



# STRENGTHENING GENDER EQUALITY IN LAW:

AN ANALYSIS OF PHILIPPINE LEGISLATION



**Philippine  
Commission  
on Women**



Strengthening Gender Equality in Law: An Analysis of Philippine Legislation  
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# FOREWORD

Equality in law is crucial for gender equality. Laws and policies shape the realities of women and girls in all aspects of life and in all parts of society. Just laws can be instruments to protect, promote and fulfill the rights of women and girls, contributing to just and inclusive societies, where no woman or girl is left behind.

The passage of laws can guarantee equality between women and men, strengthen the position of women in political and public life, promote education for all genders, and ensure access to justice. However, the law can also be a means to discriminate or deny rights. Across all governments and through different societies, the presence of discriminatory laws hinders the realization of a just and equal society.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) recognizes the significant role of laws in ensuring gender equality. Article II of CEDAW mandates that State Parties must “adopt appropriate legislative and other measures (...) prohibiting discrimination against women” and must “take all appropriate measures to eliminate discrimination against women by any person, organization, or enterprise”.

When the Philippines ratified CEDAW in 1981, the country pledged to eliminate discrimination against women. Since then, the Philippines has passed legislations to adhere to the mandate of CEDAW, which includes among others the Magna Carta of Women, which is the local translation of CEDAW, the Anti-Violence Against Women and their Children Act, and the Responsible Parenthood and Reproductive Health Act.

But the road to a just and equal society is long, and women, girls, civil society, and government actors agree that there is still much to do to achieve gender equality.

More than 2.5 billion women and girls are still affected by discriminatory laws and the lack of legal protections. In the Philippines, significant hurdles remain to be overcome to eradicate discrimination against women. These include changes to uphold equality in marriage and family relations, the repeal of certain criminal law provisions, and promotion of women’s political participation and representation.

As a response to the pervasive impact and existence of discriminatory laws against women and girls, global inter-governmental, civil society and development partners launched the “Equality in law for women and girls by 2030: A multi-stakeholder strategy for accelerated action”. The call to action seeks to fast-track the repeal of discriminatory laws in six thematic areas: comprehensive reforms, women’s economic empowerment, minimum age of marriage provisions, nationality rights, discriminatory rape laws, and family and personal status laws.<sup>1</sup> Among the focus areas of the strategy is comprehensive reform, which starts with the identification of gender discriminatory laws and provisions through a comprehensive legal analysis.

To support the strategy, the International Development Law Organization, UN Women and the Philippine Commission on Women partnered to produce this legal assessment report, which aims to shed light on the status of women in the Philippines. The assessment looks into relevant legislation and case law that may have direct or indirect, as well as intersecting or multiple, discriminatory provisions. It seeks to understand and pinpoint such laws and make recommendations for repeal, reform, or amendment.

International Development Law Organization, UN Women, and the Philippine Commission on Women hope that all stakeholders will move forward with clarity and purpose in the elimination of discriminatory laws against women and girls. Only with the collective work of all stakeholders—the legislative, the executive, civil society organizations and development partners, among others—can we guarantee lasting change and ensure that women and girls exercise and enjoy their human rights and fundamental freedoms in a gender equal society.

# EXECUTIVE SUMMARY

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The International Development Law Organization (IDLO) and UN Women, in partnership with the Philippine Commission on Women, conducted an assessment of Philippine laws to facilitate the elimination or reform of laws that discriminate against women and girls.

This assessment report was prepared through a desk review of the 1987 Philippine Constitution, landmark legislation on women, as well as relevant legislation and case law that may have direct or indirect as well as intersecting or multiple discriminatory provisions. It likewise looked into studies on Philippine laws from various sources as well as reports submitted by the Philippines to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) and other treaty bodies. Challenges and gaps in these laws were also identified with reference to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the CEDAW Committee's General Recommendations and Concluding Comments on the periodic reports of the Philippines, as well as the recommendations of other international human rights treaty bodies on issues relating to gender equality in international human rights law. The report on the Philippines following the third cycle of the Universal Periodic Review in 2017 was also considered.

Online consultations, through key informant interviews and focus group discussions, with government, civil society organizations and academia were undertaken. Among these, the House of Representatives and Senate were consulted for the purposes of reviewing the key laws that were identified for analysis, as well as the initial findings of the research team. A total of 27 respondents were chosen based on their expertise as academics or because of position held, and their exposure to the issue as advocates. The Inception Report was presented to the Philippine Commission on Women to inform the content of the report and its methodology.

The team reviewed and assessed 51 laws. These laws translate international human rights conventions such as CEDAW into domestic law, as in the case of Republic Act No. 9710, known as the Magna Carta of Women, or contain significant provisions of other international treaties pertinent to women's rights. Indeed, the Philippines has an expansive array of laws that seek to promote, protect and fulfill women's human rights. However, many gaps remain in implementation, monitoring and reporting. There is also a need for both houses of Congress and the Commission on Human Rights, as the designated Gender Ombud under the Magna Carta of Women, to exercise their oversight function in the implementation of laws. Using reports on the implementation of the laws could inform legislators on appropriate reforms that not only advance the State's obligation to fulfill the laws but also the achievement of non-discrimination and substantive equality. Most importantly, the repeal, revision or amendment of laws or the issuance of new ones, as well as their application in jurisprudence, are contingent on the mindsets of legislators, prosecutors and the judiciary. Misogyny and prevailing gender stereotypes and biases against women hamper the elimination of discriminatory legal provisions and the political will to ensure gender equality.

Considering that this assessment was conducted during the COVID-19 pandemic, the report includes observations on the limitations of existing laws, especially with regard to protecting women and girls against violence, and takes into consideration the heightened risks faced by women across different sectors. The penultimate draft of the report was presented and validated in an online multi-stakeholder forum in September 2020 under the auspices of the Philippine Commission on Women, IDLO and UN Women. The comments and feedback received during the forum were also integrated into the report.

An overview of the report’s key findings and recommended legislative actions are given below.

## Protection from discrimination

The Magna Carta of Women is a source of enforceable women’s rights, but it is also a policy document from where many other laws may be derived. Since its passage in 2009, only one out of the six stipulated discriminatory laws has been repealed. While the Magna Carta of Women is the framework law on women’s human rights in the Philippines, there are specific provisions that need to be amended, such as the need to specify a timeframe for completion of repeal and amendment of discriminatory laws or a quota in relation to women’s representation and participation in all spheres of society, particularly in the decision-making and policymaking processes in government and private entities. There is likewise a need to propose a new law protecting against violence and discrimination based on sexual orientation and gender identity.

## Guarantee of basic human rights and fundamental freedoms

The laws reviewed under this thematic area covered the rights of witnesses, persons arrested, detained or under custodial investigation as well as victims of human rights violations. These laws, however, do not have specific considerations for women such as care responsibilities; health (including mental and reproductive health) and hygiene needs; legal aid; interpretation and translation; and protection from all forms of harassment, exploitation, abuse and violence, among others. Bills are pending, based on proposals for a new law to be passed covering not just reparations, but in consideration of the larger transitional justice responses to all types of atrocities and systemic abuses against women and the marginalized (indigenous peoples, indigenous cultural communities, internally displaced populations, etc.).

## Protection from violence

Most of the laws reviewed under this section are part of the affirmative action to protect women from abuse, harassment and violence. While this is so, some laws need to be amended, such as the Anti-Rape Law, which does not include the lack of consent as a necessary element in the definition of the crime of rape. Current laws are more on the

palliative side, i.e., they address violence against women after the crime has been committed, rather than address its root causes through education, elimination of gender biases and stereotypes in education, instruction, media and social media, and engaging with men and boys, among others. Emerging issues such as online violence and exploitation and harassment in public spaces have been addressed; however, violence in the context of natural and human-induced disasters such as armed conflict needs further legislative response. Several laws need to be revised or amended to ensure that cases relating to violence against women and girls are not settled outside the criminal justice system, to increase penalties for sexual harassment, and to harmonize sexual harassment laws, whether the harassment takes place online or offline, among others. The “forgiveness” clause under the Anti-Rape Law of 1997, which permits impunity for rapists, must also be repealed. Another aspect of rape law that requires amendment is raising the age of consent for sexual contact from 12 to 16 years.

## Representation in political and public life

The laws in this section provide for specific seats for women’s representation in the public sector or consultative bodies at the local level. Recommendations call for, among others, the harmonization of provisions regarding women’s participation and representation as specified in Section 11 of the Magna Carta of Women. Women’s leadership in political parties and in the private sector still needs to be addressed. While there are indeed allocated seats for women in the public sector, it is important to use the oversight provisions of these laws to assess the extent to which women’s representation has changed legislation and policies and transformed power and decision-making processes and structures to give space and voice to poor and marginalized women.

## Nationality

There were two laws reviewed in this section pertaining to naturalization of aliens to Filipino citizenship. These laws, however, do not provide the same rights to foreign spouses, nor the same effects once naturalization is granted. It is recommended that these laws be amended to allow qualified aliens—whether male or female—to file for naturalization and contribute to the benefit of the entire family unit.

## Education

Empowering communities to create better learning environments in the earliest stages of education is the core of the Early Years Act, or the Early Childhood Care and Development Act, a law that seeks to provide guidance on early education. While unequal access between the sexes to education is not an issue in the Philippines, the access to quality education for those on the margins—such as those living in poverty, those affected by armed conflict or those in rural areas—is an area of concern. The Early Years Act addresses this gap by strengthening local government units through promoting convergence initiatives on health, nutrition and early education.

## Employment

Labor and employment laws reviewed in this section ensure equal pay for work of equal value. However, the Labor Code still contains discriminatory provisions that reinforce the burden of care work on women alongside paid work. Much of the support in the workplace is related to women’s maternity, hence the inclusion of measures and facilities that enable women to perform their paid work, but without reference to men’s equal or shared responsibility for care work. Stereotyped views about certain occupations being “for women”, as in the case of those working in nightclubs, are present in the Labor Code as well. The impact of violence against women in the workplace needs to be understood, and laws enabling the provision of support to address this violence should be created. There are laws addressing the situation of women domestic workers and migrant workers, however, concrete measures are still needed to protect women from abuse, harassment and violence in their workplaces.

## Health

The laws reviewed in this section focused on women’s reproductive health. These laws fall short on recognizing the issues and realities faced by of a broad spectrum of women—adolescents, older women, women with disabilities, rural women, Muslim and indigenous women, and lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI), among others—who face discrimination and difficulties in accessing health services, including sexual and reproductive health services. Also, there is a need to enact a new law to specifically address the reproductive health concerns of vulnerable groups such as adolescents.

## Economic and social benefits

The majority of the economic and social benefits in the laws reviewed focused on women in the formal economy, maternity leave and pay, and childcare. As is the case with laws related to healthcare, laws on economic and social benefits fall short on recognizing the issues and realities of a broad spectrum of women who face discrimination and difficulties in accessing economic and social benefits. More importantly, the issue of economic violence against women is not recognized in these laws, and neither is the gender dynamics in the household that may impede women in accessing economic and social benefits.

## Marriage and family

The majority of discriminatory legal provisions against women are in the area of marriage and family. These laws are anchored in patriarchy and prevailing gender stereotypes, such as Articles 96 and 124 of the Family Code, which give preference to the husband’s decision when it comes to community and conjugal properties, and Article 211, which gives preference to the husband’s decision in cases of disagreement over common children. It is necessary to link these laws with protection from violence, especially in the domestic sphere. It is also important to examine how laws relating to marriage and family affect women’s ability to work and participate in public or political life, and reform these laws accordingly.

## Intersectional discrimination affecting particular groups of women and girls

Existing laws recognize the specific experiences of Moro and indigenous women. Although there are laws on senior citizens and women with disabilities, these laws focus on providing benefits and fail to recognize the vulnerabilities of women in these groups to abuse, harassment, neglect and violence. Thus, the laws provide no support programs or mechanism to address these vulnerabilities. There are also no laws to address discrimination against LGBTQI people. There is also a lack of recognition of harmful practices that violate the human rights of women and girls such as early and forced marriages, polygamy, etc., which are justified by reference to ideas of “tradition” or “culture”.

**IN SUMMARY, BASED ON THE ASSESSMENT OF PHILIPPINE LAWS, THE FOLLOWING RECOMMENDATIONS ARE MADE:**

- Four laws include legal provisions that are recommended for repeal due to their discriminatory nature:
  1. Presidential Decree No. 1083 or the Code of Muslim Personal Laws on marriage, rights over inheritance and divorce, and marriage after death of the husband.
  2. Republic Act No. 8353 on the forgiveness clause in cases of rape.
  3. Executive Order No. 209 or the Family Code of the Philippines: (a) Article 14 on the provision on giving preference to the father's consent to the marriage of children between the ages of 18 and 21; (b) Articles 96 and 124 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the administration and enjoyment of community and conjugal properties; (c) Article 211 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, over the persons of their common children; (d) Article 225 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the exercise of legal guardianship over the property of unemancipated common child; (e) Article 55, No.1 on the requirement for repeated physical abuse and grossly abusive conduct as a ground for legal separation.
  4. Act No. 3815 or the Revised Penal Code: (a) Articles 333 and 334 on adultery and concubinage; (b) Article 202 on the definition of vagrants and prostitution; (c) Article 351 on premature marriages; and (d) Article 247 on death inflicted under exceptional circumstances.
- Thirty-nine laws are recommended for revision or amendments due to gaps in implementing various CEDAW General Recommendations, Concluding Observations of the CEDAW Committee to the Philippines, and the recommendations of other treaty bodies overseeing the implementation of international human rights treaties ratified by the Philippines; while the rest of the laws are requested to be harmonized with the provisions of the Magna Carta of Women, or through the use of the oversight functions of both houses of Congress.
- Seven new laws are recommended to address issues relating to the rights of women and girls that are not yet addressed in existing laws:
  1. A law establishing a national preventive mechanism against torture and cruel, inhuman or degrading treatment or punishment. A law should be drafted that is consistent with the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). This mechanism should, at the minimum: a) regularly examine the treatment of persons held in places of detention, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment; b) make recommendations to the relevant authorities to improve the treatment and conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations; and c) submit proposals and observations concerning existing or draft legislation.
  2. A law on transitional justice. A new law should be drafted and passed that covers not just reparations but also addresses the larger transitional justice responses to all types of crimes recognized in international human rights law, and the systemic abuse of women and others who are marginalized because of their identity (indigenous peoples, indigenous cultural communities, internally displaced populations, etc.). Such a law should recognize their dignity and establish full reparation for human rights violations. This is necessary to prevent the recurrence of similar violations by making institutions accountable and making women's access to justice a reality in the aftermath of these violations.
  3. A law to protect the rights of internally displaced populations. While the Magna Carta of Women has provisions for the protection of women and girls in conflict-affected communities as well as provisions for a special development fund for internally displaced populations under the Bangsamoro Organic Law, there is a need to draft and pass a national legal framework, consistent with the Guiding Principles on Internal Displacement. The adoption of this law will certainly impact women internally displaced populations and

their families especially those still in internally displaced populations or evacuation camps, or those who are unable to return or reunite with their families, by providing them with rights and remedies specific to their circumstances. The bill on the rights of internally displaced populations was part of the common legislative agenda of the Legislature and the Executive branch in the 16<sup>th</sup> Congress but was not passed. It was filed again in the 18<sup>th</sup> Congress, but was still pending as of February 2021.

4. A law protecting against violence and discrimination based on sexual orientation and gender identity. While the Magna Carta of Women clearly defines non-discrimination, there is a need for a law to protect LGBTQI individuals against abuse, violence and discrimination in all spheres of life. The law must uphold the UN Human Rights Council Resolution 32/2 (2016) on the protection against violence and discrimination based on sexual orientation and gender identity. A bill on this was filed in the 18<sup>th</sup> Congress but was still pending as of February 2021.
5. A law to eliminate online sexual exploitation of children. A new law should include measures such as prosecution of live-streaming content, which is absent in current anti-child pornography laws. This kind of exploitation affects both girls and boys but has different effects according to gender. Therefore, the respective experiences of girls and boys should be reflected in any new law in order to recognize the harm done to them through these crimes.
6. A law to address reproductive health concerns of vulnerable groups such as adolescents. A new law should specifically address access of adolescents to reproductive healthcare services and commodities without parental consent and should specify that adolescents should be provided with comprehensive information on sexual and reproductive health and rights, responsible sexual behavior, prevention of early pregnancies and prevention of sexually transmitted infections/diseases, including HIV and AIDS.

7. A law to recognize and address the issues of women in the informal economy. In line with International Labour Organization (ILO) Recommendation 204, a new law should be enacted that provides for a conceptual and operational definition of the informal economy based on the international definition, which recognizes the roles and contributions of informal workers, particularly women in the care economy. A new law should ensure their visibility in data, as well as recognize their rights such as the right to self-organize, the right to decent work, and the right to just and humane working conditions, including protection from all forms of abuse, exploitation, harassment and violence. It should also ensure that women in the informal economy have access to social and economic protection and benefits.

- Relevant international conventions should be ratified, such as:
  - The Convention for the Protection of All Persons from Enforced Disappearance. Enforced disappearance has particular impacts on women and girls who are victims as well as on those who are family members of victims.
  - 45 ILO conventions including Night Work Convention (No. 171) and its Protocol, Home Work Convention (No. 177), Maternity Protection Convention (No. 183) and Violence and Harassment Convention (No. 190).

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# ACRONYMS

<b>4Ps</b>	<b>Pantawid Pamilyang Pilipino Program</b>
<b>AIDS</b>	<b>Acquired immunodeficiency syndrome</b>
<b>CAT</b>	<b>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</b>
<b>CEDAW</b>	<b>Convention on the Elimination of All Forms of Discrimination Against Women</b>
<b>CHED</b>	<b>Commission on Higher Education</b>
<b>ECCD</b>	<b>Early Child Care and Development</b>
<b>ECOSOC</b>	<b>United Nations Economic and Social Council</b>
<b>HIV</b>	<b>Human immunodeficiency virus</b>
<b>IDLO</b>	<b>International Development Law Organization</b>
<b>ILO</b>	<b>International Labour Organization</b>
<b>LGBTQI</b>	<b>Lesbian, gay, bisexual, transgender, queer, and intersex</b>
<b>OPCAT</b>	<b>Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</b>
<b>Pag-IBIG</b>	<b>Home Development Mutual Fund</b>
<b>UN Women</b>	<b>United Nations Entity for Gender Equality and the Empowerment of Women</b>
<b>UNICEF</b>	<b>United Nations Children's Fund</b>
<b>VAW</b>	<b>Violence against women</b>

# INTRODUCTION

## Background

The Philippines is an archipelago of more than 7,600 islands located in Southeast Asia. Muslim traders brought Islam to its southern islands in the thirteenth century, and it spread throughout the archipelago, resulting in the creation of sultanates. Spanish explorers arrived in the islands in 1521, signaling the start of more than 300 years of colonization. On 12 June 1898, the Philippines gained its independence from Spain. This was followed by the Philippine-American War and subsequently, the establishment of a Commonwealth government, which eventually guaranteed the transition to full independence in 1946.

The Philippine economy relies primarily on agriculture and foreign remittances from overseas workers. The gross domestic product for 2019 was estimated at USD 376.8 billion or approximately Php 18.1 trillion.<sup>2</sup>

The country is in the Pacific Ring of Fire, often ravaged by natural disasters such as typhoons and earthquakes. It is also facing human-induced disasters such as armed conflict and violent extremist attacks. As with most countries of the world, it is also battling the effects of the COVID-19 pandemic, at the time of writing.

In 1986, the country had its first female president, Corazon Cojuangco Aquino, who came to power through a “bloodless revolution” that toppled almost three decades of dictatorship. In 2001, Gloria Macapagal-Arroyo, who was vice president at the time, took her oath as president when President Joseph Estrada resigned, thus becoming the country’s second female president. She was elected to a full term in 2004.

The 1987 Philippine Constitution, the present constitution of the country, is the fundamental and supreme law of the land. Other sources of Philippine law are as follows:

- Statutes such as acts of both houses of Congress (House of Representatives and Senate), local legislation, court rules, administrative rules and orders, legislative rules and presidential issuances.
- Treaties or international agreements that have the same force of authority as statutes as concurred by at least two-thirds of the Members of the Senate.<sup>3</sup>
- Judicial decisions applying or interpreting the laws or the Constitution.<sup>4</sup>
- Customs proved as a fact and not contrary to law, public order or public policy.<sup>5</sup>
- Sharia applicable to Muslim Filipinos.<sup>6</sup>

The Philippines is a State party to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and to its Optional Protocol. In 2009, the Philippines passed Republic Act No. 9710 or the Magna Carta of Women, considered as the domestic translation of CEDAW. This landmark law defines discrimination against women, the achievement of substantive equality and the provision of temporary special measures for women, and the obligations of the State as the primary duty bearer. It also serves as the framework for crafting succeeding bills and legislation to uphold women’s human rights. It strengthens the role of the Philippine Commission on Women—the primary policymaking and coordinating agency on women and gender equality concerns—and designates the Commission on Human Rights as the Gender Ombud.

The Government of the Philippines is committed to “lay down the foundation for inclusive growth, a high-trust and resilient society, and a globally competitive knowledge economy” as stated in its Philippine Development Plan: 2017–2022.<sup>7</sup>

This plan articulates the current administration's development priorities and strategies, including its legislative agenda. Gender considerations were included in this framework plan in terms of protection of vulnerable sectors; expansion of economic opportunities in the agriculture, forestry and fisheries sectors; support to women's participation in the labor market including women migrant workers, and extended maternity and paternity leave rights to encourage shared child care; protection of women's rights in conflict situations and expansion of their role in the peace process; and establishment of safe spaces for internally displaced women and their children, among others.

In addition to the legislative agenda as indicated in the Philippine Development Plan, a Women's Priority Legislative Agenda is also set forth by the Philippine Commission on Women. The agenda is a set of proposed bills that seek to amend or repeal the discriminatory provisions of existing laws and moves for the formulation and adoption of new legislation that promotes women's empowerment and gender equality (See Annex 1: Comparative Table of Women's Priority Legislative Agenda). The agenda is limited in scope and only involves 10 to 12 priorities per Congressional session.

A brief review of the legal landscape of the Philippines shows that while the 1987 Philippine Constitution guarantees the equality of women and men before the law, and women-specific and gender-responsive statutes have been passed thereafter, several statutes remain discriminatory to women, directly and indirectly. These discriminatory laws pertain mostly to personal and family laws that permeate women's agency within and beyond the domestic sphere, affecting gender relations and the achievement of substantive equality in the paid work environment and public or political life. Thus, this legal assessment, which analyzes existing laws within a gender framework, is critical to combat discrimination as well as to protect, promote and fulfill women's human rights.

### Elimination of discriminatory laws: a global context and strategy

Within this framework, IDLO is implementing a project that supports the elimination of discriminatory laws in the Philippines, aligning to the "Equality in law for women and girls by 2030: A multi-stakeholder strategy for accelerated action"

led by UN Women. This strategy was launched by IDLO together with the Inter-Parliamentary Union, the African Union, the Commonwealth, Internationale de la Francophonie, Secretaría General Ibero-Americana, and other institutions at the 63<sup>rd</sup> session of the United Nations Commission on the Status of Women in March 2019 to serve as a framework for accelerated action on eliminating de jure discrimination in the following six priority areas:

- **Comprehensive reforms:** Repeal discriminatory laws that directly and indirectly impact women and girls.
- **Promoting women's economic empowerment:** Repeal laws that undermine equal pay, recognition of unpaid care work, protection of domestic workers, parental leave and freedom of choice of employment.
- **Eliminating harmful and discriminatory minimum age of marriage provisions:** Promote 18 years as the minimum age of marriage, equalize the age of marriage between women and men, and eliminate related exceptions as appropriate.
- **Ending gender discrimination in nationality laws:** Uphold women's rights to equality in nationality and citizenship laws.
- **Addressing discriminatory rape laws:** Revise provisions that exempt perpetrators from rape charges if they marry the survivor.
- **Promoting equality in family relations:** Repeal gender-discriminatory personal status laws (one or more of the following: marriage, divorce, parental rights and inheritance).

The goal of the project is to facilitate the elimination or reform of laws that discriminate against women and girls. The first step of this initiative entails undertaking a legal analysis of national laws from a gender perspective, a joint initiative with UN Women, in partnership with the Philippine Commission on Women.

## Methodology

The report was prepared by a team of experts through a desk review of relevant statutes and case law. The desk review entailed a gender analysis of the 1987 Philippine Constitution, landmark legislation on women as well as other legislation passed before the constitution that is still in effect and may have direct or indirect, as well as intersecting or multiple discriminatory provisions. It likewise reviewed the various reports submitted by the Philippines to the CEDAW Committee and other treaty bodies as well as studies on Philippine laws from various sources. Challenges and gaps in these laws were identified with reference to CEDAW as well as the CEDAW Committee's General Recommendations and Concluding Comments on the periodic reports of the Philippines. Also considered was the report of the Philippines in the third cycle of the Universal Periodic Review in 2017. The team also used the UN Women's Checklist for Undertaking a Legal Analysis from a Gender Perspective to ensure synergies with global initiatives to eliminate gender-discriminatory laws. Online consultations, through key informant interviews and focus group discussions with government, civil society organizations and academia, were undertaken. Among these, the House of Representatives and Senate were consulted to review the choice of key laws that were identified for analysis, as well as the initial findings of the research team. A total of 27 respondents were chosen based on their expertise as academics or because of position held, and their exposure to the issue as advocates. Specifically, nine key informants were interviewed and seven focus group discussions were held. The focus group discussions were done separately among respondents from government and civil society organizations. The participants were asked to identify laws or specific areas of laws on women that were discriminatory and to put forth recommendations to make these laws (more) gender-responsive. Considering that this assessment was conducted during the COVID-19 pandemic, the report includes observations on the limitations of existing laws with regard to the protection of women and girls, limitations that have been demonstrated by the experience of the pandemic. Key concerns are the laws against violence and in consideration of the conditions and situations across different sectors of women, which include, but are not limited to, small farmers and rural workers, fisherfolk, urban poor, workers in the formal economy, migrant workers, indigenous peoples,

Moro people, children, senior citizens, person with disabilities, and solo parents. The penultimate draft of the report was presented and validated in an online multi-stakeholder forum held in September 2020 under the auspices of the Philippine Commission on Women, IDLO and UN Women. The comments and feedback received during the forum were also integrated into the report.

The report is presented in four parts.

### PART 1

reviews the Philippines' international treaty obligations and steps taken by the government to domesticate the provisions of CEDAW and other global instruments.

### PART 2

offers an in-depth analysis of domestic legislation, starting with the 1987 Philippine Constitution as the fundamental and supreme law of the land, followed by statutes, both general and those specifically aimed at particular persons or things of a class, such as women, which are defined by statute as "special laws". This part also determines the extent to which the Philippines is compliant with the international obligations highlighted in Part 1. Each category—adopted from CEDAW articles—contains the landmark laws affecting women's rights, comprising the following:

- The 1987 Philippine Constitution
- Special laws<sup>8</sup>
  - Protection from discrimination
    1. Republic Act No. 9710 or the Magna Carta of Women
  - Guarantee of basic human rights and fundamental freedoms
    2. Republic Act No. 6981 or the Witness Protection, Security and Benefit Act
    3. Republic Act No. 7438 or An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof
    4. Republic Act No. 9745 or the Anti-Torture Act of 2009
    5. Republic Act No. 10368 or the Human Rights Victims Reparation and Recognition Act of 2013

- 6. Republic Act No. 10575 or the Bureau of Corrections Act of 2013
- Protection from violence
  - 7. Republic Act No. 7160 or the Local Government Code of 1991
  - 8. Republic Act No. 7877 or the Anti-Sexual Harassment Act of 1995
  - 9. Republic Act No. 8353 or the Anti-Rape Law of 1997
  - 10. Republic Act No. 8505 or the Rape Victim Assistance and Protection Act of 1998
  - 11. Republic Act No. 9262 or the Anti-Violence Against Women and their Children Act of 2004
  - 12. Republic Act No. 9995 or the Anti-Photo and Video Voyeurism Act of 2009
  - 13. Republic Act No. 10175 or the Cybercrime Prevention Act of 2012
  - 14. Republic Act No. 11188 or the Special Protection of Children in Situations of Armed Conflict Act
  - 15. Republic Act No. 11313 or the Safe Spaces Act
- Representation in political and public life
  - 16. Republic Act No. 7160 or the Local Government Code
  - 17. Republic Act No. 7192 or the Women in Development and Nation Building Act
  - 18. Republic Act No. 7941 or the Party-List System Act
  - 19. Republic Act No. 8425 or the Social Reform and Poverty Alleviation Act
  - 20. Republic Act No. 8551 or the National Police Commission and Philippine National Police Reorganization Act of 1998
- Nationality
  - 21. Commonwealth Act 473 or the Revised Naturalization Law
  - 22. Republic Act No. 9139 or the Administrative Naturalization Law of 2000
- Education
  - 23. Republic Act No. 10410 or the Early Years Act of 2013, which repeals Republic Act No. 8980 or the Early Childhood Care and Development (ECCD) Act of 2000
- Employment
  - 24. Presidential Decree 442 or the Labor Code of the Philippines
  - 25. Republic Act No. 10022 amending Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act
  - 26. Republic Act No. 10361 or the Batas Kasambahay
  - 27. Republic Act No. 10364 also known as the Expanded Anti-Trafficking in Persons Act of 2012 amending Republic Act No. 9208 or the Anti-Trafficking in Persons Act
- Health
  - 28. Republic Act No. 10028 or the Expanded Breastfeeding Promotion Act of 2009 amending Republic Act No. 7600 or the Rooming-In and Breastfeeding Act of 1992
  - 29. Republic Act No. 10354 or the Responsible Parenthood and Reproductive Health Act
  - 30. Republic Act No. 11166 or the Philippine HIV and AIDS Policy Act, repealing Republic Act No. 8504 or the Philippine AIDS Prevention and Control Act of 1998
- Economic and social benefits
  - 31. Republic Act No. 8291 or the Government Service Insurance System Act of 1997
  - 32. Civil Service Commission Resolution No. 021420 on maternity leave
  - 33. Republic Act No. 10606 amending Republic Act No. 7875 or the National Health Insurance Act of 1995
  - 34. Republic Act No. 11199 amending Republic Act No. 8282 or the Social Security Act of 1997
  - 35. Republic Act No. 11210 or the 105-Day Extended Maternity Leave Law
  - 36. Republic Act No. 11223 or the Universal Health Care Act
  - 37. Republic Act No. 11310 or the Pantawid Pamilyang Pilipino Program (4Ps) Act

- Marriage and family
  38. Act No. 3815 or the Revised Penal Code
  39. Republic Act No. 386 or the Civil Code of the Philippines
  40. Executive Order No. 209 or the Family Code of the Philippines
  41. Republic Act No. 8369 or the Family Courts Act of 1997
  42. Republic Act No. 8972 or the Solo Parents' Welfare Act
  43. Republic Act No. 10906 or the Anti-Mail Order Spouse Law repealing Republic Act No. 6955 or the Anti-Mail Order Bride Law of 1990
- Intersectional concerns
  44. Presidential Decree No. 1083 or the Code of Muslim Personal Laws
  45. Republic Act No. 7279 or the Urban Development and Housing Act of 1992
  46. Republic Act No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act
  47. Republic Act No. 8371 or the Indigenous Peoples' Rights Act
  48. Republic Act No. 7432 or An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes amended by Republic Act No. 9257 or the Expanded Senior Citizen Act of 2003 and further

amended by Republic Act No. 9994 or the Expanded Senior Citizen Act of 2010

49. Republic Act No. 10121 or the Philippine Risk Reduction and Management Act of 2010
50. Republic Act No. 10754 or An Act Expanding the Benefits and Privileges of Persons with Disability, amending Republic Act No. 7277 or the Magna Carta for Disabled Persons
51. Republic Act No. 11054 or the Bangsamoro Organic Law

### **PART 3**

presents an overview of judicial decisions in matters affecting the rights of women.

### **PART 4**

of the report maps out the specific actions needed to address discrimination in law through the repeal, revision and enhancement of specific laws and policy interventions, based on highlighted gaps in current legislation. The recommendations shall serve as a basis for developing a roadmap for legislative reform and a briefing report for the Executive Branch to recommend actions to the Legislature.



# 1

PART 1.  
**THE PHILIPPINES’  
GLOBAL GENDER  
EQUALITY  
COMMITMENTS**

## PART I:

# THE PHILIPPINES' GLOBAL GENDER EQUALITY COMMITMENTS

### An overview of global commitments

The Philippines has ratified almost all of the international human rights treaties, except the Convention for the Protection of All Persons from Enforced Disappearance (for the full list of international human rights treaties ratified by the Philippines, see Appendix 4: Ratification of Global and Regional Instruments by the Philippines). Among the first international human rights commitments signed by the Philippines were the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, which were all eventually ratified. All these conventions, while not exclusively pertaining to women's human rights, include articles requiring equality between women and men, and served as bases of legislation to promote women's human rights in the different spheres of their lives.

CEDAW was signed by the Philippines on 15 July 1980 and ratified on 5 August 1981. The CEDAW Optional Protocol was signed on 21 March 2000 and ratified on 12 November 2003.

Other conventions directly related to women's human rights that were ratified by the Philippines are the Convention Against Transnational Organized Crime and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

The Philippines ratified 38 ILO conventions:<sup>9</sup> all eight fundamental conventions, two of four governance conventions, and 28 of 178 technical conventions. Of these 38 ratified conventions, 31 are in force, while six have been denounced.<sup>10</sup> Forty-five ILO conventions have not yet been signed and ratified including Night Work Convention (No. 171) and its Protocol, Home Work Convention (No. 177),

Maternity Protection Convention (No. 183), and Violence and Harassment Convention (No. 190).<sup>11</sup>

The Philippines also ratified the four Geneva Conventions of 1949. Although it ratified the Rome Statute of the International Criminal Court in 2011, the Philippines' withdrawal from the Rome Statute was notified on 17 March 2018 and became effective on 17 March 2019.

### An overview of de jure inequality in the Philippines

In line with Article 18 of CEDAW, the Philippines submitted its combined 7<sup>th</sup> and 8<sup>th</sup> Reports to the CEDAW Committee in July 2016.<sup>12</sup> In response to the latest report, the CEDAW Committee issued the following concluding observations and recommendations to the Philippines:

“The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention... It invites Congress, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention<sup>13</sup>... The Committee recommends that the State party strengthen its efforts for the full and timely implementation of the women's priority legislative agenda, in order to expedite the full harmonization of national legislation with the Convention and the Magna Carta of Women, and that it establish effective mechanisms to monitor the implementation of these laws, with the participation of women's organizations, at both the national and local levels.”<sup>14</sup>

The CEDAW Committee specifically called for the following:

- “Expedite the adoption of the pending bills... to implement temporary special measures, including a statutory quota for the representation of women as candidates in elections, in appointed positions in the Government and among the beneficiaries of scholarships and training opportunities for government officials.”<sup>15</sup>
- “Adopt comprehensive legislation on gender-based violence against women covering all forms of violence.”<sup>16</sup>
- “Expedite the amendment of the Anti-Rape Law of 1997, putting lack of consent as the primary element of the definition of rape and raising the minimum age of sexual consent, currently set too low at 12 years, to at least 16 years.”<sup>17</sup>
- “Expedite the amendment of the Labour Code to expand the list of prohibited acts of discrimination against women on account of sex and the adoption of pending bills to expand the definition of sexual harassment to include peer sexual harassment, and increase penalties for such crimes.”<sup>18</sup>
- “... [F]ully implement without delay, all the recommendations issued by the Committee in 2015 in the report on its inquiry,<sup>19</sup> including with regard to access to modern contraceptives and the legalization of abortion under certain circumstances.”<sup>20</sup>
- “... [R]eview the Penal Code to decriminalize women in prostitution, adopt measures aimed at discouraging male demand for prostitution, expedite the adoption of the pending anti-prostitution bills, address the root causes of prostitution, provide women with alternative income opportunities, and provide assistance, rehabilitation and reintegration programmes for women and girls exploited in prostitution, in addition to exit programmes for women wishing to leave prostitution.”<sup>21</sup>

- “Expedite the harmonization of the Family Code and other laws on marriage and family relations with the Convention and the Magna Carta of Women and ensure the equality of women and men, both in marriage and upon the dissolution of marriage, including by expediting the adoption of the long-pending divorce bill and by taking into account the Committee’s general recommendations No. 21 (1994) on equality in marriage and family relations and No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution.”<sup>22</sup>
- “Harmonize the Code of Muslim Personal Laws and indigenous and Muslim customary laws with the Convention and the Magna Carta of Women, in particular by explicitly discouraging polygamy with a view to prohibiting it and prohibiting child and forced marriage, through consultation with the communities concerned and local women’s rights organizations.”<sup>23</sup>

The CEDAW Committee also encouraged the Philippines to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>24</sup>



# 2

## PART 2. LEGAL ANALYSIS OF DOMESTIC LAWS

## PART II:

# LEGAL ANALYSIS OF DOMESTIC LAWS

### Women's rights under the Philippine Constitution and landmark policies

After the fall of the Marcos administration and the rise of the first female President, Corazon Cojuangco Aquino, the 1987 Philippine Constitution was adopted, containing provisions on respect for human rights and the fundamental equality of women and men before the law. For the first time, language on women's rights was included as a State policy. Article II, Section 14 of the Philippine Constitution makes the foundational assertion of the fundamental equality between men and women before the law.

Women advocates, however, pushed for the integration of more comprehensive language on equality and women's role in nation-building, consistent with CEDAW principles, in the Constitution. Such language includes underscoring non-discrimination between women and men, the achievement of substantive equality and the obligation of the State to protect, promote and fulfill women's human rights. The intention was to provide a State policy that would advocate for the elimination of gender inequalities in existing laws and improve the status of women in all spheres of their lives. Article VI, Section 5 opened opportunities for women, among other sectors, to have seats in the House of Representatives through a party-list system, in addition to accessing these seats through direct election as district representatives.

Article XIII, Section 11 called for the adoption of an integrated and comprehensive approach to health, prioritizing the sick, elderly, disabled, women and children. Section 14 of the same article stipulated the protection of women by providing safe and healthy working conditions, considering their maternal functions, which would enable them to realize their full potential.

With Article II, Section 14 as a policy basis, President Corazon Aquino issued Executive Order No. 348,

adopting the Philippine Development Plan for Women, 1989–1992, which called for the creation of gender focal points in the government, the training of personnel and the provision of technical assistance on gender consciousness to government agencies.

Following the adoption of the Philippine Development Plan for Women, Republic Act No. 7192 (1991) or the Women in Development and Nation Building Act was adopted. The law mandated all government agencies to allot a minimum of 5 percent of their budget for gender and development programs, projects and activities. It also guaranteed equal rights for women to obtain credit and loans and own businesses, enter the security sector, participate in social, civic and recreational clubs, and be able to claim social security protection if married and taking care of the home. Several laws and policies on women's rights and the promotion of gender mainstreaming in government were passed thereafter as shown in succeeding entries.

In 2009, the Magna Carta of Women was adopted as a framework for the implementation of gender-equal laws. However, domestic statutes, judicial decisions, customary laws and sharia law have still not been harmonized with this legislation (see below, section on special laws).

### RECOMMENDATIONS

As a State policy, expand the recognition of the fundamental equality of men and women not only before the law, but also introduce non-discrimination, substantive equality and State obligations to promote, protect and fulfill women's human rights consistent with the principles of CEDAW.

Harmonize domestic statutes, judicial decisions, customary laws and sharia law with Article II, Section 14 of the 1987 Philippine Constitution and Republic Act No. 9710 or the Magna Carta of

Women with the intent of removing discrimination, advancing substantive equality and strengthening state obligations to promote, protect and fulfill women's human rights.

## Special laws

### Protection from discrimination

The Magna Carta of Women is the framework law on women's human rights. It is a source of implementable rights; it is also a policy document from where many other laws may be derived. However, since its passage in 2009, only one out of the six identified discriminatory laws has been repealed. Furthermore, there are specific provisions that need to be amended, such as specifying a timeframe for completion of repeal and amendment of discriminatory laws or a target quota in relation to women's representation and participation in all spheres of society, particularly in the decision-making and policymaking processes in government and private entities.

#### 1. Republic Act No. 9710 (Magna Carta of Women)

In 2006, one of the observations in the Concluding Comments to the Combined 5<sup>th</sup> and 6<sup>th</sup> Periodic Report of the Philippines to the CEDAW Committee<sup>25</sup> was the absence of a law defining anti-discrimination, despite the country's ratification of CEDAW in 1981. A consultative body led by a non-governmental organization was formed, and a gender equality law was drafted, which contains the provisions of CEDAW and other relevant principles on gender equality.

On 14 August 2009, Republic Act No. 9710 or the Magna Carta of Women was passed, defining discrimination against women in accordance with Article I of CEDAW, substantive equality as well as the obligations of the State as the primary duty-bearer in protecting, promoting and fulfilling women's human rights and gender equality. The Magna Carta is considered as the domestic translation of CEDAW, bringing CEDAW into the nation's legal system as a source of enforceable rights.

