

Human Rights and Gender Equality

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The Millennium Development Goals (MDGs), with various concerns that include Human Rights and Gender Equality, envision a world where people are able to enjoy their human rights and equality regardless of race, sex, age, creed and background. Access to justice is an important concern of the MDGs. Governments of 189 countries all over the world have committed to ending gender based injustices by its target date of 2015. For women and children victims of violence all over the world, “Justice and Healing” is still an elusive dream.

In the Philippines, the Philippine Commission on Women (PCW) is completing a program called “Women’s Empowerment and Development Towards Gender Equality” (WEDGE). PCW asked me to review Chapter 2 of the WEDGE Plan pertaining to “Protection and Access to Justice of women in especially difficult circumstances”. The chapter addresses protection and access to justice of women who are vulnerable to and are victims of gender based violence, trafficking and prostitution; and women in general who should enjoy equal protection and just treatment under the law and by the legal and justice systems.

The various segments of the WEDGE Program such as programs on women and labor, women and economy, women and environment,

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etc., all committed to use human rights based approaches. The discussion on protection and access to justice of women in especially difficult circumstances has a long history. By looking alone at the policy trail, from the Universal Declaration of Human Rights, the United Nations Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) which was ratified by the Philippines in 1981, up to the Magna Carta of Women, Republic Act 9710 which took effect in 2009, one would think that Filipino women are amply protected and are able to enjoy human rights and gender equality. This is not true at all.

Many laws remain unimplemented and unenforced. Due to the prevailing culture of patriarchy, many Filipinos do not comply or observe the provisions of the many good laws thus many women and girl-children continue to suffer. They continue to be victims of different forms of injustices.

All Filipino citizens, especially the lawyers and people charged in the administration of justice must help push for Gender Equality and Uphold Human Rights of everyone.

Here is a long list of some laws and a brief description of each, in support of and affecting Women's Welfare and Rights, from the PCW's website²:

Republic Act 9710 – The Magna Carta of Women

The Magna Carta of Women is a comprehensive women's human rights law that seeks to eliminate discrimination against women by recognizing, protecting, fulfilling and promoting the rights of Filipino women, especially those in the marginalized sectors.

Republic Act 1995 – Anti-Photo and Video Voyeurism Act of 2009

An act defining and penalizing the crime of photo and video voyeurism, prescribing penalties therefor, and for other purposes.

² <http://www.pcw.gov.ph/laws>

Republic Act 9775 – Anti-Child Pornography Act of 2009

An Act defining the crime of child pornography, prescribing penalties therefor and for other purposes.

Republic Act 9262 – Anti-Violence Against Women and Their Children Act of 2004

RA 9262 penalizes violence against women and their children (VAWC). It protects women against physical, sexual, psychological harm or suffering, or economic abuse. It provides security for women through protection orders: barangay, temporary or permanent. It also recognizes "Battered Woman Syndrome" which is a scientifically defined pattern of psychological or behavioural symptoms found in women living in battering relationships as a result of cumulative abuse, as an acceptable defense for actions committed by the victim as a result of battering.

Republic Act 9208 – Anti-Trafficking in Persons Act of 2003

RA 9208 penalizes "trafficking in persons" which is defined as the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs. The act recognizes the trafficked person as a victim and as such is protected by the State.

Republic Act 8972 – Solo Parents' Welfare Act of 2000

The Act aims to develop a comprehensive program of social development and welfare service for solo parents and their children to be carried out by different government offices such as the DSWD, DOH, etc., as well as non-government agencies.

Republic Act 8551 – Philippine National Police Reform and Reorganization Act of 1998

The law requires ten percent of its annual recruitment to be reserved for women as well as the qualifications for membership of the PNP. It also provides for a Women's Desk in all police stations to administer and attend to cases involving crimes against chastity, sexual harassment, abuses committed against women and children and similar offenses. The law also requires a gender sensitivity program in the PNP to ensure equal opportunities, prevention of sexual harassment, and prohibition of discrimination on the basis of sex.

