

Empire On Trial: The Subic Rape Case and the Struggle For Philippine Women's Liberation¹

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It wasn't easy for me to file a complaint against my rapists. And neither was the (legal) system kind to me after I decided to pursue the case. Instead of taking my side in the fight, our government took steps to make my situation much harder. I have not received a single message of support from our woman President, while the secretary of justice has even repeatedly defended my rapists.

—Nicole, November 1, 2006

My conscience continues to bother me realizing that I may have in fact been so friendly and intimate with Daniel Smith at the Neptune Club that he was led to believe that I was amenable to having sex or that we simply just got carried away. I would rather risk public outrage than do nothing to help the court in ensuring that justice is served.

—Nicole, March 8, 2009

By the time Philippine media outlets were alerted to the March 8, 2009 affidavit signaling that Nicole, the pseudonym of the woman at the center of the Subic rape case, had "recanted" her earlier testimony accusing U.S. Marine Daniel Smith of raping her almost four years earlier, she had already fired her lawyer, Evalyn Ursua, accepted a settlement from the accused, and departed for the United States where she planned to live permanently. This was a stunning decision in an epic legal battle that, less than three years earlier, had resulted in the historic conviction of Smith for the rape of Nicole on November 1, 2005, marking the first time a member of the U.S. military had ever been tried, convicted, and sentenced for a crime on Philippine soil. For many Filipinos, the landmark "guilty" verdict and the sentencing of Smith to forty years in a Philippine penitentiary delivered by Makati Regional Trial Judge Benjamin Pozon on December 4, 2006 represented not only a victory for Nicole but for a nation that had grown accustomed to seeing its own interests subordinated

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to those of its former colonial ruler. The occasion, unfortunately, would be short lived: on the evening of December 29, 2006 Smith was secretly transferred from the Makati City Jail to the U.S. Embassy to await his appeal, once more throwing the issue of Philippine sovereignty starkly into question.

In addition to highlighting critical questions concerning violence against women and sexual assault, the Subic rape case has reignited protests over U.S. military intervention in the Philippines, specifically regarding the terms and conditions outlined in the controversial Visiting Forces Agreement (VFA). Seven years after a broad coalition of progressive forces successfully ousted the two major U.S. military installations, Subic Bay Naval Base (Olongapo City) and Clark Air Force Base (Angles City), former President Joseph Estrada signed the Visiting Forces Agreement into law in 1998, granting the United States military *unlimited* access to twenty-two ports throughout the country to conduct "joint" training exercises with members of the Armed Forces of the Philippines (AFP). Deployments of U.S. troops have escalated since the 9/11 attacks and the subsequent declaration of the Philippines as the "second front" in the U.S. led "war on terror" in 2002, with the majority of soldiers being sent to the southern, predominately Muslim region of the country. Though the stated goal of their mission is to provide humanitarian aid to the war-torn area, most believe U.S. military personnel are involved in a "counter-terrorist" operation against the Abu-Sayyaf, an elusive bandit group comprised of roughly 100 members with alleged loose ties to al-Qaeda.

As well as enabling the United States military to re-establish a dominant presence throughout the archipelago, the VFA extends extraordinary privileges and protections to U.S. soldiers, effectively undermining Philippine sovereignty and, by extension, the safety and dignity of its citizens. For example, Article III "Entry and Departure" of the VFA states that members of the U.S. military are "exempt from passport and visa regulations upon entering and departing the Philippines" while Article IV, "Driving and Vehicle Registration," stipulates that Philippine officials will "accept as valid, without test or fee, a driving permit or license issued by the appropriate United States personnel for the operation of military or official vehicles" and that U.S. government vehicles "need not be registered, but shall have appropriate markings." Moreover, Article VII, "Importation and Exportation," excuses U.S. soldiers from paying taxes and duty fees on items purchased during their "temporary stay" in the Philippines (Visiting Forces Agreement, 1998). The most flagrant violation of Philippine sovereignty, however, is found under Article V "Criminal Jurisdiction." In the case of crimes committed by members of the U.S. armed forces, this section of the VFA expects that "Philippine authorities will, upon request by the United States, waive their primary right to exercise jurisdiction except in cases of particular importance to the Philippines" (Visiting Forces Agreement, 1998). If the Philippine government decides not to waive their right, officials have twenty days, after receiving the United States request, to submit their communication to U.S. authorities. Should the Philippines be granted the right to prosecute a U.S. soldier for a criminal offense, Article V requires

