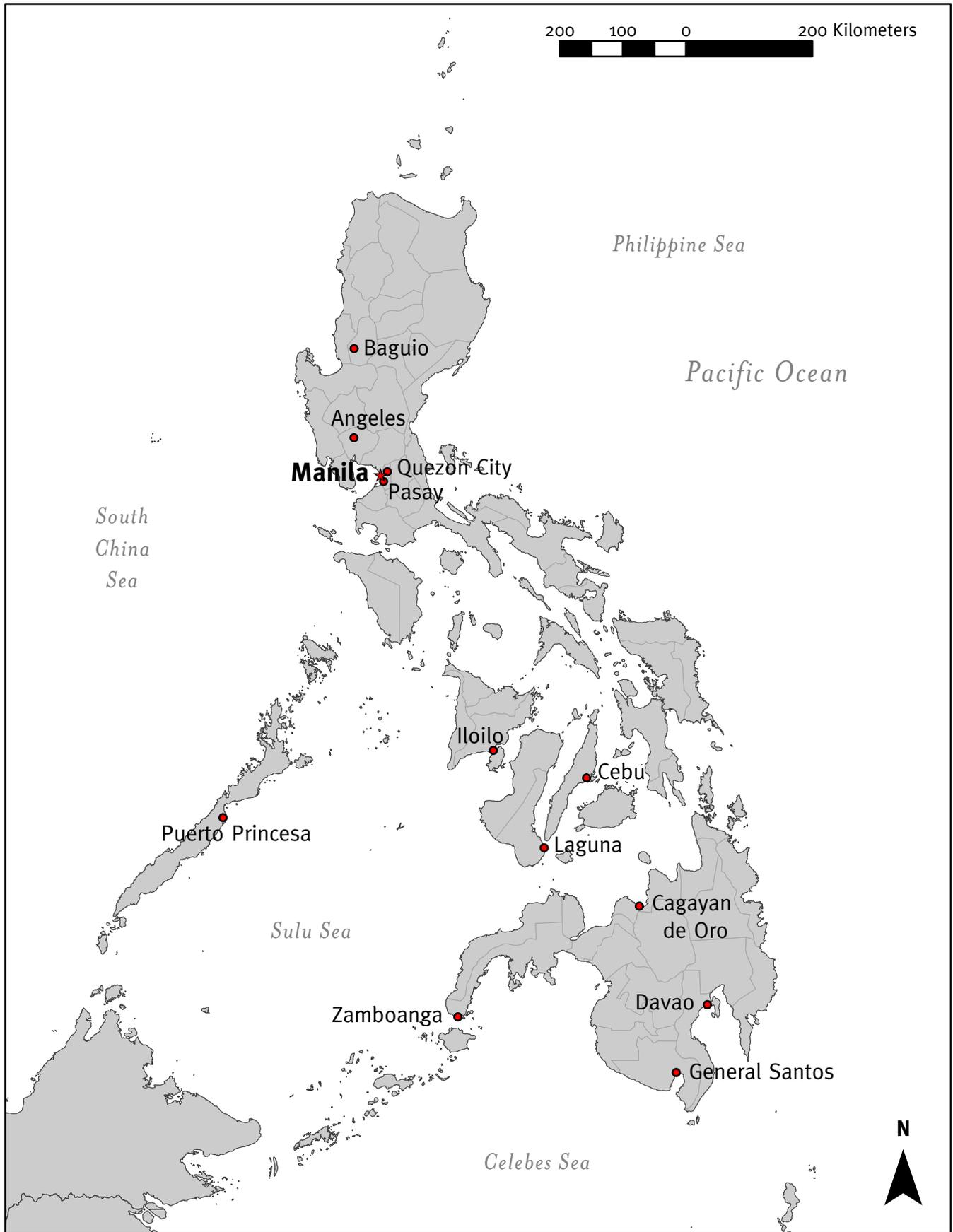


THE PHILIPPINES

UNPROTECTED:

SEX, CONDOMS AND THE HUMAN RIGHT TO HEALTH

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The Philippines: Cities Mentioned in this Report

I. SUMMARY

The Philippines faces a possible explosion of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS), yet its government actively impedes measures that would prevent this incurable and deadly disease. It does so chiefly by impeding access to condoms—the single most effective technology against sexual transmission of HIV, and the cornerstone of HIV prevention efforts since the beginning of the AIDS epidemic. Latex condoms provide an essentially impermeable barrier to HIV pathogens. When used correctly and consistently, they reduce HIV risk to almost zero and have the potential to slow the epidemic spread of AIDS. Programs that include condoms as part of a comprehensive HIV/AIDS response, as opposed to those that promote only sexual abstinence or fidelity, have proven most successful at reducing sexual transmission of HIV and other viruses. In violation of the internationally recognized human right to health, however, the Philippines both interferes with the delivery of effective HIV prevention programs and invests in public health strategies that discourage condom use.

The Philippines shares many of the same HIV/AIDS risk factors of its Asian neighbors, such as high rates of sexually transmitted diseases (STDs), widespread high-risk behaviors, and low knowledge of HIV/AIDS and condom use. What is distinct about the Philippines is that up to 85 percent of the population subscribes to Roman Catholicism, a religion whose leadership objects to the use of condoms for any purpose. In the past, the Philippine government has boldly confronted these objections and pursued an exemplary strategy of condom promotion. But the current administration, led by President Gloria Macapagal-Arroyo, has stood in the way of aggressive HIV prevention strategies by, among other things, failing to support comprehensive reproductive health legislation that would expand access to condoms. In late 2003, President Arroyo was praised by religious conservatives for taking Pesos (P)50 million (U.S.\$888,000) from a fund allocated to contraceptive programs under former President Joseph Estrada and awarding the sum to a nongovernmental organization (NGO), Couples for Christ, to teach natural family planning methods.

Condoms are readily available in the Philippines through the commercial sector and through campaigns that provide them at discounted prices. But for poor and marginalized populations, who are arguably at highest risk of HIV, the government restricts programs that would guarantee access to condoms and complete HIV/AIDS information. Government officials have refused to purchase condom supplies with national funds; awarded public contracts to organizations that make misleading statements about condom effectiveness; failed to release local funds earmarked for

condom promotion, leading HIV prevention programs to cut services and lay off staff; and even enacted local ordinances prohibiting condoms from public health facilities. The immediate effect of these policies has been to deprive the poorest, most vulnerable members of society of a lifesaving HIV-prevention technology, while leaving relatively unaffected those who can afford private health care. Women and girls, who have been shown to be biologically more vulnerable to heterosexually transmitted HIV than men, have been hit hardest.

The impact of these anti-condom policies on the work of HIV/AIDS service providers in the Philippines is crippling. In interviews with Human Rights Watch, providers said they experienced condom shortages due to the refusal of the Department of Health (DOH) to compensate for a lack of free or subsidized condoms from donor countries. In Manila City, where government health clinics are prohibited from distributing or promoting condoms for any purpose, health outreach workers felt compelled to conceal their condom promotion efforts for fear of retribution from city authorities. “If the mayor found out, he’d probably have me called into his office and ask me to explain why I do this,” one said. Attempts by AIDS educators to teach comprehensive HIV prevention in schools were met with stiff resistance from teachers and principals opposed to birth control.

The Philippine government also fails to counter false scientific claims about condoms, particularly those made by religious authorities. Powerful bishops in the Philippines have always opposed condoms for moral reasons, but more recently some have begun to buttress their moral arguments with false claims about the ineffectiveness of condoms. These include the claim that condoms contain microscopic pores that are permeable by HIV pathogens, a view that is shared by such influential bishops as former archbishop of Manila, Jaime Cardinal Sin, and the head of the Vatican’s Pontifical Council for the Family, Alfonso Lopez Trujillo. Although claims of condom porosity have been deemed “totally wrong” by the World Health Organization (WHO)—and, in any case, lack credibility coming from those who oppose condoms for moral reasons—the Philippine government has squandered opportunities to clarify the facts.

To its credit, the government of the Philippines has taken many positive steps to prevent HIV transmission, chiefly through the passage of a 1998 law on the prevention and control of AIDS, and the establishment of HIV surveillance and education activities in several localities. Implementation of the 1998 AIDS law, however, is marred by a flawed legal framework, poor oversight, and a bias against condoms from the highest levels of government. Human Rights Watch interviews with vulnerable persons revealed low levels of knowledge of HIV, inconsistent to no condom use, and poor treatment in public health facilities. “I don’t use condoms—I never have. . . . I think condoms are

not very effective,” said one male sex worker in Angeles City, representing a commonly held view. Institutions mandated by law to provide complete HIV/AIDS information—from public schools to health clinics for sex workers to pre-departure orientation seminars for migrant workers—proved sadly lacking.

Besides repressing condoms and HIV/AIDS information, the Philippines also acts in ways that radically increase the likelihood of a rapid outbreak and spread of HIV/AIDS among populations at high risk, particularly sex workers. Sex workers interviewed by Human Rights Watch said they had been given HIV tests in government clinics without their informed consent—a practice that has been shown to drive people from health and prevention services and increase their risk of infection. Sex workers also said that police routinely used possession of condoms as evidence to arrest and prosecute prostitution. “I like to have plenty of condoms in my bag,” said one nineteen-year-old street-based sex worker in Pasay City. “But if I see the police, I throw my bag away.”

The United States, traditionally the largest supporter of HIV/AIDS programs in the Philippines, has proved an unreliable supporter of comprehensive HIV prevention programs. While the U.S. Agency for International Development (USAID) deserves credit for having promoted condoms in the Philippines for many years, in 2002 the agency announced that it would no longer be donating any condoms or other contraceptive supplies to the country. This announcement coincided with a radical policy shift within USAID away from condom promotion and toward programs that gave primary emphasis to abstinence and marital fidelity. While the relationship between these two developments was not evident, it was clear that by early 2004, the Philippines was facing a potentially catastrophic shortage in condom supplies. Non-U.S. donors, such as the United Nations Populations Fund (UNFPA) and the Commission of the European Union, had not implemented a strategy for addressing this shortage, despite their historic commitment to addressing global condom shortages.

International law guarantees access to condoms and related HIV prevention services as part of the human right to the highest attainable standard of health. The International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Philippines, obliges states parties to take steps “necessary for . . . the prevention, treatment and control of epidemic . . . diseases,” including HIV/AIDS. United Nations bodies responsible for monitoring implementation of the ICESCR have interpreted this provision to include access to condoms and complete HIV/AIDS information.¹ The right to information, including information about preventing epidemic diseases, is

¹ Committee on Economic, Social and Cultural Rights (CESCR), *The right to the highest attainable standard of health: CESCR General comment 14* (22nd Sess., 2000), paras. 16, 34-35.

further recognized by the International Covenant on Civil and Political Rights (ICCPR), also ratified by the Philippines. All major human rights conventions recognize the right to life, which is implicated by policies that interfere with access to life-saving technologies such as latex condoms and the failure to provide life-saving information on HIV transmission and effective HIV prevention measures.

In September 2003, Philippine Health Secretary Manuel Dayrit warned that a combination of high risk behavior and rates of STDs could result in a massive HIV/AIDS epidemic unless swift prevention measures were taken. When asked by Human Rights Watch about his country's approach to condom promotion, however, Dayrit defended his department's decision to fund faith-based family planning programs that shunned condom use. Dayrit said that condoms in the Philippines were provided by many local jurisdictions, and that he could "only persuade" jurisdictions that banned condom use—such as Manila City—to change their policies. When pressed, however, Dayrit acknowledged the effectiveness of condoms against HIV, albeit as a last resort after sexual abstinence. "The best way to avoid HIV is to abstain from risky behavior," he told Human Rights Watch. "[A]nd if you can't help yourself, you have to consider using a condom."

It is a measure of the hypocrisy of Philippine AIDS policy that the Department of Health admits the effectiveness of condoms against HIV/AIDS and yet refuses to promote them aggressively, apparently for fear of offending conservative Catholics. In its 2002 technical report on HIV/AIDS, the Department of Health recommends that local governments "have ample supply of condoms" to prevent further HIV infection. Yet the national government allocates precious resources to anti-condom service providers, takes no discernible steps to counter widespread misinformation about condoms, and permits local authorities to intimidate AIDS service providers who promote condom use. In this environment, it should come as no surprise that many Filipinos avoid or are unaware of condoms as an HIV prevention strategy, risking premature and preventable death.

II. RECOMMENDATIONS

To the government of the Philippines:

- ***Authorize the use of national funds to ensure adequate condom supplies.*** Enact comprehensive reproductive health legislation that explicitly recognizes the link between reproductive health and HIV prevention and authorizes the appropriation of public funds for condom supplies and information. In coordination with local governments and international donors, immediately assess condom supply needs in each local government unit, and develop a strategy for meeting those needs. Involve social marketing organizations and nongovernmental organizations working on HIV/AIDS in this process.
- ***Develop an explicit national condom promotion strategy.*** Such a strategy should include, at a minimum, a fact sheet from the Department of Health setting out the effectiveness of condoms against HIV, a national policy favoring 100 percent accessibility of condoms in entertainment establishments, and an authorization to spend government funds on condom supplies and education.
- ***Take immediate and effective steps to counter all misinformation about condoms.*** Such misinformation includes claims that condoms lead to higher rates of HIV infection, are less effective than abstinence-based HIV-prevention strategies, and contain pores that are permeable by HIV and other STD pathogens. Withhold public funds from organizations that make false or misleading statements about condoms or actively discourage them as an HIV prevention strategy. In their place, support programs that guarantee comprehensive information about HIV prevention, including information about the effectiveness of condoms.
- ***Conduct a national review of HIV prevention interventions for sex workers.*** Review the current practice of screening sex workers for STDs in so-called social hygiene clinics. Ensure that any intervention aimed at preventing HIV/AIDS in the sex industry is conducted in a non-judgmental, non-stigmatizing manner, and reaches both sex workers and their clients. Ensure that such information on HIV/AIDS is provided to sex workers by trained and competent staff, and work with local nongovernmental organizations to ensure the provision of such information in outlets other than social hygiene clinics, such as nongovernmental health clinics, entertainment establishments, and

public places. Coordinate with local governments to ensure an ample supply of condoms in all sex establishments and health clinics serving sex workers.

- ***Expand HIV/AIDS information and education campaigns for men who have sex with men.*** Adopt measures that ensure accurate information about condom effectiveness during anal sex. Ensure distribution of this information through informal channels of peer educators, in addition to health facilities. Involve nongovernmental organizations in the development of these strategies.
- ***Review the content of HIV prevention curricula in all public schools.*** Ensure accuracy, comprehensiveness, and proper implementation by trained and competent teachers. Withhold any public funds from school-based programs that censor age-appropriate information about condoms. Allow nongovernmental HIV/AIDS educators to provide complete information about HIV/AIDS, including condom use, in public schools.
- ***Guarantee complete HIV/AIDS information for migrant workers.*** Ensure that information on HIV/AIDS given in pre-departure orientation seminars is comprehensive, integrated into discussions of migration realities, and accessible to both documented and undocumented migrants, as well as their spouses. Take steps to ensure that Filipino migrant workers who test positive for HIV have access to complete information about how to prevent HIV infection in others.
- ***Cease any arbitrary interference with efforts to promote condom use.*** Ensure that accurate information about condoms delivered through television, radio and print media is protected from censorship. Ensure the representation of public health experts in any decision-making body charged with reviewing the content of HIV/AIDS-related programming or advertising. Individual elected officials should refrain from using their office to intimidate or attempt to discipline organizations that criticize restrictions on condom use or otherwise promote scientifically valid HIV prevention strategies.

To local governments in the Philippines:

- ***Repeal ordinances prohibiting the distribution or promotion of condoms in public health facilities.*** Ensure that all health workers providing comprehensive HIV/AIDS prevention services are protected from any retribution from local officials who oppose condom use. Immediately

investigate any allegations of nongovernmental organizations being discouraged by government officials from carrying out condom promotion activities. Ensure similar protections for individuals seeking to obtain condoms or other contraceptives from nongovernmental health clinics.

- ***Immediately cease using the possession of condoms as evidence to arrest, detain, or prosecute suspected sex workers.*** Issue a directive to all police officers outlining the public health importance of condoms and encouraging them to exercise their discretion in a manner supportive of HIV prevention. Ensure that officers are regularly trained about this protocol and held accountable for any transgressions.
- ***Ensure that no HIV test is administered in public health facilities without full and informed consent.*** Review policies on pre- and post-test counseling, and create a mechanism for continuous training of clinic personnel. Take steps to encourage widespread voluntary HIV testing and counseling while still ensuring that individuals know that tests are not mandatory.
- ***Enact comprehensive HIV prevention strategies.*** Contribute to national HIV/AIDS surveillance by ensuring an adequate sample size for all risk groups in HIV/AIDS sentinel surveillance. As described above, work with the national government to ensure comprehensive HIV prevention programs for sex workers, adolescents, men who have sex with men, migrant workers, and others at high risk of infection.

