



Gender Equality Legislation: Addressing Gender Issues in Conditions of Work (A Policy Review)

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ABSTRACT. The discourse of gender equality has developed into two major perspectives: the formal and the substantive equality approach. Most recently, the dominance approach or nonsubordination theory has been proposed as an alternative and a critique of the earlier models. Another recent development is the postmodern feminist approach, with its strong anti-essentialist bias that challenges the notion of a monolithic “women’s experience” independent of other facets of experience like race, class, and sexual orientation. With the ratification of the Convention on the Elimination of Discrimination against Women (CEDAW), the Philippine government has adopted the substantive equality approach in legislation. CEDAW’s substantive equality approach, however, permeates the boundaries of other approaches. This paper examines some of these legislative gains in women’s rights and the extent to which these have addressed the gender issues in conditions of work and welfare facilities and promoted gender equality. Part of the analysis is to find out to what extent these laws have come up to international labor standards, especially in terms of providing better working opportunities for women and providing maternal protection for them, and to examine how the discourse on gender equality has influenced the form and content of the so-called “gender equality legislation”.

KEYWORDS. gender equality · legislation · CEDAW · international labor standards

INTRODUCTION

Gender equality is a fundamental human right. With women’s marked participation in the labor force, gender equality’s significance in a work-related environment cannot be ignored. Over the years, women’s labor force participation rate (LFPR) has remarkably increased from 30.6 percent in 1970 to a significantly high rate of 49.5 percent in January 2005. By April 2005, however, women’s LFPR has slightly increased to 50.2 percent, with women accounting for 13,635,000 out of a total

force of 35,126,000 (Bureau of Labor and Employment Statistics-Department of Labor and Employment [BLES-DOLE] 2005). Studies show that the economic crisis in the late 1970s and in the early 1980s exerted pressure on household members, particularly women members, to join the labor force to cope with the crisis (BLES-DOLE 2005). On this account, working couples have been on the rise. In 1997, there were about 5.2 million households in the Philippines in which both spouses are working. This is 35.24 percent of the total number of households for the specified period, or 14,636,910 (Morada and Llaneta 2001).

As women struggle to help increase the household earnings, gender issues in conditions of work and welfare facilities have come to light, such as the inadequate maternity protection, lack of social support and facilities for workers with family responsibilities, and prevalence of sexual harassment and other gender-based violence. The onslaught of globalization has caused further hardship among women workers doing atypical work (e.g., homeworkers and casuals). They face the prospect of job insecurity and substandard work conditions brought about by flexibilization, informalization, and even migration. These facets of globalization, as Pineda-Ofreneo and Ofreneo (1995) aptly put it, are “built on gendered realities which place women in more vulnerable, disadvantaged and marginalized positions in relation to men” (12).

Since the Philippine ratification of the Convention on the Elimination of Discrimination against Women (CEDAW) in 1981, significant strides have been taken to address some of the gender concerns of working women. The last decade was a watershed for women’s empowerment and gender equality in terms of legislation. This paper examines some of these legislative gains in women’s rights, and the extent to which these have addressed the gender issues in conditions of work and welfare facilities and, consequently, promoted gender equality. The discussion will focus on the laws that address gender-specific concerns of women workers or have direct bearing on the family responsibilities of workers. These laws are the Maternity Benefits in the Private Sector Act (Republic Act [RA] 7322),¹ Paternity Leave Act (RA 8187), Solo Parents Welfare Act of 2000 (RA 8972), Barangay Level Total Development and Protection of Children Act (RA 6972), Early Childhood Care and Development (ECCD) Act (RA 8980), and Anti-Sexual Harassment Act of 1995 (RA 7877). These shall be referred to as gender equality legislation since they impinge on

the question of gender equality, particularly on the equality between women and men in terms of opportunities and treatment in the workplace.

The discussion shall be limited to a content analysis of the laws and its implementing rules as they relate to three gender issues: social support and facilities for workers with family responsibilities, and sexual harassment, and maternity protection. The paper, therefore, will not attempt to make an empirical evaluation of the extent to which the laws are actually being implemented. Neither will it make an assessment of the actual impact of laws on the work and home life of workers, particularly women workers. Part of the analysis is to find out to what extent these laws have come up to international labor standards, especially in terms of providing better working opportunities for women and providing maternal protection for them. Relevant to the analysis of the laws would be a discourse on the equality approaches that have largely influenced the policy and content of the so-called gender equality legislation.

WORKING WOMEN: PROBLEMS AND KEY GENDER ISSUES IN WORK CONDITIONS AND WELFARE FACILITIES

It is important to note that women workers do encounter discrimination in various forms, such as the increasing preference or discrimination in selected occupations as can be gleaned in paid advertisements (Morada and Santos 2001), terms of promotion, remuneration, career development and training opportunities, among others. This work-related discrimination merely mirrors the unequal and even oppressive relations, which spring from society's gender bias that because women have the sole capacity to bear children, they are logically the caretakers of home. This bred the perception of women's place in the domestic/private sphere, and men's place in the public sphere. Goods and services in the public sphere have productive value—they are recognized, paid, and reflected in official statistics. On the other hand, outputs in the private sphere are regarded as purely reproductive value that sustains the requirements of the so-called "productive sector" (National Commission on the Role of Filipino Women [NCRFW] 1998).

Eviota (1992) points out that since women are seen and often perceive themselves as secondary productive workers because of their responsibility in the home, they are "less likely to be absorbed into waged work. Women's secondary position also means that especially

in situations of a large labor surplus, women must seek their own survival outside the formal wage economy” (16).

No situation best fits this phenomenon than in a globalizing economy. Women workers in economic processing zones of Cavite, Laguna, Batangas, Rizal, and Quezon bear the effects of globalization with longer working hours, low wages, minimal benefits, labor flexibilization, and discouragement at unionism (Edralin 2001). Informal workers, such as the homeworkers have wages far below the minimum prescribed by law and no benefits and social security protection. Their work conditions leave much to be desired and result in occupation-related illnesses (Pineda-Ofreneo and Ofreneo 1995).

As women’s participation in the labor market increases, the problem of multiple burden comes to the fore. For women in paid employment, while they put in essentially the same amount of work hours as men, at the end of the day, they still retain the responsibility of housework and childcare (Bullock 1994). But women in the informal sector are equally burdened. For instance, among unemployed and self-employed women in five urban communities of Metro Manila, a study reveals that the women also have to deal with the multiple burden of childcare, problematic and unemployed spouses, housework, and community problems such as land and housing insecurities (Women’s Center-The Technical Education and Skills Development Authority and the Japan International Cooperation Agency 1999).

Compounding the multiple burden faced by women workers is the occurrence of gender violence in the workplace and home. Because of women’s low status in society, they are actual and potential victims of a web of verbal, psychological, and physical abuse that violates women’s dignity (NCRFW 1998). A 1998 survey covering more than thirty countries worldwide, including India, Indonesia, and the Philippines in Asia, reveals that the highest percentages of victimization at the workplace were observed for sexual incidents against women (rape, attempted rape, indecent assault, or offensive behavior) (Haspels et al. 2000).

