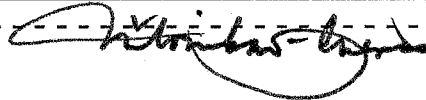


EN BANC

G.R. No. 252739 (XXX,¹ Petitioner, v. THE PEOPLE OF THE PHILIPPINES, Respondent)

Promulgated:

April 16, 2024

X ----- X


CONCURRENCE

LAZARO-JAVIER, J.:

In 1979, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)—a monumental achievement signifying not only the advancement of women’s rights but the recognition, too, of the global, yet uniform and harsh reality faced by all women around the world as the usual victims of gender-based violence. In the Philippines, Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act was enacted in 2004.

In no uncertain terms, the Court in *Garcia v. Drilon*² (*Garcia*) painstakingly demonstrated, through the voice of a powerful woman in the Court, then Senior Associate Justice Estela Perlas-Bernabe, the significance of Republic Act No. 9262 and why women, as a class, deserve special protection under the law due to the unequal power relationship between men and women and the statistically-proven fact that women are the “usual” and “most likely” victims of violence. In *Garcia*, the Court traced the historical context of gender-based violence, viz.:

The United Nations [recognizes] that “violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that **violence against women is one of the crucial social mechanisms by which women are forced into subordinate positions, compared with men.**” x x x

¹ In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 7610, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

² 712 Phil. 44 (2013) [Per J. Perlas-Bernabe, *En Banc*].



History reveals that most societies sanctioned the use of violence against women. The patriarch of a family was accorded the right to use force on members of the family under his control.

Traditions subordinating women have a long history rooted in patriarchy — the institutional rule of men. Women were seen in virtually all societies to be naturally inferior both physically and intellectually. In ancient Western societies, women whether slave, concubine or wife, were under the authority of men. In law, they were treated as property.

The Roman concept of *patria potestas* allowed the husband to beat, or even kill, his wife if she endangered his property right over her. Judaism, Christianity and other religions oriented towards the patriarchal family strengthened the male dominated structure of society.

English feudal law reinforced the tradition of male control over women. Even the eminent Blackstone has been quoted in his commentaries as saying husband and wife were one and that one was the husband. However, in the late 1500s and through the entire 1600s, English common law began to limit the right of husbands to chastise their wives. Thus, common law developed the rule of thumb, which allowed husbands to beat their wives with a rod or stick no thicker than their thumb.

In the later part of the 19th century, legal recognition of these rights to chastise wives or inflict corporeal punishment ceased. **Even then, the preservation of the family was given more importance than preventing violence to women. . . .**

As time marched on, the women's advocacy movement became more organized. The temperance leagues initiated it. These leagues had a simple focus. They considered the evils of alcoholism as the root cause of wife abuse. Hence, they demonstrated and picketed saloons, bars and their husbands' other watering holes. Soon, however, their crusade was joined by suffragette movements, expanding the liberation movement's agenda. They fought for women's right to vote, to own property, and more. Since then, the feminist movement was on the roll.

The feminist movement exposed the private invisibility of the domestic violence to the public gaze. They succeeded in transforming the issue into an important public concern. x x x Finally in 1994, the United States Congress enacted the Violence Against Women Act.

In the International front, the women's struggle for equality was no less successful. The United States Charter and the Universal Declaration of Human Rights affirmed the equality of all human beings. In 1979, the UN General Assembly adopted the landmark Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). In 1993, the UN General Assembly also adopted the Declaration on the Elimination of Violence Against Women. World conferences on the role and rights of women have been regularly held in Mexico City, Copenhagen, Nairobi and Beijing. The UN itself established a Commission on the Status of Women.

The Philippines has been in cadence with the half — and full — steps of all these women's movements. No less than Section 14, Article II of our 1987 Constitution mandates the State to recognize the role of women in nation building and to ensure the fundamental equality before the law of

women and men. Our Senate has ratified the CEDAW as well as the Convention on the Rights of the Child and its two protocols. To cap it all, Congress, on March 8, 2004, enacted Rep. Act No. 9262, entitled “An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties therefor and for other Purposes.”³ (*Italics in the original, emphasis supplied*)

Though a decade may have passed since *Garcia* and numerous women victims of domestic violence have achieved their quest for justice since then under Republic Act No. 9262, the power imbalance and gender bias which the law seeks to address still persist. The Court’s keen observation in *Garcia* rings true to this day:

Society and tradition dictate that the culture of patriarchy continue. Men are expected to take on the dominant roles both in the community and in the family. This perception naturally leads to men gaining more power over women — power, which must necessarily be controlled and maintained. **Violence against women is one of the ways men control women to retain such power.** (*Emphasis supplied*)

We cannot deny that “patriarchal dominance [] still pervades many social relationships.”⁴ Courts should continue to be sensitive of the existing power relations between genders.⁵ This remains to be a duty of this Court as the exigency which breathes life to the purpose of Republic Act No. 9262 persists.

