Philippines RH Act: Rx for Controversy
Diatribe by Philippines' President turns back the clock

Sean Murphy,
Administrator Protection of Conscience Project

Protection of Conscience Project
www.consciencelaws.org

ADVISORY BOARD
Iain Benson, PhD
Professor of Law, University of Notre Dame Australia; Extraordinary Professor of Law, University of the Free State, Bloemfontein South Africa

J. Budziszewski, PhD
Professor, Departments of Government & Philosophy, University of Texas, (Austin) USA

Shimon Glick, MD
Professor (emeritus, active) Faculty of Health Sciences, Ben Gurion University of the Negev, Beer Sheva, Israel

Mary Neal, PhD
Senior Lecturer in Law, University of Strathclyde, Glasgow, Scotland

David S. Oderberg, PhD,
Dept. of Philosophy, University of Reading, England

Abdulaziz Sachedina,PhD
Dept. of Religious Studies, University of Virginia, Charlottesville, Virginia, USA

Roger Trigg, MA, DPhil
Senior Research Fellow, Ian Ramsey Centre for Science and Religion, University of Oxford, England

PROJECT TEAM
Human Rights Specialist
Rocco Mimmo, LLB, LLM
Ambrose Centre for Religious Liberty, Sydney, Australia

Administrator
Sean Murphy

Revision Date: 2019 Sep 16

Abstract

In June, 2019, Philippines President Rodrigo Duterte blamed the Catholic Church for obstructing government plans to reduce the country's birth rate and population. "They think that spewing out human beings by the millions is a gift from God," he claimed, adding that health care workers should resign if they are unwilling to follow government policy on population control for reasons of conscience.

Duterte's authoritarian diatribe clashes with a ruling of the Supreme Court of the Philippines and turns the clock back to times of harsh and extreme rhetoric when the current law (commonly called the *RH Act*) was being developed.

The *RH Act* was the product of over fourteen years of public controversy and political wrangling. It was of concern when it was enacted because it threatened some conscientious objectors with imprisonment and fines. In January, 2013, the Project reviewed the *Act* in detail. Project criticisms about the law's suppression of freedom of conscience were validated in April, 2014, when the Supreme Court of the Philippines struck down sections of the law as unconstitutional.

Given the long history of attempts at legislative coercion in the Philippines and President Duterte's obvious hostility to freedom of conscience and religion in health care, the Project's 2013 review of the *RH Act* is here updated and republished.

Assuming that the Philippines government's concern about population growth in the country is justified, it does not follow that it is best addressed by the kind of state bullying exemplified by President Duterte's ill-tempered and ill-considered eruption. Aside from the government's enormous practical advantage in its control of health care facilities, it has at its disposal all of the legitimate means available to democratic states to accomplish its policy goals. Not the least of these is persuasive rational argument, an approach fully consistent with the best traditions of liberal democracy, and far less dangerous than state suppression of fundamental freedoms of conscience and religion.

TABLE OF CONTENTS

Turning back the clock 1

A history of coercive legislative measures. 1

Background
Health care delivery 2
Population policies 2
Religious considerations 2

The "RH Act" of 2012
General comments 3
Specific provisions 4
Rights claims. 4
'Discrimination' 4
Providing 'information' 5
Providing contraceptives, sterilization and artificial reproduction 5
Compliance and enforcement 6
Freedom of conscience and religion 6
Limited or worthless exemptions 6

The Supreme Court weighs in 7

The way forward. 7

Appendix "A"
Philippines population control and management policies
Establishment of POPCOM 13
The Population Act 13
The Population Management Program 13
Responsible Parenthood and Family Planning Program. 13
Population policy effectiveness and outcomes 13
Collateral outcomes 16
Influence of the Catholic Church 16

Appendix "B"
The "RH Act" (2012) in brief
The Responsible Parenthood and Reproductive Health Act of 2012
SEC. 2. Declaration of Policy 21
SEC. 3. Guiding Principles for Implementation 23
SEC. 4. Definition of Terms 24
SEC. 7. Access to Family Planning 27
SEC. 9. The Philippine National Drug Formulary System and Family Planning

supplies . . . 28
SEC. 15. Certificate of Compliance. . . . 29
SEC. 17. Pro Bono Services for Indigent Women . . . 30
SEC. 19. Duties and Responsibilities . . . 30
SEC. 23. Prohibited Acts . . . 31
SEC. 24. Penalties. . . . 33
SEC. 27. Interpretation Clause. . . . 34
Project Comments
Re: Section 2 - Declaration of Policy. . . . 34
Re: Section 3 - Guiding Principles for Implementation. . . . 35
Re: Section 4 - Definition of Terms . . . 35
Re: Section 7 - Access to Family Planning. . . . 36
Re: Section 9 - The Philippine National Drug Formulary System and Family Planning supplies . . . 37
Re: Section 15 - Certificate of Compliance . . . 37
Re: Section 19 - Duties and Responsiblities . . . 37
Re: Section 23 - Prohibited Acts . . . 38
Re: Section 24 - Penalties . . . 38
Re: Section 27 - Interpretation Clause . . . 38

7120 Tofino St., Powell River, British Columbia, Canada V8A 1G3
Tel: 604-485-9765 E-mail: protection@consciencelaws.org

Turning back the clock

In June, 2019, Philippines President Rodrigo Duterte blamed the Catholic Church for obstructing government plans to reduce the country's birth rate and population. "They think that spewing out human beings by the millions is a gift from God," he claimed, adding that health care workers should resign if they are unwilling to follow government policy on population control for reasons of conscience.[1]

Duterte's authoritarian diatribe clashes with a ruling of the Supreme Court of the Philippines and turns the clock back to times of harsh and extreme rhetoric when the current law was being developed. Commonly known as the *RH Act*, the *Responsible Parenthood and Reproductive Health Act* was signed into law by President Benigno S. Aquino III on 21 December, 2012.[2] It was the product of over fourteen years of public controversy and political wrangling.

A history of coercive legislative measures

Congressman Edcel Lagman introduced the *Responsible Parenthood and Population Management Act of 2005* (House Bill 3773) in the 13th Congress,[3,4] a consolidation of four previous bills.[5,6,7,8] HB 3773 included coercive elements drawn from one of the consolidated bills, which he had introduced:[5]

- the state to encourage a maximum of 2 children per family, backed by giving preference in state scholarships to compliant couples
- all collective agreements to require employers (no exceptions) to pay for employees' contraceptives, sterilization and other forms of birth control
- six months jail or 20,000 peso fine or both for health care providers who
    - withhold information or provide incorrect information about birth control and sterilization
    - refuse to perform sterilization
    - refuse to provide contraceptives and other forms of birth control
    - refuse to refer patients for those services to non-objecting providers
- for anyone engaging in "disinformation" about the law

That bill having failed, Lagman introduced another to the House of Representatives three years later.[9] It was largely replicated in a concurrent bill in the Senate,[10] but neither bill passed. Later proposals[11,12] were amalgamated into a single bill in 2011.[13] This evolved in two different versions in the House and Senate during 2012.

The House and Senate passed both versions in December, 2012[14] and then agreed upon the final text that was ultimately signed by the Philippines President.[15] The most incendiary provisions (such as the threat of imprisonment for "engaging in disinformation" about the law[16]) were deleted during the amendments process.

Nonetheless, the new law was of concern because it threatened some conscientious objectors with

imprisonment and fines. In January, 2013, the Project reviewed the *RH Act* in detail. Project criticisms about the law's suppression of freedom of conscience were validated in April, 2014, when the Supreme Court of the Philippines struck down sections of the law as unconstitutional.[17]

Given the long history of attempts at legislative coercion in the Philippines and President Duterte's obvious hostility to freedom of conscience and religion in health care, the Project's 2013 review of the *RH Act* is here updated and republished. Comments on specific parts of the text are provided in Appendix "B," *The RH Act (2012) in brief*.

Background

Health care delivery

Health care is delivered in the Philippines by both the public and private sector. All Filipino citizens are automatically enrolled in the National Health Insurance Program (NHIP),[18] but citizens remain free to obtain private health insurance.[19,20]

The Program is administered by the Philippine Health Insurance Corporation (PhilHealth), a government owned and controlled corporation. PhilHealth establishes and monitors standards and, within the terms of the *National Health Insurance Act of 2013*, determines policies for payment of claims. It also accredits health care institutions and practitioners and processes and reimburses claims for health care provided by them.[21]

The government operates 26,700 health facilities; the private sector, including religious denominations, controls only 2,301. The great majority of hospitals are private facilities (993 of 1,456),[22] but all forms of birth control legal in the Philippines can be provided outside a hospital setting. With over a 10 to 1 advantage in the control of health facilities that can provide birth control, the government would seem to have little cause to blame the Catholic Church or other religious denominations for its failure to meet its population targets.

Population policies

The ground for the *RH Act* was cleared over a period of forty years by laws and population management policies and programmes aimed at reducing fertility in the Philippines. While apparently ineffective in reducing population growth, the programmes have resulted in the establishment of a national infrastructure of ministries, offices and officials responsible for implementing government population and family planning policies. Foremost among them is the state Commission on Population (POPCOM)[23] and related agencies, including the Department of Health (DOH). Thus, government direction in family planning and population control has become part of the normal social, political and health care landscape in the Philippines. [Appendix "A"]

Religious considerations

Over 80% of Filipinos identify themselves as Catholic, which probably accounts for the fact that abortion is illegal in the country and the constitution requires that the state protect the lives of both mother and unborn child from the moment of conception.[24] However, reported attitudes and practices indicate widespread rejection rather than acceptance of Catholic teaching on sexuality and

marriage.

For example, the proportion of out-of-wedlock births increased from almost 45% in 2011[25] to over 50% in 2017,[26] notwithstanding the Church's long-standing teaching that extra-marital sex is immoral. It would be absurd to suggest (à la Duterte) that the couples involved were not using contraceptives because of Catholic teaching. In fact, Catholics who adhere to Church teaching on these subjects, while they may have the support of their bishops, are probably minorities within the health care professions and within their faith communities. [Appendix "A"]

The "RH Act" of 2012

General comments

Given that the final form of the law was the product of years of debate and intensive scrutiny by both the House and the Senate, it is surprising to find that the wording of the law leaves much to be desired. It appears that the opposing sides of the debate attempted to arrive at a compromise by introducing conflicting political or ideological rhetoric into the text without considering to what extent the conflict could be resolved by interpretation - if it can be resolved at all.

Some parts of the *RH Act* are questionable for a variety of reasons. For example: it transforms political/ideological concepts and terminology (gender equality, gender equity, women empowerment) into "health concerns" [Appendix "B", Comment 7]. The law asserts that there is a "right to health," which clearly cannot be, since a natural disease process would then be a violation of human rights [Comment 2]. It claims that there is a "right to choose and make decisions," without recognizing that many choices and decisions may be legitimately restricted or prohibited by law [Comment 3]. The *Act* states that the family is "an autonomous social institution," but no family and no individual is actually autonomous; interdependence, rather than autonomy, is more characteristic of individuals and families [Comment 5].

Other sections are ambiguous or inconsistent.

Section 3(h) suggests that the State may be obliged by unspecified international human rights agreements to disregard individual preferences and choice of family planning methods - which the Act identifies as human rights [Comment 15].

