



April 11, 2014

Dear Committee Members:

The Center for Reproductive Rights (CRR), an international human rights organization with offices in the United States, Nepal, Kenya, Colombia, and Switzerland, respectfully prepared this letter to assist the Committee against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT Committee) during the 52nd Session in its review of the Holy See's compliance with the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention against Torture) and the adoption of its Concluding Observations.

CRR respects the right of each individual to freedom of religion and acknowledges the importance of religious institutions in the lives of people, including the role they may play in ensuring respect for human dignity. As with any party to an international human rights treaty, however, the Holy See is bound to respect, protect, and fulfill a range of human rights through its policies and its actions. As such, this letter focuses on violations of key provisions of the Convention against Torture associated with the Holy See's policies on abortion and contraception, as well as actions taken by the Holy See and its subsidiary institutions to prevent access to reproductive health information and services in countries around the world.

## **I. The Holy See's Obligations under the Convention against Torture**

- A. The Holy See maintains the same duties under the Convention against Torture as any other party to the Convention, including an obligation to respect, protect, and fulfill the right to be free from torture or ill-treatment in the Vatican City-State and in places where it has effective control, including Catholic institutions worldwide.

Although the international legal status of the Holy See is uncertain,<sup>1</sup> the Holy See has been permitted to ratify three of the international human rights treaties: the Convention against Torture, the Convention on the Elimination of Racial Discrimination (CERD), and the Convention on the Rights of the Child (CRC). The Holy See ratified CERD in 1969, the CRC in 1990 (and its optional protocols in 2001), and the Convention against Torture in 2002.

When ratifying the Convention against Torture, the Holy See filed a declaration in which it stated that "in becoming a party to the Convention on behalf of the Vatican City State, [it] undertakes to apply it insofar as it is compatible, in practice, with the peculiar nature of that State."<sup>2</sup> This implies that the Holy See believes it has a special status under the Convention against Torture and should be held to a different, and potentially lower, standard than other parties. Despite the declaration to

the Convention against Torture, **the CAT Committee should hold the Holy See to all obligations under the Convention, both within the Vatican City-State and as it relates to actions by Catholic institutions or Catholic officials abroad**, in line with the interpretations of these obligations by other treaty bodies and in line with the CAT Committee’s own jurisprudence on obligations of parties to the Convention, as outlined below.

Although the Holy See did not lodge any declarations in its much earlier ratifications of the CRC and CERD, its reviews by the CRC and CERD Committees provide a guide to the Holy See’s obligations under international human rights conventions, including the Convention against Torture. In its 2014 review of the Holy See, the CRC Committee treated the Holy See as both a domestic and international actor and criticized Holy See policies and the actions of Catholic institutions in countries across the world. Indeed, the CRC Committee found that:

While being fully conscious that bishops and major superiors of religious institutes do not act as representatives or delegates of the Roman Pontiff, the Committee nevertheless notes that subordinates in Catholic religious orders are bound by obedience to the Pope in accordance with Canons 331 and 590. *The Committee therefore reminds the Holy See that by ratifying the Convention, it has committed itself to implementing the Convention not only on the territory of the Vatican City State but also as the supreme power of the Catholic Church through individuals and institutions placed under its authority.*<sup>3</sup>

This interpretation is consistent with how both the CRC and CERD Committees have treated the Holy See’s status under their respective conventions in past reviews dating back to the 1990s.<sup>4</sup>

The CAT Committee’s jurisprudence also supports the interpretation that parties like the Holy See, despite their unique status, should be held to all of the obligations of the Convention. According to the CAT Committee’s General Comment No. 2, parties to the Convention against Torture have an obligation to prevent torture in “all areas where the State party exercises, directly or indirectly, in whole or in part, de jure or de facto **effective control**, in accordance with international law.”<sup>5</sup> The CAT Committee has previously interpreted this to place an obligation on parties to “ensure that the provisions of the Convention... apply to, and are fully enjoyed, by all persons under the effective control of its authorities, of whichever type, wherever located in the world.”<sup>6</sup> According to the International Law Commission’s Articles on State Responsibility for Internationally Wrongful Acts, which includes acts that are in violation of a state’s international obligations, effective control may extend even to situations in which a state “aids or assists another State in the commission of an internationally wrongful act,” including when the state does so “with knowledge of the circumstances of the internationally wrongful act” and when “[t]he act would be internationally wrongful if committed by the State.”<sup>7</sup>

Additionally, parties to the Convention against Torture bear responsibility for acts or omissions by their officials concerning torture or ill-treatment, “including agents, private contractors, and others acting in official capacity or acting on behalf of the State, in conjunction with the State, under its direction or control, or otherwise under **colour of law**.”<sup>8</sup> The International Law Commission’s Articles on State Responsibility provide further guidance on this concept, noting that “[t]he conduct of a person or group of persons shall be considered an act of a State under international

law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.”<sup>9</sup>

Finally, with specific regards to the status of the Holy See as a religious institution, the CAT Committee has found that the prohibitions on both torture and ill-treatment are non-derogable under international law, and **in particular the Committee “rejects any religious or traditional justification that would violate this absolute prohibition.”**<sup>10</sup> The Human Rights Committee has also specifically found that religious freedom does not trump other human rights, and states maintain the obligation to respect, protect, and fulfill the range of human rights even if there may be conflict with religious authority.<sup>11</sup>

Under the Catholic hierarchy, the Holy See has effective control over many Catholic institutions located in other countries, particularly when those institutions are headed by cardinals, who are directly appointed by the Pope and serve under him in the Catholic hierarchy.<sup>12</sup> However, as the CRC Committee found, this effective control also extends to where bishops or other lower-level church officials hold office. These lower-level officials are bound to obedience to the Pope, who has the authority to discipline, suspend, call for investigations into the actions of, and accept the resignation of these officials.<sup>13</sup> These officials are also acting within the color of law, as they act may act under the direction or control of those higher in the Catholic hierarchy or act within the scope of canon law.<sup>14</sup> As such, **the Holy See should be held to its obligations to respect, protect, and fulfill the rights under the Convention against Torture as would any other state party, both within the Vatican City-State and anywhere in which the Holy See has effective authority or control, such as in Catholic institutions and over Catholic officials abroad.**<sup>15</sup>

- B. The Holy See’s rhetorical influence over individuals and states, stemming from its “peculiar nature” and religious authority, places on it a particular obligation to ensure that its policies and statements align with the Convention against Torture, as a means of preventing torture and ill-treatment under Article 2.

As the Holy See’s state report and declaration in ratifying the Convention against Torture suggest, the Holy See is of a “peculiar nature.” This peculiar nature stems not only from the limited population and territory of the Vatican City-State but also the rhetorical influence and physical presence of the Holy See in countries around the world. Although the Holy See maintains the same obligations under the Convention against Torture as any other party, its implementation of the Convention is necessarily different from other parties because the Holy See primarily expresses its compliance with the Convention through policies and statements that have significant power over both individuals and states, particularly in territories outside of the Vatican City-State.<sup>16</sup>

Because of the Holy See’s “peculiar nature,” it does not provide services to most of the individuals it affects, nor does it directly develop the state policies that result in torture or ill-treatment. Instead, the Holy See’s actions under the Convention against Torture are often expressed through its advocacy with decision-makers in other states, through media and through religiously affiliated institutions. Its actions under the Convention therefore are frequently expressed through its rhetorical influence upon policy-makers, service providers, and individuals.

