



EnGendeRights, Inc.
Asserting Women's Rights

August 8, 2006

The Committee on the Elimination of Discrimination against Women (The Committee)

Re: Supplementary information on The Philippines
Scheduled for review during the CEDAW's 36th Session

Dear Committee Members:

This letter is intended to supplement the periodic report to be submitted by the Republic of the Philippines, scheduled to be reviewed by the Committee during its 36th Session. The Center for Reproductive Rights, EnGendeRights, Reproductive Rights Resource Group Philippines (3RG-Phils.), and Health and Development Initiatives Institute, independent non-governmental organizations, hope to further the work of the Committee by providing independent information concerning the rights protected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Reproductive rights are fundamental to women's health and social equality, and an explicit part of the Committee's mandate under CEDAW. Specifically, the Convention commits States parties to: "ensure... access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning."¹; "take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality with men and women, access to health care services, including those related to family planning"²; "take all appropriate measures to eliminate discrimination against women in rural areas in order to assure...access to adequate health care facilities, including information, counseling and services in family planning..."³; and, to "take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women...[t]he same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights"⁴. Furthermore, the Committee's General Recommendation 24 (Women and Health) also expands upon the integral role of reproductive health and rights in ensuring women's rights.⁵ Article 1 of the Convention prohibits discrimination against women that has the

effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women's human rights and fundamental freedoms.

Unfortunately, even after nine years, there remains a significant gap between the provisions of the Convention and the reality of women's lives in the Philippines. More specifically, with regard to women's reproductive rights, a significant number of Filipino women, especially adolescent girls and low-income women continue to experience insurmountable barriers and deep inequities in access to basic reproductive health services and information. Arbitrary restrictions and misinformation about modern contraceptives and the existence of criminal abortion laws continue to put women's health and lives in peril. Although the Philippines is constitutionally a secular state,⁶ the Catholic Church and other conservative groups persistently use their moral authority to interfere in politics and governance, thereby violating the principle of separation of church and state and the guarantee of non-establishment of religion. The absence of a specific law to protect Filipino women's reproductive and sexual rights has left them without legal recourse for violations of their rights under domestic law.

This Committee has specifically expressed concern about some of these issues in relation to the Philippines. In concluding observations issued by the Committee on the Republic of the Philippine's combined third and fourth periodic report in 1997, the Committee explicitly recommended that reproductive and sexual health services, including family planning and contraception, be made available and accessible to women throughout the country.⁷ This recommendation evolved out of concern about the decentralization of population and development services from the national to the local level, where certain local government units (LGUs) started introducing prohibitions on modern contraceptives.⁸

Additional issues of concern noted by the Committee that implicate women's reproductive and sexual rights included, the subjection of women engaged in "commercial sex work" to forced medical examinations⁹ and the failure to criminalize incest as a result of which such acts remain "shrouded in silence."¹⁰

A. The Right to Health Care, including Reproductive Health Care and Family Planning (Articles 12, 14(2)(b) and (c), and 10(h))

The ability of women to control their fertility lies at the core of their reproductive rights. The failure of governments to ensure this right through the creation of universal access to a complete range of contraceptive methods and reproductive health services exposes women to numerous health risks associated with unplanned pregnancy including unsafe abortion and maternal mortality. In General Recommendation 24, the Committee calls upon states parties to prioritize the prevention of unwanted pregnancy through family

planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance.¹¹

1. Lack of Access to Family Planning and Contraceptive Methods

Access to modern contraceptives in the Philippines has been drastically curtailed by the current administration through an official policy shift based on political expediency and religious ideology as opposed to women's health interests and basic human rights. The Department of Health (DOH) issued an order in 2002 to mainstream natural family planning (NFP) on the ground that "NFP is the only method acceptable to the Catholic Church."¹² The DOH succumbed to the pressures of the administration of President Gloria Macapagal-Arroyo and has made it a policy to push only for NFP while leaving the task of promoting modern methods of contraception to the Population Commission¹³ (POPCOM) totally disregarding their obligation to provide full access to the full range of contraceptive methods. Furthermore, significant funds have been devoted to the promotion of NFP methods without continuing support for modern methods despite the fact that the former are less effective. In 2004, DOH awarded a Php50 million [950,000 USD or 760,000 Euros] contract to Couple's for Christ, a Catholic church-backed group, to promote natural family planning methods.¹⁴ These measures outrightly contradict the contraceptive preferences of women in the Philippines. In fact, the government has acknowledged in its report to the Committee that the pill is the most preferred method among women as opposed to traditional methods which are increasingly becoming unpopular.¹⁵

The government's active discouragement of modern contraceptive methods has had a devastating impact on access to family planning information and services especially because the government is the main family planning service provider in the country¹⁶ with 7 out of 10 users relying on government facilities.¹⁷ Although services are available in the private sector, individuals depend upon the public sector for contraceptives due to a range of factors including the high price of contraceptives and official restrictions on advertising in the private sector, with the exception of condoms.¹⁸ The government has acknowledged in its report that low-income groups face additional barriers in access to health care.¹⁹

Furthermore, decentralization has made access to family planning information and services rather precarious in the Philippines. The 1991 Local Government Code and the 1996 executive order that made LGUs responsible for ensuring the availability of family planning information and services has empowered local officials to an unprecedented degree.²⁰ Several local officials have used their administrative powers to completely prohibit the delivery of modern methods of contraceptives and to promote natural family planning. In recent years, policies banning all "artificial" birth control methods, including condoms, pills, intra-uterine devices and sterilization, were introduced in Laguna, Manila City, and Puerto Princesa in 1995, 2000 and 2001 respectively.²¹ The policies introduced in Laguna and Puerto Princesa have since been overturned by

subsequent local administrations, but the Manila City Policy still prevails.²² The harmful impact of this restrictive policy is clear from the data presented in the most recent study on unintended pregnancy and induced abortion in the Philippines conducted by the Allan Guttmacher Institute in collaboration with local experts (“the AGI study”) which shows a higher proportion of unintended pregnancies in Metro Manila than anywhere else in the country.²³

In addition to discouraging the use of modern contraceptives, the government has also misinformed people about the efficacy of these modern methods. For example, in March 2003, then Philippine Health Secretary, Manuel Dayrit urged the Bureau of Food and Drugs (BFAD) to take intra-uterine devices (IUDs) off the drug registry, contending that IUDs were abortifacients that caused miscarriages.²⁴ A Catholic Church-backed group supported this move by filing a petition with the BFAD to ban IUDs.²⁵ Due to the heavy influence of the Catholic Church over the current administration, there is a growing concern that the BFAD might ban IUDs by erroneously finding that they have abortifacient effects without any scientific evidence. The claims of the health secretary and the group seeking the ban directly contradict the international medical community’s position that IUDs are one of the most effective and safest methods of contraception.²⁶ A new study shows that IUDs have a failure rate of only 2% whereas withdrawal has a failure rate of 26% and periodic abstinence, 20%.²⁷ Similarly, the President has made inaccurate and misleading statements about the efficacy of the rhythm method, claiming that it is 99% effective.²⁸

The impact of the aforementioned national policy shift, official misinformation campaigns in collusion with the Catholic Church and misuse of administrative power to impose unreasonable bans on access to health services and information required predominantly by women has been devastating. The AGI study reveals that about half of all pregnancies in the Philippines each year – approximately 1.43 million pregnancies - are unintended.²⁹ Nearly half of all married women of reproductive age have an unmet need for effective contraception³⁰ and 76% of women who need contraception are not using it for fear of side effects.³¹ In 2005, the contraceptive prevalence rate (any method) for married women between the ages of 15-49 was 49%, and only 33% used modern methods³² making the Philippines a country with one of the lowest proportions of modern contraceptive use in East and South-east Asia.³³ It is also pertinent to note that the 49% figure pertains only to married women and does not include unmarried women. Studies in recent years suggest that the percentage of modern contraceptive use among married adolescents is approximately 13% modern methods and around 26% for any method.³⁴ In addition to adolescents, low income women have a significant unmet need for family planning and are most unable to access reproductive health care services.³⁵ It is also pertinent to note that regional disparities are widespread and the Autonomous Region in Muslim Mindanao has the lowest contraceptive prevalence at approximately 16%.³⁶

The government's insistence on NFP is gender insensitive as it fails to take into account underlying power dynamics between men and women in matters of family planning and reproduction. For example, the rhythm and withdrawal methods require the agreement of both the man and the woman.³⁷ Under this approach, many women who want to practice fertility management are less likely to be able to because of their male partners' refusal.³⁸ The government has acknowledged in its report to the Committee that men frequently object to their spouses' use of contraceptives and are unlikely to take responsibility for family planning.³⁹

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.⁴⁰

A bill in the House of Representatives (House Bill 5028) entitled, "The Rights of Conscience Act of 2006" is another move by conservative groups to deprive women of access to reproductive health care services by allowing service providers the right to refuse provision of artificial birth control, abortion, sterilization, ligation, artificial insemination, assisted reproduction, or information on such services based on conscientious objection.

It is the duty of the government to provide the full range of affordable and quality contraceptive methods regardless of the position of certain religions in the country.

2. Restriction on Emergency Contraceptive Pills

Emergency contraception (EC) has been a specific target of the government's crusade against modern methods of contraception. The Philippines is in the minority of countries in the world where Postinor (levonorgestrel 750 mcg), an emergency contraceptive, is denied to women even as over 100 countries worldwide have registered dedicated emergency contraceptive products.⁴¹

Postinor serves as an important 'back-up' method for avoiding an unintended pregnancy in the event of unplanned/unwanted sexual intercourse. In April 2000, BFAD approved Postinor in accordance with the bureau's standard rules of evaluation and testing procedures⁴² and based on the DOH Position Paper citing the World Health Organization (WHO) opinion on the safety, effectiveness and convenience of the drug.⁴³ The 1999 DOH policy made Postinor available to victims of rape and incest in clear recognition of its importance in preventing unintended pregnancies, abortions and maternal deaths.⁴⁴ However, in December 2001, the BFAD issued a circular delisting Postinor from the registry of drugs.⁴⁵

BFAD's explanation for the ban was that Postinor "has abortifacient effect and contravenes existing provisions of law on the matter."⁴⁶ This decision has been heavily criticized by women's groups in the Philippines who have formally petitioned the government for a withdrawal of the ban.⁴⁷ The ban was prompted by an application submitted by a private foundation with the support of "pro-life" groups.⁴⁸ They claimed that the registration of Postinor by the government violated the constitutional provision protecting the life of the "unborn" from "conception" which they erroneously define as beginning from fertilization.⁴⁹ Opponents to EC made similar claims in Peru and Chile where, like in the Philippines, the constitution protects life from the moment of conception.⁵⁰ These claims were rejected by the Peruvian Society for Obstetrics and Gynecology and the Supreme Court of Chile respectively when they were called upon to adjudicate the matter.⁵¹

The ban on Postinor contradicts the position of the WHO and of over 100 nations worldwide, which have endorsed EC as a proven safe and effective method of modern contraception.⁵² On December 1, 2003, five members out of the seven-member Special Committee created by BFAD recommended the re-listing of Postinor on the basis that it is not an abortifacient.⁵³ The DOH Secretary refused to re-list Postinor and instead took advantage of Schwarz Pharma Philippines' withdrawal to distribute Postinor by issuing an order stating, "[the] re-listing or delisting [of Postinor] has become moot and academic."⁵⁴

As mentioned earlier, over 700,000 women experience unintended pregnancies in the Philippines every year.⁵⁵ Lack of access to EC unnecessarily exposes women to the multiple risks associated with unintended pregnancy; in the Philippines, the prevalence of laws criminalizing abortion compounds these risks. At the very least, EC must be made available as part of routine emergency health care for victims of sexual violence. Considering the nature and scope of the public health crisis created by unintended pregnancy, it should also be made available more generally to women without discrimination on the basis of age and income. The immediate re-listing of Postinor in the registry of available drugs would be an important first step toward preventing unwanted pregnancies and abortions, and reducing maternal mortality. Furthermore, the amendment of outdated and restrictive laws such as Republic Act 4729 prohibiting dispensation of contraceptive drugs unless such dispensation is by a duly licensed drug store or pharmaceutical company and with the prescription of a qualified medical practitioner⁵⁶ and Section 5 of Presidential Decree 79 employing physicians, nurses, midwives that have been trained and authorized only by POPCOM to provide, dispense and administer contraceptive methods is imperative in light of the recognized importance of EC provision without prescription.

