

Philippines

Article 2(14) of the 1987 Constitution of the Republic of the Philippines explicitly recognises the role of women in nation-building and ensures equality between men and women before the law. Though the Constitution does not contain a clause on non-discrimination, the 2009 Magna Carta for Women (Republic Act 9710, hereinafter '2009 MCW) does. It is the central legal document governing gender equality and women's rights. The law represents the government's commitment to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ratified by the country in 1981. As such, the MCW mandates all government offices, at all levels, to mainstream gender into policies and budgets – as well as take steps to review, amend or repeal any existing policies or laws deemed discriminatory.

The MCW dedicates several paragraphs to comprehensively define discrimination against women. In part, it is defined as “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.” Multiple and intersectional gender discrimination is also acknowledged too. The definition of discrimination includes “discrimination compounded by or intersecting with other grounds, status or condition, such as ethnicity, age, poverty, or religion” (PCW, 2010).

All laws relating to personal status – such as marriage, inheritance, property and family relations are governed by the 1987 Family Code. The exception to this is the Code of Muslim Personal Laws of the Philippines (hereinafter “CMPL”) which applies to Muslim Filipinos. Presidential Decree No. 1083 (1977) promulgated, recognised and codified the CPML. Article 3(1) of P.D. 1083 notes that in case of conflict between the provisions of the CPML and laws of general application, the former shall prevail.

1. Discrimination in the family

a) Overarching legal framework for marriage

Marriage in the Philippines is governed by the 1987 Family Code and for Muslim Filipinos – by the 1977 CPML. For non-Muslim Filipinos, the matrimonial age is the same for both men and women, 18 years of age (Family Code, art. 5), albeit with contingencies. Contracting parties between the ages of 18-21 must exhibit to the local civil registrar that their father, mother, surviving parent or guardian (in that order) have consented to their marriage to obtain a marriage license – which gives a father's consent preferential treatment (Article 14). Those between the ages of 21 to 25 are obliged to obtain advice from their parents or guardian on their marriage, the absence of which can result in the delayed issuance of a marriage license for up to 3 months (Article 15). The only exception to these rules is if a couple have co-habitated together for more than five years (PSA, 2017).

Within the Family Code, marriage is only deemed valid if it is a heterosexual union and based on the free consent of both partners in the presence of the person officiating the marriage (Article 2). The formal requisites of marriage include three factors: a solemnizing officer, a valid marriage license, and a ceremony with a minimum of two witnesses (Article 3). The absence of any of these requirements renders a marriage void. Similar requisites exist under Article 15 of the 1977 CMPL

where no marriage contract can be solidified without: the legal capacity of the contracting parties, mutual consent freely given by both parties, and the offer (*ijab*), acceptance (*gabul*), and stipulations of a dowry (*mahr*) having been duly witnessed by at least two competent persons. Article 45(4) of the Family Code prohibits forced marriage.

Different rules apply to Muslim Filipinos with regards to marriage. Section 19 of the 2009 Magna Carta for Women (MCW, Republic Act 9710) guarantees “equal rights in all matters relating to marriage and family relations,” but also notes that “customary laws shall be respected” provided “they do not discriminate against women.” A 2005 Administrative Order (No. 1) further reinforces the government’s acceptance of marriage performed via the “customs, traditions, rites and practices,” for Muslim Filipinos, as long as the marriages are reported within 30 days to the Circuit Registrar or Local Civil Registry Office (Article, 9(2)). Some of the provisions on marriage within the CMPL stray from the non-discriminatory element upheld in Section 19 of the MCW. Article 16 of the CMPL states that both male and female Muslims can marry at age 15; for females, this is set at the “age of puberty”. Given that some girls may reach puberty before age 15, the CMPL allows marriage of girls as young as 12, upon the petition of a “proper wali”. Article 16(3) indicates that a marriage of a minor by a wali below age 15 is considered a “betrothal” and can be annulled upon the petition of either contracting party within four years on the condition that no voluntary cohabitation took place and the wali contracting the marriage was not a paternal father or grandfather.

Article 162 allows men to practice polygamy and contract subsequent marriages, if he has obtained the consent of his first wife or wives, with the possibility of objections being overruled by a court. Women do not have the same right to undertake subsequent marriages or have multiple partners under the CMPL. Under Article 35 of the Family Code, bigamous or polygamous marriages are prohibited full-stop.

Per Article 13(2) of Muslim Personal Laws --a marriage solemnized between a Muslim and non-Muslim not in accordance with the Muslim Code is governed by the Philippines’ Civil Code.

b) Child marriage

Article 35 of the Family Code voids any marriage contracted between parties below the age of 18, even with consent of a parent or guardian. The 2009 Magna Carta for Women (MCW, R.A. 9710) indicates that the “betrothal and the marriage of a child shall have no legal effect.” Though marriage before age 18 is illegal, in general, there appear to be no specific legal sanctions against facilitating the marriage of a minor.

The Philippines ratified the 1962 UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages in 1965 which dictates that marriage under the legal minimum age is not to be undertaken except for “serious reasons”. Though the Constitution of the Philippines includes an incorporation clause that gives international treaties equal standing with domestic law, they are not considered superior to national legislative enactments (OHCHR, 2017; CEDAW, 2015). In this sense, the 1977 Presidential Decree No. 1083 (CPML) would override the provisions of the 1962 treaty.

Given the conflict between existing laws (e.g. 1962 Treaty, 2009 MCW and 1977 P.D. 1083) a 2006 CEDAW report for the Philippines recommended an “intensified dialogue with the Muslim community to remove discriminatory provisions from the Code of Muslim Personal Laws” with a

focus on child marriage, forced marriage and polygamy. This resulted in the Autonomous Region of Muslim Mindanao (ARMM) passing a Gender and Development (GAD) Code in 2011 (HRC, 2011).

Nevertheless, the autonomy afforded to some religious and ethnic communities in the Philippines to contract marriages based on their own traditions and rites may increase the risk of child or forced marriage. The provisions within the 1977 CMPL setting the matrimonial age at 15, and as young as 12 for females that have attained puberty is an example.

