



EnGendeRights, Inc.
Asserting Gender Equality



August 25, 2016

CESCR Secretariat

Human Rights Treaties Division

Office of the High Commissioner for Human Rights (OHCHR)

Palais Wilson- 52, rue de Pâquis CH-1201 Geneva, Switzerland

Re: Supplementary information on the Philippines, scheduled for review by the Committee on Economic, Social and Cultural Rights during its 59th session

The Catholics for Reproductive Health, Center for Reproductive Rights (the Center), EnGendeRights Inc. (EnGendeRights), Philippine Safe Abortion Advocacy Network (PINSAN), Population Services Pilipinas Inc. (PSPI), WomanHealth Philippines Inc. (WomanHealth Philippines), and Women's Global Network for Reproductive Rights (WGNRR) have prepared this letter to assist the Committee on Economic, Social, and Cultural Rights (the Committee) in its review of the Government of the Philippines' (state party) compliance with the International Covenant on Economic, Social and Cultural Rights (the Covenant) during its 59th session on September 19-October 7, 2016. This letter provides updates to the pre-session letter submitted by the Center, EnGendeRights, PSPI, WomanHealth Philippines, and WGNRR in February 2016 (available at <http://tinyurl.com/ESCRjointletter>), and provides supplemental information on the issues raised by the Committee in its list of issues (LOIs)¹ in relation to the state party's combined fifth and sixth periodic reports (state party report).²

The Center and its partners welcome the Committee raising questions about the “high level of maternal mortality particularly caused by unsafe abortions”, “criminalization of abortion, with a view to introducing appropriate exceptions”, “access to reproductive health services and information and the use of contraceptives”, and on teenage pregnancies in the Philippines in its LOIs.³

Since the last review in 2008, the state party has taken a few positive steps towards promoting women's and girls' sexual and reproductive health and rights. The state party particularly the Commission on Human Rights (CHR) should be commended for conducting its first national inquiry on reproductive health and rights in March-May 2016 as will be further discussed below.⁴ The state party particularly the Department of Health (DoH) should also be commended for taking steps to review the current policy on post-abortion care otherwise known as the Pregnancy and Management of Abortion and its Complications (PMAC) policy (DoH Administrative Order 45-B, s. 2000) and ensure the practical realization of women's and girls'

right to humane, compassionate, nonjudgmental and quality post-abortion care as guaranteed under the Responsible Parenthood and Reproductive Health Act (RPRHA)⁵ and the Magna Carta of Women.⁶ The state party under the new administration headed by President Rodrigo Roa Duterte should also be commended for including the strengthened implementation of the RPRHA in its ten-point socioeconomic agenda.⁷

However, as will be raised in this letter, notwithstanding these recent positive developments, women and girls in the Philippines continue to face significant challenges in securing the enjoyment and fulfillment of their right to access the full range of reproductive health care goods and services.

Recommendations received by the state party from other UN treaty monitoring bodies since the pre-session. Since the pre-session, the state party has been urged by other UN treaty monitoring bodies to improve women’s and girl’s access to the full range of contraceptive information and services including emergency contraception, safe and legal abortion, humane post-abortion care, and effective remedies in cases of reproductive rights violations. In May 2016, the Committee Against Torture called upon the state party to (a) immediately revoke Manila City’s Executive Order (EO) 003 and EO 030, (b) review the abortion ban to allow exceptions such as when the pregnancy endangers the life or health of the woman, when it is the result of rape or incest and in cases of fetal impairment, (c) provide universal access to the “full range of the safest and most technologically advanced methods of contraception” and “rights-based counselling and information on reproductive health services to all women and adolescents” and to “restore access to emergency contraceptives for victims of sexual violence”, (d) establish a “confidential complaints mechanism for women subjected to discrimination, harassment or ill-treatment while seeking post-abortion or post-pregnancy treatment or other reproductive health services”, and (e) “investigate, prevent and punish of all incidence of ill-treatment of women seeking post-pregnancy care in government hospitals and provide effective legal remedies to the victims”.⁸

In July 2016, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) called on the state party to fully and immediately implement its recommendations resulting from the special inquiry conducted in 2012 in the state party under Article 8 of the Optional Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁹ The CEDAW Committee particularly noted its recommendations on ensuring access to modern contraceptives and legalizing abortion on certain grounds.¹⁰ The inquiry recommendations are discussed in more depth in our pre-session letter and in the Center’s fact sheet, *Accountability for Discrimination Against Women in the Philippines: Key Findings and Recommendations from the CEDAW Committee’s Special Inquiry on Reproductive Rights* (available at <http://tinyurl.com/PhilippineCEDAWinquiry>).¹¹

I. Supplemental Information in Response to the Committee’s LOIs

- 1. Please provide information on measures taken to address the high level of maternal mortality, particularly caused by unsafe abortion. (para. 30)***

As discussed in more depth in our pre-session letter, the state party is obligated to provide “special protection...to mothers during a reasonable period before and after childbirth”¹², adopt measures to improve maternal health¹³ and eliminate health-related discrimination.¹⁴ The Committee has recognized that ensuring reproductive and maternal health care is comparable to a core obligation of the state party.¹⁵ As noted by the Committee, the failure to reduce the maternal mortality ratio (MMR) constitutes a violation of the right to health under Article 12 of the Covenant.¹⁶

Increasing number of unsafe abortions and maternal deaths. In its 2008 Concluding Observations, the Committee urged the state party to adopt as a matter of priority “all appropriate measures” to reduce maternal mortality in the Philippines.¹⁷ It expressed particular concern about the total ban on abortion and the low rates of contraceptive use which contribute to maternal deaths.¹⁸

