FORSAKEN LIVES

The Harmful Impact of the Philippine Criminal Abortion Ban

CENTER FOR REPRODUCTIVE RIGHTS

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FORSAKEN LIVES: THE HARMFUL IMPACT OF THE PHILIPPINE CRIMINAL ABORTION BAN

OUR MISSION

The Center for Reproductive Rights uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to protect, respect, and fulfill.

OUR VISION

Reproductive freedom lies at the heart of the promise of human dignity, self-determination, and equality embodied in both the U.S. Constitution and the Universal Declaration of Human Rights. The Center works toward the time when that promise is enshrined in law in the United States and throughout the world. We envision a world where every woman is free to decide whether and when to have children; where every woman has access to the best reproductive healthcare available; and where every woman can exercise her choices without coercion or discrimination. More simply put, we envision a world where every woman participates with full dignity as an equal member of society.

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Purpose of the Report

The purpose of this report is to examine and expose human rights violations resulting from the imposition of a criminal prohibition on abortion in the Philippines based on the experiences of women who have undergone unsafe abortion procedures and survived to tell their stories. It provides a human rights analysis of women's experiences and exposes the failure of the government of the Philippines to protect and promote women's reproductive rights by not taking adequate steps to prevent unsafe abortion related deaths, morbidity, discrimination and abuse as mandated by international law.

Criminal bans on abortion are harmful not only to women but also undermine entire health systems. As such, in addition to documenting the experiences of women, this report further sheds light on the role of health service providers who are sometimes guilty of perpetrating abuse as a result of abortion stigma created by the criminal ban and conflicting personal values. As revealed by the testimonies, often health professionals face their own dilemmas and challenges as they find themselves caught between the criminal ban, an unsupportive health system, and their ethical duties toward their patients.

This report is intended to serve as a starting point for a dialogue on government accountability for the human suffering caused by the criminal ban on abortion and the challenges it creates for health service providers. It includes recommendations for a range of entities, including government actors, based on State obligations under international law and insights provided by those interviewed for this report.

Acknowledgements

This report is a publication of the **Center for Reproductive Rights**. We are grateful to the women, families and health service providers who shared their experiences with us. Without their courage, forthrightness and trust, this report would not have been possible. We are also grateful to experts in the Philippines and the **Center** who reviewed drafts of the report and provided critical input at various stages of its development.

Because of threats, harassment and intimidation frequently directed at those advocating for women's reproductive rights in the Philippines, we have decided not to list many of our sources by name. Pseudonyms have been used to protect the identities of the women whose testimonies are included in this report.

The **Center for Reproductive Rights** takes full responsibility for the views and opinions presented in this report.

Glossary and List of Common Acronyms

TERM	DEFINITION/EXPLANATION/ACRONYM
Abortifacient	A substance that induces abortion.
Association of Southeast Asian Nations	ASEAN
Barangay	The smallest administrative division in the Philippines; it is the native Filipino term for a village, district, neighborhood, or ward.
Beijing Platform for Action	Beijing Declaration and Platform for Action, United Nations Fourth World Conference on Women: Consensus document adopted by nations participating in the Beijing Conference.
Blottering	A practice followed in certain Philippine hospitals of officially recording personal and/or medical information related to an alleged illegal abortion in the hospital medico-legal logbook; this book is referred to as a blotter.
Bureau of Food and Drugs, now called the Food and Drug Administration	BFAD
Catholic Bishops' Conference of the Philippines	In the Roman Catholic Church, an Episcopal Conference, Conference of Bishops, or National Conference of Bishops is an official assembly of all the bishops of a given territory.
Catholic Church hierarchy	In the Catholic Church, hierarchy has a variety of usages, but it is literally defined as "holy government." The hierarchical nature of the church is considered to be of divine institution and essential to the Church itself.
Catechism	A manual describing the essentials of Catholic faith and doctrine in the form of questions followed by answers that are to be memorized; also, an elementary book containing a summary of the principles of the Christian religion, especially as maintained by a particular church, in the form of questions and answers.
CEDAW Committee	UN treaty monitoring body charged with monitoring States' implementation of the Convention on the Elimination of All Forms of Discrimination Against Women.
Committee on Economic, Social and Cultural Rights	CESCR: UN treaty monitoring body charged with monitoring States Parties' implementation of the International Covenant on Economic, Social and Cultural Rights.
Convention on the Elimination of All Forms of Discrimination against Women	CEDAW: International treaty codifying States' duties to eliminate discrimination against women.

TERM	DEFINITION/EXPLANATION/ACRONYM
Concluding Observations	Comments and recommendations issued to the reporting State Party by the respective treaty monitoring body.
Cortal	A pain killer locally available in Philippines called Cortal, containing caffeine and acetylsalicylic acid.
Cytotec or misoprostol	Cytotec is a brand version of misoprostol, a drug used to prevent gastric ulcers, for early abortion, to treat missed miscarriages and to induce labor. It is a small pill that can be taken orally or broken in pieces and inserted vaginally. In hospitals it is used to ripen a woman's cervix and induce labor. When administered to pregnant women unmonitored, it can cause abortion, premature birth, or birth defects. Uterine rupture has also been reported when Cytotec was administered to women beyond the eighth week of pregnancy.
Department of Health	DOH
Dilation and curettage (D&C)	The "dilation" (widening/opening) of the cervix and surgical removal of part of the lining of the uterus, or its contents, by scraping, "curettage." It is a therapeutic gynecological procedure.
Emergency contraception	Drugs that act to prevent ovulation and/or fertilization.
Encyclical	In the Roman Catholic Church, an encyclical is a papal letter addressed to the bishops of the Church, or to the hierarchy of a particular country.
Executive Order 003 (EO)	In 2000, former Mayor of Manila City, Jose "Lito" Atienza, introduced Executive Order 003, which restricts access to contraceptives in public health facilities, making contraceptives prohibitively difficult to access, leading to unplanned pregnancies.
Exempt from criminal liability	Article 12 of the Revised Penal Code of the Philippines outlines the circumstances which are exempt from criminal liability. Article 12(4) states that there is exemption from criminal liability where "any person who, while performing a lawful act with due care, causes an injury by mere accident without fault or intention of causing it."
Food and Drug Administration	FDA: Formerly known as the Bureau of Food and Drugs

TERM	DEFINITION/EXPLANATION/ACRONYM
General Comment/General Recommendation	Comprehensive interpretation of a particular article of a treaty issued by the respective UN treaty monitoring body.
Hilot	A traditional midwife and the provider of abdominal massage in the Philippines, which involves pounding the lower abdomen to trigger termination of pregnancy.
International Conference on Population and Development	ICPD: United Nations conference on population and development issues held in Cairo in 1994.
International Covenant on Civil and Political Rights	ICCPR: International treaty protecting individuals' civil and political rights
International Covenant on Economic, Social and Cultural Rights	ICESCR: International treaty protecting individuals' economic, social and cultural human rights.
The International Federation of Gynecology and Obstetrics	FIGO: A global organization constituted of professional organizations of obstetricians and gynecologists from around the world.
ICPD Programme of Action	United Nations conference on population and development issues held in Cairo in 1994.
Justifying circumstance	Article 11 of the Philippine Revised Penal Code sets forth justifying circumstances where one does not incur criminal liability. Article 11(4) specifically states that criminal liability does not occur where any person, in order to avoid an evil or injury, does an act which causes damage to another, so long as the evil sought to be avoided exists, the injury feared is greater than the damage done to avoid it, and there are no other practical and less harmful ways of preventing it.
Local Government Unit	LGU: a territorial and political subdivision of the Republic of the Philippines vested with certain power by Article X of the Philippine Constitution.
Makabuhay	A native Philippine medicinal plant commonly mixed with other plants and herbs to treat fever due to malaria, jaundice, and intestinal worms. The bitter concoction causes muscle contractions, which is why it is thought to induce abortion.
Maternal mortality ratio (MMR)	The ratio of the number of maternal deaths per 100,000 live births and represents the risk associated with each individual pregnancy.
Molar pregnancy	An abnormal form of pregnancy, wherein a non-viable, fertilized egg implants in the uterus, converting normal pregnancy processes into pathological ones.
Ospital ng Maynila	OnM: Hospital of Manila, a government hospital in Manila City.

TERM	DEFINITION/EXPLANATION/ACRONYM
Philippine Commission on Women	PCW
Philippine General Hospital	A tertiary state owned hospital, operated by the University of the Philippines
Philippine Obstetrical and Gynecological Society	POGS
Prevention and Management of Abortion Complications Policy	PMAC Policy: The primary goal of this policy is to increase Filipino women's access to compassionate and high-quality post-abortion care.
Special Rapporteur	An independent expert working on behalf of the UN, without financial compensation, to investigate, monitor, and recommend solutions to human rights problems.
State party (pl. States parties)	A government that has signed or ratified an international treaty.
United Nations	UN
United Nations Human Rights Committee	UN HRC: UN treaty monitoring body charged with monitoring State parties' compliance with the International Covenant on Civil and Political Rights.
United Nations Population Fund	UNFPA: United Nations agency devoted to funding and supporting population and reproductive health programs in low- and middle-income countries.
United Nations Treaty Monitoring Bodies	UN TMB: Committees responsible for monitoring states parties' fulfillment of their obligations under the six major international human rights treaties.
Universal Declaration of Human Rights	UDHR: United Nations human rights instrument at the foundation of modern international human rights law.
Unsafe abortion	A procedure for terminating an unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking the minimal medical standards, or both.
Vino de Quina	A wine made from the bark of cinchona tree which contains quinine, a medicine for malaria and arthritis. It also causes the womb to contract and can have abortive effects.
World Health Organization	WHO: UN agency devoted to researching and promoting public health worldwide.

Foreword

The **Center for Reproductive Rights** has produced a powerful report, aptly entitled *Forsaken Lives: The Harmful Impact of the Philippine Criminal Abortion Ban,* that hopefully will catalyze law reform in abortion legislation – an area that has resisted change for the last 127 years. Spain, the mother country of the Philippines, has imposed its moral values on the Philippines by punishing abortion since the late 1800s. Ironically, despite being the first country in Asia to mount a revolution against a colonizing power, and despite the fact that Spain itself has liberalized its abortion law, the Philippines continue to be governed by this medieval law. This stagnation is principally due to the powerful influence of the Roman Catholic Church hierarchy, which has threatened to excommunicate politicians who support reproductive rights.

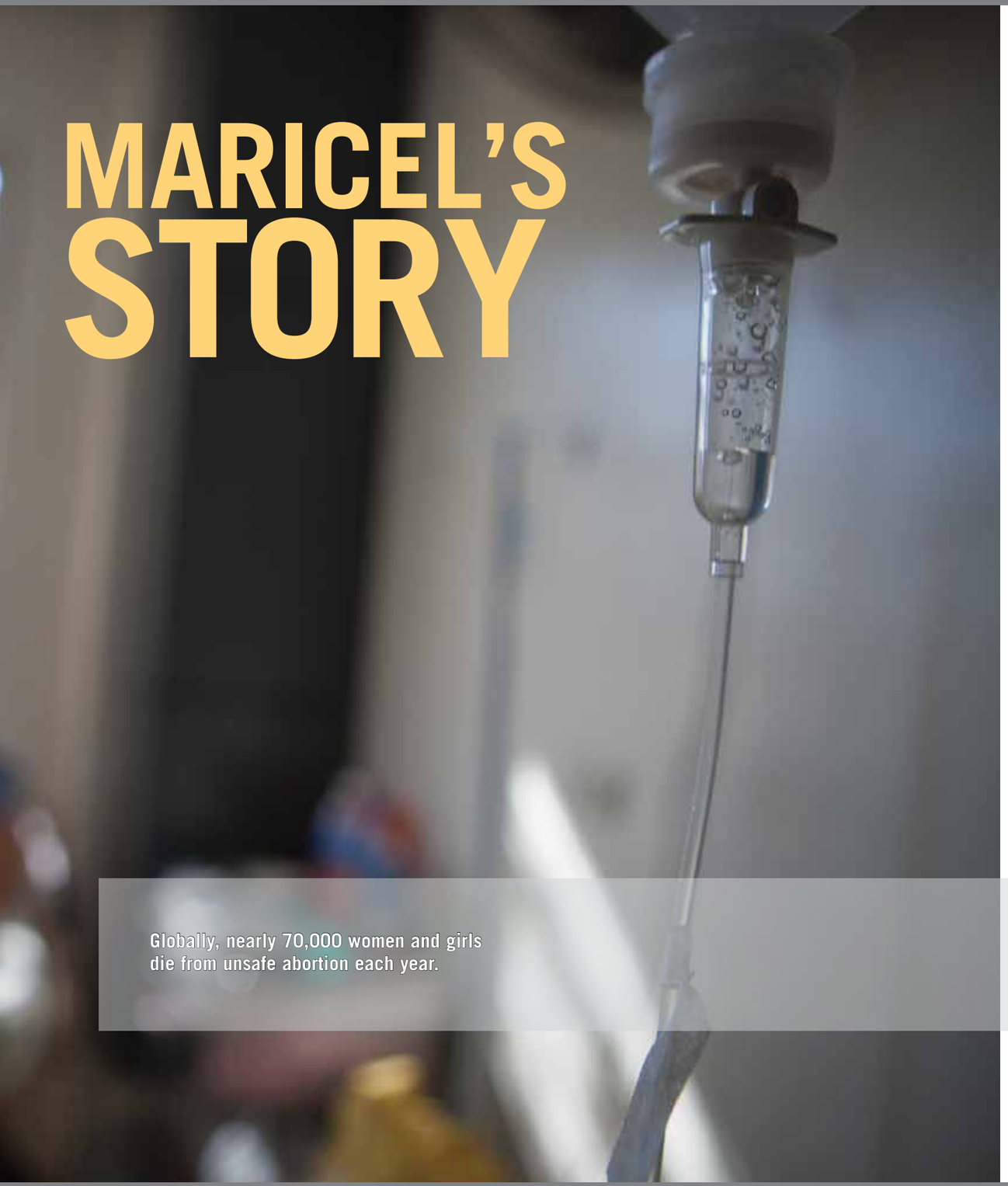
The report has found that unsafe abortion in the Philippines can lead to fatal consequences, and has stated that, "[t]hese tragic and preventable deaths are a direct consequence of the nation's restrictive abortion law and an indirect consequence of the lack of information and access to modern contraceptives in the Philippines, especially in Manila."

To save lives, prevent needless pain, suffering and death – what better reasons can there be for urgent law reform. To oppose legislation on religious or moral grounds not believed in by many, both members and non-members of the church, can only be described by those advocating for law reform, as insensitive and callous. It is time that legislation should be made on this matter as a public health issue and not as moral issue Forsaken by the fundamentalist religious hierarchy and by the Philippine government is indeed an eloquent adjective to describe the lives of these unfortunate women whose excruciating experiences are detailed in this report.

Law reform starts out as an aspiration, followed by a movement that gathers momentum and strength that will move legislation to be enacted. Thereafter, assertion of rights, recognition and enforcement follow. It is my hope that this courageous report will contribute to the growing force of the movement, started by advocates for women's rights, that is greatly needed for law reform that will strengthen the rule of law and promote good governance that addresses women's restricted access to effective contraceptive methods and vulnerability to the dire consequences of unplanned, forced or mistimed pregnancy.

Alfredo F. Tadiar

Former Filipino judge & first Filipino Chair of the Board of Advisers, International Development Law Organization (a twenty-two nation assembly that aims to be a catalyst for law reform in developing countries promoting the rule of law and good governance)



MARICEL'S STORY

Globally, nearly 70,000 women and girls die from unsafe abortion each year.

Maricel was eighteen years old and already had a child when she died of a severe infection after self-inducing an abortion using three different methods.

Maricel's mother was employed as a domestic worker abroad and wanted **Maricel** to have the same opportunity. Maricel applied for, and had just been granted, a visa permitting her to work abroad when she found out she was pregnant. She was still breastfeeding her first child and had thought that she was adequately protected from becoming pregnant again. Afraid that the pregnancy would mean she would lose the employment opportunity, Maricel attempted to induce an abortion.

Desperate, Maricel tried several means of abortion. She first attempted to end her pregnancy herself by taking **misoprostol.** After two weeks of not experiencing any bleeding, Maricel went to a ***hilot*** for an abdominal massage. Three days later, still not experiencing any bleeding, she sought the help of a neighbor, who directed her to a woman who performed "**catheterizations**," meaning that she inserted catheters into the uterus for women as a method of abortion. By that time, Maricel was in her third month of pregnancy. For two weeks following the catheterization, Maricel was bleeding vaginally and feverish. She delayed going to a hospital because she was scared of what would happen to her since she had illegally induced an abortion, but finally sought medical treatment when her fever and bleeding persisted.

Maricel arrived at Fabella Memorial Hospital pale, bleeding, and running a high grade fever.

The **doctors** tried to treat Maricel with antibiotics and decided to perform a dilation and curettage (D&C) to complete the abortion, but it was too late: **Maricel died on the operating table as a result of the sepsis caused by the unsafe abortion.**

Maricel delayed seeking lifesaving medical attention for the complications she experienced because she feared the law and punishment.

MARICEL'S STORY: EXAMPLES OF HUMAN RIGHTS VIOLATED

Right to Life: Without access to legal abortion, Maricel had to resort to a range of unsafe methods of abortion, including submitting to catheterization and abdominal massage by unskilled providers. The procedures left Maricel with a fatal infection. The right to life obligates States parties to prevent women from having to resort to clandestine, illegal abortions that endanger their lives.

Right to Health: Reporting requirements violate the right to health because they deter women from seeking essential post-abortion care for fear of arrest. The Philippine government's failure to clarify that women who seek post-abortion care will not be reported to the police or arrested similarly deters women from seeking care and constitutes a violation of the right to health. Maricel delayed seeking lifesaving medical attention for the complications she experienced because she feared the law and punishment.

Right to Nondiscrimination and Equality: Maricel felt compelled to terminate her pregnancy as a result of practices that would have resulted in her being denied employment as a result of pregnancy. Such policies discriminate against pregnant women and deny them equal employment opportunities in violation of the right to nondiscrimination and equality.

Executive Summary

A Preventable Crisis of Pregnancy-Related Mortality and Human Rights Abuses Resulting from the Philippines' Restrictive Abortion Law

> If only the procedure would be legalized and the right or safe process would be provided to all women needing it, then there would be lesser incidents of untimely death for women. The government is being hypocritical here. They do not think about the situation of women in need.
>
> ***— Nanette, a thirty-seven year old mother of one who self-induced an abortion***

The Philippines is one of the few countries in the world to criminalize abortion in all circumstances with no clear exceptions. As a consequence, women in the Philippines continue to die or suffer grave complications from unsafe abortion procedures, producing a massive and unnecessary public health crisis and violating the fundamental human rights of Filipino women. **Despite the criminal ban, in 2008 alone, an estimated 560,000 induced abortions took place in the Philippines; 90,000 women sought treatment for complications and 1,000 women died.** These tragic and preventable deaths are a direct consequence of the nation's restrictive abortion law and an indirect consequence of the lack of adequate information about and access to effective modern contraceptives in the Philippines, especially in Manila City.

Statistical information on the harm wrought by the criminalization of abortion is extremely limited. Criminal abortion bans result in an absence of official data on the incidence of unsafe abortion procedures and related complications and fatalities, obscuring the harmful impact of legal restrictions and penalties. Women's accounts of their experiences are essential to understanding the true impact of this harsh and unjust law.

Forsaken Lives examines, for the first time, the impact of these restrictions upon women and their families from a human rights perspective. It brings into focus the human tragedy caused by the ban, as illustrated by Filipino women's personal accounts of injustice and abuse. The report also shares the voices of healthcare service providers on the front lines of reproductive health and post-abortion care in the Philippines. Their testimonies confirm many of the trends revealed by women's experiences and show that they too face challenges in the provision of essential reproductive healthcare due to abortion-related stigma in the health system and the government's failure to invest adequately in post-abortion care.

Global Incidence of Unsafe Abortion and the Role of the Law

Unsafe abortion is a notable cause of death and disability for women and adolescent girls worldwide. Almost seventy thousand women and girls die due to unsafe abortion each year, and close to five million suffer short-term or permanent disabilities. Unsafe abortion is one of five internationally recognized "obstetric emergencies" that account for most maternal deaths in the world. According to the **World Health Organization (WHO)**, the legality of abortion is a key determinant of unsafe abortion mortality and morbidity.

Key Findings

Criminalization of Abortion Has Not Prevented the Procedure, but Made It Unsafe

Criminalization of abortion has not prevented abortion in the Philippines, but it has made it extremely unsafe, leading directly to the preventable deaths of thousands of women each year. In practical terms, children have needlessly lost their mothers, husbands have lost their wives, and parents have lost their daughters.

Most women who resort to unsafe abortion do so to protect their health; due to poverty; to allow them to care for their existing children; or to address an unwanted pregnancy that is a result of rape, incest, or an inability to control their fertility through contraception. While women's reasons for abortion may vary, because of the criminal ban any decision to terminate a pregnancy leads in just one frightening direction—toward painful, risky, and potentially fatal methods of pregnancy termination.

The most frequently used unsafe methods include painful abdominal massages by traditional midwives, inserting a catheter into the uterus, medically unsupervised consumption of Cytotec (the local brand name for a drug containing misoprostol) to induce uterine contractions, and ingestion of herbs and other concoctions sold by street vendors. Common physical complications caused by these methods include hemorrhage, sepsis, perforation of the uterus, damage to other internal organs, and death. In some instances, a hysterectomy may be necessary to treat complications, leading to a permanent loss of childbearing capacity. Most women interviewed for this report had resorted to abortion more than once and they had tried more than one risky method each time.

As is the case elsewhere, most women who are forced to resort to unsafe abortion in the Philippines belong to the lower economic rungs of society, although even more affluent women with better access to healthcare services are known to turn to unsafe abortion when confronted with an unwanted pregnancy and suffer similar consequences.

> **I had fears on the legal consequences but people should learn to understand why some women have to undergo abortion. The law did not stop me since I was thinking of providing a better life for my existing children. It would have been easier if you could openly ask a doctor about pregnancy options and the cost would be cheaper or affordable for poor people.**
>
> *– Ana, a thirty-five year old domestic violence survivor and mother of seven children*

Criminalization Has Stigmatized Abortion, Making It Inaccessible Even When a Pregnant Woman's Life Is at Risk

The Philippine Revised Penal Code (the Penal Code) makes abortion a punishable offense in all cases with no clear exceptions. The result is that access to therapeutic or medically necessary abortions is not guaranteed, even when the life of a pregnant woman is at stake. In addition, women and girls who become pregnant as a result of rape or incest are unable to obtain abortions legally. There is also no legal exception for abortion on the ground of fetal impairment, even in cases where there may be a substantial risk of fetal demise or abnormality.

> **Before my third abortion, I consulted with a private doctor on what drug to take.... She said it is against their profession because it is the taking of life. She would never prescribe a drug to induce an abortion. I told her I had this condition [severe hypertension]; I had a reason. She firmly said she would not give a drug because she would [be] commit[ting] a sin.**
>
> *– Haydee, a thirty-two year old mother of one, diagnosed with severe hypertension, a condition that can make pregnancy fatal*

While some legal experts believe that criminal liability for abortion may be avoided by invoking general legal exceptions such as "necessity" and "justification" contained in the Penal Code, this theory has not yet been tested. The Philippine Constitution guarantees equal protection for the lives of both the unborn and pregnant women, and expert commentary, including the history of formal deliberations on this provision, suggests that it may allow legal exceptions for abortion in certain circumstances of medical necessity. However, there is nothing definitive in the law, or in any policy, regulation, or case law that confirms the existence of such exceptions. Consequently, there is a lack of clarity regarding the circumstances under which an abortion may be legally performed or be considered legally justifiable.

Government Denial of Access to Contraceptives Forces Women to Turn to Unsafe Abortion

The unavailability of a full range of family planning services and information is a fundamental cause of the high incidence of abortion in the Philippines. **A study reveals that, in 2008, an estimated 1.9 million pregnancies in the Philippines were unplanned; this is higher than a 2006 study revealing that 1.43 million unplanned pregnancies occur each year.**

The previous Philippine government administration, led by **former President Gloria Macapagal-Arroyo**, actively discouraged the use of modern methods of family planning, wreaking havoc on women's health. Several local governments similarly obstructed access to contraceptives; the most extreme example of denial of access to contraceptives currently is Executive Order (the EO) 003, a measure introduced in Manila City by **former mayor, Jose "Lito" Atienza**, in 2000. It effectively prohibits the provision of modern contraceptives in public health clinics funded by the local government of Manila City and mandates the promotion of natural methods of family planning. Studies reveal a higher incidence of abortion in Manila City than in other parts of the country.

Because of the government's policy of denying access to reliable family planning information and services, myths and fears about the side effects of contraception abound. Access to modern contraceptives is also restricted by formal barriers instigated by religious extremists who have consistently pressured the government to withdraw its support for modern contraceptives by falsely branding them as abortifacients. For example, using such misleading arguments, religious extremists successfully convinced the government to remove the emergency contraceptive Postinor, a drug used to reduce the risk of unplanned pregnancy for victims of sexual violence, from the approved medicines list.

These restrictions counterproductively lead to much higher rates of abortion. If women had greater control over their fertility through effective methods of family planning and access to unbiased, truthful medical information, there would be far fewer unplanned pregnancies and fewer women would be compelled to resort to unsafe abortions.

Criminalization of Abortion Has Led to Abuses, Including the Cruel and Degrading Treatment of Women Seeking Post-Abortion Care

> I just wish that the doctors would stop threatening women like me who had an abortion. They do not know the whole story, the women's experience in life that led to abortion… Some women, instead of going to the hospital to seek medical care, would rather not out of fear of being imprisoned. That is why there are numerous cases of death and infection.
>
> – ***Lisa, a twenty-one year old married mother of three***

The criminalization of abortion has made abortion unsafe and also undermined the ability of women to access lifesaving post-abortion care that is legal in the Philippines. Due to its criminal status, abortion is highly stigmatized in the medical community. Women who seek treatment for complications arising from illegal and unsafe abortions are often viewed as criminals and denied compassionate and lifesaving care.

As the testimonies presented in this report show, women who seek post-abortion care are frequently harassed, intimidated, abused, and threatened with criminal prosecution by health service providers. Many of the women we interviewed described being initially denied post-abortion medical care or threatened with the denial of care because they were suspected of having had an abortion. Several women described how providers deliberately delayed care in their cases in order to "teach them a lesson."

Although healthcare providers have no legal obligation to report women seeking post-abortion care to the authorities, many women interviewed for this report were told by their doctors that they would be reported to the police or arrested if it was discovered that they had induced an abortion. Doctors we interviewed admitted that women seeking post-abortion care are much more likely to be discriminated against than any other category of patient. The criminal status of abortion has, in practice, rendered the promise of compassionate and humane post-abortion care hollow.

> **[A woman] who [is] not ready [for] pregnancy will accept everything, even if she is submitted to abuse and all, as long as her pregnancy is terminated.**
>
> *– Dr. Alejandro San Pedro, Chair of the Department of Obstetrics and Gynecology, Bulacan Provincial Hospital*

Abusive practices in post-abortion care settings are not reported by women as their first priority is to obtain medical care, at any cost. The absence of formal complaint mechanisms has contributed to the silencing of such abuse. While thousands of women do go to public hospitals for treatment of complications from unsafe abortion each year, despite justifiable fears of abuse and criminal prosecution, many more are too afraid of mistreatment to seek appropriate care when they need it. Women often will face death or suffer needlessly from infections rather than risk abuse and humiliation from healthcare providers.

Criminalization of Abortion Has Marginalized Post-Abortion Care Services in the Health System

Although post-abortion care is legal and the government has issued a policy articulating standards for quality and humane post-abortion care, the government has neglected to ensure its provision. Overall, such care remains at the margins of the healthcare system, resulting in very poor quality of services. Healthcare providers entrusted with administering post-abortion care are not consistently given the training and equipment needed to do so effectively. Many of the providers interviewed for this report pointed to the lack of government investment in post-abortion care services as a major cause of the poor quality of services.

Legal barriers also impede post-abortion care. A ban on misoprostol, a drug that can be used to induce abortions, but also is considered an essential medicine by the WHO for the management of incomplete abortion and miscarriages, deprives health professionals of an important and effective means to treat complications from unsafe abortions.

The providers interviewed for this report also specifically identified abortion stigma within the medical community as a source of pervasive negative attitudes toward women who have had illegal abortions. Many providers admitted that their own attitudes toward women seeking post-abortion care had changed as a result of trainings, conducted by local non-governmental organizations in partnership with international organizations and donors, that focused on the safety and efficacy of post-abortion care or on human rights and ethics, and emphasized the importance of post-abortion care as a critical component of women's reproductive healthcare. Despite the demonstrated positive effects of such training programs, the Philippine government has not made an effort to invest in them, showing its continuing neglect of post-abortion care.

The Philippine Government Has Succumbed to the Catholic Hierarchy's Opposition to Abortion, Despite Clear Harm to Women's Health and Lives

Despite constitutional guarantees of religious freedom and separation of church and state, in practice the Catholic hierarchy, 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. When the Philippine Constitution of 1987 was being drafted, religious conservatives associated with the Catholic hierarchy advocated fiercely for constitutional legal protection for the unborn from the "moment" of conception, but their efforts failed; instead, the Constitutional Commission adopted language granting equal protection for the lives of pregnant woman and the unborn. At that time, the real goal of the religious conservatives was to secure a constitutional ban on abortion and contraception.

Frustrated by this failure, the Catholic hierarchy has since then led several campaigns to restrict women's access to reproductive health services, especially modern contraceptives, by inaccurately branding them as abortifacients. Its operational arm, the CBCP, has been a vocal opponent of both abortion and contraceptives and issues many public statements expressing its opposition in a bid to sway politicians against major reproductive health initiatives on religious grounds. Most recently, the CBCP's opposition to the proposed Reproductive Health Bill, which aimed to improve access to contraception and did not include any measures to legalize abortion, was instrumental in blocking its enactment.

> **If abortion is a sin, God is merciful … I have to think and be practical about the welfare of my children.**
>
> *– Cristina, a forty-eight year old mother of three and domestic violence survivor who tried to induce one abortion*

Restrictions on Abortion in the Philippines Violate International Law and Major Political Commitments

International law establishes a broad range of obligations for governments in relation to healthcare. It requires governments to ensure the availability of healthcare services, including those specifically needed by women to maintain their reproductive health. As the in-depth report reveals, the criminal ban in the Philippines has made abortion, a medical procedure necessary to protect the health of women, unavailable to them, even under grievous and life-threatening circumstances. The criminalization of abortion has also had a chilling effect on the provision of post-abortion care by stigmatizing abortion, which has undermined the quality of the care and made women vulnerable to abusive and discriminatory treatment in public health facilities. By allowing pressure from the Catholic hierarchy to deprive women of a full range of reproductive health services, the government of the Philippines has violated its human rights obligation to refrain from allowing ideologically driven laws to violate women's rights. The government's failure to ensure legal recourse for such acts of discrimination and abuse has led to impunity in the health system, making it a frightening place for women in need of lifesaving medical care.

By criminalizing abortion regardless of circumstance, the government of the Philippines has failed to fulfill its international obligation to protect women's health and human rights. The health consequences are clear, as are the human rights violations committed by the government. The human rights implicated by the criminal ban include the rights to life; health; freedom from cruel, inhuman, and degrading treatment; equality and nondiscrimination; and privacy. All of these rights are guaranteed by major international treaties that have been signed and ratified by the Philippines, including the **International Covenant on Civil and Political Rights (ICCPR),** the **International Covenant on Economic, Social, and Cultural Rights (ICESCR),** the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**, the **Convention against Torture (CAT),** the **Convention on the Rights of the Child (CRC)**, and the **Convention on the Elimination of Racial Discrimination (CERD)**.

The continuing implementation of the restrictive abortion law further signifies the government of the Philippines' noncompliance with official recommendations of **United Nations treaty monitoring bodies (UN TMBs)**, which repeatedly have urged the government to address the problem of unsafe abortion in the Philippines through law reform.

Further, the high incidence of illegal and unsafe abortion in the Philippines is a direct consequence of the restrictive abortion law and deaths resulting from unsafe abortion constitute a major impediment to achieving the official target of significantly reducing the incidence of maternal mortality in the Philippines by three quarters between 1990 and 2015, as committed to in the **Millennium Development Goals (MDGs).**

> **All Governments and relevant intergovernmental and non-governmental organizations are urged to strengthen their commitment to women's health, to deal with the health impact of unsafe abortion as a major public health concern....In all cases, women should have access to quality services for the management of complications arising from abortion.**
>
> *– 1994 International Conference on Population and Development Programme of Action*

RECOMMENDATIONS TO THE PHILIPPINES BY UNITED NATIONS TREATY MONITORING BODIES CONCERNING ABORTION

The **Committee on Economic Social and Cultural Rights (CESCR)** has expressed concern that abortion is "illegal in all circumstances [in the Philippines], even when the woman's life or health is in danger or pregnancy is the result of rape or incest, and that complications from unsafe, clandestine abortions are among the principal causes of maternal deaths." Further, the Committee notes with concern the "difficulties in obtaining access to artificial methods of contraception, which contribute to the high rates of teenage pregnancies and maternal deaths..." The Committee has asked the government of the Philippines to "address, as a matter of priority, the problem of maternal deaths as a result of clandestine abortions, and consider reviewing its legislation criminalizing abortion in all circumstances."

U.N. Committee on Economic, Social and Cultural Rights (CESCR), Concluding Observations: Philippines, para. 31, E/C.12/PHL/CO/4 (2008).

The **Committee on the Elimination of Discrimination against Women (CEDAW Committee)** has likewise expressed concern about the high incidence of maternal mortality due to induced abortion, barriers limiting women's access to contraceptives and the poor quality of post-abortion care. The Committee has asked the government to "consider reviewing the laws relating to abortion with a view to removing punitive provisions imposed on women who have abortions and provide them with access to quality services for the management of complications arising from unsafe abortions…"

U.N. Committee on the Elimination of Discrimination against Women (CEDAW Committee), Concluding Comments, Philippines, paras. 27-28, CEDAW/C/PHI/CO/6 (2006).