all legal proceedings to be completed within a one-year period, during which the accused will remain in the custody of the U.S. military. If a soldier is convicted, the United States government has an unspecified amount of time to appeal. In contrast, the complementary agreement governing the treatment of visiting Filipino soldiers to the United States, known as the VFA 2, requires that they be detained in a U.S. jail. Specifically, Article 9 states that if a Filipino serviceman is accused of committing a crime in the U.S. "confinement imposed by a United States federal or state court upon a Republic of the Philippines personnel shall be served in penal institutions in the United States suitable for the custody level of the prisoners, chosen after consultation between the two governments," once more illustrating the inherent inequities underpinning the military arrangements (Uy and Guinto, 2009).

Long before Nicole brought charges against her accused rapists, the lopsided provisions contained within the VFA raised alarm for Filipino feminists. Days after Ramos signed the treaty, GABRIELA, an umbrella federation of women's groups in the Philippines, argued the VFA, specifically Article V, provided U.S. military personnel with the "diplomatic license to violate our women and children" (GABRIELA Press Release, 1998). Their concerns were not unfounded; incidences of sexual assault perpetrated by U.S. servicemen against Filipino women had become routine around the military bases. During the Marcos dictatorship, for example, a U.S. soldier was allowed to leave the country after it was discovered he was responsible for organizing a prostitution ring in Olongapo involving twelve young girls, otherwise known as the "Olongapo Twelve," infected with a number of sexually transmitted diseases (San Juan, 1998). In another case, a U.S. soldier escaped prosecution for the rape and murder of Rosario Baluyot, a twelve-year-old girl who died after being poisoned by a vibrator that had been broken off and left inside her body. Though gruesome, both of these crimes belong to a much larger pattern of militarized violence, comprising approximately 2,000 reported cases in the post World War II period, that never reached Philippine courts (Rosca, 2007, p. 2). Susan R. McKay reminds us that these patterns of gendered violence are typically manifest indirectly, through macro forces, such as the global economy, or international law, and directly through interpersonal forms of violence, such as assault and rape. However, McKay claims "it is essential that both indirect and direct violence toward women are understood as fundamental phenomena that maintain inequality" (1998, p. 349). This is why, in the shadow of the U.S. military and the VFA, the Subic rape case takes on a special significance when connected to structural and micro forms of violence against women in militarized spaces.

After a night of drinking at the Neptune Club in Subic Freeport, home to the former naval base, a U.S. Marine raped Nicole inside a moving van as three of his friends cheered him on. Afterwards, Nicole was dumped, half-clothed on the side of the road as the van sped off. Court documents later identified the accused as Lance Corporals Daniel Smith, Keith Silkwood, Dominic Duplantis and Staff Sergeant Chad Carpentier. Members of the 31st Marine Expedi-

tionary Force stationed in Okinawa, the four soldiers had just completed *Balikatan* exercises with members of the Philippine military. Adhering to the guidelines of the VFA, a one-year deadline was imposed for the trial, thus placing the prosecution team under enormous pressure to present their case with the necessary evidence. It quickly became clear that Nicole was not simply going to trial against four soldiers, but a military superpower prepared to flex its political and economic muscle to protect its personnel from prosecution.

During the proceedings, Duplantis, Carpentier, and Silkwood maintained their innocence by corroborating Smith's testimony that he and the victim engaged in "consensual sex." Although these three soldiers were eventually acquitted due to lack of evidence, the conviction of Smith rested on DNA evidence and Makati Regional Trial Court Judge Benjamin Pozon's interpretation of Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997. Testimony from medical experts, bar patrons and police investigators indicated that "Nicole" was too intoxicated to "consent" to sex with Smith. Agreeing with their findings, Pozon delivered the landmark "guilty" verdict, sentencing Smith to 40 years in the Makati City Jail and ordering him to pay "Nicole" P100,000 (\$2000). In the lengthy decision Pozon argued the "court is morally convinced that Smith committed the crime charged. He admitted having sex with the complainant whom he knew was intoxicated . . . thus she could not have consented on the bestial acts of the accused" (Torres, 2006). According to the Anti-Rape Law, a rape is committed "when the offended party is deprived of reason or otherwise unconscious" (1997). After the verdict, Smith was escorted directly to the Makati City Jail to begin his sentence, despite appeals from his lawyers to have him remain in U.S. custody.

