

October 1, 2003

The Human Rights Committee

Re: Supplementary information on the Philippines  
Scheduled for review by the U.N. Human Rights Committee during its seventy-ninth session

Dear Committee Members:

This letter is intended to supplement the periodic report to be submitted by the Republic of the Philippines, which is scheduled to be reviewed by the [Human Rights Committee](#) (the Committee) during its 79<sup>th</sup> Session. The Center for Reproductive Rights and Reproductive Rights Resource Group, an independent non-governmental organization in the Philippines, hope to further the work of the Committee by providing independent information concerning the rights protected in the [International Covenant on Civil and Political Rights](#) (ICCPR). This letter highlights several areas of concern related to the status of women's reproductive and sexual health rights in the Philippines and focuses specifically on discriminatory or inadequate laws and policies.

Because reproductive rights are fundamental to women's health and equality, states parties' commitment to ensuring them should receive serious attention. Further, women's reproductive health and rights receive broad protection under the ICCPR. In its elaboration of equality of rights between men and women in General Comment 28, the Committee directs States Parties to report on laws as well as government or private action that interferes with women's equal enjoyment of the right to privacy.<sup>1</sup> The Committee asks States Parties to eliminate any interference in the exercise of this right.<sup>2</sup> Women's lack of access to health services, and particularly reproductive health services, has been identified by the Committee as a violation of Article 3, which guarantees the right of equality of men and women.<sup>3</sup>

We wish to bring to the Committee's attention the following issues of concern, which directly affect the reproductive health and lives of women in the Philippines:

**A. The Right to Reproductive Health and Family Planning, including Safe and Legal Abortion (Articles 3, 6, 23, and 26 of the ICCPR)**

The ICCPR's guarantee of the right to life in Article 6 requires governments to take "positive measures" aimed at preserving life.<sup>4</sup> Such measures should respond to the needs of both women and men, in keeping with Articles 3 and 26, which guarantee the

right to equal enjoyment of the rights in the Covenant and equality before the law.<sup>5</sup> Because reproductive health care is an essential condition for women's survival, these provisions collectively give rise to a governmental duty to ensure the full range of reproductive health services, including the means of preventing unwanted pregnancy, as well as safe abortion.

As the Committee noted in General Comment 28, when reporting on compliance with the duty to fulfill the right to life, "States parties should give information on any measure taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions."<sup>6</sup> The Committee has found possible violations of the ICCPR where women have difficulty accessing contraceptive methods to prevent unwanted pregnancies.<sup>7</sup> It has recognized that women's lack of access to contraceptives, including their high cost, is discriminatory.<sup>8</sup>

The Committee has further acknowledged that States' duties to protect and ensure the right to life includes a duty to protect women who terminate their pregnancies.<sup>9</sup> It has called upon States to take measures "to ensure that women do not risk life because of restrictive legal provisions on abortion," i.e. being forced to seek abortions under clandestine, unsafe conditions.<sup>10</sup> In this regard, the Committee has condemned legislation that criminalizes or severely restricts access to abortion<sup>11</sup> and has recommended liberalization of criminal abortion laws.<sup>12</sup> It has called upon States Parties to review or amend laws criminalizing abortion, referring to such laws as a violation of the right to life.<sup>13</sup> The Committee has recommended increased access to family planning services<sup>14</sup> and education<sup>15</sup> to reduce abortion rates.

The Republic of the Philippines has fallen short of its duties to ensure women's rights to reproductive health care. Currently, there is no specific law protecting Filipino women's reproductive rights. Hence, women have no redress under domestic law when their sexual or reproductive rights are violated. The following facts indicate further specific violations of women's right to reproductive health care, including family planning.

### **1. Family Planning, Including Access to Affordable Modern Contraception**

The availability of contraceptives is limited due to the government's inability to provide modern contraceptive supplies of reliable quality at low cost, particularly for low-income women. Twenty percent of currently married Filipino women of reproductive age, or around 2 million, still have an unmet need for family planning.<sup>16</sup> In 2002, the contraceptive prevalence rate was 47%.<sup>17</sup> However, the proportion of modern family planning method usage was only 28%.<sup>18</sup>

Furthermore, there is an official bias against the use of modern contraceptives. For example, the local government in Manila discourages the use of "artificial" methods of family planning, such as condoms, pills, intra-uterine devices (IUD), surgical sterilization and others.<sup>19</sup> Similarly, the Mayor of Puerto Princesa discontinued programs to give out

condoms and pills to clients and denied women such procedures as insertion of intra-uterine devices, vasectomy and ligation.<sup>20</sup> Women and couples in these cities have been denied information and services on the full range of contraceptive methods in local public health facilities.<sup>21</sup>