On the one hand, the family is said to be "the natural and fundamental unit of society," founded on marriage, and the language suggests that this refers to the marriage of a man and woman. On the other, the *Act* does not associate reproductive health, sexual health and childbearing with marriage or family [Comments 17, 22, 23, 25, 26]. On the contrary: since the *Act* states that "universal access" to health, including "reproductive health," is a human right that must be guaranteed by the State [Comment 1], it follows that the State must guarantee the "right " to have children to single individuals and unmarried couples, including those who identify themselves as homosexual. [Comments 10, 17, 22]. This logically includes a "right" to State-supported artificial reproduction [Comments 10, 20, 21,22].

Discrimination is supposed to be eradicated, but, at one point, the *Act* appears to authorize discrimination against single people in favour of couples [Comment 26]. Those who wish to marry

must provide a certificate of compliance to prove that they have been instructed by the State on responsible parenthood, family planning, breastfeeding and infant nutrition; those who will have children but don't intend to marry need no such instruction [Comment 34].

Worse, parts of the law are self-contradictory. Section 4(a) of the *Act* prohibits abortifacient drugs and devices, including those that cause the death of an embryo before implantation [Comment 16], but Section 9 requires that intrauterine devices and injectable contraceptives be kept in stock, even though they may have an embryocidal mechanism of action that violates Section 4[27] [Comment 32]. "Emergency contraceptive pills" and "postcoital pills" are forbidden for reasons that are unclear, but so are "equivalent" forms of the drugs, which, depending on the product and dosage, can include ordinary birth control pills [Comment 33].

A troubling example of ideologically-charged rhetoric impacts parents, not health care workers:

> Section 2: The State shall also promote openness to life: Provided, That parents bring forth to the world only those children whom they can raise in a truly humane way.

What constitutes "a truly humane" way to raise children is not defined and is a highly subjective term. A policy statement of this kind enshrined in law leaves ample room for oppressive action by state authorities determined to "encourage" acceptance of a two-child policy. This goal is apparently being pursued by POPCOM[28] even though the *RH Act* explicitly prohibits the state from adopting "demographic or population targets."[29]

Specific provisions

Rights claims

If it really were a "human right" to be provided with contraceptives, contraceptive sterilization and artificial reproduction, it would follow that anyone who refused to provide them would be guilty of a human rights violation. It is contrary to sound public policy to permit violations of *authentic* human rights based on appeals to religious or conscientious convictions. We do not, for example, admit a defence of religious freedom in cases of racial discrimination, nor do we accommodate racial prejudices. Thus, the general claim of rights made in the *Act* would, if accepted literally, leave no principled basis upon which to exempt any health care institution or health care worker from a requirement to provide morally contested procedures or services like contraception, contraceptive sterilization and artificial reproduction.

Note that one of the requirements for accreditation by the Philippine Health Insurance Corporation is "recognition of the rights of patients."[30] But for the 2014 Supreme Court decision, the declaration of rights in the *RH Act* would have enabled PhilHealth to deny accreditation to any health care facility that refused to comply with the *Act* for reasons of conscience.

'Discrimination'

Section 2 of the *Act* requires the State to "eradicate discriminatory practices, laws and policies that infringe on a person's exercise of reproductive health rights." Note that an actual violation of the purported right is not required. It is sufficient that it be "infringed." The effect of this provision is amplified by Section 27, which states that the law must "be liberally construed to ensure the

provision, delivery and access to reproductive health care services, and to promote, protect and fulfill women's reproductive health and rights."

Within the context of rights claims and accusations of discrimination, it is important to note that Section 23(a)3 makes it an offence to "[r]efuse to extend health care services and information on account of the person's marital status, gender, sexual orientation, age, religion, personal circumstances, or nature of work." Activists have alleged that physicians who, for reasons of conscience, decline to provide contraceptives or restrict them to married persons, or who refuse to provide artificial reproduction for single people and patients identifying themselves as homosexuals, are guilty of professional misconduct and discrimination.[31,32] It is reasonable to believe that such accusations will be made in similar circumstances against objecting Filipino health care workers, even though such objections are typically about conduct, not the personal characteristics of patients [Comment 41].

Fortunately, the Supreme Court decision prevents these provisions from being used to aggressively suppress religious or moral expressions of belief, policies or practices that authorities deem to "infringe" alleged rights to contraception, contraceptive sterilization and artificial reproduction.

Providing 'information'

It is also an offence to withhold or restrict the dissemination of information concerning "reproductive health" and access to reproductive health services, or to deliberately provide "incorrect information" about such services Comment 40]. This provision lends itself to partisan misuse. Reciprocal accusations of spreading "incorrect information" are frequently heard in heated polemics about "reproductive health care," and objectors have been accused of withholding information simply because they decline to provide contact information for providers of morally controversial services.

If dissemination of incorrect information or improper withholding of information really is a problem in a given case, it would be safer, more productive, and less inflammatory to deal with it through remedial or disciplinary measures after a careful investigation by professional authorities. It is doubtful that giving the state the power to jail those who refuse to say or do what they believe to be wrong will improve the quality of public discourse or health care.

While accusations of providing "incorrect information" are still possible, the Supreme Court of the Philippines struck down this section of the law to the extent that it "punish[es] any healthcare service provider who fails and or refuses to disseminate information regarding programs and services on reproductive health regardless of his or her religious beliefs."[33]

Providing contraceptives, sterilization and artificial reproduction

According to Section 7 of the *Act*, all accredited public and private health facilities must provide contraceptives, contraceptive sterilization and artificial reproduction. Private facilities can charge for the services, but may provide them free of charge to "indigents," though on this point the wording of the law is unclear [Comment 27].

Non-maternity specialty hospitals and hospitals operated by religious groups can provide the services, but need not do so. However, if they do not, the *Act* states that they must "immediately refer" patients to another "conveniently accessible" facility - presumably one that will provide the

services. This would be unacceptable to those who object to referral on the ground that it makes them complicit in what they consider to be the wrongful act that follows.

The law does not explicitly state what is required if another facility is not conveniently accessible. However, a later statement that "no person shall be denied. . . access to family planning services," read in conjunction with Section 27, invites the conclusion that if another facility is not conveniently accessible, the objecting institution must provide the morally contested service [Comments 29, 30].

Demanding that denominational facilities provide services they believe to be gravely wrong or facilitate them by referral is a violation of freedom of conscience and religion. Had the Philippines Supreme Court not struck down this provision in 2014, the persons responsible and officers of the institution could have been jailed for one to six months, fined of up to 100,000 pesos, or both [Comment 31].

Compliance and enforcement

The law requires the Department of Health, acting with the Philippine Health Insurance Corporation, to increase the power of professional regulators to enforce the *Act*, which, in practical terms, could have led to the suppression or restriction freedom of conscience of health care workers and institutions through accreditation rules, codes of conduct, Comment 39]. This has been precluded by the Supreme Court decision.

Freedom of conscience and religion

Limited or worthless exemptions

As previously noted, the rights claims made in the *Act* leave no principled basis upon which to exempt any health care institution or health care worker from a requirement to provide contraception, contraceptive sterilization, or artificial reproduction.

Section 23(a)3 contains the only provisions for accommodation of freedom of conscience or religion. Contraception, contraceptive sterilization and artificial reproduction are morally controversial, but this section does not allow religious or ethical objections to any of them. Instead, it purports to accommodate health care workers who refuse to provide health services or information "on account of the person's marital status, gender, sexual orientation, age, religious convictions, personal circumstances, or nature of work." In other words, the *Act* purports to offer accommodation only to those willing to accuse themselves of unjust discrimination.

In reality, conscientious objection normally occurs because a health care worker is unwilling to be morally complicit what he believes to be in a wrongful act, not because of a personal characteristic of the patient. A physician who, for moral reasons, refuses to perform contraceptive sterilization does so because he believes it to be wrong, not because his patient is a man or woman. Even if a personal characteristic is related to an objection (as in the case of refusing contraceptives to an unmarried patient), the objection is not to the patient. Instead, the objector seeks to avoid vicarious moral responsibility for something done by the patient (extra-marital sex).

However, the provision purporting to accommodate the exercise of freedom of religion does not recognize moral, religious or ethical objections to contraception, sterilization, artificial reproduction,

etc., so it is, first of all, worthless. Moreover, for many objecting health care workers, the demand for referral is not a form of accommodation, but simply another form of oppression. Many consider referral and other forms of facilitation unacceptable because they hold that it makes them complicit in what they consider to be immoral conduct.

Thus, the *RH Act* would have made the exercise of freedom of conscience impossible or ridiculous, requiring objectors to invite public obliquy by false confessions of prejudice, in exchange for which the *Act* offers only counterfeit accommodation. Given the problems with the wording of other sections of the law, it is not clear whether this provision was deliberately constructed as an obstacle to conscientious objection, or if it was simply the product of appalling legislative draftsmanship.

The Supreme Court weighs in

In any case, the majority of the Supreme Court of the Philippines understood the problem posed by the RH Act:

> While the RH Law, in espousing state policy to promote reproductive health manifestly respects diverse religious beliefs in line with the NonEstablishment Clause, the same conclusion cannot be reached with respect to Sections 7, 23 and 24 thereof. The said provisions commonly mandate that a hospital or a medical practitioner to immediately refer a person seeking health care and services under the law to another accessible healthcare provider despite their conscientious objections based on religious or ethical beliefs. . .
>
> Though it has been said that the act of referral is an opt-out clause, it is, however, a false compromise because it makes pro-life health providers complicit in the performance of an act that they find morally repugnant or offensive. They cannot, in conscience, do indirectly what they cannot do directly. One may not be the principal, but he is equally guilty if he abets the offensive act by indirect participation.[34]34

The way forward

Assuming that the Philippines government's concern about population growth in the country is justified, it does not follow that it is best addressed by the kind of state bullying exemplified by President Duterte's ill-tempered and ill-considered eruption. Aside from the government's enormous practical advantage in its control of health care facilities, it has at its disposal all of the legitimate means available to democratic states to accomplish its policy goals. Not the least of these is persuasive rational argument, an approach fully consistent with the best traditions of liberal democracy, and far less dangerous than state suppression of fundamental freedoms of conscience and religion.

Notes

1. Torres J. Duterte blames Philippine Church for rapid population rise: Catholic opposition to family planning is main reason for high fertility rate, he says [Internet]. UCA News. 2019 Jun 11. Available from:

<https://www.ucanews.com/news/duterte-blames-philippine-church-for-rapid-population-rise/85390>. (Cited 2019 Sep 14).

2. Republic of the Philippines, Republic Act No. 10354, *Responsible Parenthood and Reproductive Health Act of 2012*, Third Regular Session, 15th Congress, 2012 [RH Act]. Available from: <https://www.consciencelaws.org/archive/documents/philippines/2012-12-21-rprha-philippines.pdf>

3. Torrevilas DM. Lagman's commitment to reproductive health [Internet]. The Philippine Star (philstarGlobal). 2009 Feb 28. Available from:<https://www.philstar.com/opinion/2009/02/28/443846/lagmans-commitment-reproductive-health>. (Cited 2019 Sep 14).

