

Joint Submission to the Universal Periodic Review of

PHILIPPINES

41st Session of the UPR Working Group of the Human Rights Council (3 October 2022)

Report on Philippines' Compliance with its Human Rights Obligations
in the Area of Sexual and Reproductive Health and Rights

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1. INTRODUCTION

- 1.1 The undersigned organizations present this submission to supplement the upcoming national report of the Government of the Philippines (the Government), scheduled for review by the Human Right Council during its 41st session on October 3, 2022. For decades, we have been working to advance the sexual and reproductive health and rights (SRHR) of Filipinos through research, service delivery, capacity-building, litigation, legal and policy advocacy, UN engagement, movement-building, campaigns, arts and music, grassroots engagement, and community empowerment. Please see Annex 1 for the contact details of each participating organization.
- 1.2 This submission follows up on specific recommendations accepted and noted by the Government during the 3rd cycle of the Universal Periodic Review (UPR) in 2017, concerning the SRHR of Filipinos particularly on the implementation of the national reproductive health law i.e., Responsible Parenthood and Reproductive Health Act (RPRHA) and the provision of access to modern contraceptives.¹ While certain steps have been taken by the Government to implement these recommendations as further described below, this submission presents information about recent developments and ongoing human rights violations experienced by Filipinos particularly women and girls as a result of persistent legal, policy, and practical barriers and challenges to the following issues: (1) *access to the full range of contraceptive information and services including modern and emergency contraception*, (2) *adolescents' sexual and reproductive health and rights*, (3) *access to maternal health care*, and (4) *access to safe and legal abortion, and quality post-abortion care* which have undermined the respect, protection, and fulfilment of the Government's obligations and commitments including under major international human rights treaties and the Sustainable Development Goals (SDGs). The issues raised here are based on feedback and inputs from various partners organizations including from those who have signed this submission.

2. INTERNATIONAL LEGAL FRAMEWORK

- 2.1 UN treaty monitoring bodies (UN TMBs) have reaffirmed their concerns on a broad range of human rights violations arising from the Government's failure to ensure Filipinos' SRHR.² These violations and the difficulties faced by Filipinos to advance their SRHR have been exacerbated by the COVID-19 pandemic. However, as described below, despite the standards set by and calls from various UN experts and bodies to ensure human-rights based responses to the pandemic including ensuring the provision of sexual and reproductive health care as essential health care, the Government has failed to substantially improve SRHR in the country.³

¹ Draft Report of the Working Group on the Universal Periodic Review, The Philippines (unedited version), paras. 133.213-133.216, U.N. Doc. A/HRC/WG.6/27/L.10, May 18, 2017.

² See e.g., Committee on Economic, Social and Cultural Rights, *Concluding Observations: Philippines*, para. 51, U.N. Doc. E/C.12/PHL/CO/5-6 (2016).

³ See United Nations Secretary General, COVID-19 and Human Rights: We are all in this together (April 2020); United Nations Office of the High Commissioner for Human Rights, COVID-19 Guidance; United Nations Media Center, Press Release, UN Human Rights Treaty Bodies call for human rights approach in fighting

- 2.2 The Government continues to be a signatory to core international human rights treaties.⁴ As such, it continues to have the obligation to repeal or amend discriminatory laws and policies including those criminalizing abortion and requiring parental or spousal authorizations to access reproductive health services and information,⁵ and to adopt appropriate legislative and budgetary measures to ensure fulfilment of women's and girls' reproductive rights.⁶ Specifically, the Government is obligated to improve maternal health and lower the maternal mortality ration (MMR); provide access to the full range of contraceptive information and services to prevent unintended pregnancies; ensure access to safe and legal abortion services; provide access to humane, non-judgmental and timely post-abortion care to prevent forced pregnancies, unsafe abortions, and life-threatening complications.⁷ Further, the Government must ensure that women and girls are provided with recourse to timely, accessible, effective and transparent remedies in cases of reproductive rights violations⁸ including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁹
- 2.3 In 2015, the Government committed to take positive steps to improve access to reproductive health information and services in line with the SDGs particularly under Goals 3 (good health and well-being) and 5 (gender equality). Under both goals, the Government committed to reduce its MMR to less than 70 per 100,000 live births¹⁰

COVID-19 (24 March 2020); United Nations Special Procedures of the Human Rights Council, COVID-19 and Special Procedures; World Health Organization, Addressing Human Rights as Key to the COVID-19 response (21 April 2020); Statement by the UN Working Group on discrimination against women and girls: Responses to the COVID-19 pandemic must not discount women and girls; WHO media release, WHO releases guidelines to help countries maintain essential health services during the COVID-19 pandemic (30 March 2020); Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment No. 25, para 33. UN Doc. E/C.12/GC/25 (2020).

⁴ The Philippines is a signatory to a number of agreements and conventions relevant to reproductive rights, including the International Covenant on Economic, Social and Cultural Rights in 1976, the Convention on the Elimination of All Forms of Discrimination Against Women in 1979, the Convention on the Rights of the Child in 1989, the International Conference on Population and Development in 1994, and the Beijing Declaration and Platform of Action during the Fourth World Conference on Women in 1995.

⁵ Committee on the Rights of the Child (CRC Committee), *Concluding Observations: Czech Republic*, para. 51, U.N. Doc. CRC/C/15/Add.201 (2003); *Liberia*, para. 49, U.N. Doc. CRC/C/15/Add.236 (2004); *Malaysia*, para. 67, U.N. Doc. CRC/C/MYS/CO/1 (2007); *Nicaragua*, para. 53, U.N. Doc. CRC/C/15/Add.265 (2005).

⁶ ESCR Committee, *General Comment No. 22: On the right to sexual and reproductive health* (art. 12 of the International Covenant on Economic, Social and Cultural Rights, (42nd Sess., 2016) paras. 33, 45 and 49(b), U.N. Doc. E/C.12/GC/22 (2016) [hereinafter ESCR Committee, *Gen. Comment No. 22*].

⁷ *Id.*, para. 28.

⁸ *Id.*, para. 49(h); *See also* Committee on the Elimination of Discrimination against Women (CEDAW Committee), General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, paras. 39-40, U.N. Doc. CEDAW/C/GC/28 (2010).

⁹ ESCR Committee, *Gen. Comment No. 22*, *supra* note 6, para. 64.

¹⁰ Sustainability Development Goal (SDG) 3: Ensure healthy lives and promote well-being for all at all ages, United Nations. *See also* SDG 3.1: By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births.

and to ensure the universal access to sexual and reproductive health care services¹¹ and reproductive rights¹². It also committed to achieve universal health coverage¹³ and increase health financing and step up its efforts to ensure the availability of a trained health workforce¹⁴. Under Goal 16 (peace, justice, and strong institutions), the Government further committed to substantially decrease all forms of violence including against children, ensure justice for all, establish accountability mechanisms at all levels, ensure rights-based decision-making, and implement non-discriminatory laws and policies.¹⁵ In its final report for the Millennium Development Goals, the Government reported data which failed to meet the relevant targets.¹⁶

3. NATIONAL LEGAL FRAMEWORK

3.1 The Philippine Constitution and national laws guarantee Filipinos' fundamental human rights particularly women's right to health including reproductive health and access to justice in cases of violations.¹⁷ In 2019, the Government adopted Republic Act No. 11223, also referred to as the **Universal Health Care Act (UHC)**, which directly addresses the SDG target on achieving universal health coverage.¹⁸ The UHC guarantees that every Filipino is given equitable access to high quality and affordable health care goods and services, including protection against financial risk due to illness. The RPRHA, although enacted before the UHC, has been seen as one of the main vehicles to achieve the aims and promises of the latter.¹⁹ The RPRHA, among others, strengthened the guarantees of Filipinos' SRHR including access to the full range of contraceptives, comprehensive sexual education, and post-abortion care.²⁰

¹¹ *Id.*; See also SDG 3.7: By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.