The government's discouragement of modern contraceptive methods has had a significant negative impact on contraceptive usage because the government is the major family planning service provider in the country.<sup>22</sup> In addition, the government is using its funds to promote so-called "natural family planning methods," such as the rhythm method.<sup>23</sup> This is despite the fact that the rhythm method has proved to be as low as 70% effective in preventing pregnancy,<sup>24</sup> when compared to the pill which is 99% effective and condoms which are 89% effective.<sup>25</sup> Furthermore, the rhythm method requires the agreement of both the man and the woman.<sup>26</sup> Under this approach, many women who want to practice contraception may be unable to do so because of their male partners' refusal.<sup>27</sup>

In addition to discouraging the use of modern contraceptives, the government has also been known to misinform people about the efficacy of these modern methods. For example, in March, Philippine Health Secretary, Manuel Dayrit urged the Bureau of Food and Drugs (BFAD) to take IUDs off the shelf, contending that IUDs were abortifacients that caused miscarriages.<sup>28</sup> This directly contradicts the international medical community's position that IUDs are one of the most effective and safe methods of contraception.<sup>29</sup> Similarly, the president has made inaccurate and misleading statements about the efficacy of the rhythm method, claiming that it is 99% effective.<sup>30</sup>

The government's policies of limiting access to modern contraceptive methods has led to increased numbers of unwanted and unplanned births, interfering with the right of parents to responsibly determine the number and spacing of children. Filipino women on average have one child more than they want.<sup>31</sup> Almost half (45%) of births to Filipino women are reported to be unplanned.<sup>32</sup> Many of these women resort to clandestine abortions in order to end their pregnancy. One in six pregnancies in the Philippines ends up being illegally aborted.<sup>33</sup> This, in turn, leads to high maternal mortality, with a ratio of 240 deaths per 100, 000 live births.<sup>34</sup>

## **2. Emergency Contraception**

The BFAD, with the approval of the Department of Health (DOH), has rescinded the license for the distribution of Postinor, a brand of emergency contraception (EC), on the misguided grounds that it has abortifacient effects.<sup>35</sup> The ruling contradicts the position of WHO, which has endorsed EC as a proven safe and effective method of modern contraception.<sup>36</sup> Re-listing Postinor in the registry of available drugs would help prevent unwanted pregnancies, illegal abortions and maternal mortality. In October 2002, the DOH conducted a hearing on the legal status of Postinor but no ruling has been issued and the decision has been further delayed by the DOH's cancellation of a hearing on the re-listing of Postinor that was scheduled for February 2003.<sup>37</sup>

### **3. Abortion**

The outdated Philippine Revised Penal Code of 1932, based on Spanish colonial law, criminalizes abortion.<sup>38</sup> The Revised Penal Code imposes a prison sentence on any woman or health professional (doctors, midwives, pharmacists), who participates in providing abortion services or in dispensing abortive drugs.<sup>39</sup> The law against abortion does not decrease the number of abortions; it only makes the procedure more dangerous. Four hundred thousand Filipino women induce abortions annually.<sup>40</sup> Eighty thousand of these women end up hospitalized and many others die due to complications.<sup>41</sup> One study reports that 72.9% of women who undergo abortion suffer immediate complications<sup>42</sup> and in 1998, 9.1% of maternal deaths were due to unsafe abortions.<sup>43</sup> Unsafe abortion and its complications have been the third leading cause of hospital admissions from 1994-1999.<sup>44</sup>

#### **B. Violence Against Women and Girls (Articles 3, 6, 7, 8 & 9)**

Article 7 of the ICCPR states that no one shall be subjected to torture, inhuman or degrading treatment, or punishment. Article 6 ensures the individual's right to life. Both of these rights are potentially violated when women are subjected to rape and domestic violence. Article 3, which provides for the equal enjoyment by both sexes of the Covenant's rights, is violated if women are not protected from these practices by law and the government's diligent enforcement of such law. The Committee's numerous comments to States Parties on domestic violence<sup>45</sup> reinforce state responsibility by placing a strong emphasis on the need for legislation to criminalize it.<sup>46</sup> The Committee has also emphasized the need for legal remedies<sup>47</sup> as well as equal protection in accessing remedies for sexual violence.<sup>48</sup>

Article 8 of the ICCPR prohibits slavery, servitude, and compulsory labor and Article 9 establishes that all people have the right to liberty and security of person. These rights are violated when a person is subjected to forced prostitution. The Committee's Concluding Observations on Colombia linked prostitution to an increased susceptibility to violence, thus threatening the right to life of women in prostitution.<sup>49</sup> The Committee has emphasized states parties' duty to prosecute procurers of forced prostitution.<sup>50</sup>

