

Republic of the Philippines
HOUSE OF REPRESENTATIVES/SENATE
Metro Manila

EIGHTEENTH CONGRESS
SECOND REGULAR SESSION

HOUSE/SENATE BILL NO. _____

Introduced by **HONORABLES/SENATORS** _____, _____, _____, _____, _____

Explanatory Note

I. Public health impact due to the restrictive and antiquated colonial abortion law

No woman should die or suffer disability from unsafe abortion complications.¹ Deaths from unsafe abortion complications are preventable deaths with access to safe abortion and post-abortion care.

This bill when passed into law will save the lives of thousands of women.

The restrictive, colonial, and antiquated 1930 Revised Penal Code abortion law never reduced the number of women inducing abortion. It has only endangered the lives of hundreds of thousands of Filipino women who are forced to undergo unsafe abortion. Prosecution of women who induce abortion and those assisting them is not the answer.

Abortion² must be decriminalized in the Philippines. The 1930 Revised Penal Code abortion law (Art. 256³-259 of the Revised Penal Code)⁴ is a restrictive and antiquated colonial law directly translated from the 1870 Old Spanish Penal Code which provisions can be traced back to the older 1822 Spanish Penal Code. This law has infringed Filipino women's right to autonomy to end their pregnancies leading to maternal deaths and morbidities from unsafe abortion complications.

Despite the restrictive abortion law and without access to appropriate medical information, supplies and trained health providers, Filipino women, especially poor women with at least three children, have made personal decisions to induce abortion clandestinely and under unsafe conditions risking their lives and health.

In 2012 alone, 610,000 Filipino women induced abortion, over 100,000 women were hospitalized,⁵ and 1000 women died due to unsafe abortion complications.⁶ Based on statistics, the number of induced abortions increases proportionately with the increasing Philippine population.⁷

This 2012 statistics show that lack of access to safe and legal abortion has a grave public health impact on women's lives and health translating to:

- **3 women dying every day from unsafe abortion complications**⁸
- **11 women hospitalized every hour**⁹
- **70 women induce abortion every hour**¹⁰

Each year, complications from unsafe abortion is one of the five leading causes of maternal death—between 4.7% – 13.2%—and a leading cause of hospitalization in the Philippines.¹¹

The high number of women dying yearly from complications from unsafe abortion surpass even the number of people who die from dengue. This is unacceptable. No person should die from complications from unsafe abortion nor dengue.

The Philippines must decriminalize abortion now, otherwise, allowing outmoded colonial penal abortion laws in Philippine law makes us all complicit to the high number of women who die each day from unsafe abortion complications.¹²

With abortion decriminalized, women's access to safe abortion and post-abortion care will not be impeded, thus, averting maternal deaths and disability from unsafe abortion complications. Decriminalizing abortion will save the lives of women who can be anyone's daughter, partner, mother, sister, niece or granddaughter.

II. Violations of women's human rights due to the harmful stigma of the restrictive abortion law and imposition of oppressive religious morality on women

Due to the restrictive abortion law, 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 prosecution and arrest.

The harmful stigma brought about by the restrictive abortion law has also been used by health providers to unlawfully deny post-abortion care to women resulting in many women being physically and verbally abused, harassed, threatened, intimidated, and discriminated against when seeking medical treatment for abortion-related complications, regardless of the circumstances surrounding the abortion. These forms of abuse, which may include outright denial of life-saving treatment, stem from a misconception among health care providers that post-abortion care is aiding or abetting a crime (i.e. abortion). Many health care providers in such situations impose their oppressive religious morality on women and "teach a lesson" to women suffering abortion complications.¹³

Despite liabilities of health care providers under existing laws¹⁴ and health professional Codes of Ethics for failure to provide life-saving care, many women report being treated inhumanely when they are rushed to the hospitals for unsafe abortion complications.¹⁵ Oftentimes, life-saving emergency medical care is delayed or not administered, leading to death and long-term health problems.¹⁶ Women suffering abortion complications are commonly threatened with arrest and

prosecution at health care facilities¹⁷ in breach of professional ethics on medical confidentiality.¹⁸ Instead of receiving life-saving emergency medical care, these women are treated as criminals rather than as patients. There have been various reports of women suffering abortion complications who have been arrested and prosecuted; subjected to coerced interrogations, forced confessions and other harassments.¹⁹

According to the 2019 study conducted by WomanHealth Philippines, one woman from Davao City relates her traumatic experience in 2013 on the **barriers to post-abortion care**:

“The doctor asked: ‘What really happened? And don’t lie!’ ... ‘Truly, Doc, I had miscarriage because I had a massage.’ ‘You are lying, you had an abortion! ... She [the doctor] was very mad. ‘Be thankful that you are still alive!’ she said to me. ‘Because someone already came in earlier claiming she had a miscarriage, just like your story, that she had a miscarriage and then fever and chills...Be thankful that you are still alive! Because the one before you died, it was too late to save her.’ ...I could not reply anymore. I fell silent because I was hurt.... I was stunned by the news that the woman before me had died. The doctor told me, ‘Don’t lie anymore, because the woman before you had died’. The doctor said, ‘Be thankful that we did not have you arrested by the police because abortion is forbidden!’ ‘Sorry, Doc, I said.’....” (as translated from the original Bisaya language used during the study)

Stories of women who have died from complications from unsafe abortion or forced pregnancy:

a) An Overseas Filipino Worker

In July 2018, 32-year old Nelia Sotelo, an Overseas Filipino Worker (OFW) from Dubai, bled to death inside the same hotel where her abortion was performed. She was forced to induce her abortion so she can get back to work as an OFW.²⁰

b) Women who were raped, became pregnant as a result of the rape, forced to carry their pregnancies to term (forced pregnancies) and died due to complications from their unsafe abortion

In 2012, a 19-year woman who was raped by her step-father became pregnant as a result of rape. Forced to induce an abortion under unsafe conditions, she died from complications.²¹

In 2004, a 26-year old doctor, forced to self-induce an abortion, died from infection due to complications from unsafe abortion. She became pregnant after she was raped by an older man who funded her medical education.²²

- c) **Women who were raped, became pregnant as a result of the rape, and died due to complications from risky childbirth**

In 2015, a 21-year old woman with dwarfism condition who became pregnant as a result of rape and was forced to carry her pregnancy to term (forced pregnancy), died after her risky childbirth.²³

III. Women suffering complications from naturally occurring medical conditions (spontaneous abortion/miscarriages, incomplete abortion, and intra-uterine fetal demise), though not penalized by law, are unlawfully denied life-saving care

Even with the Reproductive Health (RH) Law (RA 10354), Magna Carta of Women (RA 9710), Anti-Hospital Deposit Law (RA 10932), and DOH AO ensuring access to post-abortion care, it is not only women suffering complications from unsafe abortions who have been denied post-abortion care and other life-saving emergency medical care--legal medical procedures to save women's lives--but also women suffering complications from naturally occurring medical conditions such as spontaneous abortion (commonly known as miscarriages), incomplete abortion, and intra-uterine fetal demise.²⁴ In one documented case, life-saving care was also denied to a woman where the fetal demise was caused by violence committed by the abusive partner.²⁵ **Even when these naturally occurring medical conditions are not penalized by law, women are still at risk of dying when they are unlawfully denied timely emergency life-saving care.**

This discriminatory law against women must be decriminalized to end the harmful stigma women suffer from this restrictive abortion law and the judgmental religious beliefs imposed on women who want to discontinue their pregnancies including those suffering from various medical conditions such as unsafe abortion complications and complications from spontaneous abortion, incomplete abortion, and intra-uterine fetal demise.

IV. Unintended/unwanted pregnancies and denial of access to safe and legal abortion lead to high maternal mortality and morbidity

A. High unintended pregnancies especially of poor, rural, and young women end in unsafe abortion

- Only about four out of every ten women aged 15-49 using modern contraceptives²⁶
- Seventeen percent of currently married women have an unmet need for family planning services while among sexually active, unmarried women, 49 percent have an unmet need for family planning²⁷

Owing to lack of access to contraceptive information, services, and supplies, poor, rural, and young²⁸ women are likely to experience unintended pregnancy and resort to unsafe abortion procedures.²⁹

About one-third of unintended pregnancies end in abortion in the National Capital Region (NCR)³⁰ or about one in every nine pregnant women in the National Capital Region induce abortion³¹ and about one in every 18 pregnant women nationwide induce abortion.³²

B. Lack of access to contraceptives, contraceptive failure, coercive intimate relations, and rape lead to high unintended/unwanted pregnancies

Death and disability from unsafe abortion complications could be prevented through sexuality education, use of effective contraception, provision of safe, legal induced abortion, and timely care for complications,³³ however, **while modern contraceptives can reduce unintended pregnancies and abortion to some extent, it will not eliminate the need for abortion as some women experience contraceptive failure as contraceptives are not 100% effective; many women and girls do not have access to contraceptive information, supplies, and services especially poor women, rural women, adolescent girls and young women; other women have contraindications to contraceptive use or choose not to use contraceptives while other women and girls are in situations of coercive control by partners³⁴ or become pregnant as a result of rape and incest.**

C. Denial of access to safe and legal abortion leads to high maternal deaths during humanitarian crises including the COVID-19 pandemic where there is increased incidence of gender-based violence, high unintended/unwanted pregnancies, joblessness, hunger, and poverty

This public health issue should urgently be addressed especially now with the impact of the COVID-19 pandemic resulting in higher rates of unintended and unwanted pregnancies due to lack of access to contraceptives and higher incidences of rape, intimate partner violence, and sexual exploitation. About 2.56 million women are estimated to have unintended pregnancies in 2020, a 42% increase.³⁵ During this pandemic, these women faced with unintended and unwanted pregnancies are in an extraordinary situation where their day-to-day reality is joblessness, hunger, poverty, and being stuck at home with their abusers with an estimated 20% increase in intimate partner violence.³⁶

About 18,000 more adolescent girls are estimated to become pregnant due to the impact of the pandemic, worsening the high incidence of adolescent pregnancies in the Philippines--one of the highest in Asia prior to COVID-19 and described a national social emergency in 2019.³⁷ This 2020, there is also an estimated 178,000 adolescent women and girls between 15 and 19 years old with unmet need³⁸ for family planning,³⁹

Without access to safe abortion, many of these women and adolescent girls would eventually end their pregnancies unsafely risking their lives and health and may end up in the statistics of the estimated 26% increase of 2020 maternal deaths due to the pandemic's disruption of access to health services.⁴⁰

V. Profile and reasons for inducing abortion

A. Profile of women who induce abortion and their reasons for inducing abortion

The women who induce abortion are similar to the majority of the Filipino women—**poor, Roman Catholic, married, with at least three children, and have at least a high school education.**⁴¹ Reasons cited by the women for undergoing abortion were **economic (75%), too soon from the last birth (more than 50%), too young (46% women younger than 25 years old), health risks (one-third), rape (13% or one rape survivor induces abortion out of every eight women who terminate their pregnancies), not supported by partner or family (one-third)**⁴² and others due to study or work.

Almost 50% of women who induce abortion are under 25 years old. These women can be anyone's daughter, sister or young mother. Some of these women are also rape survivors.

B. One-third of women cite health risks for inducing abortion

Safe abortions are safer than childbirth and for persons with risky pregnancies and are unable to access to safe abortion, they are at risk of dying when they are forced to carry their pregnancy to term.

One-third of the women who induced abortion cited health reasons for inducing abortion.⁴³ 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 (see discussion on therapeutic abortion/abortion based on medical necessity).

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

1. Hemorrhage (27.1%)
2. Hypertensive disorders (14%)
3. Sepsis (10.7%)
4. Unsafe Abortion (7.9%)
5. Embolism (3.2%)
6. All other direct causes of death (9.6%).⁴⁴

Pregnant Filipino women and girls may also have other common conditions that cause maternal death (e.g., hypertensive; less than 18 or greater than 35 years old; less than 4'9" in height or have dwarfism; having a fourth or more child; with tuberculosis, heart disease, diabetes, bronchial asthma, goiter,⁴⁵ HIV,⁴⁶ malaria, severe anemia, malnutrition; a survivor of violence against women).⁴⁷ A woman may also have suffered a previous postpartum hemorrhage (PPH) and may want to induce abortion to avoid risk to her health and life due to PPH.

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, adolescent girls, and young women.

C. Incest and rape survivors and those who are sexually exploited are discriminated and suffer further torture when they are denied access to safe and legal abortion

Rape and incest survivors and sexually exploited women must be free to discontinue their unwanted pregnancies without risk to their lives.

A Filipino woman or girl is raped every 75 minutes.⁴⁸ About one in every eight Filipino women who induce abortion are rape survivors.⁴⁹

Some women and girls who became pregnant resulting from rape were forced to resort to clandestine and unsafe abortions while others have tried to commit suicide.⁵⁰

One research showed the following statistics of rape survivors who induced abortion:

Marital rape	57%
Incest	27%
Rape	83% ⁵¹

When one's daughter, sister, wife or mother becomes pregnant as a result of rape, there are many Filipinos who will support their female family member's decision to undergo such therapeutic abortion, however, even rape survivors are not expressly allowed by Philippine law to undergo abortion.

Denying safe and legal abortion to rape and incest survivors is torture, inhuman--a clear injustice--and patently discriminates against women and girls. Without access to safe and legal abortion, these rape and incest victims end up part of the statistics of women and girls who die from unsafe abortion complications.

VI. Adolescents, women with disabilities, poor women, persons with diverse sexual orientation, gender identity and expression, indigenous and Muslim women are at risk of dying due to lack of access to safe abortion

A. Adolescent girls are at risk of dying due to lack of access to safe abortion

Adolescent girls are at risk for undergoing unsafe abortion and for giving birth without the assistance of skilled birth attendants.⁵²

When adolescent girls are forced to carry a pregnancy to term, they are at high risk of dying or suffering disability.⁵³

Pregnancies and childbirth of adolescent girls aged less than 18 years and those whose height are less than 4'9" are considered high risk pregnancies⁵⁴ leading to high levels of maternal mortality and morbidity.⁵⁵ One research found adolescent girls have two times risk of dying at childbirth with a much higher risk for 15-year old and below adolescent girls while the infants of adolescents girls had a three times risk of dying.⁵⁶ Complications due to high blood are high for adolescent girls giving birth. They also tend to disregard basic pre-natal and post-natal care thereby putting themselves at risk and adding to occurrence of infant

mortality.⁵⁷

A.1. Adolescent rape and incest survivors and sexually exploited adolescent girls are at risk of dying due to lack of access to safe abortion

The same research on rape survivors also cited that adolescent incest survivors become suicidal and their pregnancies are risky due to their young age and would have fetal infirmities due to blood relationship.⁵⁸

Without access to safe 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--**the rape and forced pregnancy violate her rights at the same time she is at high risk of dying as such pregnancy at her young age is extremely risky.**

The Population Commission (POPCOM) cites about 40 to 50 adolescent girls aged 10-14 give birth every week.⁵⁹ It has been found that many adolescent girls aged 15 and below became pregnant due to sexual assault⁶⁰ showing the pervasive problem of sexual assault to this adolescent age group and the grave impact of such sexual assault on the rights, lives, and health of these adolescent girls. This highlights the imperative need to address such gender-based violence with due diligence including by providing access to emergency contraceptives and safe abortion and in effective prevention by raising the age of sexual consent to 16 as recommended by the Committee on the Elimination of Discrimination Against Women (CEDAW Committee).⁶¹

In Paraguay, two adolescent girls died during their risky childbirth after being raped and forced to carry their pregnancy to term (forced pregnancy):

In 2018, a 14-year old girl in Paraguay who became pregnant after being raped by a 37-year old man died during childbirth. The hospital director said, “Her body was not ready for a pregnancy.”⁶²

In 2018, a 12-year old in Paraguay was raped and forced to carry her pregnancy to term. She died during her child birth.⁶³

Maternal deaths of Filipino adolescent girls remain generally unreported but this does not mean that this is not happening in the Philippines.