3. Illegal and Unsafe Abortion

The Committee has recognized that restrictive abortion laws result in a violation of women's right to life.⁵⁷ It has, on several occasions, recommended that State parties

remove punitive provisions imposed on women who undergo abortion.⁵⁸ It has praised at least one State party for amending their restrictive legislation.⁵⁹ Furthermore, the Committee has emphasized the vital link between illegal, unsafe abortion and high rates of maternal mortality⁶⁰ by consistently making the point that lack of access to contraceptive methods and family planning services, as well as restrictive abortion laws, tend to coincide with the prevalence of unsafe abortions that contributes to high rates of maternal mortality.⁶¹

The current legal restriction on abortion derives from the Philippine Revised Penal Code of 1932, which was a mere translation of the Spanish colonial Penal Code of 1870.⁶² The Philippines has one of the most restrictive abortion laws in the world--penalizing the woman who undergoes abortion and the person assisting the woman without providing clear exceptions even when the woman's life or health is in danger, the pregnancy is the result of rape, or fetal impairment.

The Revised Penal Code imposes a range of penalties for women undergoing abortion and for providers of abortion services including imprisonment for 2 years, 4 months and 1 day to 6 years.⁶³ Health professionals (e.g., doctors, midwives, or pharmacists) who are caught providing abortion services or dispensing abortive drugs also run the risk of having their license to practice suspended or revoked.⁶⁴

The Philippine Constitution provides that “[the state] shall equally protect the life of the mother and the life of the unborn from conception”.⁶⁵ The constitutional provision on equal protection of life of the unborn from conception tends to advance the Catholic Church's view. This provision was not present in the 1935 and 1973 constitutions. While the current constitutional provision does not explicitly prohibit abortion, it has been interpreted to do so by conservative groups. This trend continues despite the provision under Article 41 of the Philippine Civil Code stating that a fetus must be born alive and completely delivered from the mother's womb in order to acquire legal personhood.⁶⁶ The constitutional provision equally protecting the unborn from conception, however, does not prohibit abortion. Hungary also has a constitutional provision protecting life from conception but still permits abortion up to 12 weeks of gestation.⁶⁷ The life of the unborn is not placed exactly on the same level as the life of the woman,⁶⁸ as shown by laws and jurisprudence of countries worldwide allowing abortion on various grounds.⁶⁹ Furthermore, international legal norms established by treaties and interpreted by human rights bodies, including the Human Rights Committee, provide tremendous support for the right to safe and legal abortion.⁷⁰

The AGI study reveals a shocking picture of abortion in the Philippines: despite the illegality of abortion, in 2000, approximately 473,000 women had abortions;⁷¹ an estimated 79,000 women were hospitalized for complications due to abortion;⁷² the abortion rate was 27 per 1,000 women aged 15-44 while the abortion ratio was 18 induced abortions per 100 pregnancies;⁷³ only 30% of women who attempt an unsafe abortion succeed the first time leading to repeated attempts which increase the risk to

their health and lives each time; and, approximately 800 women die every year due to complications resulting from unsafe abortion.⁷⁴ According to the DOH, complications associated with unsafe abortion were the third leading cause of hospital admissions from 1994-1998.⁷⁵

In 2000, the DOH introduced the Prevention and Management of Abortion and its Complications (PMAC) policy⁷⁶ which aims to improve the health care services for women suffering complications from induced abortion. However, not all women who need post-abortion care are able to obtain it.⁷⁷ In fact, the criminalization of abortion has created an extremely prohibitive environment leading to discriminatory and inhumane treatment of women seeking medical attention after having undergone an unsafe abortion. Punitive attitudes and actions such as verbal abuse and slapping by health care providers have been documented.⁷⁸ Certain hospitals have been known to refuse to admit women who are already profusely bleeding as a result of unsafe abortion and in need of immediate medical attention.⁷⁹ Other prevalent forms of abuse that have been documented include withholding use of anesthetics during Dilation & Curettage (D&C) procedures, withholding or delaying proper management of abortion complications, threatening to report women to the authorities, and placing signs labeling women as “criminals/murderers” for having resorted to induced abortions.⁸⁰ These practices have deterred women who need post-abortion care from seeking medical help.

Although the PMAC policy was enacted in 2000 it has only been implemented in pilot hospitals.⁸¹ Hence, there is an urgent need to broaden the policy to include more hospitals and to support it with enforceable guidelines and mechanisms to protect women from discrimination by health care providers.

Safe abortion service providers who provide the much-needed services that only women seek have been subjected to harassment by police operatives with some even facing baseless criminal charges.⁸²

Studies show that low income women are disproportionately impacted by the ban on abortion. It is estimated that around two-thirds of women who undergo abortion are poor.⁸³ Due to the relatively high cost of safer methods such as manual vacuum aspiration (MVA) and dilation and curettage (D&C), low income women are compelled to opt for cheaper methods which tend to be unsafe such as herbal drinks purchased from street vendors, self-medication (cytotec) and the insertion of objects into the cervix.⁸⁴

Clearly, a leading cause of unsafe abortion is the lack of access to modern contraceptives. A recent study shows that 54% of women who have undergone abortion in the Philippines were not using any family planning method when they conceived and three-fourths of those using contraception resorted to traditional means.⁸⁵ This, in turn, has led to high maternal mortality in the Philippines, which stands at 200 deaths per 100,000 live births, one of the highest rates in the East and South-east Asia region.⁸⁶ This is extremely high when compared with other countries such as Spain (4), Italy (5), Canada (6), United States (7) and Thailand (44).⁸⁷

It is pertinent to note that several predominantly Catholic countries now allow safe and legal abortion. Belgium, France, and Italy, permit abortion upon a woman's request.⁸⁸ Colombia recently liberalized its law to allow abortion in cases where the woman's life or health is in danger, the pregnancy is the result of rape, and/or when the fetus has malformation incompatible with life outside the uterus.⁸⁹ Spain, on whose laws the Philippine abortion law is based, permits abortion on grounds of rape and fetal impairment.⁹⁰

The law criminalizing abortion does not eliminate abortions; it only makes it dangerous for women who undergo clandestine and unsafe abortion. The criminal provision penalizing the woman and the physician for self-induced abortion must be repealed. Having ratified CEDAW, the Philippines is obligated to make abortion safe and legal.

4. Safe Motherhood

The CEDAW Committee has framed the issue of maternal mortality as a violation of women's right to life,⁹¹ recognizing lack of access to comprehensive reproductive health services,⁹² including safe abortion,⁹³ early pregnancy⁹⁴ and poor nutrition⁹⁵ as major root causes. In order to address abortion-related maternal mortality, the committee has specifically urged states parties to review laws criminalizing abortion.⁹⁶

According to government studies in the Philippines, approximately two-thirds of the estimated nine million Filipino women of reproductive age who are married or have partners are considered to be at high risk for unsafe pregnancy because they are under 18 years of age; are over 35 years of age; have had four or more pregnancies; have too closely spaced pregnancies; or are concurrently ill.⁹⁷ 2005 estimates show that there are 200 women dying out of every 100,000 live births.⁹⁸ In 1998, the DOH estimated 3,614 maternal deaths occurring annually.⁹⁹ However, according to the National Statistics Office, there were only 1,579 registered maternal deaths in 1998,¹⁰⁰ which suggests that many deaths go unreported. The statistics office further notes that three out of ten of these deaths were not medically attended.¹⁰¹

According to the 2003 NDHS, although a high percentage of pregnant women receive prenatal care (88%),¹⁰² the majority of births in the five years preceding the survey still occurred at home (61%),¹⁰³ A 2005 government study shows that of the 2.4 million women who become pregnant in the Philippines each year, about 360,000 suffer a major obstetric complication.¹⁰⁴

While accurate statistics are unavailable, it is estimated that 12% of maternal deaths are due to unsafe abortion,¹⁰⁵ considering that abortion and maternal deaths are both highly underreported, the actual number could be much higher. Furthermore, there is evidence that nutritional deficiencies among pregnant and lactating women are on the rise and have not received sufficient attention from the government.¹⁰⁶

The government has set targets for reducing the maternal mortality rate through various policies including the National Family Planning Policy, 2001, and a Safe Motherhood Policy, 2000.¹⁰⁷ Furthermore, the government has attempted to address maternal health issues through the enactment of local legislation providing for the establishment of a referral -network and support system to facilitate access to essential services during and after pregnancy.¹⁰⁸ However, the reality of women's lives in the Philippines shows that, notwithstanding these efforts, maternal mortality and morbidity are unlikely to fall given the government's restrictive approach to modern methods of family planning and abortion and the failure to address nutritional deficiencies among pregnant and lactating women.

5. Women and HIV/AIDS

The Committee has persistently expressed deep concern about the spread of HIV/AIDS among women calling for the special attention of States Parties to this issue.¹⁰⁹

The latest HIV/AIDS Registry (April 2006) shows the cumulative total cases of HIV in the Philippines since 1984 is 2,499.¹¹⁰ New cases of HIV reveal that a growing number of women are getting HIV. According to data based on a cumulative index, the largest age group of women infected with HIV is between 20-29 years while¹¹¹ the largest male age group is between the ages of 30-39 years.¹¹² This data underscores the vulnerability of young women in the context of HIV where many of them are unable to negotiate safe sex and have no access to information about protection.

Women working as overseas Filipino workers (OFWs),¹¹³ “commercial sex workers,” and the wives and partners of OFWs are also extremely vulnerable to infection. OFWs, during their pre-departure orientation are given information on HIV/AIDS yet an alarming thirty-five percent of the OFWs with HIV are seafarers and there has been a corresponding increase in the number of wives of seafarers who are infected with HIV.¹¹⁴

Prevention Indicators also show no increase in knowledge among those in the high risk groups.¹¹⁵ Low condom use continues to be seen among these groups.¹¹⁶

6. Adolescents' Right to Access to Information and Reproductive Services (Articles 10 (h), Article 16(e))

General Recommendation 24 emphasizes special attention to the health needs of particularly vulnerable groups, including adolescent girls.¹¹⁷ The Committee has interpreted the anti-discrimination provisions of CEDAW to prohibit age discrimination, particularly with respect to access to family planning information and services.¹¹⁸ Furthermore, it has often asked State Parties to implement sexual education programs¹¹⁹

and linked them to the prevention of HIV/AIDS,¹²⁰ unwanted pregnancies,¹²¹ high rates of teenage pregnancies,¹²² and abortion.¹²³

In 2002, adolescents represented approximately one fifth of the total population.¹²⁴ However, due to government neglect and in some instances outright discrimination, they continue to be exposed to unnecessary health risks stemming from early pregnancy and lack of access to the full range of contraceptive choices and reproductive health services.

