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The United Nations Human Rights Council

RE: Submission by EnGendeRights related to the Philippines for the United Nations Human Rights Council First Universal Periodic Review in April 2008

Fundamentalist Cultural and Religious Beliefs in Philippine Laws and Policies Deny Filipino Women's Right to Access Reproductive Health Information and Health Care Services

The right to health care, including reproductive health care and family planning is protected under Articles 12, 14(2)(b) and (c), and 10(h) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), however, the entrenchment of fundamentalist cultural and religious beliefs in Philippine laws and policies denies Filipino women's access to health information and health care services.

A. Lack of access to safe and legal abortion

A.1. Arrests and harassment of safe abortion service providers and women who induce abortion endangers women's health and lives

2000 estimates showed that approximately 473,000 women had abortions;¹ an estimated 79,000 women were hospitalized for complications due to abortion;² the abortion ratio was 18 induced abortions per 100 pregnancies;³ and approximately 800 women die every year due to complications resulting from unsafe abortion.⁴

In the August 25, 2006 Concluding Comments of the CEDAW Committee on the Philippines, it recommended for the removal of the punitive provisions on abortion.⁵ Despite such

¹ Singh S et al., *Unintended Pregnancy and Induced Abortion in the Philippines: Causes and Consequences*, New York: Guttmacher Institute, 2006, at 4.

² *Id.*, Singh S et al., at 5; The global statistics show that five hundred eighty five thousand women die annually from pregnancy-related causes. Eighty thousand of these women die from unsafe abortion. (I.H. Shah et al., *Unsafe Abortion*, Annual Technical Report 1999, WHO). There are 20 million unsafe abortions each year, 95% of which take place in developing countries with South-East Asia accounting for about 40% of global maternal mortality. (WHO, *Making Pregnancy Safer in South-East Asia*, Regional Health Forum, Vol. 6, No. 1, 2002.).

³ Singh S. et al., *id.* at 5.

⁴ Singh S et al., *id.*, at 5.

⁵ The CEDAW Committee urged the Philippines "to consider the problem of unsafe abortion as a matter of high priority. The Committee recommends that the State party consider reviewing the laws relating to abortion with a view to removing

recommendation, safe abortion providers and women who induce abortion are arrested or threatened to be arrested by certain police operatives and harassed by some television crews. These police operatives and television crews are blinded by their erroneous fundamentalist cultural and religious beliefs that abortion is immoral and should be penalized failing to understand the realities and dangers women face relating to the lack of access to safe and legal abortion. Some safe abortion service providers who provide the much-needed services that only women seek are also facing baseless criminal charges.⁶ The continued arrests and harassment of safe abortion providers make safe abortion less accessible for women contributing to the endangerment of women's health and lives.

A.2. Inhumane treatment of women who induce abortion

In 2000, the DOH introduced the Prevention and Management of Abortion and its Complications (PMAC) policy⁷ which aims to improve the health care services for women suffering complications from induced abortion. However, not all women who need post-abortion care are able to obtain it.⁸ In fact, the existing criminalization of abortion has created an extremely prohibitive environment leading to discriminatory and inhumane treatment of women seeking medical attention after having undergone an unsafe abortion. Punitive attitudes and actions such as verbal abuse and slapping by health care providers have been documented.⁹ Certain hospitals have been known to refuse to admit women who are already profusely bleeding as a result of unsafe abortion and in need of immediate medical attention.¹⁰ Other prevalent forms of abuse that have been documented include withholding use of anesthetics during Dilation & Curettage (D&C) procedures, withholding or delaying proper management of abortion complications, threatening to report women to the authorities, and placing signs labeling women as "criminals/murderers" for having resorted to

