



June 7, 2016

CEDAW Secretariat  
Office of the High Commissioner for Human Rights  
Palais Wilson -52, rue des Pâquis  
CH-1201 Geneva, Switzerland

Re: Supplementary information on the Philippines, scheduled for review by the Committee on the Elimination of Discrimination against Women during its 64<sup>th</sup> session

The Catholics for Reproductive Health, Center for Reproductive Rights (the Center), EnGendeRights, International Women's Rights Action Watch Asia Pacific (IWRAP-AP), Population Services Pilipinas Inc. (PSPI), WomanHealth Philippines Inc., and Women's Global Network for Reproductive Rights (WGNRR) have prepared this letter to assist the Committee on the Elimination of Discrimination against Women (the Committee) in its review of the Government of the Philippines' (state party) compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (Convention) during its 64<sup>th</sup> session on July 4-22, 2016. The undersigned organizations welcome the Committee following up on its special inquiry into the status of women's reproductive rights in the Philippines and raising questions about the lack of access to contraceptive information and services including emergency contraception, safe and legal abortion, humane post-abortion care and access to justice, in its list of issues (LOIs) in relation to the state party's combined seventh and eighth periodic reports (state party report).<sup>1</sup>

This letter provides updates to the pre-session letter submitted by the Center, EnGendeRights, IWRAP-AP, WGNRR, WomanHealth Philippines Inc., and PSPI in October 2015 (Annex I), and discusses the ongoing legal, policy and implementation barriers to women's reproductive rights in the Philippines. It also provides supplemental information on the issues raised by the Committee and by the state party in its reply to the list of issues and questions.<sup>2</sup>

The state party, particularly the Philippine Commission on Human Rights (CHR), should be commended for undertaking its first ever national inquiry, which focuses on women's reproductive health and rights in March-May 2016. The state party particularly the Department of Health (DoH) should also be commended for taking steps to initiate a review of the Pregnancy and Management of Abortion and its Complications (PMAC)

policy (DoH Administrative Order 45-B, s. 2000) to ensure the practical realization of women's and girls' right to humane, compassionate, nonjudgmental and quality post-abortion care. However, as will be raised in this letter, notwithstanding these recent positive developments, the state party has allowed significant gaps and barriers to the full realization of women's and girls' reproductive rights in the Philippines to persist.

***Recommendations received by the state party from other UN Treaty Monitoring Bodies since the pre-session.*** In May 2016, the Committee Against Torture called upon the state party to (a) immediately revoke Manila City's Executive Order (EO) 003 and EO 030, (b) review the abortion ban to allow exceptions such as when the pregnancy endangers the life or health of the woman, when it is the result of rape or incest and in cases of fetal impairment, (c) provide universal access to the "full range of the safest and most technologically advanced methods of contraception" and "rights-based counselling and information on reproductive health services to all women and adolescents", (d) "restore access to emergency contraceptives for victims of sexual violence", (e) establish a "confidential complaints mechanism for women subjected to discrimination, harassment or ill-treatment while seeking post-abortion or post-pregnancy treatment or other reproductive health services", and (f) "investigate, prevent and punish of all incidence of ill-treatment of women seeking post-pregnancy care in government hospitals and provide effective legal remedies to the victims".<sup>3</sup>

## **I. Supplemental Information in Response to the Committee's LOIs**

***1. Please provide information on the measures taken to give effect to the recommendations contained in the CEDAW Committee's inquiry concerning the Philippines under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women...including any results achieved and how monitoring and effective oversight are ensured.***

***Please include information on steps taken to implement the following recommendations: (i) officially revoke Executive Orders 003 and 030....***

As noted by the Committee during its special inquiry under article 8 of the Optional Protocol of the Convention,<sup>4</sup> the state party must "establish permanent coordination and monitoring mechanisms" to ensure that women can enjoy their rights without discrimination.<sup>5</sup> As discussed in more depth in our pre-session letter, there is still the absence of effective mechanisms to monitor and ensure that discriminatory laws and policies are not enacted and, if enacted, that they are not carried out or are immediately revoked.

***Response of the state party.*** In its reply to the LOIs, the state party failed to provide information on the steps taken to ensure effective monitoring and oversight of the implementation of the Committee's inquiry recommendations.

The state party reported that the Responsible Parenthood and Reproductive Health Act of 2012 (RPRHA)<sup>6</sup> "repealed or amended existing laws...that are inconsistent with it

[therefore EOs] 003 and 030 are thus effectively revoked.”<sup>7</sup> The state party also indicated that “[Manila City] has committed to implement the [RPRHA and] has conducted reorientation trainings for its health personnel and distributed family planning commodities to [local] health facilities.”<sup>8</sup>

***Lack of express revocation for EOs 003 and 030.*** Since the submission of our pre-session letter, the state party has not taken any clear steps to review and revoke Manila City’s EOs 003 and 030, issued in 2000 and 2011 respectively, which continue to serve as a *de facto* ban on modern methods of contraception and local government funding for such.<sup>9</sup> As raised in our pre-session letter, the absence of an express declaration of unconstitutionality of the orders have caused legal and practical uncertainty about their application and confusion as to their validity among local health care providers and community women and adolescent girls who continue to suffer the effects of the ban.

