

September 16, 2016

**To: The Human Rights Council Universal Periodic Review (UPR) Working Group**

**Re: Civil Society Organizations (CSOs) Report on the Philippines for the UPR (3<sup>rd</sup> Periodic Review, 27th Session, Apr-May 2017)**

**Submitted By: Sexual Rights Network**

**DESCRIPTION:** The Sexual Rights Network is a group of CSOs that came together to raise concerns on the failure of the Philippine government to fully comply with its obligations under international law to address sexual rights. The CSO Sexual Rights Network may be reached through the Family Planning Organization of the Philippines with email at [fpop1969@yahoo.com](mailto:fpop1969@yahoo.com), website at [www.fpop1969.org](http://www.fpop1969.org), and postal address at 50 Doña M. Hemady St., New Manila, Quezon City 1112, Philippines.

**CSO Sexual Rights Network Members :**

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2. EnGendeRights, Inc.
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## Summary

This report provides evidence of continuing sexual rights violations despite repeated recommendations of United Nations (UN) Treaty Monitoring Bodies and recommendations made during the previous Universal Periodic Review (UPR). This report provides information related to, *inter alia*, the following recommendations:

- a) legislative framework (repeal all discriminatory provisions in national legislation to achieve gender equality/Portugal; comprehensive legislation to combat discrimination faced by LGBT people/Argentina; amend abortion law to allow on certain grounds/Sweden; access to family planning/Netherlands; enabling legal framework related to sexuality and reproductive health/Norway);
- b) prohibition on torture (in the home/Portugal/Uruguay);
- c) administration of justice (gender sensitive judiciary/Austria);
- d) rights related to name and identity (effective birth registration/Portugal);
- e) economic, social and cultural rights (equal access to health/Thailand);
- f) right to health (protection of maternal health, meet MDG5/Sweden; address high infant and maternal mortality rates, including providing an access to sexual and reproductive health information/Slovakia; ensure the right to the highest attainable standard of sexual and reproductive health/New Zealand);
- g) discrimination against women (fully implement Magna Carta of Women/Republic of Korea/Malaysia/Spain; gender responsive approach in the judicial system and better maternal care/Thailand)

We strongly recommend that the government comply with its obligations to respect, protect, and fulfil sexual rights.

## I. Background

1. There is long-standing lack of access to modern contraceptives and absence of sexuality education guidelines in schools with concurrent low usage of modern contraceptives and fear of contraceptive side effects. The problem is compounded by the one billion peso-cut from the 2016 Department of Health (DOH) budget intended for contraceptives; the unabated practice of city and municipal governments of returning contraceptives to the DOH; the non-registration of emergency contraceptive (EC) pills to prevent unwanted pregnancies; the lack of access to skilled birth attendants, birthing facilities and facilities providing emergency obstetric care; the non-registration of the drug Misoprostol to prevent and treat post-partum hemorrhage (PPH), miscarriage, and incomplete abortion; the increasing rates of HIV transmission; the lack of access to safe and legal abortion, denial of access to post-abortion care leading to three women dying daily from unsafe abortion complications; the temporary restraining order (TRO) imposed by the Supreme Court (SC) for over a year now on the product registrations of two contraceptive implants<sup>1</sup> and other reproductive products; the SC ruling on the Reproductive Health (RH) Law requiring parental consent for minors to access contraceptives and spousal consent to undergo litigation, removing penalties for violations of the RH Law thereby allowing public officials not to support RH programs and

allowing health professionals in non-emergency cases to refuse to provide or refer RH services such as contraceptives with impunity; and the continued impunity of government officials for enacting local policies restricting access to contraceptives.

2. As a result, the Philippines has a high rate of unintended and mistimed pregnancies including high rate of adolescent pregnancies, high maternal mortality, high unwanted pregnancies ending in unsafe abortion, and high number of women who suffer and die from complications from unsafe abortion.

3. Nearly three in ten births are either unwanted or mistimed.<sup>2</sup> There are 114 women aged 15-49 who die out of every 100,000 live births.<sup>3</sup> Only 38% of women aged 15-49 use modern contraceptive methods.<sup>4</sup> Not a single death should happen due to pregnancy and childbirth. These are preventable deaths.

4. Lesbians, gays, bisexuals and transgender (LGBT) people experience widespread discrimination, harassment, and violence violating their rights to sexual orientation, gender identity, and expression (SOGIE). LGBT people suffer discrimination and violence in their own families, schools, employment, and their communities. Some were subjected to physical and sexual abuse, some were raped,<sup>5</sup> tortured, and murdered. Many were denied access to justice and were discriminated against in court decisions implying LGBT rights are wants rather than human rights, tagging a lesbian woman as immoral and justifying her beating and forced confinement by her mother,<sup>6</sup> and allowing low penalty for murder of a transgender woman.

5. Other examples of violations of LGBT people are forcing trans people to wear stereotyped clothes and hair styles resulting in student and employee absences in schools and workplaces; the physical and sexual abuse of lesbians and transgender persons by law enforcement officers<sup>7</sup> and arrest and filing of trumped up criminal charges such as public scandal, vagrancy, and Anti-Trafficking against LGBT people to extort money from them;<sup>8</sup> threats by local government officials to force lesbians to undergo military training; a local government profiling transwomen and gay men by forcing them to register their names simply for loitering in a public park.<sup>9</sup>

6. These violations are exacerbated by absence of laws and policies, i.e., the Philippines does not have comprehensive national laws on anti-discrimination, gender identity recognition, hate crimes, and marriage equality.<sup>10</sup>

**7. The government needs to take appropriate steps to prosecute violations of LGBT rights to end impunity.**

8. These persistent sexual rights violations are fueled by conservative religious beliefs that lead to the continued failure of the government to fully comply with its obligations under international law to address sexual rights.

## **II. Discussion**

## **A. Lack of Access to RH Services and Information; Maternal Mortality; Safe Pregnancy and Childbirth; Increasing HIV incidence**

**1) No sexuality education guidelines have officially been implemented; High rate of adolescent childbirths**

**9. The government should implement sexuality education guidelines for adolescents and young adults through the Department of Education (DepEd) and the Commission on Higher Education (CHED).** Until now, the DepEd and CHED have not come out with guidelines on sexuality education.<sup>11</sup>

10. While the State reports the establishment of teen centers that will provide sexuality education,<sup>12</sup> this should be complemented by the implementation of the sexuality education curriculum. It is unacceptable that the DepEd has not come out with the sexuality education curriculum because as early as 2005 the DepEd already had the Lesson Guides on Adolescent RH<sup>13</sup> to work on, many non-government organizations have publications on these, the Quezon City and Manila City high school teachers underwent trainings on curriculum development on gender-based violence and SOGIE under EnGendeRights, and UNESCO has come out with international guidelines on sexuality education as early as 2009.<sup>14</sup>

**11. Adolescents must have access to sexual and reproductive health information and services whether they are sexually active or not.** One in ten adolescent women aged 15-19-yr old are already mothers or are pregnant with their first child.<sup>15</sup> The 2013 Young Adult Fertility and Sexuality Study (YAFS4) show that the number of young mothers aged 15-19 has more than doubled in the last decade.<sup>16</sup> Seventy-eight percent of the first sex was unprotected against pregnancy and sexually transmitted infections.<sup>17</sup> Increased access to modern contraceptives can significantly lower adolescent births.