As noted in our pre-session letter and in a report released by the state party in 2014, the MMR has remained persistently high, increasing from 162 to 221 deaths per 100,000 live births between 2006 and 2011.¹⁹ In a 2015 report by the Commission on Population (PopCom), it was noted that the highest number of maternal deaths was reported in the National Capital Region with 152 compared to the lowest in the Cordillera Administrative Region (CAR) with only 4 maternal deaths.²⁰ As discussed in more depth in our pre-session letter, the likelihood of a woman receiving maternal care from a professional or in a medical facility remains closely tied to her level of education, wealth status and geographical location.²¹ Cost remains the leading barrier to the utilization of maternal health care services in medical facilities for women between the ages of 15-49 regardless of actual age, marital status, and number of living children.²² With the increase in the number of teenage pregnancies as further discussed below, adolescents are particularly vulnerable to receiving delayed care or none at all. Further, PopCom has noted that the “stigma attached to young and single pregnancies” prevents young and single mothers from seeking timely care and forces them to resort to abortion.²³

As discussed in more depth in our pre-session letter, according to Guttmacher Institute (Guttmacher) there has been an increase in the number of unsafe abortions in the Philippines from an estimated 560,000 in 2008 to approximately 610,000 in 2012.²⁴ According to their estimates, 1,000 Filipino women to die each year from abortion complications.²⁵ They have also estimated that 100,000 women were hospitalized for abortion complications in 2012, and many others suffered complications that went untreated due to the clandestine nature of abortion, which often leads to unsafe procedures.²⁶ In the latest State of Population report, PopCom has noted that unsafe abortion is one of the underlying causes of maternal deaths.²⁷ Another study by Guttmacher published in 2013, indicated that young women in the Philippines are particularly vulnerable as they are often forced to resort to unsafe methods and providers such as ingesting herbs, *hilot* or heavy abdominal massage, and insertion of a catheter or other foreign object into the uterus and only sought care after these attempts had failed or due to complications.²⁸

2. Please indicate the steps taken to re-examine the criminalization of abortion, with a view to introducing appropriate exceptions. (para. 30)

As raised in our pre-session submission, the Philippines has one of the most restrictive laws on

abortion globally.²⁹ The state party's penal code penalizes the procedure without any clear exceptions – even when a woman's life or health is in danger, when pregnancy is a result of rape or incest, or in cases of fetal impairment.³⁰ As discussed in more depth in our pre-session submission, the state party's failure to guarantee access to safe and legal abortion services violates Articles 2(2) and 3 in relation to Article 12 of the Covenant, which require states parties to promote women's right to health on the basis of equality and non-discrimination.³¹

Proscription of abortion as an element of reproductive health care. As pointed out in our pre-session submission, the state party passed in 2012 the Responsible Parenthood and Reproductive Health Act (RPRHA). While the RPRHA was described by the state party as “empower[ing] the Department of Health (DoH) and local government units to implement important elements of reproductive health...and ensure that RH becomes universally accessible”³², the RPRHA has reinforced the criminal ban on abortion by expressly noting the “proscription of abortion” as an element of reproductive health care.³³ As discussed above, the lack of access to safe and legal abortion due to the criminalization of abortion and its repeated prohibition, combined with the state's ongoing failure to provide universal access to a full range of modern contraceptives, has contributed to the increase in the number of unsafe abortions and maternal deaths in the country.

Increasing penalties for those involved in the performance of abortion. As discussed in more depth in our pre-session submission, recent efforts to amend the legal provisions on abortion in the RPC included proposals to impose additional fines and increased terms of imprisonment for women and others found guilty of undergoing or performing abortions.³⁴ As noted above, since the pre-session, the state party has received recommendations from other TMBs to review its abortion legislation and allow the procedure on certain grounds.³⁵ Notwithstanding these recommendations, the state party has not taken any step to introduce exceptions to the criminal ban on abortion. Further, the lack of exceptions to the ban on abortion is contrary to a recommendation made by the Philippine Commission on Women (PCW).³⁶ In 2014, the PCW recommended to the Department of Justice (DoJ) that “justified abortion in circumstances where ‘continuation of pregnancy endangers the life of the pregnant woman or seriously impairs her physical health’ should...be considered.”³⁷ The PCW “strongly recommend[ed] to [have]...exceptions to the general prohibition on abortion.”³⁸

Arrests, stigma and abuse resulting from the criminalization of abortion. Threats of arrests and prosecution for illegal abortion remain real as reports of arrests of women and individuals involved in performing abortions continue in 2016.³⁹ As noted in our pre-session submission and confirmed by the CHR during its national inquiry, the continuing ban on abortion also promotes the stigma on abortion and legitimizes the abuse and discrimination women and girls face when seeking access to post-abortion care.⁴⁰ While the provision of quality, nonjudgmental and humane post-abortion care is guaranteed under the RPRHA⁴¹ and the MCW,⁴² women and girls are verbally abused and humiliated, denied treatment, threatened with being reported to the police or actually, and eventually prosecuted for inducing an abortion⁴³—findings similar to those noted by the CHR during its national inquiry.⁴⁴

- 3. Please also provide information on the steps taken to improve access to reproductive health services and information and the use of contraceptives. (para. 30)***

In its 2008 Concluding Observations, the Committee expressed concern that state party does not provide adequate access to reproductive health services and information and that the low rates of contraceptive use and difficulties in obtaining access to methods of contraception have contributed to high rates of teenage pregnancies and maternal deaths.⁴⁵ As raised in more depth in our pre-session submission, the implementation of the RPRHA which aims to improve access to reproductive health information and services including contraceptives has been undermined by a series of judicial actions, budget cuts, and the issuance of local executive orders restricting access to modern contraceptives. The CHR, as part of its national inquiry, found that the RPRHA “is not being implemented uniformly, and that there are policies and practices that negatively impact women, especially the most marginalized.”⁴⁶

High number of unintended pregnancies and unmet need for family planning. As discussed in more depth in our pre-session letter, state party data from 2013 indicates that nearly three in every ten pregnancies are unplanned or mistimed.⁴⁷ Filipino women, on average, have one child more than what they actually want.⁴⁸ The actual versus wanted fertility is higher among women living in rural areas, with only elementary education, and belonging to the lowest wealth quintile.⁴⁹