Here, the Court again reckons with the persisting power imbalance between genders. Petitioner XXX was charged with psychological violence for causing his wife, AAA mental and emotional anguish after the latter discovered his illicit affair with YYY with whom he has a lovechild. XXX maintains, however, that his mere one-night stand could not possibly amount to psychological violence as it happened only once. More important, his extramarital affair was, anyway, not *intentionally* committed to cause AAA mental and emotional distress.

Thus, the questions at hand: *first*, must marital infidelity be repeated or continued to constitute psychological violence under Republic Act No. 9262; and *second*, is the intention of the offender material in determining whether psychological violence against a woman has been committed?

The *ponencia* ordains in the negative. I *fully* concur. Speaking on behalf of women, I further elucidate why, in the ongoing battle for women empowerment, the intention of the offender must never have a place in ascertaining whether psychological violence has been inflicted on a woman.

³ *Id.* at 92–95.

⁴ *Cumigad v. AAA*, G.R. No. 219715, December 6, 2021 [Per J. Leonen, Third Division], *citing Perez v. People*, 830 Phil. 162 (2018) [Per J. Leonen, Third Division].

⁵ *Id.*

Foremost, XXX's argument perpetuates the counter-intuitive rationale that in order for marital infidelity to be punishable, it must be sustained, repeated, blatant, or coupled with other demeaning acts towards the innocent spouse or child. Stated differently, if mental or emotional anguish could be measured on a spectrum, conviction under Section 5(i) of Republic Act No. 9262 should only issue **whenever the mental suffering or emotional anguish is on the extreme end of the said spectrum**. In fine, rather than deterring the commission of marital infidelity which may cause psychological distress to the woman, as intended by Republic Act No. 9262, XXX implores the Court to grant imprimatur for the commission of the same so long as it is committed in isolation, or as a one-off, mistake, or momentary lapse in judgment so to speak, and whenever it is coupled with circumstances which depict the offender as an upright spouse and/or parent, then the criminal liability should be extinguished.

Surely, this cannot be what Republic Act No. 9262 intends.

XXX's theory finds no support in Law or in jurisprudence.⁶ For one, the reasoning behind it runs counter to the well-entrenched principle that in the Philippines, "absolute monogamy is still the order of the day."⁷ Our legal system is replete with laws that enforce monogamy in marriage and penalize those who go against it (e.g., the provisions of the Revised Penal Code on bigamy, adultery, and concubinage).⁸ More, the Court "value[s] monogamous marriages and consider[s] them worthy of strict legal protection."⁹ Clearly, the law values and protects monogamy.¹⁰ XXX's supposition runs against this principle, carves out an exception to monogamy, and allows an unfaithful husband to engage in marital infidelity *scot-free* so long as he commits it only in isolation.

For another, to warrant a conviction under Section 5(i) of Republic Act No. 9262, only the following elements are required: (a) the offended party is a woman and/or her child or children; (b) the woman is either the wife or former wife of the offender; (c) the offender causes on the woman and/or child mental or emotional anguish; and (d) the anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar to such acts or omissions.

⁶ See generally *Malang v. Hon. Moson*, G.R. No. 119064, August 22, 2000 [Per J. Gonzaga-Reyes, *En Banc*].

⁷ Separate Opinion of Justice Vitug in *Estrada v. Escritor*, A.M. No. P-02-1651, August 4, 2003 [Per J. Puno, *En Banc*].

⁸ *Anonymous Complaint v. Judge Dagala*, A.M. No. MTJ-16-1886, July 25, 2017 [Per Curiam, *En Banc*].

⁹ *Id.*

¹⁰ *Niñal v. Bayadog*, 384 Phil. 661 (2000) [Per Ynares-Santiago, First Division].

Nowhere in the law or jurisprudence is it required that acts constituting psychological violence be committed with certain gravity and with the specific and singular intent to emotionally hurt a woman. What is required, rather, is that the emotional distress and anguish allegedly suffered by the woman is duly established and supported by the evidence on record, *i.e.*, the psychological abuse should be proven beyond reasonable doubt.

This is consistent with *Araza v. People*,¹¹ where the Court thoroughly laid down its basis, in the form of the woman's testimony, ordaining that the marital infidelity of *Araza* caused severe emotional distress to his wife which manifested through depression and frequent hospitalization.