4. Republic of the Philippines, House Bill 3773, An Act Providing for an Integrated and Comprehensive National Policy on Responsible Parenthood, Population Management and Human Development, Creating a Responsible Parenthood, and Population Management Council, and for Other Purposes. (Responsible Parenthood and Population Management Act of 2005), First Regular Session, 13th Congress, 2005. Filed: 2005 Feb 22. Principal author: Edcel C. Lagman.

5. Republic of the Philippines, House Bill 16, An Act Creating a Reproductive Health and Population Management Council for the Implementation of an Integrated Policy on Reproductive Health Relative to Sustainable Human Development and Population Management, and for Other Purposes (Reproductive Health Act of 2004), First Regular Session, 13th Congress, 2004. Available from: <https://www.consciencelaws.org/archive/documents/philippines/2004-07-01%20hb0016.pdf>.

6. Republic of the Philippines, House Bill 2029, An Act Providing for Reproductive Health Care Structures and Appropriating Funds Therefor (The Reproductive Health Care Act), First Regular Session, 13th Congress, 2004. Filed: 2004 Aug 03. Principal author: Josefina M. Joson.

7. Republic of the Philippines, House Bill 2042, An Act Promulgating a Comprehensive Policy on Birth Control and for this Matter Creating a Bureau of Population Management under the Department of Health and Renaming the Department as the Department of Health and Population Management and Appropriating Funds Therefor (The Population Management Act of 2004), First Regular Session, 13th Congress, 2004. Filed: 2004 Aug 03. Principal author: Ferjenel G. Biron, M.D.

8. Republic of the Philippines, House Bill 2550, An Act Promoting Responsible Parenthood by Providing Incentives to Couples/Individuals who Practice Surgical Family Planning Methods Providing Funds Therefor and Other Purposes (Population Management Act of 2004), First Regular Session, 13th Congress, 2004. Filed: 2004 Aug 23. Principal author: Eduardo V. Roquero, M.D.

9. Republic of the Philippines, House Bill 5043, An Act Providing for a National Policy on Reproductive Health, Responsible Parenthood and Population Development, and for Other Purposes (The Reproductive Health and Population and Development Act of 2008), First Regular Session, 14th Congress, 2008. Available from: <https://www.consciencelaws.org/archive/documents/philippines/2008-05-26%20hb5043.pdf>.

10. Republic of the Philippines, Senate Bill 3122, The Reproductive Health and Population Development Act of 2009, Second Regular Session, 14th Congress, 2009. Available from: < https://www.consciencelaws.org/archive/documents/philippines/2009-03-04 sb3122.pdf>.

11. Republic of the Philippines, House Bill 96, The Reproductive Health and Population and Development Act of 2010, First Regular Session, 15th Congress, 2010. Available from: <https://www.consciencelaws.org/archive/documents/2010-07-01-hb96.pdf>.

12. Republic of the Philippines, Senate Bill 2378, The Reproductive Health Act, First Regular Session, 15th Congress, 2010. Available from: <https://www.consciencelaws.org/archive/documents/philippines/2011-08-10 sb2378.pdf>.

13. Republic of the Philippines, House Bill 4244, The Responsible Parenthood, Reproductive Health and Population and Development Act of 2011, First Regular Session, 15th Congress, 2011. [HB4244/2011].Available from: <https://www.consciencelaws.org/archive/documents/philippines/2011-02-21-hb4244.pdf>.

14. Diokno B. RH bill over the hump [Internet]. Business World Online 2012 Dec 19. Available from:<http://www.bworldonline.com/content.php?section=Opinion&title=RH-bill-over-the-hump&id=63125>. (Cited 2019 Sep 14).

15. Yamsuan C, Salaverria LB. RH bicam: Satisfying, pleasurable [Internet]. Inquirer.net 20i2 Dec 20. Available from: <https://newsinfo.inquirer.net/327105/rh-bicam-satisfying-pleasurable>. (Cited 2019 Sep 14).

16. HB4244/2011, supra note 13, Section 28(2)e.

17. *Imbong v Ochoa Jr.* (2014) 732 Phil 1 (Philippines SC, G.R. No. 204819) [*Imbong*]. Available from: <https://www.consciencelaws.org/archive/documents/philippines/2014-04-rh-majority.pdf> .

18. Republic of the Philippines, Republic Act 11223, *Universal Health Care Act*, Third Regular Session, 17th Congress, 2018 [*UHCA*], Section 5. Available from: <https://www.philhealth.gov.ph/about_us/RA11223_UHC.pdf>. (Cited 2019 Sep 14).

19. *Ibid*, Section 7(b)

20. Transferwise. Living Abroad: Life in the Philippines: Getting health insurance in the Philippines: A complete guide [Internet]. 2017 Sep 28. Available from:

<https://transferwise.com/gb/blog/health-insurance-philippines>. (Cited 2019 Sep 14).

21. Philippine Health Insurance Corporation, PhilHealth: About Us: Agency's Mandate and Functions [Internet]; 2014. Available from: <https://www.philhealth.gov.ph/about_us/mandate.html>. (Cited 2019 Sep 14).

22. Republic of the Philippines, Department of Health, National Health Facility Registry v2.0: Philippine Health Facility Status [Internet]. Available from: <https://nhfr.doh.gov.ph/Philippine_health_facility_statuslist.php>. (Cited 2019 Sep 14).

23. Commission on Population Philippines, POPCOM: About Us: History [Internet]. Available from: <http://www.popcom.gov.ph/about-us/history>. (Cited 2019 Sep 14).

24. Chan Robles Virtual Law Library, *The 1987 Constitution of the Republic of the Philippines*, Article II, Section 12. [Internet]. Available from: <http://www.chanrobles.com/article2.htm>. (Cited 2019 Sep 14).

25. Republic of the Philippines, Philippine Statistics Authority, Vital Statistics: Live births: Philippines 2011 [Internet] 2015 Dec 09. Available from: <https://psa.gov.ph/content/live-births-philippines-2011>. (Cited 2019-09-14).

26. Republic of the Philippines, Philippine Statistics Authority, Civil Registration: Vital Statistics: Births in the Philippines, 2017 [Internet]. Ref. No. 2018-199, 2018 Dec 18. Available from: <https://psa.gov.ph/vital-statistics/id/136977>. (Cited 2019 Sep 14).

27. Protection of Conscience Project, U.S. Food and Drug Administration: Approved Methods of Birth Control [Internet]. Available from: <https://www.consciencelaws.org/background/procedures/birth014-001.aspx>.

28. Republic of the Philippines, Commission on Population Philippines, The Philippine Population Management Program Directional Plan 2017-2022 [Internet] (Mandaluyong City, Philippines) at p. 32, Table 15. Available from: <https://drive.google.com/file/d/0B7yD0Z1BkW0fMWlxQUZRdjZWcnhDRC0tOTloWjBrNFVIeUd3/view)>. (Cited 2019-09-14)

29. *RH Act*, *supra* note 2, Sec. 3(l).

30. Republic Act 7875, *National Health Insurance Act of 2013*, Section 33(e): Minimum requirements for accreditation. In Philippine Health Insurance Corporation, The Revised Implementing Rules and Regulations of the National Health Insurance Act of 2013 (RA 7875 as amended by RA 9241 and 10606) [Internet]. 2013 Ed, p. 93. Available from: <https://www.philhealth.gov.ph/about_us/IRR_NHIAct_2013.pdf>. (Cited 2019 Sep 14).

31. Canning, C. Doctor's faith under scrutiny: Barrie physician won't offer the pill, could lose his licence [Internet]. The Barrie Examiner, 2002 Feb 21. Available from:

<https://www.consciencelaws.org/repression/repression017-001.aspx>.

32. Attaran A. Commentary: The Limits of Conscientious and Religious Objection to Physician-Assisted Dying after the Supreme Court's Decision in Carter v. Canada. Health Law in Canada. 2016 Feb;36(3):86-98. Available from: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2741748>. (Cited 2019 Sep 14).

33. *Imbong*, *supra* note 12 at 103.

34. *Ibid* at 72.

Appendix "A"

Philippines population control and management policies

Establishment of POPCOM

In 1967, President Ferdinand Marcos joined other world leaders in adding his signature to a *Declaration on Population* that had been made the previous year by representatives of 12 countries (often incorrectly cited in Philippines government documents as "the UN Declaration on Population").[1] Two years later, Executive Order 171 established the Commission on Population (POPCOM), and in 1970 Executive Order 233 empowered POPCOM to direct a national population programme.[2]

The Population Act

The *Population Act* (RA 6365) passed in 1971 made family planning part of a strategy for national development. Subsequent Presidential Decrees required increased participation of public and private sectors, private organizations and individuals in the population programme.[3]

Under President Corazon Aquino (1986 to 1992) the family planning element of the programme was transferred to the Department of Health, where it became part of a five year health plan for improvements in health, nutrition and family planning. According to the Philippines National Statistics Office, the strong influence of the Catholic Church undermined political and financial support for family planning, so that the focus of the health policy was on maternal and child health, not on fertility reduction.[4]

The Population Management Program

The Ramos administration launched the Philippine Population Management Program (PPMP) in 1993. This was modified in 1999, incorporating "responsible parenthood" as a central theme.[3] During the Philippines 12th Congress (2001-2004) policymakers and politicians began to focus on "reproductive health."[5]

Responsible Parenthood and Family Planning Program

In 2006 the President ordered the Department of Health, POPCOM and local governments to direct and implement the Responsible Parenthood and Family Planning Program.

> The Responsible Parenthood and Natural Family Planning Program's primary policy objective is to promote natural family planning, birth spacing (three years birth spacing) and breastfeeding which are good for the health of the mother, child, family, and community. While LGUs can promote artificial family planning because of local autonomy, the national government advocates natural family planning.[3]

Population policy effectiveness and outcomes

The population of the Philippines grew steadily from about 27million in 1960 to over 100 million in

2018. Starting from similar populations in 1960, Thailand, Myanmar and South Korea now have lower populations (Figure 1).

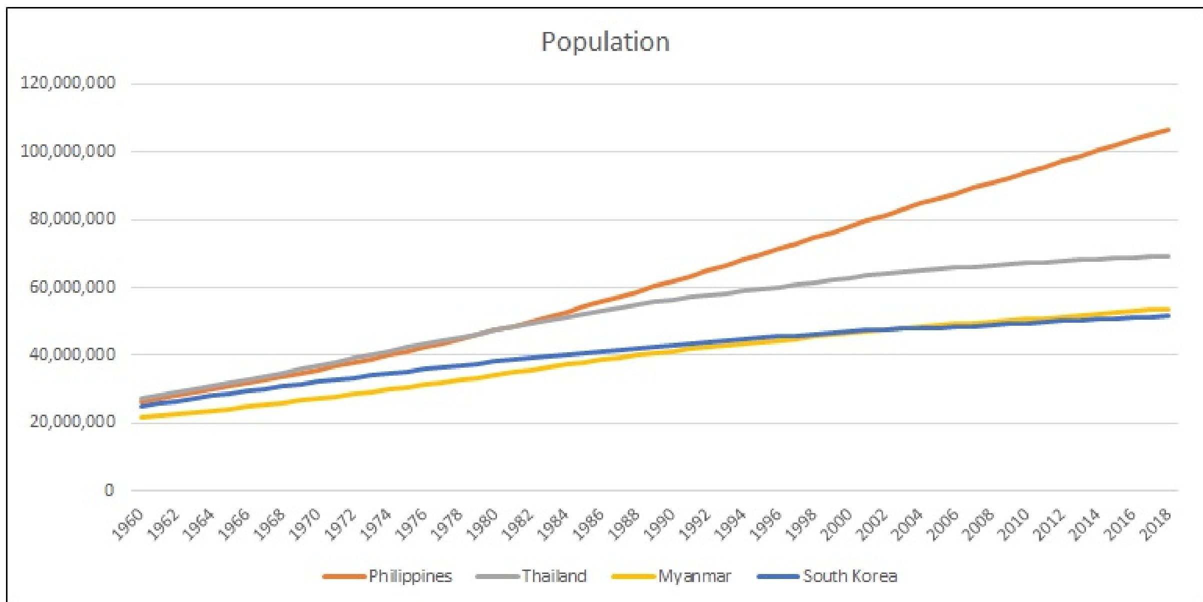

Figure 1. Source: World Development Indicators (2019 Jul 10)

However, during the same period, the *rate* of population growth in the Philippines and these countries decreased (See Figure 2). Moreover, the decrease in the Philippines growth rate remained comparatively steady, and was consistent with the decrease in population growth rate worldwide (Figure 3).

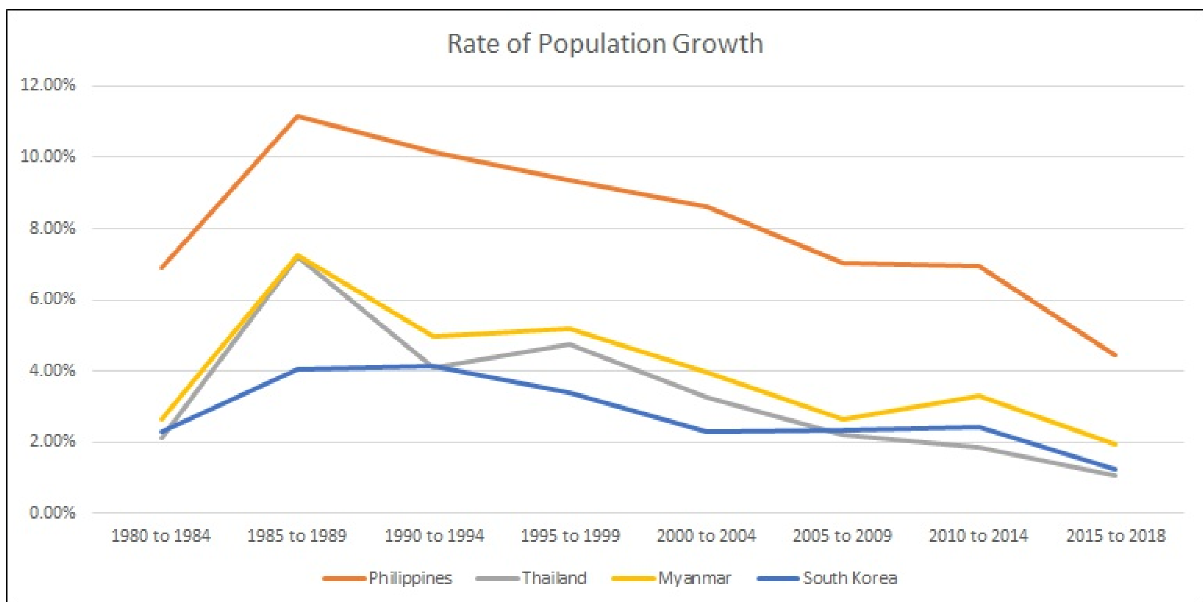

Figure 2. Rate of population growth from 1960.
Source: World Development Indicators (2019 Jul 10)

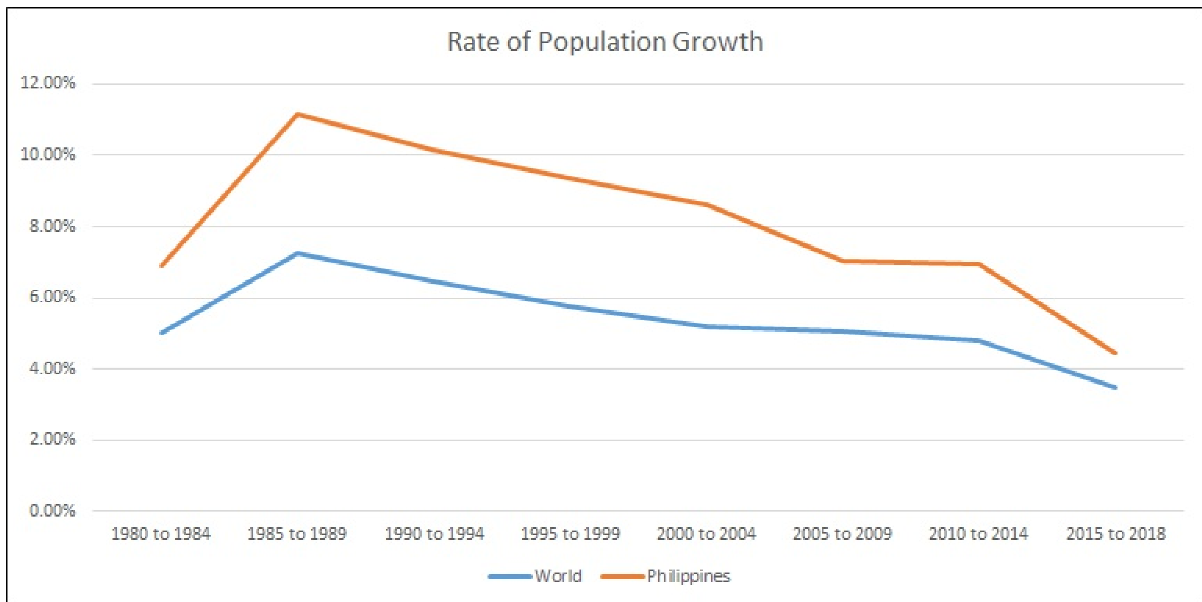

Figure 3. **Rate of population growth from 1960**
Source: World Development Indicators (2019 Jul 10)

From 2000 to 2017 the Philippines' birth rate (per 1,000 people) remained consistently higher than that of Thailand, Myanmar and South Korea, but maintained a downward trend consistent with those countries until 2008, when it returned to a level slightly higher than five years earlier (Figure 4).

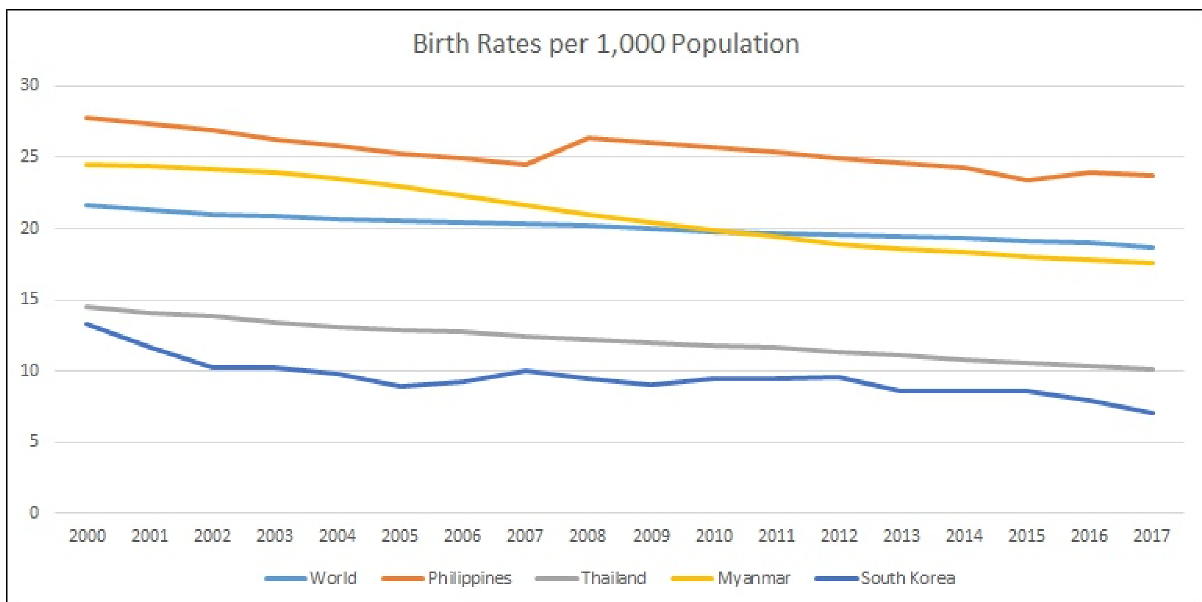

Figure 4. **Birth Rates: 2000 to 2017**
Source: World Development Indicators (2019 Jul 10)

The downward trend resumed, so that by 2017 the Philippines' birth rate had fallen about 15% in 17 years (Figure 5). This was only about half the reduction reported in Myanmar and Thailand over the same period; the drop in South Korea's birth rate was far more dramatic. However, the 17 year reduction in the Philippines' birth rate was actually higher than the reduction in the global birthrate .

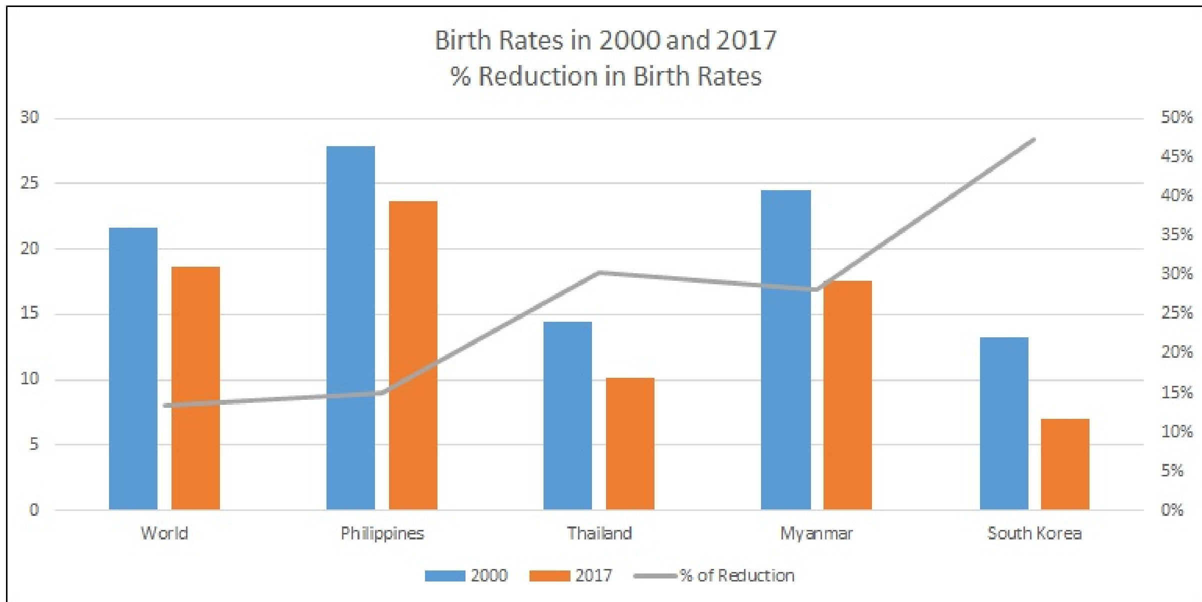

Figure 5. Birth Rates: 2000 and 2017
Source: World Development Indicators (2019 Jul 10)

A paper published in 2003 claimed that the population program was "ineffectual," the result of "inadequate institutional and financial support."[6] Nonetheless, the fertility rate in the Philippines was halved between 1973 and 2013.[7]

Collateral outcomes

If the Philippines population management policies and programmes have had no measurable impact on population growth, they have produced one notable outcome. The notion that the government should manage population growth and instruct the population in fertility control and "responsible parenthood" has become part of the normal social, political and health care landscape in the Philippines. Moreover, an infrastructure of familiar government ministries, offices and officials has been established throughout the country to give effect to government policies.

Influence of the Catholic Church

Over 80% of Filipinos are Catholic, so it is not surprising to encounter assertions that population management infrastructure and operations "largely reflect the Catholic Church's position on family planning which emphasizes responsible parenting, informed choice, respect for life and birth spacing."[8] The Catholic bishops of the country have been accused of opposing and hampering population management and fertility reduction policies.[9] On the other hand, Church officials have sometimes suggested or encouraged "Church-government collaborative partnerships" involving

"principled collaboration" by the Church.[10] One such partnership was formalized.[11]

Certainly, the Catholic bishops have forbidden Catholic hospitals to "provide facilities and services for induced abortion, contraceptive sterilization, or the administration of artificial contraceptives," and insisted that admitting privileges are conditional on adherence to this policy. Members of Catholic religious orders may administer or work in non-Catholic hospitals where such services are provided only if their presence is not exploited to create a public impression that they approve of them, and they do not participate in them. The bishops have advised Catholics working in hospitals where contraceptive sterilization is offered to notify management in writing "of their conscientious refusal to directly participate in such procedures."[12]

However, this is not the whole story.

Surgical sterilization excepted, the forms of birth control that are legal in the Philippines do not have to be provided through hospitals. Government health care facilities (including hospitals) outnumber privately controlled facilities (including hospitals) by a 10-1 margin.[13] This enormous practical advantage appears to be reflected in statistics about birth control practices.

Over 25 years ago a survey of women aged 15 to 49 found that over 96% were familiar with one or more methods of family planning, including modern contraceptive methods, and that over 90 percent knew where to obtain the pill, 80 percent the IUD, condom and female sterilization, and 70 percent male sterilization. Of the married women surveyed, 40% were practising some form of birth control, most often dispensed by government sources. Only 7% were using methods accepted by Catholic teaching,[14] and of the non-users, less than 5% were "opposed to family planning or cited religion as a reason for not using contraception."[15]

From 1992 to 2003, 70% of contraceptives used were obtained from government sources.[16] In 2002 over 57% of those using birth control were using modern contraceptives.[17] By 2017, 67% of Filipinos using some form of birth control were using modern methods disapproved by the Catholic Church.[18]

Ten years ago, a prominent Filipino politician offered the following summary of the political relevance of Catholic teaching on contraception even at that time:

> He cites recent surveys showing majority of Catholics favoring a reproductive health law, requiring government to teach family planning to the youth, and the government distributing legal contraceptives like condoms, pills and IUDs. Religion, says Lagman, ranks only 9th out of 10 reasons why women do not use contraception. That a Catholic can still be a good Catholic and use family planning methods outside the only church-approved natural family planning methods has been expressed by a number of faculty and staff members of the Catholic institution Ateneo de Manila University, a position also held by University of the Philippines academicians. Lagman is himself a Catholic, and goes to mass when he can.[19]

If the Catholic Church has enjoyed a privileged position with respect to Philippines government policies in family planning, and if the Church has hampered government efforts to control fertility and reduce the population, it seems, nonetheless, to have been ineffective in convincing most Filipinos to adhere to Church teaching on contraception and sterilization, and it has not prevented a

reduction in the Philippines' population growth, fertility rate or birth rate over time.

Notes

1. Ayala T, Caradon L. Declaration on Population: The World Leaders Statement. Studies in Family Planning [Internet]. 1968 Jan;1(26): 1-3. DOI: <10.2307/1965194>. Available from: <https://www.jstor.org/stable/1965194> (Cited 2019 Sep 14).

2. National Statistics Office (NSO) [Philippines] and Macro International Inc. (MI). National Demographic Survey, 1993 [Internet]. 1994, May. 300 p. [NDS 1993] Available from: <http://www.measuredhs.com/pubs/pdf/FR56/FR56.pdf> (Cited 2019 Sep 14).

3. Commission on Population Pilippines, POPCOM: About Us: History [Internet]. [POPCOM] Available from: <http://www.popcom.gov.ph/about-us/history>. (Cited 2019 Sep 14).

4. NDS 1993, supra note 2 at p. 5-6.

5. Republic of the Philippines, Senate Economic Planning Office Policy Brief, Promoting Reproductive Health: A Unified Strategy to Achieve the MDGs [Internet]. (2009 Jul) [Senate Brief 229] at p. 6. Available from: <http://www.senate.gov.ph/publications/PB%202009-03%20-%20Promoting%20Reproductive%20Health.pdf> (Cited 2019 Sep 14).

6. Herrin A, Orbeta Jr A, Acejo I, Cuenca J, del Prado F. An Evaluation of the Philippine Population Management Program (PPMP) [Internet]. Makati City: Philippine Institute for Development Studies; Discussion Papers Series No. 2003-18. 2003 Dec. 59 p. [Herrin et al] at p. 4. Available from: <http://dirp3.pids.gov.ph/ris/dps/pidsdps0318.pdf>. (Cited 2019 Sep 14).

7. Republic of the Philippines, Commission on Population Philippines, The Philippine Population Management Program Directional Plan 2017-2022 [Internet] (Mandaluyong City, Philippines) [PPMP 2017] at p. 17, Figure 8. Available from: <https://drive.google.com/file/d/0B7yD0Z1BkW0fMWlxQUZRdjZWcnhDRC0tOTloWjBrNFVIeUd3/view>. (Cited 2019-09-14)

8. Senate Brief 2009, supra note 5 at p. 3.

9. Herrin A. Lack of Consensus Characterizes Philippine Population Policy [Internet]. Makati City: Philippine Institute for Development Studies; Policy Notes, No. 2003-03 2003 Jun. 4 p. [Herrin] at p. 4. Available from: <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidspn0303.pdf>. (Cited 2019 Sep 14).

10. Ledesma AJ. Natural Family Planning- A Pastoral Approach [Internet]. Landas. 2003;17(1) 126-133. (Cited 2019 Sep 14).

11. Memorandum of Agreement among the Family Life Apostolate of the Lingayen-Dagupan Archdiocese, the Kapihan sa Kumbento, and the Province of Pangasinan, with the concurrence of

Archbishop Oscar V. Cruz of the Lingayen-Dagupan Archdiocese. Cited in Herrin, supra note 8.

12. Alberto TV. Moral Norms for Catholic Hospitals and Catholics in Health Services [Internet]. 1973 Dec 8. CBCP Online Manila, Philippines: Catholic Bishops Conference of the Philippines. Available from: <https://cbcponline.net/moral-norms-for-catholic-hospitals-and-catholics-in-health-services/>. (Cited 2019 Sep 14).

A section of the posted document appears to be missing. According to a copy formerly posted at Moral Norms <http://www.bukal.com/pdfs/moral%20norms-b.rtf> the full text about religious orders working in non-Catholic hospitals should read: "Religious may not continue to administer and/or work in a hospital which exploits their presence to create in the mind of the public the impression that they approve of immoral procedures being followed in the hospital. If this impression can be avoided, they may continue in the hospital, but they may not be directly involved in any of those procedures. "

13. Republic of the Philippines, Department of Health, National Health Facility Registry v2.0: Philippine Health Facility Status [Internet]. Available from: <https://nhfr.doh.gov.ph/Philippine_health_facility_statuslist.php>. (Cited 2019 Sep 14).

14. NDS 1993, supra note 2 at p. 39-43.

15. NDS 1993, supra note 2 at p. 54.

16. Herrin et al, supra note 6 at p. 7.

17. Herrin et al, supra note 6 at p. 8.

18. PPMP 2017, supra note 7 at p. 32, Table 15. According to the table, 54.9% of Filipinos were using some form of birth control 36.8% were using modern birth control methods clearly disapproved of by the Catholic Church. The "traditional" methods include both coitus interruptus and periodic abstinence, but the table does not distinguish between the former (disapproved by the Catholic Church) and the latter.

19. Torrevilas DM. Lagman's commitment to reproductive health. [Internet] The Philippine Star (philstarGlobal). 2009 Feb 28. Available from:<https://www.philstar.com/opinion/2009/02/28/443846/lagmans-commitment-reproductive-health>. (Cited 2019 Sep 14).

Appendix "B"

The "RH Act" (2012) in brief

An outline of principal sections of the *Responsible Parenthood and Reproductive Health Act of 2012* relevant to freedom of conscience. Project comments are provided in footnotes and at the end of the outline.

The Responsible Parenthood and Reproductive Health Act of 2012

SEC. 1. Title

[Not reproduced here]

SEC. 2. Declaration of Policy

The State recognizes and guarantees the human rights of all persons,[1] including their right to equality and nondiscrimination of these rights, the right to sustainable human development, the right to health which includes reproductive health,[2] the right to education and information, and the right to choose and make decisions[3] for themselves in accordance with their religious convictions, ethics, cultural beliefs and the demands of responsible parenthood.[4]

Pursuant to the declaration of State policies under Section 12, Article 2 of the 1987 Philippine Constitution, it is the duty of the State to protect and strengthen the family as a basic autonomous social institution[5] and equally protect the life of the mother and the life of the unborn from conception. The State shall protect and promote the right to health of women especially mothers in particular and of the people in general and instil health consciousness among them. The family is the

---

[1] {. . . *the human rights of all persons*. . .} A universal basic human right must pertain to "all persons." This includes single people. It must aslo include everyone without consideration of preferences in sexual partners.

[2] {. . . *the right to health* . . .} No one can be said to have a right to health or to reproductive health, since this would mean that someone suffering from influenza or congenital sterility is the victim of a violation of human rights violation.

[3] { . . . *the right to choose and make decisions* . . .} Presumably, the legislators did not mean to absolutize the notion of a "right to choose and make decsions", since many choices and decisions are legitimately prohibited by law.

[4] The section implies that the legislators recognize freedom of conscience, but this is not evident in the sections that follow.

[5] {. . . *the family as a basic autonomous social institution* . . .} No person and no family is, in fact, autonomous.

natural and fundamental unit of society.[6] The State shall likewise protect and advance the right of families in particular and the people in general to a balanced and healthful environment in accord with the rhythm and harmony of nature. The State also recognizes and guarantees the promotion and equal protection of the welfare and rights of children, the youth and the unborn.

Moreover, the State recognizes and guarantees the promotion of gender equality, gender equity, women empowerment and dignity as a health and human rights concern[7,8] and as a social responsibility. The advancement and protection of women's human rights shall be central to the efforts of the State to address reproductive health care.