Outraged over the conviction, the United States threatened to cancel all future joint military exercises if Smith was not transferred back to the U.S. Embassy to appeal the decision. Considering that the Armed Forces of the Philippines "has received the most dramatic increase in foreign military funding from the U.S. since 2001" (Docena, 2006, p. 7) the prospect of losing a critical source of financial support proved too great for the Arroyo administration. Circumventing Pozon's decision, an agreement was signed between Foreign Affairs Secretary Alberto Romulo and U.S. Ambassador to the Philippines Kristie Kenney, enabling Smith's return to the U.S. Embassy after serving only twenty-five days of his sentence. Soon after, the resumption of *Balikatan* operations was announced, and the U.S. Marines issued a public statement promising that its members would commit "no more rape" during their stay in the Philippines (Orejas, 2007).

The diplomatic bullying and behind-the-scenes legal wrangling that U.S. officials used to secure Smith's custody underscore the iniquitous neocolonial relationship between the United States and the Philippines. This is most evident when compared to the way U.S. officials have recently handled other high profile military crimes in the region. For example, in 2007, the U.S. Army publicly apologized to S. Korean officials for the rape of a 67-year-old woman by a U.S.

solider, claiming that the “vicious act is an affront to all soldiers” assuring the country that the United States military was “cooperating fully with Korean authorities” (Agence France-Presse, 2007). A similar situation occurred in 2008 after Japanese authorities detained a U.S. Marine for the abduction and alleged rape of a 14-year-old young woman. Although she dropped the charges a few days later, the U.S. Marine Corps conducted its own internal investigation and sentenced the man to four years in prison for “abusive sexual conduct with a Japanese teenager in Okinawa” (Wright, 2008, p. 3). Fearing the incident would endanger the important military alliance between the two countries, U.S. officials, including former Secretary of State Condoleezza Rice, issued formal apologies to Japanese Prime Minister Yasuo Fukuda and Foreign Minister Mashiko Komura (Wright, 2008, p. 2). Reminiscent of the widely publicized 1995 Okinawan rape case, involving the prosecution and sentencing of three U.S. soldiers to seven years in a Japanese penitentiary for the gang rape of a 12-year-old Okinawan school girl, the effort made by U.S. authorities to smooth over diplomatic relations stands in sharp contrast to their handling of the Subic rape case.

Highlighting these recent events, however, is not intended to imply that the United States is, or has always been, cooperative with governments hosting its military installations. Rather, these transnational comparisons reveal similarities and differences across regions. Barbara Sutton and Julie Novkov stress the importance of exposing “‘linkages’ among different places, underscoring how social processes and ideologies in one area of the world relate to crises, power struggles, or political designs in other areas” (2008, p. 11). Similar to Filipinos, S. Koreans and Okinawans have all seen their sovereignty jeopardized by status of forces agreements (SOFA) that govern the behavior of U.S. military personnel during their tours of duty. Typically, SOFAs are negotiated in private, between the U.S. government and the specific country that will be “home” to its military base (Moon, 1997; Enloe, 2000). As a result, the U.S. frequently has invoked the shield of these military agreements to protect its troops from prosecution for crimes such as rape and/or murder. For example, in Okinawa “between 1972 and 1995, U.S. servicemen were implicated in 4,716 crimes, nearly one per day . . . and few indeed have suffered any inconvenience for their crimes” (Magdoff et al., 2002, p. 9). On the rare occasion that a serviceman is actually punished for a crime in the “host” country, it is largely due to organized anti-bases protests, particularly those spearheaded by grassroots women’s organizations that draw explicit attention to the gendered and racialized dimensions of military violence.

