



## EnGendeRights, Inc.

88-A Calumpit St., Veterans Village, Quezon City, 1105, Philippines  
Telefax. no. (+632) 376-2578, engenderights@pltdsl.net, www.engenderights.org

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### **The Office of the High Commission on Human Rights/Working Group on the UPR**

#### **RE: Submission by EnGendeRights related to the Philippines for the United Nations Human Rights Council Second Universal Periodic Review**

This submission is a product of consultations with our partners and based on available resources.

#### **I. Lack of Access to Reproductive Health Services and Information; Maternal Mortality; Safe Pregnancy and Childbirth**

1. EnGendeRights would like to draw attention to the lack of access of women and adolescents to modern contraceptive methods, emergency contraception particularly specifically dedicated pills such as levonorgestrel, education on sexuality and family planning, safe and legal abortion, and safe pregnancy and childbirth. More than half of all pregnancies are unintended.<sup>1</sup> According to the UNFPA 2010 State of the World Population, 230 women die out of every 100,000 live births, only 36% of married women between the ages of 15-49 use modern contraceptive methods. Daily, there are 11 women dying while giving birth in the Philippines. Not a single death should happen due to pregnancy and childbirth. These preventable deaths could have been avoided.

2. Access to quality healthcare facilities is a major barrier facing pregnant Filipino women, especially in rural areas. UNFPA states that for every 500,000 people, there should be at least four facilities offering Basic Emergency Obstetric Care (BEmOC) and at least one facility offering Comprehensive Emergency Obstetric Care (CEmOC), which should be appropriately distributed. In the Philippines, only 60% of the births are attended by skilled birth attendants.<sup>2</sup> Maternal and infant deaths can be prevented with access to the full range of contraceptive methods, pre-natal care, emergency obstetric care, skilled birth attendants<sup>3</sup>, and access to safe and legal abortion. For poor women and adolescents, they are the ones least likely to practice effective fertility management methods, deliver in a health facility, or have access to emergency obstetric care.<sup>4</sup>

3. The Philippines still has a high maternal mortality due to lack of access information and services on sexuality education, family planning, pre-natal and post-natal care, lack of access to facility-based delivery including high cost of facility-based delivery, lack of skilled birth attendants who can save lives, lack of emergency obstetric care facilities and services including lack of access to services to manage post-partum hemorrhage during the third stage of labor such as oxytocin as the gold standard and misoprostol when oxytocins are not available and the timely clamping of the cord.

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**A. Lack of a Comprehensive Reproductive Health Care Policy and Restrictive Reproductive Health Policies; Lack of Access to Safe and Legal Abortion**

4. There is no national reproductive health care law. The proposed national law on reproductive health care has been pending in Congress for the past ten years. There are cities that do not disseminate information on modern methods of family planning; there are cities that do not allow ligation and dispensation of injectable contraceptives in their local health centers; and there are cities such as Manila that do not allocate local government funds to buy contraceptives for their local health centers.

5. The Philippine government asserts that it has implemented a low cost medicine provision program that provides subsidies to address the rising cost of medicine,<sup>5</sup> yet at the same time has stopped providing subsidies to healthcare centers for contraceptives.<sup>6</sup> For example, in June and October of 2008, EnGendeRights asked the Manila City government for PhP5250 and PhP4500, respectively, to cover costs of medicines women would need for tubal ligation, a minor procedure with minimal side effects. The government denied the meager request for funds, claiming that there was no budget allotted for family planning. Additionally, funds for modern contraceptive methods are still being denied to the poor of Manila and Manila-run hospitals such as Ospital ng Maynila still only promotes natural family planning. The government has failed to address the high cost of contraceptives, which is a problem primarily for poor women who are in greatest need of such supplies.

6. Postinor, the emergency contraceptive, is banned in the Philippines due to the Food and Drugs Administration’s claim that Postinor has an “abortifacient” effect. 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.

7. The illegality of abortion in the Philippines is a violation of the Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child. Results of a study conducted by the Alan Guttmacher Institute (AGI) revealed that there were an estimated 560,000 women who induced abortions, 90,000 women hospitalized and 1,000 women who died from complications from unsafe abortion in 2008 alone.<sup>7</sup> Although abortion is outlawed, hundreds of thousands of Filipino women undergo the procedure unsafely with detrimental repercussions. 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. Low-income women are disproportionately impacted by the ban on abortion with an estimated two-thirds of women who undergo abortion being poor.

8. Unsafe abortions contribute to the astoundingly high maternal mortality rate. 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.