As if these were not enough, the maternity period during which employment is protected, maternal protection from harmful work, and facilities for breast-feeding remain to be a major source of concern for women workers. Studies show that maternal employment is significantly associated with early cessation of breast-feeding. Lack of break time, inadequate facilities for pumping and storing milk, lack of resources that promote breast-feeding, and lack of support from

employers and colleagues are among the challenges faced by employed nursing women who want to breast-feed in the workplace (Philippine Pediatric Society Inc. 2005).

APPROACHES TO ADDRESSING GENDER ISSUES IN THE WORKPLACE

At no time is the importance of achieving gender equality greater when women's participation in the labor force is ever increasing and pressing gender issues confront them in the workplace. Central to addressing the gender issues head-on, through any initiative or measure, is a definition of gender equality.

Gender refers to socially constructed roles and socially learned behaviors and expectations associated with females and males (World Bank 2001). Equality has been extensively analyzed and intensely debated on by feminists that there is no simple way to define it. In search of its meaning, various approaches have been proffered, each of which, however, has permeable boundaries. The first of these was used in the United States by feminist litigators and academics advocating for legal reform in the 1970s—the formal equality model, also known as the “equal-treatment approach,” which demands that women and men should be treated on the *same* terms, without special barriers or benefits due to their sex. Focus is on the similarities between the sexes, not on their differences. Special accommodation or treatment for pregnant women, therefore, is frowned upon as undesirable “protection” or limitation on women (Bartlett 1994). Williams (1991) argues that special treatment model has great costs. Not only does it reinforce the separate private/public sphere that sustains gender inequality, it often turns out to be a double-edged sword. For instance, the employer who wants to avoid the inconveniences and costs of special protective measures will find reasons not to hire women of childbearing age.

While formal equality judges the form of a rule, substantive equality looks at a rule's results or effects. Advocates of substantive equality demand that differences between women and men must be taken into account to eliminate the disadvantages they bring to women. For instance, Kay (1995) insists that during the episodic occurrence (pregnancy) a woman's body functions in a unique way. Recognizing such unique function would prevent penalizing the woman who exercises it. She argues, therefore, that women should be treated differently than men during a limited period when their needs

may be greater than those of men so as to ensure equality with men with regard to their overall employment opportunities. Other advocates of substantive equality argue for affirmative action to eliminate the effects of past discrimination; for instance, providing quota to increase women's presence in occupational fields dominated historically by men. Another type of substantive equality is the model of acceptance as equality. Littleton (1991) proposes that differences, whether biological or social characteristics, be made costless. The way to achieve this is to identify and equalize female- and male-gendered complements for every activity or characteristics. For instance, the "warrior" in its cultural sense is directly opposite "mother." Both involve danger and possible death. Littleton proposes that "making this gender difference less costly could mean requiring the government to pay mothers the same low wages and generous benefits as most soldiers" (49). The theory of comparable worth provides another example. According to its proponents, "jobs that call for equally valuable skills, effort, and responsibility should be paid equally, even though they occur in different combinations of predominantly female and predominantly male occupations" (Littleton 1991, 49).

Mackinnon (1991) criticized both approaches on the ground that "man has become the measure of all things." She thus analyzes,

Under the sameness standard, women are measured according to our correspondence with man, our equality judged by our proximity to his measure. Under the difference standard, we are measured according to our lack of correspondence with him, our womanhood judged by our distance from his measure. Gender neutrality is thus simply the male standard, and the special protection rule is simply the female standard, but do not be deceived: masculinity, or maleness, is the referent of both. (82)

Mackinnon thus presents an alternative approach—the dominance approach or nonsubordination theory. She asserts that "an equality question is a question of the distribution of power. Gender is also a question of power, specifically of male supremacy and female subordination" (1991, 87). In her work on sexual harassment, for example, she argues that sexually predatory conduct long accepted as the normal give-and-take between men and women in the workplace constitutes sex discrimination. Such conduct systematically demeans women as sexual objects, thereby reinforcing male control and power over women. Through the nonsubordination-theory lens, women's

situations are regarded as part of the overall institutional oppression of women, facilitated by the private/public dichotomy (Bartlett 1994).

While the three approaches view women's differences either as factually insignificant, as problems to be solved through special accommodations, or as excuses used by a corrupt system to subordinate women, the different-voice theory, also known as "connection theory," views women's differences as "potentially valuable resources that might serve as a better model of social organization and law than existing 'male' characteristics and values" (Bartlett 1994, 5). Drawing much from Carol Gilligan's book, *In a Different Voice*, West (1991) asserts that "women's ways of knowing are more 'integrative' than men's; women's aesthetic and critical sense is 'embroidered' rather than 'laddered;' women's psychological development remains within the sphere of 'attachment' rather than 'individuation' (209)." More significant, however, is women's moral difference—they are more nurturing, caring, loving, and responsible to others than are men. For instance, Finley (1986) advocates for the need to change the values and structures of the workplace to incorporate some of the values of the world traditionally associated with women—the value of interconnection that gives a measure of responsibility, not just to honor obligations but to be responsive to the perspectives and needs of others. In this light, the costs of responsibilities such as parenting or maternity leaves and childcare should thus be borne by employers as these have major impact on the workload. The different-voice approach may mean well in advancing the efficacy of women's values to improve existing laws, policies, and regulations, but some conclude that this may reinforce the subordination historically associated with the assertion of women's differences (Bartlett 1994).

Postmodern feminism, however, presents a set of critiques of the common assumptions shared by the above theories thus far described—about the rationality of law, the possibility of objective truth on which the law can be based, and the coherence and stability of the individual subject on whom the law acts. More important to this discussion is the postmodern feminism's critique directed against feminist theory itself—the charge of "essentialism," which takes three forms: 1) the generalizations or universalities, where feminists often presuppose a particular privileged norm, such as that of the white, middle-class, heterosexual women, thereby denying or ignoring differences based on race, class, sexual identity, and other characteristics that inform a women's identity; 2) the "naturalist" error, where legal principles are

falsely assumed to be inherent, transcendent, universal, or natural, instead of socially constructed; and (3) gender imperialism (Bartlett 1994). Harris (1991) refers to this as “gender essentialism”—the notion that “there is a monolithic ‘women’s experience’ that can be described independent of other facets of experience like race, class, and sexual orientation” (240).

THE EQUALITY QUESTION: GOVERNMENT’S RESPONSES TO GENDER ISSUES

The government’s responses to gender issues in conditions of work and welfare facilities have been largely defined by the underlying equality approach of the international human-rights instruments which the Philippines has ratified over the years. Central to the discussion on equality in these instruments is the achievement of substantive equality as earlier discussed. This substantive equality approach resonates in the International Labor Organization (ILO) conventions and recommendations,² and more particularly in CEDAW where it is considered as one of its three principles.