B. Persons with disabilities are at risk of dying due to lack of access to safe abortion

Without access to safe abortion, persons with dwarfism condition are at risk of dying when they are forced to carry their pregnancy to term.

In August 2015, Maria, not her real name, a 21-year old Filipino woman with dwarfism condition who became pregnant as a result of rape, died a day after her risky childbirth due to complications resulting from her dwarfism condition.⁶⁴ Her mother lamented that her daughter might still be alive had her daughter been able to access safe and legal abortion.⁶⁵

One in three adult deaf women are rape survivors while two in three deaf children are rape survivors.⁶⁶

Without access to safe abortion, deaf women and girls and all other women and girls with disabilities facing unwanted pregnancies due to rape who induce abortion unsafely are risking their lives and health. The right of women with disabilities to autonomy and make personal decisions to end their pregnancies must be recognized to ensure their rights to health and life.

C. Poor women are at risk of dying due to lack access to safe abortion

Poor women comprise two-thirds of those who induce abortion,⁶⁷ using riskier abortion methods, thus disproportionately experiencing severe complications,⁶⁸ while Filipino women with financial capability can access safe abortion in nearby Asian countries where abortion is legal such as in Vietnam, Cambodia, and Singapore—clearly showing that lack of access to safe abortion is a social justice/class issue.

In the 2012 documentation of experiences of poor women in Manila City in relation to the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) inquiry on reproductive rights violations in Manila City,⁶⁹ it was found that many poor women risked their lives and health by undergoing as many as six consecutive unsafe abortions using risky methods.

Ninety-eight percent of unsafe abortions are in developing countries.⁷⁰ In countries like the Philippines where induced abortion is legally restricted and often inaccessible, safe abortion is frequently the privilege of the rich, while poor women often resort to unsafe abortion procedures, causing deaths and morbidities.⁷¹ 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.⁷²

Decriminalizing abortion upholds poor women's rights including their rights to life, health, equality, non-discrimination, and equal protection of the law.

C.1. Young women and girls belonging to poor and large families end up sexually exploited/trafficked

Poor women who lack access to contraceptives and safe abortion end up with too many children to feed further exacerbating their impoverished situation. Unfortunately, **many young women and girls belonging to poor and large families end up being sex trafficked by their own parents demonstrating the intersectionality of gender-based violence, poverty, and inability to fulfill reproductive rights.**

In Maguindanao, Women's Desk police officers reported high incidence of child trafficking where the children belonging to poor and large families (with six or more children) end up trafficked by their own parents.⁷³

This highlights that increased access to contraceptives and safe and legal abortion can help curb

trafficking. **This further emphasizes the need for access to safe abortion if and when these sexually exploited/trafficked children and young women end up with unwanted pregnancies.**

D. Lack of access to abortion impact persons with diverse sexual orientation, gender identity and expression

There are reports of lesbians, transgender men, and non-binary persons who have been raped and became pregnant resulting from the rape.⁷⁴ There have been Muslim lesbians who were raped in Jolo,⁷⁵ with the rape of one lesbian arranged by her father.⁷⁶ One Muslim lesbian committed suicide after being sexually abused.⁷⁷

Hate crimes committed against lesbians, transgender men, and non-binary persons can be traced to the same issues denying rights to privacy and bodily autonomy rooted in patriarchy, imposition of oppressive religious beliefs, and lack of respect to the rights of others.

Lack of access to safe abortion can lead to high maternal mortality and morbidity for people with diverse sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) who are being targeted for their SOGIESC.

E. Lack of access to abortion impact indigenous and Muslim women

There is evidence of use of abortifacients by indigenous peoples (IP), e.g., Ati,⁷⁸ showing that abortion is common among IPs with the use of herbal abortifacients. As regards our Muslim sisters, there are certain Islamic schools of thought that allow abortion within 120 days of pregnancy.⁷⁹

Denying access to safe and legal abortion under the Philippine law to women whose beliefs and religions allow them to induce abortion would be a violation of their right to equal protection of the law.

Access to abortion by all Filipino women must be safe and legal, hence, the need to decriminalize abortion and provide access to safe and legal abortion to all Filipino women of differing ethnicities, backgrounds, status, faiths or beliefs upholding the right of all Filipinos to equal protection of the law.

VII. Social cost and high health system cost of lack of access to safe abortion and post-abortion care

A. Social cost of lack of access to safe abortion and post-abortion care

Apart from the maternal deaths and lifelong disabilities related to lack of access to safe abortion and post-abortion care, social costs include the **time women spend in hospitals** for treatment and recovering from complications due to unsafe abortion.⁸⁰ This time spent in hospitals **lead to women's lower participation in national, community, and family matters taking them away from attending school, engaging in livelihood, and participating in family life.**⁸¹

Other **social costs of unsafe abortion** include the following:

- **An estimated nine living children will lose their mothers every day due to maternal mortality resulting from complications from unsafe abortion.**⁸²
- **Many children who lose their mothers receive less health care⁸³ and education, are likely to have serious health problems, and are more likely to die.**⁸⁴

Social costs of unintended/unwanted pregnancies include the following:

- **About two babies are reported abandoned every day.**⁸⁵
- **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.⁸⁶

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.**⁸⁷

In 2017, nine percent of adolescent women and girls (or one out of every 11) aged 15-19 have begun childbearing⁸⁸ with the POPCOM projecting around 200,000 adolescent women and girls will give birth in 2021.⁸⁹ POPCOM also cites 500 adolescent women and girls giving birth every day.⁹⁰

When young women and adolescent girls are forced to carry their pregnancies to term the **social impact includes disruption of studies, lack of job skills and career options due to low educational attainment and low financial capability.**⁹¹

B. Access to safe abortion can save the government over half a billion pesos as safe abortion services cost ten times less than treatment of unsafe abortion complications

Treatment of unsafe abortion complications 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. **The Philippine government could save over half a billion pesos (PhP) every year by decriminalizing abortion and ensure access to safe abortion.** Payments for post-abortion care by the Philippine Health Insurance Corporation more than doubled in the last two years—from Php 250 million in 2014 to Php 570 million in 2016.⁹²

VIII. Safe abortions are safer than childbirth; unsafe abortions happen when a pregnancy is terminated by persons e

Unsafe abortions can lead to complications such as:

- incomplete abortion (failure to remove or expel all of the pregnancy tissue from the uterus);
- hemorrhage (heavy bleeding);

- infection;
- uterine perforation (caused when the uterus is pierced by a sharp object);
- damage to the genital tract and internal organs by the insertion of dangerous objects such as sticks, knitting needles, or broken glass into the vagina or anus.⁹³

Major life-threatening complications resulting from the unsafe abortions are hemorrhage, infection, and injury to the genital tract and internal organs.

IX. The restrictive abortion law resulted in other restrictive policies

A. The restrictive abortion law resulted in denial of access to wide-acting life-saving essential medicines that can be used for complications for incomplete abortion, miscarriage, induction of labor and post-partum hemorrhage

Because there is lack of access to safe and legal abortion, demonization of abortion and drugs that may also be used as abortifacients including non-registration and non-availability of misoprostol in the Philippines, there are more women bound to die not just from complications from unsafe abortion but also from miscarriage and post-partum hemorrhage.⁹⁴

Misoprostol is a life-saving drug registered by the World Health Organization's Essential Medicine List for management of incomplete abortion and miscarriage, induction of labor where appropriate facilities are available, medical abortion, and prevention and treatment of PPH where oxytocin is not available or cannot be safely used,⁹⁵ **Misoprostol is also one of the 13 life-saving commodities of United Nations (UN) Commission on Life-Saving Commodities for Women and Children along with implants and emergency contraception⁹⁶ and is ideal for low-resource settings**, geographically isolated and disadvantaged areas (GIDA) and other areas in Mindanao including Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) where there is inadequate supply of electricity as misoprostol is stable at room temperature and does not need refrigeration,⁹⁷ and, hence, can save many women's lives. Decriminalization of abortion will remove barriers that block access to essential health commodities and will pave the way to increased access to essential life-saving medicines.

In the time of COVID-19, compassionate use of drugs to save the lives of patients was widely used pending the approval of the Food and Drug Administration of such drugs and methods. In the same manner, it is high time that the Philippines recognize the urgency of providing access to safe abortion and access to drugs with various uses including management of incomplete abortion, miscarriage, abortion, and PPH in an effort to humanize the health care system and truly be responsive to saving women's lives. Decriminalization of abortion will ensure women's access to safe abortion, post-abortion care, and wide-acting medicines.

B. Continuing violations of women’s rights with increase of fine for pharmacists dispensing abortifacients without prescription and regression of the health department policy on post-abortion care

The stigma on abortion has even found itself in RA 10951 which increases the fine for pharmacists dispensing abortifacients without prescription from a physician from 1000 pesos in the 1930 Revised Penal Code to 100,000 pesos, a clear regression of Philippine law instead of compliance with international state obligations to decriminalize abortion.

The urgency to decriminalize abortion is further demonstrated by another state policy wherein the Department of Health (DOH) made silent the express provisions in DOH Administrative Order (AO) No. 2016-0041 providing confidentiality and redress for women denied access to post-abortion care and compliance with existing Philippine laws to provide quality post-abortion care when it issued its new DOH AO on post-abortion care in 2018.⁹⁸ This 2018 AO even mentions “illegal” eight times further exacerbating the judgment imposed on women who induce abortion and women suffering abortion complications intensifying the difficulty women face when accessing post-abortion care in hospitals.

X. Therapeutic abortion is legal in the Philippines

A. Therapeutic abortion is legal to save the life of the woman and for medical necessity

Abortion is recognized as allowed in the Philippines to save the life of the woman and for medical necessity, hence, access to therapeutic abortion should encompass management of various clinical conditions for induced abortion (e.g., various conditions of the woman and pregnancy conditions of the woman).⁹⁹

Abortion to save the life of the woman has been supported by **commentaries of constitutionalist and priest Fr. Joaquin Bernas**,¹⁰⁰ **professors of forensic medicine to preserve the life and health of the woman** (e.g., **Pedro Solis**),¹⁰¹ and **for medical necessity under Philippine jurisprudence** (1961 case of **Geluz vs. CA**, 2 SCRA 801).¹⁰² **Legal experts** such as **Dean Pacifico Agabin**, **Judge Alfredo Tadiar**, **Atty. Clara Rita A. Padilla of EnGendeRights** (spokesperson of the **Philippine Safe Abortion Network (PINSAN)**) and **Atty. Jihan Jacob of the Center for Reproductive Rights (PINSAN member)** and **reproductive rights activists** such as **Princess Nemenzo**, **Mercedes Fabros**, and **Dr. Florence M. Tadiar (members of PINSAN)**, among others, have long advocated for decriminalization of abortion and women’s access to safe abortion and post-abortion care.

Various conditions that could fall under therapeutic abortion are, as follows:

- 1) **risks to woman’s or a girl’s life or physical or mental health of the woman including prevention of life-long disability:**

Pregnant women with conditions such as dwarfism, hypertensive disorders (12-14% of maternal deaths) and other cardiovascular disease, tuberculosis, diabetes, bronchial asthma, goiter,¹⁰³ HIV,¹⁰⁴ malaria, severe anemia, malnutrition, and pregnant women who are less than 18 or greater than 35 years of age,¹⁰⁵ have a

fourth or more children,¹⁰⁶ are battered by their husbands or partners,¹⁰⁷ have spinal metal plates;

Women who are suicidal or have mental health concerns including those who are suicidal because of their pregnancy;¹⁰⁸

Broad social and economic concerns can impact women's mental health status;

Women with extreme preterm premature rupture of membranes (PPROM) before 26 weeks of gestation;

Women with cancer;¹⁰⁹

- 2) **pregnancy condition** (See International Federation of Gynecology and Obstetrics (FIGO) guidelines on pregnancy diagnosis stating “[t]he decision to continue or terminate the pregnancy should always rest with the woman.”)¹¹⁰

- 3) **rape or incest**

Although therapeutic abortion is recognized as allowed in the Philippines, the problem is lack of information and the pervasive judgment imposed on women who induce abortion, hence, decriminalizing abortion is an important step towards eliminating discrimination against women and ensuring women's access to reproductive health services.

B. The Philippine government supports abortion to protect the life and health of women

The Philippine government unequivocally supports access to therapeutic abortion, paving the way to decriminalize abortion, by citing **in its 2019 state party report to the Human Rights Committee**, that women and health providers do not incur criminal liability based on the general principles of criminal legislation on the ground of necessity under **Article 11, paragraph 4, of the Revised Penal Code¹¹¹ justifying abortion to "protect the life and health of pregnant women."**¹¹²

The **Philippine Commission on Women (PCW)** recommended that “**justified abortion in circumstances where ‘continuation of pregnancy endangers the life of the pregnant woman or seriously impairs her physical health’ should...be considered.**”¹¹³

In the **Commission on Human Rights (CHR) Report** on the National Inquiry on Reproductive Health and Rights, the CHR recommended to the legislature to: “**4. To review provision on abortion...**, taking into consideration the **studies forwarded by [the Center for Reproductive Rights] and EnGendeRights** and other women's organizations on **how the [restrictive abortion law] affect[s] provision of post abortion care; The legislature may likewise note CEDAW Committee views on the matter.**”¹¹⁴

C. Jurisprudence support access to therapeutic abortion and post-abortion care as emergency cases

Regardless of a person's religious or personal beliefs on abortion, **a health care provider cannot deny access to therapeutic abortion and post-abortion care on the basis of conscientious objections and third-party authorization since these are emergency cases.** The **Supreme Court**, in upholding the constitutionality of the RH Law, **ruled that medical care should be provided in emergency cases¹¹⁵ (e.g., pregnancy-related complications which the WHO defines as including childbirth and abortion-related complications).**

XI. The Philippine Constitution allows access to safe and legal abortion

A. Women's rights prevail over prenatal protection

Decriminalizing abortion upholds women's rights to life and other fundamental human rights and confirms that women's rights--the rights of those with legal personality (Art. 41 of the Civil Code)—prevail over prenatal protection.

