

**Calling for Systematic and Transformative Response:
Addressing the Culture of Impunity in Gender-Based Violence
and Violations against Marginalized Women**

Submission for the CEDAW General Recommendations No. 19¹

Context

Effective legal systems and duty bearers demonstrate competence, impartiality, independence, and gender sensitivity, as well as involve women's active participation in the process. These systems entail immediate protective measures and the existence of monitoring oversight of state and non-state actors to facilitate and enhance women's access to justice, thus addressing impunity, preventing violence against women (VAW), and holding the government accountable in its adherence to principles of non-discrimination.

In the Philippines, the culture of impunity is prevalent in the common issues women face when they engage government institutions and the legal system. Among these issues are: lack of sex- and gender-disaggregated data on women victims of VAW; inadequate programs and services for victims of VAW; absence of legal mechanisms; ineffective implementation of laws regarding women's human rights; and misuse of Gender and Development (GAD) funds in government institutions.

The dominant framework of the Philippine government on economic development is one that is neoliberal, market-driven, and corporate-led. Implementation of these policies exacerbates economic, gender, social, and environmental injustices, resulting in further inequality and widening the socio-economic gap between the rich and the poor.

Women are among those that bear the drastic impact of state policies and diverse resultant forms of gender-based violence which are often invisible and intersecting. Intensifying violence is experienced by marginalized and poor sectors of the population, such as indigenous women, peasant and rural women, women workers, migrant women, women with disabilities, and women of diverse sexual orientation and gender identity and expressions (SOGIE). VAW spans across economic, social, cultural, and political boundaries and remains largely unaddressed, unabated, and lacking attention and effective response. Government policies, rather than promoting the interests of women, facilitate discrimination and propagate the subordination of women in the economy and in society.

¹ Prepared by the **Women's Legal and Human Rights Bureau (WLB)** in consultation with the following women's human rights organizations: Philwomen on ASEAN, ASEAN SOGIE Caucus, Babae Plus, Batis Center for Women, Center for Migrant Advocacy (CMA), Coalition Against Trafficking in Women – Asia Pacific (CATW-AP), Foundation for Media Alternatives (FMA), Freedom from Debt Coalition – Women's Committee, Galang Philippines, Gender Watch Against Violence and Exploitation (GWAVE), Kanlungan Center Foundation, Inc., Miriam College - Women and Gender Institute (WAGI), Mujer-LGBT Organization, Mindanao Migrants Center for Empowering Actions, Inc. (MMCEAI), National Rural Women Coalition (PKKK), NISA Ul-Haqq fi Bangsamoro, OutRight Action International, Philippine Alliance of Women with Disabilities (PAWID), Philippine National Association of Sign Language Interpreters, Rainbow Rights, WomanHealth Philippines, and Tebtebba Foundation. The consultation-workshop was held on September 26-27, 2016 in partnership with the Commission on Human Rights (CHR) of the Philippines.

1. Rampant and Pervasive VAW among Marginalized Sectors

The persistence and pervasiveness of VAW is one of the major issues that GR 19 must address, along with the distinct characteristics and manifestations of VAW among marginalized groups of women.

Lesbian, bisexual, and transgender (LBT) women experience violence and discrimination because of their sexual orientation and gender identity and expression (SOGIE). There are cases of brutal killings of transgender women and sexual and physical violence against LBT women committed by family members, co-workers, and strangers. Despite the increasing cases of VAW among LBT women, no legislation on anti-discrimination for the LGBT community has been enacted by Philippine legislators. The glaring *lack of redress* is disturbing, as is the very *little to no resources extended* to LBT persons to help them cope with and recover from violence.

Moreover, the threat of rape remains real among LBT women, including intimidation from parents, friends, co-workers, and the community-at-large to “reform” their ways, whether through severe physical beating, bullying, ostracism, or material deprivation. In turn, these acts of violence translate to material poverties in the form of lack of access to employment, social protection, disaster relief, housing, and other opportunities that often result from the stigma that comes with defying social mores.²

On the other hand, stigmatization of **women with disabilities** involves multiple dimensions of marginalization: gender, disability, and age.³ Thus, the discrimination they face is complex, rooted in deeply ingrained stereotyped views of Filipino women in general, and further compounded by charity and pathological views of disability.⁴ Such women live in a societal and legal environment which blatantly denies them equal recognition before the law because of their disability.