The law affirms landmark principles such as women's human rights, the role of women in nation-building, empowerment of women and the integration of women's concerns in the mainstream of development. It enumerates the rights and empowerment of all women, with special attention to women in the marginalized sectors. It also sets

up the institutional mechanisms necessary to realize women's equality: the concept of gender mainstreaming, the focal point system, the gender and development budget, and strengthening of the national women's machinery. Institutional mechanisms for women's equality include the Philippine Commission on Women, formerly the National Commission on the Role of Filipino Women, and establishment of the Gender Ombud through the Commission on Human Rights. The law also has implementing rules and regulations, which provide more detail to the law. According to the Philippine Commission on Women,<sup>26</sup> some of the salient features of the Magna Carta of Women are:

- Increasing the number of women in senior positions in government to achieve a fifty-fifty gender balance within the next five years while the composition of women at all levels of development planning and program implementation will be at least 40 percent.
- Leave benefits of two months with full pay based on gross monthly compensation for women employees who undergo surgery caused by gynecological disorders, provided that they have rendered continuous aggregate employment service of at least six months for the last 12 months.
- Non-discrimination in employment in the field of military, police and other similar services which includes according the same promotional privileges and opportunities as their male counterparts, including pay increases, additional benefits and awards, based on competency and quality of performance.
- Provision for equal access and elimination of discrimination in education, scholarships and training. Thus, expulsion, non-readmission, prohibiting enrollment and other related discrimination against women students and faculty due to pregnancy out of marriage shall be outlawed.
- Non-discriminatory and non-derogatory portrayal of women in media and film to raise the consciousness of the general public in recognizing the dignity of women and the role and contribution of women in the family, community and society through the strategic use of mass media.

- Equal status given to men and women on the titling of land and issuance of stewardship contracts and patents.

Under Section 3, in its Principles of Human Rights of Women, it is stipulated that “All individuals are equal as human beings by virtue of the inherent dignity of each human person. No one, therefore, should suffer discrimination on the basis of ethnicity, gender, age, language, sexual orientation, race, color, religion, political, or other opinion, national, social, or geographical origin, disability, property, birth, or other status as established by human rights standards.” This is a sound legal basis to specify in detail the rights of LGBTQI people. However, a new specific law providing for protection from discrimination on the basis of sexual orientation and gender identity would be more responsive to the needs of LGBTQI people.

While the Magna Carta of Women has implementing rules and regulations, some provisions do not have a time frame for implementation. Laws for which it is notably crucial to have a specified time of implementation are:

- The establishment of Violence Against Women Desks in all barangays (villages) under Article IV, Section 12.
- The participation of women in all levels of decision-making in local government units under Article IV Section 14.
- The quota for admission as mentioned in Article IV, Section 18 on women in the military, police and other similar services, stipulating that no qualified enlisted personnel shall be denied promotion to the highest non-commissioned officer position solely on the basis of sex and sexual orientation.

Under Article IV, Section 12, the State is mandated to take steps to review, amend and/or repeal existing laws that are discriminatory to women within three years from the effectivity (entry into force) of the law. Section 15 of the implementing rules of the law stipulates that the executive-legislative body shall prioritize bills that amend or repeal the following laws due to discriminatory provisions:

- **Family Code of the Philippines:**

(a) Article 14 on the provision on giving preference to the father’s consent to the marriage of children between the ages of 18 and 21.

(b) Articles 96 and 124 on the provision on giving preference to the husband’s decision, in case of disagreement with the wife, on the administration and enjoyment of community and conjugal properties.

(c) Article 211 on the provision on giving preference to the husband’s decision, in case of disagreement with the wife, over the persons of their common children.

(d) Article 225 on the provision on giving preference to the husband’s decision, in case of disagreement with the wife, on the exercise of legal guardianship over the property of unemancipated common child.

(e) Article 55, No.1 on the requirement for repeated physical abuse and grossly abusive conduct as grounds for legal separation.

- **Revised Penal Code:**

(a) Articles 333 and 334 on adultery and concubinage.

(b) Article 202 on the definition of vagrants and prostitution.

(c) Article 351 on premature marriages.

(d) Article 247 on death inflicted under exceptional circumstances.

- **Labor Code Article 130, on night work prohibition.**
- **Rules of Court Rule 131 Section 3 (jj), on disputable presumptions.**
- **Code of Muslim Personal Laws.**
- **Republic Act No. 8353, on removal of criminal liability of a rapist when his victim marries him.**

The Magna Carta of Women was enacted in 2009, which means that the review, amendment and repeal of discriminatory laws should have been accomplished by 2012. However, the above-mentioned laws are yet to be acted upon and remain part of the legislative agenda for women. Considering the laborious process of amending or repealing these national laws, local government units, with participation of women’s groups, “shall take steps to review and, when necessary, amend and/or repeal existing laws that are discriminatory to women within three (3) years from the effectivity of this Act”.<sup>27</sup>

Another provision that pertains to the oversight function of Congress that has not been implemented is Section 40, which provides that the Philippine Commission on Women, in coordination with state agencies and the Commission on Human Rights, shall submit regular reports every three years to Congress on the progress of implementing the law, highlighting its impact on the status and rights of women and that the second report shall include an assessment of the law's effectiveness and recommendations to improve its provisions.

### RECOMMENDATIONS

Considering that the Magna Carta of Women is the framework law on women's human rights in the Philippines, there are no discriminatory provisions found in this law.

There is a need, however, to revise or amend provisions of the law to specify a time frame for completion or a quota for the following:

- Article IV Section 12 (D), which directs all barangays to establish a Violence Against Women Desk.
- Article IV Section 14, Participation and Representation, Letter (B), which directs that in all levels of development planning and program implementation, at least 40 percent of membership of all development councils from the regional, provincial, city, municipal and barangay levels shall be composed of women.
- Article IV Section 18, Women in the Military, Police and Other Similar Services, Letter (B), which provides for an increase in the quota to 20 percent for female admission into all officer-candidate and non-officer schools and institutions in the military, police and similar services, including but not limited to the Philippine Military Academy, Officer Candidate School, Philippine National Police Academy and Philippine Public Safety College.

Also, the following recommendations are added in relation to other laws impacting the full implementation of the Magna Carta of Women:

Repeal the remaining discriminatory laws as indicated in the Magna Carta of Women (see also succeeding sections discussing said laws).

Propose a new law protecting against violence and discrimination based on sexual orientation and gender identity.

### Guarantee of basic human rights and fundamental freedoms

The laws reviewed under this section cover the rights of witnesses, and persons arrested, detained or under custodial investigation as well as victims of human rights violations. These laws, however, do not have specific provisions for women such as care responsibilities; health (including mental and reproductive health) and hygiene needs; legal aid; interpretation and translation; and protection from all forms of harassment, exploitation, abuse and violence, among others. Furthermore, it is proposed that a new law be passed covering not just reparations, but in consideration of the larger transitional justice responses to all types of atrocities and systemic abuses against women and the marginalized (indigenous peoples, indigenous cultural communities, internally displaced populations, among others).

#### 2. Republic Act No. 6981 (Witness Protection, Security and Benefit Act)

The Witness Protection, Security and Benefit Act directs the Department of Justice to implement a program covering this law. The law proceeds to identify who may be admitted to the program and the benefits, rights and responsibilities of persons under this program. The law and the implementing rules and regulations, adopted by the Department of Justice in 1991, are all written in a gender-neutral manner.

To be covered by the program, an individual agrees to sign an agreement where the terms are spelled out in confidentiality. The benefits include provision of housing; security of livelihood or employment while on witness duty; relocation or change of identity when needed; financial, travel and subsistence allowance, medical and other forms of assistance such as burial benefits and scholarships for dependent children in case of death or permanent incapacity. It does not have provisions to include legal aid as well as psychological or counseling support before, during and after being in the program.

Although the law penalizes harassment of witnesses, it does not explicitly prohibit sexual harassment and other forms of gender-based exploitation, abuse and violence against female and child witnesses while under the program. The law also does not provide guidelines for dealing with witnesses who may have differentiated needs

and circumstances—such as women, children, the elderly, persons with disability or indigenous persons.

The law’s implementing rules and regulations provide for the establishment of a committee to assist the Department of Justice in the implementation of the program, composed of the Undersecretary for the National Prosecution Service, Chief State Prosecutor, and three Assistant Chief State Prosecutors.

### RECOMMENDATIONS

Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice,<sup>28</sup> UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,<sup>29</sup> and UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime,<sup>30</sup> to include the following non-exhaustive list:

- Consideration to female witnesses who oversee caring for their families—such as extension of protection support to their families and care facilities to enable them to continue their family life, among others.
- Protection of female witnesses from all forms of harassment, exploitation, abuse and violence from any person or from the State in charge of witness protection and security.
- Free legal aid as well as support throughout all stages of the criminal justice process, especially for female and child witnesses who cannot afford to pay a lawyer.
- Women- and child-friendly legal aid service standards, procedures and professional codes of conduct, and appropriate training to formulate and implement them.
- Interpretation and translation support throughout all stages of the criminal justice process.
- Creation of a national authority for the protection of (child) victims and witnesses that comprises a judge, representatives from the prosecutor’s office specializing in cases involving children, law enforcement agencies, child protection services or any other relevant service within the social welfare department, the health department, the bar association, victim support organization providing services to children, and the education department.

### 3. Republic Act No. 7438 (An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof)

This law covers the rights of persons arrested, detained or under custodial investigation.

These rights include:

- The right to be informed of the reasons for arrest, detention or investigation in a language known and understood by said person.
- Legal aid or assistance by counsel of one’s choice or to be provided with one if one cannot afford the services of a counsel.
- In the case of any extrajudicial confession or waiver, that it shall be made in writing and signed in the presence of one’s counsel.
- The right to be visited by any member of one’s immediate family, medical doctor or religious minister or any national non-governmental organization duly accredited by the Commission on Human Rights or international non-governmental organization duly accredited by the Office of the President.

This law does not, however, recognize the circumstances of the person arrested, detained or held in custody, as in the case of females and juvenile females—pregnant, lactating, menstruating, or who may be responsible for caring for family members or may have committed a crime brought about by continued abuse or violence—requiring special arrangements, measures, facilities or support.

The law also specifies penalties for violations of the rights of persons who are arrested, detained or under custodial investigation. While this is so, as this law was formulated prior to the passage of Republic Act No. 9745 or the Anti-Torture Act of 2009, this law does not include human rights violations while in custody, detention or jail.

### RECOMMENDATIONS

Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice,<sup>31</sup> UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,<sup>32</sup> and the UN Rules for the Treatment of Women Prisoners and Non-

Custodial Measures for Women Offenders (Bangkok Rules),<sup>33</sup> to include, but not limited to, the following:

- Consideration to female prisoners and offenders who are in charge of caring for their families to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.
- Women prisoners should be allocated, as far as possible, to institutions near their home or families.
- Protection of female prisoners and offenders from all forms of harassment, exploitation, abuse and violence from any person or from the State authorities in charge of detention facilities, and assistance in seeking remedies, safe from retaliation in cases where such violations take place.
- Free legal aid as well as support throughout all stages of the criminal justice process, especially for those who cannot afford a lawyer.
- Provision of sanitation and hygiene facilities and healthcare services, including substance abuse treatment, mental and reproductive health, and preventive healthcare.
- Interpretation and translation support throughout all stages of the criminal justice process.

Harmonize the law with reference to Republic Act No. 9745 or the Anti-Torture Act.

#### **4. Republic Act No. 9745 (Anti-Torture Act of 2009)**

The Anti-Torture Act was enacted in consideration of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and recognizes other treaties such as the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and CEDAW. The law covers physical torture, which includes rape and sexual abuse; mental and psychological torture; and other cruel, inhuman and degrading treatment or punishment. It also provides penalties for torture committed by acts of rape, and torture with other forms of sexual abuse and its consequences, including torture against children. It likewise covers acts of torture against a detainee or a prisoner and prohibited detention where torture may be carried out with impunity.

Women and girls who are detained or imprisoned have particular needs due to their gender

(for example, hygiene needs associated with menstruation) and are likely to be targeted for particular human rights violations in custody because of their gender, such as sexual assault. The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (known as the Bangkok Rules)<sup>34</sup> specify the safeguards that women and girls are entitled to in order to address these gender-based vulnerabilities in detention.

The Philippines ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 17 April 2012, and it is incumbent upon the Philippines to comply with the obligations contained in the OPCAT, including the establishment of national preventive mechanisms for the prevention of torture. A national preventive mechanism for the Philippines must be mandated to conduct regular monitoring visits to all types of places where persons are deprived of liberty, and therefore identify early warning signs and prevent torture and other cruel, inhuman or degrading treatment or punishment. It must be independent, free from government influence and provided with sufficient resources to carry out its work effectively. It must also have the power to access all places of detention, without restriction, to access all information and to be able to talk with detained persons in private. The UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which supervises the implementation of the OPCAT, has integrated the Bangkok Rules into its practice and has furthermore issued its own guidelines and concerns about the particular risks of torture and ill-treatment experienced by women and girls in any form of detention or imprisonment.<sup>35</sup>

Notably, the Philippines is yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance, which gives State parties the option to establish aggravating circumstances in the event of the death of a disappeared person or commission of an enforced disappearance with respect to pregnant women, children, persons with disabilities, or other particularly vulnerable persons. Enforced disappearance is a violation of human rights that has particular effects on women and girls, including being a cause and consequence of gender-based violence against women and girls who are subjected to enforced disappearance. Enforced

disappearance also has a particular gendered impact on pregnant women or girls. Further, women and girls who are family members of disappeared persons often face particular obstacles to truth, justice and reparation.<sup>36</sup>

### RECOMMENDATIONS

Ratify the Convention for the Protection of All Persons from Enforced Disappearance.

Enact a law that will establish one or several national preventive mechanisms, consistent with the OPCAT.

In ensuring the prevention of torture in compliance with Republic Act 9745 and protection of persons deprived of liberty, the national preventative mechanism should, at the minimum:

- a) Mandate in-person visits to places of detention in accordance with the requirements relating to independence in the OPCAT.
- b) Regularly examine the treatment of persons in places of detention with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment.
- c) Make recommendations to the relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations.
- d) Submit proposals and observations concerning existing or draft legislation.

The proposed law should refer explicitly to the Bangkok Rules relating to the treatment of women and girls in prison or detention.

#### 5. Republic Act No. 10368 (Human Rights Victims Reparation and Recognition Act of 2013)

Republic Act No. 10368 or the Human Rights Victims Reparation and Recognition Act created the Human Rights Victims' Claims Board. The board was the mechanism that provided for reparations for human rights victim-survivors during the Marcos regime. Its mandate covered human rights violations committed during the period between 21 September 1972 (the imposition of martial law) and 25 February 1986 (People Power Revolt).

Awarding of reparations followed a point system depending on the violations provided for by the law:

- Enforced disappearance and killing: 10 points
- Torture and/or rape or sexual abuse: 6 to 9 points
- Arbitrary detention: 3 to 5 points
- Other violations: 1 to 2 points

Each claimant deemed eligible by the board was to receive a monetary reparation of PhP 176,779 (approximately USD 3,646.33) per point.

The board was covered by a sunset clause, i.e., it was to complete its work within two years from the effectivity of the implementing rules and regulations. The board closed its operations in 2018, with pending payments to be released by the Commission on Human Rights.

Another body that deals with reparations and recognition is the Transitional Justice and Reconciliation Commission. The commission was created under the Comprehensive Agreement on the Bangsamoro. It is tasked with conducting a study and making recommendations to address the legitimate grievances, historical injustices and human rights violations including marginalization through dispossession of the Bangsamoro<sup>37</sup> people. It is not an investigative nor a quasi-judicial body that deals with prosecuting perpetrators of mass atrocities, truth-seeking on human rights violations, reparations for victim-survivors of mass atrocities and reform of institutions previously involved in these mass atrocities. A bill on national transitional justice is still pending in Congress.

### RECOMMENDATION

Draft and pass a new law that covers not just reparations, but in consideration of the larger transitional justice for all types of crimes and systemic abuses against women and the marginalized (indigenous peoples, indigenous cultural communities, internally displaced populations, etc.). Such a law should recognize their dignity and establish full reparation for human rights violations with the aim of preventing their recurrence by making institutions accountable and making women's access to justice a reality in the aftermath of these violations of human rights.

## 6. Republic Act No. 10575 (Bureau of Corrections Act of 2013)

The law on the Bureau of Corrections states that it is compliant with the United Nations Standard Minimum Rules for Treatment of Prisoners.<sup>38</sup>

The law outlines the mandates of the bureau, its operations, structure, management of lands and facilities, key positions, personnel and their professionalization. In terms of safekeeping of inmates, the law mentions three elements, namely, decent and adequate provision of necessities; proper observance of prescribed privileges; and efficient processing of documentary requirements for their release.

The bigger part of the law deals with the organization and staffing of the bureau and not the treatment of inmates. Here, the law does not specify the differentiated needs of women based on age or religious concerns, or special care for pregnant, breastfeeding or lactating mothers, or for women inmates with disabilities. There are no detailed legal provisions on what constitutes basic facilities and necessities for inmates, contrary to what is explicitly provided for in the UN Standard Minimum Rules for Treatment of Prisoners.

### RECOMMENDATIONS

Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice,<sup>39</sup> UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,<sup>40</sup> the updated UN Standard Minimum Rules for Treatment of Prisoners<sup>41</sup> and the Bangkok Rules<sup>42</sup> to include, but not limited to, the following:

- Consideration to female prisoners and offenders who oversee caring for their families to make arrangements for those children.
- Assignment of women prisoners to jails or correction facilities close to their homes or families.
- Protection of female prisoners and offenders from all forms of harassment, exploitation, abuse and violence from any person or from the State authorities in charge of jails or correction facilities, and assistance in seeking remedies, safe from retaliation where such violations take place.
- Free legal aid and support throughout all stages of the criminal justice process, especially for those who cannot afford to pay for legal assistance.

- Provision of sanitation and hygiene facilities and healthcare services, including substance abuse treatment, mental and reproductive health, and preventive healthcare.
- Interpretation and translation support throughout all stages of the criminal justice process.

Harmonize the law with reference to Republic Act No. 9745 or the Anti-Torture Act.

### Protection from violence

Most of the laws reviewed in this section are part of the affirmative action to protect women from abuse, harassment and violence. While this is so, some laws need to be amended, such as the Anti-Rape Law, which does not include the lack of freely given, genuine consent as a necessary element in the definition of the crime of rape. Current laws are more on the palliative side, i.e., they address violence against women after the crime has been committed rather than prevent the root causes of gender-based violence against women through education, elimination of gender biases and stereotypes in instruction, media and social media, and engaging with men and boys, among others. Emerging issues such as online exploitation and harassment in public spaces have been addressed. However, violence in the context of natural and human-induced disasters such as armed conflict needs further legislative response. Several laws under this section need to be revised or amended to ensure that cases are not settled outside the criminal justice system, penalties for sexual harassment are increased and sexual harassment laws are harmonized—online or offline, among others. The “forgiveness” clause under the Anti-ape Law of 1997, which permits impunity for rapists, must also be repealed. Another aspect of the Anti-Rape Law that requires amendment is raising the age of consent for sexual contact from 12 to 16 years.

## 7. Republic Act No. 7160 (Local Government Code of 1991)

The Local Government Code of 1991 embodies the powers, authority, responsibilities and resources of the territorial and political subdivisions of the State, where local government structures operate through a system of decentralization. Chapter 2, Section 387 of the law provides for the creation of a Lupong Tagapamayapa (Peace Council) in each barangay, while Chapter 7, Section 402 stipulates the functions of the Lupon. The Lupon exercises

administrative supervision over the conciliation panels or the Pangkat ng Tagapagkasundo, meets regularly once a month to discuss matters relevant to the amicable settlement of disputes, and shares observations and experiences in effecting speedy resolution of disputes.

Section 408 states that the Lupon has the authority to bring into amicable settlement all civil disputes and every criminal offense punishable by imprisonment not exceeding one year or a fine not exceeding Php 5,000 (approximately USD 103) when parties involved are individuals who are residing in the same city or municipality. Section 408 also lists the issues that are not subject to amicable settlement. Domestic abuse against women is not included in this list.

The exclusion of domestic abuse against women from this list has been corrected by the Anti-Violence Against Women and their Children Act of 2004, which explicitly states that relevant officers shall not order, direct, force or in any way unduly influence the application for a protection order to compromise or abandon any of the reliefs sought. Doing so will result in administrative liability under the law. Despite this, however, experts participating in the drafting of this legal assessment had encountered the practice of local government officials conciliating or amicably settling domestic abuse against women cases. It remains in practice that when this issue is brought before the Lupon or any official of the barangay, domestic abuse against women becomes a matter for settlement or conciliation, contrary to the obligations set out in the Anti-Violence Against Women and their Children Act of 2004.

Prior to the passage of the Anti-Violence Against Women and their Children Act of 2004, officials of a barangay, including the Lupon, would often be referred domestic violence cases occurring within the village boundaries. In many instances, this was done despite the express stipulation that a barangay's Violence Against Women Desks shall not attempt to influence the survivor to abandon their claims in place of amicable settlement such as mediation or arbitration. Unfortunately, barangay officials would make the perpetrator and the abused person reconcile and send them back to the same house where the abuse happened, according to key informants in this legal assessment. This often occurred even after the adoption of the Anti-Violence Against Women and their Children Act of 2004.

## RECOMMENDATION

Revise or amend provisions of the law to stipulate the non-settlement of domestic abuse against women cases, consistent with the Anti-Violence Against Women and their Children Act.

### 8. Republic Act No. 8353 (Anti-Rape Law of 1997)

The Anti-Rape Law of 1997 redefines the crime of rape, previously categorized as a crime against chastity, reclassifying it into a crime against persons. Previously rape was considered a private offense, allowing only the victim or her parents, grandparents or guardian to file a complaint against the offender. The Anti-Rape Law amends this, allowing any person with knowledge of the crime to file on behalf of the victim. This law veers away from a framework where one may presume that chastity is an element of the offense, when it is not. The law, however, still recognizes that rape can only be committed through (among others) force, threat, intimidation, fraudulent machination or grave abuse of authority by the offender, not simply that the victim did not consent to the act: therefore, the law does not reflect that the legal good to be preserved by the law is the physical and mental autonomy of the victim. In other words, the courts need to be convinced that not only was there no consent from the complainant, but that this lack of consent is proved by evidence of the perpetrator using force, threat, intimidation etc. Unfortunately, the basis of determining lack of consent tends not to be limited to the evidence presented. It also depends on the mindset of the judge interpreting the law and appreciating the proof, and often, using stereotypes that do not reflect the real experiences of victims of crime (see Example of case law elevated to the UN CEDAW Committee using the Optional Protocol). Thus, there are cases where the accused is acquitted because the complainant was not able to prove that she was forced or intimidated enough, i.e., there were no signs of struggle on her body.<sup>43</sup> This indicates that corroboration of the victim's statement is required by other evidence, which is a violation of the right to equality before the law, according to CEDAW General Recommendation 33 on women's access to justice.<sup>44</sup>

The law also provides that there is rape "when the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present".<sup>45</sup> The circumstances referred to are the other ways of committing rape, such as: (a) through force, threat or intimidation;

(b) when the offended party is not able to give genuine consent due to disability, deprived of reason or otherwise unconscious, or otherwise incapable of giving genuine consent; or (c) by means of fraudulent machination or grave abuse of authority.<sup>46</sup>

In the case of any child who is 12 years old and above, however, the prosecution would have to prove that one of the circumstances mentioned in the law was committed. This puts children above the age of 12 in a vulnerable position, where it is easy for perpetrators to target them for abuse with impunity.

In Article 266-C, the law lays down a forgiveness clause providing that the “subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed”. In the same manner, it provides, “[i]n case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty”. A woman who has been raped should not be put in a position where she can be repeatedly raped within the ambit of marriage. Marriage should not extinguish the offense committed by the rapist.

In Article 266-D, the presumption that “[a]ny physical overt act manifesting resistance against the act of rape... may be accepted as evidence in the prosecution” of rape results in misinterpretation that the complainant needs to present evidence of resistance against the act of rape.

The law likewise differentiates the penalty between rape through sexual intercourse and rape through sexual assault by providing a lower penalty in the commission of the latter. In the advocacy against rape, there is no distinction between the violation of the complainant’s physical and mental autonomy, when the act involves penetration of the victim’s vagina in comparison with the insertion of the perpetrator’s penis into the victim’s mouth or anal orifice, among others. In this sense, there is a question on why the penalties should differ.

## RECOMMENDATIONS

Repeal the forgiveness clause that allows for an offender to marry their victim thus absolving them of their crime. This clause leaves a mechanism wherein an offender can pressure a rape survivor

into a compromise, heavily leaning on the Filipino culture of *hiya* (shame) and defeating the purpose of reclassifying it from a private crime against chastity to a public one against persons. The forgiveness clause also coerces the victim-survivor into a relationship prompted by sexual abuse and violence. It is also blind to the possibility that women who have been raped by their husbands are likely to be violated again.

Amend Article 266-A by putting lack of freely given, genuine consent as a necessary element in the definition of the crime of rape, and including a list of presumptions where it is assumed that freely given, genuine consent cannot be given, for example, that freely-given, genuine consent cannot be given if the victim is unconscious or because of disability.<sup>47</sup> The CEDAW Committee made specific recommendations on this in the *Vertido v Philippines* case, that the Philippines should take steps to “[e]nsure that all legal procedures in cases involving crimes of rape and other sexual offences are impartial and fair, and not affected by prejudices or stereotypical gender notions”.<sup>48</sup>

A key recommendation in the *Vertido* case was that the definition of the crime of rape be reformed, specifically that there should be the:

“(i) Review of the definition of rape in the legislation so as to place the lack of consent at its centre;

(ii) Removal of any requirement in the legislation that sexual assault be committed by force or violence, and any requirement of proof of penetration, and minimization of secondary victimization of the complainant/survivor in proceedings by enacting a definition of sexual assault that either:

1. Requires the existence of ‘unequivocal and voluntary agreement’ and requiring proof by the accused of steps taken to ascertain whether the complainant/survivor was consenting; or
2. Requires that the act take place in ‘coercive circumstances’ and includes a broad range of coercive circumstances;<sup>49</sup>

Amend to include evolving forms of assault such as condom removal—otherwise known as stealthing—during sexual intercourse.

Amend to develop inclusive language, such as “sexual partner”, to recognize the various forms of sexual relationships.

Amend Article 266-D to remove the implication that resistance should be used as evidence to prove that rape occurred and study the merit of equal penalties in Article 266-A.

Raise the minimum age of sexual consent, currently set at 12 years, to at least 16 years in line with the recommendation of the CEDAW Committee in its 2016 Concluding Observations on the Philippines’ Combined 7<sup>th</sup> and 8<sup>th</sup> Periodic Report.<sup>50</sup>

### **9. Republic Act No. 8505 (Rape Victim Assistance and Protection Act of 1998)**

The Rape Victim Assistance and Protection Act of 1998 was passed after the Anti-Rape Law of 1997. This law mandates the establishment of rape crisis centers in every province and city to assist and protect rape victims in the litigation of their cases and their recovery. To this end, rape crisis centers will also provide psychological support, and develop training programs on human rights, gender and legal management of rape cases for members of the justice system. In addition, the law provides for a referral system for the police, prosecution, counseling and medical services; mandates that the police officer or examining physician shall be of the same sex as the victim; and calls for the creation of women’s desks in every police precinct throughout the country. Lastly, very important is the rape shield provision, which provides that “[i]n prosecutions for rape, evidence of complainant’s past sexual conduct, opinion thereof or of his/her reputation shall not be admitted unless, and only to the extent that the court finds, that such evidence is material and relevant to the case”.<sup>51</sup> This rule regulates the presentation of evidence regarding the complainant’s sexual history or attacks on her credibility based on her past sexual conduct. This provision encourages more women to come forward and complain with less fear that their sexual history will be presented in court to undermine their credibility.

The Department of Social Welfare and Development subsequently issued Administrative Order No. 67, Series of 2003, outlining the Guidelines in the Operationalization of Rape Crisis Centers.

## **RECOMMENDATIONS**

Revise or amend the law to stipulate the recruitment and training of women in the police force, forensics and medico-legal, legal and social work services on gender-sensitive, survivor-centered handling of women victim-survivors of gender-related offenses, and ensure incremental increase of women in these services until 50 percent of the personnel thereof shall be women, consistent with Article IV, Section 12 of the Magna Carta of Women.

There is no law that provides for a one-stop shop for victims of gender-based violence, and while the Rape Victim Assistance and Protection Act has not been fully implemented yet, it may be amended to cover other services, for example, health and psycho-social care for victims of crimes of gender-based violence as well as rape victims.

### **10. Republic Act No. 9262 (Anti-Violence Against Women and their Children Act)**

Prior to the passage of the Anti-Violence Against Women and their Children Act, victims of domestic abuse or battering were only able to file a criminal case on physical injuries or a civil case. However, these remedies did not adequately address the needs of victims of domestic abuse and also did not recognize the specific crime of domestic abuse and its significant impact on women. If a criminal case was filed, it would likely fall under the offense of physical injuries, depending on the gravity of the injuries sustained by the woman. Or, physical abuse could be used as a grounds to nullify marriage based on psychological incapacity or legal separation. Furthermore, these remedies only covered physical violence, and not threats or other forms of psychological violence. Also, there were no remedies, such as protection orders, that prevented further abuse from happening.

Women’s groups working with abused women have long advocated for a law on domestic violence and have filed bills on this subject for several Congresses. The Anti-Violence Against Women and their Children Act of 2004 took several turns in Congress before it finally became law. The law prevailed over challenges posed by a predominantly male legislature: dynamic efforts from the women’s movement in the Philippines developed a law that recognized violence committed against women and their children in its various forms, including remedies. Upon passage of the law, victims of

domestic abuse are now able to file criminal or civil cases specific to domestic violence and abuse and access remedies and reliefs such as protection orders.

Keeping in mind CEDAW General Recommendation 19<sup>52</sup> and the 1993 UN Declaration on the Elimination of Violence against Women,<sup>53</sup> the Anti-Violence Against Women and their Children Act identifies forms of abuse as physical, sexual, psychological and economic, enumerating examples of specific acts falling under each type of violence. It also introduced remedies that allow immediate prevention of the continuation of violence, called protection orders, that may be obtained from the barangays and the courts. The inclusion of the barangay as a source of the protection order is to provide women with a legal remedy to stop the violence that is immediate, free and without the need of recourse to professional legal assistance. Temporary and permanent protection orders, on the other hand, may be issued by regular courts, where the law likewise provides for immediate issuance and resolution.

Included in the law is the requirement that barangay officials should study the law, undergo gender sensitivity training and other relevant sessions to be able to realize the purposes of the law. The Department of Interior and Local Government, as the agency providing supervision over barangays, subsequently issued primers and guidelines on the law for compliance.

The implementing rules and regulations of the law provide sufficient details outlining the protections, benefits and the roles of different government entities in addressing violence in the family. There is an inter-agency mechanism to enable the government to coordinate its efforts in addressing violence against women.

The Anti-Violence Against Women and their Children Act responded to one of the most prevalent forms of abuse committed against women. While the law is criminal in nature, women often use it to seek financial support from their spouses, rather than to imprison them.

In extraordinary circumstances such as emergencies and pandemics, perpetrators continue to inflict violence against women and their children.<sup>54</sup> The availability, degree and amount of support by

government need to be checked and the law needs to be reviewed to ensure that it responds to the prevailing context of women caught in an abusive relationship.

## **RECOMMENDATION**

It is crucial that the Anti-Violence Against Women and their Children Act be reviewed given the realities faced by women and children during emergencies, such as the COVID-19 pandemic. “Mobility” or ease of accessibility to sexual and gender-based violence services in the law, including protection orders, should be revisited, considering the varied conditions of women living close to their abusers in the context of lockdowns (see Section: Recommendations for laws addressing gender inequalities during situations of emergency: Laws that have had discriminatory effects during the COVID-19 pandemic).

### **11. Republic Act No. 7877 (Anti-Sexual Harassment Act of 1995)**

This is a landmark law because for the first time, sexual harassment was recognized as a crime under Philippine law. A draft bill was initially submitted covering sexual harassment against women in the workplace only. Succeeding bills were filed to expand coverage to include sexual harassment in other settings or environments. After deliberations, Congress decided to adopt a law that criminalizes sexual harassment committed in an employment, education or training environment. Clearly, while the law is relevant because it recognizes sexual harassment as a crime, its limited coverage fails to fully address the real problems that women face every day.

The law provides that “[w]ork, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainer, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act”.<sup>55</sup> The element requiring authority, influence or moral ascendancy excludes sexual harassment that occurs among peers or by people exercising power not based on these elements but who can harass people just the same.

The law further requires every employer or head of office in a work-related, education or training environment to promulgate rules and regulations prescribing the procedure for the investigation of sexual harassment cases and the administrative sanctions, including the creation of a Committee on Decorum and Investigation on sexual harassment. The committee is now included in the Labor Inspection Checklist of the Department of Labor and Employment.

The penalty for sexual harassment is imprisonment of not less than one month nor more than six months, or a fine of not less than Php 10,000 (approximately 206 USD) nor more than Php 20,000 (approximately 412 USD), or both. The fine and imprisonment are decided at the discretion of the court. This penalty is low, considering the many forms of sexual harassment, the degree of gravity and other factors.

After this law was passed, specific policies were issued. For government institutions, the Civil Service Commission issued Resolution No. 01-0940 (s. 2001); for higher education institutions, the Commission on Higher Education (CHED) issued CHED Memorandum Order No. 26, Series of 2003—Enjoining the Creation in Every Higher Education Institution of a Committee on Decorum and Investigation on Sexual Harassment Cases and Implementing Measures to Avoid Commission of Sex-Related Offenses Against Students, Faculty and Staff; CHED Memorandum Order No. 25, Series of 2003—Implementing Rules and Regulations for CHED Memorandum.

In order to address the limitations of the law, in particular its application only in workplaces and educational and training institutions, and its inability to address other acts that may constitute sexual harassment, including peer harassment, Republic Act No. 11313 or the Safe Spaces Act was enacted, which includes sexual harassment in public spaces, and acts of harassment committed online.

#### **RECOMMENDATION**

Revise or amend the Anti-Sexual Harassment Act of 1995 and the Safe Spaces Act to increase the penalty for sexual harassment in workplaces and educational and training institutions, and to address harassment perpetrated by peers.

#### **12. Republic Act No. 11313 (Safe Spaces Act of 2019)**

Republic Act 11313 or the Safe Spaces Act of 2019 intends to expand the coverage of sexual harassment to include streets, public spaces, online, workplaces and educational or training institutions. It defines the different prohibited acts that may occur in the covered areas; the duties of local government and other national agencies in addressing sexual harassment; the roles of employers and heads of educational institutions especially in setting up the Committee on Decorum and Investigations on sexual harassment, which is an expansion and elaboration of the Anti-Sexual Harassment Law.

The law provides penalties depending on the form of sexual harassment committed. It introduces penalties such as community service. The law needs to have an accompanying set of guidelines clarifying the provisions and processes that may be part of its implementing rules. On the other hand, the law recognizes sexual harassment among peers or by a subordinate in work, environment and training institutions. However, sexual harassment committed in workplaces and educational and training institutions does not incur penalties. This leaves the complainant with only the administrative case before the institution's Committee on Decorum and Investigation or filing of a civil case before the courts as options for redress, leaving out the chance to file a criminal complaint. Another notable feature of the law is its recognition of sexual harassment against persons of diverse sexual orientation and gender identity or expression through homophobic or transphobic remarks.

The law contains other gaps such as instances where the establishment of a Committee on Decorum and Investigation may not be feasible; lack of protection for student-interns or other trainees whose stay is temporary in training arrangements; and processing time for resolving administrative complaints, among others.

At the time of writing and publication, the law is still considered relatively new hence responsible agencies are still in the process of completing or revising their own guidelines. Government agencies or institutions, such as the Civil Service Commission, have issued guidelines on sexual harassment in workplaces and educational and training institutions based on the Anti-Sexual Harassment Act.<sup>56</sup> With the effectivity of the Safe Spaces Act, these guidelines need to be consistent with the requirements of this new law.

## RECOMMENDATIONS

Revise or amend this law to provide guidelines on community services, specify criminal penalties for acts of sexual harassment in workplaces and educational and training institutions, as indicated in the Anti-Sexual Harassment Act, and clarify the gaps that may prevent effective implementation of the law.

Revise or amend this law to address gaps such as instances where the establishment of a Committee on Decorum and Investigation may not be feasible; the lack of protection for student-interns or other trainees whose stay is temporary in training arrangements; and the processing time for resolving administrative complaints, among others.

Update the Civil Service Commission Resolution No.01-0940, Series of 2001; for higher education institutions, the Commission on Higher Education issued CMO No. 26, Series of 2003—Enjoining the Creation in Every Higher Education Institution of a Committee on Decorum and Investigation on Sexual Harassment Cases and Implementing Measures to Avoid Commission of Sex-Related Offenses Against Students, Faculty and Staff; and CMO No. 25, Series of 2003—Implementing Rules and Regulations for CHED Memorandum, with reference to this law.

### 13. Republic Act No. 9995 (Anti-Photo and Video Voyeurism Act of 2009)

The Anti-Photo and Video Voyeurism Act of 2009 prohibits taking photo or video coverage of a person/s performing sexual acts, or any similar activity, or to capture an image of the private area of a person/s such as the naked or undergarment-clad genitals, buttocks or the female breast without the consent of the person/s involved and under circumstances in which the person/s has/have a reasonable expectation of privacy; and copying, reproducing, selling or publishing such photos or videos. While the law does not specifically mention that it is for the purpose of ensuring respect for women's rights to privacy, it has been used by women to file charges against former intimate partners or friends who have taken advantage of having possession of personal photos or videos.

This law should be studied in relation to the Anti-Sexual Harassment and the Safe Spaces acts. The penalty under the Anti-Photo and Video Voyeurism Act is imprisonment of not less than three years but not more than seven years and a fine of not less

than PhP 100,000 (approximately USD 2,000) but not more than PhP 500,000 (approximately USD 10,000). In comparison, in the Safe Spaces Act, the penalty is lower at two years, four months, one day to four years and two months (*prision correccional* in its medium period).

In brief, under the Anti-Photo and Video Voyeurism Act of 2009, the mere commission of any prohibited act under Section 4 is a violation, while in the Safe Spaces Act, the prohibited acts should constitute sexual harassment. The Anti-Photo and Video Voyeurism Act appears to be easier to commit with a higher penalty. This may create an unintended situation of not utilizing the Safe Spaces Act, which addresses specific gender-based discrimination.

## RECOMMENDATIONS

Review the Anti-Photo and Video Voyeurism Act of 2009 to harmonize it with the provisions on online sexual harassment under the Safe Spaces Act. The two laws are not inconsistent, but amendments should ensure that the purposes of passing both laws are effectively realized.

Harmonize existing laws related to information and communication technology to enhance legislative response and efforts towards the adoption of new procedures and technologies in response to rapidly changing technologies and internet-facilitated sex crimes (see Section: Recommendations for laws addressing gender inequalities during situations of emergency: Laws that have had discriminatory effects during the COVID-19 pandemic).

### 14. Republic Act No. 10175 (Cybercrime Prevention Act)

The objective of the Cybercrime Prevention Act of 2012 is to prevent all forms of misuse, abuse and illegal access of information and communications technology. It punishes cybercrime offenses, including computer and content-related acts. Specifically, content-related offenses include cybersex, child pornography and libel. The law creates an inter-agency Cybercrime Investigation and Coordination Center for the enforcement of the national cybersecurity plan.

The law is gender-neutral. The gender-related cybercrimes included in the law are cybersex, libel or child pornography. There is no provision to ensure the confidentiality of identity of women victims.

There are also no guidelines as to the period within which uploaded photos or videos may be taken down.

#### **RECOMMENDATIONS**

Amend the law to include a provision ensuring confidentiality of the identities of victims, and ensure guidelines are available regarding taking down of images.

Enhance legislative efforts towards the adoption of updated procedural and investigative tools in recognition of the rapid emergence of new technologies—such as live-streaming.

Include the institutionalization of capacity-building programs especially for duty-bearers such as first responders and the law enforcement sector (see Section: Recommendations for laws addressing gender inequalities during situations of emergency: Laws that have had discriminatory effects during the COVID-19 pandemic).