12. While the Conditional Cash Transfer (CCT) Program seeks to fill in gaps by requiring as a condition pre-natal visits and attendance to Family Development Sessions (FDS),<sup>18</sup> certain FDS providers only tackle infant immunization, do not have sessions on family planning or did not provide proper information on contraceptives including where to access contraceptives. Other FDS providers exclude adolescents and single mothers from the family planning sessions.<sup>19</sup> There are also reports of selective enrolment of the CCT Program where deserving poor households are not covered,<sup>20</sup> hence, **an assessment should be made on the effectiveness of contraceptive information provided during FDS and door-to-door type of family planning sessions and encouragement of pre-natal and post-natal care are needed.**

**2) Increasing HIV Incidence; lack of access to post-exposure prophylaxis (PEP) to prevent HIV transmission**

13. Instead of halting new HIV reported cases, the newly-reported HIV cases have been continually increasing. Due to lack of access to sexuality 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 be curtailed by a comprehensive sexuality education program that increases knowledge and use of contraceptives, including condoms.** Yet, the government has no such comprehensive program and allows groups to continually deceive the public about the efficacy of condoms in preventing the spread of HIV.

14. The Philippines is one of seven countries globally with more than 25 percent increase in HIV incidence in the past decade.<sup>21</sup>

15. From 1984, the first case of HIV infection in the Philippines, up to March 2016, there has been 32,647 HIV Ab sero-positive cases reported. More than half were from the 25-34 year age group while 27% were from the 15-24 year age group. From 2011 to 2016, males comprised 96% of the reported cases. From January 1984 to March 2016, the modes of transmission were MSM at 81%, followed by heterosexual sex at 13%, and sharing of infected needles at 4%.<sup>22</sup> Eighty-one children less than 10 years old and six adolescents were reported to have acquired HIV through mother-to-child transmission.<sup>23</sup>

16. Although the AIDS Prevention and Control Act (Republic Act 8504)<sup>24</sup> mentions prophylaxis, PEP is not routinely practiced for rape victims and no specific protocols exist on PEP for rape victims. The country's PEP policy covers only occupational exposure such as needle stick injuries in healthcare settings in tertiary-level reference hospitals.<sup>25</sup> **It is recommended that a specific Administrative Order (AO) be issued to ensure access to PEP for rape victims and that the parental consent requirement for a minor to be tested for HIV be repealed.**

### 3) Lack of Access to Emergency Obstetric Care and Skilled Birth Attendants

17. Poor women and adolescents are the ones least likely to practice effective fertility management methods, deliver in a health facility, or have access to emergency obstetric care.<sup>26</sup>

18. While the UN/World Health Organisation (WHO) standard is to provide at least five Basic Emergency Obstetric Care (BEmOC) facilities for every 500,000 population and at least one facility offering Comprehensive Emergency Obstetric Care (CEmOC), the government has not provided information on its actual number of emergency obstetric facilities for every 500,000 population.<sup>27</sup> Furthermore, **it is imperative for the government to ensure that emergency obstetric facilities are accessible for all women including rural, indigenous, and Muslim women and women in hard-to-reach areas.**

19. Only 73% of the births are attended by skilled birth attendants.<sup>28</sup> It is a common practice that community health care providers called Barangay Health Workers (BHWs) with extensive experience are replaced by new local chief executives with new staff without training to the detriment of the members of the communities, clearly showing the need to ensure the security of tenure of BHWs.<sup>29</sup>

**20. It is recommended that the government increase access to quality health care facilities for pregnant Filipino women, especially in rural areas, geographically isolated and disadvantaged areas (GIDA), and relocation areas where former informal settlers have relocated.<sup>30</sup> It is also recommended that there should be increased access to sexuality education, the full range of modern contraceptive methods, pre-natal and post-natal care, quality and free or low-cost facility-based delivery, skilled birth attendants, and emergency obstetric care to lower maternal and infant deaths.<sup>31</sup> Also, the implementation of the RH Law Maternal Death Review should be strengthened.**

**4) Misoprostol is not registered for any indication including for prevention and treatment of PPH, miscarriage, incomplete abortion**

21. Misoprostol is a life-saving drug that has been included in the 2015 19th Essential Medicines List (EML) of the WHO<sup>32</sup> for the prevention and treatment of PPH, management of incomplete abortion and miscarriage, induction of labor, and medical abortion.

22. In 2002, the Food and Drug Administration (FDA) issued a circular citing that Cytotec (brand name for misoprostol) is an unregistered product,<sup>33</sup> hence, its manufacture, importation, sale or distribution is a violation of the Food, Drugs, Devices and Cosmetics Act.<sup>34</sup> Despite the submission of EnGendeRights' request to the DOH in 2011 to include misoprostol in drug registry for PPH prevention, said request has not been favorably acted on until now.

23. The Committee on the Elimination of Discrimination against Women (CEDAW Committee) recommended in 2015 for the Philippines to reintroduce misoprostol,<sup>35</sup> however, the government has not withdrawn the FDA circular and has not reintroduced misoprostol.

**24. It is recommended that the DOH and FDA will include misoprostol for treatment and prevention of PPH where oxytocin is not available or cannot be safely used, management of incomplete abortion and miscarriage, induction of labor, and medical abortion.<sup>36</sup> Women in GIDA areas including in ARMM and community-based facilities are vulnerable to die during childbirth given that oxytocin used for PPH need refrigeration and there are many areas that do not have electricity.**

**5) No dedicated EC is registered; Absence of an AO on EC provision for rape survivors**

**25. The government should make EC available to rape victims as part of routine emergency health care to prevent pregnancy resulting from rape and to women, in general, to prevent unwanted pregnancies.**

26. Postinor, the only previous EC pill was delisted in 2001 on the erroneous claim that Postinor has an “abortifacient” effect.<sup>37</sup> Until now, the government has failed to re-list Postinor<sup>38</sup> and has not registered dedicated EC products.

27. The DOH and FDA require a pharmaceutical company to apply for registration to register any EC, however, **it is recommended that the DOH itself should exert measures to register EC and to procure and dispense emergency contraceptives. It is also recommended that the RH Law provision stating that national hospitals cannot purchase emergency contraceptives should be repealed. Lastly, the government should allot budget to train service providers to raise awareness on EC and dispense EC.**

#### **6) One Billion Budget Cut on Contraceptives and Local Governments Returning Contraceptives to the DOH; Lack of Evaluation of Local Governments**

28. The 2016 General Appropriations Act was passed with one billion pesos cut from the DOH budget allocated to purchase contraceptives.<sup>39</sup> **The government should make the full range of modern contraceptives available to women and provide adequate annual budgetary allocation.**

29. There is the unabated practice of city and municipal governments returning contraceptives to the DOH citing lack of demand as the reason,<sup>40</sup> however, **the government has not effectively evaluated whether all appropriate means were exerted by these local governments to raise awareness on and increase access to the full range of contraceptives** since the data on the contraceptive prevalence rates, unmet need, the number of users of the different types of contraceptive methods of these local government units are not readily available. At times, the government uses facility-based data to solely measure contraceptive prevalence rate which skews the proper measurement of contraceptive prevalence rates. **The performance of local governments in lowering maternal mortality and adolescent childbirths must also be evaluated.**

#### **7) TRO Imposed by the SC on the Product Registrations of Two Contraceptive Implants and Other Reproductive Products**

30. It has been a year since the SC issued the TRO in June 17, 2016 indefinitely prohibiting the DOH from "procuring, selling, distributing, dispensing or administering, advertising and promoting the hormonal contraceptive ‘Implanon’ and ‘Implanon NXT’”<sup>41</sup> and prohibiting the FDA from "granting any and all pending application for reproductive products and supplies, including contraceptive drugs and devices."<sup>42</sup> The issuance of the TRO clearly denies the right to access the full range of contraceptives, violating the reproductive rights most especially of poor women who rely on government supplies. Even foreign donations of implants to indigenous women have been affected by the TRO effectively denying the application not only of new contraceptive products but all new reproductive products.

