

September X, 2018
Secretary of State Michael R. Pompeo
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Pompeo,

As development of the 2018 Country Reports on Human Rights Practices begins, we are writing to raise our deep concern about significant changes in last year's report, including the deletion of the reproductive rights subsection and limited reporting on prevalence and incidence of gender-based violence. **The undersigned [insert number] civil society organizations call on the State Department to reverse the decision to delete the reproductive rights subsection and ensure it is not repeated in the 2018 reports.**

The State Department's annual reports are an important human rights tool. The reports:

- aid Congress in directing appropriations for foreign assistance and U.S. foreign policy,
- are used by governments, academics, journalists, civil society organizations, and human rights defenders around the world, and
- inform immigration judges, refugee and asylum officers, and protection or compliance officers at agencies like the Overseas Private Investment Corporation and the U.S. Export-Import Bank.

In addition, the process of preparing and drafting the annual reports provides a critical opportunity for foreign service officers to engage local civil society and human rights defenders about the issues and concerns facing them.

As the annual reports have historically shown, human rights are indivisible and universal. Striking certain threats or abuses against some marginalized communities or people, including women and girls, from the report sends a message to abusive governments that the United States turns a blind eye to such action and may embolden regression on women's rights globally. When women's rights are limited, so are broader pathways to empowerment—economic, social, political or otherwise.

Therefore, we are extremely concerned by the 2017 report, which removed all reporting on reproductive rights and scaled back reporting on gender-based violence from section six, signaling a dangerous backslide in the United States' commitment to women's rights abroad. Ambassador Michael G. Kozak explained the change to the reproductive rights subsection by stating that in virtually every country there is no obstacle to accessing contraception, except for limited availability in rural areas, and said that reports would refer readers to WHO reports with additional information.¹

The Philippines chapter is just one example out of nearly all the countries in the report where this explanation does not hold up when comparing the difference between the 2017 and 2016 reports (for full 2016 text of the Philippines chapter, refer to Appendix A). The 2016 country chapter included a page-long assessment of the many ways government actors created barriers to critical health services,

¹ Briefing on the Release of the 2017 Country Reports on Human Rights Practices, April 20, 2018, available at: <https://www.state.gov/r/pa/prs/ps/2018/04/280671.htm>.

including information about a national inquiry into reproductive health and rights amid reports of local government units denying women access to services, including access to contraceptives. By contrast, the 2017 country chapter states “[t]here were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods,” and refers readers to a WHO link for estimates on maternal mortality and contraceptive prevalence, though the cited publication does not address contraceptive prevalence and provides only modeled estimates of health data that does not account for a 2016 Supreme Court ruling impacting reproductive health access.²

The 2017 report also reflected a marked decrease in reporting on gender-based violence, specifically domestic and sexual violence against women and girls. It is particularly concerning that the section detailing some of the worst abuses and violence against women and girls was nearly silent on incidence or prevalence of domestic and sexual violence and gendered killings of women. A side by side comparison of the 2016 and 2017 chapters on El Salvador (Appendix B) illustrates the dramatic change to this section and reflects the broader change consistent in chapters throughout the full report.

During your confirmation process, you stated your commitment “to defending the human rights and dignity of all persons, regardless of race, ethnicity, religion, sexual orientation or gender identity” and “...following this policy... to [also] ensur[e] that the United States complies with the Convention against Torture (CAT) in carrying out my duties as Secretary of State...” Reproductive rights are human rights and encompass rights recognized in binding international human rights documents and other consensus documents to which the U.S. is currently a party, including:

- International Covenant on Civil and Political Rights (ICCPR): The UN Human Rights Committee, which monitors states’ compliance with the ICCPR, has instructed states that when they report to the Committee, they should provide information on measures to ensure that women do not have to undergo life-threatening, clandestine abortions.
- CAT: The UN Committee against Torture has said that forcing women experiencing severe pain and suffering to continue pregnancies by criminalizing abortion with few exceptions is incompatible with the right to be free from torture and other cruel, inhuman, or degrading treatment or punishment.³

Authoritative interpretations of international human rights law establish that denying women and girls access to reproductive health care is a form of discrimination and jeopardizes a range of human rights, including the rights to health, nondiscrimination and equality, privacy, information, and the right to decide on the number and spacing of children.⁴ International human rights bodies and experts have repeatedly stated that restrictive abortion laws contribute to preventable maternal deaths from unsafe abortions.