Child marriage is more common among females than males. The Philippine Statistical Authority (PSA) found in 2015, that marriages involving teenage brides were five times more prevalent than those involving teenage grooms. The latest figures from UNICEF place the prevalence of child marriage at 15% by age 18 and 2% by age 15 in the Philippines.

c) Household responsibilities

Title III of the 1987 Family Code outlines the rights and obligations of husband and wife and dictates that they equally choose the family domicile (Article 69) and are jointly responsible for support of the family and management of the household (Articles 70-71). Under Articles 212 and 225, the father and mother jointly exercise parental authority or legal guardianship, but in the case of disagreement, “a father’s decision shall prevail, unless there is judicial order to the contrary.”

The 1977 CMPL outlines “mutual rights and obligations” (Article 34), as well as the separate rights and obligations of the husband (Article 35) and wife (Article 36). Under Article 35, it is the husband’s right and obligation to determine the residence of the family, albeit with contingencies. A court may exempt the wife from living with her husband if the dwelling is deemed to be unsafe. A husband is also obligated to financially provided for the family (Articles 36, 67, and 70b). A woman is required to manage the affairs of the household. She cannot acquire property, exercise a profession or occupation, or engage in lawful business without the consent of her husband. Article 36(6) stipulates that a wife “shall be entitled to an equal and just treatment by the husband.” Both parents have the same rights to exercise parental authority (Article 71).

Though both the Family Code and the CMPL include clauses that guarantee a wife, female partner or mother equal rights, neither provide women with the same rights as men. The CMPL’s assignment of gender roles reinforces gender inequality in the home and in the Family Code, a husband’s decision prevails. Women must resort to judicial action to override the decision of the husband under both Codes (PCW, 2013).

Challenges to the discriminatory provisions in the Family Code and the CMPL have been levied, namely by the Philippines Commission on Women but have been unsuccessful so far. The Commission has highlighted the conflict between the 2009 Magna Carta for Women and Article 16(1) of CEDAW which requires the government to eliminate discrimination against women in all matters relating to marriage and family relations. Congressional bills have been filed, with the Commission’s help, to address the discriminatory preference given to men in the 1987 Family Code (e.g. Articles 211, 225) and are pending (CEDAW, 2015). With regards to the CMPL, a regional trial court upheld the discriminatory provisions contained within the Code in *Asjari v. Ermita* (2006) on the grounds that they are necessary to maintain “family solidarity” and to “prevent a constant impasse” in family decision-making (Ezer, et.al., 2011).

There is a strong gendered division between men and women when it comes to household and care work (ADB, 2013). Women provide 84% of time allocated to childcare and have greater responsibility for domestic and unpaid care work than men. Despite women's increased participation in paid work outside the home, they are still expected to predominately carry the burden of unpaid care work (ADB, 2013).

d) Divorce

There are currently no laws governing divorce in the country, except within the Muslim community. Article 1 of the Family Code refers to marriage as a "permanent" and "inviolable social union." In some cases, it is possible to file for divorce outside of the Philippines, but whether it is recognized by law depends on the citizenship of the person filing and who initiates the procedure. For instance, if the petitioner is a foreigner married to a Philippine citizen, then the government will recognize the divorce as valid and the Philippine citizen is free to remarry. If a Filipino files for divorce outside of the country from a foreign spouse – they are still considered to be married under the Filipino Family Code.

In lieu of divorce, there are two options governed by the Family Code: legal separation or annulment. Though legal separation allows for division of property, custody arrangements, alimony etc. neither party is free to remarry again and it is granted on the basis that one party is guilty and the other innocent. A petition for legal separation may only be filed based on the grounds outlined under Article 55 of the Family Code, one of which is sexual infidelity. Proving the latter to obtain a legal separation from one's husband or to negate a husband's claims can be more problematic for women than men. This is due to the discriminatory provisions of Articles 333 and 334 of the Penal Code that define a woman's extramarital relations as "adultery" and a man's as "concubinage" – terms that satisfy different conditions. Article 333 defines adultery as committed by any "married woman who shall have sexual intercourse with a man not her husband," whereas concubinage (Article 334) pertains to "any husband" who "keeps a mistress within a conjugal dwelling or shall have sexual intercourse under scandalous circumstances." In the case of legal separation, custody of children is awarded to the "innocent spouse," (Article 63(3) and the offending spouse is thereby disqualified from inheriting from the innocent spouse (Article 63(4)).

Article 45 of the Family Code defines the causes in which a person may petition for an annulment with the same requirements for both men and women. Only under a legal annulment can a couple remarry. In reality – to obtain an annulment is an arduous process that can be expensive, time consuming and personally intrusive (Santos, 2015). It differs from a divorce in a few ways – namely in that one must prove that a marriage was invalid within very limited parameters. Grounds to invalidate a marriage could be: if it was contracted while underage; contracted by fraudulent means; forced; if the one of the spouses is of unsound mind; if a spouse is physically incapable of consummating the marriage; or if a spouse has a sexually transmitted disease (STD) (Family Code, Article 45).

Though infidelity, physical abuse and abandonment are grounds for legal separation, they are not for an annulment. This means that a woman whose husband has committed one of the latter acts must remain legally married to the perpetrator. The inability to divorce has further reaching consequences: as property can still be presumed as common, a woman must maintain her married name on identification/administrative papers, and she could technically be charged with adultery (Santos, 2015). To circumvent these rules, petitions for annulment often site "psychological incapacity" which is difficult to prove and can be an adversarial process in court (Santos, 2015).

For Muslim Filipinos, both the husband and wife have the right to divorce under Title II of the 1977 CMPL (Article 34(4)), but different rules apply for men and women. There are seven several types of divorce, most of which, contain discriminatory provisions against the wife (Article 45). A Muslim Filipino may divorce by repudiating his wife (*talaq*), but she can only do the same if the right (*tafwld*) was delegated in the marital contract. A husband who repudiates his wife has the right to change his mind and take her back (without her say), both the first and second time, within the period of *iddat* (3 months), by resuming cohabitation with her (Article 47). In the case of '*khul*' – a woman pays her husband a sum of money, determined by the court, for a divorce. There is no instance where a man must pay his wife to obtain a divorce. Under Article 49, a husband may accuse his wife of adultery to obtain a divorce by '*li'an*', but there are no provisions that indicate a wife may do the same. A Muslim Personal Status Court may, upon petition of the wife, decree a divorce by '*faskh*' for a few reasons – including: a husband's "unusual cruelty," impotency, insanity, incurable disease, neglect, or failure to perform marital obligations (Article 52).