To the United States and other supporters of HIV/AIDS programs in the Philippines:

- ***Take all immediate steps to address the potential condom supply shortage in the Philippines.*** Assess condom needs in national and local health clinics, consult HIV/AIDS nongovernmental organizations about condom supply needs, and mobilize donor support. Encourage the Philippines Department of Health to authorize the appropriation of national funds for condom supplies.

- ***Withhold any funding for programs that make false or misleading statements about the effectiveness of condoms.*** Ensure that any program teaching “abstinence until marriage” has safeguards to ensure that information about condoms is not withheld, censored or distorted. Take steps to ensure that grantees and sub-grantees do not stigmatize or discriminate against people living with or at risk of HIV/AIDS by associating condom use with sin or sexual promiscuity.

- ***Ensure that any program aiming to prevent sexual transmission of HIV is comprehensive.*** Programs should conform to several guidelines, including:
 - No HIV prevention program should withhold information about the effectiveness of condoms against HIV infection.
 - All programs should refrain from presenting heterosexual marriage as the sole legitimate context for sex, and instead recognize without prejudice the sexual expressions and relationships of people who cannot legally marry, such as lesbians and gay men, or others who choose not to marry.
 - All programs should recognize that marriage does not guarantee safety from HIV infection, especially for those who cannot insist on or otherwise be sure of their spouse’s sexual fidelity.
 - All HIV prevention programs should be developed in consultation with local nongovernmental organizations and people living with and at high risk of HIV/AIDS.

- ***Ensure that any restrictions on international family planning funds do not have an adverse impact on HIV prevention activities.*** Favorably review proposals that attempt to include comprehensive HIV prevention activities in family planning programs.

- ***Encourage the promotion of condoms and HIV/AIDS information in multilateral policy documents.*** Do not oppose positive references to condoms and sex education in United Nations declarations pertaining to HIV/AIDS and related matters. Refrain from advocating positive reference to “abstinence-only” programs in these documents.

To the Holy See:

- The Roman Catholic Church is a civil society entity with a right to religious expression. In light of the Holy See's recognition of the human right to health, however, the Holy See should consider retracting scientifically unfounded information it has disseminated about condoms and should further consider ceasing its opposition to references to condoms and to comprehensive HIV prevention in U.N. documents and declarations.

III. METHODS

This report is based on a three-week field mission to the Philippines in January 2004, as well as prior and subsequent research. Two Human Rights Watch staff interviewed thirty-five people living with or at high risk of HIV/AIDS, including sex workers, men who have sex with men, young adults, and overseas workers. Interviews took place throughout Metro Manila (including Manila City, Pasay City and Quezon City), as well as in Angeles City and Baguio City, each home to a significant sex industry. Most interviews were conducted in Tagalog with translation into English. All interviewees chose pseudonyms to protect their privacy.

Vulnerable populations such as sex workers and men who have sex with men were identified with the assistance of nongovernmental organizations specializing in HIV prevention and outreach. As such, most interviewees had at least some access to HIV prevention services and may have had greater knowledge of HIV/AIDS than those without comparable services. An even more restricted picture of access to condoms and HIV/AIDS information in the Philippines might have emerged out of a random population sample.

Human Rights Watch also interviewed approximately sixty representatives of government agencies, donor governments, nongovernmental organizations specializing in HIV/AIDS or reproductive health, and academic institutions. Some of these interviews, including with the Philippines Secretary of Health, were conducted by telephone from New York. Human Rights Watch requested in writing but was not granted interviews with President Gloria Macapagal-Arroyo as well representatives from the Philippines Department of Education, the Manila City health office, the Catholic Bishops Conference of the Philippines, and Caritas Manila.

Documentary materials for this report were gathered principally through internet sources and nongovernmental organizations based in the Philippines. All materials cited in this report are either publicly available or on file at Human Rights Watch.

IV. BACKGROUND

The global condom gap

Condoms are the single most effective technology to protect against sexual transmission of HIV/AIDS, a disease that killed up to 3.5 million people in 2003 alone and infected up to 5.8 million others.² Unsafe sexual practices remain the dominant mode of HIV transmission in most regions of the world. In Asia, where an estimated 7.2 million adults and children are living with HIV, low condom use among sex workers and their clients accounts for a substantial proportion of new HIV infections.³ Widespread and consistent condom use has been shown to reduce the number of people infected with HIV enough to slow the spread of AIDS.⁴ Multilateral organizations such as the World Health Organization and the Joint United Nations Programme on HIV/AIDS (UNAIDS) recommend condoms as an essential intervention against HIV.

Relative to their effectiveness at preventing HIV, however, condoms are a scarce and restricted commodity. The World Health Organization estimated in August 2003 that billions of condoms were needed to prevent the escalation of the AIDS epidemic in Asia, including more than 1 billion condoms in China alone.⁵ Globally, the gap between the number of condoms needed for HIV prevention and the number available was estimated in 2000 at anywhere from 15 to 18 billion condoms.⁶ In developing countries, many of which rely principally on international donors for condom supplies, only 950 million of the estimated 8 billion condoms needed to achieve a “significant reduction” in HIV infection—less than one eighth of those needed—were donated in 2000.⁷ The

² Joint United Nations Programme on HIV/AIDS (UNAIDS) and World Health Organization (WHO), *AIDS Epidemic Update: December 2003*, p. 3. The same report notes that over 40 million persons are living with HIV/AIDS worldwide.

³ WHO Western Pacific Regional Headquarters, “Asia Needs Billions of Condoms to Curb AIDS Threat,” August 18, 2003.

⁴ S.D. Pinkerton and P.R. Abramson, “Effectiveness of condoms in preventing HIV transmission,” *Social Science and Medicine*, vol. 44, no. 9 (May 1997), pp. 1303-1312.

⁵ WHO Western Pacific Regional Headquarters, “Asia Needs Billions of Condoms to Curb AIDS Threat.”

⁶ R. Gardner, R.D. Blackburn, and U.D. Upadhyay, *Closing the Condom Gap: Population Reports*, series H, no. 9 (Baltimore, Johns Hopkins University School of Public Health, Populations Information Program, 1999), pp. 3-5. Such estimates vary according to the methodology used to determine the number of condoms needed. This study did not take into account female condoms, which account for a very small percentage of the number of condoms produced and used each year.

⁷ N. Chaya and K. Amen with M. Fox, *Condoms Count: Meeting the Need in the Era of HIV/AIDS* (Washington: Population Action International, 2002), p.29; United Nations Population Fund (UNFPA), “Global Estimates of Contraceptive Commodities and Condoms for STI/HIV Prevention, 2000-2015.” UNFPA recognized that donors need not fill the entire gap, given the contribution of local governments and commercial sector purchase of condoms.

average international price of a male latex condom is U.S.\$0.03 (three cents), including the costs of sampling, testing and shipping.⁸

In 2002, United Nations Population Fund Executive Director Thoraya Obaid warned that “[i]n all of the [HIV/AIDS]-affected countries, the supply of condoms is far short of what is needed.”⁹ Such supply gaps are accompanied by an equally dire scarcity of information. In its 2002 global AIDS report, UNAIDS stated that “[a]lmost everywhere, sexually active young people (especially young women) are denied information about condoms.”¹⁰

Condom shortages stem not only from resource constraints, but also from deliberate government policies that restrict condom manufacture, procurement, distribution, and information on their use. Such policies may limit distribution of condoms in public places, censor information about condoms in schools, regulate import of condoms manufactured abroad, or invest public funds in programs that make false or misleading claims about condoms.¹¹ Many governments fail to streamline administrative requirements regarding condom storage, logistics and purchasing, creating the potential for wastage and inflated prices. Few have a national strategy or working group on reproductive health supplies that would ensure equal access to condoms, particularly among high-risk groups and people living in rural areas. Too often, governments fail to promote condoms and impart necessary skills and knowledge for fear that doing so will promote sexual activity or birth control.

Incomplete information about HIV/AIDS can both elevate HIV risk and fuel negative stereotypes about people living with the disease. In July 2002, a joint report of UNAIDS, WHO and the United Nations Children’s Fund (UNICEF) stated that “the vast majority” of people aged fifteen to twenty-four—an age group that accounts for 50 percent of new HIV infections worldwide—had “no idea how HIV/AIDS is transmitted or how to protect themselves from the disease.”¹² UNICEF surveys of young women in eighteen countries found that significant percentages had at least one negative attitude towards people living with AIDS—including over 80 percent of respondents in the Philippines.¹³ Many people continue to think of HIV/AIDS as a disease of sex workers and gay men, a view too often associated with a low perception of broader HIV risk and

⁸ N. Chaya et al., *Condoms Count*, p. 6.

⁹ UNFPA, *Reproductive Health Essentials: Securing the Supply* (2002), p. 15.

¹⁰ UNAIDS, *Report on the global HIV/AIDS epidemic: 2002* (Geneva: UNAIDS, 2002), p. 87.

¹¹ See, e.g., N. Chaya et al., *Condoms Count*, pp. 14-15.

¹² UNICEF, UNAIDS and WHO, *Young People and HIV/AIDS: Opportunity in Crisis* (2002), p. 13.

¹³ UNAIDS, *Report on the global HIV/AIDS epidemic: 2002*, p. 68, Figure 14.

a deep stigma against people living with AIDS. HIV prevention campaigns that censor information about condoms can heighten this risk.

Condoms and HIV/AIDS in the Philippines

Condoms have long been a flashpoint for controversy in the Philippines, a country that is nearly 85 percent Catholic and is heavily influenced in its AIDS policy by the Vatican. Since the early 1990s, the Catholic Bishops Conference of the Philippines (CBCP) has issued official statements vilifying condoms, campaigned against legislation that would expand condom access, and levied personal attacks against government officials who favor inclusion of condoms in HIV prevention programs.¹⁴ The secretary of health under former President Fidel Ramos, now Senator Juan Flavio Velasco, was denounced as an agent of Satan by the former archbishop of Manila, Jaime Cardinal Sin, for pursuing a bold strategy of condom promotion in the 1990s.¹⁵ At a public rally in 1994, the pro-life cardinal reportedly threatened to “tie a millstone around [Velasco’s] neck and drop him in the middle of Manila Bay.”¹⁶ When Velasco distributed condoms to journalists covering President Ramos’ 1992 trip to Thailand, conservative Senator Francisco Tatad accused him of promoting “promiscuity, lechery, adultery, and sexual immorality” and called for his resignation.¹⁷ As recently as 2001, Cardinal Sin issued a pastoral exhortation entitled “Subtle Attacks Against Family and Life,” in which he referred to “the naturally occurring minute pores present in all latex materials” and stated that “the condom corrupts and weakens people . . . destroys families and individuals . . . and spreads promiscuity.”¹⁸

A combination of widespread high-risk behaviors, low HIV/AIDS knowledge, and the presence of STDs that increase HIV vulnerability has led health experts to fear an HIV/AIDS “explosion” in the Philippines. In June 2002, the U.N. special envoy for HIV/AIDS in Asia, Dr. Nafis Sadik, warned that the Philippines had “huge explosion potential” given the presence of many known routes of HIV transmission such as low

¹⁴ Many of these actions are documented in E.K. Wilkinson, *AIDS Failure Philippines* (Germany: Book of Dreams Verlag, 2002).

¹⁵ A. McIntosh, “Philippines: Manila Health Minister an Unlikely Agent of Satan,” *Reuters NewMedia*, January 4, 1995.

¹⁶ E.K. Wilkinson, *AIDS Failure Philippines*, p. 204, citing an article by A.G. Romualdez, Jr. in *Malaya*, May 28, 2002.

¹⁷ *Ibid.*, p. 59.

¹⁸ Jaime Cardinal L. Sin, Archbishop of Manila, “Subtle Attacks Against Family and Life: A Pastoral Exhortation on Family and Life Advocacy,” July 9, 2001, paras. 19, 22.

condom use among sex workers and increasing rates of adolescent sexual activity.¹⁹ This observation was echoed in September 2003 by Philippines Secretary of Health Manuel Dayrit, who noted that the presence of STDs such as chlamydia, gonorrhea and syphilis among Filipinos signaled that HIV could spread throughout the population unless swift measures were taken to prevent it.²⁰

Surveys of sexual behavior in the Philippines reveal significant risk behaviors among surveyed populations, as well as lower than expected knowledge of how to prevent HIV infection. In 2002, freelance sex workers in the Philippines reported having an average of five sex partners per week and using condoms only 30 percent of the time.²¹ Nearly 40 percent said they did not know three correct ways of preventing HIV transmission.²² Reported signs of sexually transmitted infections other than HIV, which both increase HIV vulnerability and indicate HIV risk behavior, stood in 2002 at 24 percent of registered sex workers, 18 percent of freelance sex workers, and 7 percent of men who have sex with men.²³

Despite these risk factors, the Philippines apparently still has an opportunity to avoid a generalized AIDS epidemic. Joint estimates of the Philippines Department of Health and WHO place the number of cases of HIV infection in the country at between 6,000 and 10,000 out of a population of approximately 84.6 million.²⁴ This includes cases reported to the DOH's HIV/AIDS Registry, which numbered 1,965 as of December 2003, and cases estimated to exist based on HIV testing in ten sites of four "high risk" populations: registered sex workers, freelance sex workers, men who have sex with men, and injection drug users.²⁵ In 2003, a total of five sex workers and zero injection drug users and men who have sex with men tested HIV-positive in ten surveillance sites.²⁶

¹⁹ A.A. Araya, Jr., "Country still has 'huge explosion potential': HIV-AIDS spread 'low and slow' but RP warned against complacency," June 24, 2002, http://www.cyberdyaryo.com/features/f2002_0624_01.htm (retrieved December 8, 2003).

²⁰ J. Aning, "Philippines Health chief warns of AIDS epidemic," *Philippine Daily Inquirer*, September 29, 2003.

²¹ "Status and Trends of HIV/AIDS in the Philippines," p. 18, Table 8 and Figure 7.

²² *Ibid.*, p. 16, Figure 6.

²³ *Ibid.*, p. 22, Figure 10.

²⁴ National HIV/AIDS Sentinel Surveillance System, "Status and Trends of HIV/AIDS in the Philippines: The 2002 Technical Report of the National HIV/AIDS Sentinel Surveillance System," p. 47; Human Rights Watch interview with Dr. Rhoderick Poblete, officer in charge, Philippine National AIDS Council, Quezon City, January 26, 2003.

²⁵ HIV/AIDS Registry, "Monthly Update: National HIV Sentinel Surveillance System," December 2003. The ten surveillance sites are the cities of Angeles, Baguio, Cagayan de Oro, Cebu, Davao, General Santos, Iloilo, Pasay, Quezon, and Zamboanga. As discussed below, registered sex workers are those who work in licensed entertainment establishments and are required to undergo regular STD screening, whereas freelance sex workers are based either in illegal brothels or the street.

²⁶ Human Rights Watch interview with Dr. Rhoderick Poblete, Manila, January 26, 2004.

Using a formula that estimated the percentage of high risk populations in the general population, the government estimated a minimum of 6,000 cases nationally, equivalent to approximately three cases for every one case reported to the HIV/AIDS Registry.

Numerous experts have questioned how the Philippines can have such a low HIV prevalence given the presence of numerous risk factors in the country. Possible explanations, none of which has been properly studied, include a low turnover of customers among sex workers, a comparatively low prevalence of STDs such as syphilis and herpes that increase risk of HIV infection, and a high circumcision rate among Filipino males which is thought by some reduce the chances of HIV transmission. Experts agree, however, that none of these factors provides an excuse for complacency in the face of a potentially explosive HIV/AIDS epidemic.²⁷

It is a dangerous irony that the same health minister who warns of a possible HIV/AIDS outbreak in the Philippines refuses to support the public sector purchase of condoms for HIV prevention, even in the face of an unprecedented condom supply crisis. The Philippines Department of Health recommends that local government units “have ample supply of condoms” as part of an intensified HIV/AIDS education and information campaign.²⁸ However, this same department relies almost exclusively for its condoms supplies on the United States, which announced in 2002 that it would be phasing out its shipments of free condoms to the Philippines.²⁹

U.S.-funded condom programs are largely the product of previous administrations and pre-date the expansion of “abstinence until marriage” programs under President George W. Bush. Experts told Human Rights Watch that the combined influence of the Bush administration and the Vatican and the intransigence of the Philippine government could result in the introduction of U.S.-funded “abstinence until marriage” programs in the Philippines. Dr. Maria Elena F. Borromeo, country coordinator for UNAIDS in the Philippines, told Human Rights Watch, “There is a potential for abstinence-only education here. This is what the church is advocating, and if the church advocates for it, the government will follow. And the United States and the Philippines? They are of a feather.”³⁰ Dr. Rhoderick Poblete, officer in charge of the Philippines National AIDS Council (PNAC), added that “abstinence-only fits the current Philippine policy, but I’m

²⁷ See, e.g., S. Mydans, “Low Rate of AIDS Virus in Philippines is a Puzzle,” *The New York Times*, April 20, 2003.

²⁸ “Status and Trends of HIV/AIDS in the Philippines,” p. 49.

²⁹ Y. Fuentes, “Last USAID shipment of condoms in November,” *Inquirer News Service*, September 4, 2002.