31. **It is recommended that the government immediately lift the TRO and register the necessary reproductive products and that the government appoint SC justices who will uphold sexual rights and the constitutional guarantees of non-establishment of religion and secular standards.**

## **B. Prevailing Restrictions in the RH Law and Restrictive RH Policies; Lack of Access to Safe and Legal Abortion**

### **1) Prevailing Restrictions on the RH Law**

32. There are prevailing restrictions on the RH Law resulting from the SC decision declaring the RH Law not unconstitutional except for certain provisions.<sup>43</sup> **The following are recommended: (a) remove the requirement of parental consent for minors to access contraceptives and spousal consent to undergo ligation; (b) penalize public officials for not supporting RH programs; (c) penalize health professionals for refusing to provide or refer contraceptive services; (d) remove the restriction on national government hospitals from procuring emergency contraceptives because limiting procurement to local government-run hospitals and private hospitals is not sufficient to prevent pregnancies resulting from rape especially since there is one woman raped every 71 minutes in the Philippines.**<sup>44</sup>

33. **It is also recommended that the government file cases against local government officials who violate the RH Law by prohibiting or restricting the delivery of family planning services or refusing to allocate or release budget for RH services. The penalties that were declared unconstitutional by the SC should be reinstated so that reproductive rights violations will not occur with impunity. Lastly, the RH Law must be implemented by establishing functional Regional Implementation Teams that monitor compliance with the RH Law.**

### **2) Restrictive local policies; Discriminatory Ordinances Penalizing Home Births**

34. Since the Sorsogon City Mayor Sally Lee signed Executive Order (EO) 3<sup>45</sup> in February 2015 declaring Sorsogon City as “pro-life”, the City Health Office returned modern contraceptive supplies distributed by the DOH to the Provincial Health Office<sup>46</sup> and disallowed DOH nurses trained to provide family planning services<sup>47</sup> to provide modern contraceptives at local health facilities in Sorsogon City.<sup>48</sup> The Commission on Human Rights fact-finding in Sorsogon found withdrawal of modern contraceptives in city and community health facilities, the preference of natural family method over modern contraceptives,<sup>49</sup> and an increase in unwanted pregnancies.<sup>50</sup>

35. Until now, no administrative case has been filed against the mayor of Sorsogon City before the local provincial council, Office of the Governor, the Department of Interior Local Government (DILG) or Office of the President.

36. In the government Reply to the CEDAW Committee, it stated that Manila City has committed to implement the RH law, it has conducted reorientation trainings for its



health personnel and distributed family planning commodities to Manila health facilities.<sup>51</sup> Manila City, however, has to show the budgetary allocation it has expended for modern contraceptive methods, the proportion of health care providers it has trained vis-à-vis its total number of health care providers, its proportion of adolescent childbirths vis-à-vis its total number of adolescent population, the number of women who are availing of the local government contraceptives including the contraceptive prevalence rate particularly for modern contraceptives for women aged 15-49 and whether Manila-run hospitals and clinics do not deny access to modern contraceptives, and the maternal mortality ratio in the City and maternal deaths due to complications from abortion.

38. There are also ordinances that penalize home births<sup>52</sup> which is problematic for many indigenous women who live in communities where there are no birth home facilities or there are few skilled birth attendants. Birthing centers are several kilometers away, taking them several hours to reach the birth centers on foot or would entail high costs of transportation. The lack of roads also poses risks to the pregnant women when traveling to the facilities.<sup>53</sup> **It is recommended that such penalties be removed but at the same time there should be increased access to emergency obstetric care for all women including indigenous women and those in GIDA areas and early recognition of risky pregnancies and childbirths must be enhanced.**

### **3) Lack of access to safe and legal abortion**

39. The latest data on abortion available reflects an estimated 610,000 unsafe abortions, over 100,000 hospitalizations,<sup>54</sup> and 1000 deaths of women due to abortion-related complications each year.<sup>55</sup>

40. Criminalization of abortion has led to discriminatory and inhumane treatment of women seeking medical attention for complications from unsafe abortion and even women seeking care for spontaneous abortion.<sup>56</sup>

41. Instead of repealing the penalty imposed on women and the health care providers assisting them, the Department of Justice support the Draft Criminal Code submitted in the last Congress imposing higher penalties<sup>57</sup> for persons assisting the woman<sup>58</sup>and the woman inducing abortion.<sup>59</sup>

42. Philippine law penalizes women who undergo abortion without providing express exceptions on life, health, rape or fetal impairment.

**43. The Philippine abortion law must be reviewed and amended with the end in view of decriminalizing women who induce abortion and those assisting them.**

Decriminalizing abortion will lessen maternal mortalities and morbidities related to unsafe abortion.

### **4) Lack of Access to Post-Abortion Care**

44. The DOH guidelines on the management of post-abortion complications under AO 45-B s. 2000 or Prevention and Management of Abortion and its Complications (PMAC Policy) is not fully implemented throughout the country. After the initial pilot programs conducting trainings from 2000 through 2005,<sup>60</sup> the policy has not been actively implemented by the DOH.<sup>61</sup> There are ongoing efforts to strengthen the PMAC Policy through an amendment of the AO.<sup>62</sup>

45. Women suffering abortion complications often face humiliation and are commonly threatened with arrest and prosecution at health care facilities.<sup>63</sup> They are treated as criminals rather than as patients. They are frequently denied timely access to humane, nonjudgmental, compassionate post-abortion care.<sup>64</sup>

46. Many women suffering complications due to spontaneous abortion, abortion due to trauma from intimate partner violence, and even fetal death have also been denied access to humane, nonjudgmental, compassionate post-abortion care and were threatened with criminal prosecution.<sup>65</sup>

**47. It is recommended that said AO be enacted to strengthen the provision of humane, compassionate, nonjudgmental post-abortion care as required by the RH Law. It is also recommended that budget be allocated for training/supplies for post-abortion care in accordance with RH Law.**

## **C. Discrimination Based on SOGIE**

### **C.1. Discrimination in Practices**

#### **C.1.a. Sexual Assault**

48. There are cases of rape of butch lesbians, some resulting in unwanted pregnancies. Some of these crimes were committed by their own male friends or drinking buddies who specifically targeted the butch lesbians because of their lack of interest in men. Criminal charges against the perpetrators are rarely pursued for various reasons including the prohibitive cost of legal services and the stigma attached with being a lesbian rape survivor.<sup>66</sup>

49. There were Muslim lesbians who were raped in Jolo,<sup>67</sup> with the rape of one lesbian arranged by her father.<sup>68</sup> One Muslim lesbian committed suicide after being sexually abused.<sup>69</sup> Many lesbians have fled their homes and now live with their friends.<sup>70</sup>

#### **C.1.b. Discrimination in Education and Employment**

50. Transgender people are forced to wear stereotyped clothes and hair styles resulting in student and employee absences in schools and workplaces.<sup>71</sup>

51. Some LGBT students drop out of schools because they are humiliated. A teacher forced a transgender boy to parade in school in a makeshift skirt using a curtain and

forcing him to wear clothes that is against his gender identity. Transwomen students are not allowed to attend school until they wear “proper uniform for male students” and cut their hair short.<sup>72</sup>

### **C.1.c. Discrimination by State Actors**

52. Some police officers also ridicule LBTs who come to them to file complaints such as asking a transgender woman who was gang raped whether she enjoyed it.<sup>73</sup> Some police officers, upon requests of parents, have accused the butch lesbian partners of their daughters with kidnapping,<sup>74</sup> even if both lesbian partners are of legal age and in consenting relationships<sup>75</sup> and also intimidate and force the couples to separate.<sup>76</sup>

53. In a report on LBTs in Jolo, there was a declaration by local government officials in Jolo in 2010 to ban gays and lesbians saying, “Lesbians will be brought to the countryside for military training and gays will be hanged.”<sup>77</sup>

54. At centers for Children in Conflict with the Law (CICL), LBTs are placed in sleeping quarters based on their biological sex or sex assigned at birth. There were gay CICL who were raped by adult male inmates after they were transferred to regular jails upon reaching the age of 18. One transgender girl was forced at the center to cut her hair short, wear stereotyped men’s clothes and lower her voice to conform to male gender stereotypes. **It is recommended that LGBT concerns at these centers be addressed.**<sup>78</sup>

