Primer on
LEGAL ISSUES in
REPRODUCTIVE RIGHTS

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FOREWORD

The U.P. Law Center has long embraced its role in the advancement of legal scholarship and the improvement of the legal system in our country. To accomplish these lofty goals, the Law Center has regularly published studies, research papers and articles in various fields of law and provided them to government agencies, judges, lawyers, government administrators and other interested parties. Frequently, the Law Center is tapped by either House of Congress to undertake studies and research concerning law reform and pending legislation and to assist our lawmakers during the arduous process of creating new legislation.

This latest work is another noteworthy example of the U.P. Law Center’s contributions to the Philippine legal landscape. On this occasion, the topic involves one of the most relevant and contentious issues facing our country today – reproductive health. Hopefully, this primer will serve as a useful guide to our lawmakers as they deliberate on vital legislation on reproductive health. Should any legislation be passed, we hope that this primer shall remain helpful when such new law is being implemented and monitored.
I would like to congratulate the Institute of Human Rights and, particularly, the writers of this work, Dean Raul C. Pangalangan, Prof. Elizabeth Aguiling-Pangalangan, Prof. Herminio Harry L. Roque, Jr. and Prof. Floring T. Hilbay, for their unceasing efforts to fulfill the mandate of the U.P. Law Center and create a better legal system for our country.

Thank you.

Danilo L. Concepcion
Dean
College of Law
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PREFACE

In the midst of the noise and onslaught of information (and disinformation) on the reproductive health bill pending in both Houses of Congress, this primer endeavors to shape the legal framework for reproductive health. It looks at the debated and recurrent issues concerning said bills and aims to clarify the legal issues besetting its passage.

We have specifically tackled RH as four distinct but interrelated topics, to wit: (1) Constitutional Law issues; (2) Family Law issues including women’s and children’s rights; (3) International Law issues; and (4) The internationally protected right to health. The Primer does underscore that reproductive rights are human rights already recognized by the Philippines in the various international human rights instruments it signed and on the basis of our own Constitution and extant statute laws.

While this primer focuses on the legal aspects of reproductive health rights, it is crucial to point out that laws are based on policies that seek to protect real human lives and concrete rights and interests. More than a debate at the level of theory and theology amongst men who cannot give birth and who are not poor, the conversation must include and in fact, be decided by women whose bodies and beings are literally at stake.

I am grateful to my colleagues in the U.P. College of Law faculty, Dr. Raul C. Pangalangan, Prof. Harry L. Roque and Prof. Florin T. Hilbay for their solid and rational analysis of the various legal issues. I acknowledge the steadfast support of Dean Danilo L. Concepcion. My appreciation goes to law students, Katrina Manzano and Jenny Domino for their invaluable research assistance as well as to Gabriela Dorotan and Guillen Kristoffer Lamug for their helpful inputs in the publication phase of the
project. I thank the Institute of Human Rights and the Information and Publication Division for their efficient work.

My commitment to the fulfillment of the right of individuals to make informed reproductive health choices began in 1995 and is sustained by my work at the Reproductive Health Rights and Ethics Center for Studies and Training (ReproCen). Thus ReproCen, which has pushed on and sailed through many rough times deserves credit. Last but not the least, I acknowledge the Philippine Legislators Committee on Population and Development (PLCPD) for their contribution to this endeavor and for encouraging us to produce this Primer as the Congress debates the RH Bill.

Professor Elizabeth Aguiling-Pangalangan
Director, Institute of Human Rights
1) **What are the constitutional bases for the enactment of a reproductive health law?**

*Answer:* The following provisions of the Constitution justify the enactment of an RH law:

a. Art. XIII, §11 —
   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 people at affordable cost. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women, and children.

b. Art. XIII, §1 —
   The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequalities by equitably diffusing wealth and political power for the common good.

c. Art. II, §9 —
   The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full
employment, a rising standard of living, and an improved quality of life for all.

d. Art. II, §10—
The State shall promote social justice in all phases of national development.

e. Art. II, §11—
The State values the dignity of every human person and guarantees full respect for human rights.

f. Art. II, §14—
The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

g. Art. II, §15—
The State shall protect and promote the right to health of the people and instill health consciousness among them.

h. Art.XIV, §1—
The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.

2) What are the purposes of the RH Bill and what is the relationship between these purposes and the Constitution?

Answer: What the RH Bill does is reduce the cost of access to (a) information about reproductive health and (b) devices and technology that allow people to promote their reproductive health, manage family size, and have greater control over their lives.

These purposes simply implement the Constitution’s mandate to create a welfare system to make “health and other social services available to all people at affordable cost” and “free the people from poverty through policies that provide adequate social services.”

While information about reproductive health and contraceptive devices are readily available, access to them is hampered by the economic condition of many Filipinos.
The RH Bill seeks to remedy this situation through public education and a system of subsidies.

3) **DOES THE RH BILL CONFLICT WITH THE STATE POLICY TO “EQUALLY PROTECT THE LIFE OF THE MOTHER AND THE LIFE OF THE UNBORN FROM CONCEPTION”?**

*Answer: No. The records of the Constitution Commission that drafted Article II, §12 of the Constitution show that the objective of some of those in favor of that particular provision was to prevent the Supreme Court from deciding in favor of the constitutionality of abortion, as in the case of *Roe v. Wade* where the U.S. Supreme Court held that a woman has the fundamental right to terminate her pregnancy.

Even assuming the Constitution actually prohibits the passage of an abortion statute, the RH bill would still not pose any constitutional issue. This is because the RH bill does not legalize abortion, as it explicitly states in its consolidated version. The RH bill does not legalize the termination of a pregnancy. What the bill seeks to do is make accessible to poor individuals and couples reproductive health information and contraceptives that are otherwise already available in the private market. The bill is designed to provide a system whereby individuals and couples may, if they choose to, prevent and/or space pregnancies, and does not give them the right to destroy fetuses. If both information and contraceptive devices that are currently available in the market do not violate the Constitution’s so-called anti-abortion policy, the same principle should hold true when the State decides to establish a system in which such information and technology that comes at a cost become free or at least relatively inexpensive.

4) **EVEN IF THE RH BILL DOES NOT SANCTION ABORTION, DOES IT NOT UNREASONABLY PRIVILEGE THE INTERESTS (OR LIFE) OF THE MOTHER OVER THE INTERESTS (OR LIFE) OF THE UNBORN?**

*Answer: No. The Constitution does not create a full equivalence between interests of the mother and those of*
the unborn, for several reasons—

1. To “equally protect” does not necessarily mean that both the interests of the mother and of the unborn are entitled to the same degree of protection. The phrase “equally protect” only means that both the interests of the mother and of the unborn are entitled to protection and thus valid objects of regulation. It is left to the State to balance the degree of protection afforded to either.

2. It is important to note that the Constitution does not say that the interests of the mother and of the unborn are to be protected equally, only that they shall be equally protected. That the life of the mother and of the unborn are equally protected is different from stating that they are to be protected equally. The Constitution does not create a conceptual equivalence between the mother and the unborn. Neither does it say that they are materially equivalent.

3. The distinction between the phrases equally protect and protect equally finds support in the language of the Equal Protection Clause of the Bill of Rights. To be sure, the Equal Protection Clause of the Constitution justifies differential treatment of subjects who belong to different categories, such as mothers and the unborn.

Once we look beyond the demand for a rigidly formal equality and delve into the moral worth of the interests of a woman who seeks to control her body by obtaining information and contraceptives, on the one hand, and, on the other, the unborn that has no memory, life experiences, much less vital organs, it becomes readily apparent that the State can treat differently these categories of existence.

That the Constitution regards the unborn as possessing life once conceived does not automatically mean that such entitlement is identical in weight with, and therefore subject to the same level of protection as, the life of the mother.

5) DOES THE RH BILL VIOLATE PARENTS’ CONSTITUTIONAL “RIGHT AND DUTY” OVER “THE REARING OF THE YOUTH FOR CIVIC EFFICIENCY AND THE DEVELOPMENT OF MORAL CHARACTER”?

Answer: No. In the first place, parents are not property owners of their children. Parental rights over the moral
development of their children are a set of default rules, not exclusive mandates. The Constitution does not award to parents absolute authority over their children. Parents are stewards responsible for the moral and intellectual development of their wards. Their supervisory rights over their offspring are coupled with an obligation that the moral development of their wards be consistent with the goals of the State to produce informed and responsible citizens.

In the second place, parental rights over children are not incompatible with the constitutional obligation of the State under Art. II, §13 to “promote and protect [the youth’s] physical, moral, spiritual, intellectual, and social well-being.” The parents’ interest in their children intersects with the State’s interest in young citizens. Their primary rights over children do not prevent the State from performing a secondary and supplementary role in the intellectual and moral development of children. This is especially true when, as in matters of sex education, parents feel awkward or are not usually properly informed. In cases such as these, the State can provide supplementary education based on the current state of knowledge, and within an academic environment.

6) **IS IT NECESSARY TO DETERMINE WHEN LIFE BEGINS BEFORE THE CONGRESS CAN PASS A REPRODUCTIVE HEALTH LAW?**

*Answer:* The Constitution declares that “[i]t shall equally protect the life of the mother and the life of the unborn from conception.” Given the language of the Constitution, it is clear that there is a distinction between the “life” of those who have not yet been born and the “life” of those who have already been born. The operative term for understanding the constitutional provision is not the word “life”, but the word “unborn”; in other words, those who are unborn have a different set of entitlements compared to those who have already been born.

The regime of protection for the rights of those who have already been born is identical with the rules that apply to “persons” under the Constitution and the various laws implicating the rights of human beings. On the other hand, the set of rules that govern whatever entitlements the unborn
Constitutional Law Issues

have is dependent on the Congress, qualified only by the rights of persons, specifically, women. The Congress is not bound by the Constitution to protect the unborn in exactly the same way that it protects those who have already been born, specifically, the woman who carries the unborn. Finally, the focus on the term “unborn” in the analysis of the constitutional provision makes the debate over “when life begins” both stale and unnecessary.

7) **Does the RH Bill conflict with “the right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood”?**

*Answer:* No. Insofar as spouses are concerned, what the RH bill does is simply provide public access to information on reproductive health and to contraceptive devices. They are free to reject information and not use contraceptives. Whether this decision to reject information and government subsidy is religiously-motivated or not is not a concern of the State. Spouses are therefore still free to decide matters such as whether to use contraceptives, use family planning methods, or determine family size in accordance with their religious compulsions.

Insofar as their children are concerned, parents’ right to indoctrinate their children in the tenets of their religion on matters relating to sex is not incompatible with the duty of the State to educate its young citizens in a secular manner, promote the findings of science, and inform them about sex and reproductive processes. The constitutional right of parents to establish a family in accordance with their religious convictions should be balanced with the demands of responsible parenthood. It is the function of the State to determine this balance by providing learning mechanisms outside the confines of the family.

8) **Does the RH Bill violate the due process clause of the Constitution to the extent that it allows the State to subsidize the use of contraceptives?**

*Answer:* No. The Constitution does not have to universalize a definition of life for purposes of recognizing
the rights of the unborn, whether it is in the form of a fertilized egg or a fetus, and those who have already been born. While the State is bound by the bill of rights to recognize in full the legal and constitutional entitlements of those who have already been born, it is still a matter of legislative discretion to determine the varying degrees of protection to be given to the unborn in its various stages of intra-uterine existence. It is justifiable to view the kind of protection given by the State to the unborn under the Constitution as a process that begins, and varies in degree, at conception and ends with birth, at which time a different set of protective rules is applied by the State, particularly those found under the Civil Code with respect to the acquisition of juridical personality.

The use of contraceptives that prevent conception is part of a person’s discretion or freedom of choice protected by the right of privacy recognized by the Constitution and affirmed by the decisions of the Philippine Supreme Court. Post-conception, it is also generally within the discretion of Congress to determine the kind of balance needed to establish a regulatory framework that takes into consideration the freedom of choice of its citizens and the different levels of protection it needs to accord the unborn in its various stages of development.

9) DOES THE RH BILL EXPAND ANY EXISTING RIGHTS UNDER THE CONSTITUTION?

Answer: No. The RH bill is a rights-enhancement measure or a bill that creates a system that makes the exercise of existing rights effective. The reality is that while information about reproductive health and access to contraceptives and other technology are available in the market, both information and access critical to the informed exercise of reproductive health rights are effectively denied to millions of Filipinos because of a combination of poverty and cultural constraints. In this sense, poverty and/or culture act as impediments or speed bumps to the efficient exercise of personal freedoms crucial to identity-formation and personal happiness. The RH bill seeks to remedy this problem by setting up a welfare system, through education
and subsidy, that can potentially enhance the exercise of reproductive health rights. This welfare system simply removes barriers to a meaningful exercise of personal freedoms.