¹² SDG 5: Achieve gender equality and empower all women and girls, United Nations; SDG 5.6: Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences.

¹³ SDG 3.8: Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all

¹⁴ SDG 3.c: Substantially increase health financing and the recruitment, development, training and retention of the health workforce in developing countries, especially in least developed countries and small island developing States

¹⁵ See SDG 16.1, 16.2, 16.3, 16.6, 16.7, and 16.b.

¹⁶ See e.g., National Economic and Development Authority & United Nations Development Programme (UNDP), *The Philippines: Fifth Progress Report Millennium Development Goals* (2014). There was a high maternal mortality ratio (MMR) (221 per 100,000 live births) and low contraceptive prevalence rate (CPR) of 48.9% versus the MMR target of 52 per 100,000 live births and CPR target of 63%.

¹⁷ See e.g., CONST. (Phil.), art. II sec. 14, art. III sec. 11, and art. XIII, sec. 11 (1987) [hereinafter CONST. (Phil.)]; The Magna Carta of Women, Rep. Act No. 9710, secs. 17(3), 39, 41 (August 14, 2009) (Phil.) [hereinafter MCW]; An Act Providing for a National Policy on Responsible Parenthood and Reproductive Health, Rep. Act No. 10354, secs. 2, 3, 4, 24 (2012) (Phil.) [hereinafter RPRHA];

¹⁸ Universal Health Care Act, Republic Act No. 11223 (2019) (Phil.).

¹⁹ The Department of Health, 7th Annual Report: *Responsible Parenthood and Reproductive Health Act of 2012*, p. 21 (30 June 2021), available at <https://doh.gov.ph/serials/7th-RPRH-2020> [hereinafter 2020 RPRHA Report]

²⁰ RPRHA, *supra* note 17, secs. 3(e), 3(h), 3(j) and 4(q)(3). See also Implementing Rules and Regulations of Rep. Act No. 10354 (The Responsible Parenthood and Reproductive Health Act of 2012), Rule 2.01(n) (2012)

To prioritize the implementation of the RPRHA, in 2017, the Government enacted **Executive Order 12** to "intensify and accelerate the implementation of critical actions necessary to attain and sustain 'zero unmet need for modern family planning' for all poor households by 2018, and all of Filipinos thereafter."²¹ However, as will be discussed below, the Government is still far from achieving zero unmet need for the prioritized target population.

- 3.2 The Government also amended a **law to ensure the provision of emergency care** and increase the penalties for the refusal to administer such care.²² To address discrimination and violence against Filipinos particularly among women, in 2019, the Government adopted Republic Act No. 11313 otherwise known as the **Safe Spaces Act**.²³ This Act introduced several penalties on various forms of sexual harassment such as wolf-whistling, catcalling and persistent unwanted comments and also codified online sexual harassment offences and sexual harassment in the workplace. It also provided protections for those experiencing discrimination and violence that takes the form of sexual harassment but does not address other forms of violence and discrimination. While certain local governments have passed their own anti-discrimination ordinance, the Government has failed to pass a national law on this. As of February 2022, there are at least nine bills that reference violence against women pending at the House of Representatives²⁴ and eight bills pending at the Senate²⁵. There is no codified protection at the national level for Filipinos particularly for persons with diverse sexual orientations and gender identities against many forms of discrimination and violence.
- 3.3 Although Philippine law recognized the legal age of marriage as 18, child marriage has been commonly practiced in certain religions and cultures in the Philippines. It has been recognized as valid under the country's Muslim personal laws.²⁶ To advance the fundamental rights of children, in January 2022, a **law prohibiting child**

(Phil.) (March 15, 2013) (requiring that the government treat and counsel all women needing post-abortion care in a "humane, non-judgmental and compassionate manner.").

²¹ Executive Order No. 12 "Attaining and Sustaining "Zero Unmet Need for Modern Family Planning" through the Strict Implementation of the RPRH Act, Providing funds therefor, and for other Purposes" (signed on January 9, 2017).

²² An Act Strengthening the Anti-Hospital Deposit Law by Increasing the Penalties for the Refusal of Hospitals and Medical Clinics to Administer Appropriate Initial Medical Treatment and Support in Emergency or Serious Cases, Amending for the Purpose Batas Pambansa Bilang 702, Otherwise Known as "An Act Prohibiting the Demand of Deposits or Advance Payments for the Confinement or Treatment of Patients in Hospitals and Medical Clinics in Certain Cases", As Amended by Republic Act No. 8344, and for Other Purposes, Rep. Act No. 10932 (2017) (Phil.).

²³ Safe Spaces Act, Rep. Act No. 11313 (2019) (Phil.).

²⁴ Bills filed before 18th Congress of the House of Representatives include amending Rep. Act No. 9262, otherwise known as the 'Anti-Violence against Women and their Children Act of 2004' and defining and prohibiting electronic violence against women.

²⁵ Bills filed before 18th Congress of the Senate similarly include amending Rep. Act No. 9262, otherwise known as the 'Anti-Violence against Women and their Children Act of 2004' and defining and prohibiting electronic violence against women. A bill extending the prescriptive period of offenses under Rep. Act No. 9262 has also been filed.

²⁶ Code of Muslim Personal Laws, Pres. Decree No. 1083 (1977) (Phil.).

marriage took effect.²⁷ The law introduced penalties for those that facilitate, participate, and officiate the marriage of children under the age of 18. More importantly, it called for the development and implementation of policies to ensure access to education, economic support, and other social measures and interventions to discourage the practice.

- 3.4 In March 2022, the Government enacted Republic Act 11648 which **increased the age of sexual consent from 12 to 16** years old and amended the provisions on rape to provide an **exception for consensual, non-abusive and non-exploitative sexual activity among adolescents** with an age gap of not more than 3 years.²⁸ The exemption does not apply if the victim is under 13 years old. The decriminalization of consensual sexual acts among adolescents is in accordance with existing international human rights law.