Indeed, in its state report to the CAT Committee, the Holy See outlines this rhetorical influencing by showing that it has implemented the Convention against Torture through statements from the Pope and other Vatican officials in the exercise of their religious authority. For instance, the Holy See reports that:

...it intends also to manifest its moral authority and thereby encourage States to ratify the treaty and to accomplish their respective obligations. Indeed, within the international community the Holy See promotes juridical, social and moral principles founded upon right reason which are addressed to the whole of humanity and not to Catholic believers alone. ... The Holy See, for its part, is making every effort to advance moral principles and conditions for ensuring peace, justice and social progress in a context of ever more effective respect for and promotion of the human person and of his or her rights.<sup>17</sup>

The Holy See then goes on to lay out its role in providing education about human rights as a means of implementing the Convention against Torture, stating that it “teaches that torture and other CIDPT are contrary to the inherent dignity of each and every person, and his or her rights to life and to bodily integrity.”<sup>18</sup>

This rhetorical influence is far-reaching. There are approximately 1.2 billion Catholics in the world, representing about 17 percent of the world’s total population, who look to the Holy See for spiritual guidance.<sup>19</sup> For many, Catholic institutions are a fundamental part of their social and cultural lives. Catholicism is the state religion in five countries,<sup>20</sup> and in several others countries’ laws and constitutions, Catholic institutions are given special recognition.<sup>21</sup> The Holy See has also negotiated treaties called concordats, which give special protections to Catholic institutions, with at least nine countries.<sup>22</sup> Indeed, the constitution of Malta goes so far as to state that “[t]he authorities of the Roman Catholic Apostolic Church have the duty and the right to teach which principles are right and which are wrong.”<sup>23</sup> Although these states themselves maintain the primary responsibility to protect their citizens from torture or ill-treatment, the relationship between the Holy See and these states gives the Catholic hierarchy particular influence on state officials and the private lives of individuals within them, which means that the Holy See may aid or assist in violations of international human rights law and that Holy See officials may instigate, incite, or encourage such violations by other states.<sup>24</sup>

With this in mind, the CAT Committee should pay special attention to the Holy See’s obligations under Article 2 of the Convention, which requires parties to “take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”<sup>25</sup> The obligation to prevent torture and ill-treatment under Article 2 requires parties to the Convention to, among other obligations:

- Change laws to “eliminate any legal or other obstacles that impede the eradication of torture and ill-treatment; and to take positive effective measures to ensure that such conduct and any recurrences thereof are effectively prevented;”<sup>26</sup>
- Prevent officials and people acting in an official capacity “from directly committing, *instigating, inciting, encouraging, acquiescing in* or otherwise participating or being complicit in acts of torture...;”<sup>27</sup> and

- Protect marginalized groups, including women, from torture and ill-treatment, including by “fully prosecuting and punishing all acts of violence and abuse against these individuals and ensuring implementation of other positive measures of prevention and protection...”<sup>28</sup> and providing protections in “contexts in which females are at risk, includ[ing] deprivation of liberty, medical treatment, particularly involving reproductive decisions, and violence by private actors in communities and homes.”<sup>29</sup>

The CAT Committee thus should give special consideration to whether the Holy See uses its rhetorical influence to eliminate laws and policies that impede the eradication of torture or ill-treatment, prevent Catholic officials from instigating, inciting, encouraging, or acquiescing in torture or ill-treatment, and provide effective protections for women from torture and ill-treatment. As noted above, these obligations extend outside the Vatican City-State and should be measured in Catholic institutions around the world.

## **II. Areas of Concern in the Holy See’s Implementation of the Convention against Torture**

The CAT Committee and other human rights institutions have recognized that a number of state policies and actions that violate reproductive rights may constitute torture or ill-treatment, as summarized in the Annex below. This section explores how the Holy See has directly and indirectly been involved in perpetuating reproductive rights abuses, through its policies and actions on the ground in many countries, in violation of its duty to prevent torture or ill-treatment under Article 2 of the Convention against Torture, read in conjunction with Articles 1 and 16.

### **A. The Holy See’s canon law concerning abortion, specific actions taken to shame and condemn women who have undergone and doctors who have performed abortions, and interference in state efforts to permit abortion and prevent torture and ill-treatment, violate the Holy See’s obligations under Articles 1, 2, and 16.**

1. The Holy See’s canon law on abortion constitutes an absolute ban and thus violates its obligations under Articles 1, 2, and 16.

Section 1398 of the Holy See’s canon law, which governs the external life of Catholic institutions and is the closest equivalent to state law that the CAT Committee would review for a more traditional state party, states that “[a] person who procures a completed abortion incurs a *latae sententiae* excommunication,” or automatic excommunication, the most severe religious punishment under the canon law.<sup>30</sup> A *latae sententiae* excommunication occurs without the need for a ruling by church officials but rather is automatically applied as soon as the act for which the person is being excommunicated is performed (i.e. as soon as a woman completes an abortion). This excommunication not only applies to women who undergo abortions but also to anyone else if the abortion “would not have been committed without their efforts,”<sup>31</sup> which could include doctors, spouses, or guardians. It is unclear whether, under Section 1398 of the canon law, Catholic politicians or other Catholics who support legalizing abortion are subject to excommunication.<sup>32</sup>

The Catechism of the Catholic Church (the Catechism), a document that provides authoritative interpretations of canon law,<sup>33</sup> provides further guidance on the Holy See’s policy on abortion, stating that the right to life begins at the moment of conception, that direct abortion is a violation

of moral law, and that participation in abortion is also a grave offense.<sup>34</sup> The Catechism also provides that “[t]he legitimate defense of persons and societies is not an exception to the prohibition against the murder of the innocent that constitutes intentional killing,” which indicates that therapeutic abortion to protect a pregnant woman’s life would still not be permitted.<sup>35</sup> There is also no recognition of abortion in situations such as when the pregnancy poses a risk to the woman’s health, when it is a consequence of a crime such as rape or incest, or when there is a fetal impairment. Indeed, as cases described below illustrate, representatives of the Holy See have specifically condemned women who have undergone and doctors who have performed abortions for these purposes, including in places outside of the Vatican City-State, showing that the Holy See intends for the canon law prohibition on abortion to extend outside the borders of the Vatican City-State.<sup>36</sup> In effect, Section 1398 of the canon law constitutes an absolute ban on abortion.

As noted above, Article 2 of the Convention against Torture requires that parties eliminate laws and policies that impede the eradication of torture or ill-treatment.<sup>37</sup> The CAT Committee has consistently condemned states that have adopted absolute bans on abortion and called on parties to the Convention against Torture to ensure that their laws and policies allow for legal abortion, at least in cases where the life or health of a pregnant woman is at risk and in cases of sexual violence.<sup>38</sup> In its concluding observations concerning the Holy See, the CRC Committee found the Holy See’s position on abortion “places obvious risks on the life and health of pregnant girls.”<sup>39</sup> As the Holy See’s policy on abortion does not permit abortion in any circumstances, it *prima facie* fails to prevent torture and ill-treatment of women who seek abortion.