Women's right to life and other fundamental women's human rights prevail over the 1987 Constitutional prenatal protection under Section 12, Article II on the Declaration of Principles equally protecting the life of the woman and the unborn from conception.¹¹⁶ **Prenatal protection is not absolute and does not abrogate women's rights under the Bill of Rights such as the constitutional rights to health, life, privacy, religion, equality, and equal protection of the law which all guarantee the woman's right to safe and legal abortion.**¹¹⁷

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 recognized in Philippine and comparative jurisprudence and international law that the zygote, blastocyst, embryo, and fetus are not on equal footing with the rights of a woman.¹¹⁸ **Not placed exactly on the same level as the life of the woman, the zygote, blastocyst, embryo and fetus are not accorded the same rights and protection as legal persons since legal personality only attaches upon birth (Art. 41, Civil Code).**

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 woman's uterus) to be considered a person endowed with legal personality.

In the case of *Geluz vs. Court of Appeals*,¹¹⁹ **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 41 of the Civil Code. The Supreme Court even went further to state that that abortion is justified when there is a medical necessity to warrant it.**¹²⁰

C. Other countries with the same constitutional prenatal protection allow access to safe and legal abortion

Other countries with the same constitutional prenatal protection allow abortion such as Costa Rica, Hungary, Kenya, Poland, Slovak Republic, and South Africa. These examples show that the Constitution, being the law of the people, is justifiably interpreted liberally in favor of women.

D. The Philippine Constitution must be liberally construed to save the lives of Filipino women and prevent disability resulting unsafe abortion complications

The Philippine Constitution, an evolving law and the law of the Filipino people that guarantees constitutional rights, must be construed liberally to save the lives of Filipino women and prevent disability resulting from complications from unsafe abortion and that the woman's right to life encompasses her physical, mental, emotional, psychological well-being.

E. Women's rights to life, health, privacy, religion or belief, equality, equal protection of the law prevail over prenatal protection

When women are denied access to safe abortion and life-saving emergency care, this becomes a clear violation of women's rights to life, health, equality and non-discrimination, autonomy and bodily integrity, freedom from cruel, inhuman, and degrading treatment, and equal protection of the law.

F. The constitutional right to privacy covers personal decisions such as abortion precluding governmental interference

Abortion, as other concerns related to marriage, procreation, contraception, divorce, and diverse relationships, are covered by the constitutional right to privacy (*Carey v. Population Services International*),¹²¹ hence, such personal decisions preclude governmental interference.

G. Constitutional protection on separation of church and state and non-establishment of religion

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 religion¹²² 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 restrictive abortion law 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 in violation of the constitutional guarantee on non-establishment of religion. This would infringe on the right to freedom of religion of women and health providers who want to provide health care to their patients.**

The principle of separation of church and state guarantees that Philippine laws and policies must not adopt the position of any major or minor religion.

People and their churches are free to exercise their own beliefs but they must respect the free exercise of beliefs of others. What the principle of separation of church and state safeguards is against any particular religion influencing government laws and policies. It is the duty of public officials to ensure that laws and policies do not further the views of any religion but rather ensure that the rights of all citizens are protected.

H. Constitutional guarantee on freedom of thought, conscience, religion or belief

A woman must be free to make a personal decision to end her pregnancy according to her right to freedom of thought, conscience, religion or beliefs free from interference, coercion or constraint.¹²³ This right is violated when women are denied access to safe and legal abortion.

When women induce abortion according to their religion or beliefs--be they indigenous women, Muslim women and other women whose religions recognize the importance of access to safe and legal abortion (e.g., Protestant denominations, Hinduism, and Buddhism),¹²⁴ and women with diverse beliefs (e.g., atheists, agnostics, among others), and even the majority of those who induce abortion who are Catholics, poor, with at least three children and with a high school education—their right to freedom of thought, conscience, religion or belief must be upheld.¹²⁵

These same women want to decriminalize abortion to enable them and other women to have access to safe and legal abortion, thus, putting an end to women risking their lives and health when undergoing unsafe abortion.

The Supreme Court in upholding the constitutionality of the Reproductive Health Law ruled that health care providers cannot deny medical care in emergency cases¹²⁶ (which includes abortion-related complications according to WHO) regardless of their religious beliefs, this clearly shows that such refusals are religious refusals that infringe on the constitutional right to freedom of religion or belief. Underscoring that while freedom to believe is absolute, freedom to act on one's belief is not absolute.¹²⁷

I. Secular standards

As has been held by the Supreme Court in the *Estrada vs. Escritor*¹²⁸ and *Ang Ladlad vs. Comelec*¹²⁹ cases, **our laws and system of governance should be based on secular standards and not religious morality.**

In the words of former Secretary of Health Dr. Alberto Romualdez, Jr., “Abortion is **not a moral issue, it is a medical issue.**” Highlighting the need for a law decriminalizing abortion that upholds medical standards and the constitutional guarantee of secular standards over religious morality.

XII. Countries where maternal deaths decreased with women’s access to safe and legal abortion

Where abortion was made legal, maternal deaths caused by complications from unsafe abortion drastically declined. In Romania maternal deaths due to unsafe abortion complications dropped from 142 deaths per 100,000 live births in 1989 to below 50 per 100,000 live births when abortion was made legal in 1999.¹³⁰ Guyana hospital admissions for septic and incomplete abortion in a capital city hospital declined by 41% the year it was made legal in 1995.¹³¹ When countries liberalized their laws to permit abortion for non-medical reasons, the mortality and morbidity from the procedure fell dramatically, without a significant increase in terminations.¹³²

XIII. Global trend liberalizing abortion laws to lower maternal deaths and morbidities related to unsafe abortion complications

There is a global trend liberalizing abortion laws where about 85% of the countries around the world allow abortion on express grounds.¹³³ Over 30 countries have liberalized their abortion laws in the last two decades.¹³⁴

A. Asian countries with liberalized abortion laws

Asian countries including Predominantly Catholic and Muslim countries have liberalized their abortion laws: 1) **On request (gestational limits vary): Cambodia, China, Nepal, Singapore, Turkey, and Vietnam;** 2) **Certain grounds: Bhutan, Fiji, Indonesia, Iran, Iraq,¹³⁵ Japan, Malaysia, and Thailand;**¹³⁶ 3) **To save a woman’s life: Bangladesh, Iraq, Timor-Leste (a Southeast Asian predominantly Catholic country).**¹³⁷

Bangladesh, however, allows “menstrual regulation” since 1979 up to 12 weeks of gestation,¹³⁸ although many women still resort to clandestine abortions, some of which are unsafe.¹³⁹ Tunisia, a predominantly Muslim country in Africa, allows abortion on request. In 2019, the South Korean Constitutional Court declared their restrictive abortion law unconstitutional and gave lawmakers until 2020 to pass new legislation legalizing abortion.¹⁴⁰

B. Predominantly Catholic Countries with liberalized abortion laws

Predominantly Catholic countries and territories have liberalized their abortion laws:

- **Spain¹⁴¹ up to 14 weeks of the pregnancy and thereafter on specific grounds (with Prime Minister Zapatero at the helm of legalizing abortion on request in 2010)**
- **Belgium, France, and Italy** allow abortion upon a woman’s request¹⁴²
- **Poland** allows abortion to protect a woman’s life and physical health and in cases of rape, incest, and fetal impairment¹⁴³
- Hungary allows abortion up to 12 weeks of gestation¹⁴⁴
- Portugal allows abortion up to 10 weeks of gestation¹⁴⁵
- Brazil on certain grounds

- **Ireland** up to 12 weeks of gestation and later gestational age with risk to the life and health of the woman or fatal fetal abnormality (as of January 1 2019 under the Health (Regulation of Termination of Pregnancy) Act 2018 following the repeal of the Eighth Amendment (“unborn” protection) by referendum in May 2018 amending its previous explicit life exception provision)

Northern Ireland, part of the United Kingdom with a predominantly Christian population, allows abortion up to 12 weeks liberalizing its previous grounds limited to risk to life or permanent/serious damage to the woman’s physical/mental health.¹⁴⁶

C. Former Spanish colonies with predominantly Catholic populations have liberalized their abortion laws liberating their countries from the persisting bondage of colonialism

Most former Spanish colonies with mostly predominant Catholic populations have liberalized their laws on abortion such as Argentina, Bahamas, Bolivia, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Jamaica, Mexico, Panama, Paraguay, Peru, Puerto Rico, Trinidad and Tobago, Uruguay, and Venezuela allow abortion on certain grounds.¹⁴⁷ **Mexico City**, a predominantly Catholic city, even provides safe and legal abortion for free¹⁴⁸ while the Mexican state of **Oaxaca**, one of Mexico’s poorest states, legalized abortion in 2019 allowing abortion during the first 12 weeks of pregnancy. Chile’s 2017 law has explicit exceptions for life, rape, fetal impairment, the constitutionality of which was upheld by the Constitutional Court. **Chile’s abortion law was first introduced by then President Michelle Bachelet, now UN High Commissioner for Human Rights, in January 2015**—allowing abortion on certain grounds.¹⁴⁹

This leaves the Philippines to contend with its antiquated colonial Spanish law—a persisting bondage of colonialism--and only one of a handful countries worldwide which continue to penalize their women and adolescent girls for having an abortion.

In the past, **the Philippines has repealed clearly discriminatory provisions in the colonial Revised Penal Code that unjustifiably inflicts hardship on women such as Art. 351 imposing penalty on the woman for premature marriage repealed under RA 10655.**

XIV. The international health guidance of the World Health Organization and International Federation of Gynecology and Obstetrics recommends removal of legal restrictions on abortion

As early as 2003, the 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.¹⁵⁰ 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.¹⁵¹

WHO identified the following barriers to accessing safe abortion:

- restrictive law;
- poor availability of services;
- high cost;
- stigma;
- conscientious objection of health-care providers; and
- unnecessary requirements such as mandatory waiting periods, mandatory counselling, provision of misleading information, third-party authorization, and medically unnecessary tests that delay care.¹⁵²

In 1998, FIGO came out with their *Ethical Aspects of Induced Abortion for Non-Medical Reasons*¹⁵³ and recommended, “Neither society, nor members of the health care team responsible for counselling women, have the right to impose their religious or cultural convictions regarding abortion on those whose attitudes are different.”

XV. The Philippines must comply with its international human rights obligations to decriminalize abortion

The Philippine government must comply with its international human rights obligation to decriminalize abortion as means for women to have access to safe abortion and post-abortion care ensuring women's rights to life, health, equality and non-discrimination, autonomy and bodily integrity, freedom from cruel, inhuman, and degrading treatment, and equal protection of the law.

Without knowing the full consequences of the harsh and restrictive Old Spanish Penal Code, the Philippine Congress adopted the abortion law in our Revised Penal Code of 1930.¹⁵⁴ 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 the rest of the 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).¹⁵⁵

The respective treaty monitoring bodies of these core international human rights instruments tasked to monitor states' compliance with their international human rights obligations have constantly recommended to the Philippines to review its abortion law, decriminalize abortion, 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

The CEDAW Committee 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”¹⁵⁶ and that “[w]hen possible, legislation criminalizing abortion could be amended to **remove punitive provisions imposed on women who undergo abortion.**”¹⁵⁷ It has recognized that restrictive abortion laws result in a violation of women’s right to life¹⁵⁸ and has emphasized the vital link between illegal, unsafe abortion, and high rates of maternal mortality¹⁵⁹ 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.¹⁶⁰ The CEDAW Committee further stated that penalizing abortion “serves no known deterrent value...[and] has a stigmatizing impact on women.”¹⁶¹

As early as August 2006, over 14 years ago, the CEDAW Committee recommended in its Concluding Observations for the Philippines to “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.”

In May 2015, the CEDAW Committee released its report on its inquiry on reproductive rights violations and recommended to the Philippine government to 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.”

In 2016, 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, including on access to modern contraceptives and legalization of abortion under certain circumstances¹⁶² and to submit a follow up report in 2018 on the steps the government has taken to decriminalize abortion.”¹⁶³

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 Committee¹⁶⁴ again expressed concern on the “growing number of unsafe abortions and very high maternal mortality rates including among adolescents.”¹⁶⁵ The CESCR Committee recommended that the state party “take all measures necessary to reduce the incidence of unsafe abortion and maternal mortality including through amending its legislation on the prohibition of abortion to legalize abortion in certain circumstances.”¹⁶⁶

C. Human Rights Committee

In 2012, the Human Rights Committee expressed concern on the country's restrictive abortion law "which compels pregnant women to seek clandestine and harmful abortion services, and accounts for a significant number of maternal deaths" and urged the Philippines to "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."¹⁶⁷ In its General Comment 36, the Committee expressed that the right to life means that states may not regulate voluntary termination of pregnancy if it violates the right to life or other human rights of a pregnant woman or girl and that states should address barriers, including criminal penalties, that deny women and girls access to abortion. The Human Rights Committee also stated that "the shame and stigma associated with the criminalization of abortion" aggravate the physical and mental anguish a pregnant woman experiences¹⁶⁸ and that "restrictions on the ability of women or girls to seek abortion must not, inter alia, jeopardize their lives, subject them to physical or mental pain or suffering which violates article 7..." and recommended that states "should...effectively protect the lives of women and girls against the mental and physical health risks associated with unsafe abortions."

In the communication *K. Llantoy v. Peru*¹⁶⁹ 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.¹⁷⁰ In KL's case, the fetus died five days after birth and KL fell into a deep depression.¹⁷¹ 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;¹⁷² violated her right to privacy under article 17;¹⁷³ and violated her right to receive the special care she required as an adolescent girl from the health system under article 24.¹⁷⁴ 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.¹⁷⁵

D. Committee against Torture

In 2016, the Committee against Torture¹⁷⁶ recommended for the Philippines to "[r]eview 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" and to "[d]evelop a confidential complaints mechanism for women subjected to discrimination, harassment or ill-treatment while seeking post-abortion x x x treatment."