In a public hearing organized by the CHR as part of its national inquiry, a representative of the DoH reported that there have been improvements in the restoration of the availability of contraceptives in local health centers in Manila City, but admitted that there are still issues in translating availability to accessibility i.e. ensuring that women and girls can access certain reproductive health services that are available such as modern contraceptives.<sup>10</sup> However, as reflected in testimonies gathered through interviews conducted by the Center and EnGendeRights, availability of modern contraceptives remains limited for women and girls in Manila City. Adolescent girls in Manila City remain highly vulnerable to unintended pregnancies, notwithstanding the enactment of the RPRHA and in large part due to the failure to explicitly repeal the Manila City’s EOs. One adolescent shared her experience before the passage of the RPRHA,

*[Lourdes]<sup>11</sup> dropped out of school after learning she was pregnant. She gave birth when she was 15 years old at Gat Andres Bonifacio Hospital. She neither received any post partum contraceptive counseling at the hospital nor was advised on the different forms of family planning methods she could use. During her visits to Vitas Health Center, she only received immunization for her son and was never counseled on modern contraceptive methods. She recounted how nurses and doctors at the local health center and hospital scolded and pinched her for engaging in sex at such a young age.*

Since the RPRHA was passed, access to contraceptive information and services as well as quality maternal health care remains a challenge.

*[Dolores]<sup>12</sup> became pregnant as a result of rape when she was 14 years old. She was 15 years old when she gave birth at Tondo Foreshore Health Center in May 2014—after the RPRHA was already in effect. No one told her about using any form of contraception, but she had heard of pills and injectables from her sister who acquired pills from [a local NGO]. Similar to [Lourdes’] experience, when [Dolores] visited Vitas Health Center, she did not receive any information about contraceptives and was called “malandi” or “slut” for getting pregnant early.*

***Continued implementation of a similar executive order effectively banning modern methods of contraception.*** The state party's report and its replies to the LOIs failed to raise and discuss Sorsogon City's EO 3,<sup>13</sup> which effectively banned modern contraceptives in all local health care facilities. EO 3 which declared Sorsogon City as "pro-life", was introduced by its mayor in February 2015, despite being in direct contravention of the RPRHA and the Magna Carta of Women (MCW) which guarantee women's right to the full range of contraceptive information and services.<sup>14</sup> The continuous implementation of Sorsogon City's EO 3 enjoined the local city health office to return modern contraceptive supplies distributed by the DoH.<sup>15</sup> Further, even nurses under the DoH's Nurse Deployment Project<sup>16</sup> who are trained to provide family planning services are not allowed to provide modern contraceptives inside local health facilities located in Sorsogon City.<sup>17</sup> Efforts by the Philippine Commission on Women (PCW),<sup>18</sup> CHR,<sup>19</sup> and DoH<sup>20</sup> to call the attention of the local government of Sorsogon to restore access to modern contraceptives have so far been ineffective. As of late May 2016, a complaint lodged against the mayor of Sorsogon City by civil society groups before the CHR was still pending resolution.

Despite the reproductive rights violations resulting from the implementation of EO 3, Sorsogon City's EO was described by the head of the regional office of the DILG, as "simply a positive avowal on how the state values dignity of every human person and how it respect human rights. . . .[and] a mere reaffirmation of the...pertinent provisions of the Philippine Constitution on the protection of life of both the mother and her unborn from conception and nothing in the said declaration seems to be violative of any law."<sup>21</sup> As such, the DILG held Sorsogon City's EO to be lawful and not inconsistent with any laws and policies.

***Absence of monitoring mechanism.*** In December 2015, the Department of Interior and Local Government (DILG) issued a memorandum imposing an annual reporting requirement from LGUs to the DILG of local accomplishments in the implementation of the RPRHA.<sup>22</sup> The memorandum also provided that, "all local government units (LGUs) may enact enabling ordinances, issuances, and policies to support and institutionalize the implementation of the [RPRHA] ... [which] should be expedient and not contrary to the principles and provisions of the [RPRHA]. . . ."<sup>23</sup> While the DILG reminded LGUs to ensure consistency of local ordinances with the RPRHA, it remains unclear how the state party, particularly the DILG, will ensure that local laws and policies inconsistent with the RPRHA such as Manila City's and Sorsogon City's EOs are not enacted and if so, immediately revoked. This scenario is particularly problematic since, as noted above, the DILG did not find any violation resulting from the issuance of Sorsogon City's EO.

***2. Please indicate the budget allocated to women's health and measures taken to ensure access to health services for all women***

The Committee, as a result of the inquiry, recommended that the state party ensure "adequate provision in national and local government budgets for a sufficient supply of such contraceptive methods in all public health facilities."<sup>24</sup> As noted in our pre-session submission, budget cuts since 2012 have severely undermined the implementation of the

RPRHA and demonstrate the state party's continued violation of its obligation to fulfill women's right to health and other human rights through the allocation of adequate resources.<sup>25</sup>

**Response of state party.** The state party, in its reply to the LOIs, indicated that a total of Php 2.275 billion has been allocated to implement the RPRHA and that “[m]ore than 75% (P1.67 B) of allocation will go to procurement of family planning commodities.”<sup>26</sup>

**Huge budget cut for purchase of contraceptive supplies and devices.** The state party's response does not provide a full and accurate description of the budgetary measures adopted for the implementation of the RPRHA. The state party has made two major budget cuts for contraceptive supplies since the Committee's inquiry in 2012. In 2014, the state party introduced a cut in the amount of over Php 300 million (approximately USD 6 million).<sup>27</sup> Then in the 2016 national budget, the state party cut over a billion Philippine pesos (approximately USD 20 million) from the DoH's budget that was allocated for contraceptive supplies and devices.<sup>28</sup> Comparing the 2015 and 2016 budgets for the allocation for family health and responsible parenting, the amount allocated went down from Php 3.274 billion (approximately USD 70 million) in 2015 to Php 2.275 billion in 2016 (approximately USD 48 million).<sup>29</sup> While the state party indicated in its reply to the LOIs this same amount for 2016, it failed to reveal that the approved budget was the result of a significant decrease in the proposed budgetary allocation for the implementation of the RPRHA.

