

# TOWARD GENDER EQUALITY AND WOMEN'S HUMAN RIGHTS: PLATFORMS FOR CRITICAL ENGAGEMENT

Carolyn I. Sobritchea

This paper presents the different initiatives carried out over the past decades by state parties, in collaboration with non-state actors, particularly members of the academe and non-government organizations, here and across the world, to address the various forms, manifestations, and causes of gender issues. It highlights the vulnerabilities, especially of women and children who belong to marginalized ethno-cultural communities ('Indigenous Peoples', 'Moros') to various forms of gender-based violence and discrimination. The paper argues for the continued support of scholars, particularly anthropologists and other social scientists, to actively participate in the protection, promotion, and fulfillment of human rights through their teaching, research, and extension-service activities. The platforms for critical engagement at present lie in policy reforms and advocacy as well as vigilance in documenting, monitoring, and reporting the violations of women's human rights. It is equally important for anthropologists to provide support, if and when called for, in the development of gender-responsive plans, programs, and services.

*Keywords:* Gender issues, ethnic discrimination, gender equality, human rights, women's human rights, gender and development

## Introduction

In an article I wrote in 2002, I described how I transformed myself as an anthropologist, initially committed to the theoretical perspectives and research approaches of structural-functionalism, then to ontological claims of critical theory and later, to feminist post-structuralism. Allow me at this point to liberally quote from this paper on how my perspective for doing anthropological work has changed as I got exposed to various socio-cultural issues that have plagued the country over the past decades.

As a student of anthropology in the late sixties and seventies I had the privilege to be tutored by the leading scholars of our discipline. I took my courses then with no less than Professors F. Landa Jocano, Robert Fox, Jesus Peralta, Moises Bello and Leticia Lagmay. Since most if not all of them, were trained abroad, mainly in the US, they imparted to us the American social science academic traditions, i.e. extensive fieldwork based on the standards of what we then conveniently called the scientific methodology.

In this paper, I noted that:

Thus, issues like militarization, incest rape, the high incidence of infant mortality, did not often appear in early ethnographies of Filipino communities since they were viewed as culturally destabilizing elements.

I served as research assistant of a male senior anthropologist documenting folk medical beliefs and practices; doing ethnographies of fishing and farming economies as well as studies of socialization patterns in urbanizing communities.

Ethnography as a research method has been heavily influenced by the theoretical school of structural-functionalism and the positivist norms of social inquiry. Like other positivist methods of social science research, ethnography of the old genre puts high premium on objectivity, emotional detachment, and unqualified respect for community traditions. As such, I learned how to live in a community without being emotionally affected by problems of poverty, domestic violence or abuse by corrupt public officials. I wrote ethnographic texts without any mention of these problems because they were outside of what I believed then as the typical way of life.

The functionalist framework influences a researcher in a way that she or he focuses on elements of culture that promote the viability of social structures.

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I struggled then to write composite and heavily synthetic constructions of community life.

Sensitivity to people's perspectives and thick data were lost since a good field report was one that highlighted the dominant and common or typical culture. It took many years of self-reflection and engagement with feminist theories before I understood the politics of research and report writing. Most importantly, I had to understand how the process of constructing the typical culture was a process of muting voices and making invisible the experiences of many kinds of people, especially women, living different lives within the same community.

I had to come to terms with my own subjectivities and how these influenced my interpretation of community life.

The strong influence of Marxist ideas both in academe and in public life, especially in UP in the 60s challenged our discipline, and influenced our political practice to unmask all forms of oppression caused by class inequality. Thus, like most of my classmates in the 60s and 70s, I joined the "left" movement and also brought into my dissertation research a deconstruction of community life using class analysis. In so doing, I unmasked the cultural beliefs and practices in a Tagalog fishing community that have been detrimental to the well-being of females. My later experiences as an activist and visiting lecturer in various countries in Europe and Asia gave me the opportunity to interact with feminist anthropologists who have taken on advocacy work through the use of the human rights framework. Since then, I have painstakingly pursued both my academic and public service work to promote gender equality and the women's human rights. (Sobritchea 2002:301-302)

