



EnGendeRights, Inc.
Asserting Gender Equality

Policy Brief



Access to Safe and Legal Abortion and Post-Abortion
Care Can Save Filipino Women's Lives

This paper was supported through funds received by the Philippine Safe Abortion Advocacy Network (PINSAN).



EnGendeRights, Inc. Publication
December 2016

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Acknowledgments

The author gratefully acknowledges inputs and assistance from colleagues at EnGendeRights and PINSAN, particularly Anita Visbal, Program Coordinator of EnGendeRights. The Policy Brief is an expanded version of previous works of Clara Rita Padilla including the article which came out in the Ateneo Law Journal entitled, “A Call for Philippine Implementation of Women’s Rights under CEDAW” (53 ATENEO Law Journal 765-803, 2008), and the May 2016 Position Paper of EnGendeRights et al. submitted to the Commission on Human Rights which was edited by Dr. Florence M. Tadiar, Princess Nemenzo and other members of PINSAN. The final text including errors or omissions is the sole responsibility of EnGendeRights.



Access to Safe and Legal Abortion and Post-Abortion Care Can Save Filipino Women's Lives

No woman should die from complications from unsafe abortion. Ensuring access to safe and legal abortion and quality post-abortion care will save Filipino women's lives and prevent disabilities from unsafe abortion complications.

I. IMPACT OF LACK OF ACCESS TO SAFE AND LEGAL ABORTION AND QUALITY POST-ABORTION CARE

Women die or are hospitalized due to lack of access to safe and legal abortion and quality post-abortion care

Abortion is common in the Philippines. The latest available Philippine data on abortion reflects an estimated 610,000 induced abortions, over 100,000 hospitalizations,¹ and 1000 deaths of women due to abortion-related complications each year.²

- 3 women die every day from unsafe abortion complications³
- 11 women are hospitalized every hour⁴
- 70 women induce abortion every hour⁵

The Philippine penal law on abortion is one of the most restrictive in the world—penalizing the woman who undergoes abortion and the person assisting the woman without providing clear exceptions even when the woman's life or health is in danger, the pregnancy is the result of rape or incest, or fetal impairment.⁶ While a liberal interpretation of the law would allow therapeutic abortion to save a woman's life and other justifiable grounds such as rape, incest, and fetal impairment and although Philippine laws allow access to humane, nonjudgmental, compassionate post-abortion care,⁷ abortion is highly stigmatized. Hence, hundreds of thousands of Filipino women risk their health and lives by inducing abortion in clandestine and unsafe conditions resulting in deaths and disabilities.

These deaths and disabilities could be prevented through access to sexuality education, modern contraceptives, and the provision of safe and legal induced abortion and quality post-abortion care for abortion complications.⁸

Unsafe abortion has long been recognized globally as one of the causes of maternal mortality and morbidity. In 2000, an estimated 12% of maternal deaths in the Philippines were due to unsafe abortion.⁹ About 8% of all maternal deaths in the world are due to unsafe abortion,¹⁰ hence, the strong movement around the world to provide access to safe and legal abortion.



High unintended pregnancies and lack of access to safe and legal abortion lead to high maternal mortality and morbidity due to unsafe abortion complications

- Nearly three in ten births are either unwanted or mistimed¹¹
- One in ten adolescent women aged 15-19 years old are pregnant with their first child or are already mothers¹²
- The number of young mothers aged 15-19 has more than doubled in the last decade¹³

There is still a low number of women who use modern contraceptives with only about four out of every ten women aged 15-49 using modern contraceptives.¹⁴ Owing to lack of access to contraceptive information, services, and supplies, poor, rural, and young¹⁵ women are likely to experience unintended pregnancy and resort to unsafe abortion procedures.¹⁶

As a result of this dismal reproductive health state of Filipino women and the restrictive abortion law, there is a high rate of women with unintended pregnancies who undergo clandestine and unsafe abortion¹⁷--about one in every ten pregnant women in the National Capital Region¹⁸ and about one in every 20 pregnant women nationwide induce abortion.¹⁹

While modern contraceptives can reduce unintended pregnancies and abortion to some extent, it will not eliminate the need for abortion as modern contraceptives still have failure rates--although minimal—and many women and girls do not have access to contraceptive information, supplies, and services while other women and girls become pregnant as a result of rape and incest.

Reasons why the common Filipino woman induce abortion

The women who induce abortion are similar to the majority of the Filipino women—poor,²⁰ Roman Catholic, married,²¹ with at least three children,²² and have at least a high school education.²³ The following reasons were cited by the women for undergoing abortion:

Economic: inability to afford the cost of raising a child or an additional child (cited by three in four women);

Economic/too soon: they already have enough children or their pregnancy came too soon after their last birth (cited by more than half of the women);

Health: their pregnancy would endanger their health (nearly one-third of women);

Pregnancy not supported by Partner/Family: believed their partner or another family member did not want or support the pregnancy (cited by one-third of women);

Rape: pregnancy as a result of forced sex (cited by 13% of women)²⁴

Poor women comprise two-thirds of those who induce abortion,²⁵ using riskier abortion methods, thus disproportionately experiencing severe complications.²⁶



Denying safe and legal abortion for rape victims is torture and clearly discriminates against women

A Filipino woman or girl is raped every 58 minutes.²⁷ In 2015, the Philippine National Police recorded 9,056 women and girls reported they were raped.²⁸ This is alarming, yet this may just be the tip of the iceberg as these numbers only refer to rape victims who reported to the police.

One of the glaring consequences of rape is unwanted pregnancy. Some women and girls who became pregnant resulting from rape were forced to resort to clandestine and unsafe abortions to end their unwanted pregnancies while others have tried to commit suicide.²⁹ The 2004 national survey on abortion showed 13% --or roughly one in ten--of women who had an abortion were rape victims.³⁰

In August 2016, Maria, not her real name, a Filipino 21-year old rape victim with dwarfism condition became pregnant as a result of the rape. Due to her risky childbirth as a consequence of her dwarfism condition, Maria experienced childbirth complications and died a day after giving birth. Her mother lamented that her daughter might be alive today had her daughter been able access to safe and legal abortion.³¹

When one's daughter, sister, wife or mother becomes pregnant as a result of rape, one might start to entertain seeking access to safe and legal abortion, however, even rape victims are not expressly allowed by Philippine law to undergo abortion. A 10-year old girl who became pregnant after being raped by her own father would be forced to carry her pregnancy to term.

This is injustice and clearly discriminates against women and girls who are victims of rape and incest.

Denying safe and legal abortion for therapeutic reasons places women's health and lives at risk

One-third of the women who induced abortion cited health reasons for inducing abortion.³² There are many reasons why a woman might want to induce abortion as her pregnancy and childbirth itself could lead to her death and disability.

The World Health Organization (WHO) found that 73% of all maternal deaths were due to direct obstetric causes:

- Hemorrhage (27.1%)
- Hypertensive disorders (14%)
- Sepsis (10.7%)
- Unsafe Abortion (7.9%)
- Embolism (3.2%)
- All other direct causes of death (9.6%).³³



Other risky pregnancies that can lead to the death or disability of women are due to the following:

- less than 18 or greater than 35 years of age
- less than 4'9" in height
- having a fourth or more child
- one or more of the following: 3 consecutive miscarriages or stillborn baby, post-partum hemorrhage (PPH)
- one or more of the following medical conditions: tuberculosis, heart disease, diabetes, bronchial asthma, goiter³⁴

A woman may also have other conditions that have been found to have caused maternal death, including in particular HIV,³⁵ malaria, severe anemia, malnutrition, and violence against women.³⁶

Many of the conditions mentioned above are common to Filipino pregnant women and girls (e.g., hypertensive; less than 18 or greater than 35 years old; less than 4'9" in height; having a fourth or more child; with tuberculosis, heart disease, diabetes, bronchial asthma, goiter, HIV, malaria, severe anemia, malnutrition; a victim of violence against women). A woman may also have suffered a previous PPH and may want to induce abortion to avoid risk to her health and life due to PPH.

Moreover, although interventions exist to prevent these maternal deaths and address the pre-existing health concerns of women, the services and information regarding the health services may not be accessible to poor, rural, and young women.

II. DENIAL OF ACCESS TO SAFE AND LEGAL ABORTION AND QUALITY POST-ABORTION CARE ARE PUBLIC HEALTH ISSUES

Denying access to safe and legal abortion and quality post-abortion care are public health issues given the vast numbers of women and their families affected, the health care costs to treat complications from unsafe abortion, and the grave consequences to the health and lives of women and their families.

The high number of women dying from abortion complications, i.e., three women a day, contributes to the country's high maternal mortality rate. In the 2004 study, out of all the women who induced abortion, more than 80% experienced a complication and more than one-third experienced a severe complication.³⁷ Nearly one out of every four of the 2,039 hospitals included in the abortion incidence study recorded abortion--induced and spontaneous--as among the top ten causes for admission in 2000.³⁸

Treating complications from unsafe abortion is estimated to cost health systems ten times more than induced safe abortion services offered in primary care, burdening the country's limited health system resources.



Women's rights are violated when they are denied access to quality post-abortion care

Women with complications from unsafe abortion are in need of emergency medical care and, if post-abortion care is delayed or not administered, mild complications may become more serious and lead to long-term health problems.³⁹ Yet, women are frequently denied access to humane, nonjudgmental, compassionate post-abortion care.⁴⁰ Women suffering abortion complications often face humiliation and are commonly threatened with arrest and prosecution at health care facilities.⁴¹ Instead of receiving emergency medical treatment, these women are treated as criminals rather than as patients.

Many women suffering complications due to spontaneous abortion, abortion due to trauma from intimate partner violence, and even fetal death have also been denied access to humane, nonjudgmental, compassionate post-abortion care and were threatened with criminal prosecution.⁴²

Many women and girls are denied access life-saving post-abortion care despite the clear provisions of the following laws to provide post-abortion care:

- Magna Carta of Women (Republic Act 9710): manage pregnancy-related complications
- Responsible Parenthood and Reproductive Health Law (RH Law or Republic Act 10354): to provide humane, nonjudgmental, and compassionate post-abortion care
- Republic Act 8344: imposing penalties on health care providers, officials, employees of hospitals or clinics for failing to stabilize emergency cases⁴³

Providing access to quality and timely post-abortion care will save women's lives and reduce disabilities from unsafe abortion complications.

