



Liberalizing Abortion Laws Will Save Women's Lives Asian, Predominantly Catholic Countries, and Former Spanish Colonies Allowing Safe and Legal Abortion; The Philippine Constitution Allows Access to Safe and Legal Abortion

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

I. LIBERALIZATION OF ABORTION LAWS SAVES WOMEN'S LIVES

In countries where abortion was made legal, maternal deaths caused by complications from unsafe abortion drastically declined

- 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 1999¹
- Guyana hospital admissions for septic and incomplete abortion in a capital city hospital declined by 41% the year it was made legal in 1995²

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

- About 85% of the countries around the world allow abortion on express grounds.³
- Over 30 countries have liberalized their abortion laws in the last two decades.⁴

Asian countries, including Predominantly Catholic and Muslim countries, have liberalized their abortion laws

- Liberal grounds: Cambodia, China, Nepal, Singapore, and Vietnam
- Certain grounds: Bhutan, Fiji, Indonesia, Iran, Japan, Malaysia, and Thailand⁵
- To save a woman's life: Timor-Leste (a Southeast Asian predominantly Catholic country)⁶

Predominantly Catholic countries have liberalized their laws on abortion

- Spain⁷ in 2010 with Prime Minister Zapatero at the helm of legalizing abortion on request during the first 14 weeks of the pregnancy and thereafter on specific grounds
- Belgium, France, and Italy allow abortion upon a woman's request⁸
- Poland allows abortion to protect a woman's life and physical health and in cases of rape, incest, and fetal impairment⁹



- Hungary allows abortion up to 12 weeks of gestation¹⁰
- Portugal allows abortion up to 10 weeks of gestation¹¹
- Brazil and Ireland on certain grounds¹²

Almost all former Spanish colonies with mostly predominant Catholic populations have liberalized their laws on abortion

- Argentina, Bahamas, Bolivia, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Jamaica, Mexico, Panama, Paraguay, Peru, Puerto Rico, Trinidad and Tobago, Uruguay, and Venezuela allow abortion on certain grounds¹³

Mexico City, a predominantly Catholic city, even provides safe and legal abortion for free.¹⁴

Chile may soon pass a law—first introduced by President Michelle Bachelet in January 2015--allowing abortion on certain grounds as it is now awaiting the Senate's approval before leading to President Bachelet's signature. The proposed bill allows abortion in cases of life-endangerment, rape, and fatal fetal impairments.¹⁵

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

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

Restrictive laws do not stop women from having abortions

The Philippine penal law on abortion is one of the most restrictive in the world—penalizing the woman who undergoes abortion and the person assisting the woman without providing clear exceptions even when the woman's life or health is in danger, the pregnancy is the result of rape or incest, or fetal impairment.¹⁶ While a liberal interpretation of the law would allow therapeutic abortion to save a woman's life and other justifiable grounds such as rape, incest, and fetal impairment and although Philippine laws allow access to humane, nonjudgmental, compassionate post-abortion care,¹⁷ abortion is highly stigmatized.

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

Due to the restrictive abortion law and stigma, women suffering abortion complications do not seek medical attention, they delay medical care--sometimes until they are in danger of dying--for



fear of being arrested, or they are forced to leave the health facilities without undergoing necessary emergency treatment when they are subjected by certain health care providers to humiliation and threats of arrest and prosecution.¹⁸

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

The Philippine restrictive abortion law is an archaic colonial penal law

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

This Philippine penal provision was directly translated into English from the old Spanish Penal Code of 1870 that used to criminalize abortion—during the time of the Spanish friars and at the time when the Philippines was under the colonial rule of Spain. Without knowing the full consequences of such a harsh and restrictive law, our congress adopted the criminal provision in our Revised Penal Code of 1930. At the time the law was adopted, Filipino women did not even have the right to vote and the international bill of human rights and core international human rights treaties have not yet been adopted. These international instruments were adopted and took force and effect much later--Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (ICCPR, adopted in 1966, took effect in 1976), the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966, 1976), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979, 1981), Convention Against Torture (CAT, 1984, 1987), and Convention on the Rights of the Child (CRC, 1989, 1990).

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

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

A. Prenatal protection is not absolute

The 1987 Constitution provision under Section 12, Article II on the Declaration of Principles equally protecting the life of the woman and the unborn from conception does not explicitly prohibit abortion.¹⁹



This prenatal protection yields to the fundamental rights of born persons.²⁰ Prenatal protection cannot be interpreted in a way that conflicts with the implementation of other State principles and policies set forth in Article II such as Section 15 on the State's duty to protect and promote health and Section 14 on the State's recognition of "the role of women in nation-building" and "the fundamental equality before law of women and men."²¹

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.

