

Violence against Women and Information Communication Technologies: Philippines Country Report

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Preface

The Association for Progressive Communications Women's Networking Support Programme (APC WNSP) considers that the increasing role of information and communication technologies (ICT) in our societies and their intersection with violence against women and girls requires greater attention and analysis from women's rights advocates and those involved with ICT development and policy.

The APC WNSP commissioned overview papers on the intersections of ICT and VAW in the framework of its 12-country project, "Take Back the Tech! to end violence against women and girls" supported by the Dutch Ministry of Foreign Affairs' MDG3 Fund to promote gender equality and women's empowerment.

The 2.5 year project is being carried out in Africa, Asia and Latin America and includes ICT technical training, support for ICT-enabled initiatives to end violence against women and policy advocacy. The papers attempt to provide an initial landscape of the current state of ICTs and violence against women in each of the participating countries to generate further reflection and action by stakeholders in the women's rights and ICT arenas.

By no means an exhaustive research, the papers do attempt to map existing legislation and policy in both areas, provide examples of strategic use of ICTs to end VAW, spotlight incidents of VAW perpetrated via ICT and unearth specific concerns regarding women's rights with the emergence of new technologies. The papers are a starting point for learning and exploration and a first step towards increased awareness of the potential and risks of ICT in each country.

Opinions expressed in the paper are those of the author(s) and do not represent the opinion of APC WNSP.

For more information about the "Take Back the Tech! to end violence against women and girls" project visit www.apc.org/en/projects/mdg3 or write to ictstoendvaw@apcwomen.org

1. Summary

The Philippine government has ratified all international instruments that aim to promote and protect women's and girls' rights.

It has also enacted laws that aim to protect women from various forms of violence. These are:

Anti-Mail Order Bride Act of 1990 (**RA 6955**),

- Anti-Sexual Harassment Act of 1995 (**RA 7877**),
- Anti-Rape Law of 1997 (**RA 8353**),
- Rape Victims' Assistance and Protection Act of 1998 (**RA 8505**),
- Anti-Trafficking in Persons Act of 2003 (**RA 9208**),
- Anti-Violence Against Women and Their Children Act of 2004 (**RA 9262**).

The latest legislation which dealt with women's and girls' rights was the Magna Carta of Filipino Women ratified last August 2009. It aims to institutionalise the protection and fulfilment of all Filipino women's human rights.

Yet in spite of the existence of these laws, a wide gap between practice and customary laws remain, resulting in discrimination against women, a violation of their human rights.

This is the backdrop of the development of information and communication technology (ICT) in the country and around the world. Policy objectives surrounding ICTs in the Philippines lean to areas of e-commerce and e-governance.

Policy actors mainly come from the private sector. ICT and civil society organisations (CSO) networks advocating policy for gender equality through ICTs are in the early stages.

Specific laws have yet to be defined in order to prosecute perpetrators of violence against women (VAW) through the use of ICTs or cyberspace.

National ICT institutions and private companies' policies cannot remain blind to the violation of women's rights perpetuated via ICTs. Gender inequality must be banished in law and in practice, in real and virtual spaces.

In the context of new and fast developing ICTs, the most evident cases of violence committed against women and young girls is in the realm of privacy rights, resulting in the illicit production and distribution of private and intimate activities like sex-video scandals via telephony and internet.

There is an alarming trend of cyber-sex intertwined with cyber-pornography and cyber prostitution, which are run by criminal syndicates who prey on innocent and vulnerable women and girls. This is intricately linked to other forms of violence such as trafficking and discrimination.

Further study is needed to dispel thinking that such activities may not constitute direct harm to women and girls. Information is insufficient to provoke government attention and action.

Lack of information is also a reflection of the very nature of ICTs which make "regulating" activities that can be classified as violence against women difficult. The only issue that would get the support of all sectors is the violence committed on children as seen in online child prostitution and pornography.

ICT is an open global space and a realm of technology that is also being utilised for criminal activities. It is being unscrupulously used to abuse women and girls for huge profit through more sophisticated means than ever before.

Poverty and the lingering economic crisis in the country has also made a majority of women and girls more vulnerable to the continuum of violence committed against them, especially in cyberspace. Thus, ICT is not only a political and feminist issue; it is also a platform to eradicate VAW and empower women and girls.

Available published academic and independent research, news articles, policy papers and legislation were reviewed and utilised as sources of information for this paper. Participation in round table discussions has been useful in collecting information from various civil society groups.

Nonetheless, the dearth of published information on the intersection of VAW and ICT confirms the need for more studies on this subject and reveals that the advocacy on VAW and ICT has been done only in the past couple of years by pioneering advocates of ICT-related civil society organisations. Women's rights organisations are now realising that advocacy around VAW and ICT should be interlinked.

There is a lot of work to be done in developing a national policy advocacy that would eradicate VAW through the use of ICTs. A collaborative effort of ICT and anti-VAW organisations is not impossible. With this view, policy advocacy should also be complemented by capacity-building within ICT and anti-VAW CSOs, making use of ICTs as a platform to push for the agenda of ending VAW.

2. Introduction

The debate at the international level on gender-based violence was highlighted in the late 1970s when women leaders brought the issue of the status of women during the Cold War and postwar era.

As a result of this debate, the UN declared the Decade for Women (1976-1985) to address the needs of women around the globe for equality, peace and development² However violence against women (VAW) was not recognised as a human rights issue until 1993 at the Vienna Conference on Human Rights.

For the first time women's rights were recognised as human rights and that violence against women was a violation of women's human rights. In the conference, the UN General Assembly adopted a Declaration for the Elimination of Violence against Women³.

The Declaration clearly identified that VAW is based on gender inequality; hence, all governments are expected to recognise VAW as a violation of human rights and address it. The Declaration explicitly states that:

*"violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women...violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men"*⁴

The Declaration under Article 1 further defines the term VAW as: "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

²Available at <http://science.jrank.org/pages/9668/Women-s-Rights-U-N-Decade-Women-World-Conferences-on-Women.html#ixzz0KR52AKQv&D>

³The Declaration (A/RES/48/104) is available at [http://www.un.org/doc\\$uments/ga/res/48/a48r104.htm](http://www.un.org/doc$uments/ga/res/48/a48r104.htm)

⁴ United Nations Declaration on the Elimination of Violence against Women, A/RES/48/104, 85th Plenary Meeting, 20 December 1993

Women survivors in the Philippines have dealt with the different forms of VAW such as domestic violence, marital rape, incest, reproductive rights violations, rape, sexual harassment, sex discrimination, lesbophobia/homophobia, medical abuse, abuse of women with physical or mental disabilities, culture-bound practices harmful to women, ritual abuse within religious cults, sexual slavery, prostitution and international trafficking of women, pornography and abuse of women in media, abuse of women in internal refugee or relocation camps, and custodial abuse.

The call for the eradication of all forms of violence against women continued to flourish at the Fourth World Conference on Women in Beijing in 1995. The Beijing Platform for Action⁵ (BPA) became the impetus for governments around the world, including the Philippines, to implement its international commitments at the national level to promote, protect and fulfil all women's human rights and fundamental freedoms (civil, political, social and economic rights) throughout their life cycle. Thus, the BPA set other critical areas⁶ of concern that governments must address including the magnitude of VAW situations that women face. The UN Millennium Development Goals (MDG, 2000) further defined the international priorities and served as an action agenda with a benchmark for meeting sustainable development for social and economic rights, particularly of women and girls in poor and developing countries by 2015.

The particular focus for this paper is to be able to contribute in meeting the objectives of MDG3 – promote gender equality and empower women – through the utilisation of ICT. MDG3 provides a solid basis for promoting gender equality and women's empowerment as well as a strategy for combating and eradicating VAW.

By eradicating VAW, we are addressing one of the major obstacles in achieving not only MDG3 but also the whole UN MDG package (WHO, 2005). VAW is a long-standing issue that not only affects women but also adversely affects sustainable social and economic development of a country in the context of the MDG targets.

Thus, the Association for Progressive Communications (APC) sees the intersection of violence against women and girls and ICT as a critical area for engagement in order to eradicate VAW. But like a double-edged sword, ICT can also place women at a disadvantage if left unchecked. Hence, ICT is also a political platform that seeks to develop policies that would empower women and create spaces for engagement that would lead to the eradication of violence against women.

With this view, this paper is prepared for APC through its Women's Networking Support Programme (WNSP) under the project "Strengthening Women's Strategic Use of Information and Communications Technologies (ICT) to Combat Violence against Women and Girls."

⁵The United Nations Fourth World Conference on Women, Beijing China, September 1995, Platform for Action <http://www.un.org/womenwatch/daw/beijing/platform/plat1.htm#concern>^o

⁶The Beijing Platform for Action areas of concerns include: a) persistent and increasing burden of poverty on women; b) inequalities and inadequacies in and unequal access to education and training, c) inequalities and inadequacies in and unequal access to health care and related services, d) violence against women, e) the effects of armed or other kinds of conflict on women, including those living under foreign occupation, f) inequality in economic structures and policies, in all forms of productive activities and in access to resources, g) inequality between men and women in the sharing of power and decision-making at all levels; h) insufficient mechanisms at all levels to promote the advancement of women, i) lack of respect for and inadequate promotion and protection of the human rights of women, j) stereotyping of women and inequality in women's access to and participation in all communication systems, especially in the media, k) gender inequalities in the management of natural resources and in the safeguarding of the environment, l) persistent discrimination against and violation of the rights of the girl child.

3. Faces, prevalence and legal protection of VAW in the Philippines

a) National legislation on VAW

The Philippine government has practically ratified all international instruments that are relevant in promoting and protecting women's and girls' rights. These include the following:

- the International Covenant on Civil and Political Rights (ICCPR) on 23 October 1986;
- the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 7 June, 1974;
- the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 19 July 1981;
- the Convention of the Rights of the Child (CRC) on 21 August 1990;
- the Convention on the Elimination of Racial Discrimination (CERD) on 15 September 1967
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families on 5 July 1995.
- The Philippines also acceded to the Convention against Torture (CAT) and other cruel, inhuman or degrading treatment or punishment on 18 June 1986.