Here, I agree that XXX is guilty of violation of Section 5(i) of Republic Act No. 9262 since the prosecution duly established all the elements of the offense. There is no dispute as regards the first and second elements here.

I thus focus on the third and fourth elements.

Araza is illuminative on the nexus between these two elements. Notably, the Court had been consistent in its pronouncement that the fourth element, *i.e.*, the act/s of psychological violence committed by the man, is the *means* while the third element, *i.e.*, the mental and emotional anguish suffered by the woman, is the *result*, *viz.*:

Psychological violence is an indispensable element of violation of Section 5 (i) of R.A. No. 9262. Equally essential is the element of emotional anguish and mental suffering, which are personal to the complainant. **Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party.** The law does not require proof that the victim became psychologically ill due to the psychological violence done by her abuser. Rather, the law only requires emotional anguish and mental suffering to be proven. To establish emotional anguish or mental suffering, jurisprudence only requires that the testimony of the victim to be presented in court, as such experiences are personal to this party.¹² (Citations omitted)

XXX, however, envisions *to add* to what has already been settled in law and jurisprudence. He proposes to split hairs by reasoning that the marital infidelity he committed is a mere one-night stand, a so-called fluke, which *could not have* caused psychological distress to AAA. To this, I am compelled to raise two important points so that I may speak on behalf of the women we seek to protect under Republic Act No. 9262.

¹¹ 882 Phil. 905 (2020) [Per C.J. Peralta, First Division].

¹² *Id.* at 919.

First. There is no place in the law to contemplate how the man *may or may not have* thought his actions would affect the woman for so long as he, with full volition, freedom, and will, committed those acts. To reiterate, Republic Act No. 9262 was enacted “to promote the protection and safety of victims of violence against women and children.”¹³ Section 2 of Republic Act No. 9262 provides:

SECTION 2. Declaration of Policy.- It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

....

To further emphasize, Republic Act No. 9262 was enacted to protect women or children who are in abusive relationships. The law recognizes that women and children are usually placed at a disadvantage in such situations.¹⁴ The legislature’s deliberations on the precursor bills of Republic Act No. 9262 are likewise instructive:

Wednesday, December 10, 2003

Senator Pangilinan. I just wanted to place this on record, Mr. President. Some women's groups have expressed concerns and relayed these concerns to me that if we are to include domestic violence apart from against women as well as other members of the household, including children or the husband, they fear that this would weaken the efforts to address domestic violence of which the main victims or the bulk of the victims really are the wives, the spouses or the female partners in a relationship. We would like to place that on record. How does the good Senator respond to this kind of observation?

Senator Estrada. Yes, Mr. President, there is this group of women who call themselves “WIIR” Women in Intimate Relationship. They do not want to include men in this domestic violence. But plenty of men are also being abused by women. I am playing safe so I placed here members of the family, prescribing penalties therefor and providing protective measures for victims. This includes the men, children, live-in, common-law wives, and those related with the family.^[65]

....

Wednesday, January 14, 2004

....

The President Pro Tempore. . . .

¹³ *Reyes v. People*, 855 Phil. 991, 1007 (2019) [Per J. Peralta, Third Division], citing *Go-Tan v. Spouses Tan*, 588 Phil. 532, 541 (2008) [Per J. Austria-Martinez, Third Division].

¹⁴ RA 9262: Frequently Asked Questions, available at <https://pcw.gov.ph/faq-republic-act-9262/> (last accessed on July 7, 2023).

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Also, may the Chair remind the group that there was the discussion whether to limit this to women and not to families which was the issue of the AWIR group. The understanding that I have is that we would be having a broader scope rather than just women, if I remember correctly, Madam sponsor.

Senator Estrada. Yes, Mr. President. As a matter of fact, that was brought up by Senator Pangilinan during the interpellation period.

I think Senator Sotto has something to say to that.

Senator Legarda. Mr. President, the reason I am in support of the measure. Do not get me wrong. However, **I believe that there is a need to protect women's rights especially in the domestic environment.**

As I said earlier, there are nameless, countless, voiceless women who have not had the opportunity to file a case against their spouses, their live-in partners after years, if not decade, of battery and abuse. x x x

I think that the sponsor, based on our earlier conversations, concurs with this position. I am sure that the men in this Chamber who love their women in their lives so dearly will agree with this representation. **Whether we like it or not, it is an unequal world. Whether we like it or not, no matter how empowered the women are, we are not given equal opportunities especially in the domestic environment where the macho Filipino man would always feel that he is stronger, more superior to the Filipino woman. . . .**

The President Pro Tempore. What does the sponsor say?