Republic Act 8552 – Domestic Adoption Act of 1998

The law provides for alternative protection and assistance through foster care or adoption to neglected, orphaned or abandoned children.

Republic Act 8522

Family Code amendment providing that an action or defense for the declaration of nullity of marriage based on psychological incapacity shall no longer prescribe.

Republic Act 8503 – Health Research and Development Act of 1998

The law aims to promote science and technology research and development in the field of health as well as ensure that the results of the health research and development activities are used to improve the health of both men and women.

Republic Act 8504 – Philippine AIDS Prevention and Control Act of 1998

The law promotes HIV/AIDS awareness and education. It recognizes the rights of every person suspected or known to be infected by HIV/AIDS. It prohibits compulsory testing and discrimination of individuals with HIV. It provides for basic health and social services for people with AIDS. The law also helps women and men, particularly those who are prostituted, to be aware of AIDS and precautionary measures they may take to avoid the disease.

Republic Act 8505 – Rape Victim Assistance and Protection Act of 1998

Establishes a Rape Crisis Center in every province and city to provide counselling, free legal assistance and other services. It also provides for protective measures for the privacy of the rape survivor.

Republic Act 8371 – The Indigenous Peoples Rights Act of 1997

Section 26 of the law provides that ICC/IP women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition.

The State shall provide full access to education, maternal and child care, health and nutrition, and housing services to indigenous women. Vocational, technical, professional and other forms of training shall be provided to enable these women to fully participate in all aspects of social life. As far as possible, the State shall ensure that indigenous women have access to all services in their own languages.

Republic Act 8369 – Family Courts Act of 1997

The law establishes Family Courts in every province and city to hear and decide cases involving children, including children in conflict with the law particularly the Family Code. It will also hear cases on domestic violence against women and children.

Republic Act 8353 – The Anti-Rape Law of 1997

The law is now classified as a Crime Against Persons under the Revised Penal Code. The definition of rape is broadened to include carnal knowledge of a woman under certain circumstances or by acts of sexual assault. The law also recognized marital rape.

Republic Act 8344

The law prohibits hospitals and medical clinics from demanding advance payment as a prerequisite for treatment of patients or for administration of medical treatment.

Republic Act 8269 – The National Children’s Broadcasting Day

The Act declares every second Sunday of December as National Children’s Broadcasting Day.

Republic Act 8292 – Magna Carta for Small Enterprises

RA 8292 amended RA 6988 increasing the required value of the total assets of small and medium enterprises. It provides for government assistance to business activities within the major sectors of society targeting medium, small and micro-sized enterprises. This will help women to get support for business activities.

Republic Act 8187 – Paternity Leave Act of 1996

The Act provides married male employees in the public and private sectors leave with pay to enable him to effectively lend support to his wife who has delivered a child or suffered a miscarriage.

Republic Act 8171

The act provides repatriation to Filipino women who have lost their citizenship by marriage to aliens.

Republic Act 8042 – Migrant Workers and Overseas Filipinos Act of 1995

The law provides that the State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers. It also authorizes the grant of small loans to women for the purchase of necessary tools or equipment for the business of their choice as well as free technical training with what is now TESDA.

Republic Act 8043 – The Inter-Country Adoption Act of 1995

The act allows inter-country adoption when the same shall prove beneficial to the child’s best interest and shall serve and protect the child’s fundamental rights.

Republic Act 8044 – Youth in Nation Building Act

The act created the National Youth Commission tasked to plan, oversee and implement a national integrated youth plan.

Republic Act 7941 – Party List System Act

This is the enabling law of Section 5(2), Article VI of the 1987 Constitution which proves party-list representatives with women as a sector.

Republic Act 7882 – Provision of Assistance to Women Engaging in Micro and Cottage Business Enterprises, and for other purposes

The Act provides assistance to women who own small businesses.