According to the 1998 NDHS, an estimated 10.8% of rural girls and 4.7% of urban girls aged 15–19 had already begun childbearing.¹²⁵ According to the National Statistics Office, in 1998, 6.3% of reported maternal deaths were the deaths of girls aged 15–19.¹²⁶ The 2002 Young Adult Fertility and Sexuality Study, a periodic survey of young people's sexuality and fertility behavior, revealed that 31% of young adult males and 15% of young adult females had already engaged in premarital sex.¹²⁷ On succeeding sexual episodes, approximately 70% of the young adult males and 68% of the young adult females reported not using any method of protection against pregnancy or STIs the last time they had sex.¹²⁸ The study also showed that dangerous misconceptions about HIV/AIDS abound, with 28% of young adults believing that HIV/AIDS is curable, and 73% thinking that they are immune to HIV.¹²⁹ A 2004 National Survey of Women revealed that close to 50% of abortion attempts occur among young women.¹³⁰

Adolescents in the Philippines continue to face discrimination and neglect despite constitutional recognition of “[t]he vital role of the youth in nation-building” and official commitment to “promote and protect their physical, moral, spiritual, intellectual and social well-being.”¹³¹ Despite the existence of Adolescent and Youth Health and Development Program (AYHDP) of DOH, Filipino adolescent youth do not receive evidence-based information and education on sexuality and reproductive health and services.¹³² Religious interference has undermined their access to reliable information about reproductive health care. In fact, the Department of Education (DEPED) lesson guide on adolescent reproductive health was recently recalled because of objections the department received from the Catholic Bishops Conference of the Philippines.¹³³

Furthermore, adolescents have been subjected to outright discrimination by the government, a glaring example being the Makati City Policy. The Makati Health Program Guidelines provide free treatment in local public facilities to residents with a monthly gross income of P8,000 or less.¹³⁴ Beneficiaries are issued yellow cards for this purpose. In 2001, Makati City issued a memorandum stating that “only registered voter[s] and Makati residents can avail [of] the ‘yellow card’ and all teen-age pregnancies are excluded to avail [of] a yellow card since they are not registered voter[s].”¹³⁵ The policy's true intent, however, was revealed when Mayor Jejomar Binay was quoted in the Philippine Daily Inquirer on July 21, 2001 as saying that, “The new policy is expected to discourage and help prevent the growing incidence of teenage pregnancies in the city.”¹³⁶ This policy clearly discriminates against adolescents' right to access reproductive services and unnecessarily puts them at risk.

STI prevalence is quite high among young females and males compared to the general population, being highest among youth in the 18-24 age groups.¹³⁷ Among registered HIV/AIDS cases in 2005, 1.5% of those infected were below age 10,¹³⁸ 1.9% were aged 10-19, and 30% were aged 20-29.¹³⁹ Of those aged 29 and below, 53.9% were female.¹⁴⁰ More young women ages 19 to 29 are becoming more vulnerable to HIV/AIDS because of the high probability of getting infected during rough sex and their inability to negotiate for safe sex.¹⁴¹

Indigenous youth face even greater barriers than others in access to basic social services, including health-care, since they generally live in remote areas that have poor infrastructure and often lack facilities. The inadequacy of data on indigenous youth has been identified by the government as a problem.¹⁴²

Adolescents must be provided with information and services necessary to enable them to protect themselves from unwanted/coerced sex, unplanned pregnancy, early childbearing, unsafe abortion, HIV/AIDS, and sexually transmitted infections (STIs). This requires full government support in the form of policies, services, programs, and activities that are youth-friendly, rights and evidence-based, confidential, and participatory.

B. Violence Against Women and Girls

CEDAW contains several provisions requiring state intervention to prevent gender-based violence. Article 5 requires states to “modify the social and cultural patterns of conduct of men and women” in order to eliminate practices based on the idea of women’s inferiority. In addition, violence against women within marriage and the family is condemned by Article 16(c), which guarantees women and men the same “rights and responsibilities during marriage.”

The CEDAW Committee, in its General Recommendation 19 on Violence against Women, recognizes that gender-based violence discriminates against women and thereby denies women enjoyment of their rights and freedoms on a basis of equality with men.¹⁴³ The Committee further expanded on state responsibility to ensure that violence against women is removed by calling states parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.¹⁴⁴

Under international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.¹⁴⁵

1. Rape

Incidences of rape remain high, with an average of eight women raped every day¹⁴⁶ and an average of nine children raped daily.¹⁴⁷ 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.¹⁴⁸ Implicit in this provision is a disregard for the traumatic effects of an assault of this nature.¹⁴⁹ 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."¹⁵⁰

Despite the enactment of both R.A. 8353 and R.A. 8505, numerous complaints for rape are dismissed at the preliminary investigation level and in the Regional Trial Courts.¹⁵¹ 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.¹⁵² Nor do they recognize that the demeanor of rape victims during investigations while testifying may vary. They also fail to receive reports of rape with credulity.¹⁵³ Often they do not take seriously findings of post-traumatic stress disorder among victims of sexual violence.¹⁵⁴ Crucial forensic evidence such as DNA analysis of the perpetrator's semen, hair and skin samples are not widely available,¹⁵⁵ 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 medico-legal certificates for child abuse victims were standardized in 2002,¹⁵⁶ this has yet to be practiced throughout all the medico-legal units in the country. Standard medico-legal certificates for adult sexual assault victims are yet to be introduced. Although the Supreme Court ruled that, "the absence of hymenal lacerations does not disprove sexual abuse,"¹⁵⁷ due to deeply entrenched personal beliefs and lack of sensitization, it is possible that many judges and public prosecutors may continue to mistake the absence of hymenal lacerations as conclusive proof that rape did not occur.

2. Forced Prostitution and Trafficking

The estimated figure of women and children in forced prostitution in 2005 was about 800,000.¹⁵⁸ The passage of the "Anti-Trafficking in Persons Act of 2003" (Republic Act 9208) is significant in the effort to 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.¹⁵⁹

The existing criminal law imposing imprisonment on women in prostitution disregards the fact that many are lured to prostitution because of the desperation due to poverty and

lack of alternative sources of income. The discriminatory provisions imposing penalties on women in prostitution should be repealed.

It is significant that the Anti-Trafficking in Persons Act of 2003 accords legal protection to trafficked persons by recognizing them as victims who should not be penalized for crimes directly related to the acts of trafficking or in obedience to the order made by the trafficker.¹⁶⁰ Quezon City Ordinance No. SP-1516 also recognizes persons in prostitution as victims, thus, imposing penalties only on the perpetrators (pimps, recipient of the sexual act, etc.) while providing services to persons in prostitution such as education campaigns against prostitution, crisis intervention service, education and socio-economic assistance, sustainable livelihood skills training, financial support for scale businesses, integration and complete after-care programs, health services, counseling, and temporary shelter.¹⁶¹

Detaining women in prostitution is not the answer. Many women are forced into prostitution because they were rape or incest victims or their families were abusive to them in the past.¹⁶² There should be legal initiatives designed to provide alternatives to women in prostitution through education, skills training and employment.¹⁶³

3. Domestic Violence (Violence against Women and Children)

Violence against Women is prevalent in the Philippines. Studies show that three out of five women in the Philippines have experienced some form of battery and other physical abuse.¹⁶⁴ The Philippine National Police (PNP) documented a total of 7,204 cases of VAW in 2004, a seven-fold increase from 1,100 cases in 1996.¹⁶⁵ The highest record in the police department was in 2001 at 10,343.¹⁶⁶ Cases reported included physical injuries, wife battering and rape: incestuous and attempted.¹⁶⁷

The “Anti-Violence against Women and Their Children Act of 2004” or RA 9262 took effect on March 27, 2004. It defines violence against women and children (VAWC) as any act or series of acts committed by any person against a women who is his wife or former wife, or with whom the person has or had a sexual dating relationship, or with whom he has had a common child.

Although RA9262 is a very potent law, there is still an ongoing disjunct between the law and how the law is being implemented in barangays, police stations, and courts. Certain judges are hesitant to issue contempt orders against respondent husbands who clearly violate the provisions of Protection Orders (POs).¹⁶⁸

C. Equal Rights Within Marriage (Articles 16 (c), (d), (f) (g), (h))

Article 16 of the Convention mandates states parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women, the same rights and responsibilities during marriage and at its dissolution,¹⁶⁹ and the same

rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children, provided that in all cases the interests of the children shall be paramount;¹⁷⁰ the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation¹⁷¹, and the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.¹⁷²

In General Recommendation 21 on Equality in Marriage and Family Relations, the Committee has identified 18 as the appropriate legal age of marriage for both men and women.¹⁷³ In General Recommendation 21, the Committee cites the finding of the WHO that when girls marry and have children, their health can be adversely affected and their education impeded.¹⁷⁴ In General Recommendation 19, the Committee defines forced marriage as a form of violence posing actual threats to women and perpetuating their subordinate roles in society.¹⁷⁵

The Committee views polygamy as a harmful traditional practice that contravenes a woman's right to equality with men, that can have serious emotional and financial consequences for her and her dependants.¹⁷⁶

1. Discriminatory Family Laws

Leading issues confronting Filipino women in the context of marriage and family life include the absence of a clear divorce law, discriminatory penal provisions on adultery and discriminatory provisions in the Family Code¹⁷⁷ and the Code of Muslim Personal Laws of the Philippines (Muslim Code).¹⁷⁸

Marital laws that are biased in favor of the husband violate Article 16 of the Convention. 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.¹⁷⁹ Although the Supreme Court rules provide that expert opinion need not be presented,¹⁸⁰ some courts still require evidence of medical or clinical causes of psychological illness to be proven by experts.¹⁸¹ 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.¹⁸² Without specific divorce legislation, Article 36 allows the continuance of domestic violence and abusive marriages.

The lack of a divorce law makes it hard for women in abusive relationships to leave their abusive husbands.¹⁸³ Because of the high cost of nullifying marriages and the difficulty in having their marriages nullified, many women cohabit with their current partners

without having their marriage nullified.¹⁸⁴ Some women are consequently dismissed from government service precisely because of these “immorality issues.”¹⁸⁵ Such dismissals for “immorality” do not take into consideration the fact that a married woman who was previously in an abusive relationship may have found comfort in her current loving relationship.¹⁸⁶

Under the Revised Penal Code, a married woman commits “adultery” if she has sexual intercourse with a man other than her husband.¹⁸⁷ 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.¹⁸⁸ The criminal provisions on adultery and concubinage should be repealed. In many countries around the world, the criminal provisions imposed on adultery have already been repealed.¹⁸⁹ The intended purpose of the criminal provision on adultery is protect the rights of real heirs. However, many adultery cases are filed by estranged husbands who have long been separated from their wives and who have no intention of reuniting with their wives nor do they have any intention of supporting the illegitimate child of their wives. Many adultery cases are filed to harass women and sometime to threaten and coerce them to transfer contested property in the name of the estranged husband.¹⁹⁰

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.¹⁹¹ 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.¹⁹² Similarly, in case of disagreement over the exercise of parental authority, the father’s decision will prevail over the mother’s.¹⁹³

Filipino Muslims are governed by the Code of Muslim Personal Laws of the Philippines (Muslim Code) with regard to personal status, marriage and divorce, paternity and filiations, parental authority, succession and inheritance, support and maintenance, rights and obligations as well as property relations between husband and wife.¹⁹⁴ Certain provisions of the Muslim Code discriminate against women such as those pertaining to polygamy, marriages under the age of 18, arranged marriages, and unequal rights of women and men in marriage relations and authority over children.¹⁹⁵ Under Article 27 of the Muslim Code, polygamy is permitted under certain conditions¹⁹⁶ although they are inherently discriminatory and oppressive to women and lead to impoverishment and psychological abuse of the women and their children.¹⁹⁷

Under Article 16 of the Muslim Code, a Muslim male and female aged 15 can contract marriage.¹⁹⁸ Upon petition of a male guardian, the Shari'a District Court may order the solemnization of the marriage of a female who, though less than 15 but not below 12 years of age, has attained puberty.¹⁹⁹ Child marriage and arranged/forced marriage are prevalent among ethnic groups in the Southern Philippines, where sexual violence in the context of customary practices and traditions is widespread.²⁰⁰

The Muslim Code stipulates equal rights and obligations between the wife and the husband, but the husband is given the authority to choose the family residence, and deny his permission to his wife to practice a profession or occupation of her choice.²⁰¹

2. Lesbian Rights

The Committee's General Recommendation 21 recognizes that "[t]he form and concept of the family can vary from State to State, and even between regions within a State."²⁰² The Committee has also asked states parties to reconceptualize lesbianism as a sexual orientation and to abolish penalties for its practice.²⁰³

There is widespread discrimination against lesbians and bisexual and transgender women in the Philippines, yet no national law explicitly protects homosexuals from discrimination or promotes their rights. While a Quezon City ordinance prohibits discrimination in the workplace on the basis of sexual orientation,²⁰⁴ in Makati City, a dress code is imposed on gay men working for the city government.²⁰⁵ There are many anti-discrimination bills based on sexual orientation pending in the 13th Congress such as House Bill No.634, Senate Bills No.1641 and 1738, but none has yet been passed into law.

Further, there is no legal recognition of marriage or partnership with regard to lesbians and bisexual and transgender women. It is significant, however, that women victims of abuse in lesbian relationships are accorded the same protection under the "Anti-Violence against Women and Their Children Act of 2004" since Sec. 3 includes any person with whom the woman has or had "a sexual dating relationship."

In the recent case of *Gualberto v. Gualberto*, the Philippine Supreme Court held that sexual preference does not prove parental neglect or incompetence.²⁰⁶ This recognizes that lesbian mothers have a right to custody of their children and their sexual orientation as lesbians does not make them "unfit" to have parental authority over their children as contemplated under Article 213 of the Family Code. Justice Panganiban, however, mentioned in the decision that the husband failed to "demonstrate that [the respondent Joycelyn] carried on her purported relationship with a person of the same sex in the presence of their son" or that "the son was exposed to the mother's alleged sexual proclivities or that his proper moral and psychological development suffered as a result."²⁰⁷ It is discriminatory against lesbians to suggest that there would be a different

ruling given such evidence presented in court.²⁰⁸ It would discriminate against lesbians to view that the show of affection of a lesbian couple's love negatively influences the well-being of the child.²⁰⁹ This continues to perpetuate the homophobic situation where heterosexual couples can show affection in front of their children while lesbian couples cannot do the same simply because they are lesbians.²¹⁰

The government should take the necessary steps to adopt legislation explicitly prohibiting discrimination against sexual orientation and to pursue its efforts to counter all forms of discrimination pertaining to sexual orientation.

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

1. What actions is the government taking to provide comprehensive reproductive health services, including family planning and contraceptive 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 subsidy for contraceptives, especially for low-income women?
3. What measures are being taken to make EC available and to re-list Postinor in the registry of drugs? What guidelines have been made to make EC available as part of routine emergency health care for victims of sexual violence? What measures are being taken by the government to amend the provisions of Republic Act 4729 and Presidential Decree 79 limiting dispensation of contraceptive drugs in light of the recognized importance of EC provision without prescription?
4. What measures are being taken to abolish criminal abortion laws and legalize abortion?
5. How has the government addressed complications arising from unsafe abortion? How has the PMAC Policy been implemented? Are there measures to broaden the implementation of the policy and support it with enforceable guidelines and mechanisms to protect women from discrimination and abuse by health care providers?
6. How is the government working to decrease the rate of HIV/AIDs and STIs amongst vulnerable young people? What are the programs and interventions to address the need for comprehensive sexual and reproductive health services, education and information of adolescents and young people?
7. What steps is the government taking to reduce the maternal mortality of women?

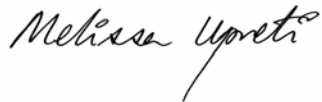
8. What steps is the government taking to enact specific sexual and reproductive rights legislation?
9. How is the criminal justice system ensuring the successful prosecution of rape complaints?
10. What measures are being taken to repeal existing prostitution provisions in criminal law, prosecute perpetrators of forced prostitution (e.g. pimps, bar managers/owners) and to provide women in prostitution education, skills training, employment and access to reproductive health care services and information?
11. What measures are being taken in the criminal justice system to ensure the successful prosecution of domestic violence complaints, to popularize the new domestic violence law, and to monitor the issuances of court and barangay protection orders?
12. What steps is the government taking to enact specific divorce legislation?
13. What steps is the government doing to repeal existing criminal and family provisions that are discriminatory against women?
14. What measures is the government taking to stop the incidence of forced/arranged/early marriage among women and remove discriminatory traditional and customary practices that undermine women's assertion of rights?
15. What steps is the government taking to enact legislation that will not only prohibit discrimination against lesbians, and bisexual and transsexual women but also affirmatively promote their rights?
16. What are the monitoring and survey mechanisms used by the Philippine government to assess the effective implementation of current laws and policies?

There remains a significant gap between the provisions of CEDAW and the reality of women's reproductive health and lives in the Philippines. For further information, please see the 2005 publication entitled, "Women of the World: East and Southeast Asia," specifically the chapter detailing laws and policies in the Philippines, which can be found online at <http://www.reproductiverights.org/pdf/Philippines.pdf>. If you have any questions, please do not hesitate to contact the undersigned.

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 CEDAW. If you have any questions, or would like further information, please do not hesitate to contact us.

Very truly yours,



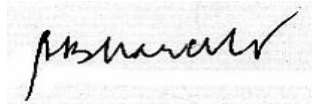
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¹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), *adopted* Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, art. 10(h), U.N. Doc. A/34/46 (1979), 1249 U.N.T.S. 13 (*entered into force Sept. 3, 1981*) [hereinafter, CEDAW].

² *Id.*, Article 12(1).

³ *Id.*, Article 14(2) (b).

⁴ *Id.*, Article 16.

⁵ *Report of the Committee on the Elimination of Discrimination Against Women: Twentieth Session, General Recommendation 24*, para. 31(c), U.N.Doc. A/54/38 (May 4, 1999), available at <http://www.un.org/womenwatch/daw/cedaw/reports/20report.pdf> [see also <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom24>] [hereinafter *CEDAW, General Recommendation 24*].

⁶ PHIL. CONST (1987). art. 2, § 6 .(declaring separation of church and state).

⁷ *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Philippines..* 16th Sess., 313th mtg., para. 275-305, U.N. Doc. A/52/38/Rev.1., (December 8, 1997) available at <http://www.unhchr.ch/tbs/doc.nsf/0/a82151e7b0b3b8768025649d002df415?Opendocument#top> [hereinafter *CEDAW Concluding Observations on the Philippines*(1997)].

⁸ *Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Combined Fifth and Sixth Periodic Reports of States Parties, Philippines*, CEDAW Committee, para. 33, 433, 452, 481 U.N.

Doc.CEDAW/C/PHI/5-6 (August,2 2004), available at <http://daccessdds.un.org/doc/UNDOC/GEN/N04/459/70/PDF/N0445970.pdf?OpenElement> [hereinafter *Philippine 5th and 6th Country Report to CEDAW*].

⁹ CEDAW Concluding Observations on the Philippines(1997), *supra* note 7, para. 292.

¹⁰ *Id.*, para. 293.

¹¹ CEDAW, *General Recommendation 24*, *supra* note 5, para. 31 (c).

¹² CENTER FOR REPRODUCTIVE RIGHTS (CRR) & ASIAN- PACIFIC RESOURCE AND RESEARCH CENTER FOR WOMEN (ARROW), WOMEN OF THE WORLD (WOW): LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES (EAST AND SOUTHEAST ASIA), New York, 2005, 123, 136 (citing the Department of Health, Office of the Secretary, Administrative Order No 125 S. 2002 National NFP Strategic Plan Year 2002-2006) [hereinafter as CRR & ARROW, WOW--EAST AND SOUTHEAST ASIA 2005].

¹³ Undersecretary Ethelyn Nieto of DOH, Statement at the 2nd National Program Management Committee Meeting, UNFPA/UNDP Conference Room, RCBC Plaza, Makati City (June 16, 2006).

¹⁴ Memorandum of Agreement between the Department of Health with Manual Dayrit, MD as Secretary and the Couples for Christ-Medical Missions Foundation, Inc., with Dr. Jose Yamamoto as President for the Couples for Christ to Organize a Nation-wide Movement to Advocate for Responsible Parenthood and Natural Family Planning in All Parts of the Country, page 4 (September 12, 2003); See also Couples for Christ's Accomplishment Report submitted to the Department of Health for the Mainstreaming of Responsible Parenthood-Natural Family Planning (June 18, 2004) (on file EnGendeRights)

¹⁵ *Philippine 5th and 6th Country Report to CEDAW*, *supra* note 8, para 446.

¹⁶ PHILIPPINES NATIONAL STATISTICS OFFICE, 2001 FAMILY PLANNING SURVEY, FINAL REPORT, 30 (2002).

¹⁷ CRR and ARROW, WOW--EAST AND SOUTHEAST ASIA 2005, *supra* note 12, at 137 (citing PHILIPPINE NATIONAL STATISTICS OFFICE, 2002 FAMILY PLANNING SURVEY, FINAL REPORT, at 31 (2003); COMMISSION ON POPULATION, PHILIPPINE MANAGEMENT PROGRAM DIRECTIONAL PLAN, 2001-2004, at 5 (2001)).

¹⁸ CRR and ARROW, WOW--EAST AND SOUTHEAST ASIA 2005, *supra* note 12, at 138.

¹⁹ *Philippine 5th and 6th Country Report to CEDAW*, *supra* note 8, para. 434.

²⁰ LOCAL GOVERNMENT CODE OF 1991, REPUBLIC ACT NO. 7160, Sec. 17 (b) (2) (iv); *see also* Exec.Ord. No. 307, Implementing a Family Planning Program at the Local Government Level (1996).

²¹ HUMAN RIGHTS WATCH, THE PHILIPPINES- UNPROTECTED: SEX, CONDOMS, AND THE HUMAN RIGHT TO HEALTH, 28-31, Vol. 16, No. 6 (C) (2004) available at <http://hrw.org/reports/2004/philippines0504/> ; 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) (on File at EnGendeRights); Laguna, Memorandum dated August 25, 1995 issued by the Medical Chief of Clinical Services (on file at EnGendeRights); Jofelle P. Tesorio, *Natural Family Planning*, PHILIPPINE DAILY INQUIRER, 16 (November 25, 2001) (on file at EnGendeRights)

²² 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]; *See also*: E-mail from Clara Rita Padilla, Executive Director, EnGendeRights, to Nile Park, Center for Reproductive Rights (Nov. 3, 2004, 13:50:00 EST) (on file with the Center for Reproductive Rights); *but see*, Aurora, The Aurora Reproductive Health Care Code of 2005, Provincial Ordinance No. 125 (2005) (enacting the only provincial ordinance supporting increased reproductive health care services, including mandatory sexuality education, responsible parenthood counseling, and other services), pages 1-8.

