FACT SHEET

CENTER FOR REPRODUCTIVE RIGHTS

ACCOUNTABILITY FOR DISCRIMINATION AGAINST WOMEN IN THE PHILIPPINES:

KEY FINDINGS AND RECOMMENDATIONS FROM THE CEDAW COMMITTEE'S SPECIAL INQUIRY ON REPRODUCTIVE RIGHTS

MISSION AND VISION

The Center for Reproductive Rights uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to protect, respect, and fulfill.

Reproductive freedom lies at the heart of the promise of human dignity, self-determination, and equality embodied in both the U.S. Constitution and the Universal Declaration of Human Rights. The Center works toward the time when that promise is enshrined in law in the United States and throughout the world. We envision a world where every woman is free to decide whether and when to have children; where every woman has access to the best reproductive healthcare available; where every woman can exercise her choices without coercion or discrimination. More simply put, we envision a world where every woman participates with full dignity as an equal member of society.

Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038
United States
Tel +1 917 637 3600
Fax +1 917 637 3666
publications@reprorights.org
www.reproductiverights.org

ACCOUNTABILITY FOR DISCRIMINATION AGAINST WOMEN IN THE PHILIPPINES:

KEY FINDINGS AND RECOMMENDATIONS FROM THE CEDAW COMMITTEE'S SPECIAL INQUIRY ON REPRODUCTIVE RIGHTS

CENTER FOR REPRODUCTIVE RIGHTS

For the past 15 years, the Philippine government has allowed a restrictive local ordinance, Executive Order 003 (EO 003),[1] to remain in place without any clear revocation, effectively banning modern contraceptives in the City of Manila. As a result, women and girls in Manila have experienced serious risks to their health and lives due to unwanted and unplanned pregnancies and unsafe abortions.[2] EO 003 has trapped women in situations of poverty and denied them the ability to pursue educational and employment opportunities.[3] In April 2015, the United Nations Committee on the Elimination of Discrimination against Women (the CEDAW Committee), which monitors compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), released a groundbreaking report finding the Philippine government accountable for grave and systematic reproductive rights violations as a result of EO 003 and other restrictive measures. The report was the outcome of a special inquiry conducted in the country in November 2012—the first such inquiry conducted by the CEDAW Committee in Asia and on contraceptive access. For women in the Philippines, this report is a momentous step forward in realizing their human rights to equality,[4] dignity,[5] and health[6] as guaranteed under the Philippine Constitution, other domestic laws and policies, and international human rights instruments to which the Philippines is a party.

I. Request for a Special Inquiry

In June 2008, the Center for Reproductive Rights, the Task Force CEDAW Inquiry,[7] and International Women's Rights Action Watch Asia Pacific[8] submitted a formal request to the CEDAW Committee asking it to conduct an inquiry into violations of women's reproductive rights occurring in the City of Manila as a result of the enactment and implementation of EO 003, introduced in 2000 by Mayor José "Lito" Atienza, Jr. *Imposing Misery*,[9] a report by the Center for Reproductive Rights and local partners[10] documenting the devastating physical and mental suffering and abuse that women, particularly poor women, experienced due to EO 003, was the basis for the inquiry request.[11]

Why was the inquiry requested?

The purpose of the inquiry request was to seek recognition of denial of access to modern contraception under EO 003, and the profound harms to women's sexual and reproductive health resulting from their inability to control their own fertility, as discrimination against women under CEDAW. The request sought to create international legal accountability for the Philippine government's failure to protect the rights of women in the City of Manila through an official denunciation of the ban by the CEDAW Committee and specific recommendations aimed at addressing the negative impact of the ban and preventing further violations.

Executive Order 003:

Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila and Enunciating Policy Declarations in Pursuit Thereof

EO 003 imposes a de facto ban on modern methods of contraception. Its preamble provides that "the City promotes responsible parenthood and upholds natural family planning not just as a method but as a way of self-awareness in promoting the culture of life while discouraging the use of artificial methods of contraception . . . ."[12] Emphasizing the "sanctity of life" and the constitutional provision calling for the equal protection of the life of the mother and unborn, EO 003 declares that Manila will take an "affirmative stand on pro-life issues and responsible parenthood."[13] In practice, EO 003 has resulted in the withdrawal of all modern methods of contraception from local health centers, clinics, and hospitals and has driven the availability of condoms and pills underground.[14] The EO has also led to the harassment and persecution of health care providers offering contraceptives, as well as to the closure of private clinics and clinics operated by nongovernmental organizations that previously supplied modern contraceptives.[15] Despite criticisms of EO 003 and calls for its revocation by the Philippine Commission on Human Rights,[16] the United Nations Human Rights Committee,[17] and the United Nations Special Rapporteurs on the Right to Health and on Violence against Women,[18] the EO has remained in place to this day.

