Imposing Misery

The Impact of Manila's Ban on Contraception

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ABBREVIATIONS AND GLOSSARY

Barangay	The smallest political unit into which cities and municipalities in the Philippines are divided, administered by a set of elected officials and headed by a barangay chairman
Billings method	A family planning method, also known as the cervical mucus method, that involves tracking a woman's fertile and infertile cycles
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women: an international treaty codifying states' duties to eliminate discrimination against women
CHD–Metro Manila	Center for Health Development–Metro Manila: the Department of Health's regional office for the Metro Manila area, which includes the city of Manila
CHW	Community health worker: a person who serves in a voluntary capacity to aid in the provision of health services
Children's Rights Convention	Convention on the Rights of the Child: an international treaty upholding the human rights of children
DMPA	Depot-medroxy progesterone acetate: an injectable contraceptive that can prevent pregnancy for up to twelve weeks
DOH	Department of Health: the principal health agency in the Philippines
Civil and Political Rights Covenant	International Covenant on Civil and Political Rights: an international treaty protecting individuals' civil and political human rights
Economic, Social and Cultural Rights Covenant	International Covenant on Economic, Social and Cultural Rights: an international treaty protecting individuals' economic, social and cultural human rights
ICPD	International Conference on Population and Development: a United Nations Conference on population and development held in Cairo in 1994
IUD	Intrauterine device: a small device that is inserted into a woman's uterine cavity to prevent pregnancy that is effective for up to 12 years, depending on the type used
Fabella Hospital	Dr. Jose Fabella Memorial Hospital: a Department of Health hospital located in Manila—also designated as the National Maternity Hospital—that is not subject to Executive Order No. 003

Lactational amenorrhea method	A family planning method based on the natural postpartum infertility that occurs when a woman is fully breastfeeding and not menstruating. Women must be continuously and exclusively breastfeeding and less than six months postpartum.
Local Government Code	A 1991 act that devolved certain powers, responsibilities and resources from the national government to local government units in the areas of health, social welfare, agriculture, environmental protection and local public works and highways
LGU	Local government unit: a territorial and political subdivision of the Philippines—namely, a province, city, municipality or barangay—that is administered and headed by elected officials
Millennium Development Goals	Eight goals endorsed by governments at the United Nations Millennium Summit in 2000 that range from halving extreme poverty to promoting gender equality and improving maternal health, all by the target date of 2015
NFP	Natural family planning: a term used in Executive Order No. 003 and by the national government and others to refer to family planning methods that involve, for example, abstinence during periods of fertility and use of the lactational amenorrhea method (see above)
OM	Ospital ng Maynila: a city hospital located in Manila that is subject to Executive Order No. 003
PGH	Philippine General Hospital: A national government hospital administered by the University of the Philippines–Manila, which is also the teaching hospital of the university. The hospital is not subject to Executive Order No. 003.
PhilHealth	Philippine Health Insurance Corporation: national health insurance managed by the Philippines Health Insurance Corporation, which was established by the National Health Insurance Act of 1995
POPCOM	Commission on Population: the central coordinating and policy making body of the government in the field of population
WHO	World Health Organization: a United Nations agency devoted to researching and promoting public health worldwide

NOTE ON TERMINOLOGY

The terms “artificial” and “natural” family planning are used in Executive Order No. 003 and by the national government and many of the individuals interviewed for this report to refer respectively to hormonal, barrier and surgical methods of family planning such as pills, condoms and sterilization; and to fertility awareness–based methods of family planning such as the Billings method. This report uses similar terminology to reflect the way these methods are commonly referred to in the Philippines, without accepting their characterization as “artificial” or “natural.”

SUMMARY

> ***"If Manila is violating some policies, we are just waiting to be sued. The policy was implemented many years ago. The DOH [Department of Health], the national government has not said anything. We are just waiting to be called to attention. Nobody calls our attention."***
>
> — Official at the Manila Department of Social Welfare[1]

Executive Order No. 003 ("the EO"), issued by former Manila Mayor Jose "Lito" Atienza in 2000, declares that "the City promotes responsible parenthood and upholds natural family planning not just as a method but as a way of self-awareness in promoting the culture of life while discouraging the use of artificial methods of contraception like condoms, pills, intrauterine devices, surgical sterilization, and other."[2] While the order does not explicitly ban "artificial" contraception, it has in practice resulted in a sweep of these supplies and services from city health centers and hospitals, depriving many women—especially poor women—of their main source of affordable family planning supplies. The EO also has had a chilling effect on the provision of information and services in non-city facilities and venues that technically are not subject to the order. Private clinics and clinics run by nongovernmental organizations (NGOs) that previously provided family planning information and services have been shut down. Health-care workers in such institutions have been harassed and labeled abortionists. Medical missions to offer artificial methods of family planning have ceased. Condoms and pills have gone underground.[3]

> ***"The City promotes responsible parenthood and upholds natural family planning not just as a method but as a way of self-awareness in promoting the culture of life while discouraging the use of artificial methods of contraception like condoms, pills, intrauterine devices, surgical sterilization, and other." — Executive Order No. 003 (2000)***

The EO violates the Philippine government's obligations under national and international law. The 1987 Philippine Constitution guarantees the rights to liberty, health, equality, information and education for all citizens, as well as the right of spouses to found a family in accordance with their personal religious convictions. These basic principles, reinforced by several pieces of legislation, create the foundation under national law for a right to reproductive health, including access to contraception. In addition, international treaties that the Philippines has ratified and that are part of Philippine law impose clear obligations on the government to ensure access to a full range of family planning services and information. The EO is also more restrictive than the Department of Health's (DOH) standards on family planning, which prioritize "natural" family planning (NFP) as mandated by the national government, but still permit all legally accepted methods of family planning.[4]

The EO also oversteps the authority of local government units (LGUs) under the Local Government Code of 1991. That code devolved certain powers and resources relating to health care and other areas from the national government to local governments, but the spirit of the law was "to provide for a more responsive and accountable structure" of government.[5] Indeed, LGUs must still abide by the Constitution and the Philippines' other national and international obligations, and—as stated above—international law is particularly clear about States parties' duties to ensure the right of its citizens to a full

range of family planning services and information. Yet city and national government officials interviewed for this report—including those who privately believe the order is harmful and discriminatory—did not think the EO violated any of the Philippines' legal obligations or that there was anything the national government or the DOH could do to compel the Manila City government to change its policy. As one DOH official said, "Regarding FP [family planning], we have a national standard and a national package of services, but the city of Manila said that it will use NFP, and we cannot push them."[6]

However, where government will not act, ordinary citizens can. Where local chief executives abuse their authority and issue harmful policies that infringe on people's basic rights, as in the case of Manila, affected individuals are not without recourse. Philippine laws provide for administrative and judicial actions that can nullify such policies and afford relief to the victims. International treaties to which the Philippines is a party, such as the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights, provide additional means for individuals to bring complaints and hold governments accountable.

This report sets forth the results of research and interviews that show how the EO has operated in practice over the past seven years, affected women's lives and health, and denied women their basic rights. It aims to call the attention of the Manila City government and the national government to the violations resulting from the EO, and urge them to nullify it and make a full range of safe and acceptable family planning methods available and accessible to residents of Manila. To this end, this report makes specific recommendations to the Manila City government and the national government on actions they should take. Subsequent sections provide background on the EO as well as the national family planning policy context; present the findings of research and interviews relating to how the EO has been implemented and how it has affected women and reproductive health providers; and provide national and international legal standards that show how the EO violates women's basic rights.

RECOMMENDATIONS

- The Manila City government should revoke Executive Order No. 003 ("the EO") and, in accordance with its constitutional and other national and international legal obligations, provide a full range of safe, acceptable and affordable family planning services and information in city health centers and hospitals.

- If the Manila City government continues de facto to prohibit family planning, the Department of Health (DOH), nongovernmental organizations and private agencies should extend a full range of reproductive health information and services to residents of Manila, especially to the poorest areas, in a manner that does not identify individuals seeking services and expose them to harm. The services can be offered in DOH facilities within Manila or in outreach facilities outside Manila, but should be accessible to patients.

- Related to the above recommendation, as long as Manila's primary health centers are unwilling or unable to meet their clients' needs for basic family planning methods such as injectables, pills, intrauterine devices (IUDs) and condoms, all DOH hospitals within Manila should ensure that their outpatient departments have adequate supplies to offset this need and provide these services free of charge to poor patients.

- In response to the acute situation in Manila and as a matter of strategic direction, the Philippine Health Insurance Corporation (PhilHealth) should strengthen its program to cover the full range of modern family planning methods, including injectables and IUDs, and not only for a limited period postpartum.

- Congress should amend the Local Government Code or its Implementing Rules and Regulations to avoid ambiguities pertaining to the scope of autonomy of local government units (LGUs) and to enforce the national government's primary obligation to respect, protect and fulfill human rights. This includes the obligation to sanction LGUs that violate those rights.

- Donor agencies and private foundations involved in poverty reduction and public health should fund efforts to reinstate and rejuvenate family planning services in Manila.

- Lawyers and advocates should explore different legal avenues to bring a court case challenging the EO. At the national level, an administrative complaint can be filed with the Department of Interior and Local Government against elected officials, who may be disciplined under the Local Government Code for certain acts committed in their official capacities.[7] Citizens who feel their rights have been violated by the policy can also file a petition in the courts, including the Supreme Court.[8] If options at the national level prove ineffective, individual complaints can be taken to international bodies under the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights—both of which the Philippines has ratified. A successful case could set legal precedent and deter both local and national government executives from issuing similar policies. However, whether successful or not, a legal complaint is an important vehicle for publicizing the ill effects of and opposition to the policy, as well as for raising

awareness about family planning and reproductive health as a human rights and human development issue.

- Reproductive health and reproductive rights advocates should continue documenting reproductive rights violations and bringing them to the attention of the public and policy makers to press for government accountability. Activism is critical in the current context of the growing Catholicization of public health policies, as well as over the long term as we anticipate continuing ideological shifts of family planning policy from anti-contraception to supportive of contraception for population reduction.

METHODOLOGY

This report is based on interviews with more than 67 individuals, conducted in Manila between November 2006 and January 2007. Those interviewed included female users of contraception affected by Executive Order No. 003 and people working in city and national government, hospitals and health centers, and nongovernmental organizations (NGOs).

In Manila, we spoke with officials in the mayor's and vice-mayor's offices; city health officers, including those working in the areas of reproductive health, natural family planning, and maternal and child health; a city officer of the Department of Social Welfare; city hospital directors; and a city councilor. We requested but were unable to obtain an interview with Mayor Atienza.

At the district level, we spoke with officers in the Center for Health Development–Metro Manila, which is the Department of Health's (DOH) link to the City of Manila and other local government units in Metro Manila.

At the national level, we spoke with officials in the DOH, including the assistant secretary and officials in the National Center for Disease Prevention and Control, the Center for Family and Environmental Health, and the Health Policy and Development Planning Bureau; the Commission on Population (POPCOM); the Department of Interior and Local Government; DOH hospital directors, medical center chiefs and physicians; and a senator.

We also spoke with Philippine NGOs based within and outside of Manila working on women's health and social justice issues, as well as the country offices of United Nations agencies.

This report is also based on research on national and international laws and policies, national demographic and health surveys, news articles and other published materials.

The names of all women whose cases are discussed have been changed to protect their privacy and ensure their safety. Information identifying certain other interviewees also has been withheld upon their request for the same reason.

BACKGROUND

Executive Order No. 003

In February 2000, Manila's Mayor Jose Atienza issued an executive order ("the EO") declaring that the City "shall establish programs and activities in City Health Department and its health centers [and city hospitals] … as well as the Department of Social Welfare which promote and offer as an integral part of their functions counseling facilities for natural family planning and responsible parenthood."[9] On its face, the EO established an affirmative policy of promoting "natural" family planning (NFP). In practice, however, the policy has also been applied to prohibit the provision of "artificial" family planning services in all city hospitals and health centers.[10]

On its face, the EO established an affirmative policy of promoting "natural" family planning. In practice, the policy has been applied to prohibit the provision of "artificial" family planning services in all city hospitals and health centers.

The EO articulates Manila's goals of "promot[ing] responsible parenthood and uphold[ing] natural family planning … as a way of self-awareness in promoting the culture of life while discouraging the use of artificial methods of contraception."[11] This order is part of Mayor Atienza's "pro-life" policy, which rejects the use of artificial contraception and encourages large families.[12]

As a general rule, an executive order on health binds city hospitals and health centers. However, no such order may be applied in violation of the Philippine Constitution or other national and international legal obligations. Although the Local Government Code devolves certain responsibilities regarding health care to local government units (LGUs), Manila is still accountable to its obligations under the constitution and national laws. Furthermore, under international law, the Philippines is obliged to ensure that all branches and levels of government, whether national, regional or local, comply with international treaty obligations.[13]

National Family Planning Policy Context

The EO has been in force for seven years, yet despite its conflict with national and—even more clearly—international law, the national government has allowed the policy to remain in effect. This is in part because of a misreading of the Local Government Code and the scope of local governments' autonomy regarding policy-making in the area of health. The lack of an effective government response to the situation in Manila is also arguably because the policy is aligned with the current national government's own position on family planning, which is focused on promoting NFP.

In 2001, Gloria Macapagal-Arroyo, the second woman president of the Philippines to benefit from a political upheaval led mainly by the Catholic Church, insinuated her position on family planning early into her administration, stating that "the government needs to adopt policies that will take into consideration population and reproductive health approaches that respect *our culture and values* …" (emphasis added).[14] Since then, through her own public pronouncements and instructions to her Cabinet, she has closely followed the line of the Catholic Church hierarchy on family planning.

In March 2002, President Arroyo laid down the four pillars of her population policy: responsible parenthood, respect for life, birth spacing and informed choice. These reflect the unchanging tenets of the Philippine Catholic hierarchy on population issues since 1973.[15] The bishops' position is that family planning may only be (1) at the decision of couples without state interference, (2) prompted by "grave motives and with due respect for the moral law" (e.g., not to avoid the responsibility of having a child) and (3) using only NFP methods. In keeping with this ideological framework, Arroyo has made clear that the national government will not spend its funds to procure contraceptives and pushed NFP as the most effective family planning method—although artificial methods are actually still available in Department of Health (DOH) facilities. She recently declared at a high-level plenary meeting of the 60th session of the General Assembly of the United Nations that money donated by the United Nations would be used to fund NFP projects: "The funding given by the United Nations to our national government for reproductive health shall be dedicated to train married couples in a natural family planning technology which the World Health Organization has found effective compared to artificial contraceptives."[16] She has also opposed the adoption of programs based on a holistic concept of reproductive health as a guise for bringing in abortion.

Like the president, the leadership of the DOH is heavily swayed by the bidding of Catholic organizations,[17] apart from the Church hierarchy. In 2001, the DOH, without public notice, banned the emergency contraceptive Postinor in response to the allegation of a conservative Catholic group that Postinor is an "abortifacient." The ban was maintained despite the findings of a DOH technical committee that Postinor is not an abortifacient and should be re-listed.[18] The DOH secretary at the time—who was also the main sponsor of NFP in the DOH—publicly deprecated artificial contraceptives, citing the intrauterine device as another possible abortifacient.[19] Under this secretary, the DOH contracted with a lay Catholic organization to implement the Department's NFP program, granting them 50 million pesos to promote and teach NFP.[20]

The Arroyo government is the first administration since 1969—the beginning of family planning policies in the Philippines—to weld its policies not to medical standards, but to the moral standards of the Catholic Church. President Arroyo is adamant that in focusing solely on NFP her government has not violated any law, since modern contraceptives have not been banned in the country and are available commercially nationwide and in DOH facilities,[21] a position similar to that taken by the Manila City government. However, given that the majority of Filipino incomes fall below the poverty line, expecting families to purchase contraceptives when they can barely meet their most basic needs is out of touch and cruel. DOH facilities also will no longer be a reliable source for artificial methods, given that national government resources will be focused on NFP.

