granted to the batterer²⁶.
- (10) Providing for exemption of persons intervening from liability. Any person, private individual or police authority or *barangay* official who responds or intervenes without using restraint greater than necessary to ensure the safety of the victim shall not incur any criminal, civil or administrative liability²⁷.
- (11) Providing for a hold departure order against the respondent²⁸.
- (12) Providing for the rights of victims to be treated with dignity, avail of legal assistance, support services from the local governments and Department of Social Welfare and Development, to be entitled to all legal remedies and support under the Family Code, and to be informed of their rights and services available, including the right to apply for a protection order²⁹, and exemption from payment of docket fee and other court expenses if she is an indigent or there is an immediate necessity due to imminent danger or threat of danger³⁰.
- (13) Providing for additional paid leave of absence from work up to ten(10) days in addition to other paid leaves under the Labor Code and Civil Service Rules and Regulations, extendible when necessary.³¹

²⁵ Id. at Sec. 26.

²⁶ Id. at Sec. 28.

²⁷ Id. at Sec. 34.

²⁸ Id. at Sec. 37.

²⁹ Id. at Sec. 34.

³⁰ Id. at Sec. 38.

³¹ Id. at Sec. 43.

Problems in the law and its implementation

1. Lack of specific appropriation in the law. A major limitation of the law is the lack of specific appropriation in the law for training of the police, social workers, prosecutors and other government personnel and support services for poor women such as free legal aid, temporary shelter, services for their children, and provisions for their sustenance or livelihood during litigation. The legislators who sponsored the Anti-VAWC Act believed that the law would be passed without serious obstacles if there was no specific amount as appropriation or funds for its implementation. They merely provided in Section 45 of the law that the amount shall be included in the annual General Appropriations Act, and the Gender and Development Budget (GAD) of the mandated agencies and local governments shall be used to implement services for victims.

This proved to be a crucial gap, because although the national agencies have their GAD budget which is five percent (5%) of their total budget, the elimination of VAW and training of government personnel and support services for victims of VAW is not their priority, or these have to compete for funds for other training programs that the implementing agencies have to do.

Thus there is no systematic and comprehensive training on the Anti-VAWC Act and gender-sensitivity seminars for police personnel, social workers, and prosecutors. The lack of funds for training will surely impact on the quality and effectiveness of police services and social welfare and development services and programs, as well as the responsiveness of prosecutors in the Department of Justice. The latter has a Task Force on Women and Children composed of state prosecutors in its Manila office, many of whom have attended seminars on

gender-sensitivity and VAW, but this is not replicated in the provincial prosecutors' offices.

As for the local government units, they fund the training for their village officials who are responsible for issuing the *Barangay* Protection Order. One good practice that has been observed is the inclusion of non-government organizations and the police in the seminars of local governments³².

2. Costly, lengthy litigation and corruption in the Judiciary and Prosecution Service. There is also the problem of costly and lengthy litigation and delay in the disposition of cases in the prosecutors' level and in the courts. Four years after the Anti-VAWC Act, women's human rights lawyers and women litigants continue to complain about the lack of gender-sensitivity of some judges, of corruption in the Judiciary and in the prosecution service, of the ignorance of the law of many police officers and their lack of gender-sensitivity, and the high cost of litigation and delay in the proceedings.

The Supreme Court Rule on VAWC provides that indigent women or those in imminent danger may file for protection order without paying the filing fee, but there is no similar provision in cases of appeal, which is costly.

3. No national free legal aid program for poor women. Although the law provides that the woman shall be provided legal assistance, there is no national legal aid program for battered women so that this gap is filled by non-government organizations and women's human rights lawyers. The Department of Social Welfare and Development is expected to provide for the victims' support

³² The Department of the Interior and Local Governments and the National Commission on the Role of Filipino Women have published a primer on Republic Act No. 9262 for barangay (village) officials.

services, but it lacks funds for legal aid and support services for women and their children. The Department of Justice prosecutors are available only for criminal cases. Although the Public Attorney's Office is tasked to assist poor women in filing applications for protection orders, they cannot represent them in civil cases because as public defenders their duty is to represent the accused in criminal cases only.

It is in this regard that the *Barangay* Protection Order is very helpful, where the woman who cannot afford to go to court or have no easy access to lawyers can apply for a protection order in her village, and seek other recourse such as leave her batterer or move to her relatives' community, or continuously seek the protection of her village officials and community.

4. The problem of conflict in the use of other laws and rules; retaliation suits. There is also the problem of retaliation by husbands by using other laws or rules which defeat the rights of women under the Anti-VAW Act, especially economic abuse. Conjugal or community property can be hidden by husbands in corporations, and a writ of replevin can be issued, as it has been issued, by another judge against vehicles which were the subject matter of protection order in another court.

5. Constitutional challenge to Republic Act No. 9262. Perhaps the greatest challenge to the Anti-VAWC Act is the *Rosalie Garcia case*³³, which is a petition filed by a husband in the Supreme Court attacking the constitutionality of the Anti-Violence Against Women and Their Children Act of 2004 on the grounds that a) it violates the Equal Protection Clause because it protects the rights of women only, b) it violates his right to due process of law because he is deprived of

³³ Petition for Review in the Supreme Court

his property (he can be removed from the house and a vehicle may be given to the woman regardless of ownership) through an *ex parte* TPO, and c) it is an undue delegation of judicial power to the *barangay* (village) officials who have the power to issue the *Barangay* Protection Order.

It is hoped that the ruling of the Supreme Court in this case would lay to rest the issues that continue to be used to erode the effectiveness of the law, and will give us the jurisprudence that women need as a weapon for ending gender inequality and eliminating violence against women.