



September 19, 2012

Human Rights Committee  
Office of the High Commissioner for Human Rights (OHCHR)  
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Re: Supplementary information on compliance with the International Covenant on Civil and Political Rights Articles 2, 3, 6, 7, 17, & 23 by the Philippines, scheduled for review by the Human Rights Committee during the 106<sup>th</sup> session.

Dear Honorable Committee Members:

The Center for Reproductive Rights<sup>1</sup> (the Center) has prepared this letter to assist the Human Rights Committee in its review of the Philippines' compliance with the International Covenant on Civil and Political Rights (ICCPR). This letter focuses specifically on important issues related to the status of women's reproductive rights in the Philippines raised by the Human Rights Committee in the List of Issues to Be Taken up in Connection with the Consideration of the Fourth Periodic Report of the Philippines (the List of Issues), and presents evidence of grave violations of women's rights under restrictive contraceptive and abortion-related laws documented and published by the Center and local partners in two separate reports: *Imposing Misery: The Impact of Manila's Contraception Ban on Women and Families*<sup>2</sup> (*Imposing Misery*) (Annex 1), first released in 2007 and reprinted with an update in 2010, and *Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban*<sup>3</sup> (*Forsaken Lives*) (Annex 2), published in 2010. This letter includes information presented in our submission to the Human Rights Committee in advance of the development of the List of Issues, as well as key updates and supplemental testimonies from women in the Philippines who have suffered violations as a result of denials of reproductive health care.

As noted by the Human Rights Committee in the List of Issues, there are significant and ongoing violations of women's rights in the Philippines stemming from the government's criminal abortion ban, which has no clear exceptions; the government's failure to revoke and prevent adoption of legal restrictions on modern contraceptives by local government units (LGUs); and the government's failure to ensure access to humane post-abortion care. We commend the Human Rights Committee for its request, in relation to Article 6 (right to life) of the ICCPR, that the Philippine government (the state party) provide information concerning **“a high rate of teenage pregnancies, clandestine abortions and maternal mortality in the State party that are allegedly attributable to the strict anti-abortion provisions under the Revised Penal Code of 1930 and restricted access to contraceptives and family**

**planning services.”**<sup>4</sup> The List of Issues further calls for information on **measures being taken to repeal local executive orders and ordinances that restrict access to contraceptives in Manila City and in the province of Bataan.**<sup>5</sup> This request is of particular importance as the state party has neglected entirely to discuss women’s reproductive health and rights in its Fourth Periodic Report to the Human Rights Committee, reflecting a continuing failure to recognize that denials of reproductive health services lead to violations of women’s human rights.

It is important to note that these denials of reproductive health care services are occurring in a country where a 2011 government study shows that the maternal mortality ratio has dramatically *increased* over the last five years—rising precipitously from 162 to 221 per 100,000 live births between 2006 to 2010.<sup>6</sup> The Secretary of Health of the Philippines, Dr. Enrique Ona, has stated that “an estimated 11 women die each day from highly preventable complications arising from pregnancy and childbirth.”<sup>7</sup>

Through this submission, the Center seeks to provide the Committee members with supplementary information highlighting both how continued denials of reproductive health services violate Article 6 and deprive women of enjoyment of three additional key rights recognized under the ICCPR—non-discrimination; privacy; and freedom from torture and cruel, inhuman, and degrading treatment (CIDT). **The Human Rights Committee’s recognition that restrictive laws and policies violate not only women’s right to life, but also these three additional rights, is crucial to capture the grave and multifaceted nature of the harm experienced by women when they are arbitrarily and improperly deprived of reproductive decision-making abilities on the basis of religious ideology and lack of political will without any legal recourse or accountability.** We hope the Human Rights Committee’s Concluding Observations will reflect the multiple harms suffered by women in the Philippines as a result of the state party’s restrictive laws and policies and continued failure to prioritize women’s lives and dignity.

### **I. Unsafe & Clandestine Abortion (Articles 3, 6, 7, 17)**

The Philippine Revised Penal Code of 1930 legally restricts abortion without clear exceptions, even in instances where the pregnancy endangers a woman’s life or health, is a result of rape or incest, or in cases of fetal impairment, and prescribes severe criminal penalties for women and providers of abortions.<sup>8</sup> Although legal scholars in the Philippines have written in legal commentaries that the Revised Penal Code provisions can potentially be interpreted to allow exceptions for abortion to save a woman’s life or health under the general criminal defense of necessity, the state party’s failure to clarify this has resulted in the law generally being interpreted as a complete ban. Furthermore, there are no rules or regulations in place that establish a clear procedure for legally seeking abortions on these grounds. The criminal ban has not prevented abortions but has just made them extremely unsafe. In 2008 alone, it is estimated that over half a million abortions took place in the Philippines, resulting in 90,000 women seeking treatment for complications and 1,000 women dying.<sup>9</sup> The Human Rights Committee has repeatedly recognized that **restrictive abortion laws violate several rights recognized under the ICCPR**, including the rights to life, non-discrimination and equality, freedom from CIDT, and privacy. The Philippine criminal abortion ban is currently one of the most restrictive in the world and clearly violates these provisions of the ICCPR.

**Recently, the Department of Justice (DOJ) has coordinated a committee of experts, called the Revision Committee, to review and revise the Revised Penal Code, including the section that contains the prohibition on abortion. However, it is currently uncertain if the DOJ will clarify the abortion provisions or recognize any exceptions. Alarming, since 2010, four anti-abortion bills have been filed in Congress that aim to increase the penalties for abortion, and also incorrectly seek to have certain contraceptives recognized as abortifacients and on that basis made illegal.**<sup>10</sup>

**a. Right to equality (Article 3)**

The Philippine abortion law is discriminatory on its face as it denies women access to a medical procedure that only women ever need, and it perpetuates discrimination against women by interfering with their enjoyment of other rights guaranteed under the ICCPR. On the first point, **restrictive abortion laws have been repeatedly recognized by the Human Rights Committee as violations of the right to non-discrimination.** In General Comment 28, the Human Rights Committee recognizes that **Article 3** is implicated where women (a) are forced to undergo “life-threatening clandestine abortions”<sup>11</sup> or (b) are denied access to abortion in the case of rape.<sup>12</sup> This stance is in line with the Committee on the Elimination of Discrimination against Women’s view that criminalization of medical services specific to women and the failure to legally provide for certain reproductive health services that only women need constitutes discrimination.<sup>13</sup> In the recent case *L.M.R. v. Argentina*, the Human Rights Committee ruled that the government of Argentina breached its obligation to provide a remedy for the violation of **Article 3** by failing “to exercise due diligence in safeguarding a legal right to a procedure required solely by women.”<sup>14</sup>

Further, on the second point, **restrictive abortions laws also violate the right to equality by discriminatorily interfering with women’s enjoyment of their other rights as guaranteed under the ICCPR.** Such laws violate the guarantee of substantive equality under Article 3, which the Human Rights Committee has articulated in General Comment 28 as requiring that “States parties . . . take account of the factors which impede the equal enjoyment by women and men of each right specified in the Covenant.”<sup>15</sup> For example, as will be analyzed in more depth below, the Human Rights Committee has also stated in General Comment 28 that restrictive abortion laws discriminatorily violate ICCPR Article 6 by interfering with women’s enjoyment of the right to life.<sup>16</sup> As the following paragraphs on the rights to life; freedom from CIDT; and privacy will discuss in detail, criminal abortion bans prevent women—and only women—from enjoying these rights on an equal basis with men.

Clandestine abortion is both common and unsafe; it does not happen legally in a doctor’s office with sterile instruments, anesthesia, and humane, quality health care; rather, women undergo these procedures clandestinely in their homes with sticks that puncture the uterus or crude herbal concoctions that cause painful cramps and bleeding, through experimentation with medication of questionable origin and quality procured from unlicensed vendors that frequently result in incomplete abortion and deadly infections, or at the hands of untrained traditional midwives who contort and manipulate women’s uteruses through an excruciating procedure called “abdominal massage” to terminate the pregnancy.<sup>17</sup> *Forsaken Lives* includes the story of Mercedes, a street vendor and mother of four, who described her experience with a traditional midwife, known as a *hilot*: “*The massage continued thrice a week . . . The hilot would press her open hands with all the fingers extended together and hard. . . I felt like my insides would tear apart. I was screaming in agony. . . I felt like dying . . . I went through that ordeal for four weeks.*”<sup>18</sup> For

women who have become pregnant from rape, there are typically only two options—continuing a pregnancy that may cause mental as well as physical distress or undergoing excruciating procedures such as those described above. The CD enclosed in the hard copy of this submission and Annex 3 attached to the soft copy of the submission contain video testimony of Ana, who sought an abortion after her eighth pregnancy, which resulted from marital rape.<sup>19</sup> She stated, “*My husband used to beat me and forced me to have sex . . . [M]y courage alone will not be enough to raise my children – who were mostly conceived due to my husband’s abuse.*”<sup>20</sup>

**Recognition of restrictive abortion laws as violating the right to equality is especially significant because it underscores the obligation for governments to ensure that religious ideology is not used to deprive women of their ability to equally enjoy their rights.** Although the Philippines is a secular state, its population is predominantly Catholic and the influence of religious ideology and traditional attitudes about women are especially strong in the area of women’s reproductive health and rights. The influence of religious ideology is reflected indisputably in the criminal abortion ban and the restrictions on access to contraceptive information and services.<sup>21</sup> In General Comment 22, the Human Rights Committee has made it clear that even if a specific religion is established as the official or traditional religion of the state or if a particular religion’s followers comprise the majority of the population (as is the case in the Philippines, where 80% of the population is Roman Catholic<sup>22</sup>), such religions “shall not result in any impairment of the enjoyment of any of the rights under the Covenant.”<sup>23</sup> Further, as discussed above, the Human Rights Committee has emphasized that states must “ensure that traditional, historical, religious<sup>24</sup> or cultural<sup>25</sup> attitudes are not used to justify violations of women’s right to equality before the law and to equal enjoyment of all Covenant rights.”<sup>26</sup> The Committee on the Rights of the Child has specifically noted the role of religious opposition in the Philippines’ failure to promote women’s and girls’ reproductive rights, stating that “particular beliefs and religious values are preventing [the] fulfilment” of the Magna Carta of Women (MCW),<sup>27</sup> a national law introduced in 2009, to promote women’s equality and end discrimination against women.