Meanwhile, **rural and indigenous people (IP) women** who experience physical abuse from their partners and spouses often find it difficult to report their concerns to authorities for several reasons: lack of access to justice in far-flung areas, fear of stigma and re-victimization, and lack of financial independence to leave abusive relationships or marriages due to poverty. Furthermore, prevailing customary or traditional justice systems are not adequately supported to develop a more rights-based approach in addressing VAW.

Women leaders who were **victims of disaster** shared that there were VAW cases during the typhoon with regard to gender-insensitive relief responses wherein the environment in evacuation centers increased women's vulnerabilities. The neglect of specific reproductive and sexual health needs of women also contributed to the rise of health problems among women. The victim-survivors de-prioritized reporting or seeking services as they felt that recovering from the typhoon, getting work, and providing food and shelter to their families

² GALANG Philippines, Inc. (2014). Breaking Out: Stories of Violence and Poverty Among Lesbians, Bisexual Women, and Trans Men (LBTs) in the Philippines. Quezon City: GALANG Philippines, Inc.

³ Philippine Coalition on the UNCRPD and Philippine Alliance of Human Rights Advocates. 2013. Strengthening the protection of human rights of women and girls with disabilities. A joint submission. Half-day General Discussion on women and girls with disabilities. Available in <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/DGD17April2013.aspx>

⁴ Martinez, L. B. Gender & Disability Movements in the Philippines. Journal for Disability & international Development. 20. JahrgangAusgabe 3/2009. Available in www.zbdw.de/projekt01/media/rtf/2009_3_zbdw.rtf

were far more important than these violations. They also noted that most of the women in their areas did not know where to report cases as the barangay and municipal government were busy with providing relief goods to typhoon survivors.⁵

To make matters worse, marginalized women living in impoverished rural or urban settings are daily confronted with multiple layers of oppression – denial of sexual and reproductive health rights and lack of meaningful participation in governance – which keep them systematically and historically disadvantaged in society.

2. Other Forms of VAW and Discrimination

Discrimination and neglect of women living with HIV/AIDS

Women living with HIV/AIDS suffer the same fate of gross lack of attention and response from the government. In fact, they suffer from multiple forms of discrimination and deprivation in accessing SRHR services due to the stigma brought about by their HIV status. Many women continue to suffer because of limited access to services and assistance. Stigma against women living with HIV/AIDS further leads to economic violence. Some women working as domestic workers or masseuses were sent home or lost their jobs because they were seen by their employers or recruitment agencies as unfit to work.

Another crucial common issue among people living with HIV/AIDS is the limited or lack of access to health services like the standard antiretroviral therapy (ART), which consists of the combination ARV drugs to suppress the HIV virus and stop the progression of HIV disease. In the Philippines, the issue of HIV/AIDS is linked only to men who have sex with men (MSM), thereby mostly limiting services, assistance, and advocacies to male patients only.⁶

Trivialization by State actors of ICT-related VAW

VAW related to information and communications technology (ICT) is no different from VAW in terms of origin and root causes: the historically unequal power relations between women and men in public and private life, patriarchy, and men's desire to control women's sexuality. However, what makes technology-related VAW distinct is the medium and the mode by which the violence is committed: through digital spaces, through ICT. It is this particular characteristic of technology-related VAW that sets it apart from other forms of VAW. Although ICT-related VAW springs from the same structural inequality and system of patriarchy in society, which makes it fundamentally the same as offline VAW, the manner of its commission – through virtual and digital spaces – has made technology-related VAW a distinct phenomenon.⁷

ICT-related VAW reflects the continuum of complex and interlinked experiences of harassment, violation, abuse, and assault in the lives of individual women. In ICT-related VAW, VAW is not necessarily deviant and episodic but rather an everyday context in the

⁵ Result of Consultation Workshop: Access to Women's ESCR, Marabut, Samar, April 2016

⁶ Research from Babae Plus, used in the 2016 CEDAW Shadow Report

⁷ Women's Legal and Human Rights Bureau, Study on VAW, ICT and Sexuality 2010. Available in <https://womenslegalbureau.wordpress.com/publications/>

lives and experiences of women and girls all over the world. VAW committed in online spaces is a continuation of offline VAW.⁸

ICT is also a site of empowerment, where women find and exercise their rights to sexuality and self-expression amid these harms. There is a need to look into the role of ICT in the perpetration of VAW as well as in terms of providing spaces for women's empowerment and exercise of their rights to sexuality. The use of ICT must be also seen as spaces for empowerment particularly for marginalized groups of women, especially among girl-children.