Senator Estrada. Mr. President, before accepting this, the committee came up with this bill because the family members have been included in this proposed measure since the other members of the family other than women are also possible victims of violence. **While women are most likely the intended victims**, one reason incidentally why the measure focuses on women, the fact remains that in some relatively few cases, men also stand to be victimized and that **children are almost always the helpless victims of violence**. I am worried that there may not be enough protection extended to other family members particularly children who are excluded. Although Republic Act No. 7610, for instance, more or less, addresses the special needs of abused children. The same law is inadequate. Protection orders for one are not available in said law.

I am aware that some groups are apprehensive about granting the same protection to men, fearing that they may use this law to justify their abusive behavior against women. However, we should also recognize that there are established procedures and standards in our courts which give credence to evidentiary support and cannot just arbitrarily and whimsically entertain baseless complaints.

Mr. President, this measure is intended to harmonize family relations and to protect the family as the basic social institution. Though I recognize the unequal power relations between men and women in our society, I believe we have an obligation to uphold inherent rights and dignity of both husband and wife and their immediate family members, particularly children.

While I prefer to focus mainly on women, I was compelled to include other family members as a critical input arrived at after a series of consultations/meetings with various NGOs, experts, sports groups and other affected sectors, Mr. President.

Senator Sotto. Mr. President.

The President Pro Tempore. Yes, with the permission of the other senators.

Senator Sotto. Yes, with the permission of the two ladies on the Floor. The President Pro Tempore. Yes, Sen. Vicente C. Sotto III is recognized. Senator Sotto. I presume that the effect of the proposed amendment of

Senator Legarda would be removing the “men and children” in this particular bill and focus specifically on women alone. That will be the net effect of that proposed amendment. Hearing the rationale mentioned by the distinguished sponsor, Sen. Luisa “Loi” Ejercito Estrada, I am not sure now whether she is inclined to accept the proposed amendment of Senator Legarda.

I am willing to wait whether she is accepting this or not because if she is going to accept this, I will propose an amendment to the amendment rather than object to the amendment, Mr. President.

....

Senator Estrada. The amendment is accepted, Mr. President. The President Pro Tempore. Is there any objection?

....

Senator Sotto. x x x May I propose an amendment to the amendment. The President Pro Tempore. Before we act on the amendment? Senator Sotto. Yes, Mr. President.

The President Pro Tempore. Yes, please proceed.

Senator Sotto. Mr. President, I am inclined to believe the rationale used by the distinguished proponent of the amendment. As a matter of fact, I tend to agree. **Kung may maaabuso, mas malamang iyong babae kaysa sa lalake.** At saka iyong mga lalake, puwede na talagang magulpi iyan. Okey lang iyan. But I cannot agree that we remove the children from this particular measure.

So, if I may propose an amendment –

The President Pro Tempore. To the amendment.

Senator Sotto. – **more than the women, the children are very much abused. As a matter of fact, it is not limited to minors.** The abuse is not limited to seven, six, 5-year-old children. I have seen 14, 15-year-old children being abused by their fathers, even by their mothers. And it breaks my heart to find out about these things.

Because of the inadequate existing law on abuse of children, this particular measure will update that. It will enhance and hopefully prevent the abuse of children and not only women. (Emphases supplied)

Indeed, the protection of women and children—and no other—is the main objective of Republic Act No. 9262. If we thus seek to fully animate the intent and purpose of the law and truly takes upon ourselves to deliver genuine justice to these women and children, our vantage point must lie from the eyes of those the law seeks to protect, *never* from the eyes of those we protect them from or against. For to do the latter would turn a blind eye to the undeniable existence of the injury which the law intends to prevent.

This is precisely why the Court *characterized* the fourth element as a *means* to commit the offense, regardless of the man's specific intent in committing the same. A well-meaning focus on the *mens rea* of the crime, as espoused in *Acharon v. People*,¹⁵ defeats the very purpose of Republic Act No. 9262, in that it allows an offender who obviously caused mental or emotional anguish upon his victim/s to escape his transgression scot-free so long as he is able to **demonstrate that he committed marital infidelity for other reasons**, and that he did not “deliberately use it to cause psychological violence to his wife.”

Should the viewpoint of XXX be upheld, i.e., that specific criminal intent must be considered indispensable for a conviction under Section 5(i) of Republic Act No. 9262, the purpose of the law would be negated. Offenders could simply claim that they engaged in marital infidelity for virtually any self-serving reason (e.g., boredom, curiosity, or adventure) since it is extremely difficult for the prosecution to show that infidelity was employed specifically to cause mental or emotional anguish upon the offended spouse. Nothing short of a confession by the accused would be necessary to prove his intent to cause psychological violence upon his wife.

I thus respectfully submit that in cases involving violations of Section 5(i) of Republic Act No. 9262 **by means of marital infidelity**, courts must, as we have always done, **focus largely on the *actus reus* of the offense, which includes the overt act (marital infidelity) and the consequences thereof (mental or emotional anguish)**¹⁶ as this is the gravamen of the offense. An emphasis on the means of commission is important to avert any notion that we are abandoning our unanimous ruling in *Acharon* which involves a supposed violation of Section 5(i) **by failure to provide financial support**.

As explained in *Acharon*:

To be punishable by Section 5(i) of R.A. 9262, it must ultimately be proven that the accused had the intent of inflicting mental or emotional anguish upon the woman, thereby inflicting psychological violence upon

¹⁵ G.R. No. 224946, November 9, 2021 [Per J. Caguioa, *En Banc*].

¹⁶ See Concurrence of J. Lazaro-Javier in *Acharon v. People*, G.R. No. 224946, November 9, 2021.

her, with the willful denial of financial support being the means selected by the accused to accomplish said purpose.

This means that the mere failure or one's inability to provide financial support is not sufficient to rise to the level of criminality under Section 5(i), even if mental or emotional anguish is experienced by the woman. In other words, even if the woman were to suffer mental or emotional anguish due to the lack of financial support, but the accused merely failed or was unable to so provide support, then criminal liability would not arise.

A distinction is necessary because the means employed in *Acharon* (i.e., failure to provide financial support) is susceptible of multiple interpretations, some of which may be acceptable. For example, it could be that the husband is simply unable to provide the necessary support because his income is insufficient and the necessary expenses for the family are high. In such a case, the husband cannot be criminally held liable.

But here, the means employed cannot be construed in any other manner. **Marital infidelity is quite categorical.** It cannot be understood like financial support, for it is absurd to posit that a husband may wake up one day and have "insufficient" fidelity towards his wife. **It is a sustained obligation which a husband cannot renege on for any reason. A husband either remains loyal or breaches his marital obligation even with only one transgression, as here.** This distinction is in keeping with the intent of Republic Act No. 9262 and the time-honored tenet of equity that a person who commits a wrongful act should be held liable for all the consequences of his or her actions.

More important, I humbly believe that this special legislation for the protection of women and children intends for men to be highly circumspect of their actions. To place this in a more realistic context, for so long, society indulged and tolerated men's whims and caprice without really holding them accountable by conveniently raising the irrational excuse that "men will always be men." In fact, even in the midst of the 21st century, we still have criminal laws that discriminate between men and women in terms of extra-marital affairs by allowing the conviction of an erring wife for a one-time tryst while an unfaithful husband remains free to sleep with his paramours as long as he remains discreet.

But no more, at least where Republic Act No. 9262 is concerned. If we truly intend to elevate women's rights and empower women, there is no place for the thoughtless and irresponsible, yet historically condoned, acts of men which have hurt, traumatized, and demeaned women for ages, especially not in the interpretation of the very law crafted particularly to protect them. We ought not bastardize the intent of the law in this way.

Second. That XXX's affair was a mere one-night stand is a mere convenient excuse. It is the typical defense of a man who had been caught in

the act. As a last-ditch effort, “*isang beses lang naman*” is said in hopes to assuage the hurt, betrayal, and already broken trust of the woman. Once broken, these pieces will never be perfectly whole again. More, in this case, the fruit of this infidelity will forever remind AAA of XXX’s unfaithfulness. To be sure, the damage has already been done. And, in the legal context, all the elements have already been met.

In any case, whether XXX’s marital infidelity was a one-night stand or a one-night thing, one night at a time, it does not matter. For it is not the number of times the man committed an affair that matters but the infliction of injury to the woman – the hurt, torture, and mental anguish suffered by her who has been cheated on by her husband.