2. The Holy See has directly perpetuated torture or ill-treatment by publicly excommunicating women who have undergone and doctors who have performed abortions, causing severe mental suffering in violation of the Holy See’s obligations under Articles 1, 2, and 16.

Representatives of the Holy See and other church officials have attempted to shame women and guardians of minors who have sought abortions as well as the doctors who have performed them by publicly announcing their excommunications. These actions have both interfered with state efforts to prevent torture or ill-treatment of women and also contributed to torture or ill-treatment by creating severe mental suffering for women who are subjected to public and private derision.

A 2009 case from Brazil, which has the largest population of Catholics in the world,<sup>40</sup> clearly illustrates this point. After years of sexual abuse by her stepfather, a nine-year-old girl from Pernambuco, Brazil, became pregnant with twins. While experiencing severe stomach pains during her fourth month of pregnancy, doctors performed an emergency abortion. At the time in Brazil, abortion was legal to protect the life or health of a pregnant woman or in cases of sexual violence. As such, the abortion was legal and performed because doctors believed the pregnancy put the girl’s life at risk,<sup>41</sup> and it would also have been legal because the pregnancy was a result of rape. According to the CAT Committee’s concluding observations, parties to the Convention against Torture are obligated to ensure access to abortion in cases where a pregnant woman’s life is at risk or in cases of sexual violence, among other grounds needed to ensure that women are protected from torture or ill-treatment.<sup>42</sup>

Following the abortion, a church official in Brazil, Archbishop Jose Cardoso Sobrinho, publicly announced the *latae sententiae* excommunication of the 9-year-old girl's mother, who had consented to the abortion, as well as doctors who performed the abortion.<sup>43</sup> The Holy See provided direct support for the Archbishop's statement through Cardinal Giovanni Batista Re, a Vatican official who headed the Pontifical Commission for Latin America, who later announced his support for this decision by stating that "[l]ife must always be protected. The attack on the Brazilian church is unjustified."<sup>44</sup> At the same time, neither the Vatican nor Catholic institutions in Brazil took any formal steps, such as excommunication, to condemn the stepfather who had abused the girl, instead stating that the sexual abuse he committed was not as grave as the actions taken by the girl's mother and doctors when they decided to perform an abortion.<sup>45</sup>

Vatican officials also interfered with access to abortion for a pregnant girl in Nicaragua in 2003. The girl, known as Rosa, was nine years old when she was raped and became pregnant as a result. Under Nicaragua's restrictive abortion law at the time, abortion was banned in all circumstances but permitted to protect the life of a pregnant woman, and doctors in this case confirmed that, due to the girl's young age, her life was at risk if she continued the pregnancy. Her parents made the decision for her to receive an abortion, and doctors in Nicaragua performed the procedure.<sup>46</sup>

After the abortion was performed, Cardinal Miguel Obando y Bravo, who was appointed by the Vatican and also served as the head of the Nicaraguan Bishops Council, publicly confirmed that the doctors and parents in this case had received a *latae sententiae* excommunication under Section 1398 of the canon law, equating abortion with the terrorist act of planting a car bomb on a bus full of passengers.<sup>47</sup> In an interview with the BBC, another Vatican official, Cardinal Alfonso Lopez Trujillo of the Vatican's Pontifical Council for the Family, expressed his support for Cardinal Obando's decision, stating that, "public opinion was quite confused with regard to that case. It did not spare a thought to defending the rights of unborn babies who are people who have a right to live. The church wanted to help this young girl, who she'd have been helped up until the birth of her child. But it also came out and stated the truth. And the truth is that human life is inviolable."<sup>48</sup>

Catholic officials also interfered in a 2013 case in El Salvador, in which a woman named Beatriz who had an aggravated case of lupus and kidney failure wished to undergo an abortion because her pregnancy put her health and life at risk and because the fetus was not viable.<sup>49</sup> Beatriz's doctors agreed that she needed the abortion to protect her life and health, but in El Salvador, abortion is outlawed in all circumstances, following a change to the law in 1997. Despite a call from the UN Special Rapporteurs on Torture, Violence against Women, and Health to ensure access to abortion in this "cruel, inhumane and degrading situation,"<sup>50</sup> the Archbishop of San Salvador, Jose Luis Escobar Alas, called on the state to prevent the abortion.<sup>51</sup> Although an Archbishop is not a Vatican appointee, he was acting under the color of law and effective control of the Holy See because he was acting under Section 1398 of the canon law and, as noted above, canon law requires his obedience to the Pope and his adherence to Holy See policies.<sup>52</sup> After several months of delay, and the issuing of precautionary measures by the Inter-American Commission on Human Rights to implement the doctors' recommendation to perform the abortion, the El Salvadoran government allowed the pregnancy to be terminated in June 2013.<sup>53</sup>

Vatican and other church officials have also caused severe mental suffering to women and girls by shaming them for considering abortion or choosing to undergo abortion. This shaming was

particularly evident in the European Court of Human Rights case of *P. and S. v. Poland*, in which a 14-year-old girl who became pregnant after she had been raped faced numerous barriers to accessing a lawful abortion, including biased counseling, breach of confidentiality, the unregulated practice of conscientious objection, and removal from her mother’s custody.<sup>54</sup>

In Poland, more than 90 percent of the population identifies as Catholic, a larger percentage than in almost any other country,<sup>55</sup> and this fact has a profound impact on the relationship between the church and state institutions, including health care institutions. This relationship can lead to abuse. For instance, in addition to barriers imposed by the state to accessing abortion, the 14-year-old girl was given unwanted counselling by a Catholic priest, who had obtained information about her pregnancy from health officials in violation of the girls’ rights to confidentiality.<sup>56</sup> The priest in this case used his authority to not only obtain information about the girl and get permission to speak with her in the hospital despite her mother’s protests, but also to try to convince the girl to reconsider an abortion. The priest then took her mobile phone number and gave it to anti-abortion activists in the country who went on to bully and harass her.<sup>57</sup> The priest also threatened to lodge a complaint with the court to put the girl into a Catholic home for single mothers.<sup>58</sup>

The European Court of Human Rights, in finding that Poland had violated the right to be free from inhuman and degrading treatment, stated that “the general stigma attached to abortion and to sexual violence has been shown to deter women from seeking medical care, causing much distress and suffering, both physically and mentally,”<sup>59</sup> a stigma that is likely associated with the profound influence of the Catholic hierarchy in the country.