punitive provisions imposed on women who undergo abortion and provide them with access to quality services for the management of complications arising from unsafe abortions and to reduce women's maternal mortality rates." Committee on Elimination of Discrimination against Women Concluding Comments on the Philippines, 36th Session, August 25, 2006, United Nations, New York; The Philippines has one of the most restrictive abortion laws in the world--penalizing the woman who undergoes abortion and the person assisting the woman without providing clear exceptions even when the woman's life or health is in danger, the pregnancy is the result of rape, or fetal impairment. The Revised Penal Code imposes a range of penalties for women undergoing abortion and for providers of abortion services including imprisonment for 2 years, 4 months and 1 day to 6 years (Arts. 256, 258, 259 Revised Penal Code). Health professionals (e.g., doctors, midwives, or pharmacists) who are caught providing abortion services or dispensing abortive drugs also run the risk of having their license to practice suspended or revoked. (The Medical Act of 1959, Republic Act No. 2382, art. III, § 24 (1959) (Phil.); The Philippine Midwifery Act of 1992, Republic Act No. 7392, art. III, § 25 (1992) (Phil.); An Act Regulating the Practice of Pharmacy and Setting Standards of Pharmaceutical Education in the Philippines and of Other Purposes, Republic Act No. 5921, act. III, § 13 (1969) (Phil.)).

⁶ Clara Rita Padilla, Gender Issues in Legal Ethics, powerpoint presentation before the Integrated Bar of the Philippines Eastern Visayas Convention, Cebu, Philippines (April 28, 2006).

⁷ Department of Health, Prevention and Management of Abortion and Its Complications (PMAC) Policy, Administrative Order No. 45-B, s2000, at 1 (May 2, 2000) [hereinafter PMAC Policy].

⁸ See SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 1, at 22.

⁹ Ermita Declaration, "Respect, Protect, and Fulfill SRHR for All," adopted during the First National Consultation Meeting Among Members and Partners of the Reproductive Rights Resource Group-Philippines, May 27-30, 2003, Ermita, Manila.

¹⁰ *Id.*

induced abortions.¹¹ These practices have deterred women who need post-abortion care from seeking medical help.

Studies show that low income women are disproportionately impacted by the ban on abortion. It is estimated that around two-thirds of women who undergo abortion are poor.¹² Due to the relatively high cost of safer methods such as manual vacuum aspiration (MVA) and dilation and curettage (D&C), low income women are compelled to opt for cheaper methods which tend to be unsafe such as herbal drinks purchased from street vendors, and the insertion of objects into the cervix.¹³

A.3 lack of access to modern contraceptives contributes to abortion incidence and maternal mortality related to lack of access to safe and legal abortion

A recent study shows that 54% of women who have undergone abortion in the Philippines were not using any family planning method when they conceived and three-fourths of those using contraception resorted to traditional means.¹⁴ This, in turn, has led to high maternal mortality rate in the Philippines, which stands at 200 deaths per 100,000 live births, one of the highest rates in the East and South-east Asia region.¹⁵ This is extremely high when compared with other countries such as Spain (4), Italy (5), Canada (6), United States (17), Singapore (30), Malaysia (41), and Thailand (44).¹⁶

It is pertinent to note that several predominantly Catholic countries now allow safe and legal abortion. Belgium, France, and Italy, permit abortion upon a woman's request.¹⁷ Hungary permits abortion on broad grounds despite its constitutional protection of life from conception.¹⁸ On April 24, 2007, Mexico City legalized abortion in the first trimester without restriction. Portugal now allows abortion up to 10 weeks of pregnancy.¹⁹ Colombia recently liberalized its law to allow abortion in cases where the woman's life or health is in danger, the pregnancy is the result of rape, and/or when the fetus has malformation incompatible with life outside the uterus.²⁰ Spain, on

¹¹ Lina Reyes, *Real-life Dramas in Uncharitable Wards*, WOMEN'S FEATURE SERVICE, November 22, 2002 (on file at EnGendeRights); Junice Melgar, Philippines: Barriers Impeding Reproductive Health and Rights, *available at* http://www.remedios.com.ph/fhtml/mk1q2005_pbir.htm (Last visited August 1, 2006).

¹² SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 1, at 15.

¹³ *Id.* at 19.

¹⁴ *Id.* at 4.

¹⁵ United Nations Population Fund (UNFPA), 2006 State of the World Population.

