



February 5, 2020

**TO: Committee on Population and Family Relations**  
**FROM: Atty. Clara Rita Padilla, Executive Director, EnGendeRights**  
**RE: Position Paper on Divorce Bills**

**Women's Right to Divorce**

By: Atty. Clara Rita A. Padilla\*

One of the leading issues confronting Filipino women in the context of marriage and family life is the absence of a divorce law. Women whose husbands are abusing them can only obtain nullity of marriage under article 36 of the Family Code where it must be shown that either or both of the parties are psychologically incapacitated.<sup>1</sup>

Court decisions nullifying marriages are difficult to obtain because of varying judicial interpretations as to what constitutes psychological illness and the lack of appreciation of evidence of physical, emotional, and psychological abuses.<sup>2</sup> Moreover, cases for nullity of marriage are costly and inaccessible to poor women. Without a specific divorce legislation, article 36 makes it hard for women in abusive relationships to leave their abusive husbands<sup>3</sup> thereby allowing the continuance of domestic violence and abusive marriages.

As a result of the absence of a divorce law, many women cohabit with their current partners without having their marriage nullified<sup>4</sup> and some women are dismissed from government service precisely because of these "immorality issues."<sup>5</sup> Such dismissals for "immorality" do not take into consideration the fact that there are many married women who were previously in abusive relationships and now may have found comfort in their current loving relationships.<sup>6</sup>

Divorce will help women break free from abusive relationships. Many women suffered physical, verbal, psychological, financial, and sexual abuse and only seek legal recourse after years of enduring their husband's abuse and after painfully realizing that their husbands have not changed throughout their marriage.

National statistics show one-third of married women experienced physical, sexual, or other forms violence from their husbands.<sup>7</sup> Separated women and women whose marriages were nullified reported the highest incidence of violence from their husbands.

Divorce is an important option for abused women to stop the cycle of violence.

Marriage is a contractual obligation to provide love, respect, and support. The parties must have recourse to divorce when there is no love, respect, and support in the marriage. By not allowing divorce, we are complicit in prolonging the abuse of married women since nullity is difficult to obtain and prohibitive for those who cannot afford it.

## **I. Absence of a Divorce Law Violates Equal Protection of the Law**

Court decisions nullifying marriages are difficult to obtain because of varying judicial interpretations as to what constitutes psychological illness and the lack of appreciation of evidence of physical, emotional, and psychological abuses. There are numerous denials of nullity cases in court with cases such as the 2005 case of *Rep. vs. Iyoy* (G.R. No. 152577) where wife battery was not considered a ground for nullity.

In *Rep. vs. Iyoy*, the Supreme Court held:

“It is worthy to emphasize that Article 36 of the Family Code of the Philippines contemplates downright incapacity or inability to take cognizance of and to assume the basic marital obligations; **not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse.**<sup>8</sup> **Irreconcilable differences, conflicting personalities, emotional immaturity and irresponsibility, physical abuse, habitual alcoholism, sexual infidelity or perversion, and abandonment, by themselves, also do not warrant a finding of psychological incapacity** under the said Article.<sup>9</sup> [highlights supplied]

This case law is extremely detrimental to women. Clearly, wife battery is a manifestation of failure to provide love and respect.

Denying access to divorce to women whose marriages have been non-existent from the very start violates women’s right to equal protection of the law. It would be a great injustice to women in non-existent and abusive marriages to be compelled by our legal and judicial system to remain to be married.

In certain cases, there have been favorable decisions granting nullity of marriage due to psychological incapacity, however, some petitioners lost their cases even when their husbands were clearly abusive violating their right to equal protection of the law. There are also judges who openly admit that they deny most nullity petitions filed with their branches. Furthermore, while Filipino Muslims can access divorce under the Code of Muslim and Personal Laws, non-Muslims are denied access to divorce violating their right to equal protection of the law.