Social cost of unintended pregnancies and maternal mortality due to unsafe abortion

There is an estimated nine living children who will lose their mothers every day due to maternal mortality resulting from complications from unsafe abortion.⁴⁴ It has been found that many children who lose their mothers receive less health care⁴⁵ and education, are likely to have serious health problems, and are more likely to die.⁴⁶

About two babies are reported abandoned every day.⁴⁷ Reasons for abandoning babies could include unintended pregnancies resulting from rape, poor women and their families cannot afford to raise another child, and young women who are unprepared to raise a child. Although anti-choice groups say that adoption for unwanted pregnancies is an option, the reality is that most children in orphanages are not adopted.⁴⁸ In one orphanage, the house parent said that 98% of the children are not adopted because most children were born as a result of incest rape with the fathers as perpetrators.⁴⁹



Women in developing countries like the Philippines are at risk from unsafe abortion

Ninety-eight percent of unsafe abortions are in developing countries.⁵⁰ In countries like the Philippines where induced abortion is legally restricted and unavailable, safe abortion is frequently the privilege of the rich, while poor women often resort to unsafe providers, causing deaths and morbidities.⁵¹ In comparison, in almost all developed countries, safe and legal abortion is available upon request or under broad social and economic grounds, with services generally accessible and available.⁵²

III. SPANISH COLONIAL LAW ON ABORTION ENDANGERS WOMEN'S HEALTH AND LIVES

Restrictive laws do not stop women from having abortions

The illegality of abortion has not stopped women from making personal decisions to terminate their pregnancies, it merely drives women to resort to clandestine and unsafe abortion methods unnecessarily endangering their health and lives. The restrictive abortion law has also been used by health providers to unlawfully deny post-abortion care to women and to threaten women with prosecution.

Due to the restrictive abortion law and stigma, women suffering abortion complications do not seek medical attention, they delay medical care--sometimes until they are in danger of dying--for fear of being arrested, or they are forced to leave the health facilities without undergoing necessary emergency treatment when they are subjected by certain health care providers to humiliation and threats of arrest and prosecution.⁵³

As long as abortion remains illegal, women will be hospitalized and die from unsafe abortion complications. Due to the stigma related to abortion brought about by the continued implementation of an archaic colonial Spanish law and the imposition of religious beliefs on others, women will continue to suffer violations to their rights to health and life.

The Philippine restrictive abortion law is an archaic colonial penal law

The Philippine criminal law on abortion is an outdated colonial law that violates the rights to health and life of Filipino women.

This Philippine penal provision was directly translated into English from the old Spanish Penal Code of 1870 that used to criminalize abortion—during the time of the Spanish friars and at the time when the Philippines was under the colonial rule of Spain. Without knowing the full consequences of such a harsh and restrictive law, our congress adopted the criminal provision in our Revised Penal Code of 1930. At the time the law was adopted, Filipino women did not even have the right to vote and the international bill of human rights and core international human rights treaties have not yet been adopted. These international instruments were adopted and took force and effect much later--Universal Declaration of Human Rights (1948), International



Covenant on Civil and Political Rights (ICCPR, adopted in 1966, took effect in 1976), the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966, 1976), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979, 1981), Convention Against Torture (CAT, 1984, 1987), and Convention on the Rights of the Child (CRC, 1989, 1990).

Allowing outmoded colonial penal laws on abortion in Philippine law makes us all complicit to the estimated three women who die each day from unsafe abortion complications. Letting such colonial law prevail in our society breeds hatred and hostility towards Filipino women who resort to unsafe abortion methods. Our laws should never countenance such discriminatory laws against women.

IV. LIBERALIZATION OF ABORTION LAWS SAVES WOMEN'S LIVES

In countries where abortion was made legal, maternal deaths caused by complications from unsafe abortion drastically declined such as in Romania dropping from 142 deaths per 100,000 live births in 1989 to below 50 per 100,000 live births in the year it was made legal in 1999⁵⁴ and Guyana where hospital admissions for septic and incomplete abortion in a capital city hospital declined by 41% the year it was made legal in 1995.⁵⁵

The global trend to recognize women's right to reproductive self-determination and liberalize abortion law

About 85% of the countries around the world allow abortion on express grounds.⁵⁶ In the last two decades, over 30 countries have liberalized their abortion laws.⁵⁷

Asian countries such as Cambodia, China, Nepal, Singapore, and Vietnam have liberal abortion laws while Bhutan, Fiji, Indonesia, Iran, Japan, Malaysia, and Thailand have recently liberalized their laws to allow abortion on certain grounds.⁵⁸ Timor-Leste, a predominantly Catholic country, allows abortion to save a woman's life.⁵⁹

Predominantly Catholic countries have liberalized their laws on abortion

Predominantly Catholic countries have liberalized their laws on abortion including Spain⁶⁰ in 2010 with Prime Minister Zapatero at the helm of legalizing abortion on request during the first 14 weeks of the pregnancy and thereafter on specific grounds and countries such as Belgium, France, and Italy allow abortion upon a woman's request;⁶¹ Poland allows abortion to protect a woman's life and physical health and in cases of rape, incest, and fetal impairment;⁶² Hungary allows abortion up to 12 weeks of gestation;⁶³ Portugal allows abortion up to 10 weeks of gestation;⁶⁴ Brazil and Ireland on certain grounds.⁶⁵



Almost all former Spanish colonies have liberalized their laws on abortion

Almost all former Spanish colonies, mostly with predominant Catholic populations, have liberalized their laws on abortion such as Argentina, Bahamas, Bolivia, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Jamaica, Mexico, Panama, Paraguay, Peru, Puerto Rico, Trinidad and Tobago, Uruguay, and Venezuela, allowing abortion on certain grounds leaving the Philippines to contend with its antiquated colonial Spanish law.⁶⁶ Mexico City, a predominantly Catholic city, even provides safe and legal abortion for free.⁶⁷

Chile may soon pass a law—first introduced by President Michelle Bachelet in January 2015--allowing abortion on certain grounds as it is now awaiting the Senate's approval before leading to President Bachelet's signature. The proposed bill allows abortion in cases of life-endangerment, rape, and fatal fetal impairments.⁶⁸ This leaves the Philippines as one of a handful of countries worldwide which continue to penalize their women and adolescent girls for having an abortion.

V. THE PHILIPPINE CONSTITUTION ALLOWS ACCESS TO SAFE AND LEGAL ABORTION

A. Prenatal protection is not absolute; prenatal protection does not undermine women's right to health, life, privacy, religion, equality, and equal protection of the law

The Philippine Constitution provides that “[t]he State shall equally protect the life of the mother and the life of the unborn from conception.”⁶⁹ This provision has no counterpart in the 1935 and 1973 constitutions. Although the provision equally protects the life of the woman and the unborn from conception, the Philippine Constitution does not explicitly prohibit abortion.

The congressional deliberations as well as the other provisions of the Constitution confirm that while the equal protection of the life of the woman and the unborn from conception provide prenatal protection, it does not provide the unborn an absolute prenatal right to life and was not intended to abrogate women's rights to health, life, privacy, religion, equality, and equal protection of the law under the Bill of Rights.

It is clear from the drafting history of Section 12 that any prenatal protection would yield to the fundamental rights of born persons.⁷⁰ Furthermore, Section 12 cannot be interpreted in a way that conflicts with the implementation of other State principles and policies set forth in Article II such as Section 15 on the State's duty to protect and promote health and Section 14 on the State's recognition of “the role of women in nation-building” and “the fundamental equality before law of women and men.”⁷¹



The right to safe and legal abortion is guaranteed under the constitutional rights to health, life, privacy, religion, equality, and equal protection of the law.

**B. Legal personality only attaches upon birth;
the fetus and embryos are not accorded the same
legal protection as a person who is born**

It is not necessary to address the question of when human life begins since what is recognized in law is that human personhood begins with birth,⁷² hence, the unborn is not placed exactly on the same level as the life of the woman and is not accorded with the same rights and protection as legal persons. It is recognized in Philippine and comparative jurisprudence and international law that the embryos and fetus are not on equal footing with the rights of a woman.

The embryo and fetus do not have human personality. Article 41 of the Civil Code defines legal persons. Under Article 41 of the Civil Code, a fetus must be born alive (completely delivered from the mother's womb) to be considered a person endowed with legal personality, as follows:

“Article 41. For civil purposes, the fetus is considered born if it is alive at the time it is completely delivered from the mother's womb. However, if the fetus had an intra-uterine life of less than seven months, it is not deemed born if it dies within twenty-four hours after its complete delivery from the maternal womb.”

In the case of *Geluz vs. Court of Appeals*,⁷³ the Philippine Supreme Court held as early as 1961 that the husband of a woman who voluntarily procured her abortion was not entitled to damages from the physician who performed the procedure since the fetus was not yet born and thus does not have civil personality under Article 40 of the Civil Code. The Supreme Court held that a child should be born before the parents can recover damages since personal injury or death pertains primarily to the one injured. The Supreme Court even went further to state that that abortion is justified when there is a medical necessity to warrant it.⁷⁴

Comparative jurisprudence ruling that the fetus is not accorded the same legal protection as a person who is born:

In the 1991 Canadian case of *R. v. Sullivan*, 1 S.C.R. 489, the Supreme Court held that a fetus in the birth canal is not a “person” or a “human being” for the purposes of criminal law and thus the midwives assisting in delivery at the time of death cannot be convicted of criminal negligence causing death to another person.⁷⁵

In the Canadian case of *Winnipeg Child and Family Services (NW Area) v. G.(D.F.)* (1997) 152 D.L.R. (4th) 304, the Supreme Court of Canada held that a pregnant woman addicted to drugs cannot be involuntarily detained in order to



prevent harm to her fetus as legal rights only accrue at birth and the *parens patriae* jurisdiction of the court does not apply to the fetus.⁷⁶

C. Other countries with Constitutional prenatal protection allow access to safe and legal abortion

Other countries with same constitutional protection of the life the unborn from conception allow abortion under certain exceptions such as Hungary, Costa Rica, South Africa, Ireland, Slovak Republic, Poland, and Kenya,⁷⁷ as follows:

Hungary enacted a new Constitution in 2011 protecting fetal and embryonic life from the moment of conception by declaring that, “[h]uman dignity shall be inviolable. Every human being shall have the right to life and human dignity; the life of the foetus shall be protected from the moment of conception.”⁷⁸ Despite this new constitutional provision, the Hungarian abortion law has not changed and still allows abortion up to 12 weeks of gestation,⁷⁹ and in cases where it is necessary to preserve the physical or mental health of the woman, rape or incest, the fetus is severely physically or mentally impaired or where the pregnancy poses a severe crisis for the pregnant woman.⁸⁰

Although the Constitution of Costa Rica provides that, “[h]uman life is inviolable,”⁸¹ the Costa Rican Penal Code permits abortion when necessary to preserve the life or health of the pregnant woman.⁸² In 2004, the Costa Rican case Tribunal Supremo de Costa Rica, Sentencia No. 2004-02792 held that notwithstanding the fact that the “unborn” enjoys protection, therapeutic abortion is permitted.⁸³

In the South African case of *Christian Lawyers Association of South Africa v. The Minister of Health*, Case No. 16291/97 (10 July 1998), a group sued the South African Minister of Health to declare a law unconstitutional based on section 11 of the 1996 Constitution providing that “everyone has the right to life”.⁸⁴ The Court ruled that “everyone” was a legal alternative expression to “every person,” and historically legal personhood commences only at live birth. The Court ruled that it was not necessary to address the claim on the biological beginning of human life, since it cannot be concluded that the human life that had begun was that of a legal person. The Court followed the observation that “the question is not whether the conceptus is human but whether it should be given the same legal protection as you and me.”