4. KEY ISSUES ON THE SEXUAL AND REPRODUCTIVE HEALTH SITUATION IN THE PHILIPPINES

- 4.1 Despite the enacted laws and policies and established projects and programs noted above, challenges to the full implementation of the RPRHA abound. These challenges were aggravated by the pandemic which severely impacted access to sexual and reproductive health information and services in the country since March 2020 when the Government declared a state of national emergency and imposed one of the strictest lockdowns globally. The mobility restrictions continued to be in place particularly in Metro Manila with varying levels of regulations. All restrictions on indoor and outdoor activities were lifted in Metro Manila only on March 1, 2022 with specific health-related protocols still to be observed.²⁹

- 4.2 The Department of Health (DoH) reported that the pandemic worsened the challenges to fully advance SRHR such as on ensuring the sufficiency of staff and facilities for SRHR due to reassignment and the prioritization of COVID-19 responses; providing access to basic health care due to limited operating hours and transportation facilities; ensuring access to information resulting in fears and misconceptions; and increasing healthcare-seeking behaviors due to fears of contracting COVID-19 and limited movement.³⁰

4.3 Contraceptive information and services including modern and emergency contraception

Relevant Accepted Recommendations during the 3rd cycle of the UPR

133.213 Ensure effective implementation and monitoring of the Responsible Parenthood and Reproductive Health Act, in line with international obligations regarding sexual and reproductive health and rights, by increasing access to modern contraceptives (Brazil);

133.214 Ensure that Executive Order No. 12 pertaining to the Responsible Parenthood and Reproductive Health Act is fully implemented in order to meet the needs for modern family planning and to secure universal access to sexual and reproductive health and rights (Sweden);

133.215 Continue to undertake efforts to implement the Responsible Parenthood and Reproductive Health Act (New Zealand);

- (a) The COVID-19 pandemic significantly impaired access to contraception.³¹ In 2020, WHO found that family planning (FP) and contraception were among the most disrupted services worldwide due to the pandemic.³² Similarly, the DoH found that a significant number of hospitals in the country had to prioritise COVID-19 services, and as a result, delayed the provision of other essential health services such as family planning.³³
- (b) In 2017, the use of modern methods of family planning was higher in rural areas than urban areas (42% versus 38%).³⁴ While the total FP demand among married women was 71%, only 54% of women used any FP method.³⁵ Since 2017, there has been an overall gradual increase in the number of FP users from 6.5 million in 2017 (excluding drop outs) to 8.1 million users in 2020.³⁶ However, the duration of community quarantine in 2020 was estimated to result in an increase in the percentage of women aged 15-49 with unmet FP needs – an increase from 3.1 million in 2017 to 5.2 million.³⁷ In addition, around 400,000 women will drop out of the Government’s FP program and not be able to access the contraceptives they need either as a direct or indirect consequence of the pandemic e.g. limited access to transportation issues, loss of income opportunities, and reduction in the availability of supplies.³⁸
- (c) The DoH estimates that the decline of modern contraceptive use will result in an **additional 47,000 to 359,000 unintended pregnancies** in 2021 to the 2.1 million baseline of unintended pregnancies in 2020; **11,000 to 84,000 unsafe abortions** to the baseline of 496,000 unsafe abortions; and **30 to 200**

³¹ Republic of the Philippines, Commission on Population and Development; *World Contraception Day 2021: Mas madaling pag-access sa mga serbisyong ‘family planning’ at pamamahagi ng contraceptives, pinanawagan sa kabila ng pandemya*, available at <https://popcom.gov.ph/world-contraception-day-2021-mas-madaling-pag-access-sa-mga-serbisyong-family-planning-at-pamamahagi-ng-contraceptives-pinanawagan-sa-kabila-ng-pandemya/>

³²World Health Organization, Pulse survey on continuity of essential health services during the COVID-19 pandemic: interim report (Aug. 27, 2020).

³³ 2020 RPRHA Report, *supra* note 19, p. 51.

³⁴ PHILIPPINES STATISTICAL AUTHORITY ET AL., PHILIPPINES NATIONAL DEMOGRAPHIC AND HEALTH SURVEY 2017, 83 (February 2018) [hereinafter NDHS 2017].

³⁵ *Id.*, p. 81.

³⁶ 2020 RPRHA Report, *supra* note 19, p. 56.

³⁷ University of the Philippines Population Institution and UNFPA Philippines Country Office, Estimating the potential impact of the COVID-19 pandemic on key sexual and reproductive health outcomes in the Philippines, p. 5 (Oct. 15, 2020) available at <https://www.uppi.upd.edu.ph/sites/default/files/pdf/UPPI-Impact-of-COVID-19-on-SRH.pdf> [hereinafter UPPI and UNFPA report].

³⁸ See e.g. *POPCOM: Pandemic may increase live birth in PHL to almost 2M with FP efforts hampered, thousands of teens also projected to give birth*, COMMISSION ON POPULATION AND DEVELOPMENT available at <https://popcom.gov.ph/popcom-pandemic-may-increase-live-births-in-phl-to-almost-2m-with-fp-efforts-hampered-thousands-of-teens-also-projected-to-give-birth/> (retrieved on Aug. 17, 2020); *Coronavirus lockdown could lead to 214,000 extra babies in the Philippines*, THE GUARDIAN (June 29, 2020) available at <https://www.theguardian.com/world/2020/jun/29/coronavirus-lockdown-could-lead-to-214000-extra-babies-in-the-philippines> (retrieved on Aug. 17, 2020).

additional maternal deaths to the baseline of 2,300 maternal mortalities.³⁹ Meanwhile, a UNFPA and University of the Philippines Population Institute (UPPI) study found that the COVID-19 pandemic will result in 2.56 million unintended pregnancies in 2020 which is 751,000 more than the previous year reflecting a **42% increase**.⁴⁰

- (d) **Religious refusals of care and third-party consent requirements.** In *Imbong v Ochoa*, a petition filed challenging the constitutionality of the RPRHA, the Supreme Court of the Philippines upheld the law's constitutionality in general.⁴¹ However, in the same decision, the court also declared unconstitutional several fundamental provisions of the RPRHA protecting access to sexual and reproductive health care including contraception. With the Court's decision, the provisions of the RPRHA has been interpreted to mean that (1) all minors including those who have already experienced pregnancy must secure parental consent to access modern contraceptives; (2) a married individual must secure spousal consent to undergo elective reproductive health services such as ligation or no scalpel vasectomy; (3) institutional and individual "conscientious objectors" are allowed; (4) private health facilities, non-maternity specialty hospitals and hospitals run by a religious groups do not have the obligation to refer women seeking modern contraceptives to alternative health care providers.⁴²
- (e) The Philippine Commission on Human Rights (PCHR) found that the *Imbong* decision prevented the full implementation of the RPRHA and has been "used by some government health facilities and health service providers [to seek] parental consent for minors and [to refuse] tubal ligation for married women without the consent of their husbands."⁴³ These consent requirements are contrary to numerous recommendations by UN human rights bodies which have recognized third-party authorizations including parental and spousal consent as forms of discrimination against women and barriers to women's access to reproductive health services.⁴⁴ Further, the PCHR recommended that

³⁹ 2020 RPRHA Report, *supra* note 19, p. 51.

⁴⁰ *Significant rise in maternal deaths and unintended pregnancies feared because of COVID-19, UNFPA and UPPI study shows*, RELIEFWEB (Aug. 14, 2020) available at <https://reliefweb.int/report/philippines/significant-rise-maternal-deaths-and-unintended-pregnancies-feared-because-covid> (retrieved on Sept. 21, 2020).