#### **1. Rape**

Incidences of rape remain high with an average of eight women raped every day<sup>51</sup> and an average of nine children raped daily.<sup>52</sup> The Anti-Rape Law of 1997 (Republic Act 8353) brought positive changes, such as the reclassification of rape as a crime against persons, the broadening of the definition of rape to include acts other than penile penetration, and the recognition of marital rape. The law, however, imposes a lighter penalty for "rape by sexual assault" committed with the insertion of an object or instrument into the vaginal orifice, as opposed to rape by penile penetration.<sup>53</sup> Implicit in this provision is a disregard for the traumatic effects of an assault of this nature.<sup>54</sup> In addition, the provision has led to a restrictive interpretation of the Anti-Rape Law by the Department of Justice, which has characterized some acts of sexual assault, including insertion of a finger into

the vagina,<sup>55</sup> as “acts of lasciviousness” or other lesser crimes under the Revised Penal Code. Another barrier to prosecution is the Anti-Rape Law’s imposition of the death penalty in certain circumstances, which has deterred some victims, particularly victims of incest, from bringing complaints. The enactment of the Rape Victim Assistance and Protection Act of 1998 (Republic Act 8505) provides support to rape victims through psychological counseling, medico-legal examinations, free legal assistance and training programs for handling rape cases. Its rape shield provision prohibiting admissibility of past sexual conduct of the rape victim, however, is subject to judicial interpretation that may undermine its protection since it provides that such evidence is admissible if found “relevant by the court”.<sup>56</sup>

Despite the enactment of both R.A. 8353 and R.A. 8505, there are numerous complaints for rape that are dismissed at the preliminary investigation level and in the Regional Trial Courts.<sup>57</sup> Definitive data on the number of dismissals and acquittals among rape complaints are unavailable from the Department of Justice. Many judges and public prosecutors still do not understand the realities of rape as gender-based violence, ignoring the fact that rape is life-threatening. Nor do they recognize that the demeanor of rape victims during investigations and while testifying may vary, and they fail to receive reports of rape with credulity.<sup>58</sup> Often they do not take seriously findings of post-traumatic stress disorder among victims of sexual violence.<sup>59</sup> Crucial forensic evidence such as DNA analysis of the perpetrator's semen, hair and skin samples are not widely available,<sup>60</sup> hematomas on the neck and arms of the victim's body and samples from the crime scene may be left out in medico-legal examinations. Although the issuance of medico-legal certificates for child abuse were standardized in 2002,<sup>61</sup> this has yet to be practiced throughout all the medico-legal units in the country for all sexual abuse cases, including cases involving adult victims. And although the Supreme Court ruled that “the absence of hymenal lacerations does not disprove sexual abuse,”<sup>62</sup> many judges and public prosecutors may continue to mistake the absence of hymenal lacerations as conclusive proof that rape did not occur due to adherence to their personal beliefs and lack of knowledge of this decision.

## **2. Domestic Violence**

The incidence of domestic violence is on the rise in the Philippines. Three out of five women in the Philippines are battered.<sup>63</sup> However, there is no specific law that defines or penalizes domestic violence in the Philippines. In the absence of specific domestic violence legislation, there are several criminal provisions under the Revised Penal Code that a battered woman can invoke, such as Articles 265-266 on “Physical Injuries” and Article 283 on “Threats,” but they are all inadequate as sources of relief because they cover only physical abuse.<sup>64</sup> They do not address sexual, emotional, psychological and economic abuse.<sup>65</sup> Furthermore, a criminal trial can be a lengthy and tedious process, attracting a lot of publicity, and many battered women may not possess the resources or be willing to go through this.<sup>66</sup>

The “Family Courts Act of 1997” (Republic Act 8369) does not criminalize domestic violence and provides victims inadequate relief against abuse. RA 8369 authorizes the

issuance of restraining orders against the abusers, in cases of violence among immediate family members living in the same domicile or household.<sup>67</sup> However, the Act is silent regarding domestic violence that occurs between non-married or lesbian or gay partners. In addition, there may be many instances when violence or threat of violence may occur even if the family members/partners are not living in the same domicile.

### **3. Forced Prostitution**

The estimated figure of women and children in prostitution in 2000 was about half a million.<sup>68</sup> The passage of the “Anti-Trafficking in Persons Act of 2003” (Republic Act 9208) is significant in the effort to the fight against trafficking. However, provisions of the Revised Penal Code continue to focus law enforcement attention on women in prostitution, rather than on their exploiters. Article 341 on prostitution and Article 202 on vagrancy are still being used to round up and imprison women in prostitution or are sometimes used to extort money or sexual favors.<sup>69</sup> The existing criminal law imposing imprisonment on women in prostitution disregards the fact that many are lured to prostitution because of the desperation of their poverty. There are no legal initiatives designed to provide alternatives to women in prostitution through education, skills training and employment.