²³ S. SINGH ET AL., GUTTMACHER INSTITUTE, UNINTENDED PREGNANCY AND INDUCED ABORTION IN THE PHILIPPINES: CAUSES AND CONSEQUENCES, 4 (2006) hereinafter SINGH ET AL, UNINTENDED PREGNANCY]

²⁴ Center for Reproductive Rights, *New Moves to Limit Reproductive Health Care in the Philippines*, XII (4) REPRODUCTIVE FREEDOM NEWS, , (April 2003) available at http://www.reproductiverights.org/rfn_03_04_1.html; *see also* Niel Mural, *IUD Use Could Result in Miscarriages - DOH*, THE MANILA TIMES, March 4, 2003.

²⁵ Letter of Petition of Abay Pamilya to Secretary of Department of Health Francisco Duque, "To Cancel the Registration, De-list, Ban, and Prohibit the Importation, Distribution and Sale, Prescription, Dispensing, and the Use of Intra-uterine Device, (October 7, 2005) (on file at EnGendeRights).

- ²⁶ *The Intra-Uterine Device (IUD) Worth Singing About*, PROGRESS IN REPRODUCTIVE HEALTH RESEARCH (World Health Organization) No. 60, 2002, at 1 available at: <http://www.who.int/reproductive-health/hrp/progress/60/Progress60.pdf>; More than 100 million women worldwide use IUDs (Family Health International, *The Copper IUD*, 20 (1) NETWORK, INTRAUTERINE DEVICES, (2000) available at <http://www.fhi.org/en/fp/fppubs/network/v20-1/nt2014.html>. See generally, The American College of Obstetricians and Gynecologists (ACOG), *The Intrauterine Device*, 104 ACOG Technical Bulletin Washington, DC: ACOG, (May 1987) (definitively stating that an IUD is not an abortifacient); Family Health International, Mechanisms of the Contraceptive Action of Hormonal Methods and Intrauterine Devices, <http://www.fhi.org/en/fp/fpothor/mechact.html> (last visited July 31, 2006) (showing that prevention of fertilization is the dominant mode of action of IUDs); WORLD HEALTH ORGANIZATION, SCIENTIFIC GROUP, MECHANISM OF ACTION, SAFETY AND EFFICACY OF INTRAUTERINE DEVICES. Number 753. TECHNICAL REPORT SERIES (1987) (stating anti-fertility effects of IUD "take place before the ova reach the uterine cavity."); Family Health International, *IUDS Block Fertilization*, 16 NETWORK 1 (1996) available at <http://www.fhi.org/en/fp/fppubs/network/v16-2/nt1623.html>. (showing evidence that the pre-fertilization action of IUDs interferes with sperm motility and survival, hindering ascent of sperm to the fallopian tubes where fertilization occurs, and impeding egg development).
- SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 23, at 4, fn. 16 (citing J. CLELAND AND M. ALI, DYNAMICS OF CONTRACEPTIVE USE IN LEVELS AND TRENDS OF CONTRACEPTIVE USE AS ASSESSED IN 2002, United Nations (forthcoming)).
- ²⁸ President Gloria Macapagal-Arroyo, Speech During the Celebration of National Women's Day and Women's Month (March 8, 2003).
- ²⁹ SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 23, at 4.
- ³⁰ *Id.*
- ³¹ *Id.*
- ³² UNFPA, 2005 STATE OF THE WORLD POPULATION, THE PROMISES OF EQUALITY: GENDER EQUITY, REPRODUCTIVE HEALTH, AND THE MILLENNIUM DEVELOPMENT GOALS 108 (2005) available at: http://www.unfpa.org/swp/2005/pdf/en_swp05.pdf [hereinafter UNFPA, 2005 STATE OF THE WORLD POPULATION].
- ³³ See CRR and ARROW, WOW--EAST AND SOUTHEAST ASIA 2005, *supra* note 12, at 14.
- ³⁴ PHILIPPINE NATIONAL STATISTICS OFFICE, NATIONAL DEMOGRAPHIC AND HEALTH SURVEY (NDHS) 2003, at 58 (2003) available at http://www.measuredhs.com/pubs/pub_details.cfm?ID=474&srchTp=ctry [hereinafter NDHS 2003].
- ³⁵ *Id.* at 62 (reporting that the poorest quintile of women to have the lowest rate of current use of any birth control method, at 37.4% and that women with no education currently using any method at 18.1% and modern methods, only 11.7%).
- ³⁶ PHILIPPINE NATIONAL STATISTICS OFFICE, 2002 FAMILY PLANNING SURVEY, FINAL REPORT 14, tbl. 14 (2003).
- ³⁷ RRIGHTS NOW 2001, *supra* note 22 at 30.
- ³⁸ *Id.* at 30.
- ³⁹ *Philippine 5th and 6th Country Report to CEDAW*, *supra* note 8, para. 85(d), 446.
- ⁴⁰ See Department of Health (DOH), Administrative Order No. 50-A at 3 (2001) [hereinafter DOH Admin. Order No. 50-A 2001].
- ⁴¹ International Consortium on Emergency Contraception (ICEC), *ECs Status and Availability*, available at <http://www.cecinfo.org/database/pill/pillData.php> visited July 31, 2006; *The Emergency Contraception Website*, available at <http://ec.princeton.edu/worldwide/> last visited July 31, 2006; International Planned Parenthood Federation, *Directory of Hormonal Contraceptives*, available at [http://contraceptive.ippf.org/\(5ur05k45ecsw51552yxji355\)/Default.aspx](http://contraceptive.ippf.org/(5ur05k45ecsw51552yxji355)/Default.aspx) last visited July, 2006.
- ⁴² PACIFIC INSTITUTE FOR WOMEN'S HEALTH, POSITION PAPER IN THE MATTER OF BUREAU CIRCULAR NO. 18, 1 (2001) [hereinafter PIWH POSITION PAPER].
- ⁴³ REPRODUCTIVE HEALTH ADVOCACY NETWORK, POSITION PAPER IN RE: WITHDRAWAL OF REGISTRATION AND PROHIBITION OF IMPORTATION AND DISTRIBUTION OF POSTINOR THROUGH MEMORANDUM CIRCULAR NO. 18, 5 (December 2001) [hereinafter RHAN POSITION PAPER].
- ⁴⁴ DOH, POSITION PAPER ON EMERGENCY CONTRACEPTIVE PILLS, page 1 (1999).
- ⁴⁵ Bureau of Food and Drugs, Bureau Circular No. 18 s. 2001, December 7, 2001.

⁴⁶ *Id.*

⁴⁷ RHAN POSITION PAPER, *supra* note 43.

⁴⁸ PIWH POSITION PAPER, *supra* note 42, at 12.

⁴⁹ RHAN POSITION PAPER, *supra* note 43, at 2.

⁵⁰ CENTER FOR REPRODUCTIVE RIGHTS, GOVERNMENTS WORLDWIDE PUT EMERGENCY CONTRACEPTION INTO WOMEN'S HANDS, 5 (2004) available at http://www.crlp.org/pdf/pub_bp_govtswwec.pdf [hereinafter CRR, EC briefing paper].

⁵¹ *Id.*

⁵² See WORLD HEALTH ORGANIZATION (WHO), EMERGENCY CONTRACEPTION, A GUIDE FOR SERVICE DELIVERY, GENEVA, WHO/FRH/FPP/98.19 (1998); see also ICEC, *supra* note 41.

⁵³ *Recommendation of the Special Committee on Formed by the Bureau of Food and Drugs on the Evaluation of the De-listing of Postinor* dated December 1, 2003, pg. 62; In the 63-page recommendation, the four doctors in the noted that "Postinor is not an abortifacient because medically/scientifically, conception starts from implantation of the fertilized ovum in the uterus of the woman and not from fertilization." The legal expert, a University of the Philippines Constitutional law professor, noted that the Constitutional provision reflecting a policy against abortion cited by the DOH as the basis for banning Postinor is not applicable in the case of the Emergency Contraceptive Pill.

⁵⁴ Office of the Secretary DOH, Order re: Petition to Reconsider Cancellation of Product Registration of "Postinor", Page 4 (October 26, 2004).

⁵⁵ SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 23, at 4.

⁵⁶ Presidential Decree 79, Revising the Population Act of 1971, Sec. 5 (a) and Republic Act 4729, An Act to Regulate the Sale, Dispensation, and/or Distribution of Contraceptive Drugs and Devices, Section 1 (June 18, 1966)

⁵⁷ See CENTER FOR REPRODUCTIVE RIGHTS AND UNIVERSITY OF TORONTO PROGRAMME OF REPRODUCTIVE SEXUAL HEALTH LAW, BRINGING RIGHTS TO BEAR (AN ANALYSIS OF THE WORK OF UN TREATY MONITORING BODIES ON REPRODUCTIVE AND SEXUAL RIGHTS), 146 (2003) [hereinafter BRINGING RIGHTS TO BEAR], e.g., Committee's conclusions on abortion in: **Chile**, 09/07/99, U.N. Doc. A/54/38, ¶228; **Colombia**, 04/02/99, U.N. Doc. A/54/38, ¶393; **Dominican Republic**, 14/05/98, U.N. Doc. A/53/38 ¶337; **Paraguay**, 09/05/96, U.N. Doc. S/51/38, 131.

⁵⁸ CEDAW, *General Recommendation 24*, *supra* note 5, para. 31 (c); BRINGING RIGHTS TO BEAR, *supra* note 57, at 147; see also CEDAW jurisprudence asking states parties to review legislation making abortion illegal, e.g., **Argentina**, 23/07/97, U.N. Doc. A/52/38 Rev.1, Part II, ¶319; **Chile**, 09/07/99, U.N. Doc. A/54/38, ¶229, and 31/05/95, U.N. Doc. A/50/38, ¶158; **Colombia**, 04/02/99, U.N. Doc. A/54/38, ¶394; **Dominican Republic**, 14/05/98, U.N. Doc. A/53/38, ¶349; **Ireland**, 01/07/99, U.N. Doc. A/54/38, ¶186; **Mexico**, 14/05/98, U.N. Doc. A/53/38, ¶408; **Panama**, 02/07/98, U.N. Doc. A/55/38/Rev.1, ¶159; **Paraguay**, 09/05/96, U.N. Doc. A/51/38, ¶131; **Peru**, 09/07/98, U.N. Doc. A/53/38/Rev.1, ¶340.

⁵⁹ BRINGING RIGHTS TO BEAR at 147; See, e.g., **Belgium**, 09/05/96, U.N. Doc. A/51/38, ¶181.

⁶⁰ *Id.*, at 146;

⁶¹ *Id.* This link is supported by the Committee's Concluding Observations to the following countries as cited in this publication. See e.g. **Antigua and Barbuda**, 12/08/97, U.N. Doc. A/52/38/Rev.1, Part II, ¶ 258; **Chile**, 09/07/99, U.N. Doc. A/54/38, ¶¶ 209, 228; **Georgia**, 01/07/99, U.N. Doc. A/54/38, ¶ 111; **Greece**, 01/02/99, U.N. Doc. A/54/38, ¶ 207; **Guyana**, 31/05/95, U.N. Doc. A/50/38, ¶ 621; **Hungary**, 09/05/96, U.N. Doc. A/51/38, ¶ 254; **Lithuania**, 16/06/2000, U.N. Doc. A/55/38, ¶ 158; **Mauritius**, 31/05/95, U.N. Doc. A/50/38, ¶ 196; **Mongolia**, 02/02/2001, U.N. Doc. A/56/38, ¶ 273; **Paraguay**, 09/05/96, U.N. Doc. A/51/38, ¶ 131; **Ukraine**, 09/05/96, U.N. Doc. A/51/38, ¶ 287; **Venezuela**, 12/08/97, U.N. Doc. A/52/38/Rev.1, ¶ 236.