As raised in our pre-session letter, these budget cuts have had a disproportionate and detrimental impact on poor women who rely on the public health system for contraceptive services—in 2013, it was estimated that over 11 million women of reproductive age were dependent on the state party's provision of free contraceptives, which reflects an increase since 2008.<sup>30</sup>

In addition to budget cuts, contraceptive access has suffered due to the state party's inability to manage funds. As admitted by the DoH, it has encountered issues in the utilization of financial resources. It has been “unable to fully utilize its allocated budget for [2015] and was only able to obligate 78% of its budget”<sup>31</sup> because “procurement of commodities...was put on hold” by the temporary restraining order issued by the Supreme Court in June 2015, which is further discussed below.<sup>32</sup>

3. ***Please include information on steps taken to implement the following recommendations: ... (ii) amend articles 256 to 259 of the Criminal Code in order to legalize abortion in cases of rape, incest, threat to the life and /or health of the mother, or serious malformation of the foetus....***

As discussed in more depth in our pre-session letter, the state party has one of the most restrictive abortion laws in the world imposing a criminal ban on abortion with no clear exceptions. Notwithstanding the ban, abortion is common and the latest estimates show an increase in its incidence—an estimated 610,000 induced, and potentially unsafe,

abortion took place in the Philippines in 2012, which reflects an increase from 560,000 in 2008.<sup>33</sup>

***Response of state party.*** The state party, in its reply to the LOIs, briefly responded by indicating that “[t]here was a proposal to include justified grounds for abortion in the [Philippine Code of Crimes] but this was not included in the final draft submitted to Congress.”<sup>34</sup>

***Continued lack of access to safe and legal abortion.*** Since our pre-session submission, the state party has not taken any step to implement the Committee’s inquiry recommendations to decriminalize abortion in all cases and legalize the procedure on certain grounds.<sup>35</sup> While the state party’s reply to the LOIs noted the Department of Justice’s (DoJ) non-inclusion of legal exceptions to abortion in the proposed Code of Crimes sent to Congress, it failed to highlight that the draft also proposes increased penalties for all individuals involved in the performance of abortions, including women who have voluntarily consented to the procedure<sup>36</sup> as highlighted in our pre-session letter.

Further, the absence of exceptions in the proposed Code of Crimes referred to in the state party’s reply is contrary to a recommendation made by the PCW.<sup>37</sup> In 2014, the PCW recommended to the DoJ that “justified abortion in circumstances where ‘continuation of pregnancy endangers the life of the pregnant woman or seriously impairs her physical health’ should still be considered.”<sup>38</sup> The PCW “strongly recommend[ed] to retain the provision on the exceptions to the general prohibition on abortion.”<sup>39</sup>

In addition to the regressive language in the proposed Code of Crimes,<sup>40</sup> the “proscription of abortion” as an element of reproductive health care under the RPRHA<sup>41</sup> poses real and substantial risk and harm to women and girls as reports of arrests of women and individuals involved in performing abortions continue in 2016.<sup>42</sup> Based on interviews by the Center with some of these individuals, there are women who choose to plead guilty to be able to qualify for probation and avoid imprisonment, or have their cases dismissed as a result of compromise or the absence of prosecution witnesses.<sup>43</sup>

***4. Please include information on steps taken to implement the following recommendations: ... (iii) provide women with access to the full range of contraceptive services, including emergency contraception, and to quality post-abortion care in all public health facilities.***

As highlighted in our pre-session letter, women in the Philippines face multiple barriers which prevent them from accessing the full range of modern contraceptives, including emergency contraception, and quality post-abortion care. These barriers continue to exist and steps taken by the state party to address the challenges as discussed below remain limited and inadequate. In a report released in 2016, the DoH indicated that use of modern contraceptives among women of reproductive age “remained at almost the same level” in 2013 at 39% compared to 44% in 2015, because of the corresponding increase in the population.<sup>44</sup>

**Response of the state party.** In its reply to the LOIs, the state party pointed out the steps taken by the DoH to improve women’s access to contraceptives and post-abortion care which include: (1) allocation of Php 596 million (USD 12.8 million) for family planning commodities; (2) drafting of “guidelines for benefit packages and reimbursements for the use of various family planning methods”; (3) “[conduct of] capacity building activities for health workers”; and (4) creation of a “[technical working group] to review the draft enhanced Prevention and Management of Abortion Complications (PMAC) Guidelines.”<sup>45</sup>

**Judicial orders preventing access to the full range of contraceptive information and services.** While the MCW and RPRHA guarantees women’s right to reproductive health services including universal access to the full range of contraceptives,<sup>46</sup> the implementation of these laws has been delayed by several judicial orders. As raised in our pre-session letter, the Supreme Court’s decision in *Imbong v. Ochoa* declared unconstitutional several key provisions of the RPRHA protecting adolescent girls’ access to contraception such that all minors, including those who have already experienced pregnancy, must secure parental consent to access modern contraceptives and a married individual must secure spousal consent to undergo ligation or vasectomy.<sup>47</sup>

Further, the Supreme Court’s temporary restraining order (TRO) issued in June 2015 remains in effect which prohibits the DoH from “procuring, selling, distributing, dispensing or administering, advertising and promoting the hormonal contraceptives ‘Implanon’ and ‘Implanon NXT’”<sup>48</sup> and the Philippine Food and Drug Administration (FDA) from “granting any and all pending applications for registration and/or recertification for reproductive products and supplies, including contraceptive drugs and devices”.<sup>49</sup> Since the pre-session, the TRO remains in effect despite the comment filed by the Solicitor General on behalf of the DoH praying for it to be lifted.<sup>50</sup> As noted earlier, this TRO has contributed to the under-utilization of the 2015 budget for contraceptive services.