A necessary condition for the achievement of substantive equality is the absence of discrimination, the second principle of CEDAW. Under CEDAW, discrimination against women is defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”³

The substantive equality approach of CEDAW, however, as it developed, does not stand alone but permeates the boundaries of the other approaches. Thus, depending on the circumstances, equality sometimes requires equal treatment, but acknowledges the need for special measures to counteract the disadvantages women experience as a result of women and men’s biologically and socially constructed differences. It accommodates the values of responsibility and caring of the different-voice theory. It finds congruence with the nonsubordination theory to the extent that it acknowledges the existence of practices that further male dominance and female subordination, such as gender violence which victimizes mostly women. Moreover, in addressing the postmodernist critique against gender

essentialism, its definition of discrimination includes intersectionality, where gender discrimination interfaces with other social categories and forms of discrimination such as class, ethnicity, and sexual orientation. (e.g., discrimination against “poor, lesbian, and ethnic women from a developing country”).

In the 1987 Philippine Constitution, the strain of substantive equality is found in article 13, section 14: “The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.”

Pursuant to this mandate, the Philippines has enacted laws to address gender issues concerning conditions of work and welfare facilities, notably in the area of social services and welfare facilities for workers with family responsibilities, sexual harassment and other violence against women, and maternity protection.

Social services and welfare facilities for workers with family responsibilities

Family responsibilities cover the care of and support for dependent children and other members of the immediate family who need help. Under article 11 (2) (c) of CEDAW, the Philippines is under legal obligation to undertake appropriate measures to encourage the provision of the necessary supporting social services in order to enable parents to combine family obligations with work responsibilities and participation in public life. This substantially echoes the concerns of ILO Workers with Family Responsibilities Convention (156) of 1981, supplemented by Recommendation (165) of 1981. On this, the ILO (1993) declares,

full equality of opportunity and treatment for men and women could not be achieved without broader social changes, including a more equitable sharing of family responsibilities, and that the excessive burden of family and household tasks still borne by women workers constituted one of the most important reasons for the continuing inequality in employment and occupation. (10)

Childcare facilities. In this light, surveys have shown that the employers’ adoption of “family-friendly” policies and establishment of facilities such as childcare have resulted in higher employee morale, lower absenteeism, favorable publicity, and better community and family relations (International Labor Organization [ILO] 1993). Moreover,

with sufficient childcare facilities, workers with family responsibilities can exercise their rights to free choice of employment (ILO 2000).

Responding to its commitment under CEDAW, the Philippines has undertaken positive measures to develop community services under the Barangay (Village) Level Total Development and Protection of Children Act (Barangay Day Care Act or RA 6972). Section 2 of the Barangay Day Care Act provides for the establishment of a care center in every barangay, with the total development and protection of children program instituted in every barangay day-care center to protect children up to six years of age from all forms of abuse and exploitation. Although the law primarily seeks to provide care and attention for children, the intent to provide support for working women is unmistakable. One of the components of the program is the care for children of *working mothers* during the day and, where feasible, the care for children up to six years when mothers are working at night. Under section 3 of the law, the day-care program includes the development of a network of homes where *women* may take care of the children up to six years of age during work hours, and the materials and network of surrogate *mothers-teachers* who will provide intellectual and mental stimulation to the children.

For all the good intentions of the law, the above arrangement only leads to inequality for it reinforces and legitimizes the societal assumption that “the social role of primary caretaker is necessarily correlated with possession of a vagina” (Williams 1991, 111). Its premise is that women’s share in family responsibility is greater than that of men and, therefore, they deserve the special measures to help them cope with home and work responsibilities. This inequality becomes all the more manifest in the law as it provides for developing networks of homes where *women* may take care of children of *working women*, as well as for surrogate *mothers-teachers*. The inevitable result of this arrangement, therefore, leaves the traditional role of women and men intact. Women then, whether working or not, still retain the *sole* responsibility of childcare.⁴ This arrangement only reinforces the further subordination of women to men. It perpetuates the dichotomy of the private/public sphere, where women’s place is the home, and men’s place is the workplace. In any case, this goes against the grain of the substantive equality approach under CEDAW and ILO Convention 156 and Recommendation 165, which intend to promote equality of opportunity and treatment in employment for men and women

workers with family responsibilities, as well as between workers with and without such responsibilities.

The day-care centers provide an important support for working parents, especially mothers. Given the lack of resources for the expansion of day-care centers (United Nations Educational, Social and Cultural Organization [UNESCO] 2000),⁵ however, the establishment of childcare facilities in the workplace becomes an important option to help workers with family responsibilities.

In 2000, the ECCD Act (RA 8980) was passed to provide for the basic needs of children from birth to age six so as to promote their optimum growth and development, in addition to the provision for accessible and adequate health and nutrition programs for children and *expectant mothers*. The ECCD programs include center-based programs such as the day-care services established and expanded under the Barangay Day Care Center Act, community or church-based early education/kindergarten programs or workplace-initiated childcare and education programs; and home-based programs such as neighborhood-based playgrounds, family day-care programs, and parent education and home-visiting programs (Quimpo 2000).

In spite of the “EFA 2000 Assessment: Country Report on the Philippines of the UNESCO” on the great headway achieved by the government in increasing the number of children covered by the various forms of ECCD programs (UNESCO 2000), Kamerman (2002) notes that, where ECCD programs exist, the supply is limited and the quality is poor. For instance, two programs of the Department of Social Welfare and Development (DSWD)—a two- to three-hour childcare program for four to six years old and a parent-effectiveness program found in about 43 percent of villages—lack resources, e.g., supplies, equipment, and qualified staff, to adequately cover all the children of this age, or their parents.

While the evident intent of the Act is to provide essential services to children, the opportunity it provides to workers with family responsibilities in terms of responding to their family responsibilities is undeniable. Under section 2 of the ECCD Act, one of the declared state policies is to support parents in their roles as primary caregivers and as their children’s first teachers. Of particular relevance to workers is an ECCD program for their children within the workplace; to the employers, the income-tax deduction provided for corporations and employers who support the ECCD system. Under section 9 (b) of the Act, operating costs of work-based ECCD programs that are supported

by corporations or employers in the form of physical facilities can be deducted from taxable income, provided that the employer or corporation will not charge user fees, whether monetary or nonmonetary, for the participation of a child in a private ECCD program.⁶

To date, however, no official data are readily available as to how many corporations or employers have extended support for the ECCD programs in terms of providing physical facilities and recurrent operating costs.

Paternity Leave. As commonly understood, paternity leave is given to the father at the time of confinement of the spouse (ILO 2000). By ILO definition, however, this is still different from parental leave which is granted to either parent in order to care for a child, following a period of maternity leave.