² Available at: <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

³ The committee has also called on governments to permit abortion when “continuation of pregnancy is likely to result in severe pain and suffering, such as when the pregnancy is the result of rape or incest or in cases of fatal fetal impairment.” See, for example, concluding observations of the Committee against Torture on Timor-Leste, UN Doc. CAT/C/TLS/CO/1 (2017); Ireland, UN Doc. CAT/C/IRL/CO/2 (2017); and Ecuador, UN Doc. CAT/C/ECU/CO/7 (2016).

⁴ See for example, *Whelan v. Ireland*, CCPR/C/119/D/2425/2014 (2017); *Mellet v. Ireland*, CCPR/C/116/D/2324/2013 (2016); *K.L. v. Peru*, CCPR/C/85/D/1153/2003 (2005); and *L.M.R. v. Argentina*, CCPR/C/101/D/1608/2007 (2011).

The government's failure to report on these rights violations conveys a callous disregard for their impact on women and girls. Furthermore, it calls into question the administration's commitment to established human rights norms that recognize government obligations to end such violations.

We strongly urge you to immediately reverse course and issue guidance to U.S. embassies around the world to ensure the 2018 report will include the full range of human rights violations and abuse experienced by women and girls.

Signed,

Appendix A: Reproductive Rights Subsection: 2016 Philippines Human Rights Report

Reproductive Rights: The Supreme Court has ruled that the constitution upholds the basic right of couples and individuals to decide freely the number, spacing, and timing of their children; to manage their reproductive health; and to have the information and means to do so free from discrimination, coercion, and violence.

According to the December 2015 Human Development Report, the maternal mortality rate reportedly was 120 per 100,000 live births, and skilled attendants participated in 62 percent of births. The UN Development Program (UNDP) attributed the high rate of maternal deaths to inadequate access to integrated reproductive health services by women. The UN Population Fund (UNFPA) reported that poverty, remote locations, and a lack of education exacerbated delays in seeking potentially life-saving maternal medical care. Midwives at times had little formal training. Medical personnel also routinely mistreated and denied proper care to women who sought assistance for complications from unsafe abortions.

Provision of health care services is the responsibility of local governments, and restrictions on the provision of family planning supplies at government-run health facilities in some localities reduced their availability to the poor, although modern forms of contraception were available on the market in most areas. During the year local NGOs also reported the government was not committed to providing education and information on modern methods of contraception.

As amended by a Supreme Court ruling in 2014, the 2012 Responsible Parenthood and Reproductive Health Act (RH law) allows health practitioners to deny reproductive health services based on personal or religious beliefs in nonemergency situations; requires spousal consent for women in nonlife-threatening situations to obtain reproductive health care; requires minors in non-life-threatening situations to get parental consent before obtaining reproductive health care; and does not require private health-care facilities to provide access to family planning methods. Many NGOs, including the Center for Reproductive Rights, asserted that these restrictions prevented the full implementation of the law.

On April 8, the CHR launched a national inquiry into reproductive health and rights amid reports of local government units denying women access to reproductive health services. In Sorsogon City, for example, the mayor signed a pro-life executive order, which resulted in the withdrawal of contraceptives from health centers.

In September the Supreme Court sustained its June 2015 temporary restraining order preventing the Department of Health (DOH) from procuring, selling, distributing, dispensing or administering, advertising, or promoting specific hormonal contraceptives. The same decision also prevents the Food and Drug Administration from granting any pending application for registration and/or recertification of reproductive products and supplies, including contraceptive drugs and devices. The decision came in a case filed against the department for allegedly failing to abide by the RH law's implementing guidelines. The decision blocks the inclusion of contraceptive implants in government reproductive health programs.

President Duterte has said that supporting family planning is a key element of poverty alleviation. The 2017 federal budget signed into law in December included 4.3 billion PHP (\$91.6 million) allocated to

the DOH for the implementation of the RH law, an almost two-fold increase over the 2.2 billion PHP (\$46.9 million) allocated in the current budget.