The State recognizes marriage as an inviolable social institution and the foundation of the family which in turn is the foundation of the nation. Pursant thereto, the State shall defend:[9]

a) The right of spouses[9] to found a family in accordance with their religious convictions and the demands of responsible parenthood;

b) The right of children[9] to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conitions prejudicial to their development;

c) The right of the family[9] to a family living wage and income; and

d) The right of families or family associations[9] to participate in the planning and implementation of policies and programs that affect them.

The State likewise guarantees universal access to medically-safe, non-abortifacient, effective, legal

---

[6] {*. . . The family is the natural and fundamental unit of society . . .*} "Family" is undefined. It is later said that marriage is the foundation of the family. The context and typical usage elsewhere in the Act suggests that "family" is understood to refer to a husband, wife and children. However, the Act does not associate reproductive health, sexual health and childbearing with marriage, so the notion of "family" as it relates to these subjects appears to be elastic. See Comment 10.

[7] {*. . . the promotion of gender equality, gender equity, women empowerment and dignity as a health . . . concern . . .*} Political/ideological concepts and terminology are transformed into "health concerns."

[8] {*. . . gender equity . . . gender equality . . .*} The terms "gender equality" and "gender equity" are defined in a way that precludes the suggestion of additional "genders" socially or legally constructed by those who identify themselves or others as something thing than male or female [See Section 4(g) and 4(h)]. This reduces the likelihood of conflicts of conscience arising from contested gender claims.

[9] { re: marriage, *. . . the state shall defend . . .*} Defend, but not guarantee. Contrast with guarantee offered re: gender equality, etc. in the previous paragraph.

affordable and quality reproductive health care services,[10] methods, devices, supplies which do not prevent the implantation of a fertilized ovum as determined by the Food and Drug Administration (FDA) and relevant information and education thereon according to the priority needs of women, children and other underprivileged sectors, giving preferential access to those identified through the National Househlold Targeting System for Poverty Reduction (NHTS-PR) and other government measures of identifying marginalization, who shall be voluntary beneficiaries of reproductive health care, services and supplies for free.[11]

The State shall eradicate discriminatory practices, laws and policies that infringe on a person's exercise of reproductive health rights.[12]

The State shall also promote openness to life:

> *Provided*, That parents bring forth to the world only those children whom they can raise in a truly humane way.[13]

SEC. 3. Guiding Principles for Implementation

This Act declares the following as guiding principles:

> a) The right to make free and informed decisions, which is central to the exercise of any right, shall not be subjected to any form of coercion and must be fully guaranteed by the State like the right itself;
>
> b) Respect for protection and fulfillment of reproductive health and rights which seek to promote the rights and welfare of every person, particularly couples, adult individuals, women and adolescents;

---

[10] {. . . *The State . . .guarantees universal access to . . . reproductive health care services* . . . } Note "guarantee," not merely "defend." The state is to be the guarantor of "universal access" to reproductive health care services, as further defined in Section 4(q). "Universal access" and subsequent references to individuals, couples and persons indicates that the guarantee extends to single people, unmarried couples and those who identify themselves as homosexual. See Comment 6.

[11] {. . . *The State . . .guarantees universal access to . . . reproductive health care services* . . . (to marginalized groups for free) } No similar State guarantee is offered with respect to other forms of health care, such as palliative care, even in the National Health Insurance Act.

[12] {. . . *laws and policies that infringe on . . . reproductive health rights. . .*} "Infringement" need not imply actual violation. This has implications for the public expression of religious beliefs in words or in actions. The adverse effect of this section on freedom of conscience and religion may be amplified by Section 27. See Comment 46.

[13] {. . .*parents bring forth. . .only those children whom they can raise in a truly humane way. . .*} What constitutes "a truly humane" way to raise children is not defined in the law, so the policy statement provide ample room for oppressive state action.

. . .

d) The provision of ethical and medically safe, legal, accessible, affordable, non-abortifacient,[14] effective and quality reproductive health care services and supplies is essential in the promotion of people's right to health, especially those of women, the poor and the marginalized, and shall be incorporated as a component of basic health care;

. . .

g) The provision of reproductive health care, information and and supplies. . must be the primary responsibility of the national government consistent with its obligation to respect, protect and promote the right to health and the right to life;

h) The State shall respect individuals' preferences and choice of family planning methods that are in accordance with their religious convictions and cultural beliefs, taking into consideration the State's obligations under various human rights instruments;[15]

i) Active participation by nongovernment organizations (NGOs) women's and people's organizations, civil society, faith-based organizations, the religious sector and communities is crucial to ensure that reproductive health and population and development policies, plans and programs will address the priority needs of women, the poor and the marginalized;

. . .

k) Each family shall have the right to determine its ideal family size;

> *Provided*, however, That the State shall equip each parent with the necessary information on all aspects of family life, including reproductive health and responsible parenthood in order to make that determination;

l) There shall be no demographic or populaiton targets and the mitigation and/or stabilization of the population growth rate is incidental to the advancement of reproductive health;

m) Gender equality and women empowerment are central elements of reproductive health and population and development;

. . .

SEC. 4. Definition of Terms

For the purpose of this Act, the following terms shall be defined as follows:

---

[14] {. . . *non-abortifacient* . . .} "Non-abortifacient" must be understood to include services, drugs and devices that do not cause abortions, cause the death of an implanted embryo or fetus, and that do not cause the death of an embryo before implantation. See the definition of "abortifacient" in Section 4(a).

[15] {. . . *taking into consideration the State's obligations under various human rights instruments* . . .} The significance of the qualification is unclear, since it seems to imply that the State may have contrary obligations under unspecified "human rights instruments."

a) Abortifacient[16] refers to any drug or device that induces abortion or the destruction of a fetus inside the mother's womb or the prevention of the fertilized ovum to reach and be implanted in the mother's womb upon determination of the FDA;

. ..

e) Family planning refers to a program which enables couples and individuals[17] to decide freely and responsibly the number and spacing of their children and to have the information and means to do do so, and to have access to a full range of safe, affordable, effective, non-abortifacient modern natural and artificial methods of planning pregnancy;

. . .

g) Gender equality[18] refers to the principle of equality between men and women and equal rights to enjoy conditions in realizing their full human potential. . .

h) Gender equity[18] refers to the policies, instruments, programs and actions that address the disadvantaged position of women in society by providing preferential treatment . . .

i) Modern methods of family planning refers to safe, effective, non-abortifacient and legal methods, whether natural or artificial, that are registered with the FDA to plan pregnancy.

. . .

n) Public health care service provider[19] refers to

(1) public health care institution, which is duly licensed and accredited and devoted

---

[16] {. . . *Abortifacient* . . .} "Abortifacient" is defined to include surgical abortion, abortions induced by drugs or devices, and embryocides (drugs or devices that kill an embryo before implantation). However, it is up to the Philippines Food and Drug Agency to determine the mechanism of action of a drug or device. Classifications and descriptions provided by the American Food and Drug Administration have been on ongoing cause of controversy in the United States.

[17] {. . . *couples and individuals* . . .} Notwithstanding the emphasis placed on the family and marriage, this implies that individuals and unmarried couples have a "right" to have children, which, under Section 2, is guaranteed by the State.

[18] {. . . *gender equity* . . . *gender equality* . . .} The terms "gender equality" and "gender equity" are defined in a way that precludes the suggestion of additional "genders" socially or legally constructed by those who identify themselves or others as something thing than male or female. This reduces the likelihood of conflicts of conscience arising from contested gender claims.

[19] {. . . *Public health care service provider* . . .} Presumably, professionals in private practice or employed by private or denominational institutions would not be considered "public health care service providers."

primarily to the maintenance and operation fo facilities for health promotiion, disease prevention, diagnosis, treatment and care of individuals suffering from illness, disease, injury, disability or deformity, or in need of obstetrical or other medical and nursing care;

(2) public health care professional, who is a doctor of medicine, a nurse or a midwife;

(3) public health worker engaged in the delivery of healthcare services; or

(4) barangay health worker who has undergone training programs under any accredited government and NGO and who voluntarily renders primarily health care services in the community after having been accredited to function as such by the local health board . .

. . .

p) Reproductive Health (RH) refers to the state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. . .

q) Reproductive health care refers to the access to a full range[20] of methods, facilities, services and supplies that contribute to reproductive health and well being by addressing reproductive health related problems. It also includes sexual health, the purpose of which is the enhancement of life and personal relations.

. . .

r) Reproductive health care program[21] refers to the systematic and integrated provision of reproductive health care to all citizens, prioritizing women, the poor, marginalized and those in vulnerable or crisis situations.

s) Reproductive health rights refers to the rights of individuals and couples[22] to decide freely and responsibly whether or not to have children; the number, spacing and timing of their children, to make other decisions concerning reproduction, free of discrimination,[23] coercion

[20] {. . . *full range* . . .} The definition of "reproductive health care" includes various forms of artificial reproduction, such as in vitro fertilization.

[21] {. . . *Reproductive health care program* . . .} A program would presumably include various forms of artificial reproduction, such as in vitro fertilization, as noted above.

[22] {. . . *individuals and couples* . . .} This implies that individuals and unmarried couples have a "right" to have children, which, under Section 2, is guaranteed by the State. It follows from the text of the statute that this "right" includes a right to artificial reproduction as per Section 4(q), also guaranteed by the State.

[23] {. . . *free of discrimination* . . .} Since neither "individuals" nor "couples" is further qualified, the Act implies that homosexual individuals or couples have a right to have children by means of artificial reproduction, and that this right is guaranteed by the State under Section 2.

and violence; to have the information and means to do so, and to attain the highest standard of sexual health and reproductive health;

> *Provided*, however That reproductive health rights do not include abortion, and access to abortifacients;[24]

. . .

w) Sexual health[25] refers to a state of physical, mental and social well being in relation to sexuality. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free from coercion, discrimination and violence.

SEC. 5. Hiring of Skilled Health Professionals for Maternal Health Care and Skilled Birth Attendance

[Not reproduced here]

SEC. 6. Health Care Facilities

[Not reproduced here]

SEC. 7. Access to Family Planning

All accredited public health facilities shall provide a full range of modern family planning methods, which shall also include medical consultations, supplies and necessary and reasonable procedures for poor and marginalized couples having infertility issues who desire to have children:[26]

> *Provided* That family planning services shall likewise be extended by private health facilities to paying patients with the option to grant free health care and services[27] to indigents, except[28] in the case of non-maternity speciality hospitals and hospitals owned and operated by a

[24] {. . . *reproductive health rights do not include abortion, and access to abortifacients* . . .} The right does not include a right to abortion or to what the Philippines Food and Drug Agency declares to be abortifacient or embryocidal drugs and devices. See Section 4(a).

[25] {. . . *sexual health* . . .} No reference here to sexuality within the context of marriage and family life.

[26] {. . . *couples . . . who desire to have children*.. .} The specific requirement to provide assistance to "couples " appears to contradict Sections x and y, which guarantee that individuals also have a right to determine the number and spacing of their children.

[27] {... *free health care and services*. . .} Legislators may have intended that private facilities could offer free *reproductive* health care to indigents, but that is not what the Act says.

[28] {. . . (exceptions) . . .} Non-maternity specialty and denominational hospitals "may" provide such services, but are not required to do so.

religious group, but they have the option to provide such full range of modern family planning methods.