## **II. Absence of a Divorce Law Violates the Constitutional Guarantees of Separation of Church and State and Non-establishment of Religion**

The Philippine State should uphold separation of church and state and non-establishment of religion. We cannot let restrictive religious beliefs that seek to maintain non-existent and abusive marriages interfere with our very basic constitutional guarantees.

Religion should not be a barrier for us to pass a divorce law as our laws and governance are based on secular standards, not religious standards. Not having a divorce law violates the constitutional guarantees to secularism. As citizens and taxpayers, we should not allow religion to be used as an excuse to deny divorce to us Filipinos.

### III. Right to privacy

The constitutionally protected right to privacy covers matters related to marriage and divorce. The lack of a divorce law infringes on a person's very basic right to privacy.

In the 1965 United States Supreme Court case of *Griswold v. Connecticut*,<sup>10</sup> the appellants were arrested pursuant to Connecticut state statutes that prohibited using contraception, and penalized aiding and abetting the use of said contraception.<sup>11</sup> 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."<sup>12</sup> 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.<sup>13</sup> The Supreme Court invalidated the state laws prohibiting the use of contraceptives under the right to privacy of a married couple. The Supreme Court held, as follows:

**The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the use of contraceptives rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court, that a "governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." NAACP v. Alabama, 377 U.S. 288, 307. Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The [381 U.S. 479, 486] very idea is repulsive to the notions of privacy surrounding the marriage relationship. [Emphasis supplied]**

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:

It would be plainly unreasonable to assume that [the State] has prescribed pregnancy and the birth of an unwanted child as punishment for fornication. X x x

X X X

If under *Griswold* the distribution of contraceptives to married persons cannot be prohibited, a ban on distribution to unmarried persons would be equally impermissible. It is true that in *Griswold* the right of privacy in question inhered in the marital relationship. Yet the marital couple is not an independent entity with a mind and heart of its own, but an association of two individuals each with a separate intellectual and emotional makeup. **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.** [Emphasis supplied]

In the 1977 case of *Carey v. Population Services International*,<sup>14</sup> 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]

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”<sup>15</sup>

These cases clearly show that constitutionally protected privacy rights precludes governmental interference in the freedom to make personal decisions relating to marriage and divorce.<sup>16</sup>

*Carey v. Population Services International* were mentioned in Justice Puno's concurrence in *Ang Ladlad v. COMELEC*<sup>17</sup> on the issue of privacy rights including the right to form intimate sexual relationships crucial to human existence, family life and development of human personality, 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[.]”

#### **IV. Jurisprudence from Catholic Marriage Tribunals are lenient in annulling marriages bolstering the need for Divorce in Civil Law**

1. Article 36 of the Family Code was adopted from paragraph 3 of Canon 1095 of the New Code of Canon Law, hence, the interpretations by church tribunals/authorities serve as aids or guides in the construction and interpretation of Article 36 of the Family Code.

2. In the Notes on Sacraments and Sacramentals, Vol. II, Marriage, by Father Wilfredo Paguio, we find the following discussion on the subject of psychological incapacity:

##### 1.3 Lack of Due Competence

Aside from the capacity for a deliberate act of the will, spouses must be psychologically capable of assuming and carrying out the essential obligations of marriage. One cannot validly exchange consent to marriage if it is beyond one’s capacity. A person may be capable of understanding the nature of marriage and making a deliberate act of the will while at the same time being radically incapable of assuming also his obligations.

X X X

Interpersonal Relationship

According to recent rotal decisions, *he should be considered incapable of assuming the essential obligations of marriage who, not only is not able to give and accept the rights that are ordered towards the so-called good of marriage but also who is incapable of giving and accepting the ius ad communionem vitae which includes all the rights that refer to the essential interpersonal relationship of the spouses.* Pinto further explains that ius ad communionem vitae includes the rights of all the by which the spouse manifests to his or her partner that he or she is capable, in the context of the circumstances of time and culture, to be a true spouse of the other, so that the conjugal partnership does not become morally impossible (p. 267)