#### **b. Right to freedom from CIDT (Article 7)**

**Article 7** of the ICCPR guarantees the right to freedom from CIDT. The Human Rights Committee has found that Article 7 may be implicated where abortion is not available for women who have become pregnant from rape or in cases of fetal impairment. Regarding rape, in General Comment 28, the Human Rights Committee has stated that information on the availability of safe abortion to women who have become pregnant as a result of rape is required for assessment of compliance with Article 7.<sup>28</sup> General Comment 28 states that information provided on this issue “should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated.”<sup>29</sup> On the issue of therapeutic abortion in cases of fetal impairment, in the case of *K.L. v. Peru*, the Human Rights Committee found that the physical and psychological harm arising from forcing a pregnant girl to carry a pregnancy to term despite a diagnosis of anencephaly (a fetal complication incompatible with life) was foreseeable and constituted CIDT<sup>30</sup> in violation of Article 7.<sup>31</sup>

**Denial of abortion where the pregnancy is a consequence of rape has been recognized as a violation of Article 7.** In 2011, the Human Rights Committee held in *L.M.R. v Argentina* that a state’s failure to provide an abortion to a girl who had become pregnant as a result of rape resulted in physical and mental suffering and constituted a violation the right to be free from torture and CIDT.<sup>32</sup> The Human Rights

Committee rejected the state's claim that forcing the girl to endure a pregnancy resulting from rape and undergoing an illegal abortion could not constitute torture because the pregnancy did not cause physical harm.<sup>33</sup> Instead, reiterating its finding in *K.L.*, the Human Rights Committee reasoned that the rights protected in Article 7 related not only to acts that cause physical pain but also to acts that cause mental suffering.<sup>34</sup>

As a result of the criminal abortion ban, women in the Philippines who become pregnant as a result of rape or incest must either continue the pregnancy or resort to illegal abortions. While many cases of rape are unreported, the Philippine National Police recorded almost 5,000 rape cases from January to November 2010.<sup>35</sup> *Forsaken Lives* includes the story of Mylene, a twenty-six year old doctor, who became pregnant after being raped.<sup>36</sup> Mylene confided in almost no one and decided to self-induce an abortion.<sup>37</sup> She developed a severe infection and eventually sought treatment in a hospital; tragically, Mylene died on the operating table due to renal failure from sepsis (a potentially deadly medical condition where the bloodstream is overwhelmed by bacteria) caused by the unsafe abortion.<sup>38</sup> As discussed below in Section III, emergency contraception (EC), which is commonly administered in other countries to prevent pregnancy in instances of rape, is currently unavailable in the Philippines, making women who become pregnant in these circumstances more vulnerable to abortion-related injuries, trauma, and death.

### c. Right to privacy (Article 17)

**Article 17** guarantees freedom from arbitrary interference with privacy. Interference with individual privacy may be considered “unlawful” if it is undertaken on the basis of a national law that is in violation of ICCPR,<sup>39</sup> and may be considered “arbitrary” if it is based on a lawful interference that is not reasonable and not in conformity with ICCPR.<sup>40</sup> The right to privacy protects women's rights to make decisions about their private lives free from arbitrary interference by the state. The Human Rights Committee has condemned restrictive interpretations of abortion provisions as violating the right to privacy; for example, in the case of *K.L. v. Peru*, the Committee ruled that the Peruvian government's failure to recognize abortions on the grounds of fetal impairment as falling within the therapeutic abortion exception as a breach of Article 17.<sup>41</sup>

**The Philippines' failure to clarify where there are exceptions to Revised Penal Code provisions proscribing abortion has resulted in women arbitrarily being denied access to a medical procedure that may be needed to protect their health or lives, without any legal recourse.** In the absence of clear legal exceptions for abortion, women are left at the mercy of individual health care providers, who themselves may be risking criminal prosecution if they do induce an abortion and are therefore deterred from doing so. This situation is illustrated in Haydee's story, told in the following section on the right to life.

### d. Right to life (Article 6)

The Human Rights Committee's General Comment 6 interprets **Article 6** of the ICCPR, which guarantees the right to life, as requiring measures to protect women from unnecessary losses of life related to pregnancy and childbirth.<sup>42</sup> The Human Rights Committee has specifically noted that **restrictive abortion laws violate the right to life by forcing women to seek unsafe abortions that threaten their lives, and has stated that governments must ensure women's access to health services so they are not forced to undergo life-threatening, clandestine abortions.**<sup>43</sup> In its review of Chile, the Human

Rights Committee stated, “The State party has a duty to take measures to ensure the right to life of all persons, including pregnant women whose pregnancies are terminated.”<sup>44</sup> The Human Rights Committee has issued several Concluding Observations urging those states that criminalize abortion entirely or in all circumstances except to save a woman’s life to revise their laws to allow for exceptions.<sup>45</sup> As discussed above, due to the state party’s criminal abortion ban, women in the Philippines are forced to resort to unsafe, clandestine methods; under these circumstances, abortion, which is known to be one of the safest medical procedures when performed by skilled providers in medically appropriate settings,<sup>46</sup> becomes a significant cause of maternal mortality and morbidity including infertility. *Forsaken Lives* includes the tragic story of Maricel, an eighteen year old mother of one who had been granted a visa to work abroad as a domestic worker, but became pregnant when breastfeeding as a method of contraception failed. Her employer would have forced her to give up the job, which she needed to support her family if she was pregnant, so she tried to induce abortion by using misoprostol and visiting a *hilot* for an abdominal massage. When she did not experience any bleeding, she asked a neighbor for help and was directed to a woman who performed “catheterizations,” meaning that she inserted catheters into the uterus for women who wanted to terminate their pregnancies. Maricel, who was by then three months into her pregnancy, suffered serious complications, but her fear of being arrested deterred her from seeking care for two weeks. By the time Maricel finally arrived at the hospital, it was too late; Maricel died on an operating table as a result of sepsis caused by the unsafe abortion.<sup>47</sup>

Lack of access to legal abortion leaves women without any safe recourse where a pregnancy places them at risk of maternal mortality or morbidity. Haydee, a mother of one living in an urban squatter settlement, experienced life-threatening complications during her first pregnancy and suffered a hypertension-induced stroke during her second pregnancy.<sup>48</sup> Haydee was fortunate that her physician induced a delivery after her stroke to save her life although she was only five months pregnant.<sup>49</sup> Her doctor said that a future pregnancy could kill her, but did not provide counseling about a method of contraception suitable for her medical condition and told Haydee she should see a private doctor for any future pregnancies.<sup>50</sup> Haydee had two subsequent unplanned pregnancies.<sup>51</sup> Despite the clear danger to her life, when she sought to end her third pregnancy, her new doctor denied Haydee an abortion because she thought it would be a sin.<sup>52</sup> Haydee was forced to self-terminate her third and fourth pregnancies by taking misoprostol<sup>53</sup> that she procured on the black market.<sup>54</sup> Her attempt to terminate her fourth pregnancy resulted in weeks of heavy bleeding and required hospitalization.<sup>55</sup> Ultimately, Haydee survived, but only after taking great risks with her life to avoid the certain death her physician had predicted if she continued the pregnancy.

## **II. Abusive and Poor Quality of Post-Abortion Care (Articles 3, 6, 7, 17)**

As the Human Rights Committee has noted in the List of Issues, the criminal abortion ban contributes to maternal mortality and morbidity in the Philippines.<sup>56</sup> Treatment for abortion-related complications is one of the top ten most common reasons for hospitalization at many hospitals in the Philippines.<sup>57</sup> **Unsafe abortion-related injuries and deaths are exacerbated by poor access to and quality of post-abortion care, as well as abuse in post-abortion care settings that leads women to delay or avoid seeking care they urgently need.** Lack of government commitment to ensuring dignified, humane post-abortion care has resulted in grave violations of human rights for women seeking treatment for abortion complications.

**While post-abortion care is legal in the Philippines, the criminal ban on abortion has created an environment in which health workers routinely subject patients to mental and physical abuse, stigmatization, and judgment, and deny or delay potentially life-saving medical care.** Women interviewed for *Forsaken Lives* stated that they feared being reported to the authorities for having abortions;<sup>58</sup> many delayed seeking care or did not seek care at all for complications due to the fear of arrest.<sup>59</sup> Women who did seek treatment in hospitals reported being manhandled, verbally abused, threatened with arrest, and made to wait to receive care, even if they required immediate medical attention.<sup>60</sup> The quality of post-abortion care is shaped largely by providers' attitudes towards abortion which in turn is influenced by the criminal ban. As documented in *Forsaken Lives*, **the criminal ban has created fear of criminal liability for health workers, undermining their ability to care for patients.**<sup>61</sup> In fact, many providers erroneously believe they are legally required to report abortions and fear they will be implicated as accomplices if they fail to do so.<sup>62</sup> Often, health workers who suspect a woman of having induced an abortion interrogate the woman, coercing her to admit she had an abortion and threatening to deny medical treatment or report her to the police.<sup>63</sup> Due to the stigma of abortion, even women who have suffered from spontaneous abortions (miscarriages) face harassment and delays in treatment.<sup>64</sup> These practices involve **egregious violations of medical ethics, patient confidentiality, and dignity for which there is no legal recourse, and filing a complaint would entail admitting illegally inducing an abortion, forcing women to incriminate themselves.**

**The state party introduced the Prevention and Management of Abortion and its Complications (PMAC) Policy in 2000,** mainly to ensure the provision of humane post-abortion care and prevent mistreatment of women seeking services,<sup>65</sup> **but it has not been prioritized or meaningfully implemented.** Key officials interviewed for *Forsaken Lives* were not familiar with the policy,<sup>66</sup> and many health workers complained that the state party has failed to provide necessary training, allocate adequate funding, and ensure the availability of medicines needed for post-abortion care.<sup>67</sup>

For example, misoprostol, a drug that the World Health Organization (WHO) has deemed essential for the management of post-partum hemorrhage, incomplete abortion, and miscarriages,<sup>68</sup> was banned by the Philippine Bureau of Food and Drugs (BFAD) in 2002 because of its potential use as an abortifacient.<sup>69</sup> **The misoprostol ban endangers women's lives by depriving health professionals of an effective treatment for post-partum hemorrhage and other complications arising from unsafe or incomplete abortions.**<sup>70</sup>

**In the absence of implementation of the PMAC Policy, the estimated 90,000 women who are hospitalized for unsafe abortion complications continue to face significant and often insurmountable barriers to these potentially life-saving health care services.**<sup>71</sup> The state party's failure to ensure women's access to timely, confidential, and non-abusive post-abortion care, including by lack of meaningful implementation of the PMAC Policy and introduction of the harmful BFAD circular, negatively implicates the rights to life, equality and non-discrimination in health care, privacy, and freedom from CIDT as guaranteed under the ICCPR.

