

ADVANCING SEXUAL RIGHTS THROUGH THE SUSTAINABLE DEVELOPMENT GOALS

PHILIPPINES

This country brief is part of a series to assist Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA) members and other advocates in using the Sustainable Development Goals (SDGs) to hold governments accountable to commitments they have made towards protecting and promoting sexual rights. This brief covers an overview of key sexual rights issues within a country and compares them with commitments at the national, regional and international levels, and outlines opportunities for advocates to engage with governments and other stakeholders to strengthen accountability.

I. SEXUAL RIGHTS AND THE SDGs

“Sexual rights” refer to a range of human rights relating to sexuality, reproduction, sexual and reproductive health (SRH) and gender. This includes issues such as comprehensive sexuality education, sexual and gender-based violence, contraception, rights of intersex persons, gender identity, safe and legal abortion, early and forced marriage, same-gender relationships, female genital mutilation, and rights of sex workers.

The SDGs are the cornerstone of an ambitious global agenda for development, known as Agenda 2030, which all United Nations (UN) Member States, including Philippines, have committed to achieving in the next 15 years. With 17 goals and 169 targets, it spans a range of human rights and development issues, including sexual rights.

Certain sexual rights issues are explicitly included in the SDGs:

- Target 3.7 on SRH, and target 5.6 on SRH and reproductive rights;
- Target 3.1 on maternal mortality;
- Target 3.3 on AIDS and other communicable diseases; and
- Goal 5 on gender equality and the empowerment of women and girls.

Other goals and targets have clear links to sexual rights issues that are not directly included:

- Target 4.7 (on education for human rights and gender equality) could encompass comprehensive sexuality education;
- Target 10.3 (on reduction of inequalities, including through law and policy reform) could be used to advance the rights of sex workers and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and others; and
- Target 16.1 (on reduction of violence and related deaths) could include the reduction of sexual and gender-based violence, including violence based on sexual orientation, gender identity and expression.

The SDGs carry significant political weight, and are attracting a large investment of resources. They are expected to affect both policy and programming efforts in Philippines, including national development strategies, international assistance, and budget allocations. Implementation of the SDGs affords important opportunities to advocate for the advancement of the full range of sexual rights in Philippines.

II. PHILIPPINES' COMMITMENTS AND OBLIGATIONS

Several international and regional level commitments protect and promote sexual rights. Of them, Philippines has ratified the following and is thus legally bound to comply with their provisions:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol)
- Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) – acceded.

The Philippines has also endorsed other agreements that provide a blueprint for government action on sexual and reproductive rights, but are not legally binding:

- Programme of Action of the 1994 International Conference on Population and Development, (ICPD) and the outcome documents of its subsequent reviews, the latest of which is the 2013 Asian and Pacific Ministerial Declaration on Population and Development.
- Beijing Platform for Action of the Fourth World Conference on Women, 1995, and the outcome documents of its subsequent reviews, the latest of which is the 2014 Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment.

Philippines' policies and strategies on SRH issues are not wholly compatible with the human rights obligations contained in the international instruments it has ratified or endorsed. In particular, strategies and policies that promote SRH have not been implemented effectively.

III. SEXUAL RIGHTS POLICY AND LAW IN THE PHILIPPINES, COMPARED WITH ITS COMMITMENTS¹

ABORTION

POLICY AND LAW

Abortion is criminalized in the Philippines. Articles 256, 258–259 of the Revised Penal Code punishes a person obtaining, performing or assisting in an abortion (including physicians, midwives, and pharmacists) with imprisonment (or a fine, in the case of pharmacists). Causing an abortion – intentionally or unintentionally – is also a crime punishable by imprisonment. The criminal provisions on abortion do not contain any exceptions allowing abortion, including to save the life of the pregnant person or to protect her health.

