



CHR GENDER OMBUD GUIDELINES

Promoting Gender Equality
and Women's Empowerment
Under the MCW (RA 9710) and Related Laws



CHR-AECID Fortaleza Project

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CHR Gender Ombud Guidelines

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MESSAGE

Loretta Ann P. Rosales
Commission on Human Rights Philippines

On behalf of the Commission on Human Rights, we are pleased to present this Gender Ombud Guidelines which seeks to capture the principles of gender equality and woman empowerment as provided by the Magna Carta of Women (RA 9710) in a set of implementing guidelines. Passed in 2009, the Magna Carta of Women has since designated the Commission as the Gender and Development Ombud. The law sets out its specific mandates for the Commission which the Commission must faithfully and fully implement: among them, promoting and protecting women's rights through creative approaches in education while honing investigation of rights violations committed by persons not only from the public but equally from the private sectors. As the Commission capacitates itself in the investigation of such violations, its recommendations of appropriate remedial measures to other agencies of government must be closely monitored to ensure effective implementation.

The current guidelines have been developed in close coordination with the Philippine Commission on Women and in consultation with national government agencies and civil society organizations. This broad collaboration among networks of government and civil society institutions drives home the point that *women's rights awareness and enforcement is not an exclusive task of women alone but involves the broad spectrum of government and civil society*. Women's rights are human rights and the enforcement of human rights involves participation from all sectors of society, public and private. Hence, the approach must always be inclusive rather than exclusive, selective and fragmented.

Secondly, when we speak of *Woman Empowerment*, we recognize the reality of structural arrangements in society where women have been historically discriminated against, thereby resulting in their marginalization in terms of economic, political and social development, both as individuals and as collective members of the community. Thus, it becomes an imperative to ensure consultations with women to cultivate their interest and active participation in the making of decisions that affect their well-being and dignity. Such consultations must cut across all sectors and income levels. This can involve making decisions to improve themselves as individuals and on matters where, as individuals, they contribute to the betterment of their community. In this regard, it becomes the Commission's mandate to ensure that women are always consulted and consistently capacitated.

Thirdly, when we speak of consistent capacitation, we ensure the regular oversight and evaluation of women's training and educational endeavours to ensure that such capacity building programs are relevant and appropriate to their particular contexts of social, economic, political and cultural development.

It is in this regard that the Commission defines three major Protocols in the implementation of the Magna Carta of Women and related women's rights laws, specifically on the investigation of cases to protect women's rights.

Protocol 1 involves cases on women that cut across the broad spectrum of society: Indigenous women, Moro women, Elderly women, Women differently abled (PWDs), and the like; Protocol 2 involves

specific cases on the girl-child and general cases on children; Protocol 3 involves cases of persons with diverse sexual orientation and gender identity and expression (SOGIE).

But more important than laws passed and guidelines adopted is the collective effort to fully implement the law. As Gender Ombud, the Commission will not only investigate cases and recommend sanctions, it will likewise look into the implementation of the law through active referral, monitoring of compliances and the issuance of Gender Ombud advisories. Let the adoption of this CHR Gender Ombud Guidelines therefore serve as

a major continuation of the Commission's work on the promotion and protection of women's rights and the rights of persons with diverse sexual orientation and gender identity and expression (SOGIE), and at the same time, let this be the start of taking stock of ourselves and where we stand, and how we proceed from here in the steadfast pursuit of gender equality and women's empowerment.



LORETTA ANN P. ROSALES
Chairperson (August 2010 - May 2015)
Commission on Human Rights Philippines

MESSAGE

Jose Luis Martin C. Gascon
Commission on Human Rights Philippines

It is my privilege to present, on behalf of the Commission on Human Rights, these Gender Ombud Guidelines, and to extend both heartfelt thanks and warm congratulations to the women's rights advocates from the Commission, its partners from the Philippine Commission on Women, other government agencies, and civil society whose steadfast work on ending all forms of discrimination against women has made this possible.

These Guidelines provide a comprehensive tool kit to address gender-based discrimination and violence in a variety of situations by identifying legal remedies, describing procedures, and creating a case referral mechanism aimed at ensuring that all complaints of gender-based discrimination or violence are heard.

With these Guidelines, and the commitment and resolve of all many invaluable partners, other

stakeholders, as well as our advocates within the Commission, we hope to give full recognition and fulfilment to the obligations under the CEDAW and the many laws that have been enacted for the protection and empowerment of all Filipino women, whether this be within the home, the community, the workplace, the courtroom, and in all public and private spheres, as they struggle for equal participation in all aspects of their daily life.

Mabuhay ang Kababaihang Pilipino!



JOSE LUIS MARTIN C. GASCON
Chairperson (June 2015 - May 2022)
Commission on Human Rights Philippines

MESSAGE

Vicente Sellés Zaragozi
Spanish Agency for International Development Cooperation (AECID)

Gender equality is a priority policy of the Spanish Government and its development aid policy. The Spanish Cooperation strongly supports the fulfilment of Human Rights worldwide and the initiatives aimed at reducing the multiple and serious gender discrimination.

Moreover, the Spanish Master Plan for Development Cooperation 2013-2016 adheres to the human rights approach for all the development initiatives funded by Spain, as well as incorporates gender mainstreaming as a priority along with the direct support to policies, plans and programs with the main goal to strengthen the capacities and empowerment of women.

For more than 20 years, the Spanish Cooperation has been collaborating with the Philippine Government and the civil society. During this period, both countries have become strong partners, establishing a common goal of human development, reducing inequality and promoting inclusive development. As reflected in the Philippine Development Plan 2011-2016, the sustained economic growth in the Philippines must be accompanied by public policies intended to transform growth into inclusive development. There remains however a gender gap in some development sectors that needs to be reduced. The complete integration of women and men into the society together with the respect and protection of their specific rights may lead to the transformation being envisioned. This inclusion is not only a fair cause but also a prerequisite for the development of the entire Filipino society. The Spanish Agency for International Development Cooperation

(AECID) is committed to continue supporting the Philippines in this endeavour.

In 2011, the Spanish Cooperation initiated a partnership with the Commission on Human Right of the Philippines (CHR) and funded a project with the objective of strengthening the role of the CHR to better promote and protect the Human Rights in the country and expand its presence at the regional, municipal and community levels. The Gender Ombud Guidelines have been established as an output of this project.

The Spanish Agency for International Development Cooperation is pleased to collaborate with the CHR on the establishment of the Gender Ombud in the Country as mandated under the Magna Carta on Women. This is considered a milestone in the protection and promotion of the rights of all women in the country. Under this law, efforts in the development of plans, policies, programs, measures and mechanisms to address discrimination and inequality in the economic, political, social and cultural well-being of women shall be led by the State/Government. The Spanish Cooperation is honoured to support the state in this immense undertaking.

VICENTE SELLÉS ZARAGOZI
Country Director
*Spanish Development Cooperation
in the Philippines*



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WHEREAS, the Commission on Human Rights, as the country's National Human Rights Institution and as provided under the 1987 Constitution has a broad mandate on the protection and promotion of human rights;

WHEREAS, the Universal Declaration of Human Rights (UDHR) provides that "all human beings are born free and equal in dignity and rights" and the 1987 Constitution declares as a policy that "the State values the dignity of every human person and guarantees full respect for human rights;"¹

WHEREAS, the Yogyakarta Principles of 2006 declare that "human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights;"

WHEREAS, the Commission recognizes that respect for sexual rights, sexual orientation and gender identity is integral to the realisation of equality between men and women and in the pursuit for gender equality;

WHEREAS, the Magna Carta of Women (RA 9710) designated the Commission as Gender and Development Ombud tasked to "advocate for the promotion and protection of women's human rights, strengthen its Human Rights Education program, investigate violations including those committed by private institutions or by private individuals, monitor compliance, and recommend appropriate measures to the CSC or to the concerned department of the government for its effective implementation;"²

WHEREAS, as Gender Ombud, the Commission is specifically tasked to "establish guidelines and mechanisms that will facilitate access of women to legal remedies under the Act and related laws, and enhance the protection and promotion of the rights of women, especially marginalized women;"³

WHEREAS, in pursuit of this specific mandate, and to serve as guide for the Commission's investigators, lawyers, officers, the general public and partner National Government Agencies and Local Government

¹ Article II, Section 2 1987 Constitution

² Section 40, The Magna Carta of Women (RA 9710)

³ Id.

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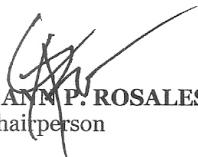
Units, the “CHR Gender Ombud Guidelines, Promoting Gender Equality and Women’s Empowerment under the Magna Carta of Women (RA 9710) and related laws” has been developed;

WHEREAS, after a series of writeshops, consultations with NGAs and NGOs and meetings with key partner, the Philippine Commission on Women, the CHR Gender Ombud Guidelines has been finalized together with the Protocols for the investigation of cases involving women, children and persons with diverse SOGIE;

NOW, THEREFORE, in compliance with its role as Gender Ombud under the Magna Carta of Women (RA 9710) and the specific directives under the law, and in order as well to operationalize its gender ombud functions, the Commission hereby **RESOLVES** to **APPROVE** the “CHR Gender Ombud Guidelines, Promoting Gender Equality and Women’s Empowerment under the Magna Carta of Women (RA 9710) and other related laws”

SO RESOLVED.

Done this 21st day of April 2015, Quezon City, Philippines.


LORETTA ANN P. ROSALES
Chairperson


MA. VICTORIA V. CARDONA
Commissioner


NORBERTO DELA CRUZ
Commissioner


JOSE MANUEL S. MAMAUAG
Commissioner

ATTESTED BY:


MARIA ASUNCION I. MARIANO-MARAVILLA
Commission Secretary

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LORETTA ANN P. ROSALES
Chairperson

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CHAPTER I:

The Commission on Human Rights and Its Mandate in the Promotion of Gender Equality and Women Empowerment

The Commission on Human Rights is an independent constitutional body and is the national human rights institution in the country, created by virtue of the 1987 Constitution of the Philippines. It was organized and made operational pursuant to Executive Order 163, series of 1987, and in accord with the Principles Relating to the Status of National Institutions (The Paris Principles) and other United Nations Resolutions and Instruments pertaining to the effective functioning of national human rights institutions.

The 1987 Constitution granted the Commission the following powers and functions:

- (1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- (2) Adopt its operational guidelines and rules of procedure and cite for contempt for violation therefore in accordance with the Rules of Court;
- (3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection;
- (4) Exercise visitorial powers over jails, prisons, or detention facilities;
- (5) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights;

- (6) Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;
- (7) Monitor the Philippine Government's compliance with international treaty obligations on human rights;
- (8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- (9) Request the assistance of any department, bureau, office, or agency in the performance of its functions;
- (10) Appoint its officers and employees in accordance with the law; and
- (11) Perform such other duties and functions as may be provided by law.

CHR MANDATE ON GENDER EQUALITY

As an independent human rights institution and compliant with the Paris Principles¹ on National Human Rights Institutions (NHRIs), the Commission

¹ The Paris Principles ('Principles Relating to the Status of National Institutions') set out the minimum standards required by national human rights institutions to be considered credible and to operate effectively. The Paris Principles, as they became commonly known, identify six criteria that national human rights institutions should meet in order to be effective, including: a clearly defined and broad-based mandate based on universal human rights standards; autonomy from government; independence guaranteed by legislation or the constitution; pluralism, including membership that broadly reflects their society; adequate resources; adequate powers of investigation.

is committed to ensure the primacy of all human rights and to their protection, promotion and fulfilment, on the basis of equality and non-discrimination, in particular for those who are marginalized and vulnerable². This is pursuant to the Universal Declaration of Human Rights which provides that “all human beings are born free and equal in dignity and rights” and in the State Policy under the 1987 Constitution which provides that “the State values the dignity of every human person and guarantees full respect for human rights.”³

On the basis of this broad mandate, the Commission pursues the promotion of gender equality. The Commission recognizes that respect for sexual rights, sexual orientation and gender identity is integral to the realisation of equality between men and women⁴. Sexual orientation and gender identity and expression (SOGIE) are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse⁵. As an NHRI and as Gender Ombud, the Commission promotes the Yogyakarta Principles⁶ when it provides that “human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.”

CHR MANDATE UNDER THE MAGNA CARTA OF WOMEN

The Commission, having been tasked to monitor the Government's compliance with international treaty obligations on human rights, monitors the Government's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Pursuant to CEDAW, and with the active participation of the women's movement in the country, several laws on women have been passed:

2 CHR Mission Statement

3 Article II, Section 2 1987 Constitution

4 Yogyakarta, Preamble

5 Introduction to Yogyakarta Principles http://www.yogyakartaprinciples.org/principles_en.htm

6 The Yogyakarta Principles are a set of principles on the application of international human rights law in relation to sexual orientation and gender identity. The Principles affirm binding international legal standards with which all States must comply. They promise a different future where all people born free and equal in dignity and rights can fulfil that precious birthright

The Anti-Sexual Harassment Act of 1995 (RA 7877), The Anti-Child Abuse Law of 1997 (RA 7610), The 1998 Philippine National Police Reform and Reorganization Act (RA 8551), Anti-Rape Act of 1997 (RA 8353), Assistance to Rape Victim's Act (RA 8505), Anti-Trafficking in Persons Law of 2003 (RA 9208), Anti- Violence Against Women and their children of 2004 (RA 9262), Anti-Child Pornography Act of 2009 (RA 9775), Magna Carta of Women (RA 9710), Anti-Voyeurism Law (RA 9995), and The Reproductive Health Law (RA 10354).

The Magna Carta of Women of 2009 (RA 9710), the country's gender equality law, recognizes that economic and socio-cultural realities affect women's current condition. It affirms the role of women in nation-building and ensures the substantive equality of women and men. It further declares that the equality of men and women entails the abolition of the unequal structures in society and the practices that perpetuate discrimination and inequality. As a policy it declares that *“no one 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.”*

Under this law, the State endeavours to develop plans, policies, programs, measures and mechanisms to address discrimination and inequality in the economic, political, social and cultural life of women. The Magna Carta of Women designates the Commission as the Gender and Development Ombud. As such, the Commission is mandated to perform the following functions and duties, as provided in the Implementing Rules and Regulations:

SECTION 40. Commission on Human Rights – Consistent with its mandate, the CHR, as the Gender and Development Ombud (Gender Ombud), shall advocate for the promotion and protection of women's human rights, strengthen its Human Rights Education program, investigate violations including those committed by private institutions or by private individuals, monitor compliance, and recommend appropriate

measures to the CSC or to the concerned department of the government for its effective implementation.

A. The CHR shall:

1. Monitor with the PCW and other concerned agencies, compliance with the Act. In developing indicators and issuance of guidelines for its implementation by concerned agencies, CHR shall ensure that the human rights of women, including their right to non-discrimination are guaranteed.

2. Establish guidelines and mechanisms that will facilitate access of women to legal remedies under the Act and related laws, and enhance the protection and promotion of the rights of women, especially marginalized women.

3. Assist in the filing of cases against individuals, agencies, institutions, or establishments that violate the provisions of the Act. For this purpose, the CHR shall:

- a. Provide legal assistance such as preparation of necessary pleadings, referral letters, and counselling;
- b. Forge Memoranda of Agreement with Bar Associations, NGOs, law firms, and organizations providing legal aid to ensure adequate and competent legal representation for complainants;
- c. Accredit lawyers who will accept pro bono cases under the Act; and
- d. Create an efficient system of case referrals to appropriate government departments or agencies.

Victims of violations of the Magna Carta of Women shall be considered victims of human rights violations, and shall be entitled to other forms of assistance available in the CHR

4. Regularly submit to Congress, copy furnished PCW an assessment report of compliance of the Act with its recommendations,

which shall include any possible administrative action. Acting on CHR's recommendations, the OP, the CSC, or the concerned agency may, if necessary, issue any of the following: (a) administrative and/or executive orders, (b) memorandum circulars, (c) proclamations, (d) resolutions, and other issuances.

B. The CHR en banc shall designate one (1) Commissioner, who together with the Women's Human Rights Center (WHRC), shall be primarily responsible, for the formulation of policies, development, and implementation of program and activities related to the promotion and protection of human rights of women. The Regional Offices of the Commission shall discharge the functions of the Gender Ombud within their respective jurisdictions and shall implement these programs, undertake investigations of complaints of discrimination and violations or rights under the Act. The Barangay Human Rights Action Center (BHRAC) shall be the support arm of these Regional Offices. Within one (1) year from the adoption of these Rules and Regulations, the CHR with the assistance of the DBM shall revise the structure and staffing pattern of the WHRC to effectively and efficiently execute its functions. The designated Focal Commissioner shall directly supervise the WHRC in the performance of its functions under the Act.

SECTION 41. Monitoring Progress and Implementation and Impact of the Act – The PCW in coordination with other agencies and the CHR shall develop an effective and efficient system to monitor and evaluate the implementation of the Act.

Upon finding of CHR that a department, agency or instrumentality of government, government-owned-and-controlled corporation, or local government unit violated any provision of the Magna Carta of Women and its Implementing Rules and Regulations, it shall recommend sanctions under administrative law, civil service, or other appropriate laws to the Civil Service Commission and/or the Department of Interior and

Local Government. The person directly responsible for the violation as well as the head of the agency or local chief executive shall also be held liable. The filing of a complaint under the law does not preclude the offended party from pursuing other remedies available and from invoking any of the provisions of existing laws, especially recently enacted laws protecting women and children.⁷ These include, among others:

1. Women in Development and Nation Building Act (Republic Act No. 7192).
2. The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act (Republic Act No. 7610),
3. The Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877),
4. The Anti-Rape Law of 1997 (Republic Act No. 8353),
5. The Rape Victim Assistance and Protection Act of 1998 (Republic Act No. 8505),
6. The Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208)
7. The Anti-Violence Against Women and Their Children Act of 2004 (Republic Act No. 9262).

If violence has been proven to be perpetrated by agents of the State including, but not limited to, extrajudicial killings, enforced disappearances, torture, and internal displacements, such shall be considered aggravating offenses with corresponding penalties depending on the severity of the offenses.

Power to cover Persons with Diverse SOGIE

The CHR as Gender Ombud undertakes to protect and promote the rights of women regardless of sexual orientation and/or gender identity and other persons with diverse sexual orientation and gender identity and expression (SOGIE).

Scope

Consistent with its mandates, the Commission

⁷ Section 41, MCW (RA 9710).

undertakes the following as the Gender and Development Ombud:

Investigate individual complaints of discrimination

The Commission is mandated to investigate on its own or on complaint by any party, all forms of human rights violations involving civil and political rights.⁸ It is likewise mandated to monitor the Philippine Government's compliance with International treaty obligations on human rights,⁹ including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

As Gender Ombud designated by the Magna Carta of Women, the CHR undertakes to protect and promote the rights of women, regardless of ethnicity, gender, age, language, sexual orientation, gender identity, race, color, religion, political, or other opinion, national, social, or geographical origin, disability, property, birth, or other status. It shall likewise promote and protect the human rights of intersex persons and persons with diverse sexual orientation and gender identity and expression (SOGIE). The procedures for investigation and protocols for investigation provided in this guideline shall be applicable to complaints filed by persons of diverse sexual orientation and gender identity to include, but not limited to lesbians, gays, bisexuals, transgenders, queer and intersex persons.

The investigation of discrimination against women, of intersex persons and of persons with diverse SOGIE shall be based on its Constitutional mandate and its mandate under the MCW and other relevant laws. It shall likewise be guided by the nine key treaties to which the Philippines is a signatory and the Yogyakarta Principles.

Specific to alleged violations under the MCW, the Commission will look into complaints filed by women, lesbians, bisexual women, and transwomen and transmen¹⁰.

⁸ Article XIII Section 18 (1) of the 1987 Constitution

⁹ Article XIII Section 18 (7) of the 1987 Constitution

¹⁰ Inclusion of transmen depends on their willingness to invoke MCW provisions and shall be subject to further consultation with transmen organizations.

Investigate institutional violations of the provisions of the MCW

The Commission as the Gender Ombud shall likewise investigate and monitor violations/offenses committed by institutions. It shall resolve and recommend appropriate sanctions under the DILG and the CSC and the Commission's resolution shall be referred to the appropriate fora for the filing of appropriate action. Cases resolved shall likewise recommend the appropriate policy or changes of policy to the concerned government agencies as well as recommend to Congress its assessment of the implementation of the law and the corresponding recommendations.

The Commission shall likewise investigate acts of discrimination and violations of the MCW committed by private institutions. In such cases, the resolution of the cases shall include recommendations as to the filing of appropriate civil or criminal actions and recommendations as to changes in policies and business practices of private institutions, in accordance with the business and human rights framework of protect, respect, and remedy.

Legal Aid and Other Support Services

The Commission also provides legal aid services to the underprivileged whose human rights have been violated or in need of protection. This service is availed of through the Commission's Central and Regional Offices. This mandate is further magnified by sec. 10 of the MCW which directs the Commission to "assist in the filing of cases against agencies, institutions, or establishments that violate the provisions of the law."

As part of its legal aid services, the Commission shall likewise provide victim-survivors with psychosocial and other support services. Referral shall be made to appropriate agencies in accordance with Chapter VIII, with appropriate feedback and monitoring mechanism.

Monitoring of MCW compliance

The Commission monitors the implementation of CEDAW in the country. This includes monitoring the implementation of the Magna Carta for Women,

the country's gender equality law. It works with the Philippine Commission on Women (PCW) in monitoring the government's compliance to the MCW. This is undertaken by adopting the indicators developed by PCW, which is further elaborated in Chapter IX. Results of the monitoring include policy recommendations and advisories to be issued by the Commission.

Pursuant to the Paris Principles, the Commission shall maintain its separate and independent monitoring report which shall include the monitoring of the State's compliance with the CEDAW and other treaties and the concluding statements and recommendations of the CEDAW Committee and of the State's implementation thereof.

Policy Advisory Services

The Commission formulates and issues women's human rights recommendations and policy advisories which are collectively called Gender Ombud Advisories. It monitors and evaluates human rights policies, plans, programs and projects. This includes monitoring of government compliance with international human rights treaties.

Policy advisories and recommendations may be in relation to any of the following: (a) issuance of women's and persons of diverse SOGIE human rights norms and standards; (b) Women Empowerment Policy Issuances; (c) Gender Mainstreaming Policy Issuances; (d) Policies arising from the Regional Women's Human Rights Profile; (e) Policy Advisories/Recommendations arising from investigated and resolved cases; (f) Policy issuances in relation to the State's obligation under International Human Rights Law.

Promotion of Women's Human Rights and the rights of Persons with Diverse Sexual Orientation and Gender Identity and Expression (SOGIE)

Pursuant to the Commission's mandate on the promotion of human rights, and in recognition that women's rights are human rights, the Commission shall undertake the promotion of women's human rights and the human rights of intersex persons and

persons with diverse sexual orientation and gender identity. While the Magna Carta of Women provides that the Philippine Commission on Women is the lead agency in capacitating government agencies on the law, the CHR shall likewise mainstream the promotion of women's human rights and that of intersex persons and persons with diverse sexual orientation and gender identity in its continuing human rights promotion programs.

Gender Ombud Guidelines

The Gender Ombud Guidelines does not envision a new set of procedures but rather clarifies the scope of jurisdiction of the Commission as set out under the Magna Carta of Women. It identifies the types of violations/complaints which may be investigated, the investigation procedure to be followed, the system of referral and monitoring, the investigation protocols, the issuance of policy advisories and the promotion and monitoring activities to be undertaken.

CHAPTER II:

Definition of Terms

Bisexual” A person who is attracted to both men and women. Some men and women adopted the term to describe their identity.¹¹ People may embrace a bisexual identity because they are attracted to both women and men, because gender is not a key criterion for choosing an intimate partner, or because they find traditional notions of sexual orientation limiting.¹²

“**Discrimination Against Women**” refers to any gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.

It includes any act or omission, including by law, policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges. A measure or practice of general application is discrimination against women if it fails to provide for mechanisms to offset or address sex or gender-based disadvantages or limitations of women, as a result of which women are denied or restricted in the recognition and protection of their rights and in their access to and enjoyment of opportunities, benefits, or privileges; or women, more than men, are

shown to have suffered the greater adverse effects of those measures or practices.¹³

“**Discrimination on the basis of Sexual Orientation or Gender Identity**” Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms. Discrimination based on sexual orientation or gender identity may be, and commonly is, compounded by discrimination on other grounds, including gender, race, age, religion, disability, health and economic status.¹⁴

“**Gender**” refers to the attitudes, feelings, and behavior that a given culture associates with a person’s biological sex. Behavior that is compatible with cultural expectations is referred to as gender-normative; behaviors that are viewed as incompatible with these expectations constitute gender non-conformity.¹⁵

These social characteristics are constructed on the basis of different factors, such as age, religion, national, ethnic and social origin. They differ both within and between cultures and define identities, status, roles, responsibilities and power relations among the members of any society or culture. Gender

13 Magna Carta of Women, RA 9710

14 The Yogyakarta Principles. , Introduction to. Accessed on 3.19.2015 http://www.yogyakartaprinciples.org/principles_en.pdf

15 The Guidelines for Psychological Practice with Lesbian, Gay, and Bisexual Clients, adopted by the APA Council of Representatives, February 18-20, 2011. <http://www.apa.org/pi/lgbt/resources/sexuality-definitions.pdf>

is learned through socialisation. It is not static or innate, but evolves to respond to changes in the social, political and cultural environment.¹⁶

“Gender expression” refers to the “...way in which a person acts to communicate gender within a given culture; for example, in terms of clothing, communication patterns and interests. A person’s gender expression may or may not be consistent with socially prescribed gender roles, and may or may not reflect his or her gender identity.”¹⁷

It refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.

“Gender identity” is understood to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.¹⁸

“Intersex” intersex is a term that relates to a broad range of congenital physical traits of variations that lie between ideals of male and female. Intersex people are born with physical, hormonal or genetic features that are neither wholly male or a combination of female and male. Many forms of intersex exist; it is a spectrum or umbrella term rather than a single category. At least 30-40 different variations are known to science.¹⁹

“Lesbian” Lesbian women experience sexual attraction and the capacity for an intimate relationship primarily with other women.²⁰

16 UNHCR

17 The Guidelines for Psychological Practice with Lesbian, Gay, and Bisexual Clients, adopted by the APA Council of Representatives, February 18-20, 2011. <http://www.apa.org/pi/lgbt/resources/sexuality-definitions.pdf>

18 The Yogyakarta Principles, Introduction to. Accessed on 3.19.2015 http://www.yogyakartaprinciples.org/principles_en.pdf

19 Making your Service Intersex Friendly. Organization Intersex International Australia. oiia.org.au

20 UN ESCAP (2012) Booklet 8: Education Sector Responses to Homophobic Bullying.

“Sex” Sex refers to a person’s biological status and is typically categorized as male, female, or intersex (i.e., atypical combinations of features that usually distinguish male from female). There are a number of indicators of biological sex, including sex chromosomes, gonads, internal reproductive organs, and external genitalia.²¹

“Sexuality” is defined as “a central aspect of being human throughout life encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, legal, historical, religious and spiritual factors.”²²

“Sexual Orientation” Actual or perceived heterosexuality, homosexuality or bisexuality, either by orientation or by practice.

“Substantive Equality” CEDAW’s standard of equality. It is interpreted by the CEDAW Committee to mean de facto (equality in fact or actual equality) or equality of results. The achievement of substantive equality, however, entails that women are given equal opportunities and an enabling environment to achieve equal results.²³

“Transgender” Transgender describes a person whose gender identity differs from their sex at birth. Transgender people may be heterosexual, homosexual or bisexual.²⁴

“Transsexual” A transsexual is a transgender person who is in the process of, or has undertaken, treatment (which may include surgery and hormonal

21 The Guidelines for Psychological Practice with Lesbian, Gay, and Bisexual Clients, adopted by the APA Council of Representatives, February 18-20, 2011. <http://www.apa.org/pi/lgbt/resources/sexuality-definitions.pdf>

22 World Health Organization, 2006

23 UN Women. Do our Laws Promote Gender Equality.

24 UN ESCAP (2012) Booklet 8: Education Sector Responses to Homophobic Bullying.

treatment) to make his or her body congruent with their preferred gender.²⁵

"Violence Against Women" refers to any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life. It shall be understood to encompass, but not limited to, the following:

(1) Physical, sexual, psychological, and economic violence occurring in the family, including battering, sexual abuse of female children in the household,

dowry-related violence, marital rape, and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation;

(2) Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational institutions and elsewhere, trafficking in women, and prostitution; and

(3) Physical, sexual, and psychological violence perpetrated or condoned by the State, wherever it occurs. It also includes acts of violence against women as defined in Republic Acts No. 9208 and 9262.

²⁵ UN ESCAP (2012) Booklet 8: Education Sector Responses to Homophobic Bullying.

CHAPTER III: CEDAW and the Magna Carta of Women

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was ratified by the Philippines in 1976. Under CEDAW, State parties condemn discrimination against women in all its forms. The treaty defines discrimination against women as ‘any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (Art. 1). The Convention is part of a comprehensive international human rights legal framework directed at ensuring the enjoyment by all of all human rights and at eliminating all forms of discrimination against women on the basis of sex and gender.²⁶

Key Principles of CEDAW

CEDAW provides for three (3) key principles (a) substantive equality, (b) non-discrimination, and (c) State obligation. These principles embody the conceptual framework behind CEDAW. Without an understanding of these principles, CEDAW cannot be properly applied.

Substantive Equality²⁷

Substantive Equality is CEDAW’s standard of equality. It is interpreted by the CEDAW Committee to mean de facto equality (equality in fact or actual equality) or equality of results. The achievement of substantive equality, however, entails that women

are given equal opportunities, equal access to opportunities and an enabling environment to achieve equal results. Substantive equality looks beyond legal guarantees of equal treatment, and inquiries into the impact of interventions.

Non-Discrimination²⁸

Non-discrimination is a key principle of CEDAW. This is particularly emphasized in Article 1, which defines what discrimination is. It states that discrimination against women “shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” It emphasizes that an action or omission is discriminatory if it has the “effect or purpose” of discriminating against women.

State Obligation²⁹

The third principle emphasizes that the State has the duty to comply with the Convention. Although the responsibility to ensure equality and eliminate discrimination must be observed by state and non-state actors, only the State is directly accountable to CEDAW.

CEDAW puts in place an obligation of means and results. A State undertakes to comply with the specific means of implementation in CEDAW (obligation of

26 General Recommendation 28, paragraph 3

27 UN Women. Do our Laws Promote Gender Equality

28 UN Women. Do our Laws Promote Gender Equality

29 UN Women. Do our Laws Promote Gender Equality

means). It is also obligated to ensure that the measures chosen result in the elimination of discrimination (obligation of results).

Gender-based Discrimination under CEDAW

Although the Convention only expressly refers to sex-based discrimination, an interpretation of Article 1 together with Articles 2 (f) and 5 (a) indicates that it also covers gender-based discrimination against women. The term ‘sex’ refers to biological differences between men and women. The term ‘gender’ refers to socially constructed identities, attributes, and roles for women and men and society’s social and cultural meaning for these biological differences resulting in hierachal relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women.

The application of the Convention to gender-based discrimination is made clear by the definition of discrimination contained in Article 1. This definition points out that any distinction, exclusion or restriction which has the purpose or effect of denying women the exercise of human rights and freedoms is discrimination even where discrimination was not intended. This would mean that an identical or neutral treatment of women and men might constitute discrimination against women if such treatment resulted in or had the effect of women being denied the exercise of a right because there was no recognition of the pre-existing gender-based disadvantage and inequality that women face.

Violence against women as Discrimination

Under General Recommendations 19 of CEDAW, it is explicitly provided that violence against women is a form of discrimination. CEDAW sets out the following obligations of State Parties under Article 2:

State parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, shall undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions

or other appropriate legislation if not yet incorporated therein and to ensure through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligations;

(e) To take all appropriate measures to eliminate discrimination against women by any person organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish, existing laws, regulations, customs and practices which constitute discrimination against women.

To address discrimination, CEDAW requires State Parties to:

(a) condemn discrimination against women in all its forms, and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women (Part I). This part also includes a provision which declares that the adoption by states of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discriminatory (art. 4). It is also in this part of the Convention that States are required to undertake appropriate measures to modify social and cultural patterns of conduct of men and women, with a view of achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (art.

5);

(b) take all appropriate measures to eliminate discrimination against women in the political and public life of the country (Part II);

(c) take all appropriate measures to eliminate discrimination against women in order to ensure them equal rights with men in the field of education (Part III);

(d) accord to women equality with men before the law (Part IV);

State's 'due diligence' under CEDAW

The CEDAW Committee, through General Comment 28 elaborating on the State's obligation under CEDAW, clarifies that under Article 2, State parties must address all aspects of their legal obligations under the Convention to respect, protect, and fulfil women's rights to non-discrimination and to the enjoyment of equality. It emphasizes the State's obligation to enact legislation that prohibits discrimination in all fields of women's lives under the Convention, and throughout their lifespan. It also recognizes that certain groups of women, including women deprived of their liberty, refugees, asylum-seeking and migrant women, stateless women, lesbian women, disabled women, women victims of trafficking, widows, and elderly women, are particularly vulnerable to discrimination through civil and penal laws, regulations and customary law and practices. In elaborating the obligations to respect, protect and fulfil, the Committee provides:

The **obligation to respect** requires State parties to refrain from making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social, and cultural rights.³⁰

The **obligation to protect** requires that States parties protect women against discrimination by private actors and take steps directly aimed at

eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women.³¹

The **obligation to fulfil** requires that State parties ensure that women and men enjoy equal rights *de jure* and *de facto*, including, where appropriate, the adoption of temporary special measures in line with Article 4 (1) of the Convention and General Recommendation No. 25. This entails obligations of means or conduct and also obligations of results.³²

General Recommendation 28 further clarifies that the obligation of the State under Article 2 of the Convention includes the exercise of due diligence in preventing discrimination by private actors. A private actor's acts or omission of acts may be attributed to the State under international law. State parties are thus obliged to ensure that private actors do not engage in discrimination against women, as defined in the Convention. The appropriate measures State parties are obliged to take include the regulation of the activities of private actors in regard to education, employment and health policies and practices, work conditions and standards, and other areas where private actors provide services or facilities, such as banking and housing.