#### **15. Republic Act No. 11188 (Special Protection of Children in Situations of Armed Conflict Act of 2018)**

In 2014, the Philippine Government and the Moro Islamic Liberation Front forged the Comprehensive Agreement on the Bangsamoro. In 2017, UNICEF and the Front completed the UN-Moro Islamic Liberation Front Action Plan to end the recruitment of children, disengaging 1,869 children from the said armed group.<sup>57</sup> In 2018, a report published by the Office of the Special Representative of the UN Secretary-General for Children and Armed Conflict revealed 30 cases of recruitment and use of children by armed groups, 12 children detained for their alleged association with armed groups, 33 verified cases of killing and maiming of children, 3 cases of rape in the context of the Marawi siege, 60 attacks on schools and hospitals, and 5 incidents of abduction of children.<sup>58</sup>

In July 2018, the Special Protection of Children in Situations of Armed Conflict Act was passed with reference to the Philippines' compliance with international treaties such as the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict,<sup>59</sup> and CEDAW, particularly General Recommendation 30 on women in conflict.<sup>60</sup> The law defines acts of gender-based violence and covers various rights of children in situations of conflict, including the right of children to be treated with special respect

and protection against any form of abuse, neglect, exploitation and violation, especially in the context of armed conflict, and their right to be treated humanely in all circumstances without distinction due to religion or faith, sexual orientation, gender identity and expression, among others.

The Act also states measures to prevent grave violations of the human rights of children in the context of armed conflict, which includes provision of educational assistance to girls, regardless of their status as wives or mothers. There are likewise penalties for killing, torture, maiming, rape and other forms of sexual and gender-based violence against children, and also provisions for reparations. There are also provisions for the protection of victims and witnesses of grave abuse violations as well as for the rescue, release, rehabilitation and reintegration of children in situations of armed conflict.

#### **RECOMMENDATIONS**

While the Special Protection of Children in Situations of Armed Conflict Act is not discriminatory, several gaps in the law need to be addressed through amendments:

- Considerations if the perpetrator of grave human rights abuses against children is also a child and has been exploited by another perpetrator to commit such crimes.
- Considerations if the child is an orphan and has been raised by an armed group or was born in an armed group or is a child born of rape in the context of armed conflict.
- Considerations given emerging issues in conflict and post-conflict areas such as terrorism or violent extremism, to ensure that all those committing crimes against children, whether or not members of recognized armed groups, can still be held accountable under this law.

#### **Representation in political and public life**

The laws in this section provide for specific seats for women's representation in the public sector or consultative bodies at the local level. The majority of the recommendations in this section call for the harmonization of provisions on women's participation in the Magna Carta of Women where quotas have been specified.

Women's leadership in political parties and in the private sector still needs to be addressed.

While there are indeed allocated seats for women in the public sector, it is important to use the oversight provisions of these laws to assess the extent to which women's representation has changed legislation and policies and increased women's participation in political structures to give spaces and voices to women in all their diversity, including poor and marginalized women so that, if necessary, procedures to ensure participation of women can be improved.

#### **16. Republic Act No. 7160 (Local Government Code of 1991)**

The Local Government Code of 1991 was intended to help attain self-reliant communities whilst contributing to national goals. Given that this law calls for local autonomy, all national agencies and offices are required to conduct periodic consultations with local governments as well as civil society organizations and concerned members of the community before any project or program implementation takes place.

Title I, Chapter 4 calls for establishing partnerships between the local government and civil society in pursuit of local autonomy. Such partnerships may relate to basic service delivery, capacity-building and livelihood projects, local enterprise development, agriculture and rural development, and ecology, among others. Local governments may also help civil society organizations for economic, social, environmental or cultural projects that may be implemented within their jurisdiction.

Title II, Chapter 1, Section 41 calls for one sectoral representative for women, another for workers and another for any of the following sectors: urban poor, indigenous cultural communities, people with disabilities, and any other sectors as may be determined by the local legislature (*Sanggunian*). The sectoral representatives form part of the local legislature alongside its elected members.

Local legislature includes, but shall not be limited to, the following standing committees: women and family, human rights, youth and sports development, environmental protection and cooperatives.

Local boards such as school boards, health boards, development councils, and peace and order councils that formulate policies, plans and programs on matters of their jurisdiction may involve members from civil society.

While there are no discriminatory provisions in the Local Government Code, in terms of women's representation and participation at the local government level, Section 521 of the law calls for a mandatory review every five years to provide a more responsive and accountable local government structure.

#### **RECOMMENDATIONS**

Use the mandatory review provision under Section 521 to determine adoption of the required one female sectoral representative in the local legislature at all levels—provincial, city, municipal and barangay levels, even among autonomous regions—including reasons for non-compliance of local governments.

Revise or amend Title I, Chapter 4 on civil society participation to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, which stipulates that there shall be at least 40 percent women's participation in all development councils at the regional, provincial, city, municipal and barangay levels, and with CEDAW, which requires that women's participation should be at 50 percent.

#### **17. Republic Act No. 7192 (Women in Development and Nation Building Act)**

This law opened the floodgates for the crafting and passage of succeeding laws on women, prior to the passage of the landmark law, Magna Carta of Women, in 2009. It enabled a whole-of-nation approach to gender mainstreaming and opened opportunities for women in areas that were not previously available to them.

Aside from equal membership in social, civic and recreational clubs and associations as stipulated in Section 6, women are granted equal opportunities for appointment, admission, training, graduation and commissioning in all military or similar schools of the armed forces of the Philippines and the Philippine National Police under Section 7 of the law. These provisions were strengthened through the passage of Republic Act No. 8551 or the National

Police Commission and Philippine National Police Reorganization Act, and the landmark law, Republic Act No. 9710, or the Magna Carta of Women.

#### **RECOMMENDATION**

Even though subsequent laws provide a more comprehensive view of women's human rights such as the Magna Carta of Women, this law is still important as a precursor and foundational text in the current legal framework protecting women. Hence, the Women in Development and Nation Building Act may still be used as a supplement to other more recent laws when advocating for equal membership and opportunities for women.

#### **18. Republic Act No. 8551 (National Police Commission and Philippine National Police Reorganization Act of 1998)**

Pursuant to the Women in Development and Nation Building Act, this law underscored a gender-fair system of promotion for women in the Philippine National Police. This system of promotion shall be applicable to uniformed and non-uniformed personnel of the police force under Title IV, Section 31.

Given the creation of women's desks in all police stations throughout the country, local governments are required to hire female police officers who will serve at these desks. While this is so, Section 61 underscores that female police officers are not precluded from being assigned to other positions in the police force or from promotion to higher positions. Philippine National Police shall reserve 10 percent of its annual recruitment, training and education quota for women as stipulated in Title VII, Section 58. This quota was strengthened by the Magna Carta of Women under Chapter IV, Section 9, which calls for an incremental increase in the recruitment and training of women in the police force, forensics and medico-legal, legal and social work services to address violence against women and their children—until it reaches 50 percent of the personnel providing such services. To achieve this, Section 18 of the Implementing Rules of the Magna Carta of Women stipulates a 20 percent quota for female admission in all officer-candidate and non-officer schools and institutions in the military, police and similar services, including but not limited to the Philippine Military Academy, Officer Candidate School, Philippine National Police Academy and Philippine Public Safety College.

The National Police Commission is likewise mandated to formulate a gender sensitivity program that covers the establishment of equal opportunities for women in the Philippine National Police, prevention of sexual harassment in the workplace and the prohibition of discrimination on the basis of gender and sexual orientation.

Amendments to the creation and composition of the National Police Commission as stipulated in this law include the appointment of at least one female commissioner. It also mentions the inclusion of a female member in the People's Law Enforcement Board<sup>61</sup> at the city and municipal levels.

#### **RECOMMENDATION**

Use Section 40 of the Magna Carta of Women, on monitoring progress and implementation of the law, to determine compliance with the incremental increase of women in the police force, as well as the 20 percent quota for female admission in all officer and non-officer schools and institutions. Also include an assessment of the Magna Carta of Women on women in the police force in terms of recruitment, training and education, retention and promotion and the enabling environment for gender sensitivity in the police force.

#### **19. Republic Act No. 7941 (Party-List System Act)**

The Party-List System Act opened opportunities for marginalized and under-represented sectors to participate in the national legislative process. The Act calls for the registration of national, regional or sectoral parties, organizations or coalitions of women, youth and indigenous cultural communities, among others. Party-lists comprise at least 20 percent of the total members of the House of Representatives.

Parties shall be ranked from highest to lowest based on the number of votes received during the elections. Parties that receive at least 2 percent of total votes for the party-list system shall be entitled to one seat in the House of Representatives in the Philippine Congress; those garnering more than 2 percent shall be entitled to additional seats provided that each party shall not exceed three seats.

Each party shall nominate at least five nominees to sit as representatives if the party obtains the required number of votes. These nominations are ranked. Minimum qualifications for nominees have been set by the law such as being a natural-born

citizen, at least 25 years old (except for youth), a registered voter, a resident of the Philippines for a period of not less than one year preceding the elections, able to read and write and is a bona fide member of the party being represented for at least 90 days preceding the elections.

The Party-List System Act should be read in conjunction with Section 14 of the Implementing Rules and Regulations of the Magna Carta of Women, which calls for “temporary special measures to accelerate the participation and equitable representation of women in all spheres of society”.<sup>62</sup> This includes a mandate for the Commission on Elections to incorporate provisions that promote integration of women in party-list organizations under its guidelines.

#### **RECOMMENDATION**

Use Section 14 of the Implementing Rules and Regulations of the Magna Carta of Women calling for providing incentives to political parties with women’s agenda and encourages the integration of women in the party hierarchy, internal policymaking structures, as well as nominating processes. The Commission on Elections is mandated to incorporate this in its guidelines for accreditation of political parties, including party-list organizations.

#### **20. Republic Act No. 8425 (Social Reform and Poverty Alleviation Act)**

The Social Reform and Poverty Alleviation Act calls for a more grassroots approach to poverty alleviation by pursuing area-based, sectoral and focused interventions for the poor and marginalized. It likewise underscores a gender-responsive approach to fighting poverty.

This law called for the creation of the National Anti-Poverty Commission, which serves as the coordinating and advisory body for the implementation of the Act. Under Section 6, the commission is composed of government agencies, leagues of local governments and representatives from basic sectors, which include women, youth, indigenous cultural communities and indigenous peoples, among others. Each sector shall have three nominees, and sectoral representatives shall be appointed by the president from the submitted list of nominees.

#### **RECOMMENDATION**

Revise or amend Section 6 of the Social Reform and Poverty Alleviation Act to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of the National Anti-Poverty Commission to achieve a 50-50 gender balance.

#### **Nationality**

There were two laws reviewed in this section in relation to naturalization of aliens. It is recommended that these two laws be amended to allow qualified aliens—whether male or female—to file for naturalization and contribute to the greater benefit of the entire family unit.

#### **21. Commonwealth Act 473 (Revised Naturalization Law)**

The Commonwealth Act 473, signed on 17 June 1939, provides for the judicial process for the naturalization of aliens. It lists the qualifications and the legal process that an applicant alien must go through to acquire Philippine citizenship. Section 15 of the law provides for the effect of the naturalization on the wife and children. There is no provision on the effect of naturalization on the husband. Clearly the law only envisions male aliens/husbands as applicants. This is supported by Section 16 where in case of death of the petitioner before a final decision is rendered, “his widow and minor children are allowed to continue the proceedings”. The law is silent on whether an alien wife may be allowed to file as petitioner for an application for naturalization.

#### **22. Republic Act No. 9139 (Administrative Naturalization Law of 2000)**

This law, approved on 8 June 2001, covers aliens born and residing in the Philippines who may be granted Philippine citizenship by administrative proceedings, subject to certain requirements. Under it, the process of application is through a Special Committee on Naturalization, composed of the Solicitor General, Secretary of Foreign Affairs and the National Security Adviser. As compared to the judicial proceedings undertaken by an applicant/petitioner through the Commonwealth Act 473, this law aims to provide an easier process for acquiring naturalization. The effect of approval of the petition on the applicant’s alien wife and children is not an automatic naturalization. Section 11 provides that the applicant’s alien wife and children would then file for the cancelation of their alien certificate of

registration. In Section 12, the law provides that an alien wife’s application that has been granted will not benefit the alien husband, but the children may petition for the cancelation of their alien certificate of registration.

This law, as well as Commonwealth Act 473, both provide for the privilege of naturalization. However, the two laws do not provide the same rights to alien husbands and wives, nor the same effects once naturalization is granted. The Commonwealth Act 473 does not allow an alien wife to file for naturalization, while the Administrative Naturalization Law does not provide the husband the derivative naturalization that results upon the grant of the petition by the alien wife.

Equal rights relating to marriage and family relations as specified in Section 19 of the Magna Carta of Women provide:

*“Section 19. Equal Rights in All Matters Relating to Marriage and Family Relations— The State shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and shall ensure:*

*...*

*(g) women shall have equal rights with men to acquire, change, or retain their nationality. The State shall ensure that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. Various statutes of other countries concerning dual citizenship that may be enjoyed equally by women and men shall likewise be considered.”*

the effects of naturalization obtained by men and women applicants should be the same as well. In addition to ensuring gender equality, enabling the extension of such a privilege would contribute significantly to the greater benefit of the entire family unit.

#### **RECOMMENDATION FOR COMMONWEALTH ACT 473 AND ADMINISTRATIVE NATURALIZATION LAW**

Amend the laws to allow qualified alien wives and husbands alike to file for naturalization, and for both to enjoy the effects of a grant of naturalization.

## Education

Empowering communities to create better learning environments in the earliest stages of education is the core of the Early Years Act, a law that seeks to provide guidance on early education. Unequal access between the sexes to education is not an issue in the Philippines, but the access to quality education for those on the margins—such as the poor, those in conflict or those in the rural areas—is a matter of concern. The Early Years Act seeks to address this gap by strengthening local government units through promoting convergence initiatives on health, nutrition and early education.

### **23. Republic Act No. 10410 Early Years Act of 2013, which repeals Republic Act No. 8980 or the Early Childhood Care and Development (ECCD) Act of 2000**

To guarantee the well-being and development of the child, the Philippines enacted the Early Childhood Care and Development Act in 2000 as the national ECCD policy of the Philippines. This was repealed later by Republic Act 10410 or the Early Years Act of 2013. These laws are built on a framework of shared governance from the barangay level up to the level of the national government.

The ECCD law provided guidance on health, nutrition, early education and psychosocial care, parenting education and other social services for children from birth to age six and their families. This age was later increased to eight years under the Early Years Act of 2013, recognizing the critical ages from birth to eight years as crucial to educational development, thus strengthening the early childhood care and development system. Children from birth to age four fell under the guidance of the ECCD Council, and children from five to eight years old were under the Department of Education.

While not directly amendatory, the Early Years Act of 2013 includes the promotion of the needs of children with special needs, which the ECCD Act was silent on. The law mandates the State to provide for reasonable accommodation and accessible environments for children with disabilities and advocate respect for cultural and linguistic diversity. Local governments are mandated to utilize their Special Education Fund and their Gender and Development Fund to implement the ECCD program, organize and support parent cooperatives to establish a community-based ECCD program, provide counterpart funds for the continuing

professional development of their ECCD public service providers and provide facilities for the conduct of their ECCD program.

Under Section 32 of the Magna Carta of Women, equal access of Moro girl-children in the Madaris (schools of living culture and traditions for Moro and indigenous peoples) and the regular schools shall be ensured, a gender-sensitive curriculum, including legal literacy, in the Madaris shall be developed, and sensitivity of regular schools to particular Moro practices shall be ensured.

Article 5 of CEDAW recognizes the interest of the child as the primordial consideration in the upbringing and development of children, thus Early Childhood Care programs are instituted in support of sharing of responsibility between men and women and society. In 2015, the national government issued formal guidelines on the ECCD centers setting conditions for licensing and public child centers. As of 2019, 536 National Child Development Centers had been built across the country's 81 provinces,<sup>63</sup> while 119 were in various stages of development.

#### **RECOMMENDATION**

Use Section 40 of the Magna Carta of Women on monitoring progress and implementation of the law to determine compliance with Section 32 of the Magna Carta of Women, guaranteeing equal access of Moro girl-children in the Madaris and the regular schools, development of gender-sensitive curriculum, including legal literacy, in the Madaris, and sensitivity of regular schools to particular Moro practices. More importantly, monitor the utilization of the Special Education Fund and Gender and Development Fund for implementing the ECCD program, especially in ensuring gender-sensitive instruction of ECCD public service providers.

#### **Employment**

The laws on labor and employment reviewed in this section ensure equal pay for work of equal value. However, the Labor Code still contains discriminatory provisions that reinforce the burden of care work on women alongside their productive work. Much of the support in the workplace is related to women's maternity, hence the inclusion of measures and facilities that would enable women to perform their work, without reference to men's equal or shared responsibility for care work. Stereotypical provisions identifying certain

occupations 'for women' as in the case of those working in nightclubs, are present in the Code as well. Support for women to address the impact of violence against women in the workplace still needs to be understood and addressed. There are laws addressing women domestic workers and migrant workers. However, concrete measures are still needed to protect women from abuse, harassment and violence in their workplaces.

#### **24. Presidential Decree 442 (Labor Code of the Philippines)**

The Labor Code of the Philippines was enacted in 1974 by then President Ferdinand Marcos during the Martial Law era, prescribing employment protocols and labor relations in the Philippines. The Code covers conditions of pre-employment and employment; human resources development; employees' health, safety and social welfare; labor relations; and post-employment. While the law has been extensively amended over the years to adhere to international labor and gender-equality conventions, several provisions remain that require revision or repeal.

The labor force participation rate of women remains lower than that of men due to various factors such as discriminatory practices in pre-employment, during employment, wages and working arrangements, which largely make women responsible for care work. In 2018, 75 percent of men participated in the labor force, with only 47 percent of women participating.<sup>64</sup> Notably, the labor force participation rate of women has been consistent at 49 percent to 50 percent on average in the past two decades, making this the lowest female labor force participation rate in Southeast Asia.<sup>65</sup> Several factors influence the low rate. More women perform unpaid care and domestic work, limiting their full participation in the labor market. There is also the invisibility of informal workers, which are largely women.<sup>66</sup> Patriarchal family structures, gender stereotypes and religion also impact the female labor participation rate.<sup>67</sup>

Workers in the informal economy are also not fully covered by the Labor Code. Currently, no legislation provides protection to their right to self-organize, decent work, just and humane working conditions and access to social protection.

To ensure that women are not discriminated against and are treated equally under the labor laws,

Strengthening the Prohibition on Discrimination Against Women with Respect to Terms and Conditions of Employment Act (Republic Act 6725) was passed to amend Article 135 of the Labor Code. This Act was enacted to ensure women's equal treatment before the law. The law enumerates acts of discrimination, which include payment of a lesser compensation to a female employee in comparison with a male employee for work of equal value, and favoring a male employee over a female employee with respect to promotion, training opportunities, study and scholarship grants, solely on account of their sexes.

In 2010, Republic Act No. 10151 was passed, repealing the Labor Code's Article 130 on the night work prohibition against women, while Article 131 provided for exemptions. A new chapter was introduced in the Code, which covers all night workers—regardless of sex—from Article 154 to 161. Article 158 of the law is specific to women night workers, which indicates provisions for pregnant and lactating women.

Because of Republic Act No. 10151, the Department of Labor and Employment issued Department Advisory No. 1 in 2015, reflecting the new chapter and the changes in the numbering of articles and sections of the Code. Title III, Chapter I, Articles 130 to 136, are devoted to the employment of women. Article 130 states facilities for women, which include seating accommodations, separate toilets from men, nurseries for the benefit of women employees and the minimum age requirement for retirement or termination of employment in special occupations such as flight attendants. Article 131 enumerates maternity leave benefits while Article 132 is on family planning services. Article 133 indicates prohibition of discrimination based on sex, as in the case of pay, promotion, training, study and access to scholarships. Article 134, on the other hand, underscores that no woman shall be prevented from getting married or deemed resigned, separated, dismissed or discharged, or be discriminated against by virtue of marriage, while Article 135 details the prohibited acts of employers against female employees, including discrimination on the grounds of pregnancy. Article 136 provides for classification of certain women workers working in nightclubs, cocktail lounges, massage clinics, bars or similar establishments as employees.

While the objective of the provisions above is to establish standards that guarantee the safety

and health of women employees, they can also be considered discriminatory. Article 130 on the provision of nursing facilities for women reinforces women's sole burden of childcare. Instead of this, the law must encourage shared use of nurseries in the workplace between women and men who have young children. The minimum age requirement in special occupations may also be deemed discriminatory. Article 132 on family planning services also falls under the section for women, but incentives should be available for both men and women. Again, this will shift the burden of family planning from solely on women to being equally shared by women and men.

The prohibition of discrimination under Article 133 is also limited to two instances: (1) when there is payment of lesser compensation to a female employee as against a male employee, for work of equal value; and (2) when a male employee is favored over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes. The provision, unfortunately, does not cover discrimination during the recruitment and selection phase, which ultimately impacts women's entry into employment. It also does not consider discrimination that happens during retention.

Article 134 on stipulations against marriage does not cover non-discrimination of solo parents, which can impact both women and men.

Article 136 is also discriminatory. It states: "Any woman who is permitted or suffered to work, with or without compensation, in any night club, cocktail lounge, massage clinic, bar or similar establishments under the effective control and supervision of the employer for a substantial period of time...shall be considered as an employee..." The provision incorrectly assumes that only women are employed in such environments. Protection must be offered to both women and men.

When it comes to the termination of employment, Article 297 provides for a list of causes such as serious misconduct or willful disobedience, gross and habitual neglect, fraud or willful breach of trust, commission of a crime or offense against the employer or immediate family or representatives, and other analogous causes. To further strengthen the protection of women in the working environment, Article 297 must be expanded to

include discrimination and sexual harassment, abuse and violence in the workplace as grounds for termination.

Other provisions must also be amended or considered in relation to other laws, such as Article 131 on maternity leave benefits with reference to Republic Act No. 11210 or the 105-Day Extended Maternity Leave Law.

Addressing these constraints is key to the inclusion of women in all aspects of economic empowerment and participation.

## RECOMMENDATIONS

Revise or amend discriminatory provisions in the Labor Code such as:

- Article 130 on the provision of facilities for women such as nurseries as it reinforces women's sole burden of childcare; thus encourage shared use of nurseries in the workplace between women and men who have young children. Remove the minimum age requirement in special occupations as this is deemed discriminatory.
- Article 131 on maternity leave benefits with reference to the 105-Day Extended Maternity Leave Law.
- Article 132 to include incentives for family planning for both men and women as it currently puts family planning as the sole burden of women with the current tax incentives or bonus schemes applicable only to women workers.
- Article 133 to remove discrimination during the recruitment and selection phase, as well as in retention.
- Article 134 to cover non-discrimination of solo parents, which covers both women and men.
- Article 136 on the classification of certain women workers as it implies that only women are engaged to work in nightclubs, cocktail lounges, massage clinics, bars, or similar establishments. Employment protection should be offered to both women and men working in similar environments.
- Article 297 to include discrimination and sexual harassment, abuse and violence in the workplace as grounds for termination.

Ratify the remaining 45 ILO conventions including Night Work Convention (No. 171) and its Protocol, Home Work Convention (No. 177), Maternity Protection Convention (No. 183) and Violence and Harassment Convention (No. 190).

In line with ILO Recommendation 204 concerning the transition of workers from the informal economy to the formal economy, enact a new law that provides for a conceptual and operational definition of the informal economy based on the international definition, which recognizes the roles and contributions of informal workers particularly women in the care economy ensuring their visibility in data, as well as recognizing their rights such as their right to self-organize, right to decent work, right to just and humane working conditions—including protection from all forms of abuse, exploitation, harassment and violence—and access to social and economic protection and benefits.

### 25. Republic Act No. 10022 amending Republic Act No. 8042 (Migrant Workers and Overseas Filipinos Act)

The Migrant Workers and Overseas Filipinos Act of 1995 is a landmark law to protect migrant workers and overseas Filipinos from illegal recruitment and other forms of harassment and abuse overseas. As of March 2020, there were more women overseas Filipino workers than men (1,284,000 women; 1,016,000 men).<sup>69</sup>

Section 1 on the Declaration of Policies of the Migrant Workers and Overseas Filipino Act of 1995 recognized the fundamental equality of women and men before the law, hence the application of gender-sensitive criteria in the formulation of policies and programs affecting migrant workers and the composition of bodies tasked with the welfare of migrant workers. Section 19 stipulated the establishment of a Migrant Workers and Other Overseas Filipinos Resource Center in the Philippine Embassy in countries with large concentrations of Filipino migrant workers. These resource centers shall have counseling and legal services, welfare assistance, information, registration of undocumented workers, training, etc. including gender-sensitive programs to assist women migrant workers. Section 34 provided for migrant workers' representation in the House of Representatives, with at least one of the two sectoral representatives coming from the women migrant workers' sector. Nominees must have at least two years of experience as a migrant worker.

This law was amended in 2009 by Republic Act No. 10022, further improving the standard of protection and promotion of the welfare of migrant workers, their families and overseas Filipinos in distress.

Amendments to the original law include a re-composition of the respective boards of the Philippine Overseas Employment Administration and the Overseas Workers Welfare Administration to include three members, one each from women, sea-based and land-based sectors respectively, to be selected and nominated openly by the general membership of the sector being represented. Section 13 stipulates the establishment of a shared government information system for migration, which includes a tracking system of past and present gender disaggregated cases involving male and female migrant workers, including minors. Section 14, on the other hand, mandates the Philippine Overseas Employment Administration to provide comprehensive pre-employment orientation seminars that cover topics such as gender sensitivity and prevention of illegal recruitment. Section 17 includes the establishment of a National Reintegration Center to promote local employment and tap the skills and potentials of overseas workers for national development. Rule XII states the role of local governments in anti-illegal recruitment and the primary role of information dissemination on all aspects of overseas employment, which includes establishing and maintaining a database pertaining to a master list of overseas Filipino workers.

## RECOMMENDATIONS

Revise or amend the law to be consistent with CEDAW General Recommendation 26 on women migrant workers<sup>69</sup> and to include:

- An additional requirement for placement agencies to ensure gender-responsiveness of their services as a condition for accreditation or licensing, and a requirement to participate in awareness-raising and training programs that sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and the responsibilities of agencies towards women.
- Strengthening of the role of local government units not just in curbing illegal recruitment but more importantly in raising community awareness on the costs and benefits of all forms of migration for women; and conducting cross-

cultural awareness-raising activities addressed to the general public, which should highlight the risks, dangers and opportunities of migration, the entitlement of women to their earnings in the interest of ensuring their financial security, and the need to maintain a balance between women's familial responsibility and their responsibility to themselves.

- Strengthening of the National Reintegration Center for overseas Filipino workers to include services for women upon their return, which shall include comprehensive socio-economic, psychological and legal services aimed at facilitating their reintegration, including complaint mechanisms to protect the women against reprisals by recruiters, employers or former spouses, and the monitoring of service providers to ensure that they do not take advantage of the vulnerable position of women returning from work abroad.
- Training of diplomatic and consular staff to ensure that they fulfill their role in protecting the rights of women migrant workers abroad.
- Forging and strengthening of current bilateral and regional agreements to include cooperation in providing information on perpetrators of violations of the rights of women migrant workers and measures to investigate, prosecute and punish them.

## 26. Republic Act No. 10361 (Batas Kasambahay or Domestic Workers Act)

At least 1.9 million workers aged 15 years and above are engaged in domestic work in the Philippines, 84 percent of which are women.<sup>70</sup> There is a high incidence of live-in arrangements for women domestic workers (11 females:1 male live-in domestic worker), and most of them are between the ages of 15 and 24 years old. Most of those who employ them have young children and/or elderly family members.

In 2013, Batas Kasambahay, a landmark law on labor and social legislation, was passed, recognizing the contribution of domestic workers. It creates protection mechanisms, strengthens respect, and promotes the rights and welfare of domestic workers or kasambahays. The law covers domestic workers working in roles such as general house help, nanny, cook, gardener, launderer, and others who perform domestic work on a regular basis.

The law provides for the rights and privileges of domestic workers including setting the minimum wage, mandatory social security benefits and setting the standard of decent treatment. The law also expressly provides a protocol for the rescue and rehabilitation of abused domestic workers, which includes a reporting mechanism and the conduct of rescue operations. The law also provides for unlawful acts and penalties in relation to the maltreatment of domestic workers. The law was created to facilitate the transition of domestic workers from informal to formal work.

Specifically, it mandates employers to pay premiums and contributions to social security benefits such as the Social Security System, PhilHealth and Pag-IBIG. It also outlines benefits such as weekly rest periods, annual leave with pay, thirteenth month pay<sup>71</sup> and the extension of basic medical assistance. It also sets the floor for the monthly minimum wage per region. While the law provides for penalties for unlawful acts such as employment of children below 15, withholding of wages, interference in the disposal of wages, requiring deposits for loss or damage, placing the kasambahay under debt bondage and charging another household for temporarily performed tasks, it does not provide penalties for providing wages lower than the minimum standards set forth by the law, depriving social benefits and committing abuse and violence against the kasambahay. The implementing rules and regulations of this law also indicate the responsibility of the employers to register their domestic worker in the barangay where the employer is located; the barangay keeps the register of kasambahays within its jurisdiction. The National Tripartite Industrial Peace Council shall serve as an oversight committee to monitor the implementation and enforcement of this law.

There is also an implied assumption that domestic workers—from low-income, low-educational backgrounds—are aware of their rights and privileges prior to employment as a basis to assert their rights under this law. Only with knowledge of the law can a domestic worker demand their rights from their employers. Unfortunately, in a study conducted by the Department of Labor and Employment and the Philippine Statistics Authority, it was found that out of the 1.4 million Filipinos working as kasambahays, only 41 percent were aware of the law. This demonstrates a low level of awareness of rights and privileges, impacting the effectivity of the law.<sup>72</sup> This is the case despite

Section 38 of the law, which states that relevant government agencies shall “develop and implement a continuous information dissemination program on the provisions of [the Kasambahay Act], both at the national and local level, immediately after the enactment of [the] law”.

## RECOMMENDATIONS

Undertake research to understand the situation of all kinds of domestic workers, including those in live-out arrangements, as the current law was tailored to live-in domestic workers, with a view to proposing further amendments to the law.

Amend the law to include:

- Regulations for direct hiring of domestic workers to ensure that they have undergone a transparent and effective process informing them of their employment rights and prevent them from being trafficked or abused upon employment.
- Specific penalties for providing wages lower than the minimum standards set forth by the law, depriving social benefits, and committing abuse and violence against domestic workers.
- Strengthening of proactive monitoring and registration of domestic workers by the barangay as part of preventing abuse and other forms of violations.

### **27. Republic Act No. 10364 (Expanded Anti-Trafficking in Persons Act of 2012 amending Republic Act No. 9208 or the Anti-Trafficking in Persons Act)**

The Philippines has been identified as a source and transit country for human trafficking and sexual exploitation,<sup>73</sup> which resulted in the enactment of Republic Act No. 9208 or the Anti-Trafficking in Persons Act of 2003; this was further amended by Republic Act No. 10364 or the Expanded Anti-Trafficking in Persons Act of 2012. Republic Act No. 10364 punishes human trafficking, especially of women and children, establishing mechanisms for the protection and support of trafficked persons.

The Expanded Anti-Trafficking in Persons Act of 2012 mandates the establishment of an inter-agency task force aimed at charting the course to combat trafficking. The law creates a council composed of national government agencies, as well as representatives from non-governmental organizations among sectors representing women,

overseas Filipino workers and children, effectively creating the Inter-Agency Council Against Trafficking. Under the law, mandatory services are to be provided by the local government units to ensure the recovery, rehabilitation and reintegration of trafficked persons—these services include temporary housing, psychological support, legal, medical and psychological services and setting-up of a 24-hour crisis center, which serves as a counseling and referral system.

In 2019, the Philippines remained on Tier 1 of the United States Department of State Trafficking in Persons Report.<sup>74</sup> Tier 1 is the highest rank that can be given to a country whose government has acknowledged their issues with regard to human trafficking, made efforts to tackle the issue, and complies with the Trafficking Victims Protection Act of 2000 of the US Department of State. However, the Philippines remains a global hub for child sexual exploitation, including children who are trafficked into live-stream sexual abuse and sexual exploitation rings. In its General Recommendation 35 on gender-based violence against women, as an update to CEDAW General Recommendation 19, the CEDAW Committee recognizes that gender-based violence is exacerbated in contexts of displacement, migration, armed conflict, violent extremism and terrorism.<sup>75</sup> Most of the recorded cases of trafficking of women and girls are from the poorest provinces of the country, many of which are also affected by conflict and disasters.<sup>76</sup> The women and girls become displaced and the absence of protection mechanisms render them even more vulnerable to abuse and trafficking.

## RECOMMENDATIONS

Amend the law to include:

- Standardized guidelines on data collection to facilitate consistent collection and analysis of enforcement and protection efforts.
- Special support mechanisms for witnesses to report and file complaints, and to access effective services for their protection and safety.

Amend the law to improve data exchange among anti-trafficking stakeholders with due respect to data protection and confidentiality, such as requiring money transfer outlets or facilities to preserve customer information and transaction data to support authorities in investigating and prosecuting such cases.

Draft and pass a new law that addresses issues of online sexual exploitation of children to include measures such as prosecution of live-streaming content, which is currently absent in anti-child pornography laws.

## Health

The laws reviewed in this section address women's reproductive life cycle. The laws fall short of recognizing the issues and realities of a broad spectrum of women—adolescents, LGBTQI, older women, women with disabilities, rural women, Muslim and indigenous women, among others—who face discrimination on multiple fronts and difficulties in accessing health services. There is a need to enact a new law to address reproductive health concerns of vulnerable groups such as adolescents.

### **28. Republic Act No. 10028 (Expanded Breastfeeding Promotion Act of 2009 amending Republic Act No. 7600 or the Rooming-In and Breastfeeding Act of 1992)**

The Expanded Breastfeeding Promotion Act of 2009 adopts a national policy to encourage, protect and support the practice of breastfeeding. The law requires private enterprises and government agencies to create facilities that support breastfeeding. It also requires employers to allow breastfeeding employees an additional 40-minute break for every eight-hour working period to allow them to express their milk.

Key legislation has been passed to support the protection and promotion of breastfeeding in the country including the Philippine Milk Code (1986) and the First 1000 Days Law (2018), as well as other government policies that align with global breastfeeding recommendations. Maternity protection such as the enactment of the Expanded Maternity Leave Law of 2019 has been significant in the promotion and encouragement of breastfeeding in the country.

However, as was noted, especially in the context of disasters, many new mothers remain challenged in pursuing breastfeeding as they are forced to remain in evacuation centers where they are confined in unhealthy living spaces with unsafe living conditions. The current law prevents the donation of any milk substitute even in the context of disaster, but it does not provide any mechanism for support of breastfeeding mothers. While there is a need to

balance protectionism and agency, the law must be clear as to the kind of support the State needs to provide to ensure that post-natal care is supported without prejudice to the various vulnerabilities of women post-disaster.

#### RECOMMENDATION

Explore amendments that support breastfeeding and lactation in different institutions and in the context of disasters such as ensuring first responders and community health workers are equipped with the skills to support lactation and breastfeeding. Consider the inclusion of the special needs of post-natal care in all policies and practices in disaster risk reduction and management and in institutional settings such as prisons and detention facilities, rape and domestic violence crisis centers and mental health facilities, among others.

#### 29. Republic Act No. 10354 (Responsible Parenthood and Reproductive Health Act)

After several decades of lobbying and public debate, the Responsible Parenthood and Reproductive Health Act was passed in 2012 as the country's application of the International Conference on Population and Development Programme of Action. This Programme of Action called for access to reproductive healthcare, including voluntary family planning, prevention and treatment of sexually transmitted infections, and safe pregnancy and childbirth services. The Responsible Parenthood and Reproductive Health Act guarantees universal access to methods of contraception and fertility control, sex education and maternal care, and requires government health facilities to provide contraceptives. It also covers pro bono services for indigent women and adolescents as well as persons with disabilities; it is however silent on addressing the issues of LGBTQI people, the elderly, the Moro and indigenous cultural communities. The law lays out a specific financial plan from which reproductive health services shall be sourced.

The law also provides specific guidance on the provision of reproductive health services, which were later modified after an April 2014 Supreme Court decision,<sup>77</sup> temporarily stopping the law's implementation for 120 days or four months. Certain provisions were struck down as unconstitutional:

- Section 7, which gives the government the power to oblige private hospitals and those owned by religious groups to refer patients to other facilities that offer reproductive health services as well as

the provision on allowing children below the age of majority of 18 years to avail of planning services without parental consent if they are pregnant.

- Section 23, which includes penalties for healthcare providers who fail to disseminate reproductive health information or refer patients not in an emergency and life-threatening situation to another healthcare service provider, regardless of their religious beliefs; punishment for civil servants who refuse to support the law or provide services to patients under the law; penalties for health service providers that require parental consent from minor patients; and allowing a married individual, not in an emergency or life-threatening position, to undergo reproductive health procedures without the consent of the spouse.

These provisions were struck down considering that “the Court is of the strong view that the religious freedom of health providers, whether public or private, should be accorded primacy”<sup>78</sup> and that if a health worker “would be compelled to act contrary to his religious belief and conviction, it would be violative of the ‘principle of non-coercion’ enshrined in the constitutional right to free exercise of religion”.<sup>79</sup> Furthermore, “The RH Law cannot be allowed to infringe upon this mutual decision-making. [] ... this would be a marked departure from the policy of the State to protect marriage as an inviolable social institution. Decision-making involving a reproductive health procedure is a private matter which belongs to the couple, not just one of them.” In relation to minors availing family planning services, the Court had this to say: “To insist on a rule that interferes with the right of parents to exercise parental control over their minor-child or the right of the spouses to mutually decide on matters which very well affect the very purpose of marriage, that is, the establishment of conjugal and family life, would result in the violation of one's privacy with respect to his family.”

Several local government ordinances remained in place or were laid down opposing some aspects of the reproductive health law. Some groups also challenged provisions in the law in relation to women's access to contraceptives. In 2016, the Commission on Human Rights called for a national inquiry on reproductive health rights to examine the barriers that women faced in accessing reproductive health services and a full range of family planning methods despite the passage of the Responsible Parenthood and Reproductive

Health Act. One of the barriers found was the passage of local government ordinances that contradicted the law and international human rights conventions such as CEDAW. The inquiry also looked into the requirement of spousal and parental consents in accessing reproductive health services. The commission was also concerned about the criminalization and penalties for home births that impact women in geographically isolated areas where healthcare facilities are scarce and indigenous women seeking to exercise their cultural rights are curtailed.<sup>80</sup>

In 2015, the CEDAW Committee published the summary of its inquiry into allegations of violations of sexual and reproductive rights in Manila, arising from a local executive order made by the mayor of the city on the provision of sexual and reproductive health rights, services and commodities.<sup>81</sup>

The CEDAW Committee made several recommendations for the Philippines as a whole, as well as for the local context in Manila, including:

- To “fully enforce the Magna Carta of Women and its implementing rules and regulations that guarantee, among other things, women’s access to effective methods of family planning”.<sup>82</sup>
- To “amend articles 256 to 259 of its Criminal Code to legalize abortion in cases of rape, incest, threats to the life and/or health of the mother or serious malformation of the foetus and to decriminalize all other cases in which women undergo abortion, as well as to adopt the procedural rules necessary to guarantee effective access to legal abortion”.<sup>83</sup> To “[a]ddress the unmet need for contraception, especially in Manila, with a particular focus on economically disadvantaged women and adolescent girls, by ensuring universal and affordable access to the full range of sexual and reproductive health services, commodities and related information, which must include the availability of the safest and most technologically advanced methods of contraception”.<sup>84</sup>
- To “[i]ntegrate age-appropriate education on sexual and reproductive health into school curricula, including comprehensive sex education, for adolescent girls and boys, covering prevention of early pregnancies and sexually transmitted diseases, including HIV/AIDS”.<sup>85</sup>

In 2016, the Philippines took part in three UN treaty body monitoring processes: with the CEDAW Committee, with the Committee against Torture,

and with the Committee on Economic, Social and Cultural Rights. All three committees found that the Philippines was violating human rights in denying access to sexual and reproductive health information and services.