¹⁶ *Id.*

¹⁷ CENTER FOR REPRODUCTIVE RIGHTS, RELIGIOUS VOICES WORLDWIDE SUPPORT CHOICE: PRO-CHOICE PERSPECTIVES IN FIVE WORLD RELIGIONS. Briefing paper. (2005) *available at* http://www.reproductiverights.org/pdf/pub_bp_tk_religious.pdf [hereinafter, CENTER FOR REPRODUCTIVE RIGHTS, RELIGIOUS VOICES]; *see also* Center for Reproductive Rights, *The World's Abortion Laws 2007*.

¹⁸ Hungary, Law No. 79 of 17 Dec. 1992 on the Protection of the Life of the Fetus, *translated in* 44 INTERNATIONAL DIGEST OF HEALTH LEGISLATION 249, 249-50 (1993).

¹⁹ up to 12 weeks if the woman's health is at risk; up to 16 weeks if the pregnancy is a result of rape; any time during the pregnancy to save a woman's life.

²⁰ Press Release Women's Link Worldwide, the Colombian Constitutional Court Decision (May 10, 2006) *available at* http://www.womenslinkworldwide.org/pdf/proj_news_051006releaseb.pdf.

whose laws the Philippine abortion law is based, permits abortion on grounds of rape and fetal impairment²¹ leaving the Philippines to contend with its colonial laws.

B. The failure to register specifically dedicated emergency contraceptive pills denies women their right to prevent unwanted pregnancies.

Another example of the power of fundamentalist cultural and religious beliefs and its far reaching impact on women is the lack of access to emergency contraceptive pills (ECPs) for rape victims and for women in general. Ever since the emergency contraceptive pill, Postinor, was delisted by the Bureau of Food and Drug in December 2001, no specifically dedicated ECP has been registered. This failure to register specifically dedicated ECPs denies women their right to prevent unwanted pregnancies.

Over 700,000 women experience unintended pregnancies in the Philippines every year.²² Lack of access to ECPs unnecessarily exposes women to the multiple risks associated with unintended pregnancy. At the very least, EC must be made available as part of routine emergency health care for victims of sexual violence. Considering the nature and scope of the public health crisis created by unintended pregnancy, it should also be made available more generally to women without discrimination on the basis of age and income. The registration of specifically dedicated ECPs such as levonorgestrel in the registry of available drugs would be an important first step toward preventing unwanted pregnancies and abortions, and reducing maternal mortality.

C. Adolescents' Right to Access to Information and Reproductive Services (Articles 10 (h), Article 16(e)); Religious interference has undermined their access to reliable information about reproductive health care

According to the 1998 NDHS, an estimated 10.8% of rural girls and 4.7% of urban girls aged 15–19 had already begun childbearing.²³ According to the National Statistics Office, in 1998, 6.3% of reported maternal deaths were the deaths of girls aged 15–19.²⁴ The 2002 Young Adult Fertility and Sexuality Study, a periodic survey of young people's sexuality and fertility behavior, revealed that 31% of young adult males and 15% of young adult females had already engaged in premarital sex.²⁵ The study also showed that dangerous misconceptions about HIV/AIDS abound, with 28% of young adults believing that HIV/AIDS is curable, and 73% thinking that they are immune to HIV.²⁶

²¹ CENTER FOR REPRODUCTIVE RIGHTS, RELIGIOUS VOICES, *supra* note 17; Center for Reproductive Rights, *The World's Abortion Laws 2007*, *supra* note 17.

²² SINGH ET AL, UNINTENDED PREGNANCY, *supra* note 1, at 4.

²³ PHILIPPINE NATIONAL STATISTICS OFFICE, NATIONAL DEMOGRAPHIC AND HEALTH SURVEY (NDHS)1998, at 45 tbl.3.10 (1998) *available at* http://www.measuredhs.com/pubs/pub_details.cfm?ID=67&PgName=country&ctry_id=34. The 2003 National Demographic and Health Survey shows that among young women aged 15–24, 23.3% in urban areas and 31.3% in rural areas have begun childbearing. NDHS 2003, *supra* note 34, at 51 tbl.4.9.