Indeed, the Holy See’s policy on abortion and actions condemning women who undergo abortion have created stigma for women who need in the procedure in many countries. Women in the Philippines, which has the third largest population of Catholics in the world and where more than 80 percent of the population is Catholic,<sup>60</sup> have expressed that they experience significant stigma that shapes their self-perception in negative ways when making the decision to undergo abortion. This stigma results from both a law condemning abortion that was heavily influenced by the Catholic hierarchy in the country, as well as the Catholic hierarchy’s direct condemnation of the procedure.<sup>61</sup> These women often perceive themselves as having committed a crime and live in fear of prosecution, and because of vocal condemnation of abortion led by the Catholic hierarchy, they also are caught in a conflict between their personal well-being and common perceptions of morality, creating further stigma.<sup>62</sup> Even doctors who sympathize with women who undergo abortions in the Philippines feel the stigma from their peers because of restrictive laws, personal religious values, and the Catholic hierarchy’s propaganda against abortion in the Philippines.<sup>63</sup> Women in the Philippines often die or suffer grave complications from unsafe abortion procedures and are frequently denied emergency post-abortion care—which is legal—due to the stigma surrounding abortion and the chilling effect of the criminal prohibition of abortion.<sup>64</sup>

3. The Holy See has indirectly contributed to torture and ill-treatment perpetuated by other states by negatively interfering with the development of state policy on abortion, in violation of its obligations under Articles 1, 2, and 16.

The Holy See has interfered in the development of legislation that needed by other countries to bring them in line with the Convention against Torture by attempting to dissuade countries from



legalizing abortion in certain circumstances and pushing politicians in these countries to outlaw abortion in all circumstances. Although the Holy See interfered with many countries' development of reproductive health legislation prior to its ratification of the Convention against Torture in 2002, the instances described below have all occurred since the Holy See's ratification of the Convention and represent violations of the Holy See's obligation to prevent torture and ill-treatment under Articles 1, 2, and 16.

In 2009, the legislature in Peru considered legalizing abortion in cases of sexual violence and fetal impairment. These proposed legal changes followed a 2005 decision from the Human Rights Committee in *K.L. v. Peru*, in which the Human Rights Committee found that denial of access to abortion in a case of severe fetal impairment could cause a pregnant woman to experience severe physical or mental suffering amounting to ill-treatment.<sup>65</sup> The proposed legal changes in Peru also followed concluding observations from the CAT Committee in 2006 in which the Committee recognized that “[c]urrent legislation severely restricts access to voluntary abortion, even in cases of rape, leading to grave consequences...” and called on Peru to “take whatever legal and other measures are necessary to effectively prevent acts that put women’s health at grave risk,” including by “providing the required medical treatment...”<sup>66</sup>

However, the Peruvian Bishops Conference, headed by Cardinal Juan Luis Cipriani, a Holy See appointee, classified these potential legal changes as paramount to the death penalty and, according to news reports, openly lobbied lawmakers to reject the measure.<sup>67</sup> The attempts by the Catholic hierarchy, including Cardinal Cipriani, to prevent and undermine the changes required to bring Peru into compliance with the Convention against Torture were ultimately successful, as the Peruvian legislature failed to pass the legislation.

In 2006, a campaign by the Catholic Church led Nicaragua to outlaw abortion in all circumstances, even when the life of a pregnant woman is at risk, carrying prison terms for women who undergo abortions and doctors who perform them.<sup>68</sup> Although Nicaragua's policy on abortion had been restrictive prior to 2006, it had still allowed abortions in exceptional circumstances when a pregnant woman's life was at risk. To support the 2006 measure eliminating all grounds for abortion, the Catholic hierarchy in Nicaragua undertook an ad campaign and a rally in the capital Managua to support the bill, and according to news reports, the final bill drew heavily from text originally drafted by the Nicaraguan Catholic Bishops Conference, which as noted above is headed by a Vatican-appointed Cardinal.<sup>69</sup>

The Holy See's influence on the formation of policies affecting reproductive health, including abortion, is particularly apparent in the Philippines. Despite constitutional guarantees of religious freedom and separation of church and state, in practice the Catholic hierarchy in the Philippines, particularly the Catholic Bishops Conference of the Philippines (CBCP), exerts significant influence over the reproductive rights of Filipino women through its active involvement in legislative and other political processes, including constitutional reforms in 1987 which give equal legal protection to lives of women and fetuses.<sup>70</sup>

This influence extends to the guidelines for when medical procedures resulting in abortion are permitted, even though Filipino law does not explicitly allow abortion in any circumstances. The Philippine Obstetrical and Gynecological Society (POGS) guidelines on “Ethical Issues in

Fetomaternal Care” establish that termination of pregnancy may only be allowed where it is consistent with this principle of “double effect.”<sup>71</sup> “Double effect” is a concept drawn directly from the Catechism, which provides that “[t]he act of self-defense can have a double effect: the preservation of one's own life; and the killing of the aggressor. . . . The one is intended, the other is not.”<sup>72</sup> As such, these guidelines allow for medication or treatment that will likely result in the termination of pregnancy only where the intended effect is to treat another medical condition and not to cause the abortion itself, such as removal of a woman’s fallopian tube to treat ectopic pregnancy<sup>73</sup> or chemotherapy to treat certain forms of cancer.<sup>74</sup> The fact that POGS has developed this policy on abortion shows the particular impact of the Catholic hierarchy on access to reproductive health services in that country.

### *Recommendations for Concluding Observations*

- Note that the Holy See has failed in its obligation to refrain from instigating, inciting, encouraging, or acquiescing in torture or ill-treatment, and has failed to provide particular protections for women from torture or ill-treatment, by publicly condemning women who have undergone abortions and doctors who perform abortions, in an attempt to stigmatize abortions that are needed to ensure the protection of fundamental human rights and prevent torture and ill-treatment. Note that this is a violation of the Holy See’s obligations under Articles 1, 2, and 16 of the Convention against Torture and urge the Holy See to refrain from taking actions which interfere in the decisions of women and girls about whether to undergo an abortion.
- Note that the Holy See has negatively interfered with states’ attempts to develop legislation on abortion that would have served to better protect women from torture or ill-treatment. Note that the Holy See’s actions are a violation of Articles 1, 2, and 16 of the Convention against Torture and that the rights of freedom of speech and of religion extend only so far as they do not undermine women’s reproductive rights, including the right to be free from torture or ill-treatment.. Urge the Holy See to refrain from negatively interfering publicly or privately in women’s and legislators’ decisions concerning access to abortion and to support states as they attempt to align their policies on women’s reproductive rights with their obligations under the Convention.
- Urge the Holy See to review its position on abortion in order to permit abortion for women and girls, including when their lives and physical or mental health are at risk, when there is a non-viable fetus, when they are the victims of sexual violence, or any other circumstance in which they experience severe physical or mental pain or suffering.