³⁰ Human Rights Watch interview with Dr. Ma. Elena F. Borromeo, UNAIDS Country Coordinator, Manila, January 15, 2004.

very scared of the impact.”³¹ He said that the country was experiencing a “downward trend in safe behaviors,” and that USAID resources were needed to leverage local governments to enact condom promotion ordinances. The fact that USAID was ending its contraceptive shipments without any national budget for condoms, he said, was a sign that abstinence-only “is happening, and it’s what the current leadership would like.”

The cornerstone of HIV prevention efforts in the Philippines is the 1998 AIDS Prevention and Control Act (the “AIDS Act”), hailed by the UNAIDS as a “best practice” in HIV prevention. Article 1 of the AIDS Act guarantees access to complete HIV/AIDS information in Philippine schools, health facilities, work places, pre-departure seminars for overseas workers, tourist destinations, and local communities.³² However, the AIDS Act contains other provisions that have the potential to restrict information about condoms. Section 4 of article 1 of the Act provides that HIV/AIDS education in schools “not be used as an excuse to propagate birth control or the sale or distribution of birth control devices” and “not utilize sexually explicit materials.”³³ Although the Act mentions the use of “prophylactics” to prevent HIV, it does so only in the context of a provision requiring that all prophylactic sales include “literature on... the importance of sexual abstinence and marital fidelity.”³⁴

Opposition to condoms in the Philippines, as in other countries, is by no means absolute among all Roman Catholics or even among church leaders. AIDS experts are quick to credit some religious leaders with supporting comprehensive HIV prevention efforts, and surveys show that a majority of Filipino Catholics do not consider religion in their family planning choices. However, the government’s receptiveness to the anti-condom animus of powerful bishops has fostered a policy environment that is both hostile to effective HIV prevention and conducive to misinformation about HIV/AIDS.

Condoms and the Vatican

In its opposition to condoms, the Catholic Bishops Conference of the Philippines closely adheres to the policy of the Vatican. Official Catholic teaching, as expressed in the *Catechism of the Catholic Church*, is silent on the use of condoms against HIV/AIDS. However, Catholic teaching opposes the use of condoms for artificial birth control, and many bishops’ conferences, Vatican officials, and theologians have interpreted this as an

³¹ Human Rights Watch interview with Dr. Rhoderick Poblete, January 26, 2004.

³² Republic Act 8504, Philippine AIDS Prevention and Control Act of 1998, art. 1 (“Education and Information”), implemented by rule 2.

³³ *Ibid.*, art. 1, sec. 4.

³⁴ *Ibid.*, art. 1, sec. 10.

all-out ban on condom use for any purpose. The potentially lethal implications of this interpretation have divided Catholic ethicists between those who support condoms as a “lesser evil” than HIV infection,³⁵— and those who fear that allowing any leeway for condom use will promote sexual promiscuity and ultimately lead to the acceptability of condoms for birth control. This latter position was articulated by the Catholic Bishops Conference of the Philippines in 1993 in its first pastoral letter on the AIDS epidemic.

4. The moral dimension of the problem of HIV/AIDS urges us to take a sharply negative view of the condom-distribution approach to the problem. We believe that this approach is simplistic and evasive. It leads to a false sense of complacency on the part of the State, creating an impression that an adequate solution has been arrived at. On the contrary, it simply evades and neglects the heart of the solution, namely, the formation of authentic sexual values.

5. Moreover, it seeks to escape the consequences of immoral behavior without intending to change the questionable behavior itself. The “safe-sex” proposal would be tantamount to condoning promiscuity and sexual permissiveness and to fostering indifference to the moral demand as long as negative social and pathological consequences can be avoided.

Furthermore, given the trend of the government’s family planning program, we have a well-founded anxiety that the drive to promote the acceptability of condom use for the prevention of HIV/AIDS infection is part of the drive to promote the acceptability of condom use for the contraception.³⁶

This statement echoed a 1989 statement by Pope John Paul II, in which he condemned “morally illicit” means of HIV prevention as “only a palliative for deep troubles that call upon the responsibility of individuals and society” and “a pretext for a weakening that opens the road to moral degradation.”³⁷

³⁵ Most recently, Cardinal Godfried Daneels of Belgium told a Dutch talk show that a married woman might have the right to demand that her HIV-positive husband use condoms before she consents to having sex with him. See, e.g., Agence France-Presse (AFP), “Cardinal endorses condoms to counter AIDS,” January 14, 2004.

³⁶ Catholic Bishops Conference of the Philippines, “In the Compassion of Jesus,” January 23, 1993.

³⁷ J. Parmelee, “Pope Condemns Bias Against Victims of AIDS: Emotional Vatican Conference Struggles With Moral Conflict,” *The Washington Post*, November 16, 1989.

The Holy See, which represents the Vatican diplomatically and enjoys non-member state permanent observer status at the United Nations, has at various times sought to omit references to condoms from U.N. documents. At the June 2001 United Nations General Assembly Special Session (UNGASS) on HIV/AIDS, for example, the Holy See representative, Archbishop Javier Lozano Barragan, stated that the Vatican “has in no way changed its moral position” on the “use of condoms as a means of preventing HIV infection.”³⁸ The following year, at the May 2002 UNGASS on Children, the Holy See joined the United States, Iran, Libya, Pakistan, and Sudan in endorsing sexual abstinence “both before and during marriage” as the only way to prevent HIV.³⁹

Some Catholics hold that the issue of condoms and AIDS should be left to the discretion of public health officials, pastoral health workers, or simply the conscience of individual Catholics.⁴⁰ And indeed, at the level of pastoral practice, many Catholic service providers advise their parishioners to use condoms against HIV.⁴¹ However, Catholic theologians who condone the use of condoms against AIDS risk swift censure from the Vatican. In 1988, Joseph Cardinal Ratzinger, at this writing the head of the Vatican’s Congregation for the Doctrine of Faith, criticized the U.S. Conference of Bishops for having supported condom use in their document, “The Many Faces of AIDS.”⁴² When South African bishop Kevin Dowling urged the use of condoms against HIV, the South African Bishops Conference responded with a statement condemning condom use, except in the case of couples in which only one partner is HIV-positive.⁴³

³⁸ Quoted in D. Kroger, “Reproductive Health and Family Planning: Where are the Catholics?,” paper presented at the First Philippine National Conference on Reproductive and Sexual Health, January 15, 2004, p. 3. Barragan, who is also head of the Vatican’s Pontifical Council for Health Care Workers, reiterated this position in 2003 prior to a Vatican symposium on health care. He stated that condoms contribute to a “pan-sexual” society and that “prevention . . . is called chastity.” The 2003 *Lexicon On Ambiguous and Colloquial Terms about Family Life and Ethical Questions* issued by the Vatican’s Pontifical Council for the Family states that people who encourage condom use are running an “exercise in self-justification” and concealing evidence of condom ineffectiveness. The 900-page lexicon also states that homosexuality stems from an “unresolved psychological conflict,” and that citizens of countries that allow gay marriages have “profoundly disordered minds.” Index for Free Expression, “Vatican: Glossary of sexual terms has harsh words for gays,” http://www.indexonline.org/indexindex/20030402_vatican.shtml (retrieved March 15, 2004).

³⁹ D. Sanders, “Birth Control No Solution for AIDS, U.S. Argues,” *The Globe and Mail*, May 8, 2002. The Holy See has ratified the Convention on the Rights of the Child but, as of this writing, has never submitted a report to the Committee on the Rights of the Child, the U.N. body that monitors implementation of the convention.

⁴⁰ See, e.g., D. Kroger, “Where are the Catholics?,” pp. 2, 9; J.F. Keenan with J.D. Fuller, L.S. Cahill and K. Kelly, eds., *Catholic Ethicists on HIV/AIDS Prevention* (Continuum International, 2000), pp. 21-29; Catholics for a Free Choice, *Sex in the HIV/AIDS Era: A Guide for Catholics* (Washington, DC: Catholics for a Free Choice, 2003).

⁴¹ See, e.g., N. Kristof, “Don’t Tell the Pope,” *The New York Times*, November 26, 2004.

⁴² Letter from Cardinal Ratzinger to Archbishop Pio Laghi, apostolic delegate to the United States, May 29, 1988, cited in Kroger, “Where are the Catholics?,” p. 3.

⁴³ UN Office for the Coordination of Humanitarian Affairs, “AFRICA: Catholics and condoms – the debate continues,” *IRIN News*, December 5, 2002. Catholic Bishops Conferences throughout Sub-Saharan Africa have also remained steadfast in their objection to condoms, even in the face of pleas by government officials. See,

The mere observation of a softening within the church can generate a backlash, as in 2000 when two Catholic scholars concluded that some bishops support the use of condoms against HIV/AIDS.⁴⁴ “There is a cold wind blowing from the Vatican at revisionists,” wrote Father Daniel Kroger, a Catholic ethicist in the Philippines, in February 2004.⁴⁵

As in the United States, abstinence proponents from within the Catholic church hierarchy have at times made false scientific claims about condoms in order to buttress their moral arguments. In an October 2003 interview with the BBC, the head of the Vatican’s Pontifical Council for the Family, Alfonso Lopez Trujillo, stunned AIDS experts when he suggested that HIV can permeate microscopic pores in condoms. Calling the use of condoms “a form of Russian roulette,” Trujillo stated: “The AIDS virus is roughly 450 times smaller than the spermatozoon [spermatozoa]. The spermatozoon can easily pass through the ‘net’ that is formed by the condom.”⁴⁶ Trujillo’s claim was not new. Since 2002, various bishops have claimed that HIV can permeate condoms, called for health warnings on condom packets, and cited anti-condom studies by the pro-“abstinence-only” Medical Institute for Sexual Health in the U.S. state of Texas.⁴⁷ In fact, condoms are impermeable by the smallest STD pathogens, including HIV, and provide almost 100 percent protection against HIV when used

e.g., AFP, “African Church rejects condom use despite high HIV infection rate,” October 9, 2003; “Kenya: Catholics Firm Over Condoms,” *The Nation*, March 25, 2003; UN Office for the Coordination of Humanitarian Affairs, “Tanzania: Clerics’ condom stand at odds with national policy,” *IRIN News*, March 19, 2002; Reuter’s, “Church opposes Zambia’s anti-AIDS campaign,” January 5, 2001.

⁴⁴ See J.D. Fuller and J. F. Keenan, “Tolerant Signals: The Vatican’s new insights on condoms for H.I.V. prevention,” *America*, September 23, 2000; A. Bermudez, “Condom Claim ‘A Flat Lie,’ Says Bishop,” *National Catholic Register*, October 22-28, 2000.

⁴⁵ Kroger, “Where are the Catholics?,” p. 4.

⁴⁶ BBC News, “Vatican in HIV condom row,” <http://newsvote.bbc.co.uk/mpapps/pagetoo...t/news.bbc.co.uk/1/hi/health/3176982.stm> (retrieved February 13, 2004).

⁴⁷ AFP, “Catholic Cardinal suggests health warning on condom packets,” October 13, 2003; “Why the fuss about condoms?,” *The Tablet*, February 1, 2003; “Zambia: ‘Luo’s Condom Plan is Killing Our People’,” *Africa News*, May 8, 2002 (quoting the pastoral coordinator of the Catholic Archdiocese of Zambia, Fr. Evaristo Chungu, as saying, “Scientists themselves agree that condoms have been failing to prevent pregnancy, and as the head of the spermatozoa is 50 times as large as the less than one micro AIDS virus, no informed person would believe that the condom will be more than occasionally effective”).

correctly and consistently.⁴⁸ In October 2003, the World Health Organization dismissed allegations of condom porosity as “totally wrong.”⁴⁹

In June 2001, UNAIDS director Peter Piot publicly asked the Catholic church to stop opposing the use of condoms against AIDS, saying that “when priests preach against contraception, they are committing a serious mistake which is costing human lives.”⁵⁰ The Vatican nevertheless used the occasion of World AIDS Day 2003 to defend its anti-condom stand, stating that HIV prevention campaigns should not be “based on policies that foster immoral and hedonistic lifestyles and behaviour, favouring the spread of the evil.”⁵¹

The United States: from condoms to abstinence

Historically the world’s leader in donating condoms to developing countries for HIV prevention, the United States has drastically reduced its condom commitment in the last decade⁵² and, simultaneously, has committed substantial resources to HIV prevention programs that give primary emphasis to sexual abstinence and marital fidelity. The five-year, U.S.\$15 billion global AIDS package signed by President Bush in 2003 stipulates that 33 percent of assistance for HIV prevention be devoted to “abstinence until marriage” programs.⁵³ Encouraging sexual abstinence has long been a staple of HIV prevention efforts, as evidenced by the so-called ABC—“Abstain,” “Be faithful,” “use

⁴⁸ See U.S. Centers for Disease Control and Prevention (CDC), “Fact Sheet for Public Health Personnel: Male Latex Condoms and Sexually Transmitted Diseases,” <http://www.cdc.gov/hiv/pubs/facts/condoms.htm> (retrieved April 15, 2004); six studies cited in R. Gardner et al., *Closing the Condom Gap*, p. 13; European Union Commission, “HIV/AIDS: European Research provides clear proof that HIV virus cannot pass through condoms,” Brussels, October 20, 2003; National Institutes of Allergy and Infectious Diseases, National Institutes of Health, Department of Health and Human Services, “Workshop Summary: Scientific Evidence on Condom Effectiveness for Sexually Transmitted Disease (STD) Prevention,” July 20, 2001, p. 7.

⁴⁹ T. Rachman, “Cardinal’s Comments on AIDS and Condoms Draw Criticism from UN Health Agency,” *Associated Press*, October 10, 2003. See also, “Cardinal’s Statement ‘Could Contribute to Spread of HIV/AIDS,’ Warns UNFPA leader,” UNFPA press release, October 13, 2003.

⁵⁰ AFP, “Church’s stand against contraception costs lives,” June 29, 2001.

⁵¹ The statement was delivered by Cardinal Barragan. See P. Pulella, “Vatican defends anti-condom stand on AIDS Day,” *Reuters NewMedia*, December 1, 2003.

⁵² The United States reduced its condom donations from nearly 800 million in the early 1990s to just over 200 million in 1999. United States Agency for International Development (USAID) Bureau for Global Health, *Overview of Contraceptive & Condom Shipments, FY 2001* (Washington, D.C.: PHNI Project, September 2002), pp. 17-18; Donald G. McNeil, Jr., “Global War Against AIDS Runs Short of Vital Weapon: Donated Condoms,” *The New York Times*, October 9, 2002.

⁵³ H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, ss. 402(b)(3), 403(a). The Act does not specify a level of assistance for HIV prevention, but it caps such assistance at 20 percent of HIV/AIDS funds, or a maximum of U.S.\$1 billion.

Condoms”—approach adopted by the U.S. Agency for International Development.⁵⁴ As implemented domestically by the United States, however, “abstinence-*only*” programs have been characterized by censorship and distortion of information about condoms, exaggeration of condom failure rates, and discriminatory messages against people, such as lesbians and gay men, who engage in sex outside heterosexual marriage.⁵⁵

The potential exportation of abstinence-only programs to the developing world has caused considerable anxiety among AIDS service providers, particularly those associated with family planning.⁵⁶ A recent USAID solicitation for funding proposals states that “programs [that] wish to include information about condoms in their programs may do so.”⁵⁷ Yet these guidelines make no mention of condom uptake as an indication of program outcome or performance and, rather than taking steps to ensure accurate information about condoms, state that “applicants will not be required . . . to endorse, utilize or participate in a prevention method to which the organization has a religious or moral objection.”⁵⁸ Statements by USAID officials minimizing the role of condoms in Uganda’s successful HIV prevention campaign in the 1990s suggest that USAID is focused primarily on the “A” and “B” of ABC.⁵⁹ In August 2003, the cancellation of a multimillion-dollar contract for condom social marketing⁶⁰ in Brazil added to growing fears of a shift in USAID policy away from condom promotion and toward strategies based on sexual abstinence.⁶¹

Pro-abstinence HIV/AIDS policy in the United States has evolved in a climate of increasing misinformation about condoms and official manipulation of scientific

⁵⁴ See, e.g., USAID Bureau for Global Health, “The ABCs of HIV Prevention,” August 2003; “USAID: HIV/AIDS and Condoms,” http://www.usaid.gov/pop_health/aids/TechAreas/condoms/condomfacthseet.html (retrieved July 10, 2003); Anne Peterson, “Fighting AIDS: The Faith-Based Solution,” *The Washington Times*, April 6, 2003.

⁵⁵ See, e.g., Human Rights Watch, “Ignorance Only: HIV/AIDS, Human Rights and Federally Funded Abstinence-Only Programs in the United States: Texas: A Case Study,” Vol. 14, No. 5(G), September 2002, pp. 19-21, 23-26, 34-40.

⁵⁶ See, e.g., “A Planned Parenthood Report on the Administration and Congress: The Bush Administration, The Global Gag Rule, and HIV/AIDS Funding,” June 2003, pp. 14-15.

⁵⁷ USAID, “Annual Program Statement: HIV/AIDS Prevention Through Abstinence and Behavior Change for Youth,” November 26, 2003, p. 7.

⁵⁸ *Ibid.*, pp. 7, 13-15.

⁵⁹ T. Carter, “Uganda leads by example on AIDS: Emphasis on abstinence and fidelity slashes infection rate,” *The Washington Times*, March 13, 2003 (quoting Anne Peterson, USAID Director of Global Health, as saying that “[c]ondoms . . . are better than nothing, but the core of Uganda’s success story is big A, big B and little c.” The Uganda experience is discussed briefly below.

⁶⁰ Condom social marketing is an approach that uses private sector advertising and commercial distribution to make condoms more accessible. Social marketing has traditionally been at the center of USAID’s condom promotion efforts. See “USAID: HIV/AIDS and Condoms.”

⁶¹ *The New York Times*, “Misguided Faith on AIDS,” editorial, October 15, 2003.

evidence.⁶² In 2002, a fact sheet on the effectiveness of condoms was removed from the website of the U.S. Centers for Disease Control and Prevention (CDC) and replaced by a new fact sheet which, while factually accurate, eliminated instructions on how to use a condom properly and evidence indicating that condom education does not encourage sex in young people.⁶³ Information on condom effectiveness was similarly altered on the website of USAID.⁶⁴ The U.S. global AIDS bill cited above compels the president to report on the “impact that condom usage has upon the spread of HPV [human papillomavirus] in Sub-Saharan Africa,” a mandate that is clearly intended to undermine confidence in the use of condoms against HIV.⁶⁵ Supporters of “abstinence until marriage” provisions, including U.S. Global AIDS Coordinator Randall Tobias, have relied on a misreading of successful HIV prevention efforts in Uganda, simplistically attributing decreases in HIV prevalence there to increased abstinence and fidelity.⁶⁶ Since taking office in 2001, President Bush has appointed as high-level HIV/AIDS advisers physicians who deny the effectiveness condoms, such as former U.S.

⁶² This issue attracted considerable commentary throughout 2002 and 2003. See, e.g., Nicholas D. Kristof, “The Secret War on Condoms,” *The New York Times*, January 10, 2003; Marie Cocco, “White House Wages Stealth War on Condoms,” *Newsday*, November 14, 2002; Caryl Rivers, “In Age of AIDS, Condom Wars Take Deadly Toll,” *Women’s eNews*, December 10, 2003, <http://womensenews.org/article.cfm/dyn/aid/1633/context/archive> (retrieved February 16, 2004); Art Buchwald, “The Trojan War,” *The Washington Post*, December 11, 2003.

⁶³ Compare CDC, “Condoms and Their Use in Preventing HIV Infection and Other STDs” (September 1999), available at http://www.house.gov/reform/min/pdfs/pdf_inves/pdf_admin_hhs_info_condoms_fact_sheet_orig.pdf with CDC, “Male Latex Condoms and Sexually Transmitted Diseases” (2002), available at http://www.house.gov/reform/min/pdfs/pdf_inves/pdf_admin_hhs_info_condoms_fact_sheet_revis.pdf.

⁶⁴ Compare USAID, “The Effectiveness of Condoms in Preventing Sexually Transmitted Diseases,” http://www.usaid.gov/pop_health/aids/TechAreas/condoms/condom_effect.html (retrieved January 28, 2003) with USAID, “USAID: HIV/AIDS and Condoms,” above.

⁶⁵ H.R. 1298, s. 101(b)(3)(W). Pro-abstinence advocates have long sought to disparage condoms by speculating about the link between condom usage and HPV, beginning with efforts by then-Rep. Tom Coburn to require that condom packages carry a cigarette-type warning that condoms offer “little or no protection” against HPV, some strains of which cause cervical cancer. Condom use is in fact associated with lower rates of cervical cancer and HPV-associated disease, though the precise effect of condoms in preventing HPV is unknown. CDC, “Male Latex Condoms and Sexually Transmitted Diseases” (2002).

⁶⁶ See, e.g., H.R. 1298, s. 2(20)(C); Tina Rosenberg, “On Capitol Hill, Ideology Is Distorting an African AIDS Success,” *The New York Times*, April 28, 2003; Emily Wax, “Ugandans Say Facts, Not Abstinence, Will Win AIDS War,” *The Washington Post*, July 9, 2003. The Uganda experience owes itself to a wide range of interlocking factors, including high-level political leadership and widespread voluntary HIV testing and counseling, that cannot be reduced to one or two interventions. However, national-level survey data suggest that delays in sexual debut, a reduction in the number of sexual partners, and increases in condom use all played a part in lowering HIV risk in Uganda. See Susheela Singh, Jacqueline E. Darroch, and Akinrinola Bankole, “A, B and C in Uganda: The Roles of Abstinence, Monogamy and Condom Use in HIV Decline,” Occasional Report No. 9, The Alan Guttmacher Institute, December 2003; S. Cohen, “Flexible But Comprehensive: Developing Country HIV Prevention Efforts Show Promise,” *The Guttmacher Report on Public Policy*, October 2002.

Representative Tom Coburn and Joe S. McIlhaney, Jr., president of the pro-“abstinence-only” Medical Institute for Sexual Health in Texas.⁶⁷

Such overt anti-condom policies threaten to worsen what is already a strain on condom supplies as a result of restrictive U.S. international family planning policies. The Mexico City Policy or “global gag rule,” which bars any recipient of U.S. international family planning funds from using even private money to perform, counsel, or lobby for abortion, has reportedly led USAID to cancel or reduce condom shipments to grantees in up to twenty-nine developing countries.⁶⁸ From July 2002 until late 2003, the United States refused to authorize funding for UNFPA based on unfounded allegations that the agency supported coercive abortion policies in China.⁶⁹ In January 2003, a UNFPA official announced that the suspension of U.S. funding had resulted in a worsening of the Asian condom shortage.⁷⁰

The United States has expanded its anti-condom agenda to the Asian continent, as evidenced by its efforts to delete endorsement of “consistent condom use” from the plan of action of the December 2002 Asian and Pacific Population Conference.⁷¹ The director of a large USAID-funded HIV prevention program in the Philippines told Human Rights Watch that, in late 2003, she altered references to “sex workers” on her organization’s website in order to address USAID objections to that term. “There had been news about censoring USAID websites in 2003,” she said, “so we changed the term ‘sex workers’ to something else—‘vulnerable men and women,’ something to that effect. We just said, well, better to be safe than sorry.”⁷²

⁶⁷ Coburn, who is co-chair of the Presidential Advisory Council on HIV and AIDS (PACHA), has stated that “the American people [should] know the truth of condom ineffectiveness.” McIlhaney’s Medical Institute for Social Health, which promotes abstinence-only sex education messages, produced a comprehensive monograph on condoms stating that condoms do not make sex “safe enough” to warrant their promotion for STD prevention. See H. Boonstra, “Public Health Advocates Say Campaign to Disparage Condoms Threatens STD Prevention Efforts,” *The Guttmacher Report on Public Policy*, March 2003, p. 2.

⁶⁸ The Global Gag Rule Impact Project, “Access Denied: U.S. Restrictions on International Family Planning: Executive Summary” (2003), p. 4. The global gag rule does not apply to international HIV/AIDS funding, as long as recipients do not integrate abortion services or counseling into their HIV/AIDS services. See Mike Allen, “Abortion Providers May Get AIDS Money,” *The Washington Post*, February 15, 2003.

⁶⁹ The agency was vindicated by the United States’ own fact-finding mission, and funds are expected to be disbursed in 2004. The 1985 Kemp-Kasten law withholds U.S. foreign aid from any organization that, as determined by the President, “supports or participates in the management of a program of coercive abortion or involuntary sterilization.”

⁷⁰ “UNFPA Says U.S. Funding Cut Worsens Asian Condom Shortage,” *U.N. Wire*, January 22, 2003.

⁷¹ See, e.g., V. Joshi, “US Stance on Abortion and Condom Use Rejected at Population Conference,” *Associated Press*, December 18, 2002.

⁷² Human Rights Watch interview with Dr. Carmina Aquino, director, PATH Foundation Philippines, Inc., January 19, 2004.

Condoms, HIV/AIDS information and human rights

Human Rights Watch recognizes the freedom of all people to follow their conscience in deciding whether to support or oppose the use of condoms. However, the duty of governments to protect public health requires that they rely on scientifically accurate information to craft the most effective possible HIV/AIDS prevention measures. Moral objections to devices that also can be used for birth control are not an adequate basis upon which to condemn thousands to an otherwise preventable death in the absence of equally effective alternatives.

Although condoms are not 100 percent effective, broad objections to condoms as an HIV prevention strategy find no basis in science. Laboratory tests show that no STD pathogen, including HIV, can permeate an intact latex condom.⁷³ Both the WHO and UNAIDS recommend the use of condoms against HIV, stating in August 2001 that “[t]he consistent use of male latex condoms significantly reduces the risk of HIV infection in men and women.”⁷⁴ This statement followed an extensive review of condom effectiveness convened by the U.S. National Institutes of Health (NIH) in 2000, in which the combined analysis of several studies showed an 85 percent decrease in risk of HIV transmission among consistent condom users versus non-users.⁷⁵ Studies of sero-discordant couples, in which one partner is infected with HIV and the other is not, show that, with consistent condom use, the HIV infection rate among uninfected partners is less than 1 percent per year.⁷⁶ Condoms can also have some effect against HPV by hastening the regression of lesions in the cervix and on the penis and by speeding up clearance of the virus, according to two Dutch studies published in the

⁷³ See CDC, “Fact Sheet for Public Health Personnel: Male Latex Condoms and Sexually Transmitted Diseases,” <http://www.cdc.gov/hiv/pubs/facts/condoms.htm>.; six studies cited in R. Gardner et al., *Closing the Condom Gap*, p. 13; European Union Commission, “HIV/AIDS: European Research provides clear proof that HIV virus cannot pass through condoms,”; National Institutes of Allergy and Infectious Diseases, “Workshop Summary,” p. 7.

⁷⁴ “Effectiveness of Condoms in Promoting Sexually Transmitted Infections Including HIV,” WHO and UNAIDS Information Note, August 15, 2001.

⁷⁵ National Institute of Allergy and Infectious Diseases, “Workshop Summary,” July 20, 2001, p. 14. The report noted that available data are less complete for STIs other than HIV and gonorrhea, but that there was a “strong probability of condom effectiveness” against “discharge” diseases such as chlamydia and trichomoniasis, as well as diseases transmitted through “skin-to-skin” contact, such as genital herpes, syphilis, chancroid, and HPV. Tom Coburn, by then co-chair of PACHA, responded to the NIH study by issuing a press release headlined, “Condoms Do Not Prevent Most STDs” and praising the NIH report for exposing “the ‘safe’ sex myth for the lie that it is.” In its August 2001 information note, WHO and UNAIDS expressed concern about “misunderstandings about the difference between ‘lack of evidence of effectiveness’ and ‘lack of effectiveness’.” See H. Boonstra, “Public Health Advocates,” p. 2; WHO and UNAIDS, “Effectiveness of Condoms.”

⁷⁶ WHO, “Effectiveness of Male Latex Condoms in Protecting Against Pregnancy and Sexually Transmitted Infections,” Fact Sheet No. 243, June 2000, <http://www.who.int/inf-fs/en/fact243.html> (retrieved November 3, 2003).

International Journal of Cancer in December 2003.⁷⁷ A 2003 UNAIDS-sponsored study estimated that factors such as breakage, slippage and improper use lead to condom ineffectiveness in approximately 10 percent of cases.⁷⁸

International law recognizes the right to the highest attainable standard of health, which includes access to information and services necessary for physical and mental health. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) specifically obliges governments to take all necessary steps for the “prevention, treatment and control of epidemic . . . diseases,” such as HIV/AIDS.⁷⁹ The Committee on Economic, Social and Cultural Rights, the U.N. body responsible for monitoring implementation of the ICESCR, has interpreted article 12 as requiring “the establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS.”⁸⁰ In the context of “general legal obligations,” the committee notes:

States should 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. . . . States should also ensure that third parties do not limit people’s access to health-related information and services.⁸¹

According to the committee, the ICESCR does not only oblige governments to establish these programs “expeditiously and effectively”; it also prohibits them from “interfering directly or indirectly with the enjoyment of the right to health.”⁸² Policies that frustrate

⁷⁷ C.J.A. Hogewoning et al., “Condom use promotes regression of cervical intraepithelial neoplasia and clearance of human papilloma virus: a randomised clinical trial,” *International Journal of Cancer*, vol. 107 (2003), pp. 811-816; M.C.G. Bleeker et al., “Condom use promotes regression of human papilloma virus-associated penile lesions in male sexual partners of women with cervical intraepithelial neoplasia,” *International Journal of Cancer*, vol. 107 (2003), pp. 804-810.

⁷⁸ N. Hearst and S. Chen, “Condom Promotion for AIDS Prevention in the Developing World: Is it Working?,” May 26, 2003. See also, S.D. Pinkerton and P.R. Abramson, “Effectiveness of Condoms,” estimating ineffectiveness at 6 percent.

⁷⁹ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, entered into force January 3, 1976, GA Res. 2200 (XXI), 21 UN GAOR, 21st Sess., Supp. No. 16, at 49, UN Doc. A/6316 (1966), art. 12.

⁸⁰ Committee on Economic, Social and Cultural Rights (CESCR), *The right to the highest attainable standard of health*, para. 16.

⁸¹ *Ibid.*, paras. 34-35.

⁸² *Ibid.*, paras. 31, 33; see also, paras. 48, 50, describing what constitutes a “violation” of the right to health.

HIV prevention by limiting access to condoms and HIV/AIDS information fit this description.

Access to complete and accurate information about condoms and HIV/AIDS is recognized by article 19 of the International Covenant on Civil and Political rights (ICCPR), which guarantees the “freedom to seek, receive and impart information of all kinds, regardless of frontiers.”⁸³ Parties to the ICCPR are obliged not only to refrain from censoring information, but to take active measures to give effect to this right.⁸⁴ This is particularly true in the case of threats as serious as HIV/AIDS, a disease that has not only killed millions of people, but whose spread is facilitated precisely by lack of information and the inability to make informed choices about health. The Committee on Economic, Social and Cultural Rights has similarly stated that “information accessibility” is an essential element of the human right to health, noting that “education and access to information concerning the main health problems in the community, including methods of preventing and controlling them” are of “comparable priority” to the core obligations of the ICESCR.⁸⁵

Access to HIV prevention services, including condoms, saves lives. The right to life is recognized by all major human rights treaties and, as interpreted by the U.N. Human Rights Committee, requires governments to take “positive measures” to increase life expectancy.⁸⁶ These should include taking adequate steps to provide accessible information and services for HIV prevention (particularly to marginalized populations), taking steps to correct life-threatening misinformation provided by private actors, and ensuring that any publicly funded programs do not withhold life-saving technologies and information about them.

Human rights law further recognizes the right to nondiscrimination in access to information and health services, as in all other services.⁸⁷ Women, sexual minorities and

⁸³ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, entered into force March 23, 1976, GA Res. 2200 (XXI), 21 U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), art. 19(2).

⁸⁴ See ICCPR, art. 2(2), providing that “each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.” State responsibility to give effect to the right to information is further elaborated in S. Coliver, ed., *The Right to Know: Human Rights and access to reproductive health information* (Article 19 and University of Pennsylvania Press, 1995), pp. 45-47.

⁸⁵ Committee on Economic, Social and Cultural Rights (CESCR), *The right to the highest attainable standard of health*, para. 44(d).

⁸⁶ Human Rights Committee (HRC), *The right to life: HRC General comment 6* (16th Sess., 1982), para. 5.

⁸⁷ See ICESCR, article 2(2), as well as CESCR, *General comment 14*, paras. 12(b), 18-19.

people living with AIDS, all of whom are protected from discrimination under international law, stand to suffer disproportionately from programs that discourage condom use and promote abstinence and fidelity as primary HIV prevention strategies. There is strong evidence that women are biologically more vulnerable to heterosexually transmitted HIV than men and thus stand a higher risk of HIV infection in environments where condom access is restricted.⁸⁸ This includes married women, who need to be educated about condoms insofar as they cannot ensure their spouses' fidelity. For lesbians and gay men, who cannot legally marry in most parts of the world, programs that promote sexual abstinence until marriage imply no option but lifetime abstinence, a misleading message when condoms provide a safe and effective method of HIV prevention.