Republic Act 7884 – National Dairy Development Act of 1995

The Act encourages children and nursing mothers’ nutritional intake through locally produced milk and milk produce. Women are also encouraged to participate in dairy and dairy-related projects.

Republic Act 7875 – National Health Insurance Act of 1995

The law establishes the Philippine Health Insurance Corporation (PhilHealth) which sets priority for the needs of the underprivileged, sick, elderly, disabled, women, and children.

Republic Act 7877 – Anti-Sexual Harassment Act of 1995

The Act upholds the dignity of every human individual and respect for human rights especially those who are students, trainees, workers, employees and those seeking employment by prohibiting sexual harassment in the employment environment as well as education and training environment.

Republic Act 7796 – TESDA Act of 1994

The Act provides technical education and skills development to Filipinos. The TESDA Board shall have one woman representative from the employer/industry organization, labor sector and national associations of private technical-vocational education and training institutions.

Republic Act 7688

The Act gives representation to women in the Social Security Commission.

Republic Act 7658

The Act prohibits the employment of children below 15 years of age in public and private undertakings.

Republic Act 7655

The Act increases the minimum wage of domestic helpers, most of whom are women. It also makes social security available to them.

Republic Act 7610 – Special Protection of Children Against Abuse, Exploitation and Discrimination Act

The Act provides for protections against child abuse, exploitation and discrimination.

Republic Act 7600 – The Rooming-In and Breastfeeding Act of 1992

The Act requires health institution to provide facilities for rooming-in and breastfeeding. Expenses incurred in this regard are tax deductible.

Republic Act 7432 – An Act to Maximize Contributions of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes

The law allows senior citizens, majority of whom are women, to have discounts from establishments and for the purchase of medicine everywhere in the country. They are also exempt from paying income taxes.

Republic Act 7305 – Magna Carta of Public Health Workers

The law promotes the well being of health workers, majority of whom are women, by providing them the benefits given to public health workers.

Republic Act 7322 – Increasing Maternity Benefits in Favor of Women Workers in the Private Sectors

The Act increased maternity leave benefits in the private sector to equalize those in the public sector from 45 days to 60 days.

Republic Act 7192 – Women in Development and Nation Building Act

The Act seeks to enhance women's participation in the development process. It provides that women shall have a substantial portion of foreign assistance funds. It gives equal opportunities for women in military schools. It gives equal rights to women entering into contracts.

Republic Act 7160 – Local Government Code of 1991

The law provides representatives for women in all the local legislative assemblies nationwide.

Republic Act 7077 – Citizen Armed Forces or Armed Forces of the Philippines Reservist Act

The law provides that women shall have the right and duty to serve in the Armed Forces of the Philippines.

Republic Act 6981 – Witness Protection, Security and Benefit Act

The law will protect women who file criminal charges, especially against their husbands or family members, but are afraid of retaliation.

Republic Act 6972 – Barangay Level Total Development and Protection of Children Act

The law establishes day care centers for children below six years of age in every barangay. The centers shall also be a sanctuary for abused, neglected or exploited children and shall serve as referral and support system for pregnant mothers.

Republic Act 6955 – Mail Order Bride Law

The law prohibits the business of matching Filipino women for marriage to foreign nationals on mailorder bride basis.

Republic Act 6949 – National Women’s Day

The law provides for a National Women’s Day and requires the government and private employers to encourage and afford time for employees to engage and participate in activities in celebration of it.

Republic Act 6725

The law strengthens the prohibition of discrimination against women in employment, promotion and training opportunities.

Republic Act 6675 – Generics Act of 1988

The law protects consumers, majority of whom are women, from exorbitant cost of medicines by allowing them to choose from different brands.

Republic Act 6657 – Comprehensive Agrarian Reform Law of 1988

Section 40 of the law guarantees all qualified women members of the agricultural labor force equal rights to land ownership, equal share on farm produce and representation in advisory or appropriate decision making bodies.

Executive Order No. 292 – Administrative Code of 1987

The law requires one member of the seven-member board of the Board of Parole and Probation, to be a woman.