There is no explicit international standard on paternity leave, but this entitlement, similar to parental leave, also provides an opportunity for shared family responsibility between women and men in matters of child rearing. The Paternity Leave Act of 1995 (RA 8187) has the stated purpose of enabling a married male employee to enjoy the same privileges and share the same chores and responsibilities that his spouse carries after childbirth. Additionally, the passage of the measure was intended to alleviate the physical burden that childbirth imposes on the working couple, and to recognize the father's critical role in child rearing without fear of impairment or lost of employment (Velo 1996).

Under section 2 of the Act, every married male employee in the private and public sectors is entitled to a paternity leave of seven days with full pay for the first four deliveries of the legitimate spouse with whom he is cohabiting. An important condition to the entitlement of paternity leave, however, is that he is employed and is living with his spouse at the time his spouse gives birth or suffers a miscarriage. The benefit may be enjoyed during or after delivery of the spouse, provided that the total number of days must not exceed seven working days for each delivery.⁷

While the law has been a significant contribution to providing equal opportunity for women and men in attending to parental responsibilities, it failed to consider certain realities among workers. The law excludes from its benefit an unmarried male employee who cohabits with an unmarried woman in a common-law relationship. This arrangement, however, is a reality not uncommon in this age.

Statistics show that as of the first quarter of 2005, persons who are in a common-law or live-in arrangement stand at 3,061,166. Men account for 50.3 percent or one half of the total number of people in common-law relationship (National Statistics Office 2005).

The above exclusion of an unmarried male employee effectively deprives him of the opportunity to provide care and attention to the common-law spouse and newborn child. This is in contrast to maternity leave provided to unmarried female employees. Since paternity leave is correlative to maternity leave, it is only reasonable for women, married or unmarried, to expect support from their spouse or common-law spouse during childbirth. While the fear that extending such entitlement to unmarried male employees could lead to abuse or misuse may be valid, such concern is not something that could not be readily addressed by appropriate rules and regulations.

Token as it is, the seven-day paternity leave moreover excludes the possibility of complications of childbirth that may require an extended leave of absence. Nor does it entitle a male spouse to benefit from paternity leave in case his spouse suffers an abortion. The unfairness of the situation is best illustrated in two criminal cases of unintentional abortion where neither spouse is at fault. In the case of *US v. Jeffrey*,⁸ the defendant, who is not the spouse, was held liable not only for the maltreatment but also for the consequence of such act—abortion—when he struck a woman on the hip with a bottle, without knowing that she was three-months pregnant. Similarly, in the case of *People v. Jose*,⁹ the truck driver was declared guilty of unintentional abortion through reckless imprudence when he was found to have bumped a *calesa* (horse-drawn cart) from behind, causing a six-month-pregnant woman to be thrown off her seat and consequently suffer abortion.

In the two illustrative cases, a strict reading of the Paternity Act and its implementing guidelines would mean that the man worker will not be entitled to paternity leave, even when neither spouse is at fault. While a few advance the argument that likened unintentional abortion to “miscarriage,” the exclusion of abortion from the coverage of the law *without* qualification nonetheless opens the door to unnecessary controversy between employers and workers.

But, whether abortion is unintentional or not, a woman recovering from her medical condition would still need emotional and other support from her spouse.. The effect of exclusion is an indirect discrimination against both spouses, but more seriously against the woman. The absurdity of the situation becomes even more apparent

for a working woman since under the law, she is, after all, entitled to maternity leave even when she has undergone abortion.

On the other hand, for induced abortions, Alvarez-Castillo, Jimenez, and Arcenal (2002) note that based on a study, between 300,000 and 500,000 Filipino women undergo induced abortion every year. Every 300th pregnancy ends up in induced abortions or 16

Table 1. Laws on social services and welfare facilities for workers with family responsibilities

Entitlements (protection/benefit)	ILO conventions and recommendations	CEDAW and general recommendations	Philippine laws
Employment ^a	ILO Convention	CEDAW, art. 11	No specific legislation for workers with family responsibilities
Child care and family services and facilities	ILO No. 156, art. 5 - Take into account their needs in community planning; promote community services, such as child-care and family services and facilities	CEDAW, art. 11 (2) (c) -Provide supporting social service, in particular the establishment and development of a network of child- care facilities	RA 6972 (Barangay Day Care Act) - Bears gender stereotyping (e.g. women as caretakers, surrogate mothers- teachers). Limited resources. RA 8980 (ECCD Act) -Limited resources
Information and education on gender equality ^b	ILO No. 183, art. 6	No specific provision	No legislation
Vocational guidance and training ^c	ILO No. 156, art. 7 -Provision for vocational guidance and training	Art. 11 (1) (c) - Right to free choice of profession, promotion, job security and all benefits and conditions of service, right to receive vocational training and retraining	RA 7796 (TESDA Act of 1994)
Job security ^d	ILO No. 156, art. 8 -Family responsibilities not valid reason for termination	No specific provision, but Art. 11 (1) (c) provides for job security in general	No specific legislation, but PD 442, arts. 279 and 280 guarantees security of tenure in cases of regular employment

Table 1 (continued)

Entitlements (protection/benefit)	ILO conventions and recommendations	CEDAW and general recommendations	Philippine laws
Paternity leave/Parental leave	Recommendation No. 165, par. 22 (1) - Parental leave without relinquishing employment; employment being safeguarded	No specific provision	RA 8187 (Paternity Leave Act of 1995) - Limited only to married men; discriminates against couples in common- law relationships; excludes abortion, which has disadvantageous outcome or result for single women workers who undergo abortion RA 8972 (Solo Parent Act of 2000) - Excludes married working couples and those in common- law relationships. Leads to disadvantageous outcome or result for married women workers; no clarity as to the number of days of entitlement
Flexible working hours	Recommendation No. 165, par. 18 (b) - More flexible arrangements as regards working schedules, rest days and holidays	No specific provision	RA 8972 (Solo Parent Act of 2000) - Excludes married working couples and those in common- law relationships. Leads to disadvantageous outcome or result for married women workers

^aNot within the scope of paper.

^bNot within the scope of paper.

^cNot within the scope of paper.

^dNot within the scope of paper.

percent of unplanned pregnancies, which is about 37 percent of births. Further, 80,000 women are hospitalized per year for complications of unsafe abortion.

What this means is that, the lack of appropriate measures to address the health needs of women who undergo induced abortion makes women more disadvantaged than men. From the standpoint of substantive equality, the situation leads to inequality of results and benefits, thereby contributing to the gender inequality that the government is mandated to eradicate.

Parental Leave. Akin to paternity leave is the entitlement to parental leave. For workers with family responsibilities, parental leave affords either parent the opportunity to obtain a leave of absence within a period immediately following maternity leave for the purpose of attending to the illness of a dependent child or for reasons connected with the upbringing of a child.