Appendix B: Side-by-Side Comparison of the Rape and Domestic Violence Subsections in the 2016 and 2017 El Salvador Human Rights Reports

2016	2017
<p><u>Rape and Domestic Violence</u>: The law criminalizes rape, and the criminal code’s definition of rape may apply to spousal rape, at the judge’s discretion. The law requires the Attorney General’s Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. Cases may be dropped for lack of evidence if the victim refuses to provide it. The penalty for rape is generally six to 10 years’ imprisonment, but the law provides for a maximum sentence of 20 years for raping certain classes of victims, including children and persons with disabilities.</p> <p>Incidents of rape continued to be underreported for several reasons, including societal and cultural pressures on victims, fear of reprisal, ineffective and unsupportive responses by authorities to victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted. Laws against rape were not effectively enforced.</p> <p>Rape and other sexual crimes against women were widespread. On February 26, the PDDH criticized the Ministry of Justice and Public Security’s UTE general director Mauricio Rodriquez, for failing to provide adequate security to seven female witnesses and victims of sex trafficking, one of whom was sexually assaulted by a security guard in a shelter supervised by the UTE. Although the victim filed a complaint, the security guard was not sanctioned or removed.</p> <p>The Attorney General’s Office reported that, as of July 18, 658 women had been victims of sexual-related crimes and 63 defendants had been convicted for sexual-related crimes against women. As of March 9, the Salvadoran Institute</p>	<p><u>Rape and Domestic Violence</u>: The law criminalizes rape of men or women, and the criminal code’s definition of rape may apply to spousal rape, at the judge’s discretion. The law requires the Attorney General’s Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. The penalty for rape is generally imprisonment for six to 10 years. Laws against rape were not effectively enforced.</p> <p>The law prohibits domestic violence and generally provides for sentences ranging from one to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence remained poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem.</p> <p>As of October the Office of the Inspector General reported five cases of alleged rape by police officers and six cases of sexual assault.</p>

for the Development of Women (ISDEMU) reported 385 cases of rape against women.

ISDEMU provided health and psychological assistance to women who were victims of sexual abuse, domestic violence, mistreatment, sexual harassment, labor harassment, trafficking in persons, commercial sexual exploitation, or alien smuggling.

Violence against women, including domestic violence, was a widespread and serious problem. A large portion of the population considered domestic violence socially acceptable; as with rape, its incidence was underreported. The law prohibits domestic violence and generally provides for sentences ranging from one to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence were not well enforced, and cases were not effectively prosecuted. The law prohibits mediation in domestic violence disputes.

Between January and July 2016, ISDEMU reported 21 cases of femicide, 458 cases of physical abuse, 385 cases of sexual violence, and 2,259 cases of psychological abuse. ISDEMU reported 3,070 cases of domestic violence against women during the same period. In June ISDEMU issued its 2015 annual report on violence against women and reported that 230 died due to violence in the first six months of 2015, compared with 294 during the same period in 2014 and 217 in 2013.

ISDEMU coordinated with the judicial and executive branches and civil society groups to conduct public awareness campaigns against domestic violence and sexual abuse. The PDDH, the Attorney General's Office, the Supreme Court, the Public Defender's Office, and the PNC collaborated with NGOs and other organizations to combat violence against women through education, increased enforcement of the law, and programs for victims. The Secretariat of Social

Inclusion, through ISDEMU, defined policies, programs, and projects on domestic violence and continued to maintain one shared telephone hotline and two separate shelters for victims of domestic abuse and child victims of commercial sexual exploitation. The government's efforts to combat domestic violence were minimally effective.

Women's rights NGOs claimed that many violent crimes against women occurred within the context of gang structures, where women were "corralled" and "disposed of at the whims of male gang members."

On March 3, women's rights activist for the NGO Hablame de Respeto ("Speak to me about respect") Aida Pineda was found dead, shot 11 times in front of her house in Milagrosa, San Miguel. Colleagues of Pineda contended that her killing was a femicide and that she was targeted for being a "powerful woman" who challenged the control of the Barrio 18 gang's repressive behavior toward women.

As of August, the Office of the Inspector General reported 40 cases of alleged violations of police officers against women due to their gender.

In an effort to sensitize the judicial system to gender-based violent crimes, the Legislative Assembly approved the creation of specialized courts for violence against women. The San Salvador courts began operations on June 1, while the San Miguel and Santa Ana courts were scheduled to start in 2017.