## **C.2. Discrimination in Laws and Policies**

### **C.2.a. Discrimination in Health Care**

55. LGBT persons’ sexual health needs are absent in the national RH program.<sup>79</sup> In the DOH registry on HIV/AIDS, transgender women are lumped together under men who have sex with men (MSM).<sup>80</sup> **Guidelines need to be created to ensure LGBT-responsive health services.**<sup>81</sup>

### **C.2.b. Absence a National Anti-Discrimination Law and Hate Crime Law**

56. There is no national law that comprehensively protects LBTs from discrimination nor promotes their rights although there have been several anti-discrimination bills based on sexual orientation, gender identity and expression introduced in several congresses for the past fifteen years.<sup>82</sup> Anti-Discrimination Ordinances with differing provisions have been passed in local government units such as in 11 cities, one municipality, two provinces and three barangays affording protection for LBTs within their jurisdictions.<sup>83</sup>

57. There is evidence all over the Philippines that there is an increase in number of hate crimes against LBT persons. This is indeed cause for alarm and signals the urgency to pass laws eliminating discrimination against and promoting equality of LBT persons. The fact that the Anti-discrimination bill has not been passed into law mirrors a society where many have not stood up for the rights of LBT persons to equality and non-discrimination.

### **C.2.c. Absence of a Marriage Equality Law**

58. The right of LGBT persons to marriage equality is not recognized. LGBT couples are denied the same benefits enjoyed by heterosexuals such as the right to jointly adopt children, own conjugal properties, intestate succession, immigration, avail of tax exemption, and avail of benefits related to insurance, social security, medical, hospitalization, next-of-kin, burial, among others.<sup>84</sup> These rights and benefits have long been enjoyed by married heterosexual couples simply because they were heterosexuals. Not allowing LGBT couples these basic rights is outright discrimination against LGBT persons based on their SOGIE.

59. The marriages of Filipino LGBT nationals who were married in countries where marriage equality is recognized should be considered valid in the Philippines as Article 26 of the Family Code states, “[a]ll marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country.”<sup>85</sup> Not recognizing LBT marriages solemnized abroad discriminate LBTs and violate equal protection laws.

### **C.2.d. Absence of a Gender Recognition Law**

60. Trans people will continue to suffer discrimination as long as there are no laws and policies that allow them to change their name and civil status based on their gender identity and expression.<sup>86</sup>

61. Filipino trans women and men who were granted change of name and sex in countries where it is recognized are forced to either give up their Filipino citizenship or live their lives with two different legal identities.

### **C.3. Denial of Access to Justice**

62. In the 2015 case of the murder of transwoman Jennifer Laude, the perpetrator US Marine Lance Corporal Pemberton was meted a low penalty. The lower court allowed the mitigating circumstance that Pemberton killed Laude upon realizing that she was a transwoman disregarding evidence of clear use of superior strength where Pemberton used his military training to arm-lock Laude until she fell unconscious and despite patent cruelty when Pemberton dragged her unconscious body to the toilet bowl and drowned her and flushing the lever at the same time.

63. 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’s mother was justified in kidnapping, holding hostage, and beating her.<sup>87</sup>

64. LBT persons in cohabiting relationships suffer physical abuse, verbal, psychological abuse even from their neighbors. They feel unsafe to return to their homes and sometimes they face criminal prosecution for defending themselves against abuse and harassment, however, instead of dismissing their cases on the ground of self-defense, their cases remain pending and they are hounded by fears of being arrested and detained.

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65. In 2014, Mara La Torre, a transgender woman working at a call center company in Quezon City, filed a criminal complaint for violation of a City ordinance<sup>89</sup> and unjust vexation for the humiliation she suffered when two security guards prohibited her to use the company female restroom, however, she was denied justice when her criminal complaint was dismissed.

66. In a custody case filed by a lesbian mother who used to suffer beatings from her husband, the Regional Trial Court judge made pronouncements in open court that the lesbian woman's relationship with her lesbian partner was "abnormal".<sup>90</sup>

67. In the Supreme Court case of Gualberto v. Gualberto, the Court held that sexual preference does not prove parental neglect or incompetence. <sup>91</sup> It was, however, mentioned in the decision that the husband failed to "demonstrate that [the respondent] 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." <sup>92</sup> It is discriminatory against lesbians to suggest that there would be a different ruling given such evidence presented in court. <sup>93</sup> 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. <sup>94</sup> 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.<sup>95</sup>

68. Numerous court decisions have denied petitions of transgender women to change the name and sex on the birth record. One such case was the 2007 SC decision denying the petition of Mely Sylverio<sup>96</sup> to change her name and sex from male-to-female after her genital surgery.<sup>97</sup> The court cited the bible, "*When God created man, He made him in the likeness of God; He created them male and female. (Genesis 5:1-2)*" violating the constitutional guarantee on non-establishment of religion. While in the 2008 case of Jeffrey Cagandahan, the change of sex and name in the birth certificate of an intersex person was granted by the Supreme Court because of the medical condition of the petitioner called congenital adrenal hyperplasia.<sup>98</sup> The lack of a gender recognition law results in unequal protection of the law because there are some cases when the lower courts have granted the change of name and sex based on the change of sex of the person through surgery and when the rulings were not appealed by Office of the Solicitor General, the petitioners were able to successfully change their name and sex.<sup>99</sup>

69. Laws and policies protecting the rights to gender identity and expression would be important steps in eliminating discrimination against transgender persons.

70. It was only in 2009 that the Ang Ladlad Partylist, a nationwide organization of LGBTs running for party-list congressional seats in the 2010 elections, was denied accreditation by the Commission on Elections (COMELEC) on moral grounds, citing the Bible and the Koran, claiming that LADLAD tolerates immorality, and that practicing homosexuals are a threat to the youth.<sup>100</sup> In 2010, although the Supreme Court issued an injunction against the COMELEC's denial of Ang Ladlad Partylist's registration, thereby, allowing the accreditation of Ang Ladlad,<sup>101</sup> the Supreme Court included in the decision reference to LGBT persons that tend to diminish LGBTs rights stating, "x x x not everything that society – or a certain segment of society – wants or demands is automatically a human right. This is not an arbitrary human intervention that may be added to or subtracted from at will. It is unfortunate that much of what passes for human rights today is a much broader context of needs that identifies many social desires as rights in order to further claims that international law obliges states to sanction these innovations. This has the effect of diluting real human rights, and is a result of the notion that if "wants" are couched in "rights" language, then they are no longer controversial."<sup>102</sup>

**71. The following laws are recommended to be enacted: (a) anti-discrimination law based on SOGIE; (b) gender recognition law; (c) law allowing marriage equality. LGBTs should be afforded access to justice and equal protection of the law, inter alia, a lesbian mother's right to custody of her child.**

#### **C.4. Suicide among Lesbian, Gay, and Bisexual Adolescents**

72. Suicide rates still remain high for the LGBT adolescent population.<sup>103</sup> 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 LGBT young adults is related to issues ranging from experiences of discrimination, experiences of sexual-orientation related violence, perceived stigma, and internalized homophobia. . According to the American Psychological Association, most LGBT young people, because of being different and being a part of the minority, must cope with the prejudice, discrimination and violence.<sup>104</sup>

73. According to a study analyzing data from YAFS 4, when compared to heterosexual males of the same age, 11.3% of gay and 10.3% of bisexual young men reported suicide ideation, compared to 4.3% of heterosexual young men and 3.2% of gay and 2.3% of bisexual young men reported suicide attempt, compared to 1.4% of heterosexual young men<sup>105</sup> On the Other hand, while 12.5% of heterosexual young women reported suicide ideation, 12% of lesbian and 25.2% of bisexual young women reported suicide ideation and 4.9% of heterosexual young women reported suicide attempts, 5.2% of lesbian and 13.8% of bisexual young women reported suicide ideation<sup>106</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.\*\*\*