3. Promoting a Culture of Impunity

Staunch exclusion of women's diverse experiences by the law and the legal system – and the unceasing failure of society to recognize the serious nature of VAW – promotes a culture of impunity, undermining women and rendering them invisible. The GR 19 must look into the importance to address the rampant inaction of the government and thereby creating a *culture of impunity*.

Government response to violence and discrimination against women fails to recognize women's real concerns within the context of political, economic, and cultural aspects of access, thereby hindering women's full development.

Inaction to address the lack of data across marginalized sectors of women

The Magna Carta of Women has mandated all government agencies – both in the national and local government units – to develop and maintain a gender and development (GAD) database containing systematically gathered gender statistics, as well as age- and sex-disaggregated data to be used as input or bases for planning, programming, policy formulation, and monitoring. Many have failed to comply.

The lack of sex- and gender-disaggregated data remains to be a problem across sectors of women. The data provided by government on VAW are cases committed against women in general and do not examine the distinct and intersectional forms of VAW committed against women, particularly the marginalized sectors.

Documentation and monitoring of cases remains to be a problem among government agencies and the lack of data on marginalized sectors leads to piecemeal policies and programs of government.

Unfunded mandate and Ineffective implementation of laws continue to persist

While the Philippines boasts of various laws upholding women's human rights, there are still some laws that need to be passed to further protect and promote the interests of women. This is particularly true for women who have been left behind by their partners or spouses to fend for themselves and their children. Families abandoned by Overseas Filipino Workers (OFW), often male, meet reluctance when they request the Local Government Units (LGU) to address abandonment as an issue of violence against women and children.

⁸ Ibid

There are currently no protection mechanisms to address the abandonment of families. Mediation is always in favor of the abandonee and enforcement of decisions regarding financial support remains unclear.

Abandonment comes in the form of non-remittance of wages, intermittent financial support, non-communication, and loss of care. This eventually leads to total disappearance and multiple marriages or families. Abandonment exposes children to higher risk of incest and dysfunctional families. Essentially, abandonment translates to both economic and psychological violence.

There are a good number of laws pertaining to women's human rights, especially in relation to VAW. In fact, the Magna Carta of Women summarizes the rights that must be enjoyed by women. However, it must be stressed that the government should focus on how to implement these laws to achieve *de facto* equality among women. Furthermore, the State must ensure that the implementation of laws will promote the full enjoyment of rights of women and facilitate their access to justice. To this end, the government must warrant availability, accessibility, and affordability of legal remedies specifically for marginalized women.

In most cases, budget has been cut, or worse, no funds have been appropriated by the government to implement laws related to women or gender. An example is Republic Act 8505⁹ or the Rape Crisis Center Act, which aims to create rape crisis centers in every major city and province in the Philippines; until now, it remains unfunded.

The government's inaction towards holding employers liable for labor violations continues to cause suffering to women migrant workers, who experience inhumane working conditions that include non-payment of wages, confiscation of passports, maltreatment, and sexual violence. Some workers who escape their abusive employers are re-victimized by government officials who are not penalized due to immunity of the latter or inaction on the part of the Philippine government.

Violations of the confidentiality clause of RA 8504¹⁰ by service providers lead to women living with HIV/AIDS being stigmatized in the workplace and community.

With regard to women of diverse sexual orientation and gender identity and expressions (SOGIE), unfunded mandates and non-existing Implementing Rules and Regulations (IRR) for the Anti-Discrimination Bill make protection of their rights arduous.

Useless, futile, and inadequate programs and services for victims of VAW

The threat of rape, harassment, and other forms of violence remain constant for marginalized women. Women with disability, particularly deaf women who are abused, are burdened by lawyers and judges to find and pay for their own sign language interpreter during court trial. Legal proceedings are exceedingly difficult and oppressive for women victims of sexual violence because of the lack of women deaf interpreters in court.

⁹ Republic Act 8505 or "Rape Victim Assistance and Protection Act of 1998": An act providing assistance and protection for rape victims, establishing for the purpose a rape crisis center in every province and city, authorizing the appropriation of funds therefor, and for other purposes.