⁶² The Revised Penal Code of the Philippines, as amended, arts. 256-259 [hereinafter The Revised Penal Code]; Pacifico Agabin, *The Legal Perspective on Abortion*, II (1) J. REPROD. HEALTH, RTS. AND ETHICS 2 (1995); The Philippine restriction on abortion, one of the vestiges of Spanish colonization in the Philippines, was lifted directly from the old Spanish Penal Code of 1870.

⁶³ Revised Penal Code, arts. 256, 258, 259.

⁶⁴ The Medical Act of 1959, Republic Act No. 2382, art. III, § 24 (1959) (Phil.); The Philippine Midwifery Act of 1992, Republic Act No. 7392, art. III, § 25 (1992) (Phil.); An Act Regulating the Practice of

Pharmacy and Setting Standards of Pharmaceutical Education in the Philippines and of Other Purposes, Republic Act No. 5921, act. III, § 13 (1969) (Phil.).

⁶⁵ PHIL. CONST. (1987), art. 2, § 12.

⁶⁶ Civil Code of the Philippines, Republic Act No. 386 as amended, art 41.

⁶⁷ Hungary, Law No. 79 of 17 Dec. 1992 on the Protection of the Life of the Fetus, *translated in* 44 INT'L DIG. OF HEALTH LEGIS. 249-50 (1993).

⁶⁸ Certain cases do not try to answer the question of when human life begins but give answers that human personhood begins with birth. *See, e.g.* Glanville Williams, *The Fetus and the "Right to Life"* 33 CAMBRIDGE L.J. 71, 78 (1994); *see also* R.J. Cook & B.M. Dickens, *Human Rights and Abortion Laws*, 65 INT'L J. OF GYNECOLOGY & OBSTETRICS 85 (1999) (citing Christian Lawyers Association of South Africa v. The Minister of Health, Case No. 16291/97 (10 July 1998)). In that case a group sued the South African Minister of Health to declare the 1996 Choice on Termination of Pregnancy Act unconstitutional based on section 11 of the 1996 Constitution providing that "everyone has the right to life" and on the argument that a fetus is included in "everyone" since life of a human being starts at conception. The Court ruled that "everyone" was a legal alternative expression to "every person," and historically legal personhood commences only at live birth. The Court ruled that it was not necessary to address the claim on the biological beginning of human life, since it cannot be concluded that the human life that had begun was that of a legal person. The Court followed the observation that "the question is not whether the conceptus is human but whether it should be given the same legal protection as you and me."; Under Article 41 of the Philippine Civil Code, a fetus must be born alive (completely delivered from the mother's womb) to be considered a person endowed with legal personality.

⁶⁹ *See* Center for Reproductive Rights, poster, *The World's Abortion Laws 2005*,

⁷⁰ K. Llantoy. v. Peru, Case No. 1553/2003, U.N. Hum Rts. Comm., 85th Sess., Annex, U.N. Doc. CCPR/C/85/D/1153/2003 (2005); *see also* Bringing Rights to Bear, *supra* note 57, e.g., Argentina, Chile, Costa Rica, Ecuador, Guatemala, Peru, Trinidad and Tobago, Venezuela.

⁷¹ SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 23, at 4.

⁷² *Id.*, at 5; The global statistics show that five hundred eighty five thousand women die annually from pregnancy-related causes. *See, e.g.* I.H. Shah et al., WHO *Unsafe Abortion*, Annual Technical Report (1999), (stating eighty thousand of these women die from unsafe abortion); WHO, *Making Pregnancy Safer in South-East Asia*, 6(1) REGIONAL HEALTH FORUM, (2002.) (calculating that there are 20 million unsafe abortions each year, 95% of which take place in developing countries with South-East Asia accounting for about 40% of global maternal mortality).

⁷³ Fatima Juarez, Josefina Cabigon, Susheela Singh and Rubina Hussain, *The Incidence of Induced Abortion in the Philippines: Current Level and Recent Trends*, 31(3) INT'L FAMILY PLANNING PERSPECTIVES, (September 2005) [hereinafter Juarez, et. al. , *Incidence of Induced Abortion 2005*].

⁷⁴ SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 23, at 5

⁷⁵ Department of Health, Prevention and Management of Abortion and Its Complications (PMAC) Policy, Administrative Order No. 45-B, s2000, at 1 (May 2, 2000) [hereinafter PMAC Policy].

⁷⁶ *Id.*

⁷⁷ *See* SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 23, at 22.

⁷⁸ Ermita Declaration, "*Respect, Protect, and Fulfill SRHR for All*," adopted during the First National Consultation Meeting Among Members and Partners of the Reproductive Rights Resource Group-Philippines, May 27-30, 2003, Ermita, Manila.

⁷⁹ *Id.*

⁸⁰ Lina Reyes, *Real-life Dramas in Uncharitable Wards*, WOMEN'S FEATURE SERVICE, November 22, 2002 (on file at EnGendeRights); Junice Melgar, Philippines: Barriers Impeding Reproductive Health and Rights, *available at* http://www.remedios.com.ph/fhtml/mk1q2005_pbir.htm (Last visited August 1, 2006).

⁸¹ PMAC Policy, *supra* note 75, at 2. The Policy states that "[f]or the first year of implementation, PMAC shall initially be implemented in four pilot hospital sites including two DOH retained hospitals, one LGU hospital and one private hospital. By the end of the fifth year of implementation (end of 2004), 50 DOH-retained hospitals shall be providing quality PMAC services."

⁸² Clara Rita Padilla, Gender Issues in Legal Ethics, powerpoint presentation before the Integrated Bar of the Philippines Eastern Visayas Convention, Cebu, Philippines (April 28, 2006).

⁸³ SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 23, at 15.

⁸⁴ *Id.* at 19.

⁸⁵ *Id.* at 4.

⁸⁶ UNFPA, 2005 STATE OF THE WORLD POPULATION, *supra* note 32, at 112.

⁸⁷ *Id.*

⁸⁸ CENTER FOR REPRODUCTIVE RIGHTS, RELIGIOUS VOICES WORLDWIDE SUPPORT CHOICE: PRO-CHOICE PERSPECTIVES IN FIVE WORLD RELIGIONS. Briefing paper. (2005) available at http://www.reproductiverights.org/pdf/pub_bp_tk_religious.pdf [hereinafter, CENTER FOR REPRODUCTIVE RIGHTS, RELIGIOUS VOICES]; see also Center for Reproductive Rights, *The World's Abortion Laws 2005*, *supra* note 69.

⁸⁹ Press Release Women's Link Worldwide, the Colombian Constitutional Court Decision (May 10, 2006) available at http://www.womenslinkworldwide.org/pdf/proj_news_051006releaseb.pdf.

⁹⁰ CENTER FOR REPRODUCTIVE RIGHTS, RELIGIOUS VOICES, *supra* note 88; Center for Reproductive Rights, *The World's Abortion Laws 2005*, *supra* note 69.

⁹¹ See e.g. **Belize**, 01/07/97, U.N. Doc. A/54/38 ¶ 56; **Colombia**, 04/02/99, U.N. Doc. A/54/38, ¶ 393; **Dominican Republic**, 14/05/98, U.N. Doc. A/53/38 ¶ 337; **Madagascar**, 12/04/94, U.N. Doc. A/49/38, ¶ 244.

⁹² See e.g., **Bangladesh**, 12/08/97, U.N. Doc. A/52/38/Rev.1 Part II ¶ 438; **Burkina Faso**, 31/01/2000, U.N. Doc. A/53/38 ¶ 274; **Georgia**, 01/07/99, U.N. Doc. A/53/38, ¶ 111; **Iraq**, 14/06/2000, U.N. Doc. A/55/38; ¶ 203; **Israel**, 21/07/97, U.N. Doc. A/52/38/Rev.1, Part II, ¶ 162; **Mongolia**, 02/02/2001, U.N. Doc. A/56/38, ¶ 273; **Morocco**, 12/08/97, U.N. Doc. A/52/38/Rev.1, ¶ 78; **Nigeria**, 07/07/98, U.N. Doc. A/53/38/Rev.1, ¶ 170; **Peru**, 08/07/98, U.N. Doc. A/53/38/Rev. 1, ¶ 337; **Venezuela**, 12/08/97, U.N. Doc. A/52/38/Rev.1, ¶ 236.

⁹³ See e.g. **Argentina**, 23/07/97, U.N. Doc. A/52/38 Rev.1, ¶ 304; **Azerbaijan**, 14/05/98, U.N. Doc. A/53/38, ¶ 73; **Burundi**, 02/02/2001, U.N. Doc. A/56/38, ¶ 61; **Chile**, 09/07/99, U.N. Doc. A/54/38, ¶ 228; **Chile**, 31/05/95, U.N. Doc. A/50/38, ¶ 152; **Colombia**, 04/02/99, U.N. Doc. A/54/38, ¶ 393; **Dominican Republic**, 14/05/98, U.N. Doc. A/53/38, ¶ 337; **Georgia**, 01/07/99, U.N. Doc. A/54/38, ¶ 112; **Kyrgyzstan**, 27/01/99, U.N. Doc. A/54/38, ¶ 136; **Madagascar**, 12/04/94, U.N. Doc. A/49/38, ¶ 244; **Mongolia**, A/55/38, ¶ 129; **Namibia**, 12/08/97, U.N. Doc. A/52/38/Rev. 1, Part II, ¶ 111; **Nepal**, 01/07/99, U.N. Doc. A/54/38, ¶ 147; **Paraguay**, 09/05/96, U.N. Doc. A/51/38, ¶ 123; **Peru**, 08/07/98, U.N. Doc. A/53/38/Rev.1, ¶ 339; **Peru**, 31/05/95, U.N. Doc. A/50/38, ¶ 443; **Saint Vincent and the Grenadines**, 12/08/97, U.N. Doc. A/52/38/Rev.1, ¶ 148; **Uganda**, 31/05/95, U.N. Doc. A/50/38, ¶ 311; **Zimbabwe**, 14/05/98, U.N. Doc. A/53/38, ¶ 159.

⁹⁴ See e.g. **Paraguay**, 09/05/96, U.N. Doc. A/51/38, ¶ 123; **Peru**, 08/07/98, U.N. Doc. A/53/38/Rev.1, ¶ 337.

⁹⁵ See e.g. **Russian Federation**, 31/05/95, U.N.Doc. A/50/38, ¶ 545.

⁹⁶ See e.g. **Belize**, 01/07/99, U.N. Doc. A/54/38, ¶ 57; **Chile**, 09/07/99, U.N. Doc. A/54/38, ¶ 228-229; **Chile**, 31/05/95, U.N. Doc. A/50/38, ¶ 158; **Colombia**, 04/02/99, U.N. Doc. A/54/38, ¶ 394; **Dominican Republic**, 14/05/98, U.N. Doc. A/53/38, ¶ 349; **Namibia**, 12/08/97, U.N. Doc. A/52/38/Rev.1, Part II, ¶ 127; **Nepal**, 01/07/99, U.N. Doc. A/54/38, ¶ 147-148; **Paraguay** 09/05/96, U.N. Doc. A/51/38, ¶ 131; **Peru**, 08/07/98, U.N. Doc. A/53/38/Rev.1, ¶ 340; **Peru**, 31/05/95, U.N. Doc. A/50/38, ¶ 446; **Saint Vincent and the Grenadines**, 12/08/97, U.N. Doc. A/52/38/Rev.1, ¶ 148.

⁹⁷ Safe Motherhood Policy, Administrative Order No. 79 s. 2000, § 1 (2000) (Phil.).

⁹⁸ UNFPA, 2005 STATE OF THE WORLD POPULATION, *supra* note 32 at 112.