The phrase ‘*psychological reasons*’ is, obviously, extremely broad and would include psychosis, neuroses, **personality disorder** and even homosexuality. X x x The phrase could also include the situation where neither party to the marriage suffer from a true disorder but they still remain truly incapable of establishing a marital relationship with each other.” (p. 269) [underscoring mine]

3. In Justice Sempio-Diy’s book, “Handbook on the Family Code of the Philippines”, she states, to wit:

The Committee did not give any examples of psychological incapacity for fear that the giving of examples would limit the applicability of the provision under the principle of *ejusdem generis*. Rather, **the Committee would like the judge to interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of Church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law.**

4. In “The Code of Canon Law: A Text and Commentary”, it stated, to wit:

“The spouses must be capable of giving themselves and accepting the other as a distinct person. They must be capable of relating to each other in a manner that is unique to marriage. ***The parties must be ‘other oriented’ since the obligations of marriage are rooted in a self-giving love.***” (The Code of Canon Law: A Text and Commentary, The Canon Law Society of America, Ed.” Coriden, Gteen, Heintsched, Paulist Press, New York, 1985, p. 777) [Underscoring mine]

5. In “Notes on Sacraments and Sacramentals”, it was stated, to wit:

“Hence, De Jorio says: ‘It is now a general opinion *that inability to undertake the obligations of marriage can arise not only from a serious psychosexual condition, but from any condition which prevents a person from*

*successfully entering into personal relationship involving fidelity and ability to give oneself completely to another”* (supra, p. 268-269) Notes on Sacraments and Sacramentals” (supra, p. 268-269)

6. Dr. Gerardo Ty Veloso, a presiding judge of the Metropolitan Marriage Tribunal of the Catholic Archdiocese of Manila, Branch I, in his book “Questions and Answers on Catholic Marriage Annulment” Volume I on “The Accepted Grounds” cites the following mental, emotional or nervous ills as accepted ground for Catholic marriage annulment, to wit:

### **B. Mental, Emotional or Nervous Ills**

#### **Q. 39. What are the disqualifications established from the Catholic marriage jurisprudence?**

A. There have been up to the present various incapacities which may be termed mental, emotional, or nervous afflictions. These troubles result in behaviors rendering a subject at least non-contributive if not inimical to the goals of marriage and family.

Psychologists have various terms for these ailments, and different schools of psychology might have different terminologies referring to the same external behavior. *Among the ailments are the already classical neuroses and psychoses. Personality disorders are also accepted as grounds for annulment.*

Of course, brain defects or injuries and diseases or damages of the nervous system could also render a person gravely unfit for conjugal and family duties.

#### **Q.40. Is there a simple way to determine whether a person is psychologically unfit?**

A. Yes. Any person whom people consistently observe and judge to be in popular language crazy, insane, unsound in mind, idiotic, *immature, irresponsible*, sex pervert, *or deviant can be adduced as unfit for marriage and family.*

X X X

#### **Q41. What characteristics must psychological incapacity exhibit?**

A. It must exhibit gravity, antecedence, and incurability. It is grave if the subject cannot carry out the normal and *ordinary duties of marriage and family shouldered by any average couple existing under everyday circumstances of life*



*and work.* It is antecedent to marriage if at least the roots of the trouble can be traced to the history of the subject before the marriage, although its overt manifestations appear only after the wedding.

**Q42. What some psychological ills or irregularities accepted as annulment grounds?**

A. Aside from the various neuroses and psychoses examined by psychiatrists, let us mention the following as more familiar to the ordinary lay[person]:

X X X

(4) *Immaturity: lack of an effective sense of rational judgment and responsibility*, otherwise peculiar to infants;

X X X

**Q43. Do Catholic marriage courts consult psychologists?**

A. *Yes, it is their policy to send people alleged to be psychologically unfit to these experts for psychological evaluations. X x x [T]he opinion of experts is x x x to enable them to see better the intricacies involved in mental and emotional problems, which are beyond their own proper domain.*