**a. Right to life (Article 6)**

The Human Rights Committee has stated that **Article 6** obligates states parties to ensure the right to life of all persons, including specifically women who have terminated their pregnancies even when abortion is

illegal.<sup>72</sup> The stigma around abortion as a result of criminalization has jeopardized women's health in many ways, including by legitimizing resistance by health care workers to providing post-abortion care. One health worker interviewed for *Forsaken Lives* recalled vividly an incident in which a woman was left to bleed in the hallway because physicians refused to provide her timely care.<sup>73</sup> The woman suffered from sepsis but was denied treatment because she had undergone an abortion.<sup>74</sup> Similarly, another health worker shared the story of a woman who was taken to Las Piñas District Hospital after taking misoprostol pills that she procured on the black market and was hemorrhaging.<sup>75</sup> Although the doctors had initially scheduled her to undergo an operation necessary to treat her complications, they refused to perform the procedure when they learned that she had intentionally tried to terminate her pregnancy.<sup>76</sup>

The Human Rights Committee also has specifically criticized reporting requirements for abortion because they discourage women from seeking medical treatment, thereby endangering their lives,<sup>77</sup> and has recommended that states protect the medical information<sup>78</sup> of women seeking post-abortion care and adopt laws to ensure that information is kept confidential.<sup>79</sup> The interrogation is often accompanied by the coerced signing of statements which are extremely intimidating for women. As documented in *Forsaken Lives*, Lisa, a woman from Manila City who faced an unwanted pregnancy due to lack of access to contraceptives and had an unsafe abortion, was given a form written in English, which she did not understand, by her nurses and ordered to sign it.<sup>80</sup> The nurses said: “*You sign here that if we get something [an abortive drug] from your uterus, we can have you imprisoned.*”<sup>81</sup> Lisa said, “*I signed the document because I was scared . . . They were stronger than I was because they have the authority; I was only the patient.*”<sup>82</sup>

The state party's criminalization of abortion further creates ethical and professional dilemmas for health care providers, who cannot legally provide an abortion or prescribe misoprostol for post-partum hemorrhage and other complications even where they believe it is in their patients' best medical interest. One doctor at Fabella Hospital recounted a tragic case in which he was unable to assist his patient evacuate her dead fetus with misoprostol after his attempt to do so with oxytocin failed.<sup>83</sup> As a result, the woman had no choice but to wait in the hospital for several days for it to be expelled naturally.<sup>84</sup> The Human Rights Committee has criticized laws and policies that place health care workers in this situation under Article 6, and has issued Concluding Observations urging states to avoid penalizing medical professionals in the exercise of their professional responsibilities.<sup>85</sup>

#### **b. Right to privacy (Article 17)**

The Human Rights Committee has established in General Comment 28 that women's rights to privacy may be violated “where States impose a legal duty upon doctors and other health personnel to report cases of women who have undergone abortion.”<sup>86</sup> Even in the absence of a formal reporting requirement, the existence of criminal sanctions may create the impression of an obligation, as is the case in the Philippines. The gravity of the situation for women is revealed by a doctor from a government hospital in Manila City who explained how the reporting works: “*We report induced abortions to the security guard, who lists the abortion in the hospital blotter and then conducts an investigation—if induced, where it was done, who did it, and so on . . . The guard interviews women behind a curtain . . . The guard is supposed to give the name [of the woman] to the National Bureau of Investigation.*”<sup>87</sup> As such, the Human Rights Committee has urged states parties to amend laws giving rise to a reporting requirement for women who have abortion complications “to protect the confidentiality of medical information.”<sup>88</sup>

Further, threats of arrest by providers due to the state party's failure to clarify that reporting requirements do not exist constitute an interference with individual privacy in that they arbitrarily interfere with women's ability to access potentially life-saving medical care;<sup>89</sup> many such cases have been documented in *Forsaken Lives*.<sup>90</sup>

### c. Right to freedom from CIDT (Article 7)

The Human Rights Committee has specifically recognized that the legal prohibition against torture and ill-treatment protects "in particular . . . patients in . . . medical institutions."<sup>91</sup> This protection naturally extends to women seeking post-abortion care in health facilities. Under the ICCPR, states parties have a positive obligation to ensure that private actors do not violate the right to freedom from CIDT.<sup>92</sup> In *K.L.* and *L.M.R.*, the Human Rights Committee specifically found that the denial of a legal abortion with the knowledge of foreseeable physical or mental harm constituted CIDT. **Similar to the denial of abortion, the delays and denial of post-abortion care may constitute a violation of CIDT as the physical and mental risks are also serious and foreseeable.** The Human Rights Committee has stated in General Comment 28 that reporting requirements for abortion may give rise to violations of **Article 7**.<sup>93</sup> The Committee against Torture (CAT Committee) has supported this position, stating in its Concluding Observations to Chile that the government must ensure immediate and unconditional treatment for women seeking emergency medical care for abortion complications, in compliance with WHO guidelines on post-abortion care.<sup>94</sup> Importantly, the CAT Committee has criticized the practice of coercing women seeking post-abortion care to disclose information about who performed the illegal abortion as violating the Convention against Torture, and urged Chile to take steps to eliminate the practice.<sup>95</sup> The occurrence of this practice in the Philippines has been discussed in the sections above.

Further, in the Philippines, it is not uncommon for women who have suffered spontaneous miscarriages to be similarly abused. Maria suffered a miscarriage while four months pregnant.<sup>96</sup> At the hospital, the doctor stated he thought she may have tried to illegally abort her pregnancy.<sup>97</sup> As a result, Maria experienced delays and the same type of abuse as women who self-terminate their pregnancies: "*I thought they were going to give me a D&C<sup>98</sup> but they just let me bleed all over the floor.*"<sup>99</sup> After an hour, she was told to go to another hospital without the necessary procedure having been performed. The hospital refused to provide an ambulance because, as the doctor said, "*We don't use the ambulance for cases like this.*" Maria, still hemorrhaging heavily, was forced to travel in the sidecar of a motorcycle to Tondo General Hospital, where she again was questioned about whether she had induced the miscarriage.<sup>100</sup> The intensity of abuse perpetrated against women in health facilities is revealed by testimonies of women documented in *Forsaken Lives* that point to the fact that many women who have clandestine abortions would rather face death or silently endure painful infections than risk abuse and humiliation from health care providers.<sup>101</sup>

### d. Right to non-discrimination (Article 3)

As with the denial of legal access to abortion, the failure to remove barriers to accessing post-abortion care caused by the criminal abortion ban constitutes a failure to ensure the provision of a health service that only women need. As discussed above, this is a standard which the Human Rights Committee has recognized in finding a violation of **Article 3** in the case of *L.M.R. v. Argentina*.<sup>102</sup> Based on the facts documented in *Forsaken Lives*, it may be argued that the Philippines is similarly guilty of discrimination as a consequence of having failed entirely to uphold its obligation to exercise due diligence in

safeguarding women's international and domestic legal right to post-abortion care, which is a medical service that only women need. As noted in the section on the right to privacy, the Human Rights Committee has also stated in General Comment 28 that reporting requirements discriminatorily interfere with women's rights to equal enjoyment of their right to privacy.<sup>103</sup>

### **III. Lack of Access to Contraceptive Information and Services (Articles 3, 6, 17, 23)**

Unmet need for contraceptives in the Philippines is increasing, in direct contravention of the obligation under the ICCPR to improve access to contraceptives.<sup>104</sup> Among married women ages 15-49, government studies show that **unmet need jumped from 16% to 22% between 2006 and 2008.**<sup>105</sup> Further, the government's 2011 Family Health Survey shows that from 2006 to 2011, the **percentage of modern contraceptives provided by the public sector to poor women in the Philippines has fallen from 58% (2006) to 45% (2011).**<sup>106</sup> Public provision of contraceptive pills, which are the most preferred form of contraceptives in the Philippines, has fallen even more significantly, from 55% in 2006 to only 32% in 2011.<sup>107</sup> The impact on poor women has been marked; **unmet need for contraceptives among poor women is particularly high, rising to 26% in 2011.**<sup>108</sup> Unsurprisingly, maternal mortality has increased as unmet need for contraceptives has grown.<sup>109</sup> Secretary Ona has emphasized that **increased access to modern family planning methods is critical to reducing maternal deaths in the Philippines.**<sup>110</sup>

Rather than implementing its obligations to ensure that women have access to contraceptive information and services, over the last twelve years<sup>111</sup> the Philippines has adopted a number of retrogressive measures that restrict and undermine women's access to modern contraceptives. In 2000, Manila City issued an Executive Order 003 (EO 003) that acts as a total ban on modern contraceptive information and services in health facilities funded by the LGU,<sup>112</sup> including condoms, pills, intrauterine devices (IUDs), and surgical sterilization.<sup>113</sup> As a result, contraceptive information and services disappeared in many health facilities in Manila City; a large number of providers refused to provide contraceptive information and services; and some nongovernmental and private clinics were intimidated into halting the provision of contraceptive information and services.<sup>114</sup> In February 2012, Dr. Rolinda Gante, Manila City Health Department's Chief of Reproductive Health, gave public statements providing an example of the long-term damage done to the Manila City health system's capacity to provide modern contraceptive services under EO 003.<sup>115</sup> Dr. Gante reported that EO 003 prevented the training of new doctors in contraceptive services such as vasectomy and tubal ligation, and the doctors who have already received this training prior to 2000 are largely set to retire. She also stated that Manila City health facilities equipped to provide these services were closed down under EO 003<sup>116</sup> and that the city's health system no longer has the capacity to provide these services to women.<sup>117</sup>

### **New Executive Order 30: Continuation of restrictions imposed through EO 003**

Manila City adopted a second restrictive ordinance, Executive Order 30 (EO 30): *Further Strengthening Family Health Services*, in October 2011 that affirms that **"the City shall not disburse and appropriate funds or finance any program or purchase materials, medicines for artificial birth control."**<sup>118</sup> EO 30 explicitly condemns modern methods of contraceptives (deemed "artificial methods") and effectively continues the government's policy of denying poor women who rely on government health clinics for affordable health care access to modern contraceptive information and services.<sup>119</sup> EO 30 includes a

clause stating that “all previous orders and executive issuances inconsistent with the provision of this order are hereby repealed or modified,” but the Manila City government has failed to clarify whether EO 30 repeals or modifies EO 003.<sup>120</sup> Regardless of the current legal status of EO 003, EO 30 effectively continues EO 003’s policy of restricting access to modern contraceptives, thus perpetuating the violations of the ICCPR experienced under EO 003 and further condemning Manila City women, particularly poor women, to the risks of unplanned pregnancies.