Presidential Decree Nos. 1636 and 1202

These decrees amend Republic Act 1161, providing among others, an amendment in the terms and conditions in applying for maternity leave benefits and terms and conditions for contributions.

Presidential Decree No. 1083 – Code of Muslim Personal Laws of the Philippines

The decree recognizes the Muslim personal laws for Filipino Muslims which will govern their personal relations which include marriage, divorce, succession, etc.

Presidential Decree No. 633 – Creating the National Commission on the Role of Filipino Women

The National Commission on the Role of the Filipino women is created to advise the President on policies involving women’s contribution in national development, review and evaluate women’s integration in all sectors of economic life, and make recommendations which would guarantee the enjoyment of women full equality with men.

The NCRFW has been renamed Philippine Commission on Women (PCW) under RA 9710, the Magna Carta of Women.

Presidential Decree 603 – The Child and Youth Welfare Code

The law provides for the rights of children at home, in education, religion and the community. It also addresses children in conflict with the law. Some parts of this law have been repealed or amended by later legislation including RA 7610, the Child Protection Law and RA 9344, the Juvenile Justice Welfare Act of 2006.

Presidential Decree No. 442 – Labor Code of the Philippines

The law includes different provisions that have tried to address the needs of women in the workforce. However some of them remain discriminatory. Among others, it includes provisions on: nightwork prohibition; facilities for women; maternity leave; family planning; discrimination; stipulation against women; prohibited acts; classification of certain women workers; employment of househelpers; and employment of homeworkers.

Presidential Decree No. 148

This decree provides protection to labor, promotes equality in employment, equality in employment opportunities and regulates relations between workers and employers. This also included maternity leave benefits.

Republic Act 2714

The Act established a Women and Minors Bureau in the Department of Labor which is responsible for enforcing women and child labor laws, and make recommendations in policies relating to women and children.

Republic Act 1564

This act extended maternity leave benefits to female government employees who have rendered less than two years continuous service, as well as to temporary employees whose civil service exam results are released subsequent to the filing of leave.

Republic Act 679

The law laid down rules on employment of children and women.

Republic Act 386 – The Civil Code of the Philippines

Provisions of the Civil Code governing marriage and family relations have been superseded by the Family Code. Among those which were not repealed are provisions on the use of surnames. Commonwealth Act No. 647.

The Act granted maternity leave to married women subject to certain conditions. It included the prohibition of assignment of strenuous and fatiguing work to married and pregnant women.

Act No. 3815 – The Revised Penal Code

In relation to women, the law provides: In mitigating circumstances in the commission of crimes, the Supreme Court in the Case of People vs. Genosa ruled that Battered Woman Syndrome (BWS) is a mitigating circumstance. Under RA 9262, BWS is considered as an exempting circumstance.

The law also provides the crimes of adultery and Concubinage. However these are criticized for differing standards in sexual infidelity.

Other crimes provided for are: Article 337- Qualified Seduction; Article 338- Seduction of a woman or widow of good reputation by means of deceit; Article 339 – Act of lasciviousness with the consent of the offended party; Article 340 – Corruption of minors; Article 341 – White-slave trade; Article 342 – Forcible abduction of a woman against her will and with lewd designs; and Article 343 – Consented abduction.

Article 344 provides who may file complaints for adultery and Concubinage as well as abduction, seduction, and acts of lasciviousness.

The Philippine Commission on Women, along with many advocates for the Rights of Women and Children continue with Legislative and Policy Advocacies to ensure that Women's Rights and Human Rights along with Children's Rights are upheld and respected at all times.

Admittedly, there is a huge problem on the area of implementation, enforcement, observance and compliance of laws in the Philippines.

Therefore, the challenge to all lawyers, men and women alike, is to help in the area of proper implementation and application of laws. As lawyers, whether in government or in the private sector, we need to endeavour to become Ethical Administrators of Justice to ensure respect for

Human Rights of all men and women, and for all of us to uphold Gender Equality.