The Philippines, as a state party to the said international conventions, is duty bound to enact laws and implement specific programmes to meet their international commitments. The ratification of these international instruments has no doubt showed the commitment of the Philippine government to apply due diligence on its international obligations to make women's rights a reality.

The 1987 Constitution explicitly states that the Philippine government "recognizes the role of women in nation building and shall ensure the fundamental equality before the law of women and men" (Article II, Section 14). Similarly, the following laws; Anti-Mail Order Bride Act of 1990, Anti-Sexual Harassment Act of 1995, Anti-Rape Law of 1997, Rape Victims' Assistance and Protection Act of 1998, Anti-Trafficking in Persons Act of 2003, Anti-Violence Against Women and Their Children Act of 2004, Article 245 of the 1930 Revised Penal Code and the Magna Carta of Women are now in place to criminalise publicly recognised violations of women's rights.

Despite the existence of these laws, no less than the National Commission on the Role of the Filipino Women (NCRFW) confirms that there are still "significant gender imbalances in practice and customary laws that discriminate against women' and particularly women in the rural areas.

b) Faces of VAW

Despite the milestones in institutionalising protection for women in the country, the incidence of violence against women grows unabated.

According to Filipino feminist activist Aida Santos (2004), in the Philippine Country Report⁷(2004): "the conservative values and strict standards of morality engendered by a predominantly Catholic society, and the patriarchal institutions and its attendant values are pinpointed as the root causes of VAW" in the Philippines.

⁷Philippine Country Report, International Meeting on Human Development & Security November 22-27, 2004 Manila, Philippines Prepared by the Philippine Working Group (PWG)* This paper is a compilation of work and documents provided by members of the Philippine Working Group, and edited by Aida F. Santos, Country Coordinator or the International Meeting. Specific contributions came from Amnesty International-Pilipinas, BUKLOD, KAISA Ka, and WEDPRO.

Santos adds, the mistaken misconception that VAW is still a “private matter” hinders pro-active efforts to address the problem of VAW in the country. Thus, five years after the passage of laws protecting women from violence, concerned citizens may still be “reluctant to intervene”.

Consequently, violence against women in the Philippines, as in many other societies of the world, has become a multi-dimensional and multifaceted issue. It transcends economic status, class, religious and ethnic background.

A huge body of literature from women’s organisations and development institutions also claim that poverty is one of the major factors that make women more at risk and vulnerable to all forms of violence and discrimination.

According to the National Statistical Coordination Board (NSCB 2009), children, women and urban poor account for the largest number of the poor, 6.9 million in 2006.

In rural areas, women perennially deal with poverty too. Compounded by long-standing internal armed conflict in some parts of the country, the majority of Filipino women in the rural communities where there is conflict fall victim to varying forms of violence like trafficking, displacement, physical abuse and sexual harassment (Santos 2004).

Similarly, Amnesty International in its 2001 “Philippine Report: Fear, shame and impunity: Rape and sexual abuse of women in custody” reveals that women in custody suffer physical and sexual abuses⁸

With the phenomenon of Overseas Filipino Workers (OFW) in the Philippines, more than 8 million are working in 203 different countries and women OFWs outnumber men. A significant number of female workers, particularly domestic workers, caregivers and entertainers continue to be vulnerable to multiple abuses, ill treatment and violations from two fronts: directly, from their employers and indirectly from the receiving countries’ discriminatory laws or policies.

In addition, the Center for Migrant Advocacy-Philippines⁹ (CMA) reports that 1.62 million Filipina OFWs have been victims of the global web of white slavery and sexual servitude. In this situation, the Philippine government has not provided enough protection and intervention to fully address the predicament of women OFWs who are in a more vulnerable position compared to their male counterparts.

The socially constructed power relations between men and women have persistently put Filipino women at a disadvantage. Even though the Philippines was ranked by the Global Gender Gap Report as 6th¹⁰ on the top ten list in its 2007-2008 report, the reality however is far from closing the gender gap.

The World Economic Forum uses the Gender Gap Index to assess how well countries are dividing their resources and opportunities among their male and female populations, regardless of the overall levels of their resources and opportunities. It examines four critical areas of inequality between men and women:

1. Economic participation and opportunity – outcomes on salaries, participation levels and access to high-skilled employment
2. Educational attainment – outcomes on access to basic and higher level education
3. Political empowerment – outcomes on representation in decision-making structures
4. Health and survival – outcomes on life expectancy and sex ratio

⁸ See Amnesty International Report at : <http://www.amnesty.org.ph/publications.php?action=reports>

⁹ <http://www.pinoy-abroad.net/lungga/index.shtml>

¹⁰ See Global Gender Gap Report at <http://www.weforum.org/en/initiatives/gcp/Gender%20Gap/index.htm>

Box 1: Philippine ranking on Global Gender Gap Index.

Global Gender Gap Index			
Rank 2007	Country	Score*	Rank 2006
1	Sweden	814	1
2	Norway	805	2
3	Finland	804	3
4	Iceland	783	4
5	N. Zealand	764	7
6	Philippines	762	6
7	Germany	761	5
8	Denmark	751	8
9	Ireland	745	10
10	Spain	744	11

Source: Global Gender Gap Report 2008

With this general background, the succeeding presentations will cover the prevalence of VAW and the challenges of generating statistics on VAW cases in the country.

c) Prevalence of VAW

The generation of accurate statistics to present the prevalence or incidence of VAW in the country continues to be a challenge even though an Inter-Agency Committee on Gender Statistics (IACGS¹¹) exists and is chaired by the National Commission on the Role of Filipino Women (NCRFW).

NCRFW, being the lead government agency that collects and publishes statistics on VAW gets its data from the Philippine National Police (PNP) and the Department of Social Welfare and Development (DSWD).

Country VAW statistics are based only on reported cases from the PNP and served cases from the DSWD respectively. There is reason to believe that the figures are much higher. Proper studies conducted with systematic measurement of VAW incidents are necessary.

¹¹The IACGS is composed of the following 16 government agencies where NCRFW draws its data: National Statistics Office (NSO), National Statistical Coordination Board (NSCB), Commission on Higher Education (CHED), Department of Social Welfare and Development (DSWD), National Economic and Development Authority (NEDA), Department of Labor and Employment (DOLE), Department of Trade and Industry (DTI), Department of Agriculture (DAR), Department of Education (DepEd), Department of Environment and Natural Resources (DENR), Bureau of Labor and Employment Statistics of the Department of Labor and Employment (BLES-DOLE), Department of the Interior and Local Government (DILG), National Epidemiology Center of the Department of Health (DOH), Directorate for Investigative and Detective Management of the Philippine National Police (PNP), Statistical Research and Training Center (SRTC), Technical Education and Skills Development Authority (TESDA), Department of Foreign Affairs (DFA), and the Women's Studies Association of the Philippines.

Mindful of the challenges in generating VAW statistics in the Philippines there is also little consensus as to the most appropriate method to be used in measuring VAW prevalence in other countries. Prevalence is defined as the proportion of women who are abused in a given population. There are two major challenges in obtaining accurate prevalence data: how to define VAW and how to determine the study population¹². The terms incidence and prevalence are however interchangeably used when referring to VAW measurements at the national level.

The statistics below suggest that domestic violence through battering or physical injuries is still the most prevalent form of VAW during the last ten years in the Philippines. In fact, even data from NGO and academic research have already suggested that “violence in the family and abuse of women in intimate relationship (AWIR) can be considered as most prevalent VAW” in the country and “women survivors endure long-term, repeated and escalating violence from their husbands or intimate partners” (Santos 2004).

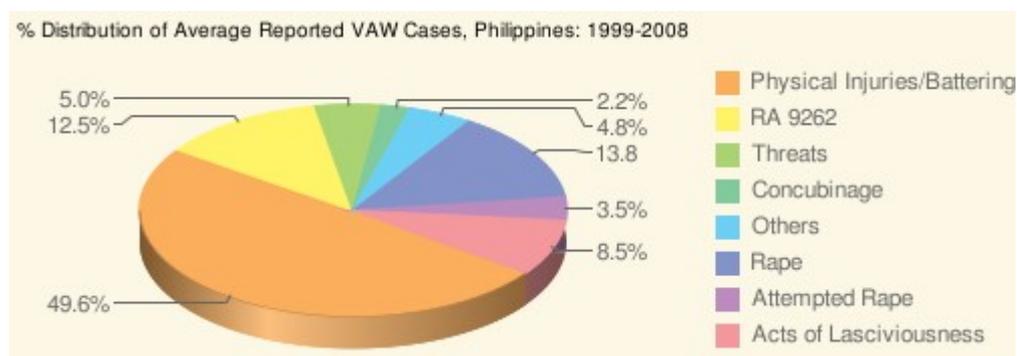
i) Statistics from the Philippine National Police

In 2008, the number of VAW cases reported to the police rose by 21% from the 2007 report. The increase, according to NCRFW, caused the trend to go upward after a six-year (2001-2006) downward trend.

The trend, however, is not conclusive of a decreasing or increasing VAW incidence in the country because data are based only from what was reported to the PNP.

The figure below provides an overview of the nationwide VAW cases reported in the country in the last ten years.