The unmet need for family planning among currently married women has virtually stagnated over the last decade showing little sign of improvement, and instead increased by 1%.⁵⁰ Within a 13-year period, there has only been a slight improvement in the contraceptive prevalence rate (from 47% in 2000 to 55% in 2013)⁵¹ with married women in urban areas more likely to use a family planning method than women in rural areas.⁵²

Budget cuts for purchase of contraceptive supplies and devices. As raised in our pre-session submission, the state party has made two major budget cuts for contraceptive supplies since 2008. In 2014, the state party introduced a cut in the amount of over Php 300 million (approximately USD 6 million).⁵³ Then comparing the 2015 and 2016 budgets for the allocation for family health and responsible parenting, the amount allocated for contraceptive supplies and devices went down from Php 3.274 billion (approximately USD 70 million) in 2015 to Php 2.275 billion in 2016 (approximately USD 48 million) i.e. over a billion Philippine pesos (approximately USD 20 million).⁵⁴

Further, in a report released in April 2016, the state party, specifically the DoH admitted that it has confronted issues in the utilization of financial resources to implement the RPRHA. In its report to Congress, the DoH noted that it has been “unable to fully utilize its allocated budget for [2015] and was only able to obligate 78% of its budget” because “procurement of commodities...was put on hold” by the temporary restraining order issued by the Supreme Court in June 2015.⁵⁵ As further discussed in our pre-session letter, the order indefinitely prohibited the DoH from “procuring, selling, distributing, dispensing or administering, advertising and promoting certain hormonal contraceptives” and the Philippine Food and Drug Administration (FDA) from “granting any and all pending applications for reproductive products and supplies, including contraceptive drugs and devices.”⁵⁶ As of July 2016, the order remains in effect despite a comment and motion filed by the Solicitor General on behalf of the DoH praying for it to be lifted.⁵⁷ Since the order is being more broadly interpreted to include taking actions on the recertification of reproductive products, PopCom has noted that the RPRHA will be rendered

“ineffective” if the order is not lifted as 90% of contraceptive drugs and devices available in 2016 will no longer be available by 2018.⁵⁸ When the order was issued in 2015, a total of 48 modern contraceptives were certified; this number has decreased to 34 by July 2016 when the certificates of 14 contraceptives expired.⁵⁹

Continuing implementation of Sorsogon City’s EO. As discussed in more depth in our pre-session letter, the mayor of Sorsogon City issued Executive Order 3 (EO 3) declaring the city as “pro-life”⁶⁰ resulting in a *de facto* ban on modern contraceptives in all local health care facilities. Despite being in direct contravention with the RPRHA and the Magna Carta of Women (MCW) which both guarantee women’s right to the full range of contraceptive information and services,⁶¹ EO 3 is still being implemented and its implementation compelled the local city health office to return modern contraceptive supplies to the DoH.⁶² The CHR, during its national inquiry, documented reports of denial of certain contraceptives and an increase in unwanted pregnancies in Sorsogon City as a result of the implementation of EO 3.⁶³ Efforts by the PCW,⁶⁴ CHR,⁶⁵ and DoH⁶⁶ to call the attention of the local government of Sorsogon to restore access to modern contraceptives have so far been ineffective. As of early August 2016, a complaint lodged against the mayor of Sorsogon City by civil society groups before the CHR is still pending resolution and the DoH, despite announcement of its intention to file a complaint, has yet to charge the mayor for gross violation of the RPRHA.⁶⁷

Judicial decisions restricting full implementation of the RPRHA. Prior to the Supreme Court’s temporary restraining order issued in June 2015, the Court suspended the RPRHA’s implementation in 2013 by issuing an order in the case of *Imbong v Ochoa*, which challenged the constitutionality of the law.⁶⁸ In its decision in 2014, the Court upheld the constitutionality of the state party’s mandate to provide universal access to contraceptive information and services particularly to marginalized women,⁶⁹ age and development appropriate reproductive health education for adolescents in all schools,⁷⁰ and a nationwide multimedia-campaign to raise public awareness on reproductive health,⁷¹ as well as the mandate for LGUs to assist in the implementation of the law.⁷²

In the same decision, the Court declared unconstitutional several key provisions of the RPRHA protecting women’s access to contraception. Under the decision, providers may, without penalty, refuse to provide elective reproductive health procedures; all minors, including those who are already parents or have suffered miscarriage, must secure parental consent to access modern contraceptives; a married individual must secure spousal consent to undergo tubal ligation or vasectomy; institutions may exercise conscientious objection; and private health facilities, non-maternity specialty hospitals and hospitals run by religious groups do not have the obligation to refer women seeking modern contraceptives to alternative health care providers.⁷³ During its national inquiry, the CHR documented cases of health care facilities requiring parental consent for minors wanting to access certain reproductive health services and spousal consent for married women wanting to undergo tubal ligation.⁷⁴

De-listing of emergency contraception. To prevent pregnancies in instances of unprotected sex, the 2014 Family Planning Manual of the DoH recommends the use of the levonorgestrel-only pill and Yuzpe method (consists of higher doses of regular combined oral contraceptive pills containing levonorgestrel and ethinyl estradiol).⁷⁵ However, as discussed in more depth in our

pre-session letter, women and girls in the Philippines have no access to the levonorgestrel-only pill, an internationally recognized form of emergency contraception which the WHO has recognized as an essential drug.⁷⁶ While the drug Postinor—a levonorgestrel-only pill—was previously approved in 1999 by the state party for victims of sexual violence, it was de-listed from the Philippine registry of drugs by the FDA in 2001.⁷⁷

Since the pre-session, the state party has not taken any step to re-list the drug or repeal the provision under the RPRHA, which expressly prohibited national hospitals from purchasing or acquiring emergency contraception.⁷⁸ As a result, women and girls in the Philippines particularly survivors of sexual violence have no option but to use the Yuzpe method to prevent pregnancy as recently recommended by the secretary of the DoH.⁷⁹ However studies found that the levonorgestrel-only pill is more effective in preventing unwanted pregnancies and has fewer side effects compared to the Yuzpe method.⁸⁰