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

The unborn is not placed exactly on the same level as the life of the woman and is not accorded with the same rights and protection as legal persons. It is recognized in Philippine and comparative jurisprudence and international law that the embryos and fetus are not on equal footing with the rights of a woman.

The embryo and fetus do not have human personality.²² Legal personality only attaches upon birth. Article 41 of the Civil Code defines legal persons. Under Article 41 of the Civil Code, a fetus must be born alive (completely delivered from the mother's womb) to be considered a person endowed with legal personality.

In the case of *Geluz vs. Court of Appeals*,²³ the Philippine Supreme Court held as early as 1961 that the husband of a woman who voluntarily procured her abortion was not entitled to damages from the physician who performed the procedure since the fetus was not yet born and thus does not have civil personality under Article 40 of the Civil Code. The Supreme Court held that a child should be born before the parents can recover damages since personal injury or death pertains primarily to the one injured. The Supreme Court even went further to state that that abortion is justified when there is a medical necessity to warrant it.²⁴

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

In the 1991 Canadian case of *R. v. Sullivan*, 1 S.C.R. 489, the Supreme Court held that a fetus in the birth canal is not a "person" or a "human being" for the purposes of criminal law and thus the midwives assisting in delivery at the time of death cannot be convicted of criminal negligence causing death to another person.²⁵

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



prevent harm to her fetus as legal rights only accrue at birth and the *parens patriae* jurisdiction of the court does not apply to the fetus.²⁶

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

Other countries with same constitutional protection of the life the unborn from conception allow abortion under certain exceptions such as Hungary, Costa Rica, South Africa, Ireland, Slovak Republic, Poland, and Kenya,²⁷ as follows:

Hungary enacted a new 2011 Constitution protecting fetal and embryonic life from the moment of conception.²⁸ Despite this new constitutional provision, Hungary still allows abortion up to 12 weeks of gestation,²⁹ and in cases where it is necessary to preserve the physical or mental health of the woman, rape or incest, the fetus is severely physically or mentally impaired or where the pregnancy poses a severe crisis for the pregnant woman.³⁰

Although the Constitution of Costa Rica provides that, “[h]uman life is inviolable,”³¹ Costa Rican permits abortion when necessary to preserve the life or health of the pregnant woman.³² In 2004, the Costa Rican case Tribunal Supremo de Costa Rica, Sentencia No. 2004-02792 held that notwithstanding the fact that the “unborn” enjoys protection, therapeutic abortion is permitted.³³

The South African 1996 Constitution provides that “everyone has the right to life”.³⁴ In the case of *Christian Lawyers Association of South Africa v. The Minister of Health*, the Court ruled that “everyone” was a legal alternative expression to “every person,” and historically legal personhood commences only at live birth; it was not necessary to address the claim on the biological beginning of human life, since it cannot be concluded that the human life that had begun was that of a legal person; “the question is not whether the conceptus is human but whether it should be given the same legal protection as you and me.”

The Irish Constitution provides that “the right to life of the unborn and, with due regard to the equal right to life of the mother.”³⁵ The Irish Supreme Court ruled that the woman has a right to an abortion where the pregnancy poses a risk to her life.³⁶ Ireland enacted a law in 2013 recognizing that abortion may be performed when there is risk to the life of a pregnant woman.³⁷

The constitutionality of the Slovak abortion law was upheld by the Slovak Constitutional Court when it interpreted the Constitutional provision--“Everyone has the right to life. Human life is worthy of protection even prior to birth.” The Court found that granting the right to life to a fetus would directly contradict women’s constitutional rights to health and privacy.³⁸

Despite the Polish Constitution provision on “...legal protection of the life of every human being,”³⁹ in 1993, Poland amended its law and allowed abortions in



cases of serious threat to the life or health of the pregnant woman, rape or incest, and prenatal tests indicate that the fetus is seriously and irreversibly damaged.⁴⁰ The amended law even provides that “[e]very human being shall have a natural right to life from the time of his conception.”⁴¹

Although the Kenyan Constitution provides that “[t]he life of a person begins at conception,”⁴² Kenyan law allows abortion when “...in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law.”⁴³

When a Colombian citizen challenged the former abortion law that outlawed the procedure in all circumstances in April 2005,⁴⁴ the Colombian Constitutional Court issued a decision in 2006 liberalizing its abortion law by upholding that there is no Constitutional right to life before birth⁴⁵ and allowed abortion under three circumstances: when the life or health (physical or mental) of the woman is in danger; when pregnancy is a result of rape or incest; or when grave fetal malformations make life outside the uterus unviable.⁴⁶ Before the ruling, Colombia had one of the most restrictive abortion laws in the world with over 350,000 illegal abortions performed annually. The Court ruled that:

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

Recommended Revision of Philippine Abortion Law

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

Conclusion

Providing access to safe and legal abortion and post-abortion care, *inter alia*, will greatly lower maternal mortality and morbidity related to unsafe abortion and in meeting the country's commitment to the Sustainable Development Goals to decrease the maternal mortality ratio to two-thirds of 2010 levels under Target 3.⁴⁷

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



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



¹ 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].