**Provided further*, That these hospitals shall immediately refer[29] the person seeking such care and services to another health facility which is conveniently accessible:,[30,31] *

Struck down by the Supreme Court of the Philippines in 2014 as an unconstitutional violation of freedom of conscience.

Provided finally, That the person is not in an emergency condition or serious case as defined in Republic Act No. 8344.

No person shall be denied information and access to family planning services, whether natural or artificial:

Provided, That minors will not be allowed access to modern methods of family planning without written consent from their parents or guardians, except when the minor is already a parent or has had a miscarriage.

SEC. 8. Maternal Death Review and Fetal and Infant Death Review

[Not reproduced here]

SEC. 9. The Philippine National Drug Formulary System and Family Planning supplies

The National Drug Formulary shall include hormonal contraceptives, intrauterine devices, injectables[32] and other safe, legal, non-abortifacient and effective family planning products and

---

[29] {. . . *shall immediately refer*. . .} Presumably to a facility that will provide the services. But for the 2014 Supreme Court decision, this would suppress freedom of conscience of those who object to referral because they believe it makes them complicit in the act that follows.

[30] {. . . *conveniently accessible* . . .} The law does not explicitly state what is required if another facility is not conveniently accessible. But for the 2014 Supreme Court decision, the statement below that "no person shall be denied. . . access to family planning services," read in conjunction with Section 27, would invite the conclusion that if another facility is not conveniently accessible, the objecting institution must provide the morally contested service.

[31] But for the 2014 Supreme Court decision, refusing to refer a patient would leave the persons responsible and officers of the institution liable to imprisonment for one to six months, a fine of up to 100,000 pesos, or both. See Section 24.

[32] {. . . *intrauterine devices, injectables* . . . } Section 9 of the Act is incoherent. Intrauterine devices and injectables are known to act by preventing the implantation of an embryo, and are thus forbidden by Section 4(a) of the Act, but this section requires that they be kept in stock.

supplies. . .

. . . These products and supplies shall also be included in the regular purchase of essential medicines and supplies of all national hospitals.

Provided further, That the foregoing offices shall not purchase or acquire by any means emergency contraceptive pills, postcoital pills,[33] abortifacients that will be used for such purpose and their other forms or equivalent.

SEC. 10. Procurement and Distribution of Family Planning Supplies

[Not reproduced here]

SEC. 11. Integration of Responsible Parenthood and Family Planning Component in Anti-Poverty Programs

[Not reproduced here]

SEC. 12. PhilHealth Benefits for Serious and Life-|Threatening Reproductive Health Conditions

[Not reproduced here]

SEC. 13. Mobile Health Care Service

[Not reproduced here]

SEC. 14. Age and Development Appropriate Reproductive Health and Sexuality Education

[Not reproduced here]

SEC. 15. Certificate of Compliance

No marriage license shall be issued[34] by the Local Civil Registrar unless the applicants present a Certificate of Compliance issued for free by the local Family Planning Office certifying that they had duly received adequate instructions and information on responsible parenthood, family planning, breastfeeding and infant nutrition.

---

[33] {. . . *emergency contraceptive pills, postcoital pills* . . .} This is the first and only time that "emergency contraceptive pills" and "postcoital pills" are mentioned in the Act. This section appears to equate them to abortifacients or embryocides, a classification that is hotly disputed. This section also appears to preclude their approval by the Philippines FDA under Section 4(a), since the products are not described in the Act by mechanism of action. Finally, "other forms or equivalent" can include regular hormonal contraceptives, since some of these can be prescribed in ways that cause them to act like postcoital interceptives.

[34] {. . . *No marriage license shall be issued* . . .} Only those who plan to marry are required to obtain certificates. Those who plan to have children out of wedlock or who have extramarital sex are exempt from the requirement to attend State classes on responsible parenthood, family planning, breastfeeding and infant nutrition.

SEC. 16. Capability Building of Barangay Health Workers

[Not reproduced here]

SEC. 17. Pro Bono Services for Indigent Women

[Not reproduced here]

> The Philippines Supreme Court ruled in 2014 that "conscientious objectors are exempt from this provision as long as their religious beliefs and convictions do not allow them to render reproductive health service, pro bono or otherwise."

SEC. 18. Sexual And Reproductive Health Programs For Persons With Disabilities (PWDs)

[Not reproduced here]

SEC. 19. Duties and Responsibilities

a) Pursuant to the herein declared policy, the DOH shall serve as the lead agency for the implementation of this Act and shall integrate in their regular operations the following functions.

1) Fully and efficiently implement the reproductive health care program;

2) Ensure people's access[35] to medically safe, non-abortifacient, legal, quality and affordable reproductive health goods and services;[36] and

3) Perform such other functions necessary to attain the purposes of this Act.

b) The DOH,[37] in coordination with the PHIC,[37] as may be applicable, shall:[38]

1) Strengthen the capacities of health regulatory agencies[39] to ensure safe, high quality,

---

[35] {. . . *Ensure people's access* . . . } But for the 2014 Supreme Court decision, the requirement could have been used as an excuse to suppress freedom of conscience among those who object aspects of the programme.

[36] {. . . *goods and services* . . .}This is the first reference to "reproductive health goods and services," a term that is presumably related to but broader than the defined terms "reproductive health" and "reproductive health care."

[37] {. . . *DOH* . . .*PIHC* . . . } Department of Health, Philippines Health Insurance Corporation

[38] { . . . *shall* . . . } Maximizes the possibility of aggressive enforcement.

[39] {. . . *Strengthen the capacities of health regulatory agencies* . . . } But for the 2014 Supreme Court decision, this section would have required professional regulators to develop policies, regulations and codes of ethics that couldhave been used to force objecting health care workers and institutions to comply with the Act.

accessible and affordable reproductive health services and commodities with the concurrent strengthening and enforcement of regulatory mandates and mechanisms;

SEC. 20. Public Awareness

[Not reproduced here]

SEC. 21. Reporting Requirement

[Not reproduced here]

SEC. 22. Congressional Oversight Committee on Reproductive Health Act

[Not reproduced here]

SEC. 23. Prohibited Acts

The following acts are prohibited:

(a) ~~Any~~ healthcare service provider, whether public or private, who shall:

(1) Knowingly withhold information or restrict the dissemination thereof, or intentionally provide incorrect information[40] regarding programs and services on reproductive health, including the right to informed choice and access to a full range of legal, medically-safe non-abortificent and effective family planning methods;

> Struck down by the Philippines Supreme Court in 2014 as an unconstitutional violation of freedom of conscience "insofar as [it] punish[es] any healthcare service provider who fails and or refuses to disseminate information regarding programs and services on reproductive health regardless of his or her religious beliefs."

(2) Refuse to perform legal and medically-safe reproductive health procedures on any person of legal age on the ground of lack of consent or authorization of the following persons in the following instances:

(i) Spousal consent in case of married persons:

Provided, That in case of disagreement, the decision of the one undergoing the procedure shall prevail; and

(ii) Parental consent or that of the person exercising parental authority in the case of abused minors, where the parent or the person exercising parental

[40] {. . . *Knowingly withhold information or restrict the dissemination thereof, or intentionally provide incorrect information* . . . } Objectors who have drawn attention to potentially abortifacient or embryocidal effects of drugs and devices have sometimes been accused of providing "misinformation." Those who have refused to facilitate procedures to which they object by offering contact information for a service provider have been accused of withholding information.

authority is the respondent, accused or convicted perpetrator as certified by the proper prosecutorial office of the court. In the case of minors, the written consent of parents or legal guardian or, in their absence, persons exercising parental authority or next-of-kin shall be required only in elective surgical procedures and in no case shall consent be required in emergency or serious cases as defined in Republic Act No. 8344; and

(3) Refuse to extend health care services and information on account of the person's marital status, gender, sexual orientation,[41] age, religious convictions, personal circumstances, or nature of work;

Provided, That, the conscientious objection of a healthcare service provider based on his/her ethical or religious beliefs shall be respected; ~~however, the conscientious objector shall immediately refer the person seeking such care and services to another healthcare service provider within the same facility or one which is conveniently accessible who is willing to provide the requisite information and services~~; [42,43]

Referral requirement struck down by the Philippines Supreme Court in 2014 as an unconstitutional violation of freedom of conscience.

Provided, further, That the person is not in an emergency condition or serious case as defined in Republic Act 8344 which penalizes the refusal of hospitals and medical clinics to administer appropriate initial medical treatment and support in emergency and serious cases.

(b) ~~Any~~ public officer, elected or appointed, specifically charged with the duty to implement

[41] {. . . *marital status, gender, sexual orientation* . . . } The Act asserts that unmarried persons, and those identifying themselves as homosexual have a right to artificial reproduction as well as various forms of birth control. However, some health care workers decline, for reasons of conscience, to provide such services. They are motivated by a wish to avoid complicity in perceived wrongdoing, not by personal characteristics of the patient. This section does not protect them, because it erroneously presumes that conscientious objection is motivated only by discriminatory attitudes.

[42] {. . . *the conscientious objection of a healthcare service provider based on his/her ethical or religious beliefs shall be respected* . . . } The exemption is limited to a refusal for reasons set out in Section 23(a)3. No exemption is permitted for moral objections to contentious procedures or services.

[43] But for the 2014 Supreme Court decision, refusing to refer a patient would have left the persons responsible and officers of the institution liable to imprisonment for one to six months, a fine of up to 100,000 pesos, or both. See Section 24.

the provisions hereof, who, personally or through a subordinate, prohibits or restricts the delivery of legal and medically-safe reproductive health care services, including family planning; or forces, coerces or induces any person to use such services; or refuses to allocate, approve or release any budget for reproductive health care services, or to support reproductive health programs; or shall do any act that hinders the full implementation of a reproductive health program as mandated by this Act;

Struck down by the Philippines Supreme Court in 2014 as an unconstitutional violation of freedom of conscience "insofar as [it] punish[es] any public officer who refuses to support reproductive health programs or shall do any act that hinders the full implementation of a reproductive health program, regardless of his or her religious beliefs" or "punish[es] any public officer who refuses to support reproductive health programs or shall do any act that hinders the full implementation of a reproductive health program, regardless of his or her religious beliefs."

SEC. 24. Penalties

Any violation of this Act or commission of the foregoing prohibited acts shall be penalized by imprisonment ranging from one (1) month to six (6) months or a fine of Ten thousand pesos(P 10,000.00) to One hundred thousand pesos (P 100,000.00) or both such fine and imprisonment at the discretion of the competent court;

Provided That, if the offender is a public official or employee, he /she shall suffer the accessory penalty of suspension not exceeding one (1) year or removal and forfeiture of retirement benefits depending upon the gravity of the offense after due notice and hearing by the appropriate body or agency.

If the offender is a juridical person, the penalty shall be imposed upon the president or any responsible officer.[44] an offender who is an alien shall, after service of sentence, be deported immediately without further proceedings by the Bureau of Immigration. If the offender is a pharmaceutical company, its agent and/or distributor, their license or permit to operate or conduct business in the Philippines shall be perpetually revoked, and a fine triple the amount involved in the violation shall be imposed.

SEC. 25. Appropriations

[Not reproduced here]

SEC. 26. Implementing Rules and Regulations

[Not reproduced here]

---

[44] {. . . *If the offender is a juridical person* . . . } But for the 2014 Supreme Court ruling, in the case of objecting denominational institutions, religious leaders could have been imprisoned and/or fined, depending upon their relationship to the institution.