Penalties for those found guilty of committing abortion range from imprisonment of one month and one day, to six months in the case of pharmacists; doctors and midwives are penalized with six years' imprisonment, and the woman and either or both her parents can also get prison sentences of up to six years.²

The criminalization of abortion has not prevented its practice but instead has made the procedure unsafe and potentially deadly for the more than half a million women each year who try to terminate their pregnancy. In 2008 alone, the Philippines' criminal abortion ban was estimated to result in the deaths of at least 1,000 women and complications for 90,000 more.³ Each day, approximately 1,671 women undergo medically unsafe abortion procedures, 274 women are hospitalized,⁴ and three women die as a result of abortion-related complications.⁵

COMMITMENTS AND OBLIGATIONS

During the Philippines' most recent Universal Periodic Review (UPR) in 2012, it was recommended that the country “amend the abortion law to allow for safe abortion in cases of rape, incest or when the health and life of the pregnant woman is at risk.” During treaty body reviews, the Committee on the Elimination of Discrimination against Women (2006), Committee on Economic, Social and Cultural Rights (2008) and the Human Rights Committee (2012) recommended that the Philippines review its laws criminalizing abortion, and allow abortion to protect the life or health of the woman, and in cases of rape or incest. They also recommended that the State provide access to quality services for the management of complications arising from unsafe abortions and ensure that reproductive health services are accessible for all women and adolescents.^{6,7,8} In 2011, the Special Rapporteur on the right to health called upon all governments to decriminalize abortion, ensure safe, good quality abortion services and post-abortion care.⁹

SEX WORK

POLICY AND LAW

Sex work is illegal in the Philippines. Both the selling and buying of sexual services are punishable by imprisonment or fine (Revised Penal Code, article 202). Profiting from sex work is also punishable by imprisonment (article 341). At the same time,

the government recognizes the reality that sex is sold in certain premises in particular areas. Entertainment venues or massage parlours are required to be registered or licensed, and regular testing of sex workers for HIV and sexually transmitted infections is required as a condition of employment. Trafficking laws have been used to justify crackdowns and raids that suppress adult voluntary sex work. This has resulted in abuses of sex workers' human rights and undermining of HIV programmes.¹⁰

Criminalization fuels stigma and discrimination and limits access to health services, condoms and harm reduction services. It also adversely affects the self-esteem of sex workers and their ability to make informed choices about their health. Mandatory testing violates human rights to autonomy and privacy, exposes sex workers to risk of discrimination and violence, compounds stigma and diverts resources from effective HIV prevention and care interventions. Voluntary counselling and testing and peer education to promote sexual health are more effective approaches.

COMMITMENTS AND OBLIGATIONS

The government has an obligation to prevent and redress discrimination and violence against sex workers, and ensure their access to health services, as per its obligations as a party to ICCPR (article 26) and ICESCR (article 12). In 2010, the Special Rapporteur on the right to health called upon all governments to decriminalize sex work and practices around it, establish appropriate regulatory frameworks within which sex workers can enjoy the safe working conditions to which they are entitled and implement programmes and educational initiatives to allow sex workers access to appropriate, quality health services.¹¹ The World Health Organization (WHO) has also recommended that governments decriminalize sex work, and establish anti-discrimination and other laws and policies that promote the rights of sex workers.¹² The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has established that “forced or compulsory HIV testing is also a common abuse that may constitute degrading treatment if it is done on a discriminatory basis without respecting consent and necessity requirements”.¹³

During the Philippines' review in 2006, the Committee on the Elimination of Discrimination against Women recommended that the State facilitate the reintegration of ‘prostitutes’ into society, and provide financial support to NGOs that run shelters and drop-in centres for rehabilitation of women and girls in prostitution.¹⁴ It is important to engage with the treaty bodies and encourage them to develop stronger guidance for the realization of the rights of sex workers, which does not conflate all sex work with trafficking.

SEXUALITY EDUCATION

POLICY AND LAW

The Responsible Parenthood and Reproductive Health Act of 2012 (Republic Act No. 10354) mandates the provision of “age- and development-appropriate reproductive health education to adolescents” by “adequately trained teachers in formal and non-formal educational systems.” It also mandates the Department of Education to “formulate a curriculum which shall be used by public schools and may be adopted by private schools”. It includes various topics, such as sexual abuse, gender-based violence, puberty, responsible parenthood and women's rights.