9. During the last Universal Periodic Review of the Philippines, various stakeholders expressed concern at the lack of access to safe and legal abortion, citing the lack of exception to the criminal abortion law for rape or incest and the high maternal mortality rate as principal causes of concern.<sup>8</sup>

## **II. HIV**

10. Instead of halting new HIV reported cases, the newly-reported HIV cases have been continually increasing for the past years. Due to lack of sexual education, many women and members of the most-at-risk population are unable to negotiate safe sex and have limited or no access to information about protection. The spread of HIV/AIDS in the Philippines could easily be curtailed by a comprehensive national reproductive health policy that increases knowledge and use of contraceptives, including condoms. Yet, the Philippine government has no such policy and allows the Catholic Church to continue to deceive the Philippine public about the efficacy of condoms in preventing the spread of disease.

## **III. Gender-based violence**

### **A. Rape**

11. Incidence of gender-based violence including rape remains high in the Philippines, with an average of eight women and nine children raped daily. Despite the Anti-Rape Law of 1997 and the Rape Victim Assistance and Protection Act of 1998, numerous complaints for rape are dismissed at the preliminary investigation level and in the Regional Trial Court. Many judges and public prosecutors still do not understand the realities of rape as gender-based violence. In the views on the Karen Tayag Vertido vs. Philippines (Communication No. 18/2008) adopted by the CEDAW Committee on July 16, 2010,<sup>9</sup> the CEDAW Committee recommended that the Philippine definition in the anti-rape law should center on the lack of consent as the core of the definition of rape.

### **B. Domestic Violence**

12. Studies show that three out of five Filipino women have been victims of physical abuse. The Anti-Violence against Women and Their Children Act of 2004 took effect seven years ago, but there is still an ongoing disjunct between the law and how the law is being implemented in barangays, police stations, and courts.

### **C. Prostitution and Human Trafficking**

13. In 2005, an estimated 800,000 women and children were forced into prostitution in the Philippines. If caught, these women are imprisoned. 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.

14. The passage of the “Anti-Trafficking in Persons Act of 2003” (Republic Act 9208) is significant in the effort to fight against trafficking, however, trafficking victims still face significant challenges in the Philippines.<sup>10</sup> For instance, provisions of the Revised Penal Code continue to focus law enforcement attention on women in prostitution, rather than on their exploiters. Article 341 on prostitution and Article 202 on vagrancy are still being used to round up and imprison women in prostitution or are sometimes used to extort money or sexual favors.<sup>11</sup> The Philippine government must properly address problems associated with women in prostitution and trafficked women.

#### **IV. Muslim Code Provisions that Discriminate Against Women**

15. Under Muslim law, girls are allowed to marry at age 15 rather than age 18. By allowing girls in the Philippines to marry at such a young age, the Philippine government is perpetuating a harmful practice to girls that greatly impacts these adolescent women’s education, health, and their total well-being.

#### **V. Discrimination Based on Sexual Orientation and Gender Identity**

##### **A. Discrimination against Gay, Lesbian, Bisexual, and Transgender Individuals**

16. There is widespread discrimination against lesbians, gays, bisexuals and transgender (LGBT) individuals in the Philippines, yet no national law explicitly protects LGBTs from discrimination nor promotes their rights. While a Quezon City ordinance prohibits discrimination in the workplace on the basis of sexual orientation,<sup>12</sup> in Makati City, a dress code is imposed on gay men working for the city government.<sup>13</sup> There are anti-discrimination bills based on sexual orientation pending in the 15<sup>th</sup> Congress, but none has yet been passed into law.

17. Furthermore, the Philippine justice system still blatantly discriminates against lesbians. A lesbian faced blatant discrimination when justices of the Court of Appeals issued homophobic statements during hearings on a writ of amparo case filed to release her from detention having been locked in a room for a month by her own mother. Several justices suggested that she was an immoral person because she is a lesbian, and went so far as to suggest that consequently, A.L.’s mother was justified in kidnapping, holding hostage, and beating her.<sup>14</sup>

18. In a case on discrimination of a lesbian mother with regard to the custody of her children, one Regional Trial Court judge made pronouncements in open court that the lesbian woman’s relationship with her lesbian partner was “abnormal”.<sup>15</sup>

19. In the recent Philippine Supreme Court case of Rommel Jacinto Dante Silverio vs. Republic of the Philippines (G.R. No. 174689, October 22, 2007), a male to female transgendered person was denied her petition to change her sex and name in her birth certificate.

20. In the Philippines, there is no legal recognition of marriage or partnership with regard to lesbians and bisexual and transgender individuals. It is significant, however, that women victims of abuse in lesbian relationships are accorded the same protection under the Anti-VAWC since Sec. 3 includes “*any person* with whom the woman has or had a sexual dating relationship.”

## **B. Suicide among Lesbian, Gay, and Bisexual Adolescents**

21. Despite Committee on the Rights of the Child’s recommendations in 2005 to “establish adequate mental health services tailored for adolescents,” suicide rates still remain high for the LGBT adolescent population. Adolescence is a time of great change in any person’s life, particularly as one discovers and navigates her or his own sexuality and sexual orientation. This elevated suicide risk among gay, lesbian, and bisexual young adults is related to issues ranging from experiences of discrimination, experiences of sexual-orientation related violence, perceived stigma, and internalized homophobia.

22. According to a study analyzing data from YAFS 3, when compared to heterosexual males of the same age, 15.80% of gay and bisexual young men reported suicide ideation, compared to 7.50% of heterosexual young men.<sup>16</sup> This elevated suicide risk among young men could be partly explained by risk factors outside of sexual orientation, such as peer suicide attempt, experience of threat, victimization, and depression.<sup>17</sup> Similarly, while 18% of heterosexual young women reported suicide ideation, 27.60% of lesbian and bisexual young women reported suicide ideation.<sup>18</sup> Although the young adults studied were between the ages of 18 and 24, the data can easily be extrapolated to those below 18, discovering their own sexuality in high school environments.

23. This elevated suicide risk among gay, lesbian, and bisexual young adults is related to issues ranging from experiences of discrimination, experiences of sexual-orientation related violence, perceived stigma, and internalized homophobia.<sup>19</sup> As a result of prevailing cultural attitudes towards homosexuality, including one out of four Filipinos not wanting lesbian, gay, or bisexual individuals as neighbors, Filipino adolescents may encounter several of the aforementioned issues that could contribute to suicide risk.<sup>20</sup>

### **Clara Rita “Claire” A. Padilla, JD**

Executive Director, EnGendeRights, Inc.

88-A Calumpit St., Veterans Village

Quezon City, 1105, Philippines

Telefax. No. (632) 376-2578; Mobile landline (+632) 6645696

Mobile: (+63)918-2182682; Email: [engenderights@pltdsl.net](mailto:engenderights@pltdsl.net); [padillaclara@yahoo.com](mailto:padillaclara@yahoo.com)

Website: [www.engenderights.org](http://www.engenderights.org)

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<sup>1</sup> Alan Guttmacher Institute (AGI), *Meeting Women's Contraceptive Needs in the Philippines*, 1 In Brief 2 (2009), [http://www.guttmacher.org/pubs/2009/04/15/IB\\_MWCNP.pdf](http://www.guttmacher.org/pubs/2009/04/15/IB_MWCNP.pdf).

<sup>2</sup> UNFPA, 2008 STATE OF THE WORLD POPULATION, REACHING COMMON GROUND: CULTURE, GENDER, AND HUMAN RIGHTS, p87-89 (2005) [hereinafter UNFPA, 2008 STATE OF THE WORLD POPULATION].

<sup>3</sup> Lilita Balane, *RP Likely to Miss Target to Reduce Mother-Baby Deaths*, Newsbreak, (August 26, 2009).

<sup>4</sup> *Id.*

<sup>5</sup> Philippine National Government UPR Report, at ¶ 45.

<sup>6</sup> Interview by Elisabeth Owen with Dr. Ronaldo Santos, member Philippine Obstetrics and Gynecological Society, in Makati City, Philippines (July 15, 2008).

<sup>7</sup> Alan Guttmacher Institute (AGI), *Meeting Women's Contraceptive Needs in the Philippines*, 1 In Brief 2 (2009), [http://www.guttmacher.org/pubs/2009/04/15/IB\\_MWCNP.pdf](http://www.guttmacher.org/pubs/2009/04/15/IB_MWCNP.pdf)

<sup>8</sup> U.N. Human Rights Council, Working Group on the Universal Periodic Review, *Summary Prepared by the Office of the High Commissioner for Human Rights, In Accordance with Paragraph 15 (C) of Resolution 5/1 of the Human Rights Council*, Advance Unedited Version, ¶ 32, U.N. Doc. A/HRC/WG.6/1/PHL/3 (Apr. 7-18 2008) [hereinafter UPR Summary of Stakeholders' Concerns].

9. Communication under the Optional Protocol to the Convention on the Elimination of Discrimination Against Women, Letter from CEDAW views on Karen Vertido Communication Vertido to CEDAW Committee (Nov. 29, 2007).

<sup>10</sup> Concluding observations: Philippines, ¶ 3.

<sup>11</sup> Litigating for Sex Equality, at 20.

<sup>12</sup> 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

<sup>13</sup> Makati City Memorandum (August 16, 2000) cited in Clara Rita Padilla and Flordeliza C. Vargas, "Lesbians and Philippine Law," *Women's Journal on Law & Culture*, July-December 2001, Vol. 1, No. 1, at 61; 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."

<sup>14</sup> C.A. Case Amparo No. 00016, p. 36.

<sup>15</sup> Special Proceeding No. Q04-52635 with Regional Trial Court Branch 86, Quezon City for Petition for Habeas Corpus with a subsequent application for a Temporary/Permanent Protection Order (under RA 9262).

<sup>16</sup> Eric Manalastas, Department of Psychology, University of the Philippines Diliman, Dyke Dialogues/Rainbow Exchange Series, Filipino LGB Youth and SUICIDE RISK: Findings from a National Survey (June 20, 2009).

<sup>17</sup> *Id.*

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

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*