The Irish Constitution provides that “[t]he State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.”⁸⁵ The Irish Supreme Court ruled that the woman has a right to an abortion where the pregnancy poses a risk to her life.⁸⁶ Ireland enacted a law in 2013 recognizing that abortion may be performed when there is risk to the life of a pregnant woman.⁸⁷



The constitutionality of the Slovak abortion law was upheld by the Slovak Constitutional Court when it interpreted the Constitutional provision--“Everyone has the right to life. Human life is worthy of protection even prior to birth.” The Court found that granting the right to life to a fetus would directly contradict women’s constitutional rights to health and privacy.⁸⁸

Despite the Polish Constitution provision stating that the government shall “...ensure the legal protection of the life of every human being,”⁸⁹ in 1993, Poland amended its law and allowed abortions in cases of serious threat to the life or health of the pregnant woman, rape or incest, and prenatal tests indicate that the fetus is seriously and irreversibly damaged.⁹⁰ The amended law even provides that “[e]very human being shall have a natural right to life from the time of his conception.”⁹¹

Although the Kenyan Constitution provides that “[t]he life of a person begins at conception,”⁹² Kenyan law allows abortion when “...in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law.”⁹³

When a Colombian citizen challenged the former abortion law that outlawed the procedure in all circumstances in April 2005,⁹⁴ the Colombian Constitutional Court issued a decision in 2006 liberalizing its abortion law by upholding that there is no Constitutional right to life before birth⁹⁵ and allowed abortion under three circumstances: when the life or health (physical or mental) of the woman is in danger; when pregnancy is a result of rape or incest; or when grave fetal malformations make life outside the uterus unviable.⁹⁶ Before the ruling, Colombia had one of the most restrictive abortion laws in the world with over 350,000 illegal abortions performed annually. The Court ruled that:

“when the legislature enacts criminal laws, it cannot ignore that a woman is a human being entitled to dignity and that she must be treated as such, as opposed to being treated as a reproductive instrument for the human race. The legislature must not impose the role of procreator on a woman against her will.”

D. Regional human rights jurisprudence ruling that the right to life of the fetus is not absolute

D.1. European Convention on Human Rights

The European Convention on Human Rights asserts in Article 2 that “[e]veryone’s right to life shall be protected by the law.”⁹⁷ Two key cases ruled that “everyone” does not include the unborn.



In its decision in *Paton v. United Kingdom*, the European Commission on Human Rights holistically looked at the meaning “everyone’s” in the European Convention and determined that life was mostly regarded in the postnatal context, as seen in Articles 1, 5, 6, 8, 9, 10, 11, and 13 of the Convention.⁹⁸

The European Court of Human Rights in *Vo v. France* clearly distinguished that “everyone” does not extend absolutely to the unborn. Moreover, the “right to life” explicitly considers the health of a mother, especially if her life is in jeopardy. The court, in issuing its ruling, upheld the validity of laws allowing abortion in the 39 member states of the Council of Europe.⁹⁹ Paragraph 80 of the Court’s decision states:

“[T]he unborn child is not regarded as a ‘person’ directly protected by Article 2 of the Convention and that if the unborn do have a ‘right’ to ‘life’, it is implicitly limited by the mother’s rights and interests.”¹⁰⁰

D.2. American Convention on Human Rights

Article 4 of the American Convention on Human Rights, an international instrument interpreted and implemented by Inter-American Court of Human Rights and the Inter-American Commission on Human Rights states, “Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception.”¹⁰¹ Despite this prenatal protection, the Inter-American Commission has ruled that the right to life of the unborn is not absolute:

In *Baby Boy v. United States* and in the case of “Amelia” in Nicaragua, the Inter-American Commission decided that the right to life of the unborn is not absolute, particularly in circumstances when the woman is need of life-saving care.¹⁰²

D.3. African Charter on Human and Peoples’ Rights

The drafters of the African Charter likewise refused to extend the right to life from the moment of conception.¹⁰³

Hence, Article 4 of the Charter affirms, “Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person.”¹⁰⁴ On September 13, 2000, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa was adopted and put into force on November 25, 2005. This document puts the right to health of a woman at the forefront as **Article 14 prioritizes reproductive health**. This substantial portion of the Charter entreats member states to respect a woman’s right to



control her fertility, to promote her right to choose any method of contraception, and even to **authorize “medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus.”**¹⁰⁵ Such strong and explicit language concerning the woman’s right to health and the absence of the unborn’s right to life in the African Charter illustrate the gravity of importance placed upon female reproductive rights. [emphasis supplied]

VI. CONSTITUTIONAL GUARANTEES UPHOLD RIGHT TO ACCESS SAFE AND LEGAL ABORTION

A. Constitutional Protection on Separation of Church and State and Non-Establishment of Religion

The 1987 Philippine Constitution guarantees secularism through the principle of separation of church and state under Article II, Section 6:¹⁰⁶

“SECTION 6. The separation of Church and State shall be inviolable.”

The principle of separation of church and state guards against the views of a dominant church from influencing the conduct of government and influencing policies to cater to a specific dominant church.¹⁰⁷

While the Constitution guarantees freedom of religion, it also guarantees non-establishment of religion under Article III, Section 5 of the Constitution:

“SECTION 5. No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. Xxx”

This non-establishment clause principally prohibits the state from sponsoring any religion, or favoring any religion as against other religions.¹⁰⁸ It mandates “government neutrality in religious matters...and avoid breeding interfaith dissension,” as held in the case of *Estrada v. Escritor*.¹⁰⁹ It also means neutrality between religion and atheism, or of an individual’s decision in regard to the supernatural or spiritual, or not at all.¹¹⁰

In the case of *Ang Ladlad vs. Comelec*,¹¹¹ the Supreme Court held:

“At bottom, what our non-establishment clause calls for is ‘government neutrality in religious matters.’ Clearly, ‘governmental reliance on religious justification is inconsistent with this policy of neutrality.’ We thus find that it was grave violation of the non-establishment clause for the COMELEC to utilize the Bible and the Koran to justify the exclusion of *Ang Ladlad*.”¹¹²



Religious beliefs should not be used as basis for our laws and policies as doing so would aid a specific religion and violate the guarantee of non-establishment of religion and infringe on the right to freedom of religion.

The Philippine government must uphold the constitutional guarantees of separation of church and state and non-establishment of religion. Maintaining the illegality of abortion would violate the principle of separation of church and state and would be tantamount to establishment of religion—allowing certain religious groups to influence our laws, governance, and impose their beliefs on the entire Philippine population.

B. Secular Standards

As has been held by the Supreme Court in the *Estrada vs. Escritor*¹¹³ and *Ang Ladlad vs. Comelec*¹¹⁴ cases, our laws and system of governance should be based on secular morality and not religious morality. In the case of *Estrada v. Escritor*,¹¹⁵ the Supreme Court ruled:

"[W]hen the law speaks of 'immorality' in the Civil Service Law or 'immoral' in the Code of Professional Responsibility for lawyers, or 'public morals' in the Revised Penal Code, or 'morals' in the New Civil Code, or 'moral character' in the Constitution, **the distinction between public and secular morality on the one hand, and religious morality, on the other, should be kept in mind. The morality referred to in the law is public and necessarily secular, not religious** as the dissent of Mr. Justice Carpio holds. 'Religious teachings as expressed in public debate may influence the civil public order but public moral disputes may be resolved only on grounds articulable in secular terms'." [Emphasis supplied]

C. The Right to Privacy in Personal Decisions Relating to Marriage, Procreation, Contraception, Abortion, Sexual and Family Relationships, Child Rearing, Education, and Medical Care

The constitutionally protected right to privacy covers matters related to marriage, procreation, contraception, abortion, sexual and family relationships, child rearing, education, and decisions about medical care, among others.

In the 1965 United States Supreme Court case of *Griswold v. Connecticut*,¹¹⁶ the appellants were arrested pursuant to Connecticut state statutes that prohibited using contraception, and penalized aiding and abetting the use of said contraception.¹¹⁷ The appellants were charged with having violated these statutes by distributing "information, instruction, and medical advice to married persons as to the means of preventing conception."¹¹⁸ Justice Douglas, writing for the majority, found that, **although there was no specifically guaranteed right to privacy guaranteed by the American Bill of Rights, the existing protections**



have penumbras of privacy emanating from them where privacy is protected from governmental intrusion.¹¹⁹ The Supreme Court invalidated the state laws prohibiting the use of contraceptives under the right to privacy of a married couple.

In the 1972 US Supreme Court case of *Eisenstadt v. Baird*, the appellee William Baird attacked his conviction for violating a Massachusetts law for giving a woman contraceptive foam at the close of his lecture to students on contraception. The law made it a felony for anyone to give away a drug, medicine, instrument, or article for the prevention of conception except in the case of (1) a registered physician administering or prescribing it for a married person or (2) an active registered pharmacist furnishing it to a married person presenting a registered physician's prescription. The Supreme Court invalidated the law prohibiting the distribution of contraceptives to unmarried persons under the Equal Protection Clause, holding that "whatever the rights of the individual to access to contraceptives may be, the rights must be the same for the unmarried and the married alike." The Supreme Court held:

“X x x If the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.”