Indeed, commission of marital infidelity per se, regardless of frequency, intent, or gravity, is not the *gravamen* of the offense. It does not automatically result in conviction under Section 5(i) of Republic Act No. 9262 *sans* a finding beyond reasonable doubt that the woman suffered mental and emotional anguish as a result. In fact, in the very recent case of *AAA265336 v. People*,¹⁷ the Court acquitted the accused therein of violation of Section 5(i) of Republic Act No. 9262, principally because the prosecution miserably failed to establish that his wife suffered any mental or emotional anguish as a result of his infidelity, viz.:

Here, the Court of Appeals *solely* relied on the following testimony of BBB265336, stating that she was “mad” upon learning about AAA265336’s extramarital affairs, in ruling that she suffered mental and emotional anguish, viz.: x x x

To us, however, BBB265336’s testimony, standing alone, failed to prove that she suffered any mental or emotional anguish. It notably did not relay, *nay*, prove any considerable and lasting suffering which she sustained as a result of AAA265336’s infidelity. What was merely alleged was her *momentary reaction* when she discovered that AAA265336 was in a relationship with another woman. She was angry. Subsequently, she decided to fly back to the Philippines to confront him. Yet, in the *interim* and even after the confrontation, her testimony is notably bereft of how the entire ordeal affected her mental and emotional well-being or disrupted her normal daily life. The simple phrase “I was mad” without more, to the mind of this Court, simply does not suffice and cannot be equated to the mental and emotional suffering required by Republic Act No. 9262.

All told, the prosecution failed to establish that AAA265336’s marital infidelity caused BBB265336 mental and emotional anguish within the contemplation of Section 5(i) of Republic Act No. 9262. Accordingly, a verdict of acquittal based on reasonable doubt is in order.

Clearly, there is thus no hard and fast rule in determining whether psychological abuse under Section 5(i) of Republic Act No. 9262 has been

¹⁷ G.R. No. 265336, November 6, 2023 [Notice, Second Division].

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committed. Whether the accused will be adjudged guilty will always depend on the circumstances of each case, taking into careful consideration each allegation, counter-argument, and evidence of both the prosecution and the defense. In all cases, however, conviction may issue only upon proof beyond reasonable doubt that psychological abuse as defined under the law was inflicted upon the woman.

Here, the mental and emotional anguish suffered by AAA due to XXX's marital affair was sufficiently established. In her testimony,¹⁸ AAA recounted blow-by-blow, not only the facts as they transpired, but most important, their traumatic impact on her mental and emotional well-being. Unlike in *AAA265336*, AAA conveyed with detail and intensity how she felt throughout the entire ordeal, starting from her discovery of XXX's extramarital affair:

Q After receiving the private message, what did you do?

A Syempre hindi po ako—katabi [ko] po siya non, natutulog. **Hindi ko po alam anong mararamdaman ko kasi masakit yun kasi parang napatunayan ko na sa sarili ko na lahat ng iniisip ko sa kanya dati pa totoo.** Hindi ko po agad—sabi po kasi ng kaibigan ko, katrabaho ko, hindi daw po kasi ako makontak non kasi ang FB ko po is naka-private ko po talaga. Hindi ako pwedeng i-message o i-ano. Pero nakita ko po siyang ina-add niya ako. Two weeks yata or a week before that, ina-add niya ako. Hindi naman ako nag-a-accept ng hindi ko kakilala.¹⁹

....

Q Okay. So after that, what did you do after receiving the address?

A Inano ko lang po—kasi kasama ko lang siya so hindi ako pwedeng mag-ano. **Umiyak lang ako. Umiyak lang ako ng umiyak.** Tinatanong niya, “Bakit ka umiiyak?” sabi ko, “Wala.” Katext ko pa rin yun. **Tapos hindi na ako makausap. Hindi na ako makapagluto, hindi ako makapag-function ng maayos kasi masakit eh. Hindi ko talaga ma—bakit ganito. Sabi ko sa kanya, “Magsimba tayo sa Manaoag. Gusto kong magsimba. Gusto kong magsimba talaga kasi ang sakit-sakit na talaga ng pakiramdam ko. Magsimba tayo bukas ng umaga.”** Pumayag siya. Nagsimba kami. **Umiyak ako don kasi tinatanong ko “Bakit naman po? Kasi wala naman akong ibang gusto kundi maayos na pamilya eh.” Yun lang. Hindi ko alam kung ano ang kasalanan ko. Tinatanong ko yung Diyos bakit ganon.** (Emphases supplied)

From her narration, one clearly witnesses how AAA's world crumbled upon her discovery. She recounted in vivid detail how she felt—initially confused and understandably shocked. But when it finally sunk in, she minced no words in relaying how much XXX's illicit relationship hurt, *nay*, **broke** her—she cried nonstop because of the unbearable pain and this pain *crippled* her, rendered her non-functional. But more than that, the greatest testament proving that XXX's actions, whether intentional or not, so deeply and gravely

¹⁸ TSN dated June 8, 2017.