Magna Carta of Women (RA 9710)

The Magna Carta of Women (RA 9710) is the country's gender equality law enacted in compliance with CEDAW. Passed in 2009, the MCW sets forth in its declaration of policy that "the State condemns discrimination against women in all its forms and pursues by all appropriate means and without delay the policy of eliminating discrimination against women in keeping with CEDAW and other international instruments consistent with Philippine law." The MCW provides that the State, private sector, society in general and all individuals shall contribute to the recognition, respect, and promotion of the rights of women. The MCW explicitly provides that the State shall be the primary duty bearer, and as such

³¹ Id.

³² Id.

it shall, among others, (a) refrain from discriminating against women and violating their rights; (b) protect women against discrimination and from violation of their rights by private corporations, entities, and individuals; and (c) promote and fulfil the rights of women in all spheres, including their rights to substantive equality and non-discrimination. The State shall fulfil these duties through law, policy, regulatory instruments, administrative guidelines, and other appropriate measures, including temporary special measures (sec. 5)

Under the Magna Carta of Women, the Rights and Empowerment of Women are set forth under Chapter IV. The chapter covers protection from violence (sec. 9), rights of women affected by disasters, calamities and other crisis situations (sec. 10), right to participation and representation (sec. 11), equal treatment before the law (sec. 12), equal access and elimination of discrimination in education, scholarships, and training (sec. 13), women in sports (sec. 14), women in the military (sec. 15), portrayal of women in media and film (sec. 16), women's right to health (sec. 17), special leave benefits for women (sec. 18), equal rights in all matters relating to marriage and family relations (sec. 19).

Rights and Empowerment of Women in the Marginalized Sector

The rights and empowerment of women in the marginalized sectors are provided under Chapter V of the MCW. These women empowerment (WE) provisions cover food security and productive resources (food, food production) (sec. 20), right to housing (sec. 21), Right to livelihood, credit, capital and technology (sec. 23), right to education and training (sec. 24), right to representation and participation (sec. 25), right to information (sec. 26), social protection (sec. 27), recognition and preservation of cultural identity and integrity (sec. 28), peace and development (sec. 29), rights of women in especially difficult circumstances (sec. 30-31), protection for girl-children (sec. 32), protection of senior citizens (sec. 33).

Article 34 of the MCW provides that "women

are entitled to the recognition and protection of their rights defined and guaranteed under this Act including their right to non-discrimination." The MCW further prohibits discrimination of women providing that "Public and Private entities and individuals found to have committed discrimination against women shall be subject to the sanctions provided in Section 41 hereof. Violations of other rights of women shall be subject to sanctions under pertinent laws and regulations." (sec. 25)

Section 41 provides that "Upon finding of the CHR that a department, agency, or instrumentality of government, government-owned and controlled corporation, or local government unit has violated any provision of this Act and its implementing rules and regulations, the sanctions under Administrative law, civil service, or other appropriate laws shall be recommended to the Civil Service Commission and/or the Department of the Interior and Local Government. The person directly responsible for the violation as well as the head of agency or local chief executive shall be held liable under this Act.

Institutional Mechanisms

Chapter VI of the MCW provides for Institutional Mechanisms for its implementation. It requires all departments, including their attached agencies, offices, bureaus, state universities and colleges, government-owned and controlled corporations, local government units, and other government instrumentalities to adopt gender mainstreaming as a strategy to promote women's human rights and eliminate gender discrimination in their systems, structures, policies, programs, processes, and procedures (sec. 36).

Gender mainstreaming as a strategy requires that women's as well as men's concerns and experiences be integral dimensions of the design, implementation, monitoring, and evaluation of policies and programs in all political, economic, and societal spheres so that women and men benefit equally and inequality is not perpetuated. It entails the process of assessing the implications for women and men of any planned action, including legislation, policies, or programs in all areas and at all levels.

The MCW adopts the following institutional mechanisms for gender mainstreaming as provided under the law”

1. Conduct of Gender Audit
2. Gender and Development Planning and Budgeting
3. Establishment of Gender Focal Point System
4. Establishment and maintenance of GAD Data Base
5. Establishment of GAD Codes and Gender equity measures by LGUs
6. Appointment of Gender Focal Persons in Embassies

Under the chapter on Institutional Mechanisms, the MCW provides that Gender and Development (GAD) programs addressing gender issues and concerns shall be designed and implemented based on the mandate of government agencies and local government units, Republic Act No. 7192, gender equality agenda of the government and other GAD-related legislation, policies, and commitments.

The development of GAD programs shall proceed from the conduct of a gender audit of the agency or the local government unit and a gender analysis of its policies, programs, services and the situation of its clientele; the generation and review of sex-disaggregated data; and consultation with gender/women's rights advocates and agency/women clientele.

The MCW requires that the cost of implementing GAD programs shall be the agency's or the local government unit's GAD budget which, under the MCW and RA 7192,³³ be at least five percent (5%) of the agency's or the local government unit's total budget appropriations.

Republic Act No. 7192, otherwise known as the Women in Development and Nation Building Act, and as reiterated under the MCW, allocates five percent (5%) to thirty percent (30%) of overseas development assistance to GAD. Government agencies receiving

official development assistance (ODA) should ensure the allocation and proper utilization of such funds to gender-responsive programs that complement the government GAD funds and annually report accomplishments thereof to the National Economic and Development Authority (NEDA) and the Philippine Commission on Women (PCW).

Local government units are also encouraged to develop and pass a GAD Code based on the gender issues and concerns in their respective localities based on consultation with their women constituents and the women's empowerment and gender equality agenda of the government. The GAD Code shall also serve as basis for identifying programs, activities, and projects on GAD.

Where needed, temporary gender equity measures shall be provided for in the plans of all departments, including their attached agencies, offices, bureaus, state universities and colleges, government-owned and -controlled corporations, local government units, and other government instrumentalities.

Gender issues and concerns shall also be integrated into the following plans to ensure sustainable, gender-responsive and performance-based planning and budgeting

1. Macro socioeconomic plans such as Medium-term Philippine Development Plan and Medium-term Philippine Investment Plan
2. Annual plans of all departments, including their attached agencies, offices, bureaus, state universities and college, and
3. Local plans and agenda such as executive-legislative agenda, comprehensive development plan (CDP), comprehensive land use plan (CLUP), provincial development and physical development and physical framework plan (PDPFP), and annual investment plan.

There is also a mandatory requirement all departments, including their attached agencies, offices, bureaus, states universities and colleges, government-owned and -controlled corporations, local government units, and other government

³³ Women in Nation Building and Development Act

instrumentalities to establish or strengthen their GAD Focal Point System or similar GAD mechanism to catalyze and accelerate gender mainstreaming within the agency or local government unit.

The GAD Focal Point System shall be composed of the agency head or local chief executive, an executive committee with an Undersecretary (or its equivalent), local government unit official, or office in a strategic decision making position as Chair; and a technical working group or secretariat which is composed of representatives from various divisions or offices within the agency or local government unit.

The tasks and functions of the members of the GFP shall form part of their regular key result areas and shall be given due consideration in their performance evaluation.

Finally, all departments, including their attached agencies, offices, bureaus-state universities and colleges, government-owned and -controlled corporations, local government units, and other government instrumentalities shall develop and maintain a GAD database containing gender statistics and sex-disaggregated data.

CHAPTER IV:

Definitions and Dimensions of Discrimination

The Magna Carta of Women provides that women are entitled to rights provided in the Constitution and rights recognized under international instruments signed and ratified by the Philippines³⁴. It likewise provides that the State shall ensure that all women shall be protected from all forms of violence as provided for in existing laws.³⁵

Discrimination as a Human Rights Violation

I. Discrimination under CEDAW

CEDAW defines discrimination as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment of exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

CEDAW prohibits these forms of discrimination:

a) *Direct discrimination.* This refers to an action or omission that has the “purpose” of discriminating against women. General Recommendation 28 explains that “direct discrimination against women constitutes different treatment explicitly based on grounds of sex and gender differences”

b) *Indirect discrimination.* This refers to an action or omission that has the “effect” of discriminating against women, even if there was no intention of doing so. There is indirect discrimination against women “when a law, policy, programme or practice appears to be neutral as it relates to men and women, but has

a discriminatory effect in practice on women, because pre-existing inequalities are not addressed by the apparently neutral measure. Moreover, indirect discrimination can exacerbate existing inequalities owing to a failure to recognize structural and historical patterns of discrimination and unequal power relationships between women and men.”³⁶

c) *Intersectionality* as elaborated by General Recommendation 28 is crucial to the understanding of discrimination against women and of the State’s obligation to eliminate the same. It is the recognition that discrimination of women based on gender and sex is “inextricably linked with other factors that affect women such as race, ethnicity, religion, or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways than men. State parties must legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact on the women concerned.

II. Discrimination under the Yogyakarta Principles

The *Yogyakarta Principles* are principles developed and unanimously adopted by a distinguished group of human rights experts in 2005. The principles provide for the application of international human rights law in relation to sexual orientation and gender identity. The principles affirm binding international legal standards to which all States must comply. They promise a different future where all people

³⁴ Sec 8, Chapter IV

³⁵ Sec 9, MCW

³⁶ General Recommendation 28, paragraph 16.

born free and equal in dignity and rights can fulfil that precious birthright. The principles provide for a definition of **discrimination on the basis of sexual orientation and gender identity** as to “include any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms. Discrimination based on sexual orientation or gender identity may be, and commonly is, compounded by discrimination on other grounds including gender, race, age, religion, disability, health and economic status.”³⁷

The Yogyakarta principles declare that all human beings are born free and equal in dignity and rights. It reiterates that all human rights are universal, interdependent, indivisible and interrelated, and provides that sexual orientation and gender identity are integral to every person’s dignity and humanity and must not be the basis for discrimination or abuse.³⁸

The principles, in its Preamble recognizes that while many advances have been made toward ensuring that people of all sexual orientations and gender identities can live with equal dignity and respect to which all persons are entitled, nevertheless, human rights violations targeted toward persons because of their actual or perceived sexual orientation or gender identity constitute a global and entrenched pattern of serious concern.³⁹ They include extra-judicial killings, torture and ill-treatment, sexual assault and rape, invasions of privacy, arbitrary detention, denial of employment and education opportunities, and serious discrimination in relation to the enjoyment of other human rights.⁴⁰ These violations are often compounded by experiences of other forms of violence, hatred, discrimination and exclusion, such as those based on race, age, religion, disability, or

economic, social or other status.⁴¹ It also recognizes that many States and societies impose gender and sexual orientation norms on individuals through custom, law and violence and seek to control how they experience personal relationships and how they identify themselves. The policing of sexuality remains a major force behind continuing gender-based violence and gender inequality.

III. Discrimination under MCW:

“Discrimination Against Women” refers to any gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.

Under the MCW, it includes any act or omission, including by law, policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges. A measure or practice of general application is discrimination against women if it fails to provide for mechanisms to offset or address sex or gender-based disadvantages or limitations of women, as a result of which women are denied or restricted in the recognition and protection of their rights and in their access to and enjoyment of opportunities, benefits, or privileges; or women, more than men, are shown to have suffered the greater adverse effects of those measures or practices.

IV. Discrimination as defined by Treaty Bodies

Treaty bodies through general comments and recommendations, and through their decisions provide and elaborate on what constitutes ‘discrimination’. Here are a few of the cases decided by treaty bodies which elaborate on what constitutes ‘discrimination’.

37 The Yogyakarta Principles. , Introduction to. Accessed on 3.19.2015 http://www.yogjakartaprinciples.org/principles_en.pdf

38 Id.

39 Id.

40 Id.

41 Id.

CEDAW Committee Inquiry concerning the Philippine (Manila EO 003)⁴² (22 April 2015)

In the second inquiry conducted under Article 8 of the Optional Protocol of the Convention on Elimination of All Forms of Discrimination against Women, the Committee on Elimination of Discrimination against Women found the Philippine government accountable for grave and systematic violations of women's rights, particularly as relates to their sexual and reproductive health rights.

In 1991, the Philippines delegated responsibility for "people's health and safety" to the local level. In exercise of this power, an executive order 003 ("EO 003") was issued in Manila, in 2000 which declared that the city would take an "affirmative stand on pro-life issues". In response to a joint submission from NGOs in 2008, the UN Committee on Elimination of Discrimination against Women (Committee) conducted an inquiry into alleged human rights violations resulting from the enforcement of EO 003.

The Committee found that EO 003, in practice, resulted in a systematic denial of affordable access to modern methods of contraception and related information and services. This, in turn, led to unplanned pregnancies, unsafe abortions, unnecessary and preventable maternal deaths and increased exposure of women to HIV/AIDS. The Committee observed that the lives and health of thousands of women were put at risk and that the impact of the order particularly harmed disadvantaged groups of women, including poor women and adolescent girls, as well as women in abusive relationships. It was noted that impact of EO 003 was compounded by the funding ban on modern contraception in Manila's executive order 030.

The Committee concluded that the Philippine government is accountable for grave and systematic violations of women's rights under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), especially their rights to health [Art 12] and family planning [Art. 16 (1)(e); Art. 10 (h)]. Although the aforementioned orders were issued by the City of Manila, the Committee

emphasized that delegation of power does not in any way negate or reduce the direct responsibility of the State party to fulfil its obligation to ensure the rights of all women in its jurisdiction. The Philippines clearly failed to meet this obligation.

The Committee report calls on the Filipino government to respect, protect, and fulfill women's reproductive rights and address the unmet need for contraception by ensuring universal and affordable access to the full range of sexual and reproductive health services, commodities and related information, including by legalizing access to emergency contraception. The Committee has issued a robust set of recommendations, which includes urging the Philippines to revoke executive orders 003 and 030, decriminalize abortion, and sensitize government representatives towards eliminating ideological barriers that limit women's rights.

RPB vs. PHILIPPINES, 2014 (Gender and disability stereotyping in a rape trial)⁴³

In the case of *RPB vs. the Philippines*, the CEDAW Committee held that the Philippines, in failing to provide a court interpreter for RPB, a deaf mute survivor of rape, constitutes discrimination. It also added that the Court, in using gender myths and stereotypes in dismissing the case has been remiss in its obligation to address gender stereotypes. The Committee held that Article 2(f) of CEDAW which requires States to banish gender stereotypes must be assessed in the light of the level of gender, age, and disability sensitivity applied in the judicial handling of the case.

The Committee in deciding in favour of RPB held that the provision of a sign language interpreter was essential to ensure the RPB's full and equal participation in proceedings and to guarantee her the enjoyment of effective protection against discrimination under articles 2(c) and (d) of CEDAW. The Committee drew on its General Recommendations No. 18 and 19. General Recommendation 18 states that women with

⁴² CEDAW/C/OP.8/PHL/1, section on the CEDAW Inquiry decision on Manila EO lifted from <https://www.escr-net.org/node/365940>

⁴³ Case Brief sourced from: Navarro-Regino, Jasmine. Gender Approach to Effective Investigation as a Gender Ombud; Communication No. 34/2011, UN Doc. CEDAW/C/57/D/34/2011 (2014)

disability are to be considered a vulnerable group and that it is “crucial to ensure that women with disabilities enjoy effective protection against sex and gender-based discrimination by State Parties and have access to effective remedies,” while General Recommendation 19 provides that the State “should ensure that laws against family, violence, and abuse, rape, sexual assault and gender-based violence give adequate protection to all women, and respect their integrity and dignity” and provide “effective complaints procedures and remedies including compensation”

The Committee found that the court’s attitude towards the complainant, and towards women and rape in general, revealed the existence of strong gender stereotyping, resulting in sex and gender discrimination and disregard for the “individual circumstances of the case, such as the author’s disability and age.” These gender stereotypes and misconceptions included lack of resistance and consent on behalf of the rape victim and the necessary use of force and intimidation by the accused. The Committee found that the failure to combat such myths and stereotypes and the continuation of a presumption that there is consent simply because there is no physical resistance or use of force, and the failure to integrate “lack of consent” into the definition of rape amounted to a breach of article 2 (f). The continuing use of stereotypes also meant the particular circumstances --- that of a girl’s disability and age --- were not considered in assessing her evidence. The Committee noted that the State’s obligation under Article 2 (f) to banish gender stereotypes must be assessed in the light of the level of gender, age, and disability sensitivity applied in the judicial handling of the case.

The Committee then recommended the following:

1. That the Philippine Government provide R.P.B. with reparation and education with interpreter and the latter and her family be provided with free psychological counselling;
2. That the Philippines review its rape law to place lack of consent at its center and by removing any requirement that sexual assault be committed by force or violence and any

- requirement of proof of penetration;
- 3. Ensure free and adequate assistance of interpreters at all stages of legal proceedings, whenever needed;
- 4. Ensure that all proceedings involving rape and other sexual offenses are conducted impartially and fairly and free from prejudices and stereotypes related to gender, age and disability;
- 5. Provide regular training to judges and legal professionals to ensure that court proceedings and decisions are not adversely affected by stereotypes and biases;

Karen Tayag Vertido vs. The Philippines, 2010 (Gender Stereotyping in rape cases)⁴⁴

In the case of Karen Tayag Vertido, decided by the Committee on CEDAW in 2010, the Committee found the Philippines to have been remiss in its obligation under CEDAW. The Committee ruled in favour of Karen Vertido who alleged that the acquittal of Custodio, the accused, breached the right to non-discrimination, the right to an effective remedy, and the freedom from wrongful gender stereotyping, in violation of articles 2(c), 2(d), 2(f) and 5(a) of the Convention.

In its resolution, the Committee determined that the Philippines had failed to comply with its obligation to ensure Ms. Vertido’s right to an effective remedy. It noted that her case had languished in the trial court for approximately eight years before a decision was made to acquit the accused and that consequently, it could not be said that Ms. Vertido’s allegation of rape had been dealt with in a ‘fair, impartial, timely and expeditious manner.

In finding violations of articles 2(f) and 5(a), the Committee affirmed that CEDAW requires States Parties to ‘take appropriate measures to modify or abolish not only existing laws and regulations but also customs and practices that constitute discrimination

⁴⁴ Case Brief sourced from: Navarro-Regino, Jasmine. Gender Approach to Effective Investigation as a Gender Ombud; Communication No. 18/2008, UN Doc. CEDAW/C/46/D/18/2008 (22 September 2010)

against women.” It also stressed that stereotyping affects women’ right to fair and just trial and that the judiciary must take caution not to create inflexible standards of what women or girls should be or ---- have done when confined with a situation of rape based merely on preconceived notions of what defines a rape victim.

The majority determined that the final trial judge had expected certain stereotypical behaviour from the author and formed a negative view of her credibility because she had not behaved accordingly. It went on to say that the trial judge’s decision contained several references to stereotypes about male and female sexuality being more supportive for the credibility of the alleged perpetrator than for the credibility of the victim.

Having found violations of articles 2(c), 2(f) and 5(a), the CEDAW Committee called on the Philippines to provide appropriate compensation to Ms. Vertido. It also made a number of general recommendations aimed at redressing the systemic nature of many of the violations. These included taking effective steps to ensure that decisions in sexual assault cases are impartial and fair and not affected by prejudices and stereotypes.

UN Human Rights Committee in the case of X vs. Columbia (on the scope of ‘discrimination’ under ICCPR)

“The Prohibition against discrimination under Article 26 (of the International Covenant on Civil and Political Rights) comprises also discrimination based on sexual orientation.”

***Toonen vs. Australia (discrimination on the basis of SOGI)*⁴⁵**

The Committee on Human Rights in the case of *Toonen vs. Australia* found that adult consensual sexual activity in private is covered by the concept of “privacy”, and that Toonen was affected by the continued existence of the Tasmanian laws, which continuously and directly interfered with his privacy,

despite their lack of recent enforcement.

The Committee noted that “the criminalization of homosexual practices cannot be considered a reasonable means or proportionate measure to achieve the aim of preventing the spread of AIDS/HIV,” further noting that “the Australian Government observes that statutes criminalizing homosexual activity tend to impede public health programmes by driving underground many of the people at the risk of infection.”

The Committee found that the Sections did not meet the “reasonableness” test in the circumstances of the case, and that they arbitrarily interfered with Toonen’s right under article 17, paragraph 1.

As regards the guidance sought by the Australian government as to whether sexual orientation may be considered an “other status” for the purposes of article 26, the Committee found the reference to “sex” in article 26 is to be taken as including sexual orientation.

V. Discrimination in Philippine Jurisprudence

Stipulation Against Marriage

In *Zialcita vs. Philippine Airlines, Inc., (20 February 1977)*,⁴⁶ a case decided by the Office of the President, the provision in a contract between an airline company and a flight attendant which states that “flight attendant-applicants must be single and that they shall be automatically separated from employment in the event they subsequently get married” was declared as a null and void. It was ruled that the provision is contrary to Art. 136 of the Labor Code which prohibits discrimination merely by reason of marriage and of the protection-to-labor clause in the Constitution.

Upholding women’s right to work and the right against discrimination based on marriage, the Supreme Court in the case of *PT & T vs. NLRC (23 May 1997)*⁴⁷ likewise decided in favor of an employee who was terminated from work for having concealed the fact that she was married in violation of company policy against hiring married women. In deciding the

⁴⁵ UN Human Rights Committee decision of *Toonen v Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

⁴⁶ Case No. RO4-3-398-76.

⁴⁷ G.R. No. 118978.

case, the Supreme Court made mention of the State's ratification of CEDAW and how such ratification paved the way for the enactment of corrective labor and social laws on gender inequality. Specific to the case, the Supreme Court cited the Labor Code provisions governing the rights of women as found in articles 130 to 138. It singled out Articles 135 and 136, Article 135 as it provides for women's right against discrimination with respect to terms and conditions of employment on account simply of sex . Article 136 on the other hand explicitly prohibits discrimination merely by reason of marriage of female employees.

The Supreme Court in the case ruled that the company's policy of not accepting or considering as disqualified from work any woman worker who contracts marriage runs afoul of the test of, and the right against, discrimination, afforded all women workers by our labor laws and by no less than the Constitution.

Discrimination on the basis of pregnancy

Aside from decisions prohibiting stipulations against marriage, the Supreme Court also rendered decisions prohibiting discrimination on the basis of pregnancy.

In *Lakpue Drug, Inc. vs. Belga*, (20 October 2005)⁴⁸ the Supreme Court found the penalty of dismissal for an employee who allegedly concealed her pregnancy and incurred absences without official leave during delivery as too harsh and illegal. The Supreme Court ruled that the alleged misconduct of Belga barely falls within the situation contemplated by the law. Her absence for 16 days was justified considering that she had just delivered a child, which can hardly be considered a forbidden act, a dereliction of duty; much less does it imply wrongful intent on the part of Belga. Petitioner harps on the alleged concealment by Belga of her pregnancy. This argument, however, begs the question as to how one can conceal a full-term pregnancy. The Court agreed with respondent's position that it can hardly escape notice how she grows bigger each day. While there may be instances where the pregnancy may be inconspicuous, it has not

been sufficiently proven by petitioner that Belga's case is such.

In a later case, *Del Monte Philippines, Inc. vs. Velasco* (6 March 2007),⁴⁹ the Supreme Court ruled that the series of absences of the respondent due to pregnancy and its related ailments, such as urinary tract infection, was found not to be a valid ground to dismiss her from employment. The Supreme Court agreed with the Court of Appeals in concluding that respondent's sickness was pregnancy-related and, therefore, the petitioner cannot terminate respondent's services because in doing so, petitioner will, in effect, be violating the Labor Code which, under Article 147 thereof, prohibits an employer to discharge an employee on account of the latter's pregnancy. The Court was convinced that the petitioner terminated the services of respondent on account of her pregnancy which justified her absences and, thus, committed a prohibited act rendering the dismissal illegal.

Discrimination on the basis of Sexual Orientation

There are three decided cases by the Supreme Court involving issues on sexual orientation and gender identity. In *Silverio v. Republic* (2007), Rommel Silverio who was born male but has undergone sex reassignment surgery sought to change his name "Rommel" to "Mely" and his sex from "male" to "female." The Petition was denied by the Supreme Court ruling that the law does not allow change of first name and change of sex on the basis of sex reassignment surgery. It also stated that such change could not also be granted on the basis of 'equity' as it will have public policy consequences and would be used as a prerequisite to marriage, a sacred social institution between a man and woman.

Months after Silverio, the Supreme Court issued its decision in the case of *Cagandahan v. Republic*.⁵⁰ In Cagandahan case, Jennifer Cagandahan sought to have her name "Jennifer Cagandahan" changed to "Jeff Cagandahan" and gender from "female" to "male." The Petition rested on Jennifer's condition of Congenital Adrenal Hyperplasia (CAH) which was described by

⁴⁸ G.R. No. 166379.

⁴⁹ G.R. No. 166676, September 12, 2008.

the court as a condition where persons thus afflicted possess both male and female characteristics. In granting the Petition, the Supreme Court relied on Jennifer's medical condition, which it states, was beyond her control.

In contrast to the two previous cases, *Silverio* in denying changes in the birth certificate on the basis of sexual reassignment surgery and *Cagandahan* in allowing the same on the basis of medical condition, the case of "Ang Ladlad" took a more progressive stance in favour of the LGBT community, framing arguments on the basis of non-discrimination and equal protection of the laws.

In "*Ang Ladlad LGBT Party vs. COMELEC*" (28 April 2010)⁵¹ the Supreme Court overturned the Resolutions of the COMELEC en banc denying the accreditation of Ang Ladlad as a party-list under Republic Act no. 7941, otherwise known as the Party-List System Act. The Supreme Court in deciding in favor of Ang Ladlad included a discussion on non-discrimination wherein it stated that it "explicitly recognize the principle of non-discrimination as it relates to electoral participation, enunciated in the UDHR and the ICCPR." The Supreme Court then cited non-discrimination as laid out in Article 26 of the ICCPR as follows:

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The Supreme Court added that "laws of general application relating to elections be applied equally to all persons, regardless of sexual orientation" and that "although sexual orientation is not specifically enumerated as a status or ratio for discrimination in Article 26 of the ICCPR, the ICCPR Human Rights

Committee has opined that the reference to "sex" in Article 26 should be construed to include "sexual orientation."

Specific Measures on Women, not discriminatory to men

The case of *Garcia vs. Hon. Ray Alan Drilon* (June 5, 2013)⁵² finally laid to rest the challenge on the constitutionality of Republic Act No. 9262, entitled "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes." The law which took effect on 27 March 2004 was formally challenged before the Supreme as being violative of the equal protection and due processes clauses, and an undue delegation of judicial power to barangay officials.

In ruling in favour of RA 9262, the Supreme Court discussed at length the legislative history of the law in excluding men in its coverage and ruled that the exclusion of men in the measure does not violate the equal protection clause as the Constitution allows classification and that all that is required is that it be reasonable, which means that the classification should be 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. All these, according to the Supreme Court have been fulfilled in the case of RA 9262. In explaining that the law is based on substantial distinction, the Supreme Court discussed (a) how violence against women is an expression of the unequal power relations between men and women tracing the history of VAW as historically sanctioned in many societies, (b) that women are the "usual" and "most likely" victims of violence, and on (c) gender bias and prejudice. It is here that the SC explained that the enactment of R.A. 9262 aims to address the discrimination brought about by biases and prejudices against women and that as emphasized by the CEDAW Committee on the Elimination of Discrimination against Women, addressing or correcting discrimination through specific measures

51 G.R. No. 190582.

52 G.R. No. 179267.

focused on women does not discriminate against men.

The Supreme Court in upholding the constitutionality ended by reiterating Justice Puno's observation that "the history of the women's movement against domestic violence shows that one of its most

difficult struggles was the fight against the violence of law itself. If we keep that in mind, law will not again be a hindrance to the struggle of women for equality but will be its fulfillment."

CHAPTER V:

Investigating Human Rights Violations Against Women and Persons with Diverse Sexual Orientation, Gender Identity and Expressions

The MCW provides for the institutional mechanisms to promote Gender and Development. Government agencies, instrumentalities, and local government units are mandated to comply with these institutional mechanisms using gender mainstreaming as a strategy.

The Commission adopted Resolution CHR (IV) No. A2013-121 on July 10, 2013. The resolution established the Gender Focal Points System (GFPS) in accordance with the Joint MC issued by PCW-NEDA-DBM.

Section 40 of the MCW requires that the Commission designate one Commissioner who will be primarily responsible, together with the Women's Human Rights Center (WHRC), for the formulation of policies, development, and implementation of program and activities related to the promotion and protection of human rights of women.

The MCW also provides that regional offices of the Commission shall discharge the functions of the Gender Ombud within their respective jurisdictions and shall implement this program and undertake investigations of complaints of discrimination and violations or rights under the Act. The Commission has identified its regional Gender Focal Persons consisting of lawyers, investigators, and information officers.

As part of the CHR's continued strengthening of the Barangay Human Rights Action Center (BHRAC) and pursuant to the provision of MCW which provides that the BHRAC shall serve as the support arm of the CHR Regional Offices, the Commission incorporates the Magna Carta of Women and other laws on women

in the capacity building designed for BHRAO and other Human Rights Action Centers in the Municipal, City and Provincial level, as well as with the Barangay VAW Desk Officer.

Investigation Procedure

As a rule, the procedure set forth in the *CHR Guidelines and Procedures in the Investigation of Human Rights Violations and the Provision of Other Assistance (GAP)* and the *Manual on Investigation and Case Management Process* shall be followed in the conduct of investigation of violations of the Magna Carta of Women.

Investigation under the GAP is focused on violations of civil, political, economic, social and cultural rights, in general. On the other hand, investigation under the Gender Ombud Guidelines gives particular attention to (a) violations against women and persons with diverse sexual orientation and gender identity and expression (SOGIE); and (b) specific acts of discrimination committed by an individual against another individual, or that committed by an institution (public or private) as against an individual or group of individuals, both requiring sensitivity in handling women victim survivors. Thus, to address the need for sensitivity in the investigation of complaints of women and persons with diverse SOGIE, these Guidelines provide for Protocols in investigation. The Protocols are as follows:

Protocol 1: Handling Women's Cases/ Complaints

While the *CHR Guidelines and Procedures in the Investigation of Human Rights Violations and the Provision of Other Assistance (GAP)* and the *Manual*

on Investigation and Case Management Process already provide for the proper handling of women's cases, this Protocol builds on previous guidelines and incorporates standards adopted by the judiciary and those prevailing under international women's human rights.

As an improvement to the previous guidelines, this protocol sets out specific guidelines applicable to women with disability to ensure reasonable accommodation and accessibility, indigenous women on the need for cultural sensitivity and women migrant workers in recognition of the challenges in access to justice for migrant workers. As much as practicable, the protocols are divided into general guidelines, pre-interview, interview, and post interview stages.

Protocol 2: Handling Cases/Complaints of Girl Children

Building on previous guidelines set forth under the *CHR's Guidelines and Procedure* and the *CHR Manual for Investigation*, this protocol consolidates and incorporates international standards as well as standards adopted by the judiciary in the handling of children's cases. The guidelines are likewise divided into general guidelines, pre-interview, interview, and post interview stages.

Protocol 3: Handling Cases and complaints of Persons with Diverse SOGIE

The *CHR Guidelines and Procedure* and the *CHR Manual on Investigation* do not provide for guidelines in the handling of cases/complaints of persons with diverse sexual orientation and gender identity and expression (SOGIE). Recognizing that effective remedy necessarily entails sensitivity in the handling of cases and keen awareness of possibilities of stigmatization and re-victimization, the Commission sets out this Protocol to guide CHR investigators, lawyers, information officers, and the general public in handling cases involving persons with diverse sexual orientation and gender identity and expression.

Areas of Responsibility⁵³

In cases investigated by the Commission as

⁵³ Refer to CHR Manual on Investigation and Case Management, pages 19-22.

Gender and Development Ombud, the rule in the determination of Areas of Responsibility as provided in the GAP and the Manual for Investigation shall be observed. Generally, complaints or reports of human rights violations shall be filed with the CHR Regional Office which has responsibility over the area where the alleged violations were committed or threats exist.⁵⁴ However, the rule may allow exceptions in cases where geographical accessibility is at issue, such as, the proximity of the place of incident to the regional office. Other exceptions to the regional areas of responsibilities as herein set forth are the safety of the surviving victims, complainants, witnesses, or where the capability of the regional office to decide the case without bias is raised.

The regional office which takes cognizance of the case shall immediately notify the other regional office within whose area of responsibility the case originally falls. The notification, by means of a memorandum, shall set forth the circumstances which warranted its acceptance of the case, citing any of the above mentioned exceptions.

Role of the CHR Investigators

The role of the investigators in the protection and promotion of human rights is crucial. Investigators are the front-liners tasked to promptly respond to complaints or reports of human rights violations, including gender-based violence, abuses, exploitation and discrimination of women, and of persons of diverse sexual orientation and gender identity. As such, it is incumbent upon them to pursue a thorough, impartial and competent investigation; make accurate documentation, and prepare and submit clear and comprehensive reports. They also appear and testify in court and other competent fora in relation to the cases they investigated. In addition, they facilitate the protection and safety of surviving victims and their families and vital witnesses. They also need to make timely reports and recommendations to the Commission, and coordinate with appropriate offices and institutions or organizations for the provision of

⁵⁴ Refer to Appendix "A" – Areas of Responsibility of CHR Regional Offices. Areas covered by the Autonomous Region of Muslim Mindanao fall under the Regional Human Rights Commission (RHCRC) of the ARMM

witness protection services.

It should be emphasized that credible investigation findings and conclusions on human rights violation, gender-based violence, women's exploitation, abuses and discrimination, will serve as basis or aid in seeking justice for the victims, including prosecution and punishment of the violators. Further, investigation and monitoring reports on human rights violations and gender-based violations, including human rights situations are rich sources of validated information,

which can be used as basis for policy and program development, including legislative action in relation to human rights in general, and to women's rights in particular.

Specific to the Commission's mandate as Gender Ombud, investigators handling women's cases and cases of persons with diverse sexual orientation and gender identity and expression are expected to follow and adhere to the above mentioned Investigation Protocols.

CHAPTER VI:

Procedure in Investigating Complaints

As a rule, the regular investigation process involving human rights violations shall also apply to the investigation and monitoring of women and SOGIE cases. The Protocols, as provided in Chapter VI shall, however be ensured and followed. When circumstances warrant, CHR may choose to render immediate legal assistance and/or refer cases to Courts and appropriate agencies as provided in Chapter 9, without prejudice to its own investigation.

I. Filing of Complaints

Under the Guidelines and Procedures of CHR, any concerned individual or group may file a complaint for human rights violations, particularly the victim, relatives, non-government organization, or any government or private entity. Anonymous complaints or reports received from other sources shall be subject to initial evaluation and verification. If upon initial verification or on the basis of the information or details provided, the complaint appears to be meritorious or has some factual basis, the CHR shall proceed to investigate the matter.