In January 2016, the state party through the Philippine Health Insurance Corp. (PhilHealth) issued a circular introducing a benefit package paid at Php 3,000 (approximately USD 65) per case of subdermal contraceptive implant use inclusive of consultation and counseling, professional fee, and use of facility, medicine and supplies and follow-up services.<sup>51</sup> The circular covers only subdermal contraceptive implants that are included in the Philippine National Formulary (PNF).<sup>52</sup> As a result of the 2015 TRO, this means that the drug “etonorgestrel” is the only available subdermal implant.<sup>53</sup> Further, the availability of the package is limited to private hospitals, ambulatory surgical clinics and birthing homes.<sup>54</sup>

**Failure to restore access to emergency contraceptives.** As discussed in more depth in our pre-session letter, there is a high incidence of sexual violence within the state party and access to emergency contraceptives (EC) is essential to prevent unintended pregnancies particularly in cases of sexual violence. Postinor, an internationally recognized EC, was delisted by the FDA from the Philippine registry of drugs in 2001.<sup>55</sup> Notwithstanding the Committee’s recommendations to restore access to EC based on the

findings of the inquiry,<sup>56</sup> the state party has not taken any step to restore access to the drug and instead has expressly prohibited national hospitals from purchasing or acquiring EC.<sup>57</sup>

***Lack of access to quality and humane post-abortion care services.*** There has been a notable increase in the number of women seeking post-abortion care. In a report released in April 2016, the number of claims for post-abortion care under the state party's national health insurance increased from 25,617 in 2014 to 38,353 in 2015.<sup>58</sup>

As raised in our pre-session letter, women experiencing abortion-related complications in the Philippines are frequently reported to law enforcement authorities, threatened with arrest, subjected to physical or verbal abuse, discrimination, and delays in access to or denial of care. Since the pre-session and as mentioned above, the DoH has taken steps to review the PMAC policy. In October 2015, the DoH created a technical working group to draft a comprehensive post-abortion care policy keeping in mind the RPRHA's guarantees of "humane, nonjudgmental, and compassionate" treatment and counseling of women with post-abortive complications.<sup>59</sup> Pending approval of this new policy, it remains unclear what steps the state party has taken to implement the existing PMAC policy and ensure compassionate, non-judgmental and quality post-abortion care in all public and private health facilities guaranteed both under the MCW and RPRHA, as a means to prevent and address the ongoing systematic and pervasive mistreatment of women.

Since the pre-session, the state party has also not taken any step to reintroduce misoprostol which has been classified as an essential medicine by the World Health Organization for the prevention and treatment of post-partum hemorrhage, management of incomplete abortion and miscarriage, induction of labor, and medical abortion.<sup>60</sup> As discussed in our pre-session letter, misoprostol has remained an unregistered drug for over a decade in the Philippines because of strong opposition to its use as an abortifacient.<sup>61</sup>

***5. Please supply updated information and disaggregated data on the situation of education for women and girls in the State party. In particular, please provide information on...(e) The integration of age-appropriate sexual and reproductive health and rights education in the school curricula at all levels of education.... (para. 11)***

As discussed in our pre-session letter, the state party has yet to adopt guidelines for the age- and development-appropriate reproductive health education called for under the RPRHA.<sup>62</sup> While recent developments reflect that the state party has taken steps to include sexual and reproductive health and rights education in the school curricula, these measures fall short of the guarantees under the RPRHA.

***Response of state party.*** In its reply to the LOIs, the state party reported that, pursuant to the RPRHA "sexual and reproductive health and rights education are integrated in the primary and secondary school curricula, as well as in courses offered in higher

educational institutions.”<sup>63</sup>

***Lack of access to comprehensive sex education.*** As highlighted in our pre-session letter, the number of adolescent pregnancies has doubled in the past decade<sup>64</sup>; this is notwithstanding the Adolescent Health and Youth Program put in place since 2001 to address the health concerns of young people and a memorandum issued by the Commission on Population in 2014 providing guidelines aimed at reducing, among other things, adolescent pregnancies, abortion and gender-based violence through education and dissemination of information on reproductive health rights.<sup>65</sup>

Since the Committee raised the issue during the pre-session, the state party has yet to issue guidelines for age- and development-appropriate reproductive health education called for under the RPRHA. While the Department of Education (DepEd) has included comprehensive sexual education (CSE) in its K-12 curriculum, it has yet to develop and implement the (CSE) minimum standards to be adopted by schools and alternative learning facilities and provide trainings to teachers to deliver age-specific CSE within the K-12 curriculum.<sup>66</sup>

- 6. Please provide information on the number of cases of discrimination against women that have been received and processed by [the CHR as Gender and Development Ombud], as well as on decisions issued by the judiciary in cases of violation of women’s rights. What measures have been taken to ensure reparation, including adequate compensation, for victims in these cases? Please further include information on the legal aid currently available to support women who are victims of discrimination and violence...in gaining access to justice. Please update the Committee on the Ombud’s work to establish guidelines and mechanisms to facilitate access of women to legal remedies and assist in filing of cases (para. 46).***

