



COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES

Response to the call for contributions of the Special Rapporteur in the field of cultural rights: Fundamentalism and extremism on women's enjoyment of cultural rights and challenges related to the rights of women to access, take part in and contribute to cultural life, and to contribute to and enjoy the arts and science 11 May 2017

1. The Commission on Human Rights of the Philippines (herewith the Commission), through its Gender Equality and Women's Human Rights Center (GEWHRC), respectfully submits its inputs to the Special Rapporteur in the field of cultural rights. These inputs are based on the proceedings of a consultation on the CEDAW update of General Recommendation 19: Accelerating Elimination of Gender-Based Violence Against Women, entitled "Problematizing Access to Justice," Multi-Sectoral Consultation Workshop on the Comprehensive Anti-Discrimination Bill, and the Commission's Reproductive Health Inquiry Report.¹
2. On Rural Women as discussed by Ms. Rebecca Miranda of Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK):
 - a. Patriarchy is still embedded in the culture where a wife must be submissive to her husband due to the notion that a husband owns his wife's body. Non-submission to the husband could entail violence against women or gender-based violence such as marital rape, and incest just to name a few. Moreover, indigenous communities' practice of arranged marriages is still prevalent. Thus, young girls are prevented from exercising their right to decide whom to marry since, it is part of their customary law or embedded in their culture. Violence as a continuing cycle also leads to separation and eventually, women are disadvantaged due to lack of employment and livelihood opportunities. This situation makes women vulnerable to stay in an abusive relationship so they economically survive together with their children.
3. On Women in Armed Conflict as discussed by Atty. Raissa Jajurie of Nisa UI Haqq Fi Bangsamoro:
 - a. In times of armed conflict, the vulnerabilities of Bangsamoro women are more pronounced due to their religion, class, and other discrimination based on identities. For example, Moro women wearing hijab are more subjected to discrimination; they experience discrimination not only because they are women but also because of their religion. During displacement, reported cases of rape, sexual harassment, and prostitution

¹ "Let our voice be heard," Report of the Commission on Human Rights Philippines' National Inquiry on Reproductive Health and Rights, 2016. Refer to the annex for the full report.

are allegedly prevalent but difficult to verify as these are taboos especially within Muslim communities. This leaves women with limited or no access to justice.

b. As part of culture, early marriages and arranged marriages are widely practiced during armed conflicts. Marrying off children, particularly daughters, lessens the responsibility or burden of providing for the daily needs of and protecting family members in times of armed conflict.

4. On Violence against women as experienced by indigenous women as discussed by Ellen Dictaan of Tebtebba:

a. Ancestral lands are the core of the indigenous communities' culture, and once they lose it to displacement due to mining activities, dam construction and militarization, an imbalance is created in their life system. This affects indigenous women who are usually the food providers for their families. Their ancestral lands are sources of their crops and traditional medicine. Economic displacement creates a big gap in their dignity as their lands are part of their identity and where indigenous peoples' communities rely for their livelihood. As a consequence, women become dependent on their spouses or family members for their subsistence.

b. Furthermore, displacements impact indigenous women as knowledge bearers in their communities. Being forcibly displaced from their lands affect the core of their culture, thus preservation and transfer of traditional knowledge are disrupted.

5. Problematizing Access to Justice (relevant to people with disabilities) - From the discussions of Dr. Liza Martinez, Multi-Sectoral Consultation Workshop on the Comprehensive Anti-Discrimination Bill, 4 August 2014)

a. Disability is not a standalone issue. Disability intersects with other bases of discrimination including sexual orientation, gender identity and expression, age, race, ethnicity, and religion.

b. The only existing law that seeks to protect persons with disabilities is the Magna Carta of Persons with Disabilities of 1992 (RA 7277), and the subsequent amendment - An Act Expanding the Positions Reserved for Persons with Disability, Amending for the Purpose of Republic Act No. 7277, as amended, otherwise known as the Magna Carta for Persons with Disability.² Despite the amendment, the law is outdated. It only looks at discrimination in employment, transportation, use of public accommodations and services.

c. Prosecution of discriminatory acts is difficult under this law: for the DOJ Secretary to act on discrimination complaints, it must first be proven that there is a "pattern or practice of discrimination" and that such act is an "issue of general public importance."

d. Similarly problematic is the segregation via special education (SPED), involuntary detention in mental health institutions (which violates right to liberty), and the non-provision of interpreters during legal proceeding (e.g. the DOJ is slow in implementing its policy on

² R.A. 10524, signed into law April 23, 2013

the provision of interpreters). The State also has weak to gather data on discrimination, leaving the NGOs to fulfill this task.

6. Reproductive Health National Inquiry Report of the Commission

a. Despite passage of and current national implementation of the Responsible Parenthood and Reproductive Health Act (Reproductive Health Law), challenges continue on de facto availability, accessibility, sufficiency, and adequacy of reproductive health services and information.

b. There is apparent criminalization of traditional and indigenous home births in many local government ordinances, while DOH claimed that penalization of home births was not adopted as a policy. The DOH explains the same as a misinterpretation by the LGUs of the DOH's encouragement of facility based deliveries. With the proliferation of such ordinances, and the outcry of indigenous groups and women in geographically isolated and disadvantaged areas (GIDA), representatives from the DOH admit the need to review and for once clarify the Department's stand.

c. In many instances, health facilities are inaccessible or absent in geographically inaccessible areas, and in cases where they are present and accessible, challenges are posed as to the sufficiency of facilities and equipment and of the supplies of the commodities available. There is also acknowledgment from health workers that there is difficulty in meeting the standards of doctor/nurse/midwife ratio to population served.

d. In Mindanao, concerns have been raised on the failure to engage indigenous and religious leaders in the reproductive health agenda and to engage them in information dissemination on reproductive health and rights. Barriers in accessing reproductive health services include lack of information and misinformation on reproductive health, breakdown of service delivery networks, religious and cultural barriers, and unprofessional and / or unethical practices of health service providers. Instances of misinformation due to religion or culture have also been documented which were shown to have affected women and men's willingness to access reproductive health services. In some cases, while women are generally aware of the available services, they are unwilling to avail of such services due to misplaced religious beliefs or cultural practices. For instance, while a 'fatwa' has been issued on the acceptability of reproductive health in Islam, not all Moro women are aware of the same. For indigenous peoples, while elders claim that it is not against indigenous culture, some women refuse to avail of services believing they are breaking cultural or that they have to seek the consent of their husbands. These led to recommendations on the need to improve information dissemination not only on available goods and services, but also to include men, traditional and religious leaders in the reproductive health agenda.