10) **Can the creation of a welfare system that promotes reproductive health and information be justified under the Constitution?**

   *Answer:* Yes. *First.* The Philippine Constitution is a veritable source of positive rights that may be used to justify the existence of a welfare scheme that promotes reproductive health and informed choices. Many of the State Policies enshrined in Article II of the Constitution require the intervention of the State. Distributive norms which are meant to uplift the status of the poor, the marginalized, and the oppressed require, as operational assumptions, State participation. The traditional distinction between constituent and ministrant functions of the State no longer holds especially because the Constitution itself has collapsed the distinction by mandating the State to provide affirmative relief to the economically disadvantaged and the socially marginalized sectors of society.

   *Second.* With specific reference to women and children, the Constitution provides: “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. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women, and children....”

   The focus on the welfare of women is justified because women, more than men, bear most of the burden of pregnancy and child-rearing; the similar focus on children is equally justified on the ground that society owes it to children that they be born into the world as a consequence of an informed and deliberate decision on the part of its parents to have them, and not because of ignorance or sheer helplessness of many women against the urges of their husbands or partners.
11) **Does the RH Bill violate a person’s or a couple’s free exercise of his/her/their religious beliefs?**

*Answer:* No. Insofar as adults are concerned, they are free to reject information relating to reproductive health provided by the State, for whatever personal reason which may or may not be related to their religious beliefs. This is because the RH bill does not provide for a compulsory system of family planning or make it illegal not to use contraceptives. What the RH bill does is to widen the spectrum of effective options for individuals and couples by providing them information and subsidizing access to contraceptives.

Insofar as children are concerned, it is the responsibility of State to provide information about the current state of knowledge which necessarily includes information about human beings themselves, how their bodies work, and what their bodies can and cannot do. The possible inclusion of sex education courses in schools can be justified as part of the State’s constitutional obligation to create an environment that can produce healthy and informed citizens.

12) **If a patient consults a doctor on family planning, can that doctor legally refuse to provide medical advice and care on account of his/her own religious beliefs?**

*Answer:* The absolute privileging of a doctor’s religion-based conscientious objection would amount to a viewpoint discrimination, which the State cannot do without violating the free speech and the non-establishment clauses. Any doctor who objects to State requirements with respect to the way he/she exercises his/her profession cannot simply object on philosophical, religious, or any other personal grounds. The very nature of the profession requires that doctors act professionally, that is, that they divorce their personal views in the exercise of their profession. After all, the assumption is that they are hired for their skills as specialists and not for any other qualities.
The provision granting to doctors the duty to refer is in fact already the result of balancing the interests of the patient and the compromised ability of the doctor who refuses on religious grounds. Giving the doctor absolute choice to refuse to treat and refer amounts to viewpoint discrimination because it gives special treatment to religious objectors as opposed to any other type of objector. It also amounts to a violation of the non-establishment clause because giving the doctor the absolute right to reject and refer a patient would amount to the State endorsing a religious belief at the cost of the health of a human being.
1) **What are the legal bases for the right to found a family and what does it entail?**

*Answer:* The right to found a family is established in various laws. The Constitution expressly recognizes the “right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood.” RA 9710 (Magna Carta of Women) states that in giving comprehensive health services to women, the right of the spouses to found a family in accordance with their religious convictions shall be respected. Article 1 of the Family Code, in defining marriage, states that it is “a special contract of permanent union, entered into...for the purpose of establishing a conjugal and family life” that should be read in relation to Article 68 on the right and obligation of spouses to live together and mutually love and respect each other. No law speaks of any specific duty to have children.

The phrase “to found a family” suggests that the spouses may not yet have a child to speak of and are planning whether or not to have children. Should they want to have children, the right to found a family likewise refers to their right to decide how many children to have and how to space them.
2) **Does a reproductive health law that provides both modern and traditional family planning methods encroach upon the right of spouses to found a family?**

*Answer:* No. Founding a family or the establishment of family life is a decision made by these individuals and a reproductive health law that ensures information and services on the full range of legally allowed and medically safe methods of planning their family respects this right. Where there is no government preference for or coercion to use any particular method, the law does not encroach into the right to found a family. Instead, it ensures that decisions made in exercise of this right are informed and intelligent so that the couple can achieve their desired family size.

3) **Are there limitations on the spouses’ right to found a family in accordance with their beliefs and principles?**

*Answer:* Yes. The Constitution and existing family laws that recognize marriage as a social institution and provides limitations. Section 2, Article XV of the Constitution states that marriage is an “inviolable social institution” and shall be “protected by the State.” Likewise, Article 1 of the Family Code states that marriage is an “inviolable social institution whose nature, consequences, and incidents are governed by law.”

Thus, the spouses right to found a family cannot be done in a manner that will weaken or be destructive of the family. Having several children without the time and/or resources to care for them and provide for their needs will neither strengthen marriage nor the family whether viewed from a perspective of personal relationships between individuals or as a social institution.

4) **Is there a right to reproductive health?**

*Answer:* Individuals, particularly women are entitled as a matter of right to have access to reproductive health (Sec. 17, RA 9710). This is to avoid bearing the health
(physical and psychological) risks and financial burden that come with mistimed pregnancies.

Reproductive health has been defined as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes.” (International Conference on Population and Development, Cairo 1994, 7.2)

Thus, the right to reproductive health means that individuals, have the freedom to determine the number and spacing of their children and this necessitates the freedom of informed choice.

5) WILL THE PASSAGE OF A REPRODUCTIVE HEALTH LAW ENCOURAGE ABORTION BY LEGITIMIZING CONTRACEPTIVES?

Answer: In the first place, contraceptives are legal, hence, the passage of a reproductive health law will not legitimize what is already legal. What remains illegal is abortion, which is different from contraception. According to Section 12, Article II, 1987 Constitution, the law protects the “life of the unborn from conception,” whereas the use of contraceptives will not give rise to any unborn because contraceptives “prevent” pregnancies.

Our Department of Health has consistently provided contraceptives as part of its drug inventory. For instance, DOH Department Circular 71-B (1994) provides guidelines for the use and dissemination of Depot Medroxyprogesterone Acetate (DMPA) and also includes the advantages and disadvantages of using such contraceptive. The DOH also states in its official website that: “The best protection is to use birth control pills or other reliable form of birth control to prevent pregnancy…” This goes to show that contraceptives are not equivalent to abortifacients, because the former merely reduces the “chances” of getting pregnant, while the latter terminates pregnancies.

A U.S. AID report provides that the “use of effective modern contraception reduces unintended pregnancies and abortions. In Chile, increased use of contraception
since 1960 has been accompanied by a dramatic decline in abortion rates, which were estimated to drop from 77 per 100 married women of reproductive age in 1960 to 45 in 1990.” (http://ww.usaid.gov/our work/global health/pop/publications/docs/preventab.pdf)

Individuals and couples are not required to follow any specific family planning method and neither will they be rewarded or penalized for their choice.

6) **DOES A REPRODUCTIVE HEALTH LAW HAVE THE EFFECT OF LEGALIZING ABORTION IF IT INCLUDES MANAGEMENT OF ABORTION COMPLICATIONS?**

*Answer:* Management of abortion complications refers to the duty of medical professional to give medical care to women who have undergone abortion. Although abortion is criminalized in the Philippines, this does not mean that a person who has had an induced abortion is not entitled to receive humane medical treatment for post-abortion complications. To withhold medical care as a way of punishing the woman is tantamount to violating her rights to life and health.

7) **SHOULD A REPRODUCTIVE HEALTH LAW IMPOSE REQUIREMENTS ON THE PERFORMANCE OF FAMILY-HEALTH PROCEDURES ON A MARRIED PERSON, SUCH AS THE CONSENT OF HIS OR HER SPOUSE FOR TEMPORARY OR PERMANENT FAMILY PLANNING METHODS?**

*Answer:* Since founding a family is a responsibility of both individuals, mutual consent should be encouraged. However, it need not be required because the procedure will affect mainly the person who will undergo it. The rights of the spouses cannot prevail over the right of the person undergoing the procedure to seek reproductive health treatment. Marriage cannot and does not limit a person’s right to protect his or her own body.

Even in marriage, the husband does not own the body of his wife. He cannot force her to have sexual intercourse with him. Marital rape is still considered rape (Sec. 3(a) RA 9262). Similarly, the husband does not own and cannot interfere with the wife’s rights as a human being, one of
which is her right to health, specifically, reproductive health, pursuant to Sec. 17 of the Magna Carta of Women (RA 9710).

8) **DOES A REPRODUCTIVE HEALTH LAW IMPINGE ON THE NATURAL RIGHT AND DUTY OF PARENTS TO REAR AND EDUCATE THEIR CHILDREN?**

*Answer:* No, although the State has consistently recognized the right of the parents to take care of the child based on the presumption that the parents will naturally promote the child’s best interests, the State is not precluded from supporting and complementing the efforts of the parents in order for children to be good citizens.

9) **WHAT DOES PARENTAL AUTHORITY ENTAIL?**

*Answer:* The Family Code recognizes the parents’ “natural right and duty over the persons... of their unemancipated children.” Such parental authority and responsibility shall be jointly exercised by both parents over their legitimate children and by the unmarried mother over her children. It includes the “caring for and rearing [the children]... for the development of their moral, mental, and physical character and well-being.” Parents are also required to support their children and provide them with moral and spiritual guidance.

10) **WHAT IS MEANT BY “RESPONSIBLE PARENTHOOD”?**

*Answer:* “Responsible parenthood” refers to the rights and obligations that all parents should exercise and perform vis-a-vis their children. Article 220 of the Family Code states that:

“The parents and those exercising parental authority shall have with respect to their unemancipated children the following rights and duties:

(1) To keep them in their company, to support, educate and instruct them by right precept and good example, and to provide for their upbringing in keeping with their means;


(2) To give them love and affection, advice and counsel, companionship and understanding;

(3) To provide them with moral and spiritual guidance, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;

(4) To enhance, protect, preserve and maintain their physical and mental health at all times;

(5) To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals;

(6) To represent them in all matters affecting their interests;

(7) To demand from them respect and obedience;

(8) To impose discipline on them as may be required under the circumstances; and

(9) To perform such other duties as are imposed by law upon parents and guardians. (316a)"

11) **What are included in the parental duty to support the family?**

*Answer:* Article 194 gives a broad definition of support: “Support comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.

The education of the person entitled to be supported referred to in the preceding paragraph shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority. Transportation shall include expenses in going to and from school, or to and from place of work.”

Hence, parents should be encouraged to have only the number of children they can adequately support.
12) **Is the full range of parental rights and duties contained in the Family Code?**

*Answer:* No, provisions on parental rights and duties are also codified in various laws, such as in Section 17(a)(4) and Section 17(b)(1) of Republic Act 9710, and in Article 1 (Declaration of Policy) and Article 17 of Presidential Decree 603.

Article 46 of PD 603, in enumerating the duties of the parents to their child, includes the parents’ responsibility to furnish the child with “moral guidance” and “teach him the duties of citizenship” and to “advise him properly on any matter affecting his development and well-being”.

13) **Are there limitations to the exercise of parental authority and the natural right of parents to rear and educate their children?**

*Answer:* Yes. There are limits on the exercise of parental authority. Parents have the primary right to provide for their children’s upbringing (P.D. 603, Art. 43) but this right is by no way absolute or exclusive given that the State has an interest in the family as a *social institution*.

Section 3, Article XV of the 1987 Constitution recognizes the Filipino family as the “foundation of the nation” and the duty of the State shall “actively promote its total development.” Likewise, Article 149 of the Family Code provides that the family is a “basic social institution which public policy cherishes and protects.” Art. 4(10) of P.D. 603 provides that children have “the right to care, assistance and protection of the State, particularly when his parents or guardian fail or are unable to provide (them) with (their) fundamental needs for growth, development, and improvement.”

14) **What is the legal basis for the State’s regulation of parents’ rights vis-a-vis children’s rights?**

*Answer:* The rights and duties of parents enumerated in Article 220 of the Family Code, as well as the enactment
of RA 9262, establish that the exercise of parental authority is not absolute and can be subject to State regulation. In instances when parents are remiss with their duties, the State, in exercise of parens patriae, should protect the interests of children.

15) **When does the interest of the minor limit parental authority to decide matters concerning the minor’s health?**

*Answer:* The parental right to determine whether or not their minor child will have health care is restricted once the minor achieves a sufficient understanding and intelligence to enable him or her to understand fully the nature and consequences of the course of action he/she takes. The minor should thus be capable of understanding the nature of the advice which is being given by the healthcare provider as well as sufficient maturity to understand what their consequences are. This is consistent with the recognition of the child’s “evolving capacities”, a standard incorporated in the Convention on the Rights of the Child (Article 5).