***Response of state party.*** In its reply to the LOIs, the state party reported that “victims of violent crimes, including rape, may file claims for compensation before the [DoJ] Board of Claims...and that [p]enalties or fines are determined by the courts in accordance with the law. . . .”<sup>67</sup> Female victims of discrimination and violence may also obtain legal aid through various institutions including the CHR as the Gender Ombud.<sup>68</sup> The state party also reported that the CHR has adopted the “Gender Ombud Guidelines providing the process to access its different services, as well as the conduct of trainings for its personnel to operationalize said services”<sup>69</sup> and that a “Memorandum of Agreement (MOA) was made and entered into by judicial agencies, strengthening the legal aid services and streamlining the referral of cases investigated under the Gender Ombud mechanism.”<sup>70</sup>

***National inquiry on reproductive health and rights.*** As mentioned above, the CHR as the Gender Ombud launched a national inquiry on reproductive health and rights in March 2016. This recent initiative by the CHR constitutes a major step by the state party to document, investigate, and address reproductive rights violations. While the results of the inquiry have yet to be published, it is clear that the CHR will not be providing

individual redress and reparations to women and girls who are denied reproductive health services. Instead the CHR will only document acts of discrimination and reproductive rights violations, analyze them, and “provide concrete recommendations to the State and the concerned agencies to address individual and systemic/structural barriers to women’s access to reproductive health services”<sup>71</sup>.

***Limited coverage of victims’ compensation program.*** While claims for compensation may be filed by victims of violent crimes before the Board of Claims under the DoJ, lack of awareness of the state party’s victims’ compensation program and strict conditions for application and grant of such claims limit its availability and impact. While the program has been in place for 24 years, only 49,000 applicants have been able to avail of the service since its creation because of lack of information of the program’s existence.<sup>72</sup> Further, the amount of each claim is minimal and limited only to Php 10,000 (approximately USD 210) or less and must be filed within six months from the date the victim suffered the damage or injury.<sup>73</sup> Furthermore, since the program is applicable only to victims of violent crimes, women who are victims of reproductive rights violations e.g. denial of modern contraceptives or post-abortion care are excluded from its coverage.

***Lack of formal recognition of reproductive rights violations in the Osil case.*** As raised in our pre-session letter, *Osil v. City of Manila*, a lawsuit filed in January 2008 seeking a declaration of unconstitutionality and revocation of EO 003, was dismissed in October 2014 for being moot in light of the enactment of the RPRHA.<sup>74</sup> Since the dismissal of the case, there has not been any formal recognition of the harm suffered by petitioners—twenty male and female poor residents of Manila City who had been denied access to the full range of contraceptive information and services—and reproductive rights violations committed under EO 003. Further, the local government of Manila has failed to issue an apology to the petitioners in the *Osil* case and all other women in Manila City who were denied contraceptive access and experienced unwanted pregnancies under EO 003 as recommended by the CHR in 2011.<sup>75</sup>

***Absence of functioning Reproductive Health Officers (RHOs) in all LGUs.*** While the DILG in its 2015 memorandum mentioned above reiterated the responsibility of LGUs to assign RHOs, no information is publicly available on how many RHOs have been assigned and are functioning to date. Even the DoH’s latest report on the implementation of the RPRHA released in April 2016 failed to provide any information on the operations of RHOs in LGUs.

## **II. Suggested Questions and Concluding Observations for the State Party**

Reflecting on the information and concerns presented in our pre-session letter and this submission, the undersigned organizations respectfully request that this Committee pose the following questions to the delegation representing the state party during its 64<sup>th</sup> session:

1. To what extent has the state party adopted measures to establish effective monitoring and oversight mechanisms to ensure implementation of the

- Committee's inquiry recommendations?
2. What steps has the state party taken to ensure women's and girls' equal access to the full range of contraceptive services, including by immediately repealing discriminatory local laws and policies that violate the RPRHA such as Manila City's EOs 003 and 030 and Sorsogon City's EO 3, and allocating adequate financial resources to fully implement the RPRHA?
  3. What is the scope and scale of the reorientation trainings conducted in Manila City for its health personnel? What is the impact of these reorientation trainings on the availability, accessibility, and affordability of contraceptive information and services in local health facilities? What is the amount allocated by the local government of Manila for procurement of modern contraceptives?
  4. What efforts has the state party taken to ensure that the Committee's recommendations on the legalization of abortion in cases of rape, incest, threats to the life and/or health of the pregnant woman, or serious fetal malformation and decriminalization of all other cases where women undergo abortion, are taken into consideration during the review of its penal code?
  5. What steps has the state party taken to lift the Supreme Court's TRO issued in June 2015 restricting access to specific hormonal contraceptives and prohibiting the registration and/or recertification for reproductive products and supplies, including contraceptive drugs and devices?
  6. What measures has the state party taken to withdraw the FDA circular delisting Postinor and to formally reintroduce EC particularly for women and girls who are survivors of sexual violence?
  7. What steps has the state party taken to ensure the adoption of a comprehensive national post-abortion care policy? To what extent has the state party made efforts to implement the existing PMAC policy and ensure compassionate, non-judgmental and quality post-abortion care in all public and private health facilities? What steps have been taken to relist and reintroduce misoprostol, which is recognized by the WHO as an essential medicine for the treatment of post-partum haemorrhage, incomplete abortion, and miscarriage?
  8. What steps has the state party taken to formally recognize reproductive rights violations as a result of the implementation of Manila City's EOs? What role will the CHR in its capacity as Gender Ombud play in providing individual remedies for reproductive rights violations resulting from systematic abuses in post-abortion care settings and the introduction of discriminatory laws, policies and executive orders as well as court orders? To what extent have RHOs been designated and functioning to receive reproductive rights complaints in all LGUs?