In the 1977 case of *Carey v. Population Services International*,¹²⁰ the Supreme Court declared unconstitutional a New York statute prohibiting sale or distribution of contraceptives to a minor under 16; for anyone other than a licensed pharmacist to distribute contraceptives to persons 16 or over; and for anyone, including licensed pharmacists, to advertise or display contraceptives. The Supreme Court held:

“Although “[t]he Constitution does not explicitly mention any right of privacy,” the Court has recognized that one aspect of the “liberty” protected by the Due Process Clause of the Fourteenth Amendment is “a right of personal privacy, or a guarantee of certain areas or zones of privacy.” *Roe v. Wade*, 410 U.S. 113, 152 (1973). This right of personal privacy includes “the interest in independence in making certain kinds of important decisions.” *Whalen v. Roe*, 429 U.S. 589, 599 -600 (1977). While the outer limits of this aspect of privacy have not been marked by the Court, it is clear that among [431 U.S. 678, 685] the decisions that an individual may make without unjustified government interference are personal decisions “relating to marriage, *Loving v. Virginia*, 388 U.S. 1, 12 (1967); procreation, *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 541 -542 (1942); contraception, *Eisenstadt v. Baird*, 405 U.S., at 453 -454; *id.*, at 460, 463-465 (WHITE, J., concurring in result); family relationships, *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944); and child rearing and education, *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925); *Meyer v. Nebraska*, [262 U.S. 390, 399 (1923)].” *Roe v.*



Wade, supra, at 152-153. See also Cleveland Board of Education v. LaFleur, 414 U.S. 632, 639 -640 (1974).

The decision whether or not to beget or bear a child is at the very heart of this cluster of constitutionally protected choices. That decision holds a particularly important place in the history of the right of privacy, a right first explicitly recognized in an opinion holding unconstitutional a statute prohibiting the use of contraceptives, Griswold v. Connecticut, supra, and most prominently vindicated in recent years in the contexts of contraception, Griswold v. Connecticut, supra; Eisenstadt v. Baird, supra; and abortion, Roe v. Wade, supra; Doe v. Bolton, 410 U.S. 179 (1973); Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976). [Emphasis supplied]

III.

X x x Eisenstadt v. Baird, holding that the protection is not limited to married couples, characterized the protected right as the "decision whether to bear or beget a child." 405 U.S., at 453 (emphasis added). Similarly, Roe v. Wade, held that the Constitution protects "a woman's decision whether or not to terminate her pregnancy." 410 U.S., at 153 (emphasis added). See also Whalen v. Roe, supra, at 599-600, and n. 26. These decisions put Griswold in proper perspective. Griswold may no longer be read as holding only that a State may not prohibit a married couple's use of contraceptives. **Read in light of its progeny, the teaching of Griswold is that the Constitution protects individual decisions in matters of childbearing from unjustified intrusion by the State."**

In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 US833, the Court stated that it is **"a promise of the Constitution that there is a realm of personal liberty which the government may not enter."** The **"Constitution places limits on a State's right to interfere with a person's most basic decisions about family and parenthood."**¹²¹ The Court recognized that **"[o]ur obligation is to define the liberty of all not to mandate our own moral code."**¹²²

In U.S. jurisprudence, the right to privacy has also been extended to cases involving sexual privacy. Under *Lawrence v. Texas*, for instance, the court held that it is unconstitutional to prohibit homosexual sex, because it is private, consensual conduct.¹²³

In the United Kingdom case of *Smeaton v. Secretary of State for Health*, the court ruled that:

"Government's responsibility is to ensure the medical and pharmaceutical safety of products offered in the market place and the appropriate provision of suitable guidance and advice. Beyond that, as it seems to me, in this as



in other areas of medical ethics, **respect for the personal autonomy which our law has now come to recognize demands that the choice be left to the individual.** x x x”¹²⁴

Lawrence v. Texas and *Carey v. Population Services International* were mentioned in Justice Puno's concurrence in *Ang Ladlad v. COMELEC*¹²⁵ on the issue of privacy rights including the right to form intimate sexual relationships, as follows:

Only the most willful blindness could obscure the fact that **sexual intimacy** is “a sensitive, **key relationship of human existence, central to family life, community welfare, and the development of human personality**[.]”[emphasis supplied]

VII. International Standards and Philippine International Obligations

International Standards

As early as 2003, the World Health Organization (WHO) issued its “Safe Abortion: Technical and Policy Guidance for Health Systems” (WHO Safe Abortion Guidance). In 2012, the updated version of the WHO Safe Abortion Guidance was released setting forth clinical and policy guidance and international human rights standards on abortion.¹²⁶ The WHO highlighted that the removal of legal restrictions on abortion results in reduced maternal mortality due to unsafe abortion complications and an overall reduction of maternal mortality.¹²⁷

Philippine International Obligations

The Committee on the Elimination of Discrimination against Women (CEDAW Committee), the United Nations (UN) treaty monitoring body tasked to monitor a state's compliance with CEDAW, stated that “barriers to women's access to appropriate health care include laws that criminalize medical procedures only needed by women and that punish women who undergo those procedures”¹²⁸ and has recommended that State parties remove punitive provisions imposed on women who undergo abortion.¹²⁹ It has recognized that restrictive abortion laws result in a violation of women's right to life¹³⁰ and has emphasized the vital link between illegal, unsafe abortion, and high rates of maternal mortality¹³¹ and consistently pointed out that lack of access to contraceptive methods and family planning services, as well as restrictive abortion laws, tend to coincide with the prevalence of unsafe abortions that contributes to high rates of maternal mortality.¹³²

Other treaty monitoring bodies such as the Human Rights Committee and the Committee on the Rights of the Child have regarded high maternal mortality rates resulting from unsafe abortion as a violation of women's rights to health and life.¹³³

The UN treaty monitoring bodies have recommended to the Philippines to allow abortion on various grounds and ensure access to safe and legal abortion and post-abortion care to reduce maternal mortality and morbidity.



A. CEDAW Committee

In its August 2006 Concluding Comments on the Philippines, the CEDAW Committee recommended for the Philippines as a State party to consider the problem of unsafe abortion as a matter of high priority and

“consider reviewing the laws relating to abortion with a view to removing punitive provisions imposed on women who undergo abortion and provide them with access to quality services for the management of complications arising from unsafe abortions and to reduce women’s maternal mortality rates in line with the Committee’s general recommendation 24 on women and health and the Beijing Platform for Action.”¹³⁴

In May 2015, the CEDAW Committee released its report on its inquiry¹³⁵ on reproductive rights and recommended the following to the Philippine government:

- provide women access to quality post-abortion care in all public health facilities including by reintroducing misoprostol to reduce maternal mortality and morbidity rates¹³⁶
- ensure that women experiencing abortion-related complications are not reported to law enforcement authorities, threatened with arrest, or subjected to physical or verbal abuse, discrimination, stigma, delays in access to or denial of care¹³⁷
- amend articles 256 to 259 of the Revised Penal Code to “legalize abortion in cases of rape, incest, threats to the life and/or health of the mother, or serious malformation of the foetus and decriminalize all other cases where women undergo abortion, as well as adopt necessary procedural rules to guarantee effective access to legal abortion.”¹³⁸

In the 2016 CEDAW Committee Concluding Observations, the CEDAW Committee recommended for the Philippines to “fully implement, without delay, all the recommendations issued by the Committee in 2015 in the report on its inquiry,¹³⁹ including on access to modern contraceptives and legalization of abortion under certain circumstances.”

In 2009, the CEDAW Committee issued recommendations to Peru to decriminalize abortion for rape victims in relation to the LC vs Peru communication involving LC who was only 13 when she became pregnant after being sexually abused by a 34-year-old man.

B. Committee on Economic, Social, and Cultural Rights

In 2008, the Committee on Economic, Social, and Cultural Rights (CESCR Committee) urged the Philippines to “address, as a matter of priority, the problem of maternal deaths as a result of clandestine abortions, and consider reviewing its legislation criminalizing abortion in all circumstances.”



In 2016, the CESCR Committee¹⁴⁰ stated:

“51. The Committee is concerned that abortion is criminalized under any circumstance in the State party. That results in a growing number of unsafe abortions and very high maternal mortality rates, including among adolescents. The Committee is also concerned at the amendment to the Penal Code that provides for increased penalties for those practising abortions. x x x.

52. The Committee recommends that the State party take all measures necessary to reduce the incidence of unsafe abortion and maternal mortality, including by amending its legislation on the prohibition of abortion to legalize abortion in certain circumstances. X x x The Committee draws the attention of the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health.”

C. Human Rights Committee

In 2012, the Human Rights Committee stated:¹⁴¹

“13. The Committee regrets the absolute ban on abortions, which compels pregnant women to seek clandestine and harmful abortion services, and accounts for a significant number of maternal deaths. X x x

The State party should review its legislation with a view to making provision for exceptions to the prohibition of abortion, such as protection of life or health of the mother, and pregnancy resulting from rape or incest, in order to prevent women from having to seek clandestine harmful abortions. X x x”

In the communication *K. Llantoy v. Peru*¹⁴² filed with the Human Rights Committee, a 17-year old woman was prevented from terminating her risky pregnancy of an anencephalic fetus—a fetus with a partial brain.¹⁴³ In KL’s case, the fetus died five days after birth and KL fell into a deep depression.¹⁴⁴ The finding of the Human Rights Committee was: forcing her to carry her pregnancy to a term constituted cruel and inhuman treatment in violation of article 7 of the ICCPR,¹⁴⁵ violated her right to privacy under article 17;¹⁴⁶ and violated her right to receive the special care she required as an adolescent girl from the health system under article 24.¹⁴⁷ The State party was recommended to provide an effective remedy to the author, including compensation, and to adopt measures to prevent similar violations from occurring in the future.¹⁴⁸



D. Committee against Torture

In 2016, the Committee against Torture¹⁴⁹ stated:

“39. The Committee is concerned at the continuous absolute ban on abortions without exceptions and at incidents of ill-treatment of women seeking post-abortion or post- pregnancy treatment. X x x

40. **The State party should:**

X x x

(b) Review its legislation in order to allow for legal exceptions to the prohibition of abortions in specific circumstances 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 foetal impairment;

X x x

(d) Develop 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;

(e) Investigate, prevent and punish all incidents of ill-treatment of women seeking post-pregnancy care in government hospitals and provide effective legal remedies to victims.”

Not allowing abortion on broad and expressed grounds in the Philippines is a violation of our treaty obligations under CEDAW, ICESCR, ICCPR, CRC, and CAT. Having ratified these international conventions, the Philippines must fulfill its international treaty obligations to make abortion safe and legal.

