The chilling effect created by the ban on abortion has also impacted women’s access to contraceptive information and services. While a 2012 national reproductive health law guarantees universal access to the full range of contraceptive information and services, its implementation has been hampered by judicial decisions limiting access to certain hormonal contraceptives and executive orders—all grounded on the pretense that modern contraceptives are or may be classified as abortifacients.5

Further, Postinor, the only dedicated emergency contraception pill available in the Philippines, was delisted in 2001 from the country’s registry of drugs on the pretext that it is an abortifacient, despite contrary findings from the World Health Organization. The national reproductive health law also prohibits national government hospitals from purchasing and acquiring emergency contraceptives.6

To promote women and girls’ reproductive rights, the government must ensure access to the full range of contraceptive information and services, including modern and emergency contraceptives.
The criminal ban does not stop women from seeking abortions and instead drives them to resort to illegal and unsafe procedures.

The criminalization of abortion does not prevent abortion; instead, it has made abortion unsafe and perpetuated abortion stigma. Despite the stringent abortion ban, the number of abortions performed annually continues to increase. Latest available estimates reflect an increase to 610,000 abortions in 2012 from 560,000 in 2008. Because of the ban, abortions are typically performed clandestinely and in unsafe conditions; as a result, approximately two in every three women who undergo abortion experience a complication. Further, an estimated 1,000 women died due to abortion complications in 2008—this translates to an average of at least three deaths each day. While the government does not have comprehensive data on the arrests, prosecutions, and convictions of women and providers for consenting to or performing abortions, reports in the local media are common.

Efforts to maintain or increase penalties for abortion continue.

In 2014, an attempt by the legislature to review and modernize the RPC resulted in a proposal to increase the penalties for abortion, including for women who consent to the procedure. Alarmingly, bills proposing stricter penalties for abortion have also been filed. Several bills filed before Congress to create exceptions to the ban on abortion have failed to pass into law and have been met with fierce criticism and opposition from anti-choice groups and religious fundamentalists.

“The failure of the [Philippine Government] to provide the full range of sexual and reproductive health services, commodities and information resulted in unplanned pregnancies, unsafe abortions and unnecessary and preventable maternal deaths.”

—Committee on the Elimination of Discrimination against Women

The government’s criminalization of abortion has led to serious violations of women’s reproductive rights.

For the past decade, UN treaty monitoring bodies have repeatedly expressed concern about the high number of unsafe abortions in the Philippines and urged the government to review its abortion ban, decriminalize the procedure, and legalize it on certain grounds, such as to save or protect the life or health of the pregnant woman, in cases of pregnancies resulting from rape or incest, and in cases of fetal impairment. These bodies found that restricting access to safe abortions effectively leaves women no option but to resort to unsafe abortions and violates a broad range of human rights. The Committee on the Elimination of Discrimination against Women (CEDAW Committee), the Human Rights Committee, and the Committee on Economic, Social and Cultural Rights have expressed concerns about violations of the rights to life, health, privacy, and nondiscrimination arising from the Philippine criminal abortion ban due to its link to maternal mortality and morbidity. These bodies also noted the specific barriers faced by vulnerable subgroups of women, including socioeconomically disadvantaged women, adolescent girls, and survivors of sexual violence. In 2012, the CEDAW Committee conducted a special inquiry and found grave and systematic violations of women’s rights to make informed decisions about the number and spacing of their children, equality and nondiscrimination, health, and access to effective legal remedies arising from restrictions on reproductive rights including the criminal abortion ban. In 2016, the Committee against Torture also expressed concern about the ill-treatment of women seeking post-abortion care.

Independent human rights experts have expressed similar concerns. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has recognized the long-term and immense negative effects of denying women abortion and post-abortion care services, noting that they amount to torture and ill-treatment. The Special Rapporteur on health has also criticized abortion bans as government intrusion into women’s reproductive rights and human dignity, coercing women to continue with unwanted or unplanned pregnancies. Further, the Special Rapporteur on violence against women has noted that gender-based violence, including lack of access to safe abortions, violates women’s “right to participate in and contribute to sustainable development.”
The Philippines must honor its international commitments to uphold women’s reproductive rights.

In November 2016, the Philippine Commission on Human Rights made an unprecedented recommendation for Congress to review the abortion ban and to consider the recommendations of the CEDAW Committee to decriminalize abortion, and in particular to permit the procedure where there is a threat to the woman’s life and/or health and in cases of rape, incest, or serious fetal impairments. The government’s immediate action is required to fulfill its obligations to protect women’s lives and health, eliminate gender discrimination, and ensure respect for women’s dignity.

Abuses against women seeking post-abortion care

The criminalization of abortion creates a vicious cycle of impunity for abuses and ill-treatment of women seeking post-abortion care. While there are national laws and policies guaranteeing the right to compassionate, humane, and nonjudgmental treatment for abortion-related complications, the penal provisions on abortion portray women as criminals undervaluing of respectful, quality care. There is no legal obligation to report cases of abortion, unlike some acts that are prohibited by law, but the practice continues; the CEDAW Committee has recommended that women seeking post-abortion care must not be “reported to authorities, threatened with arrest, or subjected to physical or verbal abuse, discrimination, stigma, delays in access to or denial of care.”

To facilitate women and girls’ access to post-abortion care and redress in cases of violations, the government must establish and enforce effective accountability mechanisms that provide timely and appropriate remedies and remove all barriers that impede women’s access to justice.

Endnotes

1 A pseudonym has been used to protect the woman’s identity due to the criminal ban.
2 Revised Penal Code, Act No. 3815, arts. 256–59 (Phil.).
3 Const. (1987), art. II, sec. 12 (Phil.).
7 Lawrence B. Fink & Rubina Hussain, Unintended Pregnancy and Unsafe Abortion in the Philippines: Context and Consequences, In Brief (Guttmacher Inst. 3 2013).
8 Id.
9 Id. at 5.
13 CEDAW Committee, Summary of the inquiry, supra note 12, para. 33.
14 The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, paras. 46-50, 59, U.N. Doc. A/ HRC/22/53 (Feb. 1, 2013).
20 CEDAW Committee, Summary of the inquiry, supra note 12, para. 52(v).