¹⁰Article VI on Confidentiality of the Republic Act 8504: "Philippine AIDS Prevention and Control Act of 1998"

Indigenous women's lack of economic power in a patriarchal society has further allowed their spouses to subjugate them. Though many rural and IP women experience domestic violence, few of them seek services due to lack of knowledge on their rights or unavailability of services. For instance, a community of *Mamanwa* in Marabut, Samar (a municipality in central Philippines) lives 16 kilometers away from the nearest community center. To be able to avail of services and report VAW cases to the *barangay*,¹¹ one needs to hire a private *habal-habal*¹² or van which costs a minimum of P100.00 for a one-way trip.¹³ Women fear that reporting will lead them to be ostracized and endangered in their community, citing that there are no authorities to protect them when they return to their houses.

Women with disability and LBT women are neither treated with gender sensitivity nor reasonably accommodated in police stations, barangay VAW desks, and courts when they pursue their cases. To date, there is insufficient State provision of livelihood and employment opportunities, financial assistance, and services to victim-survivors of VAW from the abovesaid sectors.

Different forms of VAW – physical abuse, rape, trafficking, and prostitution of women and girls – exacerbated by disaster are not redressed; these are unreported by victim-survivors due to inadequate mechanisms to document and address incidence of VAW.

Massive proliferation of sexist and patriarchal views in society and mass media

Sexist and patriarchal views, values, and practices are deeply entrenched in the culture of our society. These are reinforced in myriad ways and degrees by different influential institutions, among them the profit-driven media, conservative religious sects, and the government itself. The Philippine media is partially culpable for perpetuating violence against women (VAW). Despite the presence of so-called women leaders and achievers in the field of media, and the provision of RA 9710 or the Magna Carta of Women on ensuring fair, non-discriminatory, and non-derogatory portrayals of women in the media, women still suffer from objectification and hyper-sexualization in the media.

Sexism and discrimination are deeply ingrained in politics and culture in general – a fact highlighted especially during electoral campaigns. Women are politically marginalized not only through the majority leadership of the ruling elites, but also through the words and actions of some incumbent and aspiring political leaders. In the 2016 national elections, several political parties and politicians were criticized for sexist and discriminatory remarks. The Liberal Party and United Nationalist Alliance (UNA) – political parties of the previous president and vice president, respectively – drew flak for lewd campaign shows where women dancers dressed in skimpy clothes were hired for entertainment. Similarly, presidential front-runner and now President Rodrigo Duterte was censured for making a joke at one of his campaign rallies about a brutally raped and murdered Australian woman.

Rampant Misuse of funds in government institutions

¹¹ Basic unit of government in the Philippines

¹² Motorcycle or cart bike modified to seat many persons, for use on rough and narrow roads

¹³ Almira, not her real name, is the wife of one of the IP leaders in the community. She shared that there are women in their community who were physically hurt by their husbands. However, they rather not report it because the barangay and police station are too far from their community. Result of Consultation Workshop: Access to Women's ESCR, Marabut, Samar, April 2016

In essence, GAD funds are intended to be used for programs and projects that benefit women. However, in practice, GAD-funded projects have shown very little impact on women's lives. GAD funds are largely misused and misallocated in many cities, provinces, and government agencies. In some cities, GAD-funded projects – like those related to livelihood, health, and alternative education – are often general, thus not targeted specifically for the benefit of women.¹⁴

For instance, women in the context of disaster suffer from lack or absence of GAD funds that are supposed to cater to their unique gender-based needs.

4. Neoliberalism fuels violence against women

The national government sees aggressive neoliberal strategies as key to countering the raging side effects of poverty; however, positive effects are barely seen to prove that these strategies could bring genuine and sustainable pathways to development. In fact, neoliberalism has instead garnered more negative impacts; among these are exploitation and degradation of natural and human resources.

Violence against women in precarious, devalued work

Neoliberalism, in essence, has promoted and strengthened liberalization, privatization, and deregulation in government and private institutions.¹⁵ This, in turn, has allowed businesses and even government agencies to establish more precarious employment arrangements which include promotion of cheap labor, contractualization, subcontracting, and abusive use of probationary employment.¹⁶ In the Philippines, these arrangements are very common in service-oriented and manufacturing-related jobs which perpetuate depressed wages, lack of workers' rights, union-busting, and rise in capitalist profits. Although the rise of precarious work in the Philippines affects everyone, women are overrepresented in hazardous and vulnerable jobs. In fact, women are concentrated in sectors of the economy where skills and competencies are undervalued and unrecognized, such as domestic or care work, textile industry, manufacturing work, and entertainment or hospitality industries.¹⁷

More than half of the establishments in the country – particularly those found in export processing zones – do not follow labor standards, including payment of minimum wage. Seventy percent of workers in special zones are women.