All three committees called on the Philippines to decriminalize abortion. The Committee on Economic, Social and Cultural Rights expressed concern that: “abortion is criminalized under any circumstance in the [Philippines]. That results in a growing number of unsafe abortions and very high maternal mortality rates, including among adolescents.”<sup>86</sup> The CEDAW Committee noted that “early pregnancies, unsafe abortions and HIV/AIDS infections are increasing, in particular among adolescent girls”.<sup>87</sup> The Committee against Torture noted that there were reports of ill-treatment of women and girls seeking healthcare after pregnancy, due to the criminalization of abortion.<sup>88</sup> The Committee against Torture recommended that the Philippines “[r]eview its legislation in order to allow for legal exceptions to the prohibition of abortions in specific circumstances such as when the pregnancy endangers the life or health of the woman, when it is the result of rape or incest and in cases of foetal impairment”.<sup>89</sup>

All three committees called on the Philippines to ensure access to sexual and reproductive health information and contraceptives. The Committee against Torture expressed its concern “at the inadequate access to sexual and reproductive health services, including misinformation about modern methods of contraception, in particular in Manila, as a result of the implementation of Executive Orders No. 003 and No. 030 issued by the Manila City Council, the implementation of which has resulted in a significant number of maternal deaths, fostered domestic violence and caused damage to women’s mental and physical health”.<sup>90</sup>

The Committee on Economic, Social and Cultural Rights expressed concern “at the high level of unwanted pregnancies and at the limited access to reproductive health information and services, including contraceptives, particularly among adolescents and women in rural areas, despite the Responsible Parenthood and Reproductive Health Act of 2012”.<sup>91</sup>

The Committee on Economic, Social and Cultural Rights called on the Philippines to “improve access to sexual and reproductive health information

and services, including contraceptives, and relist emergency contraceptives”<sup>92</sup> and to “expand and strengthen comprehensive, age-appropriate sexual and reproductive health education for both sexes, taking note of the recommendations issued by the Committee on the Elimination of Discrimination against Women in 2015 in its inquiry report. The Committee draws the attention of the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health”.<sup>93</sup>

In 2016, the CEDAW Committee expressed concern that its recommendations from its inquiry report of 2015<sup>94</sup> had not been implemented and reminded the Philippines to implement its recommendation in full and without delay.<sup>95</sup>

The Committee on Economic, Social and Cultural Rights elaborated a comprehensive framework of entitlements, laws, policies and access to services, goods, information and medicines required to ensure the right to sexual and reproductive health and the rights of women and girls:

*“The realization of the rights of women and gender equality, both in law and in practice, requires repealing or reforming discriminatory laws, policies and practices in the area of sexual and reproductive health. Removal of all barriers interfering with access by women to comprehensive sexual and reproductive health services, goods, education and information is required. To lower rates of maternal mortality and morbidity requires emergency obstetric care and skilled birth attendance, including in rural and remote areas, and prevention of unsafe abortions. Preventing unintended pregnancies and unsafe abortions requires States to adopt legal and policy measures to guarantee all individuals access to affordable, safe and effective contraceptives and comprehensive sexuality education, including for adolescents; to liberalize restrictive abortion laws; to guarantee women and girls access to safe abortion services and quality post-abortion care, including by training healthcare providers; and to respect the right of women to make autonomous decisions about their sexual and reproductive health.”<sup>96</sup>*

## RECOMMENDATIONS

Enact a new law to address the reproductive health rights of all, including those living in remote and rural areas, and those on low incomes, in conformity with the recommendations of the CEDAW Committee, the Committee on Economic, Social and Cultural Rights, and the Committee against Torture.

This new law should include provisions relating to vulnerable groups, such as adolescents, that specifically address access to reproductive healthcare information, services and commodities without parental consent, and should specify that adolescents should be provided with comprehensive information on sexual and reproductive health and rights, responsible sexual behavior, prevention of early pregnancies and prevention of sexually transmitted diseases, including HIV and AIDS, in compliance with international human rights standards.

Further, the law should:

- Allow women to access reproductive health procedures without requiring consent from their husbands, in recognition of women’s agency over their bodies.
- Include the distinct reproductive and sexual health issues of LGBTQI people, older women, and indigenous and Moro women.
- Harmonize with other health laws, such as the HIV and AIDS Policy Act of 2018, to ensure a standard approach especially in relation to harm reduction doctrines such as the “matured minor” doctrines included in the HIV and AIDS Policy Act of 2018 that allow minors to consent independently to reproductive health procedures.
- End the criminalization of abortion.
- Provide timely access to emergency contraception, especially to survivors of sexual violence.
- Ensure “universal access to a full range of the safest and most technologically advanced methods of contraception”.<sup>97</sup>
- Ensure comprehensive, age-appropriate sexual and reproductive health education for all, especially adolescents and children.

### **30. Republic Act No. 11166 (Philippine HIV and AIDS Policy Act of 2018, Repealing Republic Act No. 8504, or the Philippine Aids Prevention and Control Act of 1998)**

Republic Act No. 11166, or the Philippine HIV and AIDS Policy Act of 2018, expressly repealing Republic Act No. 8504, or the Philippines AIDS Prevention and Control Act of 1998, mandates the government to establish programs and policies and adopt a multi-sectoral approach to prevent the spread of HIV, and ensure access to HIV and AIDS-related services by “eliminating the climate of stigma and discrimination.”<sup>98</sup> The law orders the establishment of a program to provide free and accessible treatment and medication, including anti-retroviral therapy to all persons living with HIV and AIDS. The new law introduces the mature minor doctrine, “which recognizes the capacity of some minors to consent independently to medical procedures if they have been assessed by qualified health professionals to understand the nature of procedures and their consequences and to make a decision on their own.”<sup>99</sup> This allows minors of 15 years to 17 years of age to consent to taking an HIV test without the involvement or consent of parents. It also allows for any person below 15 years who is pregnant, married, or involved in high-risk behavior to give their own consent for HIV testing.

Section 19 stipulates that local governments shall implement a locally based, multi-sectoral community response to HIV and AIDS using their Gender and Development Fund. Indigenous peoples’ communities as well as out-of-school youth are covered by HIV and AIDS education in communities.

The law specifically recognizes the special attention that must be given to women and children as it relates to their reproductive role,<sup>100</sup> as referenced by CEDAW General Recommendation 15 on the Avoidance of Discrimination against Women in National Strategies and Control of AIDS.<sup>101</sup> There is no mention, however, of priority of post-exposure prophylaxis for HIV and treatment for AIDS in the context of violence against women under CEDAW General Recommendation 35,<sup>102</sup> including prevention of risks in the context of disaster and conflict under CEDAW General Recommendations 37<sup>103</sup> and 30,<sup>104</sup> respectively.

### **RECOMMENDATIONS**

Harmonize with other health laws, such as the Responsible Parenthood and Reproductive Health Act, to ensure a standard approach especially in relation to the mature minor doctrine provided in the revised HIV and AIDS Policy Act.

Amend the law to include considerations for priority post-exposure prophylaxis for HIV and treatment for AIDS in the context of violence against women under CEDAW General Recommendation 35, including prevention of risks in the context of disaster and conflict under CEDAW General Recommendations 37 and 30, respectively.

#### **Economic and social benefits**

Most of the economic and social benefits in the laws reviewed in this sector are specific to women in the formal economy and on maternity or childcare. As with the overall comment in the section on health, laws on economic and social benefits fall short of recognizing the issues and realities of a broad spectrum of women—adolescents, LGBTQI, older women, women with disabilities, rural women, Muslim and indigenous women, among others—who face discrimination on multiple fronts and difficulties in accessing health services. More importantly, the issue of violence against women is not recognized in these laws, as well as the gender dynamics in the household that may impede women from accessing economic and social benefits.

### **31. Republic Act No. 11199 amending Republic Act No. 8282 (Social Security Act of 1997)**

Consistent with the principles of social justice, this law is intended to provide social protection to workers in the private sector and their beneficiaries.

This law covers pension and dependents’ pension, retirement benefits, death benefits, permanent disability benefits, temporary disability benefits, funeral benefits, sickness benefits where maternity leave benefits are subsumed, and life insurance benefits. Under Republic Act No. 11199, compulsory coverage of domestic workers (*kasambahays*) and overseas Filipino workers, as well as unemployment insurance or involuntary separation benefits, have been included.

Maternity benefits are granted to female employees who have paid at least three monthly contributions to the Social Security System in the 12-month period immediately preceding the semester of her childbirth or miscarriage, equivalent to 100 percent of her average daily salary credit for 60 days or 78 days in case of caesarian delivery, subject to the following conditions:

- a) *“That the employee shall have notified her employer of her pregnancy and the probable date of her childbirth, which shall be transmitted to the Social Security System in accordance with the rules and regulations it may provide.*
- b) *The full payment shall be advanced by the employer within 30 days from the filing of the maternity leave application.*
- c) *The payment of daily maternity benefits shall be a bar to the recovery of sickness benefits provided by this Act for the same period for which daily maternity benefits have been received.*
- d) *That the maternity benefits provided under Section 14-A shall be paid only for the first four deliveries or miscarriages.*
- e) *That if an employee should give birth or suffer miscarriage without the required contributions having been remitted for her by her employer to the Social Security System or without the latter having been previously notified by the employer of the time of the pregnancy, the employer shall pay to the Social Security System damages equivalent to the benefits which said employee member would otherwise have been entitled to.”<sup>105</sup>*

However, such benefits as mentioned above should be in line with ILO Convention 190 (2019) on Violence and Harassment, which indicates provision of legal, social, medical and administrative support measures for complainants and victims of violence and harassment and recognition of the effects of domestic violence, and so far as is reasonably practicable, mitigate its impact in the world of work; and with reference to CEDAW General Recommendations 24 on health,<sup>106</sup> 15 on HIV and AIDS,<sup>107</sup> 30 on women in conflict prevention, conflict and post-conflict situations,<sup>108</sup> 31 on the girl-child

and harmful practices,<sup>109</sup> 34 on rural women,<sup>110</sup> and 35 on violence against women,<sup>111</sup> and include coverage for women victim-survivors of violence as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.

Section 3 stipulates the creating of a Social Security Commission, which directs and controls the Social Security System. Section 3 further stipulates that one of the seven appointed members shall be a woman from the workers’ group, and another a woman from the employers’ group, chosen from among the nominees of workers’ and employers’ organizations, respectively.

Another notable gap in the law is the lack of clarification with regard to the options for surnames of married women. The law must include a provision that married women have the option to retain their maiden names to access social security benefits.

## RECOMMENDATIONS

Revise or amend provisions on death benefits, permanent disability benefits, temporary disability benefits, funeral benefits, sickness benefits where maternity leave benefits are subsumed, and life insurance benefits with reference to ILO Convention 190 (2019) on Violence and Harassment; and with reference to CEDAW General Recommendations 24 on health,<sup>112</sup> 15 on HIV and AIDS,<sup>113</sup> 30 on women in conflict prevention, conflict and post-conflict situations,<sup>114</sup> 31 on the girl-child and harmful practices,<sup>115</sup> 34 on rural women,<sup>116</sup> and 35 on violence against women,<sup>117</sup> and include coverage for women victim-survivors of violence as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.

Revise or amend Section 3 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of the Social Security Commission to achieve a 50-50 gender balance.

Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.

### **32. Republic Act No. 8291 (Government Service Insurance System Act of 1997)**

The Government Service Insurance System Act of 1997 intended to provide social protection for those in the public sector. It should be noted, however, that this law only covers pension, separation benefits, retirement benefits, permanent disability benefits, temporary disability benefits, survivorship benefits, funeral benefits and life insurance benefits. These benefits do not have provisions for legal, social, medical and administrative support measures for complainants and victims of domestic violence, in adherence to ILO Convention 190 (2019) on Violence and Harassment, and CEDAW General Recommendation 35.

It also does not provide any clarifications as to whether or not married women can retain their maiden names and still have access to the benefits and social protections provided under the law.

#### **RECOMMENDATIONS**

Revise or amend provisions on death benefits, permanent disability benefits, temporary disability benefits, funeral benefits, sickness benefits where maternity leave benefits are subsumed, and life insurance benefits with reference to ILO Convention 190 (2019) on Violence and Harassment, which indicates provision of legal, social, medical and administrative support measures for complainants and victims of violence and harassment and recognition of the effects of domestic violence, and so far as is reasonably practicable, mitigate its impact in the world of work; and, furthermore, with reference to CEDAW General Recommendations 24 on health,<sup>118</sup> 15 on HIV and AIDS,<sup>119</sup> 30 on women in conflict prevention, conflict and post-conflict situations,<sup>120</sup> 31 on the girl-child and harmful practices,<sup>121</sup> 34 on rural women,<sup>122</sup> and 35 on violence against women,<sup>123</sup> and include coverage for women victim-survivors of violence as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.

Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.

### **33. Republic Act No. 11210 (105-Day Extended Maternity Leave Law of 2019)**

The 105-Day Extended Maternity Leave Law of 2019 is an expansion of the maternity benefits under the Social Security Law. Under this law, all female

workers in government and the private sector, including those in the informal economy, regardless of civil status or the legitimacy of the child, shall be entitled to 105 days of maternity leave with full pay and an option to extend for an additional 30 days without pay. In cases of a solo parent, the worker shall be granted an additional 15 days of maternity leave with full pay. This leave cannot be deferred but should be availed either before or after the actual period of delivery in a continuous and uninterrupted manner.

For cases of miscarriage or emergency termination of pregnancy, 60 days of maternity leave with full pay shall be granted.

Another salient feature of the law is that it allows female workers to allocate seven days of their maternity leave to the father of the child (regardless of whether they are married or not). In case of death, absence or incapacity of the child's father, the said seven-day leave balance can be transferred to a relative or current partner (regardless of their sex or gender identity) of the female worker.

Aside from these, in the event that the beneficiary female worker dies or is permanently incapacitated, the balance of maternity leave benefits shall accrue to the father or the child or to a qualified caregiver, which is over and above the provisions set forth in the Paternity Leave Act of 1996.

There is likewise a non-discrimination clause in the law, stipulating that no employer in the public or private sector shall discriminate employment of women to avoid benefits.

Section 17 of the law also provides for a periodic review, wherein the Civil Service Commission, the Department of Labor and Employment, the Social Security Commission, and the Gender Ombud of the Commission on Human Rights shall conduct a review of the maternity leave benefits of female workers in government service and the private sector, within one month after effectivity of the Act. This must be utilized to evaluate whether the law is able to address maternity leave needs.

## RECOMMENDATION

Considering that the law was recently issued, use Section 17 of the law with reference to the periodic review by the Civil Service Commission, the Department of Labor and Employment, the Social Security Commission, and the Commission on Human Rights as the Gender Ombud, in consultation with trade unions, labor organizations and employers' representatives.

Also use Section 40 of the Magna Carta of Women on monitoring progress and implementation of the law to determine the impact of this law on women and their families as well as on their workplaces—in both the formal and informal sectors.

### 34. Civil Service Commission Resolution No. 021420

While the Government Service Insurance System Act did not mention maternity benefits, the Civil Service Commission issued a resolution on 22 October 2002 in relation to maternity benefits of female government employees, following the conditions set forth also in the Social Security Act.

The differences between this resolution and the Social Security Act are as follows:

- Maternity leave of those who have rendered one year or more but less than two years of service shall be calculated in proportion to their length of service, provided that those who have served for less than one year shall be entitled to 60 days maternity leave with half pay.
- Maternity leave shall be granted in every instance of pregnancy, irrespective of its frequency.
- When a female employee wants to report back to duty before the expiry of her maternity leave, she may be allowed to do so provided she presents a medical certificate that she is physically fit to assume the duties of her position. The commuted money value of the unexpired portion of the leave need not be refunded, and when the employee returns to work before the expiration of her maternity leave, she may receive both the benefits granted under the maternity leave law and the salary for actual services rendered effective the day she reports for work.
- All contractual female employees shall be entitled to maternity leave benefits like regular employees.

It should be noted that while the 105-Day Extended Maternity Leave Law supersedes Civil Service Commission Resolution No. 021420, said resolution may still be updated or repealed to be in line with the new law.

## RECOMMENDATION

Update or repeal Civil Service Commission Resolution No. 021420 on maternity leave to reflect the extended maternity leave with reference to the 105-Day Extended Maternity Leave Law.

### 35. Republic Act No. 10606, amending Republic Act No. 7875 (National Health Insurance Act of 1995)

The National Health Insurance Act guarantees that the State shall provide public health services to all groups such as women, children, indigenous people, displaced communities and communities in environmentally endangered areas. The law's guiding principles prioritize the needs of the underprivileged, sick, elderly, disabled, women and children. While this is so, there is no specific provision that looks after the health issues of women in the context of violence or in recognition of multiple discrimination possibly faced by girl-children, elderly women, indigenous women, LGBTQI, women with disabilities or women living with HIV and AIDS—in terms of access to health insurance coverage.

Article III, Section 11 under Excluded Personal Health Services, however, excluded from the insurance coverage non-prescription drugs and devices, out-patient psychotherapy and counseling for mental disorders, drug and alcohol abuse or dependency treatment, cosmetic surgery, home and rehabilitation services, optometric services, normal obstetrical delivery, and cost-ineffective procedures, which shall be defined by the Philippine Health Insurance Corporation (PhilHealth). Republic Act No. 9241, which amends the National Health Insurance Act, included coverage for out-patient psychotherapy and counseling for mental disorders, and home and rehabilitation services, and excluded fifth and subsequent normal obstetrical deliveries. A subsequent amendment, Republic Act 10606, removed these excluded personal health services except for "cost-ineffective procedures" through health technology assessment and provided that PhilHealth may "institute additional exclusions and limitations as it may deem reasonable in keeping with its protection objectives and financial sustainability".<sup>124</sup> Notably, Article III, Section 11 does

not make reference to any provisions for legal, social, medical and administrative support measures for complainants and victims of domestic violence.

Article IV, Section 18 is silent on female representation on the Board of PhilHealth.

The law also includes an oversight provision, under Section 54, which states that the houses of Congress shall conduct a regular review of the National Health Insurance Program.

#### **RECOMMENDATION**

Revise or amend Article III, Section 11 of Republic Act No. 7875 and its amendments, Republic Act No. 9241 and Republic Act No. 10606, to eliminate such excluded personal health services consistent with Article 12 of CEDAW on health, and with reference to ILO Convention 190 (2019) on Violence and Harassment, which indicates provision of legal, social, medical and administrative support measures for complainants and victims of violence and harassment and recognition of the effects of domestic violence, and so far as is reasonably practicable, mitigate its impact in the world of work;<sup>125</sup> and with reference to CEDAW General Recommendations 24 on health,<sup>126</sup> 15 on HIV and AIDS,<sup>127</sup> 30 on women in conflict prevention, conflict and post-conflict situations,<sup>128</sup> 31 on the girl-child and harmful practices,<sup>129</sup> 34 on rural women,<sup>130</sup> and 35 on violence against women,<sup>131</sup> and include coverage for women victim-survivors of violence as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.

Revise or amend Article IV, Section 18 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the senior ranking positions of PhilHealth to achieve a 50-50 gender balance (see succeeding entry on the Universal Health Care Act).

Exercise the oversight provision of the law, which entails an evaluation of the National Health Insurance Program to be undertaken by both houses of Congress.

#### **36. Republic Act No. 11223 (Universal Health Care Act)**

The Universal Health Care Act seeks to realize universal healthcare in the country and guarantees equitable access to quality and affordable healthcare

goods and services and protection against financial risk. While this is so, there is no specific provision that looks after the health issues of women in the context of violence or in recognition of multiple discrimination possibly faced by girl-children, elderly women, indigenous women, LGBTQI, women with disabilities or women living with HIV and AIDS—in terms of access to universal healthcare.

Chapter III, Section 13, stipulates that at least two of the panel members of PhilHealth must be women.

#### **RECOMMENDATIONS**

Revise or amend the Act to include provisions for the prevention and treatment of diseases and conditions affecting women and to respond to violence against women; to ensure universal access for women to a full range of high-quality and affordable healthcare, including sexual and reproductive health services with reference to CEDAW General Recommendation 24 on women and health;<sup>132</sup> and to recognize the varying needs and issues of women under related General Recommendations 15 on HIV and AIDS,<sup>133</sup> 30 on women in conflict prevention, conflict and post-conflict situations,<sup>134</sup> 31 on the girl-child and harmful practices,<sup>135</sup> 34 on rural women,<sup>136</sup> and 35 on violence against women.<sup>137</sup>

Revise or amend Chapter III, Section 13 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of PhilHealth to achieve a 50-50 gender balance.

Ensure that Section 39 of this law with reference to the oversight provision of both houses of Congress will be used to review the implementation of this Act, which shall “entail a systematic evaluation of the performance, impact or accomplishments of this Act and the performance of the various agencies involved in realizing universal healthcare, particularly with respect to their roles and functions”.

#### **37. Republic Act No. 11310 (Pantawid Pamilyang Pilipino Program or 4Ps Act)**

The 4Ps Act took off from the program of the Department of Social Welfare and Development during the Aquino Administration. Under this law, the government shall invest in and harness the country’s human capital and improve the delivery of basic services to the poor, particularly education,

health, nutrition and early childhood care and development to break the intergenerational cycle of poverty. The law aims to promote gender equality and empowerment of women and children's rights through Family Development Sessions, which households must participate in. These sessions contain modules on topics such as civic and political rights, gender equality, and sexual and reproductive health, among others.

This law provides for conditional cash transfers to low-income households for a maximum period of seven years, subject to a longer period under exceptional circumstances as recommended by the National Advisory Council, led by the Department of Social Welfare and Development.

Qualified household-beneficiaries of the 4Ps shall use a standard targeting system<sup>138</sup> which determines the qualified beneficiaries who will receive the conditional cash transfer; a regular revalidation of beneficiary targeting is set every three years. Eligible beneficiaries are farmers, fisherfolk, homeless families, indigenous peoples, informal settlers and those in geographically isolated and disadvantaged areas, provided they meet the following criteria:

- “Classified as ‘poor’ and ‘near-poor’ based on the Standardized Target System and the poverty threshold issued by the Philippine Statistics Authority at the time of selection.
- Have members of the household aged from birth to 18 years, or are pregnant at the time of registration.
- Willing to comply with the conditions set forth in the law. These conditions are as follows:
  - Pregnant women must avail of prenatal services, give birth in a health facility attended by a skilled health professional and receive post-partum care and post-natal care for the newborn;
  - Children from birth to five years old must receive regular preventive health and nutrition services including check-ups and vaccinations;
  - Children one to 14 years old must avail of deworming pills at least twice a year;
  - Children three to four years old must attend daycare or pre-school classes at least 85 percent of their time;
- Children five to 18 years old must attend elementary or secondary classes at least 85 percent of their time;
- At least one responsible person must attend family development sessions conducted by the Department of Social Welfare and Development at least once a month.”<sup>139</sup>

The conditional cash transfer granted to household-beneficiaries are as follows:

- “Per child enrolled in daycare and elementary programs shall not be lower than PhP 300 (USD 6.18) per month for a maximum of 10 months per year
- Per child enrolled in junior high school shall not be lower than PhP 500 (USD 10.31) per month for a maximum of 10 months per year
- Per child enrolled in senior high school shall not be lower than PhP 700 (USD 14.43) per month for a maximum of 10 months per year
- Health and nutrition grant shall not be lower than PhP 750 (USD 15.46) per month for a maximum of 10 months per year which intended to improve the health nutritional status of pregnant and postpartum mothers, infants and young children, by the household-beneficiary.”<sup>140</sup>

Beneficiaries shall be automatically covered by the National Health Insurance Program. They shall be given priority in availing the Department of Social Welfare and Development’s Sustainable Livelihood Program and employment facilitation services of the said program.

Aside from the National Advisory Council, an Independent Monitoring Committee shall be created at the regional and national levels, composed of representatives from the private sector and civil society organizations, to complement the monitoring activities of the Department of Social Welfare and Development and provide feedback for appropriate action. A Joint Oversight Committee in the legislature shall be composed of 14 members with the chairs of the Congressional Committee on Poverty Alleviation, Social Justice, Welfare and Rural Development of the Senate as co-chairs, and six members from each house.

Women play a central role in the implementation of the government’s conditional cash transfer program. As the primary caregivers and performers of reproductive work in the household, they are

the ones who are usually left at home to ensure that the conditionalities of the law are met. The household heads, primarily women, become the de facto managers of their family's compliance with the law—from ensuring that pregnant women avail of prenatal services, to ensuring that children in the household meet the attendance conditionality. Thus, the burden of compliance is mostly on women.

On the one hand, there are opportunities in the law that benefit women directly, such as the obstetrical and reproductive health aspect of the law. There are also opportunities in the law through the Family Development Sessions to ensure that those who are part of the program are versed in their rights and on gender equality. There is then a basic assumption that heads of households (primarily women) have sufficient time available for the required tasks—including attendance at Family Development Sessions—ignoring the already multiple burdens women have to shoulder outside the program. Compliance burdens the women who are already heavily weighted with reproductive work at home, creating an additional burden that some participants may find inconvenient and inflexible.

As the program opens opportunities for a new source of money for women who become heads of households and who are given the control over the grant, power dynamics in the household may change, sparking friction and creating conflict between spouses, which sometimes exacerbates domestic violence.

#### **RECOMMENDATION**

Revise or amend the Act to include provisions for the prevention and treatment of diseases and conditions affecting women, as well as responding to violence against women, and ensure universal access for all women to a full range of high-quality and affordable healthcare, including sexual and reproductive health services with reference to CEDAW General Recommendation 24 on women and health,<sup>141</sup> and recognizing the varying needs and issues of women under related General Recommendations 15 on HIV and AIDS,<sup>142</sup> 30 on women in conflict prevention, conflict and post-conflict situations,<sup>143</sup> 31 on the girl-child and harmful practices,<sup>144</sup> 34 on rural women<sup>145</sup> and 35 on violence against women.<sup>146</sup>

Undertake research and consultations with women benefitting from the law to assess its effectiveness, including to ascertain whether the opportunities for new sources of money for women are creating unintended consequences such as increased violence in the household.

Given the context of the COVID-19 pandemic, the law needs to be revisited with regard to the realities faced by single mothers, older women and women with disabilities during the pandemic who may be in charge of care of their family members, to expand conditional cash transfers to them as well. (See Section: Recommendations for laws addressing gender inequalities during situations of emergency: Laws that have had discriminatory effects during the COVID-19 Pandemic.)

#### **Marriage and family**

The majority of the laws with discriminatory provisions against women are in the area of marriage and family. These laws are based on patriarchy and prevailing gender stereotypes. It is necessary to link these laws with women's and girls' protection from violence, especially in the domestic sphere, and examine how they affect women's ability to work and their participation in public or political life.

#### **38. Act No. 3815 (Revised Penal Code)**

Women's groups and advocates have attempted to amend the provisions in the Revised Penal Code viewed as discriminatory against women. To date, Republic Act No. 8353 amended the provisions on rape, while in 2015, Republic Act No. 10655 repealed Article 351 on premature marriage. This provision criminalized the marriage of a widow within 301 days from the date of the death of the husband, or before having delivered if she was pregnant at the time of his death. The criminal act is based on the effect of the widow's marriage on the name and heritage of the unborn child, because marriage under these circumstances would have made the child a wrongful heir of the future spouse and deprived the child from being an heir of the deceased spouse.

Under the Revised Penal Code, adultery is an offense committed by a married woman, while concubinage is committed by a married man. The elements of each crime are also different according to whether the crime is committed by a man or a woman. Adultery is committed by any married woman who has sexual intercourse with a man not her husband, while concubinage is committed by a husband under any of these circumstances: (1) keeping a mistress in the conjugal dwelling; (2) having sexual intercourse under scandalous circumstances; or (3) cohabiting with the mistress in any other place. The elements of the offense of adultery are easier to prove than concubinage, and each act of adultery is one count of offense. The same is not true for concubinage because when the elements of keeping the mistress in the conjugal dwelling or in any place occur, they are not one-time acts and are more difficult to prove. In terms of the penalties, adultery carries the penalty of imprisonment for two to six years, while for concubinage the penalty ranges from six months to four years. The difference in elements and penalties is explained by possible paternity, filiation and succession issues, i.e., the law is stricter on women because they may get pregnant and bring into the family a child that is not the biological child of her husband. The difference in treatment between the acts committed by married men and those committed by married women violates the equal protection clause as there is no substantial distinction between them in terms of obligations in a marriage. Lastly, criminalization of marital infidelity is considered excessive interference of the State in the acts of consenting adults and violates their privacy, contrary to the protection enshrined in Article 17 of the International Covenant on Civil and Political Rights.

Adultery and concubinage are offenses categorized under Title Eleven of the Revised Penal Code called Crimes Against Chastity. The title does not represent the offenses punished; chastity is not a common element in all the offenses mentioned, nor is it a characteristic that describes the offender or the offended parties. Aside from the offenses already discussed, other criminal acts involved here are qualified seduction, which requires the offended party to be a virgin over 12 and under 18 years, simple seduction of a single woman or a widow of good reputation, or consented abduction of a virgin over 12 and under 18. Clearly, the burden that the prosecution must prove is not only the commission

of sexual abuse but also the “virginal” reputation of the offended party, an element that is irrelevant to the sexual abuse being complained about. The element of being “virginal” clearly reflects the prejudice and societal expectation imposed on girls and women, one that prevents them from coming forward to report sexual abuse not only because of the difficulty in proving the offense, but also because of the besmirched reputation that the offended party and her family will suffer in their community.

Article 202 of the Revised Penal Code also criminalizes prostitutes, who are defined as women only.

Finally, Article 247 contemplates a situation when a married person kills or injures a spouse caught in the act of committing sexual intercourse with another person. The law provides a penalty of destierro, or banishment when the spouse is killed, and exemption from punishment when the spouse is injured. The same applies when circumstances involve a parent and a daughter under 18 years of age. While the law uses the generic term “spouse”, this provision intends to protect the name and dignity of the family (represented by the husband) and accepts that the “surprise” that brought the married person to act violently is accepted by law. There are already existing laws on physical injuries and deaths that could apply, and this law may potentially be used in ways that result in impunity for crimes of violence against women.

#### **RECOMMENDATION**

Decriminalize Articles 333 and 334 on adultery and concubinage. Other remedies not criminal in nature on marital infidelity may be used by the parties involved. Decriminalize Article 202 on the definition of prostitution and repeal Article 247 on death inflicted under exceptional circumstances as there are existing criminal provisions that may be used in these circumstances. There is also a need to remove the title of the set of offenses under Title Eleven of the Revised Penal Code and the elements to commit seduction and consented abduction referring to the offended party’s “virginity” or good reputation.

### 39. Republic Act No. 386 (Civil Code of the Philippines)

The Civil Code of the Philippines is a codification of laws on marriage, properties, modes of acquiring ownership including succession, and obligations and contracts. Title III on marriage was amended by the Family Code of the Philippines or Executive Order 209 in 1988. One of the provisions in the New Civil Code where women would want to assert their rights is Article 370, which provides how a married woman may use a surname. The law states:

A married woman may use:

1. Her maiden first name and surname and add her husband's surname.
2. Her maiden first name and her husband's surname.
3. Her husband's full name, but prefixing a word indicating that she is his wife, such as "Mrs".

The impact of the Spanish colonization, particularly the concept of *pater familias*, has resulted in the practice of married women mainly using either of the first two options. Clearly, the permissive language of the law allows the option of retaining the maiden surname. There are anecdotal reports of instances when it would be problematic to transact with government offices that require women to use their married names in the official records even if the women would prefer not to use them.<sup>147</sup>

In the case of passports, however, Republic Act No. 8239 or the Philippine Passport Act of 1996 provides that a married woman who has previously been issued a passport in her married name may revert to her maiden name, with the following requirements:

*"In case of a woman who is married, separated, divorced or widowed or whose marriage has been annulled or declared by court as void, a copy of the certificate of marriage, court decree of separation, divorce or annulment or certificate of death of the deceased spouse duly issued and authenticated by the Office of the Civil Registrar General:*

*Provided, that in case of a divorce decree, annulment or declaration of marriage as void, the woman applicant may revert to the use of her maiden name: Provided, further, that such divorce is recognized under existing laws of the Philippines."*<sup>148</sup>

In *Maria Virginia V. Remo vs. the Honorable Secretary of Foreign Affairs*,<sup>149</sup> the Supreme Court ruled that the Philippine Passport Act does not prohibit a married woman from continuously using her maiden name in her passport, but once she uses her married name, then Section 5(d) governs in terms of reverting to her maiden name. Republic Act No. 8239, which is a special law, prevails over the provisions of Article 370 of the New Civil Code, which is a general law.

Insofar as other government offices are concerned, the Philippine Commission on Women has issued Memorandum Circular No. 2016-07 titled "Allowing Married Women to Retain and Use their Maiden Name in lieu of their Husband's Surname in accordance to Existing Laws and Pertinent Jurisprudence".

#### RECOMMENDATION

Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.

#### 40. Executive Order No. 209 (Family Code of the Philippines)

The Family Code was enacted to attune aspects of Filipino life to contemporary developments and trends. Section 15, Rule III of the Implementing Rules and Regulations of the Magna Carta of Women identifies the discriminatory provisions in the Family Code of the Philippines to be repealed:<sup>150</sup>

- (a) Article 14 on the provision on giving preference to the father's consent to the marriage of children between the ages of 18 and 21.
- (b) Articles 96 and 124 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the administration and enjoyment of community and conjugal properties.
- (c) Article 211 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on parental authority over the persons of their common children.
- (d) Article 225 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the exercise of legal guardianship over the property of unemancipated common children.
- (e) Article 55 (1) on the requirement for repeated physical abuse and grossly abusive conduct as grounds for legal separation.

All these provisions remain in the law. Except for Article 55(1) on legal separation, the articles referred to give primacy to the husband's decision-making, following the principle of *pater familias* that was brought by Spain to the Philippines in the sixteenth century. The lawmakers lost the opportunity to recognize the equal role of parties in a marriage when they decided to retain such discriminatory provisions.

As to Article 55 (1) on legal separation, it requires physical abuse and abusive conduct to be "repeated" and "grossly abusive". By qualifying such acts, the law made it more difficult for women to use this remedy to get away from abusive relationships.

The Family Code provides the grounds and consequences for the dissolution of marriage, or absolute nullity and annulment of marriage. These two legal procedures are allowed under the law because the marriage is void, in absolute nullity, therefore the marriage had never existed from the beginning, while in annulment, it is valid but is considered void after providing evidence relating to irregularities in the giving of consent of one party. Relative divorce, or legal separation, is likewise allowed. Here, the parties remain married although legally separated, using the term from "bed and board". Thus, there is no remedy to dissolve a valid marriage, except as allowed by the sharia law for Muslims, or when a foreign spouse divorces a Filipino spouse. The Philippines is the only country in the world without divorce. Legal proceedings in the country are costly and long. Women, especially those who are poor and in abusive relationships, are left with no legal recourse to permanently sever their marriage. Children also suffer the consequences of an abusive, loveless relationship. Several bills have been filed in Congress, but strong opposition, mainly from the Catholic Church, prevents the passage of a divorce law.

The provisions of laws need to be consistent with each other. The Family Code provides that marriage is a special contract between a man and a woman, requiring consent as an essential requirement to contracting marriage. It requires that consent is freely given and not be made through force, fraud, undue influence or intimidation. However, consent as required by the Family Code seems to be set aside when a subsequent valid marriage contracted between a rape offender and a victim-survivor is allowed by law and results in extinguishment of the offense as specified in the Anti-Rape Law of 1997. However, it is very possible that a rapist may put pressure on his victim to enter into marriage in order to extinguish his criminal liability. Therefore, a victim's choice is likely not to be given freely, not least because threats are magnified as she has already been subjected to violence through the rape. The CEDAW Committee in its General Recommendation 35<sup>151</sup> has identified "pardons from the families of victims/survivors or the subsequent marriage of the victim/survivor of sexual assault to the perpetrator"<sup>152</sup> as legal defenses or mitigating factors based on culture, religion or male privilege, and therefore discriminatory.

## RECOMMENDATION

Harmonize the Family Code and other laws on marriage and family relations with CEDAW and the Magna Carta of Women and ensure the equality of women and men, both in marriage and upon the dissolution of marriage, including by expediting the adoption of the long-pending divorce bill and by taking into account the CEDAW Committee's General Recommendation 21 on equality in marriage and family relations<sup>153</sup> and CEDAW General Recommendation 29 on the economic consequences of marriage, family relations and their dissolution,<sup>154</sup> and the recommendations of the CEDAW Committee in its Concluding Observations to the Philippines in 2016.<sup>155</sup>

### **41. Republic Act No. 8369 (Family Courts Act of 1997)**

The law establishes family courts in major cities and municipalities in the country, granting them exclusive and original jurisdiction over child and family cases, which include, among others, guardianship, annulment of marriage, declaration of nullity and legal separation, summary judicial proceedings under the Family Code, adoption, custody, support and constitution of the family home. Pursuant to the Anti-Violence against Women and their Children Act, family courts have original and exclusive jurisdiction over cases of violence against women and their children.

Family courts are special courts, designated second level courts or regional trial courts. In accordance with the law, the Supreme Court is mandated to designate from among the branches of the regional trial courts at least one family court in each of several key cities identified. Section 4 of the Family Courts Act of 1997 provides that “[t]he Presiding Judge, as well as the court personnel of the Family Courts, shall undergo training and must have the experience and demonstrated ability in dealing with child and family cases”. However, the nature of the training is not specified in the law. The primary source of training is the Philippine Judicial Academy, which was created by the Supreme Court as a training school for justices, judges, court personnel, lawyers and aspirants to judicial posts. Ideally, the academy should also institutionalize gender-related training with a focus on changing the mindsets on discrimination against women.

## RECOMMENDATION

Revise or amend Section 4 of the Family Courts Act of 1998 to specify that family court judges should undergo gender training, especially with regard to relevant gender-responsive laws where the family courts have original and exclusive jurisdiction such as the Anti-Violence Against Women and their Children Act, the Anti-Rape Law and the Anti-Trafficking Law, among others.

### **42. Republic Act No. 8972 (Solo Parents' Welfare Act of 2000)**

The Solo Parents' Welfare Act of 2000 aims to provide comprehensive services to solo parents and their children through social development and welfare services, flexible work schedule, prohibiting work discrimination, parental leave and educational, housing and medical benefits. This law is responsive to women who are solo parents by providing additional social benefits. In consideration of the current pandemic, the law must be clear on its guidelines, especially with regard to flexible working conditions or medical assistance.

The law as currently written is general and will be more beneficial if emergency situations, such as the COVID-19 pandemic, are recognized by law. Research and news reports during the pandemic indicated heightened feelings of helplessness and fear among solo parents.<sup>156</sup> Filipino single mothers were further burdened with additional responsibilities due to the pandemic, which impacted their physical, mental and emotional well-being.<sup>157</sup> The economic impact of the pandemic on single parents is also exacerbated by their status.<sup>158</sup> Unfortunately, due to the general nature of the law, these solo parents are unable to avail of remedies or relief during situations of emergency.

## RECOMMENDATION

Revise or amend the law to respond to the emerging needs of solo parents, particularly women, in emergency contexts (such as the COVID-19 pandemic), specifically expanding the medical, housing and educational assistance.

#### **43. Republic Act No. 10906 (Anti-Mail Order Spouse Act repealing Republic Act No. 6955 or the Anti-Mail Order Bride Law of 1990)**

As marriage in the Philippines is vested with public interest, the legislature has enacted a law making it a criminal offense for any person or entity to make it a business to match Filipinos to foreign nationals for marriage or common-law partnerships through personal introduction, email, postal mail, website, or advertisement on traditional media. This also extends the prohibition to creating clubs that aim to introduce Filipinos to foreigners for the purpose of marriage or common-law partnerships. The Anti-Mail Order Bride Law previously only protected women, but now with the Anti-Mail Order Spouse Act, the law extends the protection to men.

The law aims to protect against abuse, prostitution and exploitation from schemes that offer Filipinos in marriage to foreign nationals. It also provides stiffer penalties and mandates government agencies to create programs and formulate policies to ensure protection and rehabilitation for victims of mail-order spouse schemes.

It must be noted that the law precedes the Anti-Trafficking in Persons Act of 2003 and does not include stricter protection from and prosecution of mail-order schemes in the guise of employment.

#### **RECOMMENDATION**

Harmonize migration and trafficking laws to include stricter protection from and prosecution of mail-order schemes in the guise of jobs in consideration of CEDAW General Recommendations 35 on violence against women,<sup>159</sup> 30 on women in conflict prevention, conflict and post-conflict situations,<sup>160</sup> 31 on the girl-child and harmful practices<sup>161</sup> and 34 on rural women,<sup>162</sup> as women and girls in these situations are more vulnerable to mail-order spouse schemes.

#### **Intersectional concerns**

There are existing laws that recognize Moro and indigenous women such as the Bangsamoro Organic Law and the Indigenous Peoples' Rights Act. Laws on senior citizens and women with disabilities are focused on benefits and privileges and fail to recognize their vulnerabilities to abuse, harassment, neglect and violence, hence there are no support programs or mechanism to address these issues. There are no laws to address discrimination against LGBTQI people. There is also a lack of recognition of

the adverse cultural practices against women and girls such as early and forced marriages, polygamy, etc.

#### **44. Presidential Decree No. 1083 (Code of Muslim Personal Laws)**

While Presidential Decree No. 1083 or the Code of Muslim Personal Laws was issued prior to the 1987 Philippine Constitution, this issuance has not been repealed and is still in effect. The decree recognizes the sharia law as part of the law of the land as it applies to Muslim Filipinos. It covers persons and family relations, succession, adjudication and settlement of disputes and rendition of legal opinions.