EXPERIENCES OF WOMEN AND REPRODUCTIVE HEALTH PROVIDERS UNDER THE EO

In pulling "artificial" family planning methods from all city health centers and hospitals, Executive Order No. 003 ("the EO") has denied women in Manila a major source of affordable family planning services.[22] It has contributed to high rates of unplanned pregnancy, with all its attendant socioeconomic and health consequences, and affected poor women most severely. In addition to resulting in an effective ban on services in city facilities, the vague wording of the EO and the lack of clear policy guidance from Manila City Hall has also led some facilities and providers to refuse to provide even information or referrals for family planning to women. Nongovernmental organizations (NGOs) and private providers of family planning services have also felt the chilling effects of the policy and in some cases been harassed and intimidated into ceasing to provide services. Meanwhile, the national government and the Department of Health (DOH) continue to justify the EO as within the bounds of national law and the Philippines' international obligations, and play down its impact on women's access to family planning services.

This section presents the findings of interviews with women, providers, and city and national government officials regarding the impact and implementation of the policy.

Harm to Women, Especially Poor Women

For most Filipinos, the government is the major source of family planning services, with about 70% of people relying on the public sector for services, including female sterilization, oral pills, intrauterine devices (IUDs) and injectables.[23] People who are living in poverty and marginalized in society are especially dependent on government institutions to provide affordable family planning services and other basic health care. The policy declarations of the EO, which in essence ban all artificial methods of family planning in city-funded health facilities, affect all women in Manila who want to control their fertility, but especially women who are poor. It is these women who face the greatest barriers in accessing family planning methods, and tend more often to suffer the physical, psychological, economic and social consequences of unintended pregnancies.

Almost half of all pregnancies in the Philippines are unintended, but the most affected are the poorest women, who on average have two more children than they want.

As national figures show, almost half of all pregnancies in the Philippines are unintended,[24] but the most affected are the poorest women, who on average have two more children than they want.[25] Lack of full and accurate information on family planning methods and barriers to obtaining contraception, especially modern methods, are major contributors to unintended pregnancy in the Philippines.[26]

In the case of Manila, a city of more than 1.5 million, with the highest population density of any major city in the world, more than half a million women are of childbearing age.[27] Likhaan researchers interviewed women in San Andres Bukid, the smallest district of Manila in terms of land area, but the second most densely populated district (after Tondo), to understand the impact of the EO on the lives of women. The majority of the district's residents live a little above the poverty line. The testimonies that follow reveal that the EO has had an impact on women and their families on multiple levels—financially, physically, emotionally and in their intimate relationships.

Driving families to extreme poverty

According to recent nationwide studies, the most common reason pregnant Filipino women give for not wanting to be pregnant is that they or their families are too poor to provide for a child or for another child.[28] Similarly, in the case of Tina, Monet and Susan,[29] avoiding more financial hardship and wanting to give their children a better life were reasons why they wanted to use family planning, but they faced barriers because of the EO. All have at least four children more than they planned. Financial difficulties were some of the stark consequences of their unintended pregnancies.

The most common reason pregnant Filipino women give for not wanting to be pregnant is that they or their families are too poor to provide for a child or for another child.

Tina Montales, age 36, has eight children but her ideal number was two. Under the EO, she cannot get the family planning services she needs and has had difficulty avoiding pregnancy as a result. Her local health center stopped providing the contraceptive pills she used to get for free, and she wanted a tubal ligation after her fourth pregnancy, but her local hospital no longer offers the service. Having eight children to feed and care for has stretched her family's income so that it is barely enough to buy their food and meet their basic needs. The thought of getting pregnant again worries her.

> *Our daily income is 150 pesos from scavenging. My family's breakfast includes three sachets of coffee and a few pieces of* pandesal *[bread rolls]. One kilo of rice is insufficient for lunch and dinner. We make do with soy sauce or salt if we can't afford to buy ten pesos' cooked vegetable for lunch or dried fish for dinner. If our daily earnings only amount to below 70 pesos, we only have bread for dinner.*
>
> *My children are malnourished. Oftentimes, they miss a meal. My sixth child, who was underweight at birth, hasn't recovered yet. I give each of my children five pesos for school allowance. I feel sorry for them because I can't buy them school shoes. They miss lunch if they have to pay something in school. One of my children had to stop going to school.*
>
> *My eldest son died of rheumatic heart disease. Most of our earnings went to his medication. My husband lost his job as security guard, after he was unable to pay more than 3,000 pesos needed to renew his license.*
>
> *If the mayor is concerned about poor women like me, he should bring family planning supplies and services back to Manila so women don't have unwanted pregnancies.*[30]

Monet Maglaya, age 44, wanted to have only two children but ended up having seven. Under the EO, she can no longer get the free injection she used to get regularly at her health center and can't afford the 500 pesos it costs at a private clinic. She borrows money sometimes to buy contraceptive pills. With no permanent source of income, it is hard making ends meet and she relies on her relatives and neighbors for help. She fears for her children's future and doesn't want to get pregnant again.

> *My husband has no permanent job; he sometimes works in a junk shop. I help him by washing other people's clothes. Our eldest child works too, but we still feel the pinch.*

I have to rely on my relatives for help. Sometimes I earn from doing the laundry and ironing, and babysitting for my sister, while a neighbor takes care of my toddler. Occasionally my mother gives me detergent bar and food.

I try to budget the food so it will last for days. The money my eldest child chips in is used to buy rice and infant's milk for my youngest two-year-old child. When money is tight, I only drink coffee for breakfast. For dinner, we all share and make do with two packs of instant noodle soup or eggs or four pieces of dried fish and rice. I ask for cooking oil from my sister-in-law.

"The mayor's policy has made it more difficult for women like me. He does not understand how it is to be poor."

The mayor's policy has made it more difficult for women like me. He does not understand how it is to be poor.[31]

Susan Trias,[32] age 32, already has seven children—four more than she wanted to have. She wanted a ligation after her fifth pregnancy, but the EO was already in effect by then and her local hospital wouldn't perform the procedure. They referred her to a DOH hospital, but she couldn't afford the 2,000 pesos for the procedure.[33] At the time of the interview, she was five months into her eighth pregnancy and her youngest was turning only one year old the next day. Susan and her family survive on hand-to-mouth sustenance. One of her biggest worries is how to feed her children.

My husband is a buko *(young coconut) vendor earning 300 pesos a day on good days and 100 pesos on rainy days. I sometimes help him earn some money by selling shampoo.*

We buy a half kilo of rice for lunch. I let my children eat first. I feel grateful if they have leftovers, but if there's none, it's OK since I can ask for some food from the neighbors. I engage my neighbors in chitchat, and along the course of our conversation, I say, "Pahingi naman dyan kanin, o." *[May I have some rice?] I just oblige them when they ask me to run some errands. So I'm not ashamed whenever I ask for food from them.*

Panibago naman hong diskarte iyong sa hapunan. *[Then I need to come up with new ways to devise for dinner.] I'm already out of the house by three p.m. Sometimes I ask for one peso from each neighbor until I come up with five pesos. I sometimes bet it in a nearby bingo game, one peso per bet. I win 20 or 30 pesos, then give each of my children five pesos. When somebody wins and I can't pay, they don't take offense as I've already given my money to my children and they know my situation.*

Our electric consumption was 30 pesos per week through a "jumper" (illegal connection). Now that we don't have jumper, we use a bototoy *[kerosene lamp] for our light. We almost had a fire because of that. I just sleep in the morning because I have to stay up all night to fan the kids so the mosquitoes won't bite them.*

I cannot sell shampoo now to help my husband with the income because I'm always out of breath due to my pregnancy.

This policy of the mayor has brought a lot of hardship to families. He is not helping people like us. He should bring family planning supplies back to Manila health centers and hospitals so women can have access.

"Losing free supplies of contraceptive pills added a strain on our budget. Instead of buying pills, we'd rather add the money to our budget for food …."

Bernadette Antonio, age 32, and her husband have five children, but don't want to have any more for financial reasons, among others. Losing free family planning supplies from the nearby health center has made it hard for Bernadette to protect herself from getting pregnant again. If they had only had three children—the number they wanted to have—she thinks they could have given them a better life.

We don't have a single cent in our pockets. My three-year-old daughter, who is the youngest, when hungry, climbs a stool to look for food in the pan. Finding it empty, she hurls the pan to the floor screaming, "I want to eat!" She cries endlessly so that I can't refuse her. My older one, when I tell her I don't have any money, just gets her feeding bottle even if it is empty and lies down. Sometimes I borrow money or ask for food from the neighbors.

As a painter, my husband earns 300 pesos daily but his work is irregular. When their contract ends, they sometimes remain idle for a month. There are times when his weekly pay, which I've already promised as payment for a loan I made, is delayed.

Only the eldest and third of my children go to school. Each has five pesos to bring to school. I pity them because they go to school on an empty stomach. That's why I try to produce 20 pesos the night before for their breakfast and allowance. I just walk them to and from school.

I cook rice and buy 10-peso cooked vegetables, which the whole family shares for lunch. When money runs out, I just buy powdered milk and sugar, each sold for one peso per scoop.

Losing free supplies of contraceptive pills added a strain on our budget. Instead of buying pills [from private vendors], we'd rather add the money to our budget for food and other needs.[34]

Bernadette's experience speaks to an additional financial impact of the EO. Given the loss of free family planning services in city facilities, many women have had to purchase high-cost services from the private sector to fill the gap, adding another strain on their income, which already barely covers their basic needs. Coming up with the money to buy even a single pack of contraceptive pills is often a struggle:

I could barely afford 35 pesos for my monthly pack of pills. I tried to save whenever I had extra money, especially as the end of the month approached. It would be hard to take off 35 pesos from my child's allowance; my budget would be ruined. Sometimes when I didn't have extra money, I went around the neighborhood to borrow 10 pesos from each neighbor until I came up with the amount needed to buy the pills. I tried to find ways to ensure that I scraped up the money to buy a packet of pills by the end of the month.[35]

Despite this reality, a standard response from government officials is that, despite the EO, women can always get family planning services from the private sector.[36] As one city hospital director said, "The access is there; it's about people's choice. They can just go to another clinic—they just don't."[37]

Jeopardizing women's health

> ***"In Manila, we are pro-life. We take care of our women."***
>
> — Official in the Manila Mayor's office[38]

Women that Likhaan researchers interviewed described the impact on their physical and mental health of not being able to control their fertility because of their limited access to family planning under the EO.

Women like those interviewed for this report, who have more children than they can afford, are looked upon by society as irresponsible parents. However, the mental anguish they go through just at the mere thought of getting pregnant again tells a different story.

> *I feel anxious and fearful of the chance of getting pregnant if I don't have money to buy pills, unlike before when I used to get injectables for free, which were very convenient and effective for months.*
>
> *I want to use family planning to limit the number of my children. The mother is the one to search for food, school allowance and everything, on top of doing the household chores. All these are brain-racking. I feel sorry for my kids. I'm full of pity and can't help crying when one of my children is sick and I can't buy medicine.*
>
> *I got depressed when the mayor banned family planning. It was a big loss for many mothers who were steadfast in going to the health center for pills and injectables. I feel sorry for the mothers who have so many children as a consequence of the banning.*[39]

Women's physical health has suffered under the EO as well. Even in cases where women were advised that another pregnancy would threaten their life or health, health personnel in Manila city hospitals could not provide for the necessary medical intervention because of the EO. They made only isolated verbal referrals for surgical family planning or ligation.

In the case of one woman with eight children, her doctor had cautioned her not to get pregnant again after her fourth child because of her poor health:

> *I had a difficult labor with my fourth child. I got dehydrated and was told that I had to undergo cesarean section but could not for lack of money. Aware of my fragile condition, all I could do was pray. I believe I had a difficult labor because I would always starve even while pregnant.*
>
> *The doctor at OM [Ospital ng Maynila] advised me not to get pregnant anymore because of my rheumatic heart condition. I wanted to have ligation but OM hasn't been providing FP [family planning] services. I was referred to Fabella Hospital but I couldn't afford the 2,000 peso fee.*

I suffered a miscarriage in my ninth pregnancy due to my medication for tuberculosis, which I contracted after my husband had the illness. Kaya ako ganito kapayat. *[That's why I am this thin.]*[40]

For another woman in her eighth pregnancy, with only seven months since her last delivery, her fifth child should have been her last:

My life was put at risk when I gave birth to my fifth child. I was supposed to deliver at home but I had a breech pregnancy and my water bag already broke. I passed out from strenuous labor and was rushed to OM. The doctor at OM said that this should be my last pregnancy or else my children would suffer if I die. She advised me to have a ligation, which I could have in Fabella Hospital and Philippine General Hospital. The doctor really wanted me to have a ligation but she couldn't do anything since it was banned in the hospital.

"The doctor at OM said that this should be my last pregnancy or else my children would suffer if I die. … The doctor really wanted me to have a ligation, but she couldn't do anything since it was banned in the hospital. … I get nervous with every pregnancy. I think that the moment I give birth will be the time I will die."

Bawat pagbubuntis ko, kabado ako. Iniisip ko pag nanganak na ko at mailabas ang bata, doon ako mawala. Hindi ko makayanan ang panganganak kasi manipis na ang matris ko sabi ng doktor. *[I get nervous with every pregnancy. I think that the moment I give birth will be the time I will die. That I won't survive childbirth for the doctor said my uterus is already thin.]*[41]

One woman's doctor recommended ligation after her fourth delivery because of health reasons, but could only refer her to another facility for the procedure, which the patient couldn't afford. She has seven children:

When I gave birth to my fourth child at OM, the doctor advised me to have ligation. I was referred to Fabella Hospital. I went to Fabella to have the ligation, but I could not afford the 3,000 pesos they were charging.[42]

Officials of DOH hospitals in Manila observe similar high-risk cases in their facilities. The director of Dr. Jose Fabella Memorial Hospital ("Fabella Hospital"), a DOH-run hospital in Manila and the country's designated maternity hospital, described the main causes of pregnancy complications at his hospital: "To begin with, the state of the mother's health is already compromised, because they come from a very poor family, so they are already malnourished, anemic. Too-frequent deliveries, very short spacing, sometimes no space at all. These are problems. Coupled with that there are the medical conditions of any woman."[43]

The director of another DOH hospital in Manila sees the EO, in limiting women's access to health care, as contributing to pregnancy complications and maternal mortality and morbidity:

It definitely will have an impact on maternal mortality, because if you have more mothers who have more children, we know that they can have more complications … that increase. If you talk about abortions, we know that the more babies they have, the more the tendency to have an abortion … that's also associated with complications. … It will increase maternal morbidity, especially in relation to ob/gyn conditions. I think we should try to convince the authorities that … it has really a negative impact on the medical conditions of women. As of now, I don't think the authorities see the connection. I think

they're just one-minded about using the NFP methods. I don't know who will explain to them, to convince them that this has a negative impact.

Personally, for me it's [the policy] definitely not good, because it limits the availment of the patient to health care. … For me, this is a disservice to women, although it affects the society as a whole. … Women's health provision is limited because of that policy, and therefore it has a negative impact on women's health in the city of Manila. So hopefully it will change.[44]

Unsafe abortion is another dangerous consequence of limiting women's ability to control the number and spacing of their children. Nationwide, approximately one-third of women who experience an unintended pregnancy have an abortion.[45] According to a recent report, the proportion of unintended pregnancies in Metro Manila is higher than in any other major geographic region in the Philippines, and the proportion of unintended pregnancies that end in abortion is higher in Metro Manila than elsewhere.[46] Because of the severely restrictive law on abortion in the Philippines, most abortions are underground and many therefore are unsafe. Each year in the Philippines, thousands of women are hospitalized because of health complications of abortion and hundreds die.[47]

"… this is a disservice to women, although it affects the society as a whole. … Women's health provision is limited because of that policy, and therefore it has a negative impact on women's health in the city of Manila. So hopefully it will change."