An assessment of the Education Sector Response (2011) noted that “HIV and AIDS education in schools is still very limited”. It cited the lack of training of teachers in life education as a major limitation “although the life skills to be emphasized in basic education have been identified as early as 2000”.¹⁵ With the absence of a comprehensive sexuality education and SRH services for adolescents and young people, the Philippines has the highest rate of teenage pregnancies among Asian countries, with 1 out of 10 adolescent girls aged 15–17 who has begun child bearing.¹⁶

COMMITMENTS AND OBLIGATIONS

In 2013, the Child Rights Committee recommended that the Philippines SRH education and services in all educational institutions.¹⁷ In 2012, the Human Rights Committee recommended increasing education and awareness-raising programmes on the significance of using contraceptives and the right to reproductive health.¹⁸ The Committee on Economic, Social and Cultural Rights has interpreted the right to health as extending to access to health-related education and information, including on SRH (in its General Comment No. 14) and stated that the right to SRH “entails a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, evidence-based, scientifically accurate and age appropriate” (in its General Comment No. 22).

The Philippines has a sound policy framework for sexuality education; it is important to ensure that it is implemented in a timely manner and uses a rights-based approach. This includes adequate budget allocation, development of comprehensive curricula, training of teachers and sensitization of schools, parents and communities.

IV. ADVOCACY OPPORTUNITIES

Every country has or will have national SDG planning, implementation, monitoring and review processes. In the Philippines, the National Economic and Development Authority (NEDA) has started a process of multi-stakeholder consultation to integrate the SDGs into the national long-term vision and goals (Ambisyon Natin 2040¹⁹) and national, sectoral and subnational plans and frameworks. It is developing national indicators and supporting the drafting of the next Philippine Development Plan. According to its national voluntary review report, the government is considering creating a high-level inter-agency NEDA committee to plan and oversee the coordinated implementation of SDG-related policies and programmes.²⁰ Advocates can push for **inclusion of additional indicators related to sexual rights in monitoring frameworks**, such as:

- annual number of unsafe abortions per 1,000 women aged 10–49 years;
- inclusion of sexuality education in national education policies, curricula, teacher education and student assessment; and
- decriminalization of sex work.

Advocates can **promote inclusion of specific rights-based actions in the SDG implementation plan**; for example, a review of laws and policies pertaining to sexual rights; a consultative process with marginalized groups, such as sex workers and transgender and intersex persons to develop robust policies and programmes; and training of teachers and health workers on young people’s sexual rights.

Advocates can **follow up on the voluntary review that the Philippines underwent at the UN High-Level Political Forum on Sustainable Development** in July 2016 and participate in national preparatory reviews in advance of future reviews.

Advocates can **encourage new national policies, strategies and action plans, or revision of existing ones as part of the SDG implementation process**. For example, advocating for a gender equality policy or a sexual and reproductive health strategy, if none exists, and advocating for improvements in the AIDS strategy or the human rights action plan during its revision. The ongoing review of the Revised Penal Code and the upcoming process of constitutional amendment present opportunities to advocate for strengthening the respect for and protection and fulfilment of sexual rights in the Constitution and national law, such as reviewing the constitutional provision on protecting equally “the life of the mother and the life of the unborn from conception”. The mid-term elections in May 2018 might provide opportunity to further national debate on sexual rights issues.

Advocates can **push for the rights-based implementation of the SDGs during human rights reviews of the situation in the Philippines at the UN**. These include the Universal Periodic Review (UPR), and reviews by treaty bodies such as the Committee on Economic, Social and Cultural Rights, the Child Rights Committee, and the Committee on the Elimination of Discrimination against Women, among others. Advocates can raise sexual rights issues during national SDG preparatory processes and submit information and recommendations to the UN reviews on the country’s human rights situation. Below is a schedule of the Philippines’ next review at the UPR and its reporting deadlines for the following treaty bodies.

WHAT	WHEN
UPR	May 2017
ICESCR review	October 2016
CRC review	19 September 2017
CAT review	13 May 2020
ICCPR review	31 October 2016
CEDAW review	July 2016
CRPD review	Submitted in 2014

At the regional level, advocates can engage with the Asia-Pacific Forum on Sustainable Development, organized by the Economic and Social Commission for Asia and the Pacific, to push for stronger regional and national monitoring and review processes, as well as influence priorities, strategies and actions.

Advocates can encourage their government to participate in the Forum's regional review process and support civil society participation as Observers and included in government delegations. Civil society organizations can also engage with the Asia Pacific Regional Civil Society Engagement Mechanism, for which APA is co-coordinator (with ARROW) of the cross-constituency Thematic Working Group on Gender, Sexuality, and SRHR.