The human rights to health, information, life, and non-discrimination are also recognized by specialized treaties such as the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁸⁹ Non-binding interpretations of international law, such as the Office of the High Commissioner for Human Rights (OHCHR)/UNAIDS International Guidelines on HIV/AIDS and Human Rights and the Declaration of Commitment of the United Nations General Assembly Special Session (UNGASS) on HIV/AIDS, similarly support the right to complete information about HIV/AIDS. The guidelines recommend that "restrictions on the availability of preventive measures, such as condoms. . . should be repealed," while the Declaration of Commitment calls for "expanded access to essential commodities, such as male and female condoms."⁹⁰

⁸⁸ A number of determinants of this higher risk have been cited, including the large surface area of the vagina and cervix, the high concentration of HIV in the semen of an infected man, and the fact that many of the other STDs that increase HIV risk are asymptomatic in women, which may lead to their being untreated for longer periods. Girls and women may also face discriminatory barriers to treatment of STDs, such as needing permission of a husband or male relative for certain services. See, e.g., Global Campaign for Microbicides, "About Microbicides: Women and HIV Risk," at <http://www.global-campaign.org/womenHIV.htm> (retrieved July 24, 2003); UNAIDS, "AIDS: Five years since ICPD—Emerging issues and challenges for women, young people and infants," Geneva, 1998, p.11, also at <http://www.unaids.org/publications/documents/human/gender/newsletter.pdf> (retrieved July 22, 2003); and Population Information Program, Center for Communications Programs, The Johns Hopkins University Bloomberg School of Public Health, "Population Reports: Youth and HIV/AIDS," vol. XXIX, no. 3, (Baltimore, MD, Fall 2001), p. 7.

⁸⁹ Convention on the Rights of the Child (CRC), adopted by GA Res. 4/25 of November 20, 1989; entered into force September 2, 1990; GA Res. 44/25, annex, 44 U.N. GAOR Supp. No. 49, at 167, U.N. Doc. A/44/49 (1989); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by GA Res. 34/180 of December 18, 1979, entered into force September 3, 1981; GA Res. 34/180, 34 U.N. GAOR Supp. No. 46 at 193, U.N. Doc. A/34/46 (1981).

⁹⁰ OHCHR and UNAIDS, *HIV/AIDS and Human Rights: International Guidelines* (September 23-25, 1996), guideline 6, para. 31(c); United Nations Special Session on HIV/AIDS, *Declaration of Commitment on HIV/AIDS* (June 27, 2001), para 52.

V. FINDINGS ON ACCESS TO CONDOMS AND HIV/AIDS INFORMATION IN THE PHILIPPINES

Human Rights Watch found that the ability to deliver or advocate for comprehensive HIV prevention services in the Philippines was crippled by official resistance to condom promotion. This resistance took many forms, including ordinances prohibiting condoms from public health clinics, police interference with condom promotion, weak and unimplemented policies regarding the availability of condoms in sex establishments, and the government's refusal to supply condoms to the public sector with national funds. A failure to integrate reproductive health services into HIV prevention, particularly through the enactment of a national reproductive health policy, further frustrated access to condoms and HIV/AIDS information.

Human Rights Watch also found that anti-condom advocates continued to peddle misinformation about condoms and HIV prevention, though perhaps less publicly than in the early 1990s. The guarantee of comprehensive AIDS information in the Philippine AIDS Act proved no match for this misinformation. Interviews with populations at high risk of HIV—including sex workers, men who have sex with men, adolescents, and migrant workers and their spouses—revealed low levels of HIV/AIDS awareness, inconsistent to no condom use, and inadequate treatment and information in government health clinics.

Official anti-condom policies

Anti-condom ordinances

In some cities in the Philippines, local authorities have gone as far as to prohibit the distribution of condoms in public health facilities, at times attempting to take disciplinary action against organizations that promote condoms with private funds. The example most frequently cited by service providers is Manila City, where Mayor Jose “Lito” Atienza has issued an executive order banning all artificial birth control, including condoms, from the city's health clinics. While Human Rights Watch did not find direct evidence of disciplinary action against service providers, many said that the ordinance was used as a basis to discipline nongovernmental organizations that promoted condoms as part of a larger family planning service. According to Dr. Jose Narciso Melchor C. Sescon, a gynecologist and director of the Remedios AIDS Foundation, Inc.:

If at any point you advocate for family planning in Manila, the next day you will have your services shut down and padlocked. I know of two

NGOs who have been shut down. In one case, the wife of the mayor performed an inspection and found contraceptive commodities on the premises. The next day, their door was padlocked.⁹¹

Sescon told Human Rights Watch that in order to provide integrated HIV/AIDS and family planning services, Remedios would have to “go underground.” If a client living with HIV/AIDS needed family planning services—for example, a married woman who wanted to avoid getting pregnant or infecting her husband—she would have to be referred elsewhere. “If you deliver, if you even speak about family planning services, they’ll have a red light on your agency,” he said.

The Women’s Health Care Foundation (WHCF) is a Quezon City-based NGO that provides a range of reproductive health services and HIV prevention through a network of clinics in Metro Manila. Their clinic in Manila City reaches poor women living in squatter communities, some of whom survive by exchanging sex for money with boat workers in Manila Bay. Gladys Malayang, executive director of WHCF, told Human Rights Watch that WHCF volunteers who distributed condoms and pills in squatter communities feared that they would lose their land if they were caught by city authorities.

They actually feel they are being subversives because they are carrying condoms. . . . They feel they have to hide it, to be secretive about it. It’s like they’re dealing drugs or doing something illegal. They think the city will take their land if they find out. So access to condoms and reproductive health services is very limited.⁹²

Malayang added that government health workers, who are mandated to provide only natural family planning services, sometimes referred women seeking condoms to WHCF, because they feared losing their jobs otherwise. Women squatters would then arrive at WHCF with a cough or cold and secretly ask for condoms or birth control pills.

The mindset is that if they access condoms, they will lose their land. And the fact that it’s on their minds means it must come from somewhere. They come to us with coughs and colds and say, “By the

⁹¹ Human Rights Watch interview with Dr. Jose Narciso Melchor C. Sescon, executive director, Remedios AIDS Foundation, Inc., January 20, 2004. Sescon did not specify when this inspection took place.

⁹² Human Rights Watch interview with Gladys Malayang, executive director, Women’s Health Care Foundation, Quezon City, January 28, 2004.

way, can we also have some condoms?” . . . I don’t know what kind of threats have been made to make these people feel like they are violating a law by trying to access condoms.

Human Rights Watch interviewed two volunteer community outreach workers, themselves squatters, who had been trained by WHCF to distribute condoms to women in a squatter community near Manila Bay with an estimated population of 80,000. Lilibeth Buenconsejo, thirty-six, said that she distributed condoms and information to women who “climb onto the boats” to sell sex. But she kept a low profile because she knew the mayor disapproved of contraception.

It’s difficult because there are some areas where we can’t go. We don’t want stories of what we’re doing to spread, so we don’t go to areas where what we’re doing will spread. The mayor has banned family planning. We don’t want the barangay⁹³ health volunteers to know what we’ve been doing. . . . Stories get passed on, and they might tell the story of what we’re doing at city hall meetings.⁹⁴

Marisa Dela Pena, thirty-two, told Human Rights Watch that she began volunteering as a community health worker six years ago “so I could educate my neighbors, especially those who know nothing about family planning.”⁹⁵ She also distributed condoms to women who survived by selling sex, some of them as young as fifteen. Like Buenconsejo, Dela Pena had developed strategies for avoiding disciplinary action.

We’re not standing on street corners passing out condoms, so the mayor can’t sue us or put us in jail. But if the mayor found out, he’d probably have me called into his office and ask me to explain why I do this. I would have only one answer, which is I don’t force it on the women, they come to me.

In August 2002, Dela Pena was one of several volunteers reported to the mayor for attending a training session on family planning.

⁹³ The barangay is the lowest level of government in the Philippines. As of December 31, 2000, there were an estimated 41,943 barangays in the country.

⁹⁴ Human Rights Watch interview with Lilibeth Buenconsejo, community health outreach worker, Women’s Health Care Foundation, Quezon City, January 28, 2004.

⁹⁵ Human Rights Watch interview with Marisa Dela Pena, community health outreach worker, Women’s Health Care Foundation, Quezon City, January 28, 2004.

The nurse in charge called us in and was demanding to know why we were having a seminar on artificial methods. I explained that we just wanted to know more. Then some of the mayor's aides came in. They took a group of us and made us watch a video of fetuses being aborted. They kept saying that artificial family planning was the same as abortion. They said condoms are not effective and easily break.

The day after this incident, Dela Pena said, she was approached by the government nurse and urged to leave WHCF and work for the city health clinic. She said she refused, because the city clinic taught only natural family planning methods and demonized condoms. "At the government clinic, they don't learn anything about condoms," she said. "They just say again and again that condoms break easily and they aren't safe." To encourage her to leave WHCF, the city offered Dela Pena a substantial salary and a larger spending allowance than WHCF. She did not budge.

They were saying if I came to their clinic, I'd have a salary of 35,000 pesos [U.S.\$622] plus an allowance from the mayor of up to 5,000 pesos [U.S.\$89] per month. We only get an allowance of 1,000 pesos [U.S.\$18] per month from WHCF. For me, the money is not the important thing. What's important is being able to help my neighbors.

Gladys Malayang told Human Rights Watch that in late 2002, she was called into city hall and asked to cease distributing condoms and other forms of artificial birth control. In her defense, she questioned how the city could justify allowing drug stores to sell condoms to those who could afford them, while prohibiting clinics like WHCF from distributing condoms for free. "I asked them, why are you discriminating against your poor women?" Malayang said.⁹⁶

Manila City was not the only jurisdiction in the Philippines that had prohibited condoms from public institutions. A similar policy existed for a time in Puerto Princesa on the island of Palawan. In Laguna, an anti-condom ordinance led to higher rates of unwanted pregnancy, unmet family planning needs, illegal abortions, and increased STI and HIV risk, according to research conducted by the School of Environmental Studies

⁹⁶ Human Rights Watch interview with Gladys Malayang, Quezon City, January 28, 2004.

and Management in Manila.⁹⁷ Davao City did not have an explicit anti-condom ordinance, but efforts to require condom availability in sex establishments failed there because of religious opposition.⁹⁸

Confiscation of condoms by police

Sex workers and their clients face a particularly high risk of HIV infection in the Philippines, not least because the illegality of prostitution drives them and their clients underground and away from health services. Sex workers in the Philippines are generally divided into those that are registered to work in licensed entertainment establishments, and those that work freelance in either illegal brothels or the street. While all sex work is illegal, registered sex workers are required by occupational health and safety laws to undergo testing in government-run “social hygiene clinics” for STDs other than HIV.⁹⁹ The Philippine government also recommends that an ample supply of condoms be made available in sex establishments throughout the country.

Outreach workers interviewed by Human Rights Watch said that sex workers often refused their offers of free condoms, because they feared police would use them as evidence and arrest them. “It always happens,” said Noel Mandanas, a project coordinator for the NGO Kabalikat ng Pamilyang Pilipino (Kabalikat) who distributes condoms and provides HIV/AIDS and STD counseling in Pasay City. “The last time it happened, we asked one of the freelance sex workers why she was refusing condoms. She said the police might use condoms as evidence against her.”¹⁰⁰ Mandanas added that fear of arrest was one of four main reasons Kabalikat did not meet its condom distribution targets in 2003—the others being male customers’ dislike of condoms, having to charge for condoms because of supply shortages, and clients obtaining condoms from other sources.

⁹⁷ Human Rights Watch interview with Oslek Espaldon, Women’s Health Care Foundation, Quezon City, January 28, 2004; Email communication from Dr. Maria Victoria Espaldon to Human Rights Watch, March 31, 2004.

⁹⁸ Human Rights Watch interview with Dr. Roberto V. Alcantara, Davao City Health Office, Quezon City, January 21, 2004.

⁹⁹ The Code on Sanitation of the Philippines, Presidential Decree No. 856 (1976), ss. 57, 62. As a pre-condition to employment in entertainment establishments or massage parlors, sex workers are issued a health certificate, sometimes known as a “pink card,” noting the results of regular STD tests. Compulsory HIV testing as a precondition to employment is illegal in the Philippines pursuant to s. 16 of the Philippine AIDS Prevention and Control Act.

¹⁰⁰ Human Rights Watch interview with Noel Mandanas, project coordinator, Kabalikat ng Pamilyang Pilipino, Manila, January 16, 2004.

Freelance, street-based sex workers interviewed by Human Rights Watch said that police impeded their access to HIV prevention services by confiscating their condoms, using possession of condoms as evidence of prostitution, or arresting them for “vagrancy” without any evidence of prostitution.¹⁰¹ Maria S., twenty-two, a street-based sex worker in Pasay City, said that police arrest her if they catch her carrying condoms.

If the police catch us, if they see the condoms, they’ll arrest us. They touch us all over the body and they find them. They ask, “What are you doing with condoms?” They get mad when they see us with condoms. They threaten us, like they say, “You want me to put this [the condom] in your mouth?”¹⁰²

Maria S. said that the last time police caught her with condoms, in 2003, they arrested her for vagrancy and put her in jail for a week.

I was just standing here when it happened. They handcuffed me and dragged me to the station. I cried. They accused me of vagrancy. They said, “If you don’t give us money, you’re going to jail.” So I was arrested. I had no money. I felt lonely in jail. It was hard, I just cried and cried.

Human Rights Watch heard accounts like this from numerous sex workers in Pasay City. Juliet C., twenty-three, said that police arrested her for vagrancy in January 2003 and used condoms as evidence that she had been engaging in prostitution. She spent six hours in jail before being released.

The police came up to me and said, “It’s already late,” and they arrested me. I felt degraded. They called me names. They said, “You may be beautiful, but I don’t like your vagina, because it stinks.” I spent six hours in jail. I had ten condoms with me. They used it as evidence. They said, “This is the evidence you are a prostitute.” I told them, “Just because I have condoms, that doesn’t mean I am a prostitute.” The police don’t believe that.¹⁰³

¹⁰¹ Vagrancy laws have been declared a violation of human rights in some countries because of their excessive vagueness, but they remain on the books in the Philippines.

¹⁰² Human Rights Watch interview with Maria S., Pasay City, January 30, 2004.

¹⁰³ Human Rights Watch interview with Juliet C., Pasay City, January 30, 2004.

Using condom possession as evidence of prostitution is an unjust and unreliable method of distinguishing sex workers from people who are not breaking the law. It is also a surefire way to deter those who do work in prostitution from carrying condoms in public and protecting themselves, their families and their communities from HIV. “I like to have plenty of condoms in my bag,” explained Jessica R., nineteen, a sex worker in Pasay City. “But if I see the police, I throw my bag away.”¹⁰⁴

Arbitrary restrictions on condom promotion

Human Rights Watch documented a number of restrictions on condom promotion in the Philippines that stemmed not from government ordinances or police conduct, but from arbitrary actions by elected officials, government agencies and church leaders. One agency cited by service providers was the television advertising board (Adboard), which reportedly used obscenity laws to impose restrictions on television public service announcements (TVPSAs) promoting condoms. Dr. Carmina Aquino, director of the USAID-funded AIDS Surveillance and Education Project (ASEP), noted that the Adboard operated under the assumption that condoms promoted promiscuity.

Our project included funding for condom TVPSAs, but we had problems dealing with the Adboard. We wanted to air a TVPSA where a real condom comes up on the TV. It was very difficult to have this approved by the Adboard—the image of a condom on TV. . . . They didn’t want a real condom. It promoted promiscuity.¹⁰⁵

Terry L. Scott, Philippines country director of DKT International, a social marketing organization, told Human Rights Watch that “the mere fact that we can run condom ads in the Philippines is a huge, huge plus.”¹⁰⁶ He described the challenge DKT faces as “giving a message that is edgy enough without stepping over the boundary of what is acceptable.” As an example, Scott contrasted a proposed advertisement for a brand of condoms known as “Frenzy” with the version ultimately approved by the Adboard.

The ad campaign was initially designed to show a guy and woman in two separate situations where the guy had a chance for a sexual encounter. In the first, when the woman found out the guy didn’t have a condom, she stopped him. Then we go to group of women where the woman

¹⁰⁴ Human Rights Watch interview with Jessica R., Pasay City, January 30, 2004.

¹⁰⁵ Human Rights Watch interview with Dr. Carmina Aquino, Manila, January 19, 2004.

¹⁰⁶ Human Rights Watch interview with Terry L. Scott, country director, DKT Philippines, Inc., Manila, January 19, 2004.

had a chance for a sexual encounter, and because neither partner had a condom, she stopped it also. . . .

I think we went through probably four or five revisions and finally went with one that was acceptable. We ended up having people go into a music store where the DJ puts on a disc called “Frenzy,” and then we have a song, the Frenzy song, and the people who have Frenzy condoms start dancing.

Scott emphasized that while the approved version was “very different from what we intended it to be,” it still met DKT’s main objective of targeting youth and promoting the brand.