The Manila City government is publically portraying EO 30 as a positive measure because EO 30 includes provisions that allow the city to receive donated contraceptives.<sup>121</sup> These claims are disingenuous: a Manila City government officer has affirmed that contraceptives remain unavailable in local government-funded health facilities and as such, EO 30 has not improved the situation for Manila City women. Dr. Gante was quoted admitting that, “**Even if we will allow counseling on modern contraception and can give out condoms and pills—provided that they were not bought using city funds—currently, we don’t have supplies.**”<sup>122</sup> EO 30 effectively conditions restoration of contraceptives on donated supply, but does not articulate any government responsibility to secure these donations or in ensuring the quality of what is provided through donations. EO 30’s sweeping funding ban prohibits the city government from covering the cost of health services necessary for poor women to avail of these methods even if supplies are donated, including counseling on contraceptive methods, insertion of IUDs, and other services related to contraceptive delivery. As discussed above, Dr. Gante indicated that **EO 30 will not be sufficient to restore access to permanent methods of contraceptives** in the face of the long-term damage done to the health system under EO 003.<sup>123</sup>

EO 30’s funding restriction clearly codifies current Manila City mayor Alfredo Lim’s historical opposition to allowing public funds to be used to purchase contraceptives.<sup>124</sup> Recently, in response to the public debates concerning passage of a national reproductive health law, Mayor Lim stated that even if the bill is passed, the Manila City government will not spend public money to buy contraceptives.<sup>125</sup>

These EOs, operating in a country where **almost 70% of people rely on local government health facilities for reproductive health commodities and services including modern contraceptives,**<sup>126</sup> have had a significant impact; **Metro Manila, an area which includes Manila City, has a higher proportion of unintended pregnancies than anywhere else in the Philippines.**<sup>127</sup> Manila City’s contraceptive bans have disproportionately impacted poor women who, on average, have two more children than they want.<sup>128</sup> As noted in the Center’s report *Imposing Misery*, poor women are also most likely “to suffer the physical, psychological, economic and social consequences of unintended pregnancies.”<sup>129</sup>

As will be discussed in detail on page 15, 20 Manila City women and men filed a court case in 2008 seeking EO 003 to be held unconstitutional and to be revoked; however, the case has yet to be heard on the merits.<sup>130</sup> In 2010, the Commission on Human Rights of the Philippines (CHRP) urged the Manila City government to revoke EO 003<sup>131</sup> as it violates women’s rights guaranteed under Philippine law and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Special Rapporteurs on the Right to Health (SRRH) and Violence against Women wrote letters to the state party expressing concern about the lack of contraceptive access in Manila and the resulting impact on unwanted pregnancies, unsafe abortions, and maternal mortality and morbidity.<sup>132</sup> **Despite these interventions, EO 003 remains in force, marking more than twelve years where Manila City women**

**have been continuously exposed to the immediate physical, mental, and personal risks of unplanned, unwanted pregnancy.**

### **Attempts to adopt even more restrictive contraceptive ordinances throughout the Philippines**

Taking Manila City's lead, in 2011 seven LGUs in Bataan province passed more restrictive ordinances that penalize the sale, promotion, advertisement, and prescription of contraceptive information and services by incorrectly equating hormonal contraception and IUDs to abortion.<sup>133</sup> An ordinance in Ayala Alabang, an LGU in the national capital region, goes so far as to require a prescription to purchase condoms.<sup>134</sup> **While the city councils regulating these LGUs each struck down these ordinances in the face of significant public and NGO protest, the fact that these LGUs proposed and adopted such ordinances shows that the judiciary's failure to declare EO 003 unconstitutional has emboldened opponents of reproductive rights to continue to attempt to pass more restrictive legislation.**

### **Deregistration of EC leading to a de facto ban**

Furthermore, despite the BFAD's 1999 approval of the EC Postinor, in 2001, in response to a petition by a conservative Catholic group, the Philippine Department of Health (DOH) deregistered Postinor,<sup>135</sup> calling it an "abortifacient."<sup>136</sup> Following deregistration of EC, women's rights groups filed an appeal to the DOH,<sup>137</sup> citing WHO research that clarifies that EC does not cause abortion as it acts prior to implantation of the fertilized ovum in the uterine wall.<sup>138</sup> A panel convened by the DOH accepted the WHO's scientific findings that EC does not cause abortion, but failed to take any subsequent actions to make Postinor or other EC available.<sup>139</sup> DOH's failure to act affirmatively on this issue means that EC remains unavailable in the Philippines.

#### **a. Right to life (Article 6)**

Studies show that if all women in the Philippines at risk for unintended pregnancy used modern contraceptives, approximately 2,100 maternal deaths would be prevented each year.<sup>140</sup> *Imposing Misery* documents the impact on women's health in Manila City, including the story of one woman with eight children who had been cautioned by her doctor not to get pregnant again after her fourth child because of her poor health: "*I had a difficult labor with my fourth child . . . The doctor at OM [Ospital ng Maynila] advised me not to get pregnant anymore because of my rheumatic heart condition. I wanted to have ligation but OM hasn't been providing FP [family planning] services. I was referred to Fabella Hospital but I couldn't afford the 2,000 peso fee. I suffered a miscarriage in my ninth pregnancy due to my medication for tuberculosis . . . . Kaya ako ganito kapayat. [That's why I am this thin.]*"<sup>141</sup>

The Philippines has attempted to defend its failure to ensure the availability of contraceptives on the pretext of financial constraints.<sup>142</sup> In its Concluding Observations, the Human Rights Committee has consistently linked the right to life under **Article 6** to access to contraception.<sup>143</sup> Moreover, the Human Rights Committee has repeatedly related the unmet need for affordable access to contraceptive information and services to maternal mortality,<sup>144</sup> emphasizing that states must strengthen measures aimed at preventing unwanted pregnancies in countries like the Philippines where there is a real risk that women may undergo unsafe, clandestine, or illegal abortions to terminate pregnancy in the absence of legal abortion services.<sup>145</sup> The Human Rights Committee has urged states to prevent unwanted

pregnancies by ensuring a comprehensive range of contraceptives are widely available at an affordable price under Article 6.<sup>146</sup> As such, the implementation of restrictions on contraceptives in the Philippines violates the right to life of Filipino women as envisioned under the ICCPR.

**b. Rights to privacy and to found a family (Articles 17 & 23)**

These restrictions violate **Articles 17 and 23**, which protect women’s right to privacy free from arbitrary interference as well as the right to be free from arbitrary or unlawful interference into one’s privacy, family, or home.<sup>147</sup> The Human Rights Committee has stated that decisions concerning whether and when to found a family are intricately linked to the right to privacy.<sup>148</sup> The Human Rights Committee has interpreted this right to include a state obligation to prohibit all interference with an individual’s right to privacy by both public and private actors; to accomplish this, states must implement legislative frameworks and other measures protecting individual privacy.<sup>149</sup>

By failing to clearly revoke EO 003 as well as EO 30, the government has violated women’s right to privacy and to make decisions concerning whether and when to found a family. Women interviewed for *Imposing Misery* repeatedly expressed that EO 003 prevented them from making decisions in the best interest of their existing families, including by jeopardizing their financial and physical ability to care for their families.<sup>150</sup> One woman reported, “*I feel anxious and fearful of the chance of getting pregnant if I don’t have money to buy pills, unlike before when I used to get injectables for free, which were very convenient and effective for months. I want to use family planning to limit the number of my children. The mother is the one to search for food, school allowance and everything, on top of doing the household chores. All these are brain-racking. I feel sorry for my kids. I’m full of pity and can’t help crying when one of my children is sick and I can’t buy medicine. I got depressed when the mayor banned family planning. It was a big loss for many mothers who were steadfast in going to the health center for pills and injectables.*”<sup>151</sup>

**c. Right to non-discrimination (Article 3)**

**Article 3** requires states parties to eliminate discrimination against women,<sup>152</sup> and the Human Rights Committee has called on states to report on steps taken to “ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women’s right to equality before the law and to equal enjoyment of all Covenant rights” under Article 3.<sup>153</sup> The Human Rights Committee has established that denial of reproductive health services to women can lead to discrimination, as seen most recently in *L.M.R.*<sup>154</sup> Specifically, Philippine contraceptive restrictions place an unreasonable, undue hardship on women in regulating their fertility by giving them only one option for preventing pregnancy—refusing sex with their partners.<sup>155</sup> This burden strains relationships and has led to cases of sexual violence.<sup>156</sup> *Imposing Misery* documents the story of one woman with eight children in Manila City who was worried about getting pregnant again because of her health and financial problems, but could not afford contraception once free supplies were removed under EO 003: “*My husband and I would quarrel when I refused to have sex for fear of getting pregnant. He suspected me of having an extramarital affair. He would hit me on the thighs. He left us for the province and didn’t communicate. I went to my sister’s place with my six children and worked as a laundry woman to support myself and my children. We were separated for one year.*”<sup>157</sup> In 2011, the SRRH recognized that criminal laws and other legal restrictions that prevent access to reproductive health information and services violate the right to health<sup>158</sup> and specifically cited EO 003 as an example of a restrictive reproductive health policy that “infringe[s] upon

the right of women and girls to make free and informed choices about their sexual and reproductive health and reflect discriminatory notions of women's roles in the family and society.”<sup>159</sup>