II. The Philippines' Reproductive Rights–Related Laws and Policies

Reproductive health care in the Philippines is governed under a contradictory web of national and local laws. Despite strong protections for women's equality, health, and lives in the Constitution and two national laws clearly establishing women's rights to contraceptives and post-abortion care, policies and programs established by various government agencies and ordinances adopted by local municipalities have consistently undermined women's rights with impunity. [See box on *Introduction of similar restrictive local ordinances*.] Attempts to pass progressive laws and policies that uphold women's rights to contraception and other reproductive health services are strongly opposed in the name of religion, and restrictive measures are often improperly justified through a reliance on religious ideology. The inquiry request and subsequent submissions highlighted these additional barriers that have compromised women's reproductive rights in the Philippines, including a range of restrictive laws and policies on reproductive health and delays in passing and implementing laws guaranteeing women's reproductive health care.

Executive Order 030: Further Strengthening Family Health Services. Executive Order 030 (EO 030), issued in 2011 by then Mayor Alfredo Lim, recognizes that "the non-availability of [family planning] services in the health facilities of the City of Manila, as well as the inadequacy of facilities, deprives its resident[s], especially from economically deprived groups of these legally mandated services . . . and is a violation of their constitutional rights."[19] Despite this language, however, EO 030 actually goes further than EO 003 in restricting access to modern contraceptives by explicitly imposing a funding ban on modern contraceptives and declaring that "[t]he City shall not disburse and appropriate funds or finance any program or purchase materials, medicines for artificial birth control."[20]

Introduction of similar restrictive local ordinances

The enactment of EO 003 and EO 030 inspired a series of restrictive ordinances and orders from other local government units. For instance, in 2011, eight *barangays*[21]—seven in Balanga City and one in the City of Muntinlupa—passed ordinances prohibiting modern contraceptives in private and public facilities alike. These ordinances promoted natural family planning exclusively and prohibited the use of *barangay* funds for the provision of modern contraceptive methods. After significant protest by the public and nongovernmental organizations, however, the city councils regulating these *barangay* councils suspended the ordinances.[22] However, the passage of these ordinances by the *barangay* councils shows that the failure of the judiciary to declare EO 003 unconstitutional has allowed opponents of reproductive health to continue to attempt to introduce further restrictive measures.

More recently, in February 2015, the mayor of Sorsogon City issued an EO declaring the city "pro-life."[23] With the city government's approval, "pro-life" trainings on how "contraception is the gateway to abortion" were provided to health care providers, government officials, students, and the media.[24]

Magna Carta of Women. Signed into law in August 2009, the Philippine Magna Carta of Women incorporates key principles of CEDAW into national law and guarantees women's right to health.[25] The Magna Carta of Women mandates the state to provide "comprehensive, culture-sensitive, and gender-responsive health services and programs covering all stages of a women's life cycle and which address[] the major causes of women's mortality and morbidity . . . ."[26] It also provides for women's access to family planning and post-abortion care.[27] Notwithstanding its provision specifying that any existing legislation in conflict with its contents is deemed repealed, modified, or amended, EO 003 was neither reviewed nor treated as invalid after the passage of the Magna Carta of Women.

National reproductive health law. At the time of the inquiry request, the Philippines had seen numerous failed attempts to pass a national reproductive health law.[28] Republic Act No. 10354, otherwise known as the Responsible Parenthood and Reproductive Health Act of 2012 (RPRH Act), was finally enacted on December 21, 2012.[29] It provides for universal access to contraception, reproductive and sexuality education, post-abortion care, and maternity care, and requires the Department of Health (DOH) to procure and distribute a wide range of modern forms of contraception.[30] Less than a month after the RPRH Act was signed into law, a petition questioning its constitutionality was filed; and in subsequent months, 13 more such petitions were filed.[31] On April 8, 2014, the Supreme Court upheld the law's constitutionality.[32] The law is now effective but yet to be fully implemented. Similar to the Magna Carta of Women, the RPRH Act provides that existing legislation inconsistent with its provisions be deemed repealed, modified, or amended. However, in response to a petition questioning the constitutionality of EO 003, a trial court failed to revoke EO 003 and instead declared the petition a "moot point" as a result of the passage of the RPRH Act.[33] [See box on the *Osil* case, p. 8.]

Criminal abortion ban. Under the country's penal code, abortion is a crime, and there are no clear exceptions regarding when it may be legally performed.[34] Complications from unsafe abortions are a notable cause of maternal death in the country, with a substantial number of women forced to rely on pregnancy termination to control their fertility in the absence of access to contraceptives.[35] The barriers to safe abortion procedures created by the criminal ban, including the accompanying stigma, have exacerbated rates of maternal mortality and has exposed women seeking post-abortion care to threats, harassment, physical abuse, and discrimination.[36]

Ban on misoprostol. In 2002, the Food and Drug Administration (then the Bureau of Food and Drugs) issued a circular prohibiting the distribution, sale, and use of misoprostol "in the interest of public health and safety."[37] The circular contained a warning to "all drugstore owners, pharmacists, consumers and all others concerned" against the drug's dispensation and use.[38] The ban is contrary to the World Health Organization's inclusion of misoprostol in its Model List of Essential Medicines for the "management of incomplete abortion and miscarriage" and the "[p]revention and treatment of postpartum haemorrhage . . . ."[39]

De-listing of emergency contraceptives. In 2001, the DOH unilaterally banned Postinor, an emergency contraceptive that is an important method of protection for survivors of sexual violence.[40] The ban, based on the claim that Postinor is an abortifacient, has been maintained despite findings by both the World Health Organization and a DOH technical committee that Postinor is not an abortifacient and should be re-listed.[41]

III. Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol

Discrimination against women means "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

—CEDAW, article 1

CEDAW, an international treaty affirming women's fundamental human rights to substantive equality and nondiscrimination, was ratified by the Philippines on August 5, 1981, and entered into force on September 4, 1981.[42]

"I did not use any family planning method before. But when I wanted to, everything was banned, which made it very difficult for us. If family planning was available at that time, I would not have been forced to have an abortion."