Paragraph 22 (1) of Recommendation 165, in relation to Convention 156, provides that either parent should have the possibility, within a period immediately following maternity leave, of obtaining leave of absence (parental leave), without relinquishing employment and with rights resulting from employment being safeguarded. Parental leave affords either parent the opportunity to obtain leave of absence for childcare purposes within a period immediately following maternity leave, in case of illness of a dependent child, and for other reasons connected with the upbringing of a child (Alvarez-Castillo, Jimenez, and Arcenal 2002).

Even though the Philippines is not a signatory to the convention, it passed the Solo Parents' Welfare Act of 2000 (RA 8972). Under article 2 of the law, it is a state policy to promote the family as the foundation of the nation, strengthen its solidarity, and ensure its total development. Included in the package of benefits is parental leave, which is granted to help solo-parent workers cope with their family responsibilities, without reneging on the demands of their employment.

No doubt, parental leave is important for solo parents. The law, however, falls short of its stated policy to promote the family and strengthen its unity as it excludes working couples, married or in a common-law relationship, from availing themselves of the entitlement. Though not as burdened as the solo parents, working couples are faced with the demands of parenthood, whether married or not. The lack of recognition for parental leave overlooks the importance of shared

responsibilities of parents, especially where both are working. When push comes to shove, and no parental leave is available, the demands to take on the family responsibilities would most likely fall on the woman's shoulders. It could thus lead to loss of income and career opportunities, if not unnecessary absences in the workplace. This runs counter to the substantive equality approach to level the playing field between women and men by ensuring that all initiatives lead to equality of opportunity and access to benefits.

In any case, the leave of "not more than seven working days every year," provided that she or he complies with the requirements,¹⁰ creates a problem as to the actual number of days that an employee is entitled to. The law is not clear as to who determines the extent of entitlement. If it is the employer, it may render the entitlement almost useless as the employer may choose to give parental leave of *only* one or two days as token compliance with the law. A query from the DSWD, the lead agency in the implementation of the law, and the DOLE confirms this concern.¹¹

Flexible working hours. While full-time work translates to full employment and better access to employment opportunities, workers with family responsibilities, mostly women workers, experience the multiple burden of work, family responsibilities and even community concerns. Taking note of special needs of workers with family responsibilities, paragraph 18 of the Workers with Family Responsibilities Recommendation of 1981 prescribes more flexible arrangements with regard to work schedules as one measure to improve the general condition and the quality of life of the workers.

Under section 6 of the same Solo Parent Act of 2000, solo parents are entitled to a flexible work schedule. The flexible work schedule, however, suffers from the same infirmity as the parental leave, because it also excludes working couples, married or in a common-law relationship, even as they too are burdened with family responsibilities.

Protection from sexual harassment in the workplace

Sexual harassment is inextricably linked to power (ILO 1995). This issue falls squarely in what advocates of nonsubordination theory consider as a form of discrimination based on sex since such conduct systematically reduces women as "sex object," thereby reinforcing male dominance over women. It reflects a social attitude and deep prejudice against women—they are viewed as the "weaker sex," inferior and,

therefore, subordinate to men. Ultimately, apart from the many gender inequalities in the workplace that women experience, women are forced to face the reality of sexual harassment and other forms of violence in the workplace.

Articles 2, 5, 11, and 12 of the CEDAW require states-parties to act to protect women against violence of any kind occurring within the family, at the workplace or in any area of social life. Specifically, the CEDAW Committee on the Elimination of Discrimination Against Women (CEDAW Committee), the treaty-monitoring body of CEDAW, considers sexual harassment in the workplace as a form of gender-specific violence that seriously impairs women's equality in employment under article 11 of CEDAW. The act is considered discriminatory when a woman has reasonable grounds to believe that her objection would disadvantage her employment opportunities, including recruitment or promotion, or when it creates a hostile work environment.¹²

As early as 1994, however, there are encouraging developments toward curbing this practice. In the precedent case of *Villarama v. NLRC*,¹³ the Supreme Court held that the sexual harassment committed by the managerial employee against a subordinate constitutes substantial evidence amounting to "loss of trust and confidence," which is a valid reason for dismissal.

The following year, the Anti-Sexual Harassment Act of 1995 (RA 7877) was enacted, which sought to prevent and deter the commission of such act and to provide the victim redress under the law (Lina 1994), and "to raise the level of consciousness between men and women by revolutionizing their patterns of behavior through the removal of gender bias and other irritants that hinder greater productivity" (Roco 1994). In sum, the law seeks to provide a free and safe work environment for both women and men.

Under section 3 of the Act, sexual harassment is committed by a person who, having authority, influence, or moral ascendancy demands, requests, or otherwise requires any sexual favor from the other, regardless of whether the demand, request, or requirement for submission is accepted by the object of the said act.

The law has made significant inroads in helping create a healthy and safe work environment for workers. The definition of sexual harassment, however, is severely circumscribed. It adopted the traditional, narrow definition of sexual harassment at work, which refers to a demand, request, or requirement by the superior to the subordinate for sexual

Table 2. Laws on sexual harassment/violence in the workplace

Entitlements (protection/benefit)	ILO conventions and recommendations	CEDAW and general recommendations	Philippine laws
Protection against sexual harassment/violence in the workplace	No specific provision	Arts. 2, 5, 11 and 12, and General Recommendation Nos. 12 and 19 - Sexual harassment is considered a form of discrimination; impairs women's equality in employment	RA 7877 (Anti-Sexual Harassment Act of 1995) - Has narrow definition, does not cover peer relationship, thereby allowing the culture of male dominance and female subordination to continue; does not cover "sexual advances"; no protection for victims; absence of strict enforcement mechanism

favors in order for the latter to obtain or keep a job or certain job-related benefits. This quid pro quo type of sexual harassment involves an abuse of authority.

One of the forms of sexual harassment in the workplace is where the sexual favor results in an intimidating, hostile, or offensive environment for the employee.¹⁴ While this provision may appear to broaden the definition of sexual harassment, the fact is, it does not. An important ingredient of the offense is the element of authority, influence, or moral ascendancy. As the Supreme Court held in *Philippine Aeolus Automotive United Corporation v. NLRC*,¹⁵ "[T]he gravamen of the offense in sexual harassment is not the violation of the employee's sexuality but the abuse of power by the employer."

In adopting a narrow view of sexual harassment, the law presupposed that people in the superior position are the only ones capable of sexual harassment. It failed to recognize that sexual harassment and other forms of gender violence involve the question of power, and power relations do exist even in a peer relationship.¹⁶ This, given the relatively lower status accorded to women in the society. What all this boils down to is, male supremacy and female subordination will persist. Consequently, women will still face great vulnerability to harassment, regardless of the nature of their relationship with men.

And whether it happens in a superior-subordinate or peer relationship, the effect is the same—it violates the dignity of the person. It substantially interferes with the individual's work performance or creates an intimidating, hostile, or offensive work environment.