X x x *[I]f the experts in the psychological disciplines are agreed on the unfitness of a subject for the responsibilities of marriage and family, it is almost certain that Catholic marriage courts will issue the same decision. X x x*

**Q44. Will Catholic marriage courts accept more and more psychological grounds?**

A. *Yes; and there will be more and more cases decided favorably by the Catholic marriage courts on the grounds of psychological unfitness.* In the recent past, insanity at the time of the wedding was the only ground accepted from among psychological disturbances. *Now, the whole psychological profile of a person is taken into account to judge not only whether he[/she] could consent during the wedding, but more importantly whether he[/she] could lead a productive existence with a person during marriage.*

*Catholic marriage courts cannot but accept more and more the findings*



*of researches in the psychological disciplines. This is a slow process; but it is a sure trend. As such, researchers continue to establish what psychological ills will incapacitate what people for what functions in life and in work; so also will more and more grounds be inevitably accepted by the Catholic marriage courts for marriage annulment.*

7. In Volume III of Dr. Gerardo Ty Veloso's book "Questions and Answers on Catholic Marriage Annulment" on "Selected Successfully Cases" he cites the following doctrines, to wit:

**Q8. What are some present-day fluid eligibility criteria?**

**A. Some of them are maturity, community, and love.**

**X x x**

In the face of these rather amorphous eligibility criteria it is possible for a party to be proven not eligible for marriage because **he/[she] was not possessed of sufficient maturity, or did not have their mind for conjugal partnership, or could not harbor the interpersonal affection essential to marriage.**

**Q52. Why are mental, emotional, and nervous shortcomings ineligibility grounds?**

A. The mentally deficient person, whether the deficiency is congenial or acquired, cannot take care of himself[/herself], he[/she] has to be under the care of other people. Marriage is not a nurse-and-patient relationship, and not a mother-and-child relationship.

**X x x**

**In the case of emotionally deficient or disturbed people or people suffering from nervous ills, they certainly cannot fulfill the emotional and affective functions of conjugal and parental life, not twenty-four hours a day for life.**

**Q54. What is the so-called ground of immaturity?**

A. It is concerned with the character of a person. It takes years for character to develop, just as it takes years for the body to grow up.

Until the body is fully evolved, its physical potentials, specially the reproductive apparatus, are not yet functional. *So with character, until a person has acquired the moral assets necessary for stable life and relationship with others, he[/she] is still morally immature; although he[/she] be chronologically of age and physical complete and operational.*

**Q55. Why is immaturity a ground for annulment?**

*A. It is a ground for annulment because it inhibits the afflicted person from leading a smooth, stable, and socially commendable existence with others, that is rewarding both to himself, and neither are people happy with him.*

*When we consider that marriage poses objectives and imposes obligations on the religious, moral, mental, emotional, physical, and material levels and that the spouses have to interact constructively on all these levels; then the immature person would not seem to have much chance in it certainly not continually everyday for life.*

**V. Waste of Taxpayers' Money when the Office of the Solicitor General Defends Denial of Nullity Cases before the Supreme Court**

The Office of the Solicitor General (OSG) is wasting hard-earned taxes paid by Filipino citizens when they defend denial of nullity cases before the Supreme Court whereas the OSG can focus its efforts in filing petitions for certiorari in the countless rape cases dismissed by trial courts where the rapists go scot free causing injustice to rape victim survivors and emboldening rapists to commit further rapes of Filipino women and girls.