Indeed, the various theoretical traditions in the social sciences have influenced the manner by which some anthropologists examined the status of women and patterns of gender relations across historical periods. My objective in this paper is to highlight how the discursive platforms of critical thinking and activism in academe, done through policy-action research and engagements in developing service programs, have contributed to a better understanding of the causes and effects of gender inequality in society. One of the most influential platforms in advocating for gender equality during the past decades has been the global push by the United Nations to actively incorporate women's agenda in development planning. This effort was supplemented, later on, by human rights activists who pushed for the passage of international covenants that would respect and protect women from harm

and discrimination, especially those living under high-risk and vulnerable situations. In the Philippines, the active involvement of various women's organizations within and outside of academe has contributed a lot to the passage of laws that now address festering problems like sexual harassment, rape, unwanted pregnancy, prostitution and sex trafficking. At present, development planning and the crafting of desired societal goals are based on human rights principles.

The succeeding sections of this paper describe how these processes were carried out by governments and civil society organizations across the world and in the country.

### **The 'Human Rights-Based Approach' to 'Gender and Development'**

'Human rights' currently provide the minimum standards and legal obligations that states must respect and fulfill to ensure the well-being of their citizens. These rights are deemed to belong to all individuals equally as a consequence of being human. They include, among others, the right to life, liberty, and security of person; freedom from arbitrary arrest, detention or exile; freedoms of thought, conscience, religion and peaceful assembly. Human rights also encompass the entitlement of individuals to work, to social security, education, and an adequate standard of living, including the right to adequate food, housing and clothing, as well as the right to participate in the cultural life of the community. Most countries now fully recognize human rights as "universal, indivisible, interdependent and interrelated; they are considered to constitute the foundation of freedom, justice and peace in the world." (de Guzman n.d:3).

Although there was initial discomfort, if not outright resistance, from some international organizations for the "rights-based approach" or RBA language to enter the world of development programming, it has increasingly gained acceptance in recent years by member countries of the United Nations and the ASEAN Community. Several international covenants were passed which include, among others, the *Universal Declaration of Human Rights* (U.N. 1948), the *International Covenant on Civil and Political Rights* (UN General Assembly 1966), the *International Covenant on Economic, Social and Political Rights* (U.N. 1967), and the *Declaration on the Right to Development* (U.N. 1986). The right to gender equality is elaborated in the *Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW]* (U.N. 1979) and its optional protocol (U.N. 1999). A common feature of the rights-based approach to human development is the norm of ensuring the participation of disadvantaged groups like marginalized and vulnerable

women, indigenous peoples, and poor communities in development programming, and the establishment of effective monitoring mechanisms to ensure the compliance of all stakeholders.

Marks (2011) culled from the literature the advantages of the “rights-based approach”, guided by the following development perspectives: Identify the bearers of human rights- and duty-holders thereby enhancing accountability; Propose actions and change strategies that are directed at redressing injustice rather than relieving suffering; Apply the normative contents of human rights that are geared towards redressing the needs of the oppressed and excluded in development programming (thus compelling a focus on vulnerable groups such as women); Underline that rights are inalienable, universal, non-negotiable, indivisible and interdependent; Underline that people have agency and can drive change and are therefore not passive recipients of development aid; Violation of rights are taken as a point of reference in program development and monitoring and this is helpful for systematic analysis; Efforts should be directed at the roots rather than the effects of structural injustices; Promote institutional change rather than charity because it moves the discourse from needs to rights; Force collective action and alliances rather than individual efforts.

Inasmuch as one of the political advocacies of activist anthropologists is to protect marginalized indigenous peoples from all forms of injustice and discrimination by dominant ethnolinguistic groups, it is important for the discipline to integrate into its teaching, research and extension service the principles of gender equality and human rights.

### **Global and national initiatives to promote women's human rights**

Equality between women and men has been a goal of the United Nations since its establishment after the Second World War. The 1945 Preamble to the UN Charter reaffirms the “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations, large and small” (U.N. 1945). Over the last four decades, various UN bodies and multilateral development organizations have pursued strategic measures to eliminate various forms of discrimination against women that are rooted in age-old cultural traditions as well as in political and economic structures and processes. Women’s equal right to opportunities and benefits, as well as their right to freedom from harm and abuse like domestic battery, rape, female genital mutilation, child marriage and female infanticide, is now fully recognized and enshrined in international and national legal instruments.

To date, several international covenants ratified by the Philippine government provide these standards for responding to violations of human rights. These include among others the *International Covenant on Economic Social and Cultural Rights* ratified by the Philippines in 1974, *CEDAW [Convention on the Elimination of All Forms of Discrimination against Women]* in 1986, and the *Convention on the Rights of the Child* in 1990<sup>1</sup>.

The CEDAW is the most important human rights instrument to promote gender equality and women's empowerment. To date, 182 countries have signed the convention. By ratifying the treaty, governments are committed to undertake measures to eliminate all forms of discrimination against women.

To ensure that governments comply with their commitments, they are asked to submit national reports, at least every four years, about the status of women in their respective countries and the measures they have adopted to address gender issues. There is a 23-member CEDAW Committee in the United Nations and it meets twice a year in New York to review the country reports.

The UN Development Fund for Women (UNIFEM) briefing paper on the use of CEDAW to promote the human rights of migrant women explains why there was a need to pass the CEDAW treaty. It states that:

- Women's human rights were not automatically recognized in the mainstream human rights discourse and in human rights proclamations and practice;
- In the traditional tensions between civil and political rights on one hand, and social and economic rights on the other, the international community had largely focused on the former, while violations against women often occur in the social and economic spheres;
- (There was) a need to go beyond the focus on retribution for individuals, toward addressing systems, ideologies, and institutions that violate women's rights; and
- (There was) a need to transcend the focus in other treaties on state actors who violate women's rights, toward also ensuring state accountability for rights violations by non-state actors including the family. (de Guzman n.d.:4-5).

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<sup>1</sup> A list of all international human rights instruments affirmed by the Philippine government is appended to this article.

These justifications for a treaty against gender-based discrimination are highly relevant to the situation in the Philippines and other Asian countries where political, economic, and religious elites appropriate the sexist elements of culture and traditions to justify their use and possession of state power. Asia is one of the most culturally and politically diverse regions in the world. We have varying customs and traditions that have shaped our current understanding and practices about gender identities and relations and we recognize the many patriarchal elements of these traditions. For instance, the social constructions of gender roles in many societies have subsumed the individual entitlements and rights of women presumably for the greater good of the family, kinship groups, and communities. Ideal beliefs about motherhood, sexuality marriage, inheritance and citizenship mainly work in the interest of male family and community members. Feminist writings have already unmasked the various modes by which gender ideologies have been deployed and inscribed in social practices. Yet, the task of changing cultural beliefs, attitudes, and behaviors for the benefit of women and other disadvantaged groups requires more than education and training. It requires actions that challenge the holders of power and make them accountable to those they govern.

The Rights-Based Approach to Gender Equality, as defined by CEDAW, is premised on three principles, namely substantive equality, non-discrimination, and state obligation. The principle of substantive equality calls for the equal access of women and men to opportunities, access to resources, and to the benefits that may be derived from them. It recognizes both equality in law (*de jure*) and in practice (*de facto*). This can be done by

“(a) catalyzing policy and legislation to provide equal opportunities, (b) creating enabling institutional and social environments that include affirmative action measures to ensure real equality to access and benefits, and (c) empowering individuals, especially women ... to claim their rights.” (de Guzman n.d.:6-7)

The second principle of CEDAW is the elimination of all forms of discrimination and injustice against women. Article 1 of the treaty defines gender discrimination as,

“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human

rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” (U.N. 1979:Art.1)

Gender discrimination is expressed in behavior, attitude, and beliefs of people. It occurs when women and men are treated in the same way, but the treatment is based on male perspectives and interests. Or it occurs when women and men are treated differently, and the end result is inequality in access to opportunities and benefits. Discrimination can be done directly or indirectly (intended or unintended), and through laws or in everyday practices and social interactions.

The third principle of CEDAW has to do with the obligation of the State to respect, protect and promote the human rights of women. Since gender equality now constitutes one of the fundamental human rights of women and men, the State obligation to respect requires it to refrain from interfering directly or indirectly with the enjoyment of this human right. The obligation to protect, on the other hand, requires the State to take measures that prevent third parties from interfering with actions that promote gender equality, while the obligation to fulfill requires it to adopt appropriate legislative, administrative, budgetary, and judicial measures to eliminate all forms of discrimination against women.

In the Philippines, for example, many women continue to suffer from unwanted pregnancy, sexually transmitted infections, abortion complications, maternal death and other reproductive health problems due to lack of access to information and services. Since the government has ratified many of the international human rights instruments that uphold women's right to health, it has the obligation to protect them from experiencing these problems. It has to be made accountable to the people for its failure to compel third parties like the fundamentalist factions of some faith-based organizations to prevent the widespread distribution of modern contraceptives, especially the condom. It is truly unfortunate that previous administrations, for instance, failed to take decisive action against some local public officials for closing down the reproductive health clinics in slum areas that have been operated by NGOs. These are clear violations of women's right to health and gender equality. Our country has yet to effectively address the serious problems of teenage and unwanted pregnancy as well as rape and sexual harassment.

### **National efforts to promote women's human rights: gains and challenges**

Despite many economic and political constraints, the Philippines has pursued various gender equality programs in accordance with the principles of the



CEDAW and following the action plans of the Women's World Conferences in Nairobi (in 1985) and Beijing (1995). CEDAW, which was ratified by the Philippine government in 1981, has been signed also by 184 other countries. It consists of a preamble and thirty articles that call for the following State actions: (a) the incorporation of gender equality principles in the legal system; (b) repeal of all discriminatory laws, and the passage of those that prohibit discrimination against women; and (c) the establishment of mechanisms like tribunals and other public institutions to ensure the protection of women against discrimination (Sobritchea 2011:25).

The 1987 amendments to the Philippine Constitution included provisions that underscore the country's recognition of the need to promote equality between the sexes and to advance the rights of marginalized groups, especially ethnic minorities and the poor, toward development and quality of life.

In its capacity as a policymaking body under the Office of the Philippine President, the National Commission on the Role of Filipino Women (now named Philippine Commission on Women) was strengthened in the early 80s to address gender issues through policy as well as organizational and program development. Subsequently, it embarked on the process of integrating the 'Gender and Development' (GAD) approach into government policies, plans, programs, and structures. It is translated in operational language in the 30-year Philippine Plan for Gender-Responsive Development that was adopted in 1994. The main thrust of this strategic gender plan is to eventually eliminate all forms of discrimination against women in Philippine society and enable them to actively participate in development efforts.

The Philippine Commission on Women is presently headed by a policy-making body composed of representatives from national line agencies (Departments of Health, Social Welfare and Development, and Interior and Local Government) and non-government organizations working in the areas of labor, media, youth, peasants, elderly, Persons With Disabilities, business, education, and indigenous communities. The active participation of women's groups and Women's Studies practitioners from the academe in the policymaking and program development functions of the Commission has been instrumental in making the bureaucracy more gender responsive and sensitive to women's issues and concerns.

Over the last decade, the Philippine government has pursued the goal of gender equality by working in the areas of concern embodied in the 1995 Beijing Platform for Action, which include: the promotion of women's economic empowerment, protection and fulfillment of women's human rights

and promotion of gender-responsive governance. Analytical tools for program planning, implementing, monitoring and evaluation have been developed and widely disseminated to all government agencies. These are supplemented by guidelines for the preparation of gender plans and utilization of gender budgets. There has been continuous training as well of government officials and personnel in the legislative, executive, and judicial branches of government to ensure the gender responsiveness of their work.

The efforts of the executive branch of government to address the gender dimensions of economic, political, and social issues in the country was supported by different enabling laws and policies. These include the *Women in Development and Nation Building Act* (R.A. 7192 1992) which establishes the principles of women's participation in national development and those that protect women from rape, domestic abuse, sex slavery and labor trafficking. The Philippines is among the few countries in the world which requires the allocation of at least five percent of government agency funds to address gender issues. For women in the labor force, there are now laws that provide for credit to those engaged in micro and cottage industries and guard against gender discrimination in the hiring and termination of employees. There is also the legislation establishing the family courts and the women's and child desks in all police stations that now expedite the resolution of cases involving abused women and children (R.A.8369 1997).