Cynthia Enloe explains that during the 1970s, after a string of unsolved murders allegedly perpetrated by U.S. soldiers, S. Korean women located in and around the military camptowns began organizing and pressuring the local police and government officials to be more vigilant in tracking down the assailants (2000, p. 92). Similarly, in the aftermath of the 1995 gang rape in Okinawa, Japanese women forged broad coalitions with S. Korean and Filipino feminists to protest U.S. militarization throughout the Asia Pacific region. In the Philippines, the women’s movement has a lengthy history of uti-

lizing rallies, vigils, marches, and other forms of public protest to demonstrate their opposition to U.S. military aggression, acknowledging that the presence of U.S. troops is “more than a question of sovereignty [but] is in fact a question of national dignity, class inequalities, sexual politics, and racism” (Santos, 1992, p. 38). Expanding the anti-imperialist nationalist movement’s analysis of militarization to include issues of gender and race, the Philippine women’s movement makes explicit that national liberation is intimately tied to women’s liberation. By directly assailing U.S. militarism, and by extension U.S. imperialism, Filipino women’s grassroots activism underscores the importance and necessity of a “nationalist feminist” perspective in a “Third World” formation. Despite the fact that “nationalism” has been maligned in much of western feminist theory due to its modernist and patriarchal moorings, Filipino feminists, through vigorous debate and dialogue with their male counterparts, have forged a unique and vibrant anti-imperialist women’s liberation movement. As Filipino critic Delia Aguilar notes, many Filipino women strongly believe that “freedom from oppression as women can become possible only when the nation is liberated from U.S. domination and when the majority of the people can be released from poverty, illness, malnutrition, and other forms of deprivation rampant in a neocolony” (1998, p. 45). Thus, it makes sense that a focal point for women’s organizing would center on the effects of U.S. militarism in the country, symbolic of both the suppression of Philippine sovereignty and the violation of Filipino women’s dignity.

Prior to granting formal “independence” on July 4, 1946, the United States signed the Military Bases Agreement, and the Military Assistance Agreement enabling it to maintain two major military installations in the Philippines: Clark Air Force Base and Subic Naval Base along with 23 smaller facilities. Often praised by both U.S. and Philippine governments for providing an economic boost to the country, the military facilities became notorious for generating prostitution in their respective communities. According to the feminist NGO WEDPRO (Women’s Education Development Productivity and Research Organization), 70 percent of women working around the bases “were in prostitution well before they turned 18” with 50 percent reporting they had “never worked in similar situations” prior to working in the “entertainment” or “red light” districts (Santos, Hoffman, and Bulawan, 1998, p. 3). The sheer magnitude of prostitution during this period resulted in its “normalization” whereby the sexual assault and exploitation of women became a routine, acceptable part of life in the cities of Angeles and Olongapo (Santos, Hoffman, and Bulawan, 1998, p. 3). Not surprisingly, the presence of the bases further inculcated a deep sense of racial and cultural inferiority among many Filipinos, particularly women, who often found themselves attempting to reconcile contradictory processes where “redemptive hopes and expectations—through love and marriage, escape to the United States and its glories—violently collid[ed] with the environs in which these are nurtured, suffused as the bases [were] by naked exploitation” (Aguilar, 1998, p. 7). Indeed, the desire to improve one’s status by marrying a white American man and

having light-skinned, blue-eyed children became a dream for many women working as prostitutes, despite being surrounded by U.S. soldiers proudly wearing t-shirts depicting Filipinas as "Little Brown Fucking Machines Powered By Rice." More often than not, however, most women never achieved these dreams, left behind to care for the thousands of Amerasian children abandoned by servicemen once their stay in the Philippines had expired. According to feminist scholars Gwyn Kirk and Margo Okazawa-Rey, the situation for these children had become so acute that a lawsuit was filed in the United States in 1993 on their behalf, only to have it not be "considered in any serious way" by U.S. government officials (1998, p. 312).

Throughout the 1980s, various sectors of the Philippine women's movement, including GABRIELA, BUKLOD Center, Coalition Against Trafficking in Women Asia-Pacific (CATWAP), and WEDPRO, mobilized to respond to the crisis of militarized prostitution by creating women's shelters, providing health and counseling services, and offering educational seminars on HIV/AIDS, among other practical initiatives (Santos, Hoffman, and Bulawan, 1998; Kirk and Okazawa-Rey, 1998). Together, in conjunction with the broader anti-imperialist nationalist movement, Filipino feminists played an important role in convincing members of the Philippine Senate to reject the lease renewal on the bases in 1991. Preferring the term "prostituted" women to denote the larger socio-economic factors responsible for forcing many women into the industry, Filipino feminist activists have been vocal in their efforts to end the traffic in women and children.