### **B. The Holy See’s policy on accessing contraception, including emergency contraception, and interference in state efforts to allow access to contraception, violate its obligations under the Articles 2 and 16.**

Although canon law does not address whether Catholics are permitted to use contraception, the Catechism, in describing Catholic duties related to marriage, indicates that the use of contraceptive methods, including sterilization, to prevent pregnancy is “intrinsically evil.”<sup>75</sup> Although the Catechism enumerates that “[t]he regulation of births represents one of the aspects of responsible fatherhood and motherhood,” it also finds that “[I]legitimate intentions on the part of the spouses do not justify recourse to morally unacceptable means (for example, direct sterilization or contraception).”<sup>76</sup>

The *Humanae Vitae*, a document produced by the Holy See to guide Catholic institutions and individuals, indicates that couples may avoid pregnancy using natural cycles when “there are well-grounded reasons for spacing births, arising from the physical or psychological condition of husband or wife, or from external circumstances...”<sup>77</sup> It goes on to state that the ban on contraception is actually intended as a protection for women, because “a man who grows accustomed to the use of contraceptive methods may forget the reverence due to a woman, and, disregarding her physical and emotional equilibrium, reduce her to being a mere instrument for the satisfaction of his own desires, no longer considering her as his partner whom he should surround with care and affection.”<sup>78</sup> **In effect, however, the ban on contraception serves to discriminate against women, who are subjected to unwanted pregnancies that put their physical, mental, and social well-being at risk and may even pose a risk to their lives.**

Catholic institutions in several countries, influenced by Vatican policies and sometimes with direct action from Vatican-appointed officials, have worked to prevent states from passing legislation to increase access to contraception. For instance, the government of the Philippines has repeatedly attempted to pass new reproductive health legislation that would increase access to contraceptives for women. However, the operational arm of the Catholic hierarchy in the Philippines, the Catholic Bishops Conference of the Philippines (CBCP), has often used its rhetorical influence to interfere.

The CBCP has legal representation that allows it to participate in Congressional hearings and consultations,<sup>79</sup> and it used this to campaign against a reproductive health bill in 2010. The CBCP also threatened the candidacies of politicians supporting the reproductive health bill by calling for Catholics to vote against candidates who support birth control.<sup>80</sup> The CBCP stated that voters who elect candidates that support the reproductive health bill would be “willing accomplices to ‘evil,’”<sup>81</sup> a statement that is in line with the Catechism’s assessment of the use of contraceptives and has a profound influence on Catholics in this predominantly Catholic country.

In late 2012, when the Filipino government was again considering the passage of a reproductive health bill that would have allowed access to contraceptives in public hospitals, the Archbishop of Cebu, head of the CBCP, wrote a letter to legislators directly quoting the Pope and urging legislators to uphold Catholic policy on access to contraception<sup>82</sup> while stating in another letter that “contraception corrupts the soul.”<sup>83</sup> Although the reproductive health bill was eventually signed into law in December 2012, it has not yet gone into effect because of challenges against it in the national courts, including challenges from an organization supported by the CBCP and the Holy See.<sup>84</sup> Members of the CBCP continue to protest the legislation, including in a recent rally held by the Archbishop of Lipa, who denounced supporters of the law as being “misled by the evil one.”<sup>85</sup>

Denial of access to affordable contraception in the Philippines has a profound impact on women’s lives, sometimes causing severe physical or mental pain and suffering. In reports from 2007 and 2010 on the Philippines, CRR and its partners Linangan ng Kababaihan, Inc. (Likhaan), Reproductive Health, Rights and Ethics Center for Studies and Training (ReproCen) documented how denial of access to contraception, including sterilization, in public health facilities, according to a Manila City Executive Order, has a particularly devastating impact on poor women.<sup>86</sup> Women in Manila City reported mental anguish, including fear and anxiety, at the thought of getting

pregnant again because they could not afford unsubsidized contraception outside of the public health facilities.<sup>87</sup> One mother who prior to the ban had accessed free injectable contraception from public health facilities reported that she felt “anxious and fearful of the change and of getting pregnant if I don’t have money to buy pills... 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.”<sup>88</sup>

Even where another pregnancy would threaten the life or health of a woman, doctors at public health facilities in the Philippines could still not provide contraception, including sterilization, contributing to higher rates of maternal mortality and morbidity.<sup>89</sup> After one woman suffered severe complications during her eighth pregnancy, with only seven months since her last delivery, doctors advised her to have a tubal ligation, a form of sterilization. Under the Manila City Executive Order, however, this could not be provided in the public hospital. The woman reported that “I get nervous with every pregnancy. I think that the moment I give birth will be the time I will die. That I won’t survive childbirth for the doctor said my uterus is already thin.”<sup>90</sup> Another woman, who doctors also advised to have a tubal ligation to preserve her health following a difficult fourth pregnancy, was referred to a private hospital for the procedure but could not afford the 2,000 peso (approximately US\$45) fee.<sup>91</sup>

Some women in the Philippines who tried to avoid sex with their husbands because of fear of pregnancy and lack of adequate contraception reported that they were then subjected to physical and sexual violence or were abandoned.<sup>92</sup> One woman reported that “[s]ometimes when there’s no money to buy condoms and I don’t want to have sex with my husband, he gets angry and forces me.”<sup>93</sup> Another woman reported that her husband would quarrel with her when she 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.”<sup>94</sup>

As noted above, Article 2 of the Convention against Torture requires that parties eliminate laws and policies that impede the eradication of torture or ill-treatment.<sup>95</sup> The CAT Committee has previously noted that policies denying access to emergency contraception for victims of rape violate the Convention against Torture because they expose women to severe mental suffering.<sup>96</sup> In its concluding observations to the Holy See in January 2014, the CRC Committee noted the particular “negative consequences of the Holy See’s position and practice of denying adolescents access to contraception and to sexual and reproductive health and information,”<sup>97</sup> including the particular dangers of unwanted pregnancies to adolescent girls that result in higher maternal mortality and morbidity rates.<sup>98</sup> As described above, the severe physical or mental suffering faced by women and girls who are denied access to contraception could constitute ill-treatment, and the CAT Committee should view the Holy See’s policy, which denies access to contraception in all circumstances, as a violation of its duty to prevent torture and ill-treatment under Articles 2 and 16 of the Convention against Torture.

#### *Recommendations for Concluding Observations to the CAT Committee*

- Note that the Holy See’s policy on denying access to contraception has a particularly negative impact on women who may be subjected to unwanted pregnancies, causing severe physical or mental suffering in violation of the Holy See’s obligations under Articles 2 and 16. Urge the Holy See to review its position on contraception and to permit access to

contraception, including emergency contraception, in order to avoid the severe physical and mental pain and suffering that can result from unwanted pregnancies, including potential maternal mortality and morbidity.

- Note that the Holy See has taken actions which negatively interfered with states' attempts to ensure access to contraceptives to prevent unwanted pregnancies that could cause severe physical or mental pain and suffering in violation of Articles 2 and 16. Note that these actions affect marginalized groups of women and adolescent girls in particular, because these groups may not be able to afford unsubsidized contraceptives. Urge the Holy See to refrain from negatively interfering publicly or privately in women's and legislators' decisions concerning access to contraception and to support states as they attempt to align their policies on women's reproductive rights with their obligations under the Convention against Torture.

Thank you for your consideration of this shadow letter for your periodic review of the Holy See. Please do not hesitate to contact me if you have any questions or require further information.