The gains from the foregoing initiatives are encouraging. For instance, there has been an increase over the years in female participation in education. The 2019 data from the Philippine Statistics Authority show that the functional literacy rate of females aged 10 to 64 years old is 92% compared to 88.7% of males. The rates of female completion of secondary (24.8%) and college education (22.3%) are also slightly higher than the males, with the rates of 23.4% and 18.3 %, respectively (PSA 2019).

The gender gap in women's participation across various professional fields has narrowed as well. Women are better represented now in professions that used to be male-dominated, like agriculture, engineering and law. Males, on the other hand, are increasingly entering what used to be female-dominated professions like health service and teaching. All these developments augur well for the future of Filipino children since they reflect continuous decline in gender stereotyping of roles.

Despite these positive outcomes, serious gender issues continue to affect the lives especially of poor and marginalized as well as vulnerable females. The 2016 report of the Philippine National Police (PNP) shows that there were

**PHILIPPINE LAWS ON WOMEN**

**R.A. 7192**, “*Women in Development and Nation Building Act of 1991*” - The law provides equal opportunity to women in all military schools and equal rights in entering into contracts and loan agreements and in joining social and cultural clubs.

**R.A. 7845**, “*General Appropriations Act of 1995*” - The law provides that a certain percentage of the appropriations for government agencies be earmarked for gender and development.

**R.A. 7882**, “*An Act Providing Assistance to Women Engaging in Micro and Cottage Business Enterprises, and for Other Purposes, 1995.*” - Provides assistance to women engaged or wanting to engage in micro and cottage industries.

**R.A. 7941**, “*Party-List System Act of 1995*” - The Act provides for the election of party-list representatives through the party-list system, including the women sector.

**R.A. 8171**, “*An Act Providing for the Repatriation of Filipino Women who have lost their Philippine Citizenship by Marriage to Aliens and of Natural-Born Filipinos, 1995.*”

**R.A. 7877**, “*Anti-Sexual Harassment Act of 1995*” - The law declares sexual harassment in the employment, education or training environment as unlawful.

**R.A. 8353**, “*The Anti-Rape Law of 1997*” - The law considers rape as a crime against persons and broadens the definition of rape to include sexual assault; it recognizes marital rape.

**R.A. 8505**, “*Rape Victim Assistance and Protection Act of 1998*” - The law mandates the establishment of a rape crisis center in every province with counseling and free legal and other services for the victim.

**R.A. 9262**, “*The Anti-Violence Against Women and their Children Act of 2004*” - The law protects women against intimate partner abuse, accepts the "battered women syndrome" as valid defense in court and provides for temporary and permanent protection orders at the barangay level.

40,546 Violence against Women and Children or VAWC cases— 13 percent higher than the 2015 report of 35,897 cases. The PNP report notes that among the different regions, Region 11 (Davao Region) posted the highest number of VAW cases, 7,031 from January to December 2016, accounting for 17.3 percent of the total reported VAW cases nationwide (PCW 2014). There are many other human rights violations that continue to affect marginalized and vulnerable groups especially the Indigenous peoples' (IPs) and the Moros. Their engagements with dominant cultural majority groups have been marked by incidences of discrimination and bigotry.

A study conducted by social scientists some of whom are themselves members of IP communities documented the various forms of discrimination and unfair treatment (Arquiza 2007). They noted in their observations how discrimination has perpetuated the vicious cycle of prejudice, exclusion, poverty, lack of education and opportunity and the attending conditions of deprivation and marginalization. For instance, the case study included in this volume by Raoul Cola on “Sharing Space: The Impact of Ecotourism on the Batak and Tagbanwa” shows the exclusion of indigenous peoples in the development and management of the eco-tourism program of the national government. He claims:

Out of the 164 members in these groups, only six come from indigenous communities. All six are Tagbanwa, and only three are considered active. Most of the members of these groups arrived in the area only after the park was established. The indigenous people who were in the area first have largely missed the direct economic benefits from eco-tourism. Obviously, they are unable to excel in a setting where the environment is used as an economic instrument. (Cola 2007:49)

In recognition of the wide cultural diversity in the population, the Philippine constitution mandates state recognition, protection, promotion and fulfillment of the rights of indigenous peoples. Republic Act 8371, also known as the Indigenous Peoples Rights Act of 1997, recognizes the right of IPs to manage their ancestral domains. Unfortunately, the presence of these legal guarantees has hardly improved the socio-economic situation of indigenous communities.