A 2005 Administrative Decree by the government set out rules governing the registration of divorces among Muslim Filipinos indicating that "the marriage bond in accordance with P.D. 1083 to be granted only after the exhaustion of all possible means of reconciliation between spouses" (Rule 10).

Legalising divorce is a contentious issue in the Philippines which is predominately Roman Catholic. A bill to legalise divorce on the grounds of "irreparable breakdown of the marriage and total non-performance of marital obligations" failed to pass in the 15th (2010-2013) and 16th Congress (2013-2016) (CEDAW, 2015). The Philippine Commission on Women (PCW) is currently lobbying for a Divorce Law to be passed in the 17th Congress (2016-2019).

e) Inheritance

The Civil Code (Republic Act No. 386) governs inheritance for non-Muslim Filipinos. Articles 979-980 provide children the same rights to inherit property "without distinction as to sex or age, and even if they should come from different marriages." The children of the deceased inherit equal shares. Articles 995-1002 cover the inheritance rights of surviving spouses with the same rights afforded to widows and widowers. Disinheritance of a surviving spouse is not prohibited by law. Article 921 outlines gender-neutral grounds for disinheritance. Via Articles 796 and 797, all persons above age 18 and not expressly prohibited by law are free to make a will.

Under the 1977 CMPL – husbands and wives inherit from each other in accordance with Muslim Law (Article 34). Daughters and surviving wives inherit less than sons and surviving husbands. Article 117 entitles sons to double the share of daughters. In the case of a parent surviving with a legitimate child, Articles 111-112 entitles surviving husbands to one-fourth of the hereditary estate and the surviving wife to one-eighth of the hereditary estate. In the absence of descendants, the surviving husbands inherits half of the hereditary estate and the surviving wife inherits one-fourth (Articles 111-112). An adopted child does not enjoy the same status and rights of a legitimate child under Muslim Law and as such, cannot inherit, but rather, may receive a gift (*hiba*) (Article 64).

2. Restricted Physical integrity

a) Violence against women

The 2009 Magna Carta for Women (R.A. 9710) spells out protection of women from all forms of violence – physical, emotional, economic, and political -- including by the State. The Philippines has passed a few laws aimed at the protection of women’s physical integrity, covering Violence Against Women (VAW) and children, domestic abuse, rape, sexual harassment and reproductive rights.

The 2004 Anti-Violence Against Women and Children Act (Republic Act 9262) takes a comprehensive approach to VAW, providing for investigation, prosecution and punishment of the perpetrator, as well as protection and support for survivors. Section 3 provided a definition of terms, covering physical, sexual, psychological and economic abuse and acknowledges “battered woman syndrome” (3c). Section 5 recognizes VAW as a crime and Section 25 goes even further, recognizing VAW as a “public crime” which provides the possibility for any citizen with knowledge of the crime to file a complaint. The law provides a comprehensive overview of what constitutes VAW – including acts such as threats, attempts to harm, stalking, entering the property of a woman or child against their will, public ridicule or humiliation, engaging in any form of harassment or violence etc.

Section 6 outlines the criminal penalties which range from “arresto mayor,” (1 to 6 months), to “prison correctional” (6 months to 6 years), to “prison mayor” (6 to 12 years). In addition to imprisonment, the perpetrator is also liable to a fine between 100,000 to 300,000 PHP. Protection orders are provided for under Section 8, with Section 9 providing the possibility for a number of interested parties to petition for a protection order on behalf of a victim (e.g. the offended party, family members, social workers, police officers, lawyer, healthcare provider etc.). There are three types – the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). In addition, the petitioner for a protection order may also be granted full and temporary custody of children (Section 8f) and claim restitution for actual damage caused by the violence inflicted (Section 8i). A violation of a protection order is punishable with a fine ranging from 5,000 PHP to 50,000 PHP and/or imprisonment of up to six months (Section 12). There is a mandatory time period for action on applications for protection orders that if not met (without justifiable cause) will render a public official or judge administratively liable (Section 18). Further strengthening protection for victims/survivors is Section 23 whereby a Court may order any person whom a protection has been issued against to provide a “bond to keep the peace” – meaning, that at least two sufficient sureties should attest that the person will not commit the violence sought to be protected. Should the respondent fail to present the bond, they can be detained for up to six months.

Sections 29 to 32 outline the duties and responsibilities of stakeholders tasked with implementation of the law – including prosecutors/court personnel, barangay officials and law enforcers, healthcare providers, other government agencies and local government units. An Inter-Agency Council on Violence Against Women and their Children (IAC-VAWC) was established under Section 39 composed of twelve governmental agencies covering health, justice, social welfare, education, employment and investigation. All agencies are directed to avail funds from their respective budgets to implement the law, with Section 45 concretely earmarking funds for the law within General Appropriations from the Federal budget.

The Philippines Commission for Women (PCW) has deemed VAW as one of the most pervasive social problems in the country. The Commission links VAW to unequal power relationships between men

and women and societal norms that dictate that “men are the leaders, pursuers, providers, and take on dominant roles in society while women are nurturers, men’s companions and supporters, and take on subordinate roles in society.” A 2013 Demographic and Health Survey found that the prevalence of violence varies among women of different backgrounds (PSA). The incidence of women reporting to have experienced violence include: two-fifths of divorced, separated or widowed women; 22% of women in married or civil partnerships; and 13% of unmarried women (PSA, 2013). There was minor difference in the levels of domestic violence in urban versus rural areas. Rather, statistics show that violence is more prevalent among women with lower levels of education, who have more children and who are within low wealth quintiles (PCW, 2013). VAW is also more prevalent in some regions. Around 28% of women reported having experienced violence in Cagayan Valley – a remote, mountainous region of the country. The lowest prevalence of violence (15%) was recorded in the Autonomous Region of Muslim Mindanao (ARMM). However, it is worth noting that though official figures are low in ARMM -- it may be due to lack of reporting, as opposed to lack of violence. A 2011 paper found that no cases for divorce had been filed “on grounds of domestic violence, wife beating or marital rape,” in Shari’a courts, suggesting that women are ill at ease with drawing attention to such crimes (Stephens, 2011). Further – sexual assault and rape are outside of the jurisdiction of Shari’a courts in ARMM, meaning that women may find it difficult to seek redress and choose not to.

Married women reported husbands (44%) or former partners (22%) as the most common perpetrators of violence, followed by mothers/stepmothers and fathers/stepfathers. For unmarried women, the most common perpetrators of violence were mothers/stepmothers (42%), fathers/stepfathers (33%), siblings (19%) or friends/acquaintances (17%). Current or former partners were not reported as main perpetrators of violence (2.4%).