⁴¹ James M. Imbong and Lovely-Ann C. Imbong v Hon. Paquito N. Ochoa, Jr., et al., G.R. No. 204819 (S.C., Apr. 8, 2014) (Phil.), available at http://www.lawphil.net/judjuris/juri2014/apr2014/gr_204819_2014.html [hereinafter *Imbong v Ochoa*].

⁴² *Imbong v Ochoa*, *supra* note 41. See also RPRHA, *supra* note 17, secs. 7, 17, 23.

⁴³ See, PHILIPPINE COMMISSION ON HUMAN RIGHTS AND UNITED NATIONS POPULATION FUND (UNFPA), LET OUR VOICES BE HEARD: REPORT OF THE COMMISSION ON HUMAN RIGHTS PHILIPPINES' NATIONAL INQUIRY ON REPRODUCTIVE HEALTH AND RIGHTS 18 (2016) [hereinafter LET OUR VOICES BE HEARD].

⁴⁴ See ESCR Committee, *Gen Comment No. 22*, *supra* note 6, para. 43. See also CEDAW Committee, *Concluding Observations: Rwanda*, para. 38 (a), U.N. Doc. CEDAW/C/RWA/CO/7-9 (2017); CEDAW Committee, *Concluding Observations: Sri Lanka*, paras. 35 (b), U.N. Doc., CEDAW/C/LKA/CO/8 (2017); CRC Committee, *Concluding Observations: Zimbabwe*, para. 60 (c), U.N. Doc. CRC/C/ZWE/CO/2 (2016). See further CEDAW Committee, *Concluding Observations: Bahrain*, para. 41, U.N. Doc. CEDAW/C/BHR/CO/3 (2014); Portugal, paras. 36, 37, U.N. Doc. CEDAW/C/PRT/CO/8-9 (2015).

the Government “include in its review of the [RPRHA] the problem posed by the [Court’s] decision particularly on the scope of ‘conscientious objector’ and the absence of accountability of public officials refusing to implement the [RPRHA].”⁴⁵ This recommendation is similar to those issued by UN human rights bodies when they called on states to implement a timely, systematic mechanism for referrals to an alternative health care provider and ensure that conscientious objection is a personal and not institutional practice.⁴⁶ Since 2017, the Government has failed to remove these barriers to accessing essential health care.

- (f) **Access to emergency contraceptives.** The continuing lack of access to dedicated emergency contraceptives (EC) not only poses a threat to women’s and girls’ lives and well-being in general but also discriminates against thousands of women in the country, including victims of sexual violence who are exposed to possible risks of serious traumatic stress and mental suffering from pregnancies resulting from rape. This is worrying particularly given the incidence of sexual violence in the Philippines; the number of rapes reported to the Philippine National Police (PNP) in 2019 was 2,341, an increase of 30.6% compared to 2018,⁴⁷ although with the imposition of lockdowns and quarantine measures this decreased to 1,850 reports in 2020.⁴⁸ Further, the PNP records show a significant 25% decrease in all types of VAW recorded cases, from 19,743 in 2019, to 14,835 in 2020. While a downward trend is reflected, these figures may be attributed, in part, to the difficulty that victims faced when trying to report such crimes, because of the restrictions imposed by quarantine, which limited not only their ability to travel, but for many, the ability to leave the home due to their proximity to the perpetrator.⁴⁹
- (g) While a levonorgestrel-only pill was previously approved in 1999 by the Government for victims of sexual violence, it was de-listed from the Philippine registry of drugs in 2001 based on the claim that it has an “abortifacient

⁴⁵ See, LET OUR VOICES BE HEARD, *supra* note 43, at 36.

⁴⁶ See e.g., ESCR Committee, *General Comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*, para. 21, U.N. Doc. CESCR/C.12/GC/24 (2017) [hereinafter ESCR Committee: *General Comment No. 24*]; ESCR Committee, *Concluding Observations: Poland*, paras. 46-47, U.N. Doc. E/C.12/POL/CO/6 (2016); CEDAW Committee, *Concluding Observations: Poland*, para. 36-37, U.N. Doc. CEDAW/C/POL/CO/7-8 (2014); Slovakia, para. 30-31, U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015); Human Rights Committee, *Concluding Observations: Columbia*, paras. 20-21, U.N. Doc. CCPR/C/COL/CO/7 (2016); CEDAW Committee, *Concluding Observations: Hungary*, paras. 30-31, U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013). See also Human Rights Committee, *General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, U.N. Doc. CCPR/C/GC/36 (2018), para. 8 [hereinafter Human Rights Committee, *Gen. Comment No. 36*].

⁴⁷ Philippine Statistics Authority, "Violence Against Women" (control no. 20-SSSS04-49) available at https://psa.gov.ph/system/files/2020%20Infographics%20on%20VAW%20Statistics_signed.pdf.

⁴⁸ Department of Health and the Commission on Population and Development; Philippine Responsible Parenthood and Reproductive Health Act of 2012 Annual Report 2020; 30 June 2021; <https://doh.gov.ph/sites/default/files/publications/7th%20Annual%20Report%20on%20the%20Implementation%20of%20Responsible%20Parenting%20and%20Reproductive%20Health%20Act%20of%202012%20%282020%29%2007052021.pdf>.

⁴⁹ 2020 RPRHA Report, *supra* note 19, pp. 92-94.

effect”.⁵⁰ This is contrary to the view of WHO and medical experts which explains EC pills do not induce abortion, but simply prevents pregnancy by preventing or delaying ovulation and recognized levonorgestrel-only pills as essential drugs.⁵¹ Since then, the Government has not taken any step to re-list a dedicated emergency contraceptive and even worse, enacted a provision under the RPRHA expressly prohibiting national hospitals from purchasing or acquiring emergency contraceptives.⁵² In 2014, the DoH recommended the use of the levonorgestrel-only pill to prevent pregnancies in instances of unprotected sex.⁵³

- (h) Recent studies indicate that one in four Filipino women are unaware of emergency contraception (EC) options and only 13% are aware of the Yuzpe Method (an alternative emergency contraceptive method used in the Philippines in the absence of EC pills).⁵⁴ The lack of information and access to EC is particularly damaging for adolescents beginning the sexually active period of their life. Recent survey results, published in October 2021, indicate nearly one-third (32%) of Filipino doctors and midwives active in family planning said they were not aware of the Yuzpe Method, while 85% of healthcare providers services reported having received patient inquiries regarding EC.⁵⁵

⁵⁰ See BFAD Advisory 2002-02, *Misoprostol (Cytotec): Unregistered Drug Product*, Food and Drug Administration (Phil.); Bureau of Food and Drugs, Delisting of LEVONORGESTREL 750 mcg (Postinor) from Bureau of Food and Drugs Registry of Drug Products (7 December 2001).

⁵¹ World Health Organization, *Emergency Contraception* (9 November 2021) available at <https://www.who.int/news-room/fact-sheets/detail/emergency-contraception>; WORLD HEALTH ORGANIZATION (WHO), MODEL LIST OF ESSENTIAL MEDICINES 19TH LIST 33 (April 2015).