Figure 1: Reported VAW cases



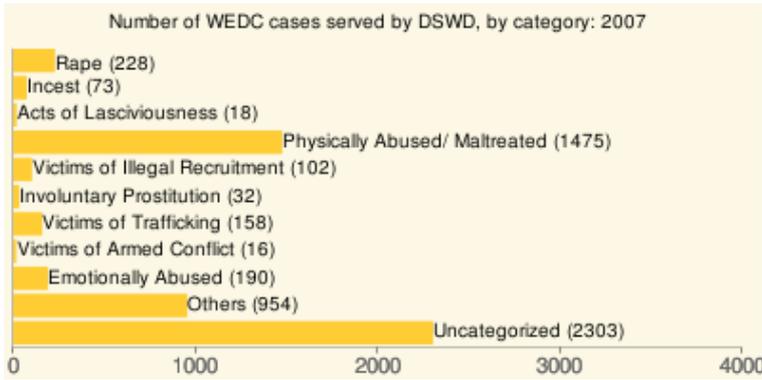
Source: NCRFW in GAD Portal on VAW

ii) Statistics from the Department of Social and Welfare Department (DSWD)

DSWD data shows that there is a downward trend on the number of Women in Especially Difficult Circumstances (WEDC) served from 7,763 cases in 1999 to 5,549 cases in 2007.

¹²See in “The Challenge of Designing and Measuring Violence in Qualitative Research”, Chapter 6 in “A Practical Guide for Researchers and Activists”, pp.85-86.

Figure 2: VAW Cases served by DSWD



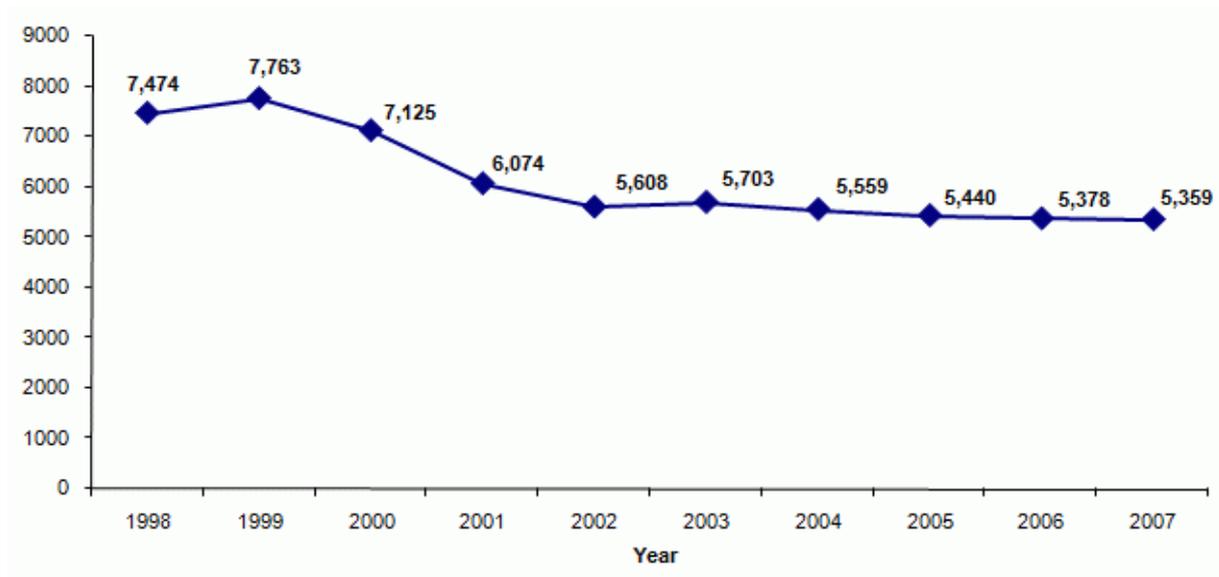
Source: NCRFW, GADPortal

Physically abused/maltreated and rape cases top the list of WEDC cases served by DSWD in 2007. Physically abused and maltreated women accounted for 26.6% while rape cases accounted for 4.1% of total cases served. However, DSWD statistics have also shown that there is a downward trend on the cases served which also needs some interpretation or analysis.

Similarly, Figure 3 below shows a ten-year period (1998 to 2007) of a downward trend on the number of cases served by DSWD. There is lack of understanding the statistics behind the upward or downward trend as it is generated on a periodic basis.

Figure 3: VAW cases served by DSWD from 1998-2007

Figure 1-A. Number of WEDC Served by DSWD, 1998 to 2007



Source: National Statistical Coordination Board (NSCB)

d) Key forms of VAW

The identified key forms of VAW both from PNP and DSWD as well as other forms of VAW that are uncategorised are further explained below.

i) Physical injuries/battering

Physical injuries and/or wife battering remain the most common prevalent cases across the ten-year period (1997–2008), accounting for about half (49.6%) of all reported VAW cases nationwide.

It must be noted that since 2004, wife battering cases have been categorised under 'Violation of RA 9262' (Anti-Violence Against Women and their Children Act) that is, if the victim files a case under such law, otherwise the reported cases will fall under "ordinary" physical injuries category,

ii) Rape

Reported rape cases accounted for about 13.8% of total reported VAW cases from 1999 to 2008 (PNP). There is also a downward trend on reported rape cases – from 946 in 1999 to 811 in 2008. It peaked in 2000 at 1,121 reported cases (NCRFW).

iii) Violation of RA 9262 (Anti-Violence against Women and their Children Act)

Violation of RA 9262 ranked third at 12.5% in the last ten-year period. However, data covers only a five-year period starting from the implementation of RA 9262 in 2004.

Reported cases under RA 9262 continue to increase from 218 in 2004 to 3,599 cases in 2008. NCRFW theorised that the "massive information campaign on the law and its strict implementation may have caused the increasing trend".

iv) Acts of lasciviousness and victims of trafficking

Acts of lasciviousness¹³ (PNP) and victims of trafficking (DSWD) shared the 4th rank at an annual average of 572 reported cases accounting for 8.5 percent of all reported VAW cases from 1999 to 2008 (PNP).

The comparative figures also indicate a downward trend of the reported cases after it peaked at 733 reported cases in 2000 and 2002; while DSWD places the number of victims of trafficking to 158 cases in 2007.

v) The question on "Others/Uncategorized" category

According to DSWD, "Uncategorized" cases include clients who were "stranded", abandoned, emotionally distressed, unwed mothers, sexually-exploited, voluntary committed/surrendered, neglected, etc." while those in the "Others" category include "number of WEDC clients provided with crisis intervention services whose cases are not categorized".

This is a real concern because these combined "categories" account for more than half or 58.7% of the total WEDC cases served by DSWD in 2007. There were no explanation given as regards to the "Others" (4.8%) category from the PNP data.

Service providers from women's organisations in the country believed that the statistics may well be higher compared to the statistics currently generated by NCRFW. This assumption is based on the fact

¹³Under Article 336 of the Revised Penal Code, an act of lasciviousness is "committed with the consent of the offended party, but such consent is obtained through abuse of authority, confidence, relationship or deceit. (<http://www.likhaan.net/content/relevant-provisions-revised-penal-code-act-no-3815-1930>)

that only reported and served cases are tallied. Hence, there is a need for data from various women's organisation across the country to also be systematically integrated in the generation of national VAW statistics. Having said this though, the table below summarises the overall ranking of VAW cases from combined PNP and DSWD statistics as at 2008.

Table 1: Ranking of VAW cases

PNP		DSWD
Cases Reported (%)	Ranking	Cases Served (#)
Physical Injury	1	Physical Abuse
Rape	2	Rape
Violation of RA 9262	3	Emotionally Abused
Acts of Lasciviousness	4	Victims of Trafficking
Threats	5	Victims of Illegal Recruitment
Attempted Rape	6	Incest Rape
Concubinage	7	Involuntary Prostitution
	8	Acts of Lasciviousness
	9	Victims of Armed Conflict

The obscurity in presenting VAW statistics is clearly manifested here in that the combined "Others/Uncategorized" categories share the second largest piece of the pie from DSWD data and needs some serious attention to classify them properly so that appropriate intervention can also be developed. Whether this said category covers long-standing VAW issues or an emerging one needs further analysis too.

However, it can also be interpreted that while crimes committed under RA 9262 since 2004 has been one of the bases for categorising VAW cases; the absence of explicitly identifying the forms of VAW cases under "uncategorized" cases in RA 9262 may have rendered the government's inability to classify them properly. This is still an assumption that needs to be elucidated.

In addition, the statistics presented here are based on the standards used by PNP and have argued that since the passage of the law, VAW complainants have invoked the law to file charges against their offenders. However, it raises concern that violation of RA 9262 is not a VAW case per se but clearly a violation of the law and requires some action on the part of the PNP to correct this error of classifying it as a form of VAW.

Furthermore, the claim of PNP that there has been a downward trend is contrary to the experience of some NGOs providing direct services to VAW survivors.

For example, the Center for Women Resources¹⁴ (CWR) reported sexual harassment cases in their centre "simply (because) there is still no government agency monitoring the implementation of RA 7877 (Anti-

¹⁴See also article written by Bulatlat.com writer Eli Manalansan on March 2006 at: <http://www.bulatlat.com/news/6-7/6-7-woes.htm>

Sexual Harassment Law) after 11 years of its implementation. CWR adds that "the law confines its implementation in places of work and learning or education institutions".

Contradicting and inadequate data on VAW cases point to the fact that these do not reflect the reality of the declared policies and the violence women face everyday.

e) Public perception of VAW: A private matter

NCRFW surmises that their massive information campaign on the anti-VAW law since 2004 may have contributed to the public awareness of women on their rights and which may have led to the downward trend of reported and served cases of VAW by PNP and DSWD.

However, the lack of scientific studies on the prevalence of VAW means assumptions go without proof. While there is a downward trend on reported VAW cases and in spite of the existence of laws protecting women the reasons for decrease in the reported VAW cases remain inconclusive.

Also, while a number of women have filed cases using RA 9262 as their legal basis, the existence of the law is not a guarantee that other women survivors are veering away from treating VAW issues as a private matter.

Interestingly, even VAW victims and survivors have different perceptions on the most prevalent VAW in the Philippines – physical violence by intimate partners.

In 2008, the University of Ottawa conducted an international survey on violence against women (IVAWS) involving 11 countries (including the Philippines). In the Philippines, the IVAWS¹⁵ interviewed 2,602 women survivors of violence by their intimate partners.