Given the lack, if not absence, of sustainable jobs for women in the Philippines, many are forced to leave the country and work abroad, despite the countless reports on women migrants being subjected to unregulated labor conditions such as long working hours, low

¹⁴ Women's Legal and Human Rights Bureau. 2013. "Baseline Research on Gender and Development for Marikina City."

¹⁵ IBON Foundation: Migration and Development: A Matter of Seeking Justice

¹⁶ Precarious work refers to non-standard employment that is insecure, uncertain and poorly paid. Its impacts go beyond the world of work as it breeds inequality and poverty and can be considered as a form of economic violence perpetrated by the State.

¹⁷ Many women who work as salesclerks in the big malls and fast food chains are employed under the so-called 5-5-5 scheme or endo (end-of contract) where a worker is hired and fired every five months so that employers will not be obligated to make them permanent employees

or unpaid wages and lack of social protection, as well as domestic and sexual violence.¹⁸ For many decades, the Philippine government has indiscriminately and deliberately continued to promote labor exportation of women into unrecognized and lower-paid care work as part of its development strategy. Continued labor exportation of women, without the appropriate accompanying legal and social protection mechanisms by the State, perpetuates economic violence as the women are brought into low-paying jobs where they may also be susceptible to experiencing sexual abuse. Insufficient legal support and non-sanctioning of government officials for violence against women further serve to deny women their human rights.

VAW exacerbated by landlessness in rural areas

Among the country's food producers, peasant women bear the brunt of hunger and poverty brought about by neoliberal policies. They live in rural areas where income opportunities are dire and liberalization in agriculture has led to massive food importation, bringing bankruptcy to many peasants and eventually raising food prices. On top of all the foregoing challenges, peasant women bear the double burden of housework while working in the field as unpaid family labor.

Neoliberal policies worsen impacts of disaster

The Philippines is the 4th most disaster-prone country in the world. Despite this, the Philippine government still fails to make a comprehensive plan of action to mitigate the impacts of disasters. In fact, the government did not only fail to prepare the country for disasters, but it has instead aggravated the impacts of disasters by upholding neoliberal policies and failing to protect the survivors of disasters.

For instance, when typhoon Haiyan struck some parts of Visayas in 2013, about four million women and girls were affected. In Tacloban City alone, more than 100 VAW cases were monitored by the Department of Social Welfare and Development from January to September 2014,¹⁹ excluding the cases that were not reported to authorities.

Trafficking among women and children survivors comes in many forms – commercial sexual exploitation, forced labor as domestic servants or factory workers, drug mules, and sex tourism. In fact, many reports claim that *trafficking incidence spike up immediately after a disaster or an encounter* occurred in areas, as many people, especially women and children, are displaced and desperate for aid. There are also cases which involved international humanitarian workers as perpetrators. These workers, however, were not held accountable for the abuses they committed against the survivors. Moreover, There is greater need to address cyber-prostitution, as trafficking becomes more complex with the dynamic development of ICT which resides in context of globalization of commodification of women's bodies

¹⁸ Lack of work opportunities in the country have driven many Filipinos to work abroad. About 60% of the almost 6,000 Filipinos who daily leave the country for overseas employment are women. And even outside the country, they work as domestic helpers or entertainers, jobs that expose them to violence and abuse. Sexual and/or physical abuse has become the lot of many overseas Filipino women workers.

¹⁹ Accessed May 11, 2016 <http://www.rappler.com/move-ph/issues/disasters/76859-disasters-women-children-vulnerable-abuse>

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Government inaction or non-recognition of the intrinsic and grave nature of violence against women, whether committed by the State or non-state actors, promotes the culture of impunity and thereby nullifies the varied experiences of women and renders their stories invisible in the entire context of disaster and armed conflict. Invisibility of women has thus led to programs and services that are short-term and non-transformative in nature.

Ending gender-based violence towards de facto equality

All of the above contexts and forms of gender-based violence reveal that despite the presence of CEDAW and other domestic laws upholding women's human rights in the Philippines, women still bear poverty, injustice, and inequality at the margins of society. Substantive equality across marginalized sectors therefore remains beyond the reach of Filipino women. The amendment of GR 19 must contribute to ensure the obligation of the State to act with due diligence and ensure *de facto equality* that will contribute to transformative change in the lives of women towards elimination of violence and exploitation against women and girl-children.

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