As noted above, the **Human Rights Committee has also repeatedly affirmed that a state party's failure to ensure women's rights are not violated in the name of religious ideology contravenes the right to non-discrimination.**<sup>160</sup> It is of great concern that EO 30 further improperly promotes a particular religious ideology, explicitly stating that it should be the basis for women's reproductive health decision-making. EO 003 avoided directly stating that religious ideology was the basis for a natural family planning-only policy, but emphasized the need for “moral rejuvenation”<sup>161</sup> and articulated a “pro-life”<sup>162</sup> stance by stating that Manila City, “promotes *responsible parenthood* and upholds natural family planning not just as a method but as a way of self-awareness in promoting the *culture of life* while discouraging the use of *artificial methods* of contraception . . .”<sup>163</sup> The italicized language is rooted in the Catholic hierarchy's texts banning modern contraceptive methods and reflects the religious principles underlying EO 003.<sup>164</sup> Like EO 003, the implementation of EO 30 has placed severe restrictions on modern contraceptives and improperly relies on religious ideology to attempt to justify this policy; however, **EO 30 makes the connection to religious ideology even more explicit, stating that couples should be able to exercise discretion in choosing family planning methods, but only “conformably with their religious beliefs and practices.”**<sup>165</sup> Rather than taking a rights-based approach that emphasizes information, education, and access to the means necessary to make reproductive decisions,<sup>166</sup> this provision forces women to base their reproductive health decisions on religious ideology<sup>167</sup> and reinforces the stigma that contraception is a sin, as promoted by the Catholic hierarchy.

#### **IV. Lack of Implementation and Effective Remedies for Violations (Article 2)**

The Philippines has breached **Article 2** by failing to implement rights guaranteed under the ICCPR and denying effective legal remedies for violations of its own Constitution, domestic legislation implementing human rights obligations including the 2009 MCW, and the Covenant. The Philippine Constitution recognizes a woman's right to equality before the law and obligates the state party to provide for essential health services.<sup>168</sup> Consistent with its mandate to promote women's equality and empowerment, the MCW obligates the state to provide access to “legal, ethical, medically safe and effective methods of family planning,”<sup>169</sup> and provides for immediate repeal of inconsistent laws, including restrictive local orders on contraceptives.<sup>170</sup> In addition, it imposes a three-year deadline for the state party, including LGUs, to review, amend, or repeal existing laws that are discriminatory—this deadline passed in August 2012.<sup>171</sup> In its Fourth Periodic Report, the Philippines highlights the MCW as a “comprehensive women's human rights law,” and an example of its compliance under Article 2.<sup>172</sup> However, almost three years after the MCW's enactment and nearing the end of the deadline established in the law, the Philippines has done nothing to repeal or amend discriminatory reproductive health laws and policies. The state party's inaction has resulted in ongoing, irreparable violations of a woman's right to equality and access to essential health services.

Article 2(2) requires states to take necessary steps to give effect to Covenant rights in the domestic legal context.<sup>173</sup> Despite this, the Philippines has failed to implement its obligations to protect, respect, and ensure women's rights to life, equality and non-discrimination, privacy, freedom from CIDT, and to provide an effective remedy for violation of these rights. The state party's ability to fully implement the

Philippines' obligation under Article 2(2) to adopt domestic laws protecting women's rights under the Covenant is undermined by the provisions discussed above that prevent access to legal abortions.<sup>174</sup> Further, claims in the state party's Fourth Periodic Report that the MCW implements its ICCPR obligations are belied by the fact that the Manila City government continues to prohibit funding for modern contraceptives.<sup>175</sup>

Article 2(3) requires that states ensure that individuals have accessible, effective, and appropriate remedies to vindicate their rights.<sup>176</sup> The Human Rights Committee attaches special importance to the establishment of appropriate judicial and administrative mechanisms to address claims of rights violations,<sup>177</sup> and concrete steps to ensure the cessation of an ongoing violation.<sup>178</sup> It has stated that an effective remedy may require states to implement provisional or interim measures to avoid continuing violations and to provide reparations.<sup>179</sup>

Although Philippine citizens have sought to vindicate their rights in the courts, they have been denied an effective remedy. In the 2008 lawsuit *Lourdes E. Osil v. Office of the Mayor of the City of Manila*, the petitioners sought a temporary restraining order and/or preliminary injunction to cease implementation of EO 003 which was essentially ignored. In fact, the case has been dismissed on numerous questionable technical grounds by the Supreme Court and the Court of Appeals and has been awaiting a Regional Trial Court ruling since 2009,<sup>180</sup> leading to what may be considered an unreasonable delay; the Human Rights Committee has criticized lengthy delays in court proceedings and has found delays of two and five years to be unreasonable.<sup>181</sup> Meanwhile, in 2010, the CHRP issued a public statement noting that EO 003 violated CEDAW and urged the Regional Trial Court to consider the Philippines' international obligations when considering the *Osil* case.<sup>182</sup>

It is important to note that the government is not absolved of the responsibility to ensure redress for violations under EO 003 in any way by the passage of EO 30. EO 30 continues to violate women's rights under ICCPR, as discussed above; further, it does not recognize the suffering experienced by women in Manila City for over a decade under EO 003, nor does it provide any remedy for the harm to women's lives, health, educational and employment opportunities, and families.<sup>183</sup> Rather, EO 30 perpetuates the stigmatization and marginalization of modern contraceptives by explicitly prohibiting funding.<sup>184</sup> As discussed in previous submissions, the Manila City government has an obligation to provide remedies where women's rights under CEDAW are violated.<sup>185</sup>

## **V. Suggested Questions for the State Party**

In light of our previous submission and these updates, we would like to urge the Committee to consider asking the following questions to the state party. What steps is the state party taking to:

- remove criminal penalties for abortion? Is the state party taking steps to create explicit exceptions for safe and legal abortions on grounds recognized by U.N. bodies, including the Human Rights Committee, such as where the woman's life or health are in danger, and in cases of rape, incest, or fetal impairment, and to establish a procedure for accessing safe and legal abortion?
- establish formal mechanisms to identify, prevent, and provide legal recourse and reparations for abuses against women seeking post-abortion care?

- remove legal and policy barriers to contraception, including the Manila City EOs 003 and 30, and to enact national legislation establishing the obligation of national and local government bodies to ensure access to and funding for a full range of affordable modern contraceptives?
- reintroduce EC in public and private health clinics and pharmacies?
- ensure a legal remedy is provided for the petitioners in the *Lourdes E. Osil v. Office of the Mayor of the City of Manila* case, who have been denied legal remedies through the unreasonable delays of the Philippine judicial system?
- fully implement the MCW and take specific steps to formally repeal laws, policies, and ordinances restricting access to contraceptives and reproductive health services that violate the MCW given that the August 2012 deadline set in the MCW for repeal of contradictory laws has expired?

We hope that the information provided in this letter will be useful to the Human Rights Committee in preparing for the fourth periodic review of the Philippines. Please do not hesitate to contact Melissa Upreti at [mupreti@reprorights.org](mailto:mupreti@reprorights.org) and Payal Shah at [pshah@reprorights.org](mailto:pshah@reprorights.org) should you have any questions.

Sincerely,



Melissa Upreti  
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Center for Reproductive Rights



Payal Shah  
Legal Adviser for Asia  
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<sup>1</sup> The Center for Reproductive Rights is an independent, non-profit organization with ECOSOC consultative status since 1997 that works to protect women's reproductive rights throughout the world.

<sup>2</sup> CENTER FOR REPRODUCTIVE RIGHTS, *IMPOSING MISERY: THE IMPACT OF MANILA'S CONTRACEPTION BAN ON WOMEN AND FAMILIES* (2010), available at <http://bit.ly/sspNhy> [hereinafter *IMPOSING MISERY*].

<sup>3</sup> CENTER FOR REPRODUCTIVE RIGHTS, *FORSAKEN LIVES: THE HARMFUL IMPACT OF THE PHILIPPINE CRIMINAL ABORTION BAN* (2010), available at <http://bit.ly/tfIKNN> [hereinafter *FORSAKEN LIVES*]. (Philippines will hereinafter be referenced as Phil.)

<sup>4</sup> Human Rights Committee, *List of issues to be taken up in connection with the consideration of the fourth periodic report of the Phil.* (CCPR/C/PHL/4), para. 11, U.N. Doc. CCPR/C/PHL/Q/4 (2012) [hereinafter Human Rights Committee, *List of Issues: Phil.*].

<sup>5</sup> *Id.*

<sup>6</sup> Enrique T. Ona, MD, Sec'y of Health, Republic of the Phil., Message to be delivered during the launch of the NATIONAL STATISTICS OFFICE 2011 FAMILY HEALTH SURVEY (June 19, 2012), available at <http://www.doh.gov.ph/content/speech-health-secretary-enrique-t-ona-md-message-be-delivered-during-launch-national> [hereinafter Enrique T. Ona, 2011 Family Health Survey].

<sup>7</sup> *Id.*

<sup>8</sup> REVISED PENAL CODE, Act No. 3815, art. 259 (Phil.).

<sup>9</sup> GUTTMACHER INSTITUTE, *Meeting Women's Contraceptive Needs in the Phil.*, 1 IN BRIEF 2 (2009) [hereinafter GUTTMACHER INSTITUTE, *Meeting Women's Contraceptive Needs in the Phil.*].

<sup>10</sup> An Act to Uphold the Human Rights and Promote the Welfare of the Unborn Child, Amending for the Purpose Articles 256, 257, 258 and 259 of the Revised Penal Code, and for Other Purposes, Rep. Act No. 2497 (2010) (Phil.); An Act Providing for the Safety and Protection of the Unborn Child and for Other Purposes, Rep. Act No. 2584 (2010) (Phil.); An Act to Uphold the Human Rights and Promote the Welfare of the Unborn Child, Amending

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for the Purpose Articles 256, 257, 258 And 259 of the Revised Penal Code, and for Other Purposes, Rep. Act No. 2635 (2011) (Phil.); An Act Increasing the Penalties against Abortion, Amending for the Purpose Articles 256, 257, 258 and 259 of the Revised Penal Code, and for Other Purposes, Rep. Act No. 3667 (2010) (Phil.); An Act Providing for the Safety and Protection of the Unborn Child and for Other Purposes, Rep. Act No. 13 (2010) (Phil.); An Act Regulating the Packaging, Sale, Distribution and Advertisement of Hormonal Contraceptives and for Other Purposes, Rep. Act No. 4482 (2011) (Phil.).