The survey also found that only around 30% of women who had experienced physical or sexual violence had sought assistance. A review of cases of VAW reported to the Philippine National Police (PNP) over the past two decades indicates that reporting such crimes has historically been low and only in recent years have reports increased. Nearly 24 000 VAW cases were reported in 2013, in comparison to 5 734 in 2005 and 3 687 in 1997, suggesting that social awareness campaigns on VAW and services available have begun to bear fruit (Rodriguez, 2015). The official number of cases reported to the PNP pale in comparison to VAW cases recorded by the Department of Health where victims may choose not to lodge official charges. There are programs within hospitals that specifically cater to women and children victims of gender-based or domestic violence (IRBC, 2010). The DOH recorded a 79.96% increase in new cases of VAW and children between 2009 and 2010, a year after the 2009 Magna Carta for Women (MCW, R.A. 9710) was passed (DOH, n.d.). The predominance of cases were sexual (59%) or physical abuse (37%), or a combination of the two. Though laws covering various aspects of VAW began to be introduced as early as 1995 and have existed for over a decade, it was under the 2009 MCW that services for women were greatly expanded – notably the directive to establish a VAW desk in every barangay of the Philippines.

Based on 2013 statistics, 20% of all cases of VAW in the Philippines were reported in Western Visayas, a province which also happens to have the greatest number of VAW desks with 99% barangays complying with the 2009 MCW (Rodriguez, 2015).

b) Domestic violence

Domestic violence is covered under the 2004 Anti-Violence Against Women and Children Act (Republic Act 9262). Sections 3g, 31 and 40 of the law establish emergency shelters and comprehensive, accessible health services for women and children victims of violence.

Though the Philippines' law on VAW and domestic violence is comprehensive, the inability for a woman to obtain a divorce and the State's insistence on the sanctity of marriage can put women in an abusive relationship in a dire circumstance. While legal separation from a partner may be obtained for "repeated physical violence" (1987 Family Code, art. 55(1)), a petition for legal separation can be denied if the aggrieved party "condoned the offense of act complained of," or "consented to commission of the offence," (Articles 56(1-2)). This clause provides for the possibility that a woman may not be granted legal separation for domestic abuse if she forgives the perpetrator. Though parties that have filed for legal separation may live separately after doing so (Article 61) – a court will not undertake judgement for legal separation until six months after the petition has been filed (Article 58), nor can a legal separation be decreed unless the Court has taken all steps toward the reconciliation of spouses (Article 59).

Women and Child Protections Desks (WCPD) have been established in almost all police stations with some officers undergoing training on gender-sensitivity and how to handle cases of domestic violence. Nevertheless, not all officers receive training and a gender assessment by the ADB found cases where male officers manning WCPDs have inadequate knowledge of R.A. 9262 and have advised women to reconcile with partners (ADB, 2009; IRBC, 2010).

A 2009 Amnesty International Report noted several barriers to implementation of R.A. 9262. Barangay officials noted insufficient resources allocated under Gender and Development (GAD) budgets to implement all provisions of R.A. 9262, even though there is political will to do so. Women and Children Protection Units (WCPU) in hospitals have raised concerns about tightening resources in the face of a growing demand for their services, with none having adequate funds to cover properly trained staff 24 hours a day. Though it is possible for women to obtain free medical services, the paperwork to prove need can be cumbersome and accessing services is especially troublesome for indigent women.

Public awareness that violence at the hands of an intimate partners and/or violence that occurs in the home is a crime is lacking. A 2009 report by Amnesty International found that the belief that domestic violence is a private matter is pervasive and that women are often blamed for the abuse. The same report noted that interview with victims/survivors indicated that women often stay in an abusive relationship for the "sake of the children."

c) Rape

The 1997 Anti-Rape Law (Republic Act 8353) amended the Penal Code to include a chapter on the crime of rape. The current definition of rape is ambiguous, with the act defined as "by a man who shall have carnal knowledge of a woman" under specific circumstances (Penal Code, Article 266-A). The law implicitly covers marital rape and is based on lack of consent. The latter does not require proof of resistance or penetration. However, "force," "threat" and "intimidation" are cited as possible circumstances for rape.

Increased penalties are levied for aggravated forms of rape – such as when a deadly weapon is used, in cases of incest, if the victim suffers mental/physical impairment, dies as a result, is under age of 7, is pregnant, or if the perpetrator has HIV/AIDs (Penal Code, Article 266-B). Penalties can range from reclusion temporal (12 years), to reclusion perpetua (30 years imprisonment), to death.

The subsequent 1998 Rape Victims Assistance and Protection Act (Republic Act 8505) established rape crisis centres across the country. Sections 3 and 4 of the law mandate special training for professionals who may deal with sexual violence (e.g. police officers, lawyers, prosecutors, medical professionals etc.) and free legal assistance, when necessary for rape victims. NGO's with a "proven track record" or experience in handling sexual abuse cases are also brought into the fold under Article 3(b). Budgetary commitments are made under Section 7 with allocations included in the annual General Appropriations Act for the Department of Social Welfare and Development (DSWD), the Department of Health (DOH), Department of Justice (DOJ) and the Department of Interior and Local Government (DILG). Initial funding of 120 million PHP was provided for the establishment of rape crisis centres in the first year of the law's implementation.

In practice, the ambiguous definition of rape and gender stereotyping have resulted in prosecutors' and judges' inconsistent application of the law. The Commission on Human Rights of the Philippines (CHRP) review of rape proceedings in courts, found that the court's attitude toward women and rape victims tended to be one of distrust, questioning claimant's credibility with preconceived notions about how a rape victim should behave -- construed with misconceptions about what constitutes rape. Courts equated lack of resistance with consent and placed emphasis on proving intimidation, physical violence and/or force by the perpetrator (CDH, 2016). The Commission further found that the Philippines has not complied fully with its obligation under CEDAW to provide an effective remedy and freedom from wrongful gender stereotyping in the sense that proceedings can take years. The CDH's 2016 Gender Ombuds Guideline illustrated the case of Karen Tayag Vertido vs. The Philippines (2010) – a rape case involving eight years of trial before the accused was ultimately acquitted.