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- 1 Implanon and Implanon NXT.
  - 2 2013 National Demographic and Health Survey [NDHS 2013].
  - 3 WHO, UNICEF, UNFPA, World Bank Group, and United Nations Population Division Maternal Mortality Estimation Inter-Agency Group, Maternal mortality in 1990-2015.
  - 4 NDHS 2013. According to the UNFPA 2015 State of the World Population,
  - 5 A transgender woman who worked as a Barangay Councilor in one of the cities in Quezon City was sexually abused and verbally assailed by the Barangay Captain during her tenure. The Barangay Captain smeared a rumor that she's a pedophile and withheld her benefits and remuneration when she resists his advances. LADLAD documented case. May 2010. Barangay – smallest government unit in the community.
  - 6 Court of Appeals Amparo Case.
  - 7 A police was charged with physical assault by the lesbian partner of her sister in law after he punched and pointed a gun to the complainant while she was on the ground. Lesbian Accused Police of Assault. Tina Mendoza, May 18, 2010. <http://www.abante.com.ph/issue/may1810/crimes03.htm>,
  - 8 Certain vagrancy provisions under Philippine Revised Penal Code Article 202 were repealed under RA 10158. The old vagrancy provision was used to round up and imprison women, gays, and transwomen engaging in transactional sex or to extort money or sexual favors. The vagrancy provision repealed is, as follows: “Any person found loitering about public or semi-public buildings or places or trampling or wandering about the country or the streets without visible means of support.”; A lesbian was illegally detained in a Police Station after she was forcefully abducted, ganged up and beaten by the family member and friends, including a policeman, of the person she owed money to. The victim was illegally jailed by the policeman who accused her of using and selling drugs and was only released when the Chief Inspector police of another station went to search for the victim after her sister filed a missing person report at the Police Station where the Chief Inspector is stationed. Unlawful arrest and serious physical injuries were filed against the perpetrators but was dismissed after the lesbian’s family agreed to an out of court settlement. The policeman however, will still have to face administrative charges for failing to write a police blotter and using a fabricated case against the victim. Lesbian abducted and illegally detained in the Precinct. Armida Rico, May 31, 2011. [http://www.abante-tonite.com/issue/may3111/crime\\_story02.htm](http://www.abante-tonite.com/issue/may3111/crime_story02.htm)
  - 9 Report of a participant at the UPR Workshop held on August 26, 2016 regarding the practice of a local government in Cebu in forcing transwomen and gays loitering at Mango Park to register.
  - 10 Anti-Discrimination Ordinances with differing provisions have been passed in local government units such as in 11 cities, one municipality, two provinces and three barangays affording protection for LGBTs within their jurisdictions. Vigan City (Ilocos Sur), Candon City (Ilocos Sur), Dagupan City (Pangasinan), Angeles City (Pampanga), Quezon City 2003 and 2014, Antipolo City (Rizal), Bacolod City (Negros Occidental), Cebu City (Cebu), Mandaue City (Cebu), Municipality of San Julian (Eastern Samar), Puerto Princesa City, Davao City; Province of Agusan Del Norte, Province of Cavite; Barangay Bagbag (Quezon City District 4), Barangay Greater Lagro (Quezon City District 2), Barangay Pansol (Quezon City District 3); See GALANG Philippines, Inc., Policy Audit: Social Protection Policies and Urban Poor LBTs in the Philippines, August 2013, available at [http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/2892/ER21Policy\\_Audit\\_Social\\_Protection\\_Policies\\_and\\_Urban\\_Poor\\_LBTs\\_in\\_the\\_Philippines.pdf?sequence=7](http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/2892/ER21Policy_Audit_Social_Protection_Policies_and_Urban_Poor_LBTs_in_the_Philippines.pdf?sequence=7)
  - 11 DepEd report to the National Implementation Team.
  - 12 State Report, paragraph 143.
  - 13 DepEd, Lesson Guides on Adolescent Reproductive Health: A Population and Education Concept (2005).
  - 14 International Technical Guidance on Sexuality Education, An evidence-informed approach for schools, teachers and health educators, The rationale for sexuality education Volume I and Topics and learning objectives Volume II (December 2009).
  - 15 This also translates to 57 per 1000 women aged 15-19 who are already mothers or are pregnant with their first child (NDHS 2013); birth rate is 59 per 1000 women aged 15-19 under the UNFPA 2015 State of the World Population.

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- 16 YAFS 4, from 6.3% in the 2002 survey to 13.6%.
- 17 YAFS 4.
- 18 State report, paragraph 140.
- 19 Meeting with beneficiaries at EnGendeRights in June 2016 and CSO Sexual Rights Network meeting held on July 27, 2016.
- 20 Meeting with beneficiaries at EnGendeRights in June 2016.
- 21 UNAIDS Global Report, Global AIDS Epidemic (2010), page 34, available at [http://files.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2010/20101123\\_globalreport\\_en%5b1%5d.pdf](http://files.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2010/20101123_globalreport_en%5b1%5d.pdf).
- 22 Epidemiology Bureau, March 2016 Monthly Update, HIV/AIDS Registry, 2016, [http://www.doh.gov.ph/sites/default/files/statistics/DOH\\_EB\\_HIV\\_Mar-AIDSreg2016\\_0.pdf](http://www.doh.gov.ph/sites/default/files/statistics/DOH_EB_HIV_Mar-AIDSreg2016_0.pdf) last accessed June 2, 2016.
- 23 Epidemiology Bureau, March 2016 Monthly Update, HIV/AIDS Registry, 2016, [http://www.doh.gov.ph/sites/default/files/statistics/DOH\\_EB\\_HIV\\_Mar-AIDSreg2016\\_0.pdf](http://www.doh.gov.ph/sites/default/files/statistics/DOH_EB_HIV_Mar-AIDSreg2016_0.pdf) last accessed June 2, 2016.
- 24 Republic Act 8504.
- 25 National Economic Development Authority (NEDA) and United Nations Children's Fund (UNICEF), Country Analysis of Aids in the Philippines: Gender and Age Situation and Response written by Gertrudes Libang, Gladys Malayang, Clara Rita Padilla citing the General country information Philippines\_UAHealthSector\_Report\_2009 (Prevention in health setting worksheet).
- 26 *Id.*
- 27 Monitoring emergency obstetric care: a handbook (2009), World Health Organization, United Nations Population Fund, UNICEF, Mailman School of Public Health. Averting Maternal Death and Disability [hereafter 2009 Monitoring Emergency OB Care]; Each BEmOC facility should perform the seven signal functions while the CEmOC facility should perform all nine signal functions. 2009 Monitoring Emergency OB Care; The seven signal functions for BEmOC are (1) Administer parenteral antibiotics; (2) the second signal function is "Administer uterotonic drugs". Uterotonic drugs are administered both to prevent and to treat postpartum haemorrhage. A recent WHO technical consultation (Nov 2008) to develop guidelines for interventions for preventing postpartum haemorrhage, reviewed all available evidence, and identified parenteral oxytocin as the recommended choice of drug for prevention of postpartum haemorrhage. Parenteral ergometrine (2nd line) and misoprostol (3rd line) are options that should only be used where oxytocin is not available; (3) Administer parenteral anticonvulsants for preeclampsia and eclampsia (i.e. magnesium sulfate); (4) Manually remove the placenta; (5) Remove retained products (e.g. manual vacuum extraction, dilation and curettage); (6) Perform assisted vaginal delivery (e.g. vacuum extraction, forceps delivery); (7) Perform basic neonatal resuscitation (e.g. with bag and mask); For CEmOC, performs seven signal functions, plus: (8) perform surgery (e.g. caesarian section); (9) perform blood transfusion; DOH MNCHN (1) parenteral administration of oxytocin in the third stage of labor; (2) parenteral administration of loading dose of anti-convulsants; (3) parenteral administration of initial dose of antibiotics; (4) performance of assisted deliveries (Imminent Breech Delivery); (5) removal of retained products of conception; and (6) manual removal of retained placenta; The government report to CEDAW states the DOH National Safe Motherhood Program which already brought quality emergency obstetrics and newborn care to the 252 tertiary and secondary level facilities and 1,824 primary level facilities that are nearest to homes. (Philippine Report, para 134).
- 28 UNFPA, 2015 STATE OF THE WORLD POPULATION.
- 29 For example, three BHWs with 10-year experience were replaced by new staff without training in a barangay in Laguna this July 2016.
- 30 A participant at the CSO Sexual Rights Network meeting held on July 27, 2016 said that in Pandi, Bulacan, relocation area, there has been no access to contraceptives in the last three years until now. Health providers find it difficult to go there because of lack of access to transportation.
- 31 Lilita Balane, *RP Likely to Miss Target to Reduce Mother-Baby Deaths*, Newsbreak, (August 26, 2009).
- 32 19th WHO Model List of Essential Medicines (April 2015), sec. 22.1, 38 available at [http://www.who.int/medicines/publications/essentialmedicines/EML2015\\_8-May-15.pdf](http://www.who.int/medicines/publications/essentialmedicines/EML2015_8-May-15.pdf)