As raised in our pre-session letter, access to emergency contraception is particularly important for survivors of sexual violence; the latest government data shows that over 10,000 women aged 15-49 have experienced sexual violence, with a higher incidence amongst women who have 5 or more children in comparison to women with less or no children.⁸¹

National inquiry on reproductive health and rights. As discussed in more depth in our pre-session submission, in order to promote the rights to equality and non-discrimination in relation to the right to health, the state party is obligated to establish accountability mechanisms to address the “harm caused by discrimination” as well as ensure the prompt, impartial and independent adjudication or investigation of and provision of remedies for violations.⁸² As noted above, the CHR has conducted its first ever national inquiry on reproductive health and rights between March and May 2016 which is a positive step to document, investigate, and address reproductive rights violations. However, it is clear that individual redress and reparations to women and girls who are denied reproductive health services will not be provided by the CHR. Its authority under the terms of reference of the national inquiry is limited only to the documentation and analysis of acts of discrimination and reproductive rights violations and provision of “...concrete recommendations to the State and the concerned agencies to address individual and systemic/structural barriers to women’s access to reproductive health services”⁸³. The CHR’s limited authority is problematic because, as noted by the CHR in its 2016 report to the CEDAW Committee, its findings of violations are “merely recommendatory” and that based on its experience, agencies to whom these cases are referred to “fail to take action on these resolutions or, worse, refer the case back to the [CHR]”.⁸⁴ In July 2016, the CEDAW Committee urged the state party to establish “mandatory mechanisms that would...make [CHR’s] resolutions legally binding....”⁸⁵

4. Please provide information on the number of teenage pregnancies in the past four years. (para. 30)

The Committee has interpreted that realization of adolescents’ right to health includes providing them access to appropriate sexual and reproductive health services.⁸⁶ However, in the Philippines, adolescents are forced to continue unintended pregnancies and resort to unsafe abortions because of their restricted access to the full range of contraceptive information and

services. As noted by the CEDAW Committee during its special inquiry, Manila City's de facto ban on modern contraceptives lead adolescent girls to remain vulnerable to increased pregnancy-related injuries and deaths.⁸⁷ As noted in a 2015 United Nations Fund for Population Activities report, the Philippines is the only country in the Asia Pacific region where the number of teenage pregnancies is on the rise.⁸⁸ Between 2006 and 2013, there is an average of 57 births per 1,000 girls aged 15-19 in the Philippines.⁸⁹ One in ten young women in the Philippines aged 15-19 is already a mother or pregnant with her first child.⁹⁰ In the 2013 National Demographic and Health Survey, it was found that 27% of young women aged 15-24 have begun childbearing and it is more common among those who live in rural areas, belong to the lower wealth quintile and with less or no education at all.⁹¹ Based on research, early sexual initiation which is becoming more common among adolescents has led to this doubling increase in the number of teenage pregnancies in the past decade.⁹²

Restricted access to contraceptive information and services. As raised in our pre-session letter, the Committee has particularly recognized that the failure to provide equal access to sexual and reproductive health information and services for adolescents⁹³ constitutes discrimination. The Committee specifically has expressed that discrimination may occur when a woman or adolescent is "...unable to exercise a right protected by the Covenant because [he or she] can only do so with spousal consent or a relative's concurrence or guarantee."⁹⁴

Despite the increasing trend of early sexual initiation and teenage pregnancies in the Philippines, adolescents still have limited access to contraceptives and age-appropriate sex education. As noted above, in the case of *Imbong v Ochoa*⁹⁵, the Supreme Court ruled that all minors (those below 18 years of age), including those who have already experienced pregnancy, must secure parental consent to access modern contraceptives.⁹⁶ Since the pre-session, the state party has yet to issue guidelines for age- and development-appropriate reproductive health education called for under the RPRHA.⁹⁷ While the Department of Education (DepEd) has included comprehensive sexual education (CSE) in its K-12 curriculum, it has yet to develop and implement the (CSE) minimum standards to be adopted by schools and alternative learning facilities and provide trainings to teachers to deliver age-specific CSE within the K-12 curriculum.⁹⁸

II. Suggested Questions and Concluding Observations for the State Party

Reflecting on the information and concerns presented in our pre-session letter and this submission, the undersigned organizations respectfully request that this Committee pose the following questions to the delegation representing the state party during its 59th session:

1. What measures has the state party adopted to reduce the high incidence of maternal mortality, particularly deaths arising from unsafe abortion? What steps has the state party taken to reduce the incidence of unsafe abortion including by amending the criminal ban on abortion to legalize abortion in cases of rape, incest, threats to the life or physical or mental health of the pregnant woman, or serious fetal impairment and decriminalize all other cases where women undergo abortion, as well as ensuring women's and girl's access to quality and humane post-abortion care as required under national laws and policies?
2. What steps has the state party taken to ensure women's and girls' equal access to the full

range of contraceptive services, including by condemning and repealing discriminatory local laws and policies that violate the RPRHA e.g. Sorsogon City EO 3, lifting the June 2015 temporary restraining order by the Supreme Court, allocating adequate financial resources, removing the need for spousal and parental consent for certain reproductive health goods and services, and reintroducing dedicated emergency contraceptives such as levonorgestrel-only pills for women and girls at risk of unprotected sex and unplanned pregnancies, and especially for survivors of sexual violence, specifically to give effect to the secretary of DoH's recent recommendation to ensure access to a form of EC?

3. What mechanisms has the state party put in place to ensure that resolutions and recommendations by the CHR including those to be issued as a result of the national inquiry are carried out and fully implemented by the responsible state party agencies?

The undersigned organizations also respectfully request that this Committee consider incorporating the following recommendations in its Concluding Observations to the state party:

1. Recalling the state party's obligation to promote women's and girls' right to health on the basis of equality and non-discrimination and recognizing that the state party's failure to lower the increasing number of maternal deaths particularly those resulting from unsafe abortions disproportionately undermines women's and girls' health and survival:
 - a. For Congress to legalize abortion in cases of rape, incest, threats to the life or physical or mental health of the pregnant woman, or serious fetal impairment and decriminalize all other cases where women undergo abortion, and
 - b. For the DoH and Department of Justice to take the appropriate policy measures and allocate funding to ensure timely, decent quality, humane, and non-judgmental treatment for complications arising from unsafe abortions instead of focusing on criminal prosecution and failing to establish institutional safeguards to protect women and girls from abuse.
2. Recalling that the realization of the right to health requires access to sexual and reproductive health services and recognizing that the state party's failure to provide the full range of contraceptive information and services leads to a high number of unintended pregnancies, especially for poor women, adolescents and survivors of sexual violence and forces women and girls to resort to unsafe abortions,
 - a. For the Supreme Court to lift its June 2015 temporary restraining order prohibiting the DoH from providing certain hormonal contraceptives and the FDA from granting applications for reproductive products and supplies including contraceptive drugs and devices,
 - b. For Congress and the Department of Interior and Local Government to review and repeal discriminatory local laws and policies that violate the RPRHA such as Sorsogon City's EO 3,
 - c. For Congress and the DoH to ensure adequate funding for the full and effective implementation of the RPRHA,
 - d. For Congress to amend the RPRHA to remove the need for spousal and parental consent to access certain reproductive health services,
 - e. For the FDA to reintroduce emergency contraception, specifically levonorgestrel-only pills in the Philippine registry of drugs for women and girls at risk of

unprotected sex and unplanned pregnancies and especially for survivors of sexual violence.

3. Recalling the state party's obligation to ensure access to effective and transparent remedies and redress, both administrative and judicial, and recognizing that the state party's failure to provide access to justice for reproductive rights violations creates impunity, for Congress to guarantee full independence of the CHR to ensure that its resolutions are legally binding and authorize it to provide remedies such as compensation, reparation, restitution, rehabilitation, guarantees of non- repetition and public apologies in cases of reproductive rights violations.

If you have any questions or would like further information, please do not hesitate to contact Jihan Jacob of the Center for Reproductive Rights at jjacob@reprorights.org.

Respectfully submitted:

Catholics for Reproductive Health
Center for Reproductive Rights
EnGendeRights Inc.
Philippine Safe Abortion Advocacy Network
Population Services Pilipinas Inc.
WomanHealth Philippines Inc.
Women's Global Network for Reproductive Rights

¹ Committee on Economic, Social and Cultural Rights (CESCR), *List of issues in relation to the combined fifth and sixth periodic reports of the Philippines*, 57th Sess., 2016, para. 30, U.N. Doc. E/C.12/PHL/Q/5-6 (2016) [hereinafter CESCR, *List of issues in relation to the combined fifth and sixth reports of the Philippines*].

² Government of the Philippines, *Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: Combined fifth and sixth periodic reports of States parties due in 2013*, U.N. Doc. E/C.12/PHL/5-6 (2014).

³ CESCR, *List of issues in relation to the combined fifth and sixth reports of the Philippines*, *supra* note 1, para. 30.

⁴ See ASIA PACIFIC FORUM, *CHR launches national inquiry on reproductive health*, (March 4, 2016), available at <http://www.asiapacificforum.net/news/chr-launches-national-inquiry-reproductive-health/>; Commission on Human Rights, *National Inquiry on Reproductive Health and Rights: Terms of Reference* (2016) (Phil.) (on file with the Center).

⁵ An Act Providing for a National Policy on Responsible Parenthood and Reproductive Health, Rep. Act No. 10354, sec. 3(j) (December 19, 2012) (Phil.) [hereinafter RPRHA]; See also *The Magna Carta of Women*, Rep. Act No. 9710, sec. 17 (August 14, 2009) (Phil.) [hereinafter MCW].

⁶ MCW, *supra* note 5, sec. 17.

⁷ Trisha Macas, *Duterte's economic team reveals 10-point socioeconomic agenda*, GMA News Online, (June 20, 2016), available at <http://www.gmanetwork.com/news/story/570703/money/economy/duterte-s-economic-team-reveals-10-point-socioeconomic-agenda>.

⁸ CAT Committee, *Concluding Observations: Philippines*, paras. 38, 39, U.N. Doc. CAT/C/PHL/CO/3 (2016).

⁹ CEDAW Committee, *Concluding observations: Philippines*, para. 40, U.N. Doc. CEDAW/C/PHL/CO/7-8 (2016).

¹⁰ *Id.*

¹¹ CENTER FOR REPRODUCTIVE RIGHTS, *Accountability for Discrimination Against Women in the Philippines: Key Findings and Recommendations From the CEDAW Committee's Special Inquiry on Reproductive Rights* (2015), available at <http://www.reproductiverights.org/document/accountability-for-discrimination-against-women-in-the-philippines-key-findings-and-recomm>.

¹² International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, art. 10, para. 2, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966) (*entered into force* Jan. 3, 1976) [hereinafter ICESCR].

¹³ Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The right to the highest attainable standard of health (Art. 12)*, (22nd Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 14, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter *ESCR Committee, Gen. Comment No. 14*].

¹⁴ *Id.* at para. 18.

¹⁵ *Id.* at para. 44.

¹⁶ *Id.* at para. 52.

¹⁷ Committee on Economic, Social and Cultural Rights, *Concluding Observations: Philippines*, para. 31, U.N. Doc. E/C.12/PHL/CO/4 (2008), [hereinafter *ESCR Committee, Concluding Observations: Philippines*].

¹⁸ *Id.*

¹⁹ National Economic and Development Authority & United Nations Development Programme, *The Philippines: Fifth Progress Report Millennium Development Goals 73* (August 22, 2014), available at <http://www.gov.ph/2014/08/22/5th-progress-report-millennium-development-goals/>.

²⁰ Commission on Population, *Precious and Precarious: The Life of Filipino Mothers*, State of Population Report 6, p. 17 (2015) (Phil.) [hereinafter *State of Population Report 6*] While the FHSIS obtained a low MMR of 67 in the same year, the state party admitted in the report that there is “inefficiency of reporting” and the FHSIS figures “do not reflect the complete picture of maternal mortality” in the Philippines.

²¹ PHILIPPINES STATISTICAL AUTHORITY ET AL., PHILIPPINES NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2013 64 (August 2014) [hereinafter *NHDS 2013*].

²² *NHDS 2013*, at 108 (Between 2008 and 2013, “cost” was cited as one of the most common reasons given for failing to give birth in a health care facility); *State of Population Report 6*, *supra* note 20, p. 26.

²³ *State of Population Report 6*, *supra* note 20, p. 23-24

²⁴ Lawrence B. Finer & Rubina Hussain, *Unintended Pregnancy and Unsafe Abortion in the Philippines: Context and Consequences*, *In Brief*, New York: GUTTMACHER INST. 3 (2013), available at https://www.guttmacher.org/sites/default/files/report_pdf/ib-unintended-pregnancy-philippines.pdf [hereinafter *GUTTMACHER INST., Unintended Pregnancy*].

²⁵ JE Darroch et al., *Meeting women’s contraceptive needs in the Philippines*, *In Brief*, New York: GUTTMACHER INST. 2 (2009), available at https://www.guttmacher.org/sites/default/files/report_pdf/ib_mwcnp.pdf.

²⁶ *GUTTMACHER INST., Unintended Pregnancy*, *supra* note 24, at 5.

²⁷ *State of Population Report 6*, *supra* note 20, p. 11.

²⁸ *GUTTMACHER INST., Unintended Pregnancy*, *supra* note 24, at 4.

²⁹ REVISED PENAL CODE, Act No. 3815, arts. 256-259 (Phil.) [hereinafter *REV. PENAL CODE*] (prescribes a prison term of up to six years for a pregnant woman who obtains an abortion, and for any person, including medical professionals, who causes or assists with an abortion with the consent of the woman); *See also* CENTER FOR REPRODUCTIVE RIGHTS, *Forsaken Lives: the Harmful Impact of the Philippine Criminal Abortion Ban* (2010), available at http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/phil_report_Spreads.pdf.

³⁰ *REV. PENAL CODE*, *supra* note 29, arts. 256-259.

³¹ ICESCR, *supra* note 12, arts. 2 (2), 3, and 12.

³² CESCR, *List of issues in relation to the combined fifth and sixth reports of the Philippines*, *supra* note 1, paras. 220 and 221.

³³ RPRHA, *supra* note 5, sec. 4(q).

³⁴ Criminal Code Committee, *The Criminal Code of the Philippines (2014) (Draft)*, sec. 23 and 53, available at [https://www.doj.gov.ph/files/cc/Criminal_Code_September2014\(draft\).pdf](https://www.doj.gov.ph/files/cc/Criminal_Code_September2014(draft).pdf).

³⁵ CAT Committee, *Concluding Observations: Philippines*, U.N. Doc. CAT/C/PHL/CO/3 (2016); CEDAW Committee, *Concluding observations: Philippines*, U.N. Doc. CEDAW/C/PHL/CO/7-8 (2016).

³⁶ Letter from Ms. Emmeline Verzosa, Executive Director of PCW, to Mr. Geronimo Sy, Assistant Secretary of the Department of Justice (July 22, 2014) (on file with the Center).

³⁷ *Id.*

³⁸ *Id.* (“This does not say that the unborn is a legal person; nor does it deny, however, that the State under certain conditions might regard the unborn as a person. It does not assert that the life of the unborn is placed on exactly the same level as the life of the mother. It recognizes that, when necessary to save the life of the mother, it may be necessary and legitimate to sacrifice the life of the unborn. It however, denies that the life of the unborn may be sacrificed merely to save the mother from emotional suffering or to spare the child from a life of poverty”.)

³⁹ See Bombo La Union, *3 abortionists arestado sa raid sa La Union*, BOMBO RADYO PHILIPPINES (Mach 5, 2016), available at <http://www.bomboradyo.com/news/top-stories/item/142002-3-abortionists-arestado-sa-raid-sa-la-union>; Francis T. Wakefield, Call center agent, huli sa pagpapa-abort, BALITA (February 17, 2016), available at <http://balita.net.ph/2016/02/17/call-center-agent-huli-sa-pagpapa-abort/>; Ni Boy Cruz, *Buntis nadale ng 3 abortionists*, THE PHILIPPINE STAR (April 18, 2016), *Buntis nadale ng 3 abortionists*, available at <http://www.philstar.com:8080/probinsiya/2016/04/18/1573885/buntis-nadale-ng-3-abortionists>; See also Gus Abelgas, *92-year-old abortionist arrested in Calcoocan*, ABS-CBN NEWS (Sept. 20, 2013), available at <http://news.abs-cbn.com/nation/metro-manila/09/20/13/92-year-old-abortionist-arrested-calcoocan>; *Police Arrest Couple for Inducing Abortion*, COCONUTS MANILA (July 30, 2013), available at <http://admin-manila.coconuts.co/2013/07/30/police-arrest-couple-inducing-abortion>; Aie Balagtas See, *Woman nabbed for abortion*, THE PHILIPPINE STAR (July 12, 2015), available at <http://www.philstar.com/metro/2015/07/12/1475986/woman-nabbed-abortion>.

⁴⁰ COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES, *Comments on the Concluding Observations of the Committee on the Elimination of Discrimination Against Women* (CEDAW/C/PHL/CO/5-6), para. 39. (2016) [hereinafter CHR, *Comments on Concluding Observations*].

⁴¹ RPRHA, *supra* note 5, sec. 3(j); See also MCW, *supra* note 5, sec. 17.

⁴² MCW, *supra* note 5, sec. 17.

⁴³ See CENTER FOR REPRODUCTIVE RIGHTS, *Documentation Report, Focus Group Discussion on Post Abortion Care, Profile of Angel* (May 27, 2014) [hereinafter FGD REPORT] (copy on file with the Center) ("the hospital staff, humiliated her in front of other patients in the Emergency Room, shouting at the top of her voice, calling her mamamatay-baby (baby murderer) ... she was made to wait in the Operating Room which lasted for 24 hours"); FGD REPORT, *Profile of Kaye* (July 2013) "A doctor named Dr. Santos...admonished her by saying things such as, "Hindi ito pwedeng ginawa mo, itatawag ko to sa guard para itawag sa pulis ng Pasay" [what you did cannot be tolerated, I will call the guard to inform the Pasay police]"...while her legs were spread open, police officers took pictures of Kaye and questioned her...Dr. Santos also forced Kaye to admit to the police that she had an abortion."

⁴⁴ CHR, *Comments on Concluding Observations*, *supra* note 40, para. 39.

⁴⁵ ESCR Committee, *Concluding Observations: Philippines*, para. 31, U.N. Doc. E/C.12/PHL/CO/4 (2008).

⁴⁶ CHR, *Comments on Concluding Observations*, *supra* note 40, para. 35.

⁴⁷ NDHS 2013, *supra* note 21, at 55, 64.

⁴⁸ *Id.* at 65. The ideal number of children per woman is 2.2 which is 27% lower than the actual average number of children per woman which is 3.0.

⁴⁹ *Id.*

⁵⁰ See PHILIPPINE STATISTICS AUTHORITY ET AL., PHILIPPINES NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2003 94 (October 2004); NDHS 2013, *supra* note 21, at 69.

⁵¹ See PHILIPPINE STATISTICS AUTHORITY, CONTRACEPTIVE USE IN THE PHILIPPINES, (Oct 19, 2001), available at <https://psa.gov.ph/content/contraceptive-use-philippines>; THE WORLD BANK, DATA: CONTRACEPTIVE PREVALENCE (% OF WOMEN AGES 15-49) (2013), available at <http://data.worldbank.org/indicator/SP.DYN.CONU.ZS>.

⁵² NDHS 2013, *supra* note 21, at 75.

⁵³ Joyce Pangco Panares, *NY rights group slams PH over RH budget cut*, MANILA STANDARD (Dec. 25, 2013), available at <http://manilastandardtoday.com/news/-main-stories/top-stories/136682/ny-rights-group-slams-ph-over-rh-budget-cut.html>.

⁵⁴ Jee Y. Geronimo, *What happened to the 2016 budget for contraceptives?* RAPPLER (Jan. 7, 2016), available at http://www.rappler.com/nation/118239-explanation-no-2016-budget-contraceptives?cp_rap_source=ymlScrolly#cxrecs_s.

⁵⁵ Department of Health, *The 2nd Consolidated Report on the Implementation of the Responsible Parenthood and Reproductive Health Act of 2012 (R.A. No. 10354) 2015* (Phil.), at 7 [hereinafter RPRHA, 2nd Annual Report].

⁵⁶ Alliance For The Family Foundation Philippines, Inc. and Atty. Maria Concepcion S. Noche, et al., v. Dr. Janette L. Garin, Secretary Designate of the Department of Health, et al., (T.R.O.), G.R. No. 217872, (S.C., June 17, 2015) (Phil.) [hereinafter ALFI v. DoH]; See also Rina Jimenez-David, *Continuing challenges to RH Law*, INQUIRER.NET (July 3, 2015) <http://opinion.inquirer.net/86366/continuing-challenges-to-rh-law>; Jee Y. Geronimo, *Supreme Court stops distribution, sale of implants*, RAPPLER (June 30, 2015).

<http://www.rappler.com/nation/97983-sc-stops-distribution-sale-implants>.

⁵⁷ Jee Y. Geronimo, *Most contraceptives to run out by 2018 – PopCom*, RAPPLER (July 13, 2016),

<http://www.rappler.com/nation/139579-popcom-tro-family-planning-commodities>; A Comment with Motion to Lift

TRO in *ALFI v. DoH* was filed by the Office of the Solicitor General (OSG) on Nov. 6, 2015. Another motion was filed by the OSG on June 24, 2016 asking the Supreme Court to allow the distribution of existing units of implants “before their expiration dates pending resolution of [the] case”.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ An Executive Order Declaring Sorsogon City as a Pro-Life City, Exec. Ord. No. 3 (February 2, 2015) (Phil.).

⁶¹ See *RPRHA*, *supra* note 5, sec. 7; *MCW*, *supra* note 5, sec. 17.

⁶² Letter by City Health Officer (CHO) of Sorsogon City to Provincial Health Officer of Sorsogon (July 13, 2015) (on file with the Center) (The CHO returned 15,588 cycles of Microgynon oral pills, 3750 vials of DMPA with syringes, 609 cycles of Excluton pills, and 171 pieces of IUD copper T380A as a result of the local government’s declaration of Sorsogon City as pro-life.).

⁶³ CHR, *Comments on Concluding Observations*, *supra* note 40, para. 37.

⁶⁴ Letter by Ms. Emmeline Verzosa, Executive Director of Philippine Commission on Women (PCW) to Ms. Sally Lee, Sorsogon City mayor (Sept. 23, 2015) (on file with the Center) (In the letter, PCW highlighted the Committee’s inquiry report in calling the attention of the mayor. Recalling the Committee’s findings of violations under Manila’s EO 003, the PCW recommended the reinstatement of the full range of reproductive health services in Sorsogon City.).

⁶⁵ Letter by Ms. Arlene Alangco, office-in-charge of CHR Regional Office (RO) to Ms. Emilia Monicimpo, Regional Director of DoH (Bicol region) (Aug. 13, 2015) (on file with the Center) (The CHR RO attached a copy of the Human Rights Advisory CHR (IV) 2012-006 on the Reproductive Health Bill to “enlighten” the mayor on the matter.).

⁶⁶ Letter by Ms. Emilia Monicimpo, Regional Director of DoH (Bicol region) to Ms. Sally Lee, Sorsogon City mayor (Oct. 27, 2015) (on file with the Center) (In response to the return of family planning supplies by the City Health Office, the DoH RO urged the mayor to “reconsider the earlier decision and return the reproductive health supplies to the different health facilities under [her] jurisdiction.”).

⁶⁷ Jee Y. Geronimo, *DOH readies case vs Sorsogon mayor for 'gross violation' of RH law*, *RAPPLER* (June 22, 2016), available at <http://www.rappler.com/nation/137269-doh-case-sorsogon-city-mayor-violation-rh-law>.