These statistics are in line with interviews conducted for this report. Hospital officials in both DOH and city hospitals in Manila observed that cases of abortion complications, including deaths, are common or increasing in their facilities.[48] According to one hospital director, such cases are the second-greatest cause of admissions in his hospital and a leading cause in most hospitals.[49]

A doctor at Fabella Hospital thought the EO was one reason for the increase of post-abortion patients she's seeing at Fabella: "Mostly it's political. The mayor of Manila doesn't approve of providing family planning services in Manila. They're not providing FP services, [women] are getting pregnant, they resort to abortion. [I'm] not saying it happens that way with all our PAC [post-abortion care] clients, but it is one factor."[50] A doctor of obstetrics/gynecology at Philippine General Hospital (PGH), a national government hospital located in Manila that is not subject to the EO, gave the example of a current patient, age 20, in describing the impact of the EO on women's health: "Just take one example of [this] patient who might die at any time because of sepsis. Because she had no access to a family planning method, she had to undergo an induced abortion, and she might end up dead."[51]

Straining intimate relationships, predisposing to sexual violence

As a way of coping with lack of access to family planning, women interviewed would often try to refuse sex with their partner to avoid pregnancy. Fear of getting pregnant because of lack of protection during sex is the primary reason why they refuse sex with their partners. Women described how this puts a strain on their relationships and has led to heated altercations, temporary separation and even sexual violence. More often than not, women yield to their partners' wishes rather than create a shameful situation where the neighbors learn they fight because of sex.

One woman with eight children is worried about getting pregnant again because of her health and financial problems, but can't afford contraception now that free supplies are no

longer available at her health center and hospital. Most of the time, she refuses sex with her husband as a way of avoiding pregnancy. At first her husband became abusive and violent toward her:

> *My husband and I would quarrel when I refused to have sex for fear of getting pregnant. He suspected me of having an extramarital affair. He would hit me on the thighs. He left us for the province and didn't communicate. I went to my sister's place with my six children and worked as a laundry woman to support myself and my children. We were separated for one year.*[52]

"My husband and I would quarrel when I refused to have sex for fear of getting pregnant. He suspected me of having an extramarital affair. He would hit me on the thighs. He left us for the province and didn't communicate."

Some women finally succumb to their husbands to avoid confrontation and abuse:

> *We used to fight, shout at each other when I refused to have sex. My husband would get mad when I refused and grab me. Because of these problems, we separated for three months during which time I lived with my mother. I feel embarrassed if people learn that we fight because of sex so now I just give in to my husband's sexual needs, all the time.* Ako na lang maghahanap ng paraan para di mabuntis. *[I take it upon myself to look for ways not to get pregnant.]*[53]

* * *

> *Sometimes when there's no money to buy condoms and I don't want to have sex with my husband, he gets angry and forces me. I tell him, "Aren't you ashamed of yourself? You've got so many kids already and we don't have privacy." Our house is very small; we sleep together with the kids. Only a thin wall separates us from the neighbors and I don't want them to hear us arguing so I just give in to what my husband wants.*[54]

Erasing Family Planning

Although the EO was issued in 2000, family planning supplies began being pulled off the shelves of city health facilities two or three years earlier. Since then, not only have family planning services disappeared from Manila health facilities, but some providers also have refused to provide information, counseling or referrals for family planning, interpreting the vague wording of the policy as a sweeping ban. In addition to "discouraging" the use of artificial contraceptives, one of the stated aims of the EO is also to promote "natural" family planning (NFP), yet interviews with city and regional health officials reveal a picture of ineffective implementation of NFP in Manila. Without effective access to any form of family planning—artificial or natural—women in Manila are meanwhile rewarded for pregnancy through a practice by the mayor of giving monetary and other gifts to families with large numbers of children.

Contraceptive disappearance

The gradual decrease and disappearance of contraceptives in local health centers in Manila dates before February 2000, when Atienza signed the EO.

According to women interviewed for this report, there was no announcement or information drive regarding the EO. Women who used to get free pills, condoms and

injectables from nearby health centers simply learned during their visits for supplies that contraceptives were no longer available. As early as 1997 or 1998, doctors were telling women not to expect free contraception any longer as the administration was turning pro-life. In 1998, Atienza–then Vice-Mayor–became acting mayor after former Mayor Alfredo Lim resigned to run for president. Atienza was elected Mayor of Manila the same year.

> *After the birth of my second child, one of the attending staff at Pedro Gil Lying-In Health Center advised me to try DMPA, the injectable. For two years I was using DMPA. I found it not only convenient by having the injection every three months, but also cheap because at that time, I got the injectable from the health center for free. I paid only 10 pesos for the disposable needle.*
>
> *In 1997, the staff at the health center where I got my supply of injectables warned me that it was going to be my last injection. "The mayor is pro-life now and will ban all FP [family planning] supplies and services in all health centers and hospitals in Manila."*[55]
>
> * * *
>
> *I used the pill but stopped when I couldn't get it for free from the health center. There were no more pills in the health center in 1999. I learned from the staff there that pills were no longer available because the mayor turned pro-life. I was told that I could buy pills from Mercury Drug [the biggest drugstore chain in the country], though I could not afford them. I panicked that I might have more children.*[56]
>
> * * *
>
> *I had been using for almost two years the injectable available in the health center. It was during my quarterly visit when I learned from the health worker there that all contraceptives had been banned. It was in 1997, years before … that EO was implemented. I was caught by surprise, flustered and looked for pills as an alternative that same day.*[57]

Women are warned as part of their education on NFP that contraceptives are unsafe or ineffective. Medical doctors talked about the possible cancerous effects of oral contraceptives, identified certain types of pills as "pesticides" and described condoms as ineffective in protecting against HIV.

No information or misinformation

In addition to resulting in an effective ban on artificial family planning services in city health facilities, the vague wording of the EO subjects the policy to various interpretations and has allowed Manila authorities to read broad restrictions into its provisions. According to some accounts, most health workers even refuse to give out information on how to use contraception. Instead, they warn against the "evils" of artificial family planning methods.[58] Women are sometimes told that using contraception is akin to killing a baby:

> *I learned about the EO in 2000 when I went to the health center to get pills. The doctor said,* "Bawal na ang contraceptives kasi prolife na si mayor. Kasi pinapatay (ng FP) ang bata." *[Contraceptives are banned because the mayor is now pro-life. It (FP) kills the baby.]*[59]

According to Manila City health officials and hospital directors, women are also warned as part of their education on NFP that contraceptives are unsafe or ineffective. These people—all medical doctors—talked about the possible cancerous effects of oral

contraceptives,[60] identified certain types of pills as "pesticides"[61] and described condoms as ineffective in protecting against HIV.[62]

No standard practice for referrals

The issue of whether referrals are allowed under the policy, and if so what kinds, is an area of particular inconsistency in terms of policy direction at city hall and implementation by city health facilities. Manila city hall officials have different interpretations. According to the vice-mayor of Manila, "The mayor doesn't want people in the hospital to propagate contraception. He will never allow our doctors even to talk on it. … When the mayor says something, it's the law."[63] In contrast, the head of the Manila Department of Social Welfare said that doctors can make general referrals: "If somebody asks for artificial methods, a doctor is allowed to refer to another hospital. We don't refer to specific hospitals, just say they can go to private hospitals or we generally refer."[64] Still differently, an officer at the City Health Office said that doctors can make referrals even to specific hospitals.[65]

This variation is reflected in the different practices of city hospitals and doctors regarding referrals, which range from restrictive to permissive. At the more restrictive end of the spectrum, some hospitals do not provide anything more than a general referral for artificial family planning services. According to one city hospital administrator, patients who ask for referrals are told that they can go to other cities or to DOH hospitals for advice, but the hospital does not give out specific names or tell women that they can get free contraceptives somewhere else. The hospital also doesn't make referrals to NGOs. The administrator felt that giving women specific referrals for artificial family planning services was akin to promoting these services. Furthermore, although the administrator was not aware of any written instruction forbidding referrals, s/he thought that it was generally understood among doctors.[66]

At another hospital, authorities said that women are given information and even written referrals regarding all forms of family planning methods.[67]

The lack of clear policy guidance and the range of practices on information and referrals creates a situation wherein women are subject to the discretion of hospitals and individual providers and receive different standards of care. Even if information and referrals are allowed under the policy in some circumstances, other women are still being denied:

> *I went to the health center once in 2004 to ask about family planning. The health staff was rude and scolded me by saying I was too young to ask questions on FP [family planning]. They did not give me counseling, information or refer me elsewhere. My cousin advised me to use the pills which I did. I don't want to get pregnant again so I take pills.*[68]

Token, ineffective NFP

> ***"If they don't like artificial methods then they do natural. The most important thing is that the local chief executives are doing something."***
>
> — DOH Official[69]

While officials at the Manila City Health Office who were interviewed outlined a number of activities for the promotion of natural family planning (NFP), individuals tasked with monitoring or implementing the activities suggested that the city has not been very effective in implementing NFP.

Officials of the Center for Health Development–Metro Manila ("CHD–Metro Manila"), the DOH's link to the LGUs, say that, on top of banning artificial family planning methods, the city really has no NFP program.

> *If you look at their records, even NFP use in Manila is very low. ... Health centers aren't really documenting. If you are going to record breastfeeding mothers for the lactational amenorrhea method, you're supposed to have a record. ... But if you ask [health centers] for a master list of women who have given birth, they can't provide it to you. We have monitored, but they don't have the records.*

> *Sometimes the health centers I visited said they have users of the Billings method, but when I ask them [for records], they can't show it. They are not telling us they have low acceptors [for NFP], but if you ask for the records, they don't have them. ... In the two or three health centers I visited there were no acceptors. I think one health center had two acceptors, the other had none. In Manila it's the Billings method that they do. Only implementing the Billings method.*[70]

"Even NFP isn't being pushed that hard. … They don't want to limit the number of children a family has."

About two or three years ago, an officer of the CHD–Metro Manila, when asked to monitor family planning in Manila, asked for the city's documentation on their NFP program. The officer said he was ostracized from the city health office just for asking. Another officer is now assigned to the city.

The observations of officers at the CHD–Metro Manila are in line with the experiences and views of some doctors at city and DOH hospitals in Manila. According to one city hospital doctor of gynecology, while NFP is well known by the staff and offered at the hospital, doctors received no specific NFP guidance from the city, which assumed that the hospitals already knew how to provide NFP.[71] Others said they don't routinely teach NFP or actively promote it.[72] One doctor in a DOH hospital in Manila observed:

> *Even NFP isn't being pushed that hard. Because they don't want to space, but to advocate responsible parenthood. They don't want to limit the number of children a family has. ... At a national forum for NFP, people who are given the task of NFP were asked for statistics, and they couldn't provide one. ... they're not giving us any figures as to how many have accepted NFP. ... We were asking, have they put up clinics or a number of personnel just doing this [NFP] and they're saying no, it's just part of counseling to impart to people about responsible parenthood, but not [about] NFP itself.*[73]

A significant challenge in implementing NFP is the difficulty many women have in getting their partners to accept the method. In response to a question about how women facing resistance from their husbands should be counseled, city health officials put the burden on women: "It's all about your convincing power."[74] The director of a city hospital said: "It is the woman's job to convince her husband. It still falls on her shoulders."[75]

Atienza himself reportedly admits that there are low numbers of women actively using NFP in Manila.[76] According to the 2004 report of Manila's city health department, the most widely accepted form of NFP is the lactational amenorrhea method, with 22,148 users.[77]

The report also states that since 2004, 1,401 people have accepted another method called the Billings method.[78] These figures represent a small fraction of the more than 470,000 women of reproductive age in Manila.[79] The city of Manila allocated a total of 470,920 pesos for NFP in 2004.[80]

Rewarding pregnancy

> ***"The mayor gives prizes for having the most number of children, and the current champion has 21 kids."***
>
> — Manila city councilor[81]

The mayor has a practice of giving out monetary rewards to women with large numbers of children in depressed areas. According to officers at the CHD–Metro Manila, this demonstrates Atienza's discouragement of family planning, even NFP, and shows that he is interested only in encouraging women to have children:

> *When Atienza attends medical missions ... he calls out to all of these moms ... how many of you have seven and above children? When they raise their hands, he rewards them, sometimes with cash—1,000 pesos each. ... He goes to Baseco—we have so many depressed areas—and sometimes during community assemblies [he does this]. "You don't really need any FP methods"—this is being condoned and rewarded by the mayor himself. If you have seven children, you get all these benefits, money. This now proves that the mayor isn't having any NFP methods, any FP at all.*[82]

Officers at the CHD–Metro Manila said such incentives during medical missions and in other venues increase especially during election time.

The former executive director of a women's health clinic in Baseco[83] that closed down due to pressure from the city hall observed the mayor's tactics in their first encounter, around early 2000. "The first thing that we heard that made us take note was when he went to Baseco to speak during a program. He said that he would give money to all of those women who had more than three children. After that, we already heard that he was pulling out all of the modern contraceptive methods from barangay health stations."[84]

According to Mayette Piamonte, a mother of five and a Baseco resident, "The mayor gives incentives to women here that have five or more children. The more children you have, the more money you get."[85]

Harassment and Intimidation of Providers

> ***"We have not heard of instances of harassment in Manila. We don't allow [non-NFP services] in Manila. You want to do it, you do it somewhere else, but not in Manila. But we don't harass them."***
>
> — Official at the Manila Mayor's Office[86]

The city government has employed various means to stop the provision of family planning information and services, whether by government, private or NGO providers. Based on information shared by reproductive health advocates in 2005 during the Bantay RH Campaign,[87] these tactics have included admonitions against renewal of permits to operate,

censorship of family planning educational and informational kits, summons to city hall and withdrawal of support for the distribution of contraceptives in health centers.

Closure of NGO clinic

A women's health clinic that is a Quezon City-based NGO used to provide a range of reproductive health services through a network of clinics in Metro Manila. Its clinic in Baseco, one of the biggest settlement areas in Manila with about 65,000 people, started in 1997. It became a basic primary health-care clinic, but family planning was still one of the main services provided. The clinic, which was one of the main outlets for family planning services in the area, closed down in 2005. Even though the clinic complied with all the requirements of the city hall, it was denied renewal of its license to operate. The former executive director of the NGO described the clinic's experience with Manila city officials:

"In mid-2003, I got a call from the city health office for a meeting with the city health officials. . . . [The city officials] told me that they had heard that we were providing artificial contraceptive methods and that there is an EO. . . . The officials were questioning me, 'Did you know there's an EO? You're supposed to follow it.'"

In mid-2003, I got a call from the city health office for a meeting with the city health officials. The summons actually went through the barangay captain so it was the barangay officials who informed us about it. The barangay officials were supposed to come with me to the meeting, but they did not. [The city officials] told me that they had heard that we were providing artificial contraceptive methods and that there is an EO.

There were three or four overall heads of the city health office. The officials were questioning me, "Did you know there's an EO? You're supposed to follow it." They said their interest was really to ensure the health of the women, that artificial contraceptive methods had side effects. They were asking me, "Aren't you for the women?"

In a way we were kind of arguing back and forth. They did not show me a copy of the EO. They just told me there was one. We ended our conversation in a stalemate. We continued providing services. CHWs [community health workers] continued with the community-based distribution of pills and condoms, but they would put them between their notebooks and they would pack all the notebooks and take them to women who were in need of pills. They would do house-to-house visits and do it in the secrecy of their houses.