<sup>11</sup> Human Rights Committee, *General Comment No. 28: Article 3 (The equality of rights between men and women)*, (68<sup>th</sup> Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 228, para. 10, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter Human Rights Committee, *Gen. Comment No. 28*].

<sup>12</sup> *Id.* para. 11.

<sup>13</sup> Committee on the Elimination of Discrimination against Women (CEDAW Committee), *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20<sup>th</sup> Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 358, paras. 11, 14, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).

<sup>14</sup> L.M.R. v. Argentina, Human Rights Committee, Commc'n No. 1608/2007, para. 3.5, U.N. Doc. CCPR/C/101/D/1608/2007 (2011).

<sup>15</sup> Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 6.

<sup>16</sup> *Id.* para. 10.

<sup>17</sup> FORSAKEN LIVES, *supra* note 3, at 46-52.

<sup>18</sup> *Id.* at 47, *citing* Metro manila-based NGO, Interview with Mercedes, Metro Manila (Sept. 29, 2001).

<sup>19</sup> *Id.* at 46, *citing* Christy Marfil, counselor at Institute for Social Studies and Action, Interview with Ana, Quezon City (Mar. 27, 2009); Interview with Ana, Caloocan City (May 21, 2010).

<sup>20</sup> *Id.*

<sup>21</sup> *See id.* at 29, 77, 84-89.

<sup>22</sup> NATIONAL COMMISSION ON THE ROLE OF FILIPINO WOMEN, REPRODUCTIVE HEALTH, RESPONSIBLE PARENTHOOD AND POPULATION DEVELOPMENT BILL SITUATIONER 4 (2009), <http://www.ncrfw.gov.ph/index.php/legislativeadvocacy/58-advocacy-reproductivehealth/79-advocacy-reproductivehealthsituationer?format=pdf>; *see also* Republic of the Phil., National Statistics Office, *2000 Census: Additional Three Persons Per Minute*, <http://www.census.gov.ph/data/pressrelease/2003/pr0323tx.html>; Central Intelligence Agency, *The World Fact Book, Phil.*, <https://www.cia.gov/library/publications/the-world-factbook/geos/tp.html> (follow hyperlink under "People") (last accessed June 18, 2010).

<sup>23</sup> Human Rights Committee, *General Comment No. 22: Article 18 (Freedom of thought, conscience or religion)*, (48<sup>th</sup> Sess., 1993), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 204, para. 9, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter Human Rights Committee, *Gen. Comment No. 22*].

<sup>24</sup> Human Rights Committee, *Concluding Observations: Tunisia*, para. 3, U.N. Doc. CCPR/C/TUN/CO/5 (2008) (The Committee considers that [religion and religious extremism] cannot serve as a justification for derogations or restrictions not authorized by the Covenant).

<sup>25</sup> Human Rights Committee, *Concluding Observations: Yemen*, para. 5, U.N. Doc. CCPR/CO/84/YEM (2005) (The Committee . . . stresses the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms).

<sup>26</sup> Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 5.

<sup>27</sup> Committee on the Rights of the Child, *Concluding Observations: Phil.*, para. 61, U.N. Doc. CRC/C/PHL/CO/3-4 (2009).

<sup>28</sup> Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 11.

<sup>29</sup> *Id.*

<sup>30</sup> K.L. v. Peru, Human Rights Committee, Commc'n No. 1153/2003, para. 6.3, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).

<sup>31</sup> *Id.*

<sup>32</sup> L.M.R. v. Argentina, Human Rights Committee, Commc'n No. 1608/2007, paras. 2.2, 9.2, U.N. Doc. CCPR/C/101/D/1608/2007 (2011).

<sup>33</sup> *Id.* para. 9.2.

<sup>34</sup> *Id.*

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- <sup>35</sup> Bureau of Democracy, Human Rights, and Labor, *2010 Country Reports on Human Rights Practices, Phil.*, U.S. DEPARTMENT OF STATE 23 (2011), available at <http://www.state.gov/documents/organization/160099.pdf>.
- <sup>36</sup> FORSAKEN LIVES, *supra* note 3, at 49-50, 63, citing Metro Manila-based NGO, Interview with Dr. Sam, Metro Manila (Dec. 10, 2009).
- <sup>37</sup> *Id.* at 50, 63.
- <sup>38</sup> *Id.*
- <sup>39</sup> Human Rights Committee, *General Comment No. 16: Article 17 (Right to privacy)*, (32<sup>nd</sup> Sess., 1988), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 191, para. 3, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter Human Rights Committee, *Gen. Comment No. 16*].
- <sup>40</sup> *Id.* para. 4.
- <sup>41</sup> *K.L. v. Peru*, Human Rights Committee, Commc'n No. 1153/2003, para. 6.4, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).
- <sup>42</sup> Human Rights Committee, *General Comment No. 6: Right to life (Art. 6)*, (16<sup>th</sup> Sess., 1982), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 176, para. 5, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008).
- <sup>43</sup> Human Rights Committee, *Concluding Observations: Peru*, para. 20, U.N. Doc. CCPR/CO/70/PER (2000); *Chile*, para. 15, U.N. Doc. CCPR/C/79/Add.104 (1999); *Venezuela*, para. 19, U.N. Doc. CCPR/CO/71/VEN (2001); *Poland*, para. 8, U.N. Doc. CCPR/CO/82/POL (2004); *Guatemala*, para. 19, U.N. Doc. CCPR/CO/72/GTM (2001); *Nicaragua*, para. 13, U.N. Doc. CCPR/C/NIC/CO/3 (2008); *Mali*, para. 14, U.N. Doc. CCPR/CO/77/MLI (2003); *Colombia*, para. 13, U.N. Doc. CCPR/CO/80/COL (2004).
- <sup>44</sup> Human Rights Committee, *Report of the Human Rights Committee, Volume I*, sec. G (Chile), para. 211, 54<sup>th</sup> Sess., Supp. No. 40, U.N. Doc. A/54/40 (1999).
- <sup>45</sup> *Id.*; Human Rights Committee, *Concluding Observations: Nicaragua*, para. 13, U.N. Doc. CCPR/C/NIC/CO/3 (2008); Committee against Torture (CAT Committee), *Concluding Observations: Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 (2009).
- <sup>46</sup> WORLD HEALTH ORGANIZATION (WHO), *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS 14* (2003), available at <http://whqlibdoc.who.int/publications/2003/9241590343.pdf> (last visited Nov. 9, 2009).
- <sup>47</sup> FORSAKEN LIVES, *supra* note 3, at 11, 49, citing Interview with Dr. Grace Villanueva (name changed), Fabella Hospital, Santa Cruz, Metro Manila (May 19, 2010).
- <sup>48</sup> *Id.* at 38, citing Metro Manila-based NGO, Interview with Haydee, Metro Manila (Apr. 2, 2002).
- <sup>49</sup> *Id.* at 38, 42.
- <sup>50</sup> *Id.* at 38, 42-43.
- <sup>51</sup> *Id.* at 38, 43.
- <sup>52</sup> *Id.* at 38.
- <sup>53</sup> Misoprostol is a drug used to prevent gastric ulcers, for early abortion, to treat missed miscarriages, and to induce labor. It is a small pill that can be taken orally or broken in pieces and inserted vaginally. In hospitals it is used to ripen a woman's cervix and induce labor. When administered to pregnant women unmonitored, it can cause abortion, premature birth, or birth defects. Since it is banned in the Phil., as discussed in section II, it is impossible for women to ensure that they are actually purchasing misoprostol, which always poses a risk that they may buy a fake or poor quality version of the drug that could be dangerous to their health. *Id.* at 5, 40, 43.
- <sup>54</sup> *Id.* at 38, 40, 43, citing Metro Manila-based NGO, Interview with Haydee, Metro Manila (Apr. 2, 2002).
- <sup>55</sup> *Id.* at 40.
- <sup>56</sup> Human Rights Committee, *List of Issues: Phil.*, *supra* note 4, para. 11.
- <sup>57</sup> GUTTMACHER INSTITUTE, *UNINTENDED PREGNANCY AND INDUCED ABORTION IN THE PHIL.: CAUSES AND CONSEQUENCES 7* (2006) [hereinafter GUTTMACHER INSTITUTE, *UNINTENDED PREGNANCY AND INDUCED ABORTION: PHIL.*].
- <sup>58</sup> FORSAKEN LIVES, *supra* note 3, at 52-57, 94-95.
- <sup>59</sup> *Id.* at 56, 95.
- <sup>60</sup> *Id.* at 53-57.
- <sup>61</sup> *Id.* at 66-67.
- <sup>62</sup> *Id.* at 71.
- <sup>63</sup> *Id.* at 53-54.
- <sup>64</sup> *Id.* at 56, citing Metro Manila-based NGO, Interview with Maria, Metro Manila (Feb. 7, 2003).