**VI. Absence of a Divorce Law Discriminates Against Women and Violates State Obligations under the CEDAW Convention**

The status of Philippine law disallowing divorce is by itself an injustice to women who have suffered abuse at the hands of their husbands. The absence of a divorce law is a violation of the Philippine government's state obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

In **2006**, the Committee on the Elimination of Discrimination against Women (CEDAW Committee), the committee tasked to monitor the state's compliance with CEDAW, urged the Philippines to pass a divorce law. **The CEDAW Committee expressed "its concern about the lack of a law on divorce, making it impossible for women to obtain legal divorce"<sup>18</sup> and urged the Philippines "to introduce and support vigorously legislation which permits divorce, allows women to remarry after divorce, and grants women and men the same rights to administer property during marriage and equal rights to property on divorce."<sup>19</sup>**

In its **2016 Concluding Observations on the Philippines**, the **CEDAW Committee reiterated its recommendation that the Philippine government expedite the adoption of a divorce law.**

## **VI. Grounds for Divorce**

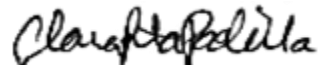
Identifiable grounds for divorce can be no fault, incompatibility, and separation of at least one year. A divorce law can be the answer for wives who have long been separated from their abusive husbands.

## **VIII. Conclusion**

Having ratified the CEDAW Convention, it is the obligation of the Philippines to expedite the enactment of a divorce law.

Legislators must uphold international human rights standards and immediately pass a divorce law. As representatives of the people, we urge our legislators to immediately pass a divorce law and respond to the clamor of Filipino people to adopt a divorce law.

Best wishes,



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\*Atty. Clara Rita "Claire" Padilla is the founder and executive director of EnGendeRights. She has been practicing law for over 25 years prosecuting perpetrators of violations of women's and LGBTIQ persons' rights and defending women and LGBTIQ persons facing discriminatory charges filed against them. She is known in the Philippines and internationally, working in the fields of gender, gender-based violence, sexual and reproductive health and rights (SRHR), and diverse sexual orientation and gender identities. She has worked in the Philippines and in New York as an International Visiting Legal Fellow at the Center for Reproductive Rights (CRR) from July 2002 through July 2003.

She won several Supreme Court en banc (by the full court) cases such as the 2010 landmark case of Ang Ladlad v. COMELEC (G.R. No. 190582) where she and several other lawyers won their petition for certiorari where the Supreme Court issued a permanent injunction against the Commission on Elections (COMELEC) from using the Bible and the Qur'an as basis to prohibit the Ang Ladlad LGBTI party-list organization from running in congress and granted the accreditation of Ang Ladlad based on constitutional guarantees including non-establishment of religion.

She was the lead counsel/drafter of pleadings of intervenors Catholics for Reproductive Health et al. which was crucial in winning the constitutionality of the Reproductive Health Law in April 2014 ensuring the right to access to sexuality education and contraceptive information and supplies, and provision of emergency care including post-abortion care by health providers regardless of one's religious belief.

She also won the landmark case of Pioneer Texturizing Corporation v. National Labor Relations Commission and Lourdes de Jesus where she successfully won the rights of illegally dismissed employees to be automatically reinstated at work or in the payroll without need of a writ of execution where the Supreme Court overturned its previous doctrine laid down in Maranaw v. NLRC.

She drafted the very first version of the Reproductive Health Care bill in 2001 when it first carried the name "Reproductive Health Care Law" which eventually passed into law in 2012. She has also proposed language for other draft bills, ordinances, and AOs that have been passed into law including the Anti-Sexual Harassment Act, Expanded Anti-Trafficking Law, the ordinance creating the Quezon City Protection Center for victim-survivors of gender-based violence and abuse (2012), the Quezon City Gender-Fair City ordinance prohibiting discrimination based on sexual orientation, gender identity, and expression (SOGIE) and providing affirmative acts (2014), the DOH AO 2016-0041 on Prevention and Management of Abortion Complications, 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. Atty. Padilla not only drafted/proposed language to said laws but also actively advocated for the passage of these laws given the strong opposition of groups based on oppressive religious beliefs attacking women's rights to reproductive health/safe abortion, divorce, the right to SOGIE/marriage equality/gender identity/inclusive laws.