¹⁹ *Id.* at pp. 7–8.

affected AAA was the fact that nothing could anymore ease her pain but the divine. Still, it did not end there. She continued:

ATTY. MISLANG

- Q So after learning about and confirming about the child and the mistress, what did you feel and what did you think of it?
- A Hindi ko po alam kung paano ko tatanggapin yung ganon. Kasi tinanggap ko na po na nambababae siya. Pinilit ko yun. **Kinondisyon ko yung utak ko para hindi na ako nasasaktan kasi ang sakit-sakit eh tuwing nalalaman mo, nararamdaman mo na may babae siya. Para akong tinotorture pero walang tutulong sa akin eh. Sarili ko lang.** Ayokong umiyak lagi. Gusto kong mabuhay ng maayos. Magawa ko lahat ng kailangan kong gawin. **Ginawa kong bato yung sarili ko. Kahit na minsan may napapansin ako hindi ko na sinasabi. Hindi ko na lang sinasabi kasi wala din naman akong panalo sa kanya eh. Sasabihin lang niya hindi totoo. Umiiyak lang ako.** Ganon lang. Masunurin po akong asawa.²⁰ (Emphasis supplied)

More than proving her nonchalance, AAA's statements that she eventually steeled herself and willed herself to no longer feel anything only establishes the intensity of her trauma. For it illustrates how the torturous pain she tried to endure far exceeded what she could bear, such that the only thing she can do was to numb herself to survive. She was evidently helpless. At the same time, she was hopeless. For she knew that any confrontation would only be met by hard denial, as indeed it was—the exact denial which XXX champions here to defeat her cause of action.

The mental and emotional anguish suffered by AAA because of XXX's marital infidelity cannot be denied. The traumatic effect it left on her was not only impactful but lasting and ought not to be ignored. In the past, the Court has held that only the testimony of the victim is required to prove this element, precisely because her experience is personal to such party.²¹ AAA categorically stated:

- Q Did it have any [e]ffect on your work and every day activities?
- A After nanyari yan, opo. **Hindi ako nakapag-trabaho. Hindi ako nakakatulog.**
- Q For how long were you not able to work?
- A Three months, four months.
- Q So what were you doing during those three to four months?
- A Kung san-san po ako pumunta nun. Pumunta ako sa mga pinsan ko. Pumunta ako sa lola ko, pumunta ako sa mga tita ko. Hindi ko sinasabi na may problema ako. Yung isang tita ko nakausap ko siya. Eventually nasabi ko din kasi kailangan ko ng kausap. **Pag hindi ako nagsalita mababaliw ako. Nararamdaman ko yung sarili ko hindin-hindi na ako maayos. Nararamdaman ko. Ayoko siyang makita. Ayokong**

²⁰ *Id.* at 18.

²¹ See *Araza v. People*, G.R. No. 247429, September 8, 2020 [Per C.J. Peralta, First Division].

makita yung bahay namin. Ayokong makita kahit anong damit niya.²²

....

Q If you would quantify how much you lost during the time you were not able to work, around how much did you lose?

A May mga pending ako na mga inaayos sa transfer. May mga dini-deal kami nun. Siguro 200 to 300 thousand.

Q If you would also put value on the emotional and mental stress and suffering you were given, around how much is it?

A **Hindi na niya kayang bayaran yun, attorney. Hindi niya kayang bayaran.**²³ (Emphasis supplied)

By saying that no pecuniary amount could ever compensate for the emotional and mental anguish she suffered because of XXX's infidelity, AAA in effect already said everything there is to say to prove the *gravamen* of this offense. Thus, the trial court and the Court of Appeals both found that:

Based on the Court's observation of private complainant's behavior and manner of testifying, **the anguish can readily be seen during her narration of events that transpired and the emotion shown by complainant could not have resulted in an exaggeration of her feelings**, considering that accused himself admitted to committing marital infidelity that resulted in the birth of his child with Aileen Quintos. . . .

While he denies giving support to Aileen Quintos or their child, accused's admission of siring a child with a woman other than his wife was enough to establish the cause of private complainant's distress. (Emphasis supplied)

Surely, AAA's testimony can, by no stretch of imagination, be equated to the insufficient claim "I was mad" in *AAA265336* so as to warrant an acquittal. On the contrary, her testimony sufficiently establishes the element of emotional anguish or mental suffering pursuant to *Araza*. Indeed, that XXX's tryst was a mere one-night stand is irrelevant against the entirety of this factual backdrop. At the end of the day, the harm has been done. Whether intentional or otherwise, the injury which Republic Act No. 9262 seeks to redress was still caused, and for which XXX must be held liable.