One of the contentious provisions of the Code is the permitted age of marriage among Muslims. Article 16 provides that “[a]ny Muslim male at least fifteen years of age and any Muslim female of the age of puberty or upwards and not suffering from any impediment under the provisions of this Code may contract marriage”. Note that the presumed age of puberty for females is 15. Such is contrary to Article 1 of the Convention on the Rights of the Child wherein, “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”. In the Philippines, the age of majority is 18 years.<sup>163</sup> The Concluding Comments of the CEDAW Committee on the Combined 7<sup>th</sup> and 8<sup>th</sup> Report of the Philippines underscored the need to prohibit child and forced marriages.<sup>164</sup>

Article 27 of the Code provides that a husband is permitted to have more than one wife provided “he can deal with them with equal companionship and just treatment as enjoined by Islamic law and only in exceptional cases”. While Article 34 provides for equal rights over inheritance and divorce, Articles 28 and 29 specify several guidelines for women to contract marriage after the death of the husband and divorce, respectively. Note that there are different grounds for divorce for men and women. Such provisions are deemed in favor of the men and lessen women’s voice and agency in marriage and its dissolution, contrary to CEDAW Article 16 on Marriage and Family Life. Since the 4<sup>th</sup> Periodic Report of the Philippines to the CEDAW Committee, such provisions have been deemed discriminatory. The Concluding Comments of the CEDAW Committee on the Combined 7<sup>th</sup> and 8<sup>th</sup> Report of the Philippines underscored the need to explicitly discourage polygamy with a view to prohibiting it.<sup>165</sup>

While the above provisions are deemed discriminatory to women, Articles 53 and 54, on the other hand, provide guidelines for divorce by *faskh*,<sup>166</sup> which covers neglect or failure of the husband to provide support for the family, conviction and imprisonment of the husband, failure of the husband to fulfill his marital obligations, impotence, disability and unusual cruelty of the husband. These provisions are crucial for women to know and assert as they exercise their right against domestic abuse and violence.

## RECOMMENDATIONS

Repeal this decree, consistent with CEDAW Article 16 on Marriage and Family Life and General Recommendations 21<sup>167</sup> and 29,<sup>168</sup> and the Implementing Rules and Regulations of the Magna Carta of Women, which assert the equal rights and obligations of women and men with regard to the choice of spouse, parenthood, personal rights and command over property.

Alternatively, revise or amend the following, in consultation with Moro women and their communities:

- Article 16 of the Code to comply with the standards set forth by the UN Convention on the Rights of the Child and the age of majority, and Article 16(2) of CEDAW, that the age of marriage should be 18 years.<sup>169</sup>
- Article 27 of the Code to be consistent with CEDAW General Recommendations 21<sup>170</sup> and 29<sup>171</sup> that polygamy is contrary to CEDAW and must be discouraged and prohibited as it impacts the human rights and economic well-being of women and their children.
- Uphold Article 34 on mutual rights and obligations in marriage.
- Book 4 of the Code considering provisions of the Bangsamoro Organic Law (see following section) on the creation of additional sharia courts within and outside the Bangsamoro Autonomous Region in Muslim Mindanao (the new political entity governing the Bangsamoro people) to service Muslim populations especially in diaspora communities, and the creation of the Sharia High Court.
- Revise or amend the Code to stipulate the authority of the Bangsamoro Autonomous Region in Muslim Mindanao to oversee the Code's administration and its role in reviewing

its discriminatory provisions to be proposed to the Executive Branch for repeal, revision or amendment or development of a new law, consistent with Republic Act No. 11054 or the Bangsamoro Organic Law. The Bangsamoro Autonomous Region in Muslim Mindanao Regional Government should establish or strengthen existing mechanisms (such as the Bangsamoro Women's Commission) for information, education and communication; it should also conduct extensive consultations with women within and outside the Bangsamoro territory on the Code to ensure an inclusive process towards the policy's repeal, revision or amendment, or the creation of new laws.

## 45. Republic Act No. 11054 (Bangsamoro Organic Law)

The Bangsamoro Organic Law was a result of decades of political negotiations between the Philippine government and the secessionist group, Moro Islamic Liberation Front, to create a new political entity called the Bangsamoro. Bangsamoro is both a territory and identity of populations considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands. It consists of a predominantly Muslim population and recognizes non-Muslim indigenous cultural communities and Christian settlers. Its territory covers the provinces of Lanao del Sur, Maguindanao, Basilan, Sulu and Tawi-Tawi, the Islamic City of Marawi and Cotabato City, including the 63 barangays of North Cotabato.

Article VI, Section 9 calls for the creation of a Council of Leaders, which includes representatives of traditional leaders, non-Moro indigenous communities and other sectors. The Council of Leaders shall advise the chief minister on matters of governance in the Bangsamoro Autonomous Region in Muslim Mindanao. The number of representatives shall be determined by the Parliament, pursuant to the customary laws of indigenous cultural communities and indigenous peoples, and indigenous processes for selection of representatives. A ministry for indigenous peoples' affairs shall be created as well under Article XVI of the Bangsamoro Transition Authority.

Article IX, Section 6 of said law guarantees full respect for human rights and consequently establishes the Bangsamoro Human Rights Commission to fulfill such mandate. Section 12 of the same article underscores the protection

of women's rights, as embodied in CEDAW, and provides that the Bangsamoro Parliament shall enact necessary laws on women. This particular provision is reiterated under Article 13, Section 5, which guarantees fundamental equality before the law, participation in and benefit from development.

Article X establishes the Bangsamoro justice system.<sup>172</sup> It indicates that the Philippine Congress may create additional sharia courts in the Bangsamoro Autonomous Region in Muslim Mindanao and even outside its territory in areas where a considerable number of Muslims reside. There is a provision also to create a Sharia High Court that shall exercise exclusive appellate jurisdiction over cases under the jurisdiction of the Sharia District Courts within or outside the Bangsamoro Autonomous Region in Muslim Mindanao. However, it does not mention which institution will take charge of creating this court. Section 4 of the same article stipulates that the Bangsamoro Parliament has the power to enact laws on personal, family and property law jurisdiction as well as commercial and other civil actions not provided for under the Code of Muslim Personal Laws.

Article XIII, Section 5 guarantees full and direct participation of women in governance, and that at least 5 percent of the total budget appropriation of each ministry, office and constituent local government units of the Bangsamoro Autonomous Region in Muslim Mindanao shall be set aside for gender-responsive programs in accordance with a gender and development plan.

Article XIV stipulates the rehabilitation, reconstruction and development of the Bangsamoro Autonomous Region in Muslim Mindanao and calls for the national government to set aside a special development fund for the Bangsamoro Government, at PhP 5 billion (approximately USD 80 million) per year, for a period of 10 years from the ratification of the law. The rehabilitation, reconstruction and development of Bangsamoro shall address the needs of the Moro Islamic Liberation Front/Bangsamoro Islamic Armed Force members and its decommissioned women auxiliary force, Moro National Liberation Front/Bangsamoro Armed Forces members, internally displaced persons, widows and orphans, and poverty-stricken communities. It shall observe, promote and ensure

gender-responsiveness in all aspects of security and peacebuilding, including the participation of women in decision-making.

Article VII, Section 7 guarantees one sectoral seat for women among other sectors, including youth and non-Moro indigenous peoples, in the 10 percent reserved seats and sectoral representatives in the Bangsamoro Parliament. Criteria for representation in the reserved seats include inclusivity, full participation and gender equality, among others. Article XVI, on the other hand, stipulates the representation of women among other sectors in the Bangsamoro Transitional Authority; it does not, however, indicate a specific percentage of women's representation in the said mechanism.

The Bangsamoro Organic Law, notably, does not include guarantees as indicated in the Magna Carta of Women, specifically:

- A provision allowing Moro and indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.
- A provision ensuring equal access of Moro and indigenous girl-children to education, health and nutrition, and skills development, as well as gender- and culture-sensitive curriculum in the Madaris and schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.
- A provision on participation and representation of women with the view of reaching the 40 percent target in the Bangsamoro Transitional Authority, which is equivalent to the Regional Development Councils, consistent with the Implementing Rules and Regulations of the Magna Carta of Women.
- A provision recognizing and respecting the rights of Moro and indigenous women to practice, promote, protect and preserve their own culture, traditions and institutions and consider these rights in the formulation and implementation of national policies and programs.
- A provision recognizing women's role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution, and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.

## RECOMMENDATIONS

While there are no discriminatory provisions, the Bangsamoro Organic Law, under Article X, Section 4, provides for opportunities to address the pending discriminatory laws in the Code of Muslim Personal Laws under Articles IX and X using the mandate of the Bangsamoro Parliament and the provision on the creation of additional sharia courts within and outside the Bangsamoro Autonomous Region in Muslim Mindanao to service Muslim populations especially in diaspora communities, and the creation of the Sharia High Court. Under the Bangsamoro Organic Law, the decisions of the Sharia High Court shall be final and executory except on questions of law that may be raised before the Supreme Court following the procedure for appeals from the Court of Appeals to the Supreme Court. Pending the complete organization of the Sharia High Court, the decisions of the sharia courts shall be appealable to the Court of Appeals and therefore, the provisions of CEDAW can be applied in jurisprudence, which permits women to appeal to the Court of Appeals on issues of gender-based discrimination. However, the possibilities for women to vindicate their rights under CEDAW would be improved if it was specified that the sharia courts should apply the gender equality provisions in the Magna Carta of Women, and/or CEDAW directly.

Revise or amend provisions in the Bangsamoro Organic Law to be consistent with the Magna Carta of Women, to wit:

- Article IX, Section 10 to include a provision on allowing Moro and indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.
- Article IX, Sections 14 and 16 to include a provision on ensuring equal access of Moro and indigenous girl-children to education, health and nutrition, and skills development, as well as gender- and culture-sensitive curriculum in the Madaris and schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.
- Article XVI, Section 2 to include a provision on participation and representation of women with the view of reaching the 40 percent target in the Bangsamoro Transitional Authority, which is equivalent to the Regional Development Councils, consistent with the Implementing Rules and Regulations of the Magna Carta of Women.

- Article IX, Section 24 on the preservation of the cultural heritage of the Bangsamoro people to be consistent with Section 28 of the Magna Carta of Women on recognizing and respecting the rights of Moro and indigenous women to practice, promote, protect and preserve their own culture, traditions and institutions and consider these rights in the formulation and implementation of national policies and programs.
- Article X, Section 17 on traditional or tribal justice systems to include a provision recognizing women's role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution, and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.

Uphold the Indigenous Peoples' Rights Act provision on mandatory representation of indigenous cultural communities and indigenous peoples in policymaking bodies and other legislative councils and ensure the participation of women in these bodies at the regional and local levels, including in autonomous regions such as the Bangsamoro Autonomous Region in Muslim Mindanao, considering that the majority of leaders in these communities are men.

#### **46. Republic Act No. 7279 (Urban Development and Housing Act of 1992)**

This law is intended to uplift the conditions of marginalized, underprivileged and homeless people in urban and resettlement areas through decent housing and the provision of basic services and employment opportunities, rationalized use and development of urban lands, guarantee of security of tenure, and people's participation in the urban development process, among others. It calls for the development of a national urban development and housing framework and stipulates provisions on inventory of lands, acquisition, disposition and land use. It likewise indicates provisions for social housing, which include eligibility criteria for beneficiaries, incentives for the National Housing Authority and the private sector for participating in socialized housing, basic services and livelihoods to be provided and the participation of beneficiaries.

It also indicates provisions for urban renewal and resettlement, which include the provisions on evictions and demolitions. Under Article 7, Section 28, evictions and demolitions as a practice shall be discouraged but may be allowed under certain circumstances such as occupancy in danger areas, when government infrastructure is to be implemented and when there is a court order. While evictions and demolitions are discouraged, the same provision likewise indicates protocols for executing such if these involve people who are homeless or marginalized, such as the issuance of notices, consultations, presence of local officials, identification of all persons taking part in the demolition, allowed days and weather conditions, a prohibition on the use of heavy equipment for demolition, and adequate relocation. There is also a provision for community mortgage programs that assist legally organized associations of people who are currently homeless, or otherwise living in marginalized circumstances, to purchase and develop a tract of land under the concept of community ownership. Related strategies included transport system, population movements and urban-rural interdependence. Local governments and housing agencies have roles in program implementation.

The law, while not discriminatory, does not contain considerations on the realities faced by those living in marginalized circumstances, including in situations of homelessness. It also fails to address the differential impacts on women and men,

children, the elderly, people with disabilities, among others, not to mention the exacerbating issues that they face such as low legal literacy to pursue ownership or even assert rights in the light of evictions and demolitions, domestic violence, being a single-income household, and disadvantaged economic conditions, among others. The law also does not consider the vulnerabilities, especially of women and other marginalized populations, in the context of natural disasters that usually impact urban areas and slums.

#### **RECOMMENDATIONS**

While the law is not discriminatory, several gaps need to be addressed for amendments:

- Address the root causes of homelessness and low homeownership among women.
- Considerations on the households to be evicted, especially in the context of women or other vulnerable populations (minors, the elderly, people with disabilities) left at home at the time of eviction.
- Ensure effective access to justice before, during and after evictions, and ensure non-violence in the context of evictions and demolitions; ensure availability of independent psychosocial, medical and legal support during such circumstances; the Basic Principles and Guidelines on development-based evictions and displacement<sup>173</sup> should guide new legislation.
- Recognize de facto female-headed households to ensure that consultations prior to evictions, demolitions and establishing a community mortgage program, as well as compensation and resettlement packages will cover women (such as single women, solo female parents, widows, etc.) and consider their needs such as access to safe and clean water and other basic services, livelihoods, transport, among others.

#### **47. Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act)**

Republic Act No. 7610 seeks to protect children against abuse, exploitation and discrimination. The law specifically defines various forms of abuse against children such as child prostitution, trafficking, obscene publications and indecent shows, among others, and calls for the formulation of a program on addressing child abuse, exploitation and discrimination. A special provision on working children is likewise indicated, stipulating that children below 15 years of age may be employed, with minimum requirements as prescribed by law. Note, however, that “child” as defined in Section 3(a) of the said law refers to “persons below eighteen (18) years of age or those over but are unable to fully take care of themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition”.

Provisions for children of indigenous cultural communities and in situations of armed conflict are likewise included.

Remedial procedures and sanctions have been stipulated with reference to violations committed by individuals as well as establishments or enterprises that abuse and exploit children.

#### **RECOMMENDATION**

Revise or amend the law to include provisions on protection from and prevention of harmful practices such as early and forced marriages and polygamy that can adversely impact girl children, with reference to joint General Recommendation 31 of CEDAW and General Comment 18 of the Committee on the Rights of the Child.<sup>174</sup>

#### **48. Republic Act No. 8371 (Indigenous Peoples’ Rights Act)**

Several decrees have been passed and bills drafted to guarantee the rights of indigenous cultural communities and indigenous peoples. However, most of these were primarily intended to address issues relating to ancestral domain. The indigenous cultural communities and indigenous peoples, however, sought a more comprehensive law that would encompass not only their rights over ancestral domains but also respect for their human rights, elimination of discrimination, respect for their political structures and governance, delivery of basic services to their peoples and the creation of

an office that would address their needs. It was this demand that led to the passage of the Indigenous Peoples’ Rights Act.

Chapter V, Section 21 of the Indigenous Peoples’ Rights Act guarantees the equal protection and non-discrimination of indigenous cultural communities and indigenous peoples, including women, with reference to CEDAW. Section 23 guarantees freedom from discrimination and the right to equal opportunity, which also includes equal treatment in employment for women and men, including protection from sexual harassment. Section 25 stipulates affirmative action for women, among other marginalized sectors, in the delivery of basic services. Section 26 is the specific section on the enjoyment of women’s rights and opportunities, as well as their participation in and benefit from the fruits of development.

Chapter IV of the law is devoted to indigenous cultural communities’ and indigenous peoples’ rights to self-governance and empowerment, which guarantees their right to participate in decision-making, including mandatory representation in policymaking bodies and other legislative bodies.

Chapter VII, Section 40, on the composition of the National Commission on Indigenous Peoples, stipulates that two out of the seven commissioners shall be women, while Section 50 stipulates the representation of women in the consultative body that may be constituted by the Commission on matters pertaining to the problems, aspirations and interests of the indigenous cultural communities and indigenous peoples.

While the Indigenous Peoples’ Rights Act seems not to contain any discriminatory provisions and contains women-specific provisions, Chapter VIII, Section 53 of the law uses male pronouns only, and therefore assumes that the head of the family<sup>175</sup> or clan is a male in relation to the filing of ancestral lands that are not within ancestral domains.

The Indigenous Peoples’ Rights Act also does not take into consideration the particular issues of indigenous women. These include the following, as mentioned in the Magna Carta of Women:

- Women’s role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution,

and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.

- Allowing indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.
- Ensuring equal access of indigenous girl-children to education, health and nutrition, and skills development as well as gender- and culture-sensitive curriculum in schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.
- Ensuring that the Department of Agriculture, in coordination with the National Commission on Indigenous Peoples and other concerned agencies, shall promote the application of indigenous knowledge and practices in food production and preservation as well as recognize, encourage and protect the indigenous practices of women in seed storage and cultivation as per Section 20 of the Magna Carta of Women.
- Guaranteeing a 50-50 gender balance in senior positions of the National Commission on Indigenous Peoples as per Section 11 of the Magna Carta of Women.

## RECOMMENDATIONS

Revise or amend provisions in Indigenous Peoples' Rights Act to be consistent with the Magna Carta of Women, to wit:

- Sections 15, 22 and 62 to include provisions on recognizing women's role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution, and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.
- Section 23 to include a provision on allowing indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.
- Section 30 to include a provision on ensuring equal access of indigenous girl-children to education, health and nutrition, and skills development as well as gender- and culture-sensitive curriculum in schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.

- Section 34 to include a provision that would ensure that the Department of Agriculture, in coordination with the National Commission on Indigenous Peoples and other concerned agencies, shall promote the application of indigenous knowledge and practices in food production and preservation as well as recognize, encourage and protect the indigenous practices of women in seed storage and cultivation as per Section 20 of the Magna Carta of Women.
- Section 40 to include a provision for a 50-50 gender balance in senior positions of the National Commission on Indigenous Peoples as per Section 11 of the Magna Carta of Women.

Review Chapter IV of the law to ensure the adoption and implementation of the mandatory representation of indigenous cultural communities and indigenous peoples in policymaking bodies and other legislative councils and determine the level of participation of women in these bodies at the regional and local levels, including autonomous regions such as the Bangsamoro Autonomous Region in Muslim Mindanao, considering that the majority of leaders in these communities are men.

### **49. Republic Act No. 7432 (An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes, amended by Republic Act No. 9257 or the Expanded Senior Citizen Act of 2003, and further amended by Republic Act No. 9994 or the Expanded Senior Citizen Act of 2010)**

This law defines senior citizens as "any resident of the Philippines at least sixty (60) years old, including those who have retired from both government offices and private enterprises".<sup>176</sup> It also provides for privileges such as the granting of 20 percent discounts in services and establishments, exemption from payment of income taxes, free medical and dental services in government institutions as well as continuance of benefits and privileges such as the Government Service Insurance System, Social Security System and Pag-IBIG.<sup>177</sup>

Similar to people with disabilities, taxpayers caring for senior citizens are considered as their dependents under the National Internal Revenue Code. Incentives are likewise extended to individuals or organizations catering to senior citizens. Penalties are likewise imposed for violations of this law.

Under Republic Act No. 9257, more specific discounts for senior citizens have been included such as a 20 percent discount on medical and dental services, and diagnostic and laboratory fees, including professional fees of attending doctors in all private hospitals and medical facilities, in accordance with the rules and regulations to be issued by the Department of Health, in coordination with PhilHealth; on fares for domestic air and sea travel for the exclusive use or enjoyment of senior citizens; on public railways, skyways and bus fares for the exclusive use and enjoyment of senior citizens; as well as special discounts in special programs for senior citizens on purchase of basic commodities, subject to the guidelines to be issued for the purpose by the Department of Trade and Industry and the Department of Agriculture. It also includes provisions for educational assistance, and the provision of express lanes for senior citizens in all commercial and government establishments.

Government assistance was likewise expanded, such as in the areas of employment, education, health, social services, housing and access to public transport. It also includes a provision to establish a monitoring and coordinating mechanism chaired by the Department of Social Welfare and Development, with other agencies and five accredited non-governmental organizations representing, but not limited to, women, urban poor, rural poor and veterans.

Under Republic Act No. 9994, a 20 percent discount and exemption from the value-added tax was extended on the purchase of medicines and other essential medical supplies, accessories and equipment; on professional fees of attending physician/s in all private hospitals, medical facilities, outpatient clinics and home healthcare services; on the fees of licensed health professionals providing home healthcare services as endorsed by private hospitals or employed through home healthcare employment agencies; in actual fare for land transportation travel; in actual transportation fare for domestic air transport services and shipping vessels and the like; on the utilization of services in hotels and similar lodging establishments, restaurants and recreation centers; on admission fees charged by theaters, cinema houses, concert halls, circuses, and places of leisure and amusement; and on funeral and burial services for senior citizens.

The Act also extends a minimum of a 5 percent discount relative to the monthly use of water and electricity supplied by public utilities, provided that the individual meters are registered in the name of the senior citizen, among other requirements. Death benefit assistance is likewise extended to the nearest surviving relative of a deceased senior citizen, with a minimum of PhP 2,000 (approximately USD 400).

Social pension of PhP 500 (USD 10) per month, mandatory Philippine Health Insurance coverage, social safety nets such as food, medicines and financial assistance for domicile repair in cases of economic shocks, disasters and calamities are likewise included in this law.

While there are no discriminatory provisions in these laws pertaining to senior citizens, there are currently no provisions on the protection from and prevention of abuse, neglect and violence against the elderly, which may adversely impact older women. The law also does not extend provisions for special care and rehabilitation of the elderly brought about by abuse, neglect and violence, nor does it mention support in relation to older women's reproductive healthcare.

The law is general in nature and does not consider the differential impact of natural and human-induced disasters and conditions in rural areas, resulting in multiple discriminations against women.

## RECOMMENDATIONS

Revise or amend the law to include protection from and prevention of abuse, neglect and violence against the elderly, with specific clauses on the impact on older women in response to specific needs such as rehabilitation after abuse, neglect and violence.

The law also needs to understand and consider the differential impact of natural and human-induced disasters and conditions in rural areas, resulting in multiple discriminations faced by older women. It is recommended that the law be revised or amended to include provisions consistent with CEDAW General Recommendations 24 on women and health,<sup>178</sup> 27 on older women,<sup>179</sup> 30 on women in conflict,<sup>180</sup> 34 on rural women,<sup>181</sup> 35 on violence against women,<sup>182</sup> 36 on education<sup>183</sup> and 37 on disaster risk reduction and climate change.<sup>184</sup>

## 50. Republic Act No. 10121 (Philippine Disaster Risk Reduction and Management Act of 2010)

The Philippines is in the Pacific Ring of Fire and more recently, is facing human-induced disasters such as armed conflict and climate change. In 2010, the country pursued a more preventative approach to disasters through the Philippine Disaster Risk Reduction and Management Act.

The law ensures that disaster risk reduction and climate change measures are gender-responsive, sensitive to indigenous knowledge systems and respectful of human rights. It also identifies women, children, the elderly, people with disabilities and ethnic minorities as vulnerable and marginalized groups.

It also includes the Philippine Commission on Women in the National Disaster Risk Reduction and Management Council and calls for the creation of local disaster risk reduction and management councils up to the barangay or village level, which also include gender and development focal points. These councils' tasks include responding to and managing adverse effects of emergencies; carrying out recovery activities in the affected area; ensuring an efficient mechanism for immediate delivery of food, shelter and medical supplies for women and children; and creating a special place where internally displaced mothers can find help with breastfeeding, feed and care for their babies and give support to each other. Four seats for accredited civil society organizations are included in the local councils.

The Office of Civil Defense, serving as the Secretariat of the National Disaster Risk Reduction and Management Council, is mandated to conduct early recovery and post-disaster needs assessment, institutionalizing gender analysis as part of it.

The law includes mobilization of volunteers, civil society and the private sector in disaster risk reduction and management activities, the integration of disaster risk reduction education in the school or education curricula as well as prohibited acts in the context of disaster—mostly only in the context of relief goods, equipment and commodities.

Notably, however, the law does not provide for the institutionalization of women- and child-friendly spaces in evacuation camps and temporary shelters

to address the multiple burdens of women. It also does not acknowledge the barriers to health services that women face in the context of displacement.

### RECOMMENDATIONS

Revise or amend the law, consistent with CEDAW General Recommendation 37 to include, but not limited to, the following:

- The addition of discrimination and sexual and gender-based violence (including sexual exploitation and abuse) against women, children, the elderly, people with disabilities and ethnic minorities in the list of prohibited acts with accompanying penalties.
- Institutionalize sex-, age- and ethnicity-disaggregated data as a basis for gender analysis of needs and issues, including public information and dissemination.
- Set aside seat/s for internally displaced peoples, especially women, in the local disaster risk reduction and management councils and ensure that their needs and issues are seriously considered in the design of prevention, relief, recovery, rehabilitation and mitigation policies and interventions—such as food and water, housing and sanitation, employment and livelihoods, among others.
- Ensure continuity of education for all, including adult learning and technical-vocational skills education.
- Allocate legal services for disaster-affected populations especially in pursuing complaints and cases against discrimination and sexual and gender-based violence, as well as support in procuring birth, death and marriage certificates and land registration and deeds.
- Promote women's roles in early warning and prevention, using their traditional knowledge and skills about natural and human-induced disasters.
- Institutionalize women- and child-friendly spaces in evacuation camps and temporary shelters to address the multiple burdens of unpaid and care work faced by women.
- Remove barriers and provide women's access to health services in the context of displacement, especially mental health and reproductive health services and commodities (likewise pursuant to the Magna Carta of Women).

- Ensure gender balance among border police and checkpoints; training on gender and cultural sensitivity, including sexual exploitation and abuse; the establishment of accountability mechanisms for violations; prosecution for all forms of sexual violence; and access to justice for victims.

**51. Republic Act No. 10754 (An Act Expanding the Benefits and Privileges of Persons with Disability amending Republic Act No. 7277 or the Magna Carta for Disabled Persons)**

The Magna Carta for Disabled Persons defines persons with disabilities and provides for the rights and privileges of disabled persons such as in the areas of employment, education, health, auxiliary social services, telecommunications, accessibility as well as political and civil rights. It also prohibits discrimination against disabled persons in terms of employment, transportation, use of public accommodations and services and government recreational or sports centers. This law also guarantees that the national government considers the special housing requirements of disabled persons and the provision of tax incentives, such as the exemption of donor's tax to any donation, bequest, subsidy, or financial aid made to government agencies engaged in the rehabilitation of disabled persons and organizations of disabled persons.

The Secretary of Justice is mandated to investigate alleged violations of this law as well as pursue legal action in any appropriate court if there is reasonable cause by any person or group of persons engaged in a pattern of practice of discrimination against persons with disabilities.

In 2016, Republic Act No. 10754 amended Section 32 of the Magna Carta for Disabled Persons, defining the benefits and privileges of persons with disability to include at least a 20 percent discount and exemption from the value-added tax for goods and services for the exclusive use and enjoyment of persons with disabilities (such as medicines and health services, recreation, fares, funeral and burial services, etc.); educational assistance; continuance of benefits and privilege under the Government Service Insurance System, the Social Security System and Pag-IBIG; discounts to special programs of the Department of Trade and Industry and Department of Agriculture; and express lanes in all commercial and government establishments. The law also added incentives to taxpayers who have persons

with disabilities within their fourth civil degree of consanguinity or affinity, regardless of age, and are not gainfully employed, to treat them as dependents under Section 35(b) of the National Internal Revenue Code of 1997.

The law does not make provisions for special care and rehabilitation for disabilities brought about by abuse, neglect and violence.

**RECOMMENDATIONS**

Revise or amend the law to include provisions on the protection from and prevention of abuse, neglect and violence against disabled persons, including performing medical procedures without their informed consent.

Revise the law so that it makes provisions for special care and rehabilitation for disabilities brought about by abuse, neglect and violence.

The law also needs to understand and consider the differential impact of natural and human-induced disasters and conditions in rural areas, resulting in multiple discriminations faced by women with disabilities. It is recommended the law be revised or amended to include provisions consistent with CEDAW General Recommendations 24 on women and health,<sup>185</sup> 27 on older women,<sup>186</sup> 30 on women in conflict,<sup>187</sup> 34 on rural women,<sup>188</sup> 35 on violence against women,<sup>189</sup> 36 on education,<sup>190</sup> and 37 on disaster risk reduction and climate change.<sup>191</sup>



# 3

## PART 3. THE ROLE OF JUDICIARY IN ADVANCING GENDER EQUALITY NORMS AND STANDARDS

## PART III:

# THE ROLE OF JUDICIARY IN ADVANCING GENDER EQUALITY NORMS AND STANDARDS

### Introduction

The courts play a vital role in the enforcement of gender equality principles and standards contained in international, regional and national commitments. In the Philippines, judicial protection of the citizenry is mandated by both formal courts (Supreme Court and its lower courts, sharia courts) and traditional or tribal justice systems. The sharia courts and traditional or tribal justice systems have limited jurisdiction as it applies with the Muslim population, and indigenous peoples or indigenous cultural communities in the country, respectively, while judicial power vested in the Supreme Court and lower courts as provided in Article VIII of the Constitution consequently grants a broader role in the protection of justiciable rights. The Constitution and the Magna Carta of Women guarantee access to justice for women, thereby protecting their right to seek redress for violations of their rights in the courts.

The Supreme Court contributes to ensuring that the Philippines complies with international commitments of promoting the human rights of women through its issuances and decisions.

### Court issuances and training for judges and other staff of the courts

The Supreme Court has promulgated numerous administrative issuances that seek to promote gender-responsiveness and sensitivity in the judiciary.<sup>192</sup>

The Philippine Judicial Academy, the training arm of the Supreme Court, delivers gender-sensitivity training to members of the bench and their staff. In terms of mechanism, the Supreme Court created the Committee on the Gender Responsiveness of

the Judiciary, headed by an Associate Justice with members from different courts. The Committee promotes gender mainstreaming in the judiciary.

### Selected decisions

All the cases cited below are decisions of the Supreme Court that have been selected mainly because of their relevance and impact on issues of discrimination against women not only with regard to future decisions on similar issues, citing international documents, but also as references by the Committee on the Gender Responsiveness of the Judiciary in the formulation of their programs.

The Supreme Court has promulgated decisions that support women's human rights.

### Confidentiality on the identity of victims of sexual crimes

In 2006, the Supreme Court held in *People of the Philippines vs. Melchor Cabalquinto*<sup>193</sup> that the provisions on confidentiality on the identity of victims and records of cases on violence against women and children, as provided in the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, and its implementing rules and regulations, and the Anti-Violence Against Women and their Children Act of 2004, "uniformly seek to respect the dignity and protect the privacy of women and their children". In this case, involving the rape of a minor, it ruled that "... henceforth, the Court shall withhold the real name of the victim-survivor and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed."

### **Laws to address gender-based violence against women contribute to the implementation of the constitutional guarantee of equal protection of the law**

In another landmark case, *Jesus C. Garcia vs. The Honorable Ray Alan T. Drilon*,<sup>194</sup> the Supreme Court held that the Anti-Violence Against Women and their Children Act is constitutional, ruling that it does not violate the guarantee of equal protection under the law. In upholding the law's constitutionality, the Supreme Court ruled that "[e]qual protection simply requires that all persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed". Citing the case of *Victoriano vs. Elizalde Rope Workers' Union*, it decreed that the equal protection clause does not mean an equal application of the law to all citizens of the State. The guarantee of equal protection permits classification provided that it is "... based on substantial distinctions which make for real differences; that it must be germane to the purpose of the law; that it must not be limited to existing conditions only; and that it must apply equally to each member of the class". The Supreme Court ruled that the Anti-Violence Against Women and their Children Act is based on valid classification and substantial distinctions, identifying that "[t]he unequal power relationship between women and men; the fact that women are more likely than men to be victims of violence; and the widespread gender bias and prejudice against women all make for real differences justifying the classification under the law. As Justice McIntyre succinctly states, 'the accommodation of differences ... is the essence of true equality.'" The decision went on to explain the following:

*"Unequal power relationship between men and women: According to the Philippine Commission on Women (the National Machinery for Gender Equality and Women's Empowerment), violence against women (VAW) is closely linked with the unequal power relationship between women and men otherwise known as 'gender-based violence'. Societal norms and traditions dictate people to think men are the leaders, pursuers, providers, and take on dominant roles in society while women are nurturers, men's companions, and supporters, and take on subordinate roles in society. This perception leads to men gaining more power over women. With power comes the need to control to retain that power. And VAW is a form of men's expression of controlling women to retain power.*

*The United Nations, which has long recognized VAW as a human rights issue, passed its Resolution 48/104 on the Declaration on Elimination of Violence Against Women on December 20, 1993 stating that 'violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into subordinate positions, compared with men.'*"

### Courts adjudicating on rape prosecutions should not use gender stereotypes

In decisions on rape cases, the courts have often used gender stereotypes of a woman as innocent, pure and protective of her reputation and morals. In *People vs. Juvy D. Amarela and Junard G. Racho*,<sup>195</sup> the Supreme Court overturned the outdated “Maria Clara” stereotype, wherein a demure and reserved Filipino woman will not report the rape committed against her unless it is true. According to the Supreme Court, this not only puts the accused at an unfair disadvantage but also perpetuates a gender bias. It fails to recognize a woman’s dynamic role as a confident and intelligent person willing to fight for her rights. Guided by this view, the Supreme Court found the rape victim’s testimony to be laden with holes and inconsistencies, unstable when examined with the other evidence and weighed against the accused’s defenses. The Supreme Court decreed that “[f]or when certain parts would seem unbelievable, especially when it concerns one of the elements of the crime, the victim’s testimony as a whole does not pass the test of credibility”.

This view was reiterated in *Pedro Perez vs. People of the Philippines*,<sup>196</sup> wherein the Supreme Court held:

*“This Court in Amarela, however, did not go as far as denying the existence of patriarchal dominance in many social relationships. Courts must continue to be sensitive to the power relations that come clothed in gender roles. In many instances, it does take courage for girls or women to come forward and testify against the boys or men in their lives who, perhaps due to cultural roles, dominate them. Courts must continue to acknowledge that the dastardly illicit and lustful acts of men are often veiled in either the power of coercive threat or the inconvenience inherent in patriarchy as a culture.”*

These are worth noting; it is hoped that the Supreme Court continues to bring to light principles on gender equality and non-discrimination.

### Discrimination on the grounds of sexual orientation and gender identity

The Supreme Court has also laid down several rulings relevant to the LGBTQI issue, involving petitions to change entries on birth certificates. These are *Silverio vs. Republic of the Philippines*,<sup>197</sup> *Republic vs. Cagandahan*,<sup>198</sup> and *Republic vs. Unabia*.<sup>199</sup> In the case of *Unabia*, Associate Justice Marvic Leonen submitted a Separate Opinion where he expounded on the meaning of “sex” and “gender”. This discussion is relevant because it allows the records of the Supreme Court to include these concepts that may be referred to in future decisions.

Lastly, the opportunity to pass upon the matter of same-sex marriage was halted when in *Jesus Falcis III vs. Civil Registrar General*,<sup>200</sup> challenging the constitutionality of Articles 1 and 2 of the Family Code that require that marriage must be between a man and a woman only, the Supreme Court ruled that the petitioner did not meet the requisites for judicial review: the case presented no actual case, and the petitioner had no legal standing.

### Official language reflecting gender equality

In terms of court procedures, the recently issued amendments to the 1997 Rules on Civil Procedure and Revised Rules on Evidence exert efforts to be gender-fair in their language. However, in the Rules on Evidence, Rule 131, Section 3(jj) is retained. This rule provides a list of disputable presumptions that will be satisfactory when uncontradicted. Section 3 (jj) specifically refers to the rules that must be followed if two persons perish in the same calamity and it is not known who died first. Survivorship is determined based on the probabilities resulting from the strength or the age of the sexes. In one of the rules, in the case of different sexes, the male is presumed to have survived. This rule is based on the stereotyped concept that men are always stronger than women.

### RECOMMENDATIONS

Repeal Rule 131, Section 3 (jj) of the Revised Rules on Evidence for being discriminatory to women. Continue and institutionalize the training on gender provided to judges and court personnel.

## Example of case law elevated to the CEDAW Committee using the Optional Protocol

The Philippines signed the CEDAW Optional Protocol on 21 March 2000, ratified it on 12 November 2003 and it entered into force on 12 February 2004.

In November 2007, the first ever communication of a Filipino woman to the CEDAW Committee under the Optional Protocol was sent by Karen Tayag Vertido.<sup>201</sup> She claimed to be a victim of discrimination against women under Article 1 of the Convention in relation to General Recommendation 19. She also claimed that her rights under Articles 2 (c), (d), (f) and 5 (a) of the Convention had been violated by the State party, the Philippines.

Ms. Vertido served as the Executive Director of the Davao City Chamber of Commerce and Industry, while J. B. C. (“the accused”) was then President of the Chamber of Commerce when she was raped. The rape took place on 29 March 1996. She submitted that the decision of acquittal of the accused was “discriminatory within the meaning of article 1 of the Convention in relation to general recommendation No. 19, in that the decision was grounded in gender-based myths and misconceptions about rape and rape victims...”<sup>202</sup> In her case, she gave several examples of such myths and misconceptions: that a rape victim must try to escape at every opportunity; women who are not timid or easily cowed are less vulnerable to sexual attacks; that a rape prosecution should only succeed if there is clear evidence of a direct threat, such as a gun; any relationship between the accused and the victim is valid proof of the victim’s consent to a sexual act; and that a man in his sixties would not be capable of rape.<sup>203</sup> She submitted that because of the stereotyping and myths about rape and rape victims made during the case, “the decision was rendered in bad faith, without basis in law or in fact”.<sup>204</sup> She asserted that the State party violated her right to non-discrimination, failed in its legal obligation to ensure that women are protected against discrimination by public authorities, including the judiciary, and failed in exercising due diligence in punishing acts of violence against women, in particular, rape.<sup>205</sup>

In its submission on 7 July 2008, the State party responded that a verdict of acquittal is immediately final and that a re-examination of the merits of such an acquittal would place the accused in jeopardy for the same offence.<sup>206</sup> It further explained that

a verdict of acquittal, however, may be nullified through a proper petition for certiorari to show grave abuse of discretion. The remedy of certiorari is provided under section 1, rule 65 of the Rules of Court.<sup>207</sup>

On 28 July 2009, the CEDAW Committee considered Ms. Vertido’s allegations relating to Articles 2 (c), (d), (f) and 5 (a) of the Convention to be sufficiently substantiated, for purposes of admissibility.<sup>208</sup> In the 46<sup>th</sup> Session of the CEDAW Committee on 12-30 July 2010, the Committee took the view that the State party had indeed failed to fulfill its obligations and had thereby violated the rights of the victim under Article 2 (c) and (f), and Article 5 (a) in conjunction with Article 1 and General Recommendation 19 of the Convention.<sup>209</sup> It also stipulated the set of recommended actions to the State party, primarily, providing appropriate compensation commensurate with the gravity of the violations of Ms. Vertido’s rights and a set of administrative, legal and legislative measures on the issue of rape such as the review of the definition of rape in the legislation so as to place the lack of consent at its center, and the removal of any requirement that sexual assault be committed by force or violence, and any requirement of proof of penetration, as well as re-victimization of the victim-survivor.<sup>210</sup>

This landmark decision opened the floodgates of possibilities for Filipino women to file their complaints to the CEDAW Committee using the Optional Protocol.

After the decision on the Vertido case, a second communication was filed to the Committee by R.P.B. on 23 May 2011.<sup>211</sup> She claimed to be a victim of a violation by the State party, the Philippines, of Article 1 and Article 2 (c), (d) and (f) of the Convention. R.P.B. had a speech and hearing disability and her family was living in poverty in suburban Metro Manila. She was 17 years old, therefore still a child, when raped in her residence by J., her 19-year-old neighbor, on the early morning of 21 June 2006.