The Committee Against Torture recognized that **abusive practices and criminal restrictions on abortion violate the prohibition against torture and ill-treatment.**¹⁷⁷

E. Committee on the Rights of the Child

In the Committee of the Rights of the Child 2005 Concluding Observations on the Philippines, the Committee recommended that the Philippine government “ensure access to reproductive health counseling and provide all adolescents with accurate and objective information and services in order to prevent teenage pregnancies and related abortions.”¹⁷⁸ Further, **the Committee urged states to “decriminalize abortion to ensure that girls have access to safe abortion and post-abortion services”**¹⁷⁹ and recognized that “risk of death and disease during the adolescent years is real, including from preventable causes such as childbirth [and] unsafe abortions....”¹⁸⁰

E. Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment

The Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment (SR on Torture) raised the "tremendous and lasting physical and emotional suffering inflicted on the basis of gender" due to restrictions on women's access to safe abortion.¹⁸¹

F. Human Rights Council Universal Periodic Review

In 2017, on the third Universal Periodic Review, the Philippines took note of the recommendation to “[t]ake immediate steps to permit abortion in cases where a woman’s or a girl’s life or physical or mental health is in danger, where the pregnancy is a result of rape or incest and in cases of fetal impairment, with a view to decriminalizing abortion in the near future.”

G. Compliance with international human rights obligations of other countries

In compliance with international human rights obligations, particularly in reference to recommendations of the CEDAW Committee and Human Rights Committees to remove punitive provisions on abortion, **several countries since in the past two decades (2000 onwards) have liberalized their laws on abortion such as Argentina, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Ireland, Mexico City, Panama, Paraguay, Peru, Trinidad and Tobago, Venezuela.**

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

XVI. Allowing abortion based only on certain exceptions will not suffice; the Philippines must decriminalize abortion on all grounds

The following cases demonstrate that **allowing abortions only on certain exceptions have caused denial of access to abortion at the risk of women's lives and health:**

- **In 2012, even though abortion to save a woman's life was recognized in Ireland, there was a case of an immigrant woman dentist who miscarried but was denied completion of abortion and eventually died from sepsis.**
- **In 2015, in Paraguay, a 10-year old girl who became pregnant after being raped by her stepfather was denied abortion by doctors since there was no life-threatening complications.¹⁸² Her mother requested for the girl to undergo an abortion but, having been denied, the girl eventually gave birth at age 11--forced into motherhood against her will.¹⁸³**

These cases manifest the urgent need to decriminalize abortion on all grounds, clearly showing that exceptions on certain legal grounds would not suffice in saving women's lives given the experience of women in other countries where there are strict legal regulations, refusals by providers even in cases of risks to the woman's or girl's life, and non-registration of abortifacient pills.

XVII. This bill to decriminalize abortion is part of the historical fight to uphold women's rights to equality and non-discrimination; the Philippine government must respond to the outstanding clamor to pass the bill into law

This fight to decriminalize abortion is part of the historical fight to uphold women's rights to equality and non-discrimination including the fight for women's right to vote, work, study; right against sexual assault, sexual harassment, trafficking; right to sexual and reproductive health including the full range of contraceptive methods, pre-natal care, maternal care, and post-natal care; right to SOGIESC, among others.

Many supporters of this bill--members of the women's movement and other human rights advocates--have long advocated for all these pro-women and pro-SOGIESC laws and bills including the Anti-Sexual Harassment Act, Anti-Rape Law and its proposed amendments, the Anti-VAWC Act, the Anti-Trafficking Act/Expanded Anti-Trafficking Act; Reproductive Health Law, Safe Spaces Act, Quezon City (QC) Gender-Fair Ordinance, Establishment of QC Protection Center for Women, Children and LGBT Survivors of Gender-based Violence, Divorce, SOGIE/Comprehensive Anti-Discrimination Bill, gender recognition, marriage equality, the bills raising the age of sexual consent to 16¹⁸⁴; repeal of laws that discriminate against women such as decriminalization of vagrancy (RA 10158; "prostitution" still to be repealed) and repeal of Art. 351 of the Revised Penal Code penalizing a woman for premature marriage (RA 10655), among others.

A Facebook post on said bill on May 28, 2020, International Women's Health Day, went viral in just six days with over 11,000 people supporting the Bill Decriminalizing Abortion and only 2000 unsupportive. Majority of the 13,000 comments support decriminalization of

abortion and women's right to bodily autonomy, privacy, health, and life. The outstanding **clamor from the youth** to decriminalize abortion as shown in this post is **due to countless young women's and girls' untold stories of rape and maternal deaths due to unsafe abortion** and **stories of women and young girls solely bearing the brunt of socio-economic hardships brought about by early and unintended pregnancies.** Clearly, there is overwhelming clamor to decriminalize abortion.

Legislators and other Philippine government officials must take heed of the clamor and express support for this bill.

As seen in this Facebook post, those who oppose the decriminalization of abortion are a minority. To those who oppose the decriminalization of abortion, this proposed bill when passed into law will not force them to undergo an abortion against their beliefs, however, this will provide access to services to countless women who decide to discontinue their pregnancy and suffer complications from unsafe abortions.

Moreover, **detractors cannot impose their beliefs on other people as such imposition of religious morality and religious doctrines in Philippine law violate the constitutional guarantees of separation of church and state, non-establishment of religion, and freedom of religion or belief.**

XVIII. Time to decriminalize abortion and save women's lives

The Philippines must take action now to pass this proposed law to decriminalize abortion.

It is high time for the Philippine government to decriminalize abortion as women's lives and health are at stake. If this colonial restrictive abortion law persists, we will constantly be faced with the public health issue of women dying and suffering disability from complications from unsafe abortion, spontaneous abortions, and other related medical conditions.

Allowing this colonial law to prevail in our society will continue to breed hatred and hostility towards Filipino women who induce abortion.¹⁸⁵ As long as abortion remains restricted in the Philippines and people impose their oppressive religious beliefs on women seeking life-saving abortion care, women will die and suffer disability from complications from unsafe abortion. It is incumbent upon the Philippine government to decriminalize abortion being the main barrier to women's access to safe abortion and even post-abortion care.

In the time of the COVID-19 public health concern, we witnessed health care providers who risked their lives to save COVID-19 positive patients. The same zeal and selflessness should continue to prevail to save the lives of women at risk of dying from complications from unsafe abortion and in the provision of access to safe abortion. Access to humane, nonjudgmental, and compassionate care for safe abortion and post-abortion care will only be widely accessible once abortion is decriminalized in the Philippines.

In the name of countless Filipino women who were denied access to safe abortion and humane post-abortion care, the women who died from complications of unsafe abortion, and the women

who have to travel to nearby Asian countries just to access safe and legal abortion, the Philippines must repeal its colonial and restrictive abortion law and ensure access to safe and legal abortion and quality post-abortion care.

When passed into law, the bill decriminalizing abortion will also protect all skilled health providers--doctors, nurses, and midwives--performing safe abortion. These skilled health care providers are family, relatives, and friends of many Filipinos and could even be your very own health provider.

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 restrictive colonial law on abortion.

It is time Filipino women should have access to safe and legal abortion as their basic right to life and health. It is imperative that women's right to access abortion is seen as a life and death medical concern that poses extremely urgent public health issues.

Representatives in the Philippine government should realize how human rights violations related to unsafe abortions are so pervasive in our society. They simply cannot ignore this important public health issue gravely impacting women's rights to life and health.

Philippine government officials, being representatives of the Filipino people, should act now before any more Filipino women, adolescent girls, and persons with diverse gender identities suffer the consequences of the country's abortion restrictions.

Every minute counts to save the lives and health of Filipino women who are denied their right to basic health care. To save women's lives, we need to decriminalize abortion now.

Take a stand and be counted in this fight to save women's lives by supporting the bill to decriminalize abortion. Together, let's end discrimination against women and fight for women's rights to life, health, equality, equal protection of the law, privacy and bodily autonomy, and against torture.

Republic of the Philippines
HOUSE OF REPRESENTATIVES/SENATE
Metro Manila

EIGHTEENTH CONGRESS
SECOND REGULAR SESSION

HOUSE/SENATE BILL NO. _____

Introduced by **HONORABLES/SENATORS** _____, _____, _____, _____

**AN ACT DECRIMINALIZING INDUCED ABORTION
TO SAVE THE LIVES OF WOMEN, GIRLS,
AND PERSONS OF DIVERSE GENDER IDENTITIES,
AMENDING FOR THIS PURPOSE ARTICLES 256-259 OF ACT NO. 3815,
AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE,
ESTABLISHING INSTITUTIONAL MECHANISMS AND FOR OTHER
PURPOSES**

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section 1. Short Title. – This Act shall be known as the “Act Decriminalizing Induced Abortion to Save the Lives of Women, Girls, and Persons of Diverse Gender Identities, Amending Articles 256-259 of the Revised Penal Code”.

Section 2. Declaration of Policy. – The State shall, at all times, ensure access of pregnant Filipino women, girls, and persons with diverse gender identities to comprehensive health care which addresses reproductive mortality, morbidity, and disability including access to safe and legal abortion on all grounds to fulfill their rights to life, health, equality, non-discrimination, equal protection of the law, privacy and bodily autonomy, and against torture.

Towards this end and in accordance with the provisions of the Magna Carta of Women to repeal discriminatory laws against women and in compliance with the Philippine government’s international human rights

obligations, all existing legal restrictions on abortion will be repealed and intensified efforts shall be conducted to remove abortion stigma as lack of access to safe abortion is an extremely urgent public health concern that poses life and death medical concerns and gravely impacts various persons at risk including survivors of rape and sexual exploitation, adolescent girls, women with disabilities, poor women, and persons with risky pregnancies.

Section 3. *Repeal of Articles 256-259 of the Revised Penal Code.* - Without prejudice to the provisions of the Anti-Violence Against Women and Children Act on violence committed against a woman and Revised Penal Code provisions including on coercion and physical injuries, Articles 256-259 of Act No. 3815, otherwise known as the Revised Penal Code, punishing the crime of abortion, is hereby repealed.

Section 4. *Effect on Pending Cases.* – All pending cases under the provisions of Articles 256-259 of the Revised Penal Code on Abortion prior to its amendment by this Act shall be dismissed upon effectivity of this Act.

Section 5. *Immediate Release of Convicted Persons.* – All persons serving sentence for violation of the provisions of Articles 256-259 of the Revised Penal Code on Abortion prior to its amendment by this Act shall be immediately released upon effectivity of this Act: Provided, That they are not serving sentence or detained for any other offense or felony.

Section 6. *Protocol on Comprehensive Safe Abortion Care, Emergency Abortion Care, and Post-Abortion Care.* –

A. *Elements of Comprehensive Safe Abortion Care, Emergency Abortion Care and Post-Abortion Care* – Comprehensive safe abortion care, emergency abortion care, and post-abortion care shall be an integral part of basic and comprehensive emergency obstetric and newborn care (B/CEmONC) in public and private health facilities and at all levels of the health care delivery system and shall include the following elements:

- 1) Timely comprehensive safe abortion care, emergency abortion care, and treatment of abortion complications;
- 2) Family planning including contraceptive services;
- 3) Voluntary psycho-social counseling through the facility's trained social workers and other psycho-social counseling centers to address any mental health concerns;
- 4) Linking to other services including gender-based violence support centers, sexually transmitted infection (STI) evaluation and treatment, HIV counseling and testing, social services, cancer

- screening and other physician specialists, and safe abortion advocacy groups;
- 5) Integration of services in the Service Delivery Network and Community and Service Provider Partnerships

B. *Duty to Provide Ethical Safe Abortion, Emergency Abortion Care, and Post-Abortion Care and Maintain Confidentiality*– Health care providers providing safe abortion care and post-abortion care shall:

- 1) Provide humane, non-judgmental, compassionate safe abortion care, emergency abortion care, and post-abortion care and voluntary psycho-social counseling to address mental health concerns respectful of the patient’s informed, voluntary and autonomy in decision-making;
- 2) Provide safe and quality safe abortion care, emergency abortion care, and post-abortion care that is appropriate, accessible, timely and non-discriminatory regardless of age, ethnicity, socioeconomic or marital status

C. *Comprehensive Safe Abortion Care, Emergency Abortion Care, and Post-Abortion Care*– The following comprehensive safe abortion care protocol, appropriate to the pregnancy duration, is needed for safe abortion care, emergency abortion care, and post-abortion care:

- 1) Comprehensive safe abortion care, emergency abortion care, and treatment of abortion complications (prior, during or after treatment procedures);
 - a) The critical signs and symptoms of abortion complications that require immediate emergency abortion care include: abnormal vaginal bleeding, abdominal pain, infection, shock (collapse of the circulatory system), injury to the genital tract and/or internal organs;
 - b) Complications arising from unsafe abortions and their emergency abortion care treatments include:
 - i. Hemorrhage: timely treatment of heavy blood loss is critical, as delays can be fatal;
 - ii. Infection: treatment with antibiotics along with evacuation of any remaining pregnancy tissue from the uterus as soon as possible;
 - iii. Injury to the genital tract and/or internal organs: if this is suspected, early referral to an appropriate level of health care is essential

- 2) Prompt referral and arrange transfer of patients requiring higher level of care based on initial assessment/evaluation conducted to the nearest facility with CEmONC (comprehensive emergency obstetric and newborn care) capability such as: District Hospitals with Obstetrics and Gynecology Department, Provincial Hospitals, Regional Hospitals and Medical Centers or tertiary public or private hospitals within the service delivery network where a definitive diagnosis can be made and appropriate care can be delivered quickly;
- 3) For cases where services of a higher facility is necessary, the hospital or medical clinic shall first administer emergency medical treatment, care and support, and shall cause the transfer of the patient to an appropriate hospital consistent with the needs of the patient.

Where there is no ambulance available for use by the hospital or medical clinic for the emergency transfer of the patient to a facility where the appropriate care shall be given, the local government unit (LGU) where the hospital or medical clinic is located must allow the free use of its emergency vehicle to transport the patient to the hospital or medical clinic where a continuation of care shall be given. The hospital or medical clinic must provide a staff doctor, nurse or midwife with advanced cardiovascular life support (ACLS) certification or its equivalent to accompany the patient in the emergency vehicle. The staff shall make an urgent call to the referral hospital to alert the admitting officer or medical officer of the referral and shall make the necessary endorsements to the health team in the referral facility;

- 4) Conduct of appropriate medical procedures by trained health care providers depending on the duration of the pregnancy, condition of the patient's, and evolving scientific advances, as follows:
 - a) Uterotonics;
 - b) Transcervical procedures for terminating pregnancy, including vacuum aspiration (electronic vacuum aspiration or manual vacuum aspiration) and dilatation and evacuation (D&E), as appropriate;
 - i. Sharp curettage shall only be used if there is no access to vacuum aspiration cannula or no available trained personnel

- to perform vacuum aspiration since sharp curettage has a longer recuperation period needing use of anesthesia;
- ii. Patients manifesting signs of infection need emergency abortion care including immediate evacuation of any remaining pregnancy tissue from the uterus;
 - c) Other life-saving drugs including anti-biotics and anti-convulsants and use of other devices, as appropriate;
 - d) Timely emergency abortion care and treatment of heavy blood loss for hemorrhaging patients is critical, as delays can be fatal;
 - e) Patients suspected of having injury to the genital tract and/or internal organs need emergency abortion care and shall be referred to appropriate department for possible co-management;
 - f) Other procedures, as appropriate
- 5) Institutional safeguards and protocols that ensure patient confidentiality, privacy, and protection of women's human rights;
 - 6) Follow up care for complications including increased intensity of cramping or abdominal pain, heavy vaginal bleeding, fever;
 - 7) Provision of medicines including iron tablets for anemia

D. Emergency Abortion Care –

- 1) **Adherence to Comprehensive Safe Abortion Care, Emergency Abortion Care, and Post-Abortion Care** – Emergency abortion care should adhere to Section 6.C of this Act on “Comprehensive Safe Abortion Care, Emergency Abortion Care, and Post-Abortion Care”.
- 2) **Emergency Abortion Care for Emergency Condition or State** - Emergency abortion care is needed for any **emergency condition or state** where there is immediate danger and where delay in initial support and treatment may cause loss of life or cause permanent disability or injury or serious disability or injury to the patient.
- 3) **Emergency Abortion Care for Serious Cases** - Emergency abortion care also covers **serious cases** where the condition of a patient is characterized by gravity or danger when left unattended to, may cause loss of life or cause permanent disability or injury or serious disability or injury to the patient.