Kind regards,



Rebecca Brown  
Global Advocacy Director  
Center for Reproductive Rights

## **Annex: Summary of Reproductive Rights Obligations for all Parties to the Convention against Torture**

### **1. Denial of access to abortion may constitute torture or ill-treatment**

The CAT Committee has affirmed that denial of abortion can amount to torture or ill-treatment in certain circumstances.<sup>99</sup> This includes in countries where abortion is illegal in all cases, where the CAT Committee has found that the policies themselves violate the Convention against Torture. As the CAT Committee noted in its 2006 review of Nicaragua, which passed a law that year banning all abortions, “there have been several documented cases in which the death of a pregnant woman has been associated with the lack of timely medical intervention to save her life, in clear violation of numerous ethical standards of the medical profession.”<sup>100</sup> In its concluding observations, the Committee urged Nicaragua to decriminalize therapeutic abortion, as recommended by the UN Human Rights Council, the Committee on the Elimination of Discrimination against Women (CEDAW Committee), and the Committee on Economic, Social, and Cultural Rights (ESCR Committee).<sup>101</sup>

The CAT Committee has also found that legal restrictions on access to abortion in other circumstances, including pregnancies caused by rape or incest, may constitute torture or ill-treatment because of the severe physical or mental consequences of carrying an unwanted pregnancy. In its 2011 review of Paraguay, the CAT Committee expressed concern about a law that outlawed abortion in cases of sexual violence, incest, or when the fetus is not viable. The Committee stated that under this law, women who become pregnant after sexual violence “are constantly reminded of the violation committed against them, which causes serious traumatic stress and carries a risk of long-lasting psychological problems,” a situation which can amount to torture.<sup>102</sup> The Committee made similar findings in its review of Nicaragua in 2009, stating that the Nicaraguan law that denies access to abortion in cases of sexual violence leads to “constant exposure to the violation ... and causes serious traumatic stress and a risk of long-lasting psychological problems such as anxiety and depression,” recommending that the country liberalize its laws to allow for abortion in cases of sexual violence as a means of relieving such trauma.<sup>103</sup>

The European Court of Human Rights has also outlined the rights of women to be free from ill-treatment when legal abortions and other reproductive health services are denied and the obligations of states to prevent such denial. In the case of *R.R. v. Poland*, where a woman was denied needed prenatal genetic testing for fear that she might seek a legal abortion due to severe fetal impairment, the European Court of Human Rights enumerated that once a state has allowed abortion in some circumstances, the state “must not structure its legal framework in a way which would limit real possibilities to obtain an abortion.”<sup>104</sup> The recognition that the denial of access to legal abortion can constitute ill-treatment was then reiterated by the Court in *P. and S. v. Poland* in 2012, described in more detail in Section II above.

### **2. Denial of access to contraception may constitute torture or ill-treatment**

The CAT Committee has also recognized that bans on emergency contraception, a form of contraception that is effective in preventing pregnancy following sexual intercourse, and lack of implementation of existing laws that allow for emergency contraception, can lead to severe

physical and mental suffering. In its 2012 concluding observations for Peru, the CAT Committee expressed concern at the lack of access to oral emergency contraception to victims of rape, classifying the practice as potential torture or CIDT. The Committee then called on Peru to remove legal restrictions on the distribution of emergency contraception to rape victims in order to protect its citizens from torture or ill-treatment.<sup>105</sup>

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- <sup>1</sup> Committee on the Rights of the Child (CRC Committee), *List of issues in relation to the second periodic report of the Holy See, Replies of the Holy See to the list of issues*, Introduction, U.N. Doc. CRC/C/VAT/Q/2/Add.1 (2014).
- <sup>2</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, G.A. Res. 39/46, U.N. GAOR, 39<sup>th</sup> Sess., Supp. No. 51, U.N. Doc. A/39/51 (1984), 1465 U.N.T.S. 85 (*entered into force* June 26, 1987) (*accession by Holy See* 26 June 26, 2002) [hereinafter CAT].
- <sup>3</sup> CRC Committee, *Concluding Observations: Holy See*, para. 8, U.N. Doc. CRC/C/VAT/CO/2 (2014) (emphasis added).
- <sup>4</sup> CRC Committee, *Concluding Observations: Holy See*, U.N. Doc. CRC/C/15/Add.46 (1995); *Holy See*, U.N. Doc. CRC/C/VAT/CO/2 (2014); Committee on the Elimination of Racial Discrimination, *Concluding Observations: Holy See*, U.N. Doc. CERD/C/304/Add.89 (2001).
- <sup>5</sup> Committee against Torture (CAT Committee), *General Comment No. 2: Implementation of article 2 by States parties*, (39<sup>th</sup> Sess., 2007), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 16, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter CAT Committee, *Gen. Comment No. 2*].
- <sup>6</sup> CAT Committee, *Concluding Observations: United States of America*, para. 15, U.N. Doc. CAT/C/USA/CO/2 (2006).
- <sup>7</sup> International Law Commission, *Articles on State Responsibility for Internationally Wrongful Acts*, art. 16 (2001).
- <sup>8</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5, para. 15.
- <sup>9</sup> International Law Commission, *Articles on State Responsibility for Internationally Wrongful Acts*, art. 8 (2001).
- <sup>10</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5, para. 5.
- <sup>11</sup> Human Rights Committee, *Concluding Observations: Iran*, para. 9 U.N. Doc. CCPR/C/79/Add.25 (1993) (“The Committee also condemns the fact that a death sentence has been pronounced, without trial, in respect of a foreign writer, Mr. Salman Rushdie, for having produced a literary work and that general appeals have been made or condoned for its execution, even outside the territory of Iran. The fact that the sentence was the result of a fatwa issued by a religious authority does not exempt the State party from its obligation to ensure to all individuals the rights provided for under the Covenant, in particular its articles 6, 9, 14 and 19.”).
- <sup>12</sup> THE ROMAN CURIA, CHRISTUS DOMINUS, 9.
- <sup>13</sup> *See, i.e.*, Melissa Eddy, *Pope Accepts Resignation of High-Spending German Bishop*, NEW YORK TIMES, Mar. 26, 2014, available at <http://www.nytimes.com/2014/03/27/world/europe/pope-accepts-resignation-of-high-spending-german-bishop.html?hp> (last visited Apr. 7, 2014) [hereinafter *Pope Accepts Resignation of High-Spending German Bishop*].
- <sup>14</sup> 1983 CODE C.590, sec. 2 (Catholic church officials “are bound to obey the Supreme Pontiff as their highest Superior, by reason also of their sacred bond of obedience.”); *see, i.e.*, *Pope Accepts Resignation of High-Spending German Bishop*, *supra* note 13.
- <sup>15</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5.
- <sup>16</sup> *See infra* Section III.
- <sup>17</sup> CAT Committee, *Consideration of reports submitted by States parties under article 19 of the Convention: The Holy See*, para. 62, U.N. Doc. CAT/C/VAT/1 (2013).
- <sup>18</sup> *Id.* para. 68.
- <sup>19</sup> *How many Roman Catholics are there in the world?*, BBC, Mar. 13, 2013, available at <http://www.bbc.com/news/world-21443313> (last visited Apr. 7, 2014).
- <sup>20</sup> CONST. (1949), art. 75 (Costa Rica); Sec. 1, Sec. 2, CONSTITUCIÓN NACIONAL [CONST. NAC.] (Arg.); CONST. (1964), chp. 1, art. 2 (Malta); CONST. (1962), art. 9 (Monaco); CONST. (1921), art. 37 (Liech.).
- <sup>21</sup> For instance, although the Constitution of Spain provides that there is no official state religion, “[t]he public authorities shall take into account the religious beliefs of Spanish society and shall consequently maintain appropriate cooperation relations with the Catholic Church and other confessions.” C.E., B.O.E. sec. 16(3), Dec. 29, 1978 (Spain). Clauses that specifically recognize the Catholic Church also appear in the constitutions CONST. (1992), art. 82 (Para); CONST. (1993), art. 50 (Peru); CONST. (1997), art. 25 (Pol).
- <sup>22</sup> AGREEMENTS OF THE HOLY SEE, available at [http://www.vatican.va/roman\\_curia/secretariat\\_state/index\\_concordati-accordi\\_en.htm](http://www.vatican.va/roman_curia/secretariat_state/index_concordati-accordi_en.htm); *Concordats — human rights — separation of church and state*, CONCORDAT WATCH, available at <http://www.concordatwatch.eu/> (last visited Apr. 7, 2014).
- <sup>23</sup> CONST. (1964), chp. 1, art. 2 (Malta).
- <sup>24</sup> International Law Commission, *Articles on State Responsibility for Internationally Wrongful Acts*, art. 16 (2001); CAT Committee, *Gen. Comment No. 2*, *supra* note 5, para. 17.