She spearheaded the submission of the request for inquiry on reproductive rights violation under the Optional Protocol to CEDAW to the CEDAW Committee in collaboration with the Philippine Task Force CEDAW Inquiry, Center for Reproductive Rights, and IWRAW-Asia Pacific in 2008 where the Philippines was found to have committed grave and systematic reproductive rights violations in 2015. She also co-drafted the 2009 supporting Urgent Appeal submitted to UN Special Rapporteurs on health, violence against women, education, human rights defenders, freedom of religion or belief, independent expert on extreme poverty.

She was part of the delegation to Geneva that advocated for the adoption of the Optional Protocol to the International Covenant on Economic Social Cultural Rights (ICESCR) in Geneva which treaty was adopted in 2008 and the establishment of a strong promotion and protection mechanism in the ASEAN Intergovernmental Commission on Human Rights (AICHR) launched in 2009. She has made oral interventions before the CEDAW Committee in New York (2006) and in Geneva (2016 and 2018) and before the Human Rights Council in Geneva (2008). She was one of the panelists who presented before the CEDAW Committee in Geneva as a follow up to the reproductive rights inquiry on Philippine reproductive rights violations (2018) and before officers of the World Health Organization in Geneva (2018).

She is a widely published feminist lawyer and human rights activist with her articles and submissions published in the Philippines and internationally including Rappler, Philippine Daily Inquirer, Sunday Inquirer, Metro Working Mom, Ateneo Law Journal, and the United Nations Office of the High Commissioner for Human Rights. As an advocate on reproductive rights, she has been quoted in various articles including the New York Times (Oct. 26, 2009) and she has appeared on various television and radio shows including CNN International (2018) on the right to safe and legal abortion in the Philippines.

She has written various trailblazing books, articles, papers, protocols, primers, and submissions such as the EnGendeRights publications on safe and legal abortion, post-abortion care, misoprostol for the prevention and treatment of post-partum hemorrhage, the inquiry procedure under the OP CEDAW, advancing reproductive rights using the OP CEDAW inquiry procedure, reasons why the RH Law is needed, constitutionality of the RH Law, adolescent right to reproductive health care, paralegal manual on gender-based violence, assisting rape and VAW survivors. She wrote the EnGendeRights position papers on repeal of the penal provision penalizing women in prostitution, repeal of marital infidelity bills, junking of anti-choice bills, upholding women's right to levonorgestrel as emergency contraceptive pill. She drafted various EnGendeRights and coalition/joint shadow reports to the

CEDAW Committee and Committee on the Rights of the Child and the Human Rights Council Universal Periodic Review on the Philippines.

She co-wrote the OutRight Action International and EnGendeRights publication entitled, “Protocol to Address Domestic Violence and Family Violence experienced by Lesbian, Gay, Bisexual, Transgender and Intersex Persons in the Philippines”.

She has been conducting trainings and panel discussions in different parts of the Philippines and around the world such as in Cambodia, Lao PDR, Indonesia, Malaysia, Thailand, Nepal, India, South Africa, Kenya, Denmark, Poland, United States, and Portugal including panel discussions with legal luminaries such as Navanethem Pillay, former High Commissioner for Human Rights, and Professor Catharine MacKinnon.

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. Her trainings with EnGendeRights has involved trainings for judges, public prosecutors, government representatives, lawyers, academe, ngo workers, health care providers, police, social workers, barangay officials and community women and LGBTI leaders on gender-based violence, SRHR and SOGIE since 2005 up to the present.

She has also been a consultant of Senator Miriam Defensor-Santiago, Philippine Commission on Women, USAID-PRISM, UNICEF, UN Women Regional Office in Bangkok, Asia Pacific Forum for Women Law and Development based in Thailand, FIIAPP based in Madrid under Tender Agreement with the European Commission, Family Planning Organization of the Philippines (FPOP), and The Forum for Family Planning and Development, Inc. (The Forum). As part of her consultancies, she co-drafted a comparative study of gender-based violence and HIV legislation in ASEAN and a country analysis on gender and age response to HIV/AIDS. She also wrote reports such as a review of the Beijing Platform for Action accountability mechanisms, outcome report and background paper on Asia-Pacific regional standard setting to eliminate VAW, among others.