E. Medical history - Care should be taken in detailing important information including the following:

- 1) **Medical history** - Chronic diseases, such as hypertension, seizure disorder, blood-clotting disorders, liver disease, heart disease, diabetes, sickle-cell anemia, asthma, significant psychiatric disease; past hospitalizations and surgical operations;
- 2) **Medications and allergies** - Use of daily and recent medications or herbal remedies, including any medications and the details of their use (dose, route, timing) if self-abortion was attempted; allergy to medications;
- 3) **Social history** - Violence by partner or family members. Other social issues that could impact her care;

F. Contraceptive Counseling and Services – Patients should be ensured access to the full range of contraceptive information, supplies and services based on Medical Eligibility Criteria for Contraceptive Use and Clinical Practice for Safe Abortion guidelines including bedside contraceptive information, supplies and services to avert unintended pregnancies. A period of six months is advised before the next pregnancy for optimal outcome. Proper referral and follow-up shall also be practiced.

G. Voluntary Psycho-social counseling – Patients should be ensured access to voluntary psycho-social counseling to address mental health concerns through the facility’s trained social workers and other psycho-social counseling centers.

H. Other Services - Patients should be ensured access to gender-based violence support centers, STI evaluation and treatment, HIV counseling and testing, social services, cancer screening and other physician specialists, and safe abortion advocacy groups.

I. Philippine Health Insurance Corporation Coverage – The Philippine Health Insurance Corporation (PhilHealth) shall ensure the appropriate benefit package provided under this Act according to existing laws and policies. The hospital, medical clinic and other medical providers shall inform patients of the PhilHealth benefit package for the medical services covered by this Act.

Section 7. Protection from liability for ethical, appropriate, and timely abortion and post-abortion care– All health care providers providing ethical, appropriate, timely humane, nonjudgmental and compassionate abortion care and post-abortion care shall be exempt from any civil, criminal, and administrative liability.

Any person, private individual or police authority, barangay official who, acting in accordance with this Act, responds to ensure access timely humane, nonjudgmental and compassionate abortion care and post-abortion care shall be exempt from any civil, criminal, and administrative liability.

Section 8. Confidentiality – All officials, health care service providers, counselors, social workers, employees and support staff and security personnel of the hospital or medical clinic, whether public or private officials, other counselors, social workers, barangay health workers (BHWs), Community Health Teams (CHTs) and all other service providers dealing with women and girls with induced abortion and abortion complications shall maintain confidentiality and privacy of the women and girls, not report the women and girls to law enforcement authorities and protect medical information against unauthorized disclosures.

All information related to the provision of abortion and post-abortion care is treated as sensitive personal information as defined under the Data Privacy Act of 2012.

Section 9. Penalties and Liability -- Any official, health care service provider or employee of the hospital or medical clinic, whether public or private, who fails to administer basic emergency care to any patient or refuse to administer medical treatment and support as dictated by good practice of medicine to prevent death or permanent disability shall be subject to administrative, civil, and criminal liability under existing laws and policies including the Act Strengthening the Anti-Hospital Deposit Law by Increasing the Penalties for the Refusal of Hospitals and Medical Clinics to Administer Initial Medical Treatment in Emergency or Serious Cases (RA 10932, Anti-Hospital Deposit Law), Magna Carta of Women (RA 9710), Reproductive Health Act (RA 10354), The Medical Act of 1959 (RA 2382), Philippine Midwifery Act of 1992 (RA 7392), Philippine Nursing Act of 2002 (RA 9173), Data Privacy Act of 2012 (RA 10173), health professional Code of Ethics and Regulatory Board resolutions, Professional Regulations Commission issuances, and rules and regulations promulgated pursuant to this Act.

The president, chairperson, board of directors, or trustees, and other officers of the health facility shall be solidarily liable for damages that may be awarded by the court to the patient-complainant in accordance with Sec. 4 of the Anti-Hospital Deposit Law.

Section 10. *Presumption of Liability.*- In accordance with Sec. 5 of the Anti-Hospital Deposit Law, a presumption of liability shall arise against the official, health care service provider, or employee of the hospital or medical clinic involved in the event of death, disability, or impairment of the health condition of the patient-complainant for failure to administer basic emergency care to any patient or refuse to administer medical treatment and support as dictated by good practice of medicine to prevent death or permanent disability required under the Anti-Hospital Deposit Law.

Section 11. *Complaints Against Facilities filed with the DOH Health Facilities Oversight Board.*- All complaints for violations of this Act against health facilities shall follow the complaints mechanism under Sec. 6 of the Anti-Hospital Deposit Law or RA 10932 with an additional representatives of the Board from a nursing association.

This is without prejudice to the right of the patient-complainant to directly institute complaints in the courts and Civil Service Commission, Philippine Medical Association, and Professional Regulations Commission.

Section 12. *Duties of the Department of Health, Health Professional Regulatory Boards and Organizations and Local Government Units* –

A. Department of Health – The Department of Health shall:

- 1) Enact appropriate Administrative Orders implementing this Act including protocols for quality abortion care and post-abortion care;
- 2) Ensure that the Food and Drug Administration will remove all barriers and delays in registration of all drugs and devices necessary for the provision of safe abortion and post-abortion care. The DOH shall also coordinate with the necessary government agencies and offices including the Bureau of Immigration, Bureau of Customs, Department of the Interior and Local Government (DILG), Philippine National Police (PNP), Department of Justice (DOJ), Supreme Court (SC), House of Representatives and Senate to remove all barriers to women’s access to drugs and devices for the provision of safe abortion and post-abortion care;
- 3) Conduct trainings on this Act including through the DOH Safe Motherhood Program of the Women, Men and Children’s Health Development Divisions (WMCHDDs), Health Human Resource

- Development Bureau (HHRDB), Reproductive Maternal Newborn Child Adolescent Health and Nutrition (RMNCAHN) offices and other offices;
- 4) Strengthen the network of training providers including by bi-annually updating its list of training centers and trainers on B/CEmONC, use of vacuum aspiration and other procedures based on evolving scientific advances and establish a system of accredited training providers;
 - 5) Conduct advocacy efforts to highlight this Act including measures to effectively implement this Act and effect behavioral change to end stigma on women's access to safe abortion during Safe Motherhood Week scheduled every 2nd week of May;
 - 6) Shall designate, in cooperation with LGUs, public health facilities including birthing homes, lying-in facilities, infirmaries, Rural Health Units (RHUs); at least two hospitals with an ob-gynecology department in every district located in each municipality, city; all provincial, regional hospitals and medical centers, regional training and/or teaching hospitals, and DOH-retained hospitals including specialized health facilities for ob-gynecology and other national government hospitals as "Abortion Care and Post-Abortion Care-Friendly Facility" to facilitate access of women seeking abortion care and post-abortion care that shall:
 - a) Establish Safe Abortion Care Teams (SACTs) with a designated Safe Abortion Care Team Officer (SACTO) of the day to supervise the service providers assigned for abortion care and post-abortion care services whose post as Officer will be rotated among members of the team;
 - b) Create a Committee on Safe Abortion Care (ComSAC) that shall:
 - i. Conduct meetings with all health care personnel, administration officers, and security staff to conduct annual awareness-raising sessions on this Act including discussions on elimination of abortion stigma and personal prejudices, women's human rights, and public health concerns;
 - ii. Ensure women's access to ethical, appropriate, and timely emergency abortion and post-abortion care;
 - iii. Prevent violations of patients' rights;
 - c) Post an "Abortion Care and Post-Abortion Care-Friendly Facility" sign and a copy of this Act at their entrance and at least three other conspicuous places in the facility, Provided, that hospitals shall also post said sign and copy of the Act at the emergency room, departments of ob-gynecology, pediatrics, and emergency medicine and all nursing stations of these wards and departments;
 - 7) Shall, in cooperation with LGUs, strengthen inter-local health systems to provide Safe Abortion and Post-Abortion Care;

- 8) Include Safe Abortion and Post-Abortion Care in existing emergency hotlines and other media platforms with technical assistance of the Knowledge Management Information Technology Services (KMITS)

B. National Government Agencies – National Government Agencies shall:

- 1) Conduct efforts to address and reduce stigma, reduce incidence of unsafe abortion through:
 - a) Comprehensive and effective sexuality education;
 - b) Prevention of unintended pregnancy through use of effective contraception, including emergency contraception;
 - c) Actively prevent, investigate, and prosecute rape and sexual harassment cases;
 - d) Increased access of women to proper, accurate, rights-based and scientific information on safe abortion and post-abortion care including risks of unsafe abortion procedures.
 - e) Increased access of women to abortion care and post-abortion care

These efforts shall be supported by the DOH, Department of Education (DepED), Commission on Higher Education (CHED), Department of Social Welfare and Development (DSWD), Philippine Commission on Women, PhilHealth, DILG, National Economic and Development Authority, League of Provinces, League of Cities, and League of Municipalities, PNP, DOJ, and SC.

C. Health professional regulatory boards and organizations -

Health professional regulatory boards and organizations shall:

- 1) Ensure the medical, nursing, and midwifery schools will incorporate this Act including the Protocol on Comprehensive Safe Abortion Care and Post-abortion Care and penalties and liabilities in their curricula, licensure exams, training for obstetrics and gynecology and emergency medicine and other relevant residency trainings and certification of specialty, and continuing professional development (CPD);
- 2) Post a copy of this Act at their entrance, at least three other conspicuous places in their respective offices, website and social media platforms.
- 3) Incorporate SRHR, prevailing gender norms and abortion stigma discussions in existing medical, nursing, and midwifery curriculum along with family planning and reproductive health modules.

D. Local Government Units – LGUs shall:

- 1) Post a copy of this Act at their entrance, at least three other conspicuous places in their respective offices, website and social media platforms.
- 2) Enact ordinances to support the implementation of this Act;
- 3) Shall designate public health facilities including birthing homes, lying-in facilities, infirmaries, RHUs; at least two hospitals with an ob-gynecology department in every district located in each municipality, city; all provincial hospitals in their respective LGUs as “Abortion Care and Post-Abortion Care-Friendly Facility” to facilitate access of women seeking abortion care and post-abortion care that shall follow the guidelines under Section 12.A.6;
- 4) Shall strengthen inter-local health systems to provide Safe Abortion and Post-Abortion Care;
- 5) Conduct community level efforts where Barangay Health Workers and all LGU service providers shall:
 - a) Undergo training to recognize signs and symptoms of abortion complications and promptly refer the women suffering abortion complications to facilities where treatment is available;
 - b) conduct door-to-door campaigns on safe abortion including importance of the following:
 - i. At least four (4) prenatal care visits;
 - ii. Patient education on the dangers, causes, and proper management of vaginal bleeding during pregnancy and signs and symptoms of abortion complications; and
 - iii. Referral of a high-risk pregnancy, abortion complications, and safe abortion to the appropriate health care facility.

E. National Government and Local Government Rape Crisis Centers and Protection Centers and Units for Survivors of Gender-based Violence – National government and local government rape crisis centers and protection centers and units for survivors of gender-based violence shall ensure their clients’ access safe abortion by posting signs to accessible national and local government Abortion Care and Post-Abortion Care-Friendly Facilities.

F. Philippine Embassies and Consulates – Philippine embassies and consulates shall ensure pregnant Filipinos’ access to safe abortion by posting signs of tertiary hospitals providing safe and legal abortion services in their posts or in a nearby territory/country allowing access to safe and legal abortion.

Section 13. Congressional Oversight Committee on Decriminalization of Abortion Act. – There is hereby created a Congressional Oversight Committee (COC) composed of five (5) members each from the Senate and the House of Representatives. The members from the Senate and the House of Representatives shall be appointed by the Senate President and the Speaker, respectively, with at least one (1) member representing the Minority.

The COC shall be headed by the respective Chairs of the Committee on Health and Demography of the Senate and the Committee on Population and Family Relations of the House of Representatives. The Secretariat of the COC shall come from the existing Secretariat personnel of the Senate and the House of Representatives committees concerned.

The COC shall monitor and ensure the effective implementation of this Act, recommend the necessary remedial legislation or administrative measures, and shall conduct a review of this Act every five (5) years from its effectivity. The COC shall perform such other duties and functions as may be necessary to attain the objectives of this Act.

Section 14. Appropriations. – The amounts appropriated in the current annual General Appropriations Act (GAA) for reproductive health and natural and artificial family planning and responsible parenthood under the DOH and other concerned agencies shall be allocated and utilized for the implementation of this Act. Such additional sums necessary to provide for the upgrading of facilities necessary to meet the service provision, trainings, and other efforts identified in Sections 5 and 12 shall be included in the subsequent years' general appropriations.

The Gender and Development (GAD) funds of LGUs and national agencies may be a source of funding for the implementation of this Act.

Section 15. Interpretation Clause. – This Act shall be liberally construed to ensure the provision, delivery and access to comprehensive safe abortion care and post-abortion care, and to promote, protect and fulfill women's reproductive health and rights.

Section 16. Separability Clause. – If any part or provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain in force and effect.

Section 17. Repealing Clause. – All laws, presidential decrees, executive orders, letters of instruction, administrative orders, rules or regulations and other issuances, or any part thereof, inconsistent with this Act including The Medical Act of 1959 (RA 2382, Section 24 (8)), Philippine Midwifery Act of 1992 (RA 7392, Sec. 25 assisting or performing abortion in the practice of midwifery, Sec. 23 Practice of Midwifery on oxytocin after delivery), Philippine Nursing Act of 2002 (RA 9173), Magna Carta of Women (RA 9710), Reproductive Health Act (RA 10354 Sec, 2, Sec. 3 (d)(e)(j), (Sec. 5 nurses’ and midwives’ administration of lifesaving drugs such as oxytocin and magnesium sulfate under emergency conditions and when there are no physicians available)), Act Adjusting the Amount and Fines Imposed under the Revised Penal Code (RA 10951), and DOH AO 003 2018 are hereby repealed, modified or amended accordingly.