16) **Does a law implementing an age-appropriate reproductive health and sexuality education intrude into the right of parents to determine at what age they will teach their children about sex as well as the best manner of educating them?**

*Answer:* No. Given that parents do not have the absolute right to rear and educate their child at the expense of the child’s best interest, the state can impose a national program that will be implemented in schools in order to avert the increasing number of unplanned teenage pregnancy. Figures show that despite the relative inaccessibility of contraceptives to young people, according to the pregnancy (15-24 years old) posted an increase from 25% in 2003 to 28.6% in 2008. The State may regulate the family as a social institution if such intervention is reasonable and promotes the interests of the family.

An RH law that enables government agencies primarily
FAMILY LAW ISSUES

17) SHOULD SEXUALITY EDUCATION BE TAUGHT ONLY BY THE PARENTS INSTEAD OF BEING PROVIDED IN SCHOOL TO BE TAUGHT BY TEACHERS?

Answer: No, although parents are the first and most natural teachers of their children on many matters including sex education, the reality is that many parents are not comfortable talking to their children about sex. In fact, the Young Adult Fertility and Sexuality Survey “indicate a low level of sex discussion at home. Only about 14.8 percent of adolescents admitted they ever-discussed sex at home.” (Cruz, Laguna, and Raymundo, “Family Influences on the Lifestyle of the Filipino Youth”, The East-West Center (EWC), Working Papers: Population Series No. 108-8, October 2001).

State-sanctioned sex education that is age appropriate will teach reproductive and sexual health in a manner and to the extent understandable by the students. Hence, what is taught during the fifth grade, which is the time many physical changes become apparent, will be different from that taught to high-school seniors. This is consistent with Article 3(6) of PD 603, which provides that “(e)very child has a right to an education commensurate with his abilities.

18) IN WHAT SPECIFIC WAY DOES AGE APPROPRIATE SEX EDUCATION PROMOTE THE BEST INTERESTS OF THE CHILD?

Answer: Age-appropriate reproductive health and sexuality education promotes the child’s best interests because it ensures that children receive adequate information on responsible sexual conduct, the consequences of risky behavior, the dangers of teenage pregnancy and the avoidance of violence against women.

A state approved sex education program will give parents the assurance that the information received by their children comes from a responsible source.
19) **Will sex education be limited to teaching children about family planning, a matter children should not be concerned with?**

*Answer:* No, provisions of both Senate Bill 2865 and House Bill 4244 state that age-appropriate sex education will include, but will not be limited to:

- Values formation
- Knowledge/skills in self-protection against discrimination, sexual violence, abuse, pregnancy
- Physiological, social, and emotional changes in adolescents
- Children’s & women’s rights
- Fertility awareness
- Sexually Transmitted Infections, HIV and AIDS
- Population & Development
- Responsible teenage behavior
- Family Planning methods
- Proscription and hazards of abortion
- Gender and development
- Responsible parenthood

20) **Should minors and unmarried persons be prohibited from accessing contraceptives on account of their age and civil status?**

*Answer:* No. In the first place, there is no law prohibiting or punishing pre-marital sex. To have such a law will violate the right to liberty of individuals, a constitutionally protected right of all human beings regardless of age.

Second, it has not been established that absence of contraception has a deterrent effect on engaging in pre-marital sex. People who plan to have sexual relations will carry out this plan with or without contraceptives. Hence, the only effects of the prohibition against access to contraceptives by minors and unmarried persons are their increased exposure to sexually transmissible diseases and the rise of unplanned pregnancy.
Laws prohibiting access will have the effect of prescribing pregnancy and the birth of an unwanted child as punishments for sexual relations by unmarried persons. It will reflect poorly on the values of our society to assign unwanted pregnancies and unplanned children to be appropriate penalties imposed on young persons for engaging in non-marital sexual relations.

21) A REN’T RESTRICTIONS ON THE SALE OF CONTRACEPTIVES TO MINORS NECESSARY TO PROTECT PUBLIC MORALS?

Answer: The ICPD Programme of Action 7.45 states: “Recognizing the rights and responsibilities of parents and other persons legally responsible for adolescents to provide, in a manner consistent with the evolving capacities of the adolescent, appropriate direction and guidance in sexual and reproductive matters... countries must ensure that the programmes and attitudes of health-care providers do not restrict the access of adolescents to appropriate services and the information they need, including on sexually transmitted diseases and sexual abuse. In this context, countries should remove legal, regulatory and social barriers to reproductive health information and care for adolescents.”

The argument that access to contraception by minors should be restricted in an effort to protect their morals is a fallacious argument. There is no showing that absence of contraception is a deterrent to sex. Therefore, restricting access to contraceptives will not directly or indirectly raise the level of morality of young people.

Finally, the “public morals” argument cannot trump the child’s right to health given that the right to health is constitutionally protected. Likewise, Article 24 of the Convention on the Rights of the Child provides that States Parties to that Convention recognize “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services”.
22) **Should there be restrictions on access to contraceptives by minors just as sale restrictions to minors are found in the FCTC (Framework Convention and Tobacco Control) and RA 9211 (Tobacco Regulation Act of 2003) with regard to cigarettes, and the numerous local ordinances with regard to liquor?**

*Answer:* The FCTC particularly states in its *Preamble* that: “Recognizing that scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and that there is a time lag between the exposure to smoking and the other uses of tobacco products and the onset of tobacco-related diseases”

“Deeply concerned about the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages”

The FCTC as well as RA 9211 and the ordinances against the sale of liquor to minors are exercised by the State to protect public health. Undeniably, the consumption of cigarette and liquor are detrimental to a child’s health. The chief difference between laws prohibiting sale to minors of tobacco and contraceptives is that there are no similar risks found in adolescent sexual practices.

Another way of putting it is that allowing minors to smoke or drink liquor would *expose* them to serious health risks. On the contrary, allowing minors to access contraceptives will *protect* them from sexually transmitted diseases and early pregnancy.

23) **How can a law promoting reproductive health provide full protection for the rights of abused minors?**

*Answer:* Minors who have suffered from physical and psychological trauma should be protected with the implementation of reproductive health procedures for abused minors that will facilitate their recuperation from the abuse.
Consider further that Section 5 of RA 9262 (Anti-Violence Against Women and Their Children Act of 2004) prohibits the abuse of children in any form by any person, whether a parent, a family member, or a stranger.

Subjecting the child to any form of abuse, especially sexual abuse, is sufficient ground to permanently deprive the abusive parent or person exercising parental authority over the child, in accordance with Articles 231 and 232 of the Family Code and Section 10(c) of RA 7610 (Anti-Child Abuse law). Section 3 of Article XV of the Constitution explicitly states that the State shall defend “the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect… and other conditions prejudicial to their development.”

Hence, a reproductive health law will give full protection to the rights of abused minors by dispensing with the requirement of parental consent when the abused minor’s parents or family members are the respondent, accused or convicted perpetrators.

24) **Does a doctor or health care provider have the duty to give family planning counseling to a minor even without parental knowledge or consent?**

*Answer:* As a general rule, the doctor must always try to convince minors to tell their parents that they are seeking contraceptive advice. However, since contraception is a subject for medical advice and treatment and with the increasing independence of young people, a doctor has a duty to give family planning counseling if it is in the minors’ best interest and even without the consent or knowledge of their parents. If despite the doctor’s judicious efforts the minors refuse either to tell the parents themselves or allow the doctor to do so, the doctor will be justified in proceeding without the parents’ consent or knowledge provided: (1) that the minors are mature enough to understand the medical advice; (2) that even without contraceptives there is a strong likelihood that the minors will begin or continue having sexual intercourse; and (3) that unless they receive contraceptive advice or treatment their health is likely to suffer.
When these requirements are met, the doctor is merely carrying out his/her medical duty to “prevent disease . . . for prevention is preferable to cure” (Hippocratic Oath).

**25) IS A REPRODUCTIVE HEALTH LAW STILL NECESSARY ALTHOUGH SOME OF ITS CONTENTS ARE ALREADY IN VARIOUS LAWS, SUCH AS RA 9710 OR THE "MAGNA CARTA FOR WOMEN" AND RA 9262 OR THE "ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004"?**

*Answer:* Yes. There is a need to institutionalize a nationwide and comprehensive law on responsible parenthood, reproductive health and population and development because existing laws and policies are not implemented consistently and uniformly throughout the country. First, the Implementing Rules and Regulations (IRR) of RA 9710 which contains specific provisions on reproductive health is a creation of the Executive Branch and hence cannot substitute legislation. Moreover, the IRR, being a creation of the Executive Branch, subjects it to the policies of each administration. On the other hand, a legislative enactment provides a stable, permanent, and consistent basis for promoting reproductive health and responsible parenthood.

Second, existing laws do not cover all the aspects that are within the scope of a well-crafted and comprehensive RH law. The RH bills that are now filed in Congress have a different policy in contrast to RA 9710 or RA 9262 given that the former are directed towards both human development and respect for human rights to life, health, liberty, information, education and equality.
CHAPTER III

INTERNATIONAL LAW ISSUES IN REPRODUCTIVE HEALTH

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1) IS THE RIGHT TO REPRODUCTIVE HEALTH RECOGNIZED UNDER INTERNATIONAL HUMAN RIGHTS LAW?

Answer: Yes. The right to reproductive health is recognized expressly by the Convention on the Elimination of Discrimination Against Women. Article 16(e) of the Convention provides that “States shall take appropriate measures…and shall ensure… the rights to decide freely and responsibly on the number and spacing of their children.”

Impliedly, it is also recognized by long-established rights such as the rights to life and survival, liberty and personal security, to equal treatment, to education, to development, and to the highest attainable standard of health, among others.

2) DO TREATIES, AS A SOURCE OF INTERNATIONAL LAW UNDER ART. 38(1) (A) OF THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE (ICJ), RECOGNIZE THE RIGHT TO REPRODUCTIVE HEALTH?

Answer: Yes. These are the following multilateral treaties:

a. the International Covenant on Civil and Political Rights (ICCPR) provisions on the right to life;
b. the International Covenant on Economic, Social and Cultural Rights (ICESCR) provisions on the right to development; and

c. the Convention on the Elimination of Discrimination Against Women (CEDAW) provision on the right of women against discrimination and the right of women to determine the number of their children.

3) Is the right to reproductive health also a customary norm under international law?

Answer: Yes. Pursuant to Art. 38(1)(b) of the ICJ Statute, another source of international law is international custom. In the North Sea Continental Shelf Cases, the ICJ ruled that two requirements must be met for a norm to be recognized as being customary: widespread and almost uniform state practice, and opinio juris, or the psychological belief that a norm ought to be followed because it is law.

State practice is sufficient as evidenced by the overwhelming number of States Parties to the ICCPR, ICESCR, and the CEDAW, all of which either expressly or impliedly provide for the right to RH. This is coupled with opinio juris as revealed by the various declarations and acts of the international community of states on the right to RH.

To illustrate, the United Nations International Conference on Human Rights, held in Tehran in 1968, declares (Article 16): “Parents have a basic human right to determine freely and responsibly the number and spacing of their children.” The World Population Plan of Action, adopted by the 1974 World Population Conference in Bucharest elaborates: “All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have information and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children, and their responsibilities towards the community.” (Paragraph 14f) The 1984 International Conference on Population, held in Mexico City, reaffirms this language.
Paragraph 7.12 of the 1994 ICPD Programme of Action states: “The aim of family-planning programmes must be to enable couples and individuals to decide freely and responsibly the number and spacing of their children and to have the information and means to do so and to ensure informed choices and make available a full range of safe and effective methods… [I]nformed individuals everywhere can and will act responsibly in the light of their own needs and those of their families and communities . . . .”

Indeed, the right to RH has crystallized into a customary norm of international law.

4) **Is the right to reproductive health a civil right?**

*Answer:* Yes. Article 23 of the ICCPR provides protection for the right to found a family. Accordingly, this right imposes a two-fold duty on the State: a positive duty to protect the right to cohabit and procreate, and a negative duty to refrain from enacting discriminatory family-planning policies. Additionally, the right to privacy under the same Covenant proscribes arbitrary or unlawful interference with the family. This has been interpreted as protecting family autonomy and the right to decide on the number and spacing of children. Hence, personal autonomy and free access to reproductive information are well-enshrined in international human rights law, making the right to RH a fundamental civil right of a person.

5) **Is the right to reproductive health an enforceable right?**

*Answer:* Yes. As a constituent right of the ICCPR, it is the subject of the State obligation to protect and promote. As part of the ICESCR, it is subject to the State obligation to take all steps necessary to realize the right.

6) **What is meant by the duty to protect the right to RH?**

*Answer:* This is the obligation of the State not to interfere with the right to reproductive health of individuals.
7) **What is meant by the obligation to promote the right to reproductive health?**

*Answer:* This is the obligation of the State to ensure the exercise of the right to RH through all means necessary such as resort to legislation.