The CHRP issued strong recommendations in the case of RPB vs. PHILIPPINES in 2014 which marked the intersection of gender-based violence with disability (CHRP, 2016). Strong recommendations were made, inclusive of amending the current rape law to place lack of consent at its centre and to remove any requirement of force, violence or proof of penetration to constitute sexual assault (CHRP, 2016). Further – to ensure that court proceedings involving rape and other sexual offences are "conducted impartially and fairly and free from prejudices and stereotype related to gender, age and disability" (CHRP, 2016) The establishment of rape crisis centres does not ensure accessibility for victims as many villages are far from the cities they are in (Amnesty International, 2009).

Social acceptance and understanding of rape culture are still lagging in the Philippines. Recent commentary from the Philippine's President Rodrigo Duterte joking that his soldiers can rape under martial law is troubling (Selk, 2017). Such commentary blurs the rule of law and may imply that rape is not a serious offence and can be pardoned under certain circumstances.

d) Female genital mutilation

The Philippines does not have a law prohibiting female genital mutilation (FGM). There is no official evidence to suggest that FGM is a problem in the country. Nonetheless, there have been unofficial reports that female circumcision is practiced by some Muslim ethnic groups – specifically the Yakan tribe in the island province of Basilan (Calsalin, S., 2008).

e) Abortion

Articles 256-259 of the 1930 Revised Penal Code (Republic Act 3815) makes abortion illegal with no clear exceptions for undertaking the procedure. Undergoing or performing an abortion incurs a prison term, with lesser penalties for a woman seeking an abortion to protect her honour, and

maximum penalties for medical personnel that perform or assist in an abortion. Penalties are steep, ranging from prison correctional (6 months) to reclusion temporal (12 to 20 years). Pharmacists that dispense any abortive drugs without a prescription, are subject to arrest and fine of up to 1,000 pesos (Article 259).

Given how restrictive the current law is, abortions have been allowed to save the life of the mother by applying general criminal law principles of necessity set forth under Article 11(4) of the Penal Code (UNDESA, 2011).

Though abortion is criminalized, treatment of abortion complications is mandated. Measures have been taken to address illegal abortions through increased family planning and access to contraceptives manifested in the controversial 2012 Responsible Parenthood and Reproductive Health Act (Republic Act 10534). The Act guarantees universal access to methods of contraception and fertility control, among other things. The law's implementation was delayed due to strong protest both for and against it. The Philippines is predominately Roman-Catholic, thus there is strong opposition toward any policy or law that support family planning and modern forms of contraception. Though birth control and condoms are widely available in the Philippines, they are expensive (Francome, 2015). In 2014, the Supreme Court ruled that R.A. 10534 was not "unconstitutional," but scaled back some provisions of the law.

Indirect measures have managed to curtail the law's implementation. In 2016, the Department of Health's budget was cut by 1 billion pesos – an amount that was earmarked for implementation of the birth control measures within in the law (e.g. distribution to condoms, birth control etc.).

A 2013 Demographic and Health Survey found that unplanned pregnancies are common in the Philippines, with an average of 3 in 10 pregnancies either unwanted, mistimed or wanted later. Restrictions on abortions may also impact the level of young pregnancies. The 2013 survey found that an average of 13.1% of women and girls between the age of 15-18 have already had a live birth. Other figures show that over a third of women are pregnant before marriage (Francome, 2015). With no recourse for terminating an unwanted pregnancy and strong social opposition to use of birth control, illegal and unsafe abortions abound. Official estimates are 400,000-500,000 per year, with the World Health Organisation estimating the number to be much higher, at 800,000 per year (Francome, 2015). Official and consistent data on abortions in the country is hard to come by. Data from 1,658 hospitals collected in 2005, led researchers to surmise that nearly 79,000 women were hospitalised that year for post-abortion complications (Francome, 2015).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Regarding land and non-land assets, Article 428 of the Civil Code allows "any owner the right to enjoy and dispose of a thing," except for any limitations established by law. Section 19 of the 2009 Magna Carta for Women (MCW, R.A. 9710) ensures women's equal rights in all matters relating to marriage and family relations – inclusive of owning, acquiring and administering property. Nonetheless, exceptions seem to apply to married women. Article 124 of the Family Code states that in case of disagreement over conjugal property, "a husband's decision shall prevail." A caveat to Article 39 in the Civil Code states that "a married woman, twenty-one years of age or over, is qualified for all acts of civil life, except in cases specified by law," – an age limit that does not apply to married men.

Women and men equally retain rights over land or property following a legal separation or annulment with parameters set by the court (Family Code, art. 100). The same goes for community property between a man and a woman within a common law marriage (Family Code, Article 147). Section 20(4) of the MCW promotes legal literacy of women with regards to land rights and guarantees that “information and assistance in claiming rights to the land shall be made available to women at all times.”

Under the 1977 CMPL each spouse may “own, possess, administer, enjoy and dispose of his or her own exclusive estate without the consent of the other” (Article 42). However, articles governing the rights and obligations of husbands and wives seem to infer that this only applies to property a woman had in her possession before marriage, or property given to her by her own family. After marriage, a wife is obligated to obtain her husband’s permission to purchase property (Article 36).

Central to land tenure in the Philippines is the Comprehensive Agricultural Reform Policy (CARP) manifested in the 1988 Comprehensive Agricultural Reform Law (CARL, Republic Act No. 6657) designed for the redistribution of public and private land to farmer beneficiaries across the country. The rights of rural women were especially addressed under Chapter X, Section 40(5) which states that “all qualified women members of the agricultural labour force are guaranteed and assured equal rights to ownership of the land, equal shares of the farm’s produce, and representation in advisory or appropriate decision-making bodies.” Land is distributed by the government to qualified beneficiaries in the following order: agricultural lessees and share tenants; regular farm workers; seasonal farm workers; other farm workers; actual tillers or occupants of public lands; collective or cooperatives of the above beneficiaries; and others directly working on the land (CARL, Sec. 22). Given the majority of women working in agriculture are seasonal workers or are considered unpaid family workers – they are automatically disadvantaged as beneficiaries with preference indirectly given to men (USAID, 2011). This became apparent a few years after distribution got underway, when by 1992, women accounted for only one-tenth of the beneficiaries awarded land. To remedy the disparity, the Department for Agrarian Reform (DAR) overseeing CARP adopted Memorandum Circular 18 (1996) and the Administrative Order No. 1 (2001) to improve women’s position and issue land titles in the name of both spouses (USAID, 2011). By 2003 women’s position did improve and they accounted for a third of overall beneficiaries – though it is worth noting this statistic does not account for plot size and a sizeable amount of land had already been distributed in advance of DAR’s adoption of the Memorandum and Administrative Order.