The author contended that the decision of the regional trial court of Pasig City was discriminatory, within the meaning of Article 1 of the Convention in relation to the Committee’s General Recommendations 18 and 19. She contended that the court failed to assess the evidence and apply the law properly and with due diligence; it relied

on gender-based myths and stereotypes; and it failed to consider the rape in the context of her vulnerability as a child victim with a hearing disability. She also alleged that there were serious inadequacies and irregularities in the police investigation and court hearings as there was no official policy ensuring her access to appropriate interpretation: throughout the investigation and lengthy prosecution she did not have reliable access to a deaf relay and/or a hearing interpreter (in her case, an interpreter was only present when she was contacted by the victim). No psychosocial services were provided to her, despite being a victim-survivor. Further, her case was called last at the end of the day, which obliged her to wait in the presence of the accused in court for long hours.<sup>212</sup>

Similar to the Vertido case, the State party argued that the remedy of certiorari was sufficient and available to the victim and that the communication to the Committee was inadmissible. It also recommended that the victim pursue a civil claim, independent of the criminal prosecution.<sup>213</sup>

In the 57<sup>th</sup> session of the CEDAW Committee, the Committee considered the merits of R.P.B.'s complaint and decided that her allegations were sufficiently substantiated for purposes of admissibility.<sup>214</sup> On 21 February 2014, the Committee gave its view that the State party had indeed failed to fulfill its obligations and had thereby violated the rights of the victim under Articles 2 (c), (d) and (f), read in conjunction with Article 1 and General Recommendations 18 and 19 of the Convention.<sup>215</sup> It also stipulated a set of recommended actions to the State party, primarily providing reparation commensurate with the gravity of the violations of the rights of the victim; free psychological counseling and therapy for the victim and her affected family members; and barrier-free education with interpreting.<sup>216</sup> It also reiterated the administrative, legal and legislative measures on the issue of rape as previously articulated in the Vertido complaint, including the guarantee of free and adequate assistance of interpreters, including sign language.<sup>217</sup>

As per Article 7, Paragraph 4 of the Optional Protocol, the State party was required to submit a written response within six months, including information on any action taken in light of the views and recommendations of the Committee. The State party was also requested to publish the Committee's views and recommendations and to have them translated into Filipino and recognized regional languages, as appropriate, and widely disseminated to reach all relevant sectors of society.<sup>218</sup>

In the Concluding Comments of the CEDAW Committee in consideration of the Combined 7<sup>th</sup> and 8<sup>th</sup> Report of the Philippines in July 2016, the Committee noted with concern that the State party had not yet provided effective remedies to either Karen Tayag Vertido or R.P.B. in line with its recommendations and had yet to submit its responses to the Committee on these cases.<sup>219</sup>

#### **RECOMMENDATION**

Intensify the use of international human rights standards such as CEDAW and ILO Conventions in Philippine jurisprudence. This necessitates the building or strengthening of capacities of the judiciary, including prosecutors, in the use of these conventions in litigation and adjudication and enhancing their understanding of how gender-neutral or gender-insensitive decisions/rulings affect women's lives as in the cases presented above, particularly, the importance of addressing gender stereotypes in the prosecution of rape and other forms of sexual violence, and ensuring effective access to justice for all victims, in all their diversity, including special support for victims who are children or living with disability.

## Recommendations for laws addressing gender inequalities during situations of emergency: laws that have had discriminatory effects during the COVID-19 pandemic

The COVID-19 pandemic highlighted the discriminatory effects of several laws, among them:

- Republic Act No. 9262 (Anti-Violence Against Women and their Children Act), Republic Act No. 9995 (Anti-Photo and Video Voyeurism Act), Republic Act No. 10175 (Cybercrime Prevention Act) and Republic Act No. 1313 (Safe Spaces Act)

Community quarantine was imposed on 17 March 2020, initially in the National Capital Region and was later replicated throughout the country. The population was placed on “lockdown”, and women at risk of domestic violence were also on lockdown together with their abusers.

As of June 2020, the Philippine National Police had recorded 1,945 cases of violence against women and 1,745 cases of violence against children since the implementation of the community quarantines.<sup>220</sup> The Department of Justice, on the other hand, reported 279,166 cyber tips on online sexual exploitation of children from March to May 2020.<sup>221</sup>

These laws are indeed crucial to protect women and their children against abuse and violence, with clear procedures for reporting complaints and redress such as the issuance of protection orders against perpetrators. While the numbers are high in terms of reporting, it should be assumed that there are still women and children that are unable to report to the authorities as they are living in close proximity to their abusers or are deprived of phones or other means to report abuse, or do not have the economic means to buy mobile phone credits or leave their residence, or are in ‘granular’ barangay quarantines that do not allow populations to leave their residences at all.

As the priority of the government is to limit transmission of the virus and address COVID-19 issues, some of the stakeholders during consultations for the assessment noted the lack of attention to addressing domestic violence and other forms of abuse, harassment and violence

against women (e.g. harassment at checkpoints and other public spaces; online sexual exploitation especially among girl children; rape of women in detention/jails and women who are locally stranded individuals) in quarantine facilities, etc. Concern was also expressed about hotlines for reporting not being answered; unattended women’s desks at the local level; barangay and other government officials being preoccupied with COVID-19 response operations and therefore not available to issue protection orders; lack or absence of female police officers or members of the security sector at checkpoints and on patrol to attend to female passers-by or deter sexual harassment in public spaces, among other issues.

It is crucial that the above-mentioned laws are reviewed given these realities faced by women and children during the COVID-19 pandemic. “Mobility” or ease of accessibility to sexual and gender-based violence services in the law, including protection orders, should be revisited, considering the varied conditions of women living in close proximity to their abusers in the context of lockdowns. Due consideration should also be made to the situation of women in transit such as locally stranded individuals and returning or outbound women migrant workers who may not have access to violence against women-related information and services.

- Republic Act No. 9994 (Expanded Senior Citizen Act of 2010), Republic Act No. 7277 (Magna Carta for Disabled Persons), Republic Act No. 8972 (Solo Parents’ Welfare Act) and Republic Act No. 11310 (Pantawid Pamilyang Pilipino Program (4Ps) Act)

The CEDAW Committee has noted that women, particularly older women living in rural areas, tend to experience poverty and difficulties accessing adequate housing, food and water. This is often due to inadequacy of their income, “due to discrimination with regard to employment, social security and access to resources”.<sup>222</sup> Disability is also a significant issue for older women, as people with disabilities do not have social pensions. The situation of older women in all their diversity—rural, disabled, from particular ethnic backgrounds, or living in places affected by conflict, and now affected by the COVID-19 pandemic—must be considered in order to assess whether the existing laws contribute to gender inequalities.

The government has released different forms of temporary cash assistance to poor and vulnerable sectors in the context of COVID-19, one of which is the Social Amelioration Program subsidy, ranging from PhP 5,000 to 8,000 (approximately USD 30 to 60), calibrated per region. Receipt of this subsidy is contingent on the profiling done by the local governments. The subsidy is likewise provided to 4Ps beneficiaries.

Under Republic Act No. 9994 or the Expanded Senior Citizens Act 2010, senior citizens are entitled to a monthly social pension of PhP 500 (approximately 10 USD) to augment their daily subsistence and medical needs. The Department of Social Welfare and Development, however, noted that not all senior citizens receive monthly social pensions—those qualified are only the “indigent senior citizens” who are frail, in poor health, living with disability, without pension and without regular support to meet basic needs.<sup>223</sup>

Some of those who became unwell, lost their jobs or have family members who lost their jobs during the pandemic are unable to appeal to be included in the list of beneficiaries of the Social Amelioration Program subsidy or may be unable to access information to enable them to participate in the profiling.<sup>224</sup> As it is, older people and people with disabilities already have mobility limitations; with the imposition of community quarantines, their access to relief and cash assistance are even more hampered.

The Social Amelioration Program subsidy was initially distributed in a common facility such as the barangay center or multi-purpose area and recently, for the succeeding tranches through remittance centers—both of which are challenges for the elderly, solo parents and people with disabilities to access and may pose health risks given the crowded conditions during distribution. Challenges in access may be in the form of mobility to go to these subsidy distribution facilities, or receiving information on when and where to receive the subsidy. This information is often transmitted through SMS, which cannot be accessed by visually impaired or technologically challenged people, or those with no access to mobile phones or digital devices, or who are ill or at-risk of being ill, or who are preoccupied with the care of their family members.

The above-mentioned laws need to be revisited given these realities faced by older women and women with disabilities during the COVID-19 pandemic. Aside from addressing mobility or ease of accessibility, cash assistance, say as in the form of social pensions for senior citizens, for solo parents and for people with disabilities, may need to be considered. The 4Ps law should also consider the differential impact of the pandemic on elderly women, solo parents and women with disabilities who may be in charge of care of their family members, and extend conditional cash transfers to them as well.

- Republic Act No. 7438 (An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof), and Republic Act No. 10575 (Bureau of Corrections Act of 2013)

Given the impact of the pandemic on those who are imprisoned or detained, and the risk of transmission in these contexts, it is recommended that non-custodial measures in appropriate cases be used and ensure the health and safety of women in prison. To reduce overcrowding, pregnant women, women in prison with their children, pre-trial detainees, elderly women, those with underlying health conditions, and those detained for low-risk offences and with less than 12 months to serve on their sentence should be released on a case-by-case basis, accompanied by effective economic recovery and social welfare services.<sup>225</sup>



# 4

## PART 4. RECOMMENDATIONS

## PART IV:

# RECOMMENDATIONS

While this report maps out the specific actions needed to address discrimination in the law through the repeal, revision and enhancement of specific laws and policy interventions, it recognizes that:

1. The Philippines has translated international human rights conventions such as CEDAW into domestic law as in the case of Republic Act No. 9710 or the Magna Carta of Women.
2. The Philippines has an expansive array of laws that seek to promote, protect and fulfill women's human rights, taking off from the 1987 Philippine Constitution and the Magna Carta of Women. While there are indeed some laws still carrying discriminatory provisions, whether direct or indirect, based on the analysis and consultations made by the research team with stakeholders, the gaps in legislation are primarily in the area of reporting, monitoring implementation and the exercise of oversight of both houses of Congress and the Commission on Human Rights as Gender Ombud on government agencies and instrumentalities (especially local governments) in implementing laws.
3. The repeal, revision, amendment or issuance of new laws, as well as their application in jurisprudence are contingent on the mindsets of legislators, prosecutors and the judiciary, respectively. Misogyny and prevailing gender stereotypes and biases against women hamper the elimination of discriminatory laws and provisions in these laws and the issuing of decisions that uphold gender justice.

### Laws to be repealed

It is recommended that certain provisions of these laws be repealed as they are deemed discriminatory to women.

#### **1. Presidential Decree No. 1083 or the Code of Muslim Personal Laws**

Repeal this decree, consistent with Article 16 of CEDAW on Marriage and Family Life, General Recommendations 21 and 29 and the Implementing Rules and Regulations of the Magna Carta of Women.

Alternatively, revise or amend the following, in consultation with Moro women and their communities:

- Article 16 of the Code to comply with the standards set forth by the UN Convention on the Rights of the Child and the age of majority in the Philippines.
- Article 27 of the Code to be consistent with General Recommendations 21 and 29 that polygamy is contrary to CEDAW and must be discouraged and prohibited as it impacts the human rights and economic well-being of women and their children.
- Uphold Article 34 on mutual rights and obligations in marriage.
- Book 4 of the Code considering provisions of the Bangsamoro Organic Law on the creation of additional sharia courts within and outside the Bangsamoro Autonomous Region to service Muslim populations, especially in diaspora communities, and the creation of the Sharia High Court.
- Revise or amend the Code to stipulate the authority of Bangsamoro Autonomous Region to oversee the Code's administration and its role in reviewing its discriminatory provisions to be proposed to the Executive Branch for repeal, revision or amendment or development of a new law, consistent with Republic Act No. 11054 or the Bangsamoro Organic Law. The Bangsamoro Autonomous Region's Regional Government should establish or strengthen existing mechanisms (such as the Bangsamoro Women's Commission) for information, education and communication; it should also conduct extensive consultations with women within and outside the Bangsamoro territory on the Code to ensure an inclusive process towards the policy's repeal, revision or amendment, or the creation of new laws.

## 2. Republic Act No. 8353 (Anti-Rape Law of 1997)

Repeal the forgiveness clause that allows an offender to marry their victim thus absolving them of their crime. This clause leaves a mechanism wherein an offender can pressure a rape survivor into a compromise, heavily leaning on the Filipino culture of *hiya* (shame) and defeating the purpose of reclassifying rape from a private crime against chastity to a public one against persons. The forgiveness clause also coerces the victim-survivor into a relationship prompted by sexual abuse and violence. It is also blind to the possibility that women who have been raped by their husbands are likely to be violated again.

Amend Article 266-A by putting lack of freely given consent as the necessary element in the commission of rape, including a list of presumptions where it is assumed that freely given consent cannot be given.

Amend to include evolving forms of assault such as condom removal—otherwise known as stealthing—during sexual intercourse.

Amend to develop inclusive language, such as “sexual partner” to recognize the various forms of sexual relationships.

Amend Article 266-D to remove the implication that resistance should be used as evidence to prove that rape occurred and study the merit of equal penalties in Article 266-A.

Raise the minimum age of sexual consent, currently set at 12 years, to at least 16 years in line with the recommendation of the CEDAW Committee in its 2016 Concluding Observations on the Philippines’ Combined 7<sup>th</sup> and 8<sup>th</sup> Periodic Report.

## 3. Executive Order No. 209 (Family Code of the Philippines)

Harmonize the Family Code and other laws on marriage and family relations with CEDAW and the Magna Carta of Women and ensure the equality of women and men, both in marriage and upon the dissolution of marriage, including by expediting the adoption of the long-pending divorce bill and by taking into account the Committee’s General Recommendations 21 (1994) on equality in marriage and family relations and 29 (2013) on the economic consequences of marriage, family relations and their dissolution, and the recommendations of the CEDAW Committee in its Concluding Observations to the Philippines in 2016.

## 4. Act No. 3815 (Revised Penal Code)

In accordance with the CEDAW Concluding Comments in the combined 7<sup>th</sup> and 8<sup>th</sup> Report, decriminalize Articles 333 and 334 on adultery and concubinage. Other remedies not criminal in nature on marital infidelity may be used by the parties involved. Decriminalize Article 202 on the definition of prostitution and repeal Article 247 on death inflicted under exceptional circumstances as there are existing criminal provisions that may be used in these circumstances.

## Laws to be revised or amended

### 1. Republic Act No. 9710 (Magna Carta of Women)

Considering that this is the framework law on women’s human rights in the Philippines, no discriminatory provisions were found in this law. There is a need, however, to revise or amend provisions of the law to specify time of completion or quota for the following:

- Article IV Section 12 (D), which directs all barangays to establish a Violence Against Women Desk.
- Article IV Section 14, Participation and Representation. Letter (B), which directs that in all levels of development planning and program implementation, at least 40 percent of the membership of all development councils from the regional, provincial, city, municipal and barangay levels shall be composed of women.
- Article IV Section 18, Women in the Military, Police and Other Similar Services, Letter (B), which provides for an increase in the quota to 20 percent for female admission into all officer-candidate and non-officer schools and institutions in the military, police and similar services, including but not limited to the Philippine Military Academy, Officer Candidate School, Philippine National Police Academy, and Philippine Public Safety College.

Repeal the remaining discriminatory laws as indicated in the law (see also succeeding sections discussing said laws).

Propose a new law protecting against violence and discrimination based on sexual orientation and gender identity. While the Magna Carta of Women has a clear definition of non-discrimination, and provisions for non-discrimination of women

in the military, police and similar services on the basis of sex and sexual orientation, there is a need for a law to protect LGBTQI individuals against abuse, violence and discrimination in all spheres of life. The law needs to uphold UN Human Rights Council Resolution 32/2 (2016) on the protection against violence and discrimination based on sexual orientation and gender identity.

## **2. Republic Act No. (Witness Protection, Security and Benefit Act)**

Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice, UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, and ECOSOC Resolution 2005/20 Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, to include, but not limited to, the following:

- Consideration to female witnesses who oversee caring for their families—such as extension of protection support to their families and care facilities to enable them to continue their family life, among others.
- Protection of female witnesses from all forms of harassment, exploitation, abuse and violence from any person or from the State in charge of witness protection and security.
- Free legal aid and support throughout all stages of the criminal justice process, especially for female and child witnesses who cannot afford to pay for legal services.
- Women- and child-friendly legal aid service standards, procedures and professional codes of conduct, and appropriate training to formulate and implement them.
- Interpretation and translation support throughout all stages of the criminal justice process.
- Creation of a national authority for the protection of (child) victims and witnesses that comprises a judge, representatives from the prosecutor's office specializing in cases involving children, law enforcement agencies, child protection services or any other relevant service within the social welfare department, health department, bar association, victim support organization providing services to children and the education department.

## **3. Republic Act No. 7438 (An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof)**

Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice, UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, and the Bangkok Rules to include, but not limited to, the following:

- Consideration to female prisoners and offenders who are in charge of caring for their families to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.
- Assignment of women prisoners, as far as possible, to detention facilities near their homes or families.
- Protection of female prisoners and offenders from all forms of harassment, exploitation, abuse and violence from any person or from the State authorities in charge of detention facilities, and assistance in seeking remedies, safe from retaliation in cases where such violations take place.
- Free legal aid as well as support throughout all stages of the criminal justice process, especially for those who cannot afford to pay for legal services.
- Provision of sanitation and hygiene facilities and healthcare services, including substance abuse treatment, mental and reproductive health, and preventive healthcare.
- Interpretation and translation support throughout all stages of the criminal justice process.

Harmonize the law with reference to Republic Act No. 9745 or the Anti-Torture Act.

#### **4. Republic Act No. 10575 (Bureau of Corrections Act of 2013)**

Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice, UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, United Nations Standard Minimum Rules for Treatment of Prisoners, and the Bangkok Rules to include, but not limited to, the following:

- Consideration to female prisoners and offenders who oversee caring for their families to make arrangements for those children.
- Assignment of women prisoners, as far as possible, to jails or correction facilities near their homes or families.
- Protection of female prisoners and offenders from all forms of harassment, exploitation, abuse and violence from any person or from the State authorities in charge of jails or correction facilities.
- Free legal aid as well as support throughout all stages of the criminal justice process, especially for those who cannot afford to pay for legal services.
- Provision of sanitation and hygiene facilities and healthcare services, including substance abuse treatment, mental and reproductive health, and preventive healthcare.
- Interpretation and translation support throughout all stages of the criminal justice process.

Harmonize the law with reference to Republic Act No. 9745 or the Anti-Torture Act.

#### **5. Republic Act No. 7160 (Local Government Code)**

Revise or amend provisions of the law to stipulate the non-settlement of violence against women cases, consistent with Republic Act No. 9262 or the Anti-Violence Against Women and their Children Act.

Revise or amend Title I, Chapter 4 on civil society participation to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, which stipulates that there shall be at least 40 percent women's participation in all development councils at the regional, provincial, city, municipal and barangay levels.

#### **6. Republic Act No. 7877 (Anti-Sexual Harassment Act) and Republic Act No. 11313 (Safe Spaces Act)**

Revise or amend these laws to increase the penalty of imprisonment for sexual harassment in workplaces and educational and training institutions.

Revise or amend these laws to increase the penalty of imprisonment for sexual harassment in workplaces, and educational and training institutions; provide guidelines on community services; and clarify the gaps that may prevent an effective implementation of these laws.

Update the Civil Service Commission Resolution No.01-0940 (s. 2001) for higher education institutions, the Commission on Higher Education-issued CMO No. 26, Series of 2003—Enjoining the Creation in Every Higher Education Institution of a Committee on Decorum and Investigation on Sexual Harassment Cases and Implementing Measures to Avoid Commission of Sex-Related Offenses Against Students, Faculty and Staff, and CMO No. 25, Series of 2003—Implementing Rules and Regulations for CHED Memorandum, with reference to this law.

#### **7. Republic Act No. 8505 (Rape Victim Assistance and Protection Act)**

Revise or amend the law to stipulate the recruitment and training of women in the police force, forensics and medico-legal, legal and social work services on gender-sensitive, survivor-centered handling of women victim-survivors of gender-related offenses, and ensure incremental increase of women in these services until 50 percent of the personnel thereof shall be women consistent with Article IV, Section 12 of the Magna Carta of Women.

There is no law that provides for a one-stop shop for victims of gender-based violence, and while this law has not been fully implemented yet, it may be amended to cover other services for other victims as well.

#### **8. Republic Act No. 9262 (Anti-Violence Against Women and their Children Act)**

It is crucial that this law be reviewed given the realities faced by women and children during the COVID-19 pandemic. "Mobility" or ease of accessibility to sexual and gender-based violence services in the law, including protection orders, should be revisited, considering the varied conditions of women living in close proximity to their abusers in the context of lockdowns.

**9. Republic Act No. 9995 (Anti-Photo and Video Voyeurism Act)**

Review Republic Act No. 9995 to harmonize with the provisions on online sexual harassment under Republic Act 11313. The two laws are not inconsistent but should ensure that the purposes of passing both laws are effectively realized. Harmonize existing laws related to information and communication technology to enhance legislative response and efforts towards new procedures and technologies in response to rapidly changing technologies and internet-facilitated sex crimes.

**10. Republic Act No. 10175 (Cybercrime Prevention Act)**

Enhance legislative efforts towards the adoption of updated procedural and investigative tools in recognition of the rapid emergence of new technologies—such as live-streaming. Include the institutionalization of capacity-building programs especially for duty-bearers such as first responders and the law enforcement sector.

**11. Republic Act No. 11188 (Special Protection of Children in Situations of Armed Conflict Act)**

While the law is not discriminatory, several gaps in the law need to be addressed for amendments:

- Considerations if the perpetrator of grave human rights abuses against children is also a child and has been exploited by another perpetrator to commit such crimes.
- Considerations if the child is an orphan and has been raised by an armed group or was born in an armed group or is a child born of rape in the context of armed conflict.
- Considerations given emerging issues in conflict- and post-conflict areas such as terrorism or violent extremism, to ensure that all those committing crimes against children, whether or not members of recognized armed groups, can still be held accountable under this law.

**12. Republic Act No. 8425 (Social Reform and Poverty Alleviation Act)**

Revise or amend Section 6 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of the National Anti-Poverty Commission to achieve a 50-50 gender balance.

**13. Commonwealth Act 473 (Revised Naturalization Law) and Republic Act 9139 (Administrative Naturalization Law of 2000)**

Amend the laws to allow qualified alien wives and husbands to file for naturalization, and for both to enjoy the effects of a grant of naturalization.

**14. Presidential Decree 442 (Labor Code of the Philippines)**

Revise or amend discriminatory provisions in the Labor Code such as:

- Article 130 on the provision of facilities for women such as nurseries as it reinforces women’s sole burden of childcare; thus encourage shared use of the nursery in the workplace between women and men who have young children. Remove the minimum age requirement in special occupations as this is deemed discriminatory.
- Article 131 on maternity leave benefits with reference to the 105-Day Extended Maternity Leave Law.
- Article 132 to include incentives for family planning for both men and women as it currently puts family planning as the sole burden of women with the current tax incentives or bonus schemes applicable only to women workers.
- Article 133 to remove discrimination during the recruitment and selection phase, as well as in retention.
- Article 134 to cover non-discrimination of solo parents, which covers both women and men.
- Article 136 on classification of certain women workers as it implies that only women are engaged to work in nightclubs, cocktail lounges, massage clinics, bars, or similar establishments. Employment protection should be offered to both women and men working in similar environments.
- Article 297 to include discrimination and sexual harassment, abuse and violence in the workplace as grounds for termination.

**15. Republic Act No. 10022 amending Republic Act No. 8042 (Migrant Workers and Overseas Filipinos Act)**

Revise or amend the law consistent with CEDAW General Recommendation 26 to include:

- An additional requirement for placement agencies to ensure gender-responsiveness of their services as a condition for accreditation or licensing and a requirement to participate in awareness-raising and training programs that sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and the responsibilities of agencies towards women.
- Strengthening of the role of local government units not just in curbing illegal recruitment but more importantly in promoting community awareness-raising on the costs and benefits of all forms of migration for women; and conducting cross-cultural awareness-raising activities addressed to the general public, which should highlight the risks, dangers and opportunities of migration, the entitlement of women to their earnings in the interest of ensuring their financial security, and the need to maintain a balance between women's familial responsibility and their responsibility to themselves.
- Strengthening of the National Reintegration Center for Overseas Filipino Workers to include services for women upon their return, which shall include comprehensive socio-economic, psychological and legal services aimed at facilitating their reintegration, including complaint mechanisms to protect the women against reprisals by recruiters, employers or former spouses, and the monitoring of service providers to ensure that they do not take advantage of the vulnerable position of women returning from work abroad.
- Training of diplomatic and consular staff to ensure that they fulfill their role in protecting the rights of women migrant workers abroad.
- Forging and strengthening of current bilateral and regional agreements to include cooperation in providing information on perpetrators of violations of the rights of women migrant workers and measures to investigate, prosecute and punish them.

**16. Republic Act No. 10361 (Batas Kasambahay) Amend the law to include:**

- Regulations for direct hiring of domestic workers to ensure that they have undergone proper and adequate orientation on the law and prevent them from being trafficked or abused upon employment.
- Protection of all kinds of domestic workers even those in live-out arrangements, as the current law is tailored to live-in domestic workers.
- Specific penalties for providing wages lower than the minimum standards set forth by the law, depriving social benefits, and committing abuse and violence against domestic workers.
- Strengthening of proactive monitoring and registration of domestic workers by the barangay as part of preventing abuse and other forms of violations.

**17. Republic Act No. 10364 (Expanded Anti-Trafficking in Persons Act of 2012 amending Republic Act No. 9208 or the Anti-Trafficking in Persons Act)**

Amend the law to include:

- Standardized guidelines on data collection to facilitate consistent collection and analysis of enforcement and protection efforts.
- Special support mechanisms for witnesses to report and file complaints for their protection and safety.

Amend the law to improve data exchange among anti-trafficking stakeholders with due respect to data protection and confidentiality such as requiring money transfer outlets or facilities to preserve customer information and transaction data to support authorities in investigating and prosecuting such cases.

**18. Republic Act No. 10028 (Expanded Breastfeeding Promotion Act of 2009 amending Republic Act No. 7600 or the Rooming-In and Breastfeeding Act of 1992)**

Explore amendments that support breastfeeding and lactation in different institutions and in the context of disaster such as ensuring first responders and community health workers are equipped with the skills to support lactation and breastfeeding. Consider the inclusion of the special needs of post-natal care in all policies and practices in disaster risk reduction and management and in institutional settings such as prisons and detention facilities, rape and domestic violence crisis centers and mental health facilities, among others.

**19. Republic Act No. 10354 (Responsible Parenthood and Reproductive Health Act)**

Amend the law to:

- Allow women to access reproductive health procedures without requiring consent from their husbands, in recognition of women’s agency over their bodies.
- Include the distinct reproductive and sexual health issues of LGBTQI, older women and indigenous and Moro women.

Harmonize with other health laws, such as the HIV and Aids Policy Act of 2018, to ensure a standard approach especially in relation to harm reduction doctrines such as the mature minor doctrine included in the HIV and AIDS Policy Act that allows minors to consent independently to reproductive health procedures.

**20. Republic Act No. 11166 (Philippine HIV and AIDS Policy Act, Repealing Republic Act No. 8504, or the Philippine Aids Prevention and Control Act of 1998)**

Harmonize with other health laws, such as the Responsible Parenthood and Reproductive Health Act, to ensure a standard approach especially in relation to the mature minor doctrine provided in the revised HIV/AIDS law.

Amend the law to include considerations for priority post-exposure prophylaxis for HIV and treatment for AIDS in the context of violence against women under CEDAW General Recommendation 35, including prevention of risks in the context of disaster and conflict under General Recommendations 37 and 30, respectively.

**21. Republic Act No. 10606, amending Republic Act No. 7875 (National Health Insurance Act of 1995); Republic Act No. 11199 amending Republic Act No. 8282 (Social Security Act of 1997); Republic Act No. 8291 (Government Service Insurance System Act of 1997)**

Revise or amend provisions on death benefits, permanent disability benefits, temporary disability benefits, funeral benefits, sickness benefits where maternity leave benefits are subsumed, and life insurance benefits with reference to ILO Convention 190 (2019) on Violence and Harassment, which indicates the provision of legal, social, medical and administrative support measures for complainants and victims of violence and harassment and recognition of the effects of domestic violence, and so far as is reasonably practicable, mitigate its impact in the world of work; and, furthermore, with reference to General Recommendations 24 on health, 15 on HIV and AIDS, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, and 34 on rural women, and include coverage for victim-survivors of violence against women and their children as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.

Revise or amend sections on representation to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of the Government Service Insurance System, PhilHealth and the Social Security System to achieve a 50-50 gender balance.

Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.

**22. Republic Act No. 11223 (Universal Health Care Act)**

Revise or amend the Act to include provisions for the prevention and treatment of diseases and conditions affecting women, and to responding to violence against women; to ensure universal access for women to a full range of high-quality and affordable healthcare, including sexual and reproductive health services with reference to CEDAW General Recommendation 24 on women and health; and to recognize the varying needs and issues of women under the related General Recommendations 15 on HIV and AIDS, 19 and 35 on violence against women, 30 on women in conflict

prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, and 34 on rural women.

Revise or amend Chapter III, Section 13 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of PhilHealth to achieve a 50-50 gender balance.

Considering that the law was recently issued, use Section 39 of this law with reference to the oversight provision of both houses of Congress to review the implementation of this Act, which shall “entail a systematic evaluation of the performance, impact or accomplishments and the performance of the various agencies involved in realizing universal healthcare, particularly with respect to their roles and functions”.

### **23. Republic Act No. 11310 (Pantawid Pamilyang Pilipino Program (4Ps) Act)**

Revise or amend the Act to include provisions for the prevention and treatment of diseases and conditions affecting women, and to respond to violence against women; to ensure universal access for women to a full range of high-quality and affordable healthcare, including sexual and reproductive health services with reference to General Recommendation 24 on women and health; and to recognize the varying needs and issues of women under related General Recommendations 15 on HIV and AIDS, 19 and 35 on violence against women, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, and 34 on rural women.

Given the context of the COVID-19 pandemic, the law needs to be revisited with regard to the realities faced by single mothers, older women and women with disabilities during the pandemic who may be in charge of care of their family members, to expand conditional cash transfers to them as well.

### **24. Republic Act No. 386 (Civil Code of the Philippines)**

Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.

### **25. Republic Act No. 8369 (Family Courts Act of 1997)**

Revise or amend Section 4 (b) on training of family court judges to specify that they should undergo gender training, especially with regard to relevant gender-responsive laws where the family courts have original and exclusive jurisdiction such as the Anti-Violence Against Women and their Children Act, the Anti-Rape Law and the Anti-Trafficking Law, among others.

### **26. Republic Act No. 8972 (Solo Parents' Welfare Act)**

Revise or amend the law to respond to emerging needs of solo parents, particularly women, in the context of the COVID-19 pandemic, specifically expanding the medical, housing and educational assistance.

### **27. Republic Act No. 10906 (Anti-Mail Order Spouse Law repealing Republic Act No. 6955 or the Anti-Mail Order Bride Law of 1990)**

Harmonize migration and trafficking laws to include stricter protection from and prosecution of mail-order schemes in the guise of jobs in consideration of CEDAW General Recommendations 35 on violence against women, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, and 34 on rural women, as women and girls in these situations are more vulnerable to the push of mail-order spouse schemes.

### **28. Republic Act No. 7279 (Urban Development and Housing Act of 1992)**

While the law is not discriminatory, several gaps need to be addressed for amendments:

- Address the root causes of homelessness and low home ownership among women.
- Considerations on the households to be evicted, especially in the context of women or other vulnerable populations (minors, the elderly, people with disabilities) left at home at the time of eviction.
- Ensure non-violence in the context of evictions and demolitions; ensure availability of independent psychosocial, medical and legal support during such circumstances.

- Recognize de facto female-headed households to ensure that consultations prior to evictions, demolitions and establishing community mortgage program, as well as compensation and resettlement packages to cover women (such as single women, solo female parents, widows, etc.) and consider their needs such as access to safe and clean water and other basic services, livelihoods and transport, among others.

**29. Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act)**

Revise or amend to include provisions on protection from and prevention of harmful practices such as early and forced marriages and polygamy that can adversely impact girl children, with reference to CEDAW General Recommendation 31.

**30. Republic Act No. 8371 (Indigenous Peoples' Rights Act)**

Revise or amend provisions in the Indigenous Peoples' Rights Act to be consistent with the Magna Carta of Women, to wit:

- Sections 15, 22 and 62 to include provisions on recognizing women's role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution, and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.
- Section 23 to include a provision on allowing indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.
- Section 30 to include a provision on ensuring equal access of indigenous girl-children to education, health and nutrition, and skills development as well as gender- and culture-sensitive curriculum in schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.
- Section 34 to include a provision that would ensure that the Department of Agriculture, in coordination with the National Commission on Indigenous Peoples and other concerned agencies, shall promote the application of indigenous knowledge and practices in food production and preservation as well as recognize, encourage and protect the indigenous practices of women in seed storage and cultivation as per Section 20 of the Magna Carta of Women.

- Section 40 to include a provision for a 50-50 gender balance in third level positions of the National Commission on Indigenous Peoples as per Section 11 of the Magna Carta of Women.

Review Chapter IV of the law to ensure the adoption and implementation of the mandatory representation of indigenous cultural communities and indigenous peoples in policymaking bodies and other legislative councils and determine the level of participation of women in these bodies at the regional and local levels, including autonomous regions such as the Bangsamoro Autonomous Region in Muslim Mindanao, considering that the majority of leaders in these communities are men.

**31. Republic Act No. 7432 (An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes amended by Republic Act No. 9257 or the Expanded Senior Citizen Act of 2003 and further amended by Republic Act No. 9994 or the Expanded Senior Citizen Act of 2010)**

Revise or amend the law to include protection from and prevention of abuse, neglect and violence against the elderly, with specific clauses on the impact on older women in response to specific needs such as rehabilitation after abuse, neglect and violence.

The law also needs to understand and consider the differential impact of natural and human-induced disasters and conditions in rural areas, resulting in multiple discriminations faced by older women. It is recommended that the law be revised or amended to include provisions consistent with CEDAW General Recommendations 24 on women and health, 27 on older women, 30 on women in conflict, 34 on rural women, 35 on violence against women, 36 on education, and 37 on disaster risk reduction and climate change.

**32. Republic Act No. 10121 (Philippine Risk Reduction and Management Act of 2010)**

Revise or amend the law, consistent with CEDAW General Recommendation 37 to include, but not limited to, the following:

- The addition of discrimination and sexual and gender-based violence (including sexual exploitation and abuse) against women, children, the elderly, people with disabilities and ethnic minorities in the list of prohibited acts with accompanying penalties.

- Institutionalize sex-, age- and ethnicity-disaggregated data as a basis for gender analysis of needs and issues, including public information and dissemination.
- Set aside seat/s for internally displaced peoples, especially women, in the local disaster risk reduction and management councils and ensure that their needs and issues are seriously considered in the design of prevention, relief, recovery, rehabilitation and mitigation policies and interventions—such as food and water, housing and sanitation, employment and livelihoods, among others.
- Ensure continuity of education, including adult learning and technical-vocational skills education.
- Allocate legal services for disaster-affected populations especially in pursuing complaints and cases against discrimination and sexual and gender-based violence, as well as support in procuring birth, death and marriage certificates and land registration and deeds.
- Promote women’s roles in early warning and prevention using their traditional knowledge and skills about natural and human-induced disasters.
- Institutionalize women- and child-friendly spaces in evacuation camps and temporary shelters to address the multiple burdens of unpaid and care work faced by women.
- Remove barriers and provide women’s access to health services in the context of displacement, especially mental health and reproductive health services and commodities (likewise pursuant to the Magna Carta of Women).
- Ensure gender balance among border police and checkpoints; training on gender and cultural sensitivity, including sexual exploitation and abuse; the establishment of accountability mechanisms for violations; prosecution for all forms of sexual violence; and access to justice for victims.

**33. Republic Act No. 10754 (An Act Expanding the Benefits and Privileges of Persons with Disability amending Republic Act No. 7277 or the Magna Carta for Disabled Persons)**

Revise or amend the law to include provisions on the protection from and prevention of abuse, neglect, and violence against disabled persons, including performing medical procedures without their informed consent.

Revise the law so that it makes provisions for special care and rehabilitation for disabilities brought about by abuse, neglect and violence.

The law also needs to understand and consider the differential impact of natural and human-made disasters and conditions in rural areas, resulting in multiple discriminations faced by women with disabilities. It is recommended that the law be revised or amended to include provisions consistent with CEDAW General Recommendations 24 on women and health, 27 on older women, 30 on women in conflict, 34 on rural women, 35 on violence against women, 36 on education, and 37 on disaster risk reduction and climate change.

**34. Republic Act No. 11054 (Bangsamoro Organic Law)**

While there are no discriminatory provisions, the Bangsamoro Organic Law, under Article 10, Section 4, provides for opportunities to address the pending discriminatory laws in the Code of Muslim Personal Laws under Articles 9 and 10 using the mandate of the Bangsamoro Parliament and provision on the creation of additional sharia courts within and outside the Bangsamoro Autonomous Region to service Muslim populations especially in diaspora communities, and the creation of the Sharia High Court. Under the Bangsamoro Organic Law, the decisions of the Sharia High Court shall be final and executory except on questions of law that may be raised before the Supreme Court following the procedure for appeals from the Court of Appeals to the Supreme Court. Pending the complete organization of the Sharia High Court, the decisions of the sharia courts shall be appealable to the Court of Appeals and therefore, CEDAW can be used in jurisprudence.

Revise or amend provisions in the Bangsamoro Organic Law to be consistent with the Magna Carta of Women, to wit:

- Article IX, Section 10 to include a provision on allowing Moro and indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.
- Article IX, Sections 14 and 16 to include a provision on ensuring equal access of Moro and indigenous girl-children to education, health and nutrition, and skills development as well as gender- and culture-sensitive curriculum in the Madaris and schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.

- Article XVI, Section 2 to include a provision on participation and representation of women with the view of reaching the 40 percent target in the Bangsamoro Transitional Authority, which is equivalent to the Regional Development Councils, consistent with the Implementing Rules and Regulations of the Magna Carta of Women.
- Article IX, Section 24 on the preservation of the cultural heritage of the Bangsamoro people to be consistent with Section 28 of the Magna Carta of Women on recognizing and respecting the rights of Moro and indigenous women to practice, promote, protect and preserve their own culture, traditions and institutions and consider these rights in the formulation and implementation of national policies and programs.
- Article X, Section 17 on traditional or tribal justice systems to include a provision recognizing women's role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution, and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.

### Proposals for new laws

- Ratify the Convention for the Protection of All Persons from Enforced Disappearance.
- Ratify the remaining 45 ILO conventions including Night Work Convention (No. 171) and its Protocol, Home Work Convention (No. 177), Maternity Protection Convention (No. 183), and Violence and Harassment Convention (No. 190).

**1. Law establishing a national preventive mechanism against torture.** Enact a law that will establish one or several national preventive mechanisms, consistent with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In ensuring the prevention of torture in compliance with Republic Act No. 9745 and protection of persons deprived of liberty, this mechanism should, at the minimum: a) carry out visits in person to places of detention in accordance with the requirements relating to independence in the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment; b) regularly examine the treatment of persons held in places of detention, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment; c) make recommendations to the relevant authorities to improve the treatment and conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations; and d) submit proposals and observations concerning existing or draft legislation. The law should refer explicitly to the Bangkok Rules relating to the treatment of women and girls in prison or detention.

**2. Law on transitional justice.** Draft and pass a new law that covers not just reparations, but also addresses the larger transitional justice responses to all types of atrocities and systemic abuses of women and the marginalized (indigenous peoples and indigenous cultural communities, internally displaced populations, etc.). Such a law should recognize their dignity and establish redress for human rights violations with the aim of preventing these from reoccurring by making institutions accountable and making women's access to justice a reality in the aftermath of these violations.

**3. Law to protect the rights of internally displaced populations.** While the Magna Carta of Women has provisions for the protection of women and girls in conflict-affected communities as well as provisions for a special development fund for internally displaced populations under the Bangsamoro Organic Law, there is a need to draft and pass a national legal framework consistent with the Guiding Principles on Internal Displacement. Passage of this law will certainly impact women internally displaced populations and their families especially those still in internally displaced populations or evacuation camps or who are unable to return or reunite with their families. The bill on the rights of internally displaced populations was part of the common legislative agenda of the Legislature and the Executive branches<sup>226</sup> in the 16<sup>th</sup> Congress but was not passed; it was re-filed in the 18<sup>th</sup> Congress, but remains pending until this time.

- 4. Law protecting against violence and discrimination based on sexual orientation and gender identity.** While the Magna Carta of Women has a clear definition of non-discrimination, there is a need for a law to protect LGBTQI individuals from abuse, violence and discrimination in all spheres of life. The law needs to uphold UN Human Rights Council Resolution 32/2 (2016) on the protection against violence and discrimination based on sexual orientation and gender identity. A bill on this was filed in the 18<sup>th</sup> Congress, however it remains pending until this time.
- 5. Law to eliminate online sexual exploitation of children.** Include measures such as prosecution of live-streaming content, which is absent in current anti-child pornography laws.
- 6. Law to address reproductive health concerns of vulnerable groups such as adolescents.** Specifically address access of adolescents to reproductive healthcare services and commodities without parental consent, and specify that adolescents should be provided with comprehensive information on sexual and reproductive health and rights, responsible sexual behavior, prevention of early pregnancies and of sexually transmitted diseases, including HIV and AIDS, in compliance with international human rights standards.
- 7. Law to recognize and address the issues of women in the informal economy.** In line with ILO Recommendation 204, enact a new law that provides for a conceptual and operational definition of the informal economy based on the international definition, which recognizes the roles and contributions of informal workers particularly women in the care economy, ensuring their visibility in data, as well as recognizing their rights such as their right to self-organize, right to decent work, and right to just and humane working conditions— including protection from all forms of abuse, exploitation, harassment and violence, and access to social and economic protection and benefits.