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- <sup>33</sup> The FDA then known as the Bureau of Food and Drugs (BFAD) issued the Advisory BFAD 2002-02 (12 August 2002) available at <http://www.fda.gov.ph/attachments/article/38928/FA%202002-02%20Cytotec.pdf> [accessed 1 June 2016]. The Advisory has not been withdrawn and is still effective.
- <sup>34</sup> Republic of the Philippines Act No. 3720 (The Food, Drug, and Cosmetic Act) as amended by the Republic of Philippines Act No. 9711 (Food and Drug Administration (FDA) Act of 2009) ([http://www.lawphil.net/statutes/repacts/ra2009/ra\\_9711\\_2009.html](http://www.lawphil.net/statutes/repacts/ra2009/ra_9711_2009.html)) The law provides for imprisonment of one to ten years, fines of up to 500,000 pesos, or both. (Sec. 12)
- <sup>35</sup> Committee on the Elimination of Discrimination against Women (CEDAW Committee) findings on its inquiry on Manila EO 003 and EO 030 finding the Philippines accountable for grave and systematic violations of women's rights under the CEDAW Convention and to provide access to quality post abortion care to women including by reintroducing misoprostol, available at [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PHL/CEDAW\\_C\\_OP-8\\_PHL\\_1\\_7679\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PHL/CEDAW_C_OP-8_PHL_1_7679_E.pdf)
- <sup>36</sup> 19th WHO Model List of Essential Medicines (April 2015), sec. 22.1, 38 available at [http://www.who.int/medicines/publications/essentialmedicines/EML2015\\_8-May-15.pdf](http://www.who.int/medicines/publications/essentialmedicines/EML2015_8-May-15.pdf) Misoprostol is a life-saving drug that has been included in the 2015 19th Essential Medicines List (EML) of the World Health Organisation for the prevention and treatment of post-partum haemorrhage (PPH), management of incomplete abortion and miscarriage, induction of labor, and medical abortion; Misoprostol, a prostaglandin, can be used for other lifesaving purposes such as therapeutic abortion in cases of missed abortion, intrauterine fetal death, and severe eclampsia, and cervical ripening prior to obstetrical/gynecological procedures such as therapeutic curettage and insertion of intrauterine devices. See WHO Expert Opinion on Abortifacients citing Blanchard et al, 2002 and Weeks et al, 2005; See BFAD Bureau Circular 18, s. 2001, December 7, 2001.
- <sup>37</sup> BFAD Bureau Circular 18, s. 2001, December 7, 2001.
- <sup>38</sup> Special Committee recommendation dated December 1, 2003; In the 63-page recommendation, the four doctors 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.
- <sup>39</sup> Jee Geronimo, What happened to the 2016 budget for contraceptives? RAPPLER (Jan. 7, 2016), [http://www.rappler.com/nation/118239-explanation-no-2016-budget-contraceptives?cp\\_rap\\_source=ymlScrolly#xrecs\\_s](http://www.rappler.com/nation/118239-explanation-no-2016-budget-contraceptives?cp_rap_source=ymlScrolly#xrecs_s) [hereinafter Jee Geronimo, What happened to the 2016 budget for contraceptives?].
- <sup>40</sup> Report to the RH Law National Implementation Team, August 19, 2016.
- <sup>41</sup> Supreme Court, Temporary Restraining Order dated June 17, 2015.
- <sup>42</sup> *Id.*
- <sup>43</sup> James M. Imbong and Lovely-Ann C. Imbong v Hon. Paquito N. Ochoa, Jr., et al., Supreme Court G.R. No. 204819 consolidated with G.R. Nos. 204934, 204957, 204988, 205003, 205043, 205138, 205478, 205491, 205720, 206355, 207111, 207172 & 207563, Apr. 8, 2014.
- <sup>44</sup> Last 2014, the PNP recorded 7,409 women reported they were raped. This is alarming. Yet this may just be the tip of the iceberg as these numbers only refer to the rape victims who reported to the police.
- <sup>45</sup> An Executive Order Declaring Sorsogon City as a Pro-Life City, Exec. Ord. No. 3, 2015.
- <sup>46</sup> Letter by City Health Officer of Sorsogon City to Provincial Health Officer of Sorsogon, July 13, 2015. The CHO returned 15,588 cycles of Microgynon oral pills, 3750 vials of DMPA with syringes, 609 cycles of Exluton pills, and 171 pieces of IUD copper T380A.
- <sup>47</sup> Nurses Deployment Project is a program by the DOH that sends nurses to communities identified by the National Anti-Poverty Commission.
- <sup>48</sup> Department of Health Regional Office V, Sorsogon City Pro-Life Timeline of Events as of Mar. 21, 2016.
- <sup>49</sup> CHRP fact-finding report on Sorsogon City.
- <sup>50</sup> CHRP report to CEDAW, paragraph 37.
- <sup>51</sup> Reply to List of Issues, paragraph 16.2.

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<sup>52</sup> Municipality of Midsalip Ordinance 17-2012 prohibiting traditional birth attendants from performing deliveries; Municipality of Midsayap Ordinance 266 prohibiting pregnant women from home deliveries and traditional birth attendants from performing deliveries; Cagayan de Oro and Brooke's Point, Palawan prohibiting traditional birth attendants from performing deliveries without supervision of skilled birth attendants; In an email sent to Clara Rita Padilla by Judy Pasimio of LILAK (Purple Action for Indigenous Women's Rights) on September 5, 2016, she mentioned that the participants at the National Gathering of Paltera/Indigenous Women and Traditional Birth Attendants organized by LILAK reported other such ordinances in the following areas: Kamalarang, Zamboanga del Sur; Bislig, Surigao del Sur; Saranggani; Labangan, Zamboanga del Sur; North Upi, Maguindanao; South Upi, Maguindanao; Upi, Maguindanao; Naujan, Orienta Mindoro; Valderrama, Antique; Bulalacao, Oriental Mindoro; Cabangan, Zambales; In the Report of the Commission on Human Rights Philippines' National Inquiry on Reproductive Health and Rights other areas were mentioned such as Marikina City and Sultan Kudarat; *See* House Resolution 1531 introduced by Gabriela Women's Party in the 16<sup>th</sup> Congress mentioning other such ordinances in Talisay, Cebu; MacArthur, Leyte; Danao, Bohol; Minalin, Pampanga; Dingle and Estancia, Iloilo; Quezon City; *See* DOH-NCIP-DILG JMC 2013-01: Guidelines on the Delivery of Basic Health Services for Indigenous Cultural Communities/Indigenous People.