The Report on the *State of the World's Indigenous Peoples*, issued by the United Nations Permanent Forum on Indigenous Issues states that Indigenous Peoples make up one-third of the world's poorest people. In the Philippines, they have suffered from the discriminatory development policies and

programs of various administrations but have also been victim/survivors of political conflicts, disasters, and calamities (DESA 2009). Nonetheless, the 2017 Annual Accomplishment Report of National Commission for Indigenous Peoples (NCIP) reiterates the Commission's commitment to address gender issues and promote the human rights of its constituents and it has a "Gender and Rights-Based Program" (NCIP 2018:43).

## Conclusions

While some gains have been achieved from the foregoing initiatives, new challenges in the social, political, and environmental landscape of the country and across the world have reproduced old and created new gender issues. The problems of sexual harassment, domestic abuse, labor trafficking and teenage pregnancies continue to impede the full realization of gender equality and women's empowerment especially in communities of IPs and other vulnerable groups of women and children. It is imperative, therefore, to ensure the effective implementation of laws that respond to various gender issues as well as Gender and Development programs and services through the active engagement of various stakeholders. The government and its various agencies from the national down to the local offices must work together with the private sector, civic organizations, to achieve the goals of gender equality and women's empowerment in this country. There is a need to continuously empower the women themselves to protect their human rights and serve as active agents of development in the country.

Equally important is the need for academe to carry on its role of continuously updating and producing knowledge relevant to the needs of the people. Critical analyses of socio-economic and political developments to inform political advocacies are essential elements of lasting peace and nationbuilding. Inasmuch as anthropologists and other social scientists are asked by government and NGOs to participate in the development, monitoring and evaluation of laws, policies, programs and services, it is important for them to incorporate in all their work the principles of gender-equality and human-rights.

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## APPENDIX

### INTERNATIONAL HUMAN RIGHTS INSTRUMENTS SIGNED AND RATIFIED OR ACCEDED TO BY THE PHILIPPINE GOVERNMENT

- Optional Protocol to the Convention on the Elimination of Discrimination against Women* (November 12, 2003)
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (August 26, 2003)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Crime Preamble, supplementing the UN Convention against Transnational Organized Crime* (May 28, 2003)
- Rome Statute of the International Criminal Court* (December 27, 2000)
- Protocol against Smuggling of Migrants by Land, Sea and Air* (December 15, 2000)
- Protocol to Prevent, Suppress and Punish Traffic in Persons, Especially Women and Children* (December 15, 2000)
- International Covenant on Civil and Political Rights* (October 23, 1996)
- Convention on the Nationality of Married Women* (June 6, 1995)
- International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families* (November 15, 1993)
- Convention on the Rights of the Child* (August 31, 1990)
- Optional Protocol to the International Covenant on Civil and Political Rights* (August 22, 1989)
- International Convention against Apartheid in Sports* (July 27, 1987)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (June 18, 1986)
- Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) (August 5, 1981)
- International Convention on the Suppression and Punishment of the Crime of Apartheid* (January 26, 1978)



*International Covenant on Economic, Social and Cultural Rights (June 7, 1974)*

*International Convention on the Elimination of All Forms of Racial Discrimination (September 15, 1987)*

*Convention on Consent to Marriage; Minimum Age for Marriage and Registration of Marriages (January 21, 1965)*

*Convention on the Political Rights of Women (September 12, 1957)*

*Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (September 19, 1952).*

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**Carolyn I. Sobritchea, PhD.**, is currently a Professorial Lecturer at the University of the Philippines (UP) Open University and is Chairperson of the Commission for Higher Education Technical Panel on Women's and Gender Studies. She is a member of the Advisory Board of the Technical Education and Skills Development Authority (TESDA) Women's Center, the President of the International Phi Kappa Phi Honor Society, Chapter 45, and Vice President of the UP Center for Women's Studies Foundation. She was the Director of the UP Center for Women's Studies in 2000-2007. She was Dean of the UP Asian Center in 2011-2013, where she was a senior faculty member for 43 years.

Email: [carolyn.sobritchea@gmail.com](mailto:carolyn.sobritchea@gmail.com)