

REPUBLIC OF THE PHILIPPINES: A BRIEF ON THE  
IMPLEMENTATION OF CEDAW COMMITMENTS FROM  
ARTICLES 2, 5, 11, AND 16

*Information for the Committee on the Elimination of Discrimination Against Women  
84<sup>h</sup> Pre-Session Working Group, July 2022*

**Submitted By**

The WORLD Policy Analysis Center  
University of California, Los Angeles



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## INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 84<sup>th</sup> Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following three areas:

1. Non-discrimination in Work and Employment (Article 11)
2. Paid Maternity and Paternity Leave (Articles 11, 5)
3. Child Marriage (Articles 16, 2)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our legislative findings, as well as suggested questions for the Committee to ask the Republic of the Philippines and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that the Philippines address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended the Philippines for having provisions in place, we hope the Committee will recommend that the Philippines work with stakeholders to overcome any obstacles in implementing these provisions.



## SUMMARY OF FINDINGS AND RECOMMENDATIONS

### 1. Non-Discrimination in Work and Employment (Article 11)

Our review of legislation found that the Philippines prohibits sex discrimination in promotions and/or demotions, vocational training and compensation, as well protecting against sex-based workplace harassment, indirect discrimination, and retaliatory action against women that report discrimination. The Philippines further prohibits discrimination on the basis of a woman’s marital status, as well as discriminatory terminations on the basis of pregnancy. However, **we did not identify any legislative provisions prohibiting sex-based discrimination in hiring or terminations, and we did not identify legislative provisions prohibiting discrimination on the basis of family status.**

#### RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask the Philippines: Can the Philippines outline any concrete, near-term plans to pass legislation that explicitly prohibits sex -based discrimination in other dimensions of work, including hiring and terminations?
  - If concrete, near-term plans are not in place, recommend in its concluding observations that the Philippines pass and implement legislation that explicitly prohibits sex-based discrimination in hiring and terminations.
- In its list of issues, ask the Philippines: Can the Philippines outline any concrete, near-term plans to pass legislation that explicitly prohibits workplace discrimination on the basis of family status?
  - If concrete, near-term plans are not in place, recommend in its concluding observations that the Philippines pass and implement legislation that explicitly prohibits workplace discrimination on the basis of family status.

### 2. Paid Maternity and Paternity Leave (Articles 11, 5)

Based on our systematic review of national legislation and country reports, the Philippines guarantees working mothers 15 weeks of paid maternity leave. Paid maternity leave provisions are inclusive of all workers in the informal economy, as well as of self-employed women specifically. For working fathers, the Philippines guarantees 1 week of paid leave. Additionally, one week of the mother’s paid maternity leave can be transferred to the father.



**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

We hope the Committee will:

- In its list of issues, ask the Philippines: Can the Philippines demonstrate how paid maternity leave provisions are being implemented to be inclusive of all female workers, particularly the provisions for workers in the informal economy included in the Maternity Leave Expansion Act?
  - If the Philippines is not fully implementing these guarantees to be inclusive of all female workers, recommend in its concluding observations that the Philippines explore how to fully and effectively expand these guarantees to do so.
- In its concluding observations, recommend that the Philippines increase the duration of paid paternity leave—ensuring fathers’ access to an adequate duration of paid paternity leave is foundational to increasing gender equality in caregiving responsibilities and gender equality in employment.

### 3. Child Marriage (Articles 16, 2)

Based on our systematic review of national legislation and country reports, the Philippines has a general age of marriage for both boys and girls of 21, with marriage possible between ages 18 and 21 with parental consent. Marriage under 18 is generally outlawed, however the Family Code contains a provision that exempts “Muslims” and “other ethnic cultural communities”, as described in law, from its general provisions on marriage. However, with the passage of the new *Act Prohibiting the Practice of Child Marriage (2021)*, these communities have until December 2022 to align their practices with Section 11 of the Act. Prior to the passage of this act, UNICEF data shows that 9% of girls aged 15-19 were married at time of survey, and 16% of women aged 20-24 at time of survey had been married since before age 18.<sup>1</sup>

**RECOMMENDED QUESTION FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

We hope the Committee will:

- In its list of issues, ask the Philippines: Can the Philippines provide any information on its plans to effectively implement the new *Act Prohibiting the Practice of Child Marriage*?
  - If the Philippines does not have concrete plans to effectively implement the new Act, recommend in its concluding observations that the Philippines developed a concrete, near-term plan to effectively enforce the Act and reduce rates of child marriage.

<sup>1</sup> UNICEF data – Child Marriage. Retrieved April 15, 2022 from <https://data.unicef.org/topic/child-protection/child-marriage/>



## DETAIL OF LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

### 1. Non-Discrimination in Work and Employment (Article 11)

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Article 11 of the Convention outlines specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment.