### **C. Equal Rights Within Marriage (Articles 2, 3, 23 & 26)**

Article 26 of the ICCPR guarantees equal protection of the law to all citizens of a state regardless of their race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 23 of the ICCPR guarantees equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. Both of these rights are violated when laws discriminate either on the basis of gender or sexual orientation.

#### **1. Discriminatory Family Laws**

Marital laws that are biased in favor of the husband violate both Article 26 and Article 23. In its concluding observations, the Committee has expressed general concern over inequality within marriage, with particular emphasis on equal penalties for adultery.<sup>70</sup> General Comment 28 goes on to state that the rights upon dissolution of marriage must be equal, specifically providing that women should have the same grounds for divorce as men, and that decisions regarding distribution of property and custody of children should be made on an equal basis.<sup>71</sup>

There is no specific divorce law in the Philippines. Hence, women whose husbands are abusing them can only obtain a divorce under Article 36 of the Family Code on “nullity of marriage,” where it must be shown that either or both of the parties are psychologically incapacitated.<sup>72</sup> The courts have interpreted this to mean that there must be medical or clinical causes of psychological illness alleged in the complaint and sufficiently proven by experts.<sup>73</sup> However, psychologists and psychiatrists find that it is very difficult to prove psychological illness, and courts have thus denied petitions to nullify marriages

despite evidence of physical, emotional and psychological abuses.<sup>74</sup> Without specific divorce legislation, Article 36 allows the continuance of domestic violence and abusive marriages.

Under the Revised Penal Code, a married woman commits “adultery” if she has sexual intercourse with a man other than her husband.<sup>75</sup> There is no corresponding law for males. A married male, on the other hand, can be convicted of “concubinage” only if his mistress cohabits with him in the conjugal dwelling or in another dwelling, or if he has intercourse with a woman other than his wife under “scandalous” circumstances.<sup>76</sup> In addition, discriminatory laws penalize widows, divorced women or women whose marriages have been annulled or dissolved if they get married within 301 days from the death, divorce or separation of their husbands.<sup>77</sup> No such constraints are imposed on the men.

Furthermore, some of the laws that regulate marriage under the Family Code discriminate against women. For example, in case of disagreement on the administration or enjoyment of community property, the husband’s decision prevails.<sup>78</sup> Similarly, in case of disagreement over the exercise of parental authority, the father’s decision will prevail over the mother’s.<sup>79</sup>

## **2. Lesbian, Gay, Bisexual and Transsexual Rights**

Discrimination against homosexuals violates not only Article 23 and 26 but also Article 2(1), which prohibits discrimination on the basis of “other” status, and Article 3, which guarantees the equal right of men and women to the enjoyment of all civil and political rights set out in the ICCPR. In its General Comment 19, the Committee recognizes that the concept and structure of family may differ from state to state and that the right to marry and found a family may be based on diverse definitions of families and relationships.<sup>80</sup> In General Comment 18, the Committee emphasizes not only the state parties’ obligation to abstain from discrimination but also its obligation to take affirmative action in order to diminish or eliminate conditions that cause or perpetuate discrimination.<sup>81</sup> The Committee has condemned discrimination on the basis of sexual orientation<sup>82</sup> and has called for protection of homosexuals’ right to life.<sup>83</sup> In the case of *Toonen v. Australia*, the Committee found that the Tasmanian Criminal provisions on private sexual contact between consenting adult homosexual men arbitrarily interfered with the petitioner’s privacy rights under Article 17.<sup>84</sup> The Committee also found that “the reference to ‘sex’ in Article 2, paragraph 1, and Article 26 is to be taken as including sexual orientation,” and ruled further that Mr. Toonen’s rights under Article 2 were violated, requiring the repeal of the offending law.<sup>85</sup>

There is widespread discrimination against lesbians, gays, bisexuals and transsexuals in the Philippines, yet not a single law explicitly protects homosexuals from discrimination or promotes their rights. For example, in Makati City, a dress code is imposed on gay men working for the city government.<sup>86</sup> Further, there is no legal recognition of marriage or partnership with regard to lesbian, gay, bisexual and transsexuals rights. Although

there are many anti-discrimination bills based on sexual orientation pending, such as House Bill No. 9095, 2874 and 0973, none has yet been passed.