8) **What state obligation is fulfilled if the Philippine Congress were to enact an RH law?**

*Answer:* By enacting an RH law, the Philippine Congress is discharging the State obligation to protect and promote the right to life, the right to security of persons, the right to equality, the right to health, and the right to development.

9) **Why would the failure to enact an RH law constitute discrimination against women?**

*Answer:* International human rights law recognizes the right of control of a woman over her body. As the person who is expected to bear the child, the woman should be allowed to determine the size of her family, taking into consideration her physical, emotional and social well-being. Consequently, depriving women the right to determine the children they want is a form of discrimination.

10) **Is the right to reproductive health an economic right?**

*Answer:* Yes. Article 12 of the ICESCR recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” It obligates States Parties to take all steps necessary to reduce stillbirth and maternal mortality, and to create the conditions to assure medical services to all and medical attention in the event of sickness.
11) **What is the duty of states to promote the right to reproductive health as an economic right?**

*Answer:* States Parties must take all steps necessary to ensure individuals enjoy the right. This includes the right to prescribe recognition of a right through the passage of laws such as the pending RH Bill in Congress.

12) **What happens if the Philippines violates the right to reproductive health?**

*Answer:* It commits an internationally wrongful act, and consequently incurs State responsibility.

13) **When does the Philippines commit an internationally wrongful act?**

*Answer:* The Philippines commits an internationally wrongful act when it breaches a norm of international law.

14) **How does the Philippines breach international law in relation to the right to RH?**

*Answer:* In relation to the right to RH, the Philippines is in breach of international law when it fails to allow its citizens to practice responsible parenthood and when this right is denied to its population solely by reason of poverty.

15) **How can the Philippines avoid international responsibility for violating the right to RH and the right to non-discrimination?**

*Answer:* The Philippines can avoid international responsibility by ensuring that all its citizens, regardless of sex or income, can decide freely on the number of children they want and have access to family planning counseling, services and supplies.
16) **What are the consequences if the Philippines fails to protect and promote the right to RH and the right to non-discrimination?**

*Answer:* For incurring responsibility for the commission of an internationally wrongful act, the Philippines will accordingly be under obligation to cease with the breach, make reparations if possible, and if not, pay compensation.

17) **How much compensation will the Philippines be made to pay for its failure to protect and promote the right to RH?**

*Answer:* The Philippines will have to compensate human rights victims to the extent necessary to extinguish all the consequences of the wrongful act. Specifically, a couple may ask the state to compensate them for the cost of rearing children that were born as a result of the non-availability of contraceptives, including all costs necessary not just for the physical well-being of these children, but also for such other costs as education, health, housing etc. In *Tysiak v. Poland*, the European Court of Human Rights awarded the applicant 25,000 euros (EUR) in respect of non-pecuniary damage and EUR 14,000 for costs and expenses. The applicant was a Polish national who was forced by a public hospital to continue her pregnancy despite the risks on her life.

18) **Whom shall the Philippines pay compensation to for its breach of its obligation to protect and promote the right to RH?**

*Answer:* All individuals who can prove that they suffered damages resulting from the failure to protect and promote their right to RH shall be compensated.

19) **Does the Church have a right to dictate on what legislation Congress should or should not pass?**

*Answer:* No. The Universal Declaration of Human Rights, which is a codification of customary law, and various international and regional human rights treaties, oblige
the State to respect and to ensure to all persons within its
territory and subject to its jurisdiction their rights, regardless
of religion. Allowing the predominant Church to dictate
legislation which burdens the rights of persons amounts
to a breach of this obligation.

20. **WHERE COULD RESORT BE HAD UNDER INTERNATIONAL
LAW SHOULD THE PHILIPPINES FAIL TO PROTECT AND
PROMOTE THE RIGHT TO REPRODUCTIVE HEALTH?**

**Answer:** The Philippines could be brought to the Human
Rights Council for systematic breach of a human right, the
Human Rights Committee for violation of the right to life
and the right to security of persons, and the CEDAW
Committee for condoning an act of discrimination.
1) **Does the Philippine government have any international obligation to respect the human right to health?**

   *Answer:* Yes, the Philippines has signed the International Covenant on Economic, Social and Cultural Rights (ICESCR, ratified by the Philippines on 7 June 1974). Under this Covenant, we promised to ensure the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (ICESCR art. 12.1).

   The Philippines has also signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, ratified by the Philippines on 5 August 1981). Under this Convention, we promised to ensure the “right to protection of health” (CEDAW art. 11.1.f).

2) **Does the right to health include access to reproductive rights?**

   *Answer:* The ICESCR provides that the “full realization of this right” shall include those necessary for the “provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child” (ICESCR art. 12.2.a).
This obligation has been authoritatively interpreted by the United Nations to require “measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information” (General Comment No. 14, The right to the highest attainable standard of health, E/C.12/2000/4, adopted by the Committee on Economic, Social and Cultural Rights on 11 August 2000, [hereinafter General Comment No. 14], at par. 14).

Moreover, it includes “access to a full range of high quality and affordable health care, including sexual and reproductive services … particularly lowering rates of maternal mortality” (General Comment No. 14 par. 21).

The CEDAW ensures the “right to health … including the safeguarding of the function of reproduction” (CEDAW Art. 11.1.f). More particularly, the Philippines promised to “take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure … access to health care services, including those related to family planning” (CEDAW art. 12.1).

The Philippines also promised to ensure the right of women on equal terms with men “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” (CEDAW art. 16.1.e).

Moreover, the Philippines has signed the Convention on the Rights of the Child (CRC, ratified by the Philippines on 21 Aug 1990). The CRC provides that the “right of the child to the enjoyment of the highest attainable standard of health” (CRC art. 24.1) includes the duty of the Philippines to—

• “To take appropriate measures [t]o diminish infant and child mortality (CRC art. 24.2.a);

• “To ensure appropriate pre-natal and post-natal health care for mothers (CRC art. 24.2.d); and
“To develop preventive health care, guidance for parents and family planning education and services.” (CRC art. 24.2.f).

Finally, it has been authoritatively stated that “health ... is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity” (International Conference on Primary Health Care, Alma-Ata Declaration of 1978, art. 1), and “primary health care ... includes at least ... maternal and child health care, including family planning” (id. art. VII.3).

3) DOES THE PHILIPPINES HAVE AN INTERNATIONAL OBLIGATION TO EDUCATE COUPLES ABOUT FAMILY PLANNING?

Answer: Under the ICESCR, we promised to take steps to achieve the full realization of the “right to maternal, child and reproductive health” (ICESCR art. 12.2 a). This has been understood to require “measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information” (General Comment No. 14 par. 14).

This has also been interpreted to include “access to health-related education and information, including on sexual and reproductive health” (General Comment No. 14, par. 11).

Under the CEDAW, we promised to ensure women’s equal “access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning” (CEDAW art. 10.h).

We also promised to “take all appropriate measures” to ensure women the right “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” (CEDAW art. 16.1.e).

Under the CRC, we promised to “take all appropriate measures [t]o develop preventive health care, guidance for
parents and family planning education and services” (CRC art. 24.2.e).

4) **Does the Philippines have an international obligation to take affirmative measures to implement the right to health?**

*Answer:* The Covenant does not limit our obligations merely to “negative” obligations, that is to say, stopping government acts that violate the right to health. It also requires us to take “positive” steps to achieve that right, that is to say, affirmative measures to ensure that all Filipinos, rich and poor alike, can actually enjoy those rights.

Specifically, we promised to take “all appropriate means, including particularly the adoption of legislative measures” (ICESCR art. 2.1) that will help people enjoy their right to health. In international law, this is part of what is called “progressive achievement” (ICESCR art. 2.1).

As part of the State’s “obligation to respect” the right to health, the Philippines must “refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health, from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, as well as from preventing people’s participation in health-related matters” (General Comment No. 14 par. 34).

As part of the State’s “obligation to fulfill”, the Philippines must “provide for sexual and reproductive health services, including safe motherhood, particularly in rural areas” (General Comment No. 14 par. 36).

Under the “obligation to fulfill”, the Philippines must facilitate, provide and promote the right to health. To “facilitate”, the Philippines “take positive measures that enable and assist individuals and communities to enjoy the right to health. To “provide”, the Philippines must assist “individuals [who] are unable, for reasons beyond their control, to realize that right themselves.” To “promote”, the Philippines must “support... people in making informed choices about their health” (General Comment No. 14 par. 37).
The Philippines must also “ensure reproductive, maternal (pre-natal as well as post-natal) and child health care” (General Comment No. 14 par. 44.a).

5) **Does the Philippines have an international obligation to ensure that its health measures are pro-poor?**

*Answer:* Yes, we have embraced the principle of non-discrimination and “guarantee[d] that [economic and social rights] will be exercised without discrimination of any kind” (ICESCR art. 2.2). Poverty-based discrimination based on lack of “property” has excluded the poor de facto from enjoying their right to health. The Philippines also promised to “creat[e] conditions which would assure to all medical service and medical attention in the event of sickness” (ICESCR art. 12.2.d).

The ICESCR has been authoritatively interpreted to create “a special obligation to provide those who do not have sufficient means with the necessary health insurance and health-care facilities, and to prevent any discrimination on internationally prohibited grounds in the provision of health care and health services, especially with respect to the core obligations of the right to health” (General Comment No. 14 par. 19).

Under the principle of “accessibility”, it has been stated that “[h]ealth facilities, goods and services have to be accessible to everyone without discrimination.” Accessibility includes non-discrimination, affordability, and equity. “Equity demands that poorer households should not be disproportionately burdened with health expenses as compared to richer households” (General Comment No. 14 par. 12.b).

Under the CEDAW, we promised to “ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation (CEDAW Art. 12.2).

Under the CEDAW, we further undertook to take special care of women in rural areas and specifically to ensure that they “have access to adequate health care facilities,
including information, counseling and services in family planning” (CEDAW Art. 14.2.b).

6) **ARE THESE INTERNATIONAL OBLIGATIONS CONSISTENT WITH THE PHILIPPINE CONSTITUTION?**

*Answer: Yes, the 1987 Constitution that we adopted after Edsa 1 fully recognizes our international obligations on the right to health and reproductive choice. The Philippine Government has the duty to “protect and promote the right to health of the people and instill health consciousness among them” (CONST. art. II §15). It has the duty 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. There shall be priority for the needs of the under-privileged …. The State shall endeavor to provide free medical care to paupers” (CONST. art. XIII §11).

In the debates of the Constitutional Commission that drafted the 1987 Constitution, it was stated that “[i]n essence these [clauses] could guide future legislators on the concept of comprehensive and integrated approach to health development.” Also it sought to clarify “for future legislation [that] the phrase “make essential goods, health and other social services available to citizens at affordable cost … highlights the fact that health as a human right cannot be enjoyed by the people unless these goods and services are made available and affordable to them, especially the underprivileged sectors of our society” (III RECORD OF THE CONSTITUTIONAL COMMISSION 118-120 (1986)).

Finally, the Constitution itself expressly recognizes the reproductive liberty of spouses when it states that the “State shall defend … right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood” (CONST. art. XV §3.1).

7) **ARE THESE INTERNATIONAL OBLIGATIONS “VALID AND EFFECTIVE” IN THE PHILIPPINES?**

*Answer: These international human rights treaties have satisfied the treaty ratification process and are therefore
“valid and effective.” The Constitution states: “No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate” (Constitution art. VII §21).

Moreover, the Constitution declares that the Philippines “adopts the generally accepted principles of international law as part of the law of the land” (Constitution art. II §2). It also affirms that the State “guarantees full respect for human rights” (Constitution art. II §11). The clause on the Philippine Commission on Human Rights empowers it to monitor the government’s “compliance with international treaty obligations on human rights” (Constitution art. XIII §18.7).

**8) Is the Philippine Congress under an international obligation to adopt domestic legislation to implement reproductive rights?**

*Answer:* Treaty obligations – those contained in the various human rights covenants and conventions – can be invoked directly before Philippine courts and/or by executive agencies under the Incorporation Clause when they are specific enough or are textually intended to be directly enforced (Constitution art. 2§2; Constitution art. VII §21; see also Agustin v. Edu, G.R. 49112 (1979)). Also, treaties can be invoked to interpret provisions of the Philippine constitution, statutes or administrative issuances (e.g., Tecson v. COMELEC, G.R. 161434 (2004)).

At the same time, these treaties can expressly create affirmative obligations by states to adopt domestic legislation and programs, e.g., to carry out the right to health which includes reproductive rights.

Under the ICESCR, we promised “to take steps … including particularly the adoption of legislative measures” to achieve progressively the “full realization of the rights recognized in the present Covenant” (ICESCR art. 2.1).

Under the CEDAW, we promised to “take … all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men” (CEDAW art. 4).
Right to Health

Under the CRC, we promised to “undertake all appropriate legislative ... measures for the implementation of the rights recognized in the present Convention” (CRC art. 4).