Moreover, unlike in an education or training environment, sexual harassment in a work-related environment is committed only when the person in authority, influence, or moral ascendancy “demands,” “requests,” or otherwise “requires” any sexual favor from the other. It leaves out entirely the question of “sexual advances,” which has the same effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive environment. In committing acts of “sexual advances,” the sexual harasser simply goes out to commit the act (e.g., stealing a kiss) against the victim without warning.

In the *Philippine Aeolus*¹⁷ case, the Supreme Court did take into account the fact that the complainant was a victim of the manager's “sexual advances” such as touching her hands and putting his arms around her shoulders. Even so, it also took note of the fact that the complainant also endured the manager's invitations “for a date.” Toward the end, she was made to understand that if she would not give in to the manager's “sexual advances” he would cause her termination from the service. Proceeding from the court's discourse, while there is sound argument that “sexual advances” are thus deemed considered sexual harassment, the lack of clarity in the law makes such argument vulnerable to legal challenge.

Moreover, the law failed to provide safeguards for complainants against retaliatory acts from their sexual harassers, resulting from the filing of sexual harassment charge. The need for safeguards against reprisal is crucial in cases involving vulnerable groups, such as workers with no security of tenure (e.g., temporary workers, casuals, and part-time workers) (Ursua 2002).

Furthermore, section 4 of the Act imposes on the employer the duty to promulgate appropriate rules and regulations and create a committee on decorum and investigation (CODI) of cases on sexual harassment. This notwithstanding, interviews with representatives of unions and employers in twenty-four manufacturing and service establishments reveal that only four of these establishments have a CODI or its equivalent. Moreover, a 2000 survey conducted among 334 unionized and non-unionized establishments in five provinces located in Manila, Bulacan, General Santos City, Davao, Cebu City,

and Zamboanga, also reveals that only a small number of the establishments (seventy or 21 percent) have implementing guidelines on sexual harassment (Friedrich Ebert-Stiftung 2006). The absence of a strict enforcement mechanism and an explicit penalty for noncompliance of the employer's duty under section 4 of the law has blunted the effectiveness of the law in preventing incidents of sexual harassment in the workplace.

Provision for maternity protection

The maternity protection is a special accommodation that, from a substantive equality approach, takes into account the unique childbearing capacity of women and thus eliminates disadvantages it brings to women. It serves to provide proscriptions against discrimination in employment on account of pregnancy. The desired outcome is to ensure job security for women who leave the workplace to bear children.

The Maternity Protection Convention (183) of 2000, supplemented by the Maternity Protection Recommendation (191) of 2000, provides the principal elements of protection: a) maternity leave, b) maternity benefits, and c) cash benefits. Additionally, it also provides protection from discrimination on account of marital status, pregnancy, or nursing a child.

Maternity Leave/Cash Benefits. Taking note of the requirements of maternity leave, one of the concerns besetting women workers is the length of maternity leave. Article 11 (2) (b) of CEDAW mandates that states-parties shall take all appropriate measures to introduce maternity leave with pay.

In the private sector, workers, whether married or unmarried, are entitled maternity leave with pay. Section 14-A of the Social Security Law (RA 1161), amending article 133 of the Labor Code, expanded the paid maternity leave from the previous forty-five days to sixty days or seventy-eight days in case of Caesarean delivery. It grants the entitlement in cases of delivery or miscarriage *and* abortion. The legislative change to expand the paid maternity leave was approved, noting that a review of legislation all over the world and even in Asia has revealed that the Philippines has one of the shortest maternity protection periods. Recognizing the increasingly difficult decisions and limited options that women, especially working mothers, face as they struggle to balance their multiple roles as mothers and economic

providers, the increase in maternity leave was intended to pay “more attention not only to the influence of maternal health factors, on the health of their infants and children, but also on the ability of women themselves to live healthier lives ...” (Maceda 1990).

Correspondingly, under the Maternity Leave in Private Sector Act (RA 7322), the cash benefit has been increased from the previous 100 percent of the woman worker’s average salary credit to the present 100 percent of the woman’s present basic salary, allowances, and other benefits. This is consistent with article 4 of the Maternity Protection Convention (183) of 2000, which provides that the amount shall be not less than two-thirds of the woman’s previous earnings.

The increase in maternity leave benefits, however, remains below international standard for the health care of new mothers. While the exact period that is required for maternal recovery will vary according to a woman’s individual experience, the World Health Organization (WHO) considers that approximately sixteen weeks of absence from work after childbirth is necessary as a minimum to recover from childbirth and to accommodate breast-feeding (WHO 2000). Article 4 of the Maternity Protection Convention (183) of 2000, however, provides for a lower period of at least fourteen weeks, but enjoins member states to endeavor extending the period of maternity leave to at least eighteen weeks.

The argument in favor of a longer period of maternity leave should not, however, mean that a period of maternity leave should be enforced even when “women can and do return to work within the sixteen weeks following childbirth with no apparent detriment to their health” (Sex Discrimination Unit–Human Rights and Equality Opportunity Commission 2002, 46), lest it becomes an undesirable restriction against women.

Maternity Care. Medical benefits include prenatal, confinement, and postnatal care by qualified midwives or medical practitioners, as well as hospitalization if necessary and the freedom of choice of doctor and of public or private hospital. Article 12 (2) of CEDAW enjoins State parties to ensure to women appropriate services in connection with pregnancy, confinement, and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation. This is parallel to ILO Convention 183 and its Recommendation, which require medical benefits that

includes prenatal care and postnatal care by qualified midwives or medical practitioners.

While the above benefits and special accommodative measures find congruence with the state's constitutional mandate to protect working women, taking into account their maternal functions, the Labor Code provides no medical benefits in conformity with CEDAW and ILO conventions.

Tangentially, however, under the ECCD Act (RA 8980), children and *expectant* mothers are to be provided with "accessible and adequate health and nutrition programs" to ensure the early identification and referral of disorders (Quimpo 2000). Other than the benefits that may be accessed through the ECCD Act, there are no other benefits and accommodation measures found in the Labor Code that comply with the requirements of the CEDAW and the ILO conventions and recommendations.

Breast-feeding Breaks/Reduction of Work. Under article 10 of Convention 183, additional rights are provided for breast-feeding mother. In particular, it requires that women shall be provided the right to one or more daily breaks or a daily reduction of work hours to breast-feed their children. The period during which the break or reduction of work hours is allowed, their number, the duration of nursing breaks, and the procedures for the reduction of daily work hours is to be determined by national law and practice. This special accommodation for nursing women is consistent with the substantive equality approach of taking into account women's difference by virtue of their unique childbearing capacity.

Under the Rooming-In and Breastfeeding Act of 1992 (RA 7600), it is a requirement, as a national policy, that newborn babies are placed in the same room as the mother right after delivery up to discharge to facilitate infant bonding and to initiate breast-feeding. In spite of the laudable intentions of the law, studies have shown that breast-feeding of infants becomes an everyday challenge once employed lactating women report back to work, especially at a time when exclusive breast-feeding (from birth to six months) is the ideal.