² Center for Reproductive Rights, *Safe Abortion*, 2005.

³ Center for Reproductive Rights, *World Map* (2017), available at <http://www.worldabortionlaws.com/map/>.

⁴ 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]

⁵ Center for Reproductive Rights, *World Map* (2017); Center for Reproductive Rights, *Abortion Worldwide*, 2014.

⁶ Center for Reproductive Rights, *Abortion Worldwide*, 2014.

⁷ Center for Reproductive Rights, *Spain permits abortion on grounds of rape and fetal impairment*. See, Poster, Center for Reproductive Rights, *The World's Abortion Laws 2017*.

⁸ 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*.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Center for Reproductive Rights, *World Map* (2017); Center for Reproductive Rights, *Abortion Worldwide*, 2014.

¹⁴ Mexico City legalized abortion in the first trimester without restriction.

¹⁵ 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.

¹⁶ REVISED PENAL CODE, arts. 258-59, penalized from 6 months 1 day to 6 years; See, Pacifico Agabin, *The Legal Perspective on Abortion*, J. OF REPROD. HEALTH, RTS. & ETHICS 2 (1995); The Midwifery Act, Medical Act and Pharmaceutical Act permit the revocation or suspension of the licenses of any practitioner who performs abortions or provides abortifacients.

¹⁷ The Responsible Parenthood and Reproductive Health Law (RPRH Law or Republic Act 10354) and Magna Carta of Women (RA 9710).

¹⁸ 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.

¹⁹ CONST. (1987), art. II, sec. 12 (Phil.) [hereinafter PHIL. CONST.].

²⁰ JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 84 (2009), at 118.

²¹ PHIL. CONST., Art. II, § 14.

²² 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).

²³ SCRA 801 [1961]

²⁴ SCRA 801 [1961]

²⁵ *R. v. Sullivan*, 1 S.C.R. 489, available at [http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/scc-csc/en/item/733/index.do](http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/733/index.do)

²⁶ *Winnipeg Child and Family Services (NW Area) v. G.(D.F.)* (1997) 152 D.L.R. (4th) 304, available at <http://csc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/1562/index.do>.

²⁷ See Center for Reproductive Rights, *The Right to Life Toolkit*; See also the letter of EnGendeRights and Jihan Jacob addressed to the Department of Justice, August 1, 2014, entitled "Re: Reinstatement of the provisions on 'justified abortions' in the Draft Criminal Code of Crimes xxx."

²⁸ A MAGYAR KÖZTÁRSASÁG ALKOTMÁNYA [CONSTITUTION OF THE REPUBLIC OF HUNGARY] (2011), art. II available at <http://www.mkab.hu/download.php?d=65>.

²⁹ Law No. 79 of Dec. 17, 1992 (Hu.), translated in 44 IDHL 249-50 (1993).

³⁰ Law on the Protection of Fetal Life (Act LXXIX of 1992) (Hung.) available at <http://reproductiverights.org/en/world-abortion-laws/hungarys-abortion-provisions>.