# CONCLUSION

The Philippines, through the vision, hard work and leadership of women from different sectors and allies locally and internationally, has created a policy environment to support non-discrimination and substantive equality of women with men. This report shows the advancements that have been made in addressing discrimination and gender inequality in several laws. However, much needs to be done in repealing, revising or amending existing laws or formulating new ones. Laws are necessary, together with other mechanisms and processes, in the journey to eliminate discrimination; they should continue to be responsive to the lived experiences of women.

In summary, this assessment covered the Philippines' international treaty obligations and steps towards gender equality taken by the government and provided an in-depth analysis of domestic legislation. This includes the 1987 Philippine Constitution and 51 special laws. The recommendations based on the findings are as follows:

- Four laws/legal provisions are recommended for repeal due to their discriminatory provisions:
  1. Presidential Decree No. 1083 or the Code of Muslim Personal Laws on marriage, rights over inheritance and divorce, and marriage after death of the husband.
  2. Republic Act No. 8353 on the forgiveness clause in cases of rape.
  3. Executive Order No. 209 or the Family Code of the Philippines: Article 14 on the provision on giving preference to the father's consent to the marriage of children between the ages of 18 and 21; (b) Articles 96 and 124 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the administration and enjoyment of community and conjugal properties; (c) Article 211 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, over the persons of their common children; (d) Article 225 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the

exercise of legal guardianship over the property of unemancipated common children; and (e) Article 55, No.1 on the requirement for repeated physical abuse and grossly abusive conduct as a grounds for legal separation.

4. Act No 3815 or the Revised Penal Code:
  - (a) Articles 333 and 334 on adultery and concubinage; (b) Article 202 on the definition of vagrants and prostitution; (c) Article 351 on premature marriages; and (d) Article 247 on death inflicted under exceptional circumstances.
- Thirty-nine laws are recommended for revision or amendments due to gaps in implementing various CEDAW General Recommendations, Concluding Observations of the CEDAW Committee to the Philippines, and other international treaties ratified by the Philippines; while the rest of the laws are requested to be harmonized with the provisions of the Magna Carta of Women or to use the oversight functions of both houses of Congress.
- Seven new laws are recommended to address issues relating to the human rights of women and girls that are not yet covered by existing laws:
  1. Law establishing a national preventive mechanism against torture. A law should be drafted that is consistent with OPCAT. This mechanism should, at the minimum: a) regularly examine the treatment of persons held in places of detention, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment; b) make recommendations to the relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations; and c) submit proposals and observations concerning existing or draft legislation.

2. Law on transitional justice. A new law should be drafted and passed that covers not just reparations, but also addresses the larger transitional justice responses to all types of atrocities and systemic abuses committed against women and the marginalized (indigenous peoples, indigenous cultural communities, or internally displaced populations, etc.). Such a law should recognize their dignity and establish full reparation for human rights violations. This is necessary to prevent similar violations from reoccurring by making institutions accountable and making women's access to justice a reality in the aftermath of these violations.
  3. Law to protect the rights of internally displaced populations. While the Magna Carta of Women has provisions for the protection of women and girls in conflict-affected communities as well as provisions for a special development fund for internally displaced populations under the Bangsamoro Organic Law, there is a need to draft and pass a national legal framework consistent with the Guiding Principles on Internal Displacement. Passage of this law will certainly impact women internally displaced populations and their families, especially those still in internally displaced populations or evacuation camps or those who are unable to return or reunite with their families. The bill on the rights of internally displaced populations was part of the common legislative agenda of the Legislature and the Executive branch in the 16<sup>th</sup> Congress but was not passed; it was re-filed in the 18<sup>th</sup> Congress but remains pending until this time.
  4. Law protecting against violence and discrimination based on sexual orientation and gender identity. While the Magna Carta of Women has a clear definition of non-discrimination, there is a need for a law to protect LGBTQI individuals against abuse, violence and discrimination in all spheres of life. The law needs to uphold UN Human Rights Council Resolution 32/2 (2016) on the protection against violence and discrimination based on sexual orientation and gender identity. A bill on this was filed in the 18<sup>th</sup> Congress but remains pending until this time.
  5. Law to eliminate online sexual exploitation of children. A new law should include measures such as prosecution of live-streaming content, which is absent in current anti-child pornography laws.
  6. Law to address reproductive health concerns of vulnerable groups such as adolescents. A new law should specifically address access of adolescents to reproductive healthcare services and commodities without parental consent and should specify that adolescents should be provided with comprehensive information on sexual and reproductive health and rights, responsible sexual behavior, prevention of early pregnancies and prevention of sexually transmitted infections/diseases, including HIV and AIDS.
  7. Law to recognize and address the issues of women in the informal economy. In line with ILO Recommendation 204, enact a new law that provides for a conceptual and operational definition of the informal economy based on the international definition, which recognizes the roles and contributions of informal workers particularly women in the care economy ensuring their visibility in data, as well as recognizing their rights such as their right to self-organize, right to decent work, and right to just and humane working conditions— including protection from all forms of abuse, exploitation, harassment and violence, and access to social and economic protection and benefits.
- Ratification of the remaining international conventions such as:
    - Convention for the Protection of All Persons from Enforced Disappearance.
    - 45 ILO conventions including Night Work Convention (No. 171) and its Protocol, Home Work Convention (No. 177), Maternity Protection Convention (No. 183), and Violence and Harassment Convention (No. 190).

# APPENDIX 1: UN WOMEN CHECKLIST FOR COMPREHENSIVE, THEMATIC LEGAL ANALYSIS

Elements	
<b>Process</b>	
	Have you secured buy-in from the government, civil society organizations and the UN Country Team?
	Have you engaged relevant committees of Parliament, including the gender caucus? Have you sensitized the Speaker and Deputy Speakers about the overall plan to repeal discriminatory laws?
	Since women are generally thinly represented in Parliament, do you have a plan in place to obtain buy-in from a male-dominated House? Have you identified your allies?
	Have you specifically engaged the national gender machinery, national law reform commission and Attorney General and Minister of Justice?
	Have you specifically engaged the Chief Justice, women judges, women lawyers and the National Bar Association?
	Have you specifically engaged traditional and religious leaders (if relevant)?
	Have you included various forms of joint national consultations in your reform plan?
<b>Process</b>	
	Begin with the mono/plural legal, political, social, economic and cultural context of the country.
	If the country in question is a federal state, describe the extent to which the different regions are complying with federal laws on gender equality (or the specific thematic law under review), different patterns across regions if any and why.

<b>Process</b>	
	Which gender equality commitments at global, regional and sub-regional levels has the government ratified or not ratified?
	Are there any Concluding Observations and Recommendations of UN Treaty Bodies (e.g. Convention on the Rights of the Child, CEDAW) and the Universal Periodic Review in relation to discriminatory laws that you need to take note of?
	Have commitments and recommendations been translated into domestic law? What are the identifiable gaps in the law (including implementation gaps) and the reasons for such gaps?
	Which enacted laws are specifically designed to address issues affecting women and girls?
	Are there sectoral laws (e.g. employment, banking) that directly or indirectly impact on the achievement of gender equality?
	Since there could be several sectoral laws in place, is your review being guided by the provisions of CEDAW, Convention on the Rights of the Child, relevant ILO conventions and regional protocols?
	Where a thematic review (in contrast to a comprehensive review) is under consideration, are all interrelated laws being mapped? E.g. a review of a violence law will necessarily entail a review of the criminal code, criminal procedure code, rules of evidence, family laws, labor laws, and other violence laws (e.g. sexual offences, human trafficking etc.).
	How have formal, informal and semi-formal courts: (a) advanced gender equality; (b) reinforced gender inequality; or (c) both. Provide examples of landmark decided cases.
<b>Analysis of each law</b>	
	What is the objective of the law? What issues/gaps in the law was it designed to address?
	Were those issues fully addressed in the law? If not, what are the gaps?
	Are there any aspects that discriminate against women and girls and if so which aspects and how?
	Annex to the report, a table that reflects: (1) the titles and dates of all the laws under investigation; (2) the sections that are explicitly or implicitly discriminatory; (3) existing gaps in the law; (4) the basis for arriving at this conclusion; and (5) recommended actions to Parliament for repeal/and or replacing the law.
	Include a comprehensive conclusion and a set of summary recommendations to the report.
	Annex to the report a suggested roadmap (timeline) for the reforms to take place.

# APPENDIX 2: COMPARATIVE TABLE OF WOMEN’S PRIORITY LEGISLATIVE AGENDA

This table shows a comparison of priority laws on women that need to be adopted, repealed, revised or amended as indicated in the Magna Carta of Women, as recommended by the CEDAW Committee in the Philippines’ Combined 7<sup>th</sup> and 8<sup>th</sup> Report, and as per the priorities set forth by the Philippine Commission on Women in consultation with women’s groups and government representatives. These laws were used as the springboard for the review.

As of writing, the Philippine Congress has yet to identify its Priority Legislative Agenda for the 18<sup>th</sup>

Congress. The proposed and outlined common legislative agenda is for the 10<sup>th</sup> to the 17<sup>th</sup> Congress. It can be found here: <https://shorturl.at/IFHY9>

This comparison also shows that since the passage of the Magna Carta of Women in 2009, these laws containing discriminatory provisions remain in effect. The majority of the discriminatory provisions in the law are in the realm of marriage and family.

	As indicated in the Magna Carta of Women (2009)	As indicated in the 7 <sup>th</sup> and 8 <sup>th</sup> CEDAW Concluding Comments (2016)	Philippine Commission on Women (2017 to 2022)
<b>Discrimination</b>			Enact a law prohibiting discrimination based on sexual orientation, gender identity and expression. The law should penalize discriminatory acts related to hiring and dismissal of workers, establish a monitoring mechanism to record incidents of discrimination and abuse based on sexual orientation, gender identity and expression, create redress mechanisms, mandate the review and repeal discriminatory provisions in laws, mandate the crafting of non-discriminatory workplace policies, and integrate awareness-raising on the rights of persons with diverse sexual orientation, gender identity and expression.

	As indicated in the Magna Carta of Women (2009)	As indicated in the 7 <sup>th</sup> and 8 <sup>th</sup> CEDAW Concluding Comments (2016)	Philippine Commission on Women (2017 to 2022)
<b>Political and public life</b>		Adopt pending bills to implement temporary special measures including a statutory quota for the representation of women as candidates in elections, in appointed positions in the government and among the beneficiaries of scholarships and training opportunities for government officials.	Promote women's political participation and representation in the law through the adoption of gender quotas by providing incentives to political parties, creating a woman's campaign fund, enjoining political parties to develop a gender and development agenda, providing a rule on the ranking order of candidates to party-list systems in the form of a closed zipper/zebra system or alternate female-male listings, and passing an enabling law for the unimplemented constitutional and statutory policy on local sectoral representation for women in local political seats.
<b>Violence</b>		Enact comprehensive legislation on gender-based violence against women covering all forms of violence.	
	Republic Act No. 8353 or the Anti-Rape Law, on the removal of criminal liability of a rapist when his victim marries him.	Amend the Anti-Rape Law of 1997, putting lack of consent as the primary element of the definition of rape and raising the minimum age of sexual consent, currently set too low at 12 years, to at least 16 years.	Strengthen the provisions of the Anti-Rape Law by redefining rape to focus on consent, repealing the forgiveness clause, and raising the age of sexual consent to at least 16 years.
<b>Employment</b>	Labor Code Article 130, on night work prohibition	Amend the Labour Code to expand the list of prohibited acts of discrimination against women on account of sex; adopt pending bills to expand the definition of sexual harassment to include peer sexual harassment and increase penalties for such crimes.	
			Enact a Magna Carta of Workers in the informal economy addressing the varying levels of informality by providing a conceptual and operational definition of the informal economy, recognizing the roles and contributions of workers in the informal economy, ensuring data generation, promoting rights of women in the informal economy, and promoting gender equality to ensure equal access of women and men to economic resources.

	As indicated in the Magna Carta of Women (2009)	As indicated in the 7 <sup>th</sup> and 8 <sup>th</sup> CEDAW Concluding Comments (2016)	Philippine Commission on Women (2017 to 2022)
<b>Marriage and family</b>	Revised Penal Code: (a) Articles 333 and 334 on adultery and concubinage; (b) Article 202 on the definition of vagrants and prostitution; (c) Article 351 on premature marriages; and (d) Article 247 on death inflicted under exceptional circumstances.	Review the Penal Code to decriminalize women in prostitution, adopt measures aimed at discouraging male demand for prostitution, expedite the adoption of the pending anti-prostitution bills, address the root causes of prostitution, provide women with alternative income opportunities, and provide assistance, rehabilitation and reintegration programs for women and girls exploited in prostitution, in addition to exit programs for women wishing to leave prostitution.	Repeal the Revised Penal Code provisions on adultery and concubinage as these articles (333 and 334) violate the equal protection clause of the 1987 Philippine Constitution since the sex-based classification does not justify the setting of different elements for the same act. Also repeal Article 247, which exempts a spouse/parent who inflicts serious harm or death upon the other spouse/minor daughter caught having sexual intercourse with another person.
	Family Code of the Philippines: Article 14 on the provision on giving preference to the father's consent to the marriage of children between the ages of 18 and 21; (b) Articles 96 and 124 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the administration and enjoyment of community and conjugal properties; (c) Article 211 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, over the persons of their common children; (d) Article 225 on the provision on giving preference to the husband's decision, in case of disagreement with the wife, on the exercise of legal guardianship over the property of unemancipated common children; (e) Article 55, No.1 on the requirement for repeated physical abuse and grossly abusive conduct as grounds for legal separation.	Harmonize the Family Code and other laws on marriage and family relations with CEDAW and the Magna Carta of Women and ensure the equality of women and men, both in marriage and upon the dissolution of marriage, including by expediting the adoption of the long-pending divorce bill and by taking into account the CEDAW Committee's General Recommendations 21 (1994) on equality in marriage and family relations and 29 (2013) on the economic consequences of marriage, family relations and their dissolution.	Ensure women's equal rights in marriage and family relations. While the Family Code generally observes fundamental equality of women and men, there remain unfair provisions in the Code. Articles 14, 96, 124, 211 and 225 perpetuate the unequal gender relations between spouses. Hence it is recommended that: (a) Article 14 of the Family Code be amended to remove preference for the father's decision in consent to a child's marriage; (b) instead of automatically favoring the husband in the case of a disagreement, it is recommended that neither spouse should unilaterally carry out acts of administration and enjoyment of conjugal property; (c) the exercise of parental authority must be made equally and in the best interests of the child.

	As indicated in the Magna Carta of Women (2009)	As indicated in the 7 <sup>th</sup> and 8 <sup>th</sup> CEDAW Concluding Comments (2016)	Philippine Commission on Women (2017 to 2022)
	Code of Muslim Personal Laws	Harmonize the Code of Muslim Personal Laws and indigenous and Muslim customary laws with the Family Code and other laws on marriage and family relations with the CEDAW Convention and the Magna Carta of Women, in particular by explicitly discouraging polygamy with a view to prohibiting it and prohibiting child and forced marriage, through consultation with the communities concerned and local women's rights organizations.	
	Rules of Court Rule 131 Section 3 (jj) on disputable presumptions.		
			Adopt divorce in the Family Code of the Philippines based on certain grounds allowing certain individuals to remarry. Simplify the divorce process and reduce the cost of the procedure especially for indigents.
			Enact the Anti-Prostitution Law or amend Articles 202 and 341 of the Revised Penal Code. Article 202 penalizes women who engage in prostitution, a form of sexual exploitation and violence against women and girls. Criminal liability should be shifted to clients by redefining prostitution and redefining persons exploited. Criminalize those who exploit people in prostitution and treat women in prostitution as victims NOT criminals.

# APPENDIX 3: SUMMARY OF RECOMMENDATIONS

This table provides the list of recommendations based on the gender analysis of special laws.

Theme	Year enacted	Law	Recommendations
Protection from discrimination	2009	Republic Act No. 9710 or the Magna Carta of Women	<p>Considering that this is the framework law on women’s human rights in the Philippines, there are no discriminatory provisions found in this law. There is a need, however, to revise or amend provisions of the law to specify time of completion or quota for the following:</p> <ul style="list-style-type: none"> <li>• Article IV Section 12 (D), which directs all barangays to establish a Violence Against Women (VAW) Desk.</li> <li>• Article IV Section 14, Participation and Representation. Letter (B), which directs in all levels of development planning and program implementation, at least 40 percent of membership of all development councils from the regional, provincial, city, municipal and barangay levels shall be composed of women.</li> <li>• Article IV Section 18, Women in the Military, Police and Other Similar Services, Letter (B), which provides for an increase in the quota to 20 percent for female admission into all officer-candidate and non-officer schools and institutions in the military, police and similar services, including but not limited to the Philippine Military Academy, Officer Candidate School, Philippine National Police Academy, and Philippine Public Safety College.</li> </ul> <p>Repeal the remaining discriminatory laws as indicated in the Magna Carta of Women.</p> <p>Propose a new law protecting against violence and discrimination based on sexual orientation and gender identity. While the Magna Carta of Women has a clear definition of non-discrimination, and provisions for non-discrimination of women in the military, police and similar services on the basis of sex and sexual orientation, there is a need for a law to protect LGBTQI individuals against abuse, violence and discrimination in all spheres of life. The law needs to uphold UN Human Rights Council Resolution 32/2 (2016) on the protection against violence and discrimination based on sexual orientation and gender identity.</p>

Theme	Year enacted	Law	Recommendations
<p><b>Guarantee of basic human rights and fundamental freedoms</b></p>	<p>1991</p>	<p>Republic Act No. 6981 or the Witness Protection, Security and Benefit Act</p>	<p>Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice, UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, and ECOSOC Resolution 2005/20 Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, to include, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Consideration to female witnesses who oversee caring for their families—such as extension of protection support to their families and care facilities to enable them to continue their family life, among others.</li> <li>• Protection of female witnesses from all forms of harassment, exploitation, abuse and violence from any person or from the State in charge of witness protection and security.</li> <li>• Free legal aid as well as support throughout all stages of the criminal justice process, especially for female and child witnesses who cannot afford to pay for legal services.</li> <li>• Women- and child-friendly legal aid service standards, procedures and professional codes of conduct, and appropriate training to formulate and implement them.</li> <li>• Interpretation and translation support throughout all stages of the criminal justice process.</li> <li>• Creation of a national authority for the protection of (child) victims and witnesses that comprises a judge, representatives from the prosecutor’s office specializing in cases involving children, law enforcement agencies, child protection services or any other relevant service within the social welfare department, the health department, the bar association, victim support organizations providing services to children, and the education department.</li> </ul>

Theme	Year enacted	Law	Recommendations
	1995	<p>Republic Act No. 7438 or An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof</p>	<p>Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice, UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, and the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), to include, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Consideration to female prisoners and offenders who are in charge of caring for their families to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.</li> <li>• Assignment of women to detention facilities that are near their homes or families.</li> <li>• Protection of female prisoners and offenders from all forms of harassment, exploitation, abuse and violence from any person or from the State authorities in charge of detention facilities, and assistance in seeking remedies, safe from retaliation in cases where such violations take place.</li> <li>• Free legal aid as well as support throughout all stages of the criminal justice process, especially for those who cannot afford to pay for legal services.</li> <li>• Provision of sanitation and hygiene facilities and healthcare services, including substance abuse treatment, mental and reproductive health, and preventive healthcare.</li> <li>• Interpretation and translation support throughout all stages of the criminal justice process.</li> </ul> <p>Harmonize the law with reference to Republic Act No. 9745 or the Anti-Torture Act.</p>

Theme	Year enacted	Law	Recommendations
	2009	Republic Act No. 9745 or the Anti-Torture Act of 2009	<p>Ratify the Convention for the Protection of All Persons from Enforced Disappearance.</p> <p>Enact a law that will establish one or several national preventive mechanisms, consistent with OPCAT. In ensuring the prevention of torture in compliance with Republic Act No. 9745 and protection of persons deprived of liberty, this mechanism should, at the minimum: a) conduct in-person visits to places of detention in accordance with the requirements relating to independence in the OPCAT; b) regularly examine the treatment of persons held in places of detention, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment; c) make recommendations to the relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations; and d) submit proposals and observations concerning existing or draft legislation. The law should refer explicitly to the Bangkok Rules relating to the treatment of women and girls in prison or detention.</p>
	2014	Republic Act No. 10368 or the Human Rights Victims Reparation and Recognition Act	<p>Draft and pass a new law that covers not just reparations, but also addresses the larger transitional justice responses to all types of atrocities and systemic abuses against women and the marginalized (indigenous peoples, indigenous cultural communities, internally displaced populations, etc.), recognizing their dignity and establishing redress for human rights violations with the aim of preventing these from reoccurring by making institutions accountable and making women's access to justice a reality in the aftermath of these violations.</p>

Theme	Year enacted	Law	Recommendations
	2013	Republic Act No. 10575 or the Bureau of Corrections Act of 2013	<p>Revise or amend the law, consistent with CEDAW General Recommendation 33 on access to justice, UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, United Nations Standard Minimum Rules for Treatment of Prisoners, and the Bangkok Rules to include, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Consideration to female prisoners and offenders who oversee caring for their families to make arrangements for those children.</li> <li>• Assignment of female prisoners to jails or correction facilities that are near their homes or families.</li> <li>• Protection of female prisoners and offenders from all forms of harassment, exploitation, abuse and violence from any person or from the State authorities in charge of jails or correction facilities, and assistance in seeking remedies, safe from retaliation where such violations take place.</li> <li>• Free legal aid as well as support throughout all stages of the criminal justice process, especially for those who cannot afford to pay for legal services.</li> <li>• Provision of sanitation and hygiene facilities and healthcare services, including substance abuse treatment, mental and reproductive health, and preventive healthcare.</li> <li>• Interpretation and translation support throughout all stages of the criminal justice process.</li> </ul> <p>Harmonize the law with reference to Republic Act No. 9745 or the Anti-Torture Act.</p>
<b>Protection from violence</b>	1991	Republic Act No. 7160 or the Local Government Code	Revise or amend provisions of the law to stipulate the non-settlement of domestic abuse against women cases, consistent with Republic Act No. 9262 or the Anti-Violence Against Women and their Children Act.
	1994	Republic Act No. 7877 or the Anti-Sexual Harassment Act	Revise or amend this law (or Republic Act No. 11313) to increase the penalty of imprisonment for sexual harassment in workplaces and educational and training institutions.

Theme	Year enacted	Law	Recommendations
	1997	Republic Act No. 8353 or the Anti-Rape Law	<p>Repeal the forgiveness clause, which allows for an offender to marry their victim thus absolving them of their crime. This clause leaves a mechanism wherein an offender can pressure a rape survivor into a compromise, heavily leaning on the Filipino culture of <i>hiya</i> (shame) and defeating the purpose of reclassifying rape from a private crime against chastity to a public one against persons. The forgiveness clause also coerces the victim-survivor into a relationship prompted by sexual abuse and violence. It is also blind to the possibility that women who have been raped by their husbands are likely to be violated again.</p> <p>Amend Article 266-A by putting lack of freely given consent as the element necessary in the commission of rape, and including a list of presumptions where it is assumed that freely given consent cannot be given.</p> <p>Amend to include evolving forms of assault such as condom removal—otherwise known as stealthing—during sexual intercourse.</p> <p>Amend to develop inclusive language, such as “sexual partner” to recognize the various forms of sexual relationships.</p> <p>Amend Article 266-D to remove the implication that resistance should be used as evidence to prove that rape occurred and study the merit of equal penalties in Article 266-A.</p> <p>Raise the minimum age of sexual consent, currently set at 12 years, to at least 16 years in line with the recommendation of the CEDAW Committee in its 2016 Concluding Observations on the Philippines’ Combined 7<sup>th</sup> and 8<sup>th</sup> Periodic Report.</p>
	1998	Republic Act No. 8505 or the Rape Victim Assistance and Protection Act	<p>Revise or amend the law to stipulate the recruitment and training of women in the police force, forensics and medico-legal, legal and social work services on gender-sensitive, survivor-centered handling of women victim-survivors of gender-related offenses, and ensure incremental increase of women in these services until 50 percent of the personnel thereof shall be women, consistent with Article IV, Section 12 of the Magna Carta of Women.</p> <p>There is no law that provides for a one-stop shop for victims of gender-based violence, and while this law has not been fully implemented yet, it may be amended to cover other services for other victims as well.</p>
	2004	Republic Act No. 9262 or the Anti-Violence Against Women and their Children Act	<p>It is crucial that the law is reviewed given the realities faced by women and children during the COVID-19 pandemic. “Mobility” or ease of accessibility to sexual and gender-based violence services in the law, including protection orders, should be revisited, taking into account the varied conditions of women living in close proximity to their abusers in the context of lockdowns.</p>

Theme	Year enacted	Law	Recommendations
	2009	Republic Act No. 9995 or the Anti-Photo and Video Voyeurism Act	Review Republic Act No. 9995 to harmonize it with online sexual harassment under Republic Act 11313. The two laws are not inconsistent but should ensure that the purposes of passing both laws are effectively realized. Harmonize existing laws related to information and communication technology to enhance legislative response and efforts towards adoption of new procedures and technologies in response to rapidly changing technologies and internet-facilitated sex crimes.
	2011	Republic Act No. 10175 or the Cybercrime Prevention Act	Enhance legislative efforts towards the adoption of updated procedural and investigative tools in recognition of the rapid emergence of new technologies—such as live-streaming. Include the institutionalization of capacity-building programs especially for duty-bearers such as first responders and the law enforcement sector.
	2018	Republic Act No. 11188 or the Special Protection of Children in Situations of Armed Conflict Act	While the law is not discriminatory, several gaps need to be addressed for amendments: <ul style="list-style-type: none"> <li>• Considerations if the perpetrator of grave human rights abuses against children is also a child and has been exploited by another perpetrator to commit such crimes.</li> <li>• Considerations if the child is an orphan and has been raised by an armed group or was born in an armed group or is a child born of rape in the context of armed conflict.</li> <li>• Considerations given emerging issues in conflict- and post-conflict areas such as terrorism or violent extremism.</li> </ul>
	2018	Republic Act No. 11313 or the Safe Spaces Act	Revise or amend this law to provide guidelines on community services, specify criminal penalties for acts of sexual harassment in workplaces and educational and training institutions, and clarify the gaps that may prevent an effective implementation of the law. <p>Update the Civil Service Commission Resolution No. 01-0940 (s. 2001) for higher education institutions, the Commission on Higher Education-issued CMO No. 26, Series of 2003 – Enjoining the Creation in Every Higher Education Institution of a Committee on Decorum and Investigation on Sexual Harassment Cases and Implementing Measures to Avoid Commission of Sex-Related Offenses Against Students, Faculty and Staff, and CMO No. 25, Series of 2003 – Implementing Rules and Regulations for CHED Memorandum, with reference to this law.</p>
Political and public life, representation	1991	Republic Act No. 7160 or the Local Government Code	Use the mandatory review provision under Section 521 to determine adoption of the required one female sectoral representative in the local legislature at all levels – provincial, city, municipal and barangay levels, even among autonomous regions – including reasons for non-compliance of local governments. <p>Revise or amend Title I, Chapter 4 on civil society participation to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, which stipulates that there shall be at least 40 percent women’s participation in all development councils at the regional, provincial, city, municipal and barangay levels, and with CEDAW, which requires that women’s participation should be at 50 percent.</p>

Theme	Year enacted	Law	Recommendations
	1992	Republic Act No. 7192 or the Women in Development and Nation Building Act	Republic Act No. 9710 rendered the Women in Development and Nation Building Act superfluous as the Magna Carta provided for a more comprehensive view of women's human rights. While not directly amendable, much of the protections offered by Republic Act No. 7192 can be found in the Magna Carta with inclusions on women's participation in other sectors of the society.
	1995	Republic Act No. 7941 or the Party-List System Act	Use Section 14 of the Implementing Rules and Regulations of the Magna Carta of Women calling for the provision of incentives to political parties to further women's agenda and encourage the integration of women in the party hierarchy, internal policymaking structures, as well as nominating processes. The Commission on Elections is mandated to incorporate this in its guidelines for accreditation of political parties, including party-list organizations.
	1998	Republic Act No. 8425 or the Social Reform and Poverty Alleviation Act	Revise or amend Section 6 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of the National Anti-Poverty Commission to achieve a 50-50 gender balance.
	1998	Republic Act No. 8551 or the National Police Commission and Philippine National Police Reorganization Act of 1998	Use Section 40 of the Magna Carta of Women on monitoring progress and implementation of the law to determine compliance with the incremental increase of women in the police force as well as the 20 percent female admission in all officer and non-officer schools and institutions. Include also assessment of the Magna Carta of Women on women in the police force in terms of recruitment, training and education, retention and promotion, and the enabling environment for gender sensitivity in the police force.
<b>Nationality</b>	1939	Commonwealth Act 473 or the Revised Naturalization Law	Amend the laws to allow qualified alien wives and husbands to file for naturalization, and for both to enjoy the effects of a grant of naturalization.
	2000	Republic Act 9139 or the Administrative Naturalization Law of 2000	Amend the laws to allow qualified alien wives and husbands to file for naturalization, and for both to enjoy the effects of a grant of naturalization.
<b>Education</b>	2000	Republic Act No. 10410 or the Early Years Act of 2013, which repeals Republic Act No. 8980 or the Early Childhood Care and Development (ECCD) Act of 2000	Use Section 40 of the Magna Carta of Women on monitoring progress and implementation of the law to determine compliance with Section 32 of the Magna Carta of Women, guaranteeing equal access of Moro girl-children in the Madaris and regular schools, development of gender-sensitive curriculum including legal literacy, books and curriculum in the Madaris, and sensitivity of regular schools to Moro practices. More importantly, monitor the utilization of the Special Education Fund and the gender and development funds for implementing the ECCD program especially in ensuring gender-sensitive instruction of ECCD public service providers.

Theme	Year enacted	Law	Recommendations
Employment	1974	Presidential Decree 442 or the Labor Code of the Philippines	<p>Revise or amend discriminatory provisions in the Labor Code such as:</p> <ul style="list-style-type: none"> <li>• Article 130 on the provision of facilities for women such as nurseries as it reinforces women’s sole burden of childcare; thus encourage shared use of the nursery in the workplace between women and men who have young children. Remove the minimum age requirement in special occupations as this is deemed discriminatory.</li> <li>• Article 131 on maternity leave benefits with reference to the 105-Day Extended Maternity Leave Law.</li> <li>• Article 132 to include incentives for family planning for both men and women as it currently puts family planning as the sole burden of women with the current tax incentives or bonus schemes applicable only to women workers.</li> <li>• Article 133, to remove discrimination during the recruitment and selection phase, as well as in retention.</li> <li>• Article 134, to cover non-discrimination of solo parents, which covers both women and men.</li> <li>• Article 136 on the classification of certain women workers as it implies that only women are engaged to work in nightclubs, cocktail lounges, massage clinics, bars or similar establishments. Employment protection should be offered to both women and men working in similar environments.</li> <li>• Article 297 to include discrimination and sexual harassment, abuse and violence in the workplace as grounds for termination.</li> </ul> <p>Ratify the remaining 45 ILO conventions including Night Work Convention (No. 171) and its Protocol, Home Work Convention (No. 177), Maternity Protection Convention (No. 183), and Violence and Harassment Convention (No. 190).</p> <p>In line with ILO Recommendation 204 concerning the transition of workers from the informal economy to the formal economy, enact a new law that provides for a conceptual and operational definition of the informal economy based on the international definition, which recognizes the roles and contributions of informal workers particularly women in the care economy ensuring their visibility in data, as well as recognizing their rights such as their right to self-organize, right to decent work, right to just and humane working conditions—including protection from all forms of abuse, exploitation, harassment and violence—and access to social and economic protection and benefits.</p>

Theme	Year enacted	Law	Recommendations
	2009	Republic Act No. 10022 amending Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act	<ul style="list-style-type: none"> <li>• Revise or amend the law consistent with CEDAW General Recommendation 26 to include:</li> <li>• An additional requirement for placement agencies to ensure gender-responsiveness of their services as a condition for accreditation or licensing, and a requirement to participate in awareness-raising and training programs that sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and responsibilities of agencies towards women.</li> <li>• Strengthening of the role of local government units not just in curbing illegal recruitment but more importantly in promoting community awareness-raising concerning the costs and benefits of all forms of migration for women; and conducting cross-cultural awareness-raising activities addressed to the general public, which should highlight the risks, dangers and opportunities of migration, the entitlement of women to their earnings in the interest of ensuring their financial security, and the need to maintain a balance between women's familial responsibility and their responsibility to themselves.</li> <li>• Strengthening of the National Reintegration Center for Overseas Filipino Workers to include services for women upon their return, which shall include comprehensive socio-economic, psychological and legal services aimed at facilitating their reintegration, including complaint mechanisms to protect the women against reprisals by recruiters, employers or former spouses, and the monitoring of service providers to ensure that they do not take advantage of the vulnerable position of women returning from work abroad.</li> <li>• Training of diplomatic and consular staff to ensure that they fulfill their role in protecting the rights of women migrant workers abroad.</li> <li>• Forging and strengthening of current bilateral and regional agreements to include cooperation in providing information on perpetrators of violations of the rights of women migrant workers and measures to investigate, prosecute and punish them.</li> </ul>
	2012	Republic Act No. 10361 or the Batas Kasambahay	<p>Amend the law to include:</p> <ul style="list-style-type: none"> <li>• Regulations for direct hiring of domestic workers to ensure that they have undergone proper and adequate orientation on the law and prevent them from being trafficked or abused upon employment.</li> <li>• Protection of all kinds of domestic workers even those in live-out arrangements, as the current law is tailored to live-in domestic workers.</li> <li>• Specific penalties for providing wages lower than the minimum standards set forth by the law, depriving social benefits and committing abuse and violence against domestic workers.</li> <li>• Strengthening of proactive monitoring and registration of domestic workers by the barangay as part of preventing abuse and other forms of violations.</li> </ul>

Theme	Year enacted	Law	Recommendations
	2012	Republic Act No. 10364 also known as the Expanded Anti-Trafficking in Persons Act of 2012 amending Republic Act No. 9208 or the Anti-Trafficking in Persons Act	<p>Amend the law to include:</p> <ul style="list-style-type: none"> <li>Standardized guidelines on data collection to facilitate consistent collection and analysis of enforcement and protection efforts.</li> <li>Special support mechanisms for witnesses to report and file complaints for their protection and safety.</li> </ul> <p>Amend the law to improve data exchange among anti-trafficking stakeholders with due respect to data protection and confidentiality such as requiring money transfer outlets or facilities to preserve customer information and transaction data to support authorities in investigating and prosecuting such cases.</p> <p>Draft and pass a new law that addresses issues of online sexual exploitation of children to include measures such as prosecution of live-streaming content, which is absent in current anti-child pornography laws.</p>
Health	2009	Republic Act No. 10028 or the Expanded Breastfeeding Promotion Act of 2009 amending Republic Act No. 7600 or the Rooming-In and Breastfeeding Act of 1992	<p>Explore amendments that support breastfeeding and lactation in the context of disaster such as ensuring first responders and community health workers are equipped with the skills to support lactation and breastfeeding. Consider the inclusion of the special needs of post-natal care in all policies and practices in disaster risk reduction and management.</p>
	2012	Republic Act No. 10354 or the Responsible Parenthood and Reproductive Health Act	<p>Enact a new law to address the reproductive health concerns of vulnerable groups such as adolescents that specifically addresses access to reproductive healthcare services and commodities without parental consent and specifies that adolescents should be provided with comprehensive information on sexual and reproductive health and rights, responsible sexual behavior, prevention of early pregnancies and prevention of sexually transmitted diseases, including HIV and AIDS.</p> <p>Amend the law to:</p> <ul style="list-style-type: none"> <li>Allow women to access reproductive health procedures without requiring consent from their husbands, in recognition of women's agency over their bodies.</li> <li>Include the distinct reproductive and sexual health issues of LGBTQI, older women and indigenous and Moro women.</li> </ul> <p>Harmonize with other health laws, such as the HIV and AIDS Policy Act, to ensure a standard approach especially in relation to harm reduction doctrines such as the mature minor doctrine included in the HIV and AIDS Policy Act, which allows minors to consent independently to reproductive health procedures.</p>

Theme	Year enacted	Law	Recommendations
	2018	Republic Act No. 11166 or the Philippine HIV and AIDS Policy Act, Repealing Republic Act No. 8504, or the Philippine Aids Prevention and Control Act of 1998.	<p>Harmonize with other health laws, such as the Reproductive Health Law, to ensure a standard approach especially in relation to the mature minor doctrine provided in the revised HIV and AIDS Policy Act.</p> <p>Amend the law to include considerations for priority post-exposure prophylaxis for HIV and treatment for AIDS in the context of violence against women under CEDAW General Recommendation 35, including prevention of risks in the context of disaster and conflict under General Recommendations 37 and 30, respectively.</p>
<b>Economic and social benefits</b>	1997	Republic Act No. 8291 or the Government Service Insurance System Act of 1997	<p>Revise or amend provisions on death benefits, permanent disability benefits, temporary disability benefits, funeral benefits, sickness benefits where maternity leave benefits are subsumed, and life insurance benefits with reference to ILO Convention 190 (2019) on Violence and Harassment, which indicates the provision of legal, social, medical and administrative support measures for complainants and victims of violence and harassment and recognition of the effects of domestic violence, and so far as is reasonably practicable, mitigate its impact in the world of work; and, furthermore, with reference to General Recommendations 24 on health, 15 on HIV and AIDS, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, 34 on rural women, and 35 on violence against women and include coverage for women victim-survivors of violence and their children as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.</p> <p>Revise or amend Section 3 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of the Government Service Insurance System to achieve a 50-50 gender balance.</p> <p>Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.</p>
	2002	Civil Service Commission Resolution No. 021420 on maternity leave	Update or repeal this current Civil Service Commission resolution on maternity leave with reference to Republic Act No. 11210 or the 105-Day Extended Maternity Leave Law.