SEC. 27. Interpretation Clause

This Act shall be liberally construed,[45] to ensure the provision, delivery and access to reproductive health care services, and to promote, protect and fulfill women's reproductive health and rights.

SEC. 28. Separability Clause

[Not reproduced here]

SEC. 29. Repealing Clause

[Not reproduced here]

SEC. 30. Effectivity

[Not reproduced here]

Project Comments

Re: Section 2 - Declaration of Policy

1. {*. . . the human rights of all persons. . .*} A universal basic human right must pertain to "all persons." This includes single people. It must aslo include everyone without consideration of preferences in sexual partners.

2. {*. . . the right to health . . .*} No one can be said to have a right to health or to reproductive health, since this would mean that someone suffering from influenza or congenital sterility is the victim of a violation of human rights violation.

3. { *. . . the right to choose and make decisions . . .*} Presumably, the legislators did not mean to absolutize the notion of a "right to choose and make decsions", since many choices and decisions are legitimately prohibited by law.

4. The section implies that the legislators recognize freedom of conscience, but this is not evident in the sections that follow.

5. {*. . . the family as a basic autonomous social institution . . .*} No person and no family is, in fact, autonomous.

6. {*. . . The family is the natural and fundamental unit of society . . .*} "Family" is undefined. It is later said that marriage is the foundation of the family. The context and typical usage elsewhere in the Act suggests that "family" is understood to refer to a husband, wife and children. However, the Act does not associate reproductive health, sexual health and childbearing with marriage, so the notion of "family" as it relates to these subjects appears to be elastic. See Comment 10.

7. {*. . . the promotion of gender equality, gender equity, women empowerment and dignity as a health . . . concern . . .* } Political/ideological concepts and terminology are transformed into "health

---

[45] {*. . . This Act shall be liberally construed . . .* } But for the 2014 Supreme Court ruling, this section would likely have been used to justify aggressive suppression of freedom of conscience among health care workers. See Comment 12.

concerns."

8. {. . . *gender equity . . . gender equality* . . .} The terms "gender equality" and "gender equity" are defined in a way that precludes the suggestion of additional "genders" socially or legally constructed by those who identify themselves or others as something thing than male or female [See Section 4(g) and 4(h)]. This reduces the likelihood of conflicts of conscience arising from contested gender claims.

9. { re: marriage, . . . *the state shall defend* . . .} Defend, but not guarantee. Contrast with guarantee offered re: gender equality, etc. in the previous paragraph.

10. {. . . *The State . . .guarantees universal access to . . . reproductive health care services* . . . } Note "guarantee," not merely "defend." The state is to be the guarantor of "universal access" to reproductive health care services, as further defined in Section 4(q). "Universal access" and subsequent references to individuals, couples and persons indicates that the guarantee extends to single people, unmarried couples and those who identify themselves as homosexual. See Comment 6.

11. {. . . *The State . . .guarantees universal access to . . . reproductive health care services* . . . (to marginalized groups for free) } No similar State guarantee is offered with respect to other forms of health care, such as palliative care, even in the National Health Insurance Act.

12. {. . . *laws and policies that infringe on . . . reproductive health rights*. . .} "Infringement" need not imply actual violation. This has implications for the public expression of religious beliefs in words or in actions. The adverse effect of this section on freedom of conscience and religion may be amplified by Section 27. See Comment 46.

13. {. . .*parents bring forth. . .only those children whom they can raise in a truly humane way*. . .} What constitutes "a truly humane" way to raise children is not defined in the law, so the policy statement provide ample room for oppressive state action.

Re: Section 3 - Guiding Principles for Implementation

14. {. . . *non-abortifacient* . . .} "Non-abortifacient" must be understood to include services, drugs and devices that do not cause abortions, cause the death of an implanted embryo or fetus, and that do not cause the death of an embryo before implantation. See the definition of "abortifacient" in Section 4(a).

15. {. . . *taking into consideration the State's obligations under various human rights instruments* . . .} The significance of the qualification is unclear, since it seems to imply that the State may have contrary obligations under unspecified "human rights instruments."

Re: Section 4 - Definition of Terms

16. {. . . *Abortifacient* . . .} "Abortifacient" is defined to include surgical abortion, abortions induced by drugs or devices, and embryocides (drugs or devices that kill an embryo before implantation).

However, it is up to the Philippines Food and Drug Agency to determine the mechanism of action of a drug or device. Classifications and descriptions provided by the American Food and Drug Administration have been on ongoing cause of controversy in the United States.

17. {. . . *couples and individuals* . . .} Notwithstanding the emphasis placed on the family and marriage, this implies that individuals and unmarried couples have a "right" to have children, which, under Section 2, is guaranteed by the State.

18. {. . . *gender equity* . . . *gender equality* . . .} The terms "gender equality" and "gender equity" are defined in a way that precludes the suggestion of additional "genders" socially or legally constructed by those who identify themselves or others as something thing than male or female. This reduces the likelihood of conflicts of conscience arising from contested gender claims.

19. {. . . *Public health care service provider* . . .} Presumably, professionals in private practice or employed by private or denominational institutions would not be considered "public health care service providers."

20. {. . . *full range* . . .} The definition of "reproductive health care" includes various forms of artificial reproduction, such as in vitro fertilization.

21. {. . . *Reproductive health care program* . . .} A program would presumably include various forms of artificial reproduction, such as in vitro fertilization, as noted above.

22. {. . . *individuals and couples* . . .} This implies that individuals and unmarried couples have a "right" to have children, which, under Section 2, is guaranteed by the State. It follows from the text of the statute that this "right" includes a right to artificial reproduction as per Section 4(q), also guaranteed by the State.

23. {. . . *free of discrimination* . . .} Since neither "individuals" nor "couples" is further qualified, the Act implies that homosexual individuals or couples have a right to have children by means of artificial reproduction, and that this right is guaranteed by the State under Section 2.

24. {. . . *reproductive health rights do not include abortion, and access to abortifacients* . . .} The right does not include a right to abortion or to what the Philippines Food and Drug Agency declares to be abortifacient or embryocidal drugs and devices. See Section 4(a).

25. {. . . *sexual health* . . .} No reference here to sexuality within the context of marriage and family life.

Re: Section 7 - Access to Family Planning

26. {. . . *couples* . . . *who desire to have children*.. .} The specific requirement to provide assistance to "couples " appears to contradict Sections x and y, which guarantee that individuals also have a right to determine the number and spacing of their children.

27. {... *free health care and services*. . .} Legislators may have intended that private facilities could offer free reproductive health care to indigents,but that is not what the Act says.

28. {. . . (exceptions) . . .} Non-maternity specialty and denominational hospitals "may" provide such services, but are not required to do so.

29. {. . . *shall immediately refer*. . .} Presumably to a facility that will provide the services. But for the 2014 Supreme Court decision, this would suppress freedom of conscience of those who object to referral because they believe it makes them complicit in the act that follows.

30. {. . . *conveniently accessible* . . .} The law does not explicitly state what is required if another facility is not conveniently accessible. But for the 2014 Supreme Court decision, the statement below that "no person shall be denied. . . access to family planning services," read in conjunction with Section 27, would invite the conclusion that if another facility is not conveniently accessible, the objecting institution must provide the morally contested service.

31. But for the 2014 Supreme Court decision, refusing to refer a patient would leave the persons responsible and officers of the institution liable to imprisonment for one to six months, a fine of up to 100,000 pesos, or both. See Section 24.

Re: Section 9 - The Philippine National Drug Formulary System and Family Planning supplies

32. {. . . *intrauterine devices, injectables* . . . } Section 9 of the Act is incoherent. Intrauterine devices and injectables are known to act by preventing the implantation of an embryo, and are thus forbidden by Section 4(a) of the Act, but this section requires that they be kept in stock.

33. {. . . *emergency contraceptive pills, postcoital pills* . . .} This is the first and only time that "emergency contraceptive pills" and "postcoital pills" are mentioned in the Act. This section appears to equate them to abortifacients or embryocides, a classification that is hotly disputed. This section also appears to preclude their approval by the Philippines FDA under Section 4(a), since the products are not described in the Act by mechanism of action. Finally, "other forms or equivalent" can include regular hormonal contraceptives, since some of these can be prescribed in ways that cause them to act like postcoital interceptives.

Re: Section 15 - Certificate of Compliance

34. {. . . *No marriage license shall be issued* . . .} Only those who plan to marry are required to obtain certificates. Those who plan to have children out of wedlock or who have extramarital sex are exempt from the requirement to attend State classes on responsible parenthood, family planning, breastfeeding and infant nutrition.

Re: Section 19 - Duties and Responsiblities

35. {. . . *Ensure people's access* . . . } But for the 2014 Supreme Court decision, the requirement could have been used as an excuse to suppress freedom of conscience among those who object aspects of the programme.

36. {. . . *goods and services* . . .}This is the first reference to "reproductive health goods and services," a term that is presumably related to but broader than the defined terms "reproductive health" and "reproductive health care."

37. {. . . *DOH* . . .*PIHC* . . . } Department of Health, Philippines Health Insurance Corporation

38. { . . . *shall* . . . } Maximizes the possibility of aggressive enforcement.

39. {. . . *Strengthen the capacities of health regulatory agencies* . . . } But for the 2014 Supreme Court decision, this section would have required professional regulators to develop policies, regulations and codes of ethics that couldhave been used to force objecting health care workers and institutions to comply with the Act.

Re: Section 23 - Prohibited Acts

40. {. . . *Knowingly withhold information or restrict the dissemination thereof, or intentionally provide incorrect information* . . . } Objectors who have drawn attention to potentially abortifacient or embryocidal effects of drugs and devices have sometimes been accused of providing "misinformation." Those who have refused to facilitate procedures to which they object by offering contact information for a service provider have been accused of withholding information

41. {. . . *marital status, gender, sexual orientation* . . . } The Act asserts that unmarried persons, and those identifying themselves as homosexual have a right to artificial reproduction as well as various forms of birth control. However, some health care workers decline, for reasons of conscience, to provide such services. They are motivated by a wish to avoid complicity in perceived wrongdoing, not by personal characteristics of the patient. This section does not protect them, because it erroneously presumes that conscientious objection is motivated only by discriminatory attitudes.

42. {. . . *the conscientious objection of a healthcare service provider based on his/her ethical or religious beliefs shall be respected* . . . } The exemption is limited to a refusal for reasons set out in Section 23(a)3. No exemption is permitted for moral objections to contentious procedures or services.

43. But for the 2014 Supreme Court decision, refusing to refer a patient would have left the persons responsible and officers of the institution liable to imprisonment for one to six months, a fine of up to 100,000 pesos, or both. See Section 24.

Re: Section 24 - Penalties

44. {. . . *If the offender is a juridical person* . . . } But for the 2014 Supreme Court ruling, in the case of objecting denominational institutions, religious leaders could have been imprisoned and/or fined, depending upon their relationship to the institution.

Re: Section 27 - Interpretation Clause

45. {. . . *This Act shall be liberally construed* . . . } But for the 2014 Supreme Court ruling, this section would likely have been used to justify aggressive suppression of freedom of conscience among health care workers. See Comment 12.