With respect to complaints filed by women, as much as possible, the informed consent of the woman concerned shall be obtained and confidentiality, where appropriate and requested, shall be respected. In accordance with the Protocols, sensitive handling of women and complainants from persons with diverse SOGIE shall be observed. Accessibility and reasonable accommodation shall be ensured all throughout the process.

The Complainant, with the assistance of the CHR Gender Focal Persons (GFP) in the region, shall fill out CHR Form 9 (Complaint sheet) in accordance with Rule 4, Section 3. The GFP shall additionally provide

assistance to women from marginalized sectors.

In addition to the necessary/mandatory information required under Form 9, the Complaint, depending on its nature, shall also set out the following:

- a) The acts which constitute the violation of laws on women and/or the acts of discrimination or discriminatory practices under the MCW;
- b) The actions undertaken by the Complainant and or her representatives with respect to the violation/acts of discrimination before the agency/private institution concerned, the Quasi-Judicial Body or the Courts;
- c) The status of/ results of actions undertaken, if any;

In accordance with Section 5 of the GAP, complaints may be filed directly with the Commission En Banc or filed with its Regional Offices responsible for the area where the violation occurred or continue to occur.

Complaints Pertaining to Institutional Mechanisms:

In complaints pertaining to non-compliance of agencies or local government units with the Institutional Mechanisms provided under Chapter VI of the MCW, the investigation may be undertaken by the Commission (a) *motu proprio*; (b) upon referral/endorsement from the PCW, the Commission on Audit (COA), the Commission on Higher Education (CHED), the Department of Interior and Local Government (DILG), and other National Government Agencies, or (c) upon the complaint of concerned citizens and or organization/agencies. The complaint shall be supported by the following documents as may be available:

- a) official documents issued by the agency/local government unit concerned;
- b) endorsement and or referral by oversight agencies;
- c) affidavits and/or reports by concerned citizens;
- d) such other relevant documents

II. Docketing of Cases

All complaints shall be docketed in accordance with Rule 6 of the GAP. The services/assistance rendered by CHR prior to investigation shall be specified, which shall include, but not limited to: referral to shelter, medical, psychosocial services, application for protection order and/or referral/endorsement to appropriate agency.

For complaints against public or private institutions, the Complaint shall include the processes initiated within the institutions to address the complaint/acts of discrimination.

III. Preliminary Evaluation

Upon receipt of the Complaint, and on the basis of the interview with the complainant and/or the allegations in the Complaint and the documents submitted in support thereof, the CHR Gender Focal Persons (GFP) shall conduct the preliminary evaluation of the case.

The GFP shall determine whether or not the complaint falls within the region's area of responsibility, and if not, whether the same falls within the exceptions provided such as geographical accessibility and proximity, safety of surviving victims/ witnesses/complainants, allegations of bias. If the act complained of, and the persons/institutions complained of do not fall within the area of responsibility of the CHR Regional Offices, the GFP shall nevertheless render legal aid services such as legal assistance, counselling or referral or endorsement to the agency concerned.

During the conduct of the preliminary evaluation, the GFP shall assess the contents of the complaint/statements of the complainant and documents

submitted to determine whether or not the allegations thereon relate to violation of women's human rights or the human rights of persons with diverse SOGIE (sec. 6, Rule 4) or to violations/ non-compliance with the MCW.

The GFP shall then submit the results of the preliminary evaluation to the Chief Investigator or the Regional Director within twenty-four (24) hours from receipt of the Complaint. The recommendations can cover:

1. *For immediate deployment of QRT*—As the situation warrants, the GFP shall immediately endorse to the Chief Investigator or the Regional Director the dispatch of a Quick Reaction Team to immediately respond, intervene, and provide necessary assistance to women, girl children, or persons with diverse sexual orientation or gender identity and expression (SOGIE) whose rights have just been violated, or whose lives, liberty or property are in grave threat, or in imminent danger (sec. 2, Rule 13).

Whenever necessary, and especially in cases involving the rescue of women and children, the QRT team shall coordinate with other duty-holders, non-government organizations, civil society groups and government organizations, giving primary consideration to the immediate safety and protection of the women, children, and vulnerable LGBTs. In these cases, investigators and lawyers who are designated as Regional GFP shall be deployed. Pursuant to Rule 13 of the GAP, the QRT Team shall submit a written report of its initial findings and observations and shall coordinate, if necessary, with other government agencies for the provision of necessary support services.⁵⁵

2. *For Legal Assistance* – The GFP, upon evaluation of the Complaint, may recommend and render legal aid services or assistance to the woman, girl-child, or person with diverse sexual orientation and gender identity and expression (SOGIE) complainant. The scope of legal

⁵⁵ Secs. 5-6, Rule 13.

assistance shall depend on specific circumstances, giving foremost regard to the safety and well-being of the complainant. As set forth under Chapter IX of these Guidelines, the legal aid and support services that may be recommended and rendered are as follows: (a) referral/endorsement to appropriate agency; (b) referral for support services: shelter, medical, psychosocial, etc; (c) assistance in the application for protection orders; (d) assistance in the preparation and filing of pleadings in accordance with the guidelines set forth under Chapter VI. Despite on-going investigation, the CHR may render legal aid and services.

3. For Investigation - A case shall be investigated by the Commission if upon the evaluation by the GFP of the complaint and supporting documents submitted, women's human rights provided in the Magna Carta of Women or special laws were violated.

Cases of discrimination against persons with diverse SOGIE shall likewise be investigated either under the CHR mandate under MCW and/or under the different treaties to which the Philippines is a signatory.

IV. Calling the Parties for Conciliation/ Mediation

As an alternative means of settling disputes, the GFP handling the case shall determine whether the case can be considered for conciliation or mediation proceedings (sec. 1, Rule 12, GAP). Conciliation shall not be resorted to in cases that involve serious human rights violations, such as rape and other forms of violence against women. Cases under the Anti-VAWC law (RA 9262), except with respect to the sole issue of 'support,' cannot be subject to conciliation and mediation.

Other forms of discrimination under the MCW, and when the parties so agree, may be subject to conciliation and mediation as provided under Rule 12 of the GAP. Notice of the scheduled conciliation/mediation shall be sent three (3) days prior to the scheduled mediation/conciliation. Should parties come to an agreement, the same shall be reduced in

writing, the case closed, and the proceedings kept confidential.

In cases involving non-compliance with the provisions under Institutional Mechanisms, or in cases where discriminatory policies and/or practices are alleged as against agencies, local government units or private entities, the Commission, through its Regional or Central Office, may opt to call for a dialogue involving all stakeholders or conduct a public inquiry.

V. Investigation

The Commission shall commence the investigation of the case not later than fifteen (15) days from receipt of the Complaint⁵⁶.

In cases not proper for conciliation and mediation, or in case where the parties failed to reach an agreement during the conciliation/mediation, the investigation of the case shall proceed.

Notice: The respondent or any person implicated in the complaint shall be notified by way of notice, letter invitation, order, or subpoena (Sec. 11, Rule 4, GAP) requiring the respondent to submit an answer, comment, or counter-affidavit within ten (10) days from receipt of the subpoena and copy of the complaint. However, in human rights cases or issues that are of immediate and/or national, regional, international concerns, the parties shall be given at least three (3) days to appear and submit their counter-affidavits⁵⁷.

In cases alleging non-compliance with MCW provisions, the notice, together with the complaint or the basis of the Commission's investigation (e.g. PCW referrals, NGA referrals), shall be transmitted to the agency or private institution involved, with a directive for the filing of their answer, comment, or counter-affidavit within ten (10) days.

Recommendation for a Public Inquiry/Dialogue: The GFPs handling women, girl children or cases of persons with diverse sexual orientation and gender identity and expression (SOGIE), may, pursuant to Rule 7 of the GAP, and in aid of investigation,

⁵⁶ Section 10, Rule 4, GAP

⁵⁷ Section 13, Rule 4 GAP

recommend the conduct of public inquiry or dialogue by the Commission en Banc, its members, or by the Regional Office. The Commission en banc shall have the discretion to determine whether the public inquiry or dialogue shall be conducted by the Commission as a collegial body, or to delegate it to any of its members or to the CHR Regional Office⁵⁸.

In determining whether the case is proper for public inquiry or dialogue, the following shall be taken into consideration: (a) the nature of the case and the confidentiality limitations ; (b) the gravity of the human rights violation/ discriminatory acts and practices complained of; and (c) transcendental and complex issues affecting human rights of women and persons of diverse sexual orientation and gender identity.

Gathering of relevant documents: In the conduct of its investigation, the Commission may order the production of records, documents, books and/or reports relevant to the case. In case of complaints against institutions, a *subpoena duces tecum* may be issued to concerned agencies and/or institutions.

Investigation Reports: The GFP/Investigator assigned to the case shall prepare the investigation reports. This shall include QRT Report, when one is conducted, initial investigation report, which shall set out preliminary facts gathered during initial investigation; and progress reports, which shall include facts and relevant documents gathered throughout the investigation. The progress reports shall also provide the legal assistance rendered the woman, girl children, or persons with diverse sexual orientation or gender identity, and expression, the updates thereon such as: the issuance of protection orders, provision of medical or psychosocial services, admission to government or NGO shelter, filing of relevant pleadings or referral/endorsement to other agencies. In cases where a dialogue or a public inquiry is conducted, a Post-Dialogue/Post-Inquiry Report shall be prepared and shall form part of the records of the case. Taken together, these investigation reports shall inform the final investigation report.

VI. Final Investigation Report

The GFP or investigator of the case shall prepare the Final Investigation Report in accordance with Sec. 15, Rule 4 of the GAP. The same shall be completed within ten (10) days from the termination of the investigation proper.

The contents of the final investigation report shall be the following:

- a) The authority or legal basis of the CHR to conduct the investigation;
- b) The profile of the victim, which shall include his/her full name, sex, gender, age, status, address, affiliation, work or profession, religion, nationality, tribe or ethnic origin, educational background.
- c) The profile of the respondents which shall include his/her full name, sex, gender, age, status, nationality, work or profession, religion, branch of service in government, and/or the organization or group or affiliation;

In cases of complaints filed by individuals against a government department, agency, or instrumentality of government, government owned or controlled corporation, or local government unit, the persons directly responsible for the alleged violations, their specific position/s, the head of the office/division involved, and the head of the agency or local chief executive shall be named and identified (sec. 41, MCW);

In complaints against Private Entities, the person directly involved in the violation, his/her position/ designation in the Company shall be specified;

- d) The material allegations in the complaint, answer, comment, and in the counter-affidavits, as the case may be;

In citing the material allegations of the complaint, the GFP/Investigator shall endeavor to include, as may be available, the specific acts, series of acts, policies or practices alleged to be discriminatory and violative of women's human rights under the Magna

⁵⁸ Sec. 1, Rule 7, GAP

Carta of Women and/or human rights treaties to which the Philippines is a signatory to. The same shall also cite the relevant processes/remedies accessed by the Complainant prior to or concurrent with the CHR Complaint;

In citing material allegations of the counter-affidavits of respondents, the GFP/Investigator shall cite the defenses raised with respect to the alleged acts of discrimination; In citing counter-affidavits of heads of agencies and Local Chief Executives/Private Institutions, focus shall be directed on defenses alleging remedies provided at the agency level.

- e) The names and other personal circumstances of the witnesses;
- f) Summary of the evidence submitted by the complainant, respondents and those gathered by the investigators;
- g) All other relevant data or information gathered;
- h) The particular provisions of international human rights instruments violated or applicable to the case, as well as the pertinent domestic laws;
- i) Investigation and observations;
- j) Recommendations;
- k) All other relevant information as may be necessary.

VII. Resolution

The Final Investigation Report, once completed, shall be transmitted to the Legal Division for the drafting and preparation of the Resolution. In accordance with section 17, Rule 4 of the GAP, the Resolution shall be drafted by the GFP/lawyer as designated by the Chief Legal and shall be completed within fifteen (15) working days from the submission of the Final Investigation Report. The CHR Regional Director shall review and approve the resolution within five (5) days from receipt.

The Resolution shall contain the facts of the case, the evidence submitted by the parties and/or gathered

by the CHR in the course of the investigation process. It shall state the primary issue or issues involved, whether or not there exist/s substantial evidence of human rights violation committed or the omission/s which led to the violation of the human rights of a person or group or community of persons, and the pertinent provisions of the international human rights law, as well as domestic legislation and jurisprudence applicable to the case (Sec. 17, Rule 4, GAP).

As applied to complaints of women, girl children and persons with diverse sexual orientation and gender identity, the resolution shall clearly set forth whether or not the acts complained of constitutes discrimination. It shall discuss the evidence gathered in support of the finding of discrimination which shall include any or all of the following: (1) statements of the complainant and witnesses on the acts, series of acts, or omissions which constitute discrimination; (2) documentary evidence in support of allegations as to discriminatory acts or omissions, practices or policies; (3) evidence in support of disparate impact or treatment constitutive of discrimination and reflected in acts, omission or condition resulting to discrimination; (4) failure or inaction of the agency, government instrumentality, Local Government Unit or Company to address complaints of submitted before it for resolution.

In cases involving non-compliance with MCW provisions, the Resolution shall include the acts that constitute non-compliance as alleged in the complaint and/or referrals from PCW and other NGAs, the agency/private institution's answer/counter-affidavit with respect the allegations and the findings during the conduct of the investigation.

Dispositive Portion

In accordance with Section 40 of the MCW, the dispositive portion of the Resolution shall recommend the sanctions under administrative law, civil service, or other appropriate laws to the Civil Service Commission and/or Department of Interior and Local Government.

When applicable, the filing of appropriate criminal and/or civil cases shall be recommended. If, however,

the corresponding criminal and administrative charges have already been initiated and filed by the aggrieved party before the competent fora prior to the CHR investigation and/or completion of such investigation, the resolution shall indicate that the case/s before said fora be subject to regular monitoring by the CHR Regional Office or Sub-Office concerned. Further, a certified copy of the resolution together with pertinent documents and evidence on hand shall be endorsed to the forum/fora concerned.

The dispositive portion, in accordance with the Chapter on Policy Advocacy shall likewise include policy recommendations on the implementation of the MCW and fast tracking of affirmative actions/temporary special measures to concerned agencies and/or institutions, or to the Philippine Congress.

Notice of Resolution

Two (2) days after the approval of the Resolution by the Regional Director, a Notice of Resolution shall be sent to the parties and their counsel and other persons/entity concerned.

Transmittal

In cases where the resolution of the regional office has become final and is to be endorsed to competent fora for the filing of appropriate cases, and or the imposition of recommended sanctions, the same shall be covered by an official transmittal and a chronological list of documents and evidence on record to be transmitted. However, in cases where corresponding criminal and administrative charges have already been initiated and filed before a competent fora prior to the CHR Resolution, the resolution shall indicate that the case/s is already pending with the competent fora and that the CHR shall monitor the same.

Publication

Resolutions finding discrimination and which are not appealed by the affected parties shall be duly published. In cases where the rules of confidentiality

apply, the name of the complainant shall be changed, and her consent obtained before such publication. The published version of the resolution shall highlight the role of CHR as Gender and Development Ombud, the women's human rights principles involved, and the concrete basis supporting the finding of discrimination. The issuance of a Women's Human Rights Advisory pursuant to resolved cases and pressing women's human rights issues and concerns shall also be considered.

VIII. Appeal Process

In accordance with the provisions of the GAP, any party to a human rights case who does not agree with the resolution issued by the CHR Regional Office may file a Motion for Reconsideration with the Office of the Regional Director within fifteen (15) days from receipt of the Resolution (sec. 20, Rule 4, GAP). The resolution of the CHR Regional Office shall become final after the lapse of the fifteen-day period. Should the Motion for Reconsideration be denied, the aggrieved party has fifteen (15) days from receipt of the denial of the motion within which to appeal the case to the Commission en Banc. The Commission en banc may likewise conduct a *motu proprio* review of the Resolutions of CHR Regional Offices.

Upon receipt of the case on appeal or under *motu proprio* review, the Commission en Banc shall resolve the case within sixty (60) days. The Commission en banc, on the appeal shall clearly state the basis for the affirmation, modification, amendment or reversal of the resolution of the CHR Regional Office, or the reason for its decision (sec. 25, Rule 4, GAP).

IX. Monitoring

All resolved, referred, or endorsed cases shall be monitored by the Legal Division of the regional office concerned. Cases endorsed before national office/s may be monitored by the CHR Central Office through the Legal and Investigation Office.

CHAPTER VII:

Legal Aid Services

In all stages of the investigation until the final disposition of the case, the Commission, in coordination with appropriate agencies, shall ensure the security and protection of the women victims, their families, and witnesses.

As the circumstances require, the CHR on its own, or with the assistance of lawyers association or private law practitioner/s, shall provide the women victim-survivors, the victims' families and witnesses, the necessary legal aid services, in the form of **legal assistance**, such as immediate access to special remedies; and **legal advice/counseling**, to ensure their protection from further violations or threats thereof.

Legal Assistance, pursuant to Section 40 of Republic Act 9710 and Sec. 18 of Article XIII of the Constitution, shall be extended to women and persons with diverse sexual orientation and gender identity whose human rights are protected and guaranteed under various human rights laws and instruments (international or domestic), particularly under the Convention on the Elimination of Discrimination Against Women (CEDAW) and RA 9710 or the *Magna Carta of Women*.⁵⁹

Certain factors must be considered before extending free legal assistance, to the victim-survivor. These include indigency, economic status of the victim-survivor, nature and gravity of the violation or discrimination, urgency of the situation, jurisprudential potential, availability of lawyers who will handle the case, and the presence of transcendental issues for women or persons with diverse sexual orientation and gender identity. Legal assistance may be rendered without prejudice to an

ongoing investigation conducted by CHR.

Legal advice and counseling services shall be extended to any person in need of legal advice or seeking information, guidance, or opinion concerning women's rights and issues, taking into account the urgency of the advice requested and regardless of the economic status of the person. Legal advice and counseling may be rendered directly in person (for walk-in clients) or thru phone, email or regular mail, among other modes.

In rendering these legal and other support services, priority shall be given to the underprivileged, vulnerable, or marginalized, and to *Women in Especially Difficult Circumstances* (WEDC).⁶⁰

Upon evaluation of the case and after considering the circumstances surrounding the victim-survivor, victim's family, and witnesses, taking into account the factors above, the Commission shall determine the appropriate legal assistance to be extended.

Kinds of Legal Assistance

Legal assistance may include the following:

1. **Preparation of pleadings** (such as Affidavits, Answer, Counter Affidavit, Reply, Rejoinder, Comment, Memorandum, Position Paper, Petition for Review, Petition for Certiorari, Petition for Writ of Amparo, Petition for the Writ of Habeas Corpus, Motion) and other appropriate documents to be filed in court, quasi-judicial agency, administrative body, or organization, and assisting the victim or the victim's family in filing the appropriate action or pleading in

⁵⁹ Sec. 30, RA 9710 defines WEDC as victims and survivors of sexual and physical abuse, illegal recruitment, prostitution, trafficking, armed conflict, women in detention victims and survivors of rape and incest, and such other related circumstances which have incapacitated them functionally.

⁵⁹ Republic Act 9710

any of the aforementioned bodies.

2. **Legal Representation** in courts, quasi-judicial bodies, and administrative bodies. This requires a directive or an order authorizing a lawyer of the Commission to represent or appear for and in behalf of the client before any of the aforementioned bodies. The directive or order may be in the form of a Resolution or a Memorandum and must be signed by the following CHR officials:

- a. Regional Director of the CHR Regional Office, if the forum is situated within the region where the case is heard;
- b. The Focal Commissioner for LIO, WHRC or AVO, as the case may be, or the Chairperson, or any Commissioners, in the absence of the concerned focal commissioner, with endorsement from the LIO Director.

3. **Assist in the filing of cases**, to include special legal remedies (e.g. Writ of *amparo*, Habeas Corpus) against individuals, agencies, institutions, or establishments that violate women's rights.

4. **Assist in securing a protection order** from the concerned barangay or court. This includes drafting the petition or filing the application for the issuance of the protection order, or assisting the victim or victim's family in filing the petition with the barangay for the issuance of a Barangay Protection Order (BPO), or with the court for a Temporary Protection Order (TPO)/Permanent Protection Order (PPO), as applicable.

5. **Endorse or refer a case** to appropriate government agencies, local government units, organizations, institutions having primary jurisdiction over the case. This includes drafting the referral or endorsement letter for the victim.

As the circumstances require, the Commission shall, in coordination with appropriate agencies, organizations or institutions, ensure that adequate security and protection measures are in place for the women victim-survivors, the victim's family, and vital witnesses. *Women in Especially Difficult Circumstances*

(WEDC)⁶¹ shall be immediately referred to the local government units or government agencies mandated to deliver necessary support services and interventions to WEDC, such as temporary and protective custody, medical and dental services, psychological evaluation, counseling, psychiatric evaluation, legal services, productivity skills capability building, livelihood assistance, job placement, financial assistance and transportation assistance.

In instances where it is apparent during preliminary evaluation that the matter does not involve human rights violations or issues involving women, the CHR lawyer, with the approval of the Regional Director (if the case was filed in the Regional Office) or any of the Directors of LIO, AVO and WHRC (if filed with the Central office), as the case may be, shall close the case and immediately refer it to the government agency or other concerned entity having primary jurisdiction or responsibility over the subject matter for appropriate action, with notice to the complainant or aggrieved party.

Officers responsible for legal aid services

Legal aid services shall be provided by lawyers from the Legal Division of the Regional Offices within their areas of responsibility. However, the Chairperson or any Member of the Commission, if necessary, may designate a lawyer from the Central Office or other Regional Offices to handle a case outside the area of responsibility.

At the Central Office, lawyers from the Legal and Investigation Office (LIO), the Women's Human Rights Center (WHRC), and the Assistance and Visitorial Office (AVO) may opt to provide legal services within their respective areas of expertise. Otherwise, they shall refer the case to the concerned Regional Office.

Legal aid services may be rendered by lawyers from a Regional Office or Central Office, even if it is evident that the case falls within the area of responsibility of another Regional Office. However,

⁶¹ Sec. 30 of RA 9710 defines WEDC as victims and survivors of sexual and physical abuse, illegal recruitment, prostitution, trafficking, armed conflict, women in detention victims and survivors of rape and incest, and such other related circumstances which have incapacitated them functionally.

if upon preliminary evaluation of the complaint, it is apparent that the case falls within the area of responsibility of another regional office, the matter shall be immediately endorsed to the regional office which has responsibility over the area where the violation took place or is taking place. The regional office which initially received the complaint, may render assistance in taking affidavits before indorsing the case to the proper regional office which has responsibility over the case.⁶²

Female lawyers or lawyers who have undergone appropriate training on women's rights and in handling of investigation involving women or the gender focal persons in the region shall be preferred to provide the appropriate legal assistance or counseling to women and persons with diverse sexual orientation and gender identity.

However, considering the scarcity of lawyers in the Commission, the Commission may, in order to accommodate women and persons with diverse sexual orientation and gender identity seeking legal aid services, tap the assistance of lawyer associations and private law practitioners by executing or forging a Memoranda of Agreement with bar associations, NGOs, law firms, or women organizations providing legal aid; or accredit lawyers who are willing to accept pro-bono cases under the Magna Carta Act; or create an efficient system of case referrals to appropriate government departments or agencies, such as the Public Attorney's Office (PAO).

The offices (Regional Offices, LIO, WHRC and AVO) which extended legal aid services to women clients concerning women's rights and issues or discrimination, shall submit a report to the

62 CHR's Handbook on Investigation and Case Management Process p. 28 1st

Commission, which shall form part of the report required to be submitted under Rule 20 Sec. 6 of the CHR Guidelines and Procedure (GAP).⁶³

All CHR lawyers involved in or assigned to render legal aid services shall, at all times, uphold the lawyer's oath and ethical standards, as well as Civil Service rules and CHR office policies.

They shall also consider the vulnerability of the victims, who should never be subjected or exposed to re-victimization in the course of the investigation. Hence, lawyers should observe the special guidelines and protocols in handling cases involving women, children, and persons with diverse sexual orientation and gender identity and expression.

No fees shall be collected in any amount by any CHR lawyer for such legal aid services. The Commission shall issue the appropriate resolution providing for representation and transportation allowance (RATA) for lawyers handling cases of women and persons with diverse sexual orientation and gender identity under the *Magna Carta of Women*.

OTHER ASSISTANCE

Financial Assistance and Witness Protection Program

Victims of violations under the *Magna Carta of Women* shall be considered victims of human rights violations and shall be entitled to other forms of assistance, including the Financial Assistance and Witness Protection Program provided under Rule 21 and Rule 19, respectively, of the CHR Guidelines and Procedure (GAP).

63 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses, and the Provision of CHR Assistance.

CHAPTER VIII:

Case Referral Mechanisms

After the investigation of acts of discrimination, violations, or non-compliance with the provisions of the *Magna Carta of Women*, the case resolutions shall be endorsed to the appropriate agencies. The Resolution of the Commission shall recommend⁶⁴ sanctions under administrative law, civil service, or other appropriate laws to the Civil Service Commission or the Department of Interior and Local Government.

To serve as a guide in recommending the appropriate sanctions under administrative law, civil service of other appropriate laws, this section summarizes the recommended sanctions under the Revised Rules on Administrative Cases under the Civil Service (RRACS) and the Local Government Code, and the agencies to which the cases shall be referred. In all instances where the Commission refers a Resolution to a concerned agency for appropriate action, including the imposition of the appropriate sanction, the agency shall have **a period of sixty (60) days** from receipt thereof within which act upon the recommendation. In accordance with Section 42 of the Implementing Rules and Regulations of the Magna Carta of Women, the concerned agency shall likewise inform the Commission of the actions it took on the cases endorsed by the Commission.

Violations/ Non-compliance with the MCW

The following are the violations and/or acts of discrimination and non-compliances under the MCW. Acts may be committed by individuals or institutions, private or public, in such case, the respective heads of offices shall be made liable pursuant to MCW as well as individuals directly liable for the violation or acts of discrimination.

⁶⁴ Magna Carta of Women, Section 40.

Violations in relation to Women Empowerment provisions under the MCW

1. Discriminatory Policies and/or practices
2. Discrimination in relation to Education
 - a. Failure to address gender stereotypes in materials/curriculum
 - b. Violation on the prohibition of expulsion/ non-readmission due to pregnancy
 - c. Failure to establish new scholarships for marginalized women
3. Women in Sports
 - a. Offering different awards for women
4. Women in Military
 - a. Failure to abolish practices that restrict women
 - b. Failure to accord some promotional privileges
 - c. Failure to accord same rights to employment
 - d. Failure to provide leave privileges
 - e. Harassment and violence, including verbal and sexual abuses in all stages of recruitment, training and service in military, police and other similar services (Sec. 18, MCW-IRR);
5. Discrimination in relation to right to health
 - a. Denial of special leave credits for related gynecological surgeries
 - b. Denial of Health Services
6. Failure to put up barangay VAWC desks
7. Failure to provide services to WEDC
8. Discrimination in relation to women affected by disasters, calamities and other crisis

- situations (sec 10, MCW)
9. Forced recruitment of women and girls to take part in armed Hostilities in situations of armed conflict; or forced abandonment of women, esp. indigenous peoples (IPs) and Moros of their lands, territories and means of substance and relocating them in special centers for military purposes under any discriminatory condition (Sec. 12 B. and B.1, MCW-IRR);
 10. Discriminatory, demeaning and derogatory portrayal of women in advertisements, shows and programs in various media (print, broadcast, Internet, social media) (Section 19, MCW-IRR)⁶⁵
 11. Discrimination/exclusion of women in titling of lands and issuance of emancipation patents and Certificates of Land Ownership Awards (CLOAs) (Sec. 23 B.1 a-e); and
 12. Abuse, ill-treatment and/or neglect of women senior citizens in nursing homes and families (Sec. 36. F, MCW-IRR).
 13. Discrimination in relation to social protection (sec. 27, MCW)
 14. Discrimination in relation to cultural identity and integrity (sec. 28, MCW)
 15. Discrimination in relation to the rights to Housing (sec. 21, MCW)
 16. Discrimination in relation to the right to decent work (sec. 25)

⁶⁵ Offenses committed by private institutions may be referred to Courts for the filing of either civil or criminal cases, as the case may be; Recommended sanctions applicable only to government agencies/institutions/ local government units.

The proviso on discriminatory policies and practices is encompassing and may cover all forms of discrimination provided under the Magna Carta of Women and which are not specified above.

Non-Compliance of Provisions in relation to Institutional Mechanisms under MCW

1. Non-submission of GAD plan
2. Failure to implement GAD plan/ Failure to submit Accomplishment Reports
3. Non-establishment of GAD database
4. Non-establishment of GFPS
5. Non-deployment of qualified and trained GFPO in an embassy or consulate
6. Failure/non-allocation of GAD Budget
7. Misuse of GAD/ Irregular implementation/ use

Recommended Sanctions

Using the possible sanctions under the RRACS and those existing under the Local Government Code, the Commission recommends the imposition of the following sanctions for violations of or non-compliance with the following provisions of the MCW. As much as possible, the recommendation shall endeavour to identify the appropriate range of sanction on the basis of the findings of its investigation.

The Commission may likewise proceed to enact a Memorandum of Undertaking or pursue the issuance of a Joint Memorandum Circular with agencies to institutionalize the recommended sanctions as provided under the MCW.

Table 1 : Recommended Sanctions for MCW violations/non-compliance

NON COMPLIANCE WITH INSTITUTIONAL MECHANISMS	Sanctions under Uniform Revised Rules of Administrative Cases under the Civil Service (URRACS)	Recommended Sanctions under the Local Government Code (LGC)
1. Non-submission of Gender and Development Plan (GAD)	Light Offense as violations of reasonable office rules or regulations	<i>Dereliction of duty;</i>
2. Failure to implement GAD Plan/ Failure to submit Accomplishment Report	Reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense;	<i>Dereliction of duty</i>
3. Non-establishment of GAD data base	Less Grave Offense as Simple Neglect of Duty	<i>Dereliction of duty</i>
4. Non-establishment of Gender Focal Point System (GFPS)	Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;	<i>Dereliction of duty</i>
5. Non-deployment of qualified and trained GFPO in an embassy or consulate	Grave offense as (1) Inefficiency and incompetence in the performance of official duties; (2) Refusal to perform official duty; (3) Conduct prejudicial to the best interest of the service. Suspension of six (6) months and one (1) day to 1 year for the 1 st offense and dismissal for the 2 nd offense;	<i>Dereliction of duty</i>
6. Failure/non-allocation of GAD Budget;	Less Grave Offense as Simple Neglect of Duty	<i>Gross negligence</i>
7. Insufficient allocation	Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense; Grave offense as (1) Inefficiency and incompetence in the performance of official duties; (2) Refusal to perform official duty; (3) Conduct prejudicial to the best interest of the service. Suspension of six (6) months and one (1) day to 1 year for the 1 st offense and dismissal for the 2 nd offense;	<i>Gross negligence</i>

8. Misuse of GAD Budget/Irregular implementation/use of GAD Budget	<p>Grave offense as (1) Less Serious Dishonesty; or (2) Conduct prejudicial to the best interest of the service.</p> <p>Suspension of six (6) months and one (1) day to 1 year for the 1st offense and dismissal for the 2nd offense;</p> <p>Grave offense as (1) Serious Dishonesty; or (2) Gross Neglect of Duty</p> <p>Dismissal from the Service</p>	<i>Abuse of authority</i>
Discrimination in relation to Women Empowerment Provisions of the MCW	Sanctions under Uniform Revised Rules of Administrative Cases under the Civil Service (URRACS)	Recommended Sanctions under the Local Government Code (LGC)
1. Discriminatory practices/policies	<p>Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference</p> <p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p> <p>Grave Offense as Oppression</p> <p>Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense;</p>	<i>Abuse of authority</i>
2. Discrimination in Relation to Education	<p>Less Grave Offense as Simple Neglect of Duty</p> <p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p>	
(a) Failure to establish new scholarships for marginalized women	<p>Grave offense as (1) Inefficiency and incompetence in the performance of official duties; (2) Refusal to perform official duty; (3) Conduct prejudicial to the best interest of the service.</p>	<i>Dereliction of Duty</i>
(b) Failure to address gender stereotypes in materials/curriculum	<p>Suspension of six (6) months and one (1) day to 1 year for the 1st offense and dismissal for the 2nd offense;</p>	

(c) Violation on the prohibition of expulsion/non-readmission due to pregnancy	Grave Offense as Oppression Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense;	<i>Abuse of Authority</i>
3. Women in Sports Offering different awards for women	Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense; Grave Offense as Oppression Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense;	<i>Abuse of authority</i>
4. Discrimination of Women in Military, Police and other similar services		
(a) Failure to abolish practices that restrict women	Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference	
(b) Failure to accord same promotional privileges	Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;	
(c) Failure to accord same rights to employment	Grave Offense as Oppression	
(d) Failure to provide leave privileges	Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense;	
(e) Harassment and violence, including verbal and sexual abuses in all stages of recruitment, training and service in military, police and other similar services (Section 18, MCW-IRR);		

5. Discrimination on the Right to Health	<p>Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference</p> <p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p> <p>Grave Offense as Oppression</p> <p>Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense;</p>	<i>Abuse of Authority Dereliction of Duty</i>
6. Failure to put up barangay VAWC desks (sec. 12, MCW)		
7. Failure to provide services to Women in Especially Difficult Circumstances (Sec. 30-31, MCW)	<p>Less Grave Offense as Simple Neglect of Duty</p> <p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p>	<i>Dereliction of Duty</i>
8. Discrimination in relation to women affected by disasters, calamities and other crisis situations (sec 10, MCW)	<p>Grave offense as (1) Inefficiency and incompetence in the performance of official duties; (2) Refusal to perform official duty; (3) Conduct prejudicial to the best interest of the service.</p> <p>Suspension of six (6) months and one (1) day to 1 year for the 1st offense and dismissal for the 2nd offense;</p>	<i>Dereliction of Duty</i>
9. Forced recruitment of women and girls to take part in armed hostilities in situations of armed conflict; or forced abandonment of women, esp. indigenous peoples (IPs) and Moros of their lands, territories and means of substance and relocating them in special centres for military purposes under any discriminatory condition (Section 12 B. and B.1, MCW-IRR);	<p>Grave Offense as Oppression</p> <p>Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense;</p>	<i>Abuse of Authority</i>

<p>10. Discriminatory, demeaning and derogatory portrayal of women in advertisements, shows and programs in various media (print, broadcast, Internet, social media) (Section 19, MCW-IRR)^[1]</p>	<p>Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference</p> <p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p> <p>Grave Offense as Oppression</p> <p>Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense;</p>	<p><i>Abuse of Authority</i></p>
<p>11. Discrimination/exclusion of women in titling of lands and issuance of emancipation patents and Certificates of Land Ownership Awards (CLOAs) (Section 23 B.1 a-e);</p>	<p>Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference</p> <p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p> <p>Grave Offense as Oppression</p> <p>Suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal for the 2nd offense;</p>	<p><i>Abuse of Authority</i></p>
<p>12. Abuse, Ill Treatment and/or neglect of women senior citizens in nursing homes and families</p>	<p>Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference</p>	<p><i>Abuse of Authority</i></p>
<p>13. Discrimination in relation to social protection (Sec. 27, MCW)</p>	<p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p> <p>Grave offense as (1) Inefficiency and incompetence in the performance of official duties; (2) Refusal to perform official duty; (3) Conduct prejudicial to the best interest of the service.</p> <p>Suspension of six (6) months and one (1) day to 1 year for the 1st offense and dismissal for the 2nd offense;</p>	<p><i>Abuse of Authority</i></p>

[1] Offenses committed by private institutions may be referred to Courts for the filing of either civil or criminal cases, as the case may be; Recommended sanctions applicable only to government agencies/institutions/ local government units.