In practice, articles 124 and 39 in the Family Code and Civil Code, respectively, can serve to undermine a married woman’s full and equal agency over property. The Philippine Commission on Women has lobbied Congress to repeal discriminatory articles in the Family Code that permit a husband to have final say over conjugal property to bring the code in line with the Magna Carta for Women and international conventions (PCW, 2013).

Though there are laws in place to protect women’s land rights and inform them of them – the cultural preference for men to be caretakers and inheritors of land remains strong. Landowners are disproportionately men, with women accounting for 10% of overall landowners (Jalal, 2015).

b) Secure access to formal financial resources

Section 5 of the Women in Development and Nation Building Act (Republic Act No. 7192) most clearly outlines women’s equal treatment regarding opening a bank account and obtaining credit. Section 5 states that “women of legal age, regardless of civil status, shall have the capacity to act and enter into contracts which shall in every respect be equal to that of men under similar

circumstances. In all contractual situations where married men have the capacity to act, married women shall have equal rights.” Sub-articles ensure women have equal capacity to obtain loans, equal access to government and private sector grants for agricultural credit, equal rights to act as incorporators and enter into insurance contracts, and other similar contractual relations.

Under the Philippine’s Tax Code (1997) when a husband and wife both earn wages – either from the same or different employers – the husband is deemed the head of the household by default, thereby enjoying tax exemptions that wives do not (Section 79F).

There is caveat within the 1987 Family Code to Article 73 that defines equality between men and women in their right to work that says, “the foregoing provision shall not prejudice the rights of creditors who acted in good faith” which could provide a loophole for financial institutions to establish their potentially discriminatory conditions for issuing credit – such as – requiring a woman’s husband to be a guarantor or act as a joint signatory. In practice – though women legally have equal access to finance, some financial institutions require and expect a male partner to co-sign any financial contracts (CEDAW, 2004).

The government has undertaken a number of measures to increase women’s financial literacy and access to credit – especially for rural women and female entrepreneurs. Section 26 of the 2009 Magna Carta for Women (MCW, R.A. 9710) outlines women’s rights to livelihood, credit, capital and technology. The law clearly outlines which government agencies are responsible for the promotion of women’s economic rights and independence. The Department of Finance (DOF), Department of Trade and Industry (DTI), Bangko Sentralng Pilipinas (BSP), People’s Credit and Finance Corporation (PCFC), Government Financial Institutions (GFIs), and Microfinance Institutions (MFIs) are directed to formulate and implement policies, plans and programs to give women easy and preferential access to capital and credit to form business enterprises. Select government agencies are tasked with enhancing the access of female entrepreneurs to credit and capital via contract standardization, lowered transaction costs, incentive schemes, flexible payment schedules etc. (Section 26(D)). In addition to these legal measures the Philippines Commission on Women implements the "GREAT Women Project" which stands for Gender Responsive Economic Actions for the Transformation of Women.

These government measures and initiatives seem to be paying off. A 2015 Financial Capability and Inclusion Survey rendered an uncommon finding -- a reversed gender-gap where women’s financial literacy is slightly better than that of men in the Philippines (World Bank).

A gender assessment by the ADB found the application process for micro-finance schemes to be convoluted and restrictive, driving women to seek other, often more expensive outlets for credit (2008). Obtaining a bank loan can be more problematic for women given that they are contingent upon assets being offered as collateral. There is a disparity between men and women’s ownership of assets, consequently creating gender differences in creditor’s lending practices (ADB, 2008). It is common that women are required to have their husband’s signature on a loan – even if they can put up the necessary collateral required (ADB, 2008).

c) Workplace rights

The Philippines ratified ILO Convention No 100 on Equal Remuneration in 1953, Convention No. 111 on Discrimination in Employment and Opportunity in 1960, and most recently, Convention No. 189 on Domestic Workers in 2012.

Women and men have the same rights to exercise any profession, occupation or business activity without the consent of their partner (1987 Family Code, Art. 73). There are no restrictions on the types of work women may undertake, though article 132(d) of the Labour code about “facilities for women” contains an ambiguous clause that permits the Secretary of Labour and Employment to “determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.”

Article 135 of the Labour Code prohibits discrimination against women in employment with respect to terms and conditions, promotions, training and wages. However, the Labour Code does not cover non-discrimination related to job advertisements, selection criteria, hiring, recruitment, assignments or termination. The exception to the latter is that a woman may not be terminated while on maternity leave for being or potentially becoming pregnant (Art. 137). Though an employer is not prohibited from asking about a woman’s civil status, it is unlawful for an employer to ask that a woman not marry as a condition of employment (Art. 136). Articles 288 and 289 of the Penal Code make employers criminally liable for infringement of articles 135-137 of the Labour Code. Aside from this – women reserve the right to institute independent civil action for damages and affirmative relief.

Fully paid maternity leave is mandated under Article 133 of the Labour Code and via Section 14-A of the Social Security Act of 1997, albeit, under certain conditions. In the Labour Code, an employer is responsible for paying maternity leave which consists of two weeks leave in advance of birth and four weeks after. Employers can require a medical certificate stating that birth is due to take place in two weeks and the benefit is contingent upon a woman rendering an aggregate of six months of service within a 12-month period. Under the Social Security Act, a woman is entitled to 60 fully paid days of maternity leave and up to 78 days if she undergoes a caesarean section. This is contingent upon her paying a minimum of 3 months of social security contributions over a 12-month period, notifying her employer of her pregnancy and filing a maternity leave application. Under both laws, maternity leave benefits are payable for a maximum of four deliveries. Full payment must be advanced by the employer from 30 days of the employee filing their maternity leave application which is later reimbursed by the government. Article 132 of the Labour Code ensures that women have proper facilities and break time for breastfeeding.