Section 18. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,

¹ Padilla, Clara Rita. Policy Brief: Access to Safe and Legal Abortion and Post-Abortion Care Can Save Filipino Women's Lives. EnGendeRights, December 2016, page 1 [hereinafter Padilla, Policy Brief Access to Safe Abortion].

² Abortion care encompasses the management of various clinical conditions including spontaneous and induced abortion (both viable and non-viable pregnancies), incomplete abortion and intrauterine fetal demise. World Health Organization, Medical management of abortion, 2018 [WHO, Medical management of abortion, 2018]. This guideline focuses exclusively on medical management of abortion. It provides new recommendations related to the following indications: medical management of incomplete abortion at ≥ 13 weeks of gestation³ (Recommendation 1b) and medical management of intrauterine fetal demise at ≥ 14 to ≤ 28 weeks of gestation (Recommendation 2). In addition, this guideline includes updated recommendations related to the following indications: medical management of incomplete abortion at < 13 weeks of gestation (Recommendation 1a), and medical management of induced abortion at < 12 weeks (Recommendation 3a) and at ≥ 12 weeks (Recommendation 3b); induced abortion, as defined by World Health Organization International Classification of Diseases as: “intentional loss of an intrauterine pregnancy due to medical, or surgical means” including “therapeutic abortion”. World Health Organization, ICD -11 for Mortality and Morbidity Statistics, April, 2019, [https://icd.who.int/browse11/1-m/en#/http%3a%2f%2fid.who.int%2fid%2fentify%2f1517114528](https://icd.who.int/browse11/1/m/en#/http%3a%2f%2fid.who.int%2fid%2fentify%2f1517114528); World Health Organization, Preventing Unsafe Abortion, June 2019, available at <https://www.who.int/news-room/fact-sheets/detail/preventing-unsafe-abortion>. WHO defined unsafe abortion as “when a pregnancy is terminated either by persons lacking the necessary skills or in an environment that does not conform to minimal medical standards, or both.”

³ Art. 256. Intentional abortion. — Any person who shall intentionally cause an abortion shall suffer:

1. The penalty of reclusion temporal, if he shall use any violence upon the person of the pregnant woman.
2. The penalty of prision mayor if, without using violence, he shall act without the consent of the woman.
3. The penalty of prision correccional in its medium and maximum periods, if the woman shall have consented.

Art. 257. Unintentional abortion. — The penalty of prision correccional in its minimum and medium period shall be imposed upon any person who shall cause an abortion by violence, but unintentionally.

Art. 258. Abortion practiced by the woman herself or by her parents. — The penalty of prision correccional in its medium and maximum periods shall be imposed upon a woman who shall practice abortion upon herself or shall consent that any other person should do so.

Any woman who shall commit this offense to conceal her dishonor, shall suffer the penalty of prision correccional in its minimum and medium periods.

If this crime be committed by the parents of the pregnant woman or either of them, and they act with the consent of said woman for the purpose of concealing her dishonor, the offenders shall suffer the penalty of prision correccional in its medium and maximum periods.

Art. 259. Abortion practiced by a physician or midwife and dispensing of abortives.

⁴ PHIL. REVISED PENAL CODE (Act No. 3815), arts. 256-259 (1930) [hereinafter REV. PENAL CODE]. The RPC imposes imprisonment of up to six (6) years for the woman who induced an abortion or anyone performed or assisted in the abortion with the consent of the woman (a woman who shall practice an abortion upon herself or shall consent that any person should perform it shall be punishable with imprisonment for two years, four months, and one day to six years; A person (other than the pregnant woman) who commits intentional (knowingly and willful) abortion, by administering drugs and beverages shall be punishable with imprisonment for two years, four months, and one day to six years if the woman consented; A physician or midwife who, taking advantage of his/her scientific knowledge or skill, primarily causes the abortion or assists in the same imprisonment for four years, nine months, and 11 days to six years if the woman consented; prescription is ten years for abortions committed with consent of the women). The RPC was based on the Spanish Penal Code of 1870 (Codigo Penal, arts. 425-428 (Spain) (1870) available at <https://bit.ly/38K9VIO>) with the penal provisions on abortion further traced to the older Spanish Penal Codes of 1848 and 1822. (Codigo Penal, arts. 376, 639-640 (Spain) (1822) available at <https://bit.ly/2RXVGE0>; Codigo Penal, arts. 337-340 (Spain) (1848) available at <https://bit.ly/2tnyfKe>).

⁵ 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-unintendedpregnancy-philippines.pdf> [Guttmacher, Induced Abortions in the Philippines, In Brief, 2013].

⁶ 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].

⁷ Guttmacher, Induced Abortions in the Philippines, In Brief, 2013.

⁸ Padilla, Policy Brief, Access to Safe Abortion, page 1, *supra* note 1 providing mathematical computations of data from Guttmacher, Meeting Contraceptive Needs, In Brief, 2009.

⁹ *Ibid.*, mathematical computations of data from Guttmacher, Induce Abortions in the Philippines, In Brief, 2013.

¹⁰ *Ibid.*

¹¹ World Health Organization, Preventing unsafe abortion, Evidence brief, 2019; World Health Organization, Fact Sheet, Maternal mortality, 2019, available at <https://www.who.int/news-room/fact-sheets/detail/maternal-mortality>; 19 September 2019; UNFPA Preventable Maternal Morbidity and Mortality report to OHCHR under Human Rights Council Resolution 11/8 [UNFPA report to OHCHR]. Five direct complications account for more than 70% of maternal deaths, in which effective interventions are available: 1. Hemorrhage (PPH) at 25 per cent; 2. Infection at 15 per cent; 3. Unsafe abortion at 13 per cent; 4. Eclampsia -very high blood pressure leading to seizures at 12 per cent; 5. Obstructed labor at 8 per cent; 6. A number of additional factors, including in particular HIV, malaria, severe anemia, malnutrition and violence against women; 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%) cited in the 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.

¹² *Ibid.*, page 7.

¹³ Center for Reproductive Rights Legislative Brief, p. 5 available at <https://reproductiverights.org/sites/default/files/documents/2018-philippines-abortion-legislative-brief.pdf> [Center, Legislative Brief]

¹⁴ The Medical Act of 1959 (RA 2382), Philippine Midwifery Act of 1992 (RA 7392), Philippine Nursing Act of 2002 (RA 9173), Magna Carta of Women (RA 9710), Reproductive Health Act (RA 10354), Act Strengthening the Anti-Hospital Deposit Law by Increasing the Penalties for the Refusal of Hospitals and Medical clinics to Administer Initial Medical Treatment in Emergency or Serious Cases (RA 10932).

¹⁵ Center for Reproductive Rights, Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban (2010) [Center for Reproductive Rights, Forsaken Lives, 2010].

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

¹⁷ Center for Reproductive Rights, Forsaken Lives, 2010.

¹⁸ Health providers are NOT required by law to report women who induce abortion. PD 169 does not apply because this covers serious (medical attention for over thirty days) or less serious physical injuries (medical attention for ten to thirty days) under the Articles 262-265 of the Revised Penal Code referring to injuries inflicted by another person to the patient. Also, recuperation period for MVA is about three hours while D & C can be overnight or at most three days; Ruling on medical confidentiality, the Inter-American Court of Human Rights ruling in *De la Cruz Flores v. Perú* (2004) held that it is unacceptable to criminally penalize doctors for abstaining to disclose information about their patient's punishable conduct to law enforcement authorities (provided that the information was obtained in connection with the medical procedure performed). The Court ruled that the social interest in safeguarding the life and health of individuals justify medical confidentiality, as with analogous situations, e.g., social benefits of protecting confidential communications between the lawyer and the accused, and communications between the priest and the penitent in the confessional.

¹⁹ CENTER FOR REPRODUCTIVE RIGHTS, FORSAKEN LIVES: THE HARMFUL IMPACT OF THE PHILIPPINE CRIMINAL ABORTION BAN pp 52-57 (2010) [hereinafter FORSAKEN LIVES]; *see also*, CENTER FOR REPRODUCTIVE RIGHTS, DOCUMENTATION REPORT: FOCUS GROUP DISCUSSION ON POST-ABORTION CARE (2014) (on file with the Center for Reproductive Rights) [hereinafter FOCUS GROUP DISCUSSION ON POSTABORTION CARE]; CENTER FOR REPRODUCTIVE RIGHTS, CRIMINALIZATION OF ABORTION IN THE PHILIPPINES: ITS HARMFUL IMPACT ON WOMEN'S HEALTH AND HUMAN RIGHTS (2017), available at <https://bit.ly/2wP7mL3>. *See also Arrested for abortion*, TEMPO (July 31, 2013), <http://www.tempo.com.ph/2013/07/31/arrested-for-abortion/>; Ed Mahilum, *92-year-old abortionist arrested*, MANILA BULLETIN (Oct. 1, 2013), <http://www.mb.com.ph/92-year-old-abortionist-arrested/>; Aie Balagtas *See, Woman nabbed for abortion*, THE PHILIPPINE STAR (July 12, 2015), <http://www.philstar.com/metro/2015/07/12/1475986/woman-nabbed-abortion>; Pete Laude, *Student dies from abortion; midwife, aide arrested*, THE PHILIPPINE STAR (Apr. 1, 2012), <http://www.philstar.com/metro/792774/student-dies-abortion-midwife-aide-arrested>; Rey Galupo, *Man arrested for forcing girlfriend to undergo abortion*, THE PHILIPPINE STAR (Sept. 22, 2014), <http://www.philstar.com/metro/2014/09/22/1371700/man-arrested-forcing-girlfriend-undergo-abortion>; 4 *pinaghihinalaang abortionist arestado sa Maynila*, ABS-CBN NEWS (June 18, 2018) <https://bit.ly/2SXMBZQ>; Angel Movido, *Babae, arestado sa pagbebenta ng mga gamot na umano'y pampalaglag*, ABS-CBN NEWS (Mar. 30, 2018) <https://bit.ly/2PPZ1Es>.

²⁰ <https://news.abs-cbn.com/news/07/13/18/abortionist-sa-quiapo-na-nakapatay-umano-ng-kliyenteng-ofw-timbog>; <https://filipinotimes.net/news/2018/07/18/police-arrest-abortionist-ofw-dubai-died-septic-shock/>

²¹ May 31, 2020 Facebook message to Atty. Clara Rita Padilla by someone who knew the 19-year old woman.

²² Center for Reproductive Rights Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban, pp. 49-50, 63 (2011).

²³ 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.

²⁴ World Health Organization, Medical management of abortion, 2018.

²⁵ 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.

²⁶ NDHS 2017. Only 40% of women aged 15-49 use modern contraceptive methods.

²⁷ NDHS 2017. Total estimated unmet need for married and unmarried is 33%.

²⁸ 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

²⁹ Guttmacher, Induced Abortions in the Philippines, In Brief, 2013.

³⁰ Guttmacher, In Brief, 2009.

³¹ 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). Using unmet need of 33% (NDHS 2017) and 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 nine women who induce abortion in NCR [computed as 100 pregnancies x .33 (33% unmet need) = 33 unmet need x .3333 (one-third end in abortions) = 10.9989 or 11 women induce abortion per 100 pregnancies or about one in every nine women induce abortion in NCR].

³² 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). Using unmet need of 33% (NDHS 2017) and 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 [computed as 100 pregnancies x .33 (33% unmet need) = 33 unmet need x .17 (17% end in abortions) = 5.61 women induce abortion per 100 pregnancies; 100 divided 5.6 = 17.85 or one out of every 18 women induce abortion].

³³ World Health Organization, Preventing unsafe abortion, Evidence brief, 2019.

³⁴ International Planned Parenthood Federation, How to Talk About Abortion A Rights-based Messaging Guide, p. 4, 2015 (Updated 2018).

³⁵ Significant rise in maternal deaths and unintended pregnancies feared because of COVID-19, UNFPA and UPPI study shows, 14 August 2020, available at <https://philippines.unfpa.org/en/news/significant-rise-maternal-deaths-and-unintended-pregnancies-feared-because-covid-19-unfpa-and?fbclid=IwAR0s5aSzY97RwvHkkEpDSBH8kUxq2Zl2uGC5AOnB42na3zibpf42yp68Jro>

³⁶ Significant rise in maternal deaths and unintended pregnancies feared because of COVID-19, UNFPA and UPPI study shows, 14 August 2020, available at <https://philippines.unfpa.org/en/news/significant-rise-maternal-deaths-and-unintended-pregnancies-feared-because-covid-19-unfpa-and?fbclid=IwAR0s5aSzY97RwvHkkEpDSBH8kUxq2Zl2uGC5AOnB42na3zibpf42yp68Jro>

³⁷ Significant rise in maternal deaths and unintended pregnancies feared because of COVID-19, UNFPA and UPPI study shows, 14 August 2020, available at <https://philippines.unfpa.org/en/news/significant-rise-maternal-deaths-and-unintended-pregnancies-feared-because-covid-19-unfpa-and?fbclid=IwAR0s5aSzY97RwvHkkEpDSBH8kUxq2Zl2uGC5AOnB42na3zibpf42yp68Jro>

³⁸ Unmet need for family planning is defined as the percentage of women and girls who either do not want any more children or want to wait before having their next birth, but are not using any method of family planning.

³⁹ Pandemic may increase live birth in PHL to almost 2M with FP efforts hampered, thousands of teens also projected to give birth, COMMISSION ON POPULATION AND DEVELOPMENT available at <https://car.popcom.gov.ph/popcom-pandemic-may-increase-live-births-in-phl-to-almost-2m/>

⁴⁰ Significant rise in maternal deaths and unintended pregnancies feared because of COVID-19, UNFPA and UPPI study shows, 14 August 2020, available at <https://philippines.unfpa.org/en/news/significant-rise-maternal-deaths-and-unintended-pregnancies-feared-because-covid-19-unfpa-and?fbclid=IwAR0s5aSzY97RwvHkkEpDSBH8kUxq2Zl2uGC5AOnB42na3zibpf42yp68Jro>. Before COVID-19, the Philippines had about 2,600 women dying every year due to complications from pregnancy or childbirth with up

to 670 additional deaths in 2020. The total unintended pregnancies in 2020 may reach 2.56 million, 751,000 more than last year (42% increase). The unmet need for Filipino women of reproductive age (15-49 years of age) can also increase by another 2.07 million by end-2020, 67% increase from 2019.

⁴¹ 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]; Guttmacher, *Unsafe Abortion, Fact Sheet*, 2013.

