

The Use of CEDAW to Advance Women's Economic and Socio-Cultural Rights

By Clara Rita A. Padilla

There is a Filipino woman who is on the death row in Indonesia. She was forced to work in Dubai, only to flee because of an attempted rape, and later on trafficked to bring drugs into Indonesia. Her plight is a consequence of her lack of access to a decent employment.

There are Filipino women struggling to get asylum in foreign countries after fleeing from their abusive husbands in the Philippines. Rather than constantly fearing for their safety, these women left behind their careers and are now taking on odd jobs to make a living.

Many women are denied access to education and are denied access to high-paying jobs. Intimate partner violence, stalking, sexual harassment, rape, trafficking are forms of gender-based violence that force women to drop out of school and resign from work. Lack of access to sexuality education, lack of access to contraceptives including emergency contraceptives, lack of access to reproductive health care including lack of access to safe and legal abortion result in early pregnancies, women being infected with HIV, women suffering maternal health complications and women dying. All such barriers and lack of access to services disempower women economically impacting women's economic and socio-cultural rights.

Women can advance their economic and socio-cultural rights by using the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP CEDAW). Below are examples of women who filed communications with the Committee on the Elimination of Discrimination against Women (Committee), the committee that monitors a state's implementation of the Convention on the Elimination of All Forms Discrimination against Women (CEDAW):

In the case of *A.T. v. Hungary*,¹ it was alleged that Hungary failed to provide effective protection from domestic violence from L.F.² The Committee urged Hungary to “guarantee the physical and mental integrity of A.T. and her family”, ensure that A.T. was provided with a safe home, appropriate child support, and legal assistance, and to receive reparation.³

In the case of *Şahide Goekce v. Austria*⁴, the communication was filed on behalf of Sahide Goekce (deceased), an Austrian women of Turkish origin, who died as a result of intimate partner violence, despite persistent requests for police intervention. The Committee recommended for Austria to strengthen the implementation of the domestic violence law and vigilantly and speedily prosecute perpetrators of domestic violence.

1. *A.T. v. Hungary*, Communication No. 2/2003, UN Doc. CEDAW/C/32/D/ 2/2003 (2005).

2. *Id.* ¶ 1.1.

3. *Id.* ¶ 9.6 (1) (i).

⁴ *Şahide Goecke v. Austria* (CEDAW Communication No. 5/2005), UN Doc. CEDAW/C/39/D/5/2005 (2007)

In the *Karen Vertido v. Philippines* communication,⁵ Karen was a rape survivor who lost her protracted legal battle citing gender-based myths and stereotypes about rape and rape victims relied upon by the court that led to the acquittal of the accused and her revictimization. The Committee stressed that “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.” The Committee recommended that the definition in the anti-rape law should center on the lack of consent and that the Philippines consider requiring proof by the accused of steps taken to ascertain whether the complainant was consenting. Although the Committee recommended reparation for Karen, the Philippines has not provided reparation to her. After the rape, Karen had to resign from her work and, at some point, even had to leave her home in Davao.

In the case of *LC v Peru*⁶, L.C. was 13 years old when J.C.R., a 34-year old man, started sexually abusing her. She became pregnant as a result of the rape and, in a state of depression, attempted suicide by jumping from a building, suffering spinal injuries with “a risk of permanent disability”. Despite her serious and deteriorating condition, her doctors refused to perform an operation because she was pregnant and denied her request for therapeutic abortion. L.C. then miscarried spontaneously.

The Committee recommended to the State party to provide reparation to L.C., review its laws to establish effective access to therapeutic abortion, include protocols to ensure health services are available and accessible in public facilities, and decriminalize abortion when the pregnancy results from rape.

In the case of *Alyne da Silva Pimentel v. Brazil*⁷, Alyne, a Brazilian woman of African descent, died from pregnancy-related causes after her local health centre misdiagnosed her symptoms and delayed her access to emergency obstetric care. The Committee found that states have an obligation to guarantee women timely and non-discriminatory access to maternal health services and recommended that Brazil provide reparation.

In *E.S & S.C. v. United Republic of Tanzania*⁸, the two widows were prevented from inheriting their late husbands’ property under customary law and were left homeless. The Committee recommended for Tanzania to revise or repeal laws, customs and practices that discriminate against women.

5. *Vertido v. The Philippines* (Communication No 18/2008), 1 September 2010, CEDAW/C/46/18/2008; Communication under the Optional Protocol to the Convention on the Elimination of Discrimination Against Women, Letter from Karen Vertido to CEDAW Committee (Nov. 29, 2007).

⁶ *L.C. v. Peru*, CEDAW/C/50/D/22/2009

⁷ *Alyne v. Brazil*, Communication 17/2008, U.N. Doc. CEDAW/C/49/D/17/2008 (2011).

⁸ *E.S & S.C. v. United Republic of Tanzania*, CEDAW/C/60/D/48/2013 Communication No. 48/2013

As can be seen in the examples above, acting with due diligence to prevent and respond to violence against women, ensuring access to reproductive health services, and ensuring women's access to employment, property and resources will greatly impact women's economic and socio-cultural rights and may even save women's lives.

The [ESCR-Net Women and ESCR Working Group](#) is continuously looking at means to advance women's economic and socio-cultural rights through the different United Nations mechanisms. The "Guide: Claiming Women's ESC Rights using CEDAW and OP-ICESCR" edited by ESCR-Net and IWRAW-Asia Pacific is a great tool that can be used by women and women's rights advocates (available at <http://www.escr-net.org/node/365157>).

Claire Padilla is the founder and executive director of EnGendeRights, a member of ESCR-Net and the Women and ESCR Working Group. She has been practicing law for over 20 years and she has specialized expertise in the field of gender, gender-based violence, law, sexual and reproductive health and rights, sexual orientation and gender identity. She has extensive experience in training, litigation, research, writing, and policy advocacy. After graduating from law school, she has dedicated her life in changing laws, policies, and practices that are discriminatory against women. As an advocate on reproductive rights, she has worked in the Philippines and in New York. In New York, she worked as an International Visiting Legal Fellow at the Center for Reproductive Rights from July 2002 through July 2003.