14. Discrimination in relation to cultural identity and integrity (Sec. 28 MCW, Sec 31, IRR)	<p>Less Grave Offense as Unfair Discrimination in rendering public service due to affiliation or preference</p> <p>Suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense;</p>	<i>Abuse of Authority</i>
15. Discrimination in relation to the Right to Housing (sec. 21 MCW, sec. 24, IRR)	<p>Grave offense as (1) Inefficiency and incompetence in the performance of official duties; (2) Refusal to perform official duty; (3) Conduct prejudicial to the best interest of the service.</p>	<i>Abuse of Authority</i>
16. Discrimination in relation to the right to decent work (sec. 22 MCW, sec. 25 IRR)	<p>Suspension of six (6) months and one (1) day to 1 year for the 1st offense and dismissal for the 2nd offense;</p>	<i>Abuse of Authority</i>

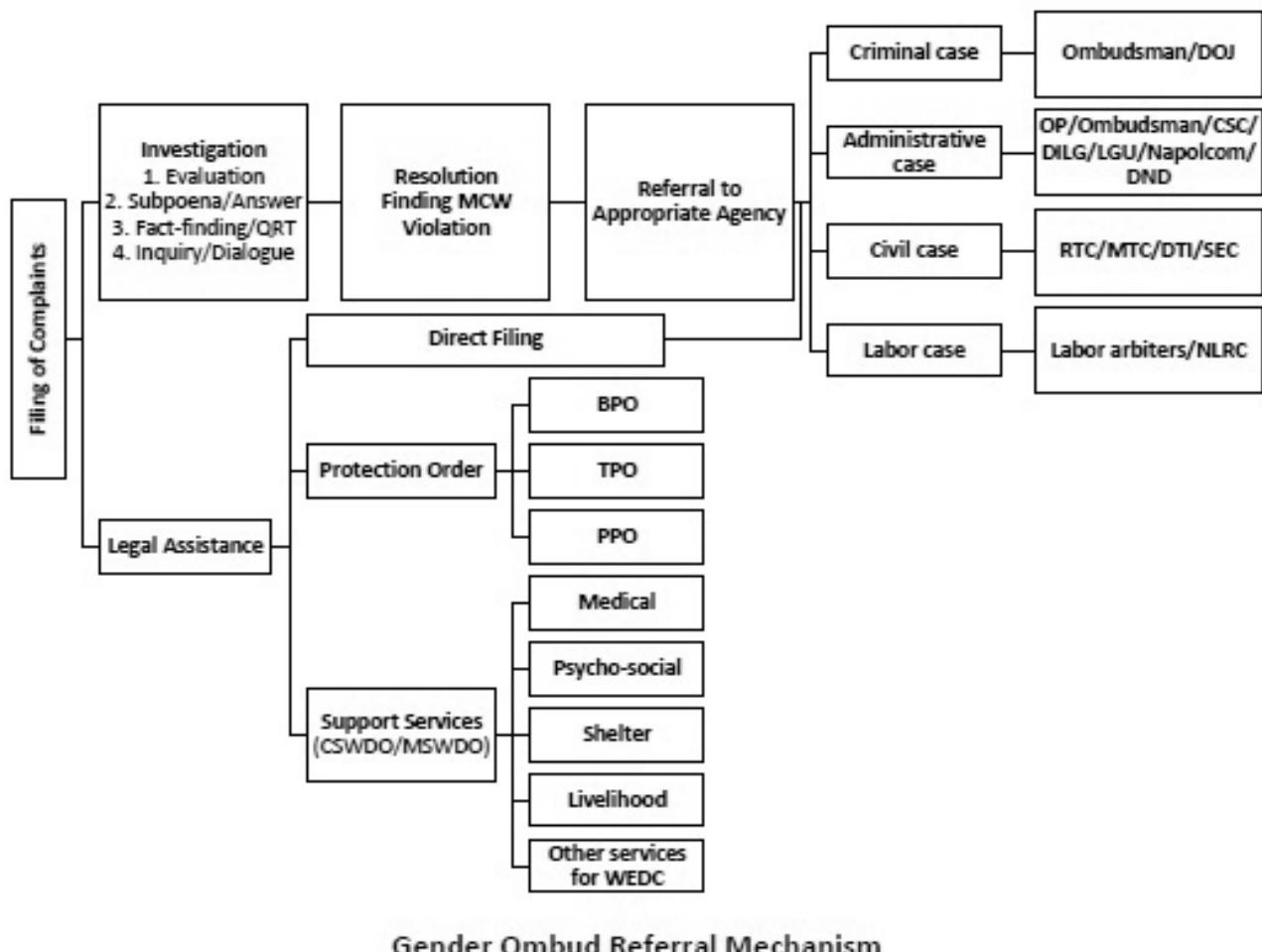
I. Referral Pathways

Cases investigated and resolved by the Commission as Gender Ombud shall be referred to the appropriate agency for investigation and the imposition of the appropriate sanction. The choice of the agency/office to which the Complaint shall be forwarded shall be determined by the jurisdiction of the agency and whether or not a specific case lies within its power to resolve.

In cases where different agencies have joint and concurrent jurisdictions, the decision on where to refer the complaint lie within the discretion of the Regional Office, concerned upon due consultation

with the Complainant. In such cases, the decision shall be guided by the following: (a) expediency of the chosen referral pathway; (b) choice and preference of the Complainant; (c) availability of legal aid and services in the chosen referral pathway; (d) safety of the complainant and witnesses; (e) elimination of allegations of bias.

Even without going through the Commission, the following agencies are clothed with specific jurisdiction to investigate and adjudicate complaints against government employees and elected officials. Complaints for specific violations of the Magna Carta of Women may thus be lodged directly with these agencies.



Office of the Ombudsman:

The Office of the Ombudsman has jurisdiction over complaints against any public officer or employee, including those in government-owned or controlled corporations, on acts or omissions that are illegal, unjust, improper, or inefficient. Complaints may be the subject of criminal or administrative proceedings, or both.

A criminal complaint may be brought for an offense in violation of RA 3019, as amended, RA 1379 as amended, RA 6713, Title VII, Chapter II, Section 2 of the Revised Penal Code, and for such other offenses committed by public officers and employees in relation to office. In accordance with the MOA with the DOJ, the Office of the Ombudsman has primary jurisdiction in the conduct of preliminary investigation for cases cognizable by the Sandiganbayan.

Administrative cases may be brought before the Office of the Ombudsman where there are complaints for acts or omissions of public officers or employees which are:

- a) contrary to law or regulations;
- b) unreasonable, unfair, oppressive or discriminatory;
- c) inconsistent with the general course of an agency's functions though in accordance with law;
- d) based on a mistake of law or an arbitrary ascertainment of facts;
- e) in the exercise of discretionary powers but for an improper purpose;
- f) otherwise irregular, immoral or devoid of justification;
- g) due to any delay or refusal to comply with the referral or directive of the Ombudsman or any of his deputies against the officer or employee to whom it was addressed; and
- h) such other grounds provided for under E.O. 292 and other applicable laws. (sec. 1, EO No.

7 as amended by AO No. 17 dated September 7, 2003)

Resolutions of the Commission finding substantial evidence on MCW violations by government officials who have salary grades 27 and up, and their accomplice and accessories, shall be forwarded to the Office of the Ombudsman for appropriate criminal and/or administrative proceedings. Resolved cases implicating public officials with salary grades below 27 shall be filed with the Department of Justice in accordance with the MOA between the Office of the Ombudsman and the Department of Justice.

The CHR Regional Offices shall ensure that the complete records of the case are transmitted together with the Verified Complaint, either by the Complainant or by the Commission's representatives, in accordance with the rules of the Office of the Ombudsman.

Office of the President

Cases implicating heads of agencies and presidential appointees may also be referred to the Office of the President, in addition to the Office of the Ombudsman. However, should the head of office or the presidential appointee be implicated with accessories and accomplices who are not presidential appointees or heads of agencies, the case should be filed with the Office of the Ombudsman which has a wider and more general scope of jurisdiction.

Civil Service Commission

The Civil Service Commission (CSC) is constitutionally mandated to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the Civil Service. It has the power to appoint and discipline its officials and employees and to hear and decide administrative cases instituted by or brought before it directly or on appeal. Section 2(1), Article IX(B) of the 1987 Constitution defines the scope of the civil service as embracing "all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.⁶⁶"

⁶⁶ CSC vs. CA, G.R. No. 176162,

As such the CSC hears and decides administrative cases included by or brought before it directly or on appeal. Except when otherwise provided for by law, an administrative complaint may be filed any time with Civil Service Commission. In cases resolved by Commission which recommend the imposition of administrative sanctions against persons employed in the government sector, case resolutions may be referred to the Civil Service Commission through its Regional Offices. Following the procedure set forth under the RRACS, the transmittal shall include the Commission's resolution, the files of the case, together with a verified complaint of the Complainant or the Commission as Gender Ombud.

Legal Office of the Regional DILG Offices

Aside from filing cases directly before the Office of the Ombudsman, case resolutions implicating locally elected public officials may be referred to the Legal Office of the regional offices of the Department of Interior and Local Government.

Disciplinary Action initiated through Local Government Units

Disciplinary action against elected officials may be pursued through the local government units in accordance with the LGC.

The power to discipline erring local government officials depends on the Sangguniang Bayan or Sangguniang Panglungsod with respect to the Barangay; Sanguniang Panlalawigan with respect to Sangguniang Bayan elected officials; the Office of the President with respect to HUC, IC, and ICCs.

In cases where the Commission, upon investigation, finds any of the local government unit and its officials accountable for violations or non-compliance with the provisions of the MCW, the appropriate penalty shall be recommended either to the Office of the Ombudsman, the Regional DILG Office, or in this case, the appropriate Local Government Unit.

Department of Justice/ Prosecutor's Office

Criminal cases in relation to provisions of the

Magna Carta of Women may be directly filed with the Department of Justice or the Office of the Prosecutor. In cases resolved by the Commission, where the filing of criminal cases is recommended together with the filing of administrative charges, a copy of the Commission's resolution shall likewise be transmitted with the Department of Justice or the Office of the City Prosecutor. The Commission, through its regional offices, shall assist the Complainant in the filing of cases as mandated under Section 42 of the IRR.

Labor Arbiters of the DOLE/ SEC or DTI for findings against corporate entities

Cases resolved by the Commission finding acts of discrimination, if such discrimination fall within the provisions of Arts. 135, 136 and 137 of the Labor Code and other related labor provisions on discrimination of women, discrimination on the basis of marriage and stipulation against marriage, the same shall be forwarded and referred to the Labor Arbiters of the DOLE.

Resolutions of the Commission finding discriminatory practices and policies by private entities shall be transmitted to the Securities and Exchange Commission (SEC) or the Department of Trade and Industry (DTI) for appropriate action.

Department of National Defense/NAPOLCOM

Resolutions of the Commission finding violations of the MCW committed by members of Armed Forces or the Philippine National Police shall be forwarded to the Department of National Defense or the National Police Commission (NAPOLCOM) as the case may be. Copies shall likewise be furnished the respective Human Rights Officers.

Regular Courts

If the investigation of the Commission finds discriminatory practices and violations of the MCW committed by a private entity or person, the Commission shall transmit the resolution to the appropriate agency which may be the DOLE, SEC, or DTI, as the case may be. In addition, when the cases involve violations considered civil in nature, the Commission, through its regional offices, and

in accordance with the guidelines set forth in legal aid services under Chapter VII, shall assist the Complainant in the filing not only of the criminal cases, but also the civil cases before regular courts.

The Commission shall endeavour to dialogue with pertinent government agencies to institutionalize the treatment of its Resolutions. The issuance of a Memorandum of Undertaking or joint circulars towards the recognition of the Commission's resolution as taking the place of the formal charge in cases before the Civil Service Commission or the DILG, or the Preliminary Investigation in cases before the Office of the Ombudsman, shall be subsequently pursued after the passage of these Guidelines.

II. Processes under Civil Service

To serve as guide in the filing of cases for violations of MCW under the Civil Service, the processes provided under the Revised Rules on Administrative Cases in the Civil Service (RRACCS) are herein provided. The RRACCS was promulgated by the Civil Service Commission (CSC) with the objective of fast-tracking the disposition of administrative cases as well as the simplification of the rules of procedures in the filing and resolution of administrative cases. It covers disciplinary and non-disciplinary cases involving government employees.

Under RRACCS, administrative proceedings may be initiated by the disciplining authority *motu proprio* or upon complaint by another person.⁶⁷ Except when initiated by the disciplining authority or by authorized representatives, no complaint against a civil service official or an employee shall be given due course unless the same is in writing, subscribed and sworn to by the complainant.⁶⁸ In cases initiated by the proper disciplining authority or his/her authorized representative, a show cause order is sufficient.⁶⁹

67 Section 10, Rule 3, Revised Rules on Administrative Cases in the Civil Service

68 Section 11, *Id.*

69 *Id.*

Contents of the Complaint

The complaint shall contain the following:

- a. Full name and address of the complainant;
- b. Full name and address of the person/s complained of as well as his/her/their position/s and office/s;
- c. A narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- d. Certified true copies of documentary evidence and affidavits of his/her witnesses, if any; and
- e. Certification or statement of non-forum shopping.⁷⁰

Except when otherwise provided for by law, an administrative complaint may be filed at any time with the Commission or any of its Regional Offices, heads of departments, agencies, provinces, cities, municipalities and other municipalities.⁷¹

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.⁷²

Preliminary Investigation

A preliminary investigation is a proceeding undertaken to determine whether a *prima facie* case exists to warrant the issuance of a formal charge. It involves a fact-finding investigation or an ex parte examination of records and documents submitted by the complainant and the person/s complained of as well as documents readily available from other government offices.⁷³

During the preliminary investigation, the person complained of is required to submit his counter-affidavit/comment/explanation, within five (5) days

70 *Id.*

71 *Id.*

72 *Id.*

73 Section 15, Rule 4, *Id.*

from receipt of the complaint sufficient in form and substance, and his failure to submit the same is considered as a waiver thereof. The documents and other pieces of evidence submitted by the complainant and the person complained of shall serve as the bases in the investigator's decision/resolution of the case or in case the person complained of did not submit his/her counter-affidavit/comment/explanation, the investigator shall decide the case based on the evidence submitted by the complainant.

If a prima facie case is established, the disciplining authority may issue a formal charge or notice of charge against the person complained of. The respondent shall then be required to submit a counter-affidavit or comment.

If no prima facie case is established, the case shall be dismissed.⁷⁴

Filing of Answer

If a formal charge or notice of charge is issued, the respondent shall be directed to submit an Answer in writing, under oath, in not less than seventy-two (72) hours from receipt of the notice. The respondent shall indicate preference on whether a formal investigation shall be elected, and preference as to counsel.

Failure to file an Answer shall be deemed as waiver. The case shall then be resolved based on the available records.⁷⁵

Preventive Suspension

The proper disciplining authority, *motu proprio* or upon motion by the Complainant, may issue an order of preventive suspension against the respondent upon service of the formal charge or notice of charge/s, or immediately thereafter to any subordinate officer or employee under his/her authority pending an investigation, if the charge involves:

- i. Dishonesty;
- ii. Oppression;
- iii. Grave Misconduct;
- iv. Neglect in the Performance of Duty;

⁷⁴ Section 19, Rule 4, Id.

⁷⁵ Section 24, Rule 6, Id.

- v. Administrative offenses which are punishable by dismissal from service on the second and third offense; or
- vi. If there are reasons to believe that the respondent is guilty of the charge/s which would warrant his/her removal from service.⁷⁶

An order of preventive suspension may be issued to temporarily remove the respondent from the scene of misfeasance, malfeasance, or nonfeasance to preclude the possibility exerting undue influence or pressure on the witnesses or the possibility of tampering with evidence.

In lieu of preventive suspension, for the same purpose, the proper disciplining authority or head of office may reassign the respondent to another unit of the agency during the period of formal investigation.⁷⁷

Formal Investigation

Where the merits of the case cannot be decided judiciously without conducting a formal investigation or when the respondent elects to have one, the disciplining authority shall conduct a formal investigation.⁷⁸ However, at any stage of the proceedings, the parties may agree to submit position papers or memorandum and submit the case for resolution without need of further hearings.⁷⁹

Other important components of the formal investigation are the following:

- i. Pre-hearing conference;
- ii. Continuous hearing until terminated;
- iii. Marking of documentary evidence/exhibits;
- iv. Submission of formal investigation report.

Decision

After the conclusion of the formal investigation and the submission of the report by the hearing officer to the disciplining authority, the latter shall decide the case within thirty (30) days from receipt of the

⁷⁶ Section 26, Rule 6, Id.

⁷⁷ Id.

⁷⁸ Section 30, Rule 8, Id.

⁷⁹ Section 31, Id.

report.⁸⁰

Appeal

If the respondent wants to question or ask for reconsideration on the decision adverse to him, he can either file an appeal or a motion for reconsideration within the reglementary period provided by law.

Moreover, in cases where the Magna Carta of Women does not provide penalty for a specific right violated, the pertinent provisions of substantive laws

on penalties, i.e. Civil Code of the Philippines and the Revised Penal Code, shall be adopted. This is in addition to the administrative penalties imposable upon a government employee who violated the right/s of a woman under the Act. In the absence of a nomenclature for the violation of a particular right of a woman under the act, the provisions of the RRACCS shall apply and the violation committed by the government employee may be categorized as grave, less grave or light offense.

80 Section 44, Rule 9, Id.

CHAPTER IX:

Monitoring Under the MCW

The Magna Carta of Women and its Implementing Rules and Regulations designated the Philippine Commission on Women as the primary policy-making and coordinating body on women and gender equality concerns. It also mandated the PCW as the overall monitoring body and oversight to ensure its implementation⁸¹.

Monitoring Mechanisms

Section 41 of the IRR provides for monitoring of the progress, implementation and impact of the MCW and provides for the following:

Baseline Data

The law requires the consolidation of baseline data culled from the baseline reports of National Government Agencies (NGAs) and instrumentalities and LGUs on women's human rights based on MCW provisions. The consolidation of baseline data is crucial in the monitoring of the progress, implementation, and impact of MCW.

Efforts are underway for the creation of the baseline data. The NGAs, offices, bureaus, and other government instrumentalities shall submit baseline reports to the PCW. The LGUs shall submit reports to the DILG, which shall then submit to PCW. The Commission, as Gender Ombud, shall encourage submission of baseline data, and shall call the attention government instrumentalities and LGUs that failed to provide inputs.

Implementation Reports

The MCW mandates PCW and CHR to develop an effective and efficient system to monitor and

evaluate the implementation of the act. PCW has already developed indicators on the implementation of the MCW, which the CHR has adopted.

The IRR recognizes that since the law is a "comprehensive compilation of the duties of the State to the women of the country, all agencies and LGUs shall conduct their own monitoring of the effectiveness of their programs, it then requires NGAs and other instrumentalities to submit progress reports on the implementation of MCW to PCW within January of every year. Local Government Units are likewise required to submit to DILG a progress report on the implementation of the Act within January of every year.

In coming up with their reports, the MCW encourages the gathering of reports on implementation from CSOs and the private sector and the use of PCW developed indicators on MCW. Engagement with regional and local development councils for the purpose of the implementation and monitoring of the MCW is likewise encouraged.

Submission to Congress and Recommendations

The law provides that PCW, in coordination with other state agencies and the CHR, shall consolidate all annual reports and prepare an assessment report for submission to the Committee on Oversight of the Congress every three (3) years. The assessment report shall highlight the results of the implementation of MCW and its impact on the status and human rights of women. The PCW shall take note of non-compliance of agencies and shall make recommendations for the Committee's appropriate action.

On the basis of the monitoring jointly conducted by PCW and the CHR, policy advisories on women's

⁸¹ Secs. 38-39 IRR.

human rights shall be issued in accordance with Chapter X of these Guidelines.

Related Issuances

As overall monitoring body, PCW issued several issuances in order to determine compliance with the provisions of MCW. These issuances include the *PCW-NEDA-DBM Joint Circular (JC) No. 2012-01 or Guidelines in the Preparation of the Annual GAD Plan and Budget and GAD Accomplishment Report to Implement the Magna Carta of Women* and the *PCW-DILG-DBM-NEDA: Joint Circular 2013-01 Guidelines on the Localization of the Magna Carta of Women*.

Other agencies are likewise mandated to perform oversight functions in relation to the provisions of the MCW. Under Joint Memorandum Circular 2013-01 by the PCW-DILG-DBM and NEDA, the following are the roles of oversight agencies:

1) Department of Interior and Local Government

The circular mandates the DILG to consolidate approved Local Government Units Gender Plan and Budgets as well as GAD Accomplishment Reports for monitoring and evaluation purposes. The DILG shall also monitor and evaluate LGU compliance on the following mechanisms which shall be reflected in consolidated reports. The matters to be monitored are the following:

- i. Formulation and implementation of LGU GPBs and GAD
- ii. Utilization of the 5% GAD Budget
- iii. Formulation of the GAD Code
- iv. Creation / re-organization and functionality of GFPS or similar GAD mechanism
- v. Establishment of the LGU GAD Database
- vi. Organization and functionality of Local Councils for the Protection of Children (LCPGs)
- vii. Functionality of VAWC Office/Desk and Women's Shelter
- viii. Mainstreaming gender perspectives in the PDPFP/CLUP/CDP/AIP/ELA
- ix. Functionality of the GAD Office/Unit, if any

x. Creation of Local Media Boards

Conduct appropriate response to the recommendation of the Commission on Human Rights (CHR) on the non-compliance of LGUs to the provisions of the MCW including non-compliance to the policy;

2. The Department of Budget and Management (DBM):

- a. Provide technical assistance to LGUs to ensure that they adopt a gender-responsive and performance-based approach to LGU budgeting;
- b. Assist the PCW, DILG and NEDA in the enhancement and updating of existing guidelines and tools on gender-responsive planning and budgeting, gender mainstreaming, gender audit and/or gender assessment at the local level;
- c. Ensure that Major Final Outputs, indicators and targets of the LGUs under their Organizational Performance Indicator Framework (OPIF) are gender-responsive; and
- d. Assist the PCW, DILG and NEDA in the development of a monitoring and evaluation system to monitor the GAD budget utilization of LGUs.

3. The National Economic and Development Authority (NEDA) shall:

- a. Assist the PCW, DILG and DBM in the enhancement and updating of existing guidelines and tools on gender-responsive planning and budgeting, gender mainstreaming, gender audit and/or gender assessment at the local level;
- b. Develop mechanisms, in consultation with PCW, DILG, DBM, concerned agencies and other stakeholders, to ensure that the 5% -30% allocation of funds received from ODA-funded projects of foreign governments and multilateral agencies are achieved and

- sustained to enable LGUs to respond to gender issues;
- Advocate the use of the HGDG for project design, development, management, implementation, monitoring and evaluation and provide technical assistance to provinces on the utilization of the HGDG, in partnership with PCW; and
 - Provide technical assistance to provinces in mainstreaming GAD concerns in the formulation and/or updating of the PDPFP.

Under Commission on Audit (COA) Circular No. 2014-001, COA issued the Revised Guidelines in the audit of Gender and Development (GAD) Funds and Activities in government agencies. The circular provides that the GAD audit shall be integrated in the regular audit of an agency. It provides that as part of planning the audit/understanding the agency, the Supervising Auditor/ Audit Team Leader shall see to it that the audited agency, thru the GAD's Focal point or Internal Control Unit, conduct gender mainstreaming or self-assessment particularly on the following, among others:

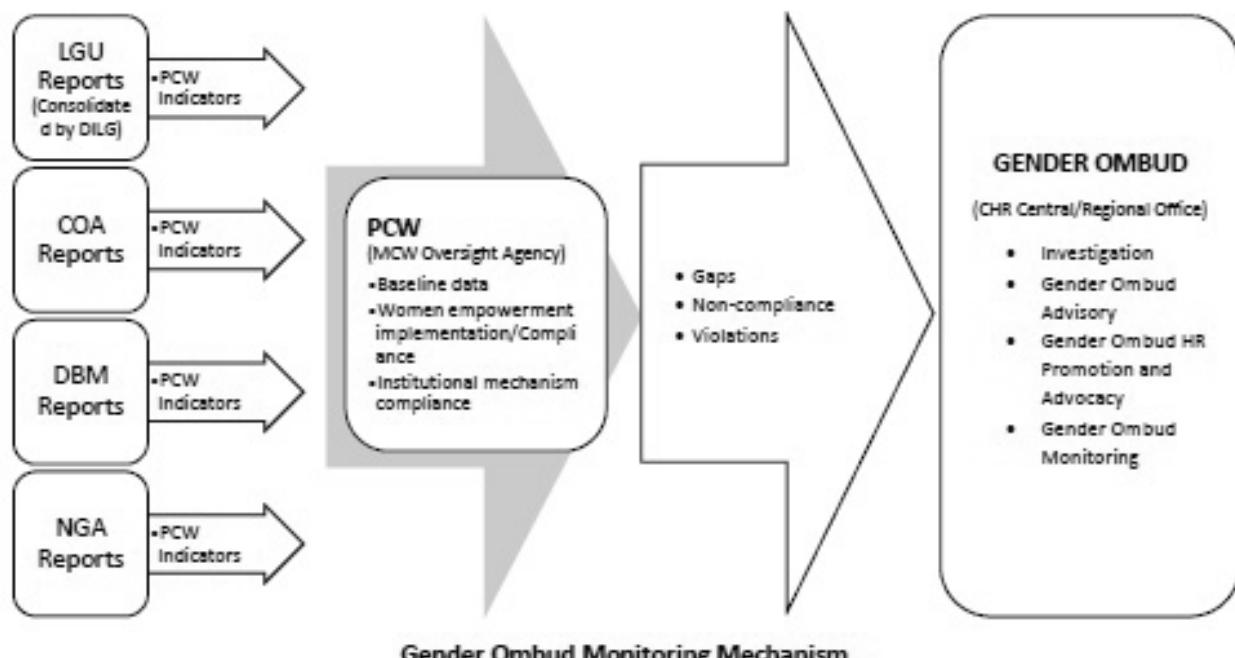
- Compliance with existing laws and regulations

on gender and development particularly on the setting aside of at least 5% of the their total budget appropriation to cover the implementation of, among others, the preparation of GAD plan, submission of required reports and the like;

- Seeing to it that the agency's plans, programs, projects and activities on GAD are aligned to the agency's mandate, the PPGD for 1995-2025 and other laws on GAD;
- Monitoring the use of GAD funds for the purpose of which they have been appropriated; and
- Determining whether gender issues are effectively addressed by GAD interventions in the agency

Results of the audit of GAD funds and activities, which may be favorable or unfavorable including audit recommendations, shall be incorporated in the Annual Audit Reports (AARs) of the agencies under the heading "Gender and Development." Audit Observations on GAD shall be consolidated by each Regional Office and Cluster and shall be submitted to the GAD Secretariat for consolidation.

CHR and PCW Monitoring under MCW



Together with PCW the CHR is mandated to monitor State's compliance with the MCW, it is likewise tasked to regularly submit to Congress, copy furnished PCW an assessment report of compliance of the Act with its recommendations. The recommendations shall include any possible administrative action. Acting on CHR's recommendations, the OP, the CSC, or the concerned agency may, if necessary, issue any of the following: (a) administrative and/or executive orders, (b) memorandum circulars, (c) proclamations, (d) resolutions, and other issuances.

Pursuant to its mandate to monitor compliance with the law, and in order to regularly submit its assessment report and the corresponding recommendations particularly on the implementation of affirmative actions/temporary special measure provisions, the Commission shall undertake monitoring both in the level of its Regional Offices and in the CHR Central Office. In monitoring compliance with the MCW, the CHR shall work in close coordination with oversight agencies like the PCW, the CSC, the DILG and the COA pursuant to the above reiterated issuances, thus:

1. Reports from LGUs as consolidated by the DILG shall be submitted to the PCW. Reporting shall be based on the indicators developed by PCW and on Under Joint Memorandum Circular 2013-01 by the PCW-DILG-DBM and NEDA. The PCW shall thereafter assess and process the reports, forwarding to the Commission as Gender Ombud irregularities, non-compliance, violations or matters for investigation by the Commission and/or the issuance of a policy advisory.
2. Consolidated reports from the DBM shall be submitted to the PCW for compiling, assessment and analysis. Irregularities or matters needing the function of the Commission as Gender Ombud such as the investigation of the case and/or issuance of policy advisories shall be transmitted by the PCW to the CHR.
3. The consolidated results of the audit of GAD funds and activities shall be submitted to

the PCW. The PCW shall transmit/refer to the Commission as Gender Ombud, any irregularities, non-compliance, violations of the MCW requiring investigation and/or policy issuance/ recommendations.

4. All NGAs shall, on the basis of the indicators developed by PCW and adopted by CHR, submit its reports to PCW. Following Section 41 of the MCW IRR, reports shall be transmitted to PCW within January of each year. PCW, upon assessment and analysis shall forward to the Commission as Gender Ombud gaps, irregularities, non-compliance and violations, those requiring investigation and/or issuance of women's human rights advisories or recommendations.

The following monitoring mechanism shall not in any way prevent the Commission from undertaking its investigation either *motu proprio* or upon complaint of violations and/or non-compliance with the provisions of the MCW.

Gender Ombud Monitoring

The Commission, as a National Human Rights Institution, is mandated to monitor compliance with the MCW on two levels. First, as Gender Ombud and as a National Government Agency tasked to monitor compliance with specific MCW provisions and indicators, and second, the monitoring of State's compliance with its treaty obligations, including CEDAW, and its implementing legislation, the MCW.

The Commission's monitoring as Gender Ombud under the MCW falls within the first section of this chapter, it likewise requires the Commission's monitoring, as a National Government Agency, of the implementation of the law on the basis of specific PCW indicators within its purview. Specifically, the following indicators pertaining to CHR's function as Gender Ombud shall be monitored and reported by the Commission's Central Office to the PCW.

Table 2. MCW Indicators on the Role of CHR as Gender Ombud

Immediate outcome	Indicators	Data source and Method Of Verification	Agency responsible for data provision
1. Increased capacity of the CHR to act/ function as Gender Ombud	Percentage of women's human rights violations/cases acted upon/resolved by CHR (discrimination against women, violations pertaining to the Women's Empowerment provisions of the MCW, violations of civil, political and socio-cultural and economic rights of women)	CHR Accomplishment Report	CHR
	Percentage of cases involving MCW Institutional Mechanisms acted upon/resolved by CHR	CHR Accomplishment Report	CHR
	Systems and mechanisms to monitor MCW implementation in place	CHR Accomplishment Report	CHR, PCW
1.1 <i>Legal Assistance remedies/ services made available to women</i>	Performance standards for providing legal assistance to women victims of HR violations developed	CHR Accomplishment Report	CHR with PCW
	# and types of legal assistance provided	CHR Accomplishment Report	CHR
	Percentage of clients provided with legal assistance/services	CHR Accomplishment Report	CHR
	Percentage of human rights lawyers, investigators and information officers trained on gender sensitivity and humane handling of cases	CHR Accomplishment Report	CHR
	Presence of (enhanced) gender-responsive training modules for human rights lawyers, investigators and information officers	CHR Accomplishment Report	CHR
	Presence of gender-responsive training modules for judges and members of the security sector	CHR Accomplishment Report, PhilJA reports	CHR, PhilJA
	Percentage of accredited human rights lawyers	CHR Accomplishment Report	CHR
	Client referral system established	CHR Accomplishment Report	CHR, BAR Associations, NGOs, Law Firms

<p><i>1.2 Systems and mechanisms for the protection and promotion of women's human rights were formulated and strengthened for Gender Ombud to effectively and efficiently execute its functions</i></p>	Percentage of functional Women's Human Rights Centers and other similar HR mechanisms Structure and staffing pattern of Women's Human Rights Center and other similar HR mechanisms enhanced according to the needs of women victims of HR violations	CHR Accomplishment Report	CHR, PCW and DBM
	Guidelines for recommended sanctions for MCW violations completed and implemented	CHR Accomplishment Report	CHR, PCW
	Number of agencies or individuals issued with women HR advisories and/or recommended sanctions in relation to MCW violations	CHR Accomplishment Report	CHR, PCW
	Presence of accreditation system for human rights lawyers	CHR Accomplishment Report	CHR
	Monitoring and Evaluation system on agency violation of MCW developed and implemented	CHR Accomplishment Report	CHR, PCW

Monitoring for Regional Women's and LGBTI Human Rights Profile

In order for CHR Central to transmit its reports to PCW as provided above, and likewise to be able to come up with the Regional Women's and LGBTI Human Rights Profile, regional offices of the Commission shall undertake the monitoring of specifically identified indicators as set out below. On the basis of the monitoring so conducted, Regional Offices of the Commission shall come up with the Women's and LGBTI Human Rights Profile which shall consist of: (a) monitoring results of PCW indicators, which may or may not be limited to those provided in the table above; (b) Gender Ombud cases handled by the Regional Office; and (c) women's human rights advisories issued; (d) analysis of issues and challenges on the fulfilment of women's human

rights in the region, (d) recommendations and call for compliance with CEDAW, MCW.

Data gathered from the regional monitoring shall form part of the Regional Women's and LGBTI Human Rights profile and shall be consolidated at the CHR Central with the end of assessing the implementation of the law and in formulating recommendations.

In coordination the Regional Offices of the DILG, the relevant offices of the Philippine National Police, the Department of Social Work and Development (DSWD), Municipal Social Work and Development Officers (MSWDO) and making use of inter-agency committees/mechanisms in their respective regional areas of responsibilities (AoRs), the Regional Offices shall monitor the following:

Table 3. Monitoring for Regional Women's and LGBTI Human Rights Profile

CHR REGIONAL WOMEN'S and LGBTI HUMAN RIGHTS PROFILE			
INDICATORS from MCW and Related Laws	Data to be Gathered	Data Source	Monitoring Guide
CHR AS GENDER OMBUD			
<i>Required Reporting for all regions</i>	<p>I. Cases involving violence against women[2] docketed with CHR;</p> <p>II. Cases involving LGBTI[3]</p> <p>III. Cases involving violations of Women Empowerment Provisions[4]</p> <p>IV. Cases involving non-compliance with institutional mechanisms</p> <p>V. Number of legal assistance rendered to women and LGBTI[5]</p> <p>VI. Number of monitoring on MCW and Women's Human Rights</p> <p>VII. Number and Titles/Kinds of Gender Ombud Advisories issued</p> <p>VIII. Number and Types of promotion activities on women's human rights and the rights of persons with diverse SOGIE;</p> <p>IX. Number of trainings on women's human rights and gender for RO staff</p> <p>X. Number of MOAs with local IBPs/ laws schools for legal aid services under MCW</p>	CHR RO Records	<p>What is the most prevalent form of violence against women filed with the CHR?</p> <p>What were the usual cases involving LGBTI?</p> <p>What is the trend in the case involving violations of women empowerment (WE) provisions and non-compliances of institutional mechanisms?</p> <p>What forms of legal assistance are frequently requested in the region?</p> <p>What advisories were issued; What were the promotion activities undertaken;</p> <p>What were the high profile cases on women and persons with diverse SOGIE?</p>

[2] Violence against women cases cover all those as listed and monitored by the PNP. Specifically: abduction...This list includes those docketed for legal assistance.

[3] Cases include those for legal assistance; hate crimes; cases of discrimination including violations of MCW affecting LGBTI.

[4] Excluding those involving "protection from violence" already counted under I.

[5] This may already include those counted under I and II.

I. PROTECTION FROM VIOLENCE (sec. 12, MCW-IRR)			
I.A MONITORING OF BARANGAY VAW DESKS (sec. 12D 1-3, MCW-IRR)	<p>Number of Barangay VAW Desks</p> <p>Number of women assisted through issuance of BPOs</p> <p>Number of monitored Barangays for their functionality: [existence, VAW officer, Barangay Resolution, cases/BPOs issued]</p>	<p>DILG [Refer to Template 1 Barangay VAW Desks]</p> <p>[Refer to Barangay VAW Desk Monitoring Matrix]</p>	<p>How functional are the existing Barangay VAW Desks?</p> <p>Are VAW Desks compliant with RA 9262 (Anti Violence Against Women Act) and the MCW?</p> <p>What are the challenges in the implementation of the Magna Carta of Women and the RA 9262?</p>
I.B AGENCIES WITH PROCEDURE/PROTOCOL IN HANDLING WOMEN AND GENDER CASES (sec. 12C, MCW-IRR)	<p>Number/Statistic of Violence Against Women cases from PNP and MSWDO</p> <p>Monitored high profile women's/ LGBT cases in the region^[6]</p> <p>Number of agencies handling women's cases and gender related cases with procedure/protocol in place</p> <p>Number of agencies which reviewed/enhanced related procedures/protocols in handling women's case/ gender related cases.</p>	<p>PNP MSWDO CSWDO [Refer to Letter Template 2 PNP-VAW]</p>	<p>What is the most prevalent form of violence against women in the Region?</p> <p>What are the high profile cases in the region involving women and persons with diverse SOGIE?</p> <p>What efforts are being undertaken to ensure gender sensitive handling of cases?</p>
I.C AGENCIES WITH GENDER AND HUMAN RIGHTS TRAINING (Sec. 12C, MCW-IRR)	<p>Number of agencies handling women and gender cases with gender and human rights training</p> <p>Number and kinds of training within the year</p>		

[6] These cases include those reported and highlighted in both local and national media; has gained track in social media due to its gravity; relevance etc. Example of these cases: Jennifer Laude of Region III; The rape and murder of minor in Cebu (Region VI);

<p>I. D ASSISTANCE RENDERED TO WOMEN ARRESTED, DETAINED FOR REASONS OF ARMED CONFLICT (Sec 12B 1-8, sec. 13 MCW-IRR)</p> <p><i>(Women in situations of emergency, armed conflict, and militarization)</i></p>	<p>Number of women arrested, detained for reasons related to armed conflict</p> <p>Number of pregnant, lactating women, persons with disability, elderly arrested, detained for reasons related to armed conflict;</p> <p>Assistance and prioritization given to pregnant, lactating women arrested/detained for reasons of armed conflict</p>	<p>DND, AFP,PNP</p> <p>[Refer to Template 3 Women in Armed Conflict]</p>	<p>How many women are arrested, detained for reasons of armed conflict? What are their situation and what services are made available to them?</p>
<p>I. E PSYCHOSOCIAL INTERVENTIONS FOR COMBATANTS AND NON COMBATANTS (Sec 12B 1-8, Sec. 13 MCW-IRR)</p> <p><i>(Women in situations of emergency, armed conflict, and militarization)</i></p>	<p>Reports on psychosocial interventions provided by the LGUs and DSWD to combatants and non-combatants especially children who suffered from armed conflict.</p>	<p>LGUs and DSWD</p> <p>[Refer to Template 4 DSWD]</p>	<p>What psychosocial interventions are provided to combatants and non-combatants?</p>
<p>I. F REPORTS IN RELATION TO IMPLEMENTATION OF UN SECURITY COUNCIL RESOLUTION ON WOMEN, PEACE AND SECURITY (Sec 12B 1-8, Sec. 13 MCW-IRR)</p> <p><i>(Women in situations of emergency, armed conflict, and militarization)</i></p>	<p>Existence of national/ local plan/ mechanism on the implementation of UN Security Council Resolution on women, peace and security.</p> <p>Reports/ documented cases of women and girls forcibly recruited for armed conflict;</p> <p>Reports of women victims of gender-based violence in times of armed conflict;</p> <p>Cases/Reports of women especially Indigenous and Moro women displaced/forced to abandon lands due to armed conflict</p>	<p>[Refer to Template 3 on Women in Armed Conflict]</p>	<p>What mechanisms are in place in relation to UN Security Council Resolution on women, peace and security?</p> <p>What are the documented cases of women and girls forcibly recruited for armed conflict; and cases of gender based violence committed in times of armed conflict?</p> <p>What is the situation of displaced IP and Moro women due to armed conflict?</p>

II. WOMEN AFFECTED BY DISASTERS, CALAMITIES, AND CRISIS (sec 13)			
II.A GENDER RESPONSIVE DISASTER MANAGEMENT POLICIES AND PROGRAMS AT THE NATIONAL, REGIONAL AND LOCAL DISASTER COORDINATING COUNCILS	<p>Gender responsive DRR policies (including guidelines) and programs adopted and implemented;</p> <p>Number of women involved in the development of a gender responsive disaster management, including preparedness, mitigation, risk reduction and adaptation;</p>	<p>LGU <i>[Template 5 Women and Disasters]</i></p>	Are the LGUs complaint with the MCW provisions on women affected by disasters, calamities and crisis?
III. DISCRIMINATION IN EDUCATION (sec. 16 MCW-IRR)			
III.A PUBLIC AND PRIVATE SCHOOLS WITH PROGRAMS TO PREVENT VAWC	<p>Number of educational institutions with policies and programmes to prevent VAW, including institutional mechanisms for complaints in cases of rape, sexual harassment, and other forms of violence and discrimination against women;</p> <p>Data on complaints of gender based violence, harassment handled by CODI and referred for further actions to CSC or other tribunal</p>	<p>Public and Private Schools <i>[Refer to Template 6 on Education]</i></p>	How many public and private schools within the Regional Field Office's area of responsibility undertake positive efforts towards the implementation of the provisions of MCW.
III. B PUBLIC AND PRIVATE SCHOOLS WITH SCHOLARSHIP FOR MARGINALIZED WOMEN	<p>Private and Public Schools with established scholarship for marginalized women;</p> <p>Number of marginalized women who availed of scholarships</p>		
III. C PUBLIC AND PRIVATE SCHOOLS WHICH CONDUCTED REVIEWS TO ADDRESS GENDER STEREOTYPES IN MATERIALS AND CURRICULUM	Private and Public Schools which conducted reviews of materials and curriculum to address gender stereotypes		

III.D PUBLIC AND PRIVATE SCHOOLS WITH POLICY ON NON-EXPULSION OF STUDENTS/FACULTY DUE TO PREGNANCY	Number of public and private schools with policy on non-expulsion of faculty and students due to pregnancy outside marriage; Number of cases/complaints (with status) filed in relation to the expulsion of faculty/student due to pregnancy;		
IV. WOMEN IN MILITARY/POLICE SERVICES (sec. 18, MCW-IRR)			
IV. A POLICIES AND PROGRAMS IMPLEMENTED TO ELIMINATE DISCRIMINATION IN MILITARY, POLICE AND OTHER SIMILAR SERVICES	Policies/ programs enacted to implement provisions of MCW particularly on the elimination of all forms of discrimination in the military and related services Number of women's desks and Committee on decorum and Investigation (CODI) established pursuant to Anti-Sexual Harassment Act (RA 7877) in all military units, training institutions and related services Number of cases of sexual harassment or other gender based violence filed and investigated;	AFP, PNP and other related services <i>[Refer to Template 7 Women in the Military]</i>	What policies and programs are in place in the AFP, PNP and other related services pursuant to MCW implementation? What mechanism are established? How many cases of sexual harassment or gender based violence filed and investigated?
V. PORTRAYAL OF WOMEN IN MEDIA (sec. 19 MCW-IRR)			
V. A. MAINSTREAMING GEDNER IN MEDIA ORGANIZATIONS AND CORPORATIONS	Number of adopted and implemented policy guideline/s on gender equality in all aspects of management, training, production, information dissemination, communication and programming; Number of media organization/corporation which convened a Gender Equality Committee or focal person to promote gender mainstreaming; Number of media organizations with gender equality and gender based discrimination training as components of human resource development Number and kinds of trainings conducted	Media Organizations in the ROs area of jurisdiction <i>[Refer Template 8 women in media]</i>	What are the efforts in complying with MCW provisions on the non-derogatory portrayal of women in Media;

V.B ADOPTION OF POLICIES AND COMPLIANCE OF SELF REGULATORY BODIES, GROUPS, AND ASSOCIATIONS FOR MEDIA, TELEVISION, CABLE, FILM, AND ADVERTISING ON MCW PROVISION ON NON-DEROGATORY PORTRAYAL OF WOMEN IN MEDIA	Number of policies/ programs adopted in compliance with the provision of MCW on non-derogatory portrayal of women in media		
V.C CREATION OF LOCAL MEDIA BOARDS (LMB) TO MONITOR COMPLIANCE WITH MCW	Number of LGUs with Local Media Board (LMB) created to monitor the implementation of the MCW and its IRR on the non-discriminatory and non-derogatory portrayal of women in media and film		How compliant are LGUs on the creation of the Local Media Board?
VI. WOMEN'S RIGHT TO HEALTH (sec. 20-21 MCW-IRR)			
VI. A ADOPTION AND IMPLEMENTATION OF THE GUIDELINES ON SPECIAL LEAVES FOR WOMEN	NGAs and other government agencies including LGUs and private sector that adopted and implemented the guidelines on special leave for women (on surgery caused by gynaecological disorders) and leaves in cases of VAWC	LGU, DOH <i>[Refer to Template 9 Women's Right to Health]</i>	How are the provisions of the MCW and the RH Law implemented at the LGU level? What guidelines are in place?
VI. B AGENCIES, LGUs, AND NGOs IMPLEMENTING COMPREHENSIVE, CULTURALLY SENSITIVE AND GENDER-RESPONSIVE HEALTH PROGRAMS AND SERVICES	Agencies, LGUs with policy, programs, guidelines for the implementation of comprehensive, culturally sensitive and gender responsive health programs and services.		
VI. C REPORTED VIOLATIONS/NON-COMPLIANCE WITH PROVISIONS ON SPECIAL LEAVES AND RIGHT TO HEALTH	Number of complaints filed before the CHR on Right to Health; Number of cases before the Labor Arbiter/Civil Service on violations in relation to grant of leaves under MCW		

VII. RIGHT TO HOUSING (sec. 24 MCW-IRR)			
VII. NGAs/ GOCCs THAT IMPLEMENT HOUSING PROGRAMS FOR WOMEN THAT ARE LOCALIZED, SIMPLE, ACCESSIBLE, AND WITH POTABLE WATER AND ELECTRICITY, SECURE WITH VIABLE EMPLOYMENT	Number of NGAs, LGUs and GOCCs that reviewed their existing policies and guidelines to ensure gender sensitivity and gender responsiveness during relocation, resettlement, demolition and eviction;	LGUs and NGAs on Housing <i>[Template 10 Housing]</i>	What policies and guidelines are reviewed and/or adopted to fulfil requirements of gender sensitivity and responsiveness.
VIII. WEDC (Women in Especially Difficult Circumstances) SERVICES (sec. 33-34 MCW-IRR)			
VIII. NGAs AND LGUs IMPLEMENTING GENDER RESPONSIVE, RIGHTS BASED AND CULTURE SENSITIVE SERVICES AND INTERVENTIONS FOR WEDC AND THEIR FAMILIES	Number of policies and guidelines formulated to implement gender responsive detention and prison facilities; CHR Regional monitoring on the human rights situation of women in detention Reports from Regional Inter-agency on Trafficking and VAW Recorded services delivered by LGU to WEDC in their respective jurisdictions	MSWDO, CSWDO, LGU BuCor, BJMP <i>[Refer to Template 4 DSWD]</i> <i>[Template 11 Interagency]</i>	What policies and guidelines are in place for the implementation of gender responsive detention and prison facilities? What issues of women, girls and LGBTI in detention surfaced in the course of Regional Monitoring?
IX. RIGHT TO REPRESENTATION and PARTICIPATION (sec. 14 and 28)			
IX. A. WOMEN's PARTICIPATION IN ALL LEVELS OF DEVELOPMENT PLANNING AND PROGRAM IMPLEMENTATION (Sec. 14, MCW-IRR)	Number of women members in all development councils from regional, provincial, city, municipal and barangay levels Number of women in Regional Development Councils	LGU <i>[Template 12 Representation]</i>	How are the MCW provisions on right to representation and participation implemented at the LGU level?

IX. B. WOMEN MEMBERS IN POLICY AND DECISION MAKING BODIES (Sec. 28, MCW-IRR)	<p>Percentage of women members in the Presidential Agrarian Reform Council (PARC) and its local counterparts like the Provincial Agrarian Reform Coordinating Committee (PARCCOM) and Barangay Agrarian Reform Committee (BARC)</p> <p>Percentage of women members in community based resource management bodies or mechanisms on forest management stewardship</p> <p>Percentage of women members in the National Agriculture and Fishery Council (NAFC) and its regional and local counterparts;</p> <p>Percentage of women members in the National Commission on Indigenous Peoples (NCIP)</p> <p>Percentage of women members in the Presidential Commission for the Urban Poor (PCUP)</p>	LGU	<p>How are the MCW provisions on the participation and representation of marginalized women in the decision and policy making bodies of their respective sectors being implemented?</p> <p>What are the issues and challenges arising from the implementation/failure to implement these MCW provisions may be noted and included in the Regional Women's Human Rights Profile report.</p>
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X. SOCIAL PROTECTION (sec. 30 MCW-IRR)			
X. Number of NGAs and LGUs that implement social protection policies, programs and services for women and other marginalized sectors	<p>Number of women farmers and fisher folks groups who have availed of the Agricultural Competitiveness Enhancement Fund;</p> <p>Number of returning women migrant workers who have availed of Employment programs and economic opportunities;</p> <p>Percentage of senior citizens and indigents who have availed of insurance programs;</p> <p>Percentage of women with disabilities that availed of community-based social protection schemes</p>	<p>LGUs <i>[Template 13 Social Protection]</i></p>	<p>What is the extent of NGA and LGU compliance with the MCW provisions on social protection?</p> <p>What programs are in place and how many women are able to access these programs?</p>

Specific to the handling of Gender Ombud cases, Regional Offices of the Commission shall regularly submit the following updates to the LIO copy furnished WHRC:

GENDER OMBUD CASE/ LEGAL ASSISTANCE MONITORING				
Type of Complaint/ Title of cases	Date Received	Brief Description	Status	Recommended Actions / Comments
<i>Gender-based Discrimination Complaints committed by individuals (either Public/Private)</i>				
<i>Gender- based violence complaints committed by individuals (either public or private)</i>				
<i>Complaints on Discriminatory policies/practices against Public Institutions</i>				
<i>Complaints on Discriminatory policies/practices against Private Institutions</i>				
<i>Complaints for non-compliance with Institutional Mechanisms against Public Institutions</i>				

CHAPTER X:

Gender Ombud Advisories

The Commission shall issue Gender Ombud Advisories, which shall include advisories on women's human rights and human rights of persons with diverse sexual orientation and gender identity and expression. Advisories shall be based on the Magna Carta of Women, international human rights treaties to which the Philippines is a party, including CEDAW, and other related laws on women. Advisories shall likewise include the latest developments and jurisprudence in International Human Rights Law.

Central Office Gender Ombud Advisories

Gender Ombud Advisories may be issued by the Commission's Central Office or by its Regional Offices,

acting as Gender Ombud within their respective areas of jurisdiction. The Women's Human Rights Center, as the Commission's office primarily responsible for the formulation of policies shall facilitate and monitor the issuance of Gender Ombud Advisories issued by the Commission and by its Regional Offices. In general, the WHRC shall have a vetting role as to standards and format of the recommendations for policy issuances of the Commission as Gender Ombud.

As the Gender Ombud, the Commission performs its function as Gender Ombud through its different units on the promotion, protection and monitoring of women's human rights. Gender Advisories in the Central Office may thus originate from the different units within the Central Office as follows:

Table 4. Gender Ombud Advisories

CENTRAL OFFICE UNIT	GENDER OMBUD CONCERN	ENDORSEMENT AND APPROVAL
LEGAL AND INVESTIGATION OFFICE	On the investigation and resolution of Gender Ombud Cases; On the Protocols for Investigation; On trends and issues in the investigation and resolution of cases involving women and persons with diverse SOGIE	Director; WHRC; Focal Commissioner
ASSISTANCE AND VISITORIAL OFFICE	On the situation of women and persons of diverse SOGIE who are deprived of liberty; On issues of HIV; On the situation of women with disabilities;	Director; WHRC; Focal Commissioner
EDUCATION AND PROMOTION OFFICE	On the standards for the promotion of women's human rights and of the rights of persons with diverse SOGIE;	Director; WHRC; Focal Commissioner
GOVERNMENT LINKAGES OFFICE	On proposed and pending legislative measures affecting women and persons with diverse sexual orientation and gender identity; On the State's Compliance with its Treaty Obligations, decisions and concluding observations of Treaty bodies;	Director; WHRC; Focal Commissioner

FIELD OPERATIONS OFFICE	On matters affecting regional operations of the Commission, particularly on the Regional Office's function as Gender Ombud within their areas of jurisdiction;	Director; WHRC; Focal Commissioner
HUMAN RIGHTS INFORMATION CENTER (?)	On matters pertaining to media and the portrayal of women and persons of diverse SOGIE in media;	Director; WHRC; Focal Commissioner
GENDER EQUALITY WOMEN'S HUMAN RIGHTS CENTER	On setting standards on women's human rights and of the rights of persons with diverse sexual orientation and gender identity; On the specific issues affecting women and persons with diverse sexual orientation and gender; On the results of the Monitoring of the compliance with the laws;	Director; WHRC; Focal Commissioner
CHILD RIGHTS CENTER	On the situation and issues affecting girl children;	Director; WHRC; Focal Commissioner

Gender Ombud Advisories emanating from Central Office shall be recommended by the director of the originating unit for approval by the Commission en banc, copy furnished WHRC, COMSEC, GovLink and the Focal Commissioner of the originating unit and the Focal Commissioner for women.. The Focal Commissioner for women, at Commission en Banc level shall act as rapporteur for all these recommended issuances.

Regional Gender Ombud Advisories

Regional Gender Ombud Advisories issued by the Regional Offices in the performance of their functions as Gender Ombud within thier areas of jurisdiction shall consist of, but not limited to the following: (1) advisories addressing immediate/urgent concerns affecting women's human rights/ rights of persons with diverse SOGIE within their areas of responsibility; (2) advisories pertaining to cases investigated/ resolved; (3) advisories arising from the monitoring for purposes of the Regional Women's Human Rights Profile.

Regional Gender Ombud Advisories shall only be issued upon the approval of the Regional Director but may originate from the Investigation, Legal or Promotion units of the Region. The WHRC, as the office primarily responsible for the formulation of policies, development and implementation of programs related to gender equality and women's human rights shall set the required standards and

format of the Gender Ombud Advisories. All Gender Ombud advisories issued by the Region shall be subject to the review of the WHRC, with input from the Field Operations Office (FOO) and the Government and Linkages Office (GovLink).

Gender Ombud Advisories

As Gender Ombud, the Commission shall issue the following Gender Ombud Advisories

- Advisories on Women's Human Rights Norms and Standards and the human rights norms and standards on persons with diverse sexual orientation and gender identity;*

NHRIs can provide a central role in building a culture of human rights, while reinforcing the rule of law⁸². The Commission as the country's NHRI and as Gender Ombud can issue advisories setting human rights standards and norms on the basis of CEDAW, its corresponding General Recommendations and Committee decisions as well as other human rights treaties the Philippines has been signatory to. Advisories on women's human rights and the rights of persons with diverse SOGIE can also be drawn from latest developments on international human rights including issuances of the Human Rights Council, human rights jurisprudence and reports from the different thematic special rapporteurs.

⁸² UNDP-OHCHR Toolkit for collaboration with National Human Rights Institutions <http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf>

2. Advisories pertaining to pending legislations and legislative agenda affecting women and persons with diverse sexual orientation gender identity;

Part of the functions and mandates of NHRI under the Paris principles is to advise government on human rights norms and standards, this includes providing guidance in order to incorporate human rights standards to pending or proposed legislations. It also includes advocating for legislations which are human rights compliant and pushing for the repeal and amendment of those falling below international standards. As Gender Ombud, the Commission will issue advisories on pending and proposed legislations affecting women and persons with diverse SOGIE. It will likewise push for the passage of human rights based legislations/ agenda on human rights protection and promotion including those specifically for women and persons with diverse SOGIE.

In the regional level, CHR regional offices may likewise issue advisories with respect to local legislations, resolutions and other issuances.

3. Advisories pertaining to the Compliance with MCW Baseline data

The MCW requires consolidation of baseline data culled from the baseline reports of National Government Agencies (NGAs) and instrumentalities and Local Government Units (LGUs) on women's human rights based on MCW provisions. With the PCW efforts underway for the creation of the baseline data, the Commission, as Gender Ombud shall encourage submissions to PCW from government agencies and instrumentalities, calling into account national government agencies, instrumentalities, local government units failing to provide inputs on the national baseline data.

4. Advisories pertaining to the compliance, implementation and monitoring of the women empowerment provisions of the MCW. This consists of (a) Rights and Empowerment Provisions and (b) Rights of Marginalized women.

On the basis of the monitoring reports from PCW identifying gaps, non-compliance and

violations of MCW provisions on women's rights and empowerment, the Commission shall issue the corresponding advisories calling the concerned government agency, instrumentality and the general public's attention towards compliance with MCW provisions.

As the reports from National Agencies, instrumentalities are submitted to the PCW by January of each year, the Commission, as much as possible, shall endeavour to issue the corresponding advisory the first quarter of the year.

5. Advisories pertaining to the compliance, implementation and monitoring of the Institutional mechanism provisions of the MCW.

On the basis of the monitoring reports from PCW identifying gaps, non-compliance and violations of MCW provisions pertaining to Institutional Mechanisms particularly on the following (a) conduct of gender audit; (b) GAD Planning and Budgeting; (c) Establishment of Gender Focal Point System (GFPS); (d) Inclusion of gender perspectives in development plans; (e) Development/ enhancement of GAD Codes; (f) Deployment of qualified and trained GFPO in an embassy or consulate, the Commission shall issue the corresponding advisories. The advisories may comment compliance and best practices and call attention to the gaps, non-compliance, and violations, thereafter setting forth recommendations and call for compliance.

6. Advisories arising from the Regional Women's Human Rights Profile

Regional Offices of the Commission, within their areas of responsibilities may issue Gender Ombud Advisories pertaining to the Regional Women's Human Rights Profile. The Gender Ombud Advisories shall focus on the gaps, non-compliance, violations of MCW provisions as shown in the results of the monitoring conducted by the CHR Regional Offices within their areas of responsibilities.

Regional Advisories, in addition to focusing on the results of the regional monitoring and on calling for compliance

7. *Advisories arising from CHR investigated and resolved cases*

Advisories may also be issued by the Commission and its regional offices in relation to cases it has investigated and the resolutions it has issued pursuant to its function as Gender Ombud.

In the issuance of these advisories, however, rules on confidentiality as provided in the Investigation Protocols shall be followed.

8. *Advisories in relation to the State's obligation under International Human Rights Law*

Under the Constitution, among the Commission's mandate is the monitoring of the Philippine

Government's compliance with international treaty obligations on human rights. In relation to this, and in the performance of the Commission's role as Gender Ombud, the Commission shall issue Gender Ombud Advisories in relation to the State's compliance with CEDAW, its reporting thereon, and its responses to the Committee's concluding observations. The Commission shall likewise issue advisories on the State's action and responses in relation to the decided cases of the CEDAW Committee and on the recommendations therein. These cases, as of May of 2015 include *Karen Tayag Vertido vs. Republic of the Philippines*, *R.P.B vs. Republic of the Philippines* and the *Inquiry on Reproductive Health*.

CHAPTER XI:

Human Rights Promotion and Advocacy

The 1987 Philippine Constitution explicitly provides for the role of the Commission in the promotion of human rights. It explicitly provides that the Commission “establish a continuing program of research, education, and information to enhance respect for the primacy of human rights⁸³.” In-line also with human rights promotion is the role of the Commission to “recommend to the Congress effective measures to promote human rights” and to “request the assistance of any department, bureau, office, or agency in the performance of its functions.” Under the Magna Carta of Women, the Commission is likewise tasked with the role of advocating for protection and promotion of women’s human rights, section 40 of the MCW IRR specifically provides that “the CHR as the Gender and Development Ombud shall advocate for the protection and promotion of women’s human rights and strengthen its human rights education program. “By the virtue of its Constitutional mandate, and as Gender Ombud, the Commission extends this advocacy to the promotion and protection of the rights of persons with diverse SOGIE.

Gender and Development (GAD) Promotion and Advocacy

In light of the abovementioned mandates, the Commission shall establish a continuing program of research, education and information to enhance respect for the primacy of human rights of women and persons with diverse SOGIE. It shall also recommend to Congress any effective measures to promote women’s human rights as well as the rights of persons with SOGIEs. The Commission may request the assistance of any department, bureau, office, or agency in the performance of these functions.

⁸³ Art. XIII, Sec. 18. par. 5.

As the country’s Gender Ombud, the Commission envisions a Philippine society that deeply values the dignity of every woman and every person including those with diverse SOGIEs. The Human Rights Education Program Plan for Women and persons with diverse SOGIE therefore, envisions to lay the groundwork for the continuous improvement of their human rights situation in the country and in raising the Philippine Human Rights standards by promoting their rights through a continuing program of education, training, and research.

Thus, the goal of promotion and advocacy in relation to gender and development is to primarily develop an awareness of the meaning, content, and value of human rights of women and people of diverse SOGIEs; how their Human Rights are violated; how these violations may be prevented or redressed; and how their Human Rights might be enhanced. Derived from past good practices by the Commission, several strategies were identified to realize this goal:

- (1) establish a nationwide network of deputized educators and trainors who can be tapped to assist in capacitating individuals and organizations on GAD; This includes partnership with National Government Agencies, Local Government Units, and Civil Society Organizations in the development of training modules and in the conduct of promotion and advocacy work in relation to the MCW and the role of the Commission as Gender Ombud;
- (2) develop and disseminate learning aids and materials towards the achievement of respect for human rights of women and persons with diverse SOGIEs and increased participation in spreading the value of those rights, and

(3) systematic collection and storage of information relevant to the protection and promotion of human rights of women and persons with diverse SOGIES in the Philippines and make them accessible to the public.

Sectoral Targets Interventions

RA 9710, section 4(d) provides a list of marginalized groups that can be capacitated in gender and development in partnership with the Philippine Commission on Women (PCW):

- A. Small Farmers and Rural Workers
- B. Fisherfolk
- C. Urban Poor
- D. Workers in the Formal Economy
- E. Workers in the Informal Economy
- F. Migrant Workers
- G. Indigenous Peoples
- H. Moro
- I. Children
- J. Senior Citizens
- K. Persons with Disabilities
- L. Solo Parents
- M. Internally Displaced People Affected by Disasters, Calamities and other Crisis Situations
- N. Person in Especially Difficult Circumstances
- O. Others

While the MCW specifically identify the above marginalized groups, the Commission recognizes the need to include emerging human rights issues affecting other groups not explicitly mentioned, this include that of persons living with HIV, persons with diverse SOGIES, and others that may surface in the course of the Commission's work as Gender Ombud. To keep with the changing times, and to be constantly in pace with recent human rights development, the Commission's promotion and advocacy program shall constantly incorporate these issues in the Human Rights Education Program Plan for Women and persons with diverse SOGIE

Addressing the gender and development needs of the abovementioned sectors and others subsequently

identified, the human rights promotion and advocacy program will coordinate with and reach out to the following state actors:

- A. National Government Agencies
- B. Government-Owned and Controlled Corporations
- C. Local Government Units
- D. Security Sector
- E. State Universities and Colleges
- F. Philippine Embassies and Consulates

Given that they are also stakeholders in gender and development, the human rights promotion and advocacy program will also reach out to the following non-state actors:

- A. Non-Government Organizations
- B. Private Corporations (including private media entities)
- C. Private Universities and Colleges

Areas for intervention in existing established systems of the abovementioned sectors are as follows:

- A. The formal and non-formal education/training Programs of the Philippine Military Academy, the National Defense College of the Philippines (NDCP), the Philippines National Police (PNP), Training Commands, the four major service training centers under the Armed Forces of the Philippines (AFP), and the Department of National Defense (DND).
- B. The Hiring, Merit and Promotions System of the PNP, AFP, and DND.
- C. The Human Resource Development Programs (or Staff Development Programs) of the Government Agencies.
- D. The Hiring, Merit and Promotions Systems enforced by the Civil Service Commission.
- E. The Formal Non-Formal Education Curriculum of the Department of Education.
- F. The Pre-Departure Orientation Seminars and Passport requirements of the Department of Foreign Affairs for Overseas Contract

- Worker; the overseas employment and administration policies of the Department of Labor and Employment; the licensing policies of the Department of Labor and Employment; the licensing policies/ requirements of both the DOLE and the Department of Trade and Industry for employers and contract workers.
- G. The Licensure Exams and Policies of the Professional Regulations Commission.
 - H. The Professional, Civil and Advocacy Programs of the Professional Organizations.
 - I. Outreach/Immersion Programs of the NGOs.
 - J. Public Service Programs of the Print and Broadcast Media.
 - K. The inter-government programs/agreements and protocols of the members of the Association of Southeast Asian Nations.
 - L. The Peace Panel of government; and
 - M. The grassroots penetration system of the NGOs.
 - N. The Corporate Social Responsibility Programs of Businesses
 - O. Cooperatives
 - P. Unions or Employees Associations of Businesses

Role of CHR's Offices and Support Mechanisms

The GAD Promotion and Advocacy at the national and local level will be performed by the following offices and support mechanism of the CHR: (a) Human Rights Education and Research Office, (b) GAD Regional Focal Officers, and (c) Local Human Rights Action Officers (LHRAOs).

Human Rights Education and Research Office (HERO)

HERO is tasked to perform the following duties and responsibilities:

- A. In accordance with RA 10398, coordinate with

the PCW in providing annual and mid-term review on the following:

- a. state of awareness of stakeholders on human rights of women and people of diverse SOGIES
- b. competencies and competency requirements of duty holders to protect and promote human rights of women and people of diverse SOGIES in relation to international human rights standards,
- c. quality of women's and people of diverse SOGIES human rights education and awareness-building efforts of institutions
- d. consolidation of accomplishment reports of regional offices on GAD Promotion and Advocacy
- B. Provides the following women and people of diverse SOGIES' human rights education tools and framework
 - a. human rights education plans, programs, policies, strategies and action plans
 - b. human rights education IEC materials
 - c. courses, course curricula and designs of delivery system
 - d. testing methodologies as well as assessment of learning outcomes
 - e. systematic collection and storage of information relevant to the protection and promotion of human rights in the Philippines and make them accessible to the public
- C. Coordinate with the Philippine Commission on Women (PCW) and other international, national, local and international non-government organizations and individuals engaged in formal and non-formal education for the integration of women and people of diverse SOGIES' human rights in their curricula and teaching programs and training educators, among others.
- D. Coordinates, monitors, evaluates and reports in the actual implementation of women and people of

diverse SOGIES' human rights education programs/projects.