The undersigned organizations also respectfully request that this Committee consider urging the state party to take immediate steps to fully implement the Committee's inquiry recommendations and particularly incorporating the following recommendations in its Concluding Observations to the state party:

1. Ensure women's and girls' access to the full range of contraceptive information and services by allocating adequate funding for contraceptive supplies, restoring access to emergency contraception in particular to prevent early and unplanned

pregnancies and in cases of sexual violence, and establishing monitoring and oversight mechanisms to ensure that discriminatory local ordinances such as the Manila City's EOs 003 and 030 and Sorsogon City's EO 3 are immediately reviewed and revoked.

2. Legalize abortion in cases of rape, incest, threats to the life, physical or mental health of the pregnant woman, and in cases of serious fetal malformation and decriminalize all other cases where women undergo abortion.
3. Ensure women's and girls' access to humane, compassionate, non-judgmental, and quality post-abortion care services in all health care facilities as guaranteed under the MCW and RPRHA and reintroduce misoprostol for the treatment of post-partum haemorrhage, incomplete abortion, and miscarriage.
4. Ensure that complaint mechanisms, such as those before the CHR as Gender Ombud and other judicial and quasi-judicial bodies, provide effective legal remedies and protection from reprisals for women and girls who file complaints for violations of reproductive rights including post-abortion care abuse.

Respectfully submitted:

Catholics for Reproductive Health

Center for Reproductive Rights

EnGendeRights

International Women's Rights Action Watch Asia Pacific

Population Services Pilipinas Inc.

WomanHealth Philippines Inc.

Women's Global Network for Reproductive Rights

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<sup>1</sup> CEDAW Committee, *Combined seventh and eighth periodic report of States parties due in 2010*, Philippines, U.N. Doc. CEDAW/C/PHL/7-8 (date received Jan. 2015).

<sup>2</sup> CEDAW Committee, *Replies of the Philippines to the list of issues and questions in relation to the combined seventh and eighth periodic reports of the Philippines*, U.N. Doc. CEDAW/C/PHL/Q/7-8/Add.1 (2016) [hereinafter *Replies to List of Issues*].

<sup>3</sup> Committee Against Torture, *Concluding Observations: Philippines*, paras. 38, 39 (2016).

<sup>4</sup> CEDAW Committee, *Summary of the inquiry concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. Doc. CEDAW/C/OP.8/PHL/1 (2015) [hereinafter *CEDAW Committee, Inquiry Report*].

<sup>5</sup> *Id.*, para. 39.

<sup>6</sup> An Act Providing for a National Policy on Responsible Parenthood and Reproductive Health, Rep. Act No. 10354 (2012) (Phil.) [hereinafter *RPRHA*].

<sup>7</sup> *Replies to List of Issues*, *supra* note 2, para. 16.1.

<sup>8</sup> *Replies to List of Issues*, *supra* note 2, para. 16.2.

<sup>9</sup> *Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila*

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and Enunciating Policy Declarations in Pursuit Thereof, Exec. Ord. No. 003 (2000) (Phil.); Further Strengthening Family Health Services, Exec. Ord. No. 30 (2011) (Phil.).

<sup>10</sup> Notes from Public Hearing, CHR National Office, Quezon City, Philippines (Apr. 8, 2016) (on file with the Center).

<sup>11</sup> Not her real name.

<sup>12</sup> Not her real name.

<sup>13</sup> An Executive Order Declaring Sorsogon City as a Pro-Life City, Exec. Ord. No. 3 (2015) (Phil.).

<sup>14</sup> RPRHA, *supra* note 6, sec. 7; An Act Providing for the Magna Carta of Women, Rep. Act No. 9710, sec. 17 (2009) (Phil.) [hereinafter MCW].

<sup>15</sup> Letter by City Health Officer (CHO) of Sorsogon City to Provincial Health Officer of Sorsogon (July 13, 2015) (on file with the Center) (The CHO returned 15,588 cycles of Microgynon oral pills, 3750 vials of DMPA with syringes, 609 cycles of Excluton pills, and 171 pieces of IUD copper T380A as a result of the local government's declaration of Sorsogon City as pro-life.).

<sup>16</sup> Nurses Deployment Project (NDP) is a program by the DoH that sends nurses to communities identified by the National Anti-Poverty Commission.

<sup>17</sup> Department of Health Regional Office V, Sorsogon City Pro-Life Timeline of Events as of Mar. 21, 2016 (on file with the Center).

<sup>18</sup> Letter by Ms. Emmeline Verzosa, Executive Director of Philippine Commission on Women (PCW) to Ms. Sally Lee, Sorsogon City mayor (Sept. 23, 2015) (on file with the Center) (In the letter, PCW highlighted the Committee's inquiry report in calling the attention of the mayor. Recalling the Committee's findings of violations under Manila's EO 003, the PCW recommended the reinstatement of the full range of reproductive health services in Sorsogon City.).

<sup>19</sup> Letter by Ms. Arlene Alangco, office-in-charge of CHR Regional Office (RO) to Ms. Emilia Monicimpo, Regional Director of DoH (Bicol region) (Aug. 13, 2015) (on file with the Center) (The CHR RO attached a copy of the Human Rights Advisory CHR (IV) 2012-006 on the Reproductive Health Bill to "enlighten" the mayor on the matter.).

<sup>20</sup> Letter by Ms. Emilia Monicimpo, Regional Director of DoH (Bicol region) to Ms. Sally Lee, Sorsogon City mayor (Oct. 27, 2015) (on file with the Center) (In response to the return of family planning supplies by the City Health Office, the DoH RO urged the mayor to "reconsider the earlier decision and return the reproductive health supplies to the different health facilities under [her] jurisdiction.").

<sup>21</sup> Letter from Ms. Elouisa Pastor, Regional Director of DILG (Bicol region), to Ms. Emilia Monicimpo, Regional Director of DoH (Bicol region) (Dec. 8, 2016) (on file with the Center).