- ³¹ CONST. (1949), title IV, art. 21 (Costa Rica) *available at* http://www.costaricalaw.com/constitutional_law/constitution_en_04.php.
- ³² Código Penal [CP] (Penal Code) No. 4573, art. 121, May 4, 1970 (Costa Rica).
- ³³ Tribunal Supremo de Costa Rica, Sentencia No. 2004-02792
- ³⁴ Christian Lawyers Association of South Africa v. The Minister of Health, Case No. 16291/97 (10 July 1998), *available at* <http://www.globalhealthrights.org/wp-content/uploads/2013/01/HC-2004-Christian-Lawyers-Association-v.-Minister-of-Health.pdf>
- ³⁵ IR. CONST., 1937, art. 40 (3.3), *available at* https://www.constitution.ie/Documents/Bhunreacht_na_hEireann_web.pdf.
- ³⁶ Attorney General v. X and Others, [1992] 1 I/R/ 846P (Ir.).
- ³⁷ Protection of Life During Pregnancy Act (Act No. 35/2013) (Ir.) *available at* <http://www.irishstatutebook.ie/2013/en/act/pub/0035/index.html>.
- ³⁸ Nález Ústavného súdu Slovenskej republiky, sp. zn. [Decision of the Constitutional Court of the Slovak Republic, No.] PL. ÚS 12/01-297 (Dec. 4, 2007) (unofficial translation on file with the Center for Reproductive Rights).
- ³⁹ CONST. (1997), art. 38 (Pol.) *available at* <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.
- ⁴⁰ Act on Family Planning, Human Embryo Protection, and Conditions of Legal Pregnancy Termination (1993) (Pol.) *available at* http://www.federa.org.pl/dokumenty_pdf/english/AbortionLaw1993.doc
- ⁴¹ *Id.*
- ⁴² CONST., art. 26 (2) (2010) (Kenya) *available at* <https://www.kenyaembassy.com/pdfs/The%20Constitution%20of%20Kenya.pdf> [hereinafter CONSTITUTION OF KENYA].
- ⁴³ *Id.*, art. 26 (4).
- ⁴⁴ Women's Health Journal, Abortion law challenged in constitutional court, Jan.-Mar. 2005, *available at* http://findarticles.com/p/articles/mi_m0MDX/is_1_2005/ai_n17209597.
- ⁴⁵ Women's Health Journal, Abortion law challenged in constitutional court, Jan.-Mar. 2005, *available at* http://findarticles.com/p/articles/mi_m0MDX/is_1_2005/ai_n17209597.
- ⁴⁶ Colombian Constitutional Court Decision C-355/2006; Women's Link Worldwide, Colombia's highest court rules in favor of easing one of the world's most restrictive abortion laws, *available at* http://www.womenslinkworldwide.org/pdf_press/press_release_2006510_col.pdf.
- ⁴⁷ The global commitment is to reduce the maternal mortality ratio to less than 70 per 100,000 births.



About the Author

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

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

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

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

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

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

She spearheaded the submission of the request for inquiry on Manila EO 003 (Series of 2000) to the CEDAW Committee which was a collaborative effort of the Philippine-based Task Force



CEDAW Inquiry, the New York-based Center for Reproductive Rights, and the Malaysia-based International Women's Rights Action Watch-Asia Pacific (IWRAW-AP) where the Philippines was found to have committed reproductive rights violations. She has made oral interventions before the CEDAW Committee in New York (2006) and in Geneva (2016) and before the Human Rights Council in Geneva (2008).

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

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

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

She was a speaker on sexual and reproductive health and rights for the 11th IBP National Convention in Cagayan de Oro (2007) with about 1200 lawyers, prosecutors, and judges. She was a speaker for the IBP Eastern Visayas with more than 700 lawyers and judges (2006) on the



“Anti-Violence Against Women and Their Children Act of 2004” and “Gender Issues in Legal Ethics”.

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

She also drafted the following:

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



About EnGendeRights

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

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

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

- provide women access to quality post-abortion care in all public health facilities including by reintroducing misoprostol to reduce maternal mortality and morbidity rates
- ensure that women experiencing abortion-related complications are not reported to law enforcement authorities, threatened with arrest, or subjected to physical or verbal abuse, discrimination, stigma, delays in access to or denial of care



- amend articles 256 to 259 of the Revised Penal Code to “legalize abortion in cases of rape, incest, threats to the life and/or health of the mother, or serious malformation of the fetus and decriminalize all other cases where women undergo abortion, as well as adopt necessary procedural rules to guarantee effective access to legal abortion.”

EnGendeRights publications include:

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

EnGendeRights press releases and position papers include:

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



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



EnGendeRights, Inc.
Asserting Gender Equality

EnGendeRights, Inc. Publication December 2016

Writer: Clara Rita Padilla, Executive Director

Acknowledgments

The author gratefully acknowledges inputs and assistance from colleagues at EnGendeRights and PINSAN, particularly Anita Visbal, Program Coordinator of EnGendeRights. This fact sheet is a short version of Parts III-V of the EnGendeRights Policy Brief entitled, "Access to Safe and Legal Abortion and Post-Abortion Care Can Save Filipino Women's Lives". The Policy Brief is an expanded version of previous works of Clara Rita Padilla including the article which came out in the Ateneo Law Journal entitled, "A Call for Philippine Implementation of Women's Rights under CEDAW" (53 ATENEO Law Journal 765-803, 2008), her articles which came out in Rappler in 2015-2016, and the May 2016 Position Paper of EnGendeRights et al. submitted to the Commission on Human Rights which was edited by Dr. Florence M. Tadiar, Princess Nemenzo and other members of PINSAN. The final text including errors or omissions is the sole responsibility of EnGendeRights.



EnGendeRights, Inc.
Asserting Gender Equality

Email: engenderights@gmail.com
Telefax No. (632) 376-2578; Mobile landline (+632) 6645696
Like us: <http://www.facebook.com/engenderightsphilippines>