⁹⁹ This figure was adjusted to 4100 based on the UNICEF, WHO & UNFPA data analysis. UNICEF, WHO and UNFPA evaluated the data in 2000 and made adjustments to account for the well-documented problems of underreporting and misclassification of maternal deaths. The adjusted MMR is 200 per 100,000 live births. See UNICEF, *At a Glance: Philippines: Statistics*, http://www.unicef.org/infobycountry/philippines_statistics.html.

¹⁰⁰ National Statistics Office, Vital Statistics, Time Series Data, Registered Maternal Deaths by Region, Province, and City of Residence: 1990–1998, <http://www.census.gov.ph/data/sectordata/tsm90s.htm> (last modified May 26, 2006).

¹⁰¹ National Statistics Office, Deaths in the Philippines 2000, Explanatory Notes. <http://www.census.gov.ph/data/sectordata/sr0366tx.html> (last modified Feb. 27, 2004).

¹⁰² NDHS 2003, *supra* note 34, § 9.1.1, at 117–119. However, only 72% of women in poverty receive prenatal care compared with 97% of wealthy women. *Id.* The majority of prenatal care was delivered through health professionals, usually Nurses or midwives (49.5%), followed by doctors (38.1%). *Id.*

¹⁰³ *Id.* § 9.2.1, at 125.

¹⁰⁴ GOVERNMENT OF THE PHILIPPINES AND UNFPA, COUNTRY PROGRAMME OF ACTION PLAN BETWEEN THE GOVERNMENT OF THE PHILIPPINES AND UNITED NATIONS POPULATION FUND, 2005–2009, § 18 (2005), see its EXECUTIVE SUMMARY AT <http://www.unfpa.org.ph/6thcp/default.asp> (August 1, 2006).

¹⁰⁵ SINGH ET AL, UNINTENDED PREGNANCY *supra* note 23, at 5; A. Shire and L. Pessa, *Changing Policies and Attitudes: Post Abortion Care in the Philippines*, 1 COMPASS, 1-4 (2003).

¹⁰⁶ CRR and ARROW, WOW--East and Southeast Asia, *supra* note 12, at 139.

¹⁰⁷ *Id.* at 138, 139.

¹⁰⁸ *Id.* at 139.

¹⁰⁹ *Report of the Committee on the Elimination of Discrimination Against Women: Ninth Session, General Recommendation 15*, art. 12, para. 1, *Avoidance of Discrimination Against Women in National Strategies for the Prevention and Control of Acquired Immunodeficiency Syndrome (AIDS)*, U.N. Doc. A/54/38/ (Part I) (1999) available at <http://www.un.org/womenwatch/daw/cedaw/reports/20report.pdf>.

¹¹⁰ National Epidemiology Center, April 2006 Monthly Update, HIV/AIDS Registry, 2006, http://www.doh.gov.ph/NEC/hiv/april_2006.pdf

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.* (stating that out of the total cases of HIV, 17% are domestic helpers, 7% are entertainers and 6% are health workers).

¹¹⁴ *Id.*

¹¹⁵ Department of Health-NEC, HIV/AIDS 2003 TECHNICAL REPORT, page 18 (2003) available at <http://www.doh.gov.ph/NEC/HIV/2003%20HIV%20AIDS%20Tech%20Report.pdf>. (on file at EnGendeRights)

¹¹⁶ UNAIDS/WHO, EPIDEMIOLOGICAL FACT SHEETS ON HIV/AIDS AND SEXUALLY TRANSMITTED INFECTIONS, 2004 Update. available at http://data.unaids.org/Publications/Fact-Sheets01/philippines_EN.pdf.

¹¹⁷ CEDAW, *General Recommendation 24*, *supra* note 5.

¹¹⁸ *Id.*

¹¹⁹ BRINGING RIGHTS TO BEAR, *supra* note 57, at 137. This is supported by the Committee's Concluding Observations to the following countries as cited in this publication. *See e.g.*, **Antigua and Barbuda**, 12/08/97, U.N. Doc. A/52/38/Rev.1, Part II, ¶¶ 258, 267; **Belize**, 01/07/99, U.N. Doc. A/54/38, ¶¶ 56–57; **Burundi**, 02/02/2001, U.N. Doc. A/56/38, ¶ 62; **Chile**, 09/07/99, U.N. Doc. A/54/38, ¶ 227; **Colombia**, 31/05/95, U.N. Doc. A/50/38, ¶ 608; **Democratic Republic of the Congo**, 01/02/2000, U.N. Doc. A/55/38, ¶ 228; **Dominican Republic**, 14/05/98, U.N. Doc. A/53/38, ¶ 349; **Greece**, 01/02/99, U.N. Doc. A/55/38, ¶¶ 207–208; **Hungary**, 09/05/96, U.N. Doc. A/51/38, ¶ 260; **Jamaica**, 02/02/2001, U.N. Doc. A/56/38, ¶ 224; **Kazakhstan**, 02/02/2001, U.N. Doc. A/56/38, ¶ 106; **Lithuania**, 16/06/2000, U.N. Doc. A/55/38, ¶ 159; **Mongolia**, 02/02/2001, U.N. Doc. A/56/38, ¶ 274; **Nepal**, 01/07/99, U.N. Doc. A/54/38, ¶ 148; **Nicaragua**, 31/07/2001, U.N. Doc. A/56/38, ¶ 303; **Peru**, 08/07/98, U.N. Doc. A/53/38, ¶ 342; **Republic of Moldova**, 27/06/2000, U.N. Doc. A/55/38, ¶ 110; **Romania**, 23/06/2000, U.N. Doc. A/55/38, ¶ 315; **Saint Vincent and the Grenadines**, 12/08/97, U.N. Doc. A/52/38/Rev.1, ¶ 147; **Slovakia**, 30/06/98, U.N. Doc. A/53/38/Rev.1, ¶ 92; **Slovenia**, 12/08/97, U.N. Doc. A/52/38/Rev.1, ¶ 119; **Spain**, 01/07/99, U.N. Doc. A/54/38, ¶ 266; **Uganda**, 31/05/95, U.N. Doc. A/50/38, ¶ 338; **United Kingdom of Great Britain and Northern Ireland**, 01/07/99, U.N. Doc. A/54/38, ¶¶ 309–310; **Uzbekistan**, 02/02/2001, U.N. Doc. A/56/38, ¶¶ 185–186; **Vietnam**, 31/07/2001, U.N. Doc. A/56/38, ¶¶ 266–267; **Zimbabwe**, 14/05/98, U.N. Doc. A/53/38, ¶¶ 160–161.

¹²⁰ BRINGING RIGHTS TO BEAR, *supra* note 57, at 137. This is supported by the Committee's Concluding Observations to the following countries as cited in this publication: **Dominican Republic**, 14/05/98, U.N. Doc. A/53/38, ¶ 349; **Uganda**, 31/05/95, U.N. Doc. A/50/38, ¶ 338.

¹²¹ BRINGING RIGHTS TO BEAR, *supra* note 57, at 137. This is supported by the Committee's Concluding Observations to the following countries as cited in this publication. *e.g.*, **Belize**, 01/07/99, U.N. Doc. A/54/38, ¶ 56; **Nepal**, 01/07/99, U.N. Doc. A/54/38, ¶ 148.

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- ¹²² BRINGING RIGHTS TO BEAR, *supra* note 57, at 137. This is supported by the Committee's Concluding Observations to the following countries as cited in this publication. *e.g.*, **Belize**, 01/07/99, U.N. Doc. A/54/38, ¶¶ 56–57; **Chile**, 09/07/99, U.N. Doc. A/54/38, ¶¶ 226–227; **Greece**, 01/02/99, U.N. Doc. A/55/38, ¶¶ 207–208; **Saint Vincent and the Grenadines**, 12/08/97, U.N. Doc. A/52/38/Re v.1, ¶ 147; **United Kingdom of Great Britain and Northern Ireland**, 01/07/99, U.N. Doc. A/54/38, ¶¶ 309–310.
- ¹²³ BRINGING RIGHTS TO BEAR, *supra* note 57, at 137. This is supported by the Committee's Concluding Observations to the following countries as cited in this publication. *e.g.*, **Belize**, 01/07/99, U.N. Doc. A/54/38, ¶¶ 56–57; **Burundi**, 02/02/2001, U.N. Doc. A/56/38, ¶ 62; **Greece**, 01/02/99, U.N. Doc. A/55/38, ¶¶ 207–208; **Slovakia**, 30/06/98, U.N. Doc. A/53/38/Re v.1, ¶ 92; **Slovenia**, 12/08/97, U.N. Doc. A/52/38/Re v.1, ¶ 119; **Spain**, 01/07/99, U.N. Doc. A/54/38, ¶ 266.
- ¹²⁴ National Statistics Coordination Board, 2002 PHILIPPINE STATISTICAL YEARBOOK, 1-19 (2003). Under WHO guidelines, adolescents are people aged 10–19. *see, e.g.* Child and Adolescent Health WHO, Overview of CAH: Adolescent Health and Development, http://www.who.int/child-adolescent-health/OVERVIEW/AHD/adh_over.htm
- ¹²⁵ PHILIPPINE NATIONAL STATISTICS OFFICE, NATIONAL DEMOGRAPHIC AND HEALTH SURVEY (NDHS)1998, at 45 tbl.3.10 (1998) *available at* http://www.measuredhs.com/pubs/pub_details.cfm?ID=67&PgName=country&ctry_id=34. The 2003 National Demographic and Health Survey shows that among young women aged 15–24, 23.3% in urban areas and 31.3% in rural areas have begun childbearing. NDHS 2003, *supra* note 34, at 51 tbl.4.9.
- ¹²⁶ NATIONAL STATISTICS OFFICE, VITAL STATISTICS REPORT 1998, 24 (2002) Of the 1,579 reported cases of maternal death in 1998, 99 (6.3%) were girls aged 15-19. *Id.*
- ¹²⁷ Press Release, Demographic Research and Development Foundation & the UP Population Institute, 2002 Young Adult Fertility and Sexuality Study (YAFS 3): The Youth are Not Alright (Dec. 12, 2002), <http://www.yafs.com/downloads/youth.pdf> (last visited July 4, 2006). The Young Adult Fertility and Sexuality Survey refers to those between 15–24 years old as young adults [hereinafter Press Release, YAFS 3].
- ¹²⁸ Press Release, YAFS/Demographic Research and Development Foundation & the UP Population Institute, 4.9 Million Young Adults Have Engaged in Premarital Sex (Feb. 12, 2003), <http://www.yafs.com/downloads/pms.pdf> (last visited May 17, 2005).
- ¹²⁹ Press Release, YAFS/Demographic Research and Development Foundation & the UP Population Institute, Filipino Youth Think They Have Immunity from HIV/AIDS (Nov. 26, 2004), <http://www.yafs.com/downloads/aids.pdf> (last visited May 17, 2005).
- ¹³⁰ Juarez F. Cabigon J & S. Singh, Unwanted Pregnancies in the Philippines: the Route to Induced Abortion and Health Consequences, paper presented at the 25th International Union for the Scientific Study of Population General Conference, Tours, France (July 18-23, 2005) (citing the 2004 National Survey of Women)
- ¹³¹ PHIL.CONST. (1987), art. II, § 13.
- ¹³² See CRR and ARROW, WOW--East and Southeast Asia, 2005, *supra* note 12, at 143.
- ¹³³ Rio N. Araya, *Bishops Oppose Safe Sex Lessons*, Manila Standard Today, June 10-11, 2006, *available at* http://www.manilastandardtoday.com/?page=politics01_june10_2006 . See the DEPARTMENT OF EDUCATION (PHIL.), LESSON GUIDES ON ADOLESCENT REPRODUCTIVE HEALTH: A POPULATION AND EDUCATION CONCEPT, (2005) (on file at EnGendeRights);
- ¹³⁴ Assistant Medical Director of the Makati Health Program. City of Makati, Makati Health Program Guidelines, page 5 (Nov. 23, 1989).
- ¹³⁵ City of Makati, Office of the Makati Health Program, Policy for Issuance of Yellow Card, page 1 (July 23, 2001).
- ¹³⁶ RRIGHTS NOW! 2001, *supra* note 22, at 31.
- ¹³⁷ DEPARTMENT OF HEALTH AND FAMILY HEALTH INTERNATIONAL (FHI), 2002 RTI/STI PREVALENCE SURVEY IN SELECTED SITES IN THE COUNTRY, 50 (2002).
- ¹³⁸ *Id.*
- ¹³⁹ *Id.*
- ¹⁴⁰ *Id.*

¹⁴¹ Marites Sison, *Younger Filipino Women at Risk from HIV/AIDS*, INTER PRESS SERVICE, (May 31, 2002) through CyberDyaryo, Manila, available at <http://www.aegis.org/news/ips/2002/IP020511.html> (Last visited August 1, 2006).