—*Yayo*, 36 years old, mother of eight

The Optional Protocol to CEDAW (OP-CEDAW), which provides for two procedures (individual communications and inquiries) enabling individuals or groups of individuals to seek redress for the violations of rights recognized in CEDAW, was ratified by the Philippines on November 12, 2003, and entered into force on February 12, 2004.[43] [See sidebar entitled *What is the inquiry procedure under OP-CEDAW*, p. 4 and *How is an inquiry conducted by the CEDAW Committee?*, p. 6.]

What is the inquiry procedure under OP-CEDAW?

- The inquiry procedure is a mechanism whereby the CEDAW Committee investigates grave or systematic violations of CEDAW committed by a state party.
- A state may be subject to inquiry if it has ratified both CEDAW and the OP-CEDAW and has recognized the competence of the Committee.

How is an inquiry conducted by the CEDAW Committee?

- An inquiry request may be filed by an individual or group of individuals; it may also be filed on behalf of an individual or group of individuals.
- If the Committee receives reliable information indicating grave and systematic violations of CEDAW by a state party, it invites the state party to cooperate in the examination of the information and submit its observations regarding the information received.
- An inquiry can be sought without exhaustion of domestic remedies.
- The Committee may designate one or more of its members to conduct the inquiry and to report back to the Committee.
- If the state party consents, the inquiry may involve a visit to its territory.
- All actions carried out by the Committee are confidential.

IV. The Impact of Restrictions on Reproductive Health Care on Women's Survival and Well-Being

EO 003 and EO 030 operate in a country where **almost 70% of people rely on local government health facilities for reproductive health commodities and services, including modern contraceptives**[44] and have had a significant impact on people's lives. **Metro Manila, an area that includes Manila City, has a higher proportion of unintended pregnancies than anywhere else in the Philippines**.[45] Manila City's contraceptive bans have disproportionately affected poor women in the Philippines, who, on average, have two more children than they desire.[46] As noted in the Center for Reproductive Rights' report *Imposing Misery*, poor women are also most likely "to suffer the physical, psychological, economic and social consequences of unintended pregnancies."[47] The latest data on the country's maternal mortality ratio shows a significant increase within a five-year period (2006–2011), from 162 to 221 deaths per 100,000 live births.[48] The increase in maternal deaths is particularly evident in Metro Manila, where 50 maternal deaths were recorded in January 2012 alone.[49]

Bawat pagbubuntis ko, kabado ako. Iniisip ko pag nanganak na ko at mailabas ang bata, doon ako mawala. Hindi ko makayanan ang panganganak kasi manipis na ang matris ko sabi ng doktor. [I get nervous with every pregnancy. I think that the moment I give birth will be the time I will die. That I won't survive childbirth for the doctor said my uterus is already thin.]

—*Susan,* 32 years old, mother of seven

No significant improvements regarding the unmet need for family planning services or contraceptive use have been recorded in recent years at the national level or in Metro Manila.[50] Although the rate of teenage pregnancy and childbirth in the country remained unchanged from 2008 to 2013,[51] a significant increase was reflected in Metro Manila—from 18% in 2008 to 24% in 2013.[52] With regard to abortion, in 2008, an estimated 560,000 abortions were performed in the country despite the criminal ban, and 1,000 women lost their lives to the procedure, while as many as 90,000 were hospitalized for post-abortion complications.[53] Since then, the estimated number of abortions has continued to rise—in 2012, it reached 610,000.[54] This worsening situation can be seen particularly in Metro Manila, home to five of the nine hospitals where abortion was reportedly one of the top three obstetrics-gynecological cases managed by the DOH in 2012 and 2013.[55]

V. The CEDAW Committee's Findings of Reproductive Rights Violations

[W]hile the lack of access to contraception is generally problematic throughout the State party, the situation in the City of Manila is particularly egregious as a result of an official and deliberate policy which places a certain ideology above the well-being of women and was designed and implemented by the Manila local government to deny access to the full range of modern contraceptive methods, information and services.

—CEDAW inquiry report, para. 48

Taking into account the EO 003 and other restrictive law and policies on reproductive rights, along with the Philippine government's failure to implement its own legislative guarantees of women's reproductive health, the CEDAW Committee concluded in its 2015 report that the Philippine government had violated women's rights to nondiscrimination and health, which require the government to ensure women's equal access to family planning services.[56] The Committee also found several specific violations of CEDAW, which are highlighted below.