We hope that the Committee will consider addressing the following questions to the Philippines government:

1. What steps is the government pursuing to provide comprehensive reproductive health services, including family planning services and information, to all women?
2. What measures are being taken to redress discriminatory coverage of health services, and, in particular, the lack of subsidization for contraceptives, especially for low-income women?
3. What measures are being taken to make emergency contraception available and to re-list Postinor in the registry of drugs?
4. What measures are being taken to legalize abortion? How has the government addressed complications arising from unsafe abortion?
5. What measures are being taken in the criminal justice system to ensure the successful prosecution of rape complaints?
6. What steps is the government taking to enact specific domestic violence and divorce legislation?
7. What measure are being taken to prosecute forced prostitution and to provide women in prostitution with alternatives, including education, skills training and employment?
8. What steps is the government taking to enact legislation that will not only prohibit discrimination against lesbians, gays, bisexuals and transsexuals but also affirmatively promote their rights?
10. What steps is the government taking to enact specific sexual and reproductive rights legislation?
11. What statistical and factual information is the government of Philippines able to provide to show effective implementation of current laws and policies?

There remains a significant gap between the provisions of the ICCPR and the reality of women's reproductive health and lives in the Philippines. We appreciate the active interest that the Committee has taken in the reproductive health and rights of women in the past, stressing the need for governments to take steps to ensure the realization of these rights.

We hope that this information is useful during the Committee's review of the Philippine government's compliance with the ICCPR. If you have any questions, or would like further information, please do not hesitate to contact us.

Very truly yours,

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<sup>1</sup> Human Rights Committee, General Comment 28, Equality of rights between men and women (Article 3), 68<sup>th</sup> Sess., 1834<sup>th</sup> mtg., para. 20, U.N. Doc. CCPR/C/21/Rev/1/Add/10 (2000) [hereinafter HRC, General Comment 28].

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Concluding Observations of the Human Rights Committee: Ecuador*, 63<sup>rd</sup> Sess., 1692<sup>nd</sup> mtg., para. 11, U.N. Doc. CCPR/C/79/Add.92 (1998) [hereinafter *HRC Concluding Observations: Ecuador*]; *Concluding Observations of the Human Rights Committee: Poland*, 66<sup>th</sup> Sess., para. 11, U.N. Doc. CCPR/C/79/Add.110 (1999) [hereinafter *HRC Concluding Observations: Poland*].

<sup>4</sup> Human Rights Committee, General Comment 6, Right to Life (Article 6), 16<sup>th</sup> Sess., para. 6 (1982).

<sup>5</sup> International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21<sup>st</sup> Sess., Supp. No. 16, U.N. Doc A/6316 (1966), art. 3, art. 36, 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) [hereinafter Civil and Political Rights Covenant].

<sup>6</sup> HRC, General Comment 28 (Article 10), *supra* note 1.

<sup>7</sup> *Id.*, at para. 239.

<sup>8</sup> See, e.g., *HRC Concluding Observations: Poland*, *supra* note 3, para. 11(b).

<sup>9</sup> See, e.g., *Concluding Observations of the Human Rights Committee: Chile*, 65<sup>th</sup> Sess., 1740<sup>th</sup> mtg., para. 15, U.N. Doc. CCPR/C/79/Add.104 (1999) [hereinafter *HRC Concluding Observations: Chile*].

<sup>10</sup> *Report of the Human Rights Committee*, Vol. 1, 52<sup>nd</sup> Sess., Supp. No. 1, para. 167, U.N. Doc. A/52/40 (1997) [hereinafter *HRC Report*].

<sup>11</sup> See, e.g., *Concluding Observations of the Human Rights Committee: Argentina*, 70<sup>th</sup> Sess., 1893<sup>rd</sup> mtg., para. 14, U.N. Doc. CCPR/CO/70/ARG (2000) [hereinafter *HRC Concluding Observations: Argentina*]; *Concluding Observations of the Human Rights Committee: Bolivia*, 59<sup>th</sup> Sess., 1582<sup>nd</sup> mtg., para. 22, U.N. Doc. CCPR/C/79/Add.74 (1997); *HRC Concluding Observations: Chile*, *supra* note 9, para. 15; *Concluding Observations of the Human Rights Committee: Costa Rica*, 65<sup>th</sup> Sess., 1751<sup>st</sup> mtg., para. 11, U.N. Doc. CCPR/C/79/Add.107 (1999) [hereinafter *HRC Concluding Observations: Costa Rica*]; *HRC*

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*Concluding Observations: Ecuador, supra* note 3, para. 11; *Concluding Observations of the Human Rights Committee: Ireland*, 69<sup>th</sup> Sess., 1858<sup>th</sup> mtg., para. 23, U.N. Doc. A/55/40, paras. 422-451 (2000); *Concluding Observations of the Human Rights Committee: Kuwait*, 69<sup>th</sup> Sess., 1864<sup>th</sup>–1865<sup>th</sup> mtgs., para. 15, U.N. Doc. CCPR/CO/69/KWT;A/55/40, paras. 452-497 (2000) [hereinafter *HRC Concluding Observations: Kuwait*]; *Concluding Observations of the Human Rights Committee: Lesotho*, 65<sup>th</sup> Sess., 1747<sup>th</sup>–1748<sup>th</sup> mtgs., para. 11, U.N. Doc. CCPR/C/79/Add.106 (1999) [hereinafter *HRC Concluding Observations: Lesetho*]; *Concluding Observations of the Human Rights Committee: Peru*, 70<sup>th</sup> Sess., 1892<sup>nd</sup> mtg., para. 20, U.N. Doc. CCPR/CO/70/PER (2000) [hereinafter *HRC Concluding Observations 2000: Peru*]; *Concluding Observations of the Human Rights Committee: Peru*, 58<sup>th</sup> Sess., 1555<sup>th</sup> mtg., para. 15, U.N. Doc. CCPR/C/79/Add.72 (1996) [hereinafter *HRC Concluding Observations 1996: Peru*]; *HRC Concluding Observations: Poland, supra* note 3, para. 11; *Concluding Observations of the Human Rights Committee: Senegal*, 61<sup>st</sup> Sess., 1640<sup>th</sup> mtg., para. 12, U.N. Doc. CCPR/C/79/Add.82 (1997).

<sup>12</sup> See, e.g., *HRC Concluding Observations: Chile, supra* note 9, para. 15.

<sup>13</sup> See, e.g., *HRC Concluding Observations: Argentina, supra* note 11, para. 14; *HRC Concluding Observations: Chile, supra* note 9, para. 15; *HRC Concluding Observations: Costa Rica, supra* note 11, para. 11; *HRC Concluding Observations: Ecuador, supra* note 3, para. 11; *HRC Concluding Observations: Kuwait, supra* note 11, para. 16; *HRC Concluding Observations: Lesetho, supra* note 11, para. 11; *HRC Concluding Observations 2000: Peru, supra* note 11, para. 20; *HRC Concluding Observations 1996: Peru, supra* note 11, para. 22; *Concluding Observations of the Human Rights Committee: United Republic of Tanzania*, 63<sup>rd</sup> Sess., 1679<sup>th</sup> mtg., para. 15, U.N. Doc. CCPR/C/79/Add.87 (1998).

<sup>14</sup> See, e.g., *HRC Concluding Observations: Argentina, supra* note 11, para. 14; *HRC Concluding Observations: Poland, supra* note 3, para. 11.

<sup>15</sup> See, e.g., *HRC Concluding Observations: Ecuador, supra* note 3, para. 11.

<sup>16</sup> National Statistics Office (NSO) and Macro International (MI), National Demographic and Health Survey 1998 [hereinafter 1998 NDHS].

<sup>17</sup> See UNITED NATIONS POPULATIONS FUND (UNFPA), THE STATE OF WORLD POPULATION 2002 73 (2002), at 70 [hereinafter UNFPA].

<sup>18</sup> *Id.*

<sup>19</sup> Manila, *Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila and Enunciating Policy Declaration in Pursuit Thereof*, Policy Declaration (February 29, 2000).

<sup>20</sup> “Natural Family Planning,” *Philippine Daily Inquirer*, November 25, 2001, page A16.

<sup>21</sup> Clara Rita Padilla, “Local Policies Deny Women’s Rights to Health,” *RRights Now!* Jul.-Dec. 2001 & Jan-Jun 2002, 18-19 [hereinafter *RRights Now* 2001].

<sup>22</sup> National Statistics Office, 2001 Family Planning Survey Final Report 30.

<sup>23</sup> Rina Jimenez-David, “GMA up close,” *Philippine Daily Inquirer*, July 7, 2002, available at [http://www.inq7.net/opi/2002/jul/07/text/opi\\_rj david-1-p.htm](http://www.inq7.net/opi/2002/jul/07/text/opi_rj david-1-p.htm).

<sup>24</sup> International Planned Parenthood, Statement on Periodic Abstinence for Family Planning, available at [http://www.ippf.org/medical/imap/statements/eng/pdf/1995\\_10c.pdf](http://www.ippf.org/medical/imap/statements/eng/pdf/1995_10c.pdf).

<sup>25</sup> Food and Drug Administration, Birth Control Guide, available at <http://www.fda.gov/fdac/features/1997/babyguide.pdf>.

<sup>26</sup> *RRights Now* 2001, *supra* note 21, at 18-19.