VIII. The Philippines needs to urgently provide access to safe and legal abortion and timely access to quality post-abortion care

The Philippines must repeal its colonial law penalizing the women who induce abortion and the safe abortion providers assisting them and ensure access to safe and legal abortion and post-abortion care. The statistics show that the illegality of abortion has not deterred Filipino women from inducing abortion, rather it has only made it dangerous for women who undergo clandestine and unsafe abortion

Criminalization of abortion has created an extremely prohibitive environment leading to discriminatory and inhumane treatment of women seeking medical attention for post-abortion



complications and has led to increased maternal mortality and morbidity from clandestine and unsafe abortion complications.

Despite the lapse of the three-year period in 2012 as required by the Magna Carta of Women to amend discriminatory laws on women and the lapse of over a decade since the CEDAW Committee¹⁵⁰ issued its recommendation in 2006 for the Philippines to remove the punitive provisions on abortion imposed on women who induce abortion, the Philippine restrictive laws on abortion still persist to discriminate Filipino women.

The need to decriminalize abortion must be urgently addressed in light of the realities of unsafe abortion in the Philippines where current government efforts are even barring women from exercising their right to health services they badly need, i.e., the Department of Justice proposed criminal code increases penalties for abortion,¹⁵¹ previously filed bills that increase penalties for abortion, the one billion budget cut of the Department of Health intended for contraceptives, the August 2016 decision of the Supreme Court ordering the Food and Drugs Administration to conduct hearings on the 47 re-certified contraceptive drugs and devices including Implanon and Implanon NXT thereby continuing to impose its restraining order on these contraceptives and all pending applications for contraceptives which has been in place for over a year and a half since June 17, 2015.

Providing access to safe and legal abortion and post-abortion care, *inter alia*, will greatly lower maternal mortality and morbidity related to unsafe abortion and in meeting the country's commitment to the Sustainable Development Goals to decrease the maternal mortality ratio to two-thirds of 2010 levels under Target 3.¹⁵²

Recommended Revision of Philippine Abortion Law

The revision of the Philippine colonial abortion law can be through a specific law removing the penalties for the women inducing abortion and safe abortion providers assisting them or through a law or jurisprudence allowing abortion on broad grounds including upon request of the woman, in cases of rape, risks to the life and health of the woman, serious fetal impairment, and all other cases where women undergo abortion.

Conclusion

Access to safe and legal abortion and to quality post-abortion care are fundamental women's rights. The primary causes of mortality and morbidity from unsafe abortion complications are not blood loss, infection, uterine perforation, and acute renal failure, rather it is the indifference and contempt toward women who bear the brunt of the Philippine colonial law on abortion.

Public officials should heed the call of women and their families who are gravely affected by this serious public health issue. As true representatives of the Filipino people who clamor to uphold women's human rights, public officials must act based on reason, compassion, and conscience to respond to this serious and urgent public health and human rights issue.



Public officials must uphold secular standards in Philippine law, not religious standards and work towards women's access to safe and legal abortion and quality post-abortion care as a means to achieve women's rights to equality and non-discrimination and uphold women's right to health and life.



¹ Guttmacher Institute, Unintended Pregnancy and Induced Abortions in the Philippines: Causes and Consequences, In Brief, page 3, 2013, No. 3, available at <https://www.guttmacher.org/sites/default/files/pdfs/pubs/IB-unintended-pregnancy-philippines.pdf> [Guttmacher, Induced Abortions in the Philippines, In Brief, 2013].

² Guttmacher, Induced Abortions in the Philippines, In Brief, 2013; Guttmacher, Meeting Women's Contraceptive Needs in the Philippines, 1 In Brief 2 (2009) citing 2008 projections from 2000 statistics on abortion incidence in the Philippines [Guttmacher, Meeting Contraceptive Needs, In Brief, 2009].

³ Guttmacher, Meeting Contraceptive Needs, In Brief, 2009.

⁴ Guttmacher, Induced Abortions in the Philippines, In Brief, 2013.

⁵ *Id.*

⁶ REVISED PENAL CODE, arts. 258-59, penalized from 6 months 1 day to 6 years; See, Pacifico Agabin, The Legal Perspective on Abortion, J. OF REPROD. HEALTH, RTS. & ETHICS 2 (1995); The Midwifery Act, Medical Act and Pharmaceutical Act permit the revocation or suspension of the licenses of any practitioner who performs abortions or provides abortifacients.

⁷ The Responsible Parenthood and Reproductive Health Law (RPRH Law or Republic Act 10354) and Magna Carta of Women (RA 9710).

⁸ World Health Organization (WHO), Safe Abortion: technical and policy guidance for health systems, Second Edition, 2012 [WHO Safe Abortion Guidance, 2012]. The first WHO guidance was released in 2003.

⁹ Susheela Singh, et al., Unintended Pregnancy and Induced Abortion in the Philippines: Causes and Consequences, New York: Guttmacher Institute, 2006 *available at* <http://www.guttmacher.org/pubs/2006/08/08/PhilippinesUPIA.pdf> [Singh S et al, 2006].

¹⁰ WHO Global causes of maternal death: a WHO systematic analysis, May 2014 citing 2003-2009 global, regional, and subregional estimates of causes of maternal death with a novel method, updating the previous WHO systematic review.

¹¹ National Demographic and Health Survey, 2013 [NDHS 2013].

¹² This also translates to 57 per 1000 women aged 15-19 who are already mothers or are pregnant with their first child (NDHS 2013); birth rate is 59 per 1000 women aged 15-19 under the UNFPA 2015 State of the World Population.

¹³ 2013 Young Adult Fertility and Sexuality Study (YAFS4). From 6.3% in the 2002 survey to 13.6%.

¹⁴ NDHS 2013. Only 38% of women aged 15-49 using modern contraceptive methods.

¹⁵ Using United Nations definitions to describe different groups of young people: adolescents: 10- to 19-year-olds (early adolescence 10-14; late adolescence 15-19); youth: 15- to 24-year-olds; young people: 10- to 24-year-olds

¹⁶ Guttmacher, Induced Abortions in the Philippines, In Brief, 2013.

¹⁷ The Guttmacher Institute, Unintended Pregnancy and Unsafe Abortion in the Philippines (July 2013) available at <http://www.guttmacher.org/pubs/FB-UPUAP.html> [Guttmacher, Unsafe Abortion, Fact Sheet, 2013];

¹⁸ According to the 2009 Guttmacher report on the Philippines, over half of all pregnancies are unintended and one-third of these unintended pregnancies end in abortion in NCR (Guttmacher, In Brief, 2009). Nearly three in ten births are either unwanted or mistimed (NDHS 2013). Using the Guttmacher finding of one-third of these unwanted pregnancies result in abortion, there are 11 out of 100 women who induce abortion in NCR (11%) or about one out of every ten women who induce abortion in NCR.

¹⁹ According to the 2009 Guttmacher report on the Philippines, over half of all pregnancies are unintended and 17% of these unintended pregnancies end in abortion nationwide (Guttmacher, Meeting Contraceptive Needs, In Brief, 2009). Nearly three in ten births are either unwanted or mistimed (NDHS 2013). Using the Guttmacher finding of 17% of these unwanted pregnancies result in abortion, there is one out of every 18 women who induce abortion nationwide or about one out of every 20 women nationwide.

²⁰ NDHS 2013 cites the total of lowest and second to the lowest wealth quintile as composing 21.2% of urban and 57.4% of Philippine households.

²¹ According to the NDHS 2013, three out of five women aged 15 to 49 are married or living together with a man.

²² United Nations Population Fund (UNFPA) State of the World Population Report, 2015 cites the total fertility rate from 2010-2015 as 3; Actual total fertility rate is 3 children, NDHS 2013.

²³ Singh S et al, 2006; Two-thirds of those who induce abortion are poor; Guttmacher, Unsafe Abortion, Fact Sheet, 2013; NDHS 2013 cites 48.7 of urban women aged 15-49 had some high school education and completed high school education and cites 49.3 of rural women aged 15-49 had some high school education and completed high school education.



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- ²⁴ 2004 national survey; Singh S et al, 2006; Guttmacher, Induced Abortions in the Philippines, In Brief, 2013; Florence M. Tadiar, Abortion as a Public Health Issue, powerpoint presentation, August 2016 [Florence M. Tadiar, powerpoint, 2016].
- ²⁵ Singh S et al., 2006.
- ²⁶ Guttmacher, Unsafe Abortion, Fact Sheet, 2013.
- ²⁷ A total of 9,056 women and girls reported they were raped in 2015 with 2078 women, 6,978 children, Statistics from the Women and Children Protection Center (WCPC), PNP, 2015.
- ²⁸ *Id.*
- ²⁹ Women's Crisis Center, Feminist Action Research on Reproductive Health Needs and Concerns of VAW Survivors.
- ³⁰ Singh S et al., 2006.
- ³¹ Phone calls made in 2015 by the police officer handling the case and the mother of the deceased rape victim to Clara Rita Padilla, Executive Director of EnGendeRights.
- ³² 2004 national survey; Singh S et al., 2006; Guttmacher, Induced Abortions in the Philippines, In Brief, 2013.
- ³³ WHO Global causes of maternal death: a WHO systematic analysis, May 2014 citing 2003-2009 global, regional, and sub-regional estimates of causes of maternal death with a novel method, updating the previous WHO systematic review.
- ³⁴ Field Health Service Information System (FHSIS) 2011 and 2014.
- ³⁵ HIV and AIDS are considered to be the first cause of maternal death in South Africa.
- ³⁶ UNFPA report to the Office of the High Commissioner for Human Rights on the topic of Preventable Maternal Morbidity and Mortality and Human Rights for inclusion into the thematic study on the subject requested by the Human Rights Council Resolution 11/8 [UNFPA report to OHCHR].
- ³⁷ Singh S et al., 2006.
- ³⁸ Juarez F et al., The incidence of induced abortion in the Philippines: current level and recent trends, *International Family Planning Perspectives*, 2005, 31(3):140-149.
- ³⁹ Guttmacher, Induced Abortions in the Philippines, In Brief, 2013.
- ⁴⁰ Center for Reproductive Rights, *Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban (2010)* [Center for Reproductive Rights, Forsaken Lives, 2010].
- ⁴¹ Center for Reproductive Rights, *Forsaken Lives*, 2010.
- ⁴² EnGendeRights interviews from Quezon City and Caloocan residents, June 2016; Center for Reproductive Rights and EnGendeRights Focus Group Discussion on Post-Abortion Care, May 27, 2014.
- ⁴³ Penalties under RA 8344 on emergency or serious cases: SEC. 4. Any official, medical practitioner or employee of the hospital or medical clinic who violates the provisions of this Act shall, upon conviction by final judgment, be punished by imprisonment of not less than six (6) months and one (1) day but not more than two (2) years and four (4) months, or a fine of not less than Twenty thousand pesos (P20,000.00), but not more than One hundred thousand pesos (P100,000.00) or both, at the discretion of the court: Provided, however, That if such violation was committed pursuant to an established policy of the hospital or clinic or upon instruction of its management, the director or officer of such hospital or clinic responsible for the formulation and implementation of such policy shall, upon conviction by final judgment, suffer imprisonment of four (4) to six (6) years, or a fine of not less than One hundred thousand pesos (P100,000.00), but not more than Five hundred thousand pesos (P500,000.00) or both, at the discretion of the court.
- ⁴⁴ Three women die a day from abortion complications and most have at least three children. Also, the actual fertility rate is 3 children.
- ⁴⁵ Florence M. Tadiar, powerpoint, 2016.
- ⁴⁶ Family Care International and the Safe Motherhood Inter-Agency Group, *Maternal Health: a Vital Social and Economic Investment (1998)*, available at http://www.safemotherhood.org/facts_and_figures/good_maternal_health.htm.
- ⁴⁷ ABS-CBN, 100 kids abandoned every 2 months, available at <http://news.abs-cbn.com/nation/09/19/10/100-kids-abandoned-every-2-months>
- ⁴⁸ Reports from orphanages.
- ⁴⁹ An orphanage in the National Capital Region.
- ⁵⁰ Guttmacher, Facts on Induced Abortion Worldwide, In Brief, 2012.
- ⁵¹ WHO Safe Abortion Guidance, 2012.
- ⁵² *Id.*