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- <sup>24</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5, para. 5.
- <sup>25</sup> CAT, *supra* note 2.
- <sup>26</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5, para. 4.
- <sup>27</sup> *Id.* para. 17 (emphasis added).
- <sup>28</sup> *Id.* para. 21.
- <sup>29</sup> *Id.* para. 22.
- <sup>30</sup> 1983 CODE C.1398, sec. 2.
- <sup>31</sup> *Id.* sec. 1329(2).
- <sup>32</sup> *See, i.e.*, Antonio Scorza, *Pope arrives in Brazil with tough abortion stance*, USA TODAY, May 10, 2014, available at [http://usatoday30.usatoday.com/news/world/2007-05-09-pope-brazil\\_N.htm](http://usatoday30.usatoday.com/news/world/2007-05-09-pope-brazil_N.htm) (last visited Apr. 7, 2014).
- <sup>33</sup> CAT (*accession by Holy See 26 June 26, 2002*), *supra* note 2.
- <sup>34</sup> CATECHISM OF THE CATHOLIC CHURCH, paras. 2271, 2272 & 2322.
- <sup>35</sup> *Id.* para. 2263.
- <sup>36</sup> *See infra* Section III.
- <sup>37</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5, para. 4.
- <sup>38</sup> *See, e.g.*, CAT Committee, *Concluding Observations: Paraguay*, para. 22, U.N. Doc. CAT/C/PRY/CO/4-6 (2011).
- <sup>39</sup> CRC Committee, *Concluding Observations: Holy See*, para. 55, U.N. Doc. CRC/C/VAT/CO/2 (2014).
- <sup>40</sup> *The Global Catholic Population*, PEW RESEARCH, Feb. 13, 2013, available at <http://www.pewforum.org/2013/02/13/the-global-catholic-population/> (last visited Apr. 7, 2014) [hereinafter *The Global Catholic Population*].
- <sup>41</sup> *Vatican backs excommunication of Brazilian MDs over child's abortion*, CBC NEWS, Mar. 7, 2009, available at <http://www.cbc.ca/news/world/vatican-backs-excommunication-of-brazilian-mds-over-child-s-abortion-1.825367> (last visited Apr. 7, 2014) [hereinafter *Vatican backs excommunication of Brazilian MDs over child's abortion*].
- <sup>42</sup> *See infra* Annex.
- <sup>43</sup> Andrew Downie, *Nine-Year-Old's Abortion Outrages Brazil's Catholic Church*, TIME, Mar. 6, 2009, available at <http://content.time.com/time/world/article/0,8599,1883598,00.html#ixzz2ueSoyPOI> (last visited Apr. 7, 2014).
- <sup>44</sup> Guy Adams, *Brazil rocked by abortion for 9-year-old rape victim*, THE INDEPENDENT, Mar. 9, 2009, available at <http://www.independent.co.uk/news/world/americas/brazil-rocked-by-abortion-for-9yearold-rape-victim-1640165.html> (last visited Apr. 7, 2014).
- <sup>45</sup> *Id.*; *Vatican backs excommunication of Brazilian MDs over child's abortion*, *supra* note 41.
- <sup>46</sup> Nick Miles, *Abortion ruling splits Nicaragua*, BBC, Mar. 4, 2003, available at <http://news.bbc.co.uk/2/hi/americas/2817051.stm> (last visited Apr. 8, 2014).
- <sup>47</sup> Giles Tremlett & Rupert Widdicombe, *Rebellion forces Vatican u-turn in child rape case*, THE GUARDIAN, Mar. 7, 2003, available at <http://www.theguardian.com/world/2003/mar/07/spain.gilestremlett> (last visited Apr. 8, 2014). <http://www.theguardian.com/world/2003/mar/07/spain.gilestremlett>.
- <sup>48</sup> *Sex and the Holy City*, BBC PANORAMA, Oct. 12, 2003, available at <http://news.bbc.co.uk/nol/shared/spl/hi/programmes/panorama/transcripts/sexandtheholycity.txt>.
- <sup>49</sup> Karla Zabłudovsky, *A High-Risk Pregnancy Is Terminated. But Was It an Abortion?*, NEW YORK TIMES, June 4, 2013, available at <http://www.nytimes.com/2013/06/05/world/americas/woman-who-sought-abortion-in-el-salvador-delivers-baby.html> (last visited Apr. 8, 2014) [hereinafter *A High-Risk Pregnancy Is Terminated. But Was It an Abortion?*].
- <sup>50</sup> *El Salvador: UN rights experts appeal to government to provide life-saving treatment to woman at risk*, UNITED NATIONS, Apr. 26, 2013, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13269&LangID=E> (last visited Apr. 8, 2014).
- <sup>51</sup> Rosy Tejada- Jaime López, *Iglesia teme que caso de Beatriz promueva la legalización del aborto*, Apr. 21, 2013, available at [http://www.elsalvador.com/mwedh/nota/nota\\_completa.asp?idCat=47673&idArt=7836480](http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47673&idArt=7836480) (last visited Apr. 8, 2014).
- <sup>52</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5; 1983 CODE C.590, sec. 2.
- <sup>53</sup> *A High-Risk Pregnancy Is Terminated. But Was It an Abortion*, *supra* note 49.
- <sup>54</sup> P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. (2008).
- <sup>55</sup> *The Global Catholic Population*, *supra* note 40.
- <sup>56</sup> P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R. paras. 17 & 81.
- <sup>57</sup> *Id.* paras. 19, 26 & 81 (2008).
- <sup>58</sup> *Id.* para. 30.