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- <sup>65</sup> *Id.* at 33, *citing* DOH, Prevention and Management of Abortion and its Complications, Admin. Order No. 45-Bs. 2000 (2000) (Phil.) (on file at the Center for Reproductive Rights).
- <sup>66</sup> *Id.* at 71, *citing* Interview with directors of OnM and Tondo General, Metro Manila (May 17, 2010); Interview with Undersecretary, Department of Justice, Metro Manila (Feb. 2010).
- <sup>67</sup> *Id.*, *citing* Interview with consultant, Department of Obstetrics and Gynecology, PGH, Metro Manila (Feb. 24, 2009); Interview with Dr. Marita Reyes, Chair of the Philippine Health Research Ethics Board (PHREB), Metro Manila (Feb. 17, 2009); *see also id.* at 72-73, *citing* Interview with physician, Department of Obstetrics and Gynecology, PGH, Metro Manila (Feb. 24, 2009).
- <sup>68</sup> WHO, WHO MODEL LIST OF ESSENTIAL MEDICINES 29 (17th ed. rev. 2011).
- <sup>69</sup> FORSAKEN LIVES, *supra* note 3, at 84, *citing* Bureau of Food and Drugs, Advisory 2002-02 (Aug. 12, 2002) (on file with the Center for Reproductive Rights).
- <sup>70</sup> *See id.* at 71-73; *see also* E-mail from prominent reproductive health advocate and medical doctor to Melissa Upreti, Regional Director for Asia, Center for Reproductive Rights (Nov. 27, 2009, 6:29AM EST) (on file at the Center for Reproductive Rights).
- <sup>71</sup> GUTTMACHER INSTITUTE, *Meeting Women's Contraceptive Needs in the Phil.*, *supra* note 9, at 2.
- <sup>72</sup> Human Rights Committee, *Concluding Observations: Chile*, para. 15, U.N. Doc. CCPR/C/79/Add.104 (1999); *Venezuela*, para. 19, U.N. Doc. CCPR/CO/71/VEN (2001).
- <sup>73</sup> FORSAKEN LIVES, *supra* note 3, at 56, *citing* Interview with anonymous counselor, East Avenue Medical Center, Quezon City (Feb. 2009).
- <sup>74</sup> *Id.*
- <sup>75</sup> *Id.*, *citing* Christy Marfil, counselor at ISSA, Interview with Cristina, Quezon City (Mar. 28, 2009).
- <sup>76</sup> *Id.*
- <sup>77</sup> *Id.* at 94; *see also* Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 20.
- <sup>78</sup> Human Rights Committee, *Concluding Observations: Venezuela*, para. 19, U.N. Doc. CCPR/CO/71/VEN (2001).
- <sup>79</sup> Human Rights Committee, *Concluding Observations: Chile*, para. 15, U.N. Doc. CCPR/C/79/Add.104 (1999).
- <sup>80</sup> FORSAKEN LIVES, *supra* note 3, at 53, *citing* Metro Manila-based NGO, Interview with Lisa, Metro Manila (Apr. 1, 2009).
- <sup>81</sup> *Id.*
- <sup>82</sup> *Id.*
- <sup>83</sup> *Id.* at 67, *citing* Interview with anonymous doctor, Fabella Hospital, Santa Cruz, Metro Manila (Apr. 2008).
- <sup>84</sup> *Id.*
- <sup>85</sup> Human Rights Committee, *Concluding Observations: Nicaragua*, para. 13, U.N. Doc. CCPR/C/NIC/CO/3 (2008).
- <sup>86</sup> Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 20.
- <sup>87</sup> FORSAKEN LIVES, *supra* note 3, at 53, *citing* Interview with anonymous doctor, Department of Obstetrics and Gynecology, OnM, Metro Manila (Feb. 24, 2010).
- <sup>88</sup> Human Rights Committee, *Concluding Observations: Chile*, para. 15, U.N. Doc. CCPR/C/79/Add.104 (1999).
- <sup>89</sup> FORSAKEN LIVES, *supra* note 3, at 71, 101.
- <sup>90</sup> *Id.* at 52-57.
- <sup>91</sup> Human Rights Committee, *General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)*, (44<sup>th</sup> Sess., 1992), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 200, para. 5, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. 1) (2008).
- <sup>92</sup> Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, (80<sup>th</sup> Sess., 2004), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 243, para. 8, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. 1) (2008) [hereinafter Human Rights Committee, *Gen. Comment No. 31*].
- <sup>93</sup> Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 20.
- <sup>94</sup> CAT Committee, *Concluding Observations: Chile*, para. 7(m), U.N. Doc. CAT/C/CR/32/5 (2004).
- <sup>95</sup> *Id.* paras. 6(j), 7(m).
- <sup>96</sup> FORSAKEN LIVES, *supra* note 3, at 56, *citing* Metro Manila-based NGO, Interview with Maria, Metro Manila (Feb. 7, 2003).
- <sup>97</sup> *Id.*
- <sup>98</sup> Dilation and curettage (D&C) is the dilation (widening/opening) of the cervix and surgical removal of part of the lining of the uterus, or its contents, by scraping, "curettage." It is a therapeutic gynecological procedure that is used to complete abortions, and can be a means of abortion itself. *Id.* at 5.

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<sup>99</sup> *Id.* at 56, *citing* Metro Manila-based NGO, Interview with Maria, Metro Manila (Feb. 7, 2003).

<sup>100</sup> *Id.*

<sup>101</sup> *Id.* at 16.

<sup>102</sup> *L.M.R. v. Argentina*, Human Rights Committee, Commc'n No. 1608/2007, paras. 3.5, 8.5, U.N. Doc. CCPR/C/101/D/1608/2007 (2011).

<sup>103</sup> Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 20.

<sup>104</sup> *See, e.g.*, Human Rights Committee, *Concluding Observations: Democratic Republic of the Congo*, para. 14, U.N. Doc. CCPR/C/COD/CO/3 (2006); *Ecuador*, para. 11, U.N. Doc. CCPR/C/79/Add.92 (1998); *Equatorial Guinea*, para. 9, U.N. Doc. CCPR/CO/79/GNQ (2004); *Hungary*, para. 11, U.N. Doc. CCPR/CO/74/HUN (2002); *Mali*, para. 14, U.N. Doc. CCPR/CO/77/MLI (2003); *Mongolia*, para. 8(b), U.N. Doc. CCPR/C/79/Add.120 (2000); *Paraguay*, para. 10, U.N. Doc. CCPR/C/PRY/CO/2 (2006).

<sup>105</sup> Press Release, Administrator Carmelita N. Ericta, Unmet Need for Family Planning Remains High (Results from the 2011 Family Health Survey) (May 25, 2012), <http://www.census.gov.ph/data/pressrelease/2012/pr1238tx.html> [hereinafter Ericta, Unmet Need for Family Planning Remains High]; NATIONAL STATISTICS OFFICE, PHILIPPINES NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2008 86 (2008).

<sup>106</sup> Press Release, Administrator Carmelita N. Ericta, Women in Poor Households Are Less Likely To Practice Family Planning (Results from the 2011 Family Health Survey) (June 18, 2012), <http://www.census.gov.ph/data/pressrelease/2012/pr1245tx.html>.

<sup>107</sup> *Id.*

<sup>108</sup> Ericta, Unmet Need for Family Planning Remains High, *supra* note 105.

<sup>109</sup> *See id.*; Enrique T. Ona, 2011 Family Health Survey, *supra* note 6.

<sup>110</sup> Enrique T. Ona, 2011 Family Health Survey, *supra* note 6.

<sup>111</sup> IMPOSING MISERY, *supra* note 2, at 31-32.

<sup>112</sup> Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila and Enunciating Policy Declarations in Pursuit Thereof, Exec. Ord. No. 003 (2000) (Phil.) [hereinafter EO 003].

<sup>113</sup> *Id.*

<sup>114</sup> IMPOSING MISERY, *supra* note 2, at 24.

<sup>115</sup> Ana P. Santos, *Manila relaxes rules on birth control*, RAPPLER (Feb. 22, 2012), <http://www.rappler.com/newsbreak/1695-manila-relaxes-rules-on-birth-control> [hereinafter Santos, *Manila relaxes rules on birth control*].

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> Further Strengthening Family Health Services, Exec. Ord. No. 30, sec. 2 (2011) (Phil.) [hereinafter EO 30].

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* sec. 4.

<sup>121</sup> Santos, *Manila relaxes rules on birth control*, *supra* note 115.

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> On June 28, 2008, Lim stated that: “We recognize the need for population control but we do not advocate artificial methods. It is against our moral orientation and religious principles.” Alfredo S. Lim, *Necessary Changes*, PHIL. FREE PRESS, at 21 (June 28, 2008); At the anniversary celebration of *Humanae Vitae* of the Catholic Bishops’ Conference of the Phil., Lim publicly confirmed that “the City of Manila will not buy any contraceptives.” Statement of Nancy Trani, WomenLEAD, who saw the television coverage at “Magandang Umaga Bayan” (Good Morning Nation) (July 26, 2008) (statement available upon request); Short Messaging Service (SMS) message to Clara Rita Padilla, EnGendeRights, from an observer who attended the prayer rally and requested anonymity, Manila, Phil. (July 25, 2008).

<sup>125</sup> DJ Yap, *Lim won’t invest in contraceptives but will educate families on birth control*, PHILIPPINE DAILY INQUIRER (Oct. 11, 2010), <http://newsinfo.inquirer.net/breakingnews/metro/view/20101011-297174/Lim-wont-invest-in-contraceptives-but-will-educate-families-on-birth-control>.

<sup>126</sup> NATIONAL STATISTICS OFFICE, PHIL. NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2003, 67, tbl. 5.12 (2004) [hereinafter PHIL. NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2003].

<sup>127</sup> GUTTMACHER INSTITUTE, UNINTENDED PREGNANCY AND INDUCED ABORTION: PHIL., *supra* note 57, at 4.

<sup>128</sup> PHIL. NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2003, *supra* note 126, at 102, tbl. 7.10.

<sup>129</sup> IMPOSING MISERY, *supra* note 2, at 24.

<sup>130</sup> Lourdes E. Osil v. Office of the Mayor of the City of Manila, and the City Health Department of the City of Manila, SP Proc. No. 102331, (C.A., Jan. 29, 2008) (Phil.). *See also* IMPOSING MISERY, *supra* note 2, at 6-7; Meeting with attorneys for Lourdes E. Osil v. Mayor of Manila case, Roque & Butuyan Law Offices, Metro Manila (Oct. 15, 2011).

<sup>131</sup> COMMISSION ON HUMAN RIGHTS OF THE PHIL., EO NO. 003: DISCRIMINATORY OR RIGHTS BASED? CHR ADVISORY ON THE LOCAL ORDINANCE BY THE CITY OF MANILA, CHR (IV) A2010-005, 4 (2010) [hereinafter EO NO. 003: DISCRIMINATORY OR RIGHTS BASED?].

<sup>132</sup> Special Rapporteur on violence against women, its causes and consequences, *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo–Addendum–Communications to and from Governments*, paras. 314, 317, U.N. Doc. A/HRC/14/22/Add.1 (June 2, 2010) [hereinafter SRVAW, *Communications to and from Governments*].

<sup>133</sup> ENGENDERIGHTS, INC., POSITION PAPER ON THE UNCONSTITUTIONALITY OF SEVEN BARANGAY ORDINANCES IN BALANGA, BATAAN THAT INFRINGE ON REPRODUCTIVE HEALTH RIGHTS 1-2 (2011).

<sup>134</sup> An Ordinance Providing for the Safety and Protection of the Unborn Child within the Territorial Jurisdiction of Barangay Ayala Alabang; Fixing Penalties for its Violations, and, for other Purposes. Barangay Ordinance No. 01, sec. 7 (2011) (Phil.).

<sup>135</sup> *See* FORSAKEN LIVES, *supra* note 3, at 87; *see also* Bureau of Food and Drugs (BFAD), Delisting of LEVENORGESTREL 750 mcg (POSTINOR) from Bureau of Food and Drugs Registry of Drug Products, Bureau Circular No. 18 (Dec. 7, 2001) (Phil.) (on file with the Center for Reproductive Rights) [hereinafter BFAD, Delisting of Postinor]. Following a challenge to the DOH's action, a DOH expert committee voted to permit the use of the drug. However, the DOH has not taken any steps to make Postinor available to women.

<sup>136</sup> BFAD, Delisting of Postinor, *supra* note 135.

<sup>137</sup> Reproductive Health Advocacy Network, Position Paper to Government of the Philippines, Department of Health, Bureau of Food and Drugs, in re: Withdrawal of Registration and Prohibition of Importation and Distribution of Postinor through Memorandum Circular No. 18 series of 7 December 2001 (Dec. 2001) (on file with the Center for Reproductive Rights).

<sup>138</sup> *Id.* at 15; WHO, EMERGENCY CONTRACEPTION: A GUIDE FOR SERVICE DELIVERY 20 (1998).

<sup>139</sup> E-mail from Carolina S. Ruiz Austria, SJD Candidate, University of Toronto, Chairperson of Womenlead, to Melissa Upreti, Senior Regional Manager and Legal Advisor to Asia, Center for Reproductive Rights, New York (Sept. 26, 2009, 12:58 EST).

<sup>140</sup> GUTTMACHER INSTITUTE, *Facts on Barriers to Contraceptive Use in the Phil.*, IN BRIEF 4 (2010).

<sup>141</sup> IMPOSING MISERY, *supra* note 2, at 28-29, *citing* Interview by Likhaan with Tina Montales, San Andres, Manila, Phil. (Nov. 9, 2006).

<sup>142</sup> SRVAW, *Communications to and from Governments*, *supra* note 132, para. 329.

<sup>143</sup> *See* Human Rights Committee, *Concluding Observations: Colombia*, para. 37, U.N. Doc. CCPR/C/79/Add.76 (1997); *Hungary*, para. 11, U.N. Doc. CCPR/CO/74/HUN (2002).

<sup>144</sup> *See* Human Rights Committee, *Concluding Observations: Cameroon*, para. 13, U.N. Doc. CCPR/C/CMR/CO/4 (2010); *Democratic Republic of the Congo*, para. 14, U.N. Doc. CCPR/C/COD/CO/3 (2006); *Equatorial Guinea*, para. 9, U.N. Doc. CCPR/CO/79/GNQ (2004); *Hungary*, para. 11, U.N. Doc. CCPR/CO/74/HUN (2002); *Mali*, para. 14, U.N. Doc. CCPR/CO/77/MLI (2003); *Mongolia*, para. 8(b), U.N. Doc. CCPR/C/79/Add.120 (2000).

<sup>145</sup> *See* Human Rights Committee, *Concluding Observations: Cameroon*, para. 13, U.N. Doc. CCPR/C/CMR/CO/4 (2010); *Colombia*, para. 19, U.N. Doc. CCPR/C/COL/6 (2010); *Equatorial Guinea*, para. 9, U.N. Doc. CCPR/CO/79/GNQ (2004); *Mali*, para. 14, U.N. Doc. CCPR/CO/77/MLI (2003); *Mongolia*, para. 8(b), U.N. Doc. CCPR/C/79/Add.120 (2000).

<sup>146</sup> *See* Human Rights Committee, *Concluding Observations: Poland*, para. 12, U.N. Doc. CCPR/C/POL/CO/6 (2010); *Republic of Moldova*, para. 17(a), U.N. Doc. CCPR/C/MDA/CO/2 (2009).

<sup>147</sup> Human Rights Committee, *Gen. Comment No. 16*, *supra* note 39, para. 1.

<sup>148</sup> *See* Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para. 20; *K.L. v. Peru*, Human Rights Committee, Commc'n No. 1153/2003, para. 6.4, U.N. Doc. CCPR/C/85/D/1153/2003 (2005); *Tysi c v. Poland*, No. 5410/03, Eur. Ct. H.R., paras. 106-107 (2007).

<sup>149</sup> Human Rights Committee, *Gen. Comment No. 16*, *supra* note 39, para. 1.

<sup>150</sup> IMPOSING MISERY, *supra* note 2, at 25-31.

<sup>151</sup> *Id.* at 28, *citing* Likhaan interview with M. Maglaya (Nov. 9, 2006).

<sup>152</sup> International Covenant on Civil and Political Rights, art. 3, G.A. Res. 2200A (XXI), U.N. GAOR, 21<sup>st</sup> Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976).

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- <sup>153</sup> Human Rights Committee, *Gen. Comment No. 28*, *supra* note 11, para 5.
- <sup>154</sup> L.M.R. v. Argentina, Human Rights Committee, Commc'n No. 1608/2007, paras. 9.4, 10, U.N. Doc. CCPR/C/101/D/1608/2007 (2011) (no explicit finding of art. 3 violation, but findings of omission in providing remedies for art. 2 constitute a violation in relation to art. 3).
- <sup>155</sup> IMPOSING MISERY, *supra* note 2, at 31, 50.
- <sup>156</sup> *Id.* at 31.
- <sup>157</sup> *Id.*, citing Interview by Likhaan with Tina Montales, San Andres, Manila, Phil. (Nov. 9, 2006).
- <sup>158</sup> Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Interim rep. of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, transmitted by Note of the Secretary-General*, para. 48, U.N. Doc. A/66/254 (Aug. 3, 2011) (by Anand Grover).
- <sup>159</sup> *Id.* para. 53.
- <sup>160</sup> Human Rights Committee, *Gen. Comment No. 22*, *supra* note 23, para. 9; Human Rights Committee, *Concluding Observations: Tunisia*, para. 3, U.N. Doc. CCPR/C/TUN/CO/5 (2008).
- <sup>161</sup> EO 003, *supra* note 112, sec. 4.
- <sup>162</sup> *Id.* preamble.
- <sup>163</sup> *Id.* (emphasis added).
- <sup>164</sup> *Humanae Vitae of the Supreme Pontiff Paul VI to his Venerable Brothers the Patriarchs, Archbishops, Bishops and other Local Ordinaries in Peace and Communion with the Apostolic See, to the Clergy and Faithful of the Whole Catholic World, and to All Men of Good Will, on the Regulation of Birth*, paras. 14, 17, available at [http://www.vatican.va/holy\\_father/paul\\_vi/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae\\_en.html](http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html).
- <sup>165</sup> EO 30, *supra* note 118, sec. 1.
- <sup>166</sup> Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, art. 16(e), G.A. Res. 34/180, U.N. GAOR, 34<sup>th</sup> Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force* Sept. 3, 1981).
- <sup>167</sup> EO 30, *supra* note 118, sec. 1.
- <sup>168</sup> CONST. (1987), art. II, secs. 14- 15; art. III, sec. 1 (Phil.).
- <sup>169</sup> An Act Providing for the Magna Carta of Women, Rep. Act No. 9710, ch. III, sec. 13(a)(3) (2009) (Phil.) [hereinafter Magna Carta of Women].
- <sup>170</sup> *Id.* ch. VI, sec. 37; PHIL. COMMISSION ON WOMEN, REP. ACT NO. 9710, THE MAGNA CARTA OF WOMEN, IMPLEMENTING RULES AND REGULATIONS 54-55, rule IV, sec. 15 (2010).
- <sup>171</sup> Magna Carta of Women, *supra* note 169, ch. III, sec. 8.
- <sup>172</sup> Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant: Fourth periodic reports of States parties: Phil.*, paras. 29, 103, 114, 115, U.N. Doc. CCPR/C/PHL/4 (2011) [hereinafter Human Rights Committee, *Fourth periodic report: Phil.*].
- <sup>173</sup> Human Rights Committee, *Gen. Comment No. 31*, *supra* note 92, para. 13.
- <sup>174</sup> *Id.*; REVISED PENAL CODE, Act No. 3815, art. 259 (Phil.).
- <sup>175</sup> Human Rights Committee, *Fourth periodic report: Phil.*, *supra* note 172, para. 104.
- <sup>176</sup> Human Rights Committee, *Gen. Comment No. 31*, *supra* note 92, para. 15.
- <sup>177</sup> *Id.*
- <sup>178</sup> *Id.*
- <sup>179</sup> *Id.* para. 19.
- <sup>180</sup> Lourdes E. Osil et al. v. Office of the Mayor of the City of Manila et al., Regional Trial Court, Motion to Dismiss (July 29, 2009); IMPOSING MISERY, *supra* note 2, at 6-7; E-mail to Payal Shah, Legal Adviser for Asia, Center for Reproductive Rights from Harry Roque, Roque Butayan LLP (Mar. 5, 2012) (on file with the Center for Reproductive Rights).
- <sup>181</sup> Rogerson v. Australia, Human Rights Committee, Commc'n No. 802/1998, para. 9.3, U.N. Doc. CCPR/C/74/D/805/1998 (2002) [trial delay of two years]; Delgado Páez v. Colombia, Human Rights Committee, Commc'n No. 195/1985, para. 5.3, U.N. Doc. CCPR/C/39/D/195/1985 (1990) [delay of five years].
- <sup>182</sup> EO NO. 003: DISCRIMINATORY OR RIGHTS BASED?, *supra* note 131, at 4-5.
- <sup>183</sup> EO 30, *supra* note 118 (no mention of EO 003 nor harms suffered thereunder).
- <sup>184</sup> *Id.* sec. 2.
- <sup>185</sup> Center for Reproductive Rights, IWRAW-AP, and Task Force CEDAW, Oct. 2008 Joint Submission in Support of the CEDAW Inquiry 25-28 (Oct. 27, 2008).