This anti-trafficking position has, in certain feminist theoretical circles, provoked consternation among those who claim such efforts do more harm than good to the women involved. For example, in her analysis of Korean NGOs involved in anti-trafficking campaigns, Na Young Lee (2006) acknowledges the significant accomplishments various groups have achieved in bringing greater attention to issues of militarism and prostitution. However, she argues that they "cannot allow any other perspectives besides the anti-sex work feminist position which sees prostitution as a form of sexual exploitation or patriarchal crimes" (p. 465). By using terms such as "prostituted" women instead of "sex workers," Lee maintains that the diversity and complexity of women's individual lives become obscured when there is an "official frame or master narrative informing a particular analysis" (2006, p. 466). In many ways, Lee's work echoes that of Anne-Marie Hilsdon (1995) who, in one of the only scholarly accounts of gender and militarism in the Philippines, argued that "prostitution at the former U.S. bases was a narrative of both exploitation and agency" since it allowed greater economic and sexual independence for Filipino women compared to those living in more rural areas (p. 106). The social costs of such independence, however, are rarely discussed in analytical formulations dedicated to recuperating women's "agency" at the expense of other pressing considerations. Indeed, this specific theoretical stance has grown in popularity over the recent years, as feminists have become increasingly more interested in examining women's subjectivity within the libidinal rather than the political economy.

As useful as these accounts may be for delving into the minutiae of individual women's lives, they fail to imagine alternatives to the existing social order, constrained by ideological requirements to dispense with the material or "official frame" in favor of obfuscatory discursive analyses that do little to destabilize the economic, social, or political forces underpinning the exploitation of "Third World" women's labor and sexuality. To illustrate, in her deployment of a Foucauldian lens to analyze militarized gender violence, Hilsdon's scholarship focuses on the "positioning of women" in the "confrontation between liberation and state armies—that is the Communist Party of the Philippines/New People's Army (CPP/NPA) and the . . . Armed Forces of the Philippines (AFP)" (1995, p. 2). Adhering to Foucault's famous dictum that power is "capillary," Hilsdon effectively flattens the important distinctions between the AFP and NPA by arguing that neither the "state nor its army has a monopoly on disciplinary power" (1995, p. 25). This revelation might come as a shock to the numerous Filipinos who have been unjustly subjected to intensified government harassment and state military intimidation since the election of President Arroyo in 2001. Indeed, continuing the "all out" war against the Philippine Left initiated by her predecessors, over 1,000 *legal* activists from across the social spectrum (peasants, union leaders, journalists, feminists, students, lawyers, etc.) have been murdered with hundreds more "disappeared." Despite international condemnation from a host of human rights organizations, killings of political opponents by members of the Armed Forces of the Philippines (trained by the United States military courtesy of the VFA) have continued unabated. Against this volatile backdrop of contemporary Philippine life, Hilsdon's scholarship can serve as a cautionary tale, exposing the pitfalls and limitations of post-modern politics. In contrast, the anti-imperialist feminist perspective informing grassroots Filipino women's activism against U.S. militarism can serve as a necessary antidote to the recent spate of post-modern-inspired feminist theoretical production. By organizing mass campaigns against militarized sexual violence, the Philippine women's movement has helped raise the profile of a historically overlooked by-product of U.S.-Philippine relations, arguably paving the way for the historic conviction of Daniel Smith in 2005.

United under the slogan "Justice For Nicole, Justice For Our Nation," members of GABRIELA, Task Force Subic Rape (TFSR), and the Nicole Information Bureau worked collectively throughout the court proceedings to monitor the trial, provide support to Nicole and her family, and help educate the general public about the relationship of the case to the larger issue of Philippine sovereignty. With over 200 member organizations GABRIELA is the largest alliance of women's groups in the country. Founded in 1984, it has played a critical role during its history in advocating on behalf of women who have suffered under unjust military agreements. In the aftermath of the Subic rape, women affiliated with GABRIELA continued to pressure the Arroyo administration to nullify the VFA "claiming the government is putting more weight to the apparent success of the U.S.-backed campaign against the Abu-Sayaff to stifle calls for the review or scrapping of the RP-US Visiting Forces Agreement" (Alipala, 2007). Other