On this score, no law has yet been passed to respond to this need of nursing women. It is interesting to note, however, that prior to the Labor Code, the Woman and Child Labor Law of 1952 (RA 679)¹⁸ imposed on the employer the duty to allow the woman "at least one-half hour twice a day during her working hours to nurse her child."

Such provision was in accord with the earlier ILO Conventions on Maternity Protection,¹⁹ which the Philippines has not ratified. With the effectivity of the Labor Code, the beneficial provision has been put to oblivion. Feliciano (1989), however, correctly argues that some parts of the Woman and Child Labor Law are not inconsistent with the Labor Code and, thus, remain unrepealed in certain parts.²⁰ Considering that the Labor Code is silent on the breast-feeding entitlement, such entitlement under the Woman and Child Labor Law therefore remains valid and effective.

Table 3. Laws on maternity protection			
Entitlements (protection/benefit)	ILO conventions and recommendations ^a	CEDAW and general recommendations ^b	Philippine laws
Maternity leave	ILO Convention No. 183, art. 4 (1) - Not less than 14 weeks (but ILO Recommendation No. 191 calls for 18 weeks, similar to WHO call)	CEDAW, art. 11 (2) (b) - No period specified	RA 7322 (Maternity Benefit for Private Sector Act) - 60 days, but 78 days for caesarian section delivery; 4 weeks must be taken after birth; applies up to 4 births, including miscarriage and abortion. <i>It is below international standards</i>
Cash benefits	ILO No. 183, arts. 6 (1) to (6) - Two thirds of a woman's previous earnings or equivalent	CEDAW, art. 11 (2) (b) - No specified amount (but with comparable social benefits)	RA 7322 (further amending RA 1161, as amended) - Full benefit, under Social Security System (SSS)
Maternity benefit	ILO No. 183, Art. 6 (7) - Prenatal, childbirth and postnatal care and hospitalization care when necessary	Art. 12 (2) - Appropriate services in connection with pregnancy, confinement and post-natal period, as well as adequate nutrition during pregnancy and lactation	No legislation providing for maternity benefits

Table 3 (continued)

Entitlements (protection/benefit)	ILO conventions and recommendations ^a	CEDAW and general recommendations ^b	Philippine laws
Health protection	ILO No. 183, art. 3 - Where significant workplace risks have been identified, provide alternative to such work. Considered prejudicial to pregnant and nursing women: manual lifting, carrying, pushing or pulling of loads; exposure to biological, chemical or physical agents hazardous to reproductive health; requiring special balance; sitting or standing, to extreme temperatures, or to vibration	Art. 11 (1) (f) and (2) (d) - Protection of health and safety in working conditions, including safeguarding of the function of reproduction. Special protection to women during pregnancy in types of work proved to be harmful to them. No specified harmful work.	No specific legislation providing for health protection, but PD 442 (Labor Code, as amended), art. 130 prohibits night work for women, but with exceptions. This is considered discriminatory for women in many countries ^c
Employment protection against discrimination ^d	ILO No. 183, art. 8	CEDAW, art. 11 (2) (a)	PD 442, art. 137
Breaks for breastfeeding	ILO No. 183, art. 10 - Right to one or more daily breaks for breastfeeding/lactation or daily reduction of daily working hours for breastfeeding; breaks or reduction in hours counted as working time and paid.	No specific provision, but related to art. 11 (2) (c) on provision of social services like child-care facilities No specific provision, but related to social benefits	No provision in the PD 442. But RA 679 (1952), sec. 8 (b) provides for one-half hours twice a day during working hours for employee to nurse a child There is argument that RA 679, sec. 8 (b) is not repealed because PD 442 is silent on this entitlement

^aNot ratified.^bRatified.^cNight work protection is not within the scope of this paper.^dNot within the scope of this paper.

Protection from Harmful Work. Furthermore, Recommendation 191 in relation to Convention 183 provides that where significant workplace risks related to the health and safety of pregnant or nursing woman have been identified, measures should be taken to provide an alternative to such work on the basis of a medical certificate as appropriate. In particular, works that are considered prejudicial to pregnant and nursing women include the following:

1. arduous work involving the manual lifting, carrying, pushing, or pulling of loads
2. work involving exposure to biological, chemical, or physical agents that are hazardous to reproductive health
3. work requiring special balance
4. work involving physical strain due to prolonged periods of sitting or standing, extreme temperatures, or vibration

The recommended protection of pregnant women from harmful types of work is congruent with article 11 (2) (d) of CEDAW, which requires states-parties to undertake appropriate measures to provide special protection to women during pregnancy in types of work proved to be harmful to them. To date, however, there have yet been no measures introduced to ensure the protection of pregnant women from types of work proved to be harmful to them.

No doubt, the maternal benefits and protective measures mandated under CEDAW recognize the maternal function of pregnant or nursing women. It must be mentioned, however, that in providing greater maternity benefits and protection for pregnant and lactating women, women's further discrimination in employment should be guarded against. On this point, the concern of formal-equality advocates such as William is not a remote possibility: that employers will choose to hire male workers to avoid the inconvenience and costs of these maternity benefits and protection. Any legislated maternity protection should, therefore, necessarily include measures to counter employment discrimination.

CONCLUSION AND RECOMMENDATIONS

Bearing the influence of CEDAW's substantive equality, the gender-equality legislation affecting workers in the last decade has brought beneficial effect in terms of achieving equal opportunities and fair

treatment between women and men. The legislative gains are too significant to be ignored; they are milestones in the promotion of gender equality and nondiscrimination, particularly in the workplace. The extent of the government's compliance with international standards under CEDAW and ILO conventions and recommendations is shown in the table of key gender issues and the extent of government compliance.

Still and all, the government's responses to the gender issues have their pitfalls. For one thing, the social services and arrangement that were designed to equalize family responsibilities between women and men, or to help combine home and family responsibilities, bear instances of discrimination—either they reinforce discriminatory gender stereotypes, which leave the traditional role of women and men intact; or they lead to the inequality of results and benefits, which leave women at the losing end of the bargain. With regard to gender-related violence, the definition fails to fully comprehend the extent of male dominance in other forms of conduct and relationships such as sexual harassment among peers.

As to meeting the Philippines' other legal obligations under CEDAW, complementary to the ILO conventions and recommendations, and its commitment under the Beijing Platform for Action (BPA),²¹ much more is needed in the area of maternity benefits and protection; as well as on the question of intersectionality, the interface of gender discrimination with other forms of discrimination based on ethnicity, class, age, disability, and sexual orientation, among others. For instance, the government has not taken all appropriate measures to address the pressing issues of disadvantaged, vulnerable, and poor women, such as the indigenous women, migrant women, the unpaid women workers in rural and urban family enterprises,²² and other informal workers. In spite of the visible number of these workers in the labor force and their substantial contribution to the Philippine treasury, their efforts have not been sufficiently recognized, or their welfare given the adequate protection that it deserves. Discrimination against women (and men) of different sexual orientation is well entrenched in society. The Human Rights Committee,²³ noting that legislation related to sexual orientation is currently being discussed in Congress,²⁴ urged the Philippines, in this context, "to pursue its efforts to counter all forms of discrimination" (Human Rights Committee 2003, 5).

With the great number of women who continue to experience the disempowering effect of gender inequalities in the home and workplace, all efforts to achieve gender equality for women and men would be rendered ineffective, unless legislative and other measures are undertaken to address these equally pressing issues. Surely, legislation has its constraints, but it is still an essential ingredient toward the goal of achieving gender equality. Along this line, the ratification or accession to international treaties (e.g., the ILO conventions and recommendations), which promote gender equality, would signify the country's willingness to be held accountable for noncompliance of its treaty obligations under such treaties.

The realization of gender equality requires more than just legal reforms. It requires, most of all, the transformation of society—that is, to redistribute power and change the political, economic, and social structures or institutions that maintain and reinforce gender inequality. This necessarily includes the need to modify the social and cultural patterns of conduct of women and men with a view to eliminate prejudices and practices that are based on the idea of men's supremacy and women's subordination. It is essential that a sustained and systematic educational campaign toward this end be undertaken. Ultimately, gender equality will only come about under an enabling institutional and social environment that ensures *de jure* (in law) and *de facto* (in fact) equality between women and men. ❀

NOTES

1. The full title is "An Act Increasing Maternity Benefits In Favor Of Women Workers In The Private Sector, Amending For The Purpose Sec. 14-A of Republic Act No. 1161, As Amended, And For Other Purpose."
2. The Philippines ratified two of the four International Labor Organization equality core conventions: Equal Remuneration Convention (100) of 1951, on December 29, 1953; and Discrimination, Employment and Occupation Convention (111) of 1958, on November 17, 1960.
3. Convention on the Elimination of Discrimination against Women (CEDAW), article 1.
4. It is relevant to note that the nursery provision in article 132 of the Labor Code also bears the same infirmity. Where the Secretary finds it appropriate to require any employer to establish a nursery, such benefit will only be for the benefit of women workers of a establishment. This perpetuates the notion that child caring and child rearing are *solely* women's functions, thereby reinforcing gender stereotyping. This would result in a possible discrimination for women under a situation where the provision for nursery or such similar arrangement, identified as a "women's issue," would mean additional costs or inconveniences for employers, giving them the reason to avoid the employment of women.

5. The unpublished Summary of Barangays With and Without Day Care Centers of the Department of Social Welfare and Development (DSWD), Program Management Bureau, however, reveals that as of 2004 there are already 33,823 day-care centers; out of 41,105 barangays, however, 6,280 are still without day-care centers.
6. The Bureau of Internal Revenue Ruling dated July 28, 2005, substantially reiterates the condition precedent laid down by law.
7. Implementing Rules and Regulations of Republic Act (RA) 8187 (1995), section 5.
8. 15 Phil. 391 (1910).
9. 50 O.G. 9010-R (1953).
10. Rules and Regulations in the Implementation of RA 8972, section 19.
11. An interview with Juliet Alegarme, social welfare officer 3, of the Women and Family Committee of the DSWD on January 11, 2006, reveals that based on scattered information gathered through queries received from private firms, some firms grant three to four days of parental leave and considered the same as compliance with the law. According to Alegarme, in a lecture given to them by Sheila Uy of the Supreme Court, the speaker opines that parental leave of less than seven days is substantial compliance with the law. On the other hand, in Bureau of Working Conditions (BWC)-Wage and Hour Standards Division Opinion 435, series 2003 issued by Teresita Manansala, director 4 of the BWC of the Department of Labor and Employment, dated October 13, 2003, in reply to a query from Alex Ramos, assistant vice president of the University of Batangas, the phrase "not more than seven days" was interpreted to mean that the employee is entitled to a parental leave of up to seven days. It would all depend on the grantee if she or he would utilize or maximize the seven-day parental leave. Hence, it is the considered view of the BWC that the employer is required by law to grant up to seven working days when a solo parent demands or needs to leave for the purpose of enabling her or him to perform parental duties. This is in line with the Civil Service Commission (CSC) grant of seven-day parental leave under Part 6 (1) of CSC Resolution 040284, dated March 22, 2004. The CSC Resolution, however, presents some problems in that the parental leave of seven days prevails over an existing or similar benefit under a government body or Collective Bargaining Negotiation Agreement. By upholding the primacy of the law, it leads to an impairment of a contract validly entered into by the parties.
12. CEDAW General Recommendation 19, paragraph 6.
13. G.R. No. 106341, September 2, 1994, 236 SCRA 280 (1994).
14. RA 7877 (1995), section 3(a) (3).
15. G.R. No. 124617, April 28, 2000, 331 SCRA 237 (2000).
16. Note that under section 3 (c) sexual harassment can also be committed by an officer against fellow officer, or an employee against another employee. The original intent therefore is to include sexual harassment in a peer relationship. Consequently, under section 6 of Senate Bill 1632, persons liable for sexual harassment include employees, labor union leaders or members, customers, clients, and other persons transacting business within the employment environment. See *Record of the Senate* 4 (60), 320, March 8, 1994.
17. G.R. No. 124617, April 28, 2000, 331 SCRA 237 (2000).
18. The full title is "An Act To Regulate The Employment Of Women And Children, To Provide Penalties For Violation Hereof, And For Other Purposes," commonly known as the Woman and Child Labor Law.

19. Maternity Protection Convention (3) of 1919 and Maternity Protection Convention (103) of 1952.
20. Feliciano argues that “a general law (Labor Code) and a special law (Woman and Children Labor Law) on the same subject are statutes in *pari materia* and should, accordingly, be read together and harmonized if possible, with a view of giving effect to both.”
21. BPA is a women’s empowerment agenda intended to remove all political, economic, social, and cultural barriers to women’s participation at all levels of decision making. It calls for a concerted action toward the attainment of full protection and enjoyment of all human rights, and provides for specific actions to achieve equality in twelve areas of concern: 1) poverty, 2) education and training, 3) health, 4) economy, 5) human rights, 6) armed conflict, 7) political participation, 8) media, 9) institutional mechanism, 10) environment, 11) violence against women, and 12) the girl-child.
22. CEDAW’s General Recommendation 16 (1991).
23. Treaty-monitoring body for the International Covenant on Civil and Political Rights, which the Philippines ratified on October 23, 1996.
24. House Bill 634, entitled “An Act Prohibiting Discrimination On The Basis Of Sexual Orientation And Gender Identity And Providing Penalties Thereafter,” was filed by Akbayan Party-list representative Loretta Ann Rosales on 1 July 2004 during the 13th Congress, 1st Reg. Sess. (2004-2005). Similar bills were previously filed during the 10th, 11th and 12th Congress.

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