When asked about their perception on the acts committed against them, 14% said it is a "crime", 62% said it is "wrong but not a crime" and 22% said it is "just something that happens". Of those who responded that it is a crime, 14% stated the violent acts were committed by their current partner; 32% by their previous partner, 22% by acquaintances and 41% by strangers. The survey also points to the perception of the women survivors' view that violence committed by their current intimate partners is a lesser crime.

VAW and girls: unfinished advocacy

The hard work and persistence of women activists in the Philippines on their anti-VAW advocacy over the last 20 years is well recognised. In 2004, Surveys, Training, Research and Development, Inc. (STRIDES, Inc.) revealed its evaluation findings¹⁶ on the success of women's organisation's¹⁷ work on anti-VAW in the country.

According to STRIDE, successful community based engagement is common among NGOs working on anti-VAW issues. The findings highlight that "community based intervention is seen as a less intrusive and less

¹⁵Holly Johnson, PhD, Natalia Ollus, MA, and Sami Nevalla, MA, "Getting the Facts to Make the Change: The International Violence Against Women Survey, Ottawa University, and February 2008.

¹⁶The evaluation findings of STRIDES, Inc. was presented at a forum: "Where are we in the fights against VAW? Evolving Viable Approaches in Addressing Violence Against Women: Challenges and Dilemmas," on December 10, 2003 at St. Benilde, La Salle and which was attended by 60 participants. The evaluation covers the various initiatives being undertaken at the national level as well as community based interventions. These initiatives include: i) provision of crisis intervention centers and other services for VAW survivors; ii) establishment of gender-responsive law enforcement; iii) and the development and advocacy for anti-VAW legislation. The evaluation which covers various community-based efforts against VAW were said to be aimed at responding to "real issues on the ground". Article available at : http://www.accessmylibrary.com/coms2/summary_028620743737_ITM?email=sotojessi@gmail.com&library=

¹⁷ Cebu-based Lihok Filipina, Harnessing Self-Reliant Initiatives and Knowledge, Inc. (HASIK), Social Action Legazpi (SAC-Legazpi) and Bacolod-based Development Through Active Women Networking (DAWN) Foundation.

mistrusted entity than the legal system or the police in dealing with private issues within the family. It was seen as a more effective approach compared to police or legal solutions". The findings confirm though that parties of affected women still interpret VAW issues as a "private issue within the family".

The evaluation findings noted that despite gains and successes on crisis intervention and advocacy work for policy change, there are enormous gaps in terms of policy, law enforcement, capacity building, awareness raising and cultural transformation. It also highlights an important issue on financing and sustaining anti-VAW initiatives and that fewer resources are being offered by institutions funding gender-related initiatives in addressing VAW in the country.

4. The ICT context in the Philippines

ICT is appreciated from various perspectives in the country - from e-commerce, e-governance to social networking. ICT is rapidly influencing the way private companies conduct business; how government delivers its services and how the general population is maximising its benefits.

From an economic stand point, particularly e-commerce in the country, private companies have dominantly benefited from the convergence in applications, content and interactivity of ICT. ICT has practically meant a more efficient way of conducting their businesses where they collect, store, process and present electronically their information to end users. Because they have enough resources, they can afford to set up computer systems, data communication systems, knowledge systems, office systems, and consumer electronics, as well as networked information infrastructures (telephone system, the internet, fax machines and computers) to "effectively compete in the global market" (Refalda-Villamin 2001).

The impetus for the Philippine government to use ICT is to ensure efficient basic service delivery and good governance (transparency and accountability), albeit its uneven application in the bureaucracy. The national government is also pursuing a technology-driven development agenda which can be controversial from the critical eyes of development NGOs and other civil society organisations.

However, making government agencies and institutions work for the people through the use of ICT is a very valid objective in pursuing an e-governance agenda. This type of project therefore must be supported with the end view of bridging the gap between urban and rural infrastructure, access and provision of adequate IT resources.

The growing phenomenon of social networks through the internet and mobile phones has become a powerful means to connect with family members, relatives and friends. This is especially beneficial to Overseas Filipino workers (OFW) and their families who are physically separated but are able to bridge the distance with the use of such technologies. The Philippines in fact has been called the text (SMS) capital of the world and telecom companies have been raking in billions of pesos in net income.

Overall, the potential of ICT in the country is enormous; however, the ICT policy environment remains gender blind.

a) ICT policy development

After 70 years of private monopoly, the telecommunications industry in the Philippines was eventually deregulated in 1987 (Digital Review for Asia Pacific, 2005).

Deregulating the telecommunications services though does not mean cheaper access to technology. On the contrary, it remains to be one of the cost centres for any entity using ICTs. The deregulation of the telecoms industry in the country comes with the evolution of the telecommunication institutional policy.

Since radio and newspaper had been the major communication media in the country until the penetration of the new media in the 1990s, the "ICT policy development in the country is a fairly recent phenomenon" (Alegre, 2001).

Since 1979, various telecommunication government agencies were moving back and forth to Department of Transportation and Communications (DOTC) and Commission of ICT (CICT) since its creation in 2004. Several bills have been filed before the Philippine Congress calling for the creation of a Department of Information and Communications Technology (DICT) which will eventually transform the CICT into an executive department. At the House of Representatives, there is a consolidated House Bill No. 4300 and which was approved on August 5, 2008. The said Bill was transmitted to the Senate on August 11, 2008. And in the Senate, a consolidate Senate Bill No. 2546¹⁸ was likewise approved on August 19, 2008 by the Senate Committee on Science and Technology and still awaiting second reading¹⁹. Until this impasse is resolved, the policy making function of the ICT agencies will remain at a standstill²⁰.

However, some sectors of the civil society community are also adamant against a DICT. Al Alegre, director of FMA, explains that creating the DICT is in a way creating an additional bureaucracy when what the government wants is to streamline its operation rather than "creating a new one"?

Apart from the concern on the substance of various ICT policies being deliberated at different fora, the situation above is still one of the ongoing policy debates.

b) Gender and ICT in the Philippines

In 2003, Philippine Legislators' Committee on Population and Development (PLCPD) and Women's Hub articulated in their policy framework paper that what is "significantly missing in the last ten years of developing the ICT policy in the country is a clear-cut and equivocal commitment to advance the gender equality and women's empowerment through ICT" (PLCPD, Women's Hub, 2003). That situation remains largely true today.

Since ICT policy development is still evolving in the Philippines, it is also an opportunity to develop the policy that it will consider equity in gender roles within the framework of new ICT. Gender theorist Nivedita Menon (2006) though is of the opinion that ICTs need to be seen not just as tools but as a "new grammar"²¹.

ICT is both a new language and new social reality through which women can mediate a new social image. It can provide women opportunities for assuming new social roles which challenge entrenched gender inequalities in existing institutions. Thus, according to Gurusurthy (2008), it is about breaking out of traditional orthodoxies that would support the shifts in the local gender norms.

The Philippines, like other developing countries, can not move towards ensuring broadly distributed and universally accessible public internet because there is no recognition that the 'public value' of the internet is also part of a development blueprint that will ensure public investment (public good approach to basic

¹⁸An Act Creating the Department of Information and Communications Technology, Defining its Powers and Functions, Appropriating Funds Therefore, and for Other Purposes); available at: http://www.senate.gov.ph/lis/bill_res.aspx?congress=14&q=SBN-2546

¹⁹See http://www.senate.gov.ph/lis/bill_res.aspx?congress=14&q=SBN-2546

²⁰Executive Order No. 269 created the Commission on ICT (CICT) in 2004 to be the main government ICT agency, a task held by the Department of Transportation and Communications (DOTC) since 1979. Executive Order No. 603 justifies this movement as necessary to the "present demands of national development and concomitant development projects as it will streamline bureaucracy operations and effectively promote fast, efficient and reliable networks of communication system and service".

²¹In the "Reflections of the seminar –II, In Gender in the Information Society: Emerging Issues", edited by Anita Gurusurthy

ICT provisioning) and community involvement in ownership. Part of the recognition for a transformative agenda and progressive policies is resource allocation for institutional changes in ICT and the basic recognition of the local and contextual ICT needs of women on the basis of gender equity principle (Gurumurthy 2008).

Author Anita Gurumurthy (2008) in her paper "Gender Equality through ICT Access and Appropriation" argued that there is a need to advocate for a sustained institutional change that will lead to the transformation of institutional structures that are responsive and accountable to women's demands. Simultaneously, women must assert their rightful entitlements from the state towards that transformation. (See also Rao and Kelleher 2005).

This is precisely the policy direction that must be advocated in the Philippines.

c) Filipino women and ICTs

Filipino women make up 39% of the overall workforce in Philippines and outnumber men in certain occupations, including professional and technical (64%), clerical (57%), sales (67%), and services (56%).

Significantly, 47% of research and development personnel and 53% of scientists and engineers are women. With these statistics, "certain indicators point out that the economic opportunities created by the development of ICT are opening economic prospects to a particular section of the female labor force". However, the ICT policy of the Philippines is still "silent on gender issues and considerations".²²

Furthermore, the use of new information technologies by the Filipino women labour force is limited to professional, technical and related occupational workers and whatever access other women may have would seem to be mere token empowerment and, in fact, serves to "reinforce their subordinate status and unequal power relations". (Lopez 1996)

Despite a clear economic contribution and potential of women to use ICTs in the different fields of work, women's role seems invisible. VAW, including discrimination and the double standard applied against women in workplaces affect the capacity of women to completely benefit from the potential of ICTs. The reality is that the majority of women who should benefit from ICTs like teachers (95% of which are women) and government employees, lag behind as they are confined to, at best, marginal users of new ICTs – encoders, telecom operators, administrative assistants, etc. (ibid)

Therefore, women who are marginalised, if not totally excluded by their lack of access to ICTs, are deprived of the opportunity to produce their own messages to engage critically and influence other women to empower themselves in the political, social and economic spheres (ibid), This situation reflects one of the realities of Filipino women in the overall ICT context in the country.

ICT is gender-blind

Considering all these arguments, ICT both in public and private spheres, has been largely applied today as an extension for the provision of service delivery or basic services, as well as an extension to promote efficiency, productivity and cost-effectiveness rather than the appreciation of the richness in diversity of roles that individuals play in the whole society (Cinco, Garcia, Thas, 2007, see also Thas 2003).

Aware that there is a dearth of information in the country to concretely analyse the roles of men and women in the age of ICT and how ICT is actually contributing to gender equity is still a challenge.

²²In the Gender and ICT in the Philippines: A Policy Framework", jointly prepared by Philippine Legislators' Committee on Population and Development Foundation, Inc. and WomensHub-Philippines on May 2003.

However, if we apply the gender analysis of the prevailing global order in relation to ICT, it remains a male-dominated system that resists gender equity in more ways than one.

Furthermore, we cannot discount the fact that the neoliberal global framework still shapes the national economic and development policies and priorities of the government. For that reason, the design and uses of ICT is geared in that same direction. Neoliberalism as it stands today will continue to allow free market forces to dictate ICT development or take its own course at the expense of the majority of the "have nots" and vulnerable population.

5. VAW issues in the age of advancing ICTs

Before we come to identifying new or emerging VAW issues amidst ICT advancement in the country, we must acknowledge the long-standing VAW issues that constitute gross human rights violations of women's rights and these issues are being shaped by the fast-paced advancing ICTs.

The list includes deprivation of sexual and reproductive health rights (SRHR) for women and girls, women in forced prostitution and especially trafficked women. Trafficking of women similar to the Mail Order Bride scheme was criminalised under Republic Act 6955. The scheme of matching partners or husbands overseas has transformed into a more sophisticated modus operandi via the internet. Although there is nothing wrong for mature adults to explore romance in the internet, the openness of the internet has facilitated trafficking and forced prostitution of vulnerable women and young girls. Predators involved in prostitution of women and girls have also evolved with the advancement of ICTs in the country.

These issues are not receiving adequate public attention yet. When they do gain public notice, they are dismissed as "controversial".

a) Long-standing VAW issues and ICTs

i) Prostitution and ICT

There is a long-standing debate within the women's movement around whether or not to legalise prostitution.

Some feminists seeking the legalisation of prostitution argue that protection of 'sex workers', just as any other hazardous work, is a concern that has always been controversial. They argue that it is a reality that some women of legal age freely choose to make a living from prostitution. Others however maintain that "prostitution is a no-choice job for destitute women and those customers, pimps and owners of establishments profiting from this business must be held liable" (CATWAP) and not prosecute women who are actually victims of prostitution. The latter position is the dominant position in the context of the Philippines.

Unfortunately, prostitution syndicates are getting more connected and sophisticated in the internet. From "cybersex" via the internet to small-time individual "negotiated sex", ICT is being used to sell and buy sex. Women are almost always portrayed as the bad person.

News articles²³ portray women as the evil interloper and the men, in the case of married couples, are portrayed as aggrieved husbands and fathers facing the disintegration of their family unit and the breakdown of other social relationships, blaming the woman for all of it.

Women may be lured to try "cyber-prostitution" especially if it's perceived to be "less dangerous" compared to physical and real time prostitution. According to news articles, after trying the first few

²³Available at <http://www.newsflash.org/2003/05/ht/ht003842.htm>

times, some women will eventually make it their regular source of income. Certainly, huge profit drives crimes against women on the internet, where 70% of the sites are about sexual trade and pornography of women and children²⁴.

Another example is the research²⁵ of Annie Ruth Sabangan, a senior reporter for Manila Times, published in August 2007. Sabangan revealed that young people are getting hooked on "cybersex" for fun and at least 200,000 are said to be engaging in it in the Philippines.

Individual pay for cybersex is also increasingly mainstreamed. These activities however are between two consenting parties and may not necessarily constitute acts of violence against women. Fully aware that individual cyber-sex chatting may eventually lead to negotiated paid sex in real time is something that blurs traditional understandings of VAW, another issue relates to the absence of direct physical harm against women.

Sabangan reported that there are at least 1,329 Filipinos daily going into cybersex spaces at Yahoo! and approximately 200,000 Filipinos are members of cybersex groups in Yahoo!. According to Sabangan, "there is a thin line separating pornography and prostitution. Just like other Internet programs, Yahoo! Groups get people connected via Internet. But in many Pinoy groups at Yahoo!, pornography and prostitution are intertwined -- pornography is the appetizer and prostitution is the main course...to get to pornography groups and prostitution sites is very easy, everything is linked together to deliver one virtual flesh factory".

In the context of the Philippines, prostitution of any kind is illegal but continues to be a lucrative industry and thriving in the internet. Cyber-prostitution therefore is a new phenomenon and criminal groups are quick to exploit the open nature of ICTs.

Apart from child pornography and online prostitution, Sabangan confirms that there is no statistical study that would be "alarming enough to merit attention and scrutiny on online cybersex, pornography and prostitution" in the country. In the meantime, cybersex is growing. The 15 Pinoy Internet groups in Yahoo! have a total of 15,883 members as of the second week of October" (2007) and prostitution sites collect a membership fee of \$21.95 (monthly) through credit cards and \$24.95 through personal check while yearly membership costs \$99.95 (Sabangan 2007).

ii) Sexual and reproductive health rights (SRHR) and ICTs

According to the World Population Report²⁶, "half of the Philippines' 3.1 million pregnancies every year are unwanted or unintended; about one third of which end in abortion". "On average ten women in the Philippines die every day during birth". This situation is a direct violation of women's rights to have safe pregnancies and adequate health care.

Unfortunately, about 70% of women in the Philippines rely on the government for family planning services. The policy however of President Gloria Arroyo is the promotion of the natural family planning method which is the only acceptable method, apart from abstinence, for the Roman Catholic Church (Gonzales 2007). Former health secretary, Dr. Alberto Romualdez, pointed out that it was the women who are suffering, hence, "withholding family planning advice and services is a crime... and a form of coercion"²⁷.

²⁴In Chapter 3: Women and the Internet in the Women in the News: A guide for Media, ISIS International-Manila, 2004.

²⁵ See article at: <http://www.manilatimes.net/others/special/2003/oct/15/20031015spe1.html>

²⁶ This report is available at: <http://www.maximsnews.com/news20090112janeroberts10901120101.htm>

²⁷ The article was printed in the IPS News and available at <http://ipsnews.net/news.asp?idnews=39484>

The issue of health care and services is a human rights issue and existing government policy is actually denying millions of women their rights. ICT could be a tool to reach out to women in general to promote their SRHR and partly address the issues of unwanted pregnancy, safe sex and basic health care promotion. Only a few NGOs, like Likhaan Center for Women's Health and their community partners are engaging and providing services to a limited number of women to respond to their SRHR.

b) Emerging issues on the cyber space

i) Video sex scandals

In the last couple of years, probably even earlier when mobile phones with cameras penetrated the Philippine market, the country was flooded with "sex-video scandals" using mobile phones. These so called sex-video scandals involve young university and professional women; celebrities and politicians are not spared. Private sex videos are also uploaded to the internet, including in the popular video website YouTube and quickly become accessible to the public. A case in point is the controversial sex-video of Dr. Hayden Kho and actress Katrina Halili, which dominated the media headlines for weeks, that ensued in a Senate hearing aired publicly on 28 May 2009 for purposes of aiding legislation.

The potential of ICT is evident in the extent of sex-video and online pornography which can be overwhelming for the parties involved. Women, particularly have to brave public ridicule and double standards. There are reasons to believe that even if women consented to be videoed; they did not consent for it to be made public. Hence, it is still a violation of women's rights to privacy.

And while there is no legal provision yet that would directly penalise cyber-sex crimes, the existing Anti-VAWC law can be invoked by considering the psycho-social impact on the women and girls victims.

ii) Pinay scandal on www

This writer also Google-searched the keyword "pinay scandal" to establish the intensity of the proliferation of Filipino sex websites. The first three batches of searches revealed at least 25²⁸ different sites.

Interestingly, there are also sites that are fighting website pornography. These sites include www.survivorphilippines.i.ph and www.macuha.com - they used the same keywords to guide search traffic (via link-building) to their own websites. After ending up on their sites, one will definitely not find a sex scandal but rather advocacy to end patronising "pinay sex scandal". Interestingly enough, the "pinay scandal" topic had the most hits with at least over 3,000 visitors compared to other relevant topics in their websites with only about 12-25 hits. The postings included those asking to actually see the "sex-scandal" despite the fact that they were notified that none were available on the site.

In the discussion of one sex-video scandal victim in 2005, the general sentiment was to bring to justice the perpetrator - an ex-boyfriend of the woman. It must be noted though that there were only 13 postings in the span of three years which may be an indication that the public is not aware of the space. The researcher observes too that the woman who shared her story was also in disguise and probably felt safer to share what happened to her without revealing her true identity.

²⁸Some of the key words (tags) or websites visited include the following; www.mcfeedia.com, [www.youtube.com.watch...scandaltopblogs/Philippine](http://www.youtube.com/watch...scandaltopblogs/Philippine) and [Pinay](http://www.Pinay.com), www.skirmisher.org, www.fifththepinoytube, the BIR lawyer sex scandal, [jolibee sex scandal](http://www.jolibee.com), www.technocrati.com, www.pinoyspy.com, www.selaplana.com, www.link-back.net, www.pinoyscandal.blogspot.com, www.entertainment.portal2006.com, www.current.com, www.videofilestube.com, www.putanginamo.com, www.sulit.com, www.bunsoimagazine.com, www.salaswildthoughts.blogspot.com, www.filipinhotties.com, Marinduque sex scandal, pinay scandal.

c) Violence against girls

Protection of young girls (minor or below 18 years of age) is also legislated in the country under the Republic Act 7610 (Special Protection Act of Children against Abuse, Exploitation and Discrimination) and the Comprehensive Juvenile Justice Law which also provides protection to children (boys and girls) in conflict with the law.

However, two of the worst forms of violence committed against girls in cyberspace are child pornography and child prostitution which is linked to human trafficking - today's third largest crime after drug and weapons trafficking. In fact, trafficking of young girls is one of the most lucrative criminal enterprises that operates and benefits from the exploitation and enslavement of vulnerable population (OCVA 2004²⁹).

i) Online child prostitution

The Philippines, according to the Global Exchange Update³⁰ (2006) is "recognized as one of the countries with the highest number of children involved in prostitution". The same report revealed that girls are forced to work up to 20 hours a day and are expected to service as many as 100 customers each week. In Angeles City, Pampanga, an estimated 150,000 girls are working in the prostitution industry.

Due to poverty and out of desperation, parents are eager to grab offers by traffickers, posing as employment brokers or agents, who promise a better future for their children and support to their families. The same report added that victims were moved across borders for sex tourism, marriage by catalogue, pornography, domestic slavery, forced combat and organ trafficking.

In addition, according to an article³¹ by Obejero (2007) and using the study of Child Prostitution by the Department of Social Welfare and Development (DSWD) as basis; 30% or 270,000-400,000 "sex workers" are children. Some are even introduced to the flesh trade by family members.

Children who are below 13 years old working as "sex workers" is increasing as much as 8-10% every year while the bulk of their customers are pegged between 30-50 years of age. Alarmingly, younger clientele for these child prostitutes is pegged at twenty percent.

ii) Online Child Pornography

A study³² commissioned by UNICEF in 2005 to Programme on Psychosocial Trauma and Human Rights of the University of the Philippines Center for Integrative and Developmental Studies (UP CIDS) confirmed that ICT played a key role in perpetuating violence against young girls in relation to child pornography.

The general findings of the study were captured in an article³³ and include:

- a) child pornography is a little understood and hard to investigate practice;
- b) identifying visitors, perpetrators and users of child pornography is difficult;
- c) knowing the age of the child is difficult;
- d) information technology is uncontrollable;

²⁹In the Report of the Washington State Task Force Against Trafficking of Persons, June 2004, Available at: <http://search.yahoo.com/search?webSrcInput=update+information+on+filipino+women+trafficking&searchbutton=WEB+SEARCH&ei=UTF-8&fr=ush-mailc&p=update+information+on+filipino+women+trafficking>

³⁰Global Exchange, "Progress in the Fight: A Human Trafficking Update", in Social Issues April -June 2006 edition

³¹In "Children as sex-worker" by Jojo T. Oberejo (August 2007) available at: <http://www.shvoong.com/newspapers/philippines/cagayan-de-oro/1660916-cagayan-oro/>

³²The full study can be accessed at :http://www.unicef.org/philippines/news/news_4.html

³³ <http://www.humantrafficking.org/updates/130>

- e) child pornography is linked with other forms of sexual exploitation;
- f) official statistics on child pornography is incomplete;
- g) credit card companies and ISPs are not cooperating; and
- h) gaps in the law and enforcement exist.

Thus, old VAW issues like trafficking, prostitution and child pornography have evolved in the context of new ICT. In the age of ICT, violence against women and girls has only transformed into national, regional and international transborder crimes and became more lucrative. In this stage of the battle, national policies to address these violations are sorely needed.

6. The pending cybercrime bills

There are several pending cybercrime bills before the Philippine Congress. These are: a) Senate Bill 2317, called the "Anti-Child Pornography Act of 2008"; endorsed by eight senators on May 2008 and has passed both Houses already on October 10, 2009; b) HB 684 entitled "An Act Defining the Crime of Child Pornography, Imposing Penalties Thereof, and for Other Purposes"; c) HB 6440, another anti-child pornography bill which when passed would be known as the "Anti-Child Pornography Act of 2009". This bill was endorsed by 128 congresspersons already on June 29, 2009; and d) HB 1900 known as "An Act Defining Cybercrime, Providing for Prevention, Suppression and Imposition of Penalties Therefore and For Other Purposes".

Child rights groups have lobbied for House Bill No.684 for years now. The CSOs believe that passing this bill into law will provide protection to children under the Convention on the Rights of the Child (CRC) and other international protocols to which the Philippine government is a state party. However, in light of the Kho-Halili sex-video scandal in August 2009, Senate Bill 2317 and House Bill 6440 were being fast-tracked at the Bicameral Chamber of the Philippine Congress. However HB 1900 is a product of the merging of eight different bills and said to be the most comprehensive one which also passes scrutiny from various ICT stakeholders since 2002.

House Bill 1900 will provide a set of regulations on cyber crimes that will define cybercafés, identify punishable acts involving computers in committing crimes and its corresponding penalties; it seeks legal procedures for the investigation and prosecution of cyber criminals. The bill also identifies cyber criminal acts such as illegal access, illegal interception, and data interference, and system interference, misuse of devices, computer fraud, unsolicited commercial communication, online prostitution and child pornography.

However, lobbying from civil society groups, especially groups against child prostitution and child pornography, to pass the HB 684 has continuously fallen on deaf ears. As of this writing, the Congress is still silent on the passage of this bill.

One concern over the implementing provisions of HB 1900 is that it allows for filtering and monitoring of internet users across the board. Discussions are ongoing as ICT policy advocates are keeping guard on such dangerous provisions.

Likewise both SB 2317 and HB 6440 mandate the installation by ISPs of anti-child pornography filters and the House version extends this requirement to internet cafés, educational institutions as well as public and private offices. ICT expert Winthrop Yu explained in a roundtable discussion on VAW and ICT the other provisions of SB 2317 which are detrimental to the internet community.

For instance, Section 830 of SB 2317 practically allows ISPs and telcos to conduct continuing and unrestricted surveillance of all online activities in relation to child pornography on behalf of the government. Although ISPs and telcos are not required to carry out surveillance, the language allowing them to do so is encouragement enough. Moreover, if ISPs and telcos would comply in said surveillance activities, they would be granted immunity from any civil suit.

This provision according to Mr. Yu is extremely suspicious. The government can actually focus on suspected child pornography syndicates through a court order if needed rather than allow ISPs and telcos to monitor all online activities of internet users. Granting immunity to ISPs/telcos may be an intended loophole to "shield large powerful commercial interests".

HB 6440 under Section 5 and 6 on the same concern is more detailed and specific and can be perceived to be less threatening to constitutionally-guaranteed civil liberties. However, Section 10 of the same bill explicitly includes "residential houses" for identifying venues for commission of prohibited acts and the Section 11³⁴ confidentiality provision is far too broad and restrictive with the intent of protecting the victim's identity. Mr. Yu further explains that in essence, it is a "standing gag order on both traditional and new media" and must "be wary of being diverted by 'red herrings' and take careful notice of obscure provisions and riders to (otherwise) good legislation".

These are some of the issues on the pending cybercrime bills and particularly on the issue of child pornography being openly discussed so far. In relation to VAW, more in-depth discussion and analysis of these bills is needed to pin down its implication to women's rights.

Different CSOs, private companies and government agencies have distinct agendas. Some are even exploiting controversial sex-video cases which are made public to influence the passage of the pending bills even if some provisions are too broad and may be too open or abuse. Public debate on these issues is sporadic in that it is only coming out when the controversial election automation is being debated in public. But what is missing here also is a further thorough analysis of the root causes of child pornography by lawmakers and therefore a holistic solution is necessary to avoid jeopardising other citizens' rights in the context of the ICTs. Some sectors may be using the child pornography issue to gain more control and power, hence more profit. But in all these, the voices of women are hardly heard in policy deliberation.

There is definitely some politicking happening at the Congress now as in the case of other bills before they were passed. The dynamics between the Senate and the Lower House are also a stumbling block in passing a proper bill. As one can see, there are other competing interests at play in passing a specific bill and which will involve different government ICT agencies. These government agencies have not been in agreement with each other causing further delay.

Passing a cybercrime law is very important for the following reasons: first it will safeguard and defend the basic rights and welfare of Filipino children and women being victimised for "cyber prostitution" and pornography; second it will send a strong message to criminal elements that they will be brought to justice; and third, it will allow spaces for directing the national ICT policy to harmonise with the protection of women and girls against all forms of violence in cyberspace. Finally, it will provide a space for looking at the gender discrimination and violence dimension of ICT in a more holistic way as evident in the incidents of cybercrimes against women and the growing online child prostitution and pornography in the country.

³⁴An extract from of Section 11 of HB 6440 states "... it shall be unlawful for any editor, publisher, and reporter or columnist ... announcer or producer ... or director ... or any person using the tri-media facilities or information technology to cause publicity of any case of child pornography."

Political will is a must

First and foremost in addressing violence against women and girls in cyberspace is recognising that it is happening and may reach an alarming intensity. The stories presented are the representation of how women and girls exploited through the use of ICTs in the country. The complicity of government authorities to stop cybercrimes points to corruption taking place at different levels. There is lack of political will on the part of lawmakers to prioritise cybercrime bills that would really protect women and girls. With the national elections in May 2010, priorities have already shifted to electioneering and important bills will surely have to take a back seat again.

This lull in the policy-making sector can be an opportunity for women and other human rights advocates to gather their strength, expertise and resources to develop a national strategy that will influence the national ICT policy for women's and girls' rights. Now is the time to factor in the gender dimension of ICT; both in ending violence against women and girls and in empowering women and girls through ICT.

The changing of government leadership hopefully will bring a renewed political commitment to sustain the eradication of violence against women and girls. The rhetoric of women's and girls' rights must also be completely realised in concrete actions. This can be done, as a first step, to enact legislation and formulate policies and implement rules as basis for the next administration's national strategies on ICT and gender-responsive programmes.

7. Relevance of the right to privacy, information and freedom of expression to ICTs

When talking of ICT today, there are assumptions that basic principles such as the right to privacy, information and freedom of expression are in place, particularly in a democratic country like the Philippines. These principles are assumed to inform the ICT policy development with a rights-based perspective and in harmony with existing related laws. Coherence in the rule of law is essential in ensuring women's rights and in preventing violence against women.

a) The right to privacy

In the Philippines, the right to privacy is guaranteed in the 1930s *Codigo Penal* (Penal Code); in the Philippine Constitution under Section 3 of the Bill of Rights which states: "The privacy of communications and correspondences shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law"; and in the New Civil Code (Article 32).

Moreover, Article 32 of the Code seeks to penalise any government official or individual who 'obstructs, defeats, violates, impedes and impairs' the exercise of freedom of speech, the freedom to write for the press or to maintain a publication, as well as the privacy of communication or correspondence' (CMFR 2005). No government official has yet been charged with violating this provision, narrowly defined by some as encompassing conventional communication and correspondences only.

Adopting the broader scope of Article 19 of the UDHR is needed³⁵.

These specific articles though are not absolute; they also call for corresponding responsibility that they are not invoked arbitrarily resulting in violation of other people's rights. Moreover, there are restrictions such as "it must be in accordance with law; in pursuit only of legitimate aim and only to the extent

³⁵Everyone shall have the right to freedom of opinion and shall the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice".

'necessary in a democratic society" (CMFR 2005). These restrictions are often vaguely defined and prone to misuse and abuse by an undemocratic state.

However, restrictions, in the parlance of ICT advocates may be interpreted in a negative way tantamount to censorship and for which we would not intend to advocate. Clearly, the Philippines has yet to formulate a policy that would genuinely take into consideration those standards in relation to ICT and the right to privacy.

b) The right to information

Article III, Section 7 of the 1987 Constitution defines the right to information as: the right to information on matters of public concern and the corollary right of access to official records and documents. It states: "The right of the people to information on matters of public concern ... by its very nature is a public right... when the question is one of public right, the people are ... the real party in interest ... [a citizen] need not show that [he or she] has any legal or special interest in the result [of litigation]" to avail himself or herself of this right³⁶.

The right to information therefore in the context of ICT and women's rights must be fully developed towards contributing to the full realisation of women's social, political and economic rights.

c) Freedom of expression

Freedom of expression in the country is also rooted in the Filipino's long historical struggle for national independence and part of the Philippine revolutionary tradition (CMFR 2005).

However, there are still missing elements on those sets of rights that must be integrated. These are the principles of the United Nations (UN), Organisation for Security and Cooperation of Europe (OSCE) and the Organisation of the American States (OAS) Joint Declaration on International Mechanisms for Promoting Freedom of Expression. The Joint Declaration on International Mechanisms for Promoting Freedom of Expression include the following statement: "Implicit in freedom of expression is the public's right to open access to information and to know what governments are doing on their behalf, without which truth would languish and people's participation in government would remain fragmented" (Ibid)³⁷.

UN member states, including the Philippines are urged to integrate the said mechanism as part of their international commitment to uphold freedom of expression in their countries.³⁸ A free press, considered a pillar of the right to freedom of expression is under fire in the Philippines. The number of media men and women extra-judicially-killed has grown exponentially, which has a chilling effect on all media practitioners and undermines the very freedoms it represents.

Rights in jeopardy

In conclusion, the interdependence and interrelatedness of the right to information, right to privacy and freedom of expression are the cornerstones of a supposedly robust ICT environment in any democratic country. The Philippines is still bereft of this ideal situation. Freedom of expression is also constantly jeopardised by the fact that members of the left movement who are critical of the government's action or inaction on issues that matter to people are also targeted for extra-judicial killings. The trend of killings in

³⁶In Article 19, London, and CMFR, Philippines, Freedom of Expression and the Media in the Philippines: part of a series of baseline studies in seven countries on South East Asian Countries, December 2005.

³⁷See also UNESCO at: http://portal.unesco.org/ci/en/ev.phpURL_ID=26152&URL_DO=DO_TOPIC&URL_SECTION=201.html

³⁸There were three international mandates on freedom of expression for UN member states to invoke and which explicitly consider as well the right to freedom of information – UN

the country cuts across the communities of political activists, traditional politicians and common-crime criminals.

Simply put, there is a bogus freedom of expression in the country. This is also one of the reasons why the citizen's movement in the country is very weak. Generally, ordinary people are too afraid to speak up because their lives may be at risk.

In the context of ICTs, people are interconnected through mobiles or the internet. The lack of particular laws is advantageous to e-activists on one hand but on the other may be used to exact harsher penalties on their activities to repress them.

The challenge now is how to optimise and maximise the use of ICT to enhance the right to privacy, information and freedom of speech of women; and particularly for women in the rural areas who have little access to even conventional ways of getting information that matters to them.

8. An example of best practice on the use of ICT: SOS Short Messaging System (SOS SMS) for OFWs in distress situations³⁹

Today, more than 8 million Filipinos are spread in 203 countries and territories worldwide. These 3.38 million Filipinos are in the service industry (construction, health, transport, entertainment). Almost a million are undocumented. Women dominate domestic service and entertainment. Often they are not covered by the social and labour laws of their host governments. Their wages represent the lowest rung of the social scale and are considered 'invisible' sections of the host country.

Revenues from OFWs prop up the economy, amounting to \$10-15 billion a year. Yet OFWs remain vulnerable to abuse and exploitation, especially women. Women migrant workers' mobility and access to the "outside world" is quite limited. In some societies women migrants are not permitted to be seen in public unaccompanied. Often, their cellular phone is their only link to the outside world. They also complain of inadequate, sometimes non-existent assistance from the Philippine embassy or consulate.

Further, overseas migration exacts a heavy toll on Filipino families -- prolonged separation and psycho-social pressures have broken down families, disrupted normal child development and resulted in youth misfits and some delinquents.

a) The SOS SMS Project

The Center of Migrant Advocacy (CMA⁴⁰) launched the SOS Short Messaging System (SOS SMS) helpline to assist overseas Filipino workers. This was developed by OFWs, in cooperation with the CMA partners and the Department of Foreign Affairs' Office of the Undersecretary for Migrant Workers Affairs (DFA-OUMWA) and the Overseas Workers Welfare Administration (OWWA). SOS SMS gives government agencies and non-governmental organisations (NGOs) the opportunity to respond and/or intervene, in a timely, adequate and efficient manner.

It allows OFWs, wherever they may be, to send an SMS or text for emergency assistance 24/7 to their families and loved ones. The SOS helpline is a voluntary cooperative project among overseas Filipinos in Saudi Arabia and Australia, NGO workers in the Philippines and the CMA. SOS SMS has a database that allows case documentation, indexation, classification and analysis of various OFW problems and related issues.

³⁹ Extracted from the organisational documents of CMA, see also www.pinoy-abroad.net

⁴⁰The Center for Migrant Advocacy is an independent policy advocacy group that promotes the rights and development of overseas Filipinos, particularly the disadvantaged and marginalized sections.

CMA has documented around 200 cases when they initially responded on distressed messages from March to May 2006; almost half of the cases involved women. Of the total number of messages, 16% were for repatriation, 14% were work permit/visa problems, 12% were runaways and 8% were labour-related problems. There were two cases of rape, and one case of harassment, deportation and suicide.

A good practice worthy of support

By prompt reporting, immediate relief is made available through the facilitation of assistance and, by simultaneously orienting the migrants of their situation and options for redress. The system demands that the migrant takes an active role in resolving her/his distressed situation. This is the system's empowering dimension on the individual level.

Also, the technology involved is relatively simple and most of the women are quite familiar with the SMS technology. There is no "language prescription"; mobile users can communicate in the language of her/his choice, with ease – a way of reclaiming the right to communication. It is handy and may be hidden if situation calls for it and is available any time, anywhere.

The same thing may be said of its recipients – even in the most remote areas in the Philippines, mobile phones have become a necessary gadget to connect people any time, anywhere.⁴¹ With millions of OFWs who may be in distressed situations, the efforts of CMA need adequate resources to sustain their work. Concretely, there is a need to strengthen their ICT infrastructure and capacity including necessary ICT staffing requirements.

9. The way forward

The popularity and prevalence of the internet among the general public has raised questions that it may be instrumental in violating women's rights. Some violations have even acquired a new facet via the world wide web like online prostitution, pornography, trafficking, sexual harassment and stalking/spying (along with other violations of privacy).

In a broader context, a paranoid state or government may, through the advances in technology utilise the internet as a virtual 'Big Brother', i.e. watching over everyone in the name of global security.

Organised crime and other unscrupulous individuals have quickly taken advantage of a certain degree of anonymity afforded by the virtual experience and have profited from online or commercialised porn sites. They have also taken advantage of the unsuspecting via human trafficking/ mail-order bride schemes and even through immensely popular social networking sites.

Games and similar software reinforce gender stereotypes that affect the impressionable as well as the unaware, raising a new generation of potential misogynists.

For the Philippines, poverty and gender inequality coupled with no legal framework to minimise the dangers of the internet has made women easy targets for exploitation and abuse. The weak human rights protection mechanisms in the country add insult to injury.

⁴¹"In the Philippines, which have had more mobile than fixed telephone subscribers since 2000, mobile subscribers continue to multiply. By the end of 2005, the country had about 40 million mobile subscribers--six times more than in 2000," According to the World Bank's 2006 "Global Trends and Policies in Information and Communications for Development." The Bank's study cited that the country in 2004 had 387 mobile subscribers for every 1,000 people, shooting up from just 84 six years ago. That figure is higher than the average population of mobile subscribers in the East Asia and Pacific region (248 for every 1,000 people) and for the lower-middle income group (255). www.ofwjournalism.net

Therefore, empowering women by eradicating VAW with the help of new ICTs is a wide open space for stakeholders to reckon with. With this view, the following recommendations require concrete actions from government, CSOs, private groups and women together.

a) Integrating gender aspect to ICT policies

In 2006, at the national workshop for ICT Roadmap⁴², the Civil Society Coordinating Committee for Information and Communications Policy (CSCC-ICP) presented a general comments⁴³ and policy gap issues on the National ICT Roadmap.

Relevant to gender and ICT are policy concerns towards developing appropriate gender-related institutions and policies within CICT. This particular concern concretely calls for the creation of a gender unit or committee which is in line with the National Commission on the Role of Filipino Women (NCRFW) and International Telecommunication Union (ITU) guidelines.

It also requires developing policies, for example, on sexual harassment and revising regulations/circulars/procedures of all ICT departments to remove gender bias. It is also necessary to undertake programmes (e.g. day care centre) and projects such as gender sensitivity trainings and trainings for non-ICT staff; developing relevant application such as those related to VAW reporting, reproductive health and rights; developing sound Gender and Development (GAD) budget (i.e. allocation of mandated portion of 5%) and inclusion of GAD in e-Government Fund; and developing and collecting research-indicators and studies on gender and ICT from National Statistics Office (NSO), National Statistical Coordination Board (NSCB) and CSO researches.

To sustain the implementation of these recommendations, the inter-agency coordination between NCRFW, Philippine National Police (PNP), Department of Social Work and Development (DSWD) and Department of Health (DOH), among others, must be strengthened and the multi-stakeholder approach with women NGOs and People's Organizations (POs) must be developed. Similarly, ICT policies must be harmonised with the national plan and international commitments. It must also align regional agendas (i.e. Asia Pacific Economic Cooperation (APEC), Association of Southeast Asian Nations (ASEAN) with national priorities.

The ICT policy should be able to remedy the "digital divides" and match the commitments with action to universal access and internet governance including sustainable financing mechanisms.

⁴²The roadmap was prepared by CICT in June 2006 and which outlines the guiding principles for establishing a new ICT policy direction under CICT; it is envisioned to define short and medium term strategies for investment opportunities and sustainable development in the country. Presentation was given by Secretary Ramon P. Sales, chairperson of CICT.

⁴³The CSCC-CIP general comments include the following: a) need to better harmonize Roadmap with National Plans and international commitments; b) re-word general paradigm so that these are consonant with a more balanced, participatory development view of ICTs; c) make the Roadmap a more long-term plan complete with a more strategic situationer, targets, financing and institutional roles; d) universal access: e) promote use of traditional and new technologies for development purposes, institutionalize mechanisms for community access and ownership of ICTs and undertake specific programs for disadvantaged and vulnerable groups; f) e- government: strengthen government communication facilities and adopt open standards to broaden development use of ICTs across the bureaucracy; and improve the implementation of the E-government fund; h) human capital development: emphasize literacy programs for educators and marginalized groups; i) business development: develop a more strategic view of support towards creation ICT enterprises and balance with more development concerns; j) legal and policy: include the review of policies relating to telecommunications competition, spectrum policy, intellectual property rights and address particular urgent concerns such as the ccTLD issue and cybercrime bill; k) Include collection of ICT- related data, statistics and measures; l) emphasize the need for research and include Health Information Systems in the Roadmap; l) state a preferential option for Free/ Open Source Software; and m) strengthen gender as an ICT Policy Concern

There are also other gender policy gaps in the ICT Roadmap in relation to issues of infrastructure, regulatory frameworks, licensing, education and labour policies, and e-government which would have a gender impact, particularly on women.

Regarding infrastructure, there must be a policy for gathering data on women's use of ICT and obtaining feedback regardless of their level of use. On regulatory frameworks, the policy must be able to develop and deploy technologies that can promote penetration of telephone and internet access in rural areas and must provide incentives to develop and deploy technologies such as WiLL/corDECT.

It is important to have a policy that will explicitly impose universal service obligations on telco operators but at the same time there must also be a policy that reduces licensing fees, spectrum prices, and interconnection charges. Likewise, regulatory policies must be able to introduce affordable tariffs in rural and urban areas in order to have a net effect on the users too.

The licensing department can also make a big difference in pursuing a gender balance in ICT entrepreneurship by developing a policy that would allocate a certain number of telecommunications licenses and waiving of licenses fees to women-owned communications businesses.

In this way, it will encourage ownership of all types of communication services by women or to those that provide services to under-served areas. Licenses can obligate providers to discount prices for services to certain customers such as poor women in the rural areas. In fact, the ISIS International's Survey has identified the potent use of radio, and when women's organisations can run these radio stations, they have proven effective in involving women in the affairs of the community.

Promoting and ensuring equal access to training opportunities for women and men on ICT is the way forward in the age of new technology in the country. It is therefore necessary for the education and labour department to harmonise their policies with the development of the ICT gender policy. The labour policy must be revisited to ensure that there is no wage disparity among genders; that there are non-discriminatory working conditions and employee privileges.

The Department of Education (DepEd) must develop further its policy to ensure equal access to training opportunities and sustain the continuing technical education. This must also be complemented by creating training programs to establish ICT-related business such as e-commerce, telecentres and public call offices. This direction must be supported by gender awareness and sensitivity training programmes.

b) Enforcement of the laws and monitoring of national action plans

The Philippine Congress has an oversight function which must be mobilised to ensure that the laws on women's rights are efficiently and effectively being implemented. It is therefore timely to participate and contribute in the designing of the next strategic plan on the anti-VAW project of the Philippine government.

There are enormous gaps in terms of policy implementation and law enforcement, capacity building for concerned government agencies to sustain anti-VAW programmes, for example, the generation of VAW statistics, awareness-raising for the general public and cultural transformation efforts to change the mindset of the public that violence against women is not a private matter and it is a violation of women's fundamental human rights.

Aware that there is a gap in the written law and its implementation, however, establishing the factors that result in gaps in the enforcement of the laws are critical to really addressing VAW in the country.

In relation to ICT, the monitoring of anti-VAW activities and the instruments to be used must be placed in a database that would make it user-friendly for all concerned agencies and parties and can be used from

the national down to the barangay levels. The GADPortal although in its early stage could very well be developed into a one-stop-shop public data centre on all information about VAW and its relation to meeting MDG3.

c) Data collection through studies/research

Generating statistical data on VAW would not be sufficient by using only the cases being reported to the Philippine National Police (PNP) or cases of women in extreme difficult circumstances served by DSWD. There must be a systematic and sustainable way of conducting studies at the community levels to really know the extent of VAW in the Philippines.

Furthermore, there is a need to clarify the "other/uncategorized" category of VAW from PNP and Department of Social Work and Development (DSWD). Concretely, there is a need for a systematic research project that would periodically conduct studies on VAW across the country. A study on the extent of VAW in cyberspace or even in the communities, provinces or regions that are considered to be hot spots for VAW cases is one example. One way of utilising ICT for research is to conduct a public survey via the internet to assess the gender dimension of ICT access and usage and a survey on the emerging cyber VAW issues in the country.

An important aspect of conducting regular studies is relates to monitoring and gathering information on VAW issues that are happening in the cyberspace. Analysis of data and how it is collected is very critical in drafting appropriate strategies to end VAW.

d) Campaigning and policy advocacy

A national campaign programme focusing on building public awareness for ending violence against women through the strategic use of ICT is something that would be worth pursuing. In collaboration with civil society, the business community, mass media and policy makers, we can work together to ensure women's and young women's access to ICT to empower their ranks. While the younger generation are likely to be more receptive to this idea, we should consider which is the most effective and accessible communication tool for grassroots women particularly those in rural communities.

With greater public awareness efforts, as part of the campaign, it would be easier to gather support in pursuing policy advocacy both at the legislative and executive branches of the government to end VAW. Thematic campaigning for example to stop child pornography and child prostitution is a prelude to a bigger campaign to end the 'continuum of violence' committed against girls and women.

e) Solidarity actions

Supporting and co-sponsoring on-going innovative ideas in relation to VAW and ICT is one way of establishing solidarity actions among stakeholders. Adopting a community or a twinning scheme between and among communities and universities is a way of empowering women and girls to protect themselves from violence. The twinning scheme can take various forms applicable to particular communities. One example would be to provide spaces for capacity building on women's human rights through the use of ICT in campuses.

Libraries should have access to computers and the internet in order to maximise the use of new technology for human rights education. Making women and girls aware of their rights is the first step to prevent violation of human rights from happening.

The relationship between using ICT to stop VAW on the one hand, and to end VAW caused by ICT on the other, is challenging given that the ICT environment in the Philippines is still evolving. Furthermore, the

challenge of making ICT work for women's particular needs and concerns in relation to eradicating violence against women must also be addressed; for example, building capacity of women organisations to utilise ICT to support their work on the ground to stop VAW.

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The APC WNSP is an international network of individual women and women's organisations promoting gender equality in the design, implementation, access and use of information and communications technologies (ICTs) and in the policy decisions and frameworks that regulate them.

The APC WNSP is made of feminists and activists who believe that ICTs have a strong role to play in transforming gender and social relations. In our ranks are techies and trainers who help women's organisations and other civil society groups take control of the tools they use to advance their missions and advocacies. More than 175 women from 55 countries – librarians, programmers, journalists, trainers, designers, scholars, communicators – come together to work online jointly in various projects in Africa, Asia-Pacific, Europe and Latin America.

APC WNSP is also a programme of the Association for Progressive Communications, an international network of civil society organisations dedicated to empowering and supporting those working for peace, human rights, development and protection of the environment through the strategic use of ICT.

APC works to build a world in which all people have easy, equal and affordable access to the creative potential of ICTs to improve their lives and create more democratic and egalitarian societies. www.apcwomen.org www.apc.org



This paper was commissioned as part of the APC WNSP project "Take Back the Tech! to end violence against Women and Girls", supported by the Dutch Ministry of Foreign Affairs' MDG3 Fund. The "MDG3 Fund: Investing in Equality" aims to support activities that lead to concrete results with regard to improved rights and opportunities for women and girls in developing nations. The fund's specific purpose is to bring about improvements in gender equality and to empower women. www.mdg3.nl



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