At another point, Scott said that “sometimes, the external difficulties can drive you insane.” Scott recalled a 2002 incident in which the board of directors of a chain of 7-11 convenience stores, reportedly chaired by a conservative Catholic, pulled all condom stocks off its shelves after a student’s parents accused the store of distributing condoms to a minor. Also in 2002, DKT’s director of marketing, Benny Llapitan, reported that some supermarket owners had been keeping condoms inside glass shelves for fear of complaints from priests, and that some stores had already been chastised for selling condoms. Llapitan blamed the government in part for not addressing these restrictions. “We live in a country with cultural hang-ups and religious restrictions,” he said at a 2001 forum on condoms in the Philippines. “We work with a government that lacks political will. Meanwhile, the virus continues to spread.”¹⁰⁷

Anna Leah Sarabia, whose organization Women’s Media Circle produced television shows on women’s health, said that obscenity laws prevented her from talking frankly about HIV prevention on television. “We’ve had to master how to say things without saying things,” she told Human Rights Watch. “You can talk about HIV and say how bad it is. They love it when we say you can get HIV from sex, because what they want us to say is, ‘Don’t have sex.’ It’s all about abstinence.”¹⁰⁸ Sarabia described the conduct of the board of censors, the agency responsible for regulating television content, as “arbitrary.” The board levied substantial fees to review programs, she said, only to make decisions based on the political whims of the board’s director. “Like most people, we

¹⁰⁷ AIDS Society of the Philippines, “Condoms: Issues and Controversies,” proceedings of a Special Media Forum of the AIDS Society of the Philippines” (2001), p. 20.

¹⁰⁸ Human Rights Watch interview with Anna Leah Sarabia, executive director, Women’s Media Circle, Quezon City, January 21, 2004.

are forced to self-censor,” she said. “It costs a lot of money. It really is a form of harassment. That’s the way they control information on sex and sexuality.”

Dr. Junice Melgar, executive director of the NGO Linangan ng Kababalhan, Inc. (Likhaan), told Human Rights Watch her organization had been reprimanded by a senator for participating in the 2002 “Condoms For Life” campaign organized by the Washington-based NGO Catholics for a Free Choice (CFFC). The campaign consisted of a series of billboards and advertisements in six cities, including Manila, depicting a group of robed Catholic bishops alongside the headline, “Banning Condoms Kills.” On May 17, 2002, the chair of Likhaan’s board received a letter from Senator Vicente Sotto III, chairman of the Senate Committee on Public Information and Mass Media, stating:

I was sincerely bothered by the unnecessary and unfortunate message attributing the cause of many deaths on a group shown to be none other than the College of Cardinals, the successors of Saint Peter and the apostles in the eyes of the Catholic community. . . . In this regard, may I inform you that as chairman of the Senate Committee on Public Information and Mass Media, I am filing a resolution to look into this matter and related concerns.¹⁰⁹

Senator Sotto’s letter encouraged the advertising industry to engage in self-censorship, stating that “whenever the sentiments and good sense of a specific portion of the community is offended, the creative departments of the industry should take the cue and review its content and delivery of the message.” Manila Archbishop Jaime Cardinal Sin responded to the CFFC campaign by reiterating his opposition to condoms, telling reporters, “I maintain the Church’s stand against condoms and artificial contraception. We must always stand up for what is right even if we are pressured by groups like the CFFC.”¹¹⁰

Some experts told Human Rights Watch that the pervasive threat of church opposition had placed a chilling effect on efforts to promote condoms in public places. Dr. Michael Tan, a leading AIDS expert and professor of anthropology at the University of the Philippines, said that university administrators had refused to install condom vending machines in campus bathrooms because “there’s this fear the Catholic church will come

¹⁰⁹ Letter from Senator Vicente C. Sotto III to Dr. Sylvia Estrada-Claudio, chairman of the board, Likhaan, May 17, 2002.

¹¹⁰ A. Nocum, “Sin firm vs condoms,” *Philippine Daily Inquirer*, February 23, 2002.

breathing down their necks.”¹¹¹ According to Tan, the university health service provided no condoms for HIV prevention, no sex education, and nothing that could be construed as a family planning service.

Weak “100 percent condom” policies

Part of what allows local officials, police and government agencies to restrict condoms in the Philippines is the absence of a clear national policy on condom promotion. Thailand’s “100 percent Condom Campaign,” whereby entertainment establishments were required to make condoms available to sex workers and their clients, is often cited as an example of a policy that can enhance local HIV prevention efforts, particularly where the policy is supported by national leadership and a commitment to gender sensitivity.¹¹² Advocacy by USAID and other donors in the 1990s led several local government units (LGUs) in the Philippines to enact “100 percent accessibility of condoms” ordinances. However, service providers from many of these LGUs told Human Rights Watch that these ordinances were difficult to enforce without a national policy on condom promotion, and that many were unfunded from the moment they passed.

Wilfred Bidad, director of the Social Health Environment Development Foundation in General Santos City, told Human Rights Watch that “[t]he ordinance says that 5 percent of the health budget goes to HIV prevention, but this money is seldom accessed by service providers.”¹¹³ Bidad and other service providers stressed that the problem was not a lack of funds, but poor accounting procedures and a refusal on the part of local governments to release the money. “We were about to submit a proposal, but the government doesn’t consider it a priority,” said Femia T. Baldeo of the Pearl S. Buck Foundation in Quezon City.¹¹⁴ She added:

They have the money. It’s a matter of political will. They prefer other types of programs—more tangible programs that will build their good image. HIV prevention is not tangible. You can’t see the immediate effect unless there’s a big pandemic.

¹¹¹ Human Rights Watch interview with Dr. Michael L. Tan, professor, University of the Philippines and senior program advisor, Public Health Institute, Quezon City, January 21, 2004.

¹¹² See, e.g., UNAIDS, *Report on the global HIV/AIDS epidemic: 2002*, pp. 88-89.

¹¹³ Human Rights Watch interview with Wilfred Bidad, Social Health Environment Development (SHED) Foundation, Manila, January 15, 2004.

¹¹⁴ Human Rights Watch interview with Femia T. Baldeo, program development officer, Pearl S. Buck Foundation-Philippines, Inc., Manila, January 15, 2004.

Not surprisingly, service providers said their programs had suffered considerably since USAID funds dried up and many local governments refused to fill the void. “Before, we employed nine staff and forty-six peer educators,” said Maria Lourdes Lim of Human Development and Empowerment Services, a former USAID sub-grantee in Zamboanga City. “That’s all gone now.”¹¹⁵ Noel Mandanas of Kabalikat added that his program began having to charge sex workers for condoms once the USAID program ended.

Service providers noted that the absence of a national policy on condom promotion made it difficult to implement 100 percent condom policies locally. Without a national training program for police, for example, training was needed every time an officer transferred jobs. “Changes in local government structure, especially among police, create a need for new gender-sensitive training every time there’s a turnover,” said Wilfred Bidad.¹¹⁶ An additional problem was that local governments felt unmoved to pass 100 percent condom ordinances in the absence of a national example. Gladys Malayang, director of the Women’s Health Care Foundation and a member of the Philippines National AIDS Council (PNAC), put it this way:

There is no national policy on condom use in the Philippines. . . . I asked PNAC why not, and they said it was too politically charged. We were hoping for something like Thailand’s 100 percent condom policy, just to send a message to local government offices about STDs. Instead, the message that’s coming through is more the Vatican message. . . . Politicians think that if you say something about condom use, you will lose the next election.¹¹⁷

Malayang noted other effects of a lack of national condom policy, such as the refusal of the Department of Health in 2003 to issue a statement about condom use on World AIDS Day. Because World AIDS Day events were to be held in Manila City, Malayang explained, the Secretary of Health agreed not to mention condoms for fear of offending Manila’s pro-life mayor, Jose “Lito” Atienza.¹¹⁸ AIDS service providers reportedly discussed boycotting the event, eventually holding a separate World AIDS Day event in nearby Quezon City.

¹¹⁵ Human Rights Watch interview with Maria Lourdes Lim, Human Development and Empowerment Services, Manila, January 15, 2004.

¹¹⁶ Human Rights Watch interview with Wilfred Bidad, January 15, 2004.

¹¹⁷ Human Rights Watch interview with Gladys R. Malayang, Quezon City, January 28, 2004.

¹¹⁸ *Ibid.*; Human Rights Watch telephone interview with Dr. Manuel Dayrit, secretary, Philippines Department of Health, New York, February 9, 2004. Mayor Atienza’s pro-life policies are discussed above, “Anti-condom ordinances.”

Refusal to fund condom supplies

As of this writing, the Philippines faces what could be an unprecedented crisis in condom supplies. In 2002, the United States government announced that it would no longer be supplying the Philippines with condoms or other contraceptive commodities, choosing instead to encourage condom purchases by the Philippines Department of Health.¹¹⁹ USAID had previously donated up to 80 percent of the condoms supplied by the Philippines government. According to experts interviewed by Human Rights Watch, the subsequent refusal on the part of the Department of Health to compensate for the USAID pull-out was putting a critical strain on condom supplies in many parts of the country. Senator Rodolfo Biazon, an advocate for reproductive health rights in the Philippines, told Human Rights Watch:

I visited a rural health clinic in November 2003, and many of the barangay health workers were showing me empty containers of condoms. In some cases, health workers had taken the initiative of forming themselves into co-ops, buying from the source and selling them at 60 percent of the drug store cost. This was with their own money.¹²⁰

A representative of the United Nations Population Fund, which provides technical assistance to the Philippines government on condom procurement and distribution, told Human Rights Watch in late January 2004 that public health clinics in the Philippines had a three-month supply of condoms left. “A decision has to be made immediately,” he said. “In three months, it’s supposed to be zero. There are areas now that don’t have any supplies—many municipalities.”¹²¹

Experts stressed that this projected shortage was not simply a result of fiscal constraints, but of the Arroyo administration’s investment in programs that discouraged condom use. In October 2003, the *Philippine Star* reported that Arroyo had taken P70 million [U.S.\$1.24 million] from a fund allocated to contraceptive programs under former President Joseph Estrada and awarded the sum to the NGO Couples for Christ (CFC)

¹¹⁹ Y. Fuertes, “Last USAID shipment of condoms in November”; Human Rights Watch interview with Dr. Corazon R. Manaloto, public health advisor, USAID Office of Population, Health and Nutrition, Manila, January 26, 2004.

¹²⁰ Human Rights Watch telephone interview with Sen. Rodolfo Biazon, New York, February 5, 2004.

¹²¹ Human Rights Watch interview with Dr. Moises Serdoncillo, programme officer, United Nations Population Fund, Manila, January 30, 2004.

to provide natural family planning (NFP) programs.¹²² CFC is an organization that makes misleading statements about contraceptives in its official literature and promotes NFP through an explicitly religious message.¹²³ A 2003 edition of CFC's newsletter, *Ugnayan*, states that "we cannot accept unnatural means, such as contraceptives. This is against not just morals but also against nature."¹²⁴ The newsletter further criticizes family planning programs for engaging in "nefarious activities" and promoting "the gay lifestyle, including gay marriages." As of March 2004, CFC's "Statement of Philosophy" stated, "We believe in marriage as an indissoluble institution as taught by [sic] our Lord Jesus Christ (Mt 19:6); and that God created marriage primarily for love between man and woman, and for the procreation and proper rearing of children."¹²⁵

Population expert Dr. Corazon Raymundo said of the government's investment in NFP, "As a citizen of this country, I find it embarrassing."¹²⁶ With typical use, natural methods result in unwanted pregnancy within one year in an estimated 25 percent of cases.¹²⁷ Raymundo told Human Rights Watch that NFP programs had gained only

¹²² "Arroyo diverted funds for contraceptives – UN," *Philippine Star*, October 24, 2003. The press later reported that the amount was P50 million [U.S.\$888,000]. Natural family planning (NFP) programs are those that aim to control the spacing of children through methods that do not include artificial contraception. They include the "rhythm" or calendar method, whereby couples voluntarily avoid sex during the fertile phase of the woman's menstrual cycle, and "withdrawal" or coitus interruptus, whereby the man completely removes his penis from the woman's vagina before he ejaculates. Other natural methods include the cervical mucous method, whereby the woman attempts to recognize the fertile phases of her menstrual cycle by the presence of cervical mucus in the days leading up to ovulation; the basal body temperature method, whereby the woman charts changes in her body temperature against her menstrual cycle; the sympto-thermal method, a combination of monitoring cervical mucous and body temperature; and the lactational amenorrhea method, whereby the woman attempts to use breastfeeding as a method of suppressing ovulation. These methods, in addition to various barrier methods such as condoms, diaphragms and spermicides, are described at <http://reproline.jhu.edu/english/1fp/1methods/1methods.htm>.

¹²³ A number of family planning advocates, including former Secretary of Health Dr. A.G. Romualdez, Jr., objected to the decision to fund CFC as a potentially unconstitutional violation of the separation of church and state. See, e.g., "An Expression of Protest Against Secretary Dayrit's Diversion of DOH Funds Allocated for Family Planning Contraceptives," http://www.plcpdfound.org/News/presspercent20stmts/jan_mar04/protestStmt.htm (retrieved March 13, 2004); R. Jimenez-David, "Brazen and Wrong," *Philippine Daily Inquirer*, December 6, 2003; A.G. Romualdez, Jr., "Couples for Christ and the DOH," *Malaya*, December 18, 2003.

¹²⁴ F. Padilla, "Population Control and CFC," *Ugnayan*, vol. XIV, no. 5 (Sept-Oct. 2003), p. 19.

¹²⁵ Couples for Christ, "Statement of Philosophy," http://www.cfcglobal.org.ph/aboutus/statement_of_philosophy.htm (retrieved March 13, 2004).

¹²⁶ Human Rights Watch interview with Dr. Corazon M. Raymundo, professor, University of the Philippines and project director, Young Adult Fertility and Sexuality Study (YAFS), Manila, January 21, 2004.

¹²⁷ J. Trussell and D. Kowal, "The Essentials of Contraception: Efficacy, Safety, and Personal Considerations," in R.A. Hatcher et al., eds., *Contraceptive Technology: Seventeenth Revised Edition* (New York: Ardent Media, Inc., 1998), p. 216, Table 9-2. Typical use of male condoms results in unwanted pregnancy within one year in an estimated 14 percent of cases. With perfect use, natural methods fail in anywhere from 1 percent to 9 percent of cases, depending on the method used. This compares to a 3 percent failure rate for perfect use of male condoms, a 0.1-0.5 percent failure rate for perfect use of pills, and a 0.1-1.5 percent failure rate for perfect use of intrauterine devices (IUDs). The newsletter of Couples for Christ claims, misleadingly, that "NFP,

minimal acceptance among Filipinos, and that they could have an adverse impact on HIV prevention by discouraging people from using condoms. While awareness of HIV/AIDS had persuaded Filipino men to use condoms instead of natural methods, she said, the government's financing of natural methods threatened to undo this progress.

By January 2004, HIV/AIDS advocates in the Philippines were beginning to feel the effects of the pending condom supply crisis. Noel Mandanas, who supervises sex worker outreach programs for the NGO Kabalikat, told Human Rights Watch that his organization had stopped receiving free condoms in early 2003.¹²⁸ Since then, their only option was to purchase condoms from the social marketing organization DKT International, which sold them at a subsidized price of P2.5 – P10 [U.S.\$0.04 - \$0.17]. Mandanas said that Kabalikat only distributed 13,000 of their projected 20,000 condoms in 2003, in part because they could not afford adequate supplies. While condoms could be provided cheaply by donors, they were beyond the means of small NGOs and even more unaffordable to their clients.

Jomar Fleras, president and CEO of the NGO Reachout Foundation International, said that condom shortages were a problem in Angeles City, home to a large sex industry dating back to the former U.S. military presence in the Philippines. "There are no condoms in the system, so everyone has to buy them," Fleras said. "Some are not using them. A lot of freelance sex workers may use a condom for the first couple of customers and then stop."¹²⁹ The country coordinator for UNAIDS in the Philippines, Maria Elena Borromeo, observed that it was the street-based sex workers, not the establishment-based ones, who could not afford to buy condoms. "The only source of condoms right now is DKT," she said. "And freelance sex workers can't afford condoms, even if they're cheap."¹³⁰

Dr. Jose Sescon, executive director of the Manila-based Remedios AIDS Foundation, Inc., noted that condom shortages had never been a problem under President Fidel Ramos, whose health secretary, now Senator Juan Flavio Velasco, championed the use of condoms against AIDS. "When Senator Flavio was secretary, the department of health

properly lived out, is proven to be 99% effective, more effective than condoms, pills or IUDs." F. Padilla, "Population Control and CFC," p. 20.

¹²⁸ Human Rights Watch interview with Noel Mandanas, Manila, January 16, 2004.

¹²⁹ Human Rights Watch interview with Jomar B. Fleras, president and CEO, Reachout Foundation International, Manila, January 15, 2004.

¹³⁰ Human Rights Watch interview with Dr. Ma. Elena F. Borromeo, Manila, January 15, 2004.

supplied us with big boxes of condoms, volumes and volumes of them. Now they just supply us with those small boxes.”¹³¹

Human Rights Watch asked a representative of USAID, Dr. Corazon Manaloto, whether USAID was concerned that its decision to stop supplying condoms to the Philippines might adversely affect HIV prevention efforts. Manoloto responded that USAID’s strategy was to promote acceptance for socially marketed condoms sold at subsidized rates in the commercial sector, and to encourage local government units (LGUs) to purchase condoms with local funds. “The Philippines should become self-reliant rather than depending on donors forever,” she reasoned.¹³² At present, only a small fraction of LGUs in the Philippines purchase condoms, and many populations at risk of HIV infection cannot afford even subsidized condoms.