Admittedly, the circumstances in this case pale in comparison to those in *Araza*, and its companion cases.²⁴ On the most basic level, however, this case still exhibits the *gravamen* of a Section 5(i) violation: psychological violence resulting in mental or emotional anguish. AAA, like the women and children in the cases discussed in the *ponencia*, suffered damage because of XXX's marital infidelity. Though XXX did not abandon AAA and his son nor

²² TSN dated June 8, 2017, pp. 18–19.

²³ *Id.* at 20.

²⁴ *Id.* at 10–11.

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did he forsake his family,²⁵ both courts below similarly found that he still caused AAA mental and emotional anguish. This is a uniform finding of fact made by the trial court and appellate court which is binding and conclusive on the Court. XXX's continued compliance with his marital and parental obligations did not preclude him from inflicting suffering and anguish upon AAA. **These things can concurrently exist; they are not mutually exclusive.**

Equally important, I do not believe that Republic Act No. 9262 intends an exact or uniform measure of abuse a man must inflict before an aggrieved woman may hold him liable under the law. For part and parcel of empowering women is recognizing that every woman is different. Every woman has a different threshold for their partner's erring ways and may react differently when faced with such fact. While one may not be intensely aggrieved by the man's marital infidelity, another might be crippled by hurt and distress. In which case, the law steps in to sanction the abuse that has been inflicted on her. This is the essence of the law. It is not meant to be a mechanical measure of how much hurt must be inflicted for the woman to say she has been criminally abused. Accordingly, the Court must evaluate the presence of this element on a case-by-case basis.

In any event, even if the *mens rea* is considered here, XXX's conviction must stand. The specific intent under Section 5(i) of Republic Act No. 9262 may be understood as the offender's intention and purpose to inflict mental or emotional anguish upon his spouse by committing marital infidelity.²⁶ Alternatively, the specific intent may also be the offender's knowledge that marital infidelity is wrong, yet he still dips himself into it, totally and callously shrugging off the mental or emotional anguish it will cause to his spouse.²⁷

Intent is a state of mind. And so courts may appreciate the same "only though external manifestations, *i.e.*, the acts and conduct of the [offender] at the time of [commission of the offense] and immediately thereafter."²⁸ On this score, XXX committed the following acts after his one-night stand with Aileen: (a) signing the birth certificate of his "lovechild;"²⁹ (b) keeping his one-night stand "a secret for good reason;"³⁰ and (c) visiting his child with Aileen on several occasions at various places.³¹

Human experience, common decency, and our entire legal system dictate that a one-night stand is improper for a married individual.³² Stated differently, not only is **marital infidelity illegal but also morally wrong. It**

²⁵ *Id.* at 11–12.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *People v. Tabura*, G.R. No. 228962, February 10, 2021 [Notice, First Division].

²⁹ *Id.* at 12.

³⁰ *Id.*

³¹ *Id.* at 3 and 12.

³² *See e.g.* Article 333 and 334 of the Revised Penal Code.

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is evil. It can never be attributed to noble or pure intentions. As such, marital infidelity regardless of the frequency of commission and the absence of any “other significant factors,” must be punished. No amount of interpretation or rationalization could—and should—ever render marital infidelity acceptable.

These premises, coupled with XXX’s surreptitious acts after his rendezvous with Aileen, ineluctably show his mental state and his awareness that his marital infidelity would cause mental or emotional anguish upon AAA. His conscious decision to desecrate his marital vow and his promise of monogamy to AAA cannot simply be brushed off as a simple lapse of judgment. To be sure, he did not magically end up in another woman’s bed out of sheer Providence. He was not forced to engage in a sexual act, with a woman not his wife. **He ended up where he was, because he wanted to be there. Because he intended to be there.**

Res ipsa loquitur. **His evil acts speak volumes of his evil intentions.**

As Senior Associate Justice Marvic M.V.F. Leonen expounded in *Alanis III v. Court of Appeals*.³³ “Patriarchy becomes encoded in our culture when it is normalized. The more it pervades our culture, the more its chances to infect this and future generations.” To acquit XXX would normalize the power imbalance between men and women, **would be a step in the wrong direction**, and “further encode patriarchy into our system.”³⁴

All told, I vote to **AFFIRM** the conviction of XXX Manalang for violation of Section 5(i) of Republic Act No. 9262.


AMY C. LAZARO-JAVIER
Associate Justice

³³ 890 Phil. 74, 95 (2020) [Per J. Leonen, Third Division].

³⁴ *Id.*