⁶⁸ James M. Imbong and Lovely-Ann C. Imbong v. Hon. Paquito N. Ochoa, Jr., et al., G.R. Nos. 204819, 204934, 204957, 204988, 205003, 205043, 205138, 205478, 205491, 205720, 206355, 207111, 207172 and 207563 (S.C., Apr. 8, 2014) (Phil.) available at http://www.lawphil.net/judjuris/juri2014/apr2014/gr_204819_2014.html [hereinafter *Imbong v Ochoa*].

⁶⁹ *RPRHA*, *supra* note 5, sec. 3(e).

⁷⁰ *Id.*, sec. 14.

⁷¹ *Id.*, sec. 20.

⁷² *Id.*, secs. 3(f), 5, 6, 8, 10, 13, 16.

⁷³ *Imbong v Ochoa*, *supra* note 68; See also *RPRHA*, *supra* note 5, secs. 7, 17, 23.

⁷⁴ CHR, *Comments on Concluding Observations*, *supra* note 40, para. 41.

⁷⁵ Department of Health, *The Philippine Clinical Standards Manual on Family Planning 2014 Edition*, at 232, available at http://www.doh.gov.ph/sites/default/files/publications/FPCSM_2014.pdf.

⁷⁶ WORLD HEALTH ORGANIZATION (WHO), MODEL LIST OF ESSENTIAL MEDICINES 19TH LIST 33 (April 2015).

⁷⁷ See BFAD Advisory 2002-02, *Misoprostol (Cytotec): Unregistered Drug Product*, Food and Drug Administration (Phil.), available at <http://www.fda.gov.ph/advisories/pharmaceutical/38928-bfad-advisory-no-02-02s> (last visited Jan. 10, 2015).

⁷⁸ *RPRHA*, *supra* note 5, sec. 9.

⁷⁹ *Rape victims told: Oral contraception may prevent pregnancy*, *SUNSTAR* (July 08, 2016), available at <http://www.sunstar.com.ph/manila/local-news/2016/07/08/rape-victims-told-oral-contraception-may-prevent-pregnancy-484084>.

⁸⁰ SM Lee, et al., *Levonorgestrel versus the "Yuzpe" regimen. New choices in emergency contraception*, 45 *CANADIAN FAMILY PHYSICIAN* 629, 631 (1999). Levonorgestrel prevented 85% of expected pregnancies while the Yuzpe method prevented only 57%.; Farajkhoda T., et al., *Assessment of two emergency contraceptive regimens in Iran: levonorgestrel versus the Yuzpe*. 12 *Nigerian Journal of Clinical Practice* 4: 450-52 (2009). The levonorgestrel regimen was found superior to Yuzpe because it is more effective (respectively 100% vs 91%, p=0.026) and fewer side effects.

⁸¹ NDHS 2013, *supra* note 21, at 19.

⁸² ESCR Committee, *General Comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2,*

para. 2, of the *International Covenant on Economic, Social and Cultural Rights*, (42nd Sess., 2009) para. 40, U.N. Doc. E/C.12/GC/20 (2009) [hereinafter ESCR Committee, *Gen. Comment No. 20*].

⁸³ COMMISSION ON HUMAN RIGHTS, National Inquiry on Reproductive Health and Rights: Terms of Reference 4 (2016) (Phil.) (on file with the Center).

⁸⁴ CHR, *Comments on Concluding Observations*, *supra* note 40, para. 9.

⁸⁵ CEDAW Committee: *Concluding Observations: Philippines*, para. 20, U.N. Doc. CEDAW/C/PHL/CO/7-8 (2016).

⁸⁶ ESCR Committee, *Gen. Comment No. 14*, *supra* note 13, para. 23.

⁸⁷ Committee on the Elimination of Discrimination against Women, *Summary of the inquiry concerning the Philippines under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, para. 34, U.N. Doc. CEDAW/C/OP.8/PHL/1 (2015).

⁸⁸ UNITED NATIONS POPULATION FUND (UNFPA), *SEXUAL AND REPRODUCTIVE HEALTH OF YOUNG PEOPLE IN ASIA AND THE PACIFIC: A REVIEW OF ISSUES, POLICIES, AND PROGRAMMES*, 41 (2015).

⁸⁹ *Id.*

⁹⁰ Interim Deputy National Statistician, *One in Ten Young Filipino Women Age 15 to 19 Is Already A Mother or Pregnant With First Child (Final Results from the 2013 National Demographic and Health Survey)*, (August 28, 2014) (Phil.), available at <https://psa.gov.ph/content/one-ten-young-filipino-women-age-15-19-already-mother-or-pregnant-first-child-final-results>; NDHS 2013, *supra* note 21, at 52-53.

⁹¹ NDHS 2013, *supra* note 21, at 52-53. (24% have given birth and another 3% are pregnant with their first child); See also DEMOGRAPHIC RESEARCH AND DEVELOPMENT FOUNDATION ET AL., *THE 2013 YOUNG ADULT FERTILITY AND SEXUALITY STUDY IN THE PHILIPPINES. KEY FINDINGS*, at 14 (2014) [hereinafter 2013 YAFSS].

⁹² *Id.* at 13-14. A report released in 2014 indicated a rise in teenage pregnancies 6.3% to 13.6%; from 13.8% in 1994 to 25.1% in 2013 for males and from 12% in 1994 to 22% in 2013 for females. (Sexual activity before age 18 is becoming more common the Philippines—from 13% in 1994 to 23% in 2013 for both males and females.).

⁹³ ESCR Committee, *Gen. Comment No. 20*, *supra* note 82, para. 29.

⁹⁴ *Id.* at para. 31.

⁹⁵ *Imbong v Ochoa*, *supra* note 68.

⁹⁶ *Id.*; See also RPRHA, *supra* note 5, secs. 7, 17, 23.

⁹⁷ RPRHA, 2nd Annual Report, *supra* note 55, at 40.

⁹⁸ *Id.*