E. Provides technical assistance to the regional offices of education and training functions

F. Conduct promotional events in relation to human rights of women and people of diverse SOGIES at the national level

Regional GAD Focal Persons

In accordance with the Section 40(B) of the IRR of RA 9710, the regional focal persons are implementers in their regions. As operating units for GAD Promotion and Advocacy, they are tasked to perform the following duties and responsibilities:

A. Operational planning for their respective regions with regards to education and research on women and people of diverse SOGIES' human rights

B. Implement education and training at their respective regions and monitor, assess and report for learning outcomes

C. Disseminate IEC materials on GAD Promotion and Advocacy produced by the Central Office and when needed, develop their own thereof

D. Consolidate accomplishment reports of local human rights action officers on GAD Promotion and Advocacy

E. Conduct promotional events in relation to human rights of women and people of diverse SOGIES

F. With guidance from the Central Office, undertake the following assessments in their respective regions:

a. annual and mid-term review of the state of women and people of diverse SOGIES' human rights awareness

b. competencies and competency requirements of duty holders in promoting and protecting women and people of diverse SOGIES' human rights

c. impact of women and people of diverse

SOGIES' human rights education and awareness-building conducted by duty holders

G. Coordinate with local government and non-government entities involved in formal or non-formal education in the region for inclusion of women and people of diverse SOGIES' human rights in their curricula and teaching program. This also covers the training of educators at all levels of education

Local Human Rights Action Officers (LHRAOs)

The HRAOs are the focal person of the CHR at the provincial, city, municipal and barangay level. They hail from the community where they perform the following functions

a. Assist victims of human rights violations such as gender-based violence and discrimination in accessing necessary remedies and services

b. Assist the local government units in developing their human rights-based plan in addressing human rights violations such as gender-based violence and discrimination, including support services, capacity-building and referral system

c. Conduct information and education campaigns on human rights including the rights of women and people of diverse SOGIES

d. Record and maintain a database on the number of human rights violations including gender-based violence and discriminations and submit quarterly reports. All reports of the HRAOs in the barangay will be synthesized by the HRAOs in the municipal and city level for submission to the provincial HRAOs. The HRAOs in the provinces will then send their report to the CHR regional offices. For big cities in National Capital Region that has large number of barangays like Manila, Quezon City and Caloocan, they will have their district HRAOs that will synthesize the reports of the barangay HRAOs for submission to the city HRAO.

e. Coordinate with government, non-government entities and other service providers in providing necessary services to clients

- f. Lead advocacies on the intensive and extensive implementation of human-rights based policies to reduce human rights violations including gender-based violence and discrimination in the community

Financing the GAD Promotion and Advocacy Program

The GAD Promotion and Advocacy Program will

be financed in different ways. Some will be charged to the GAD budget of the CHR. The Central Office will encourage its partners from national government to tap the GAD fund of their agencies for their own GAD Promotion and Advocacy Program. Regional Offices are tasked to encourage the same to local government units. Others will be made on a project basis which will be provided for by ad hoc financing and will not be undertaken unless funds are available.

ANNEX 1:

Areas of Responsibility

CHR Regional Offices' Territorial Responsibilities

The CHR has fifteen (15) Regional Offices and five (5) sub-offices, with areas of responsibilities as follows:

Region	Regional Office Location	Areas of Responsibility
NCR	ATTY. GILBERT D. BOISER <i>Regional Director</i> SAAC Building, Commonwealth Avenue, UP Complex, Diliman, Quezon City chr_ncr@yahoo.com tel: 928-7098; telefax: 925-3881	Caloocan City*; Las Pinas City*; Makati City*; Malabon City*; Mandaluyong City*; Manila City*; Marikina City*; Muntinlupa City*; Navotas City*; Parañaque City*; Pasay City*; Pasig City*; Pateros; Quezon City*; San Juan City*; Taguig City*; Valenzuela City*; the entire Province of Rizal and all cities/ municipalities therein; and the Province of Cavite and the municipalities/cities therein.
CAR	ATTY. ROMEL P. DAGUIMOL <i>Officer-In-Charge</i> 3rd Floor, SSS Baguio Branch Bldg. Harrison Road 2600 Baguio City chrp_car@yahoo.com.ph tel: (074) 619-9089; telefax: (074) 619-9088	Abra ^[7] , Apayao ^[8] , Benguet, Ifugao, Kalinga ^[9] , Mountain Province, Baguio City*, and Tabuk City.
I	ATTY. HAROLD D. KUB-ARON <i>Regional Director</i> 2nd Flr. Francisco Ting Bldg. National Highway Pagdalagan Norte San Fernando City, La Union chr1sflu@yahoo.com tel: (072) 607-8706; telefax: (072) 888-2450	Province of Ilocos Norte, Laoag City, Batac City; Province of Ilocos Sur, Vigan City, Candon City; Province of La Union, San Fernando City; Province of Pangasinan, San Carlos City, Urdaneta City, Alaminos City, Dagupan City*.
II	ATTY. CECILIA M. LAZARO <i>Officer-In-Charge</i> No. 05 Pabbollo St., Regional Government Center, Carig Sur Tuguegarao City, Cagayan chrregii@gmail.com tel: (078) 396-0622; (078) 304-2047; (078) 846-4863	Province of Batanes; Cagayan Valley; Tuguegarao City; Province of Isabela, Santiago City*; Province Nueva Vizcaya; and Quirino Province.

[7] For purposes of QRT, Region I will send the QRT team; regular investigation, however, falls with CAR

[8] For purposes of QRT, Region II will send the QRT team; regular investigation, however, falls with CAR

[9] For purposes of QRT, Region II will send the QRT team; regular investigation, however, falls with Region

Region	Regional Office Location	Areas of Responsibility
III	ATTY. JASMIN N. REGINO <i>Regional Director</i> 3rd Flr. Kehyeng Building McArthur Hi-way, Dolores 2000 San Fernando, Pampanga chrreg3@yahoo.com tel: (045) 961-4830; telefax: (045) 961-8577	Province of Aurora; Province of Bataan, Balanga City; Province of Bulacan, Malolos City, Meycauayan City, San Jose del Monte City ^[10] ; Province of Nueva Ecija, Cabanatuan City, Gapan City, Palayan City, San Jose City, Munoz City; Province of Pampanga, Angeles City*, San Fernando City; Province of Tarlac, Tarlac City; and Province of Zambales, Olongapo City*.
IV	ATTY. JACQUELINE C. DE GUIA-DELA PEÑA <i>Officer-In-Charge</i> 2nd Flr. Kian Seng Building A. Flores Street 4000 San Pablo City chr4_sanpablo@yahoo.com Tel: (049) 562-5415	Province of Batangas, Batangas City Lipa City, Tanauan City; Province of Laguna, Calamba City, San Pablo City, Sta. Rosa City; Province of Quezon, Lucena City, Tayabas City; Province of Marinduque; Province of Occidental Mindoro; Province of Oriental Mindoro, Calapan City; Province of Palawan, Puerto Princesa City; Province of Romblon.
V	ATTY. ARLENE Q. ALANGCO <i>Regional Director</i> ANST Building, Washington Drive Legazpi City chr5_legazpi@yahoo.com tel: (052) 480-0521	Province of Albay, Legaspi City, Tabaco City, Ligao City; Province of Camarines Norte; Province of Camarines Sur, Naga City*, Iriga City; Province of Catanduanes; Province of Masbate, Masbate City; and Province of Sorsogon, Sorsogon City.
sub-office	ATTY. DONNAH FEDERICO-MADRONA <i>Officer-In-Charge</i> PICPA Bldg., City Hall Complex Magsaysay Avenue 4400 Naga City (054) 472-4862	
VI	ATTY. DAVID M. BERMUDO <i>Regional Director</i> Iloilo Sports Complex 5000 Iloilo City chr.region6@gmail.com chr.region6@yahoo.com tel: (033) 392-2282	Province of Aklan; Province of Antique; Province of Capiz, Roxas City; Province of Guimaras; Province of Iloilo, Iloilo City*, Passi City; Province of Negros Occidental, Bacolod City*, Bago City, Cadiz City, Escalante City, Himamaylan City, Kabankalan City, La Carlota City, Sagay City, San Carlos City, Silay City, Sipalay City, Talisay City, Victorias City
sub-office	MR. ROMEO A. BALDEVARONA NOBC Bldg., Gatuslao Street 6500 Bacolod City (034) 435-3140	

[10] For purposes of QRT, NCR will send the QRT team; regular investigation, however, falls with Region III.

Region	Regional Office Location	Areas of Responsibility
VII	ATTY. ARVIN A. ODRON <i>Officer-In-Charge</i> 132 F. Rafanan Bldg., Don Mariano Cui St., Capitol Site 6000 Cebu City chr7cebu@yahoo.com tel: (032) 253-5403; telefax: (032) 254-6921	Province of Bohol, Tagbilaran City; Province of Cebu, Bogo City, Carcar City, Cebu City*, Danao City, Lapu-lapu City*, Mandaue City*, Naga City, Talisay City, Toledo City; Negros Oriental, Bais City, Canlaon City, Dumaguete City; and Province of Siquijor.
sub-office	MR. ALFONSO BAYOCOT, JR. Door I-D, Sarabia Co Torralba Bldg. II cor. Espuelas and Doria Sts. Tagbilaran City 6300 tel: (038) 501-8461	
desk office	ATTY. GAZZELENNE CORSAME-FUENTES DSWD Provincial Office Capitol Drive Dumaguete City Tel: (035) 422-0568	
VIII	ATTY. PAQUITO M. NACINO <i>Regional Director</i> cor. Maharlika and Apitong Sts. Barangay 92 6500 Tacloban City chrtac8@yahoo.com Telefax: (053) 832-0958	Biliran Province; Province of Eastern Samar, Borongan City; Province of Western Samar, Calbayog City, Catbalogan City; Province of Northern Samar; Province of Leyte, Tacloban City, Ormoc City*; Province of Southern Leyte, Maasin City.
sub-Office	ATTY. NEDDEJOHN L. MABUTE Calbayog City Terminal Calbayog City, Western Samar tel: (055) 209-3726	
IX	ATTY. FREDERICK IAN S. CAPIN <i>Officer-In-Charge</i> JMS Bldg., Nuñez Ext. 7000 Zamboanga City chrreg9@gmail.com; chr_09@yahoo.com tel: (062) 993-0763; telefax: (062) 993-2869	Province of Zamboanga del Norte, Dapitan City, Dipolog City; Province of Zamboanga del Sur, Pagadian City, Zamboanga City*; Province of Zamboanga Sibugay.
sub-office	MS. MARGO T. BURLAS Gatas District, Pagadian City Zamboanga del Sur tel: (062) 215-2856	

Region	Regional Office Location	Areas of Responsibility
X	ATTY. JEANNE IVY F. ABRINA <i>Regional Director</i> 2nd Flr. Ong's Building, cor. Yacapin Ext. and Pres. Roxas St. 9000 Cagayan de Oro City chrregx@gmail.com; chr.region10@yahoo.com telefax: (0882) 272-4525; tel: (088) 851-1519	Province of Misamis Oriental, Gingoog City, and El Salvador City; Province of Bukidnon, Malaybalay City and Valencia City; Province of Camiguin; Province of Lanao del Norte, Iligan City*; Province of Misamis Occidental, Ozamis City, Oroquieta City, and Tangub City; and Cagayan de Oro City*; Province of Lanao del Sur
sub-office	MR. FAROUK K. BATARA 2nd Floor. BH Building Sabayle St., Iligan City chrxiiligan@yahoo.com tel: (063) 221-5627	
XI	ATTY. IRENE JOY TALA-MONTERO <i>Officer-In-Charge</i> Trinity II Building, Quimpo Boulevard 8000 Davao City chrdavao@yahoo.com tel: (082) 298-3479; telefax: (082) 298-2233	Province of Davao del Norte, Panabo City, Tagum City, Island Garden and City of Samal; Province of Davao Oriental, Mati City; Province of Davao del Sur, Digos City; and Davao City*
XII	ATTY. ERLAN P. DELUVIO <i>Officer-In-Charge</i> 2nd flr. Fatan Bldg. Pendatun Ave. Cotabato City chr12_cotcity@yahoo.com tel: (064) 482-0384; (064) 421-1286	Cotabato City*; Province of South Cotabato, Koronadal City, General Santos City; North Cotabato, Kidapawan City; Sarangani Province; Province of Maguindanao; Province of Sultan Kudarat, Tacurong City.
CARAGA	ATTY. MARYLIN M. PINTOR <i>Regional Director</i> 2nd Floor, CAP Building J.C. Aquino cor J. Rosales Avenue, 8600 Butuan City chr_caraga@yahoo.com tel: (085) 815-2247; telefax: (085) 342-5280	Province of Agusan del Norte, Butuan City*, Cabadbaran City; Province of Agusan del Sur, Bayugan City; Province of Surigao del Norte, Surigao City; Province of Surigao del Sur, Bislig City, Tandag City; Dinagat Island Province
RHRC ^[11] (Cases filed with the CHR but fall under the jurisdiction of the Regional Human Rights Commission of the ARMM shall be referred to the RHRC)	ALIKHAN O. ABUAT <i>OIC-Chairperson / Commissioner</i> 1/F Japan ARMM Friendship Hall and Training Center, ORG Compound, Cotabato City tel: (064) 552-0436	Province of Maguindanao

[11] Regional Human Rights Commission

Region	Regional Office Location	Areas of Responsibility
sub-office	EDY LYN S. SANTIAGO Zamboanga City edy.lyn.santiago@gmail.com cp no.: 09275102046	Zamboanga City; Lamitan City, Basilan; Jolo, Sulu and Bongao, Tawi-Tawi
	SITTIE RAIFAH M. PAMALOY-HASSAN RHRC Lanao Del Sur Provincial Office sittieraifah.hassan.rhrc@gmail.com	Marawi City (province of Lanao)

* Highly-urbanized / Independent-component city

ANNEX 2:

Rights and Empowerment

Under the Magna Carta of Women (MCW), the rights in the Constitution and those rights recognized under international instruments duly signed and ratified by the Philippines in consonance with Philippine law, are rights of women under the act to be enjoyed without discrimination (sec. 8)

As a document constituting fundamental guarantee of rights and privileges of women, the Magna Carta provides an entire chapter on rights and empowerment of women with a specific section for the rights and empowerment of marginalized women. It is the first national law to define the human rights of women and the various acts of discrimination against them as enshrined under CEDAW⁸⁴. The rights and empowerment of women as enumerated in the Magna Carta and in relation to existing laws are as follows:

Protection from Violence (sec. 9)

The State shall ensure that women shall be protected from all forms of violence as provided for in existing laws and that agencies of the government shall give priority to the defense and protection of women against gender-based offenses, helping women attain justice and healing⁸⁵. To ensure these, the State shall adopt the following measures: (a) incremental increase in the recruitment and training of women in the police force, forensics and medico-legal, legal services, and social work services availed of by women who are victims of gender-related offenses; (b) Mandatory training on human rights and gender sensitivity for all government personnel involved in the protection and defense of women against gender-based violence; (c) the establishment by all local government units a

Violence Against Women's Desk in every barangay to ensure that violence against women cases are fully addressed in a gender-responsive manner.

Women's protection from violence is also penalized under previously enacted laws which include: The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act (RA 7610), the Anti-Sexual Harassment Act of 1995 (RA7877), the Anti-Rape Law of 1997 (RA), the Rape Victim Assistance and Protection Act of 1998 (RA 8505), the Anti-Violence Against Women and Their Children Act of 2004 (RA 9262), the Anti-Photo and Video Voyeurism Act of 2009 (RA 9995), the Migrant Workers Act of 1995 (RA 8045 as amended by RA 10022 in 2010), and the Expanded Anti-Trafficking in Persons Act of 2012 (RA 10364).

In relation to women's protection from violence, Title VII of the Philippine National Police Reform and Reorganization Act (RA 8551) sets the framework for PNP assistance to women victims of violence. Section 57 of the law mandates the creation of and provides for the function of PNP women's desks as follows:

"The PNP shall establish women's desks in all police stations throughout the country to administer and attend to cases involving crimes against chastity sexual harassment, abuses committed against women and children and other similar offenses:

Provided, That municipalities and cities presently without policewomen will have two (2) years upon the effectiveness of this Act within which to comply with the requirement of this provision."

Section 58 of the law requires the prioritization of women for recruitment and training who shall serve in the women's desk. It reserves ten percent (10 %) of

84 Sen. Pia Cayetano, http://www.senate.gov.ph/press_release/2009/0815_cayetano1.asp

85 Sec. 9, Magna Carta of Women

PNP's annual recruitment for women. It also provides under section 59 the formulation of gender sensitivity training. These provisions have been further strengthened under the Magna Carta of Women in its provisions on protection against violence.

The MCW requires that within the next five years from its passage in 2009, there shall be an “incremental increase in the recruitment and training of women in the police force, forensics and medico-legal, legal services, and social work services availed of by women who are victims of gender-related offenses until fifty percent (50%) of the personnel thereof shall be women.”⁸⁶ All government personnel involved in the defense of women are also required to undergo human rights and gender sensitivity training.⁸⁷ The MCW also reiterates the directive under the Anti-Violence Against Women and Children (RA 9262) on the creation of Barangay VAW Desks.⁸⁸

Also in relation to protection against violence, the **Anti-Violence Against Women and their Children Act of 2004 (RA 9262)** specifies the duties of the PNP in cases of domestic violence, whether in a marriage or in an intimate relationship. It provides:

“Barangay officials and law enforcers shall have the following duties:

- a. respond immediately to a call for help or request for assistance or protection of the victim by entering the dwelling if necessary whether or not protection order has been issued, and ensure the safety of the victim/s;
- b. confiscate any deadly weapon in the possession of the perpetrator or within plain view;
- c. transport or escort the victim/s to a safe place of their choice or to a clinic or hospital;
- d. assist the victim in removing personal belongings from the house;
- e. assist barangay officials and other government officers and employees who respond to a call for help;

⁸⁶ Id.

⁸⁷ Id.

⁸⁸ Sec. 12.

f. ensure the enforcement of the Protection Orders issued by the Punong Barangay or the courts;

g. arrest the suspected perpetrator even without a warrant when any of the acts of violence defined by this Act is occurring, or when he/she has personal knowledge that any act of abuse has just been committed, and there is imminent danger to the life or limb of the victim as defined in this Act; and

e. immediately report the call for assessment or assistance of the DSWD, Social Welfare Department of LGUs or accredited non-government organizations (NGOs).”

Any barangay official or law enforcer who fails to report the incident shall be liable for a fine not exceeding P10,000, or criminal, civil or administrative liability whenever applicable.⁸⁹

Section 48, Rule VIII of the IRR for RA 9262 underscores the role of the PNP-Women and Children Protection Desks (PNPWCPD):

“For the purposes of investigation of VAWC cases, the PNP-WCPD shall have the following duties and functions:

a. Upon receipt of the complaint, the WCPD officer shall conduct appropriate investigation which includes, but is not limited to, taking the formal statement of the victim-survivor and collecting other evidence necessary for the filing of the case under the Act;

b. Immediately after taking the essential elements of information during the course of investigation, the WCPD officer shall refer the victim-survivor to the nearest PNP Crime Laboratory and/or hospital or any medical facilities for appropriate medico-legal examination. It shall be the WCPD officer’s duty to ensure that as far as possible, the examining physician must be of the same gender as the victim-survivor, especially in sexual violence cases;

c. Except in the case of a child who is a victim-survivor of the Act, by which other existing laws require immediate presence of the unoffending parent

⁸⁹ Sec. 30, RA 9262.

or guardian and social worker, only persons expressly authorized by the victim-survivor shall be allowed by the WCPD officer inside a room where police investigation as well as medical/physical examination are being conducted in private;

d. Ensure the confidentiality of identity of the victim-survivor and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP;

After the conduct of police investigation, the WCPD officer shall refer the victim-survivor to the social worker of the LGU, any available DSWD shelter, NGOs and other service providers for psychological intervention and other rehabilitation programs;

f. The WCPD officer shall forward the investigation report together with the relevant evidence, including the formal statements of witnesses and result of medico-legal examination, to the prosecutor for filing of appropriate criminal action under the Act;

g. If victim-survivor is found to have manifestations of the Battered Woman Syndrome which is validated by past police records and testimonies from witnesses in interest, the WCPD officer shall inform the punong barangay, the local social worker, or the concerned NGOs, local professional or civic groups in the area for appropriate psychiatric and psychological evaluation which may form part of the evidence to be presented in court;

h. Assist in the application and enforcement of the provisions of the protection order as may be issued by the barangay or the court;

i. Respond, with the assistance of other police personnel, barangay officials, and other parties in interest, to a call for emergency assistance to ensure immediate protection of the victim-survivor by entering the dwelling if necessary whether or not protection order has been issued;

j. In case where the perpetrator is armed or in

possession of deadly weapon in plain view, cause the confiscation thereof with the assistance of other police personnel;

k. Effect the arrest of the perpetrator by virtue of a warrant issued by the court pursuant to existing laws. In the event that any crime under the Act has been committed, is being committed or about to be committed, or that any police officer has personal knowledge of the facts indicating the commission of such crime, it shall be his or her duty to arrest the perpetrator even without the strength of a warrant, provided the offender shall be proceeded in accordance with Section 5, Rule 113 of the Rules of Court;

l. Except when the victim-survivor is deemed more secure to stay in their place of residence, in which case the perpetrator has been removed by virtue of protection order issued by the barangay or the court, the WCPD officer or any designated police officer shall provide assistance to help facilitate the transfer of the victim-survivor to a safe place of her own choice, including the removal of some of the victim-survivor's personal belongings;

m. Monitor and follow up any case in violation of the Act that has been filed in court. In this regard, the WCPD officer must maintain a periodic assessment report of all cases reported to the police in violation of the Act; and

n. Participate in multidisciplinary mechanisms to help address the protection needs of the victim survivor of VAWC."

Protection and Security in situations of Armed Conflict (Sec. 9b)

Women shall have the right to protection and security in situations of armed conflict and militarization. Towards this end, they shall be protected from all forms of gender-based violence, particularly rape and other forms of sexual abuse, and all forms of violence in situations of armed conflict. The State shall observe international standards for the protection of civilian population in circumstances of emergency and armed conflict. *It shall not force women, especially indigenous people, to abandon their*

*lands, territories, and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.*⁹⁰

The “Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity” (RA 9851) also declares as a State policy full respect for the rights of indigenous cultural communities and other vulnerable groups, such as women and children.⁹¹ It penalizes⁹² war crimes, particularly “ordering the displacements of the civilian population for reasons related to the conflict,” as well as the “transferring, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.”⁹³

Rights to Protection and Security in times of disasters, calamities and other critical situations (sec. 10);

Women have the right to protection and security in times of disasters, calamities, and other crisis situations especially in all phases of relief, recovery, rehabilitation, and construction efforts. The State shall provide for immediate humanitarian assistance, allocation of resources, and early resettlement, if necessary. *It shall also address the particular needs of women from a gender perspective to ensure their full protection from sexual exploitation and other sexual and gender-based violence committed against them.* Responses to disaster situations shall include the provision of services, such as psychosocial support, livelihood support, education, psychological health, and comprehensive health services, including protection during pregnancy.⁹⁴

The “Philippine Disaster Risk Reduction and Management Act of 2010” (RA 10121) provides that the State should “ensure that disaster risk reduction

and climate change measures are gender responsive, sensitive to indigenous knowledge systems, and respectful of human rights.”⁹⁵ It provides for the creation of the Local Disaster Risk Reduction Management Office (LDRRMO) tasked to, among others, respond to and manage the adverse effects of emergencies. The LDRRMO must also ensure that there is an efficient mechanism for immediate delivery of food, shelter and medical supplies for women and children and endeavor to create a special place where internally-displaced mothers can find help with breastfeeding, feed and care for their babies and give support to each other.⁹⁶

Failure of concerned government officials to comply with the above provisions of RA 10121 constitute dereliction of duty. If their negligence causes destruction and loss of lives, they can be prosecuted and meted with a penalty of imprisonment for a period not less than six (6) months and one (1) day to twelve (12) years, and/or fined.⁹⁷

The Climate Change Act of 2009 (RA 9729, as amended by RA 10174), recognizes the vulnerability of the Philippine archipelago and its local communities, particularly the poor, women, and children, to potential dangerous consequences of climate change. Section 13 thereof provides for the formulation of the National Climate Change Action Plan which shall include as a component the identification of differential impacts of climate change on men, women and children. As amended by RA 10174, the law now requires gender mainstreaming as one of the components of the National Strategic Framework and Program on Climate Change. The laws also identified the different criteria in the prioritization in the use of the People’s Survival Fund, one of which is “responsiveness to gender-differentiated vulnerabilities.”⁹⁸

Rights to participation and representation (sec. 11/25)

Section 14 of the MCW requires the state to

⁹⁰Sec. 9(b), Magna Carta of Women. Emphasis supplied.

⁹¹ Sec. 2, RA 9851.

⁹²Sec. 7, id.

⁹³ Sec. 4(c)(16)-(17), id.

⁹⁴Sec. 10, Magna Carta of Women.

⁹⁵ Sec. 2(j), RA 10121.

⁹⁶ Sec. 12(c)(16), id.

⁹⁷ Secs. 19-20, id.

⁹⁸Sec. 24, RA 10174

undertake temporary special measures to accelerate the participation and equitable representation of women in all spheres of society. Towards this end the State is required to institute affirmative action mechanisms towards women's meaningful participation. This includes: (a) empowerment in the civil service; (b) ensuring participation of women in development councils; (c) in policy and decision making bodies; (d) international bodies; (e) political parties; and (e) private sector.

In Chapter V on Women in the Marginalized Sector, section 25 mandates that the State shall ensure the participation of grassroots women leaders in decision making bodies in their respective sectors including but not limited to the Presidential Agrarian Reform Council (PARC) and its local counterparts; community based resource management bodies or mechanisms on forest management and stewardship; the National Fisheries and Aquatic Resources Management Council (NFARMC) and its local counterparts; the National Commission on Indigenous People; the Presidential Commission for the Urban Poor; the National Anti-Poverty Commission; and, where applicable, the local housing boards. A further discussion is covered under the right to participation and representation of marginalized women.

Right to equal Access and Elimination of Discrimination in Education, Scholarships, and Training (sec. 13)

The State shall ensure that gender stereotypes and images in existing educational materials and curricula are adequately and appropriately revised. Gender-sensitive language shall be used at all times. Capacity building on gender and development (GAD), peace and human rights education for teachers, and all those involved in the education sector shall be pursued toward this end. Partnerships between and among players of the education sector, including the private sector, churches, and faith groups shall be encouraged.⁹⁹

This section specifically prohibits the "expulsion and non-readmission of women faculty due to

pregnancy outside of marriage"¹⁰⁰ and provides that "no school shall turn out or refuse admission to a female student solely on account of her being pregnant outside of marriage during her term in school."¹⁰¹

In relation to this provision, the IRR of the law mandates the DepEd, CHED and TESDA to monitor and ensure compliance of educational institutions to the following:

(1) that women faculty who become pregnant outside of marriage shall not be discriminated by reason thereof. They shall not be dismissed, separated from work, forced to go on leave, re-assigned or transferred. They shall have access to work already held with no diminution in rank, pay or status and shall be entitled to all benefits accorded by law and by the concerned learning institutions;

(2) No female student shall be expelled, dismissed, suspended, refused or denied of admission, or forced to take a leave of absence in any educational institution solely on grounds of pregnancy outside marriage during her school term. When needed, students who are pregnant shall be accorded with a special leave of absence from school upon advice of the attending physician, and be given an opportunity to make up for missed classes and examinations. The same leave benefits shall likewise be accorded to pregnant faculty members, and school personnel and staff;

(3) Pregnant students shall be assisted through available support services while in school, such as but not limited to counselling to ensure completion of their studies;

(4) Programs and policies to prevent VAW shall be developed, including institutional mechanisms for complaints in cases of rape, sexual harassment, and other forms of violence and discrimination against women, and provide assistance to students, faculty, or personnel who have been victims of VAW; and

(5) Coordination with PNP, DOJ, CHR, DSWD, and the LGU so that appropriate assistance are given to female faculty and students who are victims of rape,

⁹⁹ Sec. 13(a), Magna Carta of Women.

¹⁰⁰ Sec. 13(c), id.

¹⁰¹ Sec. 16, IRR of the Magna Carta of Women.

sexual harassment and other forms of violence against women and discrimination.

Right to equal Participation in Sports (sec. 14)

The State shall develop, establish, and strengthen programs for the participation of women and girl-children in competitive and non-competitive sports as means to achieve excellence, promote physical and social well-being, eliminate gender-role stereotyping, and provide equal access to the full benefits of development for all persons regardless of sex, gender, and other similar factors.¹⁰²

This section include measures to ensure that gender-based discrimination in competitive and non-competitive sports is removed so that women and girls can benefit from sports development.¹⁰³ It expressly prohibits the offer or award of a different sports prize for women with respect to amount or value, provided, that the said tournament, contest, race, match, event, or game is open to both sexes; Provided, further, That the sports event or tournament is divided into male or female divisions

Non-discrimination in employment in the field of military, police and other similar services

Women in the field of military, police and other similar services shall be accorded same promotional privileges and opportunities as their men counterpart, including pay increases, additional benefits, and awards, based on competency and quality of performance. The dignity of women in the military, police and other similar services shall always be respected, they shall be accorded with the same capacity as men to act in and enter into contracts, including marriage, as well as be entitled to leave benefits for women such as maternity leave, as provided for in existing laws.¹⁰⁴ Specific provisions include:

a) Abolishing or revising practices that restrict women from availing training open to men;

102 Sec. 14, Magna Carta of Women,

103 <http://census.gov.ph/content/q-magna-carta-women-republic-act-no-9710>

104 Sec. 18, Rule IV, IRR of the Magna Carta of Women,

The State shall pursue appropriate measures to eliminate discrimination of women in the military, police, and other similar services, including revising or abolishing policies and practices that restrict women from availing of both combat and noncombat training that are open to men, or from taking on functions other than administrative tasks, such as engaging in combat, security-related, or field operations.¹⁰⁵

b) According the same promotional privileges and opportunities

Women in the military shall be accorded the same promotional privileges and opportunities as men, including pay increases, additional remunerations and benefits, and awards based on their competency and quality of performance.¹⁰⁶

The IRR also provides that non-discrimination in appointments to any key position as well as designations to boards, tribunals, committees, or any decision-making body shall be assured and that women shall be represented in every committee or board where gender issues and concerns are articulated;

c) According the same right to employment as men on equal conditions;

To implement this, the IRR requires the DND, DILG, DOJ and LGUs to ensure that physical fitness tests administered on women uniformed personnel in the military, police and similar services, as requirements for entry, promotion or schooling shall be based on standards, set by the respective agencies taking into consideration women's physical and biological built. These shall be different from those required of their male counterparts. Moreover, physical fitness tests for women uniformed personnel in the military, police and similar services shall be conducted by female doctors, practitioners or tactical officers¹⁰⁷

d) According the same capacity as men to act in and enter into contracts, including marriage;

105 Sec. 15, Magna Carta of Women.

106 Id.

107 Sec. 18(A)(5), id.

The IRR elaborates on this section providing that women shall be allowed to contract marriage upon entry in military service or similar services, except for such positions where a marriage ban for a specific period of time is required for both men and women;¹⁰⁸ and

e) Entitlement to leave benefits such as maternity leave, as provided for by existing laws;

The leave benefits under this provision include but are not limited to maternity leaves, solo parent privileges and leaves due to gynecological disorders¹⁰⁹

Non-discriminatory and non-derogatory portrayal of women in media and film (sec. 16)

This section of the MCW focuses on the State's obligation to formulate policies and programs for the advancement of women in collaboration with government and non-government media related organizations. It tasks the State to raise the consciousness of the public in recognizing the dignity of women and the role and contribution of women in the family, community, and the society.

This section also provides that the State shall require all media organizations and corporations:

(a) to integrate into their human resource development components of regular training on gender equality and gender based discrimination;

(b) create and use gender equality guidelines and convene a gender equality committee that will promote gender mainstreaming as a framework and affirmative action as a strategy; and (c) monitor and evaluate the implementation of gender equality guidelines¹¹⁰

Right to Health (sec. 17)

The MCW provides for the provision of (a) comprehensive, culture sensitive, and gender responsive health services and programs covering all stages of a woman's life cycle and which addresses women's mortality and morbidity; and (b) the

provision of comprehensive Health Information and Education for women in all sectors with appropriate, timely, complete, and accurate information and education.¹¹¹

In the IRR, the State is mandated to develop and implement a comprehensive national strategy consisting of health programs, services and information for promoting women's right to health throughout their lifespan.¹¹² The strategy shall have as a major goal the reduction of women's health risks and shall aim to remove all barriers interfering with women's access to health services and information and protect women from the impact of cultural practices and norms that deny them of their full rights to health.¹¹³

In relation to the above provision, the "The Responsible Parenthood and Reproductive Health Act of 2012" (RA 10354) guarantees the promotion of gender equality, gender equity, women empowerment and dignity as a health and human rights concern and as a social responsibility. It further declared that the advancement and protection of women's human rights shall be central to the efforts of the State to address reproductive health care.¹¹⁴

Interestingly, the law gave very precise distinctions between gender equality and equity, thus:

Gender equality refers to the principle of equality between women and men and equal rights to enjoy conditions in realizing their full human potentials to contribute to, and benefit from, the results of development, with the State recognizing that all human beings are free and equal in dignity and rights. It entails equality in opportunities, in the allocation of resources or benefits, or in access to services in furtherance of the rights to health and sustainable human development among others, without discrimination.¹¹⁵

Gender equity refers to the policies, instruments,

¹¹¹ See sec. 17, id.

¹¹² Sec. 20, Rule IV, IRR of the Magna Carta of Women.

¹¹³ Id.

¹¹⁴ Sec. 2, RA 10354.

¹¹⁵ Sec. 4(g), id.

¹⁰⁸ Sec. 18(A)(6)(a), id.

¹⁰⁹ Sec. 18(A)(6)(b), id.

¹¹⁰ Sec. 16, third paragrpah, Magna Carta of Women.

programs and actions that address the disadvantaged position of women in society by providing preferential treatment and affirmative action. It entails fairness and justice in the distribution of benefits and responsibilities between women and men, and often requires women-specific projects and programs to end existing inequalities.