Obligation to refrain from engaging in any act or practice of discrimination and to modify or abolish discriminatory laws and policies (articles 2[d], 2[f], and 12). The Committee found that the Philippine government violated its obligation to eliminate discrimination against women in access to health services because the national government condoned the acts of the local government of Manila and failed to take action against local government officials despite the harmful effects of the implementation of EO 003, the lack of public funding in the subsequent EO 030, and the strict application of the criminal ban on abortion.[57] As noted by the Committee, the Philippine government is responsible for ensuring the rights enshrined in CEDAW for all women in the country, and cannot absolve itself of this responsibility by claiming that these violations are occurring as a result of a local government policy.[58]

Obligation to guarantee equality in educational information, including specifically information and advice on family planning (articles 10[h] and 12). Substantive equality, as guaranteed under CEDAW, requires that the Philippine government consider "risk factors that predominantly affect women."[59] The Committee found that since pregnancy is a health risk experienced only by women, the lack of access to contraceptives in the City of Manila disproportionately affects women.[60] In finding a violation of the rights under article 12, read in conjunction with article 10(h), which protect women's right to access health services and information, including family planning, without discrimination, the Committee noted that unplanned and unwanted pregnancies, unsafe abortions, unnecessary and preventable deaths, and women's growing exposure to HIV and other sexually transmitted infections are direct consequences of the government's failure to provide the full range of sexual and reproductive health services, commodities, and information.[61] The Committee also found that the systematic denial of access to modern contraceptive methods particularly harmed disadvantaged groups of women, including poor women, adolescent girls, and women in abusive relationships.[62]

Obligation to eliminate gender stereotypes and ensure the right to make informed decisions on the number and spacing of children (articles 5, 12, and 16). The Committee expressed the view that gender stereotypes affect women's capacity to make decisions not only in relation to their health and reproduction but also in relation to their roles in society.[63] The Committee found the Philippine government

in violation of its obligations under article 5 in relation to articles 12 and 16, which require the state to eliminate gender stereotypes that impede equality in health care settings and in marriage and family relations, stating that the implementation of EOs 003 and 030 "incorporated and conveyed stereotyped images of women's primary role as child bearers and child rearers."[64] The Committee noted that these stereotypes "contributed to the belief that it was acceptable to deny women access to modern methods of contraception."[65]

Obligation to provide effective legal remedies for violations of women's right to access sexual and reproductive health services (articles 2[c] and 12). Taking into account the state's undue delay in the resolution of a petition first filed by Manila residents in 2008 seeking revocation of EO 003 [see box on the Osil case.], the Committee found that the Philippine government failed to comply with its obligation under article 2(c) to ensure effective judicial action and protection.[66] Recalling CEDAW General Recommendation 28 in addition to CEDAW article 2(c), the Committee concluded that the Philippine state failed to create a system guaranteeing effective judicial remedies and protection in cases of human rights violations experienced by women in Manila as a result of the implementation of EO 003.[67]

Osil v. Office of the Mayor of the City of Manila

In January 2008, a petition was filed before the Court of Appeals to obtain redress for violations of reproductive rights committed under EO 003, with an application for a temporary restraining order and/or writ of preliminary injunction to prevent the occurrence of new violations. The petition was filed by 20 male and female poor residents of Manila who had been denied access to the full range of contraceptive services and information, particularly modern methods of contraception such as condoms, pills, and intrauterine devices. Because the petitioners relied on public health services, the lack of access to contraceptive services and information resulted in harm to their lives and health and exacerbated their economic hardship.

The lead petitioner in the case, Lourdes Osil, had given birth to two children prior to the adoption of EO 003; after EO 003 went into effect, denying her contraceptive information and services, she ultimately had five more unplanned pregnancies.[68] The subsequent strain on her family, as with many families throughout the city, was immense, leading her and her husband to file this case.[69] However, their efforts to effectively exercise the right to access available legal remedies have been undermined and unduly delayed.

The Court of Appeals, instead of acting within the 24-hour period prescribed by the Rules of Civil Procedure, acted on the petition only after three months. In May 2008, the case was dismissed on procedural grounds without a hearing. A motion for reconsideration was denied in August 2008.

The petitioners appealed to the Supreme Court, which dismissed their case in October 2008 on the grounds that one of the petitioners had failed to sign the petition. The Supreme Court did not rule on the merits of the case regarding the 19 petitioners who had signed the petition. A motion for reconsideration was denied in December 2008.

In April 2009, the case was refiled before the Regional Trial Court of Manila (RTC). In 2010, the Philippine Commission on Human Rights issued a statement urging the Manila City government to revoke EO 003 and apologize for the harm caused under the order, and called on the RTC to consider the government's human rights obligations under CEDAW in deciding the *Osil* case.[70] A motion to dismiss filed by the City of Manila before the RTC was denied only after almost three years from the petition's date of filing. A second motion to dismiss was granted in October 2014—twenty months after its filing in the RTC. The court dismissed the petition on the grounds that it had become moot and academic because of the passage of the national reproductive health law.

The delays experienced in *Osil* led the CEDAW Committee to conclude that the Philippine government failed and is unwilling to provide effective judicial protection and effective judicial remedies for human rights violations in Manila.