⁵² RPRHA, *supra* note 17 at sec. 9; See, e.g., Domini M. Torrevillas, *Postinor Fights for Life*, PHILSTAR GLOBAL (2002), available at <https://bit.ly/2JE4doD> (the drug Postinor—a levonorgestrel-only pill recognized by the WHO as an essential drug—was previously approved in 1999 by the state party for survivors of sexual violence but it was de-listed from the Philippine registry of drugs by the FDA in 2001).

⁵³ Department of Health, *The Philippine Clinical Standards Manual on Family Planning 2014 Edition*, at 232, available at https://doh.gov.ph/sites/default/files/publications/FPCSM_2014.pdf.

⁵⁴ See e.g., Business World, 1 in 4 Filipino women unaware of emergency contraception, says study (1 December 2021) available at <https://www.bworldonline.com/1-in-4-filipino-women-unaware-of-emergency-contraception-says-study>

⁵⁵ Philippines News Agency; *Awareness on contraception to curb teen pregnancies: survey* (25 November 2021) available at <https://www.pna.gov.ph/articles/1160818>; Business World, 1 in 4 Filipino women unaware of emergency contraception, says study (1 December 2021) available at <https://www.bworldonline.com/1-in-4-filipino-women-unaware-of-emergency-contraception-says-study>.

Suggested recommendation for the 4th cycle:

- Ensure free and universal access to contraceptives including modern contraceptives as well as emergency contraceptives particularly for survivors of sexual violence
- Remove barriers to access sexual and reproductive health care including third-party consent requirements such as spousal and parental consent and institutional conscientious refusals of care

4.4 Adolescents' sexual and reproductive health and rights

Relevant Noted Recommendations during the 3rd cycle of the UPR

133.243 Ensure that all legislative amendments affecting children's rights take into account the superior interest of the child in accordance with international standards (Mexico);

133.238 Amend the age of sexual consent from 12 to 16 years (Sweden);

133.239 Take prompt actions to protect children against sex abuse and exploitation (Poland);

133.163 Strengthen the protection of children's rights, including by...raising the age of sexual consent to 16 years (Canada);

- (a) **Rise in live births among 10-14 year olds.** The Philippines' adolescent birth rate continues to exceed the Asia Pacific average.⁵⁶ Since 2017, live births among young mothers aged 10-14 have increased, including by 7% from 2018 to 2019, with only a marginal decrease seen in 2020 as a result of the restrictions put in place in response to COVID-19.⁵⁷ The assumption raised by the Department of Health and CPD is that this **increase among 10-14 year olds might be due to abuse or gender-based violence.**⁵⁸ Further, the decrease in live births among adolescents in 2020 down to 31 per 1,000 in women under 20 years of age (with 98.7% of such decrease in the 15 to 19 age range)⁵⁹ was not directly attributed to an increase in access to sexual and reproductive health services or comprehensive sexuality education among adolescents.

⁵⁶The World Bank, *Adolescent fertility rate (births per 1,000 women ages (15-19) (2019) available at <https://data.worldbank.org/indicator/SP.ADO.TFRT>.*

⁵⁷ 2020 RPRHA Report, *supra* note 19, p. 17.

⁵⁸ 2020 RPRHA Report, *supra* note 19, p. 17.

⁵⁹ Commission on Population and Development, *POPCOM: Adolescent pregnancies in PHL drop by 13% in 2020; Sexual behavior changes, Covid concerns drive teen birth rate down to 31%*, available at <https://popcom.gov.ph/popcom-adolescent-pregnancies-in-phl-drop-by-13-in-2020-sexual-behavior-changes-covid-concerns-drive-teen-birth-rate-down-to-31/>.

- (b) In response to growing concerns on the number of adolescent pregnancies, **Executive Order No. 141 (EO 141)** was issued in June 2021 to, among others, implement comprehensive sex education, employment opportunities, and reproductive services for adolescents and young people.⁶⁰ However, despite the Government’s recognition that the number of adolescent pregnancies is a “national social emergency”⁶¹, the Senate has suspended plenary debates on a proposed law to prevent adolescent pregnancies following opposition from an association of Catholic schools and universities.⁶² The pending Senate Bill No. 1334 or the proposed “Prevention of Adolescent Pregnancy Act of 2020” mandates the state party to launch a comprehensive, age-appropriate sexuality education covering public and private school, universities and calls for the education program to be provided even to out-of-school youth.⁶³ The bill also mandates more social protection programs for adolescent mothers, such as accessible maternal health services, workshops, and livelihood programs, as well as medical, legal and other services for those who have been subjected to sexual abuse or violence. With the upcoming elections in May 2022, this and other similar bills will have to be refiled and deliberated upon in the next Congress.
- (c) **Access to contraceptive information and services by minors.** As discussed in the previous section, because of the Supreme Court’s decision in *Imbong v Ochoa*, minors including those who have already been pregnant or given birth must seek the permission of their parents to access contraceptives. Despite CPD’s calls in 2019 for this provision to be suspended for minors who have a child (to prevent repeat pregnancies) and to improve access to comprehensive sexuality education (CSE), the law and curriculum remains largely unchanged.⁶⁴
- (d) **Impact of COVID-19 on the safety of girls and young women.** According to the CPD, based on 2018 data, at least 40 Filipino girls under the age of 14 give

⁶⁰ Adopting as a National Priority the Implementation of Measures to Address the Root Causes of the Rising Number of Teenage Pregnancies and Mobilizing Government Agencies for the purpose, Executive Order No. 141 (2021) (Phil.)<https://www.officialgazette.gov.ph/downloads/2021/06jun/20210625-EO-141-RRD.pdf>.

⁶¹ *Teen pregnancies now ‘nat’l social emergency’*, INQUIRER.NET (Aug. 23, 2019) available at <https://newsinfo.inquirer.net/1156646/teen-pregnancies-now-natl-social-emergency>.

⁶² *Senate defers debates on prevention of adolescent pregnancy as CEAP registers ‘strong objections’*, MANILA BULLETIN (Sept. 16, 2020) available at <https://mb.com.ph/2020/09/16/senate-defers-debates-on-prevention-of-adolescent-pregnancy-as-ceap-registers-strong-objections/>.

⁶³ Senate Bill No. 1334, An Act providing for a National Policy in Preventing Adolescent Pregnancies, Institutionalizing Social Protection for Adolescent Parents, and providing funds therefor (February 12, 2020) available at http://legacy.senate.gov.ph/lis/bill_res.aspx?congress=18&q=SBN-1334.

⁶⁴ *PopCom: Amend RH law provision on minors’ access to birth control*, RAPPLER (6 November 2019) available at <https://www.rappler.com/nation/244302-popcom-says-amend-reproductive-health-law-provision-minors-access-birth-control/>.

birth every week.⁶⁵ As detailed above, it is expected that the COVID-19 pandemic will result in the increase of unintended pregnancies, live births, unmet FP needs among women of reproductive age including adolescents.⁶⁶ The initial estimate for unmet need for family planning will increase by 9.3% (163,000 to 178,000) for adolescents or those between the ages of 15 and 19.⁶⁷ The results of a 2020 survey showed that the COVID-19 pandemic has had a profound impact on the safety and protection of girls and young women aged 13 to 24 years old. Survey respondents expressed the need to receive guidance on how to protect themselves from harassment and violence, and how to report cases of gender-based violence, among others.⁶⁸ Further, confined in their homes, adolescents living with a violent family member, become more vulnerable to abuse.⁶⁹ Against this backdrop, youth-led organizations backed an agenda to push for young women and girls' rights in 2022. This includes the demand that laws are updated, and programs strengthened to prevent, detect, report, and respond to all forms of domestic abuse and violence, as well as to protect public and digital spaces from all forms of sex and gender-based violence, harassment, and discrimination.⁷⁰ These demands would help mitigate the harmful impact of the pandemic on the safety of girls and young women.