⁴² 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]; Mathematical computation based on statistics that 13% of women who induce abortion are rape victim survivors

⁴³ 2004 national survey; Singh S et al., 2006; Guttmacher, *Induced Abortions in the Philippines*, In Brief, 2013.

⁴⁴ 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.

⁴⁵ Field Health Service Information System (FHSIS) 2011 and 2014.

⁴⁶ HIV and AIDS are considered to be the first cause of maternal death in South Africa.

⁴⁷ 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].

⁴⁸ 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. From July 2016 to June 2017, PNP reported 9,204 cases. From July 2017 to June 2018, PNP reported 6,999 cases or one woman raped every 75 minutes (computed as 6999 divided by 365 days equals 19.175342465753, 1440 minutes in a day divided by 19.175342465753 equals one woman raped every 75 minutes).

⁴⁹ 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]. Mathematical computation based on statistics that 13% of women who induce abortion are rape victim survivors.

⁵⁰ Women's Crisis Center, *Feminist Action Research on Reproductive Health Needs and Concerns of VAW Survivors*.

⁵¹ Women's Crisis Center, *Feminist Action Research on Reproductive Health Needs and Concerns of VAW Survivors*.

⁵² Clara Rita A. Padilla, *Ensuring Adolescent Right to RH Through an RH Law: EnGendeRights*, January 2012; Skilled birth attendants are health professionals who have been educated and trained to proficiency in skills needed to manage normal labor and delivery, recognize the onset of complications, perform essential interventions, start treatment and supervise the referral of mother and baby for interventions that are beyond their competence or are not possible in the particular setting. Depending on the setting, health care providers such as auxiliary nurse-midwives, community midwives, village midwives and health visitors may also have acquired appropriate skills, if they have been specially trained (WHO *Recommendations for the Prevention of Postpartum Haemorrhage*, 2007.)

⁵³ Field Health Service Information System (FHSIS) 2011 and 2014.

⁵⁴ Field Health Service Information System (FHSIS) 2011 and 2014.

⁵⁵ Center for Reproductive Rights, *Implementing Adolescent Reproductive Rights Through the Convention on the Rights of the Child*, 1999, Sept, *available at*: http://www.reproductiverights.org/pub_art_adolrights.html.

⁵⁶ UP PGH Teen Mom Program research of Dr. Emma Llanto.

⁵⁷ Clara Rita A. Padilla, *Reasons Why We Need the RH Law: EnGendeRights*, 2010 [Hereinafter Padilla, *Reasons*, EnGendeRights, 2010.].

⁵⁸ Women's Crisis Center, *Feminist Action Research on Reproductive Health Needs and Concerns of VAW Survivors*.

⁵⁹ <https://newsinfo.inquirer.net/1336954/fwd-popcom-clarifies-at-least-40-teens-aged-below-14-give-birth-every-week-not-every-year>

⁶⁰ UP PGH Teen Mom Program.

⁶¹ CEDAW Concluding observations CEDAW/C/PHL/CO/7-8, 25 July 2016, para. 26 (b) (CEDAW Concl. Obs 2016), *available at* https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/PHL/CO/7-8&Lang=En.

-
- ⁶² Margaret Wurth, 14, Pregnant from Rape, Dead in Childbirth, Paraguay’s harsh abortion law endangers adolescent girls, Human Rights Watch, March 26, 2018, available at <https://www.hrw.org/news/2018/03/26/14-pregnant-rape-dead-childbirth>.
- ⁶³ See e.g. Paraguayan rape victim, 12, dies giving birth, The Guardian (2018) available at <https://bit.ly/2I0ObYg>.
- ⁶⁴ 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.
- ⁶⁵ 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.
- ⁶⁶ See CEDAW Communication R.P.B. v. the Philippines; See resources of Deaf Resources Philippines.
- ⁶⁷ Singh S et al., 2006.
- ⁶⁸ Guttmacher, Unsafe Abortion, Fact Sheet, 2013.
- ⁶⁹ EnGendeRights and WomenLEAD, as co-convenors of the Philippine-based Task Force CEDAW Inquiry (Task Force CEDAW Inquiry; composed of twenty member NGOs), together with the New York-based Center for Reproductive Rights and Malaysia-based International Women’s Rights Action Watch-Asia Pacific (IWRAW-AP) submitted the request for inquiry to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) in 2008 to investigate the impact on the health and lives of women resulting from Manila City Executive Order 003 Series of 2000 (EO 003) declaring Manila City as a “pro-life city” and discouraged the use of modern contraceptives. Documentation of women’s stories were done from 2008 through 2012.
- ⁷⁰ Guttmacher, Facts on Induced Abortion Worldwide, In Brief, 2012.
- ⁷¹ WHO Safe Abortion Guidance, 2012.
- ⁷² *Id.*
- ⁷³ Participants to the EnGendeRights Online Course to Address Gender-based Violence in Humanitarian Crises for Police Officers held from June 8 to 18, 2020.
- ⁷⁴ EnGendeRights & OutRight International (representing a total of 34 organizations) on Lesbian, Bisexual, Transgender Rights for the 64th Session, available at: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PHL/INT_CEDAW_NGO_PHL_24215_E.pdf
- ⁷⁵ A 2013 report quoted a Tausug lesbian, president of a Jolo-based lesbian organization in “Dangerous Live: Being LGBT in Muslim Mindanao”, Outrage, December 10, 2013, accessed April 15, 2016, <http://outragemag.com/dangerous-lives-lgbt-muslim-mindanao/> [hereinafter “Dangerous Lives”].
- ⁷⁶ Submission for the 3rd Universal Periodic Review (2016) by Sexual Rights Network (drafted by Atty. Clara Rita A. Padilla), available at: https://www.upr-info.org/sites/default/files/document/philippines/session_27_-_may_2017/js13_upr27_phl_e_main.pdf
- ⁷⁷ *Id.*
- ⁷⁸ Herbal Therapies and Social-Health Policies: Indigenous Ati Negrito Women’s Dilemma and Reproductive Healthcare Transitions in the Philippines, available at <http://downloads.hindawi.com/journals/ecam/2015/491209.pdf>
- ⁷⁹ Sahih al-Bukhari, 4:54:430. Permitted without qualification under 120 days. Islamic schools prohibit after ensoulment except when there is risk to the woman’s life or fetal impairment.
- ⁸⁰ Center, Legislative Brief, p. 5, *supra* note 13.
- ⁸¹ Center, Legislative Brief, p. 5, *supra* note 13.
- ⁸² Three women die a day from abortion complications and most have at least three children. Also, the actual fertility rate is 3 children.
- ⁸³ Florence M. Tadiar, powerpoint, 2016.
- ⁸⁴ 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.
- ⁸⁵ 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>
- ⁸⁶ An orphanage in the National Capital Region.
- ⁸⁷ Reports from orphanages.
- ⁸⁸ NDHS 2017.
- ⁸⁹ <https://newsinfo.inquirer.net/1336954/fwd-popcom-clarifies-at-least-40-teens-aged-below-14-give-birth-every-week-not-every-year>
- ⁹⁰ <https://newsinfo.inquirer.net/1336954/fwd-popcom-clarifies-at-least-40-teens-aged-below-14-give-birth-every-week-not-every-year>

-
- ⁹¹ See CEDAW General Recommendation No. 21 Equality in marriage and family relations, i.e., Comment No. 36 and 37 on Art. 16 (2) of the CEDAW Convention; Padilla, Reasons, EnGendeRights, 2010.
- ⁹² Center, Legislative Brief, p.5, *supra* note 13; Philippine Department of Health and Philippine Commission on Population, 3rd Annual Report on the Implementation of the Responsible Parenthood and Reproductive Health Act of 2012, 5 (2017), available at <https://bit.ly/2I2v5kP> [hereinafter 3rd Annual RPRHA Report].
- ⁹³ World Health Organization, Preventing unsafe abortion, Evidence brief, 2019.
- ⁹⁴ During the Enhanced Community Quarantine, Catherine Bulatao was reportedly rejected by six hospitals despite suffering post-partum hemorrhage and she bled to death on April 24, 2020. “Woman dies after being rejected by 6 hospitals in Caloocan and QC”, Manila Bulletin, available at <https://news.mb.com.ph/2020/04/26/woman-dies-after-being-rejected-by-6-hospitals-in-calooacan-and-qc/>;
- ⁹⁵ World Health Organization Model List of Essential Medicines, 21st List, 2019. Geneva: World Health Organization; 2019, available at <https://apps.who.int/iris/bitstream/handle/10665/325771/WHO-MVP-EMP-IAU-2019.06-eng.pdf?ua=1>.
- ⁹⁶ United Nations Commission on Life-Saving Commodities for Women and Children, Commissioners’ Report, September 2012.
- ⁹⁷ Padilla, Clara Rita. Policy Brief: “Access to the Life-Saving Drug Misoprostol to Prevent and Treat Postpartum Hemorrhage Can Save Filipino Women’s Lives”, EnGendeRights, December 2016 [hereinafter Padilla, Policy Brief, Access to Misoprostol].
- ⁹⁸ DOH AO 2018-0003, National Policy on the Prevention of Illegal and Unsafe Abortion and Management of Post-Abortion Complications, 1 (2018), available at <https://bit.ly/2jeVC09>; Philippine Safe Abortion Advocacy Network (PINSAN) members EnGendeRights, Center for Reproductive Rights, and PSPI became members of the Technical Working Group (TWG), among other representatives from non-government organizations, DOH, and other government agencies, actively participating in the drafting and editing of the DOH AO 2016-0041. Atty. Clara Rita Padilla of EnGendeRights drafted the first version of the revised PMAC policy which underwent several rounds of editing by members of the DOH TWG, the RH Law National Implementation Team (NIT), and the different units of DOH.
- ⁹⁹ WHO, Medical management of abortion, 2018.
- ¹⁰⁰ JOAQUIN G. BERNAS, S.J., THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 84 (2009), at 118.
- ¹⁰¹ Pedro Solis in his book on Legal Medicine stated that therapeutic abortions include to preserve the life of the woman and to preserve her health. Solis cites a U.S. case where the married woman was found to be unstable and a psychiatrist recommended abortion (citing Camp and Purchase, Practical Forensic Medicine, p.32, 1957).
- ¹⁰² SCRA 801 [1961].
- ¹⁰³ Field Health Service Information System (FHSIS) 2011 and 2014.
- ¹⁰⁴ HIV and AIDS are considered to be the first cause of maternal death in South Africa.
- ¹⁰⁵ Field Health Service Information System (FHSIS) 2011 and 2014.
- ¹⁰⁶ Field Health Service Information System (FHSIS) 2011 and 2014.
- ¹⁰⁷ 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].
- ¹⁰⁸ Padilla, Clara Rita. Powerpoint Presentation for POGS National Convention, November 2018.
- ¹⁰⁹ Padilla, Clara Rita. Powerpoint Presentation for POGS National Convention, November 2018.
- ¹¹⁰ e.g., anencephaly, multi-organ malformations, transposition of the great blood vessels, active rubella infection in early pregnancy, etc; Termination of pregnancy after 22 weeks following prenatal diagnosis must not be presented as an abortion, but as a pharmacologically-induced premature delivery, with full maternal pain relief and professional birth attendance as per the 2007 FIGO ethical guidance on “Ethical aspects of termination of pregnancy following prenatal diagnosis.” ETHICAL ASPECTS CONCERNING TERMINATION OF PREGNANCY FOLLOWING PRENATAL DIAGNOSIS, (June 2007), Ethical Issues In Obstetrics And Gynecology by the FIGO Committee for the Study of Ethical Aspects of Human Reproduction and Women’s Health (October 2015), available at <https://www.figo.org/sites/default/files/uploads/wg-publications/ethics/FIGO%20Ethical%20Issues%202015.pdf4893.pdf>. ; In March 2012, FIGO came out with their Ethical Issues in the Management of the Severe Congenital Anomalies with recommendations including “[w]omen carrying a fetus with severe congenital anomalies or one at high risk for long term severe disability have the right to discuss and access a termination of pregnancy. The decision to continue or terminate the pregnancy should always rest with the woman.” Ethical Issues In The Management Of The Severe Congenital Anomalies (March 2012), Ethical Issues In Obstetrics And Gynecology by the FIGO Committee for the Study of Ethical Aspects of Human

Reproduction and Women's Health (October 2015), available at <https://www.figo.org/sites/default/files/uploads/wg-publications/ethics/FIGO%20Ethical%20Issues%202015.pdf4893.pdf>.

¹¹¹ Art. 11. Justifying circumstances. — The following do not incur any criminal liability: x x x 4. Any person who, in order to avoid an evil or injury, does an act which causes damage to another, provided that the following requisites are present; First. That the evil sought to be avoided actually exists; Second. That the injury feared be greater than that done to avoid it; Third. That there be no other practical and less harmful means of preventing it.

¹¹² Fifth periodic report submitted by the Philippines under article 40 of the Convention submitted to the Human Rights Committee on May 31, 2019 covering the period of 2012 until December 2017, prepared by DOJ as the lead agency under the guidance of the Presidential Human Rights Committee Secretariat (PHRCS) and in coordination with the DFA, paragraph 34 (CCPR/C/PHL/5, 3 October 2019), available at <https://digitallibrary.un.org/record/3833395?ln=en#record-files-collapse-header>.

¹¹³ Office of the President, Philippine Commission on Women, *Letter from Ms. Emmeline Verzosa, Executive Director of PCW, to Mr. Geronimo Sy, Assistant Secretary of the Department of Justice* (July 22, 2014), available at <https://bit.ly/2Jzykli>.

¹¹⁴ Commission on Human Rights and United Nations Population Fund, *Let Our Voices Be Heard: Report of the Commission on Human Rights Philippine's National Inquiry on Reproductive Health and Rights* (2016), page 37, available at <https://uniteforreprorights.org/wp-content/uploads/2018/01/RH-Inquiry-Report.pdf>

¹¹⁵ James M. Imbong and Lovely-Ann C. Imbong v Hon. Paquito N. Ochoa, Jr., et al., G.R. No. 204819 (S.C., Apr. 8, 2014) (Phil.), available at http://www.lawphil.net/judjuris/juri2014/apr2014/gr_204819_2014.html [hereinafter *Imbong v Ochoa*]

¹¹⁶ CONST. (1987), art. II, sec. 12 (Phil.) [hereinafter PHIL. CONST.].

¹¹⁷ PHIL. CONST., Art. II, § 14.

¹¹⁸ 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).