The problem was, when our services continued, our community health workers, who were the community-based distributors, started to feel the pressure. They felt that they would lose their position as barangay health workers and their land. I think they were verbally threatened, "If you continue doing this, you might lose your house."

Even the barangay captain started to feel the pressure of working with us when we were providing artificial methods. She was a staunch advocate of FP, and for a long time she was working with us. It was only after the EO that she backed out. She kept on telling us, "Don't be public with our relationship, don't show them that you're close to us." I think the pressure was just too much for her. City hall was really bearing down on the barangay. So I think it all came to a head.[88]

According to the former executive director, who was no longer with the NGO at the time of Baseco clinic's closure, the NGO received a cease and desist order after her tenure.[89]

A Manila city health official denied that the clinic had been harassed in connection with the EO:

> *[I'm] surprised that they just left. I don't think they lost their permit; they just left. It's a mystery. Probably they were advised to follow certain guidelines, which they didn't want to follow. We didn't give any orders that they should leave. Probably they left because they were providing non-free services and had no drugstore permit. Manila Health didn't harass them.*[90]

Officers at the CHD–Metro Manila described how they have tried to partner with NGOs and private clinics to try to make family planning services available as a way of going around the EO, since they can't partner with the local government in Manila. This strategy has often been frustrated. In two separate projects they had with NGOs, both NGOs were eventually closed down. One project from 2004 involved setting up a clinic in Baseco—different from the one earlier described—with EngenderHealth:[91]

> *We put up a facility in the highest-unmet-need area—Baseco. The facility started with MCH [maternal and child health], then brought on sterilization. All of a sudden, in 2005, the city found reason to deny the [sanitation] permit. You need the signature of the city health officer [for the permit]. No other government official can sign. That's where the harassment came.*[92]

City officials confirmed that NGOs providing family planning are denied permits to operate because of the nature of their services, even if other reasons are given to justify the denial.[93] As a city councilor explained:

> *All of the NGOs got their licenses revoked—well, not revoked, but they're not allowed to practice. There is no NGO that works exclusively for family planning. And if they push the family planning issue, then they won't be able to practice the other causes that they work for as well, because they won't be able to get venues, and they'll be driven out of the health centers.*[94]

"There is no NGO that works exclusively for family planning. And if they push the family planning issue, then they won't be able to practice the other causes that they work for as well, because they won't be able to get venues, and they'll be driven out of the health centers."

This information even came from the Office of the Vice-Mayor of Manila. "The city will never issue permits to NGOs that distribute contraceptives. They won't allow NGOs to do some seminars among our population on population control and contraceptives. Not in Manila."[95]

Officers at the CHD–Metro Manila described an incident in 2004 involving harassment of volunteer health workers in Manila, who, as part of a project with their office and an NGO, would provide family planning services and information, in addition to other primary health services like immunization. The workers were not connected with the local government, but were independent volunteers. The officials described the incident:

> *The city government, allies of [the mayor's wife] got information that these workers were providing FP [family planning]. She ordered that these workers convene in an area where they convene pro-life vigils. So they were fetched in a vehicle and driven to the area. They were then shown a video on abortion. They were told, those who are performing FP, you are like abortionists.*[96]

Harassment of sexual and reproductive health advocate

Nida Leviste,[97] an NGO worker and a community leader in Paco, Manila, and her family were harassed by barangay officials in their area after a community education activity she planned on sexuality and family planning.

In March 2003, upon the request of people in her community, Nida and her organization conducted a discussion on sexuality and family planning. They didn't know that contraceptives were already banned in Manila.

The activity was held outside on a street. Barangay officials hovered in the street while the discussion was taking place. After the community discussion, men on motorcycles and bicycles lurked around Nida's house. A few days later, barangay officials warned her not to hold such discussions in their community, which they said were illegal. They said that city hall would interrogate them. Barangay officials also talked to Nida's parents, siblings and children.

After this incident, Nida's organization was required to ask permission from the barangay before they could have any activity in the community. Nida found it difficult to secure barangay clearance and certificates. She also feared the barangay chair, who was known to be involved in the executions of political activists in her area. Nida feared most for the security of her parents, siblings and children, who all lived in the same community.

Also, whenever the barangay officials had anything to tell Nida, they would lecture her father. When Nida's organization had an activity in the community, they would ask her father, "O, ano na naman 'yan?" ["What is it this time?"] To appease the barangay officials, her father would often send them food and give them money.

Dismissal of government doctor

Interviews for this report revealed at least one account of a local government provider who was targeted by city authorities. The provider was reportedly fired for referring his patients to NGOs for family planning services, even though he did not directly provide services himself:

> *There was a health center beside our clinic in Baseco and the doctor there was also called to the Manila City health office. He was questioned on the provision of FP [family planning]. He said, "I'm not providing FP. In fact, if a patient comes to me, I refer them to the [women's clinic next door]." He was reprimanded for that. In fact, he lost his job.*[98]

Closure of private clinic

According to the story of a Manila resident who used a private provider for her method of family planning, private clinics have also been subjected to closures:

> *It was OK for a while even without the free supply from the health center. ... There was a private doctor who wrote me the prescription and administered the injection. I bought the medicine for 90 pesos and paid 50 pesos for the injection. ... However, one day when I was about to have my next injection, I was surprised to see the doctor's clinic padlocked. I asked around and learned that people from the mayor's office closed down the clinic because artificial contraceptives were banned in Manila and the mayor is pro-life.*[99]

Pressure on pharmacies

> ***"Of course, these patients have the option to go to private doctors and buy [contraceptives] on their own in drug stores in Manila—so we are not curtailing their freedom to use artificial contraception."***
>
> —Official at the Manila Department of Social Welfare[100]

Injectables or DMPA (depot-medroxy progesterone acetate) are no longer available in some big commercial drugstores in Manila, such as Mercury Drugstores. In February 2007, Likhaan researchers went to a number of the drugstore chain's outlets in Manila and attempted to purchase pills and injectables. While all the outlets they visited sell contraceptive pills, clerks said that injectables are no longer being carried in Mercury Drugstores in the districts of Paco, San Andres, Sta. Ana or Bustillos.

The number of venues women can go to for artificial family planning is already restricted under the EO, and now there are even fewer. With the absence of injectables at some Mercury Drugstores, some women have lost their source of family planning supplies, such as a woman from San Andres who had been using the injectable for a couple of years. Since contraceptives were no longer available in city health centers, a private doctor would write her a prescription, and she would then buy it from the drugstore and have it injected by the private doctor. However, the Mercury Drugstore she used to buy from no longer carries injectables.

Although the reason for the absence of injectables in the stocks of some of the drugstore's outlets in Manila has not been established, one can reasonably surmise that under the EO, either women cannot afford to pay the steep price of injectables in private clinics at 500 pesos, or most private providers in Manila have discontinued FP services. Whatever the case, both situations will result in low demand for injectables, meaning that even more drugstore outlets may discontinue supplies. And the low demand will not have necessarily resulted from women's voluntary choices.

One city official suggested that the reason for the absence of supplies in some drugstores is even more directly connected to the EO—the result of pressure from Atienza himself. According to this official, since Atienza legally cannot prohibit the sale of contraceptives in drugstores, he uses tactics like calling drugstore owners and urging them not to sell contraceptives. Given the mayor's power and influence, owners comply out of a desire not to go against him.[101]

Providers' Conflict Between Following their Consciences and Following Atienza

> ***"There have been no objections from city employees to the policy. People have been convinced and enlightened by training."***
>
> — Manila city health officer[102]

Not all Manila city health workers share Atienza's stand, especially those who have been in the service for decades. But the fear of losing their jobs has silenced many into compliance with the EO.[103] As the vice-mayor of Manila put it, "[Atienza] just said to his staff, no contraceptives will be allowed in the city. That's what he said, that's the law. … Who among the mayor's men will want to cross the mayor?"[104]

The director of a city hospital described the tension for doctors of following the policy while being true to their professional responsibilities: "Of course we would have mixed feelings about it. First and foremost we are doctors. ... As a director, I have to consider also [the doctors'] side." The director noted that the ob/gyn doctors at his hospital have been especially resistant to the EO, even after being "enlightened" about the policy. On the other hand, the director felt a duty to abide by the mayor's EO: "There are two sides of being a director: follow the mayor and consider the feelings of doctors."[105]

We don't routinely give advice about family planning [at the hospital]. [There] have been spies reporting it goes on here, so we try to shy away from it. . . . It saddens us that we are not able to speak with a patient about family planning.

Doctors in city hospitals talked about wishing they could promote and give advice on family planning with their patients, but holding back because of fear of the consequences. An ob/gyn doctor at one hospital said:

We don't routinely give advice about family planning [at the hospital]. [There] have been spies reporting it goes on here, so we try to shy away from it. If a patient asks for family planning, we refer her out. It saddens us that we are not able to speak with a patient about family planning. In ob/gyn we all have private practices. Almost all inform about family planning, provide artificial means to patients.[106]

National Government's Tolerance of Atienza

The national government has not taken action against the Manila City government or even publicly expressed disapproval or disagreement with the policy. In response to questions about the EO's conformity with national and international obligations and its impact on women and families, DOH officials have defended the policy and minimized its impact on access to services.[107] A standard response by DOH and city officials alike was that the EO applies "only" to the four city hospitals and the health centers in Manila, and women can always get family planning services in DOH hospitals, private facilities and NGOs. These opinions ignore the reality of women's lives, especially those of poor women, for whom accessing services outside of city health centers and hospitals is much more difficult because of multiple and interconnected economic, social and other barriers.

Negligent reliance on DOH hospitals

The DOH cites national government health facilities as one of the mechanisms to address the gaps in service provision for artificial contraception for Manila's poorest residents.[108] As one DOH official said, "For the poor in these areas, there are national health facilities that can provide these FP [family planning] services. Manila is lucky because they can access national facilities."[109]

However, for many women in Manila, especially poor women, accessing services is not as simple as the government says. Fees for services, the failure of the DOH to promote information about its services, and social barriers, among others, can all contribute to preventing women from actually obtaining family planning services, even if they are available.

User fees

Health devolution since the 1990s has involved the large-scale transfer of facilities, personnel and budgets from the national health department to LGUs. The DOH did retain

many tertiary hospitals—a few of them located inside Manila—but it has since been under constant pressure to reduce reliance on the national budget since the delivery of health services is now in principle a local government responsibility. To cope with the financial squeeze, most DOH-retained hospitals implement various user fees.[110] According to one DOH hospital director:

> *This is not anymore a totally free hospital. Every procedure has a charge. ... patients are classified from indigent to one who can pay full charge of the procedure. ... So it depends on what the patient can afford, but generally, they are aware that every procedure has a charge. If they are classified as indigent, then the fee is waived. They have to be evaluated by our social service.*[111]

Patients also sometimes have to pay for medical supplies associated with a service, even if the procedure itself is free. For example, at PGH, ligation is generally free for all patients, but even patients who classify as indigent still have to pay for the fluids, antibiotics and medicines needed for the procedure, which total 2,000 pesos. As one doctor at PGH said, "You have to pay for the medicines because the government can't support totally free services."[112]

For poor women in Manila who want or need ligation and are referred to national government hospitals, this cost is prohibitive:

> *I plan to give birth in Fabella Hospital so that I can also have ligation. But the hospital asks for 2,000 pesos for delivery and ligation services. I'm trying to save up for it.*[113]

In principle, the national health insurance program managed by the Philippine Health Insurance Corporation (PhilHealth) may be able to substantially pay for family planning supplies and services, since it is mandated to provide universal coverage by 2010 and to pay for both inpatient and outpatient basic benefit packages.[114] However, PhilHealth has had a longstanding emphasis on hospitalized cases, which has severely limited its current family planning benefits to two types of measures: permanent surgical methods and limited postpartum contraception for up to three births.[115] Both provide less than 1,000 pesos in benefits. PhilHealth also is prohibited by law from providing health care directly or buying and dispensing supplies; it may only reimburse costs for services. Thus, any expansion of its family planning benefits will have no impact at all on Manila's health facilities as long as the EO remains in effect and women cannot get artificial family planning services in city facilities.

No family planning advertisement

National government hospitals have no policy of advertising their family planning services. When asked how Manila residents know they can go to DOH hospitals for family planning, especially considering that city providers don't always give referrals and that DOH hospitals are not the natural place most Filipino women go for most methods, hospital directors seem mostly to count on common knowledge, word of mouth and NGOs.[116] As for why they don't advertise, one director said:

> *I think no government hospital advertises their FP [family planning] unit—I don't know why, it's just not I think a culture that we advertise that we have this FP unit. It's more expected of a medical center that there is a FP unit. Even*

before, under past presidents, there was no policy to advertise. In our outpatient department you see there are advertisements of the different methods of FP available. But to go to the media and advertise that we have FP—we have not done that so far.[117]

Another director suggested that it was more about keeping a low profile in Manila about the family planning services they provide: "As a DOH facility, we can give FP services, but we can't really go out and talk with them. We implement it peacefully, because the moment you start talking about these things there are problems."[118]

Other social and economic barriers

For poor women, there are a host of other reasons why trying to get family planning services at a DOH hospital is much more challenging than going to their local health center or hospital, as they did before the EO. To begin with, DOH hospitals are one of the least common sources women go to for family planning services, except for sterilization.[119] Women usually go to DOH hospitals for childbirth, not for primary health-care services like family planning. Instead, most women go to community health centers and barangay health stations for their methods.[120] This was also the case in Manila prior to the EO.

When asked what she thought of the government response that women can still access family planning services in DOH hospitals, even with the EO, the former head of a women's NGO that worked closely with women in the Baseco district of Manila—one of the poorest—had this to say:

Not for the women of Baseco. Going to a DOH hospital in Manila ... would mean an extra amount for fare, and cost in terms of who's going to take care of their children. And going to a government hospital, you spend hours waiting for service, so they lose half a day just to get one cycle of pills. So I don't know whose viewpoint this statement is coming from, but I know the women in Baseco and I'm sure any other similar depressed communities would have the same kind of issue because of their extreme, extreme poverty.

"Going to a DOH hospital in Manila … would mean an extra amount for fare, and cost in terms of who's going to take care of their children. … you spend hours waiting for service, so they lose half a day just to get one cycle of pills."

The problem with that statement is it's a copout. They can always use it as an excuse. We did a focus-group discussion of women in Baseco in terms of going to hospitals. And going to hospitals to them is already a barrier ... One, they don't get the right treatment in hospitals—they're treated really, really poorly. They are made to wait a long time, they're not respected as persons. ... you have to look at their ability to access in terms of their own social status. I think we felt that in Baseco.[121]

Justifying Atienza

All of the DOH officials interviewed for this report—even if they privately disagreed with the EO—justified it as consistent with the Manila government's authority under the Local Government Code and, furthermore, did not think that it has had a significant impact on women's access to family planning, since women can get family planning supplies in other facilities that are not subject to the EO.[122] According to one department official, the NFP that the Manila government is promoting also is "part and parcel of the DOH policy" and thus poses no conflict.[123]

Likewise, none of the DOH officials interviewed perceive any conflict between the EO and international commitments like the International Conference on Population and Development (ICPD) Programme of Action and the Millennium Development Goals. "If you look at the ICPD … and when you look at FP [family planning], it supports both artificial and natural. So if Manila is really implementing NFP, it's still contributing to the ICPD commitment."[124]

"We have UN declarations, born out of war. Here, this is not war, but we have local executives who are humiliating our women by denying them the services that they need. … This interview is how we can help."

However, officers at the CHD–Metro Manila did not share these views. They expressed this strong sentiment against the policy:

We have UN declarations, born out of war. Here, this is not war, but we have local executives who are humiliating our women by denying them the services that they need. We don't know where to go. If you go to the central office, you will be ostracized. You can't speak your mind. So where do we go, NGOs? Here we have a local chief executive who for 10 years has continuously been violating every known UN declaration. ... Our country is a party to all of the UN declarations. This interview is how we can help.[125]

LEGAL STANDARDS

Executive Order No. 003 ("the EO") violates fundamental rights protected in the Philippine Constitution and national laws, including the rights to health and equality and the right of spouses to found a family in accordance with their personal religious convictions. The EO also contravenes international treaties that the Philippines has ratified and that are part of the government's legal obligations. As the Constitution's Declaration of Principles and State Policies notes, the government "adopts the generally accepted principles of international law as part of the law of the land."[126] These treaties explicitly protect the right to have access to family planning services and information, and to decide the number and spacing of one's children, and require that women have meaningful choices among methods of family planning. Manila's policy of exclusively supporting "natural" family planning (NFP) is not sufficient to meet its legal obligations.

National Law and Policy

The Constitution of the Philippines declares that "The State values the dignity of every human person and guarantees full respect for human rights."[127] The EO violates several basic rights guaranteed in the Constitution, including the rights to health, equality, and of spouses to found a family according to their personal religious convictions.

Right to health

The Constitution establishes the responsibility of the State to "protect and promote the right to health."[128] It also mandates the State to "adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost."[129] This provision lists particular sections of the population whose health care should be prioritized, including the underprivileged, women and children.[130] The Manila City government's effective ban on artificial family planning methods and information in city facilities—services that are an essential component of reproductive health care—violates these constitutional duties relating to health. The EO is a restrictive rather than a comprehensive approach to health development; it has the effect of making services unaffordable and therefore inaccessible for poor women; and it neglects rather than prioritizes women's health-care needs. The national government, in failing to hold all units of government responsible for their constitutional duty to adopt a comprehensive approach to health care despite devolution, is likewise in breach of the Constitution.

"The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost."
—Constitution, Article XIII, section 11

There is no separate national law on reproductive health in the Philippines.[131] However, there are national health and development policies and plans that address reproductive health. In 2005, the Department of Health (DOH) adopted a health sector reform program for 2005–2010 entitled FOURmula ONE for Health, which is "designed to undertake critical reforms … with the end goal of improving the efficiency, effectiveness and equity of the health system."[132] One of the key aims of the program is to improve and ensure the availability and accessibility of basic health care in public and private facilities. To this end, the program calls for activities to improve reproductive health outcomes, such as the maternal mortality rate, the infant mortality rate, the under-five mortality rate, the total

fertility rate and the contraceptive prevalence rate.[133] The EO, in limiting the availability and accessibility of basic health care, runs counter to these objectives. The EO is also more restrictive than the DOH's general policy on family planning, which, according to DOH officials interviewed for this report, provides for services and information for all types of legally accepted family planning methods, even though the department has been mandated by the national government to prioritize NFP.[134]

The EO also challenges medical ethical guidelines for medical professionals in the Philippines. Under the Code of Ethics of the Medical Profession of the Philippines, a doctor should secure for his patients "all possible benefits that may depend upon his professional skill and care."[135] It also holds that "a true physician does not base his practice on exclusive dogma or sectarian system for medicine is a liberal profession. It has no creed, no party, no master. Neither is it subject to any bond except that of truth."[136] The EO, in imposing Catholic religious dogma on family planning practice in city health facilities and interfering with at least some providers' independent medical judgment, violates this code.

Right to equality

The concept of sex equality is enshrined in Philippine law. The Constitution ensures the equality of women and men before the law.[137] The Women in Development and Nation Building Act recognizes women's roles in nation-building and commits to ensuring their equality with men.[138] Similarly, the "Anti-Violence Against Women and Their Children Act of 2004" obliges the State to respect women's and children's dignity and guarantee full respect for their human rights. [139] While women and men are both affected by the EO, only women are exposed to the risk of unintended pregnancy and its health consequences. Women also often disproportionately suffer its economic and social consequences. In this way, the EO deprives women of their rights and development on a basis of equality with men.

While women and men are both affected by the EO, only women are exposed to the risk of unintended pregnancy and its health consequences. Women also often disproportionately suffer its economic and social consequences.

These guarantees notwithstanding, there are also several provisions in Philippine law that perpetuate inequalities between women and men and reinforce the discriminatory impact of the EO. For example, the Family Code[140] has an explicit preference for decisions made by the husband in the administration of community or conjugal properties and in the exercise of parental authority.[141] Such laws are part of a legal culture that has perpetuated the stereotype of men as decision makers. Thus, in the Philippines, men tend to be the ultimate decision makers in issues of sexual relations, childbearing and child-rearing in most couples. The EO, with its emphasis on NFP, ignores this reality. Because NFP inherently requires the cooperation of a woman's male partner, it is ultimately not a reliable or effective method in the current context of Philippine society for women to freely and autonomously determine when to have children.

Rights relating to the family

The Constitution mandates the State to protect "the right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood," as well as "the right of families or family associations to participate in the planning and implementation of policies and programs that affect them."[142] The EO imposes one religious and moral viewpoint regarding family planning on all residents of Manila, who may not

share the same strict NFP approach to founding their families but may also have no choice, especially if they lack the money or other means to obtain artificial methods elsewhere.

The Local Government Code and devolution

The 1991 Local Government Code resulted in the devolution of certain powers, responsibilities and resources relating to health and other areas from the central government to the provinces, cities, municipalities and barangays of the Philippines.[143] The Declaration of Policy of the Local Government Code states: "The State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources."[144] However, the principle of local government autonomy underlying the Code does not make local governments sovereigns within the State. In the case of *Basco v. PAGCOR*, the Supreme Court held that "the principle of local autonomy under the 1987 Constitution simply means 'decentralization,'" which "does not make local governments sovereign within the state …."[145] According to former senator Aquilino Q. Pimentel, Jr., the principal author of the Local Government Code, what the Code contemplates is actually "devolution," which it defines as "the act by which the national government confers power and authority upon the various local government units to perform specific functions and responsibilities."[146] The Code thus does not contemplate a complete abdication of power to local government units (LGUs), which are still subject to the supervision of the national government, and accountable to the Constitution and the Philippines' other legal obligations, including its international legal obligations.[147] This is evident from the Code itself, which calls for an *accountable* local government structure.[148]

"…the powers of a local government unit are not absolute. They are subject to limitations laid down by the Constitution and the laws such as our Civil Code. Moreover, the exercise of such powers should be subservient to paramount considerations of health and well-being of the members of the community."

With respect to family planning, the national government's long-standing obligations—explicit in both the Constitution and the various international treaties the Philippines has ratified—have been to provide basic health-care services, including services and information on the full range of family planning methods, to everyone. The devolution of the provision of basic health-care services to the LGUs carries with it the duty to abide by these obligations.[149] The Local Government Code itself, under Section 17, includes family planning services as among basic services that LGUs must provide.[150] Furthermore, a presidential decree from 1996 specifically urges LGUs to promote family planning as a priority government program and to ensure that information and services are available *for all methods*, including (but not limited to) NFP.[151]

In restricting family planning services in city health facilities to natural methods, Mayor Atienza overstepped the boundaries of his limited lawmaking authority under the Local Government Code. As held by the Supreme Court in the case of *Macasiano v. Diokno*, "[V]erily, the powers of a local government unit are not absolute. They are subject to limitations laid down by the Constitution and the laws such as our Civil Code. Moreover, the exercise of such powers should be subservient to paramount considerations of health and well-being of the members of the community."[152] Therefore, as per law and jurisprudence, the EO must be struck down for violation of the Constitution, as well as various international conventions to which the Philippines is a party.

International Human Rights Law and Policy

> ***"International obligations only come into play when there is an agreement between countries. I don't believe there has been an international treaty on this matter. … If there is a treaty that is strictly worded, then we would have to respect it."***
>
> — Manila City Hall official[153]

The EO violates the right to have access to family planning services and information under international human rights treaties that have been ratified by the Philippines government. Because access to family planning services and information is necessary for the realization of other rights that the Philippines is obligated to protect under international law—such as the right to decide the number and spacing of one's children, the right to health, the right to equality and the right to be free from discrimination—the EO infringes on these rights as well.

Right to have access to family planning services and information

Under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW),[154] the International Covenant on Civil and Political Rights ("Civil and Political Rights Covenant"),[155] the Convention on the Rights of the Child ("Children's Rights Convention")[156] and the International Covenant on Economic, Social, and Cultural Rights ("Economic, Social and Cultural Rights Covenant"),[157] states have a clear duty to provide access to family planning services and information. Fulfillment of this duty requires access to and information about a full range of family planning methods in order to maximize women's choices with respect to family planning.[158] One form of family planning alone—in this case, NFP—does not constitute a full range of methods or provide a woman with a meaningful choice regarding her method of family planning. Meaningful access to family planning requires that a variety of safe and effective means of contraception be available to women. For example, the CEDAW Committee, the body established by the treaty to monitor states' compliance with its provisions, has expressed concern about countries where "the need for contraception remains unmet"[159] and has encouraged countries to "ensure … access to family planning programmes and related information to increase women's choices and as a means of empowerment."[160] Offering NFP in lieu of all forms of artificial contraception deprives women of choice and violates the Philippines' obligations under international human rights law.

> ***The Philippines should "strengthen measures aimed at the prevention of unwanted pregnancies, including by making a comprehensive range of contraceptives more widely available and without any restriction and by increasing knowledge and awareness about family planning." — Concluding Observation on the Philippines, CEDAW Committee (2006)***

The CEDAW Committee has articulated its apprehension about the availability of family planning services and information in the Philippines. As recently as 2006, the CEDAW Committee "request[ed]" that the Philippines "strengthen measures aimed at the prevention of unwanted pregnancies, including by making a comprehensive range of contraceptives more widely available and without any restriction and by increasing knowledge and awareness about family planning."[161] The Committee has further expressed concern that decentralization has led to inconsistent application of contraceptive policies and has suggested that appropriate legislation be enacted to ensure that family planning services are made available and accessible to women in all areas.[162] The Committee has unmistakably noted the Philippines' failure to meet its

obligations to provide access to family planning services and information as mandated by CEDAW.

The Committee on the Rights of the Child also recently raised specific concerns about adolescents' "limited access to reproductive health counseling and accurate and objective information about … contraception" in the Philippines.[163] It recommended that the Philippines "ensure access to reproductive health counseling and provide all adolescents with accurate and objective information and services in order to prevent teenage pregnancies and related abortions."[164] The Committee also recommended that the Philippines "strengthen formal and informal education on sexuality, HIV/AIDS, sexually transmitted diseases and family planning."[165] The Committee on the Rights of the Child has also acknowledged the Philippines' failure to fully comply with its obligations to provide access to family planning services and information, as required by the Children's Rights Convention.

A state's obligation to provide information about family planning services includes an obligation to provide accurate, comprehensive and factual information that does not misrepresent scientifically established knowledge about health. Such misrepresentation violates the obligation to provide accurate information about health and reproduction, which has been explicitly articulated by the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, and the ICPD Programme of Action.[166] For example, the Committee on Economic, Social and Cultural Rights, in its General Comment on the right to the highest attainable standard of health, has said, "States should refrain from … censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information."[167] Interviews with Manila City health officials suggest that misinformation concerning the effectiveness of, and health risks associated with, contraceptives is being disseminated to patients in Manila City health centers and some city hospitals as part of the city's campaign to discourage all methods of family planning except NFP.[168] This is in direct violation of the Philippines' obligations under international law.

Right to decide the number and spacing of one's children

The EO, by restricting women's access to a full range of family planning services and information, violates a woman's right to decide the number and spacing of her children. This right is expressly recognized under Article 16, paragraph 1(e) of CEDAW, which mandates States parties to "ensure, on a basis of equality of men and women … the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights."[169] This right was recognized as early as 1974 during the World Population Conference in Bucharest[170] and was affirmed in subsequent international instruments to which the Philippines is a signatory, such as the Beijing Declaration and Platform for Action and the ICPD Programme of Action.[171]

To assume that every woman can choose when she is abstinent is to deny the reality that, in many sexual relationships, the woman is expected to have sex upon the request or demand of her male partner.

Effective NFP requires that a woman be abstinent during her fertile periods to avoid conception, which, as the World Health Organization (WHO) has noted, requires the "continuing cooperation and commitment of both the woman and the man."[172] Thus to assume that every woman can choose when she is abstinent is to deny the reality that, in many sexual relationships, the woman is expected to have sex upon the request or demand of her male partner. The

1995 Beijing Declaration and Platform for Action emphasizes this inequality of power: "[T]he limited power many women have over their sexual and reproductive lives and lack of influence in decision-making are social realities which have an adverse impact on their health."[173] This limited power in relationships makes NFP an inadequate, and potentially empty, choice for women, because their ability to decide the number and spacing of their children depends completely on the willingness of their partners to abstain from having sex. This lack of a genuine choice deprives women of their right to decide the number and spacing of their children.

For poor women for whom NFP is not a realistic option, there are economic and social factors that impede their access to artificial methods in DOH hospitals, private clinics and NGOs, contrary to what many government officials suggest (see pages 17-19, 32-34). There is also evidence that the policy has had a chilling effect on the provision of artificial methods by private vendors and NGOs, meaning that these supplies are not even as available, let alone as accessible, as officials would like to believe (see pages 27-31). Furthermore, even if NFP were an acceptable option for all women in Manila who want to use family planning, government officials and hospital administrators charged with monitoring or carrying out implementation of the local government's health programs suggest that Manila has no coordinated NFP program at all (see pages 25-26). By ineffectively implementing NFP on top of limiting women's access to artificial methods, the city government has essentially left women with no family planning methods whatever.

Right to health

The EO violates women's right to health by limiting their access to affordable and acceptable essential reproductive health services and information, and increasing their risk of maternal mortality and morbidity, complications (including death) from induced abortions and exposure to HIV/AIDS and other sexually transmitted diseases. It effectively denies women the right to enjoy the "highest attainable standard of health" under international law, which includes "the right to control one's health and body, including sexual and reproductive freedom."[174]

As an overarching principle, the Economic, Social and Cultural Rights Covenant requires the progressive realization of the right to health, meaning that "States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 12."[175] Therefore, "there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible."[176] Prior to the EO, information dissemination and services related to family planning were typically conducted throughout the city. Contrary to the duty of progressively realizing optimal health, the EO is a step back for women's health and well-being.

As a State party to the Economic, Social and Cultural Rights Covenant and other international instruments, the Philippines is also obliged under the right to health to ensure that health goods and services are available in sufficient quantity, accessible and acceptable.[177] The duty to ensure accessibility requires that the most vulnerable and marginalized sections of the population in particular be able to get services, and that services be affordable for all.[178] The concept of acceptability requires that the services offered must be responsive to women's preferences, needs and circumstances.[179] While the specific nature of health services that States parties are required to provide may vary, there is a minimum core of basic health care that all States parties must provide, including

reproductive health care and essential drugs as defined by the WHO Action Programme on Essential Drugs.[180] The 2007 Model List of Essential Medicines includes contraceptives as among core "minimum medicine needs for a basic health system."[181] The Committee on Economic, Social and Cultural Rights, in explaining States parties' obligations under the right to health, has specifically called for states to "refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health."[182] The EO violates all of these obligations. In pulling contraception—essential medicines as recognized by the WHO—from city health facilities in Manila, it has denied women access to an affordable and convenient source of supplies, affecting the poorest sections of the population. In confining family planning services offered in city health facilities to natural methods, it has also deprived many women of their preferred methods. According to the 2003 National Demographic and Health Survey, and the government's own admission, oral contraceptives are the most preferred family planning method for most Filipino women, while traditional methods are becoming increasingly unpopular.[183]

The EO also violates women's right to health by increasing their risk of maternal mortality and morbidity, and of complications, including death, from induced abortions.[184] The relationship between the timing and spacing of children and maternal and infant health has been widely recognized at the international level. The Cairo Programme of Action noted that "The age at which women begin or stop child-bearing, the interval between each birth, the total number of lifetime pregnancies and the socio-cultural and economic circumstances in which women live all influence maternal morbidity and mortality."[185] In addition, "Early, late, numerous and closely spaced pregnancies are major contributors to high infant and child mortality and morbidity rates, especially where health-care facilities are scarce."[186] Thus, depriving women of meaningful choices by which to determine the timing and spacing of their children seriously threatens women's, and infants', right to health.

The Committee on Economic, Social and Cultural Rights has specifically called for states to "refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health."

Further, a large percentage of maternal deaths are due to complications from unsafe abortion.[187] Noting the link between maternal mortality rates resulting from unsafe abortion and a denial of meaningful reproductive health choices, the CEDAW Committee has recognized a government's duty to "take measures to ensure that women do not seek unsafe medical procedures, such as illegal abortion, because of lack of appropriate services in regard to fertility control."[188] Providing access to family planning services and information is thus vital to ensuring respect for a woman's right to health.

The CEDAW Committee has specifically expressed concern about the Philippines' "high maternal mortality rates, particularly the number of deaths resulting from induced abortions, high fertility rates, inadequate family planning services, the low rates of contraceptive use and the difficulties of obtaining contraceptives."[189]

Access to family planning services and information and, particularly, condoms, is essential for preventing the spread of HIV/AIDS and other sexually transmitted infections. The CEDAW Committee has noted:

> *The issues of HIV/AIDS and other sexually transmitted diseases are central to the rights of women and adolescent girls to sexual health. ... States parties should ensure, without prejudice or discrimination, the right to sexual health information, education and services for all women and girls. ...*[190]

Promoters of NFP claim that monogamy provides women protection against HIV/AIDS. However, the 1994 Cairo Declaration emphasizes the dangerous weakness of relying on monogamy for protection, stating that women are "especially vulnerable to sexually transmitted infections, including HIV, as illustrated by, for example, their exposure to the high-risk sexual behaviour of their partners."[191] It further states, "Governments should base national policies on a better understanding of … the realities of current sexual behaviour."[192] A claim that monogamy protects women from HIV/AIDS denies the reality that many women are monogamous while their male partners, often unbeknownst to them, are not. In such cases, only the use of condoms can protect women from HIV/AIDS. Although the AIDS rate in the Philippines is generally low, behavioral surveillance data from 1997 and 2001 indicates that there is a high prevalence of HIV/STI risk behavior.[193] Furthermore, there is a high prevalence of STIs among sex workers, and the prevalence rate of STIs, including chlamydial infections, in the Philippines reached 36% during 1994–2000.[194]

The right to equality and the right to be free from discrimination

The Civil and Political Rights Covenant,[195] CEDAW,[196] the Children's Rights Convention,[197] and the Economic, Social and Cultural Rights Covenant[198] each include provisions prioritizing equality and prohibiting discrimination on the basis of specified grounds, including gender. CEDAW mandates that States parties "take all appropriate measures"[199] to eliminate discrimination against women and to ensure, on a basis of equality between men and women, access to "information and advice on family planning"[200] and to "health care services, including those related to family planning."[201] The CEDAW Committee has noted that women face unique burdens relating to reproduction and that as a result they have a right to control their reproductive decisions.[202] In interpreting the nondiscrimination provisions of the Civil and Political Rights Covenant, the Human Rights Committee has specifically mentioned the need for countries to take positive measures to advance the empowerment of women[203] and "to help women prevent unwanted pregnancies, and to ensure that they do not have to undertake life-threatening clandestine abortions."[204]

The Human Rights Committee calls on States parties to "ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights."

Furthermore, United Nations treaty bodies and international organizations have recognized that prevailing traditional, religious and cultural norms have been used to justify women's inequality, including in the reproductive health context. The Human Rights Committee calls on States parties to "ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights."[205] The Committee on the Rights of the Child has expressed "the need to give careful attention to sexuality" and "the behaviours and lifestyles of children, even if they do not conform with what society determines to be acceptable under prevailing cultural norms for a particular age group."[206] A WHO publication states that despite religious or other moral influence, "democratic governments that are accountable to their electorates and that have endorsed the Cairo Programme bear responsibility to formulate and advance laws that serve their populations' reproductive health."[207] The International Federation of Gynecology and Obstetrics (FIGO) has likewise recognized that "member societies must recognize and respect the diversity of cultures and religions that may exist within a country in order to provide culturally sensitive care for all women."[208] The EO, therefore, cannot be justified simply because it is consistent with the city mayor's and other political leaders' understanding of the Catholic Church's stance on family planning.

By placing a special burden on traditionally disadvantaged groups, including children and the poor, the EO also results in prohibited discrimination. The Committee on Economic, Social, and Cultural Rights has noted that "health facilities, goods and services have to be accessible to everyone without discrimination"; they must especially be accessible to "the most vulnerable or marginalized" and "affordable for all."[209] By failing to provide access to a comprehensive range of family planning information and services at all city hospitals and health centers, the EO makes reproductive health services especially inaccessible to those who cannot afford them.

CONCLUSIONS

A reproductive health crisis exists in Manila. The absence in city health facilities of a full range of affordable family planning services resulting from Executive Order No. 003 ("the EO") has contributed to a situation in which women have more children than they want, with grave economic, social, physical and psychological consequences for women and their families. Gross and systemic violations of human rights under Philippine and international law, particularly women's rights to health, equality, self-determination and access to family planning information and services, have been perpetuated with impunity for close to ten years. These violations have hit poor women and their families the hardest, rendering long-term and irreversible effects on their well-being, security, development and quality of life.

In addition to affecting women, the EO has interfered with the ability of many medical practitioners to provide reproductive health information according to their consciences and medical ethics. The restrictive environment in Manila has also caused private providers and nongovernmental organizations to either discontinue family planning provision or leave Manila.

Gross and systemic violations of human rights under Philippine and international law have been perpetuated with impunity for close to ten years.

The national government through the Department of Health (DOH) has violated one of its primary functions under devolution—explicitly stated in its own policies[210]—of maintaining national health standards. DOH officials have not only failed to stand up against the EO, but they have also failed to set up safety nets for women affected by the policy, such as by increasing subsidies, commodities and personnel for family planning services in DOH-retained facilities, and by organizing and funding regular outreach family planning clinics in hospitable cities adjacent to Manila. DOH officials have further rationalized Atienza's policy as being in line with DOH family planning programs. The national government is now emulating Atienza's "natural" family planning–only approach in the DOH, assigning the Commission on Population (POPCOM) to advocate responsible parenthood and exclusive NFP throughout the Philippines.

The national government and the DOH have also justified the EO as being within the authority of local government units under the Local Government Code. However, this is a misreading of the Code, leading local government officials to disregard national and international laws, and national government officials to feel that they have no authority to do anything to change policies like the EO. The Code has been turned into an excuse for variable policies on family planning.

The role of the former Manila mayor is also decisive in the harm to health and governance that the EO has wrought. Atienza crafted, justified and gave direction for implementation of the EO. City officials' interviews reiterated the mayor's propensity to get what he wants. Such brazen disregard for human rights must be brought to account.

Endnotes

[1] Interview with Dr. "Jose" Baranda, Officer in Charge, Manila Dept. of Social Welfare, Manila, Phil. (Jan. 24, 2007) [hereinafter Interview with Dr. Baranda, Jan. 24, 2007].

[2] Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila and Enunciating Policy Declarations in Pursuit Thereof, Executive Order No. 003 (2000) [hereinafter Executive Order No. 003].

[3] Jaileen F. Jimeno, *Freedom to choose is key to population control*, Manila Times, May 24, 2005, *available at* http://www.manilatimes.net/others/special/2005/may/24/20050524spe1.html [hereinafter Jimeno, *Freedom to Choose*].

[4] Republic of the Philippines, Department of Health, Natural Family Planning, http://www.doh.gov.ph/programs/natural_FP (last visited June 13, 2007); Interview with Dr. Mario Villaverde, Assistant Secretary, Department of Health, and Director, Health Policy and Development Planning Bureau, Department of Health, Manila, Phil. (Jan. 23, 2007) [hereinafter Interview with Dr. Villaverde, Jan. 23, 2007]; Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Combined fifth and sixth periodic report of States parties, Phil., CEDAW Committee, para. 33, U.N. Doc. CEDAW/C/PHI/5-6 (2004) [hereinafter CEDAW Country Report].

[5] Local Government Code of 1991, Republic Act No. 7160, sec. 2 (1991) (Phil.) [hereinafter Local Government Code].

[6] Interview with Dr. Villaverde, Jan. 23, 2007, *supra* note 4.

[7] Section 60 of the Code enumerates the grounds under which an elected official may be disciplined, suspended or removed, including culpable violation of the Constitution, gross negligence, dereliction of duty and abuse of authority. Local Government Code, *supra* note 5, sec. 60. The Supreme Court held in the case of *Llamas v. Orbos* that the Department of Interior and Local Government has the "disciplinary authority to investigate, suspend and remove provincial or city officials." The Secretary's decision of removal or suspension can be appealed to the Office of the President. *Llamas v. Orbos*, G.R. No. 99031, Oct. 15, 1991, http://lawphil.net/judjuris/juri1991/oct1991/gr_99031_1991.html. The decision of the President is binding on the parties concerned and can be appealed to the courts.

[8] Citizens can file a petition for mandamus with the courts, which can render a judgment "commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent." 1997 Rules of Civil Procedure, Rule 65, Section 3 (Phil.). A petition for prohibition can also be filed, which can result in a judgment "commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require." *Id*. Sec. 2.

[9] Executive Order No. 003, *supra* note 2. Section 455(b)(2)(iii) of the 1991 Local Government Code provides that the city mayor "shall enforce all laws and ordinances relative to the governance of the city" and "issue such executive orders for the faithful and appropriate enforcement and execution of laws and ordinances." However, research and interviews conducted for this report revealed a mixed picture of whether there was ever a resolution passed by the Manila city council that Executive Order No. 003 was issued to enforce. According to interviews with a city health official, a city hospital director, and the secretary to the mayor, the city council passed a resolution concurring with the order. According to the vice-mayor of Manila, the city council never passed a resolution either way. Exhaustive research by ReproCen researchers on ordinances and resolutions issued by the City of Manila since 1996 did not yield any ordinance relating to the order. If there is indeed no ordinance, the order could be void per the powers granted to city mayors under the Local Government Code.

[10] Interview with Attorney Emmanuel R. Sison, Secretary to the Mayor of Manila, Manila, Phil. (Jan. 24, 2007) [hereinafter Interview with Atty. Sison, Jan. 24, 2007].

[11] Executive Order No. 003, *supra* note 2.

[12] Interview with Atty. Sison, Jan. 24, 2007, *supra* note 10.

[13] *See e.g.*, Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, art. 27 (*entered into force* Jan. 27, 1980) ("A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.").

[14] President Gloria Macapagal Arroyo, Address at the 1st Asia-Pacific Conference on Reproductive Health: Pregnancy and Motherhood Together We Can Make it Safe! (Feb. 15, 2001), *available at* http://doh.gov.ph/safemotherhood/first_natlsafe.htm.

[15] *See* Alejandro N. Herrin, Population Policy in the Philippines, 1969-2002 (2002), *available at* http://dirp3.pids.gov.ph/ris/dps/pidsdps0208.pdf.

[16] Christine Herrera, *Family Planning Flip-flop costs P840 M,* Manila Standard Today, Feb. 23, 2006, *available at* http://www.manilastandardtoday.com/?page=news04_feb23_2006.

[17] The Secretary of Health, which is the chief officer of the Department of Health (DOH), is appointed by the President. Not all DOH officials approve of President Arroyo's NFP-only policy.

[18] *Supplementary information to the Committee on the Elimination of Discrimination against Women: Philippines*, at 5 (Aug. 8, 2006) *available at* http://reproductiverights.org/pdf/sl_Philippines_eng_2006.pdf (on file with the Center for Reproductive Rights).

[19] *Id.* at 6.

[20] Asian-Pacific Resource and Research Centre for Women, Monitoring Ten Years of ICPD Implementation: The Way Forward to 2015, Asian Country Reports, at 125. The DOH contracted with Couples for Christ to implement the natural family planning (NFP) program. The contract was terminated after a year, after a Congressional budget inquiry revealed low numbers in terms of additional NFP users. The Commission on Population (POPCOM) has since taken over functions relating to NFP advocacy.

[21] The national government also has rationalized its focus on NFP by stating that it is equalizing the imbalance of the national family planning program's focus on artificial contraception up to the present time, and that NFP is a necessary alternative for family planning users who prefer traditional methods or are wary of the side effects of artificial methods.

[22] *See* National Statistic Office (Phil.) et al., Philippine National Demographic and Health Survey 2003, tbl. 5.12, 67 [hereinafter NDHS 2003].

[23] *Id*.

[24] *See* Singh S. et al, Alan Guttmacher Institute (AGI), Unintended Pregnancy and Induced Abortion in the Philippines: Causes and Effects, 4 (2006) [hereinafter AGI, Unintended Pregnancy in the Philippines].

[25] NDHS 2003, *supra* note 22, tbl. 7.10 at 102.

[26] AGI, Unintended Pregnancy and Induced Abortion in the Philippines, *supra* note 24, at 24. *See also* UN Exec, *RP may miss global goal to cut maternity deaths*, Associated Press, Mar. 29, 2007, *at* http://www.unfpa.org.ph/news/local/2007/UNFPA%20in%20the%20News/03_Maternal%20Deaths%20in%20RP.asp.

[27] Republic of the Philippines, National Statistics Office, *City of Manila: Experienced a Negative Population Growth Rate, Results from the 2000 Census of Population and Housing*, Press Release, Oct. 10, 2002, *at* http://www.census.gov.ph/data/pressrelease/2002/pr02175tx.html.

[28] AGI, Unintended Pregnancy in the Philippines, *supra* note 24, at 7, 16-17.

[29] All names of women interviewed for this report have been changed to ensure their privacy and safety.

[30] Interview by Likhaan, San Andres, Manila, Phil. (Nov. 9, 2006) [hereinafter Likhaan interview in San Andres, Nov. 9, 2006).

[31] *Id.*

[32] *Id.*

[33] The 2000 pesos fee is for medicines associated with ligation, which patients have to pay for in some national government hospitals, not for the procedure itself. Interview with Dr. Lourdes Capito, Philippine General Hospital, Manila, Phil. (Jan. 24, 2007) [hereinafter Interview with Dr. Capito, Jan. 24, 2007].

[34] Likhaan interview in San Andres, Nov. 9, 2006, *supra* note 30.

[35] Interview by Likhaan with Monet Maglaya, San Andres, Manila, Phil. (Nov. 9, 2006) [hereinafter Likhaan interview with M. Maglaya, Nov. 9, 2006].

[36] *See e.g.,* Interview with Dr. Villaverde, Jan. 23, 2007, *supra* note 4.

[37] Interview with Dr. Christia Padolina, Director of Ospital ng Maynila Medical Center, Manila, Phil. (Jan. 25, 2007) [hereinafter Interview with Dr. Padolina, Jan. 25, 2007].

[38] Interview with Atty. Sison, Jan. 24, 2007, *supra* note 10.

[39] Likhaan interview with M. Maglaya, Nov. 9, 2006, *supra* note 35.

[40] Interview by Likhaan with Tina Montales, San Andres, Manila, Phil. (Nov. 9, 2006) [hereinafter Likhaan interview with T. Montales, Nov. 9, 2006).

[41] Interview by Likhaan with Susan Trias, San Andres, Manila, Phil. (Nov. 9, 2006) [hereinafter Likhaan interview with S. Trias, Nov. 9, 2006].

[42] Interview by Likhaan with Angie Isidro, San Andres, Manila, Phil. (Nov. 9, 2006) [hereinafter Likhaan interview with A. Isidro, Nov. 9, 2006]. The 3,000 pesos fee is for medicines and supplies needed for ligation, not for the procedure itself. Medical providers and officials interviewed for this report said that national hospitals can no longer afford to provide completely free services.

[43] Interview with Dr. Ruben Flores, Medical Center Chief II, Dr. Jose Fabella Memorial Hospital, Manila, Phil. (Jan. 19, 2007) [hereinafter Interview with Dr. Flores, Jan. 19, 2007].

[44] Interview with Dr. de los Reyes, Director, Jose R. Reyes Memorial Medical Center, Manila, Phil. (Jan. 25, 2007) [hereinafter Interview with Dr. de los Reyes, Jan. 25, 2007].

[45] AGI, Unintended Pregnancy in the Philippines, *supra* note 24, at 4.

[46] *Id.*

[47] *Id.* at 5.

[48] Interview with Dr. Sison, Director, Ospital ng Sampaloc, Manila, Phil. (Jan. 24, 2007) [hereinafter Interview with Dr. Sison, Jan. 24, 2007] ("There are so many cases of induced abortions and it has to stop"); Interview with Dr. Julia B. Beltran, Director of Medicine, Ospital ng Tondo, Manila, Phil. (Jan. 25, 2007) ("… a lot of women coming in following complications from abortion"); Interview with a Manila city hospital administrator who requested anonymity, Manila, Phil. (Jan. 23, 2007) ("Complications from abortion, including many deaths, are very common here because it is a very poor community, so they cannot do away with abortionists in the slum area.").

[49] Interview with Dr. Flores, Jan. 19, 2007, *supra* note 43 ("Abortion in most of hospitals is a leading cause of admissions – it's really a big problem.").

[50] Interview with a doctor at Fabella Hospital who requested anonymity, Manila, Phil. (Jan. 19, 2007).

[51] Interview with Dr. Capito, Jan. 24, 2007, *supra* note 33.

[52] Likhaan interview with T. Montales, Nov. 9, 2006, *supra* note 40.

[53] Likhaan interview with A. Isidro, Nov. 9, 2006, *supra* note 42.

[54] Interview by Likhaan with Bernadette Antonio, San Andres, Manila, Phil. (Nov. 9, 2006) [hereinafter Likhaan interview with B. Antonio, Nov. 9, 2006).

[55] Interview by Likhaan with Michelle Magpale, San Andres, Manila, Phil. (Jan. 11, 2007).
[56] Likhaan interview with B. Antonio, Nov. 9, 2006, *supra* note 54.
[57] Likhaan interview with M. Maglaya, Nov. 9, 2006, *supra* note 35.
[58] Jimeno, *Freedom to Choose, supra* note 3.
[59] Likhaan interview with T. Montales, Nov. 9, 2006, *supra* note 40.
[60] Interview with Dr. Baranda, Jan. 24, 2007, *supra* note 1 (referring to studies that show that oral contraceptives can cause cancer).
[61] Interview with Dr. Enrique Samonte, Officer of Reproductive Health Services, Natural Family Planning Program; Manila Health Office, Manila, Phil. (Jan. 24, 2007) [hereafter Interview with Dr. Samonte, Jan. 24, 2007] (referring to article that classified a specific type of birth control pill as a pesticide); Interview with Dr. Baranda, Jan. 24, 2007, *supra* note 1 (stating that women receive information about the pesticide content of certain oral contraceptives when they are being educated about NFP).
[62] Interview with Dr. Baranda, Jan. 24, 2007, *supra* note 1 (stating that condoms are not effective in preventing against HIV because the virus is smaller than the condom's pores and can penetrate through); Interview with Dr. Marie Lorraine Sanchez, City Health Officer, Manila, Phil. (Jan. 25, 2007) [hereinafter Interview with Dr. Sanchez, Jan. 25, 2007] (describing the HIV virus as mutating and getting smaller, and referring to a Johns Hopkins report that says that the pores of condoms are bigger than the virus itself); Interview with a Manila city hospital administrator who requested anonymity, Manila, Phil. (Jan. 23, 2007) (referring to statistics showing that the HIV virus can penetrate condoms, because the virus is smaller than sperm, and stating that women are educated about this). *But see* Interview with Dr. Padolina, Jan. 25, 2007, *supra* note 37 (stating that they discuss condoms and how they can prevent transmission of STIs at Ospital ng Maynila).
[63] Interview with Manila Vice-Mayor Danilo Lacuna, Manila, Phil. (Jan. 23, 2007) [hereinafter Interview with Manila vice-mayor, Jan. 23, 2007].
[64] Interview with Dr. Baranda, Jan. 24, 2007, *supra* note 1.
[65] Interview with Dr. Sanchez, Jan. 25, 2007, *supra* note 62 (stating that all doctors have the right to refer to a different hospital and are not prohibited from referring to other hospitals, and that it's a matter of personal conscience).
[66] Interview with a Manila city hospital administrator who requested anonymity, Manila, Phil. (Jan. 23, 2007).
[67] Interview with Dr. Padolina, Jan. 25, 2007, *supra* note 37 ("It is always the choice of the patient. If a patient comes in and openly tells the physician that she wants a tubal ligation, we have to say that the city of Manila doesn't do tubal ligations but the option is hers. We write a referral letter addressed to an institution nearby. As physicians, our goal is to tell her the whole gamut of services available. The writing of a letter of referral also applies to any artificial family planning methods (IUDs, etc.)").
[68] Interview by Likhaan with Evelyn Legaspi, San Andres, Manila, Phil. (Jan. 12, 2007).
[69] Interview with Dr. Yolanda Oliveros, Director IV, National Center for Disease Prevention and Control; Department of Health, Manila, Phil. (Jan. 22, 2007) [hereinafter Interview with Dr. Oliveros, Jan. 22, 2007].
[70] Interview with officers of the Center for Health Development–Metro Manila, Phil. (Jan. 22, 2007) [hereinafter Interview with CHD–Metro Manila, Jan. 22, 2007].
[71] Interview with a city hospital doctor of gynecology who requested anonymity, Manila, Phil. (Jan. 24, 2007).
[72] Interview with Dr. Padolina, Jan. 25, 2007, *supra* note 37 (stating that they don't actively promote NFP, even in outreach); Interview with a city hospital doctor of gynecology who requested anonymity, Manila, Phil. (Jan. 25, 2007) (stating that they don't routinely teach natural family planning).
[73] Interview with a doctor at Dr. Jose Fabella Memorial Hospital who requested anonymity, Manila, Phil. (Jan. 19, 2007).
[74] Interview with Dr. Samonte, Jan. 24, 2007, *supra* note 61.
[75] Interview with a Manila city hospital administrator who requested anonymity, Manila, Phil. (Jan. 23, 2007)
[76] Jimeno, *Freedom to Choose, supra* note 3.
[77] This is a natural family planning method that can be used by post-partum women only. Women must be no more than six months post-partum and must be breastfeeding exclusively for the method to work. *See* World Health Organization (WHO) et al., Pregnancy, Childbirth, Postpartum, and Newborn Care: A guide for essential practice, D27 (2006); Jimeno, *Freedom to Choose, supra* note 3.
[78] This method requires women to chart their fertile and infertile periods. Jimeno, *Freedom to choose, supra* note 3.
[79] *Id.*
[80] *Id.*
[81] Interview with City Councilor Cita Astals, Manila, Phil. (Jan. 24, 2007) [hereinafter Interview with C. Astals, Jan. 24, 2007].
[82] Interview with CHD–Metro Manila, Jan. 22, 2007, *supra* note 70.
[83] Baseco is a depressed compound attached to the seawall of Manila Port. It is home to about 65,000 residents, mostly living in shanties, while others count on Gawad Kalinga, a housing program of Catholic groups in the country. Baseco is the area in Manila with the highest unmet need for family planning.
[84] Interview with Gladys Malayang, former Executive Director, Women's Health Care Foundation, Phil. (Jan. 24, 2007) [hereinafter Interview with G. Malayang, Jan. 24, 2007].
[85] Interview by Likhaan with Mayette Piamonte, Baseco Compound, Manila, Phil. (Nov. 30, 2006).
[86] Interview with Atty. Sison, Jan. 24, 2007, *supra* note 10.

[87] BaRHC, a broad alliance of NGOs, women's groups, and peoples' organizations including Manila residents, serves as a watchdog on reproductive health and rights by exposing violations and demanding accountability of local government chiefs and government-run institutions.

[88] Interview with G. Malayang, Jan. 24, 2007, *supra* note 84.

[89] *Id*.

[90] Interview with Dr. Sanchez, Jan. 25, 2007, *supra* note 62.

[91] EngenderHealth is an international nonprofit organization that works to make reproductive health services safe, available and sustainable for women and men worldwide. *See* http://www.engenderhealth.org/.

[92] Interview with CHD–Metro Manila, Jan. 22, 2007, *supra* note 70.

[93] Interview with CHD–Metro Manila, Jan. 22, 2007, *supra* note 70; Interview with C. Astals, Jan. 24, 2007, *supra* note 81.

[94] Interview with C. Astals, Jan. 24, 2007, *supra* note 81.

[95] Interview with Manila vice-mayor, Jan. 23, 2007, *supra* note 63.

[96] Interview with CHD–Metro Manila, Jan. 22, 2007, *supra* note 70.

[97] Interview by Likhaan with Nida Leviste, Manila, Phil. (Mar. 2005).

[98] Interview with Dr. Miriam Fernando, Executive Director, Women's Health Care Foundation, Phil. (Jan. 25, 2007).

[99] Interview by Likhaan with Sonia Ramirez, Phil. (Jan. 11, 2007).

[100] Interview with Dr. Baranda, Jan. 24, 2007, *supra* note 1.

[101] Interview with Manila vice-mayor, Jan. 23, 2007, *supra* note 63.

[102] Interview with Dr. Samonte, Jan. 24, 2007, *supra* note 61.

[103] Interview with C. Astals, Jan. 24, 2007, *supra* note 81 ("A lot of the doctors are very frustrated about the policy because they have no choice. They are afraid of getting fired, so they keep their feelings to themselves."); Jaileen F. Jimeno, *In Manila, pills and condoms go underground,* Manila Times, May 23, 2005, at 2, *available at* http://www.manilatimes.net/others/special/2005/may/23/20050523spe1.html.

[104] Interview with Manila vice-mayor, Jan. 23, 2007, *supra* note 63.

[105] Interview with Dr. Sison, Jan. 24, 2007, *supra* note 48.

[106] Interview with a city hospital doctor who requested anonymity, Manila, Phil. (Jan. 24, 2007).

[107] Interview with Dr. Oliveros, Jan. 22, 2007, *supra* note 69; Interview with Dr. Villaverde, Jan. 23, 2007, *supra* note 4; Interview with a Department of Health official who requested anonymity, Manila, Phil. (Jan. 19, 2007).

[108] Interview with Dr. Oliveros, Jan. 22, 2007, *supra* note 69 ("If a mayor like in Manila doesn't want to have artificial methods there, it's his choice. However, we have national hospitals under DOH that are within Manila, so they can provide all the FP methods."); Interview with a Department of Health official who requested anonymity, Manila, Phil. (Jan. 19, 2007) ("Even if Manila prohibits it [family planning], it does not prohibit the Manila people to access the services in the DOH hospitals.").

[109] Interview with Dr. Marvi Ala, Bureau of International Health Cooperation, Department of Health, Manila, Phil. (Jan. 23, 2007).

[110] Interview with Dr. Flores, Jan. 19, 2007, *supra* note 43 ("In this hospital we used to give free services. … I'm starting charging. I'm charging them because the budget of the department has been dwindling."); Interview with Dr. Sanchez, Jan. 25, 2007, *supra* note 62 ("National hospitals do charge a minimal fee. Times are hard, PGH charges a minimal fee. But we don't.").

[111] Interview with Dr. de los Reyes, Jan. 25, 2007, *supra* note 44.

[112] Interview with Dr. Capito, Jan. 24, 2007, *supra* note 33.

[113] Likhaan interview with S. Trias, Nov. 9, 2006, *supra* note 41.

[114] *See* RA 7875, *available at* http://www.doh.gov.ph/ra/ra7875.

[115] *See* PhilHealth Circular No. 34, s-2002, *available at* http://www.philhealth.gov.ph/circulars/2002/circ34_2002.htm, and Circular No. 23, s-2006, *available at* http://www.philhealth.gov.ph/circulars/2006/circ23_2006.pdf.

[116] Interview with Dr. Oliveros, Jan. 22, 2007, *supra* note 69; Interview with Dr. Flores, Jan. 19, 2007, *supra* note 43; Interview with Dr. de los Reyes, Jan. 25, 2007, *supra* note 44.

[117] Interview with Dr. de los Reyes, Jan. 25, 2007, *supra* note 44.

[118] Interview with Dr. Flores, Jan. 19, 2007, *supra* note 43.

[119] NDHS 2003, *supra* note 22.

[120] *Id.*

[121] Interview with G. Malayang, Jan. 24, 2007, *supra* note 84. *See also* Interview with a Department of Health official who requested anonymity, Manila, Phil. (Jan. 19, 2007) (discussing poverty, lack of money for transport, lack of childcare and judgmental attitudes of health workers all as barriers to women's access to family planning services, even if they are available).

[122] Interview with Dr. Oliveros, Jan. 22, 2007, *supra* note 69; Interview with Dr. Villaverde, Jan. 23, 2007, *supra* note 4; Interview with a Department of Health official who requested anonymity, Manila, Phil. (Jan. 19, 2007).

[123] Interview with a Department of Health official who requested anonymity, Manila, Phil. (Jan. 19, 2007).

[124] Interview with Dr. Oliveros, Jan. 22, 2007, *supra* note 69.

[125] Interview with CHD–Metro Manila, Jan. 22, 2007, *supra* note 70.

[126] 1987 Constitution, art. 2, sec. 2 (Phil.) [hereinafter 1987 Constitution].

[127] *Id.* art. 2, sec. 11 (Phil.).

[128] *Id.* art. 2, sec. 15 (providing that "the State shall protect and promote the right to health of the

people and instill health consciousness among them.")

[129] *Id.* art. 13, sec. 11 (providing that "the State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost.")

[130] *Id.* (providing that "there shall be priority for the needs of the under-privileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.")

[131] Center For Reproductive Rights (CRR), Women of the World: Laws & Policies Affecting their Reproductive Lives – East and Southeast Asia 135 (Center for Reproductive Rights, 2005).

[132] In 2005, the Department of Health adopted a health sector reform program for 2005–2010 entitled FOURmula ONE for Health, which is "designed to implement critical health interventions" and is "aimed at achieving critical reforms with speed, precision and effective coordination directed at improving the quality, efficiency, effectiveness and equity of the Philippine health system." Republic of the Philippines, Department of Health, *The Fourmula One for Health: The Road Map for Health Sector Reforms in the Philippines 2005–2010*, at http://doh.gov.ph/f1primer/F1-Page.htm.

[133] World Health Organization (WHO) et al., *WHO/WPRO National Health Plan and Priorities, at* http://www.wpro.who.int/countries/phl/national_health_priorities.htm (last visited June 14, 2007).

[134] Interview with Dr. Villaverde, Jan. 23, 2007, *supra* note 4.