Via the Paternity Leave Act of 1996 (Republic Act 8187), married fathers are permitted seven days of fully paid leave (Section 2). The Civil Service Commission issued a circular in 2015 (Resolution No. 1501531, Section 20) stating that: “Paternity leave of seven days shall be non-cumulative and strictly non-convertible to cash. The same may be enjoyed either in a continuous or in an intermittent manner by the employee on the days immediately, before, during, and after the childbirth or miscarriage of his legitimate spouse. Said leave shall be availed of not later than 60 days after the date of the child’s delivery.” There is no parental leave in the Philippines. Unpaid leave -- as an extension to maternity leave – may only be undertaken due to a medically certified pregnancy related illness (Labour Code, Art. 133(b)).

Efforts to expand current maternity and paternity leave benefits have been underway for the past couple of years. As of March 2017, the Senate approved a third and final reading of Senate Bill 1305 (“Expanded Maternity Leave Law of 2017) that aims to grant 120 days for maternity leave to expectant mothers, regardless of their civil status and up to 150 days for single mothers with full pay, with an option to extend with 30 days of unpaid leave (Elemia, 2017). If enacted, the bill will

also increase paternity leave from seven to 30 days and allow for 30 days of maternity leave to be transferred to a third-party (e.g. family member, common-law partner etc.) (Elemia, 2017).

Further workplace rights include ten days of leave for being a victim of domestic violence (R.A. 9262, Sec. 43, 2004), seven days parental leave for solo parents (R.A. 8972, Sec. 8, 2000), and up to 60 days leave for gynaecological disorders (R.A. 9710, Sec. 21, 2009).

An Act Instituting Policies for the Protection and Welfare of Domestic Workers (Republic Act 10361) was issued in 2013 providing for the rights and protection of household domestic works – who are predominately women (CEDAW, 2015).

4. Restricted Civil liberties

a) Citizenship rights

The Constitution provides men and women the same right to confer citizenship to their children (Article IV, Section 2), but married women do not have the same right to confer citizenship to a foreign husband. Under Section 12 of the Administrative Naturalisation Law of 2000 (R.A. No.9139) a married woman's petition for administrative naturalisation is accepted for minor children, but not for her foreign husband. In terms of acquiring, changing and retaining one's nationality – there are not legal differentiations between Filipino men and women.

Section 5(4) of Republic Act No. 7192 (Women in Development and National Building Act) ensures that married women have the same rights as married men to apply for a passport, as well as secure visa and other travel documents, without the consent of their spouse. Nevertheless, in accordance with the Philippine's Department of Foreign Affairs' Passport Application Requirements, married women are required to provide an original or verified copy of their Marriage Contract (MC) in Security Paper (SECPA) issued by the Philippine Statistics Authority (PSA) and authenticated by it. Filipino women who have married abroad are further required to provide evidence that their marriage was duly authenticated by the PSA. Women with a foreign national husband, must provide an original copy of Commission of Filipino Overseas (CFO) and Counselling Certificated of Attendance. The same requirements do not seem to apply to married men, with Passport Application Requirements specifically denoting these requirements for married women only. Unmarried women can apply for a passport and travel documents in the same way as an unmarried man.

In terms of registering the birth of a child, both parents have the same rights to do so and the Philippines makes no distinction with regards to one's civil status. Though it is the hospital/clinic administrator or birth attendant's responsibility to register a birth, in default of this, the Philippines' Civil Registration Procedures allows "either parents of the child shall cause the registration of the birth" (PSA, 2017). Under the 1977 CMPL, paternity of a child is exclusively established by the father's acknowledgement that he is the father (Article 63).

b) Voting

Women gained the right to vote and run for public office on April 30, 1937 – three decades after their male counterparts. Article V of the 1987 Constitution ensures suffrage may be exercised by all citizens of the Philippines who are at least 18 years old. There are no apparent gender-based factors impeding a women's ability to vote in the Philippines. In fact, women are considered to be a significant and discerning community of voters (Maru, 2016). Female registered voters outpace men

and the voter turnout of women tends to exceed that of men in both national and local elections (Maru, 2016).

c) Political voice

Section 11 of the 2009 Magna Carta for Women (MCW, R.A. 9710) calls for the government to undertake temporary special measures to accelerate the participation of women in all spheres of society – especially within decision-making and policy-making processes. Development councils and planning bodies are required to have at least 40% membership of women (Section 11b) at all administrative levels. Section 11e calls for the State to provide incentives to political parties to include women. As such, the legislation pertaining to political party finance provides financial incentives to parties that foster women’s political participation by allocating 5% of electoral reimbursements. Based on available information, the all-women Gabriela Women’s Party and the Philippines Democratic Socialist Party (PDSP) are the only political parties to do so. The PDSD has instituted a 25% quota for women, but it is a minor party that currently holds no seats in Congress.

Though there is a legal basis for political quotas via Section 11 of the MCW, none exist at the national level. Prior to passage of the MCW, Section 41(c) of the 1991 Local Government Code (Republic Act No. 7160) already provided that one of three electoral representatives included in every municipal, city or provincial legislative council must be a woman. Discrimination against women and violation of other women’s rights within all legislation is subject to sanctions according to Article 35 and 41 of the MCW. Though the MCW encourages women’s increased political participation, the law does not provide for training of women to support their effective participation in political and public life.

The Philippines Commission on Women launched the Women’s Priority Legislative Agenda (WPLA) to eliminate or amend legislation deemed discriminatory toward women and propose new laws promoting gender equality and their empowerment (PCW, 2009). The WPLA works with a variety of stakeholders and focuses on legislative review, proposal of new Congressional bills, formulating position papers, and participating in Congressional Hearings and Technical Working Group Meetings. Some of Philippines Commission on Women’s priorities for WPLA in the 17th Congress (2016-2019) include expansion of maternity leave benefits, amending certain provisions of the Anti-Rape Law and Family code, and the enactment of a Divorce Law (PCW, 2016). In the House of Representatives, women legislators formed a woman’s caucus entitled POWER – “Philippine Organisation of Women Elected Representatives Inc.” to discuss issues affecting women formulate laws, policies and bills that promote the welfare of women (CAPWIP, n.d.). Women’s organisations and civil society represented in Congress have increased women’s political access.

Some Filipino women’s path to Congress is not deliberate. Representatives and Senators are subject to limits on consecutive terms and must leave office for at least one term before being eligible to serve again. Women who hail from traditional political families often take the place of a male relative when their term expires – essentially “warming the bench” until they are again eligible to serve. Despite the questionable impetus for women to enter politics as benchwarmers, the “familial push” has been the start of many a female political career.