²⁴ NATIONAL STATISTICS OFFICE, VITAL STATISTICS REPORT 1998, 24 (2002) Of the 1,579 reported cases of maternal death in 1998, 99 (6.3%) were girls aged 15-19. *Id.*

²⁵ Press Release, Demographic Research and Development Foundation & the UP Population Institute, 2002 Young Adult Fertility and Sexuality Study (YAFS 3): The Youth are Not Alright (Dec. 12, 2002), <http://www.yafs.com/downloads/youth.pdf> (last visited July 4, 2006). The Young Adult Fertility and Sexuality Survey refers to those between 15–24 years old as young adults [hereinafter Press Release, YAFS 3].

²⁶ Press Release, YAFS/Demographic Research and Development Foundation & the UP Population Institute, Filipino Youth Think They Have Immunity from HIV/AIDS (Nov. 26, 2004), <http://www.yafs.com/downloads/aids.pdf> (last visited May 17, 2005).

A 2004 National Survey of Women revealed that close to 50% of abortion attempts occur among young women.²⁷

Despite the existence of Adolescent and Youth Health and Development Program (AYHDP) of DOH, Filipino adolescent youth do not receive evidence-based information and education on sexuality and reproductive health and services.²⁸

Religious interference has undermined their access to reliable information about reproductive health care. There is an impending threat that the Department of Education (DEPED) program on adolescent reproductive health will be stopped completely because of pressure from the fundamentalist members of Presidential Commission on Values Formation that have sent position papers urging President Gloria Macapagal-Arroyo to halt the project.²⁹

Adolescents must be provided with information and services necessary to enable them to protect themselves from unwanted/coerced sex, unplanned pregnancy, early childbearing, unsafe abortion, HIV/AIDS, and sexually transmitted infections (STIs). This requires full government support in the form of policies, services, programs, and activities that are youth-friendly, rights and evidence-based, confidential, and participatory.

Philippine Obligations under International Law

The government must ensure that women should have access to information and to full range of contraceptives as well as emergency contraceptives. This is to ensure that women and men are able to make informed choices on what contraceptive method to use, to be safe from sexually transmitted diseases, to be able to control the size of family they want, when to have or not have a child and so forth. Studies show that high contraceptive prevalence rate prevents unwanted pregnancies, therefore, lowers incidence of unsafe abortion. The government should also provide access to safe and legal abortion as a guarantee for women's right to self-determination and in an effort to reduce maternal mortality.

It is the obligation of the Philippine government as cited in the recent CEDAW Committee Concluding Comments on the Philippines to "strengthen measures aimed at the prevention of unwanted pregnancies, including by making a comprehensive range of contraceptives more widely available and without any restriction"³⁰; "give priority attention to the situation of adolescents and that it provide sex education, targeted at girls and boys, with special attention to the prevention of early pregnancies and sexually transmitted diseases."³¹

²⁷ Juarez F. Cabigon J & S. Singh, Unwanted Pregnancies in the Philippines: the Route to Induced Abortion and Health Consequences, paper presented at the 25th International Union for the Scientific Study of Population General Conference, Tours, France (July 18-23, 2005) (citing the 2004 National Survey of Women)

²⁸ See CENTER FOR REPRODUCTIVE RIGHTS (CRR) & ASIAN- PACIFIC RESOURCE AND RESEARCH CENTER FOR WOMEN (ARROW), WOMEN OF THE WORLD (WOW): LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES (EAST AND SOUTHEAST ASIA), New York, 2005, at 143.

²⁹ See Rio N. Araja, *Bishops Oppose Safe Sex Lessons*, Manila Standard Today, June 10-11, 2006, available at http://www.manilastandardtoday.com/?page=politics01_june10_2006 . See the DEPARTMENT OF EDUCATION (PHIL.), LESSON GUIDES ON ADOLESCENT REPRODUCTIVE HEALTH: A POPULATION AND EDUCATION CONCEPT, (2005) (on file at EnGendeRights);

³⁰ CEDAW Concluding Comments on the Philippines, *supra* note 5.

³¹ *Id.*