The **Committee on the Rights of the Child** has expressed concern about the situation of adolescents whose access to reproductive health services, including counseling and "accurate and objective information" about contraceptives, is limited. The Committee has asked the government to "provide all adolescents with accurate and objective information and services in order to prevent teenage pregnancies and related abortions."

U.N. Committee on the Rights of the Child, Concluding Observation: Philippines, paras. 62-63(b), CRC/C/15/Add.259 (2005).

The Abortion Laws in the Philippines Are Inconsistent with Comparative Legal and Ethical Norms, Setting the Philippines Apart from the Rest of the World

Under internationally recognized ethical norms, women have the right to abortion and the healthcare profession has an obligation to provide this service as safely as possible. Further, ethical norms establish that providers are entitled to the support and protection necessary for them to perform their professional duties in the most ethical way. Under the abortion law, several doctors interviewed for this report said they are unable to provide abortions even where necessary to preserve a woman's life or health and often lack the training and supplies to provide post-abortion care. The abortion law leaves the country's healthcare workers unable to fulfill their ethical obligations to their patients, making them, as one doctor interviewed said, an accessory to women's suffering.

The lack of reform in the Philippines means that Filipino women continue to be endangered under an anachronistic colonial law, despite the wave of reform sweeping many of the Philippines' peer nations. Although the Philippines derived its abortion prohibition from Spain during colonial times, Spain as well as many of its former colonies have liberalized their abortion laws since then and are continuing to do so. Similarly, many predominately Catholic nations, such as Italy and Portugal, have experienced a liberalizing trend in their abortion laws. Regionally, the Philippines has one of the most restrictive laws in East and Southeast Asia. The **Asia and Oceania Federation of Obstetricians and Gynecologists (AOFOG)**, the leading regional obstetrics and gynecological society, has recognized unsafe abortion as a major health concern for women in the region and has articulated the obligations of obstetrics and gynecological professional societies as well as individual doctors to take steps to decrease the incidence of unsafe abortion.

Conclusion

There Is an Urgent Need for Legal and Policy Reform and Accountability Measures to Address Unsafe Abortion and Related Abuses of Women's Human Rights in the Philippines

The wide array of evidence presented in this report amply demonstrates the human rights abuses brought on by the sweeping criminal ban on abortion in the Philippines. The testimonies document and contextualize the experiences of women in the Philippines, establishing that the criminal ban violates a range of women's human rights and signifies the failure of the Philippine government to comply with its obligations under international law. The report also sheds light on the dilemmas and challenges many healthcare providers face as they are caught between the criminal ban which prescribes penalties for providers of abortion and their professional obligation to treat their patients with compassion and respect.

In failing to address the suffering and abuse experienced by women as a direct consequence of the criminal ban on abortion, the government has forsaken the lives of women who are represented through the testimonies in this report. Society's lack of outcry has legitimized the government's inaction and led to complicity in these grave and systemic violations of women's rights. The government has a binding legal obligation to recognize, protect and promote the rights of women that are being violated by the criminal ban on abortion and it is up to key stakeholders to take the initiative to make the government accountable for doing the same. Government actors and key stakeholders have an obligation to break the silence around the issue of unsafe abortion and enable the voices of women to become a basis for change.

We hope that this report brings national and international attention to the high cost in women's lives and suffering as a result of the criminal ban on abortion, as well as the many challenges it creates for healthcare providers in their role of securing the health and dignity of women.

Methodology

This study was undertaken by the **Center for Reproductive Rights (Center)** with the cooperation and support of women's health activists, local healthcare professionals and legal experts who have been involved in efforts to address the crisis of unsafe abortion in the Philippines for many years. It is based primarily on fifty-three interviews with survivors of unsafe abortion, acquaintances of women who have died from unsafe abortion, and a broad range of key actors and stakeholders including doctors in major government hospitals, lawyers, ethicists, reproductive health activists, psycho-social counselors, academics, political leaders, and law enforcement agents.

Many of the interviews were conducted by Center staff during five visits to the Philippines between February 2008 and May 2010 and involved individual and group interviews in Tagalog and English. Some of the testimonies were gathered and translated into English by local partners. The investigation included numerous visits by Center staff to four major hospitals based in Metro Manila including Dr. Jose Fabella Memorial Hospital (Fabella Hospital), Philippine General Hospital (PGH), Tondo General Hospital (Tondo General), and Ospital ng Maynila (OnM), as well as to Bulacan Provincial Hospital located in Bulacan. This report is also informed by the views shared by health care providers who participated in two trainings conducted by the Center on human rights and ethical standards as they relate to post-abortion care in 2008 and 2009.

This report relies on secondary sources containing public health data relating to unsafe abortion, which is very limited as a result of the criminal ban. Due to the criminal status of abortion, every effort has been made to protect the identities of the interviewees and sources of information. In order to capture a range of experiences, we have included stories of women that date back several years.

In forcing women to resort to potentially fatal abortion methods and leading to serious abuse in the provision of post-abortion care, the criminal abortion ban denies women their basic dignity. This report documents the ways the government has forsaken the lives of Filipino women, including by criminalizing and stigmatizing essential reproductive health services.

Structure of the Report

We begin with this executive summary and our recommendations for action. Next, Chapter I introduces the criminal ban and provides context on the reproductive health of women in the Philippines; Chapter II presents the testimonies of women who have suffered the impact of the criminal ban; Chapter III discusses the challenges and dilemmas faced by healthcare service providers as a result of criminalization; Chapter IV outlines the legal and political context for abortion and post-abortion care and highlights legal barriers imposed by the government to women's access to contraceptives, including emergency contraceptives and essential drugs required for effective post-abortion care such as misoprostol; and Chapter V discusses the human rights implications of the criminal ban in light of international norms and treaty jurisprudence and internationally

recognized ethical standards of practice. It also provides a comparative legal perspective based on abortion laws in other countries, including neighboring countries, predominately Catholic countries, and former Spanish colonies, that have recently reformed their abortion laws to make them more liberal and humane.

Recommendations

The Philippine Congress should:

- Assume the secular responsibility of protecting women's rights and ensure compliance with human rights obligations by amending the Revised Penal Code to lift criminal sanctions on abortion at a minimum in the following circumstances: when the life and health (physical and mental) of the woman are in jeopardy; when the pregnancy is a result of rape or incest; and in cases of fetal impairment.
- Demonstrate a stronger commitment to women's reproductive health and rights by making it a national priority and support the formulation and adoption of laws that permit abortion in certain circumstances. Such laws should be drafted in accordance with the government's international human rights obligations and the fundamental rights of women guaranteed by the Philippine Constitution.
- Ensure that abortion-related laws adopted by Congress, the Senate, and local governing bodies comply with international human rights standards on reproductive rights and relevant ethical norms of practice and are grounded in public health data.
- Authorize increased funding for women's reproductive health programs, especially post-abortion care and contraceptive access.

The Department of Health (DOH) should:

- Issue regulations clarifying the existing legal and medical grounds on which abortion may be permitted. These should include, at a minimum, internationally recognized ethical grounds for abortion: when the life and health of the woman are in jeopardy; when the pregnancy is a result of rape or incest; and in cases of fetal impairment.
- Create a system to gather data on the number of deaths caused by unsafe abortion and its causes with the objective of developing appropriate policies and programs to reduce unsafe abortion mortality and morbidity and to improve the quality of post abortion-care. Abortion-related deaths should be included in maternal death reviews.
- Take immediate action to improve women's access to timely, humane, and quality post-abortion care by prohibiting and penalizing abusive practices against women who seek post-abortion care. Increase awareness of their right to humane post-abortion care through information campaigns and establish patient feedback mechanisms that allow women to file complaints against abuses. These measures should be supported by increased funding for post-abortion care programs, including for medical supplies, equipment, and appropriate training for staff.
- Implement strategies aimed at reducing unplanned and unwanted pregnancy by ensuring universal access to contraceptive supplies and information. Secure adequate funding for a full range of contraception methods and take steps to lift bans on modern contraceptives such as the Manila City EO. The Food and Drug Administration (FDA) must make the emergency contraceptive Postinor available.
- Address training gaps around abortion and post-abortion care.

The Department of Justice (DOJ) should:

- Issue regulations clarifying the existing legal grounds on which abortion may be permitted. These should include, at a minimum, internationally recognized ethical grounds for abortion: when the life and health of the woman are in jeopardy; when the pregnancy is a result of rape or incest; and in cases of fetal impairment.
- Officially clarify the situations in which the criminal defense of necessity or the legal ground of a justifying circumstance contained in the Revised Penal Code may be invoked in cases of abortion.

National courts should:

- Ensure that women's rights are upheld and protected in the judicial decision-making process in accordance with international human rights norms and obligations of the state as established under international law.
- Enforce the constitutional guarantees of separation between church and state, the fundamental right to freedom of religion, and the right to found a family in accordance with one's conscience in a manner that prevents the promotion of a particular religious ideology through official laws and policies and protects and promotes women's dignity and human rights.

The Commission on Human Rights of the Philippines should:

- Investigate the occurrence of abuses arising from the criminal ban and make appropriate recommendations to the government for abortion law reform and prevention of abuses in the context of post-abortion care. Ensure compliance with key observations and recommendations of UN TMBs.

The Philippine Commission on Women (PCW) should:

- Investigate the occurrence of abuses arising from the criminal ban on abortion and in the context of post-abortion care based on the rights guaranteed in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- Take steps to protect women's health and human rights by promoting abortion law reform, taking into account the concluding observations of CEDAW Committee and the Beijing Platform for Action's discouragement of a punitive approach to abortion.

Health professional groups and education and training institutions should:

- Adopt codes of conduct and strategies for members of professional associations such as Philippines **Medical Association (PMA)**, **Philippine Obstetrical and Gynecological Society (POGS)**, the **Philippines Nurses Association**, and associations of midwives to ensure that medical professionals and health workers who provide post-abortion care do not harass, intimidate, or abuse women and that healthcare providers who advocate for safe abortion or better post-abortion care are not harassed or stigmatized.
- In hospitals providing post-abortion care, establish a complaint mechanism to provide women with an official channel for reporting maltreatment and abuse. Establish official rules for confidential and unbiased investigations of violations of patients' rights and disciplinary action against providers who commit such abuse.

- Educators handling the training and education of students in medical, nursing, and midwifery schools should include in their respective curricula information about the medical, public health and human rights aspects of abortion. Training in clinical skills necessary to provide quality post-abortion care should be provided. All students must be informed about their ethical obligations to provide humane, compassionate, and nonjudgmental care to women with post-abortion complications.
- To ensure sustained access to quality post-abortion care, medical schools and teaching hospitals must increase training to doctors, nurses, and midwives individually and as a team, with emphasis on client-centered counseling, use of the **manual vacuum aspiration (MVA)** method, and post-abortion family planning.

Legal experts and academic institutions should:

- Promote a dialogue about the harmful impact of the current punitive approach to abortion. Experts should develop legal strategies to address the violations of women's fundamental rights guaranteed by the constitution and internationally protected human rights that result from the criminal ban.
- Engage with international human rights bodies by submitting shadow reports highlighting the Philippine government's violation of women's reproductive rights through the implementation of the criminal ban. Rely on concluding observations issued by UN TMBs in national advocacy to seek accountability for the harmful impact of the ban and use the same as a basis for legal reform.
- Promote a fair and informed discussion about the propriety of the criminal ban on abortion and its impact on women's human rights. Promote greater intellectual freedom around the topic of abortion and encourage legal academics and other members of the legal community to develop an alternative legal regime for abortion, one based on principles of human rights, science, and public health data.

Women's reproductive health and rights advocates should:

- Work together to break the taboo and stigma on abortion by initiating public discussions about the negative impact of the criminal ban and the harm they cause to women and society across communities.
- Collaborate with healthcare workers to increase their level of compassion toward women who undergo abortion through training and other interactive programs that integrate discussions about ethics and human rights.
- Monitor the government's compliance with its human rights obligations to ensure access to safe and legal abortion and post-abortion care. Expose its failure to do so by highlighting human rights violations resulting from the criminal ban and reporting the same to national and international human rights bodies and institutions.

The Catholic Bishops' Conference of the Philippines should:

- Demonstrate respect for the nation's constitution, which recognizes religious freedom and the right of individuals to establish their family in accordance with their own religious beliefs and conscience, and establishes the principle of separation of church and state.
- Take positive steps to promote women's survival, health, and economic empowerment by supporting their reproductive health needs and choices.

[W]omen with unwanted pregnancies should be offered reliable information and compassionate counseling, including information on where and when a pregnancy may be terminated legally.

–Paul Hunt, Former Special Rapporteur on the Right to Health

The Asian Human Rights Commission should:

- Recognize and condemn human rights violations resulting from the criminal ban on abortion in the Philippines and other legal restrictions on women's access to contraceptives that have put the government of the Philippines in violation of international law.

The Asia and Oceania Federation of Obstetrics and Gynecology (AOFOG) should:

- Take steps to implement the Tokyo Declaration of 2007 on the prevention of unsafe abortion, which calls upon members of the obstetrics and gynecology societies in the region to advocate for laws that establish women's access to abortion and to ensure that healthcare providers behave ethically and do not impose their personal religious views relating to abortion on patients.

United Nations bodies should:

- UN TMBs should question the government of the Philippines about its failure to implement concluding comments and observations by the CESCR, the CEDAW Committee, and the Committee on the Rights of the Child at the next periodic reporting sessions for these committees.

The international donor community should:

- Demonstrate stronger support for women's reproductive rights by increasing financial and technical support for women's reproductive health programs in the Philippines. Actively promote the integration of human rights standards and targets set out in the MDGs into health programs by promoting the incorporation of such standards and goals in national health policies and programs.
- Support local activists and organizations in developing legal strategies to address human rights violations arising from the implementation of the criminal ban. Support the efforts of activists to seek clarity on legal exceptions for abortion in certain circumstances in order to reduce the incidence of unsafe abortion.
- Increase funding for post-abortion care programs, including for training programs. Help the government establish mechanisms for preventing and monitoring abuses in the provision of post-abortion care.
- Promote efforts to reduce the incidence of unsafe abortion by providing contraceptives and other assistance for the establishment of comprehensive family planning programs.

The United States Agency for International Development (USAID) should:

- Renew their commitment to the implementation of the Philippine government's post-abortion care policy and program by increasing funding and providing technical support to improve the accessibility and quality of care and assist in the prevention and monitoring of abuses against women who seek post-abortion care.
- Support local activists and organizations in developing legal strategies to address human rights violations arising from the implementation of the criminal ban. Support the efforts of activists to seek

clarity on legal exceptions for abortion in certain circumstances in order to reduce the incidence of unsafe abortion.

- Restore the provision of contraceptives to the Philippines to help the government immediately address the unmet need for contraception. Contraceptive supplies should be accompanied by technical support for counseling on family planning and other initiatives to deal with misconceptions about family planning methods.

The United States Department of State should:

- Address unsafe abortion mortality as part of the State Department's commitment to the reduction of maternal mortality worldwide. Include violations arising from the criminal ban on abortion and legal restrictions on contraceptives and important drugs such as misoprostol in the State Department's annual report on human rights.

A criminal law that prohibits abortion in all circumstances extinguishes the woman's fundamental rights, and thereby violates her dignity by reducing her to a mere receptacle for the fetus, without rights or interests of constitutional relevance worthy of protection.

–Constitutional Court of Colombia

An unsafe abortion is "a procedure for terminating an unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking the minimal medical standards, or both."

(World Health Organization, 1992)

Chapter One

Unsafe Abortion and Women's Reproductive Health and Rights in the Philippines

The Republic of the Philippines is an archipelago of more than seven thousand islands and has an estimated population of ninety-four million people, of which forty-six million are female.[1] It is a secular state with a constitution that guarantees the right to freedom of religion to all citizens[2] and explicitly establishes the separation of church and state.[3] Though there is no formally adopted state religion, religion still heavily influences politics. The Philippines was a Spanish colony for more than three hundred years[4] and is now Asia's largest Catholic nation; around 80% of the population is Roman Catholic, while 5% follow Islam; 10% ascribe to other religions including Protestant Christianity, Buddhism, and Hinduism;[5] and the remaining 5% of the population does not identify with any particular religion.[6] Religious influence, particularly from the Roman Catholic hierarchy, is especially strong in the area of women's reproductive health and rights, and has resulted in many restrictions on women's reproductive freedom.

An abortion law without clear exceptions

The Philippines is one of a handful of countries to prohibit and criminally punish abortion without recognizing a clear legal exception for the procedure in any circumstance. As a result, a woman or adolescent girl cannot terminate her pregnancy legally and safely, even if it poses a risk to her life or health, if the pregnancy is caused by a criminal act such as rape or incest, or in cases of fetal impairment. This prohibition on abortion is expressed in the Revised Penal Code of 1930[7] which largely replicates the Spanish Penal Code of 1870.[8] The law punishes both the provider of an abortion and the pregnant woman with prison terms of up to six years depending on the specific circumstances of the case.[9] Some Philippine legal experts opine that abortion to save the life of a woman may be excluded from criminal liability if a "justifying circumstance"[10] or a "circumstance which exempts from criminal liability"[11] can be established. Though these legal defenses are standard exceptions that may be invoked in defense of crimes committed under the Penal Code, they have not been tested in an abortion case, and exceptions are rarely recognized in practice. Although prosecutions for abortion are rare, the prohibition of abortion is extreme and, in practice, functions as a complete ban. (See Chapter 4, p. 77, for further discussion about the history and application of the Penal Code.)

The Penal Code's restriction on abortion is reinforced by the 1987 Constitution of the Republic of the Philippines (the Constitution), which proclaims that the State shall "equally protect the life of the mother and the life of the unborn from conception."[12] Although this provision essentially recognizes that a pregnant woman's life shall not be treated as less important than the unborn's, the Constitution is silent regarding what should happen if and when these interests collide, such as where a pregnancy poses a serious risk to a woman's life or health.[13] This lack of constitutional clarity has created a major gap in the law and has led to grave consequences for women and adolescent girls confronted with unplanned or unwanted pregnancies. (See Chapter 4, p. 78, for further discussion on the history and application of the Constitution.)

The status of women's reproductive health and key concerns

> "The status of women's health impacts not only on the productive capacity of half the population but also on the health and well-being of the next generation."
>
> ***– National Commission on the Role of Filipino Women (NCRFW)***

In recent years, there have been notable improvements in key indicators of women's status in the Philippines, including life expectancy and levels of education.[14] Gender-based violence has been a priority for activists as well; their efforts have led to the enactment of important new laws, such as the Anti-Rape Act of 1997, which reclassifies rape in the Penal Code as a crime against a person rather than a crime against a woman's chastity,[15] and the Rape Victim Assistance and Protection Act of 1998, which mandates the creation of rape crisis centers and the provision of special services for survivors of rape.[16] Despite such improvements, disparities based on income, ethnicity, and geographic location persist.[17] Overall, women experience a high degree of inequality within marriage and in family life.[18] Studies show that this contributes to their poor economic status and negative reproductive health outcomes.[19] More recently, women have suffered major setbacks to their reproductive health as a result of restrictions imposed on modern contraceptives, including the emergency contraceptive, Postinor; a ban on misoprostol, a potentially life-saving drug on the World Health Organization's (WHO) list of essential medicines,[20] which is used in the treatment of gastric ulcers, to induce labor, and in post-abortion care;[21] and opposition to the proposed Reproductive Health Bill. (See Chapter 4, p. 87, for further discussion of legal attempts to restrict women's reproductive rights.) Some of the most pressing reproductive health concerns women and adolescent girls face in the Philippines are unsafe abortion, lack of access to family planning information and services, and maternal mortality. While distinct in certain respects, these issues are interrelated and, as revealed by studies, they cumulatively exact a significant toll on women's survival, health, and quality of life.

Unsafe abortion

In 2008, an estimated 560,000 abortions were performed in the Philippines, and 1,000 women lost their lives to such procedures while as many as 90,000 were hospitalized for complications.[22] Common methods of unsafe abortion reported by women and healthcare providers include painful massages by traditional midwives known as *hilots*, insertion of catheters, and the medically unsupervised use of misoprostol through oral ingestion and vaginal insertion. Women who attempt abortion often try an array of methods a number of different times during their pregnancy, further endangering their health. (See box – Common Methods of Abortion Induction, p. 32; for testimonies of the methods women use, see Chapter 2, p. 46) Complications from unsafe abortion include infection and hemorrhage that, if left untreated, may result in death.[23] In some cases, treatment for complications may even require hysterectomy,[24] leading to a permanent loss of childbearing capacity.

Due to the illegal status of abortion, it is impossible to determine the exact number of unsafe abortion deaths and cases of morbidity. The government does not have a system for tracking abortion-related deaths and, in cases where unsafe abortion is the real cause of death, it may not be officially recorded as such. However, according to experts working in the health field and anecdotal evidence, the actual incidence of abortion-related death and morbidity is likely to be higher that what the estimates suggest. Referring to the current estimates of unsafe abortion deaths and morbidity, a former secretary of the DOH has noted that, "This is definitely an underestimate because the number was generated on the basis of hospital data. It is only based on women who went to hospitals [with complications]. There are many successful illegal abortions that are unsafe]."[25]

Lack of access to contraceptives

According to a 2008 study, an estimated 1.9 million unintended pregnancies occurred among women ages fifteen to forty-nine years in the Philippines; that is, approximately 54% of all pregnancies.[26] Twenty-nine percent of all women at risk for unintended pregnancy in the Philippines—around 3 million women—who want to avail themselves of contraception cannot obtain it.[27] In some regions the occurrence of unintended pregnancies is as high as 60%.[28] Former President Arroyo's political preference for natural family planning over modern methods of contraception has resulted in a dramatic reduction in access to contraceptive supplies and information in the last few years.[29] More than 50% of women with an unmet need for contraception are poor.[30] Another major barrier to contraceptive use in the Philippines and a contributing factor to the high unmet need for contraception is the fear of side effects. It is reported that more than three-quarters of women who need contraceptives are not using them because of such fears.[31]

There is a strong correlation between unsafe abortion and contraceptive non-use. One major study shows that more than 50% of women who have terminated a pregnancy were not using any method of contraception when they became pregnant.[32]

Unintended pregnancies pose a significant threat to women's lives in the Philippines as 17% of all such pregnancies are terminated.[33] Since abortion is illegal under Philippine law, almost all procedures are clandestine and often unsafe.[34]

Contraceptive non-use, whether due to denial of access to modern methods or to misconceptions about side effects, has had a significant negative impact on women's status in the Philippines. From a recent study by the Asian Development Bank, it may be concluded that unplanned pregnancy and the birth of an unplanned child is a common cause of decline in well-being for women and their families in the Philippines.[35]

Maternal mortality

The Philippines has one of the highest maternal mortality ratios in the Western Pacific Region, as defined by the WHO, at 230 maternal deaths per 100,000 live births;[36] the regional average is 82.[37] In 2008, births and miscarriages resulted in the deaths of about 3,700 women.[38] Around 1,000 women died as a result of unsafe abortion.[39] Of the women who died during childbirth or due to miscarriages, approximately 1,600 had not wanted to become pregnant.[40] It is estimated that 15% of all pregnancies worldwide develop life-threatening complications such as bleeding, hypertension, and infection.[41] On the basis of an estimated 2.29 million pregnancies in the Philippines in 2008,[42] there were about 343,500 pregnancies at risk for developing life-threatening complications. A WHO study on women's health in the Philippines has identified the reduction of unsafe abortion as one of three key challenges for women's health as it accounts for up to 20% of the country's maternal deaths.[43]

Women's health in the nation's legal and policy framework

Women's health and the Philippine Constitution

The Constitution guarantees protection of the health of its people both as a fundamental right in the Declaration of Principles and State Policies (Declaration),[44] and as a matter of social justice and human rights.[45] It provides

Common Methods of Abortion Induction [1]

Plants and plant preparations—both ingested and inserted into the vagina	Examples of plant concoctions and other herbal remedies are *makabuhay*, *essencia maravilosa* and *pampa regla*. Many plants are known to induce contractions of smooth muscles, such as those in the uterus, thereby inducing labor.
Massage and abdominal pressure are applied by a *hilot*	Physical pressure is used to induce uterine contractions, which are experienced to expel the fetus. The procedure is extremely painful, especially in later-term pregnancies.
Insertion of catheters (*sonda*) and other objects	Some women insert catheters, hangers, brooms, or *walis tingting* (materials of which traditional Philippine brooms are made) into their uteri through the cervix to remove the fetus, often leading to infection. Attempted piercing of the fetus with a knitting needle or similar device inserted into the uterus through the cervix is also practiced.
Dilation and curettage (D&C or *raspa*)	D&C is conducted at hospitals on women who have already induced an abortion. In this case, the procedure is called completion curettage. Some clandestine clinics, however, use D&C to induce an abortion.
Menstrual regulation (MR)	Women who have missed their regular menstrual period and suspect that they are pregnant but cannot or do not want to wait for the results of a pregnancy test will opt for this procedure, which tends to involve the use of suction or vacuum aspiration to terminate a pregnancy in its first few weeks. The procedure is variously called menstrual regulation (MR), menstrual aspiration, or menstrual extraction and is similar to the one used for inserting intra-uterine devices (IUDs). Just as in the case of an IUD insertion, the doctor inserts a small tube through the cervix into the uterus. However, instead of depositing the IUD through the tube, he applies a vacuum at one of its ends, thus pulling out (i.e., "aspirating" or "extracting") the lining of the uterus, which would normally be shed in menstruation. The procedure takes only a few minutes.
Drugs—both ingested and inserted into the vagina	Many drugs are tried, including nonabortifacient, hormonal drugs such as birth control pills, a local pain killer called Cortal, as well as other medications or drinks. With some drugs, abortion is a side effect, while other drugs consumed are known to primarily be abortofacients. For example, Cytotec is a drug for ulcer treatment that is often taken because it contains, misoprostol, which induces abortion. Other drugs used include quinine, methylergometrin, and methotrexate.
Physical labor	For example, lugging heavy objects and jumping, either repetitively or from great heights.
Ingesting local liquor	Often women will consume alien liquids or local liquors. An example of the latter is *Vino de Quina*, a wine made from the bark of cinchona tree, which contains quinine. Although quinine is medicine used for malaria and arthritis, it also causes the womb to contract and can have abortive effects.

that "the State shall protect and promote the right to health of the people and instill health consciousness among them."[46] The Constitution instructs the State to undertake specific measures to protect people's health, especially of those in vulnerable situations, by providing as follows: "The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all people at affordable cost. There shall be priority for the needs of … women and children. The State shall endeavor to provide free medical care to paupers."[47] The Constitution calls for specific attention to the needs of working women by instructing the State to "protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation."[48] It further specifically instructs the State to "establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development, and research, responsive to the country's health needs and problems."[49]

Women's health in national policy

The prevention of abortion, management of abortion-related complications, family planning, and maternal health feature prominently in the national policy framework of the Philippines. The Medium-Term Philippine Development Plan, 2004–2010, recognizes the improvement of health-related services for all as an important goal, though particularly for women.[50] This plan emphasizes the need to promote maternal health and identifies family planning, the prevention of abortion, and the management of abortion complications as necessary programs for "women in especially difficult circumstances."[51] It encourages local government units (LGUs) to "strengthen their reproductive health services programs to achieve a reduction in population growth."[52] The plan also echoes many priorities established by the Philippine Reproductive Health Program of 1998,[53] which is composed of ten key components, including the prevention and management of abortion complications, family planning, maternal health, and adolescent reproductive health.[54]

Aside from their integration into broader policies, these issues are further addressed through specific policies, a few of which are briefly described below.

Post-abortion care policies and programs

"Prevention and Management of Abortion and its Complications"[55] is one of the ten elements of the Philippine Reproductive Health Program.[56] In 2000, the DOH introduced an official administrative order, the Prevention and Management of Abortion and its Complications Policy (PMAC Policy), to officially oversee the provision of post-abortion care.[57] The stated goal of this policy is to "address the health and medical care needs of the many Filipino women who have had abortion, regardless of cause."[58] The policy addresses the negative impact of unsafe abortion on the healthcare system and on women's lives.[59] This policy was introduced in response to concerns about the lack of specific guidelines necessary for the provision of quality post-abortion care and about discrimination against women in need of medical attention who are hospitalized for care.[60] The policy aims to address gaps in existing healthcare services that focus on medical treatment of complications, but do not provide the appropriate counseling and referrals.[61]

Family planning

The official position of the Philippine government on contraceptives is shaped by the four guiding principles of the Philippine National Population Program: responsible parenthood and parenting; respect for life,

emphasizing that abortion is not a family planning method; birth spacing, the ideal interval between pregnancies being three to five years; and informed choice.[62] In October 2006, then President Arroyo issued directives instructing the DOH, the Commission on Population (POPCOM), and LGUs to lead the implementation of the Responsible Parenthood and Natural Family Planning Program,[63] one of whose three primary objectives is "to promote natural family planning."[64] While the directive instructs the DOH and POPCOM to vigorously promote natural family planning, it simultaneously allows LGUs to provide for modern contraceptives on the basis of their autonomous powers.[65] As such, several LGUs have introduced their own reproductive health ordinances that provide for modern methods of family planning.[66] On the other hand, some LGUs have introduced de facto bans on modern contraceptives, devoting their resources entirely to the promotion of natural family planning. Hence, women's access to modern contraceptives is inconsistent. (See Chapter 4, p. 87 for a discussion of the Manila City ban.)

Maternal health

The Safe Motherhood Policy, introduced in 2000, has as its general objective the "reduction of maternal and perinatal morbidity and mortality" and aims to specifically reduce the maternal mortality ratio (MMR) by half.[67] The DOH issued Admin. Order No. 29-2008[68] to address the goals of the policy and the challenges the Philippines faces in meeting MDG No. 5: to reduce maternal deaths to 52 per 100,000 live births by 2015. The order indentifies as a goal "rapidly reducing maternal and neonatal mortality" in the country,[69] and key objectives include an increase in the modern contraceptive prevalence rate from 35.9% to 60% by 2010 and a reduction of the maternal mortality ratio to 90 by 2010 and to 52 by 2015.[70] Although unsafe abortion is a leading cause of maternal mortality in the Philippines, there is no express mention of unsafe abortion in this policy. In 2008, the DOH also formulated a national integrated Maternal, Neonatal, and Child Health and Nutrition Strategy that outlines specific policies and actions for implementation by local healthcare systems.[71] Under the strategy, post-abortion care is part of Basic Emergency Obstetric and Neonatal Care.

Adolescent health and sex education

In 2000, the DOH created the Adolescent and Youth Health Policy (AYHP),[72] which focuses on specific health concerns of adolescents, including their reproductive and sexual health, and promotes responsible parenthood and maternal and child health.[73] Under the AYHP, the State aims to "ensure that all adolescents and youth have access to quality comprehensive healthcare and services in an adolescent and youth-friendly environment."[74] The AYHP further aims to reduce the incidence of childbearing among girls aged fifteen to nineteen; promote healthcare-seeking behavior; increase the proportion of healthcare facilities providing services for adolescents; introduce specialized services for victims of rape and violence in hospitals; and integrate gender-sensitivity training and reproductive health in the secondary school curriculum.[75] The policy expresses a commitment to adopt a human rights approach to ensure protection for adolescent and youth against "neglect, abuse and exploitation" and to promote their well-being and growth.[76] The government reiterated its commitment to promote adolescent reproductive health services, including sex education and counseling, in the Medium-Term Philippine Development Plan.[77]

The formulation, delivery, and financing of healthcare services

The DOH is the principal government agency responsible for national health policies and programs.[78] Since the adoption of the Local Government Code of 1991, however, the DOH has not been the sole provider of public health services.[79] The Code, known as the LGU Code, has decentralized responsibility for people's "health and safety" to the LGUs,[80] which have been given a prominent role in the formulation, delivery, and management of basic services and facilities for healthcare programs, including family planning and the purchase of necessary medicines, medical supplies, and equipment.[81]

Although many primary healthcare centers and hospitals have charity care schemes for indigent patients that offer healthcare services at very low cost,[82] the financial burden of healthcare falls heavily on Filipino families. Data from 2005 shows that families typically bear approximately 59.1% of healthcare costs out of pocket,[83] up from 58.5% in 2004.[84] Additionally, international donors fund several important DOH programs, including the population program, POPCOM, which addresses various aspects of reproductive health.[85]

The recognition of women's rights and empowerment as a national priority

Women's rights and the Constitution

The Constitution guarantees to all persons the rights to life, liberty, and equal protection of all as fundamental rights.[86] Recognizing the role of women in nation building, it promises to "ensure the fundamental equality before the law of women and men."[87] Of particular relevance to women's dignity, health, autonomy, and family life is a provision that promises to defend "[t]he right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood."[88] The Constitution vests the State with a broad mandate to promote equality, social justice, and human rights by making it a national priority for the Philippine Congress to ensure "the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities …."[89] It promises that "[t]he State shall promote a just and dynamic social order that will … free the people from poverty through policies that provide adequate social services … and an improved quality of life for all."[90]

Women's rights in the national policy framework

The country's national policy framework declares that the promotion of women's empowerment and protection of women's human rights are important priorities. The Philippine Plan for Gender-Responsive Development, 1995–2025, offers a long-term road map[91] for addressing women's issues and essentially translates the commitments of the Beijing Platform for Action (BPA), 1995,[92] into concrete policies and programs for Filipino women.[93] In order to realize the long-term goals of this plan, the government has developed a short-term Framework Plan for Women (FPW), which outlines important priorities.[94] The advancement and protection of women's human rights is described as a key priority in the FPW and includes the goal of "[e]nsuring effective delivery of health services throughout the women's life cycle."[95]

Landmark women's rights legislation: The Magna Carta of Women

In 2009, the government adopted a landmark piece of legislation, the Magna Carta of Women (Magna Carta), Republic Act 9710.[96] The Magna Carta is intended as a national framework for the implementation of CEDAW[97] and affirms women's rights as including "[a]ll rights in the Constitution and those rights recognized under international instruments duly signed and ratified by the Philippines, in consonance with Philippine law,"[98] which include the right of couples to determine the number and spacing of their children and to have access to the information, education, and means to enable them to exercise these rights.[99] The Magna Carta obligates the State to address the major causes of women's morbidity and mortality as well as to guarantee access to "[r]esponsible, ethical, legal, safe, and effective methods of family planning;"[100] prevent abortion; establish health services for adolescents; and provide "psychosocial, therapeutic, medical and legal interventions" for survivors of violence against women.[101] It establishes that "[t]he State shall, at all times, provide for comprehensive, culture-sensitive, and gender-responsive health services and programs covering all stages

of a woman's life cycle and which addresses the major causes of women's mortality and morbidity"[102] and that these health services shall be provided in a manner that is respectful of women's religious convictions.[103] It further guarantees "the right of women to protection from hazardous drugs, devices, interventions and substances."[104] Mirroring the Constitution's language, it recognizes "the rights of the spouses to found a family in accordance with their religious convictions, and the demands of responsible parenthood."[105] Finally, it also guarantees "access to … comprehensive health information and education."[106]

The PCW, formerly known as the National Commission on the Role of Filipino Women, drafted and adopted the Implementing Rules and Regulations (IRR) for the Magna Carta in April 2010.[107] The IRR establishes specific obligations for the DOH, the Department of Education, the Department of Labor and Employment, LGUs, and non-governmental organizations to ensure the fulfillment of women's right to health under the Magna Carta.[108]

The Philippines' international legal obligations and commitments

The government of the Philippines has adopted the Universal Declaration of Human Rights (UDHR)[109] and signed and ratified the following international treaties: the ICCPR[110] and its Optional Protocol;[111] the ICESCR;[112] the CERD;[113] the CEDAW[114] and its Optional Protocol;[115] the CAT;[116] the CRC[117] and the Optional Protocols on the involvement of children in armed conflict, and on the sale of children, child prostitution, and child pornography;[118] the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;[119] and the International Convention on the Rights of Persons with Disabilities.[120]

International consensus documents that the government has adopted include the 1993 Vienna Declaration and Programme of Action (Vienna Declaration);[121] the 1994 International Conference on Population and Development Programme of Action (ICPD Programme of Action);[122] the 1995 BPA;[123] and the 2000 United Nations Millennium Declaration.[124]

The Philippines has also signed the Charter of the Association of Southeast Asian Nations (ASEAN Charter),[125] through which it makes a political commitment to respect fundamental freedoms, and to promote and protect human rights.[126] (For more information on regional norms, laws, and public health standards concerning abortion, see box— Regional Norms, Mandates, and National Laws, p. 108.)