groups, such as Task Force Subic Rape, a women-led coalition of 17 member organizations working outside the purview of GABRIELA, was created to “support a fair trial for Nicole’s case and to bring justice not only to Nicole, but also to the women and children violated by the U.S.-led wars of aggression all over the world” (2006, p.8). Members drafted and distributed a primer on the Anti-Rape Law of 1997 and the VFA and encouraged citizens to “always anchor the rape case on the issue of the legitimacy of the VFA and how this agreement violates the sovereignty of the Philippines as a duly recognized independent state” (2006, p. 7). Similarly, the Nicole Defense Campaign and its media relations arm, the Nicole Information Bureau, developed online resources to provide the public inside and outside the Philippines with accurate information concerning the trial. For example, a paper outlining the specific connections between the Subic rape case and the VFA is contained on their website, among various other documents. Specifically, it explains that while the VFA is a variation of the aforementioned Status of Forces Agreement that the United States has in place with other countries hosting its military installations, it is significantly different because it was negotiated in the absence of bases, therefore placing the *entire* country under the auspices of its terms and regulations (www.subicrapecase.wordpress.com). Since this formation essentially gives the U.S. military unchecked power over the whole territory of the Philippines, the vigorous, organized response of a diverse array of Filipino feminists is evidence of the tremendous importance placed on the outcome of the Subic rape case.

Given this context many of Nicole’s supporters were shocked and saddened when her second affidavit emerged. Still, they urged the public not to blame Nicole for her decision, acknowledging the tremendous pressure and scrutiny she and her family had faced since 2005. Speaking on behalf of GABRIELA, Liza Maza characterized Nicole’s sudden change of heart as “unfortunate,” noting that it made her a “victim of three aspects: rape, the government, and the VFA” (Maragay, 2009). In a statement to the press, Nicole’s former lawyer Evalyn Ursua explained that the family had grown “tired of the case” and that Nicole left the country because “there was no justice” in the Philippines (Jimenez-David, 2008). Women’s groups were also quick to counter media reports that Nicole had “recanted,” arguing that she never retracted her original claim that she was raped by Smith. On their website, members of Task Force Subic Rape reminded readers that there were “three other conditions for rape apart from sexual coercion” that included the victim being “drugged or intoxicated.” Arguing that her “affidavit was not a recantation,” TSFR reiterated Pozon’s decision that Nicole was too intoxicated to give consent to Smith (www.subicrapecase.wordpress.com). Moreover, feminist organizations stressed the document was completely irrelevant since the Anti-Rape Law of 1997 declared rape to be a *public*, rather than a private, crime. This meant that the trial, having already been determined, was no longer between Nicole and Smith, but rather the Republic of the Philippines and Smith. Still, many were left puzzled by both the timing of her decision and the surreptitious manner in which her affidavit was executed. For example, just a

month earlier, on February 11, 2009, the Philippine Supreme Court ruled that Smith be returned immediately to Philippine custody. In their decision, the judges argued that the “Romulo-Kenney agreements of Dec. 19 and 22, 2006, which are agreements on the detention of the accused in the United States Embassy, are not in accord with the VFA itself because such detention is not ‘by Philippine authorities’” (GMANEWS, 2009, p. 2). Though the Supreme Court did not declare the VFA illegal, as many had hoped, their judgment remanding Smith to Philippine custody was, in light of the circumstances, a momentary victory for Nicole and her legal team.

Despite the ruling, however, the United States refused to hand Smith over to Philippine authorities. This blatant rejection of Philippine law only strengthened calls, among progressive nationalist organizations, to abrogate the VFA. By early March, with Smith continuing to languish in U.S. custody, newly elected U.S. President Obama made a “surprise” phone call to President Arroyo assuring her of his continued support for the VFA. Two days later, Nicole signed her “recantation” in the office of the law firm representing Smith and left for the United States. In response to suggestions that Nicole might have been pressured or bribed by U.S. officials to change her previous testimony, Nicole’s mother asked the public to respect her decision, noting that the family had “fought long enough. We just want peace of mind, to live quietly” (Quismundo and Alipala, 2009, p. 2). She went on to explain that the protracted legal battle had taken a toll on her daughter, stating, “every time we went out and people recognized us, my daughter almost melted with shame. We couldn’t have peace” (Quismundo and Alipala, 2009, p. 2). In her discussion of militarized sexual violence, Enloe explains that rape victims often have to navigate conflicting and complex emotions as they formulate a response to their assault. In most cases, these women have to weigh “a woman who is raped has relationships to the rapists and to her personal friends and relatives, to the prevailing norms of feminine respectability, and perhaps to the criminal justice system, but *in addition*, she must weigh her relationships to collective memory, collective notions of national destiny, and the very institutions of organized violence” (Enloe, 2000, p. 111). Though it is futile to speculate what planted the seeds of doubt in Nicole’s mind, the historic circumstances surrounding her trial must be tied forever to the collective memory of the thousands of Filipinas who have preceded her down the difficult and daunting task of seeking justice and accountability from the imperial hegemon.