¹⁴² Working draft of WOMEN OF THE WORLD: EAST AND SOUTHEAST ASIA, Philippines, sec. II.B. at 39 (peer reviewed by Dr. Junice L. Demeterio-Melgar, Likhaan, drafted by the Institute for Social Studies and Action, Inc. (ISSA), received on May 10, 2005 (on file with the Center for Reproductive Rights).

¹⁴³ *Report of the Committee on the Elimination of Discrimination Against Women: Eleventh Session, General Recommendation 19*, para. 1 Violence against Women, U.N.Doc. No. A/47/38 (1992), available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> [hereinafter *CEDAW, General Recommendation 19*] (last visited August 1, 2006).

¹⁴⁴ *Id.*, at para. 9.

¹⁴⁵ *Id.*

¹⁴⁶ National Commission on the Role of Filipino Women (NCRFW), VAW Statistics, Violent Crimes Against Women and Children, (last viewed Oct.1, 2003) (copy on file at EnGendeRights).

¹⁴⁷ *Id.*

¹⁴⁸ Clara Rita Padilla, Philippine Submission to Equality Now Workshop on Litigating for Sex Equality, Nairobi, Kenya (June 9-11, 2001) (unpublished submission on file with the Center for Reproductive Rights) at 18 [hereinafter *Litigating for Sex Equality*].

¹⁴⁹ Women's Legal Bureau, *Women's Health and the Law*, 69-71 (1997).

¹⁵⁰ *Litigating for Sex Equality*, *supra* note 148, at 18; *See Rape Victim Assistance and Protection Act of 1998*, RA 8505, Sec. 6 (1998).

¹⁵¹ *Litigating for Sex Equality*, *supra* note 148, at 19 citing the case of *People of the Philippines vs. Eduardo Miranda* (Crim. Case No. Q96-65569) dismissed at the Regional Trial Court level. *See Soliman M. Santos, Jr., Merci Llarinas-Angeles, Roberto M. Ador, JUSTICE AND HEALING: TWIN IMPERATIVES FOR THE TWIN LAWS AGAINST RAPE* (2001) (copy on file at EnGendeRights).

¹⁵² *Id.* citing the cases of *People of the Philippines vs. Eduardo Miranda* (Crim. Case No. Q96-65569) and *Cielo Castro*; *See id.* *Soliman M. Santos, Jr. et al, JUSTICE AND HEALING*.

¹⁵³ *See, e.g., 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."

¹⁵⁴ *Litigating for Sex Equality*, *supra* note 148, at 19.

¹⁵⁵ *See The Advisory Board Foundation, Inc., CHILD MALTREATMENT MEDICO-LEGAL TERMINOLOGY AND INTERPRETATION OF MEDICAL FINDINGS: A CONSENSUS OF MEDICAL AND LEGAL CHILD ABUSE PRACTITIONERS IN THE PHILIPPINES*, (2d Ed. 2002), available at <http://www.childprotection.org.ph/monthlyfeatures/may2k3b.pdf> for information regarding interpretation of medical findings.

¹⁵⁶ *Id.*

¹⁵⁷ *People v. Llanita*, G.R. No. 134101 (September 5, 2001) available at <http://www.supremecourt.gov.ph/jurisprudence/2001/sep2001/134101.htm> (last viewed August 7, 2006).

¹⁵⁸ Alexander Martin Remollino, *Palit-bigas Prostitution*, TENAGANITA, (October 25, 2005), available at <http://geeklog.tenaganita.net/article.php?story=20051026001552759> (Last visited August 1, 2006).

¹⁵⁹ *Litigating for Sex Equality*, *supra* note 148, at 20.

¹⁶⁰ RA 9208 AN ACT TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS, AND FOR OTHER PURPOSES, Section 17 (May 26, 2003).

¹⁶¹ Quezon City Ordinance No. SP-1516, S-2005, Section 6 (i) & (ii), (2005).

¹⁶² Clara Rita Padilla, *Rethinking Policies on Women*, 2 (1) SOROPTIMIST BALITA, page 3, (September 2005) [hereinafter *Rethinking Policies on Women*].

¹⁶³ *Id.*

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- ¹⁶⁴ 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 (Last visited August 2, 2006).
- ¹⁶⁵ NATIONAL COMMISSION ON THE ROLE OF FILIPINO WOMEN (NCRFW), THE STATE OF FILIPINO WOMEN 2001-2003, Chapter 3: Upholding Women’s Rights, NCRFW, 25 (2005) available at <http://www.ncrfw.gov.ph/insidepages/downloads/rsfw2001to2003/default.htm>
- ¹⁶⁶ *Id.*, at 27.
- ¹⁶⁷ *Id.*
- ¹⁶⁸ *Rethinking Policies on Women*, *supra* note 162.
- ¹⁶⁹ CEDAW, *supra* note 1, Art. 16(c).
- ¹⁷⁰ CEDAW, *supra* note 1, Art. 16(f).
- ¹⁷¹ CEDAW, *supra* note 1, Art. 16(g).
- ¹⁷² CEDAW, *supra* note 1, Art. 16(h).
- ¹⁷³ *Report of the Committee on the Elimination of Discrimination Against Women: Thirteenth Session, General Recommendation 21, Equality in Marriage and Family Relations*, para 36 on art. 16 (2), UN doc., A/47/38 (1994) available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/7030ccb2de3baae5c12563ee00648f1f?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/7030ccb2de3baae5c12563ee00648f1f?Opendocument) (Last visited April 26, 2006) [hereinafter *CEDAW, General Recommendation 21*,].
- ¹⁷⁴ *Id.*
- ¹⁷⁵ *CEDAW, General Recommendation 19*, *supra* note 143; Articles 2 (f), 5 and 10 (c) of General Recommendation 19 states that “[t]raditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision...”
- ¹⁷⁶ *See CEDAW, General Recommendation 21*, para.14, *supra* note 173.
- ¹⁷⁷ Executive Order (EO) No. 209 as amended by EO No. 227 (July 17, 1987); The Family Code of the Philippines, arts. 96, 124, 211, 225 [hereinafter *The Family Code*].
- ¹⁷⁸ Code of Muslim Personal Laws of the Philippines, PD 1083, arts. 27, 16, 36 (2, 3), 71 (1) (1977) [hereinafter *Muslim Code*].
- ¹⁷⁹ Litigating for Sex Equality, *supra* note 148, at 16.
- ¹⁸⁰ Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, A.M. No. 02-11-10-SC, Sec. 2 (d), par. 2.
- ¹⁸¹ Litigating for Sex Equality, *supra* note 148, at 18.
- ¹⁸² *Id.*
- ¹⁸³ *Rethinking Policies on Women*, *supra* note 162, at 3.
- ¹⁸⁴ *Id.*
- ¹⁸⁵ *Id.*
- ¹⁸⁶ *Id.*
- ¹⁸⁷ The Revised Penal Code, art. 333.
- ¹⁸⁸ *Id.* art. 334.
- ¹⁸⁹ Agence France-Presse, Sexual Violence, Abortion in the Spotlight on Women's Day, Mar 08, 2006, available at http://news.inq7.net/world/index.php?index=1&story_id=68774 (Last visited August 2, 2006).
- ¹⁹⁰ There have been cases where Filipino lawyer Atty. Clara Rita A. Padilla has defended married women (name withheld to protect confidentiality of clients) against adultery cases that have been filed by the estranged husbands merely to harass or threaten these women.
- ¹⁹¹ The Revised Penal Code, art. 351.
- ¹⁹² The Family Code, *supra* note 177.
- ¹⁹³ *Id.* art. 211.
- ¹⁹⁴ Muslim Code, *supra* note 178.
- ¹⁹⁵ *Id.*, arts.16, paras 1-3; 27, 36 (2), (3); 71; 79.
- ¹⁹⁶ *Id.*, art. 27. Art. 27 states “notwithstanding the rule of Islamic law permitting a Muslim to have more than one wife but not more than four at a time, no Muslim male can have more than one wife unless he can deal with them with equal companionship and just treatment as enjoined by Islamic law and only in exceptional cases.”

¹⁹⁷ See CEDAW, *General Recommendation 21*, *supra* note 173, para.14; *see also* Discussions at the “Pre-Test of the Paralegal Trainers’ Training Module for Muslim Religious Leaders, Provincial Health Officers, and Shari’a Lawyers, Councilors, and Judges” conducted by EnGendeRights Tower Inn, Davao City (on November 24-25, 2005).

¹⁹⁸ CEDAW, *General Recommendation 21*, *supra* note 173, art. 16.

¹⁹⁹ *Id.*, art. 16, para. 2.

²⁰⁰ Women Living Under Muslim Laws (WLURL), *Philippines: Moro ethnic women speak out on sexual violence in customary practices and traditions*, NEWS AND VIEWS (February 17, 2005) available at <http://www.wluml.org/english/newsfulltxt.shtml?cmd%5B157%5D=x-157-119981> (Last visited August 2, 2006).

²⁰¹ Muslim Code, *supra* note 178, arts. 36 (2),(3); 71(1).

²⁰² CEDAW, *General Recommendation 21*, *supra* note 173, Comment No. 13 on art. 16.

²⁰³ CEDAW Concluding Observations on Kyrgyzstan. 27/01/99. CEDAW/C/1999/I/L.1/Add.3, par. 35.

²⁰⁴ Quezon City Ordinance No. SP-1309, S-2003: An Ordinance Prohibiting All Acts of Discrimination Directed Against Homosexuals in Any Office in Quezon City Whether in the Government or in the Private Sector, and Providing Penalties for Violation Thereof (effective March 26, 2004).

²⁰⁵ Makati City Memorandum (August 16, 2000) (cited in Clara Rita Padilla and Flordeliza C. Vargas, *Lesbians and Philippine Law*, 1(1) WOMEN’S JOURNAL ON LAW & CULTURE, 61 (July-December 2001)) The policy imposes a dress code for gay men working for the city government “prohibiting wearing of girl’s attire by gay employees including putting on make-up and lipstick.”

²⁰⁶ *Gualberto v. Gualberto*, G.R. No. 154994, n.p. (June 28, 2005) available at http://www.supremecourt.gov.ph/jurisprudence/2005/jun2005/154994.htm#_ftn1 (visited August 7,2006).

²⁰⁷ *Id.*

²⁰⁸ Clara Rita A. Padilla, *What is Best for Our Children?*, 2 (2) SOROPTIMIST BALITA, (December 2005).

²⁰⁹ *Id.*

²¹⁰ *Id.*