We systematically reviewed national labor codes, gender equality, and other relevant legislation available through the International Labour Organization's NATLEX database for all 193 UN member states to determine whether national legislation prohibited sex discrimination in employment. We examined legal protections across five areas covered by CEDAW:

- employment opportunities or hiring
- equal pay for work of equal value
- vocational training
- promotions or demotions
- job security or terminations

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination. We further examined whether there were provisions that protected women from retaliatory action for reporting discrimination. We also examined whether there were explicit protections from discrimination at work for statuses that intersect directly with women's dual roles as workers and caregivers: marital status, pregnancy, and family status.

We further assessed whether women at work were protected from sexual harassment, which covers sexual behavior-based harassment, as well as sex-based harassment, which covers harassment of women due to their sex but without necessarily taking a sexual form.

#### *THE PHILIPPINES' LEGISLATIVE PROVISIONS: Missing some important guarantees for women in employment*

Based on our review, the Philippines' legislation explicitly prohibits discrimination against women at work in promotions and/or demotions, vocational training and remuneration, but we found **no explicit provisions prohibiting sex-based discrimination in hiring and terminations**. The Philippines prohibits at least some forms of workplace discrimination on the basis of marital status and pregnancy, **but does not do so on the basis of family status**.

The Philippines further prohibits sex-based indirect discrimination, as well as both sexual harassment and sex-based workplace harassment. The Philippines also explicitly prohibits retaliatory action for reporting sex-based discrimination at work.



<b>Table 1: Does the Philippines have legislative provisions in place explicitly guaranteeing non-discrimination for women in the following key areas of employment?</b>	
Employment opportunities and hiring	No provisions found
Equal pay for work of equal value	Yes
Employer-provided vocational training	Yes
Promotions and/or demotions	Yes
Terminations	No provisions found
On the basis of family status, marital status, and pregnancy	Marital status and pregnancy only
Indirect discrimination	Yes
Retaliatory action	Yes

*Labor Code*

*CHAPTER I – EMPLOYMENT OF WOMEN*

*ART. 133. [Previously 135] Discrimination Prohibited. — It shall be unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex. (...)*

*The following are acts of discrimination:*

*(a) Payment of a lesser compensation, including wage, salary or other form of remuneration and fringe benefits, to a female employee as against a male employee, for work of equal value; and*

*(b) Favoring a male employee over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes.*

*(...)*

*ARTICLE 118. Retaliatory measures. - It shall be unlawful for an employer to refuse to pay or reduce the wages and benefits, discharge or in any manner discriminate against any employee who has filed any complaint or instituted any proceeding under this Title or has testified or is about to testify in such proceedings.*

*ART. 134. [Previously 136] Stipulation Against Marriage. — It shall be unlawful for an employer to require as a condition of employment or continuation of employment that a woman employee shall not get married, or to stipulate expressly or tacitly that upon getting married, a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.*

*ART. 135. [Previously 137] Prohibited Acts. — It shall be unlawful for any employer:*



*... (2) To discharge such woman on account of her pregnancy, or while on leave or in confinement due to her pregnancy;*

*(3) To discharge or refuse the admission of such woman upon returning to her work for fear that she may again be pregnant*

*ART. 259. [248]. Unfair labor practices of employers. It shall be unlawful for an employer to commit any of the following unfair labor practice:*

*(...)*

*f. To dismiss, discharge or otherwise prejudice or discrimination against an employee for having given or being about to give testimony under this Code*

*(...)*

*Safe Spaces Act 2019*

*SEC. 16. Gender-Based Sexual Harassment in the Workplace - The crime of gender-based sexual harassment in the workplace includes the following: (...)*

*(b) A conduct of sexual nature and other conduct based on sex affecting the dignity of a person, which is unwelcome, unreasonable, and offensive to the recipient, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems;*

*(...)*

*Act 9710 - Providing for the Magna Carta of Women (2009)*

*Section 4. Definitions. - For purposes of this Act, the following terms shall mean:*

*...*

*(b) "Discrimination Against Women" refers to 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.*

*It includes any act or omission, including by law; policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges.*

*(...)*





## 2. Paid Maternity and Paternity Leave (Articles 11, 5)

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Article 11.2 of the Convention states that:

*In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:*

*(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*

*(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

*To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.*

Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.

We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization's NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

### *THE PHILIPPINES' LEGISLATIVE PROVISIONS: Short leave for fathers*

Based on our systematic review of national legislation and country reports, the Philippines provides 105 days (15 weeks) of paid maternity leave to mothers, of which 7 days (1 week) can be transferred to fathers. Self-employed workers and workers in the informal economy are explicitly included in maternity leave provisions. The country further provides 7 days of leave specifically for fathers.