<sup>53</sup> National Indigenous Women Gathering 2015 Declaration, October 22, 2015.

<sup>54</sup> Alan Guttmacher Institute (AGI), Unintended Pregnancy and Induced Abortions in the Philippines: Causes and Consequences, page 3, 2013 estimates 610,000 unsafe abortions and over 100,000 hospitalizations due to complications from unsafe abortion each year.

<sup>55</sup> AGI, Meeting Women's Contraceptive Needs in the Philippines, 1 In Brief 2 (2009) citing 2008 projections from 2000 statistics on abortion incidence in the Philippines.

<sup>56</sup> One participant at the Dissemination Forum on "Promoting Sexual Rights Through the UPR" held on July 27, 2016 said a woman suffering complications from spontaneous abortion was delayed treatment at East Avenue Medical Center.

<sup>57</sup> More than five years to 10 years plus fine equivalent to 10 to 50 times (in multiples of ten) the average daily income. Criminal Code Committee, The Criminal Code of the Philippines (Draft) [https://www.doj.gov.ph/files/cc/Criminal\\_Code\\_September-2014\(draft\).pdf](https://www.doj.gov.ph/files/cc/Criminal_Code_September-2014(draft).pdf), secs. 23 and 53; Abortion provision in the draft Criminal Code: Any person who terminates the pregnancy of any woman after implantation or completion of nidation with violence and without her consent shall be punished within level 4. If the termination of pregnancy is without violence and with her consent, the act shall be punished within level 3. Terminating pregnancy by the woman herself or her parents shall be punished within level 2. The termination of the pregnancy without violence by another person and without her consent shall be punished within level 2.

An attempt to commit abortion shall be punished within level 1. Any person who acts as an accessory to abortion shall be punished within level 1. (RPC 256, 257, 258).

<sup>58</sup> Level 3: more than five years to 10 years + Fine equivalent to 10 to 50 times (in multiples of ten) the average daily income.

<sup>59</sup> Level 2: more than one year to five years + Fine equivalent to 10 to 20 times (in multiples of five) the average daily income.

<sup>60</sup> Shire, 2002, cited in EngenderHealth Compass 2003.

<sup>61</sup> RH Law National Implementation Meeting, October 9, 2015.

<sup>62</sup> CEDAW/C/PHL/Q/7-8/Add.1 Replies of the Philippines to the list of issues. A Technical Working Group was organized to review the draft enhanced Prevention and Management of Abortion Complications (PMAC) Guidelines.

<sup>63</sup> Center for Reproductive Rights, Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban (2010) [hereinafter Center for Reproductive Rights, Forsaken Lives, 2010].

<sup>64</sup> Center for Reproductive Rights, Forsaken Lives, 2010.

<sup>65</sup> EnGendeRights interviews from Quezon City and Caloocan residents, June 2016.

<sup>66</sup> GALANG: A Movement in the Making for the Rights of Poor LBTs in the Philippines, at 6 and 9.

<sup>67</sup> A 2013 report quoted a Tausug lesbian, president of a Jolo-based lesbian organization in "Dangerous Live: Being LGBT in Muslim Mindanao", *Outrage*, December 10, 2013, accessed

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April 15, 2016, <http://outragemag.com/dangerous-lives-lgbt-muslim-mindanao/> [hereinafter “Dangerous Lives”].

<sup>68</sup> *Id.*

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

<sup>70</sup> *Id.*

<sup>71</sup> The House of Representatives issued Memorandum Circular No. 05-14 prescribing women to wear dresses on certain days. This resulted in women employees including lesbians complaining that the circular does not give them an option to wear clothes other than dresses on certain days; In the thesis of a Filipino clinical psychologist on the experiences of Filipino trans women in the Philippines, two of the three women who participated in the study disclosed the discrimination they have experienced in obtaining employment specifically when they are being denied the right to express their gender identities in the workplace. The transwomen were told by recruitment officers that they would only be hired if they presented themselves as males by cutting their hair short, dressed in men’s clothes, and act in less stereotypically feminine ways;

Alegre, B. R. (2006). Psychological perspectives and development of the transsexual woman: Phenomenological case study on Filipino male-to-female transsexuals; There have also been reports of discrimination of lesbians applying for jobs who were expressly turned away for not being heterosexual. GALANG Philippines, “How Filipino LBTs Cope with Economic Disadvantage” (2015), page 8, available at [http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/5873/ER120\\_HowFilipinoLBTsCopewithEconomicDisadvantage.pdf;jsessionid=6FA4A06FB966B2BBAC195F1DB51CE97C?sequence=1](http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/5873/ER120_HowFilipinoLBTsCopewithEconomicDisadvantage.pdf;jsessionid=6FA4A06FB966B2BBAC195F1DB51CE97C?sequence=1)

<sup>72</sup> Actual cases gathered from December 2011 onwards. Evidence-gathering methods and identities withheld for confidentiality; UP Babaylan have received reports of students and teachers experiencing disciplinary actions on the basis of their expressions of their SOGIE through preferred clothing, demeanor, titles and pronouns. Lesbian and gay students have also experienced termination of their membership and even leadership in student organizations such as fraternities/sororities upon disclosure of their SOGIE. <http://www.upiu.com/human-rights/2011/08/15/UPLB-LGBT-Community-March-for-Equality/UPIU-2081313393367/>; In the State University of the Philippines, LGBT organizations are subjected to discrimination from professors and other students specially when entering school organizations inside the campus. At UP-Los Banos (UPLB), UPLB Babaylan documented cases of transgender students who were made to leave the classroom or threatened with being barred from graduating on the basis of their gender expression and instances wherein teachers have made gay students stand in front of their class for prolonged periods.

<sup>73</sup> Dangerous Lives.

<sup>74</sup> Kidnapping is under “Crimes Against Liberty,” Article 267 on “Kidnapping And Serious Illegal Detention”, *An Act Revising the Penal Code and other Penal Laws, the Revised Penal Code of the Philippines*, accessed February 15, 2013,

[http://www.un.org/depts/los/legislativeandtreaties/pdffiles/phl\\_revised\\_penal\\_code.pdf](http://www.un.org/depts/los/legislativeandtreaties/pdffiles/phl_revised_penal_code.pdf).

<sup>75</sup> Lim, Anne, “GALANG: a movement in the making for the rights of poor LBTs in the Philippines”, Srilatha Batliwala, 2nd edition, *Changing Their World, A WID Women’s Rights*, 2011, [http://www.awid.org/sites/default/files/atoms/files/changing\\_their\\_world\\_2\\_-\\_galang\\_-\\_rights\\_of\\_poor\\_lbt\\_in\\_the\\_philippines.pdf](http://www.awid.org/sites/default/files/atoms/files/changing_their_world_2_-_galang_-_rights_of_poor_lbt_in_the_philippines.pdf), 9; “Kwentong Bebot Lived Experiences of Lesbians, Bisexual and Transgender Women in the Philippines” [hereafter “Kwentong Bebot”], *Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia*, OutRight Action International, March 2014, <https://www.outrightinternational.org/content/violence-through-lens-lbt-people-asia>, 188; GALANG: A Movement in the Making for the Rights of Poor LBTs in the Philippines, at 9.

<sup>76</sup> *Id.*, “Kwentong Bebot” 188; In some cases where butch or masculine appearing lesbians were abused by their partners, the police officers automatically assumed that they were the perpetrators because of their gender expression and not their feminine partners.

<sup>77</sup> Dangerous Lives.

<sup>78</sup> Email by Children’s Legal Rights and Development Center (CLRDC) sent to Clara Rita Padilla on September 6 and 7, 2016 regarding local government shelters for Children in Conflict with the Law from 2013 onwards.