9) When can the Philippines be considered in breach of these international obligations?

*Answer:* The obligation to respect is violated by State actions that violate the right to health such as to cause “bodily harm, unnecessary morbidity and preventable mortality.” The United Nations has listed inter alia “the deliberate withholding or misrepresentation of information vital to health protection or treatment” (General Comment No. 14 par. 50).

The obligation to protect is violated by the “failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties.” This obligation is violated by the “failure to enact or enforce laws”, for instance, to protect the right to health (General Comment No. 14 par. 51).

The obligation to fulfill is violated by the “failure of States parties to take all necessary steps to ensure the realization of the right to health.” This obligation is violated by, among others, the “failure to adopt a gender-sensitive approach to health; and the failure to reduce infant and maternal mortality rates” (General Comment No. 14 par. 52).
SENATE BILL NO. 2865

(In substitution of SB 2378 and 2768, taking into consideration PSR 238)

Prepared Jointly by the Committees on Health and Demography; Finance; and Youth, Women and Family Relations with Senators Defensor-Santiago, Lacson and P. Cayetano as authors)

AN ACT PROVIDING FOR A NATIONAL POLICY ON REPRODUCTIVE HEALTH AND POPULATION AND DEVELOPMENT

Be it enacted by the Senate and the House of Representatives of the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. - This Act shall be known as the “The Reproductive Health Act of 2011.”
SEC. 2. State Policies. - The State recognizes and guarantees the human rights of all persons including their right to equality and non-discrimination of these rights, the right to sustainable human development, the right to health which includes reproductive health, the right to education and information, and the right to choose and make decisions for themselves in accordance with their religious convictions, ethics, cultural beliefs, and the demands of responsible parenthood.

The State shall comply with all its international obligations under various human rights instruments relative to reproductive health and women’s empowerment including 11 the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), Beijing Declaration, UN Declaration on the Elimination of Violence Against Women (DEVAW), Convention on the Elimination
of All Forms of Discrimination Against Women (CEDAW), International Conference on Population and Development (ICPD) and the Millennium Development Goals (MDGs).

Moreover, the State recognizes and guarantees the promotion of gender equality, gender equity, women empowerment and dignity as a health and human rights concern and as a social responsibility. The advancement and protection of women’s human rights shall be central to the efforts of the State to address reproductive health care. The State also recognizes and guarantees the promotion of the welfare and rights of children and the youth.

The State likewise guarantees universal access to medically-safe, effective, legal, affordable, and quality reproductive health care services, methods, devices, supplies and relevant information and education thereon according to the priority needs of women, children and other underprivileged sectors.

The State shall address and seek to eradicate discriminatory practices, laws and policies that infringe on a person’s exercise of sexual health and reproductive health and rights.

SEC. 3. Guiding Principles for Implementation. - This Act declares the following as guiding principles:

(a) The right to make free and informed decisions, which is central to the exercise of any right, shall not be subjected to any form of coercion and must be fully guaranteed by the State, like the right itself.

(b) Respect for, protection and fulfillment of, reproductive health and rights seek to promote the rights and welfare of every person.

(c) Effective and quality reproductive health care services must be given primacy to ensure maternal and child health, and birth of healthy children, in line with the State’s duty to promote the right to health, responsible parenthood, social justice and full human development.

(d) The provision of medically-safe, effective, legal, accessible, affordable, and quality reproductive health care services is essential in the promotion of the people’s right to health, especially those of women, the poor, and the marginalized, and shall be incorporated as a component of basic health care.

(e) The State will provide information and access, without bias, to all methods of family planning which have been proven safe and effective in accordance with scientific and evidence-based
medical standards such as those set by the World Health Organization (WHO) and registered and approved by the Food and Drug Administration (FDA).

(f) The State shall promote programs that: (1) enable individuals and couples to have the number of children they desire with due consideration to the health, particularly of women, and the resources available and affordable to them; (2) ensure effective partnership among the National Government, Local Government Units (LGUs) and the private sector in the design, implementation, coordination, integration, monitoring and evaluation of people-centered programs towards quality of life and environmental protection; and (3) conduct studies to analyze demographic trends towards sustainable human development in keeping with the principles of gender equality and the promotion and protection of women’s reproductive rights and health.

(g) The provision of reproductive health care and information must be the joint primary responsibility of the National Government and the LGUs consistent with their obligation to respect, protect and promote the right to health.

(h) Active participation by non-government, women’s and people’s organizations, and communities is crucial to ensure that reproductive health and population and development policies, plans, and programs will address the priority needs of women, the poor, and the marginalized. The State shall ensure equitable allocation and utilization of resources in the provision of health care.

(i) While this Act does not amend the penal law on abortion, the government shall ensure that all women needing care for post-abortion complications shall be treated and counseled in a humane, non-judgmental and compassionate manner.

(j) Each family shall have the right to determine its ideal family size; Provided, however, That the State shall equip each parent with the necessary information on all aspects of family life, including reproductive health, in order to make that determination.

SEC. 4. Definition of Terms. - For the purpose of this Act, the following terms shall be defined as follows:

(a) Adolescent - refers to young people between the ages of ten (10) to nineteen (19) years who are in transition from childhood to adulthood;

(b) Basic Emergency Obstetric and Newborn Care (BEMONC) - refers to lifesaving services for emergency maternal and newborn conditions/complications being provided by a health
facility or professional to include the following services: administration of parenteral oxytocic drugs, administration of loading dose of parenteral anticonvulsants, administration of initial dose of antibiotics, performance of assisted deliveries in imminent breech, removal of retained placental products, and manual removal of retained placenta. It also includes neonatal interventions which include at the minimum: newborn resuscitation, provision of warmth, and referral;

(c) Comprehensive Emergency Obstetric and Newborn Care (CEMONC) – refers to lifesaving services for emergency maternal and newborn conditions/complications as in Basic Emergency Obstetric and Newborn Care plus the provision of surgical delivery (caesarian section) and blood bank services, and other highly specialized obstetric interventions. It also includes emergency neonatal care which includes at the minimum: newborn resuscitation, treatment of neonatal sepsis infection, oxygen support, and antenatal administration of (maternal) steroids for threatened premature delivery;

(d) Employer - includes any person acting in the interest of an employer, directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as an employer;

(e) Family Planning - refers to a program which enables couples and individuals to decide freely and responsibly the number and spacing of their children and to have the information and means to do so, and to have access to a full range of safe, affordable, effective, and modern methods of preventing or timing pregnancy;

(f) Gender Equality - refers to the principle of equality between women and men and equal rights to enjoy conditions in realizing their full human potentials to contribute to, and benefit from, the results of development, with the State recognizing that all human beings are free and equal in dignity and rights. It entails equality in opportunities, in the allocation of resources or benefits, or in access to services in furtherance of the rights to health and sustainable human development among others, without discrimination on the basis of a person’s sex, sexual orientation and gender identity;

(g) Gender Equity - refers to the policies, instruments, programs, policies, and actions that address the disadvantaged position of women in society by providing preferential treatment and affirmative action. It entails fairness and justice in the distribution of benefits and responsibilities between women and men, and often requires women-specific projects, and programs to end existing
inequalities. This concept recognizes that while reproductive health involves women and men, it is more critical for women’s health;

(h) Healthcare Service Provider - refers to (1) a public or private health care institution, which is duly licensed and accredited and devoted primarily to the maintenance and operation of facilities for health promotion, disease prevention, diagnosis, treatment, and care of individuals suffering from illness, disease, injury, disability or deformity, or in need of obstetrical or other medical and nursing care; (2) a public or private health care professional, who is any doctor of medicine, nurse, or midwife; (3) a public health worker engaged in the delivery of health care services; and (4) a barangay health worker who has undergone training programs under any accredited government and non-government organization and, who voluntarily renders primarily health care services in the community after having been accredited to function as such by the local health board in accordance with the guidelines promulgated by the Department of Health (DOH);

(i) Indigent - refers to a person who has no visible means of income, or whose income is insufficient for the subsistence of his family, as identified by a means test determined by the National Government;

(j) Male Responsibility - refers to the involvement, commitment, accountability, and responsibility of males in all areas of sexual health and reproductive health, as well as the care of reproductive health concerns specific to men;

(k) Maternal Death Review - refers to qualitative, quantitative and in-depth study of the causes, trends and distribution of maternal death with the primary purpose of preventing future deaths through changes or additions to programs, plans and policies;

(l) Maternal Health - refers to the health of women during pregnancy, childbirth and the post period;

(m) Modern Methods of Family Planning - refer to safe, effective and legal methods, whether natural or artificial;

(n) Population and Development - refers to the conscious and explicit consideration of population and development variables (e.g. health, environment, education, housing, employment, etc.) in planning and policymaking. It puts people and human development as the primary consideration for any development initiatives;

(o) Reproductive Health (RH) - refers to the state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity, in all matters relating to the reproductive
system and to its functions and processes. This implies that people are able to have a safe and satisfying sex life, that they have the capability to reproduce and the freedom to decide if, when, and how often to do so. This further implies that women and men attain equal relationships in matters related to sexual relations and reproduction;

(p) Reproductive Health Care - refers to a full range of methods, techniques, facilities and services that contribute to reproductive health and well being by preventing and solving reproductive health-related problems. The elements of reproductive health care include:

   (1) Maternal health and nutrition, including breastfeeding;
   (2) Family planning information and services;
   (3) Prevention of abortion and management of abortion complications;
   (4) Adolescent and youth reproductive health, guidance and counseling;
   (5) Prevention, treatment and management of reproductive tract infections (RTIs) as defined in Section 4 (t), sexually transmittable infections (STIs) as defined in Section 4 (w), breast and reproductive tract cancers and other gynecological conditions and disorders;
   (6) Elimination of violence against women and children and other forms of sexual and gender-based violence;
   (7) Education and counseling on sexual health;
   (8) Male responsibility and involvement and men’s reproductive health; and
   (9) Prevention and treatment of infertility and sexual dysfunction;

(q) Reproductive Health Care Program - refers to the systematic and integrated provision of reproductive health care elements to all citizens especially women, the poor, marginalized and those in vulnerable situations;

(r) Reproductive Health Education - refers to lifelong learning process of providing and acquiring complete, accurate and relevant information and education on sexual health and reproductive health through life skills education and other approaches;

(s) Reproductive Rights - refers to the rights of individuals and couples, to decide freely and responsibly whether or not to have children; the number, spacing and timing of their children; to make other decisions concerning reproduction, free of discrimination, coercion and violence; to have the information and means to do so;
and to attain the highest standard of sexual health and reproductive health;

(t) Reproductive Tract Infection (RTI) - refers to infections of the reproductive system, including STIs, and other types of infections affecting the reproductive system;

(u) Responsible Parenthood - refers to the will and ability of a parent to respond to the needs and aspirations of the family and children. It is likewise a shared responsibility between parents to determine and achieve the desired number of children, spacing and timing of their children according to their own family life aspirations, taking into account psychological preparedness, health status, socio-cultural, and economic concerns;

(v) Sexual Health - refers to a state of physical, mental and social well-being in relation to sexuality. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free from coercion, discrimination and violence;

(w) Sexually Transmitted Infections (STIs) - refers to any infection that may be acquired or passed on through sexual contact;

(x) Skilled Birth Attendance - childbirth managed by a skilled health professional plus the enabling conditions of necessary equipment and support of a functioning health system, including transport and referral facilities for emergency obstetric care;

(y) Skilled Health Professional - refers to an accredited health professional, such as a doctor, nurse or registered midwife; and

(z) Sustainable Human Development - refers to bringing people particularly the poor and vulnerable at the center of development process, the central purpose of which is the creation of an enabling environment in which all can enjoy long, healthy and creative lives, and done in a manner that promotes their rights and protects the life opportunities of future generations and the natural ecosystem on which all life depends.

SEC. 5. Hiring of Skilled Health Professionals for Maternal Health Care and Skilled Birth Attendance. - The LGUs, with the assistance of the DOH, shall employ an adequate number of midwives and other skilled health professionals for maternal health care and skilled birth attendance to achieve a minimum ratio of one (1) fulltime equivalent skilled health professional for everyone hundred fifty (150) deliveries per year, to be based on the annual number of actual deliveries or live births for the past two (2) years; Provided,
That people in geographically isolated or highly populated and depressed areas shall not be neglected.

For the purposes of this Act, midwives and nurses shall be allowed to administer life-saving drugs, in accordance with the guidelines set by DOH, under emergency conditions and when there are no physicians available; Provided, That they are appropriately trained and certified proficient to administer these life-saving drugs.

SEC. 6. **Provision of Emergency Obstetric and Newborn Care.** - Each LGU shall ensure the establishment or upgrading of hospitals or facilities with adequate and qualified personnel, equipment and supplies to be able to provide emergency obstetric and newborn care. For every 500,000 population, there shall ideally be at least one (1) public or private hospital for CEMONC and four (4) public or private health facilities for BEMONC which shall also be capable of providing blood transfusion services; Provided, That people in geographically isolated or highly populated and depressed areas shall not be neglected.

SEC. 7. **Access to Family Planning.** - All accredited public and private health facilities shall provide a full range of modern family planning methods, except in specialty hospitals which may render such services on an optional basis. No person shall be denied information and access to family planning services.

SEC. 8. **Maternal Death Review.** - All LGUs, national and local government hospitals, and other public health units shall conduct an annual Maternal Death Review in accordance with the guidelines set by the DOH.

SEC. 9. **Family Planning Supplies as Essential Medicines.** - The National Drug Formulary shall include hormonal contraceptives, intrauterine devices, injectables and other safe, legal and effective family planning products and supplies in accordance with Section 17 (d). These products and supplies shall also be included in the regular purchase of essential medicines and supplies of all national and local hospitals, provincial, city, and municipal health offices, including rural health units.

SEC. 10. **Procurement and Distribution of Family Planning Supplies.** – The DOH shall lead and coordinate the efficient procurement and distribution to LGUs and usage-monitoring of family planning supplies for the whole country. The DOH shall coordinate with all appropriate LGU bodies to plan and implement this procurement and distribution program. The supply and budget
allotments shall be based on, among others, the current levels and projections of the following:

(a) Number of women of reproductive age and couples who want to space or limit their children;
(b) Contraceptive prevalence rate, by type of method used; and
(c) Cost of family planning supplies.

SEC. 11. PhilHealth Benefits for Serious and Life-Threatening Reproductive Health Conditions. - All serious and life threatening reproductive health conditions such as HIV and AIDS, breast and reproductive tract cancers, and obstetric complications shall be given the maximum benefits, including the provision of Anti-Retroviral Medicines (ARVs), as provided in the guidelines set by the Philippine Health Insurance Corporation (PHIC).

SEC. 12. Mobile Health Care Service. - Each congressional district shall acquire a Mobile Health Care Service (MHCS) in the form of a van or other means of transportation appropriate to coastal and mountainous areas. The MHCS shall deliver health care goods and services to its constituents, more particularly to the poor and needy, as well as disseminate knowledge and information on reproductive health. The purchase of such may be funded from the Priority Development Assistance Fund (PDAF) of each Congressional District. The MHCS shall be operated by skilled health providers and adequately equipped with a wide range of reproductive health care materials and information dissemination devices and equipment, the latter including, but not limited to, a television set for audio-visual presentations. All MHCS shall be operated by LGUs of provinces and highly urbanized cities.

SEC. 13. Age- and Development-Appropriate Reproductive Health Education. - The State shall provide age- and development-appropriate reproductive health education which shall be taught by adequately trained teachers in formal and non-formal educational system and integrated in relevant subjects such as, but not limited, to values formation; knowledge and skills in self-protection against discrimination, sexual abuse and violence against women and children and other forms of gender based violence and teen pregnancy; physical, social and emotional changes in adolescents; women’s rights and children’s rights; responsible teenage behavior; gender and development; and responsible parenthood.
SEC. 14. **Capacity Building of Barangay Health Workers (BHWs).** - The DOH shall be responsible for disseminating information and providing training programs to the LGUs. The LGUs, with the technical assistance of DOH, shall be responsible for the training of BHWs and other barangay volunteers on the promotion of reproductive health.

SEC. 15. **Employers’ Responsibilities.** - The Department of Labor and Employment (DOLE) shall ensure that employers respect the reproductive rights of workers and their right to gender equality.

Employers shall also uphold the right of all workers to know work conditions which may affect their health, particularly those related to their reproductive health. Employers shall furnish in writing the following information to all employees and applicants:

(a) The medical and health benefits which workers are entitled to, including maternity and paternity leave benefits; and
(b) The reproductive health hazards associated with work, including hazards that may affect their reproductive functions especially for pregnant women.

SEC. 16. **Public Awareness.** - The DOH, Commission on Population (POPCOM) and the LGUs shall initiate and sustain a heightened nationwide multi-media campaign to raise the level of public awareness on the protection and promotion of reproductive health and rights including family .

SEC. 17. **Duties and Responsibilities.** - (a) Pursuant to the herein declared policy, the DOH shall serve as the lead agency, along with the LGUs, for the implementation of this Act and shall integrate in their regular operations the following functions:

1. Fully and efficiently implement the reproductive health care program;
2. Ensure people’s access to medically safe, legal, quality and affordable reproductive health goods and services; and
3. Perform such other functions necessary to attain the purposes of this Act.

(b) The DOH, in coordination with PHIC, as may be applicable, shall:

1. Strengthen the capacities of health regulatory agencies to ensure safe, high quality, accessible and affordable reproductive health services and commodities with the concurrent strengthening and enforcement of regulatory mandates and mechanisms;
2. Facilitate the involvement and participation of non-government organizations and the private sector in reproductive health care service delivery and in the production, distribution and delivery of quality reproductive health and family planning supplies and commodities to make them accessible and affordable to ordinary citizens;
3. Supervise and provide assistance to LGUs in the delivery of reproductive health care services and in the purchase of family planning goods and supplies; and
4. Furnish LGUs, through their respective local health offices, appropriate information and resources to keep the latter updated on current studies and researches relating to family planning, responsible parenthood, breastfeeding and infant nutrition.

(c) Pursuant to the Local Government Code, the LGUs shall:
1. Implement programs formulated by the DOH to achieve the purposes of this Act;
2. Ensure provision of basic health care services including, but not limited to, the operation and maintenance of facilities and equipment necessary for the delivery of a full range of reproductive health care services and the purchase and distribution of family planning goods and supplies as pmi of the essential health package defined by DOH and PHIC; and
3. Create and organize Reproductive Health Committees through their respective Local Development Councils (LDCs) to ensure the implementation of this Act.

(d) The FDA shall issue strict guidelines with respect to the use of contraceptives, taking into consideration side effects or other harmful effects of their use.

(e) Corporate citizens shall exercise prudence in advertising its products or services through all forms of media, especially on matters relating to sexuality, further taking into consideration its influence on children and the youth.

SEC. 18. Prohibited Acts. - The following acts are prohibited:
(a) Any healthcare service provider, whether public or private, who shall:
1. Knowingly withhold information or restrict the dissemination thereof, and/or intentionally provide incorrect information regarding programs and services on reproductive
health including the right to informed choice and access to a full range of legal, medically-safe and effective family planning methods;
2. Refuse to perform legal and medically-safe reproductive health procedures on any person of legal age on the ground of lack of third party consent or authorization. In case of married persons, the mutual consent of the spouses shall be preferred, if the spouse is present; Provided, That it is not an emergency case or one which requires immediate medical attention or procedure; Provided, further, That in the absence of the spouse or in case of disagreement of the spouses, the decision of the one undergoing the procedure shall prevail. In the case of minors, the written consent of parents or legal guardian or, in their absence, persons exercising parental authority or next of kin shall be required only in elective surgical procedures and in no case shall consent be required in emergency or serious cases as defined in Republic Act 8344; Provided, That in the case of abused minors where parents and/or other family members are the perpetrators or suspects, as certified by the DSWD, City or Municipal Social Welfare and Development Office, no prior parental consent shall be necessary. In all cases, the patient has to be informed of the medical procedure and its consequences; and
3. Refuse to extend quality health care services and information on account of the person’s marital status, gender, sexual orientation, age, religion, personal circumstances, or nature of work; Provided, That the conscientious objection of a healthcare service provider based on his/her ethical or religious beliefs shall be respected; however, the conscientious objector shall immediately refer the person seeking such care and services to another healthcare service provider within the same facility or one which is conveniently accessible; Provided, further, That the person is not in an emergency condition or serious case as defined in RA 8344, which penalizes the refusal of hospitals and medical clinics to administer appropriate initial medical treatment and support in emergency and serious cases.
(b) Any public officer, elected or appointed, who, personally or through a subordinate, prohibits or restricts the delivery of legal and medically-safe reproductive health care services, including family planning; or forces, coerces or induces any person to use such services; or refuses to allocate, approve or release any budget for reproductive health care services, or to support reproductive health programs; or shall do any act that hinders the full implementation of a reproductive health program as mandated by this Act.

(c) Any employer who shall suggest, require, unduly influence or cause any applicant for employment or an employee to submit himself/herself to sterilization, use any modern methods of family planning, or not use such methods as a condition for employment, continued employment, promotion or the provision of employment benefits. Further, pregnancy or the number of children shall not be a ground for non-hiring or termination from employment.

SEC. 19. Penalties. - Any violation of this Act shall be penalized by imprisonment ranging from one (1) month to six (6) months or a fine of Ten Thousand (P10,000.00) to One Hundred Thousand Pesos (P100,000.00) or both fine and imprisonment, at the discretion of the court; Provided, That, if the offender is a public officer, elected or appointed, she/he shall also be administratively liable.

SEC. 20. Reporting Requirements. - Before the end of April each year, the DOH and POPCOM, in consultation with non-government organizations, women’s organizations, young people’s organizations and the private sector, shall submit to the President of the Philippines and Congress an annual consolidated report, which shall provide a definitive and comprehensive assessment of the implementation of its programs and those of other government agencies and instrumentalities and recommend priorities for executive and legislative actions. The report shall be printed and distributed to all national agencies, the LGUs, non-government organizations and private sector organizations involved in said programs.

The annual report shall evaluate the content, implementation, and impact of all policies related to reproductive health and family planning to ensure that such policies promote, protect and fulfill women’s reproductive health and rights.
SEC. 21. Appropriations. - The amounts appropriated in the current annual General Appropriations Act (GAA) for reproductive health and natural and artificial family planning under the DOH and POPCOM and other concerned agencies shall be allocated and utilized for the implementation of this Act. Such additional sums necessary to provide for the upgrading of facilities necessary to meet BEMONC and CEMONC standards; the training and deployment of skilled health providers; natural and artificial family planning commodity requirements as outlined in Sec. 10, and for other reproductive health services, shall be included in the subsequent years’ general appropriations. The Gender and Development (GAD) funds of LGUs and national agencies shall be a source of funding for the implementation of this Act.

SEC. 22. Implementing Rules and Regulations (IRR). - Within sixty (60) days from the effectivity of this Act, the Secretary of Health or his/her designated representative as Chairperson, the authorized representative/s of POPCOM, DepEd, DSWD, Philippine Commission on Women, PHIC, Department of the Interior and Local Government, National Economic and Development Authority, League of Provinces, League of Cities, and League of Municipalities, together with non-government, people’s, women’s and young people’s organizations, shall jointly promulgate the rules and regulations for the effective implementation of this Act. At least four (4) members of the IRR drafting committee, to be selected by the Secretary of Health, shall come from non-government, women’s, people’s, and young people’s organizations; Provided, That one of them shall represent women’s organizations and another shall represent young people’s organizations.

SEC. 23. Interpretation Clause. - This Act shall be liberally construed to ensure the provision, delivery and access to reproductive health care services, and to promote, protect and fulfill women’s reproductive health and rights.

SEC. 24. Separability Clause. - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 25. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent with the provision of this Act is hereby repealed, modified, or amended accordingly.
SEC. 26. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.
Approved,
Section 1. Title. - This Act shall be known as the “The Responsible Parenthood, Reproductive Health and Population and Development Act of 2011.”

SEC. 2. Declaration of Policy. - The State recognizes and guarantees the exercise of the universal basic human right to reproductive health by all persons, particularly of parents, couples and women, consistent with their religious convictions, cultural beliefs and the demands of responsible parenthood. Toward this end, there shall be no discrimination against any person on grounds of sex, age, religion, sexual orientation, disabilities, political affiliation and ethnicity.

Moreover, the State recognizes and guarantees the promotion of gender equality, equity and women’s empowerment as a health and human rights concern. The advancement and protection of women’s human rights shall be central to the efforts of the State to address reproductive health care. As a distinct but inseparable measure to the guarantee of women’s rights, the State recognizes and guarantees the promotion of the welfare and rights of children.

The State likewise guarantees universal access to medically-safe, legal, affordable, effective and quality reproductive health care services, methods, devices, supplies and relevant information and education thereon even as it prioritizes the needs of women and children, among other underprivileged sectors.