⁵³ EnGendeRights interviews from Quezon City and Caloocan residents, June 2016; Center for Reproductive Rights and EnGendeRights Focus Group Discussion on Post-Abortion Care, May 27, 2014.

⁵⁴ Center for Reproductive Rights, *Safe Abortion: A Public Health Imperative* (2005) citing Guttmacher, *Sharing Responsibility: Women, Society and Abortion Worldwide* 38-39 (1999) [Center for Reproductive Rights, *Safe Abortion*, 2005].

⁵⁵ Center for Reproductive Rights, *Safe Abortion*, 2005.

⁵⁶ Center for Reproductive Rights, *World Map* (2017), available at <http://www.worldabortionlaws.com/map/>.

⁵⁷ Center for Reproductive Rights, *A Global View of Abortion Rights*, July 2014; Center for Reproductive Rights, *Abortion Worldwide: 20 years of reform*, Briefing Paper, August 2014, available at <https://www.reproductiverights.org/document/abortion-worldwide-20-years-of-reform> [Center for Reproductive Rights: *Abortion Worldwide*, 2014]

⁵⁸ Center for Reproductive Rights, *World Map* (2017); Center for Reproductive Rights, *Abortion Worldwide*, 2014.

⁵⁹ Center for Reproductive Rights, *Abortion Worldwide*, 2014.

⁶⁰ Center for Reproductive Rights, *Spain permits abortion on grounds of rape and fetal impairment*. See, Poster, Center for Reproductive Rights, *The World's Abortion Laws 2017*.

⁶¹ Center for Reproductive Rights, *Religious Voices Worldwide Support Choice: Pro-choice Perspectives in Five World Religions* [Center for Reproductive Rights, *Religious Voices*, 2005]; See, Poster, Center for Reproductive Rights, *The World's Abortion Laws 2017*.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Center for Reproductive Rights, *World Map* (2017); Center for Reproductive Rights, *Abortion Worldwide*, 2014.

⁶⁷ Mexico City legalized abortion in the first trimester without restriction.

⁶⁸ First introduced by President Michelle Bachelet in January 2015 decriminalizing abortion during the first 12 weeks of pregnancy if the woman is under 14 years old, if the woman's life is at risk, in case of rape, and when the fetus will not survive the pregnancy. It is set to face a full Senate vote before leading to President Bachelet's signature.

⁶⁹ CONST. (1987), art. II, sec. 12 (Phil.) [hereinafter PHIL. CONST.].

⁷⁰ JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 84 (2009), at 118.

⁷¹ PHIL. CONST., Art. II, § 14.

⁷² Williams, Glanville, *The fetus and the "right to life"* Cambridge law J 1994; 33:71-78, at 78; see R.J. Cook, B.M. Dickens, *Human Rights and Abortion Laws*, *International Journal of Gynecology & Obstetrics* 65 (1999), at 85, citing *Christian Lawyers Association of South Africa v. The Minister of Health*, Case No. 16291/97 (10 July 1998).

⁷³ 2 SCRA 801 [1961]

⁷⁴ 2 SCRA 801 [1961]

⁷⁵ *R. v. Sullivan*, 1 S.C.R. 489, available at [http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/scc-csc/en/item/733/index.do](http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/733/index.do)

⁷⁶ *Winnipeg Child and Family Services (NW Area) v. G.(D.F.)* (1997) 152 D.L.R. (4th) 304, available at <http://csc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/scc-csc/en/item/1562/index.do>.

⁷⁷ See Center for Reproductive Rights, *The Right to Life Toolkit*; See also the letter of EnGendeRights and Jihan Jacob addressed to the Department of Justice, August 1, 2014, entitled "Re: Reinstatement of the provisions on 'justified abortions' in the Draft Criminal Code of Crimes xxx."

⁷⁸ A MAGYAR KÖZTÁRSASÁG ALKOTMÁNYA [CONSTITUTION OF THE REPUBLIC OF HUNGARY] (2011), art. II available at <http://www.mkab.hu/download.php?d=65>.

⁷⁹ Law No. 79 of Dec. 17, 1992 (Hu.), translated in 44 IDHL 249-50 (1993).

⁸⁰ Law on the Protection of Fetal Life (Act LXXIX of 1992) (Hung.) available at <http://reproductiverights.org/en/world-abortion-laws/hungarys-abortion-provisions>.

⁸¹ CONST. (1949), title IV, art. 21 (Costa Rica) available at http://www.costaricalaw.com/constitutional_law/constitution_en_04.php.

⁸² Código Penal [CP] (Penal Code) No. 4573, art. 121, May 4, 1970 (Costa Rica).

⁸³ Tribunal Supremo de Costa Rica, Sentencia No. 2004-02792



⁸⁴ Christian Lawyers Association of South Africa v. The Minister of Health, Case No. 16291/97 (10 July 1998), available at <http://www.globalhealthrights.org/wp-content/uploads/2013/01/HC-2004-Christian-Lawyers-Association-v.-Minister-of-Health.pdf>

⁸⁵ IR. CONST., 1937, art. 40 (3.3), available at

https://www.constitution.ie/Documents/Bhunreacht_na_hEireann_web.pdf.

⁸⁶ Attorney General v. X and Others, [1992] 1 I/R/ 846P (Ir.).

⁸⁷ Protection of Life During Pregnancy Act (Act No. 35/2013) (Ir.) available at

<http://www.irishstatutebook.ie/2013/en/act/pub/0035/index.html>.

⁸⁸ Nález Ústavného súdu Slovenskej republiky, sp. zn. [Decision of the Constitutional Court of the Slovak Republic, No.] PL. ÚS 12/01-297 (Dec. 4, 2007) (unofficial translation on file with the Center for Reproductive Rights).

⁸⁹ CONST. (1997), art. 38 (Pol.) available at <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>. s

⁹⁰ Act on Family Planning, Human Embryo Protection, and Conditions of Legal Pregnancy Termination (1993) (Pol.) available at http://www.federa.org.pl/dokumenty_pdf/english/AbortionLaw1993.doc

⁹¹ *Id.*

⁹² CONST., art. 26 (2) (2010) (Kenya) available at

<https://www.kenyaembassy.com/pdfs/The%20Constitution%20of%20Kenya.pdf> [hereinafter CONSTITUTION OF KENYA].

⁹³ *Id.*, art. 26 (4).

⁹⁴ Women's Heath Journal, Abortion law challenged in constitutional court, Jan.-Mar. 2005, available at

http://findarticles.com/p/articles/mi_m0MDX/is_1_2005/ai_n17209597.

⁹⁵ Women's Heath Journal, Abortion law challenged in constitutional court, Jan.-Mar. 2005, available at

http://findarticles.com/p/articles/mi_m0MDX/is_1_2005/ai_n17209597.

⁹⁶ Colombian Constitutional Court Decision C-355/2006; Women's Link Worldwide, Colombia's highest court rules in favor of easing one of the world's most restrictive abortion laws, available at

http://www.womenslinkworldwide.org/pdf_press/press_release_2006510_col.pdf.

⁹⁷ Convention of the Protection of Human Rights and Fundamental Freedoms, art. 2(1), adopted November 4, 1950, 213 U.N.T.S. 222, Eur. T.S. No. 5 (entered into force Sept. 3, 1953).

⁹⁸ *Paton v. United Kingdom*, App. No. 8416/79, paragraphs 7-9, European Commission of Human Rights, Dec. & Rep. 244 (1980).

⁹⁹ Center for Reproductive Rights, Safe and Legal Abortion is a Woman's Human Right, 2005.

¹⁰⁰ *Vo. V. France*, App. No. 53924/400, Eur. Ct. H.R., Paragraph 80 (2004).

¹⁰¹ American Convention on Human Rights, adopted Nov. 22, 1969, O.A.S.T.S. No. 36, O.A.S. Off. Rec. OEA/Ser.L/V/II.23, doc. 21, rev. 6 (entered into force July 18, 1978).

¹⁰² *Baby Boy v. United States*, Resolution 23/81, Case 2141, Inter-Am. Comm'n H.R., Resol. No. 23/81, OEA/Ser.L/V/II.54, doc. 9 rev. 1, paragraph 18(b) (March 6, 1981).

¹⁰³ Draft African Charter on Human and People's Rights, art 17, O.A.U. Doc. CAB/LEG/67/1 (1979).

¹⁰⁴ African Charter on Human and People's Rights, adopted June 27, 1981, art. 4, O.A.U. Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M 58 (1982).

¹⁰⁵ Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, adopted September 13, 2000, art. 14, O.A.U. Doc CAB/LEG 66.6 (entered into force November 25, 2005).

¹⁰⁶ Phil. Const (1987), art. 2, § 6 ("Sec. 6: The separation of Church and State shall be inviolable.")

¹⁰⁷ See *Board of Education v. Everson*, 330 U.S. 1, 15-16 (1946) where the Court stated that "[n]either a State nor the Federal Government can set up a church...[or] pass laws which aid one religion, aid all religions, or prefer one religion over another...Neither..., openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between Church and State.'"