<sup>22</sup> DILG Memorandum Circular 2015-145, Reiteration of Local Government Units' Role and Functions in the Implementation of Rep. Act 10354 entitled "Responsible Parenthood and Reproductive Health (RPRH) Act of 2012" and its Implementing Rules and Regulations (IRR), sec. 4 (Dec. 29, 2015) (on file with the Center).

<sup>23</sup> *Id.*, sec. 5.

<sup>24</sup> CEDAW Committee, *Inquiry Report*, *supra* note 4, para. 52(a).

<sup>25</sup> CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20<sup>th</sup> Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 17, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter CEDAW Committee, *Gen. Recommendation No. 24*].

<sup>26</sup> Replies to List of Issues, *supra* note 2, para. 15.1.

<sup>27</sup> Joyce Pangco Panares, *NY rights group slams PH over RH budget cut*, MANILA STANDARD (Dec. 25, 2013), <http://manilastandardtoday.com/news/-main-stories/top-stories/136682/ny-rights-group-slams-ph-over-rh-budget-cut.html>.

<sup>28</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#cxrecs\\_s](http://www.rappler.com/nation/118239-explanation-no-2016-budget-contraceptives?cp_rap_source=ymlScrolly#cxrecs_s) [hereinafter Jee Geronimo, *What happened to the 2016 budget for contraceptives?*].

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

<sup>30</sup> PHILIPPINE STATISTICS AUTHORITY ET AL., PHILIPPINES NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2013, at 78 [hereinafter NDHS 2013] (Forty seven percent of women of reproductive age rely on the public sector for modern contraceptives. As of 2010, there are over 24 million women of reproductive age.).

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<sup>31</sup> Department of Health, *The 2<sup>nd</sup> Consolidated Report on the Implementation of the Responsible Parenthood and Reproductive Health Act of 2012 (R.A. No. 10354) 2015*, at 7 [hereinafter RPRHA, 2<sup>nd</sup> Annual Report].

<sup>32</sup> *Id.*, at 1-2.

<sup>33</sup> GUTTMACHER INSTITUTE, UNINTENDED PREGNANCY AND UNSAFE ABORTION IN THE PHILIPPINES: CONTEXT AND CONSEQUENCES, 3 In Brief (2013) [hereinafter GUTTMACHER INSTITUTE, UNINTENDED PREGNANCY].

<sup>34</sup> Replies to List of Issues, *supra* note 2, para. 16.3.

<sup>35</sup> CEDAW Committee, *Inquiry Report*, *supra* note 4, para. 51(e).

<sup>36</sup> See also e.g. An Act Increasing the Penalties Against Abortion, Amending for the Purpose Articles 256, 257, 258 and 259 of the Revised Penal Code, and for Other Purposes, House Bill 3667 (2010) (Phil.).

<sup>37</sup> Letter from Ms. Emmeline Verzosa, Executive Director of PCW to Mr. Geronimo Sy, Assistant Secretary of the Department of Justice (July 22, 2014) (on file with the Center).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* (“This does not say that the unborn is a legal person; nor does it deny, however, that the State under certain conditions might regard the unborn as a person. It does not assert that the life of the unborn is placed on exactly the same level as the life of the mother. It recognizes that, when necessary to save the life of the mother, it may be necessary and legitimate to sacrifice the life of the unborn. It however, denies that the life of the unborn may be sacrificed merely to save the mother from emotional suffering or to spare the child from a life of poverty.”.)

<sup>40</sup> See Press release, Center for Reproductive Rights, Philippine Department of Justice Fails to Include Grounds for Abortion in Draft Criminal Code (Sept. 10, 2014) (on file with the Center).

<sup>41</sup> RPRHA, *supra* note 6, sec. 4(s).

<sup>42</sup> See e.g. Gus Abelgas, *92-year-old abortionist arrested in Calcoocan*, ABS-CBN NEWS (Sept. 20, 2013), <http://news.abs-cbn.com/nation/metro-manila/09/20/13/92-year-old-abortionist-arrested-calcoocan>; *Police Arrest Couple for Inducing Abortion*, COCONUTS MANILA (July 30, 2013), <http://admin-manila.coconuts.co/2013/07/30/police-arrest-couple-inducing-abortion>; Aie Balagtas See, *Woman nabbed for abortion*, THE PHILIPPINE STAR (July 12, 2015), <http://www.philstar.com/metro/2015/07/12/1475986/woman-nabbed-abortion>.

<sup>43</sup> Interviews by the Center for Reproductive Rights with three women under the pseudonyms Beth, Kate, and Janet, Metro Manila (Mar. 30, 2014-Apr. 13, 2015).

<sup>44</sup> RPRHA, 2<sup>nd</sup> Annual Report, *supra* note 31, p. iv (Between 2013-2015, the estimated total eligible population of women of reproductive age grew annually by 1.9%, national contraceptive prevalence rate however grew at an annual rate of 1.78% only).

<sup>45</sup> Replies to List of Issues, *supra* note 2, para. 16.4.

<sup>46</sup> MCW, *supra* note 14, sec. 17(3); RPRHA, *supra* note 6, secs. 3(e), 3(h).

<sup>47</sup> James M. Imbong and Lovely-Ann C. Imbong v Hon. Paquito N. Ochoa, Jr., et al., G.R. No. 204819 (S.C., Apr. 8, 2014) (Phil.).