The Constitutional obligation to protect human rights

The Constitution of the Philippines authorizes the president to sign treaties and international agreements.[127] Such agreements become effective when ratified by at least two-thirds of the Senate.[128] The Constitution's Declaration "adopts the generally accepted principles of international law as part of the law of the land…."[129] Moreover, a promise of "full respect for human rights"[130] in the Philippine Constitution is supported by specific measures for human rights protection. The Constitution provides for the establishment of the National Commission on Human Rights[131] and vests it with several powers, including the following: to investigate human rights violations; provide legal measures for protection of human rights; recommend human rights protection measures to Congress; and monitor compliance with international obligations.[132]

HAYDEE'S STORY

Haydee, a forty year old married mother of one living in a poor urban squatter settlement, experienced life-threatening complications during her first pregnancy that left her with abnormally high blood pressure.

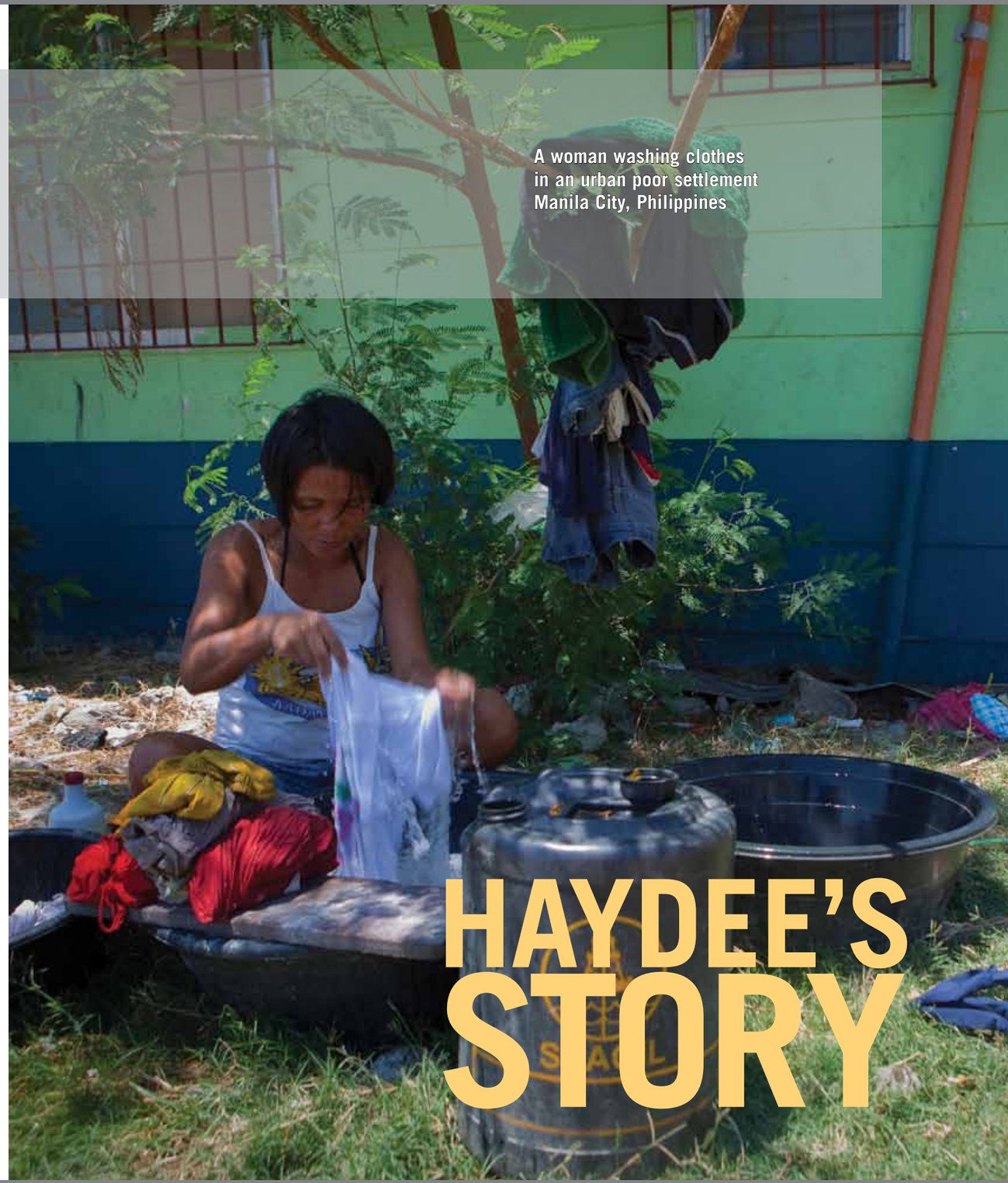
During Haydee's second pregnancy, her condition worsened and she experienced a hypertension-induced stroke. "I was swollen in my hands and face, and my mouth was twisted to one side," Haydee remembers. The threat to Haydee's life was imminent, and her **doctor** told Haydee's husband that she would not be able to save both Haydee and the fetus. To stabilize Haydee, her doctor performed a **D&C**.

After her second pregnancy, Haydee was warned not to become pregnant again. However, her high blood pressure and financial limitations made it difficult for her to find a contraceptive that was safe and effective. Haydee could not take birth control pills because of her hypertension and the cost. She stated, "[s]ometimes my husband would use a condom...he would only use one when he could buy it." Without access to medically appropriate and affordable contraception, Haydee experienced two subsequent unplanned pregnancies at ages 30 and 32. Haydee desperately wanted another child, but knew that the hypertension could make carrying a pregnancy to term fatal.

> **The doctor told me getting pregnant again was totally forbidden. It would kill me. Then it happened. My nervousness mingled with my desire to carry my pregnancy to term…. But I hesitated because I might die.**

Haydee was unable to afford the medications that would allow her to manage her blood pressure and give her a chance of surviving pregnancy. Scared of dying, Haydee sought an abortion.

Although Haydee's doctor had provided an abortion immediately following her stroke during her second pregnancy, that was a rare occurrence. In a culture where abortion is banned and stigmatized, the provision of abortion, even where a pregnancy is life-threatening, is the exception, not the rule. Indeed, when Haydee sought help from a doctor when she became pregnant once again, she was denied and told that abortion was a sin. "I consulted a private doctor … She said it is against their profession because it is the taking of life," Haydee says. "She would never prescribe a drug to induce an abortion. I told her I had this condition; I had a reason. She firmly said she would not give a drug because she would [be] commit[ting] a sin."



A woman washing clothes in an urban poor settlement Manila City, Philippines

Unable to undergo a safe abortion, Haydee tried to self-terminate her third and fourth pregnancies by taking Cytotec at home. While she was able to terminate the third pregnancy without serious complications, her subsequent attempt to self-induce an abortion initially resulted in two weeks of heavy bleeding and serious complications. Haydee went to Tondo General Hospital for post-abortion care, but was afraid that the doctors would get angry if they found out she had taken Cytotec. Her doctors assumed that she was bleeding due to her hypertension and prescribed medicine for high blood pressure. After a day under observation, Haydee was released without any treatment for the real cause of her bleeding.

When her bleeding did not subside for another two weeks, however, Haydee became scared and decided to return to Tondo General Hospital. She was still hesitant to admit to having induced an abortion at first, but after her doctor claimed that she might experience complications in her treatment if he did not know what she had taken, Haydee confided in him. The doctor responded,

> **So, that's it! You took the drug and you were not telling the truth. You know what, Mrs.? You could die from what you did. That is a sin. You killed your own child.**

Haydee told her doctors that she had taken the Cytotec out of fear of dying from the pregnancy complications caused by her high blood pressure, but her admission only prompted them to verbally abuse her and threaten to report her to the National Bureau of Investigation (NBI). Haydee and her husband were forced to sign a document that they were unable to read, though they were told it gave permission for the hospital to have the NBI investigate her for illegal abortion.

> **They asked me if I was not a Catholic. I said I am. "Then why did you do it?" I said I have my reason.... [T]hey scolded me, telling me that even if I had this condition, I should not terminate it because it is illegal.... I was also frightened because they said they would report us to the NBI.**

In the hospital, staff members told Haydee that all women who have abortions are reprimanded by doctors, since abortion is prohibited by law. Haydee was ultimately not reported to the NBI. She now feels that although she was genuinely frightened at the time that she would be arrested, "[t]he doctors really only threatened us perhaps to teach us a lesson…."

HAYDEE'S STORY: EXAMPLES OF HUMAN RIGHTS VIOLATED

Right to Life: Haydee was unable to receive safe, legal abortion services even where medical professionals had determined that continuing a pregnancy would be life-threatening. Human rights law obligates governments to ensure access to safe, legal abortion where necessary to save women's lives, and UN TMBs have repeatedly criticized governments whose laws do not contain exceptions for life and health.

Right to be Free from Cruel, Inhuman, and Degrading Treatment: Haydee was treated with disrespect and faced moral condemnation by her healthcare providers while seeking life-preserving medical care. Her physicians intentionally made her feel guilt and shame for her decision to protect her life in an attempt to "teach her a lesson." UN TMBs have recognized women's vulnerability to maltreatment in the context of reproductive healthcare, particularly where abortion is significantly restricted, and have urged governments to take steps to eliminate practices such as coercing women to provide information about how the abortion was induced.

Right to Health: Under the right to health, governments have an obligation to ensure women have the information necessary to make fully informed and safe decisions regarding their reproductive health, including information about and access to a full range of reproductive health services. Haydee's inability to access counseling or family planning supplies that would be appropriate given her specific health needs constitutes a violation of the right to health, particularly where the denial of those services themselves jeopardized her health and well-being.

Chapter Two

Experiences of Women Under the Criminal Abortion Ban

Every year, more than half a million abortions are estimated to occur in the Philippines.[133] This chapter describes the inhumane situations encountered by Filipino women who are driven by the criminal ban to undergo unsafe abortion in clandestine settings. In their own words, women and, where abortion was fatal, their doctors or those in whom they confided, describe the circumstances that prompt them to risk dangerous abortion methods and to suffer the often painful, if not fatal, consequences. They describe how the healthcare system has been transformed into a mechanism for rendering judgment and cruelty, and how society quietly isolates and ostracizes those who have abortions. The testimonies demonstrate how women who undergo unsafe abortions risk their lives and health and are subjected to discrimination, and cruel, inhuman and degrading treatment every step of the way. Testimonies provided by health service providers and other experts, discussed in Chapter 4, point to similar trends.

Reasons women assume the risks of unsafe abortions

As revealed by the experiences of women interviewed for this report, the reasons women seek abortions are often fundamental to their personal well-being and that of their families. The most common reasons women in the Philippines seek abortion include threats to their life or health posed by the pregnancy; financial difficulties and insecurity; unplanned pregnancy due to lack of access to family planning information and services; and sexual violence, including incest and partner or marital rape. Women often find themselves in situations where more than one of these factors come into play. Due to the illegal status of abortion, most procedures are performed clandestinely, which makes it difficult to ascertain the precise incidence of unsafe abortions and the circumstances in which they are sought. Studies show that those who undergo the procedure by and large have at least three children, lack the means to space and time their pregnancies, are poor,[134] and are Catholic.[135] Interviews with experts confirm that a significant number of abortion seekers are adolescents, with recent studies estimating that teenage pregnancies account for 17% of unsafe abortion cases.[136] Adolescent girls are particularly at risk for unplanned pregnancies due to the lack of availability of sexual health education, their inability to afford contraception, and the increased likelihood that the pregnancy has occurred out of wedlock and is thus stigmatized.

When a pregnancy becomes unsafe or potentially fatal

Pregnancy can be life-threatening for women experiencing certain complications. Without guaranteed access to legal abortion, women report that they are forced to choose between risking death or disability by continuing a life-threatening pregnancy and risking other dangerous complications through unsafe abortion. Of the Filipino women who have abortions, 31% do so because they fear their pregnancies could damage their health.[137] Haydee, a forty year old married mother of one who suffers from hypertension, has had to make this choice numerous times.[138] She developed hypertension during her first pregnancy, which continued into her second pregnancy.[139] In the fifth month of her second pregnancy, she suffered a stroke that left her face temporarily paralyzed.[140] The threat to Haydee's life was imminent; to prevent her death, the doctor induced labor which effectively terminated her pregnancy. The doctor warned her, however, that if she were ever to be pregnant again it "would be too risky" because of the potential of developing eclampsia and that if it did happen, she "should have a private doctor to take care of [her]."[141] Haydee and her husband could not afford contraceptives to prevent another pregnancy, and healthcare providers could not prescribe birth-control pills for her because of the potential risk to her health as a result of her high blood pressure. She recalls,

> **The doctor warned that it would be dangerous for me to ever get pregnant again because of my hypertensive condition. She said that I should insist, that I should get a private doctor who would take care of me. But getting a private doctor would be unaffordable. My lesson from all this was that I should not get pregnant again as I could die from it. However, I was not given family planning pills because of my hypertension and heart condition … [s]ometimes my husband would use a condom...he would only use one when he could buy it.**[142]

She experienced two subsequent unplanned pregnancies, and each time feared for her life because she was unable to afford the private medical care and regular medication to manage her high blood pressure. Haydee self-induced abortions both these times using Cytotec, a brand-name ulcer drug containing misoprostol that can be used to induce abortions. Talking about her third pregnancy, Haydee describes her anxiety and reasoning for self-inducing an abortion:

> **The doctor told me getting pregnant again was totally forbidden. It would kill me … then it happened. My nervousness mingled with my desire to carry my pregnancy to term [and have a second child]. But I hesitated because I might die. Hence, I just made a move to solve it.... If I die, my husband and child would be miserable.**[143]

Haydee was fortunate not to experience complications during her first self-induced abortion. However, she remained conscious of the risks of inducing an abortion herself. Hence when she became pregnant again she sought help from a private doctor but was denied care:

> **Before my third abortion, I consulted with a private doctor on what drug to take for my condition. She said it is against their profession because it is the taking of life. She would never prescribe a drug to induce an abortion. I told her I had this condition; I had a reason. She firmly said she would not give a drug because she would [be] commit[ing] a sin.**[144]

As a result, Haydee once again resorted to self-induced abortion out of fear that she would die from the pregnancy. This time she suffered prolonged complications, including more than a month of continuous bleeding that required her to seek post-abortion care.[145]

Financial difficulties compounded by lack of control over fertility

> "When women have children they should be able to send them to school … feed them and clothe them. It is part of the reproductive dream."
>
> ***– Former secretary of the DOH***

Many women interviewed for this report revealed having risked unsafe abortion due to financial difficulties and to ensure the welfare of their existing children. Although many women in extreme situations of poverty want to limit the number of their children to give their families a better life, they are unable to do so in large part because of the government's failure to ensure the availability of contraceptives. Poor families are dependent on the government for contraceptive supplies, and when access is denied, women are put at risk of experiencing unplanned pregnancies and ultimately having to resort to unsafe abortion. One extreme example is Manila

City, where poor women experience particular difficulties preventing unplanned pregnancies due to the EO, which since 2000 has restricted access to contraceptives in public healthcare facilities funded by the local government;[146] studies reveal a higher incidence of abortion in Manila City than in other parts of the country.[147]

The experiences of Yayo illustrate both the difficult financial situations in which women often find themselves, leaving them with no choice but to resort to unsafe abortion to ensure the well-being of their existing children, and the effects of lack of access to contraception.[148] Yayo is a thirty-six year old mother of eight who lives in Manila City.[149] She has been pregnant ten times and has had two unsafe abortions.[150] Yayo explained that the inability to access contraceptives, especially after 2000, was why she had more than the number of children she wanted, which has caused her family severe economic difficulties and led to her two decisions to have unsafe abortions.[151]

> **I did not use any family planning method before. But when I wanted to, everything was banned, which made it very difficult for us. If family planning was available at that time, I would not have been forced to have an abortion.**[152]

> **My husband can hardly feed our children with what he earns from being a coconut vendor. He makes so little from that kind of job so it is also very difficult for him … Sometimes when I sell shampoo I'm able to help him earn some money. My eldest child was already in third year high school but dropped out so her two siblings who were also in high school could finish high school. We make do with kangkong [water spinach] to go with rice … Sometimes I ask for some bread from people who come to pass by our place.**[153]

In a study conducted in 2005, doctors testified about the extent to which Manila City's contraceptive ban contributes to unsafe abortion. A doctor at Fabella Hospital in Manila City noted: "Mostly it's political. The mayor of Manila doesn't approve of providing family planning services in Manila. They're not providing family planning services, [women] are getting pregnant, they resort to abortion. [I'm] not saying it happens that way with all of our PAC [post-abortion care] clients, but it is one factor."[154] A doctor of obstetrics and gynecology at PGH, located in Manila City, told the story of one patient, age twenty, to illustrate the EO's impact on women's health: "Just take one example of [this] patient who might die at any time because of sepsis. Because she had no access to a family planning method, she had to undergo an induced abortion, and she might end up dead."[155]

The case of Lisa demonstrates the role of the ban in causing unplanned pregnancies that lead to unsafe abortions. Lisa tried to obtain contraceptives from the Magsaysay Health Center in Manila City in 2005, when her firstborn was three years old.[156] She found herself at a loss when she was told that modern contraceptives had been prohibited by Mayor Jose "Lito" Atienza and instead was asked to explain why she wanted to use family planning at all.[157] The health center refused to help even after she explained that she "was afraid to have another child" as she "was still working that time as a housemaid."[158] She had a second child. Within a year after the birth of this second child, Lisa became pregnant again. This time she had an unsafe abortion, which she attempted to induce by drinking *Vino de Quina* and undertaking heavy labor.[159] After complications arose, Lisa went to Gat Andres Bonifacio Health Center in Manila for post-abortion care. Although the doctors performed a D&C to complete her abortion,[160] she was neglected for hours as well as harassed. Furthermore, Lisa was not advised about family planning;[161] one month after the D&C she became pregnant again.

Similarly, Marissa, a forty-two year old mother of eight children who lives in Manila City, self-induced an abortion after she became pregnant less than a year after her last child was born. Recounting her situation, Marissa said, "I did not use family planning. It was not available."[162]

Many women interviewed for this report lamented that legal and religious attitudes toward abortion in the Philippines lead them to break the law or be labeled as sinners in order to act in the best interest of their existing children. Ana is thirty-five year old mother of seven who is currently separated from her abusive husband and working on a construction site for a living.[163] She has had nine pregnancies and two abortions. When asked why she had illegal abortion twice, she described her decision: "I thought about having sinned but in the end, I felt that I would be committing a greater sin if I brought another child in my world of poverty and abuse."[164]

Poverty was a concern for Aileen, a mother of five, who explained her reason for abortion as follows:

> **My main reason for pregnancy termination was poverty, it was the fourth pregnancy and my three children were still small babies then. I had no source of regular income. There are many things I cannot provide my children still…. Only those who are better off, rich, can talk about abortion as illegal. They have no worries about raising their children. But for those who have to work daily to be able to feed their families, the poor women have limited options…. They do not know what it is like to be poor and desperate…. Everything I did was for my living children."**[165]

Rape, incest, and domestic violence

Gender-based violence and inequality compromise women's ability to control their fertility, frequently resulting in unwanted pregnancy and abortion. Acts of gender-based violence that increase the risk of unwanted pregnancy and unsafe abortion where the procedure is illegal include rape, marital rape, and incest. The current ban on abortion makes no exception for unwanted pregnancies resulting from any type of rape and incest. Additionally, due to the lack of availability of emergency contraceptives, if a woman does not want to continue a pregnancy caused by rape or incest, her only option is an illegal abortion, which is likely to be unsafe.

Isabel, a fifteen year old high school student, became pregnant after being raped at knifepoint by a friend of her father.[166] Recalling her experience, she said, "When I found out I was pregnant, I felt scared … embarrassed [about the rape] … Back then I thought … I didn't want all this. I decided to have the abortion."[167] Isabel induced an abortion by resorting to a range of methods that included Cortal tablets with lukewarm coke, deep massages performed by her grandmother twice a day for a week, followed by a week of daily massages by an abortionist in Marinduque that were accompanied by a mixture of bitter herbs.

Cielo is another adolescent whose story exemplifies the crisis that ensues when a pregnancy results from rape. Cielo was a sixteen year old student when she became pregnant after being drugged and raped at a party. She induced an abortion using Cytotec and undergoing an abdominal massage by a *hilot*.[168] She recalled her experience as follows:

> **I was not able to sleep then; I would often ponder on what I should do…. I kept everything to myself until the third month. I thought and prayed, thought and prayed…. I ran away when my pregnancy was almost three months…. My pregnancy reached its fourth month because I really**

thought hard about my decision and I felt scared whether I would do the abortion or not.... I could not have the abortion at home because they would know, so I fled...[169]

Some women interviewed for this report spoke of being unable to protect themselves from the risk of repeatedly becoming pregnant as a result of marital rape coupled with domestic violence and of how these successive pregnancies in turn prevented them from being able to leave abusive, violent relationships.

Ana, whose estranged husband prohibited her from working while they were married and repeatedly raped her, described her situation and the feelings that led her to terminate her eighth pregnancy:

My husband used to beat me and forced me to have sex even when [I was] really tired. If I refused to have sex, he accused me of having another man. The eighth pregnancy was unwanted ... I was not allowed by my husband to work and earn money then ... I was concerned that I [could not] afford to raise another [child] since I was a battered wife ... the battering situation influenced my decision.... I decided that I [would] separate from him after I solved my pregnancy problem.... [M]y courage alone will not be enough to raise my children—who were mostly conceived due to my husband's abuse.[170]

Noting the interconnections between sexual violence, unwanted pregnancy, and unsafe abortion, a counselor at the Women's Crisis Center at East Avenue Medical Center in Quezon City commented that many women who become pregnant through incest want to have abortions.[171] She pointed out that the decision to have an abortion is complex for women in violent relationships, particularly due to the illegality of the procedure, and described their predicament as follows:

Abused women who want abortion[s] often do not have financial capacity, as they are dependent on their husbands. They battle with emotional baggage against cultural belief of sin, battle against the existing law, and know that when [their] husband/boyfriend finds out about the abortion, it will be used against [them] because it is against the law. Abuser[s] can always use this information to control women.[172]

Impact of the criminal abortion ban on women

The criminal abortion ban has put an otherwise safe medical procedure beyond the reach of Filipino women and permanently scarred the lives of many who, as a result, have sought abortions in highly unsafe conditions and at great risk to their lives and health. The impact of the ban can be seen in the risky methods women use, the physical and mental trauma these unsafe methods cause, and the intimidation, abuse, cruelty, and persecution women suffer when seeking post-abortion care. Women are forced to endanger their lives and health when they resort to abortion, and they face discrimination and abuse when they seek help for complications. What makes this situation unconscionable is that these experiences violate the dignity of women and are preventable. Women's testimonies documented in this report confirm that the criminal ban on abortion in the Philippines has not prevented abortion but rather made the procedure dangerous for women.

Endangerment of women's lives through unsafe abortion

The physical and mental trauma associated with dangerous abortion procedures often lead to severe complications with lasting impact or can even be fatal.

Common methods of unsafe abortion that endanger women's lives

Because they are denied the option of safe abortion and medical guidance on how to induce abortions safely, women frequently rely on informal advice from neighbors[173] friends,[174] and vendors of medicines and herbs intended to induce abortion.[175] Studies show that two thirds of women have the abortion completely on their own or rely on their husbands, a partner, relative, friend, neighbor, pharmacist, traditional healer, or street vendor for help.[176]

I heard in my neighborhood about Quiapo, the massages, quinine, and Cytotec. Word spreads around to poor mothers who have many children.

–Cristina, a forty-eight year old mother of three living in Parañaque[177]

Obstetricians and gynecologists at PGH and Fabella Hospital noted with concern that women often attempt to induce abortion by inserting a urinary catheter into their uterus themselves.[178] Many clandestine abortion providers also use catheters to induce abortion.[179] Women often resort to other brutal methods as well, such as agonizing abdominal massage by *hilots*.[180] Many women ingest misoprostol and insert it vaginally, which can lead to serious or fatal complications when taken unsupervised. (See boxes – Common Methods of Abortion Induction, p. 32; What Does Safe Abortion Look Like, p. 51.)

The trauma of unsafe abortion procedures suffered by women

Abortion, when performed using unsafe methods, is a painful and frightening experience. Many women who resorted to unsafe methods reported severe hemorrhaging and talked about the anxiety and fear that they experienced as they went through the process.[181] They described how they felt "scared"[182] and "terrified" while experiencing increasingly heavy bleeding, severe pain, chills, and other complications.[183]

Often women described how they had to resort to these procedures more than once to ensure that the abortion was complete. Mercedes, a street vendor and mother of four who was the sole breadwinner in her family, related the following account of her experience with a *hilot*:

The massage continued thrice a week.... The *hilot* would press her open hands with all the fingers extended together and hard.... I felt like my insides would tear apart. I was screaming in agony.... Every session lasted for about ten minutes.... The fingertips of her one hand would hold me near my tummy. Below near the abdomen, she would thrust, poke me upward with her other hand. The pointed ends of both hands would meet. I felt like dying ... I went through that ordeal for four weeks.[184]

Isabel recounted a similar experience:

The abortionist, an old crippled woman, would squash my belly with clenched fists. Then she would have me raise my legs and she would knead my tummy. [Each] session took about an hour....[185]

Anette, a married mother of three, described her experience at the hands of a *hilot* in addition to the use of other methods as follows:

> **I was around one month pregnant and I did not want another child. I went to a *hilot* … I also combined the massage with a drug; I took quinine. It was difficult to undergo an abdominal massage because so many things were prohibited. You were not allowed to [take a bath], to be exposed to heat, and to eat anything sour so I had to bear them all. It took three months before the termination happened. My belly swelled. The process was really painful. My abdomen became dark from the overlapping bruises brought on by the kneading, squeezing, and pinching hands of the *hilot*.**[186]

Lisa, who used *Vino de Quina*,[187] brandy, and heavy labor to induce abortion, shared the following experience:

> **I was taking the Vino for two days when my bleeding became so heavy that sanitary napkins were useless…. I was bleeding this hard for one week when I developed a fever…. I lost a lot of blood and was already pale…. My body started to shiver. I thought I had an infection because I was bleeding for a week now…. The blood was deep and vivid red with a revolting smell…. I continued to bleed at an alarming rate…. My blood was trickling down my thighs… I became terrified at that time. The pain in my lower abdomen was so intense that I kept bending over to alleviate my suffering.**[188]

Many women described the mental distress that they experienced when confronted with complications from unsafe abortion that they did not know how to manage. Hemorrhaging in particular is a significant cause of fear and anxiety. Gina, twenty-five year old mother of two living in Malabon City, stated, "I was very frightened because I had heard of women who died from heavy bleeding…. I felt my life was put at risk, that I could die…. I felt so weak."[189] Cielo said that after one week of heavy bleeding, she finally asked a friend to bring her to the hospital because she "could not endure it anymore."[190]

Josie, a twenty-six year old married mother of one living in Quezon City, first attempted to induce an abortion by drinking a concoction of mahogany seeds two months into her pregnancy. When this was ineffective, she took Cortal with coke and then beer; she also starved herself and drank gin. Her attempts at self-inducing were unsuccessful, so Josie went to an abortionist who gave her two shots of anesthetic, massaged her abdomen deeply, and inserted what Josie described as a "fat hose."[191] Josie's story not only demonstrates the physical risk involved when having a pregnancy terminated by an unskilled provider, but it also highlights some of the profound emotional implications. She described her harrowing experience in detail as follows:

> **The method took a long time … I was bleeding profusely. There was a lot of blood, even while I was at the clinic. I fainted a couple of times at home. I lost a lot of blood. My lips were very pale. I filled an entire bedpan with blood. My God, I think I lost more than that. I wasn't using sanitary napkins. Blood came out in chunks. These were very red. Some of it smelled horrible. I couldn't stand up. My hips ached. I refused to be taken to a hospital. Of course I was scared. I was afraid that if I were to be taken to the hospital I would get imprisoned. I bled for more than a week. People said I had a relapse. All that time, I cried and cried. I was alone at home.**[192]

Ana noted, "[m]y biggest fear was dying and leaving my seven children to my abusive husband."[193] She described her state of mind as she underwent an abortion procedure at the hands of a backstreet provider as follows:

> **At the start, I felt fear since I was alone. No one knew where I was. These people can simply dump my body somewhere. Then I thought about my children, I had to live. I was asked to relax. I concentrated on the instructions. I felt something was inserted inside my body, my vagina ("sa puerta"). It was painful but I did not shout.**[194]

The fear of death was a common theme expressed by women interviewed for the report. In one focus group discussion, they described how the physical trauma of an unsafe abortion was not the only source of fear. Women said they felt fear from many directions—women feared the law because they knew it was illegal, they feared God, and they feared death.[195]

Preventable deaths caused by unsafe abortions

When abortion is performed by trained providers under hygienic conditions, it is extremely safe.[196] However, when women must resort to unsafe procedures in unhygienic settings, a range of complications can result, including infection, hemorrhage, septic shock, anemia, abdominal injury (such as uterine perforation), cervical or bowel damage, and toxic reactions to chemicals or drugs used to induce abortion.[197] Unsafe abortion can further result in chronic conditions, including increased risk of ectopic pregnancy and infertility due to potential pelvic infections. Above all, without proper treatment for complications, unsafe abortion can be fatal.[198]

Doctors interviewed for this study reported seeing several cases of deaths from unsafe abortion. Dr. Lourdes Capito, Chair of the Department of Obstetrics and Gynecology at PGH, said that in 2008, two women died from post-abortion complications after being admitted to PGH and three young women had to undergo hysterectomies as a result of sepsis from unsafe abortions.[199]

Dr. Grace Villanueva, an obstetrician-gynecologist at Fabella Memorial Hospital, vividly recalled the death of Maricel, an eighteen year old and mother of one child who had come to the hospital seeking treatment for complications of abortion. Maricel had been granted a visa to work abroad as a domestic worker, but became pregnant when breastfeeding as a method of contraception failed. She would have been forced to give up the job opportunity if she was pregnant, and as a result she tried to induce abortion to avoid jeopardizing her employment. Maricel first tried to end her pregnancy on her own by using misoprostol. She waited two weeks, and when she did not experience any bleeding she went to a *hilot* for an abdominal massage. After three days with still no bleeding, Maricel turned to a neighbor for help. Her neighbor directed her to a woman who performed "catheterizations," meaning that she inserted catheters into the uterus for women who wanted to terminate their pregnancies. Dr. Villanueva recounted that Maricel, who was by then three months into her pregnancy, had already suffered through two weeks of vaginal bleeding and infection before she sought care "because she was scared" of coming to the hospital after having induced an abortion. By the time Maricel finally arrived at Fabella Hospital, it was too late; the doctors performed a D&C, but Maricel died on the operating table as a result of sepsis caused by the unsafe abortion.[200]

Dr. Sam,[201] another practitioner, told the story of a friend and also a medical resident, Mylene, an unmarried twenty-six year old woman who died in 2004 as a result of post-abortion infection:

> **I saw my friend [Mylene] for prenatal care around the first week of March; it felt like an ordinary prenatal exam. She was four months pregnant.**

The second week she came supposedly to have the baby checked. I did a speculum exam and noted cotton inside the vagina. I don't know what she did, but there was cotton there. I noticed she had hematoma on her abdomen. I asked her, "[w]hat are you doing to yourself?" but she did not say anything. Later she told me she had been raped by her benefactor who paid for her medical education.