Notwithstanding the presence of a well-organized women’s movement, the Subic rape case exposed contradictions regarding traditional notions of Philippine womanhood and femininity, with some women rallying behind Smith while publicly chastising Nicole for her “reckless” behavior. In letters written to the *Philippine Daily Inquirer*, for example, some Filipinas expressed their willingness to join a “club or something in support of Smith” as others questioned Nicole’s motives by asking “[w]hat kind of woman will get herself drunk in a bar, flirt with soldiers, go out with them, and expect not to get molested?” (Tulfo, 2006, p. 1-2). The release of two pornographic DVD’s titled *Olongapo Scandal* and *Nicole*, both based on

the events of November 1, 2005, only added to the public humiliation Nicole endured. Although it has been common in rape cases to “blame the victim,” it is important to locate these responses to Nicole within the history of Spanish and U.S. colonialism.

One of the most enduring legacies of 350 years of Spanish colonial rule was the introduction of Catholicism that radically altered existing ideologies concerning gender and sexuality. Discussing this period, Elizabeth Eviota notes that “religion was to have different consequences for women and men” thus producing a sexual double-standard that circumscribed Filipino women’s sexuality, relegating her to the domestic sphere (1992, p. 39). According to the teachings of the Catholic Church, “[d]aughters should be taught to fear God, to take care of their virginity and to be modest so as not to be taken advantage of by men. Women should be taught to keep house and to love the home because according to the Bible, the fortunes of the household lay on their shoulders” (Eviota, 1992, p. 60). Spanish colonialists justified the regulation of Filipino women’s sexual behavior through religious doctrine because they felt most were “‘licentious’ and ‘immoral’ [who] did not know the meaning of ‘love’” (Eviota, 1992, p.41). In her perspicacious analysis of colonial discourses in the Dutch East Indies, Ann Laura Stoler explains that “[s]exual promiscuity or restraint were not abstract characteristics attached to any persons who exhibited those behaviors, but as often post-hoc interpretations contingent on the racialized class and gendered categories to which individuals were already assigned” (1995, p. 115). By describing Filipino women as “erotically driven, sensually charged, and sexually precocious” the Spanish were able to further their colonial project through the religious disciplining of Filipino women’s sexuality (Stoler 1995, p.115; Eviota 1992, p. 39). Women who were to step outside the traditional notions of respectable Philippine femininity were subject to censure and rebuke. Several centuries later, the Catholic Church continues to wield enormous influence in the social and political affairs of the Philippines. With over 90% of the population Catholic, divorce remains illegal in the country, abortion is prohibited as well as contraception, thereby limiting the availability of condoms and other methods of family planning to Filipino citizens. In this context, it is not difficult to see why Nicole and the Subic rape case stirred so many differing emotions.

Indeed, these cultural ideals governing Philippine womanhood manifested themselves a little more than a month after Nicole left the country, when the Philippine Court of Appeals (CA) acquitted Lance Corporal Daniel Smith. In their decision, the justices, comprised of three women, ruled that Smith and Nicole shared a “spontaneous, unplanned romantic episode” and were simply “carried away by their passions” (Torres, 2009). The judgment also indicted Nicole for her “audacity” to flirt with Smith with “reckless abandon,” claiming that when their brief “romance” ended, Nicole became irritated and charged Smith with rape. Despite the mounds of medical testimony presented at the original trial indicating force had been used, the CA claimed they could find “no evidence” that this was the case. Within hours of his acquittal, Smith left the country for a

“secret” location to be reunited with his family, ending a nearly three year legal battle that, if the conviction was upheld, would have been a momentous victory for Filipino women and Philippine sovereignty. Smith’s acquittal has only strengthened the resolve of the Philippine women’s movement, however, as mass protests demanding the abolition of the VFA continue at the time of this writing.

Notes

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