¹¹⁹ SCRA 801 [1961]

¹²⁰ SCRA 801 [1961]

¹²¹ In the 1977 case of *Carey v. Population Services International*, 431 U.S. 678 (1977), 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]; *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 the 1965 United States Supreme Court case of *Griswold v. Connecticut*, the appellants were arrested pursuant to Connecticut state statutes that prohibited using contraception, and penalized aiding and abetting the use of said contraception. 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.” 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. 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 *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.” The Court recognized that “[o]ur obligation is to define the liberty of all not to mandate our own moral code.” ; 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;

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” ;

Justice Puno's concurrence in *Ang Ladlad v. COMELEC* *Ang Ladlad LGBT Party vs. COMELEC*, G.R. No. 190582 [*Ang Ladlad vs. COMELEC*] mentioned *Lawrence v. Texas*, 539 U.S. 558, 584 (2003) and *Carey v. Population Services International* 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]

¹²² The 1987 Philippine Constitution guarantees secularism through the principle of separation of church and state under Article II, Section 6 (Phil. Const (1987), art. 2,§ 6 (“Sec. 6: The separation of Church and State shall be inviolable.”); This constitutional guarantee 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 (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.’”);

While the Constitution guarantees freedom of religion, it also guarantees non-establishment of religion under Article III, Section 5 of the Constitution; This non-establishment clause principally prohibits the state from sponsoring any religion, or favoring any religion as against other religions. (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*);

¹²³Article 18 of the International Covenant on Civil and Political Rights (ICCPR), of which the Philippines is a State Party and has the obligation to fulfill, protects the individual’s right to freedom of thought, conscience and religion. The Human Rights Committee defined the right to freedom of thought, conscience and religion in General Comment 22 as encompassing freedom of thought on all matters including personal conviction and emphasized that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief. The Human Rights Committee stated that the fact that a religion is established as official or that its followers comprise the majority of the population shall not result in any impairment of the enjoyment of the rights under the Covenant, including articles 18 and 27, or in any discrimination against adherents to other religions or non-believers. The government’s role in protecting religious freedom is critical, otherwise, the predominant religion, or even well mobilized minorities, can invoke the state’s power to curb the religious freedoms of others whose views differ from theirs. (See Brief of Amici Curiae of Religious Coalition for Reproductive Choice (RCRC), et al. in *Don Stenberg, Attorney General of Nebraska, et al. v. Leroy Carhart* (No. 99-830) 530 U.S. 914 (2000));

See Declaration on Religious Freedom *Dignitatis Humanae* on the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious Promulgated by his Holiness Pope Paul VI on December 7, 1965. The Vatican Council itself declared in 1965 that “the human person has a right to religious freedom. This freedom means that all men [and women] are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his [or her] own beliefs....” It further declared that “in spreading religious faith and in introducing religious practices everyone ought at all times to refrain from any manner of action which might seem to carry a hint of coercion....” The Council added that “the Christian faithful, in common with all other men [and women], possess the civil right not to be hindered in leading their lives in accordance with their consciences.” Respect for one’s freedom of conscience and religion demands that the Catholic Church hierarchy and its fundamentalist allies uphold this declaration.

¹²⁴ See Frances Kissling, *Opposition to Legal Abortion: Challenges and Questions*, *Planned Parenthood Challenges 1991/1*; see Brief of Amici Curiae of RCRC, et al. in *Stenberg v. Carhart* citing the 71st General Convention, Episcopal Church, Resolution No. 1994-A054 (1994); the United Church of Christ, *Abortion, A Resolution of the 12th General Synod of the United Church of Christ* (1979) reaffirming the right of women to choose abortion in 1981, 1985, 1987, 1989, and 1991 and later upheld in the United Church of Christ, *Sexuality and Abortion: A Faithful Response, A Resolution of the 16th General Synod of the United Church of Christ* (1987); the Minutes of the 204th General Assembly of the Presbyterian Church (U.S.A.) 372 (1992); the United Methodist Church, *Resolution on Responsible Parenthood* (1988); the Churchwide Assembly on the Evangelical Lutheran Church in America, *Social Teaching Statement on Abortion* (1991); the Central Conference of American Rabbis in 1980; the Unitarian Universalist Association affirmed a woman’s right to choose to terminate her pregnancy in 1963 and resolved to reaffirm in 1987 its historic position “supporting the right to choose contraception and abortion as legitimate aspects of the right to privacy.”

¹²⁵ The Vatican Council itself declared in 1965 that “the human person has a right to religious freedom. The Council added that “the Christian faithful, in common with all other men [and women], possess the civil right not to be hindered in leading their lives in accordance with their consciences.” See Declaration on Religious Freedom *Dignitatis Humanae* on the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious Promulgated by his Holiness Pope Paul VI on December 7, 1965.

¹²⁶ *Imbong v Ochoa*.

¹²⁷ In the United States, the Supreme Court observed in *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940), that “[t]he constitutional inhibition on legislation on the subject of religion has a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the amendment embraces two concepts—freedom to believe and freedom to act. The first is absolute, but in the nature of things, the second cannot be.”;

In the 2001 case of *Pichon and Sajous v. France* (App. No. 49853/99, European Court of Human Rights (ECHR), 2001) decided by the European Court of Human Rights (ECHR), two pharmacy owners were sued for refusing to provide oral contraceptive pills to customers and lost in the domestic courts. The pharmacists filed a complaint with the ECHR claiming their right to freedom of religion. The ECHR pointed out that the main sphere protected by Article 9 on freedom of thought, conscience and religion is that of personal convictions and religious beliefs, in other words what are sometimes referred to as matters of individual conscience. It also protects acts that are closely

linked to these matters such as acts of worship or devotion forming part of the practice of a religion or a belief in a generally accepted form. The ECHR held that the pharmacists' right to freedom of religion was not violated since the pharmacists cannot give precedence to their religious beliefs and impose them on others as justification for their refusal to sell contraceptives, since they can manifest those beliefs in many ways outside the professional sphere. The ECHR held further that the right does not always guarantee the right to behave in public in a manner governed by that belief and does not protect "each and every act or form of behavior motivated or inspired by a religion or a belief.";

In the United Kingdom case of *Smeaton v. Secretary of State for Health*, the court ruled that "days are past when the business of the judges was the enforcement of morals or religious belief" (See England and Wales High Court (Administrative Court), *Smeaton v Secretary of State for Health* [2002] EWHC 610 (Admin), (18th April, 2002) at 48).

¹²⁸ *Estrada vs. Escritor*, A.M. No. P-02-1651, 4 August 2003, 408 SCRA [Estrada vs. Escritor] It mandates "government neutrality in religious matters...and avoid breeding interfaith dissension." 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.;

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

¹²⁹ In the case of *Ang Ladlad vs. Comelec* (*Ang Ladlad LGBT Party vs. COMELEC*, G.R. No. 190582 [Ang Ladlad vs. COMELEC].), 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.";

¹³⁰ 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].

¹³¹ Center for Reproductive Rights, *Safe Abortion*, 2005.

¹³² 1998 International Federation of Gynecology and Obstetrics (FIGO) came out with their *Ethical Aspects of Induced Abortion for Non-Medical Reasons* cited in the *Ethical Aspects Of Induced Abortion For Non-Medical Reasons, Ethical Issues In Obstetrics And Gynecology*

by the FIGO Committee for the Study of Ethical Aspects of Human Reproduction and Women's Health (October 2015), available at <https://www.figo.org/sites/default/files/uploads/wg-publications/ethics/FIGO%20Ethical%20Issues%202015.pdf4893.pdf>

¹³³ Center for Reproductive Rights, *World Map* (2017), available at <http://www.worldabortionlaws.com/map/>.

¹³⁴ 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]

¹³⁵ United Nations, Department of Economic and Social Affairs, Population Division (2014). *Abortion Policies and Reproductive Health around the World*, available at <https://www.un.org/en/development/desa/population/publications/pdf/policy/AbortionPoliciesReproductiveHealth.pdf>

¹³⁶ Center for Reproductive Rights, *The World's Abortion Laws Map*, available at <https://reproductiverights.org/worldabortionlaws?country=ESP>; Center for Reproductive Rights, *Abortion Worldwide*, 2014.

¹³⁷ Center for Reproductive Rights, *Abortion Worldwide*, 2014.

¹³⁸ Guttmacher Institute, *Menstrual Regulation and Unsafe Abortion in Bangladesh Fact Sheet 2017*, available at <https://www.guttmacher.org/fact-sheet/menstrual-regulation-unsafe-abortion-bangladesh>.

¹³⁹ Guttmacher Institute, *Menstrual Regulation and Unsafe Abortion in Bangladesh Fact Sheet 2017*, available at <https://www.guttmacher.org/fact-sheet/menstrual-regulation-unsafe-abortion-bangladesh>.

¹⁴⁰ <https://edition.cnn.com/2019/04/11/health/south-korea-abortion-ban-ruling-intl/index.html>.

¹⁴¹ Center for Reproductive Rights, *World Abortion Laws*, available at <https://reproductiverights.org/worldabortionlaws?country=ESP>

-
- ¹⁴² 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).
- ¹⁴³ *Id.*
- ¹⁴⁴ *Id.*
- ¹⁴⁵ *Id.*
- ¹⁴⁶ The Abortion (Northern Ireland) Regulations 2020 commenced on 31 March 2020, authorizing abortions to be carried out by a registered medical professional.
- ¹⁴⁷ Center for Reproductive Rights, The World's Abortion Laws (2017); Center for Reproductive Rights, Abortion Worldwide, 2014.
- ¹⁴⁸ Mexico City legalized abortion in the first trimester without restriction.
- ¹⁴⁹ 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.
- ¹⁵⁰ WHO Safe Abortion Guidance, 2012.
- ¹⁵¹ *Id.*, page 23.
- ¹⁵² World Health Organization, Preventing unsafe abortion, Evidence brief, 2019;
- ¹⁵³ Ethical Aspects Of Induced Abortion For Non-Medical Reasons, Ethical Issues In Obstetrics And Gynecology by the FIGO Committee for the Study of Ethical Aspects of Human Reproduction and Women's Health (October 2015), available at <https://www.figo.org/sites/default/files/uploads/wg-publications/ethics/FIGO%20Ethical%20Issues%202015.pdf4893.pdf>
- ¹⁵⁴ Padilla, Policy Brief Access to Safe Abortion, page 6, *supra* note 1.
- ¹⁵⁵ Padilla, Policy Brief Access to Safe Abortion, page 7, *supra* note 1.
- ¹⁵⁶ General Recommendation No. 24, ¶ 14.
- ¹⁵⁷ 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 145-146, available at http://www.reproductiverights.org/pdf/pub_bo_tmb_full.pdf, at 145 [Bringing Rights to Bear].
- ¹⁵⁸ 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);
- ¹⁵⁹ Bringing Rights To Bear, at 146.
- ¹⁶⁰ Bringing Rights To Bear, at 146.
- ¹⁶¹ Committee on the Elimination of all Forms of Discrimination against Women, Report of the inquiry concerning the United Kingdom of Great Britain and Northern Ireland under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, para. 59, U.N. Doc. CEDAW/C/OP.8/GBR/1 (2018).
- ¹⁶² CEDAW Concluding observations CEDAW/C/PHL/CO/7-8, 25 July 2016, para. 40, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/PHL/CO/7-8&Lang=En
- ¹⁶³ CEDAW Concluding observations CEDAW/C/PHL/CO/7-8, 25 July 2016, para. 56, *id.*
- ¹⁶⁴ CESCR Concluding observations E/C.12/PHL/CO/5-6, 26 October 2016, para. 51-52.
- ¹⁶⁵ Committee on Economic, Social and Cultural Rights, *Concluding Observations: Philippines*, para. 51, U.N. Doc. ESCR/C.12/PHL/CO/5-6 (2016).
- ¹⁶⁶ *Id.*
- ¹⁶⁷ Human Rights Committee Concluding observations CCPR/C/PHL/CO/4, 13 November 2012.
- ¹⁶⁸ *Mellet v. Ireland*, Human Rights Committee, Comm'n No. 2324/2013, U.N. Doc. CCPR/C/116/D/2324/2013, para. 7.4 (2016); Center, Legislative Brief, *supra* .
- ¹⁶⁹ *K. Llantoy v. Peru*, Case No. 1553/2003, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).
- ¹⁷⁰ *Id.* ¶ 2.1.
- ¹⁷¹ *Id.* ¶¶ 2.5 & 2.6.
- ¹⁷² *Id.* ¶ 6.3.
- ¹⁷³ *Id.* ¶ 6.4.
- ¹⁷⁴ *Id.* ¶ 6.5.
- ¹⁷⁵ *K. Llantoy. v. Peru*, Case No. 1553/2003, U.N. Doc. CCPR/C/85/D/1153/2003, ¶ 8 (2005).
- ¹⁷⁶ Committee against Torture Concluding observations CATCAT/C/PHL/CO/3, 2 June 2016.

¹⁷⁷ See, e.g., CAT Committee, *Concluding Observations: Paraguay*, para. 22 (2011); CAT Committee, *Concluding Observations: Peru*, para. 15, (2013); CAT Committee, *Concluding Observations: Philippines*, paras. 39-40, U.N. Doc. CAT/C/PHL/CO/3 (2016).

¹⁷⁸ Committee on the Rights of the Child, Thirty-ninth session, *Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Philippines (2005)*; CRC/C/15/Add.259, ¶ 63 (hereinafter “Concluding observations: Philippines”).

¹⁷⁹ CRC Committee, *General Comment No. 20*, para. 60

¹⁸⁰ CRC Committee, *General Comment 20*, para. 13.

¹⁸¹ CENTER FOR REPRODUCTIVE RIGHTS, REPRODUCTIVE RIGHTS VIOLATIONS AS TORTURE OR ILLTREATMENT: CAT COMMITTEE JURISPRUDENCE ON VIOLATIONS OF REPRODUCTIVE RIGHTS, para. 42 (2016), available at <https://bit.ly/2nC8MXj> [hereinafter REPRODUCTIVE RIGHTS VIOLATIONS AS TORTURE OR ILL-TREATMENT]; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, para. 47, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013) (by Juan E. Mendez) [hereinafter Report of the Special Rapporteur]

¹⁸² Pregnant 10-year-old rape victim denied abortion by Paraguayan authorities, *The Guardian*, May 4, 2015, available at https://www.theguardian.com/world/2015/may/04/paraguay-pregnant-10-year-old-abortion?CMP=fb_us; <https://www.washingtonpost.com/news/worldviews/wp/2015/08/14/denied-an-abortion-11-year-old-rape-victim-in-paraguay-gives-birth/>.

¹⁸³ Margaret Wurth, 14, Pregnant from Rape, Dead in Childbirth, Paraguay’s harsh abortion law endangers adolescent girls, Human Rights Watch, March 26, 2018, available at <https://www.hrw.org/news/2018/03/26/14-pregnant-rape-dead-childbirth>.

¹⁸⁴ CEDAW Concl. Obs. 2016, para. 26 (b).

¹⁸⁵ Padilla, Policy Brief Access to Safe Abortion, page 7, *supra* note 1.