Obligation to secure women's right to make informed decisions on the number and spacing of their children (article 16[1][e]). The Committee found the Philippine government in violation of its obligation under article 16(1)(e) because of its failure to provide information, services, and the necessary means for women to exercise their autonomy and make informed decisions on the number and spacing of their children.[71] Women's right to decide freely and responsibly on matters affecting their bodies was rendered futile by the local government's exclusive support for natural family planning and its denial of access to information on modern contraceptive methods.[72]

I learned about the EO in 2000 when I went to the health center to get pills. The doctor said, "Bawal na ang contraceptives kasi prolife na si mayor. Kasi pinapatay [ng family planning] ang bata." [Contraceptives are banned because the mayor is now pro-life. It (family planning) kills the baby.]

—***Tina,* 36 years old, mother of eight**

The Committee also found that the Philippines' violations of women's rights protected under CEDAW were grave and systematic. The Committee highlighted the gravity of the violations by pointing out that the inadequate access to modern methods of contraception, as a result of EOs 003 and 030, was experienced by thousands of women of childbearing age and contributed to higher rates of unwanted pregnancies and unsafe abortions, increased maternal mortality and morbidity, and greater exposure to HIV and other sexually transmitted infections.[73] The Committee also found that the severe consequences of the EOs not only affected women's health and lives but also hampered their personal development and economic security, contributed to female poverty, and affected the exercise of other rights set forth under CEDAW, such as those related to education and employment.[74] In finding that the violations were systematic, the Committee observed the "presence of a significant and persistent pattern of acts which do not result from a random occurrence."[75] The Committee found that the state party condoned, for more than 12 years, the discriminatory policies in Manila under two different mayors.[76] The Committee stated that EO 003 deliberately seeks to deprioritize women's well-being and that its continued implementation has "resulted in the health system's incapacity to deliver sexual and reproductive health services other than 'natural family planning' and caused women to continuously face significant barriers to accessing affordable sexual and reproductive health services, commodities and information."[77]

VI. The CEDAW Committee's Recommendations

States parties should implement a comprehensive national strategy to promote women's health throughout their lifespan. This will include interventions aimed at . . . ensur[ing] universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services.

—CEDAW General Recommendation 24, para. 29

The Committee affirmed that Philippine national government is ultimately responsible for ensuring the protection of women's reproductive rights, even where local governments have the authority to regulate aspects of women's health care.

[A]ctions of a mayor, his office and all other municipal officers, in their official capacity, are attributable to the State party, as they are state organs . . . .

—CEDAW inquiry report, para. 21

The decentralization of power . . . does not in any way negate or reduce the direct responsibility of the [national] Government to fulfil its obligations to all women within its jurisdiction. In all circumstances, the State party . . . remains responsible for ensuring full implementation throughout the territories under its jurisdiction. In any process of devolution, States parties have to make sure that the devolved authorities have the necessary financial, human and other resources to effectively and fully implement the obligations of the State party under the Convention.

—CEDAW General Recommendation 28, para. 39

The Committee's inquiry report clarifies the steps that must be taken by the Philippine government to comply with its international legal obligations to respect, protect, and fulfill women's reproductive rights. The report calls on the Philippine government to undertake the following measures:

- **Improve access to contraception and other sexual and reproductive health services and information** by

  a. implementing the Magna Carta of Women and RPRH Act to guarantee women's access to effective methods of family planning and the full range of reproductive health services and information;

  b. addressing the unmet need for contraception, particularly in the City of Manila and for economically disadvantaged women and adolescent girls, by ensuring universal and affordable access to sexual and reproductive health services, commodities, and information;

  c. providing adequate funding at the national and local levels and considering including modern contraceptive methods within the public health insurance system;

  d. reintroducing and promoting emergency contraception, including among adolescent girls, to prevent early and unplanned pregnancies and in cases of sexual violence; and

  e. regulating the practice of conscientious objection among health care professionals in order to protect women's decision making with regard to their sexual and reproductive health and ensure their access to such services, as well as guaranteeing that alternative health care professionals are available in cases of conscientious objection.

- **Provide access to quality post-abortion care in all public health facilities** by

  a. reintroducing misoprostol to help prevent maternal mortality and morbidity;

  b. ensuring that women experiencing abortion-related complications are neither reported to law enforcement nor subjected to abuse, threats, discrimination, stigma, or delays in or denial of care;

  c. establishing policies and mechanisms that protect patients' privacy and allow them to, without fear of retaliation, file complaints concerning abuse and discrimination; and

  d. researching the incidence of unsafe abortions in the country and its impact on women's health and maternal mortality and morbidity.

- **Review and repeal discriminatory laws**, including EOs 003 and 030, to clarify that women have a right to contraceptive information and services as guaranteed in the RPRH Act and the Magna Carta of Women; and repeal articles 256–259 of the country's penal code in order to decriminalize abortion and legalize it on certain grounds.