#### *105-Day Expanded Maternity Leave Law*

##### *SEC. 3. Grant of Maternity Leave.*

*All covered female workers in government and the private sector, including those in the informal economy, regardless of civil status or the legitimacy of her child, shall be granted one hundred five (105) days maternity leave with full pay and an option to extend for an additional thirty (30) days without pay: (...)*



*SEC. 6. Allocation of Maternity Leave Credits. – Any female worker entitled to maternity leave benefits as provided for herein may, at her option, allocate up to seven (7) days of said benefits to the child's father, whether or not the same is married to the female worker:*

*Social Security Act*

*SEC. 9-A. Compulsory coverage of the Self-employed. - Coverage in the SSS shall be compulsory upon such self-employed persons as may be determined by the Commission under such rules and regulations as it may prescribe, including but not limited to the following:*

*(...)*

*Unless otherwise specified herein, all provisions of this Act applicable to covered employees shall also be applicable to the covered self-employed persons.*

*Paternity Leave Act*

*Sec. 2 Notwithstanding any law, rules and regulations to the contrary, every married male employee in the private and public sectors shall be entitled to a paternity leave of seven (7) days with full pay for the first four (4) deliveries of the legitimate spouse with whom he is cohabitating. The male employee applying for paternity leave shall notify his employer of his legitimate spouse and the expected date of such delivery.*

### 3. Child Marriage (Articles 16, 2)

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Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labor Organization’s NATLEX database, regional sources, and official country websites.

#### *THE PHILIPPINES’ LEGISLATIVE PROVISIONS: Marriage generally prohibited before age 21*

Based on our review, the Philippines establishes a minimum age of marriage for both women and men of 21 years old, with women and men older than 18 but younger than 21 requiring parental consent to marry. Girls and boys younger than 18 may not marry. **However, based on our review, members of “Muslim” or other “ethnic cultural communities”, as described in**



**law, may be married at an earlier age, since they may choose to have their marriages solemnized only under customary or religious law.** Since this provision does not specify minimum ages of marriage, it in theory allows minors of any age to marry.

*THE FAMILY CODE OF THE PHILIPPINES*

*Art. 5. Any male or female of the age of eighteen years or upwards not under any of the impediments mentioned in Articles 37 and 38, may contract marriage.*

*Art. 14. In case either or both of the contracting parties, not having been emancipated by a previous marriage, are between the ages of eighteen and twenty-one, they shall, in addition to the requirements of the preceding articles, exhibit to the local civil registrar, the consent to their marriage of their father, mother, surviving parent or guardian, or persons having legal charge of them, in the order mentioned. Such consent shall be manifested in writing by the interested party, who personally appears before the proper local civil registrar, or in the form of an affidavit made in the presence of two witnesses and attested before any official authorized by law to administer oaths. The personal manifestation shall be recorded in both applications for marriage license, and the affidavit, if one is executed instead, shall be attached to said applications.*

*Art. 33. Marriages among Muslims or among members of the ethnic cultural communities may be performed validly without the necessity of a marriage license, provided that they are solemnized in accordance with their customs, rites or practices.*

Our research shows that the Philippines passed the *Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof* in December 2021. This act outlaws any marriage where a contracting party is under 18, and provides a one-year grace period – until December 2022 - for Muslim and other ethnic cultural communities to bring existing practices in line with the new legislation.

*Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof*

*SEC. 3. Definition of Terms. – As used in this Act:*

*(a) Child refers to any human being under eighteen (18) years of age, or any person eighteen (18) years of age or over but who is unable to fully take care and protect oneself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;*

*(b) Child marriage refers to any marriage entered into where one or both parties are children as defined in the paragraph above, and solemnized in civil or church proceedings, or in any recognized traditional, cultural or customary manner. It shall include an informal union or cohabitation outside of wedlock between an adult and a child, or between children;*

*(...)*

*SEC. 4. Unlawful Acts. – The following are declared unlawful and prohibited acts:*

*(a) Facilitation of Child Marriage. – Any person who causes, fixes, facilitates, or arranges a child marriage shall suffer the penalty of prison mayor in its medium period and a fine of not less than Forty thousand pesos (P40,000.00):*

*(...)*



*SEC. 11. Transitory Provision. – Within one (1) year from the effectivity of this Act, the NCMF [National Commission on Muslim Filipinos] and NCIP [National Commission for Indigenous Peoples] shall extensively undertake measures and programs in their respective jurisdictions to assure full compliance with this Act. During the transition period of one (1) year, the application of Section 4(a) and (b), and Section 5 of this Act to Muslim Filipinos and indigenous cultural communities/indigenous peoples shall be suspended.*

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*BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES*