

# Underscoring the Scientific and Human Rights Rationale for Contraceptive Programs in the Philippines

## **A Legal Advocacy Brief prepared by Likhaan 2013**

The right of couples and individuals to decide on the number and spacing of their children and to avail of information and contraceptive methods of their choice is enshrined in many human rights instruments, including treaties like the women's convention, the children's convention and the covenant on economic, social and cultural rights. The highest standard of this right is most explicitly provided for by the Program of Action of the International Conference on Population and Development (ICPD POA). The ICPD POA mandates the following:

- Family Planning (FP) programs are anchored on informed choice and access to a full range of safe and effective methods. Coercion and the use of incentives and disincentives are not acceptable.
- FP programs are linked with other RH services needed by women and involve them in policy-making and implementation.
- Governments conform to human rights and ethical and professional standards in the delivery of FP and RH services; and remove unnecessary legal, medical, clinical and regulatory barriers to the access of FP information, methods and services.
- Country leaders strongly and continuously promote and legitimize FP and RH services; they, especially legislators, ensure adequate budgetary and human resource allocation for all who cannot afford.<sup>1</sup>

The Philippines has had a Family Planning program since 1970. However, progress towards universal access and a human rights-based approach has been difficult and slow. One major reason is the shifting government policy across different national administrations.<sup>2</sup> The other is the fierce and unrelenting opposition to Family Planning by extreme Catholic groups, including Catholic Church leaders (hierarchy).

### **Oscillating Family Planning Policies**

The first national FP program in the Philippines was started in 1971 by President Marcos for population- and poverty-reduction reasons.<sup>3</sup> Marcos' tenure lasted up to 1986 after he declared Martial Law in 1972, and the loss of democracy carried over to Family Planning programs. Anecdotal reports abound of providers setting quotas ("targets") for FP "acceptors", usually poor women, and the use of incentives to induce method uptake, such as payment for recruiters and income-generating projects for acceptors.

In 1986, Marcos was deposed through a popular uprising ("people power") and President Aquino came to power, supported to a significant degree by the Catholic hierarchy. In the early years of her presidency, Family Planning services were withheld by the Secretary of Social Welfare. From 1988-1992, the program was

“rescued” and restored under the Department of Health, to reduce maternal and child mortality and morbidity.<sup>4</sup>

In 1992, President Ramos used a mixed health and population framework, with the latter dedicated to balance “Population, Resources and Environment” (PRE)<sup>5</sup>. The dual framework continued after the ICPD and was capped by the Department of Health’s formulation of the Reproductive Health (RH) Program in 1998.<sup>6</sup> The RH Program had “10 elements,” including Family Planning, Maternal and Child Health and Nutrition, Prevention and Management of Abortion Complications, Education and Counselling on Sexuality and Sexual Health, Adolescent Reproductive Health (ARH), and Men’s Reproductive Health.

In 1998, President Estrada, through the DOH, adapted the RH program to the decentralized health system<sup>7</sup> following the 1991 Devolution Law. Secretary of Health, Dr. Alberto Romualdez, also issued policies that allowed the use of the emergency contraceptive pill, Postinor, for women victims of rape and incest; and introduced post abortion services which included counselling and contraceptive services.<sup>8</sup>

In 2001, President Arroyo abruptly replaced Estrada in another “people power” supported by the Catholic Church and held power until 2010. Beholden to the Catholic hierarchy, she abandoned the RH program and promoted “natural family planning” (fertility awareness-based methods) only.<sup>9</sup> She allowed local governments to decide their local FP programs to the extent that some effectively banned “artificial” methods, like the city of Manila in 2000.<sup>10</sup> Following petitions by extreme Catholic groups, DOH officially withdrew the emergency contraceptive pill, Postinor in 2008.<sup>11</sup>

In 2010, President Aquino III actively supported the passage of the RH Law, which enables government to provide full FP information and services, especially for the poorest families.<sup>12</sup> The law, however, requires parental consent for minors who have not had pregnancies, and allows refusal by service providers on grounds of “conscientious” objection. Despite these concessions, the law was again stopped by petitions before the Supreme Court until today.

### **The die-hard Catholic opposition to FP**

The strongest obstacle to contraceptive programs in the Philippines is a mixed network of the Catholic hierarchy (the Catholic Bishops’ Conference of the Philippines or CBCP) and different Catholic groups, some with ties to influential anti Family Planning and Reproductive Rights organizations, such as Human Life International in the US and Opus Dei in the Vatican. These so-called “pro-life,” groups engage in blocking and dismantling executive and legislative policies; disparaging proRH politicians in the pulpit and electoral campaigns; and propagating incorrect information in mass and social media.

The inspiration of the opposition is a Catholic Church policy, “*Humanae Vitae*” (Of Human Life), issued by Pope Paul VI on July 25, 1968.<sup>13</sup> *Humanae Vitae* asserts that God’s design for marriage is the “procreation and education of children”<sup>14</sup> and that interference with this transmission contradicts God’s will.<sup>15</sup> Forbidden are abortion, even for therapeutic reasons;<sup>16</sup> sterilization of either man or woman, whether permanent or temporary;<sup>17</sup> and any other method intended to “prevent procreation.”<sup>18</sup> The use of the “artificial methods” is condemned because it could cause marital infidelity and lower moral standards;<sup>19</sup> cause men to disrespect women;<sup>20</sup> and allow the state to intervene in the procreative decisions of couples.<sup>21</sup> Only the use of the natural cycle is allowed, only for those with “well-grounded reasons for spacing births,” such as physical or psychological conditions of husband or wife.<sup>22</sup>

From the *Humanae Vitae* flow the harsh and relentless objections that echo in the media, Congress and the Supreme Court. Contraceptives are alleged to “kill the unborn” by tampering with the fertilized ovum, which is the “beginning of life”. They are “poisons” that cause breast cancer, fatal blood clotting in the heart and brain, and congenital anomalies in babies in the womb. Apart from the physical effects, the “contraceptive mentality” devalues children to “burden” instead of “blessing” and drives people to promiscuity, homosexuality, and other immorality.<sup>23</sup>

### **Scientific Facts about Contraceptives**

Contraceptives are drugs and devices that act to prevent pregnancy. Pregnancy is part of the continuum of human reproduction that commences at implantation,<sup>24</sup> or when the product of fertilization imbeds in the uterine wall. Not all sexual intercourse leads to fertilization, and not all fertilization leads to implantation.<sup>25</sup> The insistence on fertilization as the beginning of pregnancy and of life is not only whimsical, but results in depriving people of life-saving devices.

Contraceptives are known to prevent pregnancy by preventing ovulation and fertilization.<sup>26</sup> Oral combined contraceptive pills prevent ovulation; condoms, copper IUDs and female and male sterilization prevent fertilization; progestin-only-pills, progestin-only-injectables and implants prevent both ovulation and fertilization. A third mechanism of action, the prevention of implantation has been postulated, but is not supported by scientific data.<sup>27</sup>

By their mechanism of action, contraceptives are classified differently from abortives.<sup>28</sup> Contraceptives prevent pregnancy; abortives terminate a pregnancy. Abortives stop the progression of a pregnancy and cause the expulsion of the products of pregnancy.<sup>29</sup>

Contraceptives are considered among the “core essential medicines” of the World Health Organization (WHO), based on their being a priority need, as well as their safety, effectiveness, and cost-effectiveness.<sup>30</sup> Like all medicines, contraceptives have side- and adverse effects, which warrant correct use, including by trained health providers. True, there is some increased risk of breast cancer, cervical cancer, and blood clotting in the heart associated with the use of oral combined contraceptives (OCPs); but these risks are considered lower than the risks from pregnancy complications. In the US, the risk of dying from OCPs after a year of use by a woman 15-34 years old is 1 in 1,667,000 and 1 in 33,300 in women 35-44 years old. The risk for tubal sterilization is 1 in 66,700. However, the risk of dying from pregnancy is 1 in 8,700.<sup>31</sup>

Contraceptives have not been associated with congenital anomalies.<sup>32</sup> And contraceptive information, as in comprehensive sexuality education, has been proven not to result in irresponsible sexual behavior. The evidence is comprehensive sexuality education delays sexual initiation, reduces the frequency of sex and number of sexual partners, and makes young people adopt protective behavior, like using condoms and contraceptives.<sup>33</sup>

### **Filipino women’s needs for contraceptives**

Contrary to the claims of those who oppose access to contraception, pregnancy is not always safe for women. The risk of complication attends every pregnancy<sup>34</sup> and the risk of dying from a pregnancy is significant for Filipino mothers-to-be: 221/per 100,000 or 1 death per 500 pregnancies.<sup>35</sup> Unintended pregnancy increases this risk. In 2008, 1,600 of the 3,700 women estimated to have died of maternal causes had unintended pregnancy; in addition, 1,000 died from abortion complications.<sup>36</sup> Unintended pregnancy

Legal Advocacy Brief – Likhaan

constituted 54% of all pregnancies in 2008, affecting about 1.9M women.<sup>37</sup> Some women are more unfortunate: poorest women have 2 children more than they planned;<sup>38</sup> and more than 5% of adolescent girls get pregnant, some for the 5<sup>th</sup> time.<sup>39</sup>

The rate of unintended pregnancy reflects the difficulty of many Filipinas to control their fertility. Contraceptive prevalence rate (CPR) has been stagnant at 34%,<sup>40</sup> which is low for a middle income country where gender and education indicators are high. The biggest and most constant barrier to contraceptive use has been the fear of side- and health- effects,<sup>41</sup> which seems aggravated by the disinformation. With the absence of a strong and publicly-funded program, cost is increasingly becoming a big problem.<sup>42</sup>

Maternal mortality from unintended pregnancy and abortion complications rose about 4,800 in 2008.<sup>43</sup> But mothers were not the only ones dying. 52,000 infants died as well, which included infants conceived born less than 2 years apart from a preceding sibling, i.e. before their mothers' bodies were ready for them. In the city of Manila, where the "pro-life" mayor *de facto* banned all contraceptives in 2000, the social impact was dire: poor families driven to destitution where children endured hunger, physical hardship, and an end to their schooling; women ending up having too many children than they wanted and fearful that they could die in their pregnancy; and strained marital relationships and intimate partner violence because women refused to have sex for fear of getting pregnant.<sup>44</sup>

### **Eliminating a Key Barrier to Access to Contraceptive Information and Services**

The health and human rights rationale for contraceptive access is obvious for women, young people and poor families. Access to effective contraception by all Filipino women who need them can reduce unintended pregnancy by 800,000, abortion by 500,000, and maternal death by 2,100.<sup>45</sup> Public opinion has always supported Family Planning policies and programs and the public officials who espouse them.<sup>46</sup> Yet, the fear of Catholic doctrine and power continues to hold elected public officials captive.

The situation calls for strong and decisive action by public officials who are enlightened and courageous, who will set aside their own religious beliefs for the public good. It calls for informed leaders abreast of the medical and social basis of contraception, as well as human rights and state obligations. It calls for leaders able to stand up for the separation of Church and State in all matters of governance, including in Family Planning and Reproductive Health.

As leaders pave the way for evidence and rights-based policies and programs, they can rest assured that "they are not alone." Simultaneously, many sectors of Philippine society are engaged in transforming contraceptive policies and programs in their own, small ways - in communities, workplaces, schools, health centers, religious institutions, media and other arenas. With persistent, focused and synchronized actions, the right to contraception can yet become the established norm in the country.

---

<sup>1</sup> ICPD POA 7.12 - 7.21

<sup>2</sup> Herrin, AN, "Population Policy in the Philippines, 1969-2002," *Discussion Paper Series 2002-08*, Philippine Institute for Development Studies, September 2002, <http://dirp3.pids.gov.ph/ris/pdf/pidsdps0208.pdf>; Melgar JLDM et al, "Family Planning in the Philippines," *Family Planning in Asia and the Pacific: Addressing the Challenges*, pp. 296- , edited and published by ICOMP, June 2012, <https://www.google.com.ph/#q=icomp+family+planning+asia+pacific>

<sup>3</sup> Melgar JLDM et al, "Family Planning in the Philippines," p.297

<sup>4</sup> Melgar JLDM, "Family Planning" p. 298; Rush, JR in September 1991, "Bengzon, Alfredo, Biography," written for the Ramon Magsaysay Awards 1991,

<http://www.rmaf.org.ph/newrmaf/main/awardees/awardee/biography/119>

- 
- <sup>5</sup> Herrin, AN, "Population Policy in the Philippines, 1969-2002," P. 21, *Discussion Paper Series 2002-08*, Philippine Institute for Development Studies, September 2002, <http://dirp3.pids.gov.ph/ris/pdf/pidsdps0208.pdf>
- <sup>6</sup> Reodica CN, "Creation of a Reproductive Health Program, Department of Health (DOH) Administrative Order (AO) 1-A, issued January 1998
- <sup>7</sup> Romualdez, AG, "Strengthening the DOH Reproductive Health Program (Amendment to AO 1-A s. 1998)", DOH AO 24-A s. 1999
- <sup>8</sup> Romualdez, AG, "Prevention and Management of Abortion and its Complications," DOH AO 45-B s. 2000
- <sup>9</sup> News Break Archives, "A Conservative Turn," July 21 2003
- <sup>10</sup> Likhaan et al, "Imposing Misery: The Impact of Manila's Contraception Ban" 2006
- <sup>11</sup> Goodenough, P, "Pro-Life Victory as Philippines Bans 'Morning-After Pill,'" July 7, 2008, cnsnews.com, <http://cnsnews.com/news/article/pro-life-victory-philippines-bans-morning-after-pill>
- <sup>12</sup> Republic Act 10354 "An Act Providing for a National Policy on Responsible Parenthood and Reproductive Health" Section 7 Access to Family Planning, *Official Gazette*, Published Dec. 21, 2012, updated Dec. 29, 2012, <http://www.gov.ph/2012/12/21/republic-act-no-10354/>
- <sup>13</sup> Paul VI, "Encyclical Letter Humanae Vitae of the Supreme Pontiff Paul VI to his Venerable Brothers The Patriarchs, Archbishops, Bishops and Other Local Ordinaries In Peace and Communion with the Apostolic See, to the Clergy and Faithful of the Whole Catholic World, And to all Men of Good Will, On the Regulation of Birth", 25 July 1968. [http://www.vatican.va/holy\\_father/paul\\_vi/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae\\_en.html](http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html)
- <sup>14</sup> Same, "Married Love", Lines 21-22
- <sup>15</sup> Same, "Faithfulness to God's Design", Lines 4-7
- <sup>16</sup> Same, "Unlawful Birth Control", Lines 2-4
- <sup>17</sup> Same, "Unlawful Birth Control", Lines 6-7
- <sup>18</sup> Same, "Unlawful Birth Control", Lines 8-9
- <sup>19</sup> Same, "Consequences of Artificial Methods", Line 4
- <sup>20</sup> Same, "Consequences of Artificial Methods, Lines 8-12
- <sup>21</sup> Same "Consequences of Artificial Methods, Lines 13-23
- <sup>22</sup> Same, "Recourse to Infertile Periods", Lines 12-15
- <sup>23</sup> Petitions to the RH Law before the Supreme Court, <http://sc.judiciary.gov.ph/microsite/rhlaw/>; Evangelista P, "The justice of paradise lost," *Rappler*, August 19, 2013. [www.rappler.com/thought-leaders/36741-justice-paradise-lost](http://www.rappler.com/thought-leaders/36741-justice-paradise-lost)
- <sup>24</sup> FIGO Committee for the Study of Ethical Aspects of Human Reproduction and Women's Health, Ethical Issues in Obstetrics and Gynecology, p. 75, published October 2009, <http://www.surrogat.info/wp-content/uploads/2012/07/Ethical-Issues-English-FIGO.pdf>; Martin, JN, President of ACOG, Letter to the Editor USA Today, April 20, 2012; British Medical Association Ethics Department, The Law and Ethics of Abortion BMA Views, Nov. 2007. [bma.org.uk/-/media/Files/PDFs/.../Ethics/lawethicsabortionnov07.pdf](http://bma.org.uk/-/media/Files/PDFs/.../Ethics/lawethicsabortionnov07.pdf) ; WHO and ICMART, *International Committee Monitoring Assisted Reproductive Technology (ICMATY) and World Health Organization (WHO) revised glossary of ART terminology*, 2009. [http://www.who.int/reproductivehealth/publications/infertility/art\\_terminology2.pdf](http://www.who.int/reproductivehealth/publications/infertility/art_terminology2.pdf)
- <sup>25</sup> WHO Department of Reproductive Health and Research (WHO/RHR) and Johns Hopkins Bloomberg School of Public Health/Center for Communication Programs (CCP), Knowledge for Health Project *Family Planning: A Global Handbook for Providers* (2011 update), p. 46; Benagiano G et al "Fate of fertilized human oocytes," *Reproductive BioMedicine Online*, Volume 21, Issue 6 , pp 732-741, December 2010. <http://www.ncbi.nlm.nih.gov/pubmed/21050816>
- 
- <sup>26</sup> WHO, Family Planning Fact Sheet, N 351, Updated May, 2013. <http://www.who.int/mediacentre/factsheets/fs351/en/>
- <sup>27</sup> WHO, "Expert Opinion on House Bill 4643 on Abortive Substances and Devices in the Philippine," 7 November 2006
- <sup>28</sup> WHO, *WHO Model List of Essential Medicines*, 18<sup>th</sup> list, April 2013, pp. 26-27 and pp. 30-31. [http://www.who.int/medicines/publications/essentialmedicines/18th\\_EML.pdf](http://www.who.int/medicines/publications/essentialmedicines/18th_EML.pdf)
- <sup>29</sup> WHO, WHO Model List of Essential Medicines, pp.30-31
- <sup>30</sup> WHO, WHO Model List of Essential Medicines, Explanatory Note, no page no.
- <sup>31</sup> Hatcher RA et al eds., *Contraceptive Technology*, Table 3-3 "Voluntary Risks in Perspective," 19<sup>th</sup> ed, 2007, p.36. [http://books.google.com.ph/books?id=txh0LpjjhkoC&printsec=frontcover&source=gbs\\_ge\\_summary\\_r&cad=0#v=onepage&q&f=false](http://books.google.com.ph/books?id=txh0LpjjhkoC&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false)
- <sup>32</sup> Bracken MB, Oral Contraceptives and Congenital Malformation in Offspring: a review and meta-analysis of the prospective studies, *Obstetrics and Gynecology*, 1990 Sept. 76(3 Pt 2):552-7. <http://www.ncbi.nlm.nih.gov/pubmed/2143279>

- 
- <sup>33</sup> Kirby D, "The Impact of Sex Education on the Sexual Behavior of Young People," Expert Paper No. 2011?12 UN Department of Economic and Social Affairs Population division, UN New York, 2011.  
[http://www.un.org/esa/population/publications/expertpapers/2011-12\\_Kirby\\_Expert-Paper.pdf](http://www.un.org/esa/population/publications/expertpapers/2011-12_Kirby_Expert-Paper.pdf)
- <sup>34</sup> WHO Press Release, World Health Day highlights the scandal of 600,000 maternal deaths each year, WHO/33, 6 April 1998. <http://www.who.int/inf-pr-1998/en/pr98-33.html>
- <sup>35</sup> National Statistics Office Family Health Survey 2011
- <sup>36</sup> Guttmacher Institute, "Meeting Women's Contraceptive Needs in the Philippines," *In Brief* 2009 Series, No. 1, p. 1. [http://www.guttmacher.org/pubs/2009/04/15/IB\\_MWCNP.pdf](http://www.guttmacher.org/pubs/2009/04/15/IB_MWCNP.pdf)
- <sup>37</sup> Same as above, p.3
- <sup>38</sup> National Statistics Office(NSO), National Demographic and Health Survey (NDHS) 2008
- <sup>39</sup> Erica CN, administrator National Statistics Office, "Teenage pregnancy in the Philippines Facts and Figures from NSO Data", ppt, xa.yimg.com/kq/groups/.../NSO+Teenage+pregnancy+091312.pdf
- <sup>40</sup> National Statistics Office, "Family Health Survey," 2011. [www.census.gov.ph/tags/family-health-survey](http://www.census.gov.ph/tags/family-health-survey)
- <sup>41</sup> Guttmacher Institute, "Facts on Barriers to Contraceptive Use in the Philippines," *In Brief*, May 2010, p.2. [www.guttmacher.org/pubs/FB-contraceptives-philippines.pdf](http://www.guttmacher.org/pubs/FB-contraceptives-philippines.pdf)
- <sup>42</sup> Guttmacher Institute, "Facts on the barriers...", p. 2-3
- <sup>43</sup> Guttmacher Institute, "Meeting Women's Contraceptive Needs in the Philippines", p. 2
- <sup>44</sup> Likhaan et al, *Imposing Misery The Impact of Manila's Ban on Contraception*, 2007, pp. 17-23. <http://cdm16064.contentdm.oclc.org/cdm/ref/collection/p266901coll4/id/2702>
- <sup>45</sup> Guttmacher Institute, p. 5
- <sup>46</sup> Social Weather Station, various media releases from 1988-2012, <http://www.sws.org.ph/>; Pulse Asia, as reported by media