- **Strengthen existing machineries and establish new mechanisms to ensure compliance with international obligations and accountability** by

  a. strengthening the Philippine Commission on Women and the Commission on Human Rights in terms of their financial, technical, and human resources, and strengthening coordination and reporting mechanisms between the DOH and local health centers and departments to ensure the implementation of national polices and strategies;

  b. reducing the negative impact of decentralization through the establishment of monitoring and oversight mechanisms to ensure local government units' strict compliance with international standards;

  c. allowing the Commission on Human Rights to receive and investigate complaints on violations of reproductive rights and to ensure women's access to effective legal remedies;

  d. ensuring that guidelines, procedures, and complaints mechanisms are in place at the local government level to protect women from abuse and discrimination and to investigate complaints and impose sanctions where necessary; and

  e. engaging with the international community with regard to technical support and financial aid, and strengthening ties with civil society organizations to enhance access to sexual and reproductive health services, commodities, and information.

- **Ensure heightened awareness, education, and training on sexual and reproductive health rights and services, as well as on the government's obligations under CEDAW,** by

  a. disseminating CEDAW-related information to judges, lawyers and prosecutors at all levels of government;

  b. prioritizing the protection of women's right to health over religious ideologies that may discriminate against women and creating strategies to sensitize government officials to ensure women's access to sexual and reproductive health services, commodities, and information;

  c. providing proper counseling and information on sexual and reproductive health services in all public health facilities to empower women to make informed decisions;

  d. ensuring that training on sexual and reproductive health rights, services, and commodities in public health facilities is regularly conducted and adequately funded;

  e. integrating sexual and reproductive health education and comprehensive sex education in school curricula; and

  f. engaging in educational and awareness-raising campaigns on modern contraceptive methods and the risks of unsafe abortion, addressing in particular the misconceptions and gender-based stereotypes discouraging the use of modern contraceptive methods.[78]

VII. Conclusion

The CEDAW Committee's groundbreaking inquiry on access to contraception in the Philippines presents a distinctive opportunity for the Philippine government to fulfill its obligations under its own constitution and national laws and policies, as well as its commitments under binding international human rights treaties, particularly CEDAW. The Philippine Constitution guarantees the right to health as a fundamental right[79] and recognizes women's health needs as a priority;[80] existing national laws and policies, such as the Magna Carta of Women and RPRH Act, recognize women's right to access comprehensive health services, including family planning services and information. The Philippine government must secure the full and immediate implementation of the CEDAW Committee's recommendations in order to promote women's substantive equality, eliminate gender-based discrimination resulting from the denial of women's access to sexual and reproductive health services and information, and protect their human rights.

Endnotes

1 Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila and Enunciating Policy Declarations in Pursuit Thereof, Exec. Ord. No. 003 (2000) (Phil.).

2 Guttmacher Institute, Unintended Pregnancy and Unsafe Abortion in the Philippines: Context and Consequences, 3 In Brief 2–5 (2013) [hereinafter Guttmacher Institute, In Brief].

3 Committee on the Elimination of Discrimination against Women (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, paras. 13, 34, 47, U.N. Doc. CEDAW/C/OP.8/PHL/1 (2015) [hereinafter CEDAW Committee, Summary of the Philippines inquiry].*

4 Const. (1987), art. II, sec. 14 (Phil.).

5 *Id.* art. II, sec. 11 & art. XIII, sec. 1.

6 *Id.* art. XIII, secs. 11–13 & art. II, sec. 15.

7 The Philippine-based Task Force CEDAW Inquiry consists of twenty members: EnGendeRights (co-convenor); WomenLEAD (co-convenor); Alternative Law Groups; Democratic Socialist Women of the Philippines; Family Planning Organization of the Philippines; Health Action Information Network; Health and Development Initiatives Institute; Institute for Social Studies and Action, Philippines; Kapisanan ng mga Kamag-anak ng Migranteng Manggagawang Pilipino; MAKALAYA; Philippine Legislators' Committee on Population and Development; Philippine NGO Council on Population, Health and Welfare; Population Services Pilipinas; Sentro ng Alternatibong Lingap Panlegal/Alternative Legal Assistance Center; Save the Children USA-Philippines Country Office; Forum for Family Planning and Development; Woman Health Philippines; Women's Crisis Center; Women's Legal Bureau; and Women's Media Circle Foundation.

8 International Women's Rights Action Watch Asia Pacific is a nonprofit organization dedicated to promoting and protecting women's human rights through the use of CEDAW. *See* http://www.iwraw-ap.org.

9 Center for Reproductive Rights et al., Imposing Misery: The Impact of Manila's Contraception Ban on Women and Families (2007) [hereinafter Center for Reproductive Rights, Imposing Misery].

10 Linangan ng Kababaihan (Likhaan) and Reproductive Health, Rights and Ethics Center for Studies and Training (ReproCen).

11 Center for Reproductive Rights, Imposing Misery, *supra* note 9.

12 Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila and Enunciating Policy Declarations in Pursuit Thereof, Exec. Ord. No. 003, whereas clauses (2000) (Phil.).

13 *Id.*

14 Jaileen F. Jimeno, *In Manila, pills and condoms go underground*, Philippine Center for Investigative Journalism, May 2, 2005, http://pcij.org/stories/in-manila-pills-and-condoms-go-underground.