Theme	Year enacted	Law	Recommendations
	2013	Republic Act No. 10606 amending Republic Act No. 7875 or the National Health Insurance Act of 1995	<p>Revise or amend Article III, Section 11 of Republic Act No. 7875 and its amendments, Republic Act No. 9241 and Republic Act No. 10606, to eliminate such excluded personal health services consistent with Article 12 of CEDAW on health, and with reference to ILO Convention 190 (2019) on Violence and Harassment, which indicates provision of legal, social, medical and administrative support measures for complainants and victims of violence and harassment and recognition of the effects of domestic violence, and so far as is reasonably practicable, mitigate its impact in the workplace; and, furthermore, with reference to General Recommendations 24 on health, 15 on HIV and AIDS, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, 34 on rural women, and 35 on violence against women, and include coverage for women victim-survivors of violence and their children as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.</p> <p>Revise or amend Article IV, Section 18 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of PhilHealth to achieve a 50-50 gender balance.</p> <p>Exercise the oversight provision of the law, which entails an evaluation of the National Health Insurance program to be undertaken by both houses of Congress.</p>
	2019	Republic Act No. 11199 amending Republic Act No. 8282 or the Social Security Act of 1997	<p>Revise or amend provisions on death benefits, permanent disability benefits, temporary disability benefits, funeral benefits, sickness benefits where maternity leave benefits are subsumed, and life insurance benefits with reference to ILO Convention 190 (2019) on Violence and Harassment, which indicates provision of legal, social, medical and administrative support measures for complainants and victims of violence and harassment and recognition of the effects of domestic violence, and so far as is reasonably practicable, mitigate its impact in the world of work; and, furthermore, with reference to General Recommendations 24 on health, 15 on HIV and AIDS, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, 34 on rural women, and 35 on violence against women, and include coverage for women victim-survivors of violence and their children as defined by Republic Act No. 9262 and Section 17 of the Magna Carta of Women.</p> <p>Revise or amend Section 3 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of the Social Security Commission to achieve a 50-50 gender balance.</p> <p>Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.</p>

Theme	Year enacted	Law	Recommendations
	2018	Republic Act No. 11210 or the 105-Day Extended Maternity Leave Law	<p>Considering that the law was recently issued, use Section 17 of the law with reference to the periodic review of the Civil Service Commission, the Department of Labor and Employment, the Social Security Commission and the Commission on Human Rights as the Gender Ombud, in consultation with trade unions, labor organizations and employers' representatives.</p> <p>Use also Section 40 of the Magna Carta of Women on monitoring progress and implementation of the law to determine the impact of this law on women and their families as well as their workplaces—in the formal and informal sectors.</p>
	2019	Republic Act No. 11223 or the Universal Health Care Act	<p>Revise or amend the law to include provisions for the prevention and treatment of diseases and conditions affecting women, and to respond to violence against women; to ensure universal access for women to a full range of high-quality and affordable healthcare, including sexual and reproductive health services with reference to CEDAW General Recommendation 24 on women and health; and to recognize the varying needs and issues of women under related General Recommendations 15 on HIV and AIDS, 19 and 35 on violence against women, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, 34 on rural women, and 35 on violence against women.</p> <p>Revise or amend Chapter III, Section 13 to be consistent with Chapter IV, Section 11 on Participation and Representation of the Magna Carta of Women, indicating an incremental increase in the third level positions of PhilHealth to achieve a 50-50 gender balance.</p> <p>Considering that the law was recently issued, use Section 39 of this law with reference to the oversight provision of both houses of Congress to review the implementation of this Act, which shall entail a systematic evaluation of the performance, impact or accomplishments and the performance of the various agencies involved in realizing universal healthcare, particularly with respect to their roles and functions.</p>
	2019	Republic Act No. 11310 or the Pantawid Pamilyang Pilipino Program (4Ps) Act	<p>Revise or amend the Act to include provisions for the prevention and treatment of diseases and conditions affecting women, as well as to respond to violence against women; to ensure universal access for women to a full range of high-quality and affordable healthcare, including sexual and reproductive health services with reference to CEDAW General Recommendation 24 on women and health; and to recognize the varying needs and issues of women under related General Recommendations 15 on HIV and AIDS, 19 and 35 on violence against women, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, and 34 on rural women.</p> <p>Given the context of the COVID-19 pandemic, the law needs to be revisited with regard to the realities faced by older women and women with disabilities during the pandemic who may be in charge of care of their family members, to expand conditional cash transfers to them as well.</p>

Theme	Year enacted	Law	Recommendations
Marriage and family	1930	Act No. 3815 or the Revised Penal Code	In accordance with the CEDAW Concluding Comments in the combined 7 <sup>th</sup> and 8 <sup>th</sup> Report, decriminalize Articles 333 and 334 on adultery and concubinage. Other remedies not criminal in nature on marital infidelity may be used by the parties involved. Decriminalize Article 202 on the definition of prostitution and repeal Article 247 on death inflicted under exceptional circumstances as there are existing criminal provisions that may be used in these circumstances. There is also a need to remove the title of the set of offenses under Title Eleven of the Revised Penal Code and the elements to commit seduction and consented abduction referring to the offended party's "virginity" or good reputation.
	1949	Republic Act No. 386 or the Civil Code of the Philippines	Amend the law to clarify that one of the options for surnames of married women is to retain their maiden first name and surname.
	1987	Executive Order No. 209 or the Family Code of the Philippines	Harmonize the Family Code and other laws on marriage and family relations with CEDAW and the Magna Carta of Women and ensure the equality of women and men, both in marriage and upon the dissolution of marriage, including by expediting the adoption of the long-pending divorce bill and by taking into account the CEDAW Committee's General Recommendation 21 (1994) on equality in marriage and family relations, and 29 (2013) on the economic consequences of marriage, family relations and their dissolution, and the recommendations of the CEDAW Committee in its Concluding Observations to the Philippines in 2016 (paragraph 49 and 50, UN Doc CEDAW/C/PHL/CO/7-8, 25 July 2016).
	1997	Republic Act No. 8369 or the Family Courts Act of 1997	Revise or amend Section 4 (b) on training of family court judges to specify that they should undergo gender training, especially with regard to relevant gender-responsive laws where the family courts have original and exclusive jurisdiction such as the Anti-Violence Against Women and their Children Act, the Anti-Rape Law and the Anti-Trafficking Law, among others.
	2000	Republic Act No. 8972 or the Solo Parents' Welfare Act	Revise or amend the law to respond to the emerging needs of solo parents, particularly women, in the context of the COVID-19 pandemic, specifically expanding the medical, housing and educational assistance.
	2015	Republic Act No. 10906 or the Anti-Mail Order Spouse Law repealing Republic Act No. 6955 or the Anti-Mail Order Bride Law of 1990	Harmonize migration and trafficking laws to include stricter protection from and prosecution of mail-order schemes in the guise of jobs in consideration of CEDAW General Recommendations 35 on violence against women, 30 on women in conflict prevention, conflict and post-conflict situations, 31 on the girl-child and harmful practices, and 34 on rural women, as they remain more vulnerable to the push of mail-order spouse schemes.

Theme	Year enacted	Law	Recommendations
Inter-sectional concerns	1977	Presidential Decree No. 1083 or the Code of Muslim Personal Laws	<p>Repeal this decree, consistent with Article 16 of CEDAW on Marriage and Family Life and General Recommendations 21 and 29, and the Implementing Rules and Regulations of the Magna Carta of Women.</p> <p>Alternatively, revise or amend the following, in consultation with Moro women and their communities:</p> <ul style="list-style-type: none"> <li>• Article 16 of the Code to comply with the standards set forth by the UN Convention on the Rights of the Child and the age of majority in the Philippines.</li> <li>• Article 27 of the Code to be consistent with CEDAW General Recommendations 21 and 29 that polygamy is contrary to CEDAW and must be discouraged and prohibited as it impacts the human rights and economic well-being of women and their children.</li> <li>• Uphold Article 34 on mutual rights and obligations in marriage.</li> <li>• Book 4 of the Code considering provisions of the Bangsamoro Organic Law on the creation of additional sharia courts within and outside the Bangsamoro Autonomous Region to service Muslim populations, especially in diaspora communities, and the creation of the Sharia High Court.</li> </ul> <p>Revise or amend the Code to stipulate the authority of Bangsamoro Autonomous Region in Muslim Mindanao, the new political entity governing the Bangsamoro people, to oversee the Code's administration and its role in reviewing its discriminatory provisions to be proposed to the Executive Branch for repeal, revision, amendment or development of a new law, consistent with the Bangsamoro Organic Law. The Bangsamoro Autonomous Region in Muslim Mindanao's Regional Government should establish or strengthen existing mechanisms (such as the Bangsamoro Women's Commission) for information, education and communication and conduct extensive consultations with women within and outside the Bangsamoro territory on the Code to ensure an inclusive process towards the policy's repeal, revision or amendment, or the creation of new laws.</p>
	1992	Republic Act No. 7279 or the Urban Development and Housing Act of 1992	<p>While the law is not discriminatory, several gaps need to be addressed for amendments:</p> <ul style="list-style-type: none"> <li>• Address the root causes of homelessness and low home ownership among women.</li> <li>• Considerations on the households to be evicted, especially in the context of women or other vulnerable populations (minors, the elderly, people with disabilities) left at home at the time of eviction.</li> <li>• Ensure non-violence in the context of evictions and demolitions; ensure availability of independent psychosocial, medical and legal support during such circumstances.</li> <li>• Recognize de facto female-headed households to ensure that consultations prior to evictions, demolitions, and establishing community mortgage program, as well as compensation and resettlement packages to cover women (such as single women, solo female parents, widows, etc.) and consider their needs such as access to safe and clean water and other basic services, livelihoods and transport, among others.</li> </ul>

Theme	Year enacted	Law	Recommendations
	1991	Republic Act No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act	Revise or amend the Act to include provisions on protection from and prevention of harmful practices such as early and forced marriages and polygamy that can adversely impact girl children, with reference to CEDAW General Recommendation 31.
	1997	Republic Act No. 8371 or the Indigenous Peoples' Rights Act	<p>Revise or amend provisions in the Indigenous Peoples' Rights Act to be consistent with the Magna Carta of Women, to wit:</p> <ul style="list-style-type: none"> <li>• Sections 15, 22 and 62 to include a provision recognizing women's role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution, and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.</li> <li>• Section 23 to include a provision on allowing indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.</li> <li>• Section 30 to include a provision on ensuring equal access of indigenous girl-children to education, health and nutrition, and skills development, as well as gender- and culture-sensitive curriculum in schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.</li> <li>• Section 34 to include a provision on ensuring that the Department of Agriculture, in coordination with the National Commission on Indigenous Peoples and other concerned agencies, shall promote the application of indigenous knowledge and practices in food production and preservation as well as recognize, encourage and protect the indigenous practices of women in seed storage and cultivation as per Section 20 of the Magna Carta of Women.</li> <li>• Section 40 to include a provision for a 50-50 gender balance in third level positions of the National Commission on Indigenous Peoples as per Section 11 of the Magna Carta of Women.</li> </ul> <p>Review Chapter IV of the law to ensure the adoption and implementation of the mandatory representation of indigenous cultural communities and indigenous peoples in policymaking bodies and other legislative councils and determine the level of participation of women in these bodies at the regional and local levels, including autonomous regions such as the Bangsamoro Autonomous Region, considering that the majority of leaders in these communities are men.</p>

Theme	Year enacted	Law	Recommendations
	2010, 2003, 1992	Republic Act No. 7432 or An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes, amended by Republic Act No. 9257 or the Expanded Senior Citizen Act of 2003 and further amended by Republic Act No. 9994 or the Expanded Senior Citizen Act of 2010	<p>Revise or amend the law to include protection from and prevention of abuse, neglect and violence against the elderly, with specific clauses on the impact on older women in response to specific needs such as rehabilitation after abuse, neglect and violence.</p> <p>The law also needs to understand and consider the differential impact of natural and human-induced disasters and conditions in rural areas, resulting in multiple discriminations faced by older women. It is recommended that the law be revised or amended to include provisions consistent with CEDAW General Recommendations 24 on women and health, 27 on older women, 30 on women in conflict, 34 on rural women, 35 on violence against women, 36 on education, and 37 on disaster risk reduction and climate change.</p>

Theme	Year enacted	Law	Recommendations
	2010	Republic Act No. 10121 or the Philippine Risk Reduction and Management Act of 2010	<p>Revise or amend the law, consistent with CEDAW General Recommendation 37 to include, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• The addition of discrimination and sexual and gender-based violence (including sexual exploitation and abuse) against women, children, the elderly, people with disabilities, and ethnic minorities in the list of prohibited acts with accompanying penalties.</li> <li>• Institutionalize sex-, age- and ethnicity-disaggregated data as a basis for gender analysis of needs and issues, including public information and dissemination.</li> <li>• Set aside seat/s for internally displaced peoples, especially women, in the local disaster risk reduction and management councils and ensure that their needs and issues are seriously considered in the design of prevention, relief, recovery, rehabilitation and mitigation policies and interventions—such as food and water, housing and sanitation, employment and livelihoods, among others.</li> <li>• Ensure continuity of education, including adult learning and technical-vocational skills education.</li> <li>• Allocate legal services for disaster-affected populations especially in pursuing complaints and cases against discrimination and sexual and gender-based violence, as well as support in procuring birth, death and marriage certificates and land registration and deeds.</li> <li>• Promote women’s roles in early warning and prevention, using their traditional knowledge and skills about natural and human-induced disasters.</li> <li>• Institutionalize women- and child-friendly spaces in evacuation camps and temporary shelters to address the multiple burdens of unpaid and care work faced by women.</li> <li>• Remove barriers and provide women’s access to health services in the context of displacement, especially mental health and reproductive health services and commodities (likewise pursuant to the Magna Carta of Women).</li> <li>• Ensure gender balance among border police and checkpoints; training on gender- and cultural-sensitivity, including sexual exploitation and abuse; and the establishment of accountability mechanisms for violations.</li> </ul>

Theme	Year enacted	Law	Recommendations
	2015	Republic Act No. 10754 or An Act Expanding the Benefits and Privileges of Persons with Disability, amending Republic Act No. 7277 or the Magna Carta for Disabled Persons	<p>Revise or amend the law to include provisions on the protection from and prevention of abuse, neglect and violence against disabled persons, including performing medical procedures without their informed consent. The law should also provide for special care and rehabilitation for disabilities brought about by abuse, neglect and violence.</p> <p>The law also needs to understand and consider the differential impact of natural and human-made disasters and conditions in rural areas, resulting in multiple discriminations faced by women with disabilities. The law should be revised or amended to include provisions consistent with CEDAW General Recommendations 24 on women and health, 27 on older women, 30 on women in conflict, 34 on rural women, 35 on violence against women, 36 on education, and 37 on disaster risk reduction and climate change.</p>
	2017	Republic Act No. 11054 or the Bangsamoro Organic Law	<p>While there are no discriminatory provisions, the Bangsamoro Organic Law, under Article 10, Section 4, provides for opportunities to address the pending discriminatory laws in the Code of Muslim Personal Laws under Articles 9 and 10 using the mandate of the Bangsamoro Parliament and the provision on the creation of additional sharia courts within and outside the Bangsamoro Autonomous Region to service Muslim populations, especially in diaspora communities, and the creation of the Sharia High Court. Under the Bangsamoro Organic Law, the decisions of the Sharia High Court shall be final and executory except on questions of law, which may be raised before the Supreme Court following the procedure for appeals from the Court of Appeals to the Supreme Court. Pending the complete organization of the Sharia High Court, the decisions of the sharia courts shall be appealable to the Court of Appeals and therefore, CEDAW can be used in jurisprudence.</p> <p>Revise or amend provisions in the Bangsamoro Organic Law to be consistent with Republic Act No. 9710 or the Magna Carta of Women, to wit:</p> <ul style="list-style-type: none"> <li>• Article IX, Section 10 to include a provision on allowing Moro and indigenous women to observe their cultural practices in the workplace as per Section 22 of the Magna Carta of Women.</li> <li>• Article IX, Sections 14 and 16 to include a provision on ensuring equal access of Moro and indigenous girl-children to education, health and nutrition, and skills development, as well as gender- and culture-sensitive curriculum in the Madaris and schools of living culture and the regular schools as per Section 32 of the Magna Carta of Women.</li> <li>• Article XVI, Section 2 to include a provision on participation and representation of women with the view of reaching the 40 percent target in the Bangsamoro Transitional Authority, which is equivalent to the Regional Development Councils, consistent with the Implementing Rules and Regulations of the Magna Carta of Women.</li> </ul>

Theme	Year enacted	Law	Recommendations
	2017	Republic Act No. 11054 or the Bangsamoro Organic Law  <i>(Continued from previous table)</i>	<ul style="list-style-type: none"> <li>• Article IX, Section 24 on the preservation of the cultural heritage of the Bangsamoro people to be consistent with Section 28 of the Magna Carta of Women on recognizing and respecting the rights of Moro and indigenous women to practice, promote, protect and preserve their own culture, traditions and institutions and consider these rights in the formulation and implementation of national policies and programs.</li> <li>• Article X, Section 17 on traditional or tribal justice systems to include a provision recognizing women's role in conflict prevention, management, resolution and peacemaking, and indigenous systems of conflict resolution, and increasing their representation in these mechanisms as per Section 29 of the Magna Carta of Women.</li> </ul> <p>Uphold the Indigenous Peoples' Rights Act provision on mandatory representation of indigenous cultural communities and indigenous peoples in policymaking bodies and other legislative councils and determine the level of participation of women in these bodies at the regional and local levels, including autonomous regions such as the Bangsamoro Autonomous Region in Muslim Mindanao, considering that the majority of leaders in these communities are men.</p>

# APPENDIX 4: RATIFICATION OF GLOBAL INSTRUMENTS BY THE PHILIPPINES

The Philippines ratified almost all of the international human rights treaties, except the Convention for the Protection of All Persons from Enforced Disappearance.

The Philippines has furthermore ratified 38 International Labour Organization (ILO) conventions. However, 45 ILO conventions have not yet been ratified, including Night Work Convention (No. 171) and its Protocol, Home Work Convention (No. 177), Maternity Protection Convention (No. 183), and Violence and Harassment Convention (No. 190).

Instrument	Date of ratification/ accession
<b>International human rights standards</b>	
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	18 June 1986 (a)
Optional Protocol	17 April 2012 (a)
International Covenant on Civil and Political Rights	23 October 1986
2 <sup>nd</sup> Optional Protocol, aimed at the abolition of the death penalty	20 November 2007
Convention on the Elimination of All Forms of Discrimination Against Women	5 August 1981
International Convention on the Elimination of All Forms of Racial Discrimination	15 September 1967
International Covenant on Economic, Social and Cultural Rights	7 June 1974
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	5 July 1995

Instrument	Date of ratification/ accession
<b>International human rights standards</b>	
Convention on the Rights of the Child	21 August 1990
Optional Protocol, on the involvement of children in armed conflict	26 August 2003
Optional Protocol, on the sale of children, child prostitution and child pornography	28 May 2002
Convention on the Rights of Persons with Disabilities	15 April 2008
<b>ILO conventions</b>	
Forced Labour Convention, 1930 (No. 29)	15 July 2005
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	29 December 1953
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	29 December 1953
Right Remuneration Convention, 1951 (No. 100)	29 December 1953
Abolition of Forced Labour Convention, 1957 (No. 105)	17 November 1960
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	17 November 1960
Minimum Age Convention, 1973 (No. 138)	4 June 1998
Worst Forms of Child Labour Convention, 1999 (No. 182)	28 November 2000

# ENDNOTES

1. UN Women, “Equality in law for women and girls by 2030: A multistakeholder strategy for accelerated action” (2019), available at: <https://www.unwomen.org/en/digital-library/publications/2019/03/equality-in-law-for-women-and-girls-by-2030>
2. World Bank (2019), available at: <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=PH>, accessed 12 December 2020.
3. The 1987 Philippine Constitution, Section 21, Article VII.
4. Civil Code of the Philippines, Article 8, Chapter 1.
5. Civil Code of the Philippines, Article 11, Chapter 1; see also, the 1987 Philippine Constitution, Article 6, para. 3, which provides that “the State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions.”
6. Title I, Article 2, Presidential Decree No. 1083, Code of Muslim Personal Laws of the Philippines.
7. National Economic Development Authority, “Philippine Development Plan: 2017-2022”, (Pasig City, Philippines, National Economic and Development Authority, 2017).
8. In the Philippine legal framework, this is a statutory legal definition used to distinguish general law, which is “one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class”. In contrast, a special act is “one which relates to particular persons or things of a class”. (Valera vs. Tuason, G.R. No. L-1276, 30 April 1948, decision of the Supreme Court, Philippines)
9. ILO, “Ratifications for the Philippines”, NORMLEX Information System on International Labour Standards, available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102970](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102970), accessed 19 August 2020.
10. *Ibid.*
11. For the list of unratified ILO conventions, see [https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210::P11210\\_COUNTRY\\_ID:102970](https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210::P11210_COUNTRY_ID:102970), accessed 16 December 2020.
12. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016).
13. *Ibid.*, para 7.
14. *Ibid.*, para 13.
15. *Ibid.*, para 22(a).
16. *Ibid.*, para 26(a).
17. *Ibid.*, para 26(b).
18. *Ibid.*, para 36(c).
19. Summary of the inquiry concerning the Philippines under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/OP.8/PHL/1 (22 April 2015), paras 49-52.
20. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 40.
21. *Ibid.*, para 30.
22. *Ibid.*, para 50(a).
23. *Ibid.*, para 50(c).
24. *Ibid.*, para 55.
25. Concluding comments of the Committee on the Elimination of Discrimination against Women: Philippines, CEDAW/C/PHI/CO/6 (25 August 2006).
26. Philippine Commission on Women, “Republic Act 9710: Magna Carta of Women”, available at: <https://pcw.gov.ph/republic-act-9710-magna-carta-of-women/>
27. Magna Carta of Women, Article 12, Chapter IV.
28. CEDAW General Recommendation 33 on women’s access to justice, CEDAW/C/GC/33 (2015).
29. United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Annex to UN General Assembly Resolution 67/187, A/RES/67/187 (20 December 2012).
30. “Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime”, E/RES/2005/20 (22 July 2005); see also United Nations Office of Drugs and Crime, “Justice in Matters involving Child Victims and Witnesses of Crime: Model Law and Related Commentary” (New York, USA, United Nations, 2009).
31. CEDAW General Recommendation 33 on women’s access to justice, CEDAW/C/GC/33 (2015).
32. UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Annex to A/RES/67/187 (28 March 2013).
33. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Annex to A/RES/65/229 (16 March 2011).
34. Annex to General Assembly Resolution A/RES/65/229 (16 March 2011).
35. United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “Prevention of torture and ill-treatment of women deprived of their liberty”, CAT/OP/27/1 (18 January 2016).
36. General comment on women affected by enforced disappearances adopted by the Working Group on Enforced or Involuntary Disappearances, A/HRC/WGEID/98/2 (14 February 2013).
37. Bangsamoro, as defined by the Bangsamoro Organic Law, Article II, Section 1, refers to the people who, at the advent of the Spanish Colonization, were considered natives or original inhabitants of Mindanao and the Sulu archipelago, and its adjacent islands, whether of mixed or full blood, and have the right to identify themselves, their spouses and descendants as Bangsamoro.
38. The Standard Minimum Rules for the Treatment of Prisoners were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. Two years after the adoption of the Bureau of Corrections Act of 2013, the UN General Assembly adopted an updated version of the UN Standard Minimum Rules for the Treatment of Prisoners, and renamed them the “Nelson Mandela Rules”, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) Annex, A/RES/70/175 (17 December 2015).
39. CEDAW General Recommendation 33 on women’s access to justice, CEDAW/C/GC/33 (2015).
40. UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Annex to UN General Assembly Resolution A/RES/67/187 (28 March 2013).

41. UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), Annex to UN General Assembly Resolution A/RES/70/175 (8 January 2016).
42. The UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), Annex to UN General Assembly Resolution A/RES/65/229 (16 March 2011).
43. Supreme Court of the Philippines, *People vs. Amogis*, G.R. No. 133102 (25 October 2001).
44. CEDAW General Recommendation 33 on women's access to justice, CEDAW/C/GC/33 (2015), para 25(a)(i).
45. Article 266-A (1)(d), Revised Penal Code as amended by Republic Act No. 8353 (Anti-Rape Law of 1997).
46. Article 266-A (a), (b) and (c), Revised Penal Code as amended by Republic Act No. 8353 (Anti-Rape Law of 1997).
47. Republic Act No. 8353 (Anti-Rape Law of 1997) uses the term "demented"; the term "living with mental disability" is preferable as it refers to various forms of disability that may affect a person's capacity to give genuine consent. It is also consistent with a more respectful way of referring to disability consistent with international human rights standards such as the Convention on the Rights of Persons with Disabilities, to which the Philippines is a State party.
48. *Vertido vs. the Philippines*, Communication No. 18/2008, CEDAW/C/46/D/18/2008 (22 September 2010), para 8.9 (b).
49. *Vertido vs. Philippines*, UN Doc CEDAW/C/46/D/18/2008 (22 September 2010), para 8.9(b)(i) and (ii).
50. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 26(b). See also the Committee on the Rights of the Child General Comment No. 20 on the implementation of the rights of the child during adolescence, CRC/C/GC/20 (6 December 2016), para 40: "States parties should take into account the need to balance protection and evolving capacities, and define an acceptable minimum age when determining the legal age for sexual consent. States should avoid criminalizing adolescents of similar ages for factually consensual and non-exploitative sexual activity."
51. Republic Act No. 8505, Rape Victim Assistance and Protection Act of 1998, Section 6.
52. CEDAW General Recommendation 19, CEDAW/C/GC/19 (1992).
53. UN General Assembly, Declaration on the Elimination of Violence against Women, A/RES/48/104 (20 December 1993).
54. Several publications recognize that there is heightened risk of violence and vulnerability in times of emergencies, as exemplified by the COVID-19 pandemic. Past epidemics have also been accompanied by increases in gender-based violence. See "Justice for Women amidst COVID-19" (UN Women, IDLO, UNDP, World Bank and the Pathfinders, May 2020), available at: <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/justice-for-women-amidst-covid-19-en.pdf?la=en&vs=5442> In the Philippines, militarized lockdowns have "contributed to the increase of cases of violence against women, while simultaneously reducing access to social protection". See "Gendered Dimensions of COVID-19 in the Philippines" (UN Women Philippines, 2020), available at: <https://asiapacific.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2020/09/ph-gender-snapshot-3-philippines.pdf?la=en&vs=4505>.
55. Republic Act No. 7877 or the Anti-Sexual Harassment Act of 1995, Section 3.
56. Such guidelines include the following: the Civil Service Commission Resolution No.01-0940, Series of 2001, for higher education institutions, the Commission on Higher Education-issued CMO No. 26, Series of 2003 – Enjoining the Creation in Every Higher Education Institution of a Committee on Decorum and Investigation on Sexual Harassment Cases and Implementing Measures to Avoid Commission of Sex-Related Offenses Against Students, Faculty and Staff, and CMO No. 25, Series of 2003 – Implementing Rules and Regulations (IRR) for CHED Memorandum.
57. UNICEF, "UN Officials congratulate MILF for completion of disengagement of children from its ranks", press release, 4 December 2017.
58. Office of the Special Representative of the UN Secretary-General for Children and Armed Conflict, "Children and armed conflict: Report of the Secretary-General", A/72/865-S/2018/465 (16 May 2018), para 241-249.
59. UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, A/RES/54/263 (25 May 2000).
60. Committee on the Elimination of Discrimination Against Women, General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (1 November 2013).
61. Under Title IV, Section 66 of the National Police Commission and Philippine National Police Reorganization Act of 1998, the People's Law Enforcement Board is the central receiving entity for any citizen's complaint against the officers and members of the Philippine National Police.
62. Magna Carta of Women, Implementing Rules and Regulations, Section 14.
63. Early Childhood Workforce Initiative 2019, Philippines Country Brief, p. 2, available at: <https://r4d.org/news/6-country-briefs-detail-practices-supporting-the-early-childhood-workforce/>
64. National Economic and Development Authority (NEDA), "New NEDA Study Identifies Reasons Behind Filipino Women's Low Labor Participation Rate", citing Determinants of Female Labor Force Participation in the Philippines (2 October 2019), available at: <http://www.neda.gov.ph/new-neda-study-identifies-reasons-behind-filipino-womens-low-labor-participation-rate/>.
65. *Ibid.*
66. *Ibid.*, p. 6-9.
67. *Ibid.*, p. 59.
68. Philippine Statistics Authority, "Fact Sheet on Women and Men in the Philippines" (March 2020).
69. CEDAW General Recommendation 26 on women migrant workers, CEDAW/C/2009/WP.1/R (2008).
70. ILO, "Domestic Workers in the Philippines: Profile and Working Conditions", available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_167021.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_167021.pdf).
71. According to the Implementing Rules and Regulations of *Batas Kasambahay*, the *kasambahay* who has rendered at least one month of service is entitled to a 13th-month pay, which shall not be less than one-twelfth of his/her total basic salary earned in a calendar year.
72. Department of Labor and Employment, "DOLE, PSA: 1.4 HSWs, 72% on live-out", news release, 2 December 2020, available at: [https://www.dole.gov.ph/news/dole-psa-1-4m-hsws-72-on-live-out/#:~:text=Only%202.5%25%20\(or%20about%2035%2C000,is%20required%20under%20the%20law.&text=Only%2041%25%20of%20domestic%20workers,of%20their%20rights%20and%20privileges.](https://www.dole.gov.ph/news/dole-psa-1-4m-hsws-72-on-live-out/#:~:text=Only%202.5%25%20(or%20about%2035%2C000,is%20required%20under%20the%20law.&text=Only%2041%25%20of%20domestic%20workers,of%20their%20rights%20and%20privileges.)

73. For example, in 2016, the CEDAW Committee noted “with concern that the State party remains a source country for international and internal trafficking, including for sexual exploitation, forced labour, domestic servitude and organ transplantation”. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 27.
74. United States of America Department of State, Office to Monitor and Combat Trafficking in Persons, “2019 Trafficking in Persons Report”, p. 380.
75. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017), para 14.
76. CEDAW Working Group Philippines, Philippine CEDAW Shadow Report 2016: Access to Justice of Marginalized Women in the Philippines (Quezon City, Philippines, Women’s Legal and Human Rights Bureau, Inc., 2016).
77. Supreme Court of the Philippines, *Imbong vs. Ochoa*, G.R. No. 204819 (8 April 2014).
78. *Ibid.*
79. *Ibid.*
80. “Let our voices be heard: Report of the Commission on Human Rights Philippines’ National Inquiry on Reproductive Health and Rights” (Commission on Human Rights Philippines, Gender Equality and Women’s Human Rights Center, 31 August 2016). Furthermore, in this study, it was found that the issuance of Maternal, Neonatal, Child Health and Nutrition ordinances resulted in the criminalization of traditional and indigenous home births.
81. Summary of the inquiry concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/OP.8/PHL/1 (22 April 2015).
82. *Ibid.*, para 51(a)
83. *Ibid.*, para 51(e)
84. *Ibid.*, para 52(a)
85. *Ibid.*, para 52(h)
86. Concluding observations on the combined 5th and 6th periodic reports of the Philippines, E/C.12/PHL/CO/5-6 (26 October 2016), para 51.
87. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 39(a).
88. Concluding observations on the 3rd periodic report of the Philippines, CAT/C/PHL/CO/3 (2 June 2016), para 39.
89. *Ibid.*, para 40(b)
90. *Ibid.*, para 39.
91. Concluding observations on the combined 5th and 6th periodic reports of the Philippines, E/C.12/PHL/CO/5-6 (26 October 2016), para 51.
92. *Ibid.*, para 52.
93. *Ibid.*
94. Summary of the inquiry concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/OP.8/PHL/1 (22 April 2015), para 49-52.
95. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 40.
96. Committee on Economic, Social and Cultural Rights, General Comment 22 on the right to sexual and reproductive health, E/C.12/GC/22 (2 May 2016), para 28.
97. Committee Against Torture, Concluding Observations on the third periodic report of the Philippines, Paragraph 40(c) UN Doc CAT/C/PHL/CO/3 (2 June 2016).
98. Republic Act No. 11166, or the Philippine HIV and AIDS Policy Act of 2018, Section 2(c).
99. *Ibid.*, Section 3(bb).
100. Implementing Rules and Regulations of Republic Act No. 11166, Rule 5, Section 25.
101. CEDAW General Recommendation 15, Avoidance of Discrimination against Women in National Strategies for the Prevention and Control of Acquired Immunodeficiency Syndrome (AIDS), A/45/38 (1990).
102. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017), para 31(a) (iii).
103. CEDAW General Recommendation 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, CEDAW/C/GC/37 (2018).
104. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
105. 105-Day Expanded Maternity Leave Law 2018, Section 5(a) (i)-(v).
106. CEDAW General Recommendation 24, Article 12 of the Convention on women and health, A/54/38/Rev.1 (1999).
107. CEDAW General Recommendation 15 on avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS), A/45/38 (1990).
108. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
109. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014).
110. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
111. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
112. CEDAW General Recommendation 24, Article 12 of the Convention on women and health, A/54/38/Rev.1 (1999).
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114. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
115. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014).
116. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
117. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
118. CEDAW General Recommendation 24, Article 12 of the Convention on women and health, A/54/38/Rev.1(1999).
119. CEDAW General Recommendation 15 on avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS), A/45/38 (1990).
120. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).

121. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014).
122. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
123. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
124. Section 11, Republic Act No. 7875, as amended by Republic Act No. 10606.
125. ILO Convention 190, Convention concerning the Elimination of Violence and Harassment in the World of Work, C190 (2019).
126. CEDAW General Recommendation 24, Article 12 of the Convention on women and health, A/54/38/Rev.1(1999).
127. CEDAW General Recommendation 15 on avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS), A/45/38 (1990).
128. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
129. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014).
130. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
131. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
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135. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014).
136. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
137. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
138. Pantawid Pamilyang Pilipino Program (4Ps) Act, Section 3 (m) defines the Standardized Targeting System “refers to a system for identifying who and where the poor households are through the generation of socioeconomic database of poor households that is adopted by national government agencies and implemented by the DSWD...”
139. Pantawid Pamilyang Pilipino Program (4Ps) Act, Section 6.
140. *Ibid.*, Section 7.
141. CEDAW General Recommendation 24, Article 12 of the Convention on women and health, A/54/38/Rev.1 (1999).
142. CEDAW General Recommendation 15 on avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS), A/45/38 (1990).
143. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
144. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014).
145. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
146. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017), para. 14.
147. Memorandum Circular No. 2016-07, “Allowing Married Women to Retain and Use their Maiden Name in lieu of their Husband’s Surname in accordance to Existing Laws and Pertinent Jurisprudence” (12 October 2016), available at: <https://pcw.gov.ph/memorandum-circular-no-2016-07-allowing-married-women/> It states: “The Philippine Commission on Women (PCW) has received several complaints from private individuals about the discriminatory policies of several institutions which require a married woman to use her husband’s surname in accomplishing application forms and other records, and/or refuse to process legitimate transactions with married women using their maiden name.”
148. Republic Act No. 8239 or the Philippine Passport Act of 1996, Section 5(d).
149. G.R. 169202 (5 March 2010).
150. The Magna Carta of Women, Implementing Rules and Regulations, Section 15, Rule III.
151. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
152. *Ibid.*, para. 29(c)(ii).
153. CEDAW Committee General Recommendation 21 on equality in marriage and family relations, A/49/38 (1994).
154. CEDAW Committee General Recommendation on article 16 of CEDAW (economic consequences of marriage, family relations and their dissolution), CEDAW/C/GC/29 (30 October 2013).
155. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 49 and 50, particularly para 50(a).
156. Resilience and Innovation Learning Hub, “Rapid Gender Analysis, Philippines: Metro Manila”, (19 September 2020), p 20, available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/Report-HQ-CARE-Philippines-Rapid-Gender-Analysis-COVID-19\\_.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Report-HQ-CARE-Philippines-Rapid-Gender-Analysis-COVID-19_.pdf)
157. Cody Cepeda, “Solo parenting: A tough task made tougher by COVID-19”, *Inquirer.net*, 11 June 2020, available at: <https://newsinfo.inquirer.net/1289998/solo-parenting-a-tough-task-made-tougher-by-covid-19>
158. Plan International Philippines, “Through her lens: The impact of COVID-19 on Filipino Girls and Young Women” (Plan International Philippines, 15 October 2020), available at: <https://plan-international.org/through-her-lens-impact-covid-19-filipino-girls-and-young-women>; see also “For Single Mothers in the Philippines, Unemployment Is COVID-19’s Biggest Threat”, *Vice.com*, 2 April 2020, available at: <https://www.vice.com/en/article/jge3e4/single-mothers-philippines-unemployment-coronavirus-lockdown>.
159. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
160. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
161. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014).

162. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
163. Article 234 of Executive Order No. 209, or the Family Code of the Philippines, as amended by Republic Act No. 6809, An Act Lowering the Age of Majority from Twenty-One to Eighteen years.
164. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 50.
165. *Ibid.*
166. Faskh is the process of judicial annulment that typically occurs when the husband refuses to consent to the wife's decision to divorce. The term is defined as a "judicial decree" in Article 45(g) of Presidential Decree No. 1083 (4 February 1977), "A decree to ordain and promulgate a code recognizing the system of Filipino Muslim laws, codifying Muslim personal laws, and providing for its administration and for other purposes."
167. CEDAW Committee General Recommendation 21 on equality in marriage and family relations, A/49/38 (1994).
168. CEDAW Committee General Recommendation 29 on article 16 of CEDAW (economic consequences of marriage, family relations and their dissolution), CEDAW/C/GC/29 (2013).
169. Senate Bill 1373 or the Girls Brides Act seeks to amend this article of the Code. Once passed, the bill declares child marriage illegal, prohibiting marriages between minors—18 years old and below—or between a minor and an adult.
170. CEDAW Committee General Recommendation 21 on equality in marriage and family relations, A/49/38 (1994).
171. CEDAW Committee General Recommendation 29 on article 16 of CEDAW (economic consequences of marriage, family relations and their dissolution), CEDAW/C/GC/29 (2013).
172. The Bangsamoro justice system under the Bangsamoro Organic Law shall be in consonance with the Constitution, the sharia or Islamic law, which shall apply exclusively to cases involving Muslims, and traditional or tribal laws. Where a case involves a non-Muslim, sharia law may apply only if the non-Muslim voluntarily submits to the jurisdiction of the sharia court. The traditional or tribal laws shall be applicable to disputes of indigenous peoples within the Bangsamoro Autonomous Region.
173. Annex 1 of the report of the UN Special Rapporteur on adequate housing, UN Doc A/HRC/4/18 (5 February 2007).
174. Joint General Recommendation 31 of the Committee on the Elimination of Discrimination against Women/general comment 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (2014). In November 2020, Senate Bill 1373 or the proposed Girls Not Brides Act was approved in the Philippine Senate for its third and final reading.
175. Section 53(b) defines the head of a family or person making a claim as being male, by using male pronouns: "An individual or recognized head of a family or clan may file such application in his behalf or in behalf of his family or clan, respectively."
176. Republic Act No. 7432, An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grants Benefits and Special Privileges, Section 2.
177. Republic Act No. 9679 established the Home Development Mutual Fund, otherwise known as the Pag-IBIG Fund. The Pag-IBIG fund is a mutual provident savings system suitable to the needs of the employed and other earning groups.
178. CEDAW General Recommendation 24, Article 12 of the Convention on women and health, A/54/38/Rev.1 (1999).
179. CEDAW General recommendation 27 on older women and protection of their human rights, CEDAW/C/GC/27 (2010).
180. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
181. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
182. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
183. CEDAW General Recommendation 36 on the right of girls and women to education, CEDAW/C/GC/36 (2017).
184. CEDAW General Recommendation 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, CEDAW/C/GC/37 (2018).
185. CEDAW General Recommendation 24, Article 12 of the Convention on women and health, A/54/38/Rev.1 (1999).
186. CEDAW General Recommendation 27 on older women and protection of their human rights, CEDAW/C/GC/27 (2010).
187. CEDAW General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30 (2013).
188. CEDAW General Recommendation 34 on the rights of rural women, CEDAW/C/GC/34 (2016).
189. CEDAW General Recommendation 35 on gender-based violence against women, CEDAW/C/GC/35 (2017).
190. CEDAW General Recommendation 36 on the right of girls and women to education, CEDAW/C/GC/36 (2017).
191. CEDAW General Recommendation 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, CEDAW/C/GC/37 (2018).
192. Some of the administrative issuances are: (1) A.M. No. 04-10-11-SC: Rule on Violence Against Women and Their Children; (2) A.M. No. 03-03-13-SC: Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines in the Proper Work Decorum in the Judiciary; (3) A.M. No. 06-8-21-SC: Re: Use on Gender-Fair Language; (4) OCA Circular No. 151-2010: Speedy Disposition of Cases for Violations of Republic Act No. 9208; and (5) Amended Administrative Circular No. 83-2015 dated 5 September 2017, Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.
193. G.R. No. 167693 (formerly G.R. Nos. 147678-87), (19 September 2006).
194. G.R. No. 179267 (25 June 2013).
195. G.R. Nos. 225642-43 (17 January 2018).
196. G.R. No. 201414 (18 April 2018).
197. 562 Phil. 953 (2007).
198. 586 Phil. 637 (2008).
199. G.R. No. 213346 (11 February 2019).
200. G.R. No. 217910 (3 September 2019).
201. *Karen Tayag Vertido vs. the Philippines*, Communication No. 18/2008, CEDAW/C/46/D/18/2008 (22 September 2010).
202. *Ibid.*, para 3.3
203. *Ibid.*, para 3.5.
204. *Ibid.*, para 3.3.
205. *Ibid.*, para 3.1.
206. *Ibid.*, para 4.1.
207. *Ibid.*, para 4.1, 4.2.
208. *Ibid.*, para 6.3.
209. *Ibid.*, para 8.9.
210. *Ibid.*, para 8.9(b).
211. *R. P. B. vs. the Philippines*, Communication No. 34/2011, CEDAW/C/57/D/34/2011 (12 March 2014).
212. *Ibid.*, para 3.1 to 3.17.
213. *Ibid.*, para 6.2.

214. Ibid., para 7.6.
215. Ibid., para 8 and 9.
216. Ibid., para 9(a).
217. Ibid., para 9(b).
218. Ibid., para 10.
219. Concluding observations on the combined 7th and 8th periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8 (25 July 2016), para 14 and 15.
220. Christia Marie Ramos, “Over 3,600 cases of violence against women, children reported since lockdown – Duterte report”, INQUIRER.net, 8 June 2020, available at: <https://newsinfo.inquirer.net/1288275/over-3600-cases-of-violence-against-women-children-reported-since-lockdown-duterte-report>, accessed 16 August 2020.
221. Lian Buan, “Mother arrested for livestreaming sexual abuse of own children”, Rappler, 30 May 2020, available at: <https://www.rappler.com/nation/262424-mother-arrested-online-sexual-exploitation-children-calooacan>, accessed 20 August 2020.
222. CEDAW General Recommendation 27 on older women and protection of their human rights, CEDAW/C/GC/27 (2010), para 24.
223. Department of Social Welfare and Development, “Omnibus Guidelines in the Implementation of the Social Pension for Indigent Senior Citizens”, Memorandum Circular No. 04 Series of 2019.
224. GMA News, “Unaided 94-year-old Caloocan woman attempts to apply for cash aid”, 8 May 2020.
225. “Justice for Women amidst Covid”, (UN Women, IDLO, UNDP, UNODC and Pathfinders for Peaceful, Just and Inclusive Societies, supported by the Elders, May 2020) p. 6.
226. Legislative Executive Development Advisory Council (LEDAC), Common Legislative Agenda of the LEDAC (10th to 17th Congress).

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