¹⁰⁸ See *Lee v. Weisman*, 505 U.S. 577, 587 (1992). In *Lee*, the U.S. Supreme Court invalidated the performance of a nonsectarian prayer by clergy at a public school's graduation ceremony; see also *Santa Fe*, 530 U.S. at 310-312 where the court invalidated student-initiated and student-led prayers at football games because they coerce students to participate in religious observances; In *Kerr v. Farrey*, 95 F.3d 472 (7th Cir. 1996), the Seventh Circuit followed *Lee* in striking down prison programs where inmates' sentences were affected by participation in substance abuse programs that stressed religion. It was held that the program runs "afoul of the prohibition against the state's favoring religion in general over non-religion."; see Center for Reproductive Rights (CRR), Petition for Certiorari in the U.S. Supreme Court case of *Greenville Women's Clinic v. Comm'r, S.C. Dep't of Health & Env'tl. Control*.

¹⁰⁹ A.M. No. P-02-1651. August 4, 2003



¹¹⁰ GOROSPE, R., *Constitutional Law: Notes and Readings on the Bill of Rights, Citizenship and Suffrage*, Vol. I (2006), p. 1007

¹¹¹ *Ang Ladlad LGBT Party vs. COMELEC*, G.R. No. 190582 [*Ang Ladlad vs. COMELEC*].

¹¹² *Ang Ladlad vs. COMELEC*.

¹¹³ *Estrada vs. Escritor*, A.M. No. P-02-1651, 4 August 2003, 408 SCRA [*Estrada vs. Escritor*]

¹¹⁴ *Ang Ladlad vs. COMELEC*.

¹¹⁵ *Estrada vs. Escritor*.

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 480.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 484.

¹²⁰ *Carey v. Population Services International*, 431 U.S. 678 (1977).

¹²¹ *Planned Parenthood v. Casey*.

¹²² *Id.*, at 850.

¹²³ *Lawrence v. Texas*, 539 U.S. 558, 584 (2003)

¹²⁴ See England and Wales High Court (Administrative Court), *Smeaton v Secretary of State for Health* [2002] EWHC 610 (Admin), (18th April, 2002) at at 69, 70.

¹²⁵ *Ang Ladlad vs. COMELEC*.

¹²⁶ WHO Safe Abortion Guidance, 2012.

¹²⁷ *Id.*, page 23.

¹²⁸ General Recommendation No. 24, 14.

¹²⁹ General Recommendation No. 24, 31 (c). See also, The Center for Reproductive Rights & University of Toronto Programme of Reproductive Sexual Health Law, *Bringing Rights To Bear: An Analysis of the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights*, at 145, available at http://www.reproductiverights.org/pdf/pub_bo_tmb_full.pdf, at 145 [*Bringing Rights to Bear*]. See, e.g., Argentina, U.N. Doc. A/52/38 Re v.1, Part II, 319 (July 23, 1997); Chile, U.N. Doc. A/50/38, 158 (May 31, 1995); Colombia, U.N. Doc. A/54/38, 394 (Feb. 4, 1999); Dominican Republic, U.N. Doc. A/53/38, 349 (May 14, 1998); Ireland, U.N. Doc. A/54/38, 186 (July 1, 1999); Mexico, U.N. Doc. A/53/38, 408 (May 14, 1998); Panama, U.N. Doc. A/55/38/Re v.1, 201 (July 2, 1998); Paraguay, U.N. Doc. A/51/38, 131 (May 9, 1996); Peru, U.N. Doc. A/53/38/Rev.1, 340 (July 8, 1998).

¹³⁰ See *Bringing Rights To Bear*, at 145 [hereinafter *Bringing Rights to Bear*]. See, e.g., Belize, U.N. Doc. A/54/38, 56 (July 1, 1999); Chile, U.N. Doc. A/54/38, 228 (July 9, 1999); Colombia, U.N. Doc. A/54/38, 393 (Feb. 4, 1999); Dominican Republic, U.N. Doc. A/53/38, 337 (May 14, 1998); Paraguay, U.N. Doc. A/51/38, 131 (May 9, 1996). *Bringing Rights To Bear*, at 146; See, e.g., Antigua and Barbuda, U.N. Doc. A/52/38/Re v.1, Part II, 258 (Aug. 12, 1997); Chile, U.N. Doc. A/54/38, 209, 228 (July 9, 1999); Georgia, U.N. Doc. A/54/38, 111 (Jan. 7, 1999); Greece, U.N. Doc. A/54/38, 207 (Feb. 1, 1999); Guyana, U.N. Doc. A/50/38, 621 (May 31, 1995); Hungary, U.N. Doc. A/51/38, 254 (May 9, 1996); Lithuania, U.N. Doc. A/55/38, 158 (June 6, 2000); Mauritius, U.N. Doc. A/50/38, 196 (June 31, 1995); Mongolia, U.N. Doc. A/56/38, 273 (Feb. 2, 2001); Paraguay, U.N. Doc. A/51/38, 131 (May 9, 1996).

¹³¹ *Bringing Rights To Bear*, at 146; See, e.g., Antigua and Barbuda, U.N. Doc. A/52/38/Re v.1, Part II, 258 (Aug. 12, 1997); Chile, U.N. Doc. A/54/38, 209, 228 (July 9, 1999); Georgia, U.N. Doc. A/54/38, 111 (Jan. 7, 1999); Greece, U.N. Doc. A/54/38, 207 (Feb. 1, 1999); Guyana, U.N. Doc. A/50/38, 621 (May 31, 1995); Hungary, U.N. Doc. A/51/38, 254 (May 9, 1996); Lithuania, U.N. Doc. A/55/38, 158 (June 6, 2000); Mauritius, U.N. Doc. A/50/38, 196 (June 31, 1995); Mongolia, U.N. Doc. A/56/38, 273 (Feb. 2, 2001); Paraguay, U.N. Doc. A/51/38, 131 (May 9, 1996).

¹³² *Bringing Rights To Bear*, at 146. See, e.g. Antigua and Barbuda, U.N. Doc. A/52/38/Re v.1, Part II, 258 (Aug. 12, 1997); Chile, U.N. Doc. A/54/38, 209, 228 (July 9, 1999); Georgia, U.N. Doc. A/54/38, 111 (July 2, 1999); Greece, U.N. Doc. A/54/38, 207 (Feb. 1, 1999); Guyana, U.N. Doc. A/50/38, 621 (May 31, 1995); Hungary, U.N. Doc. A/51/38, 254 (May 9, 1996); Lithuania, U.N. Doc. A/55/38, 158 (June 16, 2000); Mauritius, U.N. Doc. A/50/38, 196 (May 31, 1995); Mongolia, U.N. Doc. A/56/38, 273 (June 2, 2001); Paraguay, U.N. Doc. A/51/38, 131 (May 9, 1996); Ukraine, U.N. Doc. A/51/38, 287 (May 9, 1996); Venezuela, U.N. Doc. A/52/38/Rev.1, 236 (Aug. 12, 1997).

¹³³ See *Bringing Rights To Bear*, at 156.

¹³⁴ CEDAW Committee, *Concluding Observations: Philippines*, para. 28. See also, CEDAW Committee, *General Recommendation No 33*, paragraph 47 (stating that laws which "[criminalize] behaviors that can only be performed by women such as abortion" are discriminatory), and CEDAW Committee, *General Recommendation No 24*, para.



31(c) (stating that "when possible, legislation criminalizing abortion could be amended to remove punitive provisions imposed on women who undergo abortion").

¹³⁵ CEDAW/C/OP.8/PHL/1, paras 49 to 52.

¹³⁶ Inquiry Report, para. 52(v).

¹³⁷ *Id.*

¹³⁸ Inquiry Report, para. 51 (v); Inquiry Report, para. 52(v) continued: "adopt a patient privacy policy ensuring doctor-patient confidentiality when treating women for post-abortion complications; ensure effective reporting procedures, available for women in need of post-abortion care to complain about abuse and discrimination, without fear of retaliation; and conduct research on the incidence of unsafe abortions in the State party and their impact on women's health and maternal mortality and morbidity, and make such information available to the Committee in its next periodic report."

¹³⁹ CEDAW/C/OP.8/PHL/1, paras 49 to 52.

¹⁴⁰ CESCR Concluding observations E/C.12/PHL/CO/5-6, 26 October 2016, para. 51-52.

¹⁴¹ Human Rights Committee Concluding observations CCPR/C/PHL/CO/4, 13 November 2012.

¹⁴² K. Llantoy v. Peru, Case No. 1553/2003, U.N. Doc. CCPR/C/85/D/ 1153/2003 (2005).

¹⁴³ *Id.* 2.1.

¹⁴⁴ *Id.* 2.5 & 2.6.

¹⁴⁵ *Id.* 6.3.

¹⁴⁶ *Id.* 6.4.

¹⁴⁷ *Id.* 6.5.

¹⁴⁸ K. Llantoy. v. Peru, Case No. 1553/2003, U.N. Doc. CCPR/C/85/D/ 1153/2003, 8 (2005).

¹⁴⁹ Committee against Torture Concluding observations CATCAT/C/PHL/CO/3, 2 June 2016.

¹⁵⁰ The Committee tasked to monitor the state's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women.

¹⁵¹ More than five years to 10 years plus fine equivalent to 10 to 50 times (in multiples of ten) the average daily income.

¹⁵² The global commitment is to reduce the maternal mortality ratio to less than 70 per 100,000 births.



About the Author

Clara Rita “Claire” Padilla is the founder and executive director of EnGendeRights. She is a widely published feminist lawyer and human rights activist.

She has worked in the Philippines and in New York. In New York, she worked as an International Visiting Legal Fellow at the Center for Reproductive Rights from July 2002 through July 2003.

She holds a Juris Doctor degree from the Ateneo de Manila University and has been practicing law for over 23 years working in the fields of gender, gender-based violence, sexual and reproductive health and rights, and sexual orientation, gender identity and expression (SOGIE).

She has extensive experience in training, litigation, research, writing, and policy advocacy. After graduating from law school, she has dedicated her life in changing laws, policies, and practices that are discriminatory against women. As an advocate on reproductive rights, she has been quoted in various articles including the New York Times (Oct. 26, 2009).

She drafted the very first version of the Reproductive Health Care bill in 2001 when it first carried the name “Reproductive Health Care Law”. She has also proposed language for draft bills and ordinances that have been passed into law including the Anti-Sexual Harassment Act; the Expanded Anti-Trafficking Law or RA 10364; the Quezon City Gender-Fair City prohibiting discrimination based on SOGIE and providing affirmative acts passed in 2014; the ordinance creating the Quezon City Protection Center for victim-survivors of gender-based violence and abuse passed in 2012; the first comprehensive anti-discrimination bill prohibiting ethnic, racial or religious profiling to prohibit discrimination based on ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, language, disability, or other status which was adopted on third reading by the Senate in December 2011, among others. She was also one of the drafters of the DOH AO 2016-0041 on Prevention and Management of Abortion Complications.