⁶⁵ *At least 40 Filipinos under age 14 give birth in the Philippines weekly: POPCOM*, ABS-CBN NEWS (Sept. 17, 2020) available at <https://news.abs-cbn.com/news/09/17/20/at-least-40-filipinos-under-age-14-give-birth-in-philippines-annually-popcom>.

⁶⁶ *Significant rise in maternal deaths and unintended pregnancies feared because of COVID-19, UNFPA and UPPI study shows*, RELIEFWEB (Aug. 14, 2020) available at <https://reliefweb.int/report/philippines/significant-rise-maternal-deaths-and-unintended-pregnancies-feared-because-covid>. See e.g. *POPCOM: Pandemic may increase live birth in PHL to almost 2M with FP efforts hampered, thousands of teens also projected to give birth*, COMMISSION ON POPULATION AND DEVELOPMENT available at <https://popcom.gov.ph/popcom-pandemic-may-increase-live-births-in-phl-to-almost-2m-with-fp-efforts-hampered-thousands-of-teens-also-projected-to-give-birth/>; *Coronavirus lockdown could lead to 214,000 extra babies in the Philippines*, THE GUARDIAN (June 29, 2020) available at <https://www.theguardian.com/world/2020/jun/29/coronavirus-lockdown-could-lead-to-214000-extra-babies-in-the-philippines>.

⁶⁷ Commission on Population and Development, *POPCOM: Pandemic may increase live birth in PHL to almost 2M with FP efforts hampered, thousands of teens also projected to give birth*, available at <https://popcom.gov.ph/popcom-pandemic-may-increase-live-births-in-phl-to-almost-2m-with-fp-efforts-hampered-thousands-of-teens-also-projected-to-give-birth/>.

⁶⁸ 2020 RPRHA Report, *supra* note 19, p. 91.

⁶⁹ 2020 RPRHA Report, *supra* note 19, p. 67.

⁷⁰ *Youth groups launch 10-point electoral agenda for girls, young women*, RAPPLER (1 March 2022) available at <https://www.rappler.com/moveph/youth-groups-launch-electoral-agenda-girls-young-women/>.

Suggested recommendation for the 4th cycle:

- Ensure the implementation of comprehensive, age-appropriate sexuality education including guaranteeing access for out-of-school youth
- Ensure that laws and policies affecting adolescents' sexual and reproductive health and rights consider their evolving capacities

4.5 Access to Maternal Health Care

Relevant Noted Recommendations during the 3rd cycle of the UPR

133.30 Ensure that laws, policies and programmes aimed at protecting the human rights of women, elderly persons, persons with disabilities and indigenous peoples are effectively implemented (Cuba);

133.213, 133.214, 133.215 (as noted above)

- (a) In 2019, the Government adopted Republic Act No. 11210, which **extends paid maternity leave from 60 days to 105 days**.⁷¹ This progressive law covers female workers in the public and private sectors. It entitles female workers to 105 days of maternity leave paid at 100% of their average daily salary credit. The law also provides for an additional 15 days of paid leave if the female worker qualifies as a solo parent. The law further expands maternity leave to every instance of pregnancy, miscarriage, or emergency termination, regardless of frequency, from the previous limit of the first four deliveries or miscarriages. However, despite this positive development, access to maternal health care remains problematic for many Filipinos particularly for those who are poor and marginalized.
- (b) **Maternal mortality and morbidity ratio.** Maternal mortalities remain high. Reports show pregnant women who are poor, with more children, and those burdened with household chores and tasked with childcare are more likely not to seek services from a health care facility and therefore suffer from deaths and complications.⁷² As admitted by the Government, leading causes of maternal

⁷¹ An Act Increasing the Maternity Leave Period to One Hundred Five (105) Days for Female Workers With an Option to Extend for an Additional Thirty (30) Days Without Pay, and Granting an Additional Fifteen (15) Days for Solo Mothers, and for Other Purposes, Rep. Act No. 11210 (2019) (Phil.).

⁷² COMMISSION ON POPULATION, PRECIOUS AND PRECARIOUS: THE LIFE OF FILIPINO MOTHERS, STATE OF POPULATION REPORT 6, p. 24 (2015).

deaths are “preventable and can be averted by quality obstetrics care.”⁷³ Hemorrhage and hypertension remain the two leading causes of maternal deaths (41%).⁷⁴ Maternal condition is also one of the top five causes of deaths among adolescent girls (15-19) in the country.⁷⁵ Despite the recommendation of the WHO on the distribution of misoprostol to prevent and treat postpartum hemorrhage, the Government has failed to guarantee pregnant women access to such essential drug.⁷⁶

- (c) Since the last UPR, the Philippine Statistics Authority (PSA) has continued to report high numbers of women dying from childbirth. In a 2017 report, the Government noted that the maternal mortality ratio (MMR) in 2015 is 204 per 100,000 live births which failed to meet the MMR target under the Millennium Development Goals (52 per 100,000 live births by 2015) and is far from the target under the SDGs (70 per 100,000 live births by 2030).⁷⁷ A study estimates that the maternal mortality cases in 2020 may increase by 670 deaths from the 2019 level (a 26% increase),⁷⁸ a direct effect of community quarantine, resulting in a total of 3,170 estimated maternal deaths in 2020, more than three times the estimated figures from 2008.⁷⁹ These maternal mortality figures continue to be adversely impacted by deaths resulting from unsafe abortions and limited access to reproductive health services. In addition, and as highlighted further below, the CPD reports instances where pregnant women have been referred from one hospital to another in search of facilities in which to give birth during the pandemic.⁸⁰
- (d) **Impact of COVID-19 on maternal healthcare facilities.** COVID-19 has exacerbated issues concerning the access to maternal facilities. The WHO has warned that risks of adverse outcomes associated with unattended childbirth outweigh the potential risks of COVID-19 transmission at health facilities, with reductions in access to essential maternal services during epidemics

⁷³ The Department of Health, *4th Annual Report: Responsible Parenthood and Reproductive Health Act of 2012*, p. 29 (2017) available at <https://tinyurl.com/4thRPRHA>.

⁷⁴ 2020 RPRHA Report, *supra* note 19, p. 35 citing Philippine Health Statistics (2017).

⁷⁵ World Health Organization, Philippines: Adolescent Country Profile, available at <https://platform.who.int/data/maternal-newborn-child-adolescent-ageing/static-visualizations/adolescent-country-profile>.

⁷⁶ World Health Organization, Recommendation on advance misoprostol distribution to pregnant women for prevention of postpartum haemorrhage (November 2020); *See also* World Health Organization, Model list of Essential Medicines - 22nd list, p. 50 (2021).