15 *Id.*; Center for Reproductive Rights, Imposing Misery, *supra* note 9, at 36–38.

16 Press release, Center for Reproductive Rights, Manila City Denounced for Contraception Ban (Nov. 18, 2010), http://www.reproductiverights.org/feature/manila-city-denounced-for-contraception-ban.

17 Human Rights Committee, *Concluding Observations: Philippines*, para. 13, U.N. Doc. CCPR/C/PHL/CO/4 (2012).

18 Special Rapporteur on violence against women, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, Addendum, Communications to and from Governments*, paras. 314–319, U.N. Doc. A/HRC/14/22/Add.1 (2010). *See generally* Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, U.N. Doc A/66/254 (2011) (by Anand Grover).

19 Further Strengthening Family Health Services, Exec. Ord. No. 30, preamble (2011) (Phil.).

20 *Id.* sec. 2.

21 The *barangay* is the smallest political subdivision in the Philippines.

22 *Balanga mayor: No ban yet on contraceptives,* ABS-CBN News, Sept. 9, 2011, http://www.abs-cbnnews.com/nation/regions/09/09/11/balanga-mayor-no-ban-yet-contraceptives; Tuklasin Natin, *Legal Experts Challenge Constitutionality of Seven Balanga Barangays Restricting Access to*

Contraceptives; Barangay Officials May Be Dismissed, Sept. 10, 2011, https://tuklasinnatin.wordpress.com/2011/09/10/legal-experts-challenge-constitutionality-of-seven-balanga-barangays-restricting-access-to-contraceptives-barangay-officials-may-be-dismissed. *See also* An Act Providing for a Local Government Code of 1991, Rep. Act No. 7160, sec 57 (1991) (Phil.).

[23] An Executive Order Declaring Sorgoson City as a Pro-Life City, Exec. Ord. No. 3 (2015) (Phil.).

[24] Ligaya Acosta, *Inspired by ASPAC, Filipino Mayor Declares City Pro-Life*, Human Life International, Feb. 13, 2015, http://www.hli.org/2015/02/inspired-aspac-filipino-mayor-declares-city-pro-life.

[25] An Act Providing for the Magna Carta of Women, Rep. Act No. 9710 (2009) (Phil.).

[26] *Id.* ch. IV, sec. 17.

[27] *Id.* ch. IV, secs. 17(3) & 17(7).

[28] Carmela Fonbuena, *RH law: The long and rough road,* Rappler, Dec. 30, 2012, http://www.rappler.com/newsbreak/18730-rh-law-the-long-and-rough-road.

[29] Angela Casauay, *President Aquino signs RH bill into law,* Rappler, Dec. 28, 2012, http://www.rappler.com/nation/18728-aquino-signs-rh-bill-into-law.

[30] An Act Providing for a National Policy on Responsible Parenthood and Reproductive Health, Rep. Act No. 10354, secs. 3(j), 5, 7, 10 & 14 (2012) (Phil.).

[31] Ina Reformina, *SC consolidates 14th petition vs RH Law,* ABS-CBN News, July 2, 2013, http://www.abs-cbnnews.com/nation/07/02/13/sc-consolidates-14th-petition-vs-rh-law.

[32] 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.), *available at* http://www.lawphil.net/judjuris/juri2014/apr2014/gr_204819_2014.html.

[33] 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).

[34] The Revised Penal Code, Act No. 3815, arts. 256–259 (1930) (Phil.).

[35] Guttmacher Institute, In Brief, *supra* note 2, at 3–5.

[36] Center for Reproductive Rights, Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban 16, 18 (2010).

[37] Bureau of Food and Drugs, Misoprostol (Cytotec): Unregistered Drug Product, Advisory 2002-02, (Aug. 12, 2002) (Phil.), *available at* http://www.fda.gov.ph/advisories/pharmaceutical/38928-bfad-advisory-no-02-02.

[38] *Id.*

[39] World Health Organization (WHO), Model List of Essential Medicines 38 (19th ed. rev. 2015) [hereinafter WHO, List of Essential Medicines].

[40] Domini M. Torrevillas, *Women In, Postinor Still Out*, The Philippine Star, Mar. 15, 2015, http://www.philstar.com/opinion/270435/women-postinor-still-out.

[41] WHO, List of Essential Medicines, *supra* note 39, at 33; Torrevillas, *supra* note 40.

[42] The Philippines was the 21st state to ratify or accede to CEDAW. *See* UN Women, *States Parties*, http://www.un.org/womenwatch/daw/cedaw/states.htm (last visited June 1, 2015).

[43] *See* UN Women, *Signatures and Accessions/Ratifications to the Optional Protocol*, http://www.un.org/womenwatch/daw/cedaw/protocol/sigop.htm (last visited June 1, 2015).

[44] National Statistics Office, Phil. National Demographic and Health Survey 2003 at 67 tbl. 5.12 (2004) [hereinafter Phil. National Demographic and Health Survey 2003].

[45] Guttmacher Institute, Unintended Pregnancy and Induced Abortion in the Philippines: Causes and Consequences 4 (2006).