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- <sup>59</sup> *Id.*
- <sup>60</sup> *The Global Catholic Population*, *supra* note 40.
- <sup>61</sup> CENTER FOR REPRODUCTIVE RIGHTS, FORSAKEN LIVES: THE HARMFUL IMPACT OF THE PHILIPPINE CRIMINAL ABORTION BAN 58 (2010).
- <sup>62</sup> *Id.* at 60.
- <sup>63</sup> *Id.* at 73.
- <sup>64</sup> *See id.*
- <sup>65</sup> K.L. v. Peru, Human Rights Committee, Commc'n No. 1153/2003, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).
- <sup>66</sup> CAT Committee, *Concluding Observations: Peru*, para. 23, U.N. Doc. CAT/C/PER/CO/4 (2006).
- <sup>67</sup> *Clashes over Peru abortion move*, BBC, Oct. 21, 2009, available at <http://news.bbc.co.uk/2/hi/8318119.stm> (last visited Apr. 8, 2014).
- <sup>68</sup> Rory Carroll, *Nicaragua votes to outlaw abortion*, THE GUARDIAN, Oct. 26, 2006, available at <http://www.theguardian.com/world/2006/oct/27/topstories3.mainsection> (last visited Apr. 8, 2014).
- <sup>69</sup> James C. McKinley Jr., *Nicaragua Eliminates Last Exception to Strict Anti-Abortion Law*, NEW YORK TIMES, Nov. 20, 2006, available at [http://www.nytimes.com/2006/11/20/world/americas/20nicaragua.html?\\_r=0](http://www.nytimes.com/2006/11/20/world/americas/20nicaragua.html?_r=0); <http://www.catholic-hierarchy.org/country/sc3.html> (last visited Apr. 8, 2014).
- <sup>70</sup> CONST. (1987), art. II, sec. 12 (Phil).
- <sup>71</sup> Philippine Obstetrical and Gynecological Society (POGS), ETHICAL ISSUES IN FETOMATERNAL CARE 26.
- <sup>72</sup> CATECHISM OF THE CATHOLIC CHURCH, para. 2263.
- <sup>73</sup> *Id.* at 27.
- <sup>74</sup> *Id.*
- <sup>75</sup> *Id.* para. 2370.
- <sup>76</sup> *Id.* para. 2399.
- <sup>77</sup> ENCYCLICAL LETTER, HUMANAE VITAE OF THE SUPREME PONTIFF PAUL VI ON THE REGULATION OF BIRTH, para. 16 (1969).
- <sup>78</sup> *Id.* para. 17.
- <sup>79</sup> *The Position of the Catholic Church in Political and Social Relations of the Philippines*, Cheryl A. Burkhardt, Mar. 29, 2011, available at [http://www.academia.edu/1206897/The\\_Position\\_of\\_the\\_Catholic\\_Church\\_in\\_Political\\_and\\_Social\\_Relations\\_of\\_the\\_Philippines](http://www.academia.edu/1206897/The_Position_of_the_Catholic_Church_in_Political_and_Social_Relations_of_the_Philippines) (last visited Apr. 8, 2014).
- <sup>80</sup> *Bishops: Noynoy may "lose votes" due to RH stance*, GMA NEWS, Jan. 18, 2010 available at <http://www.gmanetwork.com/news/story/181815/news/nation/bishops-noynoy-may-lose-votes-due-to-rh-stance> (last visited Apr. 8, 2014).
- <sup>81</sup> *Id.*
- <sup>82</sup> *A Message to the Honorable Members of Congress*, CBCP NEWS, Dec. 12, 2012, available at <http://www.cbcnews.com/cbcnews/?p=9572> (last visited Apr. 8, 2014).
- <sup>83</sup> *Contraception is Corruption!*, CBCP NEWS, Dec. 15, 2012, available at <http://www.cbcnews.com/cbcnews/?p=9989> (last visited Apr. 8, 2014).
- <sup>84</sup> Couples for Christ Foundation for Family and Life (CFC FFL) is one of the petitioners in the case against the reproductive health bill in the Philippines. Its website reports that it is "officially recognized by the Catholic Church hierarchy." It is also a member of the wider Couples for Christ organization, which has been recognized by the Holy See as "a private international association of the lay faithful of pontifical right." *Couples for Christ, Foundation for Family and Life*, available at <http://www.cfcfl.org/home.htm> (last visited April 7, 2014).
- <sup>85</sup> *Pro-lifers renew call to junk RH Law*, CBCP NEWS, Mar. 23, 2014, available at <http://www.cbcnews.com/cbcnews/?p=32849> (last visited Apr. 8, 2014).
- <sup>86</sup> CENTER FOR REPRODUCTIVE RIGHTS, IMPOSING MISERY: THE IMPACT OF MANILA'S CONTRACEPTION BAN ON WOMEN AND FAMILIES 24 (2007, updated 2010) [hereinafter IMPOSING MISERY].
- <sup>87</sup> *Id.* at 27.
- <sup>88</sup> Interview by Likhaan with Monet Maglaya, San Andres, Manila, Phil. (Nov. 9, 2006).
- <sup>89</sup> IMPOSING MISERY, *supra* note 86, at 28-30.
- <sup>90</sup> Interview by Likhaan with Susan Trais, San Andres, Manila, Phil. (Nov. 9, 2006).
- <sup>91</sup> Interview by Likhaan with Tina Montales, San Andres, Manila, Phil. (Nov. 9, 2006).
- <sup>92</sup> IMPOSING MISERY, *supra* note 86, at 31.
- <sup>93</sup> Interview by Likhaan with Angie Isidro, San Andres, Manila, Phil. (Nov. 9, 2006).
- <sup>94</sup> Interview by Likhaan with Tina Montales, San Andres, Manila, Phil. (Nov. 9, 2006).
- <sup>95</sup> CAT Committee, *Gen. Comment No. 2*, *supra* note 5, para. 4.

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<sup>96</sup> CAT Committee, *Concluding Observations: Peru*, paras. 15-16, U.N. Doc. CAT/C/PER/CO/6 (2012).

<sup>97</sup> CRC Committee, *Concluding Observations: Holy See*, para. 56, U.N. Doc. CRC/C/VAT/CO/2 (2014).

<sup>98</sup> *Id.* para. 57.

<sup>99</sup> CAT Committee, *Concluding Observations: Paraguay*, para. 22, U.N. Doc. CAT/C/PRY/CO/4-6 (2011).

<sup>100</sup> CAT Committee, *Concluding Observations: Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 (2009).

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

<sup>102</sup> CAT Committee, *Concluding Observations: Paraguay*, para. 22, U.N. Doc. CAT/C/PRY/CO/4-6 (2011).

<sup>103</sup> *See* CAT Committee, *Concluding Observations: Nicaragua*, U.N. Doc. CAT/C/NIC/CO/1 (2009).

<sup>104</sup> *R.R. v. Poland*, No. 27617/04 Eur. Ct. H. R. para. 200 (2011).

<sup>105</sup> CAT Committee, *Concluding Observations: Peru*, paras. 15-16, U.N. Doc. CAT/C/PER/CO/6 (2012).