This concept recognizes that while reproductive health involves women and men, it is more critical for women's health.¹¹⁶

Right to Special Leave Benefits for Gynecological related Surgeries (sec. 18)

A woman employee having rendered continuous aggregate employment service of at least six (6) months for the last twelve (12) months shall be entitled to a special leave benefit of two (2) months with full pay based on her gross monthly compensation following surgery caused by gynecological disorders.¹¹⁷

In order to implement this provision, the IRR further provides that in the event that an extended leave is necessary, the female employee may use her earned leave credits and that this special leave shall be non-cumulative and nonconvertible.¹¹⁸ The IRR also mandates the DOLE and the CSC to issue corresponding guidelines and appropriate memorandum circulars within sixty (60) days from the adoption of the IRR.¹¹⁹

Pursuant to the foregoing, the CSC Issued Resolution 1000432 on 22 November 2010 "Guidelines on the Availment of Special Leave Benefits for Women under RA 9710." The resolution provides further guidelines on the availment of special leave benefits for qualified female public sector employees and to ensure uniform interpretation and implementation of the grant of the special leave benefits. Under said guidelines, "any female public sector employee, regardless of age and civil status, shall be entitled to a special leave of a maximum of two months with full pay based on her gross monthly compensation", provided

¹¹⁶Sec. 4(h), id.

¹¹⁷Sec. 18, Magna Carta of Women.

¹¹⁸Sec. 21(A)(2)-(3), Rule IV, IRR of the Magna Carta of Women.

¹¹⁹Sec. 21(B), id.

she has rendered at least six (6) months aggregate service in any or various government agencies for the last twelve (12) months prior to undergoing surgery for gynecological disorders." The CSC Guideline also provided an attached List of Surgical Operations for Gynecological Disorder¹²⁰, other disorders not found in the list may be allowed subject of certification of a competent medical authority and submission of other requirements. The procedure for the availment of the special leave is set forth in the CSC Guidelines.

DOLE issued its "*Guidelines for the Implementation of the Special Leave Benefits for Women Employees in the Private Sector*" as Department Order 112-11 on 11 March 2011. The Guidelines provide that any female employee, regardless of age and civil status, shall be entitled to special leave of two (2) months with full pay from her employer based on her gross monthly compensation following surgery provided that (a) she has rendered at least six (6) months continuous aggregate employment service for the last twelve (12) month prior to the surgery; (b) she has applied for an application therefore; (c) she has undergone gynecological surgery as certified by competent physician.

A related law is the "*Expanded Breastfeeding Promotion Act of 2009*" (RA 10028), in which the State declares as policy the protection of working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.¹²¹

¹²⁰ Annex A, CSC Resolution 1000432. **The List of Surgical Operations for Gynecological Disorders** formulated by a Technical Working Committee composed of Obstetrician-Gynecologists, Surgeons, and Medical Doctors from the University of the Philippines-Philippine General Hospital (UP-PGH), the Department of Health's (DOH) Quirino Memorial Medical Center, the Philippine Health Insurance Corporation (PhilHealth) with the support of the Philippine Obstetrical and Gynecological Society, Inc (POGS) and the Philippine College of Surgeons (PCS) and the DOH's Dr. Jose Fabella Memorial Hospital. The said List reflects the type of surgical procedure for the gynecological disorder; The disease being addressed by the said surgical procedure; as well as the classification or type of procedure to be undertaken/undertaken based on the patient's estimated period of recuperation (if without concomitant medical problems) as agreed upon in the discussion and inputs of the members of the aforecited Technical Working Committee.

¹²¹ Sec. 2, RA 10028.

The law specifically mandates that health and non-health facilities, establishments and institutions establish lactation stations, or private, clean, sanitary, and well-ventilated rooms or areas in the workplace or public places where nursing mothers can wash up, breastfeed or express their milk comfortably and store this afterward.¹²² Lactation stations should be provided with the necessary equipment and facilities and must not be located in the toilet.

Failure of private entities to establish lactation stations merits a fine ranging from Fifty Thousand Pesos (Php50,000.00) up to One Million Pesos (Php1,000,000.00) and a possible revocation of their business permits or licenses to operate. Similar violations in the public sector expose heads of agencies to risk of facing administrative sanctions.

Equal Rights in All Matters Relating to Marriage and Family Relations (sec. 19)

The MCW mandates the State to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations.¹²³ While the MCW provides that customary laws shall be respected, the same should not however, discriminate women.¹²⁴

Republic Act No. 10572 which amended Sections 73 and 111 of the Family Code, makes it clear that a married woman can dispose of her exclusive property unconditionally. It also affirms the right of the wife to exercise any legitimate profession, occupation or business without the need for her husband's consent. The husband may object to his wife's profession, but his objections must be anchored on valid, serious and moral grounds.

In case the husband objects after benefits have already accrued to the family, the resulting obligation will still be charged to the community property. Conversely, if the objection is raised before the accrual of benefits, the resulting obligations will be charged to the separate property of the wife.

Rights and Empowerment of Women in the Marginalized Sector

1. In relation to food security and productive resources (Sec. 20)¹²⁵

(a) On the Right to food

The MCW mandates the State to guarantee (1) availability of food in quality and quantity sufficient to satisfy the dietary needs of individuals, (2) physical and economic accessibility of food that is culturally acceptable, safe and free from unsafe substances; (3) availability of full, accurate and truthful information about safe and health-giving foods, how to produce and have regular access to them.¹²⁶

In relation to food safe and free from unsafe substances, R. A. 9711 (2009) on the Strengthening of the Food and Drug Administration (FDA) empowers FDA to conduct appropriate tests on all applicable health products to ensure safety, efficacy, purity and equality. Under the same law, the FDA can, upon verified complaint or *motu proprio* issue cease and desist orders as against manufacturers or distributors, order the ban, recall, withdrawal and or destruction as of any health product found to have caused death serious illness or serious injury to a consumer or patient, or is found to be imminently injurious, unsafe, dangerous, or grossly deceptive.¹²⁷

(b) On the Resources for Food Production;

The relevant provision of the MCW calls upon the State to guarantee women's vital role in food production which may be achieved through the recognition and prioritization of women's right to land, credit and infrastructure support, technical training and technological and marketing assistance. This section provides, among others to (1) right to titling of land and the issuance of stewardship contracts and patents, (2) recognition of women as agrarian reform beneficiaries defined by women's relationship to tillage, (3) recognition of women's customary rights to land, (4) right to information

¹²² Sec. 3(p), id..

¹²³ Sec. 19, first paragraph, Magna Carta of Women.

¹²⁴ Sec. 19, second paragraph, id.

¹²⁵ Sec. 20, id.

¹²⁶ Sec. 20(a), id.

¹²⁷ Sec. 2, RA 9711.

and assistance on claiming rights to land, (5) equal rights to the enjoyment, use and management of land, water, and other natural resources including fisheries and aquatic resources. Other provisions provide for women's access to women friendly and sustainable agriculture and on the control and management of means of production including among others, access to seeds production and the catch and production of aquamarine resources.¹²⁸

Priority shall be given to women in the production, distribution, processing, trading, credit, marketing, information and technology; as well as appropriate trainings shall be provided on agricultural and aquatic resource management.

These are enshrined in various laws, particularly the *Agriculture and Fisheries Modernization Act of 1997*, (RA 8435) and the *Comprehensive Agrarian Reform Program with Extended Reform* (RA 9700), which ensure the equality of women to land tenural rights.

2. In relation to right to housing (sec. 21)

The State shall develop housing programs for women that are localized, simple, accessible, with potable water, and electricity, secure, with viable employment opportunities and affordable amortization. In this regard, the State shall consult women and involve them in community planning and development, especially in matters pertaining to land use, zoning, and relocation.¹²⁹

However, there is no specific provision on women with regard the right to housing under the *Urban Development and Housing Act of 1992* (RA 7279). Nonetheless, even in the absence of a law specifically protecting this right, it is incumbent upon government agencies directly concerned to ensure that right to a decent and affordable housing, and adequate protection is provided to women especially in urban areas against arbitrary and inhuman eviction; to guarantee as well preferential right to resettlement or relocation sites especially to solo parents. Right to housing, like any other personal rights, is an individual

right and not collective; hence, a woman may not be excluded from entitlement to a home in a relocation site merely on account that hers, e.g. single-headed unit, does not fall within the traditional definition of a *qualified "family."* And it is not even among those four eligibility criteria for Socialized Housing Program Beneficiaries that the law enumerated.¹³⁰ In fact the *Solo Parents' Welfare Act of 2000* (RA 8972), provides social housing projects with liberal terms of payment to solo parents.¹³¹ (See Section 4 for definition of a solo parent.)

The *Home Development Mutual Fund (HDMF) Law of 2009* or Pag-ibig Law (RA 9679), on the other hand requires mandatory coverage of all employees. On voluntary basis, individuals may be covered. The law offers an array of benefits that are available to members in general; this includes the granting of housing loan.¹³² Wives are by default dependants of their husbands. Lamentably, the majority of women, who are mostly either poor or marginalized, are unaware of the socialized housing the State provides, and many of them are not even members. This poses serious concerns because women in this sector choose to live under conditions below the minimum standard of quality housing.

With regard indigenous women, the State mandates that they should be provided full access to housing services.¹³³

3. In relation to the right to decent work (sec. 22)

The section provides that the State shall progressively realize and ensure decent work standards for women that involve the creation of jobs of acceptable quality in conditions of freedom, equity, security and human dignity. It includes a portion on the protection and promotion of the rights of migrant

¹³⁰ Sec. 16, RA 7279: To qualify for the socialized housing program, a beneficiary (a) Must be a Filipino citizen; (b) Must be an underprivileged and homeless citizen, as defined in Section 3 of this Act; (c) Must not own any real property whether in the urban or rural areas; and (d) Must not be a professional squatter or a member of a squatting syndicates.

¹³¹ See sec. 10, RA 8972.

¹³² See sec. 11, RA 9679.

¹³³ Sec. 26, RA.8371, or the Indigenous Peoples' Rights Act

¹²⁸ Sec. 20(b), Magna Carta for Women.

¹²⁹ Sec. 21, id.

workers regardless of their status and recognizing the temporary nature of overseas work mandates the State to address out-migration by developing local employment.

Decent work to emphasise includes all the qualities of a living wage that can sustain a healthy family and this is not just limited to the minimum standards that should be provided to women workers. In broad, the overall well being of women workers taking into account their sensitive conditions must be of paramount concern.

The *Labor Code* specifically provides ample protections to women. Discrimination with respect to terms and conditions of employment solely on account of sex is strictly prohibited. Acts of discrimination are not limited to payment of a lesser compensation; favouring a male employee over a female employee with respect to hiring, promotion, training opportunities and other similar advantages; denial of leaves; first to be dismissed during retrenchment; and company provided employee benefits. The *Labor Code* in terms of employees' welfare empowers the Secretary of Department of Labor (DOLE) and he may require employers to provide facilities exclusive to women employees—dressing rooms, lavatories, nursery and breastfeeding areas among others.

In addition to the leave credits granted under the *Labor Code*, the *Anti-Violence against Women and their Children Act of 2004*, (RA 9262) and the Social Security Service Law (RA 1161), grant additional leaves to women. The *Solo Parent's Act* (RA 8972), also grants additional leave privileges of seven (7) working days every year to solo parents who have rendered service of at least one year. On top of which, employers are as well mandated to provide flexible working schedule for solo parents, and work discrimination with respect to terms and conditions on account of her status is prohibited.¹³⁴

The *Kasambahay Law (R.A. 10361)* further provides specific rights to households in general. This special law is a milestone in the promotion of

the welfare of domestic workers who are mostly women. The terms on health and safety, daily and weekly rest periods, minimum salary and other benefits previously denied were finally made into a law. Aggrieved women may file appropriate civil or criminal action. The law also provides a **standard of treatment** to be adopted by an employer, including any member of the household, to their domestic worker. This blanket requirement amply safeguards a domestic worker from any kind of abuse or any form of physical violence or harassments or any act tending to degrade her dignity.¹³⁵

4. Right to livelihood, credit capital and technology (sec. 23); education and training (sec. 24); and information (sec. 26)

The applicable section of the MCW mandates that women shall be ensured equal access to formal sources of credit and capital; equal share to produce of farms and aquatic resources.¹³⁶ It also provides for employment opportunities for returning migrants.¹³⁷ The State is also mandated to ensure that women migrant workers have opportunity to undergo skills training,¹³⁸ while access to information regarding policies on women is ensured.¹³⁹

Particular attention is given to women when giving access to credit (Sec. 20, R.A. 8435, "Agricultural and Fisheries Modernization Act of 1997" and see Migrant Law).

The Indigenous People's Rights Act (RA 8371), or IPRA, mandates that indigenous peoples be given full access to education. Vocational, technical, professional and other forms of training shall be provided to enable these women to fully participate in all aspects of social life.¹⁴⁰

¹³⁵ Sec. 5, RA 10361.

¹³⁶ Sec. 23(a)-(b), Magna Carta of Women.

¹³⁷ Sec. 23(c), id.

¹³⁸ Sec. 24, id.

¹³⁹ Sec. 26, id.

¹⁴⁰ Sec. 26(2), RA 8371.

¹³⁴ See secs. 6-8, RA 8972.

5. Right to Participation and Representation (Sec. 25)

Section 25 of the MCW mandates that the State shall ensure the participation of grassroots women leaders in decision making bodies in their respective sectors including but not limited to the Presidential Agrarian Reform Council (PARC) and its local counterparts; community based resource management bodies or mechanisms on forest management and stewardship; the National Fisheries and Aquatic Resources Management Council (NFARMC) and its local counterparts; the National Commission on Indigenous People; the Presidential Commission for the Urban Poor; the National Anti-Poverty Commission; and, where applicable, the local housing boards.

Women's participation in the alleviation of poverty and promotion of growth cannot be ignored such that rural women are given the right to own and control land. They also have substantive equality with men as qualified agrarian reform beneficiaries, to receive a just share of the fruits thereof, and to be represented in advisory or appropriate decision-making bodies. These rights shall be independent of their male relatives and of their civil status. They, especially at the grassroots level, shall as well be given the opportunity to participate in the development planning and implementation of R.A. 9700. And as an agrarian reform beneficiary her sex, economic, religious, social, cultural and political attributes shall not adversely affect the distribution of lands.¹⁴¹

Indigenous women are also given equal enjoyment of rights and opportunities with men not only on social, economic but as well political and cultural spheres of life. They shall be accorded due respect and recognition in their participation in the decision-making process in all levels, as well as in the development of society.¹⁴²

6. Right in relation to Social protection (sec. 27)

This section provides for the following rights and

empowerment (1) For SSS and PhilHealth to support indigenous and community-based social protection schemes; (2) institution of policies and programs that seek to reduce poverty by promoting and protecting livelihood and employment; (3) enactment of bilateral and multilateral agreements to reduce and eventually eliminate costs of remittances; (4) establishment of health insurance program for senior citizens; (5) support women with disabilities on a community based social protection scheme.

To implement the above provision the Section 30 of IRR of the MCW elaborates the different tasks of National Government Agencies.

SSS and the PhilHealth shall support indigenous and community-based social protection schemes. Said agencies shall consult with NCIP and other concerned agencies and ensure that marginalized women not covered by the SSS and PhilHealth shall be able to access special packages developed for their benefit. They shall conduct regular review and consultations among stakeholders to ensure that the benefit packages are responsive and the premiums are affordable to the marginalized sectors.

A. The State shall institute policies and programs that seek to reduce the poverty and vulnerability to risks and enhance the social status and rights of the marginalized women by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risks. It shall likewise use the list of poor households generated by the National Household Targeting System (NHTS) as reference in identifying priority beneficiaries of the social protection programs of government. In this regard:

B. The State shall endeavor to reduce and eventually eliminate transfer costs of remittances from abroad through appropriate bilateral and multilateral agreements. It shall likewise provide access to investment opportunities for remittances in line with national development efforts.

C. The State, through the PhilHealth and LGUs, shall establish a health insurance program for senior citizens and indigents.

¹⁴¹ See secs. 1 and 5, RA 9700.

¹⁴² Sec. 26(1), RA 8371.

D. The State shall support a community-based social protection scheme and develop social protection programs for women with disabilities through the National Council on Disability Affairs (NCDA) in coordination with PhilHealth, SSS, GSIS, and LGUs.

7. Right in relation to cultural identity and integrity (sec. 28)

The State shall recognize and respect the rights of Moro and indigenous women to practice, promote, protect, and preserve their own culture, traditions, and institutions and to consider these rights in the formulation and implementation of national policies and programs. To this end, the State shall adopt measures in consultation with the sectors concerned to protect their rights to their indigenous knowledge systems and practices, traditional livelihood, and other manifestations of their cultures and ways of life: Provided, That these cultural systems and practices are not discriminatory to women.¹⁴³

This is further elaborated under section 31 of the IRR of the MCW, which provides that "the NCCA and NCIP in coordination with NCMF, Regional Commission on Bangsamoro Women (RCBW) -Autonomous Region in Muslim Mindanao (ARMM), and other concerned agencies shall ensure that women are consulted and shall participate in the development and implementation of policies and programs that aim to preserve their own cultures and traditions. These agencies among others shall:

A. Protect the role of women as repository of indigenous knowledge and system on education and health

B. Conduct studies and researches on the roles and contributions of women in the different ethnic and indigenous cultures;

C. Develop materials produced in indigenous languages containing information on the rights, programs, and services available to the indigenous women;

D. Provide appropriate support for women's groups

and organizations to conduct research and document women Indigenous Peoples' (IP) traditional roles in marriage, family, community, political, and economic life to determine gender issues and concerns among indigenous cultural communities/IPs;

E. Remove stereotypes and discriminatory characterization of IPs and Moro women in educational materials;

F. Collaborate with CHED and DepEd to integrate in the educational curriculum the preservation and respect of indigenous rights, cultures and traditions, provided that they are not discriminator to women;

G. Coordinate with CHED and DepEd to ensure functional literacy and numeracy programs for indigenous communities;

H. Provide protection to women in the pursuit of their traditional livelihood and occupations;

I. Ensure that indigenous and Moro women have access to information of all services in their own languages;

J. Allow women's manner of dressing in accordance with their cultural belief;

K. Support women involved in "halal" industry; and

L. Develop appropriate programs and projects to respond to gender issues and concerns

8. Right in relation to peace and development (sec. 29)

This section provides for women's participation in conflict prevention, management, resolution, and peacemaking. It provides for the increase of women participants in peace processes, ensuring the development and inclusion of women's welfare and concerns in the peace agenda, the institution of measures to ensure protection of civilians in conflict-affected communities and the inclusion of peace perspective in the education curriculum.

In order to implement the above provision, the IRR of the MCW requires the:

¹⁴³ Sec. 28, Magna Carta of Women,

- a. Increase the number of women participating in discussions and decision-making in the peace process, including their membership in peace panels, that recognize women's role in conflict prevention and peace-making, and in indigenous system of conflict;
- b. Ensure the development and inclusion of women's welfare and concerns in the peace agenda in the over-all peace strategy and women's participation in the planning, implementation, monitoring and evaluation of rehabilitation and rebuilding of conflict affected areas.

The AFP in coordination with LGUs, PNP, DOH, and DSWD shall institute measures for the protection of civilians in conflict affected communities with special consideration of the specific needs of women and girls. These measures shall include, but are not limited to, the provision of the minimum initial service including adequate breastfeeding facilities, water and sanitation facilities, services addressing special needs of adolescents, and family planning.¹⁴⁴

9. Right of Women in Especially Difficult Circumstances (secs. 30-31)

“Women in Especially Difficult Circumstances” (WEDC) shall refer to victims and survivors of sexual and physical abuse, illegal recruitment, prostitution, trafficking, armed conflict, women in detention, victims and survivors of rape and incest, and such other related circumstances which have incapacitated them functionally. Local government units are mandated to deliver the necessary services and interventions to WEDC under their respective jurisdictions.¹⁴⁵

The MCW provides that the following services shall be made available to WEDC:

- (a) Temporary and protective custody;
- (b) Medical and dental services;
- (c) Psychological evaluation;
- (d) Counseling;
- (e) Psychiatric evaluation;

- (f) Legal services;
- (g) Productivity skills capability building;
- (h) Livelihood assistance;
- (i) Job placement;
- (j) Financial assistance; and
- (k) Transportation assistance.¹⁴⁶

Section 34(A) of the IRR of the MCW provides for the services and interventions for WEDC and their families and provides that “WEDC and their families shall be provided with services and interventions as necessary such as, but not limited to, the following:(a) temporary and protective custody, (b) medical and dental services,(c) psychological and psychiatric evaluation, (d) counseling and Critical Incident Stress Debriefing (CISD), (e) legal services, (f) productivity, (g) education,(h) job placement, (i) financial assistance, and (j) transportation assistance. All service providers shall undergo capacity building to ensure gender-responsive, rights-based and culture-sensitive provision of services.

10. Rights of Girl-Children (sec. 32)

(a) The State shall pursue measures to eliminate all forms of discrimination against girl-children in education, health and nutrition, and skills development.

(b) Girl-children shall be protected from all forms of abuse and exploitation.

(c) Equal access of Moro and indigenous girl-children in the Madaris, schools of living culture and traditions, and the regular schools shall be ensured.

(d) Gender-sensitive curriculum, including legal literacy, books, and curriculum in the Madaris and schools of living culture and traditions shall be developed.

(e) Sensitivity of regular schools to particular Moro and indigenous practices, such as fasting in the month of Ramadan, choice of clothing (including the wearing of hijab), and availability of halal food shall be ensured

144 Sec. 32, Rule V, IRR of the Magna Carta of Women.,

145 Sec. 30, Magna Carta of Women.

146 Sec. 31, id.

11. Right of Senior Citizens (sec. 33)

The State shall protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation, and discrimination. Towards this end, the State shall ensure special protective mechanisms and support services against violence, sexual abuse, exploitation, and discrimination of older women.

The DSWD currently has a program called Neighborhood Support Services for Older Persons.

The program involves the community/neighborhood to take effective steps to enhance members of the families in their care-giving capability to sick, frail or bedridden older person. This involves training volunteers who are willing to share their skills and service as resource persons of the community on the proper care of older persons¹⁴⁷.

¹⁴⁷ See more at: <http://www.dswd.gov.ph/programs/community-based/for-women/#sthash.7HdS8zjb.dpuf>

ANNEX 3:

Protocols

The role of the Commission on Human Rights as a national human rights institution and as gender and development ombud in the country shall cover both protection and promotion aspects of the human rights of women in general, women with disabilities, elderly women, women-migrants, girl-children, and persons with diverse sexual orientation and gender identity and expressions (SOGIE). The Commission adopts the following Protocols to be observed by its officers in both the Central and Regional Offices in investigating and rendering legal assistance for women complainants under MCW and/or related laws. The Protocols provides for benchmarks or minimum standards to guide its investigators and lawyers in relation to the Commission's role as Gender Ombud under the MCW. The Protocols are derived from standards and benchmarks adopted by the PNP and DOJ, as well as international women's human rights standards in the investigation and provision of legal and support services for women.

ANNEX 3.A.

HANDLING OF WOMEN'S CASES (PROTOCOL 1)

General Principles

Human rights protection and promotion of women's human rights are among the core functions of the Commission. In terms of protection, the Commission shall provide the appropriate services to women who are victims or whose rights are in imminent danger of violence, abuse, or discrimination. The Commission shall likewise render assistance to women, especially marginalized women, whose

rights under the Magna Carta of Women have been violated. Such services cover primarily the areas of investigation, legal aid and counselling, witness protection and other assistance, and referral and/or coordination for psycho-social, medical needs and other social services for the victim-survivors and their families.

In the conduct of investigation and in the provision of legal aid, psychosocial and other services for women, the Commission's investigators, lawyers, gender focal persons shall observe the following general guidelines and standards¹⁴⁸, observing at all time the principles of safety, confidentiality, respect and non-discrimination:

Policies

As the Gender Ombud, the Commission shall ensure that policies, including the Gender Ombud Guidelines and Investigation Protocols are adopted throughout the Central and Regional Offices of the Commission, to ensure the sensitive handling of women's cases.

Policy support is important in institutionalizing the Commission's efforts as Gender Ombud, as such the Gender Ombud Guidelines, including these protocols are crucial in addressing discrimination and other forms of human rights violations against women as well as in pushing for gender equality and women's human rights. The Commission, through the concerned units and officers, shall constantly review existing policies to ensure gender sensitivity and gender responsiveness in the handling of women's cases.

¹⁴⁸ Part of the standards adopted from the DOJ Performance Standards and Assessment for Services in relation to VAW

Facilities

Proper handling of women's cases, particularly those involving violence against women require minimum structures to ensure confidentiality and safeguarding of the privacy of the victims-survivors. In relation to this, the following facilities shall be ensured, as much as practicable in both Central and Regional Offices:

1. Facilities, such as a separate room for closed-door investigation, are provided to protect the privacy of the victim/survivor and confidentiality of proceedings during the investigation and/or interview for the provision of legal aid and/or support services
2. There are adequate filing and storage facilities for all records involving violence against women and other Gender Ombud Cases. With respect to VAW and trafficking cases, the same should be filed separately from other case categories to safeguard their confidentiality (RA 9262).
3. The victim- survivor is assured of humane and gender-sensitive treatment through facilities that protect her privacy and afford her physical comfort. The provision of child-friendly spaces for children of victim-survivors shall be duly considered;

Personnel

Officials and staff directly involved in providing investigation and legal aid/support services and/or referral to women victim-survivors must be equal to the task in terms of qualifications, habits and ethics of work, and must have undergone training in gender awareness, particularly issues related to gender-based violence¹⁴⁹. Thus,

1. Only CHR investigators, lawyers and other officers and personnel who have appropriate training on women's rights and in the handling of investigation and interview involving women shall be assigned to conduct

interview and investigate cases involving human rights violations and abuses against women, including discrimination, violence, exploitation, and sexual harassment cases. There shall be continuous training on women's human rights and on the sensitive handling of women's cases for investigators, lawyers and gender focal persons.

2. In the conduct of investigation and/ or interview for the provision of legal aid and other support services, utmost consideration must be given to the vulnerability of women to abuse, violence, exploitation and discrimination. Special attention shall be accorded in order to provide reasonable accommodation to women from the marginalized sector in order to ensure and facilitate access to justice.
3. There is an absolute need to adopt an attitude of belief and to be sensitive to the needs, culture, plight, and status of the victim-survivors, taking into account their gender/ sex, ability and their traumatic experience/ condition;
4. The conduct of investigation and/ or interview must ensure that women victims shall not be subjected or exposed to revictimization, further trauma, humiliation or suffering.
5. Ensure, as much as possible, that the interview of women-victims, especially those who are victims of sexual abuse, be conducted by a female lawyer/investigator trained to handle cases involving women;
6. Investigators, lawyers and Gender Focal Persons, in the investigation and/or conduct of interviews shall at all times possess the appropriate attitude, ethics and habits of work, such as they are:
 - Accepting and non-judgmental
 - Sensitive and sincere
 - Patient and understanding

¹⁴⁹ DOJ Performance Standards and Assessment for Services

- Emphatic
 - Firmly committed to ending VAW and working towards gender equality and women's empowerment
7. During the conduct of investigation and/or provision of legal aid and other support services, investigators, lawyers and gender focal persons shall conduct the interviews behind closed doors and do not allow the media to have access to any information regarding the victim/survivor. (An adult victim however, may choose to speak with the media, preferably with the assistance of her counsel.)
8. The investigator, lawyer and gender focal person shall not disclose the name and personal circumstances of the victim/survivor or complainant without her consent or any other information that might reveal her identity to the media or the public, or take any action that might compromise her privacy (IRR of RA 9262/RA 9208).

INTERVIEW PROPER

Pre-Interview

- Prior to the conduct of the interview proper, the investigator, lawyer or gender focal person shall at first inquire on the safety and comfort of the victim-survivor and on her willingness and readiness to go through investigation and/or interview for provision of legal aid and services. When the victim-survivor is in need of medical attention, the same shall first be attended to.
- As much as possible, proper facilities for the conduct of the interview i.e. the interview room and/or the children friendly spaces for the children of victims-survivors should be prepared before hand. Other needs of the victim survivor should be duly prepared for, e.g. awareness of cultural norms and practices in cases of IP women, and reasonable accommodation/provisions of accessibility for

women with disabilities.

- When documents are available, the investigator, lawyer or gender focal person shall carefully study the same, with a view of avoiding revictimization and further trauma when statements and accounts have already been previously taken. In such cases, instead of another retelling, clarificatory questions may be asked;
- At all times, there is a need to ensure that the victim-survivor is ready and willing to proceed with the investigation, interview, legal processes and other remedies available. Investigators and lawyers should not insist or pressure the victim to subject herself to the investigation and legal process regarding her case.

During Interview

- Ensure respect for the dignity of the woman-victim or the woman-suspect during the course of the investigation.¹⁵⁰
- Attempts should be made to make the victim-survivor feel comfortable, such as offering food and asking if she needs anything. Interview, especially those involving violence/sexual abuse, should be at the pace of the woman-survivor.
- Questions are asked in a matter-of-fact tone of voice, in a direct yet calm and supportive manner, and with utmost patience. An attitude of belief in cases of sexual violence and abuse is encouraged.
- Care should be taken to avoid suggesting that the victim is to be blamed for the incident. This has to be specially observed in cases of violence against women, with due recognition of the 'battered woman syndrome' and the various difficulties faced by women in reporting case of violence and abuse.
- Investigators/lawyers should not make any

¹⁵⁰ From Investigator's Handbook

insensitive nor humiliating remarks whether seriously or jokingly that could make embarrass the victim or make her feel uncomfortable. The use of vulgar language during the interview should be avoided and investigators and lawyers should always refrain from exhibiting hostile attitudes towards women.

- Ensure that, in the course of the interview, lawyers/ investigators must listen very well to what the woman-victim is saying; and observe what she does not say or hesitates to open up as a possible sign of confusion, trauma, or shock; and be able to determine the immediate need for referral of the woman-victim to professional counselling and other support services, as the case may be;
- During the interview, present the different options available to the woman survivor while at the same time respecting the woman's decision with respect the progress of the case; Option for support services offered by the Government and NGOs shall be provided, and assistance in seeking protection orders shall be provided whens so requested.
- Ensure that the information gathered, including the case records and real identity of the victim shall be treated with utmost confidentiality in accordance with the law.

Post Interview

- Inform the woman of the process to be followed in the case and provide contact numbers for purposes of follow-up and monitoring;
- Understanding that the provision of legal services is but one of the needs of women victim-survivors, the investigator shall at all times ensure that appropriate referral be made for medical, psychosocial, and other support services. Importance of such services shall be explained to the woman-survivor.

Specific concerns to the more vulnerable within the women sector

- **Indigenous Women**

The Constitution advocates for the promotion and protection of the rights of indigenous cultural communities (ICCs) or indigenous peoples (IPs) in the country, they being among the vulnerable, marginalized and disadvantaged sectors. To give teeth to this constitutional mandate, Congress enacted Republic Act No. 8373, otherwise known as "The Indigenous Peoples' Rights Act of 1997" ensuring respect for the inherent and inalienable distinct character, sacred human dignity, and unique identity of indigenous peoples as peoples.¹⁵¹ Sec. 25 of the same law provides that "the indigenous cultural communities/indigenous have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention should be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons."

Indigenous peoples often have much in common with other neglected segments of societies, i.e. lack of political representation and participation, economic marginalization and poverty, lack of access to social services and discrimination¹⁵². Women IPs are special class within a vulnerable class, they being more vulnerable to abuse, exploitation and discrimination.

Recognizing the vulnerability of Indigenous Women, investigators, lawyers and other officers involved in the protection and promotion of women's rights shall observe cultural sensitivity in the conduct of human rights investigation and in the provision of legal aid and support services. This means:

1. That investigators and lawyers assigned in investigating human rights complaints of indigenous peoples, specially indigenous women and children should be duly trained in the field of indigenous people's human rights

¹⁵¹ IPRA, Section 4(d).

¹⁵² UNPFII Factsheet of Indigenous Peoples

and the rights of indigenous women; They should be able to contextualize the experience of Indigenous Peoples, their exclusion from the mainstream society as products of colonialism, and their continued struggle for their ancestral domain.

2. Investigators and lawyers shall examine their personal biases, beliefs and prejudice against indigenous people, taking into account the manner by which these may adversely affect the conduct of human rights investigation;
3. Investigators and lawyers shall observe respect for indigenous people's identities, their ways of life and their right to lands, territories and natural resources. Investigator and lawyers shall bear in mind that "indigenous peoples are the holders of unique languages, knowledge systems and beliefs and possess invaluable knowledge of practices for the sustainable management of natural resources. They hold their own diverse concepts of development, based on their traditional values, visions, needs and priorities which often differ from mainstream society.¹⁵³"
4. Investigators and lawyers should understand the need to accord access for indigenous peoples, indigenous women to justice, by ensuring the availability of culturally sensitive services, the availability of capable translators and persons knowledgeable of indigenous culture.
5. In all decision making processes with respect the case – investigation and the provision legal aid and support services - the decision of the indigenous woman shall be taken into consideration.
6. The following principles and protocols¹⁵⁴ in dealing with indigenous peoples shall also be observed:
 - Relationships with Indigenous communities

¹⁵³ Id

¹⁵⁴ Protocols for Staff Working with Indigenous People (2008) New South Wales <http://www.records.nsw.gov.au/>

should be based on mutual respect and understanding;

- Services and procedures should be developed/modified with an understanding of Indigenous People and their issues and provided in a culturally appropriate manner;
- Indigenous people, specially indigenous women should feel welcomed and supported when approaching the Commission for the filing of complaint or in seeking legal assistance;

- ***Moro Women***

The handling of cases involving moro women should also follow the general procedures in investigation and interview, as well as in the provision of other assistance, as mentioned above. Providers of protection and promotion services, however, should take note that there different tribes or groups within the moro community, thus, the diversity of cultures and languages. Investigators and lawyers, in cases of Indigenous Women, should always be gender and culturally sensitive. Due consideration shall be given to the religious feelings, traumatic experience, competence and ethnic origin of the victim-survivors. Accessibility and sensitivity should be ensured providing duly trained investigators and lawyers, the provision of available translators, and cultural or religious experts to contextualize the experiences of moro women who complain of human rights violations or acts of discrimination.

- ***Women with Disabilities***

Women with disabilities are amongst the most marginalised and disadvantaged people in the world¹⁵⁵. The intersection of gender inequality and disability presents a situation of multiple levels of discrimination¹⁵⁶.