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<sup>79</sup> The Responsible Parenthood and Reproductive Health Law (RPRH Law or Republic Act 10354) and the Implementing Rules of RA 10354 do not mention the rights of LGBTs; The 2nd Consolidated Report on the Implementation of the Responsible Parenthood and Reproductive Health Act of 2012 only mentions lesbians in the context of gender-based violence.

<sup>80</sup> Epidemiology Bureau, March 2016 Monthly Update, HIV/AIDS Registry, 2016, [http://www.doh.gov.ph/sites/default/files/statistics/DOH\\_EB\\_HIV\\_Mar-AIDSreg2016\\_0.pdf](http://www.doh.gov.ph/sites/default/files/statistics/DOH_EB_HIV_Mar-AIDSreg2016_0.pdf) last accessed June 2, 2016.

<sup>81</sup> See Rainbow Rights case studies.

<sup>82</sup> “An Act Providing for the Magna Carta of Women.” Republic Act No. 9710 [http://www.lawphil.net/statutes/repacts/ra2009/ra\\_9710\\_2009.html](http://www.lawphil.net/statutes/repacts/ra2009/ra_9710_2009.html); SEC. 3. Principles of Human Rights of Women; Implementing Rules: SECTION 6. Principles of Human Rights of Women; SECTION 7. Definition of Terms, R. “Sexuality” refers to the expression of a person’s thoughts, feelings, sexual orientation and relationships, as well as the biology of the sexual response system of that person; SECTION 18. Women in the Military, Police and Other Similar Services, 8. Promote the rights of women enlisted personnel in the military, police and similar services. Qualified enlisted women personnel shall not be denied of promotion to the highest non-commissioned officer position in the military, police and similar services solely on the basis of sex and sexual orientation;

<sup>83</sup> Vigan City (Ilocos Sur), Candon City (Ilocos Sur), Dagupan City (Pangasinan), Angeles City (Pampanga), Quezon City 2003 and 2014, Antipolo City (Rizal), Bacolod City (Negros Occidental), Cebu City (Cebu), Mandaua City (Cebu), Municipality of San Julian (Eastern Samar), Puerto Princesa City, Davao City; Province of Agusan Del Norte, Province of Cavite; Barangay Bagbag (Quezon City District 4), Barangay Greater Lagro (Quezon City District 2), Barangay Pansol (Quezon City District 3); See GALANG Philippines, Inc., Policy Audit: Social Protection Policies and Urban Poor LBTs in the Philippines, August 2013, available at [http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/2892/ER21Policy\\_Audit\\_Social\\_Protection\\_Policies\\_and\\_Urban\\_Poor\\_LBTs\\_in\\_the\\_Philippines.pdf?sequence=7](http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/2892/ER21Policy_Audit_Social_Protection_Policies_and_Urban_Poor_LBTs_in_the_Philippines.pdf?sequence=7)

<sup>84</sup> Padilla, Clara Rita, "PH law must recognize LGBTs' right to marry as basic human right", Rappler, Aug. 4, 2015, available at <http://www.rappler.com/move-ph/ispeak/101507-ph-law-recognize-lgbt-right-marry>;

See Rainbow Rights case studies.

<sup>85</sup> In the same manner, the spouses of the LGBT Filipinos who are nationals of other states who qualify under the Balikbayan Program under RA 6768 (as amended by RA 9174) should be allowed to travel to the Philippines. Not recognizing LGBT marriages solemnized abroad and not allowing LGBTs and their spouses under the Balikbayan Program discriminate LGBTs and violate equal protection laws; According to a Filipino gay married to a Dutch national, the Philippine embassy staff in the Kingdom of the Netherlands told him that Filipino LGBTs' spouses cannot avail of the Balikbayan Program.

<sup>86</sup> One of the heads of the Department of Foreign Affairs (DFA) informed a transgender woman that, as per department policy for passport applications, male applicants should look masculine in their passport photo. Because her photo was feminine and contradicted her documents<sup>86</sup>, she was forced to repeatedly have her photo taken until she will look less feminine in the photo for her passport renewal application amidst the scornful looks of other applicants and department personnel. Discrimination to Transgenders in Department of Foreign Affairs' Passport Process. Magdalena Robinson, Feb. 7, 2011. <https://www.facebook.com/notes/magdalena-robinson/discrimination-to-transgenders-in-department-of-foreign-affairs-passport-process/10150136712803453>

<sup>87</sup> Court of Appeals Amparo Case.

<sup>88</sup> Actual cases gathered from December 2011 onwards. Evidence-gathering methods and identities withheld for confidentiality; See also Rainbow Rights case studies.

<sup>89</sup> Quezon City Ordinance SP 1309, S-2003. Mara was assisted by the QC Protection Center.

<sup>90</sup> Special Proceeding with Regional Trial Court in Quezon City for Petition for Habeas Corpus.

<sup>91</sup> *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](http://www.supremecourt.gov.ph/jurisprudence/2005/jun2005/154994.htm#_ftn1) (visited August 7, 2006).

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<sup>92</sup> *Id.*

<sup>93</sup> Clara Rita A. Padilla, *What is Best for Our Children?*, 2 (2) SOROPTIMIST BALITA, (December 2005).

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Mely Silverio, a post-op transsexual woman, won a legal petition to change her name and her sex from male to female in the trial court. When the Office of the Solicitor General (OSG) appealed the decision, arguing that since there are no laws allowing the change of entries in the birth certificate by reason of sexual alteration, the Court of Appeals in 2006 reversed the decision of the lower court. Mely appealed the decision to the Supreme Court. The Supreme Court said, “Under the Civil Register Law, a birth certificate is a historical record of the facts as they existed at the time of birth the determination of a person’s sex made at the time of his or her birth, if not attended by error, is immutable.” In October 2007, the Supreme Court gave a contentious definition of male and female, when it said that, “Female is the sex that produces ova or bears young and male is the sex that has organs to produce spermatozoa for fertilizing ova.”

<http://sc.judiciary.gov.ph/jurisprudence/2007/october2007/174689.htm>; See Rommel Jacinto Dante Silverio vs. Republic of the Philippines (G.R. No. 174689, October 22, 2007)

<sup>97</sup> Zoila Villanueva will remain male in her birth certificate when the Court of Appeals reversed a lower court ruling that allowed the entry in her birth certificate to be corrected to indicate that she is female reasoning that she failed to present at the proper time the certification from a government doctor attesting to her sex. Woman, 32, will have to remain a ‘he’ in birth certificate. Leila Salaverria, Philippine Daily Inquirer, Mar 13, 2008.

<http://newsinfo.inquirer.net/breakingnews/metro/view/20080313-124551/Woman-32-wi%5C>

<sup>98</sup> Republic of the Philippines vs. Jennifer Cagandahan, G.R. No. 166676, September 12, 2008.

<sup>99</sup> A Manila Regional Trial Court judge granted the change of name and sex of a petitioner based on sex reassignment without the Office of the Solicitor General appealing the decision.

<sup>100</sup> Philippines: Gays Legally Deemed Immoral and a Danger to Youth. Virginia M. Moncrieff. Nov. 22, 2009. [http://www.huffingtonpost.com/virginia-moncrieff/philippines-gays-legally\\_b\\_367017.html](http://www.huffingtonpost.com/virginia-moncrieff/philippines-gays-legally_b_367017.html)

<sup>101</sup> Ang Ladlad vs. COMELEC (G.R. No. 190582).

<sup>102</sup> En Banc G.R. 190582 Apr 8, 2010, pages 19-20.

<sup>103</sup> The Committee on the Rights of the Child recommended in 2005 to “establish adequate mental health services tailored for adolescents.”

<sup>104</sup> *Id.*

<sup>105</sup> Christian Joy P. Cruz, University Research, Population Institute, College of Social Sciences and Philosophy, University of the Philippines – Diliman, Risk Behaviors and Health of Young Sexual Minorities in the Philippines: Findings from YA4FS4 (March 21, 2016)

<sup>106</sup> *Id.*