She has won several Supreme Court en banc cases including the 2010 landmark case of *Ang Ladlad vs. COMELEC* (G.R. No. 190582) where she and several other lawyers won their petition for certiorari with the Supreme Court granting the accreditation of the lesbian, gay, bisexual, and transgender (LGBT) party-list organization that was originally denied accreditation by the Commission on Elections (COMELEC). She was the lead counsel and drafter of the Comment-In-Intervention and Memorandum of the intervenors Catholics for RH et al in support of the Reproductive Health Law (RH Law) wherein their contribution was crucial in winning the constitutionality of the RH Law in an en banc decision of the Supreme Court. Another Supreme Court en banc case she won was the landmark case of *Pioneer Texturizing Corporation vs. National Labor Relations Commission and Lourdes de Jesus*. In the Pioneer case, she successfully argued that illegally dismissed employees should be automatically reinstated at work or in the payroll without need of a writ of execution with the Supreme Court overturning its previous doctrine laid down in *Maranaw vs. NLRC*.



She spearheaded the submission of the request for inquiry on Manila EO 003 (Series of 2000) to the CEDAW Committee which was a collaborative effort of the Philippine-based Task Force CEDAW Inquiry, the New York-based Center for Reproductive Rights, and the Malaysia-based International Women's Rights Action Watch-Asia Pacific (IWRAW-AP) where the Philippines was found to have committed reproductive rights violations. She has made oral interventions before the CEDAW Committee in New York (2006) and in Geneva (2016) and before the Human Rights Council in Geneva (2008).

She advocated for the adoption of the Optional Protocol to the International Covenant on Economic Social Cultural Rights (OP ICESCR) in Geneva which was finally adopted in December 2008. She represented the Women's Caucus on the ASEAN Human Rights Body that advocated for a strong promotion and protection mechanism in the ASEAN Intergovernmental Commission on Human Rights (AICHR) that was eventually launched in October 2009. She was part of the OutRight Action International Advocacy Week team that met with UN officials and diplomats of various embassies in New York (2016).

She has been conducting trainings in different parts of the Philippines and around the world such as on the Optional Protocol to CEDAW for Cambodian government officials and UN Country Team in Cambodia (Cambodia, 2011, sponsored by UN Women), NGO-GO dialogues on CEDAW at an ASEAN High-Level Consultation Meeting (Vientiane, Lao PDR, 2008, sponsored by UN Women) and NGOs (East London, South Africa, 2012; Bogor, Indonesia, 2012; Kuala Lumpur, Malaysia, 2008, sponsored by the International Service for Human Rights (ISHR), Forum-Asia, and IWRAW-AP; Jakarta, Indonesia, 2007); on the Human Rights Committee Gender Discrimination Cases (Nepal, 2007); on sexual orientation, gender identity, and expression (SOGIE) (APCRSH, Hyderabad, India, 2007). She has represented Asia in several international panel discussions, *inter alia*, the problem of criminalization of sexual rights (Women Deliver Conference, Copenhagen, Denmark, 2016, panel sponsored by Amnesty International) and at a side event during the Commission on the Status of Women on economic, social, and cultural rights and the Beijing Declaration (New York, 2015, panel sponsored by ESCR-Net). She was also a panelist on domestic and family violence based on SOGIE at the ILGA World Conference (Bangkok, 2016, panel sponsored by OutRight). She has been a guest presenter for meetings of international legal experts (New York, 2005; Nairobi, Kenya, 2001 where the other participants/presenters included Navanethem Pillay, then President of the International Criminal Tribunal for Rwanda and former High Commissioner for Human Rights and Professor Catharine MacKinnon, sponsored by Equality Now). She has also acted as a speaker in the two AICHR ASEAN Maternal Health Conferences (2011, 2014) and participated in various international conferences and meetings on reproductive rights (e.g., Global Roundtable ICPD 10th Anniversary, London, 2004; International Consortium on Emergency Contraception (ICEC), New York, 2002) and global trainings of trainers on the Optional Protocol to CEDAW, *inter alia*, sponsored by IWRAW-AP (Warsaw, Poland, 2008).

She has been a speaker in several trainings for the Commission on Human Rights (CHR) staff on CEDAW Committee jurisprudence (September and December 2015; 2016) and continuing challenges on reproductive health (2017 co-sponsored by the Asia Pacific Forum and the CHR).



She was a speaker on sexual and reproductive health and rights for the 11th IBP National Convention in Cagayan de Oro (2007) with about 1200 lawyers, prosecutors, and judges. She was a speaker for the IBP Eastern Visayas with more than 700 lawyers and judges (2006) on the “Anti-Violence Against Women and Their Children Act of 2004” and “Gender Issues in Legal Ethics”.

She facilitated discussions on gender equality and CEDAW for the justices of the Philippine courts and trainings on sexual harassment for members of the committee on decorum and investigation of the Philippine judiciary in 2008 (a project under the European Commission).

She also drafted the following:

- A comparative study of gender-based violence (GBV) and HIV/AIDS legislation in ASEAN member countries and a model legislation addressing the link between GBV and HIV/AIDS, Philippine Commission on Women, 2009;
- Country Analysis of the AIDS, Gender and Age Situation and Response in the Philippines, Gertrudes Libang, Gladys Malayang, and Clara Rita Padilla, 2010 (co-written), available at [http://www.unicef.org/philippines/Engenderights_Final\(1\).pdf](http://www.unicef.org/philippines/Engenderights_Final(1).pdf);
- A Review of the Beijing Platform for Action Accountability Mechanisms, APWLD, November 2014
- Outcome Report and Background Paper, Asia Pacific Roundtable: International and Regional Standard setting to Eliminate Violence against Women, Bali, Indonesia, APWLD, 2013
- 2016 Universal Periodic Review submission of the Sexuality Rights Network
- Review of The Forum et al. consortium project entitled, “Sustained National and Local Advocacy for Reproductive Health in the Philippines” funded by the Bill and Melinda Gates Foundation (October through December 2016)

EnGendeRights publications include:

- Access to Safe and Legal Abortion and Post-Abortion Care Can Save Filipino Women's Lives (Policy Paper & Fact Sheets 2016)
- What You Should Know When Assisting Rape Survivors (2015)
- What You Should Know When Assisting Violence against Women Survivors (2015)
- The Constitutionality of a Reproductive Health Care Law (2012)
- Ensuring Adolescent Right to Reproductive Health through an RH Law (2012)
- Reasons Why We Need the RH Law (2010)
- Primer on the Inquiry Procedure under the OP CEDAW (2010)
- Advancing Reproductive Rights Using the Inquiry Procedure of the OP CEDAW and the UN Special Procedures: The Philippine Experience (2010)
- Stop VAW & Stop Rape flyers, BPO & Temporary and Permanent Protection Order flyers (2010)
- Engendering Women's Rights: A Paralegal Manual" on gender-based violence (2007)

EnGendeRights press releases and position papers include:

- EnGendeRights Calls for the Repeal of the Prostitution Law Penalizing Women in Prostitution (March 2012);
- Proposal to Include Misoprostol on the Philippine National Drug Formulary and the FDA Drug Registry for Postpartum Hemorrhage Prevention (July 2011)
- Calls to junk congressional bills restricting access to contraceptives and increasing penalties on abortion (May 2011, December 2006)
- Upholding Women's Right to Levonorgestrel as Emergency Contraceptive Pill submitted to the Bureau of Food and Drugs (BFAD) (March 2007);
- Marital Infidelity does Not Have a Place in Our Penal Laws (November 2007)
- The right to education of an adolescent who induced abortion (2007)



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About EnGendeRights

EnGendeRights has done groundbreaking work in raising Filipino women's concerns to the international level especially the United Nations mechanisms.

- Shadow Report to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) and Oral Statements
 - August 2006 for the 36th Session done in collaboration with the Center for Reproductive Rights (CRR), Reproductive Rights Resource Group, Philippines (3RG-Phils.), and Health Development and Initiatives Institute (HDII). EnGendeRights executive director Clara Rita Padilla orally presented highlights of the Shadow Report during the CEDAW-NGO dialogue in New York. Recommendations included access to the full range contraceptive methods, access to safe and legal abortion, sexuality education for adolescents, skills and education for women in prostitution, legalization of divorce and repeal of discriminatory Muslim Code provisions.
 - June 2016 for the 64th Session:
 - EnGendeRights & OutRight International submission (representing a total of 34 organizations) on Lesbian, Bisexual, Transgender Rights
 - EnGendeRights individual submission on VAW, Marriage, and Family Relations
 - EnGendeRights executive director Clara Rita Padilla made an oral statement before the CEDAW Committee in Geneva
- Request for Inquiry to the CEDAW Committee
 - EnGendeRights as part of the Task Force CEDAW Inquiry together with the CRR and the International Women's Rights Action Watch, Asia Pacific (IWRAP-AP) submitted a Request for Inquiry under the Optional Protocol to CEDAW in 2008 requesting the CEDAW experts to visit the Philippines to investigate grave and systematic reproductive rights violations resulting from the restriction on contraceptives under EO 003 implemented in Manila City since 2000. CEDAW experts Pramila Patten and Violeta Neubauer conducted the on-site investigation in Manila in November 2012 investigating national and local government officials including heads of hospitals and clinics, representatives of the DOH, DILG, Manila City, among others. At that time, it was only the 2nd inquiry that has been conducted by the CEDAW Committee throughout the whole world.

In May 2015, the CEDAW Committee released its report on its inquiry (CEDAW/C/OP.8/PHL/1, paras 49 to 52) finding the government accountable for grave and systematic reproductive rights violations and recommended, *inter alia*, to the Philippine government to:

- provide women access to quality post-abortion care in all public health facilities including by reintroducing misoprostol to reduce maternal mortality and morbidity rates
- ensure that women experiencing abortion-related complications are not reported to law enforcement authorities, threatened with arrest, or subjected to physical or verbal abuse, discrimination, stigma, delays in access to or denial of care
- amend articles 256 to 259 of the Revised Penal Code to “legalize abortion in cases of rape, incest, threats to the life and/or health of the mother, or serious malformation of the foetus and decriminalize all other cases where women undergo abortion, as well as adopt necessary procedural rules to guarantee effective access to legal abortion.”