Regional reviews of the ICPD Programme of Action and the Beijing Platform for Action, planned for 2018 and 2019 respectively, also provide opportunities for highlighting gaps in the implementation of commitments made by countries along with recommendations for greater achievement of those commitments and the SDGs, all of these being complementary in nature.

Don't be overwhelmed by all these options! Your organizational mandate and capacity will help determine which opportunities you engage with. Remember, consistent evidence and recommendations can be easily tailored to suit different advocacy opportunities, and working in collaboration can help distribute the burden of engaging with multiple reviews.

¹ Based on information from the Sexual Rights Initiative's National Sexual Rights Law and Policy Database. Accessed 29 June 2016, <http://sexualrightsdatabase.org/countries/475/Philippines>.

² See www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/PHL_revised_penal_code.pdf.

³ Center for Reproductive Rights, *Facts on Abortion in the Philippines: Criminalization and a General Ban on Abortion* (Manila: CRR, 2010), www.reproductiverights.org/sites/crr.civicaactions.net/files/documents/pub_fac_philippines.pdf.

⁴ Alan Guttmacher Institute, *Unintended Pregnancy and Induced Abortion in the Philippines: Causes and Consequences* (New York: 2013).

⁵ J.E. Darroch et al., *Meeting Women's Contraceptive Needs in the Philippines*, In Brief, New York: Alan Guttmacher Institute (2009) No. 1.

⁶ CEDAW/C/PHI/CO/6, <http://uhri.ohchr.org/document/index/195a7b12-04f9-46ce-ba33-b4d0f5a3361f>.

⁷ E/C.12/PHL/CO/4, <http://uhri.ohchr.org/document/index/ba91b8c1-8c08-4598-ab10-d6cdb2341e70>.

⁸ CCPR/C/PHL/CO/4, <http://uhri.ohchr.org/document/index/3bd1af89-55f3-4925-ba51-0acb635ba7c5>.

⁹ *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health* (New York: United Nations), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/443/58/PDF/N1144358.pdf?OpenElement>.

¹⁰ United Nations Development Programme, *Sex Work and the Law in Asia and the Pacific* (Bangkok: UNDP, 2012).

¹¹ Anand Grover, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health* (New York: OHCHR, 2014), www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf.

¹² World Health Organization, *Prevention and Treatment of HIV and Other Sexually Transmitted Infections for Sex Workers in Low- and Middle-Income Countries* (Geneva: WHO, 2012), www.who.int/hiv/pub/guidelines/sex_worker/en/.

¹³ *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Geneva: OHCHR, 2013), www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf.

¹⁴ CEDAW/C/PHI/CO/6.

¹⁵ United Nations Educational, Scientific and Cultural Organization, *Review of Policies and Strategies to Implement and Scale Up Sexuality Education in Asia and the Pacific* (Bangkok: ESCAP, 2012).

¹⁶ See <https://psa.gov.ph/content/one-ten-young-philipino-women-age-15-19-already-mother-or-pregnant-first-child-final-results>.

¹⁷ CRC/C/OPSC/PHL/CO/1, <http://uhri.ohchr.org/document/index/143a1ce1-dfa3-4789-971e-89d4c01f90fc>.

¹⁸ CCPR/C/PHL/CO/4.

¹⁹ Ambisyon Natin 2040 is an initiative of NEDA that articulates a long-term vision for the country, which will guide future development plans. Learn more at <http://2040.neda.gov.ph>.

²⁰ *National Voluntary Review Report-Philippines* (Geneva: United Nations, 2016, Executive summary), <https://sustainabledevelopment.un.org/content/documents/10539Philippines%20National%20Review.pdf>.



FOR SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

ABOUT APA

The Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA) is a network of national, regional and global civil society organizations that advocate for the fulfilment of sexual and reproductive health and rights for all persons in the Asia Pacific region. APA mobilizes civil society advocacy across the region to hold governments and other stakeholders accountable for their obligations and commitments to SRHR. Interested in becoming an APA member? Check out our website or email join@asiapacificalliance.org.

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APA is grateful to **Likhaan** and the **Women's Global Network for Reproductive Rights (WGNRR)** for sharing their time and expertise with inputs to this brief.



Content development:
Feminist Solutions towards
Global Justice (FemJust)
Design: Adrian Mendoza

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