In the third or fourth week of March, she appeared at my hospital early in the morning supposedly with abdominal pain and was admitted by a colleague. She did not disclose that she was a doctor or that she was my friend. My colleague performed [a] D&C without knowing about her condition … the next day Mylene was actually due for release.

I learned she was there after her D&C…. The following day, Mylene developed severe abdominal pain, which canceled her discharge and caused doctors to put her under observation for 24 hours. The problem was assessed as hyperacidity and she was given several doses of medications. The next day…the pain had gotten so severe. I would touch her and she would feel so cold…. When we put in a [urinary] catheter, there was no urine output so we knew she was having renal shutdown from sepsis…. I suspected extensive infection of the abdominal cavity because her abdomen was so hard.[202]

The doctors performed surgery and found that her pelvic cavity was covered in pus. Sam said that after the surgery, her doctors realized that Mylene had been self-medicating with antibiotics after inserting the catheter. The antibiotics had been hiding the symptoms of her rapidly developing infection. Mylene, like Maricel, died on the operating table.[203]

Several other interviewees reported knowing women who had died as a result of unsafe abortion. Rowena recalled a neighbor who had uterine massage done by a *hilot*. The fetus was not completely expelled, and her neighbor was brought to Parañaque Community Hospital after she began bleeding heavily. She died the next day.[204] Another interviewee, Anette, also recalled trying to seek care for her mother-in-law, who died after attempting to induce an abortion with a catheter.[205]

Women suffer increased risks of complications due to delays and repeated attempts to induce abortion

The lack of information about safe, effective abortion methods and the fear of complications, death, and arrest mean that women often delay their initial attempt to induce abortion. Because of the criminal ban, women resort to unregulated black market drugs and risky procedures.[206] Approximately 80% of women do not succeed in terminating their pregnancy on the first attempt,[207] meaning that the actual termination occurs at an even later stage.

Many women interviewed reported having undertaken multiple ineffective attempts to induce abortion before finally succeeding. Gina, who first sought an abortion at only two weeks of pregnancy, attempted to induce with two "abdominal massage" sessions by a *hilot* that took place over a month.[208] However, these massages were unsuccessful, and Gina reported that "[t]hus my pregnancy reached its fourth month before I took Cytotec."[209] As a result, the experience of abortion was prolonged and unnecessarily painful and traumatic for Gina.[210] She experienced severe cramping, chills, and extremely heavy bleeding, and had to undergo a D&C to complete her abortion.[211]

WHAT DOES SAFE ABORTION LOOK LIKE?

Abortion is one of the safest medical procedures when performed by skilled providers in medically appropriate settings. Where women have access to safe, modern abortion methods, their likelihood of dying as a result of the procedure is no more than one per 100,000 procedures. In countries where abortion is illegal, the incidence of unsafe abortion mortality and morbidity, is several hundred times higher than where abortion is legal and can be performed by professionals under safe conditions. Safe abortions require, at minimum, that the following steps be taken:

- **Training for providers to accurately determine the length of pregnancy** by a bimanual pelvic examination.
- Recording of the **women's medical history** to detect any pre-existing conditions that may affect the provision of abortion, including bleeding disorders or potential drug allergies or interactions.
- Selection of an **abortion procedure that is most appropriate** given the length of pregnancy.
    - Safe methods include medical abortion (mifepristone with a prostaglandin such as misoprostol or gemeprost) during the first 9 weeks.
    - During the first 12 weeks, safe methods also include MVA or D&C where MVA and medical methods are not available.
    - After 12 weeks, dilation & evacuation, mifepristone together with repeated doses of prostaglandins, or prostaglandins alone in repeated doses.
- **Counseling** providing complete, accurate, and easy-to-understand information about the procedure, what to expect during and after the procedure, and voluntary counseling about options available to make informed decisions.
- Provision of abortion at the **earliest stage possible**, as risks associated with induced abortion, although small when abortion is properly performed, increase as the pregnancy progresses.
- **Medication for pain management,** including local anesthesia where surgical abortion requires manual cervical dilation, should always be offered.
- **Universal precautions for infection control should be used at all times.**
- **Follow-up care** after surgical methods in all cases and after medical abortion if the abortion is not complete before they leave the health care facility. This includes management of abortion complications.

As a result of using ineffective methods and drugs sold in the unregulated abortion market, women also experience delays in inducing abortion. A provider of post-abortion care said that there have been many cases of women who have taken drugs falsely marketed as misoprostol, acquired on the black market.[212] These are very dangerous because women can experience incomplete abortions or believe that they have successfully induced an abortion when in fact they are still pregnant.[213] These delays significantly increase the chance of complications.

Women also face delays in inducing abortion because the black market drugs are prohibitively expensive. Marissa sought Cytotec pills to induce an abortion "as early as one or two months … [the pregnancy] reached its third month, but I still did not have the money. When I came up with the budget on the fourth month I bought the drug. I needed to buy ten tablets."[214] Marissa said that in addition to having trouble coming up with the funds, she delayed the abortion because she had heard that less Cytotec would be necessary to induce an abortion later in pregnancy.[215] Her delays in inducing abortion led to complications, including hemorrhage and severe pain.[216]

Post-abortion care complications, abuse, and discrimination

"They said you could be put behind bars because it is similar to the taking of life." ***– Lisa***

Two in every three Filipino women who terminate a pregnancy experience some sort of complication, including severe pain, infection, or even death.[217] It is estimated that 90,000 women seek treatment for post-abortion complications each year.[218]

Treatment for abortion-related complications is one of the top ten most common reasons for hospitalization at many hospitals in the Philippines.[219] A chief resident at a hospital in Manila City revealed that her department sees four to five cases of abortion—induced and spontaneous—a day.[220] She noted that many of the women who come in for treatment are either quite young or much older and have at least five children.[221]

The criminal ban has put women in a tragic situation where they must risk dangerous procedures before being given life-saving treatment to undo the harm caused by the dangerous procedure. As noted by one medical practitioner:

> **Women don't know where to go and end up going to back street providers [where they are given] herbal medicine, abdominal uterine massage, [and are] inserted with catheters for 24 to 48 hours. If during the process, the product of conception is expelled completely, then that is good, but if not they go for D&C. This is the only time they are provided with services by the medical system.**[222]

Furthermore, as revealed by women's testimonies, while post-abortion care itself is legal, the criminal ban on abortion has had a deeply chilling effect on post-abortion care. Instead of receiving dignified, humane care, women are routinely made to suffer compromised quality of care and are subjected to physical and mental abuse. Criminal sanctions have created an environment of judgment and stigma, prompting the abuse of women in healthcare settings and legitimizing such abuse. That women who have had illegal abortions are often harassed and abused by service providers is well known and has deterred women from seeking timely care. For some, the harassment is enough to deter them from seeking care altogether or to cause them to leave hospitals without any treatment. Even those women who do ultimately receive care must silently endure trauma and harassment before being treated.

Verbal abuse, forced confessions, and the threat of criminal sanctions

"Women do not protest against these abuses because of the illegality of abortion."
–Claire Padilla, reproductive rights attorney and advocate

Women seeking post-abortion care in public hospitals often face aggressive questioning and pressure to admit that they have undergone illegal abortions. Yayo, who went to OnM, described her experience:

> **Many doctors interviewed me there. They had only one question for me. "Did I have an abortion?" They were six in all. They would approach me one by one. It was the same question they asked me over and over.... [One doctor] said to me, "I saw something inside you. I saw something in your cervix.... If you took something you would never get out of here." I said no, honestly. I was already crying because I had just gotten out of the operating room and my voice was still faint.... They asked until I was about to be discharged from the hospital.**[223]

A consultant with the Reproductive Health Unit at PGH, acknowledged that residents often treat harshly women whom they suspect of having induced abortion, such as interrogating them, coercing them to admit that they induced abortions, scolding, and telling them that they will be sent away if they induced the termination.[224]

The interrogation is often accompanied by threats of arrest and imprisonment, as well as coercion to sign disclosures that range from testifying that they did not induce an abortion intentionally to granting permission to the hospital to report the women to the police if traces of abortion-inducing drugs are found. Lisa, who went to Gat Andres Bonifacio Memorial Medical Center for treatment of complications, reported that after she denied inducing an abortion, her doctor scolded her, saying, "'Do you want me to report you to the police? Don't you know that having an abortion is evil?'… 'If we should find [a trace of] the drug inside your uterus, we will have you arrested.'"[225] The doctor warned her that they had previously reported many women to the police when they suspected an abortifacient had been ingested.[226] The physician then gave her a form written in English, which she did not understand, and ordered her to sign it, saying, "You sign here that if we get something [an abortive drug] from your uterus, we can have you imprisoned."[227] Lisa said, "I signed the document because I was scared…. They were stronger than I was because they have the authority; I was only the patient."[228]

Similarly, in PGH, Marissa was forced to swear she would not undergo an abortion ever again and sign a letter saying that if she ever attempted to induce an abortion again, she would be sent directly to jail no matter where she sought medical care.[229]

Some hospitals also have a formal practice of blottering women who seek abortion care. A doctor from OnM described the practice as follows: "We report induced abortions to the security guard, who lists the abortion in the hospital blotter and then conducts an investigation—if induced, where it was done, who did it, and so on .... The guard interviews women behind a curtain...The guard is supposed to give the name [of the woman] to the NBI."[230] A guard interviewed at OnM stated that women are reported to the police, and investigations are occasionally undertaken to identify providers of unsafe abortion.[231]

Some hospitals blotter women but do not actually report them. A doctor from a provincial hospital near Manila that used to blotter patients noted that "[i]t was done only to threaten the patients – empty threats – to drive

home the point that what they did was wrong or against the law. The doctors would not go to the NBI or CIS [Criminal Investigation Service] because of their busy schedule[s]."[232]

Although there is inconsistency in whether blottering would actually occur or result in a formal complaint to the police, women interviewed stated that threats of blottering genuinely caused emotional distress. Imelda, a thirty year old mother of four living in Parañaque who sought post-abortion care at Fabella Hospital, after attempting to terminate her pregnancy at five months described,

> **They [the doctors] shouted at me and said, 'We will call the police. You will be in a police blotter report. Don't you know that abortion is illegal? You cannot leave the hospital, you cannot go anywhere!' They asked the hospital not to discharge me even if I have money. They said they will have to inspect or test what they got from my body to confirm signs of abortion….When I was in the operating room, I heard them talking about police blotter…. I thought I was really going to be brought to the police by the hospital staff when they removed me from the ward.**[233]

Moral judgment inducing shame and fear

Women who admit to having induced an abortion risk facing judgment and moral condemnation by healthcare providers, which can give rise to mental distress and psychological trauma. Cielo, an adolescent girl who had become pregnant as a result of rape, sought medical care at East Avenue Medical Center after days of heavy bleeding following ingestion of Cytotec and abdominal massage.[234] She admitted to healthcare workers that she had taken drugs to induce abortion, only to be admonished by her physicians.[235] She recalled her experience as follows:

> **A male doctor was surprised and asked me why I did it. He said what a waste since I was still very young … since what I did was a mortal sin. He raised his voice. He was really mad. I only cried, I no longer replied…. My abdomen was very painful and all the while they were scolding me. I was crying because of my hurt feelings mixed with intense abdominal pain. It was really agonizing in many ways.**[236]

Imelda was left to bleed for approximately four hours and was tormented by nine different healthcare workers at Fabella Hospital before receiving care. As she described:

> **[The] Fabella Hospital staff really terrified me…. I really felt very low and it seemed that the hospital people were judging me, the way they spoke to me … [t]hey do not even know me, they do not know what and why I did what. I wanted to shout at them, "you have no right to judge me since you do not know my real story!"**[237]

Imelda only received care when a sympathetic doctor saw her records and scolded the nurses, saying, "What are you waiting for? … She should be cleaned up; she's been here since much earlier!"[238]

Mercedes sought post-abortion care at PGH and reported that after she admitted taking Cytotec, the doctor admonished her: 'You're still alive but your soul is already burning in hell!' … 'Don't you know it's a sin against God? If you like I can send you to jail right now. I will call the police!'"[239] She stated, "I was very afraid then, [that] I might be imprisoned because they said I aborted a human being."[240]

Women believe that such maltreatment "might be the providers' way of teaching [them] a lesson, that what [they] did was not right."[241] Leading ethicist Dr. Marita Reyes confirms that women are frequently harassed noting that they are often subjected to a torrent of verbal abuse. "Accusations of criminal, bad person, cousin to the devil—all the way from the emergency room to the labor room, the woman is hounded," she said. "She is questioned. They ask, 'What did you do? You committed a crime, you will suffer in hell!'"[242]

Violations of patient confidentiality

Women seeking post-abortion care are often denied their right to confidentiality.[243] Lisa said that her hospital bed was labeled with a notebook-sized sign bearing the word "abortion."[244] The sign was clearly visible to visitors to the hospital, causing her shame and exposing her to questions from passers-by, asking why she terminated her pregnancy. She recalled her feelings as follows:

> **In the morning around 7 a.m., a nurse put a sign at the foot of my bed. Written on it was the word "abortion." They put that sign for me. Every patient who had a D&C had an abortion sign…. There were two of us who had a D&C … with the abortion sign. There was no chart with my name, only the word abortion …**[245]

Women's confidentiality following an illegal abortion procedure may be violated in many different ways, some subtle, and some overt. One health counselor recounted an incident she witnessed: While accompanying a patient who was to receive post-abortion care at East Avenue Medical Center, she observed nurses and doctors calling out "[w]ho is the companion of this person who has undergone an abortion?" to an entire waiting room full of patients.[246] This type of public shaming is in itself punitive and, in a prohibitive environment where a woman has risked almost everything, including her freedom, to have an abortion, it deters women from seeking care.

Punishment by neglect

The quality of care received by women seeking management of post-abortion complications is determined to a large extent by providers' attitudes towards abortion. Women often experience neglect and delays in care, as well as other forms of harsh treatment, including being "manhandled"[247] during examinations, having their medical records thrown at them by hospital staff,[248] and having their wrists and legs bound "spread-eagle" during procedures.[249] The chief resident in the obstetrics/gynecology program at PGH admitted having seen providers use "harsh" and "tougher" words with patients seeking post-abortion care than they would use with other patients.[250] While delays sometimes occur due to shortages of medical staff and the high volume of patients, women seeking post-abortion care report that health care providers have told them that they would be made to wait to receive care or denied care specifically to "teach them a lesson."[251]

Gina, who sought care in Tondo General, said she felt punished by neglect:

> **I was left alone lying there, wondering when they would attend to me…. My back was totally soaked in blood. Yet, nobody came to my aid, much less help me clean up and provide me with a diaper or sanitary napkin. I felt I was just dumped there, discarded, that I was about to die that moment.**[252]

This kind of neglect occurs at other hospitals as well. At PGH, for example, a woman seeking post-abortion care reported that a nurse said to her, "Do you want us to neglect you? We are not accountable for what may happen to you because you did that to yourself. You committed a crime, hence you could be imprisoned."[253]

One community health worker who often escorts women in need of post-abortion care summed up the neglectful treatment of women she has witnessed during these visits as follows:

> **Many women who go to public hospitals are actually ridiculed and not treated as soon as they come in bleeding. The hospital staff believe that they are supposed to give the women a "lesson" by threatening her [with police or media exposure] or making her wait for her turn or not providing immediate action even if the woman is all blood[y] and shaking from infections. They can always talk to women after treating her medical needs, but they don't.**[254]

Accounts provided by community health workers reveal that it is not uncommon for women to be turned away from health facilities when seeking post-abortion care. One community health worker from Parañaque recalled an incident at East Avenue Medical Center where she saw a woman left to bleed in the hallway because physicians refused to provide her timely care.[255] According to the counselor, the woman suffered from sepsis but was denied treatment because she had undergone an abortion.[256] Similarly, another community health worker interviewed for this report shared the story of a woman in her barangay who was taken to Las Piñas District Hospital (Las Piñas) after consuming Cytotec and beginning to hemorrhage.[257] Although the doctors at Las Piñas had initially scheduled her to undergo a D&C, once they learned that she had intentionally tried to terminate her pregnancy, they refused to perform the procedure.[258]

Women who come to a hospital bleeding are suspected of having induced an abortion. This approach often causes women who have suffered spontaneous miscarriages to be mistreated. Maria, a married twenty-five year old mother of four living in Tonsuya, suffered a spontaneous abortion in her fourth month of pregnancy.[259] When she began experiencing sustained vaginal bleeding, Maria sought care at a private clinic in Navotas, where she was given a prescription for medication she was told would prevent miscarriage.[260] Maria woke up one morning shortly after her visit to Navotas with profuse bleeding, numbness, and dizziness.[261] Her sister-in-law brought her to Pagamutang Bayan ng Malabon (City Hospital of Malabon).[262] Maria stated, "The doctor asked what happened to me and when he was told I was bleeding, he voiced the opinion that I may have tried to abort the baby....The doctor told me, 'people who abort are arrested.'[263] Maria experienced delays and abuse, which she describes as follows: "I thought they were going to give me a D&C but they just let me bleed all over the floor....They told me, 'Just relax! You're hemorrhaging because you're too anxious.'"[264] After an hour, the doctor told her that D&Cs were not done in that hospital, and directed her to Tondo General.[265] However, Maria was not allowed to use the hospital's ambulance because, as the doctor said, "We don't use the ambulance for cases like this."[266] Maria, still hemorrhaging heavily, was forced to travel in the sidecar of a motorcycle to Tondo General, where she again was questioned about whether she had intentionally caused the abortion.[267]

Post-abortion abuse deters women from seeking timely care

The effects of abuse, interrogation, and threats on women's physical health are significant. Women interviewed were often deterred from seeking post-abortion care because they feared harassment and arrest. In an attempt to avoid maltreatment and humiliation, women experiencing complications often refrain from or delay seeking care until their health is seriously in jeopardy.[268] Irene, a mother of six who has had to resort to unsafe abortion twice, reported that despite severe bleeding, "I did not go to the hospital because I was afraid they would scold me. I suffered through the pain and simply thought about the future of my children to keep my strength."[269]

Despite heavy bleeding for over a week and continual severe pain, Josie did not seek care until four months after the abortion when symptoms did not abate.[270] Josie explained her reason for delaying seeking care as follows:

> **I fainted a few times at home. I lost a lot of blood.... I couldn't stand up.... I refused to be taken to the hospital. Of course I was scared. I was afraid that if I were to be taken to the hospital, I would get imprisoned....**[271]

Interrogation and threats can also cause women to leave hospitals without receiving treatment for complications, and thus lead to further delays in obtaining healthcare. One community health worker who brought a neighbor to East Avenue Medical Center reported needing to transfer her neighbor to a private health center in Novaliches after staff at the Center threatened to call the police and media if they found any evidence of induced abortion.[272]

Similarly, Marissa was interrogated, verbally harassed, and neglected for well over an hour at OnM despite the fact that she could feel something protruding from her body. Describing how the mistreatment made her want to leave the hospital, she recalled, "When my husband came in I told him, 'Get me out of here. I would die here.'"[273] Her husband then took her to PGH, where she was harassed again but was ultimately given treatment.

The economic cost of treatment of unsafe abortion complications

The costs associated with post-abortion care vary immensely, and in some situations can amount to a crushing financial debt. A 2004 study found that in the Philippines, "where 48% of the population lives on no more than USD 2 (PHP 92) a day, the high fees demanded by hospitals are an obstacle for many women with complications from unsafe abortion."[274] According to a 2009 report, "[t]o receive care for simple complications, women would probably have to pay US$20-80 (PHP 1,000-4,000) in a government hospital and US$60-300 (3,000-15,000) in a private hospital."[275] Post-abortion care imposes a substantial burden on the Philippines health care system[276] as well as on individual woman and their families.[277] Costs of post-abortion care vary across hospitals and over time, but a study done in 2001 estimates the average per patient cost for MVA to be PHP 735 (USD 14) and for D&C is PHP 1900 (USD 37).[278]

As explained by doctors interviewed for this report, the cost of post-abortion care can escalate quickly. For example, a patient at PGH, a college student who had come in bleeding after having an abortion, had to undergo dialysis five times as part of her treatment for complications, which cost around PHP 8,000 (around USD 173) the first time and PHP 5,000 (around USD 108) the other four times, plus the cost of medicine, blood, and daily lab tests.[279] Her condition was so serious that she was released only after three weeks.[280]

Fear of inability to pay may cause women to leave the hospital prior to the completion of treatment. Cielo explained how, after paying PHP 1,500 (USD 32) as a "down payment" for a D&C, she left the hospital because she did not have any more money.[281]

Isabel, who became pregnant after being raped by her father's friend, described how the cost of treatment for complications following a self-induced abortion has affected her family's welfare and her mental health: "Up to now, [my father] still blames me. If I hadn't become pregnant, the house wouldn't have been pawned. We wouldn't have been knee-deep in debt. Each time he would blame me, I would just cry. I just wished he wouldn't do that because it wasn't my fault anyway."[282]

Legal restrictions on abortion put additional pressure on the health system.[283] Where there is a legal ban on abortion, more women need to turn unsafe abortions and require post-abortion care.[284] The provision of safe abortion to women is far more cost-effective for the health-system than waiting until they seek post-abortion care.[285] By preventing provision of safe abortion, restrictive abortion laws lead to a financial drain on the health system.

Lapses in the provision of family planning counseling in post-abortion care lead to more unplanned pregnancies

Although the Philippine PMAC policy provides for family planning counseling after treatment for abortion complications, many women interviewed reported that these services were not offered to them. As a consequence, many women are caught in a vicious cycle of unplanned pregnancy and unsafe abortion. Gina said, "When I was discharged from Tondo General Hospital, nobody advised me on family planning."[286] Yayo had the same experience:

> **I was not able to have a ligation after my D&C … at the Ospital ng Maynila. It was under Atienza's jurisdiction. Contraception was already banned at the hospital…. When I returned to Ospital ng Maynila two weeks after my D&C, the medical personnel asked me nothing about my choice of family planning method. She only said, "OK, you're OK now, Mrs."[287]**

Providers have noted with frustration that post-abortion family planning counseling is often compromised by insufficient resources and staffing to meet patient demand.[288] (For more information on insufficient support for family planning counseling, see Chapter 3, p. 71.)

Women and the stigma of abortion

Women interviewed for this report described experiencing stigma as a result of their decision to undergo abortion, both as a result of the law and of the Catholic hierarchy's condemnation of the procedure. This stigma shapes their self-perception in negative ways. One of the most direct and harmful results of the criminal ban on abortion has been that women who undergo abortion often perceive themselves as having committed a crime and are made to live in fear and shame. As noted by Jess, "Of course, I knew about the restriction from the news—TV, radio, newspapers. It is truly hard when you decide to have one [abortion]. You would feel like one of the 'most wanted' criminals. I fear both criminal liability and the stigma."[289] Aileen described the impact of abortion stigma as follows: "No, I do not talk about it publicly. I worry [that] some people would judge me as *walang hiya* [shameless]…. The situation where I cannot openly tell anyone, it affected my self-esteem, my relations with friends and family."[290] The stigma silences women, leading to self-censorship, isolation, and the invisibility of their experiences.

WHO STANDARDS FOR MANAGEMENT OF POST-ABORTION COMPLICATIONS

Although complications from abortion are rare where performed by skilled personnel, the WHO has established that "every service delivery site at every level of the health system should be equipped and have personnel trained to recognize abortion complications and to provide or refer women for prompt care, 24 hours a day."[1] Specifically, healthcare personnel should be provided with the training, support, and supplies to treat the following potential complications:

Incomplete abortion. Misoprostol is included on the WHO Essential Medicines List for the management of incomplete abortion.[2] In addition to having access to the drug, staff at all healthcare facilities should be trained and provided with equipment to treat incomplete abortion through re-evacuation of the uterus with vacuum aspiration. This treatment must be provided with special attention to the possibility of infection or hemorrhage.[3] Healthcare facilities must be supplied with local anesthesia for completion of abortion using vacuum aspiration in the first trimester and for dilation and evacuation (D&E) in the second trimester. Where general anesthesia is used, staff must be skilled in management of attendant risks and be supplied with the necessary medications for the reversal of anesthesia, if necessary.[4]

Failed abortion. Failed abortion refers to cases where a woman has undergone a surgical or medical abortion, but her pregnancy continues. Healthcare facilities must possess the capacity to terminate a pregnancy through vacuum aspiration, or a D&E for second trimester pregnancies to treat such cases.[5]

Hemorrhage. All service-delivery sites must possess the capacity to stabilize a hemorrhage as quickly as possible, including through evacuation of the uterus and administration of drugs to stop the bleeding, intravenous fluid replacement, blood transfusions, laparoscopy, or exploratory laparotomy.[6]

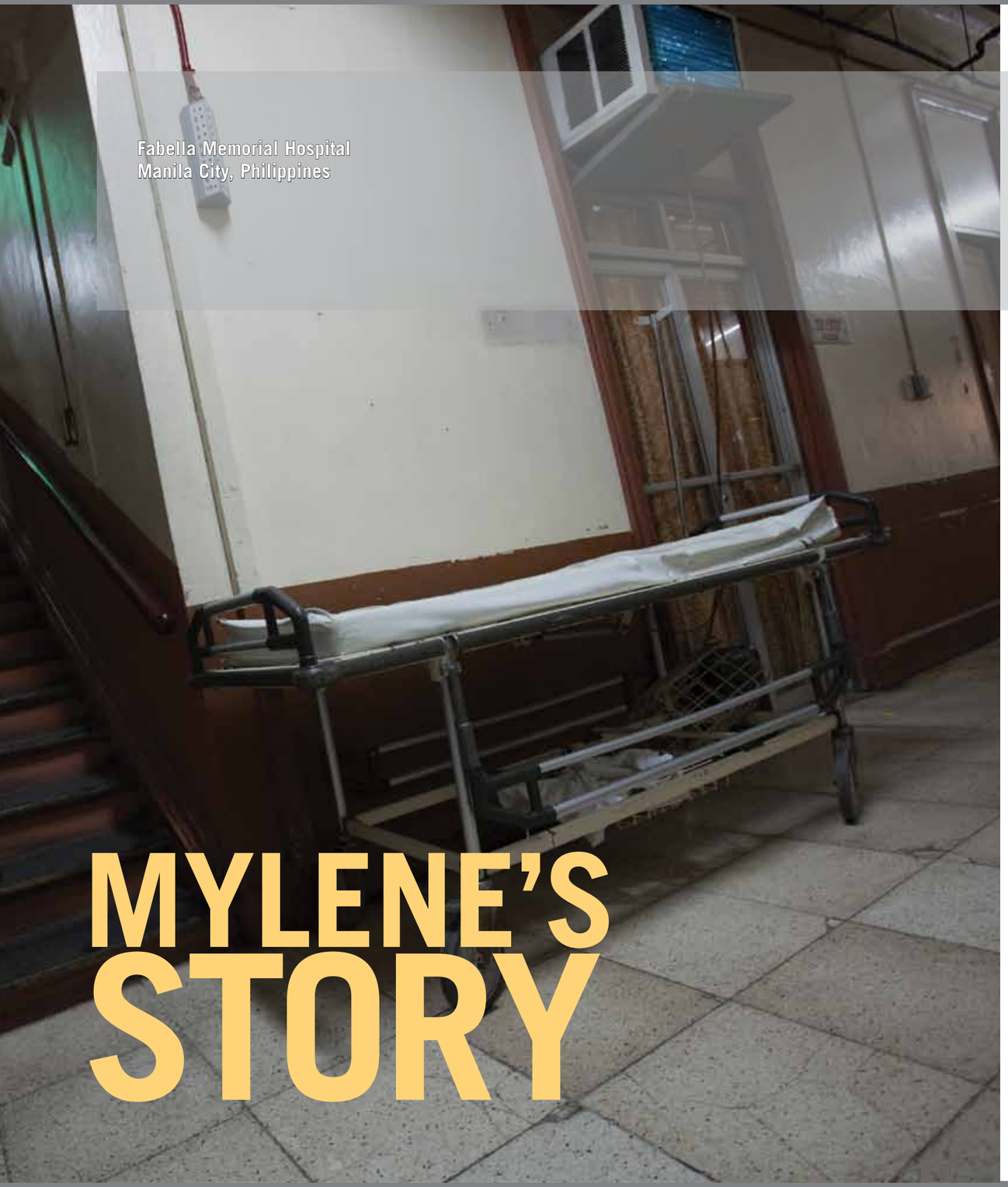
Infection. Healthcare staff must be equipped and trained to provide treatment for infections that may result from unsafe abortions. Such treatment includes the administration of antibiotics and evacuation of the uterus where the infection is caused by retained products of conception.[7]

Uterine perforation. To treat uterine perforation, healthcare facilities must be equipped with antibiotics and be capable of conducting laparoscopies and laparotomies to diagnose and repair damaged tissue.[8]

The WHO has also established that post-abortion family planning is an essential element of post-abortion care. It has stated that "[b]oth women who have terminated a pregnancy through unsafe, unhygienic, and often illegal abortions, and those who have utilized elective induced abortion services as allowed by the jurisdiction, are in critical need of family planning services. These women have demonstrated their determination not to bear a child, yet they face a strong possibility of future unwanted pregnancy and, for the former, of unsafe abortion. The extension of family planning services to all women who have had an abortion will have significant repercussions for preventing unsafe abortion and reducing maternal morbidity and mortality worldwide."[9]

Abortion stigma is not felt by women alone; it is pervasive, and has had a negative impact on the healthcare system as a whole in relation to the provision of abortion to preserve women's health and lives and the treatment of women with post-abortion complications. Doctors themselves have confirmed that women who seek medical attention for complications from abortion are more likely to be shamed and discriminated against by their peers than those seeking help for other medical problems.

Vocal condemnation of abortion led by the Catholic hierarchy has fueled abortion stigma in the Philippines so that when women are confronted with an unplanned or unwanted pregnancy, they are caught in a conflict between their personal well-being and common perceptions of morality. Interviews with women reveal that for some, the compelling reasons that lead them to have abortions often enable them to endure and even oppose the stigma they have faced as a result of such religious condemnation. Many women interviewed for this report questioned the Catholic hierarchy's opposition to abortion on very pragmatic grounds and expressed the belief that they would be forgiven if they had in fact committed what the hierarchy describes to be a sin. Cristina explained, "[i]f abortion is a sin, God is merciful.… I have to think and be practical about the welfare of my children. Everyone has to learn about contraception and practice family planning."[291] Rowena expressed a similar view. "The Catholic Church says abortion is bad but will they support my children?" she said. "It is still my decision that prevailed. Maybe my God will understand my situation and will forgive me for terminating my pregnancies."[292]



MYLENE'S STORY

Mylene, a twenty-six year old doctor, became pregnant after being raped by the politician who sponsored her medical school scholarship. She died as a result of a severe infection after attempting to self-induce an abortion.

Facing an unplanned, unwanted pregnancy, **Mylene** confided in almost no one and went only to seek medical services at the public hospital where her friend and classmate, **Dr. Sam**, was a resident physician. When she first approached Dr. Sam, Mylene requested a prenatal exam. Her results seemed entirely ordinary to Dr. Sam. However, when she returned a week later for a follow-up, Dr. Sam noticed a bruise on her abdomen and cotton fibers in her vagina. Dr. Sam asked Mylene, "What are you doing to yourself?" but Mylene did not say anything. She confided later, however, that she had been **raped** by her benefactor, a politician who paid for her education.

A couple of weeks later, Mylene returned to the hospital complaining of abdominal pain and was admitted by another physician. After examining her, the physician performed a **dilation and curettage (D&C)** on Mylene. Dr. Sam stated that her colleague did not observe anything unusual and did not prescribe an antibiotic. She was "due for release." Dr. Sam learned of Mylene's admission to the hospital shortly after her D&C and visited with her.

The next morning Mylene awoke with severe abdominal pain, and her physicians put her under observation for 24 hours. The physicians diagnosed her with hyperacidity and gave her several medications. The following day Mylene's symptoms worsened dramatically, and she began experiencing even more severe pain. Dr. Sam recalls, "I would touch her and she would feel so cold." It was only when the doctors put in a urinary catheter and no urine was released that they realized Mylene was experiencing renal failure from sepsis.

Suspecting that there might have been a perforation of the uterus during the D&C, Mylene was taken into surgery. Rather than a perforation, her doctors found a severe infection that had spread to her entire pelvic cavity, which was covered in pus. **Mylene died on the operating table.**

Despite her training as a physician, Mylene was unable to seek safe abortion services or post-abortion care due to the illegality of the procedure. As a doctor, Mylene knew the risk of infection and had been self-medicating with antibiotics until she was admitted to the hospital; these had suppressed her fever and masked any signs of infection. In a climate of stigma surrounding both sexual violence and abortion, Mylene was scared to talk about the pregnancy and her abortion, leading to delays and ambiguities that compromised her care. Even after she passed away, only a few close friends and her family knew the true cause of her death. Her family requested that her death certificate not reveal that she had died of abortion-related complications.

MYLENE'S STORY: EXAMPLES OF HUMAN RIGHTS VIOLATED

Right to Life: Mylene's death was an entirely preventable pregnancy-related death caused by the failure of the government to legally provide for access to abortion. Under the right to life, states parties have an obligation to prevent illegal, clandestine abortions that endanger women's lives. The criminal provisions on abortion lead to violations of the right to life both by denying women access to safe abortion and by creating a climate of fear where women seeking post-abortion care are unable to tell their physicians about the true causes of the complications they are experiencing.

Right to Nondiscrimination: Mylene's death reflects the failure of the government of the Philippines to fulfill its human rights obligations to allow for emergency contraception to prevent pregnancies and for legal access to abortions for women who have been raped. Unsafe abortion has been recognized as a form of violence against women, particularly where the denial of legal abortion compounds the physical and mental trauma of other forms of gender-based violence, such as rape. The failure to provide for legal access to emergency contraception and abortion for rape victims violates government obligations to prevent gender-based violence under the right to nondiscrimination.

Right to Health: Mylene's inability to access safe abortion services constitutes a violation of the right to health. Under the right to health, governments have an obligation to ensure accessibility and availability of safe abortion services and to prevent women from risking their lives and health by resorting to illegal, unsafe abortions.

Chapter Three

The Dilemmas and Challenges Faced by Healthcare Providers

The criminal ban on abortion has made the procedure almost completely unavailable in the Philippines, except in clandestine clinics or in very narrow cases where the act is not perceived as abortion, such as ectopic pregnancy. Most abortions are performed by unskilled providers, commonly referred to as "doctoras," in settings that are not medically appropriate, or by traditional midwives, or *hilot*s. Many women induce abortions themselves with no counseling or assistance. Although some legal experts opine that both the Constitution and the Penal Code may potentially be interpreted to allow abortions to save the life of the pregnant woman, criminal sanctions prescribed by the Penal Code have deterred physicians from openly providing abortions. Aside from denying women access to safe abortion services, the prohibition has undermined the quality of post-abortion care by portraying women who have abortions as criminals. As a result, they are often considered unworthy of the level of care normally accorded patients seeking help for other medical problems and are subjected to discrimination and abuse. Abortion stigma within the healthcare system is a leading cause of negative attitudes toward women who undergo abortion and who subsequently seek post-abortion care. This chapter discusses issues including the dilemmas and challenges that healthcare providers face as a consequence of the criminal ban on abortion and which specifically relate to abortion itself and the provision of post-abortion care.

Difficulty in providing abortion to patients, even to preserve women's lives and health

Uncertainty about the circumstances in which abortion may be performed to save a woman's life

Although some legal experts believe the Constitution may be interpreted to permit abortion to save the life of a woman, due to the absence of clear exceptions to the law, there is a lack of consensus among health professionals as to the circumstances under which such abortions may be performed.

While Philippine law does not explicitly lay down the circumstance in which life-saving abortions may be performed, some guidance can be found in the Philippine Obstetrical and Gynecological Society (POGS) guidelines on "Ethical Issues in Fetomaternal Care." The guidelines establish that termination of pregnancy may only be allowed where it is consistent with the Roman Catholic principle of "double effect."[293] "Double effect" has been defined by leading ethicists to mean that "no wrong is involved in performing a legitimate procedure for a proper reason when an effect follows that is improper to achieve for its own sake."[294] The POGS guidelines note that providing medication or treatment that will likely result in the termination of pregnancy is acceptable 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[295] or chemotherapy to treat certain forms of cancer.[296]

It is important to note that the POGS guidelines still restrict access to abortion in many cases that may result in harm to women's life and physical and mental health. For example, the guidelines only permit surgical approaches for abortion in cases of ectopic pregnancy and explicitly proscribe the use of medical options, such as methotrexate and potassium chloride, on the grounds that these drugs "directly attack and destroy the fetus."[297] Yet such medical options are important as they offer the only means of treating the ectopic pregnancy while preserving the fallopian tube in case a woman would want to become pregnant again.[298] Similarly, the guidelines also direct physicians to refrain from utilizing certain forms of treatment for cancer, including radiation, for pregnant women.[299] The guidelines further proscribe the performance of abortion on the grounds of fetal impairment, stating that "the presence of fetal malformation does not endanger the life of the mother, so

the principle of double effect does not apply."[300] International Federation of Gynecology and Obstetrics (FIGO) guidelines on the "Ethical Aspects in the Management of the Severely Malformed Fetus" recognize the "ethical right"[301] of a pregnant woman who is carrying a malformed fetus to terminate her pregnancy.[302]

While instructive, the POGS guidelines are extremely limited in scope. They only provide selected examples of medical conditions in which abortion may be justified. Furthermore, although they recognize ectopic pregnancy and cancer as possible medical grounds for abortion, the POGS guidelines reveal a strong bias toward the fetus by prohibiting the use of medical options that may perceivably directly impact the fetus, even at the risk of threatening a woman's life, health, and reproductive capacity. The guidelines reinforce this preference through another provision that establishes that the fetus must be "regarded as a patient from the time of conception."[303] There is no recognition of rape or incest as a ground for abortion in the POGS guidelines, although the FIGO guidelines do recognize that "most people would also consider [abortion] to be justified in cases of incest or rape"[304] on ethical grounds.[305]

Based on interviews with physicians, it appears that in practice some healthcare providers consider abortion to be permissible beyond ectopic pregnancy and cancer treatment, such as when a woman's life is endangered by the pregnancy itself because of eclampsia or malignant hypertension, or where the pregnancy aggravates a pre-existing condition, such as a serious cardiac problem.[306] However, there are certain grey areas in cases involving fetal deformities incompatible with life after birth, such as anencephaly, a condition where the fetus's brain does not fully develop during pregnancy and can lead to fetal death inside the uterus or soon after birth.[307] Dr. Alejandro San Pedro, Chair of the Obstetrics and Gynecology Department of Bulacan Provincial Hospital, stated that in practice, women are not given abortions in such situations. He explained, "[u]sually the doctors just let the pregnancy continue and prepare the mother to accept the fact that the fetus will not survive. They just wait for the mother to undergo labor. [This is] [u]nlike in other countries, [where] they will terminate it as soon as an anencephalic pregnancy is detected."[308] (For more information on comparative perspectives on fetal impairment, see box—Forced Pregnancy as a Violation of Human Rights Law, p.68.)

Leading ethicist and medical professor Dr. Marita Reyes has noted that some doctors will terminate where there is a non-viable pregnancy, as in cases of ectopic and molar pregnancies, where doctors view the procedure as "removal of an abnormal fetus and not an abortion."[309] This practice is consistent with the FIGO guidelines on "Ethical Aspects of Induced Abortion for Non-Medical Reasons," which explain that "[a]bortion is very widely considered to be ethically justified when undertaken for medical reasons to protect the life and health of the mother in cases of molar or ectopic pregnancies…."[310] Some practitioners point out that in practice an attending physician's decision to perform a life-saving abortion is often based on the medical and ethical position of his or her institution or professional group.[311] This has led to inconsistency in access to life saving abortion.

Legal uncertainty combined with a fear of criminal liability interferes with the ability of healthcare providers to care for their patients

The criminal ban on abortion has created a general fear of criminal liability among providers regarding performance of abortions. As a consequence, many hesitate to perform the procedure under any circumstances. Even in the rare instances where doctors do perform an abortion to save a woman's life or where the pregnancy is not viable, including cases of ectopic or molar pregnancies, many do so with reluctance and in an atmosphere of uncertainty and fear. Commenting on performance of abortion in cases of molar pregnancies, Dr. San Pedro noted that "a doctor has no ambivalence when it comes to complete H-mole since there is an abnormal placenta but not fetus. In an incomplete H-mole [molar] or partial molar pregnancy, there is an abnormal placenta and some fetal development. Thus, some doctors are hesitant to treat or remove the pregnancy."[312]

As a result of the law, doctors are unable to provide care that would prevent their patients from resorting to unsafe abortions, thereby jeopardizing their lives and health. Dr. Florence Tadiar, a medical doctor and executive director of the Institute for Social Studies and Action (ISSA), a sexual and reproductive rights advocacy group in the Philippines, used to provide family planning advice to various communities in her home province. As a result, Dr. Tadiar was often approached by women who were experiencing unplanned pregnancies:

> **[S]everal women would come to my clinic.... [T]hey would tell me that it [their last menstruation] was two or three months ago … they would wait for me, already telling me that they need help. Of course, I could not help.... So they would go away, you know, very sad.... [M]any times in the middle of the night, I would be awakened by the hospital. They would tell me that I had a patient and it was this woman who this morning had come to my clinic. And she had already gone to somebody for unsafe abortion. So that was something that touched my heart. You know, I really [felt I was] pushing these women to have this unsafe abortion.**[313]

Dr. Tadiar reflected on the experience of turning the patients away, knowing the risky and traumatizing procedures to which they might be forced to resort, expressing the feeling that, "[b]ecause of the law, I was an accessory of that suffering."[314]

The prohibition on abortion has a negative effect on health services even when a pregnancy ends spontaneously. In cases where complete or partial evacuation of the fetus occurs spontaneously, such as in miscarriage, missed abortion, or fetal demise in utero, some doctors still fear being held criminally liable for completing an abortion.[315] A ban introduced by the Philippine FDA, formerly known as the Philippine BFAD, on the possession and use of misoprostol on the pretext that it can be used as an abortifacient has further compounded this problem. Misoprostol, recognized by the WHO as an "essential medicine"[316] for incomplete abortion and miscarriage management, has been banned by the FDA on the ground that it could be used to induce abortion. (See Chapter 4, p. 84 for more information about the ban.) One doctor at Fabella Hospital recounted with great frustration a case in which he was unable to evacuate a dead fetus with misoprostol because of the FDA restriction after his attempt to do so with oxytocin failed; as a result, the woman had to lie in the hospital and wait for days before the fetus was expelled naturally.[317] The doctor seemed to have been quite traumatized by the experience.

The illegality of abortion has resulted in a lack of data on abortion that could justify the removal of severe restrictions

The Philippines has no formal process for documenting abortions because of the illegality of procedure. This has resulted in a lack of conclusive information about the need for abortion, particularly when necessary to preserve the life or physical and mental health of a pregnant woman. Describing recording practices, one practitioner noted the following:

> **For instance, in the case of molar pregnancy, the record will likely include the diagnosis "molar pregnancy and evacuation or suction/curettage." Likewise, the record for ectopic pregnancy will include a diagnosis and a record of removal of the fallopian tube or other structures if the tube had ruptured. In either case, there will be no mention of "therapeutic abortion." Even in records documenting cases of eclampsia where the pregnancy is terminated, the expression "therapeutic abortion" is typically not used.**[318]

FORCED PREGNANCY AS A VIOLATION OF HUMAN RIGHTS LAW

Where safe and legal abortion is unavailable, some women are forced to carry unwanted pregnancies to term. International and regional human rights bodies have recognized that compelling a woman to continue a pregnancy has serious implications for her physical and mental well-being and violates fundamental human rights, including the rights to life, health, nondiscrimination, privacy, and freedom from cruel, inhuman, and degrading treatment.

In General Recommendation 21 on equality in marriage and family relations, the CEDAW Committee establishes that:

> *The responsibilities that women have to bear and raise children affect their right of access to education, employment and other activities related to their personal development. They also impose inequitable burdens of work on women. The number and spacing of their children have a similar impact on women's lives and also affect their physical and mental health, as well as that of their children. For these reasons, women are entitled to decide on the number and spacing of their children.*[1]

In General Recommendation 24 on women and health, the CEDAW Committee recognizes that, for young girls, there is a "physical and emotional harm which arise[s] from early childbirth."[2] The HRC has further recognized the link between the compelled continuation of pregnancy conceived from rape and cruel, inhuman, and degrading treatment. In assessing compliance with the provision prohibiting torture and cruel, inhuman, or degrading treatment, the HRC has noted that it needs "to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape."[3]

Regional human rights tribunals and human rights treaty monitoring bodies have repeatedly declared that compelling women to carry unwanted pregnancies to term constitutes a violation of women's rights. The following three cases, decided by the European Court of Human Rights, the HRC, and the Inter-American Commission on Human Rights, respectively, articulate these rights violations in the context of women's lived experiences.

Tysiac v. Poland (2007) [4]

In *Tysiac v. Poland*, the European Court of Human Rights ruled that being forced to carry a pregnancy to term can have implications for women's health and rights. A Polish woman, Alicja Tysiac, had severe visual impairment and was denied an abortion that would preserve her remaining eyesight. Pregnant for the third time, she consulted three ophthalmologists. All of these doctors recognized that carrying the pregnancy to term constituted a serious risk to her eyesight, yet they refused to issue the referral legally required for an abortion in Poland. Even when Alicja finally was able to secure a referral from a general practitioner, the head of the gynecology and obstetrics department in a Warsaw clinic refused to terminate the pregnancy on the premise that there were no medical grounds for a therapeutic abortion. Because of the lack of appeals procedures for decisions on abortion, Alicja was unable to access a timely abortion and was forced to carry her pregnancy to term. As predicted, after the delivery Alicja's eyesight severely deteriorated. A special panel declared Alicja to be a significantly disabled person.

Alicja's case was brought before the European Court of Human Rights, which found that Poland had an obligation to ensure effective access to legal abortion and, by failing to institute procedural safeguards to ensure access to therapeutic abortion, had violated her right to respect for her private life—a right meant to "protect the individual against the arbitrary interference by public authorities."[5] The Court awarded Alicja EUR 25,000 (approximately USD 34,000 or PHP 1.4 million) in damages for the "pain and suffering" she experienced, stating that "having regard to the applicant's submissions, [the Court] is of the view that she must have experienced considerable anguish and suffering, including her fears about her physical capacity to take care of another child and to ensure its welfare and happiness, which would not be satisfied by a mere finding of a violation of the [European Convention on Human Rights]."[6]

K.L. v. Peru (2005) [7]

In 2001, K.L., a 17-year-old adolescent girl in Peru pregnant with a fetus with anencephaly, a fatal anomaly, was denied a therapeutic abortion by Peruvian health officials despite the fact that Peruvian law permits pregnancy termination for health reasons, including mental health. Without access to abortion, K.L. was compelled to carry the anencephalic fetus to term and gave birth to a baby who died several days later. Hearing the case of K.L., the HRC found that compelling a woman to continue a pregnancy that posed risks to her physical and mental health, and her life, was a violation of the ICCPR Article 7 right to be free from cruel, inhuman, or degrading treatment.

The HRC explains the following:

> *… owing to the refusal of the medical authorities to carry out the therapeutic abortion, [K.L.] had to endure the distress of seeing her daughter's marked deformities and knowing that she would die very soon. This was an experience which added further pain and distress to that which she had already borne during the period when she was obliged to continue with the pregnancy … The Committee notes that this situation could have been foreseen, since a hospital doctor had diagnosed anencephaly in the foetus, yet the*

hospital director refused termination. The omission on the part of the State in not enabling the author to benefit from a therapeutic abortion was, in the Committee's view, the cause of the suffering she experienced …. [T]he Committee considers that the facts before it reveal a violation of article 7 of the Covenant.[8]

Paulina del Carmen Ramirez Jacinto v. Mexico (2007) [9]

Paulina was raped at the age of 13, by a burglar who broke into her home, resulting in a pregnancy. Although Mexican law permits abortions in such situations, state authorities denied Paulina access to legal abortion, as a result of which she was forced to give birth. Her case was subsequently brought to the Inter-American Commission on Human Rights and was resolved through a formal settlement through which the Mexican government agreed to recognize that it had violated Paulina's human rights by failing to ensure access to legal abortion.

The settlement provided for damages and compensation for Paulina and her son, including for medical expenses incurred by Paulina resulting from the denial of abortion; maintenance expenses and assistance with necessities and school supplies; support for housing expenses; entitlement to state-run health services for both Paulina and her son until he reaches adult age or concludes his higher education; entitlement to state-sponsored psychological care for Paulina and her son; the provision of school fees for her son until the high-school level; start-up funding and technical support to Paulina to help her start a microenterprise; and payment for moral damages. These damages and compensation reflect that "bearing and raising" a child has a significant financial and emotional impact on a woman's person, limiting as it does access to education and employment opportunities and consequently affecting the ability to pay for health and housing costs. The State's payment for psychological care recognizes the mental health implications for women and children when women are forced to carry to term pregnancies resulting from rape.

is grossly underreported, it is not able to publish any data at all.[319] Likewise, abortion is not included among the reportable conditions registered in the Field Health Service Information System, the periodic report of cases compiled by public health facilities.[320] The lack of official reporting of termination procedures has reduced significantly the visibility of cases where a termination may be medically indicated and necessary to protect a woman's life or physical and mental health, resulting in an inadequate health system response to potentially risky pregnancies.

Misconception among providers regarding a legal requirement to report abortion

Interviews with providers have revealed that many erroneously believe there to be a legal requirement to report illegal abortions. Some expressed concern about being implicated as an accomplice if they failed to report an illegal abortion, while others tried to justify the interrogation of women for the purpose of identifying an illegal provider and turning him or her in to the authorities.[321] Some were concerned about being dragged into formal investigations—a tedious and time-consuming process—if they reported cases of illegal abortion and cited that as a reason for not reporting.[322] The possibility of participating in an investigation has not, however, deterred many providers from threatening women and forcing them to sign statements admitting that they had an illegal abortion. In fact, some force women to sign such statements to absolve themselves of any potential criminal liability that they believe could arise from being associated with a patient who has committed an illegal act.[323] (See Chapter 2, p. 52 for women's testimonies of harassment and intimidation.)

When asked about reporting practices, a POGS board member claimed that the law does contain a reporting requirement, although as practical matter doctors do not typically report such cases.[324] She noted that "[w]omen are accessories to a crime. They are also liable. It is required by law to report women. It is incorporated into the abortion law. We should report, but don't. If we report, we will have to be a witness. Reporting is low, because it is hard to prove a woman had an illegal abortion."[325]

While some providers erroneously believe that they are legally obligated to report women for illegal abortion, others are uncertain about their role and the possible implications. A physician in the PGH obstetrics and gynecology department, said she was unclear whether there is a legal duty to report to the authorities women who seek treatment for complications after having had an illegal abortion, and she was also unsure whether providers who do not report will be seen as accomplices to the abortion.[326]

Difficulties in providing post-abortion care

The government introduced the PMAC Policy in 2000, which addresses both the public health impact of unsafe abortion and discrimination against women seeking post-abortion care in public hospitals. (For more information on the PMAC Policy, see Chapter 1 and Chapter 4, p. 33 and p.82.) However, as revealed by healthcare providers directly involved in the provision of post-abortion care, implementation of the PMAC Policy has not been a priority for the government, which has consistently failed to provide professionals with necessary training and support, allocate adequate funding for post-abortion care facilities, and ensure that medicines are readily available to treat patients with abortion complications. The Philippine government's lack of commitment to this critical health service is reflected both in the low quality of post-abortion care it provides in government-run hospitals and in its failure to promulgate the policy. A study undertaken by the USAID on reproductive health services offered by the Philippine government reveals that patients ranked post-abortion care services to be of the poorest quality in comparison with other healthcare services.[327] In addition, some key officials interviewed for this report were not even familiar with the policy, including the directors of two Manila-area public hospitals and a high-level official at the DOJ.[328]

Inadequate training of health professionals and the lack of a supportive environment

Although the PMAC Policy requires service providers to be trained in the prevention and management of abortion and its complications, including counseling, physicians at teaching hospitals report that such training typically has not been implemented at medical schools or teaching hospitals where medical residents receive training.[329] Several physicians interviewed for this report who provide post-abortion care services said more training is needed for healthcare workers regarding the techniques of post-abortion care and, importantly,

gender sensitivity as well as awareness of professional and ethical obligations.[330] Interviewees noted that although international organizations conducted training programs for several years in the past, these programs ceased long ago and have not been replaced.[331]

The medical curriculum provides that obstetricians and gynecologists should learn how to manage abortion and its complications both in the general medical program through courses and clinical work, potentially during residency through case discussions, and while studying for the licensing exam.[332] However, Dr. Reyes has noted that some medical students tend to view women who induce abortion as being "of questionable morality" and are reluctant to discuss abortion because of its status as a crime.[333] She points out that obstetrics and gynecology residents, consultants and professors have told her that most residents have "no inclination to learn more about it because one is liable even if it is therapeutic abortion."[334] Consultants were especially concerned about the "hostile and judgmental attitude of students and trainees towards women who have undergone induced abortions."[335] The consultants thought that the students should receive more formal training on management of abortion complications.[336]

Physicians at teaching hospitals note that medical schools and teaching hospitals typically do not train their students to counsel patients.[337] Dr. San Pedro stated that in medical school, "[a]bortion, its types and their treatment, were taught for 1 or 2 hours only, with emphasis that induced abortion is a crime. Reasons why women have abortions and methods on how to prevent women from having abortions had never been discussed among medical students.... Until such time that this kind of program penetrates the providers' consciousness, their old attitude and own ethical and moral standard will maintain their punitive behavior on women who have abortions."[338]

Training is essential not only to improve providers' technical skills, but to promote compassionate care and eliminate discriminatory practices toward women who have undergone illegal abortions. It is also necessary to create a supportive environment for providers of post-abortion care as abortion-related procedures are generally stigmatized within the medical profession. Healthcare providers from Bulacan Provincial Hospital who have participated in sensitization programs and workshops on post-abortion care, and, more recently, on human rights have noted a positive change in their own attitudes as a result of such interventions.[339] Speaking of a previous training, one of the doctors in Bulacan noted, "[b]efore, I thought that it was right to scold the patients, to scare them and to call in the police. Now, I don't do this. I have changed a lot after the training."[340] As these providers note, it is imperative that such training be conducted on a consistent basis for each new batch of residents to ensure that healthcare workers are respectful of women seeking post-abortion care.[341]

Inadequate post-abortion care supplies and equipment lead to poor quality of care

Healthcare providers interviewed for this report have spoken of the constraints they face as a result of inadequate, and sometimes unavailable, lifesaving drugs needed to ensure effective post-abortion care. Many hospitals do not stock medicines needed for post-abortion care. A physician in the Obstetrics/Gynecology department at PGH also noted the dearth of equipment available to perform manual vacuum aspiration (MVA) as an impediment to the effective provision of post-abortion care.[342] Due to the shortage of aspirators, she said, some doctors have used one aspirator on 100 patients instead of discarding it after 25 uses as recommended by the distributor.[343]

The lack of appropriate drugs and equipment also forces women to undergo riskier, more time-consuming, and more expensive procedures to complete abortion.[344] For example, as a result of the lack of supplies for MVA, including cannulas and aspirators, doctors must utilize D&C instead, which is a more invasive technique and, unlike MVA, cannot be performed as an outpatient procedure.[345] The ban on misoprostol has further compromised post-abortion care by depriving physicians of an essential medicine for treatment of incomplete abortion.[346]

Abortion stigma in the healthcare system

Many healthcare professionals interviewed for this report stated that professionals who sympathize with women who have had abortions feel stigmatized by their peers because abortion is a crime under law. Interviewees attributed the stigma to the law, personal religious values,[347] and the Catholic hierarchy's propaganda against abortion.[348] Dr. Reyes said medical students do not want to talk about abortion because "[t]hey are afraid of being labeled as wanting to perform abortions."[349] Dr. Tadiar explained that the stigma has proliferated within the health system, "[stigma] exists among providers. This is spread by talking about and condemning doctors who do it [perform abortions]."[350] Many doctors also condemn women who seek their help for termination or who come to them after a botched procedure.[351]

Testimonies reveal that even in facilities equipped to offer post-abortion care, including MVA and D&C, some physicians still resist providing these services. One medical consultant said there is a "major challenge in convincing consultants to use MVA" because they are concerned about being suspected of inducing abortions by their peers.[352]

CIELO'S STORY

Cielo, a sixteen year old student, became pregnant after being raped at a party. Distressed and unable to confide in her family, Cielo ran away from home and sought an abortion.

Cielo recalls, "when on the second month I still did not have my menses, I did a pregnancy test and two lines came up. I burst into tears. I could not confide with any one about what happened to me, I did not know what to do.…I could no longer concentrate on my studies. I was not able to sleep then…." An **adolescent** living at home, Cielo feared the reaction of her parents both if she continued the pregnancy as well as if she tried to terminate the pregnancy. For two months, Cielo thought and prayed about what to do, and ultimately decided to have an abortion. She dropped out of school for one month and **ran away** to stay at a friend's house, where she felt safe inducing the abortion.

Cielo took **Cytotec orally and vaginally**, and then was massaged by a *hilot*. After the massage, Cielo began bleeding uncontrollably. She recounted, "It was already a week [after the massage] and I was bleeding heavily. Sanitary napkins were not enough so I used diapers. I consumed three diapers in one day." Scared, Cielo sought medical help: "I asked my friend to bring me to the hospital because I could not endure it anymore; I was already weakened due to the bleeding. I was also getting anxious of what might happen to me."

Cielo went to East Avenue Medical Center for post-abortion care. Despite her **heavy bleeding,** the doctors refused to admit her until she brought money to pay upfront for any medical costs. She described the experience as follows: "When my friend returned with the money, it was only then that the medical personnel talked to me. They asked me why I was bleeding. I told them I took drugs because I wanted to abort the baby." Cielo's disclosure of having induced an abortion was met with **verbal scolding** and **condemnation**, particularly due to her youth. Cielo remembers, "They scolded me. They said I was way too young. Why did I do it? Did my parents know? I said no…. A male doctor was surprised and asked me why I did it. He said what a waste since I was still very young; why since what I did was a mortal sin. He raised his voice. He was really mad. I only cried, I no longer replied…." Cielo suffered the abuse in silenced agony: "My abdomen was very painful and all the while they were scolding me. I was crying because of my hurt feelings mixed with intense abdominal pain. It was really agonizing in many ways."

A *hilot* demonstrating a traditional massage to terminate a pregnancy.

CIELO'S STORY: EXAMPLES OF HUMAN RIGHTS VIOLATED

Right to Nondiscrimination: Cielo is an adolescent survivor of sexual violence, which is a form of discrimination against women. In failing to allow legal access to abortion, the government worsened the harm she suffered from the rape, and contributed to the discrimination she experienced. Further, governments have an obligation under the right to non-discrimination to protect vulnerable subgroups of women, including adolescents. A state is considered to have violated the right to non-discrimination where adolescents are forced to jeopardize their lives and health through unsafe abortion.

Right to Be Free from Cruel, Inhuman, and Degrading Treatment: Where pregnancy is a consequence of rape, compelling a woman to carry a pregnancy to term constitutes a violation of human rights itself and can result in serious traumatic stress and long term psychological problems. Abortion bans deprive women of the ability to avoide the trauma associated with forced pregnancy, which is foreseeable and has serious implications for physical and mental health. The inability to access legal abortion violated Cielo's right to be free from cruel, inhuman, and degrading treatment.

Right to Health: Cielo needed access to information and counseling but instead had to face the decision alone. As a result, Cielo delayed inducing an abortion, risking greater chances of complications. She experienced further delays in receiving emergency health care once at the hospital due to the requirement that she pay before receiving care. Under the right to health, governments must ensure that women and girls do not experience unnecessary delays in seeking reproductive health care services.

Chapter Four

The Legal and Political Context of the Abortion Ban

At the root of the human rights violations described in Chapters 2 and 3 are the Philippines' criminal provisions on abortion. The Philippine legal system has been shaped quite significantly by the legal traditions of Spain and the United States. While the influence of Anglo-American law is evident in the Philippine Constitution, which, like the U.S. Constitution, guarantees separation of church and state, Spanish law has had a lasting impact on other areas, such as the Civil Code, which includes the Family Code, and the Penal Code.[353] The prohibition on abortion is, however, among the most harmful legacies of the Philippines' colonial past.

The Philippine criminal ban on abortion is one of the most restrictive in the world and, as the testimonies in this report illustrate, it has caused significant harm to women. The Penal Code and the Constitution both contain language that in practice has led to a de facto ban on abortion, even though both laws could be interpreted to permit women to have abortions in certain circumstances. Without clarification of the laws by the Philippine government, however, women and providers who induce abortion remain under the threat of criminal prosecution in all circumstances. The criminalization of abortion has contributed to the cultural stigma surrounding abortion and has led to the abuse of women seeking post-abortion care.

This chapter presents the broad legal framework for abortion as established through the Penal Code, the Constitution, as well as ethical codes of conduct adopted by professional associations and more recently recognized in the Philippines through the adoption of the Magna Carta. It further discusses the PMAC Policy,[354] which establishes national standards for post-abortion care, and sheds light on the challenging political context in which religious opposition to women's reproductive rights has denied individuals the rights to freedom of religion and to establish a family in accordance with one's own conscience. The political influence of religious conservatives in these matters has blurred the separation between church and state required by the Constitution, blocking law reform and leading to unjust restrictions on women's access to reproductive health services.

Abortion in the Penal Code, the Constitution, and ethical norms

Abortion is defined as a crime by the Revised Penal Code of 1930,[355] which is based quite extensively on the Spanish Penal Code of 1870.[356] The Spanish Penal Code was enacted in the Philippines in 1887, and also criminalized abortion.[357] The current Penal Code was enacted as Act. No. 3815 by the Philippine legislature under U.S. colonial rule without much reform from the Spanish version,[358] and thus still embodies colonial Spanish prohibitions on abortion.[359] The abortion provisions depart from pre-colonial Philippine customary law under which abortion was not considered a crime[360] and was widely practiced by indigenous communities.[361]

The prohibition on abortion in the Penal Code

The Penal Code prescribes a range of prison sentences for women who undergo abortion and for those who provide and assist in the performance of abortion procedures. According to Article 256, a person who intentionally causes an abortion may be sentenced to prison for a term ranging from approximately two years to twenty years depending on whether the abortion was caused by violence and on whether the pregnant woman consented to the procedure.[362] Article 258 of the Penal Code provides that a pregnant woman who self-induces an abortion may be punished with imprisonment for approximately two years up to six years.[363] A pregnant

woman who self-induces abortion to "conceal her dishonor"[364] may be punished with a prison term ranging from approximately six months to four years.[365] (For a discussion about how criminalizing abortion violates human rights, see Chapter 5, p. 93.)

Article 259 of the Penal Code specifically punishes physicians and midwives who directly cause or assist in the performance of an abortion with the maximum punishment available for a person who intentionally causes an abortion as prescribed in Article 256, from approximately six years if the pregnant women gave consent up to twenty years if the physician or midwife used violence.[366] The law also punishes parents who help their daughters self-induce or procure an abortion with imprisonment for approximately two years up to six years.[357] Likewise, criminal sanctions have been extended to pharmacists who "dispense any abortive [drug],"[368] making them liable to approximately one to six months in prison and a fine of up to PHP 1,000 (USD 22).[369] These criminal punishments are supplemented by separate laws that prescribe sanctions for a range of medical professionals and healthcare workers such as doctors, midwives, and pharmacists for performing abortions or dispensing abortifacients such as the Medical Act of 1959,[370] the Philippines Midwifery Law of 1992,[371] and the Pharmacy Law of 1987.[372] According to these laws, practitioners may have their licenses to practice suspended or revoked if caught engaging in abortion-related activities.[373]

While the statutory prohibitions against abortion contain no express exemptions from criminal liability, the Penal Code contains defenses under general principles of justification and exemption that may be invoked when charged with a crime. Though there is no jurisprudence upholding such defenses in the Philippines, some legal scholars have written in their commentaries that abortion in circumstances where it is necessary to save the life or health of a pregnant woman may be a justifiable act.[374] One author went so far as to explicitly say that "the killing of the foetus to save the life of the mother may be held excusable."[375] Such theoretical arguments concerning justification are based on Article 11(4) of the Penal Code, which sets forth justifying circumstances where one does not incur criminal liability;[376] specifically, criminal liability does not occur where any person, in order to avoid an evil or injury, does an act which causes damage to another, so long as the evil sought to be avoided exists, the injury feared is greater than the damage done to avoid it, and there are no other practical and less harmful ways of preventing it.[377] Under this theory, experts agree that in cases of abortion the administering physician incurs no criminal liability.[378]

However, since this defense has not been tested in a court of law, it cannot be considered to guarantee protection against criminal liability. Furthermore, interviews with law enforcement agents, legal experts, and abortion advocates reveal that criminal prosecutions of abortion are rare, indicating why there has not been an opportunity to invoke these defenses in any ongoing or past case. (See box - Prosecutions Are Rare, p. 80.)

Obligation to equally protect the life of the pregnant woman and the unborn in the 1987 Constitution

The legal status of abortion in the Philippines is further determined by Section 12 of Art. II of the Constitution, which instructs the state to "equally protect the life of the mother and the life of the unborn from conception."[379] Although the Section 12 obligation to "equally protect"[380] is interpreted by some legal experts as theoretically allowing abortion to save a woman's life or health, this interpretation has not been clarified by the government to permit abortion nor has it resulted in access to safe abortion services in practice.

Attempts to secure constitutional protection for the unborn from the "moment of conception"
When the current constitution was being drafted, the adoption of Section 12 required several rounds of votes by the Constitutional Commission to decide the wording of the provision and whether to include it in Article II, the Declaration, or Article III, the Bill of Rights.

Section 1 of the Bill of Rights states that "[n]o person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."[381] Due to the lobbying of anti-choice advocacy groups, especially Pro-Life Philippines,[382] the Constitutional Commission deliberated whether to include a second sentence in this provision recognizing that "[t]he right to life extends to the fertilized ovum."[383] Commissioner Ricardo Romulo proposed a vote to revise the language and move it to the Declaration, stating that including such language in the Bill of Rights "impinges on the right of minorities who do not believe in this Catholic concept"[384] and "would run counter to the Constitution's non-establishment clause and violate the essence of the bill of rights."[385] The Commissioners voted 30–0 in favor of the Romulo amendment to revise the proposed language to read "[t]he State shall protect human life from the moment of conception," and to postpone the discussion of whether to include this language in the Constitution until they entered into deliberations on the Declaration portions of the Constitution.[386]

As agreed by vote, the abortion discussion was resumed during the Commission's sessions to draft the Declaration.[387] The Commissioners voted to reject language that protected the "life of the unborn from the moment of conception."[388] After significant debate, the Commissioners could not agree on when "the moment of conception" occurred and ultimately voted to remove the words "the moment of" from Section 12.[389] The Constitutional Commission debated the language extensively and finally adopted a watered-down version of the conservative lobby's original proposal. The final text of Section 12 reads as follows: "The State … shall equally protect the life of the mother and the life of the unborn from conception."[390]

The scope and applicability of Section 12 is unclear, especially with regard to when abortion may be permitted

The Constitution is unclear as to whether Section 12 of the Declaration permits abortion where a woman's life or health is in danger, and it does not discuss the culpability of physicians who perform abortions for these reasons. The Commissioners discussed the implications of the Section 12 obligation to "equally protect" extensively, including whether it may be interpreted to save the life of the woman, in cases such as ectopic pregnancy, or in cases of rape.[391] The deliberations show that the although there was significant lobbying by groups led by Pro-Life Philippines to include language completely banning abortion and contraception, the Commissioners decided not to adopt such language in Section 12.[392]

Although the deliberation record shows that the sponsor of the proposal to include protection for the unborn in Section 12 clearly intended to permit abortion at least where necessary to save a woman's life in the principles established by the Declaration,[393] legal authorities in the Philippines have yet to confirm this view. The Commission also left ambiguous the issue of the liability of medical professionals who perform abortions under this provision, even though the Constitutional Commission Record envisions that Section 12 ensures that "no legal or moral blame would be laid on the doctor who makes the decision."[394] This position is not definitive as it was not subjected to a vote by the Commission nor has it been upheld by a court of law in an actual case. As such, the interpretation and application of Section 12 remains unclear.

Legal personhood is dependent on birth under Philippine law

Although the unborn have been granted a certain degree of constitutional protection, Philippine civil law establishes clear legal limits on the rights of the unborn that have been applied in practice by the Supreme Court. Article 40 of the 1950 Civil Code of the Philippines clarifies that legal personality begins at birth.[395] While the unborn may be granted presumptive or provisional personality for all purposes favorable to it, it is not considered a person under law unless born alive.[396]

PROSECUTIONS ARE RARE

None of the experts or women interviewed for this report could recall an abortion-related case that had been successfully prosecuted under the Penal Code. Although newspapers do report stories of women arrested for abortion-related crimes, these cases rarely seem to progress beyond the initial investigation stage. Some law enforcement workers believe it is futile to prosecute women when they have already been through so much.[1] It is apparent that empathy for women has led to lack of enforcement of criminal sanctions for abortion.

Two women caught dumping fetus in Tondo church
By Jeannette Andrade
Philippine Daily Inquirer
First Posted 18:37:00 05/30/2009
Filed Under: Crime, Children, Abortion

MANILA, Philippines *-- Police arrested two women on Friday for allegedly disposing of a male fetus at the Sto. Niño Parish Church in Tondo.*

MPD Tondo Station 2 policemen nabbed Lourdes Felipe, 26, of Sangandaan Street in Caloocan City, and Teresita Posadas, 38, of Fugoso Street in Sta. Cruz, Manila, and turned them over to the custody of the homicide section.

The two women were allegedly in the act of throwing away the aborted fetus—between five and six months premature and wrapped in a plastic bag— inside the compound of the Sto. Niño de Tondo Parish Church on Ortega Street in Tondo, when they were spotted by police officers Roberto Benitez and Jessie Martinez.

Felipe and Posadas were accosted by the policemen, who grew suspicious of the women's presence in the compound at the unholy hour of 3:45 a.m.

An inspection of the plastic bag revealed an aborted fetus, which prompted the officers to take the women into custody.

After the women were turned over to the homicide section, Felipe reportedly informed investigators that the child was hers and that she had paid Posadas for the abortion.

Posadas, she claimed, told her that they could dispose of the fetus inside the church compound.

Both women were being held at the MPD homicide section pending the filing of an abortion charge against them at the prosecutor's office.[2]

After the publication of this news report, inquiries were made by a local non-governmental organization into the arrests of Lourdes Filipe and Teresita Posadas. Interviews with police officers who worked on the case revealed that an investigation was conducted by the Manila Prosecutor's office in June 2009, following which the cases against these women were classified as "released for further investigation." The women were kept in police custody at the homicide division of the Manila Police Department (MPD), but were released soon after with the expectation that the investigation would resume. Noting the gravity of the alleged offense, one police officer explained "abortion cases are considered as homicide."[3] However, another pointed out that "suspects charged with an abortion case are not incarcerated. Normally the case is provisionary, especially if it is a first offense and there is no substantive evidence."[4]

Several inquiries by the Center for Reproductive Rights confirm that the state prosecutor's office and the DOJ do not have a database of cases of abortion prosecutions under the Penal Code. As noted by a prominent retired judge, because the first and second level courts of the Philippines do not publish their decisions, there is limited concrete information about whether any accused individuals have been prosecuted for abortion, what the results of such prosecutions are, and, in the case of an acquittal, whether it resulted from a justifiable circumstance.[5] When interviewed for this report, an assistant chief state prosecutor said that he had no knowledge of any case involving the prosecution of a woman for abortion. "No woman has ever been prosecuted because there is no complainant,"[6] he noted. He further pointed out that often fiscals do not pursue such cases because "they pity the women. They say the women have already suffered from abortion complications and maltreatment and putting them in jail is too much."[7]

International law strongly discourages a punitive approach to abortion, and UN TMBs have condemned the prosecution of women for allegedly having abortions. A punitive approach to abortion is also viewed as harmful from a public health perspective. As noted by one international medical expert, "[a]bortions that have to be performed illegally translate directly to higher maternal mortality …. Criminalisation is the wrong concept. The way to reduce abortion is to give women access to contraception."[8]

In *Antonio Geluz v. Court of Appeals et al.*, the Philippine Supreme Court interpreted this provision to hold that before birth, parents may not institute an action for pecuniary damages because the "unborn foetus"[397] has yet to be endowed with legal personality and is "incapable of having rights and obligations."[398] In considering whether a husband could file for damages against a doctor who allegedly performed abortions for his wife repeatedly and without his consent, the Court clarified that in the case of an abortion, the provisional personality of a fetus cannot be invoked because the Civil Code expressly requires that in order for this provision to operate, there must be a live birth.[399]

The Civil Code legal personality provision was discussed during the 1987 Constitution Commission deliberations on Section 12 and the commentary makes clear that the intent of Section 12 was not to invalidate Article 40 of the Civil Code.[400] Legal experts in the Philippines have noted that records of Commission deliberations show that the Section 12 provisions "do not support the construction of the unborn as a separate legal identity, nor endow it with legal personality."[401] This is consistent with international law and the views of foreign legal authorities. (See box – Human Rights Begin at Birth, p. 83.)

The legal framework concerning post-abortion care and the treatment of complications

Although abortion is proscribed in the Penal Code, medical interventions for the prevention and management of post-abortion complications is legal in the Philippines. An official post-abortion care policy, the PMAC Policy, was established through Admin. Order 45-B s. 2000 specifically to address "the problem of abortion and its complications [which]… exacts a heavy toll on the already limited health system resources and also on the general health and wellbeing of the woman, her family and society as a whole."[402] Thus, the order provides for medical services for the treatment of complications for "women who have had abortion, regardless of cause."[403]

The PMAC Policy was introduced to fill a service gap created by the absence of guidelines for the provision of quality post-abortion care and to address concerns relating to discrimination against women in need of medical attention when hospitalized for care.[404] It contains a number of important goals, including to "strengthen the capability of the country's health care system in the prevention and management of abortion and its complications"[405] and to "improve the accessibility of quality post-abortion care services to all women of reproductive age in the country."[406] The Policy acknowledges the barriers faced by women who undergo abortion when they attempt to access services for the treatment of complications. As such, one of the stated aims of the policy is to address the gaps in existing health services that focus on medical treatment of complications but fail to provide appropriate counseling and referrals.[407] The guidelines established through the PMAC Policy include the following: stabilization of an emergency condition and prompt treatment of complications; prompt referral and transfer if the patient requires treatment beyond the facility's capacity; and health education.[408] The Policy further emphasizes the importance of family planning advice immediately after the treatment of post-abortion complications since ovulation returns rapidly after an abortion and increases the risk of unplanned pregnancy at that particular time.[409]

The prevention and management of abortion complications is a critical component of women's reproductive healthcare; especially where abortion is illegal, it can be life saving. While the PMAC Policy aims to improve the accessibility and quality of post-abortion care services and prevent the mistreatment of women who have illegal abortions, in practice, women who present with complications are often verbally abused, discriminated against, and harassed with threats of being reported to the police. (See Chapter 2, p. 52, for women's testimonies describing abuse related to post-abortion care.)

HUMAN RIGHTS BEGIN AT BIRTH

The text, drafting history, and UN TMB interpretations of UN human rights treaties establish that human rights begin at birth.

The UDHR, the foundation of all international human rights treaties, clearly articulates in Article 1 the significance of birth to the accrual of human rights: "[a]ll human beings are born free and equal in dignity and rights."[1] The official record of the negotiations (*travaux préparatoires*) of the UDHR reveals that the word "born" was purposefully used "to exclude the fetus or any antenatal application of human rights."[2] An amendment was proposed to delete "born" in part, it was argued, to protect life from the moment of conception, and was rejected. One drafter explained that the statement, "All human beings are born free and equal …" meant that the right to freedom and equality was "inherent from the moment of birth."[3] Thus, a fetus is not a bearer of rights under the UDHR. The gender-neutral term "everyone,"[4] utilized thereafter in the Declaration to define the bearers of human rights, refers to born persons only. The ICCPR[5] likewise rejects the proposition that human rights apply before birth. The drafters specifically rejected a proposed amendment that stated "the right to life is inherent in the human person from the moment of conception, this right shall be protected by law."[6] CEDAW's Preamble reaffirms the UDHR's recognition that "all human beings are born free and equal in dignity and rights" and states that "everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex…."[7]

The text, drafting history (*travaux préparatoires*), and interpretation of the CRC similarly recognize the accrual of human rights only upon birth.[8] Any argument to the contrary is erroneously built upon paragraph 9 of the Convention's Preamble, which states, "[b]earing in mind that, as indicated in the Declaration of the Rights of the Child, 'the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.'"[9] The *travaux* make clear that these safeguards "before birth" generally should be interpreted to involve providing nutrition, healthcare, and support to the pregnant woman,[10] and were not intended to prohibit a woman's choice to terminate pregnancy.[11] That human rights are applicable to human beings is confirmed by Article 1 of the CRC, which states, "[f]or the purposes of the present Convention a child means every human being below the age of 18 years…."[12] The Committee on the Rights of the Child has further expressed support for increased access to safe and legal abortion services for adolescents.[13]

As discussed throughout this chapter, through concluding observations, decisions on individual complaints, and general comments and recommendations, UN TMBs have repeatedly criticized restrictive abortion laws and have urged States to increase access to safe abortion to reduce the harm that unsafe abortion causes to women's lives and health. They have not recognized any rights for fetuses and have consistently established that States parties have an obligation to respect, protect, and fulfill the reproductive rights of women, which include access to abortion services.

Implementation of the PMAC Policy suffered a major setback in 2002, when the FDA issued a circular prohibiting the distribution, sale, and use of misoprostol.[410] This ban claims to have been introduced "in the interest of public health and safety" and contains a warning to "all drugstore owners, pharmacists, consumers and all others concerned" against its dispensation and use.[411] According to medical experts interviewed for this report, the FDA's prohibition of the use of misoprostol has undermined the provision of post-abortion care services because misoprostol, while frequently used by women to self-induce abortion, is also a versatile medicine used by doctors to induce labor, prevent postpartum bleeding, and treat missed abortion and post-abortion complications.[412]

The PMAC Policy promises that women seeking medical attention for complications from unsafe abortion shall be provided humane and compassionate care.[413] To treat women otherwise once they arrive at an institution constitutes a violation of official policy, and in the absence of accountability mechanisms such practices can lead to impunity and deter women from seeking healthcare even in life-threatening situations. The lack of provisions for institutional safeguards against abuse and discrimination and a complaint mechanism for reporting violations constitutes a major gap in the current policy, undermining the achievement of important goals outlined in the policy, particularly improved post-abortion care and prevention of the abuse of women.

Clarification of the absence of a legal reporting requirement for abortion

Under Filipino law, there is no obligation to report a woman suspected of inducing an abortion or an individual suspected of providing abortion services. Neither the criminal nor constitutional provisions on abortion contain a reporting requirement. Unlike the case of certain other crimes, there is no statute requiring that women who are suspected of inducing an abortion under Articles 256–259 of the Penal Code be reported to the police. The Philippine government has passed specific statutes requiring that physicians report victims of "serious or less serious physical injuries" as defined under specific articles of the Penal Code, but abortion is not among the listed crimes.[414] A reporting requirement for women who seek treatment for post-abortion care has significant implications for women's rights guaranteed under international law. (For more information on reporting requirements and human rights, see Chapter 5, p. 94.)

Ethical norms and obligations of providers toward women who need abortion and those seeking post-abortion care

The attitudes of medical providers toward women in need of safe abortion services are influenced by rules established by the PMA and guidelines issued by POGS. The Professional Regulations Commission of the Board of Medicine requires all physicians in the Philippines, regardless of specialty, to follow the PMA Code of Ethics.[415] In addition to the PMA Code of Ethics, obstetricians and gynecologists must further comply with the POGS Code of Ethics, which contains specific provisions on termination of pregnancy.

Under the PMA Code of Ethics, physicians are required to provide compassionate and skilled professional care that is respectful of "human dignity."[416] However, the POGS guidelines on "Ethical Issues in Fetomaternal Care"[417] are based on a conception of fetal life that reinforces stigma and negative attitudes that lead to abuse of women seeking abortions to save their lives and health or seeking management of abortion complications. (For testimonies on stigma and provision of abortion-related care, see Chapter 3, p. 73.)

As noted by a leading ethicist interviewed for this report, despite dissension from more progressive members of the society,[418] POGS has taken the position in its guidelines that "the fetus is regarded as a patient from the time of conception"[419] and mandates that "[a]ll POGS members must respect and value human life in all its forms."[420]

IDEOLOGICALLY BASED LAWS AS A SOURCE OF DISCRIMINATION

The HRC has called on States parties to "ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights."[1] The CEDAW Committee has stated that "an intermingling of the secular and religious spheres" is "a serious impediment to the full implementation of the Convention."[2] The Committee has further expressed concern where "the influence of the Church is strongly felt not only in the attitudes and stereotypes but also in official state policy," stating that "women's right to health, including reproductive health, is compromised by this influence."[3] The current Special Rapporteur on Violence against Women has further elaborated that "[i]n fulfilling its due diligence obligation, the State must engage with and 'support social movements engaged in contesting the ideologies that help to perpetuate discrimination by making it seem part of the national, rational or divinely ordained order of things.'"[4] Under international law, a State party's failure to confront claims of religion as a justification for violations of women's human rights is itself a human rights violation, even in the absence of harm.[5]

The imposition of one particular ideological viewpoint in the provision of medical care is also discouraged as a matter of medical ethics. The FIGO Committee has recognized that "member societies must recognize and respect the diversity of cultures and religions that may exist within a country in order to provide culturally sensitive care for all women."[6] It further maintains that "[n]either society, nor members of the health care team responsible for counselling women, have the right to impose their religious or cultural convictions regarding abortion on those whose attitudes are different."[7]

POGS adopts the Roman Catholic principle of "double effect" in approaching "fetal-maternal conflict."[421] This has been explained by the guidelines, which provide that in cases such as ectopic pregnancy, where the goal is to remove a diseased fallopian tube rather than to end a pregnancy, no ethics violation occurs because the procedure is intended to save the pregnant woman's life even if it will cause a termination of pregnancy.[422] As such, the POGS guidelines are not consistent with internationally recognized ethical standards, including those established by the FIGO. (See Chapter 5, p. 103, for information on international ethical standards.)

Broader principles of medical ethics have recently been incorporated into Philippine law with the adoption of the Magna Carta which defines medical ethics as a set of biomedical norms that abide by the principles of autonomy or respect for persons, justice, beneficence and non-maleficence.[423] Under the Magna Carta, in order to ensure autonomy, every attempt "must be made to discuss treatment preferences with patients;"[424] the principle of beneficence requires providers of health services, "other things being equal, to do good or what will further the patient's interest;"[425] and the principle of non-maleficence requires providers, "other things being equal, to avoid harm to the patient, or what would be against the patient's interests."[426] Further, "justice is the principle that requires distribution of goods and services, including medical goods and services, and considers

the following criteria: likelihood to benefit the patient, urgency of need, change in quality of life, and duration of benefit."[427] (See Chapter 1, p. 35, for information on the Magna Carta.)

Religious opposition impinges on a woman's right to freedom of religion, blurring the separation of church and state

Religious freedom and separation of church and state in the constitution

The 1987 Philippine Constitution provides for the separation of church and state by proclaiming in Section 6 of the Directive Principles that "[t]he separation of Church and State shall be inviolable."[428] This clause represents a rejection by Commissioners by a vote of 26–6 of an attempt by Commissioner Bishop Teodoro Bacani to have the language of Section 6 changed to read as follows: "While the separation of Church and State shall be maintained, the State seeks the collaboration of the churches and religious bodies to promote the total well-being of its citizens and acknowledges the right of churches and religious bodies to comment on the government policies and actuations."[429]

According to Section 5 of the Bill of Rights, "[n]o law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights."[430] The principle of non-establishment of religion is applied directly to family life and reproduction in Article XV, Section 3 of the Constitution, which further states that "[t]he State shall defend: (1) The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood."[431]

Opposition to abortion in the Philippines is rooted in religious doctrine that supports a punitive approach to abortion

The criminal sanctions against abortion in the Penal Code closely reflect the Catholic hierarchy's ideological stance on abortion as expressed in the Catechism, a text summarizing the basic principles of Catholicism, which maintains that abortion is "'criminal'" and "gravely contrary to the moral law"[432] in all circumstances: "Human life must be respected and protected absolutely from the moment of conception. From the first moment of existence, a human being must be recognized as having the rights of a person — among which is the inviolable right of every innocent being to life."[433] (See box—Ideologically Based Laws as a Source of Discrimination, p. 85.)

The Catechism expresses a general prohibition against "direct abortion" in all situations.[434] It equates abortion with infanticide and refers to both acts as "abominable crimes."[435] The text explicitly supports criminalization by directly calling upon governments to impose penal sanctions for abortion: "[a]s a consequence of the respect and protection which must be ensured for the unborn child from the moment of conception, the law must provide appropriate penal sanctions for every deliberate violation…."[436] Furthermore, it prescribes the penalty of excommunication for those who participate in abortion.[437]

Although it recognizes the principle of "double effect," the Catechism prohibits direct abortion without recognizing any exceptions. There is no recognition of abortion in situations such as when the pregnancy poses a risk to the woman's health, is a consequence of a crime such as rape or incest, or when there is a risk of fetal malformation.

The Catholic hierarchy's opposition to abortion is also expressed in the Humanae Vitae, an encyclical written by Pope Paul VI and promulgated on July 25, 1968, that asserts the position and traditional teaching of the Catholic hierarchy regarding abortion, contraception, abstinence, and other issues pertaining to human life.[438] It bans the use of modern contraceptives and calls upon public authorities and physicians to promote and defend this edict and it instructs governments not to allow practices such as contraception and abortion to be permitted by law.[439] Further, this missive directs medical practitioners to put their religious convictions before all other considerations, including the best interests of their patients.[440]

Religious opponents of women's reproductive rights in the Philippines have not limited their focus to abortion and have been behind several attempts to systematically restrict women's access to a range of reproductive health information and services. Examples of successful attempts include the de-listing of the emergency

LEGAL AND POLICY RESTRICTIONS ON WOMEN'S ACCESS TO REPRODUCTIVE HEALTH SERVICES AND INFORMATION INSTIGATED BY OPPONENTS OF ABORTION

De-listing of the emergency contraceptive Postinor by the Department of Health

In 1999, the BFAD, now the FDA, approved the registration of Postinor, an emergency contraceptive, with the support of the DOH.[1] The approval of emergency contraception was considered an important step for survivors of sexual violence. The registration of Postinor was subsequently opposed by conservative groups, and in 2001 a request for its withdrawal was made through a formal petition submitted to BFAD by a local, conservative, non-governmental organization, Abayfamilya. In response, the director of BFAD recommended the withdrawal of Postinor's registration on the grounds that its use violated the constitutional provision protecting the life of the unborn from the moment of conception, a claim made by Abayfamilya in its petition.[2] Approximately two months later, the DOH issued a circular withdrawing the registration of Postinor.[3] In 2002, the Reproductive Health Network (RHAN) filed a petition challenging the nonscientific and ideological basis on which Postinor had been withdrawn. It cited the lack of consensus among members of the Constitutional Commission regarding the moment when life begins [4] and referenced scientific research published by the WHO establishing that Postinor is not an abortifacient.[5] In response to this intervention by RHAN and other groups, the DOH appointed an expert committee, which committee ultimately voted to permit the use of Postinor.[6] However, the DOH has not taken any steps to make the drug available to women.

Ban on modern contraceptives in Manila City

On February 29, 2000, then mayor Lito Atienza issued the EO instructing the City Health Department to cease supplying modern contraceptives in health clinics funded by the local government in Manila City. The stated purpose of the EO is to "[promote] responsible parenthood and [uphold] natural

family planning not just as a method but as a way of self-awareness in promoting the culture of life while discouraging the use of artificial methods of contraception like condoms, pills, intrauterine devices, surgical sterilization, and other[s]."[7] Since the EO has come into effect, the local government of Manila City has refused to make modern contraceptives available in city public healthcare facilities and has denied women timely referrals or information about family planning services.[8] (For testimonies of women seeking abortions related to lack of access to contraception in Manila City, see Chapter 2, p. 43.)

Opposition to implementation of sex education programs

In 2005, the Department of Education initiated a joint project with the United Nations Population Fund (UNFPA) called Institutionalizing Adolescent Reproductive Health through Lifeskills-Based Education[9] to further engage the education sector in addressing a broad range of adolescent reproductive health issues,[10] including the high incidence of early and unprotected sex and the increasing number of unplanned pregnancies.[11] However, a year later, the government was forced to discontinue its pilot program integrating sex education into the regular school curriculum due to heated opposition from the CBCP, which attacked the program for allegedly promoting premarital sex and contraceptive use.[12] Subsequently, the government released a handbook that urges parents to inform their children about "[t]he truth that sexual immorality causes unwanted pregnancies, abortions, heartache, and mistrust including single parent families."[13]

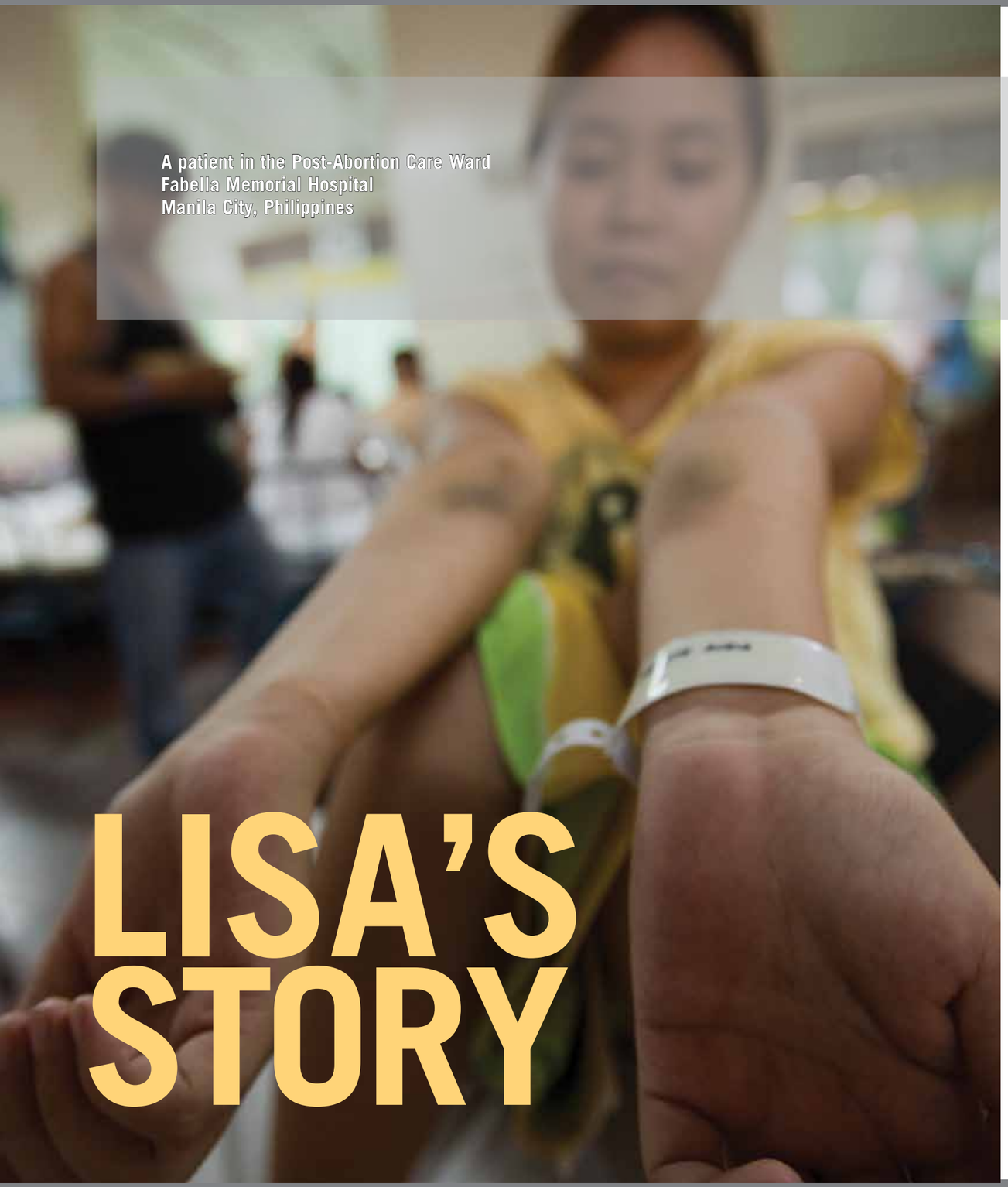
contraceptive Postinor, the enforcement of an executive order banning modern contraceptives in Manila City, and exclusion of sex education in school curricula. In addition, the CBCP, the politically active arm of the Catholic hierarchy, very strongly and publicly opposed the reproductive health bill proposed in the previous Congress on the pretext that it could pave the way for legal abortion. It caused delays that prevented a vote on the bill in Congress before the legislative session ended prior to the national elections. (See box – Legal and Policy Restrictions on Women's Access to Reproductive Health Services Instigated by Opponents of Abortion, p. 87.)

Previous attempts to change the abortion law

Notwithstanding the legal and moral debate on abortion, the Philippines Population Commission's estimate that "one in every seven pregnancies is terminated by abortion each year in the Philippines"[441] reveals that abortion is a practical necessity for many women in the Philippines and that they will continue to resort to the procedure despite their faith and the criminal ban. While there is no official record of the actual number of unsafe abortions that take place in the Philippines, estimates by experts point to a massive public health crisis. As such, attempts to reform the legal status of abortion have been undertaken in the past.

In 1999, Representative Roy Padilla Jr. of Camarines Norte introduced House Bills 6343 and 7193 seeking legalization of abortion on specified grounds. House Bill 6343, filed first, sought exceptions in cases of rape and incest; where the life of the pregnant woman is in danger; where the woman has a condition that will endanger the fetus; and where the fetus has a terminal disease or an abnormality that cannot be medically corrected.[442] House Bill 6343 was opposed by the Commission on Human Rights on the basis that it violated the Constitutional provision equally protecting the life of the unborn and that of the pregnant woman, the Penal Code provisions criminalizing abortion, the Supreme Court's decision in *Geluz v. Court of Appeals*, as well as the encyclical of Pope John Paul II, Evangelium Vitae, which it translated to mean "The Gospel of Life."[443] The Commission stated that "the proposed bill if enacted into law is immoral and/or contrary to the moral standards and religious conviction of the Filipino people. It will destroy the sanctity of the family."[444] (See box – Ideologically Based Laws as a Source of Discrimination, p. 85.)

In response to both positive and negative reactions to House Bill 6343, Representative Padilla filed a subsequent bill a few months later refining the exceptions sought. House Bill 7193 states the following: "A woman by the exercise of her own conscience and free will may decide to terminate her pregnancy under competent and safe medical procedures on the basis of any of the following conditions: a) When there is documented medical evidence of a threat to her health or life; b) When the fetus may be born with incapacitating disease, physical deformity or mental deficiency; c) When her pregnancy is a result of rape or incest which may constitute a threat to her mental or physical health."[445] Although neither bill made it out of the House committee, these attempts at reforming a criminal law that effectively bans abortion in all circumstances reveal developing support for change in the status quo among health and human rights advocates, and some political leaders.



A patient in the Post-Abortion Care Ward
Fabella Memorial Hospital
Manila City, Philippines

LISA'S STORY

Lisa experienced a range of abuses when she sought medical care, including being physically bound, having her privacy violated, scoldings, and suffering disparities in treatment from women who had given birth.

When **Lisa**, a married mother of three living in Manila City, sought contraceptives in her local public health facility, she was told that family planning was prohibited in the health centers. At nineteen years old, without access to contraceptives, she became pregnant for the third time and attempted to induce an abortion by drinking brandy and ***Vino de Quina***, a type of rice wine believed to induce post-partum bleeding. After a week of severe bleeding, excruciating pain, and fever, Lisa was taken to Gat Andreas Bonifacio Memorial Medical Center.

Lisa arrived at the hospital **hemorrhaging** and scared. **Doctors** and **nurses** repeatedly verbally abused Lisa, saying, "Do you want me to report you to the police? Don't you know that having an abortion is evil?" Before performing the **D&C** to complete her abortion, the nurses required Lisa to sign a form consenting to being turned over to the authorities if the doctors found any evidence of an induced abortion. Lisa was pressured to sign the form without any understanding of its contents, which were written in English, a language she does not speak: "I signed the form because I was scared … I could not refuse. They were stronger than I was because they have the authority; I was only a patient."

Lisa faced extreme discrimination, including delays and abuse, in receiving post-abortion care. She recalled, "I felt scared. There were many women giving birth in the delivery room that day.... When I looked around the room, all of the mothers were finished with their childbirth while I was still there.... The blood that flowed from me had already dried out and caked onto my body." After Lisa was given an intravenous anesthetic, the doctor and the nurses **tied her hands and feet** to the operating table. Lisa remembers, "[m]y legs were spread apart....What was only lacking was to tie me around my neck." The binds heightened Lisa's anxiety. She stated, "I did not want to fall asleep out of fear of what they might do to me."

After the procedure Lisa saw a nurse put a notebook-sized sign on her bed bearing the word "abortion." This sign was on the bed of all of the women who had undergone D&Cs and was clearly visible to passersby and fellow patients, who repeatedly asked Lisa why she had an abortion.

Despite the hospital staff's clear condemnation of abortion, they failed to provide contraception or family planning counseling that would allow Lisa to break the cycle of unplanned pregnancies and unsafe abortions. Lisa was discharged with no information about how to prevent a future pregnancy and became pregnant again just one month later.

LISA'S STORY: EXAMPLES OF HUMAN RIGHTS VIOLATED

Right to Privacy and Bodily Integrity: Lisa was publicly shamed when her bed was labeled with a placard stating "abortion." Such actions violate the right to privacy by breaching the confidentiality of women's healthcare decisions. Lisa's right to privacy was further violated by the harassment she suffered when seeking post-abortion care. By deterring women from seeking care, such abuse deprives women of two core aspects of privacy: personal autonomy and physical integrity.

Right to Nondiscrimination: While in the hospital, Lisa felt the stark contrast between the treatment she experienced and how women giving birth were treated. The right to nondiscrimination is violated where women face delays or abuse on the basis of their reproductive health decisions. Healthcare must be provided equally and without stigma to all women, regardless of their reproductive choices. Lisa was also unable to access contraceptives and was not given family planning counseling after her D&C. Denial of access to family planning services violates a woman's right to determine the number and spacing of her children and constitutes discrimination against women.

Right to Be Free from Cruel, Inhuman, and Degrading Treatment: Despite her protests and without justification, Lisa's hands and feet were bound by staff at a government hospital during her D&C. The physical and mental suffering she experienced as a result of this mistreatment, including fear and anxiety, violated her right to be free from cruel, inhuman, and degrading treatment.

International Human Rights, Ethical Norms, and Comparative Law

Criminal legal restrictions on abortion infringe a wide range of human rights, global political commitments, and internationally recognized standards of medical ethics. International legal bodies have criticized the criminalization of abortion as violating women's human rights, and have strongly discouraged such laws. Criminal bans, in particular, have been deemed inconsistent with a nation's international human rights obligations to women. While the status of the criminal ban on abortion remains unchanged in the Philippines, several countries have in recent years have reformed their laws both out of concern for the public health implications of unsafe abortion and to be in compliance with their international human rights obligations. Among these countries are Spain and some of its former colonies, other predominately Catholic nations, and neighboring East and Southeast Asian states.

This chapter discusses international human rights and the corresponding State obligations implicated by the Philippines' criminal ban on abortion. It highlights important legal obligations undertaken by the Philippine government through the ratification of international human rights treaties, as well as political commitments the Philippines has made at major international conferences to reduce unsafe abortion and ensure post-abortion care. The chapter also discusses the duties of healthcare providers in light of internationally recognized ethical obligations as health professionals. Finally, the chapter provides examples of abortion law reform that have occurred in predominantly Catholic countries as well as in neighboring countries from the region that may potentially serve as models for future law reform and judicial decision-making in the Philippines.

Human rights implicated by the criminalization of abortion

In failing to provide for legal access to safe abortion, states that criminalize abortion "deny women their dignity and right to self-determination."[446] The internationally protected human rights of women primarily violated by the criminalization of abortion include the right to life; the right to liberty and security; the right to freedom from cruel, inhuman, and degrading treatment; the right to health; the right to equality and nondiscrimination; and the right to privacy. The obligation of the government of the Philippines to ensure the enjoyment of human rights guaranteed under international law may be understood in terms of its duties to "respect, protect, and fulfill" these rights. The duty to respect involves the responsibility of all branches of government to refrain from directly or indirectly interfering with these rights or denying them; the duty to protect requires all branches of government to take steps to prevent these rights from being violated through interference by third parties; and the duty to fulfill demands appropriate legislative, judicial, administrative, budgetary, economic, and other measures to enable their enjoyment.[447]

As revealed in this report, the criminal ban on abortion not only has denied women access to abortion, but also has compromised the quality of post-abortion care and silenced the discourse around violations of women's human rights by stigmatizing the procedure. (For testimonies describing these violations, see Chapters 2 and 3, p. 42 and p. 65.) The failure of the government to provide legal remedies for human rights violations arising from the ban is in itself a violation of international law.[448] This section discusses the human rights and state obligations that are implicated by the ban in relation to two issues of concern: access to legal and safe abortion and post-abortion care. It further presents the views expressed by UN TMBs in relation to criminal bans on abortion and the harmful impact on women.

Right to life

> States parties "must adopt the necessary measures to guarantee the right to life... for pregnant women who decide to terminate their pregnancies…."[449] ***– Human Rights Committee***

The government of the Philippines bears the obligation to protect the right to life of all persons, including women who need abortions.[450] The right to life is enshrined in the UDHR and in the ICCPR, as well as numerous other international treaties.[451] Under Article 6 of the ICCPR, "[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."[452]

Abortion: Criticism of criminal sanctions as violating the right to life by legal bodies

Under the ICCPR, the Philippines is required to take steps to increase life expectancy[453] and to safeguard individuals from arbitrary and preventable losses of life.[454] This includes measures to protect women against the unnecessary loss of life related to pregnancy and childbirth[455] and to ensure that health services are accessible.[456] The HRC has noted that restrictive laws violate the right to life by forcing women to seek illegal abortions that threaten their lives[457] and has observed that governments must "[ensure] the accessibility of health services" so that women "are not forced to undergo clandestine abortions, which endanger their lives."[458] The HRC has repeatedly urged governments to amend their penal laws and to broaden those that contain an exception only to save a woman's life.[459]

Likewise, the CEDAW Committee has emphasized that restrictive abortion laws lead women to obtain illegal[460] and unsafe abortions,[461] and has characterized such bans as "[violating] the rights of women to life…."[462] The Committee has remarked that "the [high] level of maternal mortality due to clandestine abortions may indicate that the government does not fully implement its obligations to respect the right to life of its women citizens."[463] The Committee on the Rights of the Child has expressed similar concern about the causal link between maternal mortality and high rates of illegal,[464] clandestine,[465] and unsafe abortions,[466] particularly among adolescents. The Committee on the Rights of the Child has called upon various states to review restrictive legislation to permit exceptions to abortion bans.[467]

Post-abortion care: Criticism of reporting requirements as violating the right to life

The HRC has observed that States bear an obligation to protect the right to life of all persons, including those whose pregnancies are terminated.[468] In several instances, UN TMBs have condemned official reporting requirements arising from criminal sanctions on abortion. The CEDAW Committee has noted that punitive measures and reporting requirements not only lead women to seek unsafe abortions,[469] but also deter them from seeking possibly lifesaving post-abortion care in case of complications.[470] The HRC has expressed similar concern where States parties have imposed a legal duty on healthcare personnel to report women who have undergone abortions because such a requirement "may inhibit women from seeking medical treatment, thereby endangering their lives."[471] The concerns of UN TMBs are consistent with the views of legal, medical, and ethical experts who have stated that the "human right to life compels health facilities to ensure prompt, proficient management of patients" who have had incomplete abortion.[472] The HRC has further criticized reporting requirements on the grounds that they fail to protect the obligation to maintain confidentiality of medical information.[473]

Although the criminal ban in the Philippines contains no legal obligation to report women for having illegal abortions, there is a fear among women and a misconception among healthcare providers that such a requirement exists. Based on women's testimonies, the threat of being reported by a healthcare provider has the same effect as a legal reporting requirement of deterring women from seeking healthcare. (For testimonies of threats of reporting, see Chapter 2, p. 53; for testimonies of the lack of clarity surrounding reporting in the Philippines, see Chapter 3, p. 71 and Chapter 4, p. 84.)

Right to liberty and security

The protection of human liberty and security is essential for ensuring the right to life and a safe and dignified existence. The right to liberty is guaranteed by Article 9(1) of the ICCPR, which provides that "[n]o one shall be subjected to arbitrary arrest or detention" and that "[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."[474]

Abortion: Criminal sanctions violate women's liberty and security

Criminal sanctions on abortion threaten women's liberty and security, thereby denying them the right to life and to a safe and dignified existence. International legal guarantees of the rights to liberty and security provide the basis for a legal duty "to provide health services when the lack of services jeopardises" the personal health and security of a person.[475] The former Special Rapporteur on Violence against Women (SRVAW) has noted that denial of access to safe abortion can lead to "devastating health consequences—in many cases, compromising a woman's right to life and security of person."[476] According to international legal experts, "Where unsafe abortion is a major cause of maternal death, it may be possible to apply the right to liberty and security to require governments to improve services for treatment of unsafe abortion, to change restrictive laws regarding access to abortion, and to ensure the provision of contraceptive and abortion services."[477]

Women's safety and dignity are compromised directly when they are forced to resort to dangerous methods of unsafe abortion, such as forceful massages and the insertion of catheters into the uterus due to denial of access to legal and safe abortion services, as is the case in the Philippines. (For accounts of unsafe methods used by Filipino women, see Chapter 2, p. 46; for testimonies of abortion-related deaths of women in the Philippines, see Chapter 2, p. 49.)

Post-abortion care: Reporting requirements and disrespect for patient confidentiality violate women's liberty and security

Women's right to security of person is violated in the healthcare context when "a local law or institutional or professional practice cause[s] women presenting with incomplete abortion to be reported to police authorities on suspicion of involvement in unlawful behavior."[478] Where abortion is criminalized, the threat of being reported by healthcare providers may be so real that it makes a woman compromise her own bodily integrity and safety by delaying treatment for post-abortion complications. This trend is visible in the Philippines. (For testimonies of women's fears of arrest in seeking post-abortion care, see Chapter 2, p. 52.)

Women's liberty and security may also be compromised by the absence of safeguards that ensure confidentiality during the course of treatment. The CEDAW Committee has noted specifically that the absence of guarantees of confidentiality may harm women by deterring them from seeking healthcare in a range of serious situations, including treatment of incomplete abortion.[479] Women's testimonies show that the lack of protection for confidentiality in the Philippines has resulted in exactly that sort of harm. (For accounts of violations of women's confidentiality, see Chapter 2, p. 55.)

Right to freedom from cruel, inhuman, and degrading treatment

International bodies have recognized that denial of access to safe and legal abortion may result in the cruel, inhuman and degrading treatment of women. According to the UDHR and the ICCPR "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."[480] The HRC has explained that the purpose of this provision "is to protect both the dignity and the physical and mental integrity of the individual."[481] Article 16 of the CAT also obligates States parties to "undertake to prevent in any territory under its jurisdiction ... acts of cruel, inhuman or degrading treatment or punishment …."[482]

Abortion: Criminal restrictions lead to cruel, inhuman, and degrading treatment

Governments have an obligation to protect individuals from acts of cruel, inhuman, or degrading treatment or punishment.[483] The HRC has held that a woman's right to freedom from cruel, inhuman, and degrading treatment is violated when a government denies access to safe abortion to women who have become pregnant as a result of rape.[484] The Committee against Torture has recognized women's vulnerability to maltreatment in the context of reproductive healthcare and has urged governments to identify, prevent, and punish ill-treatment in situations where women are deprived of medical treatment and reproductive decision-making.[485] Importantly, this Committee has recognized the impact of abortion prohibitions on women's mental health, noting that such laws may cause "serious traumatic stress and a risk of long-lasting psychological problems such as anxiety and depression."[486]

Forcing a pregnant woman to carry an unwanted pregnancy to term has been recognized by the HRC as a form of cruel, inhuman and degrading treatment. In *K.L. v. Peru*,[487] it found that the psychological harm arising from the forced continuation of pregnancy was foreseeable, and constituted a violation of Article 7 [of the ICCPR], which "does not only refer to physical pain, but also to mental suffering."[488] (For more information on the K.L case and forced pregnancy, see box – Forced Pregnancy as a Violation of Human Rights Law, p. 68.)

The Committee against Torture has increasingly been criticizing governments for the harmful impact of restrictive abortion laws and has recommended many states to consider law reform. For instance, in 2006 the Committee noted that criminal restrictions on abortion in Peru have contributed to "the unnecessary deaths of women"[489] and recommended that the Peruvian government amend its law to establish exceptions to the criminalization of abortion.[490] Likewise, in 2009 the Committee urged Nicaragua to review its ban on abortion and to consider creating exceptions in cases of therapeutic abortion and where a pregnancy results from rape or incest.[491] This recommendation is based on concerns that women who seek abortions even in those circumstances face penalization and that medical personnel who provide abortions fear investigation and punishment by the government for carrying out therapeutic abortions.[492]

Post-abortion Care: UN TMBs condemn abusive practices in post-abortion care

The Committee against Torture has expressed concern about abusive practices in the context of post-abortion care that frequently arise in contexts where abortion is illegal. For example, regarding Chile, where abortion is prohibited in all circumstances, the Committee has stated that the practice among providers of coercing women who seek lifesaving treatment after illegal abortions to disclose information about who performed the abortion violates the provisions of the CAT[493] and has urged the government to take steps to eliminate the practice.[494] The Committee has emphasized that the government must ensure immediate and unconditional treatment for women seeking emergency medical care for abortion complications, in compliance with the WHO guidelines.[495]

A range of abusive practices that undermine the provision of post-abortion care are evident in the Philippines and provide compelling evidence of the government's failure to protect women's right to freedom from cruel, inhuman, and degrading treatment. (For testimonies of verbal abuse and coercive questioning of women, see Chapter 2, p. 53; see box-- WHO Standards for Management of Post-abortion Complications, p.59.)

Right to health

The right to health is internationally recognized as "a fundamental human right indispensable for the exercise of other human rights."[496] The ICESCR establishes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,"[497] which encompasses "the right to control one's health and body, including sexual and reproductive freedom."[498] The right to health obligates States both to ensure access to reproductive healthcare and women's ability to make decisions regarding reproduction.[499] CEDAW codifies women's right to health[500] and establishes that governments must ensure access to reproductive health services.

The right to health is composed of the following four "interrelated and essential elements:"[501] availability, meaning that health services and goods must be provided in sufficient quantity; accessibility, which entails that services and goods are affordable and provided without discrimination; acceptability, which requires that facilities, goods, and services must be respectful of medical ethics and maintain confidentiality; and quality, which calls for goods and services to be scientifically and medically appropriate and for trained providers to be available to dispense them.[502] The absence of one or more of these components may signal violations of the right to health.

Abortion: Criminal sanctions that deny women access to safe abortion services and information violate the right to health

The Committee on Economic, Social, and Cultural Rights (CESCR) has expressly advised States parties to allow or consider allowing abortion for therapeutic reasons[503] and has also called for exceptions to general prohibitions on abortion when a pregnancy is "life-threatening"[504] or in cases of fetal abnormality,[505] or rape or incest.[506] In its 2008 Concluding Observations to the Philippines, the CESCR "note[d] with concern that, under the State party's legal system, abortion is illegal in all circumstances, even when the woman's life or health is in danger or pregnancy is the result of rape or incest, and that complications from unsafe, clandestine abortions are among the principal causes of maternal deaths."[507] The Committee specifically urged the Philippines "to address, as a matter of priority, the problem of maternal deaths as a result of clandestine abortions, and consider reviewing its legislation criminalizing abortion in all circumstances."[508] In 2009, the Committee urged the government of Brazil, another predominately Catholic country with a restrictive abortion law,[509] to comply with its obligations under the right to health by undertaking "legislative and other measures, including a review of its present legislation, to protect women from the effects of clandestine and unsafe abortions and to ensure that women do not resort to such harmful procedures."[510]

The right to health further requires that women have the information necessary to make decisions relating to their reproductive and sexual health.[511] Information is essential to ensure that women can make fully informed and safe decisions regarding pregnancy. Fulfillment of the right to information requires governments to ensure access to unbiased information about and availability of a full range of reproductive health services for women and girls. UN TMBs have interpreted the right to information to specifically include sexual and reproductive health information intended to prevent unsafe abortion and have emphasized the importance of information access as a means to reduce unsafe abortion. The CEDAW Committee has recommended that

States parties ensure access to sexual and reproductive health information[512] to reduce the number of unsafe,[513] clandestine,[514] and illegal[515] abortions that result in maternal deaths.[516]

> **[W]omen with unwanted pregnancies should be offered reliable information and compassionate counseling, including information on where and when a pregnancy may be terminated legally.**[517]
> –Paul Hunt, Former Special Rapporteur on the Right to Health

UN TMBs have identified misinformation as a violation of the right to information. The CESCR has remarked that "[s]tates should refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health, from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information…."[518] The common practices of vilifying and spreading misinformation about abortion and contraceptives in the Philippines are thus activities for which the government may be held responsible as they represent a failure to protect women's right to health information under international law. (For testimonies on women's inability to access contraception, see Chapter 2, p. 43; for information on laws restricting access to contraception, see Chapter 4, p. 87.)

Post-abortion care: Duty to provide humane and compassionate post-abortion care and post-abortion family planning counseling

The criminalization of abortion has had a chilling effect on the provision of post-abortion care in the Philippines. The government has not invested in implementation of the PMAC Policy sufficiently to ensure the availability of trained providers, medical supplies and essential drugs. As a consequence, the overall quality of post-abortion care has been compromised. Specifically, the ban on misoprostol has undermined quality of care by preventing healthcare providers from utilizing a medicine recognized by the WHO and other health bodies as essential for the management of miscarriages or incomplete abortion. (For a provider's account of compromised patient care under the misoprostol ban, see Chapter 3, p. 67.)

Further, accessibility to post-abortion care is undermined by the fact that women who present with complications are discriminated against, and often their care is delayed or even denied. The abuse that women experience shows that care is not provided in an acceptable manner.

The CEDAW Committee has expressly interpreted fulfillment of right to health to entail providing "access to quality services for the management of complications arising from unsafe abortion."[519] The CEDAW Committee also has specifically criticized laws that breach women's confidentiality, such as reporting requirements, as violating the right to health. In its General Recommendation on Women and Health, the Committee stated that "[w]hile lack of respect for the confidentiality of patients will affect both men and women, it may deter women from seeking advice and treatment and thereby adversely affect their health and well-being. Women will be less willing, for that reason, to seek medical care … for incomplete abortion …."[520] This trend is apparent in the Philippines. (For testimonies of the impact of post-abortion abuses in deterring women from seeking timely care, see Chapter 2, p. 56.)

Family planning counseling has been recognized as an essential component of post-abortion care. (See box – WHO Standards for Management of Post-abortion Complications, p. 59.) The WHO advises that "[w]omen who have just been treated for postabortion complications need easy and immediate access to family planning services. When such services are integrated with post-abortion care, are offered immediately [after] post-abortion, or are nearby, women are more likely to use contraception when they face the risk of unintended pregnancy."[521] This view is supported by FIGO guidelines, which state that "[p]ost-abortion counselling on fertility control should always be provided" and that such counseling should "include objective information."[522] While the Philippines' PMAC Policy provides for family planning counseling, in practice, lapses are extremely common, resulting in a high risk of unplanned pregnancy among women who have just had unsafe abortions. (For women's testimonies of the failure of healthcare workers to provide family planning counseling, see Chapter 2, p. 58.)

Right to equality and nondiscrimination

International treaties guarantee women's right to equality and nondiscrimination. Criminal bans on abortion implicate these rights by denying women access to a reproductive health service that only they need and by limiting their ability to exercise other human rights, such as those relating to education and employment, on an equal basis with men. The CEDAW Committee has consistently criticized restrictive abortion laws[523] and noted that they force women to undergo illegal[524] and unsafe abortions.[525] Recognizing the particular implications of childbearing for women's health and autonomy, the CEDAW Committee has explicitly urged States to ensure that women have the right to control their fertility without discrimination.[526]

Abortion: Criminal abortion laws impede women's equality and are discriminatory

The ICCPR guarantees the right to equality and prohibits discrimination on the basis of sex.[527] In explaining the scope of this right, the HRC has noted that the guarantee of equality of rights between men and women is implicated where women are denied access to abortions in the case of rape or where women are forced to undergo "life-threatening clandestine" abortions.[528] The CESCR has further elaborated on the right to health and the principles of nondiscrimination by observing that denial of access to reproductive healthcare services to women is discriminatory as it deprives them of their ability to fully enjoy their economic, social, and cultural rights on an equal basis with men.[529]

Similarly, the CEDAW Committee has emphasized the duty of governments to "refrain from obstructing action taken by women in pursuit of their health goals."[530] It has characterized laws that criminalize medical procedures needed only by women as discriminatory;[531] restrictions on abortion fall clearly into this category. In 2006 the Committee issued recommendations to the government of the Philippines to amend its punitive restrictions on abortion.[532] The Committee expressed concern about the high "maternal mortality rates,"[533] particularly the number of deaths resulting from induced abortions; inadequate family planning services; the low rate of contraceptive use; and the difficulties of obtaining contraceptives. To fulfill its international human rights obligation to reduce maternal mortality under CEDAW, the Committee recommended that the Philippines consider reviewing the laws relating to abortion with a view to removing punitive provisions imposed on women who have abortions and provide women with access to quality services for the management of complications arising from unsafe abortions.[534] It also recommended that the Philippines strengthen measures aimed at the prevention of unwanted pregnancies, including by making a comprehensive range of contraceptives more widely available and without any restriction and by increasing knowledge and awareness about family planning.[535]

The Committee's disapproval of criminal penalties for abortion has been consistent. In 2009, the CEDAW Committee called upon Timor-Leste, the only other predominantly Catholic nation in the Asia region, to "review the legislation relating to abortion with a view to removing the punitive provisions imposed on women who undergo abortion."[536]

Restrictive abortion laws are particularly harmful to poor women and adolescent girls

Restrictive abortion laws discriminate against all women, but they particularly affect marginalized subgroups of women, including poor women and adolescent girls. The HRC has noted that low-income and rural women are especially likely to resort to unsafe abortion and has commented on the discriminatory aspect of restrictive abortion laws.[537] The CESCR has emphasized that "health facilities, goods and services have to be accessible to everyone without discrimination;" they must especially be "accessible to … the most vulnerable and marginalized" and "affordable for all."[538] The State has an "immediate obligation" to prevent discrimination in access to healthcare.[539]

Adolescents[540] are entitled to special protection under various provisions of international law.[541] The Committee on the Rights of the Child has recognized early pregnancy as a significant cause of reproductive health problems for adolescents[542] and said States parties "should take measures to reduce maternal morbidity and mortality in adolescent girls, particularly caused by early pregnancy and unsafe abortion practices."[543] It has also noted that early motherhood puts young women at increased risk of depression and anxiety.[544] More specifically with regard to the Philippines, the Committee on the Rights of the Child has urged the government to "[e]nsure access to reproductive health counseling and provide all adolescents with accurate and objective information and services in order prevent teenage pregnancies and related abortions …."[545]

Unsafe abortions threaten the lives of a large number of women, representing a grave public health problem as it is primarily the poorest and youngest who take the highest risk.

–Beijing Platform for Action, para. 97

Restrictive abortion laws embody stereotypes that lead to discrimination against women

Restrictive abortion laws disproportionately burden women and often embody stereotypes of women as child bearers and nurturers, confining them to these roles at the expense of other opportunities important for their development such as education and employment opportunities.[446] Under international law, governments are obligated to "take all appropriate measures to eliminate discrimination against women,"[547] which includes the elimination of harmful stereotypes.[548] In the case of the Philippines, the CEDAW Committee has specifically expressed concern about "the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society."[549] The Committee has recommended that the government of the Philippines "take measures to bring about changes in traditional patriarchal attitudes and in gender-role stereotyping. Such measures should include awareness-raising and public educational campaigns addressing ... religious leaders with a view to eliminating stereotypes associated with traditional gender roles in the family and in society."[550]

Denial of legal abortion results in violence against women which constitutes discrimination

The CEDAW Committee has articulated that gender-based violence, defined in General Recommendation 19 as "violence that is directed against a woman because she is a woman or that affects women disproportionately" and to "include[] acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty," constitutes discrimination against women because it deprives women of the enjoyment of their fundamental human rights.[551] The former SRVAW has stated, "Acts deliberately restraining women from using contraception or from having an abortion constitute violence against women by subjecting women to excessive pregnancies and childbearing against their will, resulting in increased and preventable risks of maternal mortality and morbidity."[552] Denial of access to safe and legal abortion casts women into a cycle of violence. As noted by a medical anthropologist,"[T]he lack of access to safe abortions is in itself a form of violence that leads many women to risk further violence, too often resulting in death, infertility and other permanent injuries, all avoidable were comprehensive legal abortion services made available."[553]

Post-abortion care: Abuse and harassment during post-abortion care is discriminatory and constitutes violence against women

Where women are out-rightly denied medical attention or where providers have not been trained or equipped to manage abortion complications, services only women need, the right to nondiscrimination is violated. Healthcare facilities must be equipped to provide quality post-abortion care. In its General Recommendation 24, the CEDAW Committee has stated that "[m]easures to eliminate discrimination against women are considered to be inappropriate if a health-care system lacks services to prevent, detect and treat illnesses specific to women." Specifically, the CEDAW Committee has called for the provision of "access to quality services for the management of complications arising from unsafe abortions so as to reduce women's maternal mortality rates."[554]

Similarly, the practice of publicly identifying women who have undergone abortions discriminates against these women in their enjoyment of the right to health in violation of CEDAW. The CEDAW Committee has specifically stated that lack of respect for the confidentiality of women seeking care for incomplete abortion is discriminatory.[555] Further, the harassment and abuse of women who seek post-abortion care may also constitute a form of violence against women, as defined by General Recommendation 19 of the CEDAW Committee. The delays in care, verbal abuse, placing restraints on patients, and threats of arrest to those seeking care reported by the women interviewed for this report lead to physical and mental harm; that is, violence against women.

Right to privacy

The right to privacy is an internationally protected human right. The ICCPR establishes that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence…."[556] Restrictive abortion laws deny women the ability to control their own fertility. Furthermore, the absence of safeguards to protect patient confidentiality exposes women to the possibility of criminal punishment. These interferences with women's personal choices and well-being violate their right to privacy.

Abortion: Criminal sanctions deny women their privacy

The HRC has interpreted the right to privacy as protecting against arbitrary or unlawful interference with an individual's privacy "whether they emanate from State authorities or from natural and legal persons."[557] Interference with individual privacy may be considered "unlawful" even if it is undertaken on the basis of a national law, if the law itself is in violation of the ICCPR.[558] Likewise, interference with privacy may be deemed "arbitrary" if it is based on a local law that does not comply with the ICCPR.[559] Protections for individual privacy must be guaranteed through the creation of appropriate legislative frameworks and other measures.[560] In *K.L. v. Peru*, the HRC held that the government of Peru, "in denying [the petitioner] the opportunity to secure medical intervention to terminate the pregnancy, interfered arbitrarily in her private life.[561] The refusal by doctors in the Philippines to perform abortions for women as a result of the criminal ban and lack of clarity around exceptions, by international standards, amounts to a violation women's privacy. Any interference with individual privacy undertaken on the basis of the criminal ban may be considered unlawful and arbitrary since the ban itself is not in compliance with the ICCPR.

Criminal sanctions for abortion arbitrarily interfere with women's privacy by effectively denying women the ability to make autonomous decisions about pregnancy. Article 16 of CEDAW guarantees women's right to decide on the number and spacing of their children, including having access to the information and means to do so.[562] The CEDAW Committee has noted that women's need to resort to unsafe abortions is often caused by women's inability to control their fertility because they lack access to family planning services.[563] The Committee has recommended that States parties increase access to family planning[564] as well as to sexual and reproductive health information[565] to reduce the number of unsafe,[566] clandestine,[567] and illegal[568] abortions—and the resulting maternal deaths.[569]

Post-abortion care: Lack of privacy protections obstruct women's access to healthcare

The CESCR has stressed that the right to privacy and the right to the highest attainable standard of health are inextricably linked.[570] The denial of the right to privacy inhibits access to treatment for those in need of care and may lead to other human rights abuses.[571] Women's right to privacy may be violated when they are publicly labeled or branded for having had abortions. The HRC has established that women's right to privacy may also be compromised by a legal requirement that doctors and other health personnel report cases of women who may have undergone abortions.[572] Even in the absence of a formal reporting requirement, the existence of criminal sanctions may create the impression of an obligation. In the Philippines, where there is a misconception of a duty to report women who have had an abortion, women are routinely harassed and intimidated with threats of being reported. As a result, many are reluctant to seek healthcare for post-abortion complications.

Global political commitments

In addition to assuming binding treaty obligations, the Philippines has made important international political commitments to address the crisis of unsafe abortion by formally adopting the ICPD Programme of Action in 1994[573] and the BPA, adopted at the Fourth World Conference on Women in 1995.[574] These policy documents urge governments to "deal with the health impact of unsafe abortion as a major public health concern"[575] and to "take appropriate steps to … in all cases provide for the humane treatment and counselling of women who have had recourse to abortion."[576] Importantly, the BPA directs governments to "consider reviewing laws containing punitive measures against women who have undergone illegal abortions."[577] In so far as the criminal ban imposes sanctions on women for having abortions and contributes to the high incidence of unsafe and clandestine abortion, the criminal ban may be viewed as violating the political commitments made by the Philippines at these major international conferences.

The ICPD Programme of Action and the BPA establish unsafe abortion mortality reduction as a priority and outline important prevention strategies. The ICPD Programme of Action states that one of the key objectives for governments is the reduction of deaths and morbidity as a result of unsafe abortion.[578] To fulfill this obligation, governments must, among other requirements, provide humane treatment for complications of abortion, including counseling, for all women who "have had recourse to abortion."[579] Likewise, the BPA requires that women who have unwanted pregnancies should be guaranteed access to appropriate management of complications arising from abortion and prompt post-abortion family planning services.[580] Furthermore, the ICPD Programme of Action, emphasizes that "[g]reater attention to the reproductive health needs of female adolescents and young women could prevent the major share of maternal morbidity and mortality through prevention of unwanted pregnancies and any subsequent poorly managed abortion."[581]

In 2000, governments adopted the MDGs, which establish maternal mortality reduction, access to reproductive health services, and gender equality as important development priorities. The MDGs include a time-bound benchmark for maternal mortality reduction. Accordingly, the Philippines has set a target of reducing maternal mortality to 52 deaths per 100,000 live births by 2015.[582] The Philippines' current maternal mortality ratio is one of the highest in the East and Southeast Asia region, at 230 maternal deaths per 100,000 live births.[583] Based on the current situation in the Philippines, experts have noted that it is not likely that the government of the Philippines will be able to reduce maternal mortality by one-third of the current level by 2015.[584] Any attempt to successfully reduce maternal mortality in the Philippines will require concrete efforts to reduce the number of unsafe abortions mortality. An important step in this direction would be the removal of legal restrictions on and criminal sanctions for abortion.

International ethical obligations

International ethical guidelines support women's right to safe and legal abortion by requiring healthcare providers and health systems to ensure women access to these services. FIGO has issued important guidelines and recommendations that describe these duties in relation to safe abortion services and post-abortion care. FIGO's ethics guidelines establish that "a woman [has] the right to have access to medical or surgical induced abortion, and that the healthcare service [has] an obligation to provide such services as safely as possible."[585] Regarding post-abortion care, FIGO has recently co-authored a consensus document on core aspects of such care, emphasizing the key role of family planning counseling and supplies.[586] Leading ethicists have noted that under the ethical duty of beneficence, a doctor caring for a woman who is experiencing an incomplete abortion must provide medical treatment for her diagnosed condition, regardless of whether the causes of the condition were illegal.[587] As such, there is an ethical duty for healthcare providers to ensure safe, prompt, and skillful completion of the abortion.[588] In addition to bearing duties, provides are also the bearers of rights and are entitled to the support and protection necessary for them to perform their professional duties in the most ethical way.

Providers must act in the best interest of their patients

International ethical norms emphasize the essential duty of providers to act in the best interest of their patients. The World Medical Association's International Code of Ethics requires physicians to prioritize the welfare of patients, stating that "physician[s] shall owe [their] patients complete loyalty and all the scientific resources available to [them]."[589] This implies that the best interest of the patient must be the primary consideration in the provision of healthcare.

This fundamental duty is undermined by criminal abortion laws that force health professionals to compromise the best interests of their patients by denying them medical services in deference to State demands.[590] Thus where state laws, policies, or practices "call[] for limiting or denying medical treatment or information on grounds unrelated to appropriate medical diagnosis and treatment," health professionals may out of fear of criminal liability be forced to act contrary to their ethical obligations.[591] The Committee against Torture has criticized laws that restrict abortions even to preserve the life of the pregnant woman as being "in clear violation of numerous ethical standards of the medical profession" and that States parties should "avoid penalizing medical professionals for the exercise of their professional responsibilities."[592] The HRC has likewise recommended that governments should "avoid penalizing medical professionals in the conduct of their professional duties."[593] (For a discussion of the criminal penalties for abortion, see Chapter 4, p. 77; for providers' testimonies of fear of providing care to women, see Chapter 3, p. 67.)

Providers should refrain from questioning and reporting women

Regarding the questioning of women and reporting provisions, experts further state that "[q]uestions regarding the legality of the woman's prior conduct are ethically as irrelevant to her care as are the reasons why, for instance, a patient with gunshot injuries was shot by a police officer."[594] The WHO/FIGO Task Force has issued a joint statement to professional societies of obstetricians and gynecologists recommending that they "advise their members to honour the code of professional ethics, observing medical confidentiality by not reporting women suspected of submitting themselves to any procedure for pregnancy termination."[595] Ethics experts have established that because reporting requirements typically deter patients from seeking life- and health-preserving care, such provisions violate physicians' ethical obligations.[596] (For testimonies of providers' misconceptions of reporting requirements, see Chapter 2, p. 71.)

Providers must be defenders of human rights

FIGO envisions a role for healthcare professionals that goes beyond the mere provision of services and urges them to become advocates for women's human rights. The FIGO Resolution on Professional and Ethical Responsibilities Concerning Sexual and Reproductive Rights calls on member societies to "adopt and adapt a human rights-based code of ethics for women's health, in the professional conduct of all their activities"[597] and calls upon members of the profession to "stand for women's sexual and reproductive rights in their countries and respect and protect women's rights in their daily practice."[598]

Accountability for abuses

"[W]omen's reproductive health risks are not mere misfortunes and unavoidable natural disadvantages of pregnancy but, rather, injustices that societies are able and obligated to remedy." **– *Rebecca Cook and Bernard Dickens***

International law establishes the duty of states to provide legal remedies for abuses that culminate in violations of human rights. Governments are required to create formal avenues for legal accountability for violations as a means to promote respect for human rights and to prevent impunity.

With regard to healthcare, as explained by the SRRH, the primary purpose of seeking accountability is not to assign blame and dispense punishment, but to recognize situations where human rights are violated.[599] The process should be constructive and involve identifying the strengths and weaknesses of a healthcare system so that good practices may be replicated and gaps or dysfunctions may be addressed to improve the system and prevent further violations of patients' rights.[600] Accountability may be understood as being comprised of two components: the addressing of past grievances and the correcting of systemic failures to prevent future harm.[601]

UN TMBs have clearly established the duty of States to ensure accountability for violations of human rights that implicate women's health and explained what this duty entails. The CEDAW Committee has explicitly noted the obligation of States to ensure women's right to health as including a duty to "adopt appropriate legislative and other measures, including sanctions … to ensure through competent national tribunals and other public institutions the effective protections of women against any act of discrimination."[602] The Committee has noted that the failure to comply with this duty represents a violation of Article 12 of CEDAW, which guarantees women's right to health without discrimination.[603] Likewise, the CESCR has recognized the rights of individuals to tangible legal remedies for violations of rights, including "adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition.[604] The HRC has discussed the obligation of accountability as including a duty to ensure "accessible and effective remedies,"[605] which involves taking into account the "special vulnerability"[606] of certain categories of individuals, such as children. The Committee has noted that the failure of a government to "investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant"[607] and that "cessation of an ongoing violation is an essential element of the right to an effective remedy."[608]

As is evident from the testimonies presented in this report, the human rights of women in the Philippines have been and continue to be violated by the prohibition on abortion for which there is no legal recourse. UN TMBs such as the CEDAW Committee and CESCR have strongly expressed concern about maternal deaths resulting from unsafe abortion in the Philippines and have urged the government to consider making abortion legal on certain grounds as a means to prevent such deaths, but the government has refused to comply. The government's persistent refusal to recognize the legal prohibition on abortion's harmful impact on women's health and human rights and refusal to comply with recommendations issued by UN TMBs amounts to impunity and signifies a complete lack of respect for its obligations under international law.

Comparative legal developments

The harshness of the Philippine abortion law becomes more evident when considered in contrast with developments in other predominantly Catholic countries as well as in neighboring countries in East and Southeast Asia, where a liberalizing trend is visible. Spain, the country where the Philippine criminal provisions on abortion originated, has reformed its laws to recognize abortion on several grounds. The law in Colombia, another former Spanish colony, changed recently after a groundbreaking decision by the Colombian Constitutional Court. Other predominantly Catholic countries such as Italy and Portugal have also reformed and interpreted their laws based on consideration for women's human rights. The Philippines' neighboring countries such as Cambodia, Indonesia, and Thailand too have changed their laws recently to allow abortion on certain grounds. This section highlights some of the changes that have taken place in these countries that may suggest a path for law reform and judicial interpretation in the Philippines in the future.

Spain

In Spain, the criminal provisions on abortion had been in existence since the early 19th century when the State punished abortion in its first penal code of 1822.[609] While the Philippines has retained the prohibition on abortion found in the Spanish Code without any subsequent amendments, there have been movements for legal reform decriminalizing abortion in Spain since the 1930s, culminating in the partial decriminalization of abortion in 1985.[610] As of June 2010, Spanish law allows women to have abortions until twelve weeks of pregnancy if a woman is pregnant as a result of rape; until twenty-two weeks if the fetus, if carried to term, will suffer from severe physical or mental defects; and throughout pregnancy if the abortion is necessary to avert a serious risk to the physical or mental health of the pregnant woman.[611] However, a new law liberalizing abortion is expected to come into force in July 2010. The Congress voted to approve legislation in early 2010 that broadens the abortion law to provide for abortion without restriction through fourteen weeks; allowing abortions where the woman's health or life are at risk or in the case of fetal abnormalities until twenty-two weeks; and past twenty-two weeks where the fetal has a serious or incurable illness.[612] According to a statement by the Ministry of Equality, the law is intended to bring Spain in line with its international human rights obligations.[613]

The ongoing liberalization of the Spanish abortion law reflects decades of increasing recognition of women's reproductive rights, even in cases that challenge increased access to abortion. The 1985 law liberalizing abortion in Spain was challenged in court prior to enactment on the basis that it violated fetuses' constitutional right to life and physical and moral integrity.[614] While the Constitutional Court ruled that the draft legislation was unconstitutional because it did not contain adequate procedural safeguards to protect prenatal life, the

Court notably held that, "if the life of the 'one to be born' were protected unconditionally, the life of the unborn would be more protected than the life of the already born [the mother], and the mother would be penalized for defending her right to life. . . . [T]hus, the prevalence of the mother's life is constitutional."[615] The Court recognized that among the situations where the rights of the pregnant woman take prevalence are where the woman's life or health is in question, as well as in cases of fetal impairment.[616] The decision particularly notes that forcing a woman to carry a pregnancy resulting from rape to term is unconstitutional: "It is enough to consider that the gestation has its origin in the commission of an act not only contrary to the woman's will, but realized by overcoming her resistance through violence, damaging in a major way her personal dignity and the free development of her personality . . . . It is manifest that to obligate her to put up with the consequences of an act of such nature is not something that can be asked of her."[617] In 1991, the Spanish Supreme Court dismissed a criminal case against a woman who had undergone an abortion, recognizing that compelling a woman to carry a pregnancy to term would violate the woman's right to the free development of her person.[618]

Colombia

Colombia, a former Spanish colony for almost 300 years,[619] had until recently banned abortion in all circumstances.[620] However, in 2006, the Constitutional Court of Colombia de-criminalized abortion where the woman's life or health (physical and mental health) was in danger, when the woman did not consent to the pregnancy, and in cases of rape and fetal malformation.[621] The Court specifically cited international obligations and treaties including CEDAW and CRC to hold that "…women's sexual and reproductive rights have finally been recognized as human rights, and, as such, they have become part of constitutional rights, which are the fundamental basis of all democratic states."[622]

The Court held that criminal abortion provisions restrict the fundamental rights of women and are only constitutional where they are "proportional" to the State's goal of protecting the "unborn fetus."[623] The Court established that a criminal law cannot "require a complete sacrifice of any individual's fundamental right in order to serve the general interests of society or in order to give legal priority to other protected values"[624] and "[s]econd, the principle of proportionality must exist within the Penal Code because in a democratic state criminal sanctions, as the utmost infringement upon personal liberties and human dignity … must only be used when justified and necessary to punish serious and harmful conduct, and must also be proportionate to the crime…."[625] As part of this analysis, the Court reviewed decisions from the constitutional courts of Germany, Spain, and the United States, and concluded that in weighing women's rights and the potential life of the fetus, these tribunals "have shared common ground in affirming that a total prohibition on abortion is unconstitutional because under certain circumstances it imposes an intolerable burden on the pregnant woman which infringes upon her constitutional rights." Ultimately, the Court held, "Having weighed the duty to protect the life of the fetus against the fundamental rights of the pregnant woman, this Court concludes that the total prohibition of abortion is unconstitutional."[626]

> **A criminal law that prohibits abortion in all circumstances extinguishes the woman's fundamental rights, and thereby violates her dignity by reducing her to a mere receptacle for the fetus, without rights or interests of constitutional relevance worthy of protection.**
>
> *–Constitutional Court of Colombia*

In a subsequent case concerning access to abortion in 2009, the Constitutional Court reiterated that women "enjoy a right to decide, free from any pressure, coercion, urging, manipulation and, in general, any sort of inadmissible intervention, to terminate a pregnancy."[627] More specifically, the Court found that neither institutions nor judicial authorities can refuse a woman an abortion based on conscience claims.[628] Further, the Court stated that medical and health professionals must guarantee women seeking abortions confidentiality and respect for their privacy and dignity. [629]

Positive Legal Trends in Other Predominantly Catholic Countries: Italy and Portugal

Italy

In 1975, the Constitutional Court of Italy held that a complete ban on abortion was unconstitutional when it recognized that women have a constitutional right to abortion where pregnancy poses a serious and medically certifiable health risk.[630] While acknowledging that the fetus has "a constitutional right to protection," the Court found that a categorical ban on abortion violates woman's constitutionally guaranteed right to health.[631] The Court held that "[T]here is no equivalence between the right not only to life, but also to health of someone who already is a person, such as the mother, and safeguarding the embryo that has yet to become a person."[632] Italy's current abortion law, which was introduced in 1978, permits abortion within 90 days on several grounds including if the pregnancy will seriously endanger the woman's physical or mental health; because of the circumstances in which conception occurred;[633] if there is a probability that the child would be born with abnormalities or malformations; and due to economic, social, or family circumstances.[634] Abortion is permitted beyond 90 days if the pregnancy or childbirth poses a serious threat to the woman's life; where there is a risk to the physical health of woman; if there is a risk of fetal malformation; and where the pregnancy is a result of rape or other sexual crime.[635]

Portugal

The Constitutional Court of Portugal has consistently upheld laws recognizing that the rights of the pregnant woman cannot be superseded by fetal rights.[636] In 1984, the Portuguese General Assembly enacted a law waiving prosecution for abortion in cases of fetal impairment, danger to life, serious and irreversible damage to physical or mental health; and pregnancy resulting from rape.[637] The Constitutional Court heard two requests to review the 1984 law, first by the President prior to its passage, and again after the law was passed.[638] Both times, the Court affirmed that while the fetus has a constitutional right to protection, this right is limited and cannot outweigh the fundamental rights of woman to life, health, and dignity.[639] More recently, in July 2007, the Portuguese Parliament decriminalized abortion upon request through the tenth week of gestation.[640] According to the Minister of Health, the number of complications related to unsafe abortions, infection, and perforation of organs associated with clandestine abortion fell by more than half within one year after Portugal liberalized its abortion law.[641] Notably, the Portuguese government referenced international and regional human rights commitments when amending the country's abortion law. The normative circular on the law released to all personnel by the Ministry of Health cited the UN MDG of halving maternal mortality by 2015 and recognized the link between clandestine abortion and maternal mortality, directly tying the law to Portugal's international obligations.[642]

REGIONAL NORMS, MANDATES, AND NATIONAL LAWS

A strong commitment to the protection of human rights and women's sexual and reproductive health can be found in various regional charters and declarations. These include the ASEAN Charter, the Asian Human Rights Charter, and the AOFOG Position Statement on Preventing Unsafe Abortion (the Tokyo Declaration). Together, these documents establish a range of aspirational norms, political commitments, and mandates for governments and health practitioners across the region to promote and protect women's human rights and to address the crisis of unsafe abortion. A comparative review of abortion laws in countries neighboring the Philippines reveals a positive trend of law reform. Some of these countries are former European colonies that have renounced restrictive colonial abortion laws in favor of laws that recognize legal grounds for abortion.

ASEAN Charter

The ASEAN Charter establishes that its member states shall act in accordance with the following principles: "(i) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice; (j) upholding the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States…."[1] The recently formed ASEAN Commission on the Promotion and Protection of the Rights of Women and Children has a mandate to "complement…the function of CEDAW and CRC Committees"[2] through the promotion, protection, and fulfillment of "the human rights and fundamental freedoms of women and children in ASEAN,"[3] as established by the various international human rights instruments to which the ASEAN member states are party, including the UDHR,[4] the Vienna Declaration,[5] CEDAW,[6] the CRC[7] and the BPA,[8] in order "to promote the well-being, development, empowerment"[9] of women and children in ASEAN, as well as "to enhance regional and international cooperation"[10] in "efforts to [promote] and [protect] the rights of women and children."[11]

Asian Human Rights Charter

The Asian Human Rights Charter recognizes that "[w]omen should be given the full right to control their sexual and reproductive health, free from discrimination or coercion, and be given access to information about sexual and reproductive health care and safe reproductive technology."[12] The Asian Human Rights Commission is an independent, non-governmental regional human rights body whose mandate includes "promoting the Asian Human Rights Charter."[13]

AOFOG Position Statement on Preventing Unsafe Abortion (the Tokyo Declaration)

Unsafe abortion has been recognized as a regional concern by obstetric and gynecological healthcare providers in Asia and Oceania. In 2007, the AOFOG, of which POGS is a member, issued the Tokyo Declaration, which establishes comprehensive guidelines for regionally based obstetric and gynecological societies as well as individual obstetricians and gynecologists.[14] Under the Tokyo Declaration, AOFOG member societies are directed to undertake a range of interventions to prevent unsafe abortion, including by encouraging governments to make every effort to improve women's rights, status, and health;[15] providing sexual education on contraception and access to safe abortion;[16] and ensuring that healthcare teams counseling and treating women refrain from imposing religious, cultural, or other convictions concerning abortion on patients whose attitudes are different from theirs.[17]

The Tokyo Declaration further outlines several steps for individual obstetricians and gynecologists to help them advocate for laws that recognize the rights of women to obtain safe abortions and to question laws and regulations that require physicians to report women suspected of obtaining abortion services.[18] The Tokyo Declaration articulates a range of steps individual members can take to help reduce the incidence of unsafe abortions, including the following: working with medical curricula boards and schools to incorporate content on unwanted pregnancy and abortion;[19] supporting official government interventions to promote access to safe abortion for all legal indications;[20] and partnering with government health authorities to establish norms and guidelines that define the steps to assure sufficient public sector services,[21] staffing, and supplies needed for the promotion and protection of sexual and reproductive rights, including access to safe abortion for all legal indications and access to WHO-endorsed essential drugs and equipment lists.[22]

Survey of Regional Abortion Laws

Regionally, the Philippines' abortion law stands out as one of the most restrictive in East and Southeast Asia. Women throughout the region, including in China, Vietnam, Malaysia, Japan, Thailand, Indonesia, and Cambodia, have significantly greater access to legal abortion than Filipino women. Under national law, women have access to abortion on any grounds without legal limits as to gestation in China[23] and Vietnam.[24] In Japan, induced abortion is allowed within the first twenty-four weeks of gestation to save the life of the mother, to preserve her physical and mental health, and in cases of rape, incest or fetal impairment.[25] Cambodia,[26] Malaysia[27] and Thailand[28] have legalized access to abortion to preserve women's physical and mental health until twelve weeks of gestation and thereafter on specified grounds. Japan permits abortion on socioeconomic grounds and in cases of rape,[29] while in Thailand abortion is legal in cases of rape and fetal impairment.[30]

Many countries in the region have liberalized their abortion laws in recent years, including Thailand,[31] Indonesia,[32] and Cambodia.[33] In 1997, Cambodia repealed its total abortion ban, derived from the French Penal Code during the French colonization of Cambodia.[34] The Cambodian government adopted the *Kram* on Abortion that legalizes abortion on any grounds until twelve weeks and permits abortion thereafter on certain grounds, including fetal impairments that threaten the life of the pregnant woman or are incompatible with life after birth, and where pregnancy is the result of rape.[35] In 2005, Thailand, which already permitted abortions where the

pregnancy was caused by a criminal act or to protect women's physical health,[36] expanded the applications of its abortion law when the Thai Medical Council promulgated regulations stating that the abortion provisions of the Penal Code must be interpreted to allow abortions where needed to preserve women's mental health, including where women experience a diagnosis of serious fetal abnormality or genetic disease.[37] Most recently, in 2009, Indonesia, which previously only permitted abortion where necessary to save the life of the pregnant woman, enacted the Law on Health, which decriminalizes abortion in emergency situations threatening the fetus, as in cases of fetal impairment or genetic disease, or when pregnancy is a result of rape.[38] Legal liberalization of abortion in Indonesia began in 1992, when lawmakers adopted legislation introducing exceptions to the total ban on abortion in the Indonesian Criminal Code, which was modeled on the Dutch Criminal Code enacted by the Dutch colonial government during Indonesian colonization.[39]

Conclusion

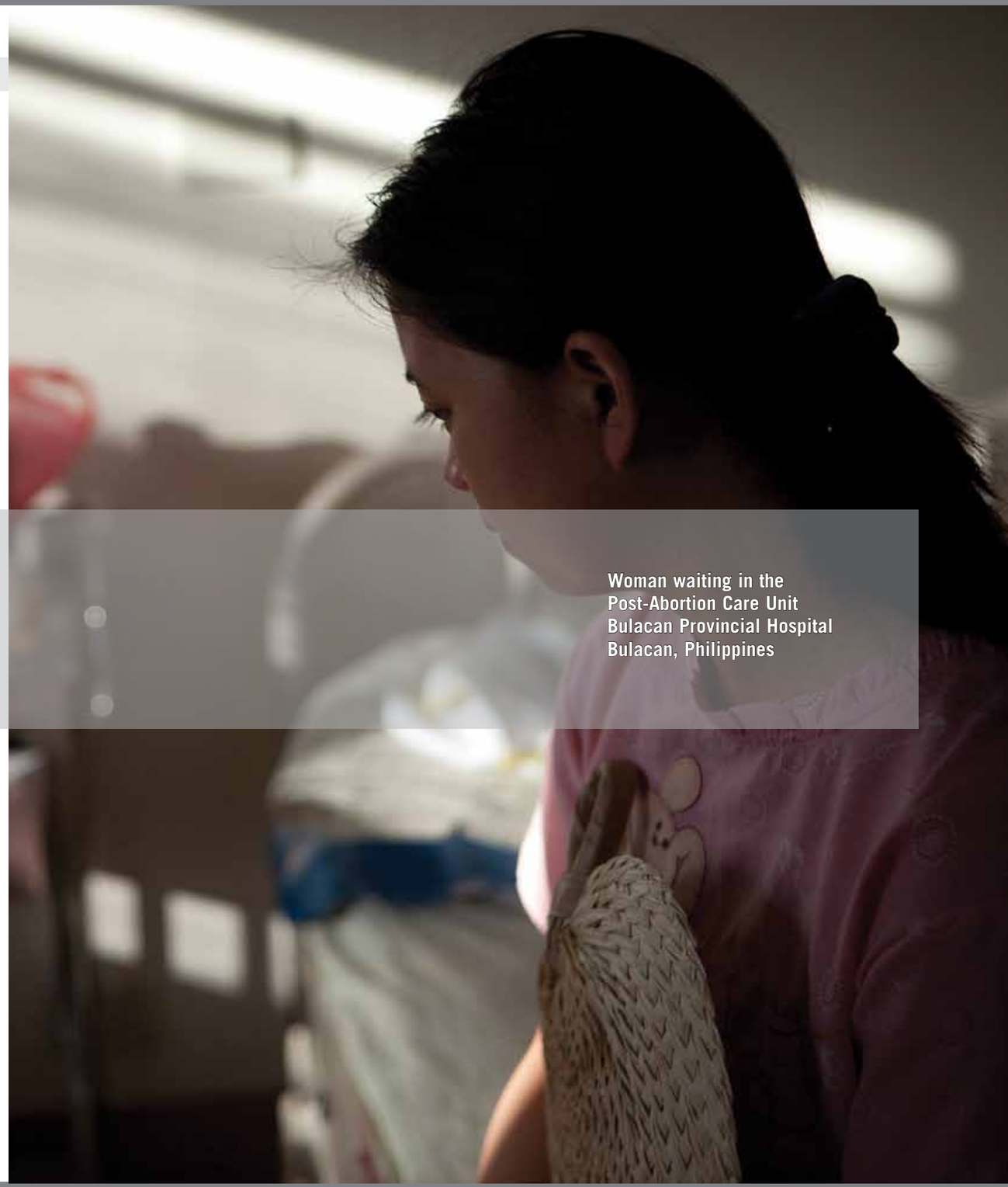
"(T)he failure to address preventable maternal disability and death represents one of the greatest social injustices of our times."[643] ***– Rebecca Cook and Bernard Dickens***

The evidence gathered through this study points to one conclusion: Women who decide to terminate their pregnancies will seek abortion regardless of legal restrictions, abusive treatment and the threat of criminal sanctions. The government of the Philippines must decide whether it will allow women to seek terminations safely without risking death, disability, and discrimination or whether it will continue to unfairly outlaw and penalize a medical procedure that is widely recognized as an essential component of women's healthcare and a human right.

The criminalization of abortion in the Philippines not only violates women's human rights by denying them access to safe and legal abortion, it has also given rise to a separate set of abuses in the context of post-abortion care, which is legal and in many instances constitutes a form of life-saving care. There is an urgent need for legal reform and accountability measures to put an end to the impunity with which women's human rights are being violated as a result of the criminal ban.

I want the law to see women's situation on a "case-to-case" basis. They should see if continuing the pregnancy would mean worsening of the woman's situation. Why should a woman bring a child into this world just to suffer?... If only the government would see the women's situation, there would be no need for secrecy and untimely deaths. It is the fear of stigma [and] lack of knowledge that are stopping women from seeking help even if they are already bleeding to death... If it is legal, then hospitals will provide safe service to all women who need it.

–Imelda, a thirty year old housewife in a family with no steady income and four children



Woman waiting in the Post-Abortion Care Unit Bulacan Provincial Hospital Bulacan, Philippines

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464 *See, e.g.*, Committee on the Rights of the Child, *Concluding Observations: Chad*, para. 30, U.N. Doc. CRC/C/15/Add.107 (1999); *Chile,* para. 55, U.N. Doc. CRC/C/CHL/CO/3 (2007); *Kenya*, para. 49, U.N. Doc. CRC/C/KEN/CO/2 (2007).

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466 *See, e.g.*, Committee on the Rights of the Child, *Concluding Observations: Benin*, para. 55, U.N. Doc. CRC/C/BEN/CO/2 (2006); *Venezuela*, paras. 60-61, U.N. Doc. CRC/C/VEN/CO/2 (2007).

467 *See, e.g.*, Committee on the Rights of the Child, *Concluding Observations: Chile*, para. 56, U.N. Doc. CRC/C/CHL/CO/3 (2007); Guatemala, para. 40, U.N. Doc. CRC/C/15/Add.154 (2001).

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470 *See, e.g.*, CEDAW Committee, *Concluding Observations: Brazil*, paras. 29-30, U.N. Doc. CEDAW/C/BRA/6 (2007); *Chile*, para. 20, U.N. Doc. CEDAW/C/CHI/CO/4 (2006); *Honduras*, para. 25, U.N. Doc. CEDAW/C/HON/CO/6 (2007); *Mauritius*, para. 31, CEDAW/C/MAR/CO/5 (2006); *Nicaragua*, para. 18, U.N. Doc. CEDAW/C/NIC/CO/6 (2007); *Pakistan*, para. 41, U.N. Doc. CEDAW/C/PAK/CO/3 (2007); *Peru*, para. 482, U.N. Doc. A/57/38 (2002); *Philippines*, para. 28, U.N. Doc. CEDAW/C/PHI/CO/6 (2006).

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480 UDHR, *supra* note 109, art. 5; *see also*, ICCPR, *supra* note 110, art. 7.

481 HRC, *General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 44th Sess., 1992, *in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, para. 2, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994).

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483 *Id*. art. 16.

484 *See* HRC, *General Comment No. 28*, *supra* note 455, para. 11.

485 Committee against Torture, *General Comment No. 2*, para. 22, U.N. Doc. CAT/C/GC/2 (2008).

486 Committee against Torture, *Concluding Observations: Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 (emphasis added).

487 *K.L. v. Peru*, Communication No. 1153/2003, para. 6.3, U.N. Doc. CCPR/C/85/D/1153/2003 (2005), *available at* http://www1.umn.edu/humanrts/undocs/1153-2003.html [hereinafter HRC, *K.L. v. Peru*]; HRC, *General Comment No. 20*, *supra* note 481, para. 2; *see also*, Committee against Torture, *Concluding Observations: Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 at Appendix (dissenting opinion by Hipólito Solari-Yrigoyen) (stating that in this case, "[r]efusing a therapeutic abortion not only endangered the author's life but had grave consequences….").

488 *See* HRC, *K.L. v. Peru*, *supra* note 487, para. 6.3(*citing* HRC, *General Comment 20*, *supra* note 481, para. 5).

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512 *See, e.g.*, CEDAW Committee, *Concluding Observations: Benin*, para. 158, U.N. Doc. A/60/38 (2005); *Bosnia and Herzegovina*, para. 36, U.N. Doc. CEDAW/C/BIH/CO/3 (2006); *Burkina Faso*, para. 35, U.N. Doc. A/60/38 (2005); *Cape Verde*, para. 30, U.N. Doc. CEDAW/C/CPV/CO/6 (2006); *Eritrea*, para. 23, U.N. Doc. CEDAW/C/ERI/CO/3 (2006); *Lebanon*, para. 36, U.N. Doc. A/60/38 (2005); *Mali*, para. 34, U.N. Doc. CEDAW/C/MLI/CO/5 (2006); *Mozambique*, para. 37, U.N. Doc. CEDAW/C/MOZ/CO/2 (2007); *Namibia*, para. 25, U.N. Doc. CEDAW/C/NAM/CO/3 (2007); *Saint Lucia*, para. 32, U.N. Doc. CEDAW/C/LCA/CO/6 (2006); *Togo*, para. 28, U.N. Doc. CEDAW/C/TGO/CO/5 (2006); *Vanuatu*, para. 35, U.N. Doc. CEDAW/C/VUT/CO/3 (2007).

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337, U.N. Doc. A/53/38 (1998); *Ireland*, para. 185, U.N. Doc. A/54/38 (1999); *Jordan*, para. 180, U.N. Doc. A/55/38 (2000); *Liechtenstein*, para. 169, U.N. Doc. A/54/38 (1999); *Luxembourg*, para. 210, U.N. Doc. A/52/38/Rev.1, Part II (1997); *Mauritius*, para. 196, U.N. Doc. A/50/38 (1995); *Mauritius*, para. 30, U.N. Doc. CEDAW/C/MAR/CO/5 (2006); *Namibia*, para. 111, U.N.Doc. A/52/38/Rev.1, Part II (1997); *Nepal*, paras. 139, 147, U.N. Doc. A/54/38 (1999); *Panama*, para. 201, U.N. Doc. A/55/38/Rev.1 (1998); *Paraguay*, para. 131, U.N. Doc. A/51/38 (1996); *Peru*, para. 339, U.N. Doc. A/53/38/Rev.1 (1998); *Portugal*, para. 345, A/57/38 (2002); *Saint Vincent and the Grenadines*, para. 140, U.N. Doc. A/52/38/Rev.1 (1997); *Suriname*, para. 29, U.N. Doc. CEDAW/C/SUR/CO/3 (2007); *United Kingdom of Great Britain and Northern Ireland*, para. 309, U.N. Doc. A/55/38 (1999); *Venezuela*, para. 236, U.N. Doc. A/52/38/Rev.1 (1997); *Zimbabwe*, para. 159, U.N. Doc. A/53/38 (1998).

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526 CEDAW Committee, *General Recommendation No. 19: Violence against Women*, 11th Sess., 1993, para. 24(m), U.N. Doc. A/47/38 at 1 (1993); CEDAW, *supra* note 114, arts. 10, 12(1).

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531 *See id*. arts. 2, 14.

532 CEDAW, *Concluding Observations: Philippines*, paras. 27-28, U.N. Doc. CEDAW/C/PHI/CO/6 (2006).

533 *Id*. para 27.

534 *Id*. para. 28.

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536 CEDAW Committee, *Concluding Observations: Timor Leste*, paras. 37-38, U.N. Doc. CEDAW/C/TLS/CO/1 (2009); *see also*, CEDAW Committee, *Concluding Observations: Tuvalu*, para. 43, U.N. Doc. CEDAW/C/TUV/CO/2 (2009).

537 *See* HRC, *Concluding Observations: Argentina*, para. 14, U.N. Doc. CCPR/CO/70/ARG (2000); *see also*, SRVAW, *Report of the Special Rapporteur on violence against women*, *supra* note 446, para. 61.

538 CESCR, *General Comment No. 14*, *supra* note 447, para. 12(b).

539 *Id*. para. 43(a).

540 The United Nations Population Fund (UNFPA) has established that the term "adolescents" refers to people between the ages of 10 and 19, the term "youth" refers to individuals from 15 to 24 years old, and the term "young people" refers to those who are between 10 and 24 years old. UNFPA, *Adolescent Realities in a Changing World*, *available at* http://www.unfpa.org/adolescents/about.htm (last accessed June 18, 2010).

541 *See, e.g.*, ICCPR, *supra* note 110, art. 24; ICESCR, *supra* note 112, art. 10.3.

542 Committee on the Rights of the Child, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, para. 20, U.N. Doc. CRC/GC/2003/4 (2003), *available at* http://www1.umn.edu/humanrts/crc/crc-generalcomment4.html. The Committee on the Rights of the Child has frequently expressed concern over high rates of maternal mortality as related to teenage pregnancy. *See, e.g.*, Committee on the Rights of the Child, *Concluding Observations: Colombia*, para. 48, U.N. Doc. CRC/C/15/Add.137 (2000); *Dominican Republic*, para. 37, U.N. Doc. CRC/C/15/Add.150 (2001); *Honduras*, para. 60, U.N. Doc. CRC/C/HND/CO/3 (2007); *Mexico*, para. 27, U.N. Doc. CRC/C/15/Add.112 (1999); *Nicaragua,* para. 19, U.N. Doc. CRC/C/15/Add.36 (1995); *Peru*, para. 24, U.N. Doc. CRC/C/15/Add. 120(2000); *Venezuela*, para. 27, U.N. Doc. CRC/C/15/Add.109 (1999). The Committee on the Rights of the Child has specifically expressed concern where there are high rates of adolescents undergoing illegal, clandestine, and unsafe abortions. *See, e.g.*, Committee on the Rights of the Child, *Concluding Observations: Colombia,* para. 48, U.N. Doc. CRC/C/15/Add.137 (2000); *Chile*, para. 55, U.N. Doc. CRC/C/CHL/CO/3 (2007); *Kenya*, para. 49, U.N. Doc. CRC/C/KEN/CO/2 (2007); *Honduras*, para. 60(b), U.N. Doc. CRC/C/HND/CO/3 (2007); *Peru*, paras. 52-53, U.N. Doc. CRC/C/PER/CO/3 (2006); *Venezuela*, paras. 60-61, U.N. Doc. CRC/C/VEN/CO/2 (2007). The Committee on the Rights of the Child has repeatedly called on States parties to reduce maternal mortality. *See, e.g.*, Committee on the Rights of the Child, *Concluding Observations: Argentina*, paras. 47(b), U.N. Doc. CRC/C/15/Add.187; *Dominican Republic*, para. 62 (b), U.N. Doc. CRC/C/DOM/CO/2 (2008); *Mongolia*, para. 44(b), U.N. Doc. CRC/C/15/Add.264 (2005); *Nicaragua*, para. 49(c), U.N. Doc. CRC/C/15/Add.265 (2005); *Nigeria*, para. 49(a), U.N. Doc. CRC/C/15/Add.257 (2005); *Philippines*, para. 59(d), U.N. Doc. CRC/C/15/Add.259 (2005); *Thailand*, para. 52(b), U.N. Doc. CRC/C/THA/CO/2 (2006).

543 Committee on the Rights of the Child, *General Comment No. 4*, *supra* note 542, para. 30.

544 *Id*. para. 31.

545 Committee on the Rights of the Child, *Concluding Observations: Philippines*, para. 63(b), U.N. Doc. CRC/C/15/Add.259 (2005).

546 Rebecca J. Cook et al., *Unethical Female Stereotyping in Reproductive Health,* 109 Int'l J. of Gynecol. & Obstet. 255-258 (June 2010).

547 CEDAW, *supra* note 114, art. 2(e).

548 *Id*. art. 5(a).

549 CEDAW Committee, *Concluding Observations: Philippines*, para. 17, U.N. Doc. CEDAW/C/PHI/CO/6 (2006).

550 *Id*. at para. 18.

551 CEDAW Committee, *General Recommendation No. 19*, *supra* note 526, para. 6.

552 SRVAW, *Report of the Special Rapporteur on violence against women*, *supra* note 446, para. 57.

553 Violence against Women in Asian Societies 5 (Lenore Manderson, Linda Rae Bennett, eds., 2003).

554 CEDAW Committee, *Concluding Observations: Peru*, para. 25, U.N. Doc. CEDAW/C/PER/CO/6 (2007).

555 CEDAW Committee, *General Recommendation No. 24*, *supra* note 448, para. 12(d).

556 ICCPR, *supra* note 110, art. 17(1).

557 HRC, *General Comment 16*, 23rd, 1988, Compilation of General Comments and Recommendations Adopted by Human Rights Treaty Bodies, para. 1, U.N. Doc. HRI/GEN/1/Rev.1 at 21 (1994).

558 *Id*. para. 3.

559 *Id*. para. 4.

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561 HRC, *K.L. v. Peru*, *supra* note 487, para. 6.4.

562 CEDAW, *supra* note 114, art. 16(e); *ICPD Programme of Action*, *supra* note 122, para. 7.3.

563 *See, e.g.*, CEDAW Committee, *Concluding Observations: Chile*, para. 19, U.N. Doc. CEDAW/C/CHI/CO/4 (2006); *Democratic Republic of the Congo*, para. 36, U.N. Doc. (2006); *Guyana*, para. 621, U.N. Doc. A/50/38 (1995); *Ukraine*, para. 287, U.N. Doc. A/51/38 (1996).

564 *See, e.g.*, CEDAW Committee, *Concluding Observations: Antigua and Barbuda*, para. 267, U.N. Doc. A/52/38/Rev.1, Part II (1997); *Argentina*, para. 381, U.N. Doc. A/59/38 (SUPP) (2004); *Benin*, para. 158, U.N. Doc. A/60/38 (2005); *Burkina Faso*, para. 275, U.N. Doc. A/55/38 (2000); *Burkina Faso*, para. 350, U.N. Doc. A/60/38 (2005); *Burundi*, para. 62, U.N. Doc. A/56/38 (2001); *Cameroon*, para. 60, U.N. Doc. A/55/38 (2000); *Cape Verde*, para. 30, U.N. Doc. CEDAW/C/CPV/CO/6 (2006); *Chile*, para. 229, U.N. Doc. A/54/38 (1999); *Cuba*, para. 28, U.N. Doc. CEDAW/C/CUB/CO/3 (2006); *Czech Republic*, para. 102, U.N. Doc. A/57/38 (2002); *Democratic Republic of Congo*, para. 361, U.N. Doc. CEDAW/C/COD/CO/5 (2006); *Eritrea*, para. 23, U.N. Doc. CEDAW/C/ERI/CO/3 (2006); *Estonia*, para. 112, U.N. Doc. A/57/38, Part I (2002); *Georgia*, para. 112, U.N. Doc. A/54/38 (1999); *Greece*, para. 208, U.N. Doc. A/54/38 (1999); *Ireland*, para. 186, U.N. Doc. A/54/38 (1999); *Kazakhstan*, paras. 76, 106, U.N. Doc. A/56/38 (2001); *Lithuania*, para. 159, U.N. Doc. A/55/38 (2000); *Mali*, para. 34, U.N. Doc. CEDAW/C/MLI/CO/5 (2006); *Mongolia*, para. 274, U.N. Doc. A/56/38 (2001); *Mozambique*, para. 36, U.N. Doc. CEDAW/C/MOZ/CO/2 (2007); *Myanmar*, para. 130, U.N. Doc. A/55/38 (2000); *Nicaragua*, para. 301, U.N. Doc. A/56/38 (2001); *Nicaragua*, para. 18, U.N. Doc. CEDAW/C/NIC/CO/6 (2007); *Paraguay*, para. 131, U.N. Doc. A/51/38 (1996); *Paraguay*, para. 288, U.N. Doc. A/60/38 (2005); *Peru*, para. 25, U.N. Doc. CEDAW/C/PER/CO/6 (2007); *Slovenia*, para. 119, U.N. Doc. A/52/38/Rev.1 (1997); *Togo*, para. 28, U.N. Doc. CEDAW/C/TGO/CO/5 (2006); *Ukraine*, para. 290, U.N. Doc. A/57/38 (2002); *Vanuatu*, para. 35, U.N. Doc. CEDAW/C/VUT/CO/3 (2007); *Venezuela*, para. 243, U.N. Doc. A/52/38/Rev.1 (1997); *Zambia,* para. 243, U.N. Doc. A/57/38 (2002).

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"To save lives, prevent needless pain, suffering, and death – what better reasons can there be for urgent law reform.... Forsaken by the fundamentalist religious hierarchy and by the Philippine government is indeed an eloquent adjective to describe the lives of these unfortunate women whose excruciating experiences are detailed in this report."

– Alfredo F. Tadiar, former judge in the Philippines and first Filipino Chair for the International Development Law Organization

Women in the Philippines live under one of the most restrictive abortion laws in the world. The Philippine criminal ban on abortion contains no clear exceptions, which means that women are unable to terminate a pregnancy even when their life or health is severely threatened. The ban has further created an environment of stigma and fear, resulting in the abuse and discrimination of women who seek medical treatment for post-abortion complications. Despite the sweeping nature of the ban, there has been an overwhelming silence about the need to reform the law.

Forsaken Lives aims to bring forth the stories and voices of women in the Philippines, who have experienced needless death, suffering, and abuse under the ban. The report also documents its impact on healthcare providers, who do not receive adequate support from the government in terms of funding and training for post-abortion care. Relying on the testimonies of women and healthcare providers, ***Forsaken Lives*** illustrates the grave violations of women's human rights under the criminal ban. Through a human rights analysis, the report aims to highlight how the government has failed to fulfill its obligation to protect women's rights, and where reform must happen to bring an end to the human rights violations resulting from the ban.

Forsaken Lives is a call to action for the government, key stakeholders, and advocates to break the silence concerning the need for reform. Through recommendations to a wide range of actors, the report hopes to bring to light injustices suffered by women under the criminal ban and promote a broader dialogue about the need for change.

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