[135] Code of Ethics of the Medical Profession in the Philippines, art. 2, sec.1 (2004) [hereinafter Code of Ethics] (providing that a physician should attend to his patients faithfully and conscientiously. He should secure for them all possible benefits that may depend upon his professional skill and care. As the sole tribunal to adjudicate the physician's failure to fulfil his obligation to his patients is, in most cases, his own conscience, and violation of this rule on his part is discreditable and inexcusable.)

[136] *Id.* art. 4, sec. 22 (providing that a true physician does not base his practice on exclusive dogma or sectarian system for medicine is a liberal profession. It has no creed, no party, no master. Neither is it subject to any bond except that of truth.)

[137] 1987 Constitution, *supra* note 126, art. 2, sec. 14. The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

[138] An Act Promoting the Integration of Women as Full and Equal Partners of Men in Development and Nation Building and for Other Purposes, Republic Act No. 7192, sec. 2 (1992) (Phil.). The Declaration of Policy provides, "The State recognizes the role of women in nation building and shall ensure the fundamental equality before the law of women and men. The State shall provide women rights and opportunities equal to that of men."

[139] An Act Defining Violence against Women and their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes, Republic Act. No. 9262, sec. 2 (2004) (Phil.). The Declaration of Policy provides, "It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security."

[140] The Family Code of the Philippines, Executive Order No. 209 (1987), arts. 96, 211, at http://www.chanrobles.com/executiveorderno209.htm.

[141] Elizabeth Aguiling-Pangalangan, 10 Years after Cairo: Between Commitment and Realization of Reproductive Health in the Phil., 69, 102 (Reproductive Health, Rights and Ethics Center for Studies and Training (Reprocen)) Phil. (2003) [hereinafter E. A. Pangalangan, 10 Years After Cairo].

[142] 1987 Constitution, *supra* note 126, art. 15, secs. 3(1), (4).

[143] Rama Lakshminarayanan, Reproductive Health Matters Decentralization and its Implications for Reproductive Health: The Phil. Experience, at 97 (2003).

[144] Local Government Code, *supra* note 5, sec. 2(a).

[145] *Basco v. Pagcor*, Supreme Court, Republic of the Philippines, G.R. No. 91649, 197 SCRA 52, May 14, 1991. The principle of local government autonomy under the 1987 Constitution mandates the State to "ensure the autonomy of local governments." 1987 Constitution, *supra* note 126, art. 2, sec. 25.

[146] Local Government Code, *supra* note 5, sec. 17(e).

[147] Interview with Senator Pimentel, Phil. (Jan. 24, 2007).

[148] Local Government Code, *supra* note 5, sec. 2(a).

[149] E. A. Pangalangan, 10 Years After Cairo, *supra* note 141, at 83-86.

[150] Local Government Code, *supra* note 5, sec. 17(b)(2)(iv). Local government units are tasked with the responsibility of providing basic services and facilities, including "social welfare services which include programs and projects on child and youth welfare, family and community welfare, women's welfare, welfare of the elderly and disabled persons; community-based rehabilitation programs for vagrants, beggars, street children, scavengers, juvenile delinquents, and victims of drug abuse; livelihood and other pro-poor projects; nutrition services; and family planning services."

[151] Implementing a Family Planning Program at the Local Government Level, sec. 1-2, Executive Order No. 307 (1996) (Phil.).

[152] *Macasiano v. Diokno*, Supreme Court, Republic of the Philippines, G.R. No. 97764, Aug. 10, 1992, *available at* http://www.lawphil.net/judjuris/juri1992/aug1992/gr_97764_1992.html.

[153] Interview with Atty. Sison, Jan. 24, 2007, *supra* note 10.

[154] The Philippines ratified CEDAW on August 5, 1981 without reservations, and it entered into force on September 3, 1981. CEDAW, *adopted* Dec. 18, 1979, 34th Sess., U.N. Doc. A/34/46 (*entered into force* Sept. 3, 1981). The government ratified the Optional Protocol to CEDAW on Nov. 12, 2003 without reservations, giving the Committee on the Elimination of Discrimination against Women jurisdiction to hear individual complaints. Optional Protocol to CEDAW, Oct. 6, 1999, 54th Sess., U.N. Doc A/Res/54/4 (*entered into force* Dec. 22, 2000). CEDAW mandates that States parties "take all appropriate measures" to eliminate discrimination against women and "to ensure, on a basis of equality of men and women, … information and advice on family planning" and access to "health care services, including those related to family planning." CEDAW, arts. 10(h), 12(1), 14(2)(b), 16(1)(e).

[155] The Philippines ratified the Civil and Political Rights Covenant on Oct. 23, 1986 without reservations. International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, 21st Sess., U.N. Doc. A/6316 (*entered into force* Mar. 23, 1976). The government ratified the First Optional Protocol to the Civil and Political Rights Covenant on Aug. 22, 1989 without reservations, giving the Human Rights Committee jurisdiction to hear individual complaints. Optional Protocol to the Civil and Political Rights Covenant, *adopted* Dec. 16, 1966, 21st Sess., U.N. Doc A/6316 (*entered into force* Mar. 23, 1976). The Human Rights Committee has clearly stated that "[w]omen should be given access to family planning methods." *Concluding Observations of the Human Rights Committee: Argentina,* 17th Sess., para. 14, U.N. Doc. CCPR/CO/70/ARG (2000). In addition, the Civil and Political Rights Covenant protects the "equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant," the "inherent right to life," the "right to liberty and security of person," the "right to found a family," and the right to be "equal before the law and ... entitled without any discrimination to the equal protection of the law." The Human Rights Committee has interpreted these provisions as implying a governmental duty to provide family planning services and information. Civil and Political Rights Covenant, arts. 3, 6(1), 9(1), 23(2), 26.

[156] The Philippines ratified the Convention on the Rights of the Child on Aug. 21, 1990 without reservations, and it entered into force on September 2, 1990. Convention on the Rights of the Child, *adopted* Nov. 20, 1989, 44th Sess., U.N. Doc. A/44/49, *reprinted in* 28 I.L.M. 1448 (*entered into force* Sept. 2, 1990). In the context of HIV/AIDS, the Children's Rights Committee has interpreted the Convention to imply that "… taking into account the evolving capacities of the child, States parties are encouraged to ensure that health services employ trained personnel who fully respect the rights of children to privacy (art. 16) and non-discrimination in offering them access to HIV-related information, voluntary counseling and testing, knowledge of their HIV status, confidential sexual and reproductive health services, and free or low-cost contraceptive, methods and services, as well as HIV-related care and treatment if and when needed…." Committee on the Rights of the Child, *General Comment No. 3, HIV/AIDS and the right of the child* (32nd Sess., 2003), *in* Compliation of General Comments and General Recommendations by Human Rights Treaty Bodies, at para. 20, U.N. Doc. CRC/GC/2003/3 (2003) [hereinafter Children's Rights Committee General Comment No. 3].

[157] The Philippines ratified the Economic, Social and Cultural Rights Covenant on June 7, 1974 without reservations, and it entered into force on January 3, 1976. International Covenant on Economic, Social and Cultural Rights, G.A. Res 2200A (XXI), U.N. GAOR, Supp. No. 16, at 49, U.N. Doc A/6316 (1966), 999 U.N.T.S. 3 (*entered into force* Jan. 3, 1976). The Committee on Economic, Social and Cultural Rights has noted that the right to health includes "access to health-related education and information, including on sexual and reproductive health." Committee on Economic, Social and Cultural Rights, *General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12)* (22nd Sess., 2000), *in* Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, at 90, para. 11, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter CESCR General Comment 14].

[158] One of the 1994 Cairo Declaration's guiding principles is that "[r]eproductive health-care programmes should provide the *widest range of services* without any form of coercion." *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, U.N. Doc. A/CONF.171/13/Rev.1, para. 7.3 (1995), *available at* http://www.un.org/popin/icpd/conference/offeng/poa.html [hereinafter ICPD Programme of Action]. The Declaration defines reproductive health as "the constellation of methods, techniques and services that contribute to reproductive health and well-being." It further states that women should be "informed and . . . have access to safe, effective, affordable and acceptable methods of family planning of their choice," noting that "[t]he principle of informed free choice is essential to the long-term success of family-planning programmes" and that "[g]overnments and the international community should use the full means at their disposal to support the principle of voluntary choice in family planning." *Id.*, principle 8.

[159] *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Belize,* 21st Sess., paras. 56-57, U.N. Doc. A/54/38 (1999).

[160] *Concluding Observations of the Committee on the Elimination of Discrimination against Women: South Africa,* 19th Sess., para. 134, U.N. Doc. A/53/38/Rev.1 (1998).

[161] *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Philippines,* 36th Sess., para. 28, U.N. Doc.

CEDAW/C/PHI/CO/6 (2006).

[162] CEDAW Country Report, *supra* note 4, paras. 452, 477, 482.

[163] *Concluding Observations of the Committee on the Rights of the Child: Philippines*, 39th Sess., para. 62, U.N. Doc. CRC/C/15/Add.259 (2005).

[164] *Id.* para. 63(b).

[165] *Id.* para. 63(c).

[166] See CESCR General Comment 14, *supra* note 156, paras. 34, 50; CRC General Comment No. 3, *supra* note 156, para. 16; Committee on the Rights of the Child, *General Comment No. 4, Adolescent health and development in the context of the Convention on the Rights of the Child* (33rd Sess., 2003), at para. 10, U.N. Doc. CRC/GC/2003/4 (2003); ICPD Programme of Action, *supra* note 158, paras. 7.23, 7.5.

[167] See CESCR General Comment 14, *supra* note 157, para. 34.

[168] For example, city heath officials claimed that condoms provided almost no protection against STIs, particularly HIV, and that other forms of contraceptives caused cancer and were generally hazardous to women's health. The only safe contraceptive method, they claimed, was natural family planning; all other methods were deemed unsafe and discouraged in an effort to "protect" women's health.

[169] CEDAW, *supra* note 154, para. 16(1)(e).

[170] The World Population Plan of Action, adopted by consensus of the 137 countries represented at the United Nations World Population Conference at Bucharest, paras. 6, 28, 29 (Aug. 1974), *at* http://www.population-security.org/27-APP1.html.

[171] "Bearing in mind the above definition, reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents. In the exercise of this right, they should take into account the needs of their living and future children and their responsibilities towards the community. The promotion of the responsible exercise of these rights for all people should be the fundamental basis for government- and community-supported policies and programmes in the area of reproductive health, including family planning. … Reproductive health eludes many of the world's people because of such factors as: inadequate levels of knowledge about human sexuality and inappropriate or poor-quality reproductive health information and services; the prevalence of high-risk sexual behavior; discriminatory social practices; negative attitudes towards women and girls; and the limited power many women and girls have over their sexual and reproductive lives. …" *Beijing Declaration and Platform for Action, Fourth World Conference on Women*, Beijing, China, Sept. 4-15, 1995, para. 96, U.N. Doc. A/CONF.177/20 (1995), *available at* http://www1.umn.edu/humanrts/instree/e5dplw.htm [hereinafter *Beijing Declaration and Platform for Action*]; ICPD Programme of Action, *supra* note 158, para. 7.3.

[172] Hatcher, R.A. et al., *The Essentials of Contraceptive Technology*, at 14-4, 14-6, Johns Hopkins Bloomberg School of Public Health, Population Information Program, 1997, *available at* http://www.infoforhealth.org/pubs/ect/chapter14.pdf.

[173] *Beijing Declaration and Platform for Action, supra* note 171, para. 92.

[174] See CESCR General Comment 14, *supra* note 157, para. 8.

[175] *Id.* para. 31.

[176] *Id.* para. 32.

[177] *Id.* para. 12.

[178] *Id.* para. 12(b).

[179] *Id.* para. 12(c).

[180] *Id.* paras. 12, 44(a).

[181] WHO Model List of Essential Medicines, 15th List, at 20-21 and Explanatory notes (Mar. 2007), *at* http://www.who.int/medicines/publications/EML15.pdf.

[182] See CESCR General Comment 14, *supra* note 157, para. 34.

[183] CEDAW Country Report, *supra* note 4, para. 446.

[184] *See generally* UNFPA, The State of World Population 2005, at 3 (2005), *available at* http://www.unfpa.org/swp/2005/index.htm (stating that "preventing unintended pregnancies through access to family planning could avert 20 to 35 per cent of maternal deaths, saving the lives of more than 100,000 mothers each year").

[185] *See e.g.,* ICPD Programme of Action, *supra* note 158, para. 8.19.

[186] *Id.* para. 8.14.

[187] *Id.* para. 8.19.

[188] *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Chile*, 36th Sess., para. 20, U.N. Doc. No. CEDAW/C/CHI/CO/4 (2006).

[189] *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Philippines*, 36th Sess., para. 27, U.N. Doc. No. CEDAW/C/PHI/CO/6 (2006).

[190] Committee on the Elimination of Discrimination against Women*, General Recommendation* 24*, Women and Health* (20th Sess., 1999), *in* Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, para. 18, U.N. Doc. HRI/GEN/1/Rev.5 (2001), *available at* http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ 77bae3190a903f8d80256785005599ff?Opendocument.

[191] ICPD Programme of Action, *supra* note 158, para. 7.28.

[192] *Id.* para. 7.38.

[193] UNAIDS, Philippines Country Information Page, *at* http://www.unaids.org/en/Regions_Countries/Countries/philippines.asp.

[194] *Id.*

[195] Civil and Political Rights Covenant, *supra* note 155, arts. 3, 26.

[196] CEDAW, *supra* note 154, arts. 10(h), 12(1), 14(2)(b), 16(1)(e).

[197] Children's Rights Convention, *supra* note 156, art. 2(1).

[198] Economic, Social and Cultural Rights Covenant, *supra* note 157, arts. 2(2), 3.

[199] CEDAW, *supra* note 154, arts. 10(h), 12(1), 14(2)(b), 16(1)(e).

[200] *Id.* art. 10(h).

[201] *Id.* art. 12(1).

[202] "The responsibilities that women have to bear and raise children affect their right of access to education, employment and other activities related to their personal development. They also impose inequitable burdens of work on women. The number and spacing of their children have a similar impact on women's lives and also affect their physical and mental health, as well as that of their children. For these reasons, women are entitled to decide on the number and spacing of their children." Committee on the Elimination of Discrimination against Women, *General Recommendation 21: Equality in Marriage and Family Relations* (13th Sess., 1994), *in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, para. 21, U.N. Doc. HRI/GEN/rev.5, *available at* http://www.unhchr.ch/tbs/doc.nsf/Symbol)ccb2de3baae5c12563ee00648f1f?Opendocument.

[203] Human Rights Committee*, General Comment 28: Equality of rights between men and women* (Art. 3) (68th Sess., 2000), *in* Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, para. 3, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000), *available at* http://www1.umn.edu/humanrts/gencomm/hrcom28.htm.

[204] *Id.* para. 10.

[205] *Id.* para. 5.

[206] *Id.* para. 11.

[207] Rebecca J. Cook & Bernard M. Dickens, Considerations for Formulating Reproductive Health Laws, World Health Organization, 2nd Edition (2000).

[208] International Federation of Gynecology and Obstetrics, *Professional and Ethical Responsibilities Concerning Sexual and Reproductive Rights*, at 2 (2003), *available at* http://www.sogc.org/iwhp/pdf/FIGOCODEOFHUMANRIGHTSBASEDETHICS.pdf.

[209] CESCR General Comment 14, *supra* note 157, para. 12(b).

[210] *See e.g.,* Department of Health, Philippines Health Sector Reform Agenda 1999–2004, at 19, *at* http://erc.msh.org/hsr/linksites/otherreports/hsra.pdf.