A project officer for the European Union Commission, Ma. Rita R. Bustamante, told Human Rights Watch that the Commission had “not [been] aggressive enough” in confronting the Arroyo administration on condoms. Taking a more aggressive posture would be a “big disaster,” she added, saying:

We know for a fact there has been a government decision to align with the church. There could be a backlash. Why be controversial when we can do it without being controversial? Why rock the boat by speaking boldly? . . . In the end, it will just be an exchange of words here and there, and that will be it. We are doing quite well without being too noisy about it.¹³³

Bustamante added that in this environment, the EU could accomplish more by advocating for condom promotion at the local level, and in that respect had made some progress by supporting the HIV-prevention activities of some local NGOs.

Other donors, such as UNFPA, had not implemented a strategy for addressing the Philippines’ encroaching condom shortage. A UNFPA programme officer, Dr. Moises Serdoncillo, told Human Rights Watch the agency had been providing technical assistance to the Philippines Department of Health on condom procurement; however, he added that the Department of Health had not shown any willingness to procure

¹³¹ Human Rights Watch interview with Dr. Jose Narciso Melchor C. Sescon, Manila, January 20, 2004.

¹³² Human Rights Watch interview with Dr. Corazon R. Manoloto, January 26, 2004.

¹³³ Human Rights Watch interview with Ma. Rita R. Bustamante, project officer, Delegation of the European Commission to the Republic of the Philippines, Manila, January 29, 2004.

condoms, and that the national government “is not even promoting their use.”¹³⁴ Some LGUs were purchasing condoms with local funds, he said, but he did not know how many. Nor was the UNFPA official able to provide an estimate of the number of condoms needed for HIV prevention in the Philippines, or how that demand was going to be addressed in the short term. Asked what would happen in three months’ time, he said, “I don’t know. The stock will be gone.”

Opposition to reproductive health legislation

The development of a national reproductive health policy in the Philippines would have gone a long way towards facilitating access to condoms and HIV/AIDS information at the local level, according to experts. But efforts in 2003 to enact a comprehensive reproductive health bill, which would have included provisions on HIV/AIDS and a budgetary allocation for condom supplies, were successfully blocked by the Catholic church. In May 2003, the Catholic Bishops Conference of the Philippines (CBCP) issued a pastoral letter opposing the enactment of reproductive health legislation, to be read at every Sunday mass in the country.¹³⁵ Although survey data suggest that most Filipino Catholics support candidates who promote family planning, the letter was intended to create the impression of popular support against reproductive health.¹³⁶

The issuance of a pastoral letter formed part of the church’s larger strategy of using its institutional influence to block reproductive health legislation. In August 2002, CBCP president Archbishop Orlando Quevedo warned politicians over church radio that “we will remember you in the next elections” if they supported the bill.¹³⁷ Representative Neric Acosta, one of the co-authors of the reproductive health bill, told Human Rights Watch that in 2003, the bishop of his district organized two demonstrations against him for supporting the legislation, putting his name and face on billboards and “branding me as the devil incarnate.”

I was vilified in two really big church-sponsored events where Catholic schools sent their children. . . . They handed out so-called petitions, petitioning us to withdraw our support for the bill. And they had all of these schoolchildren, who had nary an idea of what it was, signing these

¹³⁴ Human Rights Watch interview with Dr. Moises Serdoncillo, Manila, January 30, 2004.

¹³⁵ Catholic Bishops Conference of the Philippines, “Magdanay Kamo Sako Asin Magdananay Ako Saindo (Juan 15:4),” May 19, 2003.

¹³⁶ A December 2000 survey of Filipino adults conducted by Pulse Asia, for example, revealed that 69 percent of 1200 respondents said they would support a candidate who favored a couple’s free choice of contraceptive methods. Institute for Social Studies and Action, *ReproWatch*, vol. 32, no. 4 (August 16-30, 2002), p. 2.

¹³⁷ *Ibid.*, p. 1.

petitions, denouncing us, denouncing the bills in Congress on reproductive health and population, saying that's just the work of the devil. And then the bishop went on the media saying there were twenty-some thousand signatories, and so Congressman Acosta should heed this, as this is the voice of the people. . . . For a whole week, I almost couldn't eat.¹³⁸

Acosta said that the first demonstration, in April 2003, was advertised as peace rally against the U.S.-led invasion of Iraq, an issue on which he saw eye to eye with the church. "And then the peace rally became a family rally and a pro-life rally," he said, "and then before you knew it, I was the subject of their wrath and indignation."

Acosta also learned that students of Catholic schools had been required by their teachers to attend the rallies, and that some had signed the petitions under pressure. "I talked to a number of high school students who went to these rallies," he said. "I talked to some of their parents, and I said, 'Did they know why they were there, did they know why they were asked to go there?' They said, 'No, we were on a field trip of sorts, we were required, we were going to get extra credit for religion class or something'."

False scientific claims about condoms

Condom opponents in the Philippines have a long history of making false scientific claims about condoms in order to buttress their moral arguments. On August 14, 1994, Jaime Cardinal Sin reportedly told an estimated crowd of 1 million Filipinos that "the tiny AIDS virus . . . can pass right through the pores of the condom."¹³⁹ A similar claim appeared in a pamphlet published by the NGO Pro-life Philippines, which reproduced a diagram of various sperm sizes prepared by researchers at Johns Hopkins University and concluded that "[t]hese manage to escape through flaws or minute fissures with sufficient regularity to cause pregnancy and render the condom quite an ineffective method of preventing pregnancy."¹⁴⁰ As of this writing, the website of Pro-life Philippines states, under the heading "What is AIDS:"

¹³⁸ Human Rights Watch telephone interview with Congressman Neric Acosta, New York, February 11, 2004.

¹³⁹ E.K. Wilkinson, *AIDS Failure Philippines*, p. 98. Wilkinson claims to have attended this rally and heard the claim himself. He also excerpts a transcript of a February 21, 1993 episode of the television show *Mel and Jay*, in which Bishop Teodoro Bacani reportedly said: "And the hole of the smallest condom, according to what was taught us is 0.5 microns. And do you know that the sperm is 0.03 microns? 0.01 microns can easily penetrate the hole that condoms have."

¹⁴⁰ *Ibid.*, pp. 99-102.

Do condoms prevent the spread of AIDS?

NO. And there are other harmful things that condoms do:

1. Condoms tell people that promiscuity is all right.
2. Condoms offer false assurances from HIV infection.
3. Condoms trivialize sex and reduce it to a plaything.¹⁴¹

In 2002, when the NGO Catholics for a Free Choice posted a billboard in Manila opposing the Vatican's stand on condoms, some conservative Catholics responded by citing evidence of condom ineffectiveness.¹⁴²

Volunteers for the Women's Health Care Foundation in Manila City told Human Rights Watch they had witnessed family planning seminars in government health clinics in which nurses taught that condoms contained holes.¹⁴³ This testimony was corroborated by WHCF director, Gladys Malayang.

There is no information given in any government health center about condoms—no posters, no leaflets, no flyers. Only natural family planning. City health workers say condoms are bad for your health, banned by Manila City, and banned by the Catholic church. They say they have holes in them. That's what they're saying, and a lot of people are beginning to believe it.¹⁴⁴

Some members of influential Catholic organizations in the Philippines expressed more moderate views on condom effectiveness. The director of HIV prevention programs at Catholic Relief Services described the approach of her organization as follows:

We do not promote the use of condoms, although we give the information. You can't help but give information. . . . I'm not the one doing the teaching, but our teachers give the truth—that it's not 100 percent effective, that there are still risks.¹⁴⁵

¹⁴¹ See <http://www.prolife.org.ph/article/articleprint/81/-1/34/> (retrieved March 4, 2004) (emphasis in original).

¹⁴² P. Goodenough, "Philippine Pro-Lifers Take On 'Free Choice Catholics'," *Cybercast News Service*, April 19, 2002.

¹⁴³ See testimony in "Local anti-condom ordinances," above.

¹⁴⁴ Human Rights Watch interview with Gladys Malayang, Quezon City, January 28, 2004.

¹⁴⁵ Human Rights Watch telephone interview with Mila Lasquety, Catholic Relief Services, Manila, January 30, 2004.

Sr. Oneng Mendoza, a representative of Caritas Manila, told the 2001 media forum sponsored by the AIDS Society of the Philippines that “I am not condemning the condom but I think it is a good springboard to talk about sex and sexuality . . . [I]f only we could depart from talking about the condom and its supposed lack of efficiency or its connection with promiscuity.”¹⁴⁶ The director of a network of homes and drop-in centers for women and children affected by HIV/AIDS, Sister Mary Soledad (Sol) Perpnan, told Human Rights Watch, “The church may take a stand against condoms as contraception, but when used to prevent a deadly illness, the right to life is higher.”¹⁴⁷

The impact of disparaging condoms on actual HIV risk behavior is “debatable,” according to a 2003 report of the Health Action Information Network (HAIN).¹⁴⁸ In 2001, anthropologist Michael Tan argued that a significant number of Filipinos shunned the use of condoms and that their reported reasons for doing so closely reflected church orthodoxy. “The second leading negative attitude toward condoms consisted of feelings of embarrassment at having to buy a condom at a store,” Tan wrote, referring to a survey of young adults. “Certainly, those feelings come from the way religious conservatives have depicted condoms, associating them with illicit sex and claiming that condom distribution promotes promiscuity.”¹⁴⁹

Human Rights Watch asked the Philippines Secretary of Health, Dr. Manuel Dayrit, how his department responded to false scientific claims about condoms, particularly claims of condom porosity. “We take that as part of the pot of information that goes around,” he said. “So in that instance we would get a second opinion and find out from the manufacturer or whoever if that is an accurate statement. . . . We wouldn’t just accept it at face value unless the evidence was shown.”¹⁵⁰ As of this writing, the website of the Philippines Department of Health states that “safe sex” is “not strongly recommended as an HIV prevention strategy, but mentions “correct and consistent use of condoms” as an option “for people who cannot abstain from sexual contact or who cannot maintain a mutually faithful relationship.”¹⁵¹

¹⁴⁶ AIDS Society of the Philippines, “Condoms: Issues and Controversies,” p. 34.

¹⁴⁷ Human Rights Watch interview with Sr. Mary Soledad Perpnan, president and CEO, Third World Movement Against the Exploitation of Women, Quezon City, January 27, 2004.

¹⁴⁸ Health Action Information Network (HAIN), *HIV/AIDS Country Profile Philippines* (2002), p. 4.

¹⁴⁹ M.L. Tan, “Condoms, chastity and justice,” *Philippine Daily Inquirer*, August 14, 2001.

¹⁵⁰ Human Rights Watch telephone interview with Manuel Dayrit, New York, February 9, 2004.

¹⁵¹ Philippines Department of Health, “AIDS Primer,” <http://www.doh.gov.ph/chd-cv/percent20homepage/primer/AIDSPrimer.htm> (retrieved March 2, 2004).

Some experts felt that the admonition to “be faithful” to one’s partner exposed people to HIV risk just as lying about condoms did, especially people who could not guarantee their spouse’s fidelity. “Women will say, ‘but God will protect me, my husband would never do that,’” said AIDS educator Anna Leah Sarabia. “The realization that their husband is not faithful is more shocking to them than testing positive for HIV.”¹⁵²

Misinformation about condoms and HIV/AIDS among vulnerable populations

Human Rights Watch interviewed numerous individuals at high risk of HIV/AIDS in the Philippines, including male and female sex workers, men who have sex with men, young adults, and migrant workers and their spouses, about their knowledge of HIV/AIDS and how to prevent infection. Given the country’s restricted HIV/AIDS policy environment, it came as no surprise to find that these populations subscribed to dangerous myths about the disease. These myths prevailed despite the fact that domestic law in the Philippines guarantees access to complete HIV/AIDS information in the country’s schools, health facilities, work places, pre-departure seminars for overseas workers, tourist destinations, and local communities.¹⁵³ Especially troubling was the fact popular opinion sometimes reflected—and exacerbated—negative stereotypes about people living with AIDS.

Sex workers

Human Rights Watch interviewed both registered and unregistered sex workers in the Philippines, the former referring to men and women who work in regulated entertainment establishments, and the latter to those who work in illegal brothels or the street. Numerous sex workers said they did not know anything about HIV/AIDS or how to prevent it. Clara S., nineteen, a registered sex worker in Angeles City, told Human Rights Watch.

I’ve heard of HIV, but I don’t know anything about it. I don’t even have a guess. I really don’t know anything. I don’t know anything about condoms, either. None of my customers has ever used one. I really don’t know their purpose. I think maybe the other girls use them—I don’t know why. I’ve seen them, but I don’t know how to use them. Once the other girls were telling jokes about them. My best

¹⁵² Human Rights Watch interview with Anna Leah Sarabia, Quezon City, January 21, 2004.

¹⁵³ Philippine AIDS Prevention and Control Act, art. 1, implemented by rule 2.

friend told me a condom was something you could eat, like chewing gum. It made me laugh and wonder if it was really true.¹⁵⁴

Non-registered sex workers, who worked in illegal brothels or in the street, had similar stories to tell. Leah P., twenty-nine, said she worked illegally in a brothel but attended a government-run social hygiene clinic in Angeles City for routine health care. She said she had learned nothing about HIV/AIDS from the clinic:

I don't know anything about HIV or AIDS. I've heard the word from my customers and people I work with. Some people say that if you have sex with really handsome guys, that's how it starts. Some people say it starts with blow jobs—that's why I don't do blow jobs. I'm too scared.¹⁵⁵

Leah P. said that she sometimes used condoms, but that the most effective way for her to prevent HIV was to wash with water after sex.

I've heard that if you use a condom, you can avoid [HIV]. I use them sometimes, let's say out of ten times, maybe once. Most of my customers don't like them, so to keep clean after sex, we'll wash ourselves. I don't know how effective condoms are against sickness. We wash the sperm from the men right away, because we think it's very effective to use water to wash. . . . What I do is, right after sex I wash myself right away. I've been pregnant twice. Both times it was unplanned.

Government surveys of condom use among sex workers in the Philippines show low levels of consistent condom use, as well as decreases in consistency of condom use over time in numerous cities. Only 30 percent of registered female and freelance sex workers reported consistent condom use in 2002.¹⁵⁶ In one city, consistent condom use among registered sex workers decreased from 68 percent in 1997 to 11 percent in 2002, even though the government had established HIV prevention programs and sentinel

¹⁵⁴ Human Rights Watch interview with Clara S., Angeles City, January 23, 2004.

¹⁵⁵ Human Rights Watch interview with Leah P., Angeles City, January 23, 2004.

¹⁵⁶ "Status and Trends of HIV/AIDS in the Philippines," p. 18, Figure 7.

surveillance in this period.¹⁵⁷ In another, consistent condom use among freelance sex workers decreased from 58 percent in 1997 to 18 percent in 2002.¹⁵⁸

Condom use and HIV/AIDS knowledge was equally low among male sex workers, according to interviews conducted by Human Rights Watch. Joel R., twenty-two, a registered sex worker in Angeles City, said that he had sex with male and female customers “at least three times a week, sometimes more,” but did not know how to protect himself from HIV.

I was tested at the social hygiene clinic for *tulo*,¹⁵⁹ that’s it. . . . They didn’t tell me anything about HIV. I don’t know anything about it. I know what it means—to me, it means you don’t have much more time. I don’t know how you get it, or who has it, or where it exists. I heard about it on TV.¹⁶⁰

Asked what he knew about condoms, Joel R. said:

I would guess a condom is about 60 percent effective against AIDS. I don’t know, maybe you can also catch AIDS through kissing. To protect myself, I clean myself after every customer. I brush my teeth and wash my body.

Many sex workers interviewed by Human Rights Watch subscribed to dangerous myths about condoms, including that they were not necessary with a usual sex partner.¹⁶¹ Jane Perez, program coordinator for the Angeles City AIDS Council, observed that in her city, “the sex workers only use condoms for their one-time partners, but not for their regular partners.”¹⁶² The belief that condom use is unnecessary in long-term or single-partner relationships is especially dangerous for people whose regular partners engage in extramarital sex without consistently protecting themselves. Richard P., thirty-two, a sex worker in Quezon City who also has a girlfriend, told Human Rights Watch that he did

¹⁵⁷ Ibid., p. 19, Table 9.

¹⁵⁸ Ibid.

¹⁵⁹ *Tulo*, the Tagalog word for “drip,” is slang for so-called discharge STDs such as chlamydia and gonorrhea.

¹⁶⁰ Human Rights Watch interview with Joel R., Angeles City, January 23, 2004.

¹⁶¹ Experts attribute inconsistent condom use among sex workers in the Philippines largely to the belief that one cannot get HIV from an intimate sex partner. See, e.g., “Status and Trends of HIV/AIDS in the Philippines,” p. 19.