Nevertheless, the “dynasty system” present in the Philippines can also be a barrier to women’s political participation. A study carried out by the University of the Philippines found that out of 15 million families in the country, 250 of them control political dynasties in national and local politics meaning that one’s path to power is often rooted in belonging to one of these families, elite connections and wealth. Further barriers to women’s political participation include their deep

entrenchment in home life and household responsibilities that make it difficult to balance a political career (USAID, 2014). Women are also subject to increased public scrutiny and have been deemed as weaker than men in what is an intensely masculine political domain (USAID, 2014).

The Philippines was the first country in Southeast Asia to elect a female president and one of only a few countries in the world to have had two female presidents. Following the most recent national elections (2016), women make up 29.5% of the House of Representatives and 25% of the Senate (IPU, 2017). At the local level, women comprise 22.5% of gubernatorial posts, 18.5% of vice-gubernatorial posts, and 20.9% of mayoralty posts (PCW, 2014).

d) Access to justice

Book IV of the Civil Code of the Philippines covers obligations and contracts and makes no differentiation between men and women in terms of their capacity to sue or be sued. Article 44 of the Code of Muslim Personal Laws (P.D. 1083, CMPL) guarantees Muslim women the right to sue and be sued, independent of their husband. Further, Section 5 of Republic Act No. 7192 ensures all women's equality in their capacity to act – the same as a man -- regarding contractual situations, regardless of her legal age and of civil status. Current court rules and procedures contain no clauses that differentiate or give less weight to the testimony of a woman, over a man.

Likewise, there are not discriminatory clauses within the 1977 CMPL with regards to a man or woman's testimony in court. However, if a Shari'a Court were to ascribe to the jurisprudence of a more conservative school of Muslim law that deems a woman's testimony to be half that of man's – this could result in direct discrimination against a Muslim woman's testimony. Article 137 establishes Shari'a Courts of limited jurisdiction to adjudicate and settle disputes and render legal opinions in accordance with the law. Article 4 of the CMPL states that "the court shall take into consideration the primary sources of Muslim law" and that "standard treatises and works on Muslim law and jurisprudence shall be given persuasive weight in the interpretation of Muslim law." The Hanafi, the Hanbali, the Maliki and the Shafi'i schools of Muslim Law may all be taken into consideration (Article 6(2)).

There do not appear to be explicit elements in existing court procedures and rules that would take account of the particular interests of women and girls. However, the "New Code of Judicial Conduct for Justices and Lawyers" and the "Code of Conduct for Court Personnel" created in 2007 contain specific sections on equality and reference the Philippine's ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and thus, the State's commitment to "ensure the fundamental equality before the law of women and men." The Codes emphasize the importance of acknowledging the unequal and unfair treatment of women and minorities in the judicial system and implore judges, lawyers and court personnel to better understand the impact of variables such as gender, poverty, disability, race, discrimination and so forth, on their decisions.

The current legal framework does not provide for the establishment of special courts/tribunals to facilitate women's and girl's access to justice. One particularity is the assignment of cases of violence against women and their children exclusively to pre-existing Regional Trial courts, which are designated as Family Courts under Republic Act No. 9262 (2004).

In lieu of special courts/tribunals for women and children, the Commission on Human Rights of the Philippines (CHRP) houses a Gender and Development Ombud responsible for investigating violations of the 2009 Magna Carta for Women (MCW, R.A. 9710) and other related laws. All regions

of the Philippines contain an office, some with sub-offices too and the CHRP published comprehensive guidelines to assist the offices in 2016. The guidelines provide definitions and dimensions of gender discrimination, procedures for investigating violations and complaints, for monitoring, information on legal aid services, case referral mechanisms, and provides an outline of areas of responsibilities and the protocol for handling particular cases (CHRP, 2016). The 2016 Guidelines also provide concrete examples of past court cases involving violations of the MCW and violence against women – outlining the good and bad aspects of how the cases were handled and best practices moving forward. Both the CHRP and the Philippines Commission on Women play a vital role in monitoring compliance with national laws and policies and ensuring they meet international human rights standards.

The Philippine's has collected gender statistics for many years, but efforts have been expanded under the Philippine Statistical Act of 2013 (Republic Act No. 10625). Section 10(f) created a Committee on Gender Statistics within the Philippine Statistics Authority (PSA) and Section 13 mandates the Sectoral Statistics Office to provide technical staff support to the PSA in multiple areas – one of which is women and gender. Other than this – the Supreme Court's Action Programme for Judicial Reform is piloting a Court Administration Management Information System (CAMIS) which receives, logs, and monitors statistical reports on caseload and case flow information. Among the notable features of CAMIS is the ability to generate gender-disaggregated data -- such as "sex ratio of judges handling certain type of cases and tracking the number of cases on violence against women" (Baldago, n.d.).

Judicial Reform (APJR) has introduced a pilot program Court Administration Management Information System (CAMIS)

Barriers to women's equal access to justice – especially in sexual assault cases -- include lack of an interpreter for disabled victims, use of gender myths, stereotypes, and preconceived notions about how women should behave, and sluggish proceedings. Cost and distance can also be problematic for women living in remote villages with little income. In a 2016 report, the CHRP recommended, among other things, that the court provides regular training to judges and legal professionals to ensure that court proceedings and decisions are not adversely affected by stereotypes and biases.

Section 22(C) of the MCW (2009) mandates the Supreme Court, Department of Justice and the Integrated Bar of the Philippines (IBP) and lawyer's associations to "ensure that gender equality and women's empowerment agenda are mainstreamed and integrated in the regular Mandatory Continuing Legal Education (MCLE) courses conducted for legal practitioners in the Philippines."

Women account for around a third of justices within the judiciary (PCW, 2014).

The vast majority of claimants are women in Shari'a courts, with the rate of dismissal of cases much higher for women than men (Stephens, 2011). Based on the latest available figures, only 2 of the 31 judges operating in the Philippines' Shari'a court system are women (Stephens, 2011). Barriers to accessing justice for Muslim women include geographically inaccessible courts, language, cost and court jurisdiction (Stephens, 2011). The crimes of rape and sexual assault are not under the jurisdiction of Shari'a courts, meaning that women residing in Autonomous Region of Muslim Mindanao (ARMM) may have to travel far for redress. Further – with many Muslim religious scholars rejected the CMPL as being "non-Islamic" and with the practice of drawing from different from schools of *fiqh* (Islamic jurisprudence) to make decisions – there is a lack of continuity in judgements.

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