She has been the gender consultant of the Quezon City Office of Vice Mayor Joy Belmonte since 2011 and until now under the Office of Quezon City Mayor Joy Belmonte. As part of her consultancy work, she provides free legal counseling at the Quezon City Protection Center for Gender-based Violence, QC General Hospital. As consultant of the Office of the Vice Mayor Joy, she helped draft the ordinance creating the Quezon City Protection Center for victim-survivors of gender-based violence and abuse (2012) and the Quezon City Gender-Fair City ordinance prohibiting discrimination based on SOGIE and providing affirmative acts (2014).

She holds a Juris Doctor degree from the Ateneo de Manila Law School (1993) and a Bachelor of Arts degree in Communication from UP Diliman (1988).

Her articles and papers are available on Rappler, <https://www.engenderights.com>, and <https://pinsan.ph>, among others. You may also visit her blog at <https://clararitapadilla.blogspot.com>.

### **2014 ABS-CBN Divorce Debate featuring Atty. Clara Rita Padilla:**

- 1) <http://www.youtube.com/watch?v=kCco57jXrk&feature=related>
- 2) <http://www.youtube.com/watch?v=b5kupTio4nM&feature=related> [Atty. Clara Rita Padilla at 7 mins]
- 3) [http://www.youtube.com/watch?v=OwI\\_6ByYIL4&feature=youtube\\_gdata](http://www.youtube.com/watch?v=OwI_6ByYIL4&feature=youtube_gdata)

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1. Clara Rita Padilla, Philippine Submission to Equality Now Workshop on Litigating for Sex Equality (June 9-11, 2001) (transcript available on file with the Center for Reproductive Rights) at 16 [hereinafter Padilla, Litigating for Sex Equality]. This workshop was held in Nairobi, Kenya.

2. *Id.*

3. Clara Rita Padilla, *Rethinking Policies on Women*, SOROPTIMIST BALITA, Sep. 2005, at 3 [hereinafter Padilla, *Rethinking Policies on Women*], at 3.

4. Padilla, *Rethinking Policies on Women*, *supra* note 3, at 3.

5. *Id.*

6. *Id.*

<sup>7</sup> NDHS 2008. Almost one-third of ever-married women (29 % have experienced any kind of violence (physical, sexual or other) by a husband or partner)

<sup>8</sup> Republic v. Court of Appeals and Molina, p. 211

<sup>9</sup> Carating-Siyngco v. Siayngco, G.R. No. 158896, 27 October 2004, 441 SCRA 422; Dedel v. Court of Appeals and Corpuz-Dedel, G.R. No. 151867, 29 January 2004, 421 SCRA 461; Guillen-Pesca v. Pesca, G.R. No. 136921, 17 April 2001, 356 SCRA 588; Marcos v. Marcos, 5; Hernandez v. Court of Appeals, G.R. No. 126010, 08 December 1999, 320 SCRA 76.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 480.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 484.

<sup>14</sup> Carey v. Population Services International, 431 U.S. 678 (1977).

<sup>15</sup> Smeaton, *supra* at 69, 70.

<sup>16</sup> Planned Parenthood v. Casey 505 US833 citing Carey v. Population Services International

<sup>17</sup> Ang Ladlad LGBT Party vs. COMELEC, G.R. No. 190582 [hereafter Ang Ladlad vs. COMELEC]

18. Committee on the Elimination of Discrimination against Women, Concluding Comments of the Committee on the Elimination of Discrimination against Women: Philippines, *available at* [http://www.ncrfw.gov.ph/inside\\_pages/downloads/cedaw/concluding\\_comments.pdf](http://www.ncrfw.gov.ph/inside_pages/downloads/cedaw/concluding_comments.pdf) (last accessed May 19, 2008) [hereinafter Concluding Comments], ¶ 31.

19. *Id.* ¶ 32.