<sup>27</sup> *Id.*

<sup>28</sup> Center for Reproductive Rights, *New Moves to Limit Reproductive Health Care in the Philippines*, REPRODUCTIVE FREEDOM NEWS, Vol. XII, Issue 4 (April 2003) available at [http://www.reproductiverights.org/rfn\\_03\\_04\\_1.html](http://www.reproductiverights.org/rfn_03_04_1.html).

<sup>29</sup> *Id.*

<sup>30</sup> President Gloria Macapagal-Arroyo, speech during the celebration of National Women’s Day and Women’s Month, March 8, 2003.

<sup>31</sup> See Department of Health, Administrative Order No. 50-A s. 2001, at 3 [hereinafter DOH 2001].

<sup>32</sup> 1998 NDHS, *supra* note 16, at 99.

<sup>33</sup> DOH 2001, *supra* note 31, at 4.

<sup>34</sup> See UNFPA, *supra* note 17, at 70, 77.

<sup>35</sup> Bureau of Food and Drugs, Bureau Circular No. 18 S. 2001 Delisting of Levonorgestrel 750 mcg (Postinor) from Bureau of Food and Drugs Registry of Drug Products.

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- <sup>36</sup> See World Health Organization (WHO), *Emergency Contraception, A Guide for Service Delivery*, Geneva, WHO/FRH/FPP/98.19 (1998).
- <sup>37</sup> Clara Rita Padilla, "Relisting Postinor," *The Philippine Daily Inquirer* (October 23, 2002) available at [http://www.inq7.net/opi/2002/oct/23/letter\\_5-1.htm](http://www.inq7.net/opi/2002/oct/23/letter_5-1.htm).
- <sup>38</sup> The Revised Penal Code of the Philippines, as amended, arts. 256-259 [hereinafter The Revised Penal Code].
- <sup>39</sup> *Id.*
- <sup>40</sup> DOH 2001, *supra* note 31, at 4.
- <sup>41</sup> *Id.*
- <sup>42</sup> CORAZON RAYMUNDO, ET. AL., UNSAFE ABORTION IN THE PHILIPPINES: A THREAT TO PUBLIC HEALTH (2001) 87 [hereinafter UNSAFE ABORTION IN THE PHILIPPINES].
- <sup>43</sup> National Statistics Office, *Vital Statistics Report 1998* 127, 247 (2002) [hereinafter 1998 VSR].
- <sup>44</sup> Department of Health, Administrative Order No. 45-B s. 2000.
- <sup>45</sup> See e.g., *See, e.g., HRC Concluding Observations: Argentina*, *supra* note 11, para. 14, para. 15; *HRC Concluding Observations: Armenia*, 19/11/98, U.N. Doc. CCPR/C/79/Add.100, para. 16; *HRC Concluding Observations: Colombia*, 01/04/97, U.N. Doc. CCPR/C/79/Add.76, para. 27; *HRC Concluding Observations: Costa Rica*, *supra* note 11, para. 12; *HRC Concluding Observations: Czech Republic*, 24/07/2001, U.N. Doc. CCPR/CO/72/CZ E, para. 14.
- <sup>46</sup> See e.g., *HRC Concluding Observations: Armenia*, *supra* note 45, para. 16; *HRC Concluding Observations: Costa Rica*, *supra* note 11, para. 12; *HRC Concluding Observations: Czech Republic*, *supra* note 45, para. 14.
- <sup>47</sup> See e.g., *HRC Concluding Observations: Armenia*, *supra* note 45, para. 16 *HRC Concluding Observations: Czech Republic*, *supra* note 45, para. 23; *HRC Concluding Observations: Russian Federation*, 03/10/95, U.N. Doc. CCPR/C/79/Add.54, para. 14.
- <sup>48</sup> See e.g., *HRC Concluding Observations: Russian Federation*, *supra* note 47, para. 14.
- <sup>49</sup> *HRC Concluding Observations: Colombia*, *supra* note 45, para. 16.
- <sup>50</sup> See e.g., *HRC Concluding Observations: Lithuania*, 19/11/97, U.N. Doc. CCPR/C/79/Add.87, para. 11.
- <sup>51</sup> National Commission on the Role of Filipino Women (NCRFW), *VAW Statistics, Violent Crimes Against Women and Children*, available at [http://www.ncrfw.gov.ph/vaw\\_watch/vaw\\_stats.htm](http://www.ncrfw.gov.ph/vaw_watch/vaw_stats.htm) (last viewed Oct. 1, 2003).
- <sup>52</sup> *Id.*
- <sup>53</sup> Clara Rita Padilla, *Philippine Submission to Equality Now Workshop on Litigating for Sex Equality* (June 9-11, 2001, Nairobi) (unpublished submission on file with the Center for Reproductive Rights) [hereinafter *Litigating for Sex Equality*], at 18.
- <sup>54</sup> WOMEN'S LEGAL BUREAU, *WOMEN'S HEALTH AND THE LAW* 69-71 ( ).
- <sup>55</sup> Soliman M. Santos, Jr. et al, *Philippine Legislators Committee on Population and Development, Justice and Healing: Twin Imperatives for the Twin Laws Against Rape* (2001), available at <http://www.codewan.com.ph/salidumay/policies/Rape%20Study%20Exec.%20Sum.doc> (last viewed Oct. 1, 2003).
- <sup>56</sup> *Litigating for Sex Equality*, *supra* note 53, at 18; See Sec. 6, RA 8505.
- <sup>57</sup> *Litigating for Sex Equality*, *supra* note 53, at 19.
- <sup>58</sup> See *People v. Salarza, Jr.*, 277 SCRA 578 (Aug. 18, 1997) which held that "...Rape is a charge easy to make, hard to prove and harder to defend by the party accused, though innocent. Experience has shown that unfounded charges of rape have frequently been proffered by women actuated by some sinister, ulterior or undisclosed motive....On more than one occasion it has been pointed out that in crimes against chastity the testimony of the injured women should not be received with precipitate credulity."
- <sup>59</sup> *Id.*, at 18-19.
- <sup>60</sup> *Litigating for Sex Equality*, *supra* note 53, at 18-19.
- <sup>61</sup> *Id.*
- <sup>62</sup> *People v. Llanita*, G.R. No. 134101 (September 5, 2001)
- <sup>63</sup> Gina Mission, "The Economic Cost of Violence Against Filipino Women," *CyberDyaryo*, 20 May 1999, available at [http://gina.ph/CyberDyaryo/features/cd1999\\_0520\\_014.htm](http://gina.ph/CyberDyaryo/features/cd1999_0520_014.htm) (last viewed Oct. 1, 2003).
- <sup>64</sup> *Litigating for Sex Equality*, *supra* note 53, at 15.
- <sup>65</sup> *Id.*