⁷⁷ The Department of Health, *3rd Annual Report: Responsible Parenthood and Reproductive Health Act of 2012*, pp. 5 and 17 (2017), available at <https://tinyurl.com/3rdRPRHA>. *See* U.N. General Assembly Res. 16/35, *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1 (21 October 2015).

⁷⁸ *Significant rise in maternal deaths and unintended pregnancies feared because of COVID-19, UNFPA and UPPI study shows*, RELIEFWEB (17 August 2020) available at <https://reliefweb.int/report/philippines/significant-rise-maternal-deaths-and-unintended-pregnancies-feared-because-covid>.

⁷⁹ UPPI and UNFPA report, *supra* note 37, p. 7.

⁸⁰ *PopCom sees higher maternal mortality*, THE PHILIPPINE STAR (5 May 2021) available at <https://www.philstar.com/headlines/2021/05/05/2095970/popcom-sees-higher-maternal-mortality>.

having a significant impact on maternal health.⁸¹ For instance, data suggests that the **number of home births has increased during the pandemic**. For 2019, only 5.5% of total births were delivered at home and 0.2% were delivered in other locations.⁸² According to the PSA, the numbers of births taking place in health facilities dropped slightly to 93.6% in 2020, with 6.1% of total births delivered at home.⁸³

- (e) In addition, it appears that access to pre- and post-natal care has been impacted by the pandemic. In 2021, the DoH reported that the care of pregnant women has been particularly challenged, especially for adolescents seeking maternal and other reproductive health care services. Certain health facilities where pregnant women usually access care have been transformed to cater only to COVID-19 cases and, in some instances, out-patient services have been closed.⁸⁴ There is also the risk that pregnant women and mothers with new-borns may experience difficulties accessing services due to transport disruptions and lockdown measures or may be reluctant to come to health facilities because of fear of infection. This can result in women not receiving essential antenatal and post-partum care, or even routine child vaccinations. COVID-19 has reduced antenatal care visits from 58% in 2019 to 53% in 2020⁸⁵ and reduced postpartum care from 62% in 2019 to 57%.⁸⁶

4.6 Access to Safe and Legal Abortion and Quality Post-Abortion Care

Relevant Noted Recommendation during the 3rd cycle of the UPR

133.232 Take immediate steps to permit abortion in cases where a woman's or a girl's life or physical or mental health is in danger, where the pregnancy is a result of rape or incest and in cases of fetal impairment, with a view to decriminalizing abortion in the near future (Netherlands);

- Ensure access to misoprostol which is an essential drug to prevent and treat post-partum hemorrhage

- (a) Since 2017, abortion continues to be common in the Philippines. While abortion is a safe medical procedure when done according to WHO

⁸¹ World Health Organization, Maintaining essential health services: Operational Guidance for the COVID-19 context, p. 24 (1 June 2020) available at <https://apps.who.int/iris/rest/bitstreams/1279080/>.

⁸² Philippine Statistics Authority, *Registered Live Births in the Philippines, 2019* (27 January 2021) available at <https://psa.gov.ph/vital-statistics/id/163858>.

⁸³ Philippine Statistics Authority; *Registered Live Births in the Philippines, 2020* (26 January 2021) available at <https://psa.gov.ph/content/registered-live-births-philippines-2020>.

⁸⁴ 2020 RPRHA Report, *supra* note 19, p. 33.

⁸⁵ 2020 RPRHA Report, *supra* note 19, p. 15.

⁸⁶ *Id.*

standards,⁸⁷ legal restrictions cause many women in the Philippines to suffer life-threatening complications. Induced abortion is one of the leading causes of maternal deaths in the Philippines.⁸⁸ Because of the severe restrictions on abortion, disaggregated and official data on abortion are extremely limited. Estimates indicate that around 610,000 induced, and potentially unsafe, abortions took place in the Philippines in 2012, an increase from 560,000 in 2008.⁸⁹ The number of women hospitalized for abortion complications increased from 90,000 in 2008 to 100,000 in 2012.⁹⁰ Common complications of unsafe abortion include blood loss, hemorrhage, sepsis, infection, perforation of the uterus, damage to other internal organs, and death.⁹¹ **An estimated 1,000 maternal deaths were attributed to abortion complications in 2008 translating to around three women dying every day as a result of unsafe abortions.**⁹² As mentioned above, the MMR remains high and far from the SDG target of 70 per 100,000 live births by 2020. These numbers are expected to continue rising as the Philippine population and demand for services increases.⁹³ Further, as a result of the COVID-19 pandemic, these figures have increased in 2020 i.e., from an estimated 1.1 million induced abortions without the lockdown restrictions to 1.26 million because of the **additional 17,000 abortions for every month of community quarantine across 2020.**⁹⁴

- (b) **Additional restrictions on abortion.** Instead of taking steps to address the harms of the current abortion restrictions, the Government adopted measures to further restrict access to this care. In 2017, a law was enacted **increasing the fine a hundredfold for pharmacists** who dispense abortifacients without

⁸⁷ WHO, Abortion Care Guideline (2022) available at <https://srhr.org/abortioncare/> [hereinafter 2022 WHO Abortion Guideline].

⁸⁸ *Millennium Development Goal 5: UNDP in Philippines*, UNITED NATIONS DEVELOPMENT PROGRAMME, <http://www.ph.undp.org/content/philippines/en/home/mdgoverview/overview/mdg5/>; CEDAW Committee, *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. 33, U.N. Doc. CEDAW/C/OP.8/PHL/1 (Apr. 22, 2015) [hereinafter CEDAW Committee, *Inquiry Report*].

⁸⁹ LAWRENCE B. FINER ET AL., GUTTMACHER INSTITUTE, *Unintended Pregnancy and Unsafe Abortion in the Philippines: Context and Consequences*, IN BRIEF No. 3, at 3, (2013) [hereinafter GUTTMACHER INSTITUTE, *Unintended Pregnancy* (2013)], available at <http://www.guttmacher.org/pubs/IB-unintended-pregnancy-philippines.pdf>.

⁹⁰ *Id.*

⁹¹ CENTER FOR REPRODUCTIVE RIGHTS, *Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban* (2010) at 14 [hereinafter *Forsaken Lives* (2010)]; GUTTMACHER INSTITUTE, *Unintended Pregnancy* (2013), *supra* note 89.

⁹² GUTTMACHER INSTITUTE, *UNINTENDED PREGNANCY* (2013), *supra* note 89, citing GUTTMACHER INSTITUTE, *MEETING WOMEN'S CONTRACEPTIVE NEEDS IN THE PHILIPPINES*, IN BRIEF 2009 Series No. 1, (2009) available at https://www.guttmacher.org/pubs/2009/04/15/IB_MWCNP.pdf.

⁹³ Philippine Statistics Authority, *Updated Population Projections based on the Results of 2015 POPCEN*, Annex A: Technical Notes, Oct. 4, 2019, available at <https://psa.gov.ph/content/updated-population-projections-based-results-2015-popcen> (The mid-year population projections by assumption levels and population census counts is 101,264,000 in 2015 [low assumption] increasing to 115, 378,000 in 2025 [low assumption]).