<sup>48</sup> Alliance For The Family Foundation Philippines, Inc. and Atty. Maria Concepcion S. Noche, et al., v. Dr. Janette L. Garin, Secretary Designate of the Department of Health, et al., (T.R.O.), G.R. No. 217872, (S.C., June 17, 2015) (Phil.) [hereinafter ALFI v. DoH]; See also Rina Jimenez-David, *Continuing challenges to RH Law*, INQUIRER.NET, July 3, 2015, <http://opinion.inquirer.net/86366/continuing-challenges-to-rh-law>; Jee Y. Geronimo, *Supreme Court stops distribution, sale of implants*, RAPPLER, June 30, 2015, <http://www.rappler.com/nation/97983-sc-stops-distribution-sale-implants>.

<sup>49</sup> ALFI v. DoH, *supra* note 48.

<sup>50</sup> A Comment with Motion to Lift TRO in ALFI v. DoH was filed by the Office of the Solicitor General on Nov. 6, 2015.

<sup>51</sup> Philippine Health Insurance Corp., PhilHealth Circular No. 038-2015, Philhealth Subdermal Contraceptive Implant Package (Dec. 21, 2015).

<sup>52</sup> Jocelyn Uy, *PhilHealth offers alternate family planning package*, INQUIRER.NET, Jan. 18, 2016, <http://newsinfo.inquirer.net/756248/philhealth-offers-alternate-family-planning-package>.

<sup>53</sup> Memorandum No. 2015-0318 from the Republic of the Philippines, Department of Health, Office of the Secretary on Implementation of the Approved Medicine in the 8<sup>th</sup> Edition of the Philippine National Formulary (Sept. 17, 2015), <http://www.ncpam.doh.gov.ph/images/pnfmedicines/dm2015-0318.pdf>.

<sup>54</sup> RPRHA, 2<sup>nd</sup> Annual Report, *supra* note 31, at 4.

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- <sup>55</sup> Bureau of Food and Drugs, Delisting of Levonorgestrel 750 mcg (Postinor) from Bureau of Food and Drugs Registry of Drug Products, Bureau Circular No. 18 s. 2001, (Dec. 7, 2001) (Phil.).
- <sup>56</sup> CEDAW Committee, *Inquiry Report*, *supra* note 4, para. 52(a).
- <sup>57</sup> RPRHA, 2<sup>nd</sup> Annual Report, *supra* note 31, sec. 9; Implementing Rules and Regulations of Rep. Act No. 10354 (The Responsible Parenthood and Reproductive Health Act of 2012), Rule 7.01 (2012) (Phil.) [hereinafter IRR of RPRHA].
- <sup>58</sup> RPRHA, 2<sup>nd</sup> Annual Report, *supra* note 31, at 6.
- <sup>59</sup> *Id.*, secs. 3(j), 4(q)(3); *See also* IRR of RPRHA, *supra* note 57, Rule 2.01(n).
- <sup>60</sup> WORLD HEALTH ORGANISATION (WHO), MODEL LIST OF ESSENTIAL MEDICINES, 19<sup>TH</sup> LIST (Apr. 2015), sec. 22.1, at 38.
- <sup>61</sup> *BFAD Advisory 2002-02. Misoprostol (Cytotec): Unregistered Drug Product*, Food and Drug Administration Philippines (FDA), <http://www.fda.gov.ph/advisories/pharmaceutical/38928-bfad-advisory-no-02-02s> (last visited June 1, 2015) [hereinafter *BFAD Advisory 2002-02*] (The circular has not been withdrawn and is still effective).
- <sup>62</sup> Department of Health, *The 1<sup>st</sup> Annual Consolidated Report on the Implementation of the Responsible Parenthood and Reproductive Health Act of 2012 (R.A. No. 10354) 2015*, at 39 [hereinafter RPRHA, 1<sup>st</sup> Annual Report].
- <sup>63</sup> Replies to List of Issues, *supra* note 2, para. 11.9.
- <sup>64</sup> DEMOGRAPHIC RESEARCH AND DEVELOPMENT FOUNDATION ET AL., THE 2013 YOUNG ADULT FERTILITY AND SEXUALITY STUDY IN THE PHILIPPINES. KEY FINDINGS, at 13-14 (2014) (Findings indicate a rise in teenage pregnancies from 6.3% to 13.6%).
- <sup>65</sup> RPRHA, 1<sup>st</sup> Annual Report, *supra* note 62, at 36.
- <sup>66</sup> RPRHA, 2<sup>nd</sup> Annual Report, *supra* note 31, at 40.
- <sup>67</sup> Replies to List of Issues, *supra* note 2, para. 3.3.
- <sup>68</sup> *Id.*, para. 3.5.
- <sup>69</sup> *Id.*, para. 3.6.
- <sup>70</sup> *Id.*, para. 3.7.
- <sup>71</sup> Commission on Human Rights, National Inquiry on Reproductive Health and Rights: Terms of Reference, p. 4 (2016) (Phil.) (on file with the Center).
- <sup>72</sup> Rhealyn C. Pojas, *Board of Claims: Avail compensation program*, SUN STAR DAVAO, Mar. 31, 2016, <http://www.sunstar.com.ph/davao/local-news/2016/03/31/board-claims-avail-compensation-program-465415>.
- <sup>73</sup> An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes, Rep. Act No. 7309, secs. 4, 5 (July 22, 1991) (Phil.).
- <sup>74</sup> Lourdes E. Osil et al. v. Office of the Mayor of the City et al., Regional Trial Court, Sp. Proc. No. 09-121259 (Oct. 7, 2014).
- <sup>75</sup> COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES, EO NO. 003: DISCRIMINATORY OR RIGHTS BASED? CHR ADVISORY ON THE LOCAL ORDINANCE BY THE CITY OF MANILA, CHR (IV) A2010-005 4 (2010), <http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/PCHR-ADVISORY-2010-005.pdf>.