¹⁵⁵ <http://www.wdv.org.au/publications.htm>

¹⁵⁶ Following guidelines taken from: Odette, F. and Rajan, D. (November 2013). Violence Against Women with DisAbilities and Deaf Women: An Overview. 1Learning Network Brief (12). London, Ontario: Learning Network, Centre for Research and Education on Violence Against Women and Children. <http://www.vawlearningnetwork.ca/violence-against-women-disabilities-deaf-women>

As a rule, in the handling of cases involving women with disabilities the regular investigation and interview procedures shall apply, with additional special requirements as part of the processes in view of the physical and psychological or mental condition of the victims. As necessary, investigators and lawyers attending to cases involving this particular sector should work in close coordination or with the direct involvement of professional help, according to the needs of the victim-survivors. Accessibility and reasonable accommodation shall be provided to ensure access to justice for women with disabilities. Whenever appropriate, the victim-survivor should be assisted by the parents or guardian at all stages of the proceedings.

If the officers handling the case do not speak the language of the victim or the victim is deaf, a competent interpreter is a must to ensure that the victim-survivor will be able to perceive and respond intelligently to questions or information asked of her. Facilities to ensure access and reasonable accommodation, shall be provided.

Investigators and lawyers dealing with women with disabilities should remember and take into account the following¹⁵⁷:

- The circumstances where violence may occur for women with disabilities and deaf women differ at times from that of women without disabilities. For example, violence in the context of caregiving occurs for women with disabilities who use attendant or homecare services. Many violence against women services focus on intimate partner abuse which only addresses a percentage of the abuse experienced by women with disabilities. Many experience abuse within institutional settings (e.g., sexual abuse), by homecare personnel (e.g., physical abuse), and by caregivers and families (e.g., financial abuse). Yet there are limited strategies to address these differences.
- Women face several barriers that impede or prevent reporting/disclosure of abuse/human

rights violations and accessing supports, these barriers should be taken into consideration and addressed in order to ensure access to and services to women with disabilities.

- Many women with disabilities do not know that what they are experiencing are forms of abuse –for many women with disabilities, abuse is the ‘norm’ in their lives;
- Women with disabilities may not know where to go to seek help and lack appropriate services – women with disabilities may not see themselves represented in services or they may not know what services are available that can provide support and connection to the community.

In order for service providers, in this case, lawyers and investigators to provide sensitive handling of human rights/ discrimination/non –compliance cases, the following may be observed:

- Non-judgmental listening, believing disclosures, and treating women with compassion and respect;
- Asking about abuse and having the space and time needed to talk about it in a supportive setting (e.g., drop in, formal support group or with friends);
- Connecting the woman to the larger community (isolation leads to greater risk for victimization and many women with disabilities experience high rates of isolation as a result of exclusion from their families and the larger community); and
- Taking care of their health (violence is a health issue and impacts a woman’s mental and physical well-being)
- **Elderly**

Everybody has the right to survival, freedom and personal safety, and the right to obtain basic provisions for living. No one, including elders, should be treated with cruelty, inhumanity or insult¹⁵⁸. In handling

¹⁵⁷ 158 Procedural Guidelines for Handling Elder Abuse Cases/ December 2003 (Revised in August 2006) <http://www.swd.gov.hk/>

cases involving elderly women, Commission's lawyers and investigators should remember the following:

1. Similar to the principles in handling women and children victims' of violence, ensuring the elder's immediate safety should be the paramount concern. Prior to proceeding with the interview/investigation inquiries should be made into the elderly's safety and other needs such as medical and psychosocial services or the need for shelter as the case may be. Proper referrals should be arranged with the consent of the elder.
2. A woman investigator/lawyer should be assigned in the investigation/interview of women elders.
3. Investigators and lawyers should remember to take the statements in a manner most convenient to the elderly. As far possible, investigators and lawyers should arrange an appropriate adult whom the elder trusts and is familiar with the elder, as a witness to accompany the elder when giving her statement.
4. Though confirmed to be a mentally incapacitated person by a psychiatrist/clinical psychologist, an elder, as an adult, has the right of self-determination as far as practicable. So long as his/her choice does not breach the law and constitutes no threats to his/her own and others' rights and safety, he/she may choose his/her preferred way of life.
5. If it is disclosed that the elder is receiving regular medical or clinical psychological services, the investigator/lawyer should contact his/her attending doctor or clinical psychologist who is responsible for the follow-up care, so as to assess the mental condition or mental capability of the elder before deciding whether the elder is fit for giving evidence or not, and in what way the evidence should be given. In case of emergency or if the elder has never received

any relevant treatment, professional help shall be obtained.

6. Though confirmed to be a mentally incapacitated person by psychiatrist/clinical psychologist, an elder, as an adult, may enjoy the right to privacy for personal data as far as practicable, and may decide what personal information could be disclosed to others and how these information may be used. Whenever the data is not necessary in the keeping of statistics, data on women elders should not be indiscriminately released. In cases of violence, the same should be kept confidential and in separate file as provided in the general principles in handling women's cases.

ANNEX 3.B.

HANDLING CASES OF GIRL CHILDREN (PROTOCOL 2)

General Principles:

Rights of children are human rights. Hence, consistent with its Constitutional mandate, in relation to pertinent international and domestic laws on the protection and promotion of the rights of children, the CHR shall take cognizance of, investigate and monitor all forms of violations and abuses against children, as well as track the human rights situation of children in the country and of Filipino children in foreign lands; and ensure that the status, rights and interests of children are upheld at all times.

Thus, in handling of child rights cases, the CHR investigators and lawyers shall ensure that the guiding principles set forth under the United Nations Convention on the Rights of Children be respected and given paramount consideration: *the best interest of the child; non-discrimination; the right to life and development; and the right of the child to be heard and to participate.*

In general, the investigating officers handling child rights cases have the following duties:

- a. To make the appropriate recommendations to the Commission concerning the welfare of the child;
- b. To marshal and properly coordinate the delivery of resources and other social services to the child;
- c. To explain, in a language understood by the child, all legal proceedings, including CHR and police investigations, in which the child is involved;
- d. To request additional examinations by medical or mental health professionals if there is a compelling need therefore.

In particular, below are the special guidelines/procedures in investigation which the CHR Investigating Officers should follow before, during and after interviewing child victims and children in conflict with the law:

When the Child is a Victim

Pre-interview

- a. Only CHR investigators, lawyers and other officers and personnel who have appropriate training on the rights of children and in the handling of investigation of cases involving women and children shall be assigned to undertake the investigation of cases involving human rights violations and abuses against children, to include cases of domestic violence;
- b. CHR officers involved in the investigation and delivery of protection services to children who are victims of human rights violations and/or other forms of child abuse, to include domestic violence, shall, at all times, be sensitive to the needs, plight, and status of said victims, taking into account their tender age, evolving capacity, distress, traumatic experience, and condition;
- c. Before the interview shall be conducted, the investigating officer shall introduce himself/

herself properly to the child and inform the child and the child's parent or guardian that he/she is there to help;

- d. The questions to be asked, if possible, should be prepared before the interview proper. They should be appropriate to the age, the developmental level and evolving capacity of the child;

Interview Proper

- e. CHR officers and personnel concerned shall ensure that the investigation and interview process shall not in any way expose child-victims to further distress, trauma, psychological or emotional torture, humiliation and sufferings;
- f. In all such cases, the CHR investigating officer shall conduct an interview or take the statement of any child in the presence of his/her father or mother, or guardian, or social worker and/or any other support person. The CHR investigating officer should be mindful of the dangers of multiple victimization if the child is compelled to tell and re-tell his or her side of the story and must apply the standard of best interests of the child in all investigative and monitoring processes to be undertaken;
- g. All interviews of a child victim shall be conducted in a child-friendly room or child-friendly environment to ensure that the child can feel comfortable, secure and safe;
- h. Whenever appropriate, the CHR investigating officer can provide the child anatomically-correct dolls, puppets, drawings or any other appropriate demonstrative device to assist the child in telling her story;
- i. The investigating officer must talk the child's language, and avoid using technical terms. If possible use the vernacular or the child's dialect;
- j. The CHR investigating officer may seek the assistance of an interpreter whom the child can understand and who understands the child. In

- case the child is a deaf-mute, the services of an interpreter or expert in sign language clearly understood by the said child shall be necessary;
- k. Under any situation, the investigating officer shall ensure the protection of the right to privacy of the child. There should be privacy when interviewing a child to enable him/her to be open so as not to hinder the ascertainment of truth;
 - l. Building rapport with the child may take time. Hence, it is very important for the investigating officer to be patient with children. Never force the child to share hers story when the latter is not ready to participate in the process of investigation;
 - m. The investigating officer shall respect the child's personality; and therefore shall treat the child as a person of worth and dignity;
 - n. Treat the child with consideration. In no case should deceit, false promises, intimidation, threat, or harsh treatment be employed against the child during the investigation process; and

Post-Interview

- o. In the CHR response continuum for the child-victim, any time during the evaluation, investigation, resolution and monitoring stage, the CHR officer concerned handling the case can refer the child to a specialized agency, institution or organization for a specific and immediate intervention or service that the CHR cannot provide and if such referral be for the best interest of the child.
- p. Should a child victim's safety and security is at risk, in danger, or threatened with further violations, the investigating officer shall immediately coordinate with the Local Social Welfare & Development Officer (LSWDO), the PNP, and barangay officials for the conduct of rescue operation of the said child, as provided in the "Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation." (The Protocol provides how different

government agencies and their partners can either work independently or in coordination with each other. It also provides guidelines to be observed when assisting a victim of child abuse, neglect, or exploitation.)

- q. The investigating officer should ensure that information gathered involving a child victim shall be treated with confidentiality. Even media shall not be allowed to interview or take the child's photo, in accordance with the "Guide for Media Practitioners in the Reportage and Coverage of Cases Involving Children."

The investigating officer shall proceed with the investigation of the alleged violation, abuse or exploitation regardless of an execution of an affidavit of desistance by the child victim/the parents/guardian. Human rights violations against children are not subject to compromise or amicable settlement.

When the Child is In Conflict With Law

Pre-Interview

- a. The investigating officer, before conducting the interview of a child in conflict with the law, shall also inform said child and his/her parents or guardian of the child's right to remain silent and to counsel, which shall be done in a language spoken and clearly understood by the child and the parents or guardian;
- b. Should the Investigating officer determine at any stage of the child's interview that she needs proper intervention or diversion programs as required under R.A. 9344 as amended by R.A. 10630, he/she should immediately refer the child to the appropriate agency, institution or organization.

Interview Proper

In investigating and interviewing children in conflict with the law, the CHR investigating officer handling the investigation or interview shall also observe the following guidelines:

- c. All interviews of a child in conflict with the law,

- shall be conducted in a child-friendly room or child-friendly environment to ensure that the child can feel comfortable, secure and safe;
- d. The presence of the child's counsel or an assisting lawyer shall be required at all stages of the interview of the child, if said child is a suspect in a case being investigated by the CHR;
 - e. The investigating officer must talk the child's language, and avoid using technical terms. If possible use the vernacular or the child's dialect;
 - f. The CHR investigating officer may seek the assistance of an interpreter whom the child can understand and who understands the child. In case the child is a deaf-mute, the services of an interpreter or expert in sign language clearly understood by the said child shall be necessary;
 - g. Under any situation, the investigating officer shall ensure the protection of the right to privacy of the child. There should be privacy when interviewing a child to enable her to be open so as not to hinder the ascertainment of truth;
 - h. Gaining the child's trust may take time. Hence, it is very important for the investigating officer to be patient with children. Never force the child to share when the latter is not ready to participate in the process of investigation;
 - i. The investigating officer shall respect the child's personality even if she is alleged to be a CICL; therefore he/she shall treat the child also as a victim and a person of worth and dignity;
 - j. Treat the child with consideration. In no case should deceit, false promises, intimidation, threat, or harsh treatment be employed against the child during the investigation process; and
 - k. The investigating officer shall reduce to writing the child's statement;

Post-Interview

- l. The child shall sign or thumb mark her statement, depending on her age and level of mental ability. This shall be done in the presence of her parents or guardian and/or her counsel or assisting lawyer;
- m. The parent or guardian, or the social worker and the child's counsel or assisting lawyer shall also be required to sign the written statement of the child, which shall be sworn to before any officer of the CHR authorized to administer oath.
- n. The investigating officer should ensure that information gathered involving a child in conflict with law shall be treated with confidentiality, including the case records. The disclosure of confidential records may only be done upon Order of the Court.
- o. Even media shall not be allowed to interview or take the child's photo, as provided in the "Guide for Media Practitioners in the Reportage and Coverage of Cases Involving Children." nor would they be allowed to access the records of the child.
- p. Ensure that the child is detained only as a last resort. Should the investigating officer finds that the child is detained in jail rather than placed in Bahay Pag Asa or under the custody of parents/guardians as required under R.A. 9344 as amended by R.A. 10630, he/she should immediately make interventions and recommend that the child be placed in custody other than detention in jails, for the best interest of the child.

ANNEX 3.C:

HANDLING OF CASES INVOLVING PERSONS WITH DIVERSE SEXUAL ORIENTATION AND GENDER IDENTITY AND EXPRESSION (PROTOCOL 3)

General Principles:

The Universal Declaration on Human Rights recognizes that all human beings are born free and equal in dignity and rights. The 1987 Constitution on the other hand, declares as a state policy that “the State values the dignity of every human person and guarantees full respect for human rights¹⁵⁹.” As sexual orientation and gender identity and expression are integral to a person’s dignity, these must not be used as bases for discrimination and abuse. While many nations have enacted laws that guarantee equality and non-discrimination, human rights violations against persons still occur based on actual or perceived sexual orientation still occur¹⁶⁰.

Pursuant to its mandates under the Philippine Constitution, and to its international commitments, the CHR shall investigate all forms of human rights violations and acts of discrimination committed against persons with diverse sexual orientation, gender identity and expression.

As a rule, all principles of the regular investigation process shall apply to the investigation of cases involving persons with diverse SOGIE. However, CHR officers must keep in mind that persons with diverse SOGIE are common targets of discrimination, stigmatization, and abuse. These abuses arise from:

- a) Stigmatization of non-heterosexual behaviors that go against societal norms.
- b) Lack of community awareness and/or support.
- c) Institutionalized discrimination against persons with diverse SOGIE/ LGBTI persons

In the conduct of the Commission’s investigation on cases involving persons with diverse SOGIE,

lawyers, investigators and officers of the Commission shall adhere to the following standards and guidelines:

- 1) As much as possible, lawyers and investigators handling cases of persons with diverse SOGIE shall be duly trained on the human rights of persons with diverse SOGIE/ lesbians, gays, bisexual, transgender, and intersex (LGBTI) persons. As much as practicable, they shall have been identified as SOGIE/LGBTI focal persons, have undergone gender sensitivity training including the use of inclusive and gender fair language.
- 2) Lawyers and investigators handling cases of persons with diverse SOGIE should recognize that respect for sexual rights, sexual orientation and gender identity is integral to the realisation of equality between men and women¹⁶¹. Sexual orientation and gender identity and expression (SOGIE) are integral to every person’s dignity and humanity and must not be the basis for discrimination or abuse¹⁶². As human rights defenders, the Commission’s lawyers and investigators shall adhere to the Yogyakarta Principles¹⁶³ when it provides that “*human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.*”
- 3) In accordance with the latest Guidelines from the American Psychological Association (APA) Guidelines for Psychological Practice with Lesbian, Gay and Bisexual Clients (18-20 February 2011), investigators and lawyers handling cases of persons with diverse SOGIE are encouraged/urged “to understand the effects of stigma (e.g such as prejudice, discrimination, violence, hate crimes) against persons with diverse SOGIE” and how these

161 Yogyakarta, Preamble

162 Introduction to Yogyakarta Principles http://www.yogyakartaprinciples.org/principles_en.htm

163 The Yogyakarta Principles are a set of principles on the application of international human rights law in relation to sexual orientation and gender identity. The Principles affirm binding international legal standards with which all States must comply. They promise a different future where all people born free and equal in dignity and rights can fulfil that precious birthright

159 Article II, Section 2 1987 Constitution

160 Introduction to the Yogyakarta Principles

affect the exercise of their civil, political, economic, social , and cultural rights. Human Rights workers must at all times strive to make the investigation process a safe and non-threatening process for persons with diverse SOGIE.

- 4) Investigators and lawyers are also urged to examine their own bias, prejudice, religious beliefs, their competencies/limitations in dealing with the human rights of persons with diverse SOGIE, and how these will eventually affect how the investigation of cases involving persons with diverse SOGIE will be handled. As pointed by APA, in order to work effectively with issues related to gender non-conformity (persons with diverse SOGIE/ LGBTI), there is a need for service providers to be aware of their own values and biases regarding sex, gender, and sexual orientation¹⁶⁴. As applied to investigators and lawyers handling human rights complaints from persons with diverse SOGIE, it may be pointed out that there is a need for self-examination regarding one's beliefs, values, negative attitudes towards homosexuality, and heterosexist bias and how such attitude will directly affect the kind of service that lawyers and investigators will render towards complainants with diverse SOGIE.
- 5) There is a need to reiterate the basic human rights principle that every person is born equal in dignity and rights, including persons with diverse SOGIE. There is a need to acknowledge that homosexuality and bisexuality are not mental illnesses but are part and parcel of the diversity of human sexuality. Investigators and lawyers are called to be “aware of and respect cultural, individual, and role differences, including those due to...sexual orientation... and try to eliminate the effect on their work of biases based on [such] factors¹⁶⁵”

- 6) To better serve complainants/ victim-survivors who are persons with diverse SOGIE, there a need for human rights workers to (a) learn how to distinguish sexual orientation from gender identity; (b) understand that the notions of sexual orientation and gender identity are fluid, (c) recognize the challenges related to multiple and often conflicting norms, values, and beliefs faced by persons of diverse SOGIE who are members of racial and ethnic minority groups, (d) conduct continuing training on the human rights of persons with diverse SOGIE, particularly in dealing with complaints for discrimination.

Pre-Interview

As much as possible, only CHR personnel who have received appropriate training on LGBT issues and in handling cases involving persons with diverse SOGIE/LGBT persons shall be assigned to conduct interviews and investigations involving persons with diverse SOGIE/LGBTI.

CHR personnel who are to conduct the interview and investigation proceedings should prepare by:

- a) First examining their own personal beliefs as these can be sources of misunderstanding and may alienate the subject interviewee and thus have a negative impact on the interview and investigation.
- b) Anticipate that the interviewee has had previous experiences with discrimination / apathy at the personal and institutional levels and may be especially sensitive to signs of bias.
- c) Ensure that the venue where the interview will be held is in a neutral, non-threatening or “affirmative” setting that will allow the interviewee to feel comfortable and free in expressing him/herself.
- d) Disclosure of one's sex at birth, while mandatory for purposes of accurately reflecting statistics, disclosure of gender identity should be optional. This is pursuant to the recognition that gender identity and sexual orientation

¹⁶⁴ American Psychological Association (APA) Guidelines for Psychological Practice with Lesbian, Gay and Bisexual Clients (18-20 February 2011)

¹⁶⁵ Id

are fluid and the act of requiring a person to subscribe to a particular identity group would only perpetuate oppression. However, once a person identifies to a particular gender identity, respect should be accorded to such choice, regardless if the same conforms or does not conform to her/his sex at birth and regardless of whether a reassignment surgery has been conducted or not.

- e) While the name at birth shall be duly recorded in the intake form, recognition shall be given to the person's preferred name which conforms with the gender the person identifies with. In case briefs/case titles and other documents made available to the public, the preferred name and gender identity shall be followed. For records purposes, an explanatory note shall be made on the person's birth name and sex at birth.

Interview

- a) When unsure on a complainant's gender identity, investigators and lawyers are advised not to make assumptions. Thus, when describing people use the terms, pronouns and names that they choose. If unsure --- ask. Thereafter using the pronoun for the identity that the complainant chose. Investigators and lawyers are also advised not to assume that all trans and intersex people are lesbian or gay – some are heterosexual or bisexual.
- b) Investigators and lawyers concerned shall ensure that the interviews (and subsequent investigation) are conducted in a professional and courteous manner which respects the personality (how the subject wishes to be referred to) and the dignity of the subject interviewee. Investigators and lawyers concerned shall learn how the subject interviewee prefers to be referred and shall use this preference throughout the interview and any subsequent meetings with that person.
- c) The interview and investigation shall be conducted in a manner that avoids sexual

stigmatization (directly or indirectly discrediting persons of diverse SOGIE/LGBT identity in relation to heterosexuals) and re-victimization of the subject interviewee.

- d) The CHR shall adopt the use of gender-neutral and "affirmative" language (i.e. using the term "partner" instead of "wife", "husband" or "spouse") during the interview and investigation proceedings, and in the forms and paperwork used by the office. As much as possible paper work of the Commission shall reflect the preferred name of the complainant/victim/survivor, with a separate field for his/her name at birth.
- e) The CHR Officers involved shall respect the confidentiality of the proceedings at all times and shall agree with the subject interviewee on how the information given or obtained is to be documented, used, and shared afterwards. Separate records shall be kept for cases involving persons of diverse SOGIE.

Post-Interview

At the conclusion of the interview and investigation proceedings, the CHR officer concerned shall reassure the subject that his/her concern shall receive the due diligence and attention that it deserves. Contact numbers shall be exchanged to ensure that communication lines are open.

At the conclusion of the interview and investigation proceedings, the CHR officer concerned shall then make the appropriate recommendations to the Commission for the resolution of the case and/or refer the subject to the appropriate agencies for assistance as required.

If the case is referred to agencies outside CHR, the CHR officer concerned shall ensure that the Subject will receive the appropriate courtesy and dignity from the receiving agency and shall monitor the progress of the case until its final resolution. The outcomes of such cases may contribute to policy formulation or operations revision.

ANNEX 4:

Monitoring Templates

Name of Barangay	VAW Desk Existing? Brgy. Resolution	Number of VAW Personnel created through Brgy. Resolution	Number and Kinds of Training for VAW Personnel (2015)	Number of cases handled in 2015/ Number of BPOs issued	Available facilities for VAW Cases: a) Shelter; b) Interview room c) Separate filing cabinets etc.	Established protocol and referral mechanisms?	VAW Officers able to access GAD Fund for programming purposes/ activities?	Strengths and Challenges / Other comments

Template 1
Regional DILG: Barangay VAW Desks

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with section **11 (Protection from Violence)** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the **number of Barangay VAW Desks established in the region, the number or Barangay Protection Orders issued by these desks and the existence/non-existence of Barangay Resolutions** with respect this Barangay VAW Desks.

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexuals and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

**Template 2
PNP VAW and Protocols**

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with **section 12 (Protection from Violence)** and **section 18 (Women in the military, police and other related services)** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

Protection from Violence

1. The most recent Regional Statistic of Violence Against Women cases for 2015 (rape, sexual harassment, VAWC, etc.)
2. The list and description of high profile/prioritized cases in the Region involving women and lesbians, gays, bisexual and transgender (LGBT)
3. A copy of the procedure/protocol followed by the Regional PNP and other PNP units in the region in handling women and gender related cases and information on when the said procedure/protocol has been reviewed/enhanced;
4. Number and kinds of training on women and gender undertaken by the Regional PNP within the year (2015) , to include dates of training, number of participants and units involved;

Women in the military, police and other similar services

1. Information on any policies/programs enacted to implement the elimination of all forms of discrimination in the military, police and similar services (see sec. 18, MCW-IRR);
2. Information on whether the Regional PNP and related units within the region has convened a Committee on Decorum and Investigation in compliance with RA 7877 (Anti-Sexual Harassment Law);

3. Number of cases of sexual harassment or other gender based violence and other forms of discrimination committed against or committed by police officers filed and investigated through the Regional and related units' CODI; We likewise request for information on any disciplinary action or dismissals from service effected within the year as a result of the above mentioned processes.

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexual and Transgender human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

Template 3 Women in Armed Conflict

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with ***section 12 (Protection from Violence) and sec. 13 (Women affected by disasters, calamities, and other crisis situation)*** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

Women in detention due to armed conflict

1. Number of women arrested, detained for reasons related to armed conflict;
2. Number of pregnant, lactating women, persons with disability, elderly arrested, detained for reasons related to armed conflict;

3. Assistance and prioritization given to pregnant, lactating women arrested/detained for reasons of armed conflict;

On UN Security Council Resolution on women, peace and security

1. Whether or not a local plan or mechanism is in place for the implementation of UN Security Council Resolution on women, peace and security.
2. Reports/ documented cases of women and girls forcibly recruited for armed conflict;
3. Reports of women victims of gender-based violence in times of armed conflict and status of these cases;
4. Cases/Reports of women especially Indigenous and Moro women who are displaced or forced to abandon their lands, territories, and means of subsistence, or relocation for military purposes under any discriminatory condition

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexuals and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

**Template 4
DSWD**

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with **sections 12 (Protection from Violence), 13 (Women affected by disasters, calamities, and other crisis situations)** and 33-34 (WEDC, Services to

WEDC) of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

Women in armed conflict/ Implementation of UN Security Council Resolution on women, peace and security

1. Data on the assistance given by MSWDO/CSWDO/Department to pregnant, lactating women arrested/detained for reasons of armed conflict (2015);
2. Data on the psychosocial services provided by the department to combatants and non-combatants (2015)
3. Data on documented cases of women and girls forcibly recruited for armed conflict (2015)
4. Statistics/Data on women victims of gender-based violence in times of armed conflict and status of these cases (2015);
5. Statistics/Data of women especially Indigenous and Moro women who are displaced or forced to abandon their lands, territories, and means of subsistence, or relocation for military purposes under any discriminatory condition;

WEDC

Data on the services delivered by the MSWDO/CSWDO or the Department to Women in especially difficult circumstances (2015)

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexuals, and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

Template 5
RDRRMC Women in Disasters

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with section **13 (Women affected by disasters, calamities and crisis)** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information on the following:

1. Whether or not the Regional Disaster Risk Reduction Management Council is fully functional and whether it has adopted Gender Responsive Disaster Risk Reduction Policies (including guidelines) and programs. This can include efforts undertaken by the RDRRMC to address women's issues and gender concerns in disaster risk reduction management;
2. Information/Data on whether or not the Cities/Municipalities Disaster Risk Reduction Management Council are fully functional and whether they have adopted Gender Responsive Disaster Risk Reduction Policies (including guidelines) and programs; This can include efforts undertaken by the cities and municipal DRRM in addressing women's issues and gender concerns in disaster risk reduction management;
3. Information on the extent of participation of women in the drafting of DRRM policies, guidelines and programs;

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexuals, and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

Template 6
Education

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with **section 27 (Right to Education and Training)** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information on the following:

I. Public and Private Schools with programs to prevent Violence Against Women

1. Information on whether or not the school/university have (a) policies, (b) programs, and/or institutional mechanisms in place for complaints and assistance to students/faculty in cases of rape, sexual harassment, and other forms of violence and discrimination against women and persons with diverse Sexual Orientation Gender Identity and Expression (Lesbians, Gays, Bisexuals, Transgender);
2. Information on the number of gender based violence, sexual harassment cases handled/ investigated by the school's university's/ CODI for school years 2014-2015 and 2015-2016 and the number of sexual harassment cases/ other cases resolved and referred to the CSC or other tribunals for school years 2014-2015 and 2015-2016;
3. If available, data is also requested on cases handled involving persons with diverse Sexual Orientation and Gender Identity and Expression (SOGIE), particularly lesbians, gays, bisexual and transgender people for school years 2014-2015 and 2015-2016;

II. Public and Private Schools with Scholarship for marginalized women

1. Information on whether or not the school/ university has established a scholarship for marginalized women and the number of marginalized women who were able to access/ avail of such scholarship for school years 2014-2015 and 2015-2016;

III. Public and Private Schools which conducted reviews to address gender stereotypes in materials and curriculum

1. Information on any reviews/enhancement made on school/university materials and curriculum in order to address gender stereotypes in accordance with the Magna Carta of Women (RA 9710). The review/ enhancement must have been made from the passage of RA 9710 in 2009 to the present;

IV. Public and Private Schools with policy on non-expulsion of students/faculty due to pregnancy

1. Information on whether or not the school/university has adopted a policy on non expulsion of faculty and students due to pregnancy as provided under the Magna Carta of Women (RA 9710);
2. Information on the number of cases/complaints (with status) filed in relation to the expulsion of faculty/student due to pregnancy for school years 2014-2015 and 2015-2016;

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexual and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

**Template 7
Women and Military**

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with section **18 (Women in the military, police and other similar services)** of the Implementing Rules and Regulations of the Magna Carta of

Women, the Office requests information regarding the following:

Women in the military, police and other similar services

1. Information on any policies/programs enacted to implement the elimination of all forms of discrimination in the military and related services (see sec. 18, MCW-IRR);
2. Information on whether the Division/Battalion and other related units within the region has convened a Committee on Decorum and Investigation in compliance with RA 7877 (Anti-Sexual Harassment Law);
3. Number of cases of sexual harassment or other gender based violence and other forms of discrimination committed against or committed by military officers duly filed, investigated, and/or acted upon within the period of January 2015-October 2015. We likewise request for information on any disciplinary action or dismissals from service effected within the year as a result of the above mentioned processes.

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbian, Gays, Bisexuals, and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

Template 8
Women and Media

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with **section 19 (Non-Discriminatory and non-derogatory portrayal of women in media and film)** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

Non-Discriminatory and non-derogatory portrayal of women in media and film

A. *For Local Government Units:*

1. Information on whether or not the local government unit has created the Local Media Board (LMB) in accordance with the MCW and information as well on the actions it has undertaken to monitor compliance of the non-discriminatory and non-derogatory portrayal of women in media and film by media organizations and corporations within their respective jurisdictions;

B. *For Media Organizations and Corporations*

1. Information on whether the media organization/corporation has adopted policy guideline/s on gender equality in all aspects of management, training, production, information dissemination, communication and programming;
2. Information on whether the media organization/corporation has convened a Gender Equality Committee or Focal Person to promote gender mainstreaming as a framework and strategy;
3. Information on whether the media organization/corporation has undertaken efforts to incorporate gender equality and gender based discrimination training as components of human resource development; Please include the number of gender equality and gender based discrimination training undertaken within the year.

C. *For self-regulatory bodies, groups and associations for media, cable, film, and advertising*

1. Whether or not these bodies have adopted policies and/or programs in compliance with the provisions of MCW on the non-discriminatory and non-derogatory portrayal of women in media;

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexuals and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

Template 9
Women and Health

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with ***section 20 (Women's Right to Health)*** and ***section 21 (Special Leave Benefits for Women)*** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

1. Information on whether or not the agency/LGU has adopted and implemented the guidelines on the 60 day special leave for women (on surgery caused by gynecological disorders) and leaves in cases of VAWC (RA 9262). Information is likewise requested on the number of women who availed of these leaves in 2015.
2. Information on whether or not a Region/Province/City/Municipality effort has been undertaken to adopt policies, programs, guidelines for the implementation of comprehensive, culturally sensitive and gender responsive health programs and services. This entails providing information on (a) current programs and policies on RH; (b) current guidelines; (c) number/statistics of women able to avail of Reproductive Services within the Local Government Unit's jurisdiction.

For the Regional Department of Health (DOH), collated available information as enumerated above from different provinces, cities and municipalities is requested.

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexual and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

**Template 10
Housing**

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with **section 24 (Right to Housing)** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

1. Information on whether or not the local government undertook a review of their existing policies and guidelines on housing, relocation and resettlement to ensure gender sensitivity and gender responsiveness during relocation and resettlement of communities;
2. Information on the existing guidelines in place on housing, relocation, and resettlement and on whether these assure that housing programs and services are provided for women belonging to the marginalized sectors;
3. Information as to the participation of women in the development of land use plans, implementation of zoning ordinances, and in the drafting of policies and guidelines on housing, resettlement and relocation.

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexual and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

**Template 11
Inter-agency**

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with ***section 12 (Protection from Violence)*** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

1. Guidelines, Policies, and mechanisms adopted by the Inter-agency on Trafficking and on Violence Against Women to address violation of women's human rights and provision of remedies;
2. Collated reports and statistics, including issues, challenges identified by the inter-agency for the year 2015 in relation to trafficking and violence against women;
3. Other relevant information which the inter-agency believes to be relevant in the reporting of women's human rights situation in the Region.

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexual, and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

Template 12
Participation and Representation

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with ***section 14 and 28 (Right to Participation and Representation)*** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

Women's Participation in all levels of development planning and program implementation

1. Information as to the number of women members in the Regional Development Councils;
2. Information as to the number/percentage of women members in all development councils from provincial, city, municipal and barangay levels (*for 2015*)

Women members in policy and decision making bodies

1. Information on the number of women and women's participation in the Provincial Agrarian Reform Coordinating Committee (PARCCOM) and Barangay Agrarian Reform Committee (BARC);
2. Information as to number of women members and women's participation in community based resource management bodies or mechanisms on forest management stewardship;
3. Information as to the number of women members and women's participation in the National Agriculture and Fishery Council (NAFC) and its regional and local counterparts;

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbians, Gays, Bisexual and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director

**Template 13
Social Protection**

Dear Sir/Madam,

The Commission on Human Rights is designated as the Gender and Development Ombud under the Magna Carta of Women (RA 9710), as such, the Commission together with its Regional Offices investigates violations of the law and monitors jointly with the Philippine Commission on Women (PCW) its implementation. As part of the Regional Office's function as Gender Ombud within our area of responsibility, we are undertaking regional monitoring of compliance with the Magna Carta of Women. The results of the monitoring will form part of the Regional Women's Human Rights Profile which the Region will be compiling by the end of the year.

In relation to this and specific to the compliance with **section 30 (Social Protection)** of the Implementing Rules and Regulations of the Magna Carta of Women, the Office requests information regarding the following:

Existence of social protection programs and women/ women's groups who availed of social protection programs

1. Information on whether or not the Agricultural Competitiveness Enhancement Fund has been established and the number of women farmers, fisherfolks groups who were able to avail of the same this 2015;
2. Information on whether or not an employment programs and/or economic opportunities have been developed at the local government level to specifically address the returning women migrant workers; Information as well on the number of returning women migrant workers who were able to access such programs and/or economic opportunities this 2015;
3. Information as to programs and/or policy in place at the local government level which provide insurance programs for senior citizens and indigents; Information as well on the number of women who were able to avail of such programs for 2015.
4. Information on whether or not a Community Based Social Protection Scheme for women with disabilities has been duly established and implemented at the local government level and information as well on the number of PWDs, and women PWDs who were able to access the same this 2015;

As the Commission aims to compile a regional women's human rights profile by the end of the year we expect to receive your agency's reply fifteen (15) days from receipt of this letter. We also welcome any information/data which your office finds relevant for the monitoring of women's/Lesbian, Gays, Bisexual and Transgender (LGBT) human rights situation in the region.

Thank you and may we continue to work together to achieve women's empowerment and gender equality.

Regional Director



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