⁹⁴ UPPi and UNFPA report, *supra* note 37, p. 8.

prescription.⁹⁵ In 2019, a **new customs declaration form included “abortion paraphernalia” in its list of prohibited items.**⁹⁶ Other policies on reproductive health also continued to reaffirm the “illegality” of abortion.⁹⁷ In 2020, the Food and Drug Administration **advised against the purchase and use of mifepristone** for being an unregistered drug.⁹⁸ In 2021, a bill was filed before the House of Representatives **seeking to impose additional penalties for physicians, midwives, nurses, and other health workers who causes or assists in causing an abortion** with the use of their scientific knowledge and skill.⁹⁹ Other bills filed before Congress include the proposition of government funded national programs and “pregnancy care centers” that “promote childbirth as a viable and positive alternative to abortion”, and “extend support to entities... that assist women to choose childbirth and make informed decisions regarding the choice of adoption of parenting”.¹⁰⁰ Such government funding will only be provided to “entities and projects that promote and have experience in alternative to abortion services.” The national program in question was introduced multiple times in bills filed between 2017 and 2021. The potential implementation of these laws gives rise to the warranted concern that such restrictive laws on abortion force women and girls to resort to unsafe abortions as a result of the inevitable fear invoked through the stricter laws.¹⁰¹ Current and proposed restrictive laws and policies cause grave physical and mental health outcomes and led to serious violations of the fundamental rights of pregnant persons aggravating the vulnerability of certain population groups e.g. those living in poverty, with less educational opportunities, survivors of sexual violence, and adolescents.¹⁰²

⁹⁵ An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as “The Revised Penal Code” as Amended, Rep. Act No. 10951 (25 July 2017) (Phil.).

⁹⁶ *BoC to review new baggage declaration form to avoid confusion*, BUSINESSWORLD (July 14, 2019) available at <https://www.bworldonline.com/boc-to-review-new-baggage-declaration-form-to-avoid-confusion/>; Evelyn Macairan, *BoC clarifies questions on treason, abortion*, THE PHILIPPINE STAR (July 9, 2019) available at <https://www.philstar.com/headlines/2019/07/09/1933217/boc-clarifies-questions-treason-abortion>. See also An Act Modernizing the Customs and Tariff Administration, Rep. Act No. 10863, secs. 118, 1401 (May 30, 2016). (Under the new Customs Code, “[g]oods, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises, describes or gives direct or indirect information where, how or by whom unlawful abortion is committed” cannot be imported or exported. Any person found guilty of unlawful importation or exportation of “abortion paraphernalia” may be imprisoned for up to six months and ordered to pay a fine of up to Php75,000.)

⁹⁷ See e.g., Department of Health, National Policy on the Prevention of Illegal and Unsafe Abortion and Management of Post-Abortion Complications, Admin. Order No. 2018-0003, 1 (2018).

⁹⁸ Food and Drug Administration of the Philippines, FDA Advisory No. 2020-2105, Public Health Warning Against the Purchase and Use of Unregistered Drug Products (2020) available at <https://www.fda.gov.ph/19976-2/>.

⁹⁹ An Act Amending the Penal Code, Article 259 on Abortion, House Bill 8354 (January 2021).

¹⁰⁰ An Act to Establish a National Program that will Provide Pregnant Women with Alternatives to Abortion, House Bill No. 6819 (December 2017); House Bill No. 2734 (July 2019); House Bill No. 9132 (March 2021).

¹⁰¹ PHIL. REVISED PENAL CODE (Act No. 3815), arts. 256-259 (1930).

¹⁰² See e.g. Forsaken Lives (2010) *supra* note 91; CENTER FOR REPRODUCTIVE RIGHTS, Criminalization of Abortion in the Philippines: Its Harmful Impact on Women’s Health and Human Rights (2017) available at <https://reproductiverights.org/wp-content/uploads/2020/12/GLP-Philippines-fact-sheet-2-22-17.pdf>.

- (c) The Government's efforts since 2017 are also contrary to the calls by local advocates who have been demanding for the liberalization and repeal of the restrictive laws on abortion. In 2020, local groups and advocates launched a proposed bill to decriminalize abortion in the country.¹⁰³ The proposed bill is the first of its kind to be fully drafted and developed by Filipino reproductive rights advocates.
- (d) **Challenges in accessing post-abortion care.** A 2019 study conducted by WomanHealth Philippines on the challenges to and barriers in the access to and provision of post-abortion care in four areas in the country confirmed that the stigma attached to abortion and ongoing restrictions impact women's decision to access care for abortion-related complications as well as the actual delivery and quality of such services. It found that the lack of information and awareness on when and where post-abortion can be accessed, inadequate health infrastructure for post-abortion care, fear of possible arrests for committing an illegal abortion, negative treatment from healthcare providers, and the inadequate policy environment on post-abortion care, among others, constitute as lived barriers for women and girls to seek post-abortion care.¹⁰⁴ In 2018, the Government enacted a "National Policy on the Prevention of Illegal and Unsafe Abortion and Management of Post-Abortion Complications" (2018 PMAC policy) which removed a number of progressive elements introduced in an earlier post-abortion care policy adopted in 2016. Among others, the 2018 PMAC policy does not take a holistic approach to women's and girls' reproductive health and instead aims to eliminate the "preference for illegal and unsafe abortion" and focus on family planning without acknowledging that contraceptives are not capable of preventing all unwanted pregnancies.¹⁰⁵ Such language particularly on the emphasis on the "illegality" of abortions perpetuates the existing stigma surrounding abortion and deter individuals from seeking post-abortion care. Among others, the 2018 PMAC policy also failed to ensure provision of post-abortion care of vacuum aspiration for management of incomplete abortion including uncomplicated incomplete abortion for less than 14 weeks of gestation by traditional and complementary medicine professionals, nurses, and midwives as recommended by the WHO Abortion Care Guideline.¹⁰⁶

¹⁰³ *An Act Decriminalizing Induced Abortion To Save The Lives Of Women, Girls, And Persons Of Diverse Gender Identities, Amending For This Purpose Articles 256-259 Of Act No. 3815, As Amended, Otherwise Known As The Revised Penal Code, Establishing Institutional Mechanisms And For Other Purposes* (2020) <https://decriminalizeabortion.ph/about/the-bill/>.

¹⁰⁴ Woman Health Philippines, *Lived Barriers in the Access to and Provision of Adequate Post-abortion Care in Multiple Sites in the Philippines* (2019) [on file with WomanHealth Philippines] (The study areas were Quezon City, Gubat, Dumaguete City, and Davao City and involved 141 survey participants and 37 in-depth interviews.)

¹⁰⁵ Melissa Upreti and Jihan Jacob, "The Philippines Rolls Back Recent Advancements in Post Abortion Care Policy", *International Journal of Gynecology and Obstetrics*, (August 2018); 142: 255-256.

¹⁰⁶ 2022 WHO Abortion Guideline, *supra* note 87, p. 83.

Suggested recommendations for the 4th cycle:

- Decriminalize abortion and ensure that there are no criminal penalties for having, assisting with, providing information about, or providing abortion, for all relevant actors
- Ensure timely access to comprehensive and quality abortion care including access to quality post-abortion care at all times regardless of the legal status of abortion

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