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

SEC. 3. Guiding Principles. - The following principles constitute the framework upon which this Act is anchored:

1. Freedom of choice, which is central to the exercise of right, must be fully guaranteed by the State;
2. Respect for, protection and fulfillment of reproductive health and rights seek to promote the rights and welfare of couples, adult individuals, women and adolescents;
3. Since human resource is among the principal asset of the country, maternal health, safe delivery of healthy
children and their full human development and responsible parenting must be ensured through effective reproductive health care;

4. The provision of medically safe, legal, accessible, affordable and effective reproductive health care services and supplies is essential in the promotion of people’s right to health, especially of the poor and marginalized;

5. The State shall promote, without bias, all effective natural and modern methods of family planning that are medically safe and legal;

6. The State shall promote programs that: (1) enable couples, individuals and women to have the number and spacing of children and reproductive spacing they desire with due consideration to the health of women and resources available to them; (2) achieve equitable allocation and utilization of resources; (3) ensure effective partnership among the national government, local government units and the private sector in the design, implementation, coordination, integration, monitoring and evaluation of people-centered programs to enhance quality of life and environmental protection; (4) conduct studies to analyze demographic trends towards sustainable human development and (5) conduct scientific studies to determine safety and efficacy of alternative medicines and methods for reproductive health care development;

7. The provision of reproductive health information, care and supplies shall be the joint responsibility of the National Government and the Local Government Units (LGUs);

8. Active participation by non-government, women’s, people’s, civil society organizations and communities is crucial to ensure that reproductive health and population and development policies, plans, and programs will address the priority needs of the poor, especially women;

9. While this Act recognizes that abortion is illegal and punishable by law, the government shall ensure that all women needing care for post-abortion complications shall be treated and counseled in a humane, non-judgmental and compassionate manner;

10. There shall be no demographic or population targets and the mitigation of the population growth rate is incidental to the promotion of reproductive health and sustainable
human development;
11. Gender equality and women empowerment are central elements of reproductive health and population and development;
12. The limited resources of the country cannot be suffered to be spread so thinly to service a burgeoning multitude making allocations grossly inadequate and effectively meaningless;
13. Development is a multi-faceted process that calls for the coordination and integration of policies, plans, programs and projects that seek to uplift the quality of life of the people, more particularly the poor, the needy and the marginalized; and
14. That a comprehensive reproductive health program addresses the needs of people throughout their life cycle.

SEC. 4. Definition of Terms. - For the purposes of this Act, the following terms shall be defined as follows:

Adolescence refers to the period of physical and physiological development of an individual from the onset of puberty to complete growth and maturity which usually begins between eleven (11) to thirteen (13) years and terminating at eighteen (18) to twenty (20) years of age;

Adolescent Sexuality refers to, among others, the reproductive system, gender identity, values and beliefs, emotions, relationships and sexual behavior at adolescence;

AIDS (Acquired Immune Deficiency Syndrome) refers to a condition characterized by a combination of signs and symptoms, caused by Human Immunodeficiency Virus (HIV) which attacks and weakens the body’s immune system, making the afflicted individual susceptible to other life-threatening infections;

Anti-Retroviral Medicines (ARVs) refer to medications for the treatment of infection by retroviruses, primarily HIV;

Basic Emergency Obstetric Care refers to lifesaving services for maternal complications being provided by a health facility or professional, which must include the following six signal functions: administration of parenteral antibiotics; administration of parenteral oxytocic drugs; administration of parenteral anticonvulsants for pre-eclampsia and eclampsia; manual removal of placenta; removal of retained products; and assisted vaginal delivery;

Comprehensive Emergency Obstetric Care refers to basic emergency obstetric care including deliveries by surgical procedure
(caesarian section) and blood transfusion;

**Employer** refers to any natural or juridical person who hires the services of a worker. The term shall not include any labor organization or any of its officers or agents except when acting as an employer;

**Family Planning** refers to a program which enables couples, individuals and women to decide freely and responsibly the number and spacing of their children, acquire relevant information on reproductive health care, services and supplies and have access to a full range of safe, legal, affordable, effective natural and modern methods of limiting and spacing pregnancy;

**Gender Equality** refers to the absence of discrimination on the basis of a person’s sex, sexual orientation and gender identity in opportunities, allocation of resources or benefits and access to services;

**Gender Equity** refers to fairness and justice in the distribution of benefits and responsibilities between women and men, and often requires women-specific projects and programs to end existing inequalities;

**Healthcare Service Provider** refers to (1) health care institution, which is duly licensed and accredited and devoted primarily to the maintenance and operation of facilities for health promotion, disease prevention, diagnosis, treatment, and care of individuals suffering from illness, disease, injury, disability or deformity, or in need of obstetrical or other medical and nursing care; (2) a health care professional, who is a doctor of medicine, a nurse, or a midwife; (3) public health worker engaged in the delivery of health care services; and (4) barangay health worker who has undergone training programs under any accredited government and non-government organization and who voluntarily renders primarily health care services in the community after having been accredited to function as such by the local health board in accordance with the guidelines promulgated by the Department of Health (DOH);

**HIV (Human Immunodeficiency Virus)** refers to the virus which causes AIDS;

**Male Responsibility** refers to the involvement, commitment, accountability, and responsibility of males in relation to women in all areas of sexual and reproductive health as well as the protection and promotion of reproductive health concerns specific to men;

**Maternal Death Review** refers to a qualitative and in-depth study of the causes of maternal death with the primary purpose of
preventing future deaths through changes or additions to programs, plans and policies;

*Modern Methods of Family Planning* refer to safe, effective and legal methods, whether the natural, or the artificial that are registered with the Food and Drug Administration (FDA) of the DOH, to prevent pregnancy;

*People Living with HIV (PLWH)* refer to individuals who have been tested and found to be infected with HIV;

*Poor* refers to members of households identified as poor through the National Household Targeting System for Poverty Reduction by the Department of Social Welfare and Development (DSWD) or any subsequent system used by the national government in identifying the poor.

*Population and Development* refers to a program that aims to: (1) help couples and parents achieve their desired family size; (2) improve reproductive health of individuals by addressing reproductive health problems; (3) contribute to decreased maternal and infant mortality rates and early child mortality; (4) reduce incidence of teenage pregnancy; and (5) recognize the linkage between population and sustainable human development;

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

*Reproductive Health Care* refers to the access to a full range of methods, facilities, services and supplies that contribute to reproductive health and well-being by preventing and solving reproductive health-related problems. It also includes sexual health, the purpose of which is the enhancement of life and personal relations. The elements of reproductive health care include the following:

(a) family planning information and services;
(b) maternal, infant and child health and nutrition, including breastfeeding;
(c) proscription of abortion and management of abortion complications;
(d) adolescent and youth reproductive health;
(e) prevention and management of reproductive tract infections (RTIs), HIV and AIDS and other sexually transmittable infections (STIs);
(f) elimination of violence against women;
(g) education and counseling on sexuality and reproductive health;
(h) treatment of breast and reproductive tract cancers and other gynecological conditions and disorders;
(i) male responsibility and participation in reproductive health;
(j) prevention and treatment of infertility and sexual dysfunction;
(k) reproductive health education for the adolescents; and
(l) mental health aspect of reproductive health care.

Reproductive Health Care Program refers to the systematic and integrated provision of reproductive health care to all citizens especially the poor, marginalized and those in vulnerable and crisis situations;

Reproductive Health Rights refer to the rights of couples, individuals and women to decide freely and responsibly whether or not to have children; to determine the number, spacing and timing of their children; to make decisions concerning reproduction free of discrimination, coercion and violence; to have relevant information; and to attain the highest condition of sexual and reproductive health;

Reproductive Health and Sexuality Education refers to a lifelong learning process of providing and acquiring complete, accurate and relevant information and education on reproductive health and sexuality through life skills education and other approaches;

Reproductive Tract Infection (RTI) refers to sexually transmitted infections, and other types of infections affecting the reproductive system;

Responsible Parenthood refers to the will, ability and commitment of parents to adequately respond to the needs and aspirations of the family and children by responsibly and freely exercising their reproductive health rights;

Sexually Transmitted Infection (STI) refers to any infection that may be acquired or passed on through sexual contact;

Skilled Attendant refers to an accredited health professional, such as midwife, doctor or nurse, who has been educated and trained in the skills needed to manage normal (uncomplicated) pregnancies, childbirth and the immediate postnatal period, and in the identification, management and referral of complications in women and newborns, to exclude traditional birth attendant or midwife (hilot), whether trained or not;
**Skilled Birth Attendance** refers to childbirth managed by a skilled attendant including the enabling conditions of necessary equipment and support of a functioning health system, and the transport and referral facilities for emergency obstetric care; and

**Sustainable Human Development** refers to bringing people, particularly the poor and vulnerable, to the center of development process, the central purpose of which is the creation of an enabling environment in which all can enjoy long, healthy and productive lives, and done in a manner that promotes their rights and protects the life opportunities of future generations and the natural ecosystem on which all life depends.

SEC. 5. **Midwives for Skilled Attendance.** - The Local Government Units (LGUs) with the assistance of the DOH, shall employ an adequate number of midwives through regular employment or service contracting, subject to the provisions of the Local Government Code, to achieve a minimum ratio of one (1) fulltime skilled birth attendant for every one hundred fifty (150) deliveries per year, to be based on the annual number of actual deliveries or live births for the past two (2) years; Provided, That people in geographically isolated and depressed areas shall be provided the same level of access.

SEC. 6. **Emergency Obstetric Care.** - Each province and city, with the assistance of the DOH, shall establish or upgrade hospitals with adequate and qualified personnel, equipment and supplies to be able to provide emergency obstetric and neonatal care. For every 500,000 population, there shall be at least one (1) hospital with comprehensive emergency obstetric and neonatal care and four (4) hospitals or other health facilities with basic emergency obstetric and neonatal care; Provided, That people in geographically isolated and depressed areas shall be provided the same level of access.

SEC. 7. **Access to Family Planning.** - All accredited health facilities shall provide a full range of modern family planning methods, except in specialty hospitals which may render such services on an optional basis. For poor patients, such services shall be fully covered by the Philippine Health Insurance Corporation (PhilHealth) and/or government financial assistance on a no balance billing.

After the use of any PhilHealth benefit involving childbirth and all other pregnancy-related services, if the beneficiary wishes to space or prevent her next pregnancy, PhilHealth shall pay for the
full cost of family planning.

SEC. 8. Maternal and Newborn Health Care in Crisis Situations. - The LGUs and the DOH shall ensure that a Minimum Initial Service Package (MISP) for reproductive health, including maternal and neonatal health care kits and services as defined by the DOH, will be given proper attention in crisis situations such as disasters and humanitarian crises. MISP shall become part of all responses by national agencies at the onset of crisis and emergencies.

Temporary facilities such as evacuation centers and refugee camps shall be equipped to respond to the special needs in the following situations: normal and complicated deliveries, pregnancy complications, miscarriage and post-abortion complications, spread of HIV/AIDS and STIs, and sexual and gender-based violence.

SEC. 9. Maternal Death Review. - All LGUs, national and local government hospitals, and other public health units shall conduct annual maternal death review in accordance with the guidelines set by the DOH.

SEC. 10. Family Planning Supplies as Essential Medicines. - Products and supplies for modern family planning methods shall be part of the National Drug Formulary and the same shall be included in the regular purchase of essential medicines and supplies of all national and local hospitals and other government health units.

SEC. 11. Procurement and Distribution of Family Planning Supplies. - The DOH shall spearhead the efficient procurement, distribution to LGUs and usage-monitoring of family planning supplies for the whole country. The DOH shall coordinate with all appropriate LGUs to plan and implement this procurement and distribution program. The supply and budget allotment shall be based on, among others, the current levels and projections of the following:

(a) number of women of reproductive age and couples who want to space or limit their children;
(b) contraceptive prevalence rate, by type of method used; and
(c) cost of family planning supplies.

SEC. 12. Integration of Responsible Parenthood and Family Planning Component in Anti Poverty Programs. - A multi-dimensional approach shall be adopted in the implementation of policies and programs to fight poverty. Towards this end, the DOH shall endeavor to integrate a responsible parenthood and family planning component into all antipoverty and other sustainable human development
programs of government, with corresponding fund support. The DOH shall provide such programs technical support, including capacity-building and monitoring.

SEC. 13. Roles of Local Government in Family Planning Programs. - The LGUs shall ensure that poor families receive preferential access to services, commodities and programs for family planning. The role of Population Officers at municipal, city and barangay levels in the family planning effort shall be strengthened. The Barangay Health Workers and volunteers shall be capacitated to give priority to family planning work.

SEC. 14. Benefits for Serious and Life-Threatening Reproductive Health Conditions. - All serious and life threatening reproductive health conditions such as HIV and AIDS, breast and reproductive tract cancers, obstetric complications, menopausal and post-menopausal related conditions shall be given the maximum benefits as provided by PhilHealth programs.

SEC. 15. Mobile Health Care Service. - Each Congressional District may be provided with at least one (1) Mobile Health Care Service (MHCS) in the form of a van or other means of transportation appropriate to coastal or mountainous areas. The MHCS shall deliver health care supplies and services to constituents, more particularly to the poor and needy, and shall be used to disseminate knowledge and information on reproductive health. The purchase of the MHCS may be funded from the Priority Development Assistance Fund (PDAF) of each congressional district. The operation and maintenance of the MHCS shall be operated by skilled health providers and adequately equipped with a wide range of reproductive health materials and information dissemination devices and equipment, the latter including, but not limited to, a television set for audiovisual presentations. All MHCS shall be operated by a focal city or municipality within a congressional district.

SEC. 16. Mandatory Age-Appropriate Reproductive Health and Sexuality Education. - Age-appropriate Reproductive Health and Sexuality Education shall be taught by adequately trained teachers in formal and non-formal educational system starting from Grade Five up to Fourth Year High School using life skills and other approaches. The Reproductive Health and Sexuality Education shall commence at the start of the school year immediately following one (1) year from the effectivity of this Act to allow the training of concerned teachers. The Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills
Development Authority (TESDA), the DSWD, and the DOH shall formulate the Reproductive Health and Sexuality Education curriculum. Such curriculum shall be common to both public and private schools, out of school youth, and enrollees in the Alternative Learning System (ALS) based on, but not limited to, the psychosocial and the physical wellbeing, the demography and reproductive health, and the legal aspects of reproductive health.

Age-appropriate Reproductive Health and Sexuality Education shall be integrated in all relevant subjects and shall include, but not limited to, the following topics:

(a) Values formation;
(b) Knowledge and skills in self protection against discrimination, sexual violence and abuse, and teen pregnancy;
(c) Physical, social and emotional changes in adolescents;
(d) Children’s and women’s rights;
(e) Fertility awareness;
(f) STI, HIV and AIDS;
(g) Population and development;
(h) Responsible relationship;
(i) Family planning methods;
(j) Proscription and hazards of abortion;
(k) Gender and development; and
(l) Responsible parenthood.

The DepEd, CHED, DSWD, TESDA and DOH shall provide concerned parents with adequate and relevant scientific materials on the age-appropriate topics and manner of teaching Reproductive Health and Sexuality Education to their children.

SEC. 17. Additional Duty of the Local Population Officer. - Each Local Population Officer of every city and municipality shall furnish free instructions and information on responsible parenthood, family planning, breastfeeding, infant nutrition and other relevant aspects of this Act to all applicants for marriage license. In the absence of a local Population Officer, a Family Planning Officer under the Local Health Office shall discharge the additional duty of the Population Officer.

SEC. 18. Certificate of Compliance. - No marriage license shall be issued by the Local Civil Registrar unless the applicants present a Certificate of Compliance issued for free by the local Family Planning Office certifying that they had duly received adequate instructions and information on responsible parenthood, family planning, breastfeeding and infant nutrition.
SEC. 19. **Capability Building of Barangay Health Workers.** - Barangay Health Workers and other community-based health workers shall undergo training on the promotion of reproductive health and shall receive at least 10% increase in honoraria, upon successful completion of training.

SEC. 20. **Ideal Family Size.** - The State shall assist couples, parents and individuals to achieve their desired family size within the context of responsible parenthood for sustainable development and encourage them to have two children as the ideal family size. Attaining the ideal family size is neither mandatory nor compulsory. No punitive action shall be imposed on parents having more than two children.

SEC. 21. **Employers’ Responsibilities.** - The Department of Labor and Employment (DOLE) shall ensure that employers respect the reproductive rights of workers. Consistent with the intent of Article 134 of the Labor Code, employers with more than two hundred (200) employees shall provide reproductive health services to all employees in their own respective health facilities. Those with less than two hundred (200) workers shall enter into partnerships with hospitals, health facilities, or health professionals in their areas for the delivery of reproductive health services.

Employers shall furnish in writing the following information to all employees and applicants:
(a) The medical and health benefits which workers are entitled to, including maternity and paternity leave benefits and the availability of family planning services;
(b) The reproductive health hazards associated with work, including hazards that may affect their reproductive functions especially pregnant women; and
(c) The availability of health facilities for workers.

Employers are obliged to monitor pregnant working employees among their workforce and ensure that they are provided paid half-day prenatal medical leaves for each month of the pregnancy period that the pregnant employee is employed in their company or organization. These paid pre-natal medical leaves shall be reimbursable from the Social Security System (SSS) or the Government Service Insurance System (GSIS), as the case may be.

SEC. 22. **Pro Bono Services for Indigent Women.** - Private and non-government reproductive health care service providers, including but not limited to gynecologists and obstetricians, are
mandated to provide at least forty-eight (48) hours annually of reproductive health services, ranging from providing information and education to rendering medical services free of charge to indigent and low income patients, especially to pregnant adolescents. These forty-eight (48) hours annual pro bono services shall be included as pre-requisite in the accreditation under the PhilHealth.

SEC. 23. Sexual And Reproductive Health Programs For Persons With Disabilities (PWDs). - The cities and municipalities must ensure that barriers to reproductive health services for PWDs are obliterated by the following:

(a) providing physical access, and resolving transportation and proximity issues to clinics, hospitals and places where public health education is provided, contraceptives are sold or distributed or other places where reproductive health services are provided;
(b) adapting examination tables and other laboratory procedures to the needs and conditions of persons with disabilities;
(c) increasing access to information and communication materials on sexual and reproductive health in braille, large print, simple language, and pictures;
(d) providing continuing education and inclusion rights of persons with disabilities among health-care providers; and
(e) undertaking activities to raise awareness and address misconceptions among the general public on the stigma and their lack of knowledge on the sexual and reproductive health needs and rights of persons with disabilities.

SEC. 24. Right to Reproductive Health Care Information. - The government shall guarantee the right of any person to provide or receive non-fraudulent information about the availability of reproductive health care services, including family planning, and prenatal care.

The DOH and the Philippine Information Agency (PIA) shall initiate and sustain a heightened nationwide multi-media campaign to raise the level of public awareness of the protection and promotion of reproductive health and rights including family planning and population and development.

SEC. 25. Implementing Mechanisms. - Pursuant to the herein declared policy, the DOH and the Local Health Units in cities and municipalities shall serve as the lead agencies for the implementation of this Act and shall integrate in their regular operations the following functions:

(a) Ensure full and efficient implementation of the
Reproductive Health Care Program;

(b) Ensure people's access to medically safe, legal, effective, quality and affordable reproductive health supplies and services;

(c) Ensure that reproductive health services are delivered with a full range of supplies, facilities and equipment and that healthcare service providers are adequately trained for such reproductive health care delivery;

(d) Take active steps to expand the coverage of the National Health Insurance Program (NHIP), especially among poor and marginalized women, to include the full range of reproductive health services and supplies as health insurance benefits;

(e) Strengthen the capacities of health regulatory agencies to ensure safe, legal, effective, quality, accessible and affordable reproductive health services and commodities with the concurrent strengthening and enforcement of regulatory mandates and mechanisms;

(f) Promulgate a set of minimum reproductive health standards for public health facilities, which shall be included in the criteria for accreditation. These minimum reproductive health standards shall provide for the monitoring of pregnant mothers, and a minimum package of reproductive health programs that shall be available and affordable at all levels of the public health system except in specialty hospitals where such services are provided on optional basis;

(g) Facilitate the involvement and participation of NGOs and the private sector in reproductive health care service delivery and in the production, distribution and delivery of quality reproductive health and family planning supplies and commodities to make them accessible and affordable to ordinary citizens;

(h) Furnish LGUs with appropriate information and resources to keep them updated on current studies and researches relating to responsible parenthood, family planning, breastfeeding and infant nutrition; and

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

The Commission on Population (POPCOM), as an attached agency of DOH, shall serve as the coordinating body in the implementation of this Act and shall have the following functions:

(a) Integrate on a continuing basis the interrelated reproductive health and population development agenda consistent with the herein declared national policy, taking into account regional
and local concerns;

(b) Provide the mechanism to ensure active and full participation of the private sector and the citizenry through their organizations in the planning and implementation of reproductive health care and population and development programs and projects; and

(c) Conduct sustained and effective information drives on sustainable human development and on all methods of family planning to prevent unintended, unplanned and mistimed pregnancies.

SEC. 26. Reporting Requirements. - Before the end of April of each year, the DOH shall submit an annual report to the President of the Philippines, the President of the Senate and the Speaker of the House of Representatives (HOR). The report shall provide a definitive and comprehensive assessment of the implementation of its programs and those of other government agencies and instrumentalities, civil society and the private sector and recommend appropriate priorities for executive and legislative actions. The report shall be printed and distributed to all national agencies, the LGUs, civil society and the private sector organizations involved in said programs.

The annual report shall evaluate the content, implementation and impact of all policies related to reproductive health and family planning to ensure that such policies promote, protect and fulfill reproductive health and rights, particularly of parents, couples and women.

SEC. 27. Congressional Oversight Committee (COC). There is hereby created a Congressional Oversight Committee composed of five (5) members each from the Senate and the HOR. The members from the Senate and the HOR shall be appointed by the Senate President and the Speaker, respectively, based on proportional representation of the parties or coalition therein with at least one (1) member representing the Minority.

The COC shall be headed by the respective Chairs of the Committee on Youth, Women and Family Relations of the Senate and the Committee on Population and Family Relations of the HOR. The Secretariat of the COC shall come from the existing Secretariat personnel of the Senate’ and the HOR’ committees concerned.

The COC shall monitor and ensure the effective implementation of this Act, determine the inherent weakness and loopholes in the law, recommend the necessary remedial legislator
or administrative measures and perform such other duties and functions as may be necessary to attain the objectives of this Act.

SEC. 28. Prohibited Acts. - The following acts are prohibited:

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

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

2. Refuse to perform legal and medically-safe reproductive health procedures on any person of legal age on the ground of lack of third party consent or authorization. In case of married persons, the mutual consent of the spouses shall be preferred. However, in case of disagreement, the decision of the one undergoing the procedure shall prevail. In the case of abused minors where parents or other family members are the respondent, accused or convicted perpetrators as certified by the proper prosecutorial office or court, no prior parental consent shall be necessary; and

3. Refuse to extend health care services and information on account of the person’s marital status, gender, sexual orientation, age, religion, personal circumstances, or nature of work; Provided, That, the conscientious objection of a healthcare service provider based on his/her ethical or religious beliefs shall be respected; however, the conscientious objector shall immediately refer the person seeking such care and services to another healthcare service provider within the same facility or one which is conveniently accessible who is willing to provide the requisite information and services; Provided, further, That the person is not in an emergency condition or serious case as defined in RA 8344 otherwise known as “An Act Penalizing the Refusal of Hospitals and Medical Clinics to Administer Appropriate Initial Medical Treatment and Support in Emergency and Serious Cases”.

(b) Any public official who, personally or through a subordinate, prohibits or restricts the delivery of legal and medically-safe reproductive health care services, including family planning; or forces, coerces or induces any person to use such services.

(c) Any employer or his representative who shall require an employee or applicant, as a condition for employment or continued employment, to undergo sterilization or use or not use any family planning method; neither shall pregnancy be a ground for non-hiring
or termination of employment.

(d) Any person who shall falsify a certificate of compliance as required in Section 15 of this Act; and

(e) Any person who maliciously engages in disinformation about the intent or provisions of this Act.

SEC. 29. Penalties. - Any violation of this Act or commission of the foregoing prohibited acts shall be penalized by imprisonment ranging from one (1) month to six (6) months or a fine of Ten Thousand (P 10,000.00) to Fifty Thousand Pesos (P 50,000.00) or both such fine and imprisonment at the discretion of the competent court; Provided That, if the offender is a public official or employee, he or she shall suffer the accessory penalty of dismissal from the government service and forfeiture of retirement benefits. If the offender is a juridical person, the penalty shall be imposed upon the president or any responsible officer. An offender who is an alien shall, after service of sentence, be deported immediately without further proceedings by the Bureau of Immigration.

SEC. 30. Appropriations. - The amounts appropriated in the current annual General Appropriations Act (GAA) for Family Health and Responsible Parenting under the DOH and POPCOM shall be allocated and utilized for the initial implementation of this Act. Such additional sums necessary to implement this Act; provide for the upgrading of facilities necessary to meet Basic Emergency Obstetric Care and Comprehensive Emergency Obstetric Care standards; train and deploy skilled health providers; procure family planning supplies and commodities as provided in Sec. 6; and implement other reproductive health services, shall be included in the subsequent GAA.

SEC. 31. Implementing Rules and Regulations. - Within sixty (60) days from the effectivity of this Act, the Secretary of the DOH shall formulate and adopt amendments to the existing rules and regulations to carry out the objectives of this Act, in consultation with the Secretaries of the DepED, the Department of Interior and Local Government (DILG), the DOLE, the DSWD, the Director General of the National Economic and Development Authority (NEDA), and the Commissioner of CHED, the Philippine Commission on Women (PCW), and two NGOs or Peoples’ Organizations (POs) for women. Full dissemination of the IRR to the public shall be ensured.

SEC. 32. Separability Clause. - If any part or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in force and effect.
SEC. 33. Repealing Clause. - All other laws, decrees, orders, issuances, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 34. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.