[46] Phil. National Demographic and Health Survey 2003, *supra* note 44, at 102 tbl. 7.10.

[47] Center for Reproductive Rights, Imposing Misery, *supra* note 9, at 24.

[48] National Economic and Development Authority and United Nations Development Programme, The Philippines: Fifth Progress Report; Millennium Development Goals 73 (2014).

[49] Jocelyn R. Uy, *Maternal deaths rising in Metro Manila,* Philippine Daily Inquirer, Feb. 18, 2012, http://newsinfo.inquirer.net/147901/maternal-deaths-rising-in-metro-manila.

[50] In 2008, 22% of married women in the country had an unmet need for family planning services, with the rate dropping only slightly in 2011, to 19%. The same pattern was reflected in Metro Manila, where the unmet need for family planning among married women was reported at 21% in 2008, with a slight drop to 18% in 2011. At the national level, from 2008 to 2011, a decrease (from 51% to 49%) in contraceptive use among married women (aged 15–49) was observed, although an increase (from 34% to 37%) in the use of modern methods was indicated. In Metro Manila, contraceptive use of any method in 2008 was slightly higher, at 54%, compared to the overall country rate, but the use of modern methods was lower, at 32%. By 2011, an increase to 38% in the use of modern methods was noted in Metro Manila despite a drop in overall contraceptive use to 48%. National Statistics Office, Phil. National Demographic and Health Survey 2008 at 86 tbl. 7.4 & 56 tbl. 5.5 (2009) [hereinafter Phil. National Demographic and Health Survey 2008]; National Statistics Office, *Unmet Need for Family Planning Remains High (Results from the 2011 Family Health Survey),* May 25, 2012, http://web0.psa.gov.ph/content/unmet-need-family-planning-remains-high-results-2011-family-health-survey; National Statistics Office, *Contraceptive Use Among Filipino Women (Based from the Results of the 2011 Family Health Survey),* May 9, 2013, http://web0.psa.gov.ph/content/contraceptive-use-among-filipino-women-based-results-2011-family-health-survey-0.

[51] Philippine Statistics Authority and ICF International, 2013 Philippines National Demographic and Health Survey: Key Findings 5 (2014); National Statistics Office, Phil. National Demographic and Health Survey 2008, *supra* note 50, at 50 tbl. 4.9.

[52] National Statistics Office, Phil. National Demographic and Health Survey 2013 at 53 tbl. 5.12; National Statistics Office, Phil. National Demographic and Health Survey 2008, *supra* note 50, at 50 tbl. 4.9.

[53] Guttmacher Institute, Unintended Pregnancy and Unsafe Abortion in the Philippines, Fact Sheet 1 (2013) [hereinafter Guttmacher Institute, Fact Sheet]; Guttmacher Institute, Meeting Women's Contraceptive Needs in the Philippines, 1 In Brief 2 (2009).

[54] Guttmacher Institute, Fact Sheet, *supra* note 53, at 1.

[55] Sheila Crisostomo, *RH to help stop rise in abortion cases – DOH,* The Philippine Star, Mar. 7, 2014, http://www.philstar.com/headlines/2014/03/07/1298062/rh-help-stop-rise-abortion-cases-doh.

[56] Convention on the Elimination of All Forms of Discrimination against Women, *adopted Dec. 18, 1979, art. 12, G.A. Res. 34/180, U.N. GAOR, 34th* Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force Sept. 3, 1981).*

[57] CEDAW Committee, *Summary of the Philippines inquiry, supra* note 3, paras. 21–31.

[58] *Id.* para. 23.

[59] *Id.* para. 32.

[60] *Id.* para. 32.

[61] *Id.* paras. 33–34.

[62] *Id.* para. 34.

[63] *Id.* para. 42.

[64] *Id.* para. 43.

[65] *Id.* para. 43.

[66] *Id.* para. 45.

[67] *Id.* para. 45.

[68] Center for Reproductive Rights, Lourdes Osil v. Mayor of Manila: Access to Contraception Is a Human Right 5 (2010).

[69] *Id.* at 1.

[70] Commission on Human Rights of the Phil., EO NO. 003: Discriminatory or Rights Based? CHR Advisory on the Local Ordinance by the City of Manila, CHR (IV) A2010-005, 4 (2010).

[71] CEDAW Committee, *Summary of the Philippines inquiry, supra* note 3, paras. 40–41.

[72] *Id.* para. 41.

[73] *Id.* para. 47.

[74] *Id.* para. 47.

[75] *Id.* para. 48.

[76] *Id.* para. 48.

[77] *Id.* para. 48.

[78] *Id.* paras. 49–52.

[79] Const. (1987), art. II, sec. 15 (Phil.).

[80] *Id.* art. XIII, sec. 11.

ReproductiveRights.org

CENTER FOR REPRODUCTIVE RIGHTS

199 Water Street, 22nd Floor
New York, New York 10038 USA
Tel: +1.917.637.3600
Fax: +1.917.637.3666

Kalika Tower, Opposite the Russian Embassy
Baluwatar, Kathmandu, Nepal
Tel: +9771.441325/4410939
Email: nepaloffice@reprorights.org