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<sup>66</sup> *Id* at 7.

<sup>67</sup> Philippines, *Family Courts Act*, Republic Act 8369 (1997), Section 7.

<sup>68</sup> Litigating for Sex Equality, *supra* note 53, at 20.

<sup>69</sup> *Id.*

<sup>70</sup> See, e.g., *HRC Concluding Observations on Rights Within Marriage*, Kuwait, 19/07/2000, U.N. Doc. CCPR/CO/69/KWT, 7-8; Lebanon, 01/04/97, U.N. Doc. CCPR/C/79/Add.62, 9.21; Session, Venezuela, 26/04/2001, U.N. Doc. CCPR/CO/71/VEN, 22.

<sup>71</sup> HRC General Comment 28: Equality of Rights between Men and Women (Art.3), 68<sup>th</sup> Session, 2000, *supra* note 1.

<sup>72</sup> Litigating for Sex Equality, *supra* note 53, at 16.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> The Revised Penal Code, Article 333.

<sup>76</sup> *Id* at Art. 334.

<sup>77</sup> *Id* at Art. 351.

<sup>78</sup> Executive Order (EO) No. 209 as amended by EO No. 227 The Family Code of the Philippines, Article 96 [hereinafter The Family Code].

<sup>79</sup> The Family Code, Art. 211.

<sup>80</sup> Human Rights Committee, *General Comment 19: Protection of the family, the right to marriage and equality of the spouses* (39 Sess., 1990), available at [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CCPR+General+comment+19.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CCPR+General+comment+19.En?OpenDocument)

<sup>81</sup> Human Rights Committee, General Comment 18: Non Discrimination, 37<sup>th</sup> Session, 1989, in *Compilation of General Comments and General Recommendations by Human Rights Treaty Monitoring Bodies*, at 134, 10, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter HRC, General Comment 18].

<sup>82</sup> See, e.g., *HRC Concluding Observations*, Trinidad and Tobago, 03/11/2000, U.N. Doc. CCPR/CO/70/TTO, 11; United Kingdom of Great Britain-Northern Ireland—Crown Dependencies, 27/03/2000, U.N. Doc. CCPR/C/79/Add. 119, 14.

<sup>83</sup> See, e.g., *HRC Concluding Observations*, Colombia, 05/05/97, U.N. Doc. CCPR/C/79/Add.76, 16; Sudan, 19/11/07, U.N. Doc. CCPR/C/79/Add.85, 8.

<sup>84</sup> *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992 (Hum. Rts. Comm. 1994).

<sup>85</sup> *Id.*

<sup>86</sup> Clara Rita Padilla and Flordeliza C. Vargas, “Lesbians and Philippine Law,” *Women’s Journal on Law & Culture*, July-December 2001, Vol. 1, No. 1, at 61.