¹⁶² Human Rights Watch interview with Jane Perez, coordinator, Angeles City AIDS Council, Angeles City, January 23, 2004.

not use condoms with all of his customers, because “sometimes . . . I know the customer, and that he can’t have multiple partners besides me. I know because he tells me.” But Richard P. did not use condoms with his girlfriend because, as he put it:

We’re like husband and wife. Our sex life is mutual, ordinary. We enjoy each other. We don’t use condoms. We know each other. I know that she has no relationship with anyone else. And I know that I’m safe.¹⁶³

Richard P. added that his girlfriend did not know he worked in the sex industry, because “she would not accept it.”

Other sex workers interviewed by Human Rights Watch harbored unfortunate prejudices about HIV/AIDS, including that people with AIDS or STDs were recognizable by their symptoms. “I don’t use condoms—I never have,” said Jericho M., twenty-four, a registered sex worker. “The customers don’t look like they have any sicknesses.” Asked what a “sick” person looked like, Jericho M. shrugged and said, “I don’t know. They looked healthy. They didn’t look like they were sick.”¹⁶⁴

Men who have sex with men

Filipino men who have sex with other men, some of whom assume feminine traits and identify as *bakla* or “queer men,”¹⁶⁵ face a disproportionate vulnerability to HIV/AIDS. Deep stigma, often manifested by outright violence and discrimination, can drive men who have sex with men away from mainstream health services and toward anonymous, casual, and unsafe sexual encounters. As of 2002, 83 percent of reported AIDS cases in the Philippines were attributed to sexual transmission, of which 21 percent involved male-to-male sex.¹⁶⁶

Men who have sex with men interviewed by Human Rights Watch subscribed to a number of dangerous myths about condoms and AIDS. “I don’t ask men to use condoms, because I know them,” said Syper T., eighteen, who sometimes accepted money from men to have sex.¹⁶⁷ Syper T. said he also had sex with girls, but men often approached him to buy sex in a pool hall in Pasay City. “When I have sex with girls,

¹⁶³ Human Rights Watch interview with Richard P., Quezon City, January 19, 2004.

¹⁶⁴ Human Rights Watch interview with Jericho M., Angeles City, January 23, 2004.

¹⁶⁵ The translation of *bakla* into “queer men” is from E.D. Atadero, “Needs assessment on health information sharing dynamics of *bakla* communities,” unpublished report prepared for DKT Philippines, 2003.

¹⁶⁶ “Status and Trends of HIV/AIDS in the Philippines,” p. 14.

¹⁶⁷ Human Rights Watch interview with Syper T., Pasay City, January 28, 2004.

they're not sick," he said, asked whether he used condoms. "They're not like women who sell themselves."

Men who have sex with men also said that condoms reduced sexual pleasure. "There's no thrill if you use it," said Syper T. Aramina F., twenty-one, who said he exchanged sex for money with taxi drivers in Pasay City, said, "I hardly ever use them [condoms]. The customers usually don't want condoms. They say it's a bother, that it disturbs them."¹⁶⁸

Unpublished research provided to Human Rights Watch by the NGO Progay Philippines focused on a number of health issues, including access to condoms, faced by eighty Filipino bakla in Manila and Baguio City. The research concluded that "[d]espite many attempts to share information for safer sex in gay communities, the bakla in many poorer communities do not seem to have heard that condoms are also for gay sex."¹⁶⁹ This may have been because, as one bakla pointed out, condoms were perceived solely as a method of contraception. Of eighty bakla interviewed, only one reported consistent condom use for anal sex.

Even for men who had sex with men and used condoms consistently, Human Rights Watch found that harassment by police could increase HIV risk. "Trina F.", twenty-one, told Human Rights Watch he had learned from an NGO that condoms could prevent HIV and other STDs, but "some police just take the condoms."¹⁷⁰ On one occasion in November 2003, Trina F. was apprehended by police after a friend of his offered sex to an undercover officer. "They found a condom on one of my friends because it was hanging out of his pocket," he said. "It seemed like they got harsher with him because they had evidence."

Adolescents and young adults

For the approximately 16.5 million Filipinos aged fifteen to twenty four, lack of complete information about HIV prevention, including information about condoms, can be a death sentence. The 2002 Young Adult Fertility Survey (YAFS), a survey of almost 20,000 Filipino adolescents from sixteen regions, found that 23.5 percent of respondents had engaged in pre-marital sex, the majority of which was unprotected.¹⁷¹ Only 27.5 percent of sexually active males and 14.9 percent of sexually active females reported

¹⁶⁸ Human Rights Watch interview with Aramina F., Pasay City, January 28, 2004.

¹⁶⁹ E.D. Atadero, "Health information sharing dynamics of bakla communities."

¹⁷⁰ Human Rights Watch interview with Trina F., Pasay City, January 28, 2004.

¹⁷¹ C.M. Raymundo, "Sex Practices and Reproductive Health of Filipino Youth," presentation at the First Philippines National Conference on Sexual and Reproductive Health, Manila, January 16, 2004.

using contraceptives of any kind for their first sexual experience. For their most recent sexual experience, 26.6 percent of males and 21.8 percent of females reported using contraceptives. Adolescents said they had sex to “express love” (40 percent), “release an urge” (14 percent), and satisfy “curiosity” (20 percent). Of those who had engaged in pre-marital sex, 35 percent said they had more than one partner, and 11 percent said they had sex with a same-sex partner.

In 2002, the United Nations reported that most of the world’s young people “have no idea how HIV/AIDS is transmitted or how to protect themselves from the disease.”¹⁷² This observation is borne out starkly in the Philippines, where 73.4 percent of a sample of youth aged 15-24 said in 2002 they thought they had no chance of getting AIDS.¹⁷³ This figure is even higher than it was in 1994, when it stood at 72.8 percent. While 95.1 percent of YAFS respondents said in 2002 they had heard of AIDS, 27.8 said they thought AIDS was curable, compared to 12.5 percent in 1994. This suggests that knowledge of HIV/AIDS among Filipino youth is decreasing over time.

In Manila City, where the mayor had banned condoms from public health clinics, NGOs that specialized in school-based sex education found it difficult to deliver their services. Dr. Marilyn A. Pajel-Calilung, executive director of the NGO Kabalikat, said that sex education there is limited to basic human anatomy, without any discussion of sexual health.

You can’t even begin to discuss reproductive health in any schools in Manila City. . . . The Department of Education claims they have reproductive health included in their curriculum, but when they discuss it in schools, it’s just on the surface. They discuss human anatomy, but not its implications for behavior, economics and risk. It’s a big issue. If we teach students how to use condoms, they think we are also provoking or encouraging them to have sex.¹⁷⁴

Corazon Raymundo, the principal author of YAFS, concurred. “Technical information is not what young people need,” she said. “Youth need people to talk to when they feel

¹⁷² UNICEF, UNAIDS and WHO, *Young People and HIV/AIDS*, p. 13.

¹⁷³ C.M. Raymundo, “Sex Practices and Reproductive Health of Filipino Youth.”

¹⁷⁴ Human Rights Watch interview with Dr. Marilyn A. Pajel-Calilung, executive director, Kabalikat ng Pamilyang Pilipino, Manila, January 16, 2004.

something they can't explain. These are things you can't learn from sex education as it is here in the Philippines."¹⁷⁵

The very provision of the Philippines AIDS law requiring HIV/AIDS education in schools contains a confusing clause mandating that such education “not be used as an excuse to propagate birth control or the sale or distribution of birth control devices.” This clause was inserted to placate religious leaders, who worried that HIV/AIDS education would eventually lead to artificial contraception and abortion. HIV/AIDS educators interviewed by Human Rights Watch found this provision impossible to comply with. According to Marilyn Calilung of the NGO Kabalikat, which provides school-based HIV/AIDS education in Metro Manila:

The Catholic church says that if you want to teach about condoms and AIDS, you can't mention birth control. But how can you distinguish one use of condoms from another? If we are working on STIs and HIV/AIDS, how can we definitively say we are using condoms exclusively for HIV/AIDS? You can mention it, but to define it as two separate things is impossible.¹⁷⁶

Calilung added that principals or guidance counselors sometimes vetted their teaching modules in advance to ensure they did not contain information about artificial birth control such as condoms. “In one school,” she said, “we have difficulties because our contact person, who is a guidance counselor, does not believe in our project and has misconceptions about reproductive health.” She added:

I think the school officials are in a state of denial. They think the condom is not important or necessary, or that it's a sin. I think the issue is that if you teach students how to use condoms, they think you are provoking them to engage in sexual activity.

The testimony of Prue S., sixteen, illustrates the detrimental impact of family planning lessons that discuss only natural methods on HIV prevention. A high school student in Baguio City, Prue S. told Human Rights Watch that he thought that the “calendar method”—a term commonly used in natural family planning materials to refer to the timing of sexual intercourse according to the fertile phases of a woman's menstrual

¹⁷⁵ Human Rights Watch interview with Dr. Corazon Raymundo, Manila, January 21, 2004.

¹⁷⁶ Human Rights Watch interview with Dr. Marilyn Calilung, Manila, January 16, 2004.

cycle—was an effective method of HIV prevention. He described the application of the calendar method to HIV prevention as follows:

There's a certain day or time when you're going to have contact with HIV. . . . With the calendar method, there has to be a gap—it can be a week, or two weeks, it doesn't matter how long—since the last time you had sex, and this gap is agreed upon by both partners. I learned this from a pamphlet. You can do calendar and condoms. One of my gay friends had contact with his boyfriend and he got STDs, because he was doing it every night.¹⁷⁷

While Prue S. could not identify where he saw the “pamphlet” containing this information, his testimony illustrates the dangers of not providing complete information about both behavior change and condom use.

In educating students about HIV/AIDS, schools in the Philippines have to compete with anti-condom messages delivered in some churches. According to YAFS, 18 percent of Filipino youth think that their religion is against family planning. Nelly P., fifteen, told Human Rights Watch that she had learned in church that condoms were only a method of family planning, and an inadvisable one at that.

In church, they say abstinence is the most important thing, and that if you're already married, why would you want to have sex with other people? They really stress morality. I think condoms have been mentioned, but more in conjunction with family planning. They'll say, Why would you try to prevent God's work?¹⁷⁸

Nenet L. Ortega, who does school-based HIV/AIDS education in Manila for the Remedios AIDS Foundation, Inc., added that private Catholic schools were particularly resistant to condom education. “One school said to us, ‘No, you can't say anything about condoms,’” Ortega said. “We said, ‘OK, if that is your wish, we won't discuss anything about condoms—just abstinence and monogamy’.”¹⁷⁹

¹⁷⁷ Human Rights Watch interview with Prue S. Baguio City, January 22, 2004.

¹⁷⁸ Human Rights Watch interview with Nelly P., Baguio City, January 22, 2004.

¹⁷⁹ Human Rights Watch interview with Nenet L. Ortega, program manager, Remedios AIDS Foundation, Inc., Manila, January 20, 2004.

Overseas Filipino workers

The government of the Philippines actively promotes overseas employment, yet its laws and policies do not adequately inform migrant workers of their high vulnerability to HIV/AIDS.¹⁸⁰ This vulnerability stems from a myriad of factors, including homesickness and the desire for sexual contact, unwanted sex (including sexual violence) in the workplace, economic pressure to engage in paid sex to augment income, and vulnerability to sex trafficking.¹⁸¹ The Philippines AIDS Act requires migrant workers to attend a pre-departure orientation seminar (PDOS), which includes a module on HIV/AIDS prepared by the Philippine National AIDS Council.¹⁸² Experts have observed, however, that the HIV/AIDS component of PDOS is truncated, not integrated into the overall discussion of migration realities, and, like the PDOS itself, conducted immediately before departure when the worker is preoccupied with other business.¹⁸³

Malou Marin, executive director of a nongovernmental organization specializing in migration and HIV/AIDS, told Human Rights Watch that she did not offer her organization's services to PDOS, because she felt the process was flawed and that her time would be better spent educating departing migrants and their families at the community level. "HIV/AIDS is often neglected," Marin said of PDOS. "They just do the basic stuff, which isn't relevant to most overseas workers. It's AIDS 101 without any links to migration."¹⁸⁴

Human Rights Watch met Noel P., forty-five, at a home for people living with HIV/AIDS in Manila. Noel P. said he had become infected with HIV in 1999 as an overseas worker in Riyadh, Saudi Arabia. At the time, he said, "I didn't know the mode of HIV transmission. I only knew AIDS was a scary disease." His attitude toward condom use had been shaped in part by what he learned in church.

¹⁸⁰ Overseas Filipino workers (OFWs) accounted for 32 percent of reported AIDS cases in the Philippines as of December 2003. However, because OFWs are subject to mandatory HIV testing unlike other populations, they are likely to be overrepresented in official HIV/AIDS estimates. HIV/AIDS Registry, "Monthly Update: December 2003."

¹⁸¹ For a recent discussion of these vulnerabilities in the context of the Philippines, see Action for Health Initiatives (ACHIEVE), Inc., *Labor Migration and HIV/AIDS: Understanding the Intersections* (2002).

¹⁸² See Philippine AIDS Prevention and Control Act, sec. 7 ("The State shall ensure that all overseas Filipino workers . . . shall undergo or attend a seminar on the cause, prevention and consequences of HIV/AIDS before certification for overseas assignment").

¹⁸³ ACHIEVE, Inc., *Labor Migration and HIV/AIDS*, pp. 13-14. In some cases, applicants have reportedly been given certificates of completion without having attended the PDOS at all. Undocumented migrant workers circumvent PDOS altogether and therefore receive virtually no HIV/AIDS information.

¹⁸⁴ Human Rights Watch interview with Malou Marin, executive director, Action for Health Initiatives (ACHIEVE), Inc., Quezon City, January 28, 2004.

Before I got AIDS, I used to say, “I’m a Catholic, I don’t use condoms” It’s what I learned in church—they are so stuck in procreation. . . . I was on vacation in Dubai, and I took a girl into a hotel, thinking it [AIDS] wouldn’t happen to me. When I got home, I went for voluntary testing and that’s how I found out.¹⁸⁵

Noel P. added that he did not receive adequate post-test counseling when he tested positive for HIV, only prejudice from a health care worker. “I remember that the doctor wanted me to sign for the test results, but she didn’t want me to use her pen,” he said. “I thought, ‘Oh God, this is the one preaching to me about how to avoid HIV transmission?’”

The spouses of migrant workers, no less than migrants themselves, also face a high vulnerability to HIV/AIDS when they are not provided with adequate information. Despite this, the only HIV/AIDS programs for spouses of migrants in the Philippines are carried out by NGOs.¹⁸⁶ Immediate deportation of migrant workers who test positive for HIV, which is a policy in many countries where Filipinos work abroad, further marginalizes workers and their spouses from support services and counseling after the migrants return home. Without proper counseling, many spouses of migrants cling to the myth that fidelity in marriage will protect them from AIDS. “It is a religious belief here that if someone is my partner, I will protect him, and he will protect me,” said Michael Tan. “This is only reinforced by the message that condoms don’t work.”¹⁸⁷

Aimee V., forty-one, told Human Rights Watch her husband infected her with HIV after he returned from a one-year overseas contract in South Africa.

I didn’t know anything about HIV before I was infected. . . . My husband had been an OFW [overseas Filipino worker] in South Africa, and I didn’t know he was infected. . . . When my husband came home, we didn’t use condoms, because I’d already gotten my tubes tied. . . . I

¹⁸⁵ Human Rights Watch interview with Noel P., Manila, January 29, 2004.

¹⁸⁶ In addition, mandatory testing and deportation laws often make it impossible for NGOs to reach HIV-positive migrants and their spouses on their return, because they are often summarily deported without being given any referrals or information about HIV prevention.

¹⁸⁷ Human Rights Watch interview with Dr. Michael L. Tan, Quezon City, January 21, 2004.

thought condoms didn't have any effect on AIDS. I thought they were just for family planning.¹⁸⁸

Aimee V. said she did not find out her husband was HIV-positive until three days before he died, in 1997. By that time, she had been having unprotected sex with him for four years. She also realized that she had breastfed her youngest child until 1994, one year after her probable infection with HIV. She tested positive herself in 1999 but did not have the courage to have him tested. "I can't handle it," she said. "I have no money for treatment."

Sex workers: human rights abuses fuel misinformation

The illegal status of all sex workers in the Philippines predisposes them to HIV infection by impeding their access to information and prevention services. As of December 2002, nearly one-fifth of reported AIDS cases in the Philippines had occurred among men and women working in entertainment establishments, where sex is frequently exchanged for money.¹⁸⁹ Human Rights Watch documented numerous violations of the rights of sex workers, ranging from forced HIV testing to denial of complete HIV/AIDS information, that elevated their risk of HIV infection.

HIV and STD testing and counseling

As noted above, Philippine law requires sex workers who are employees of licensed entertainment establishments—sometimes known as “registered sex workers”—to receive regular screening for STDs other than HIV in government health facilities known as social hygiene clinics. These clinics date back to the U.S. military presence in the Philippines, when American soldiers fueled a high demand for sexually available Filipina women and the U.S. military sought to protect their troops from STDs.¹⁹⁰ The clinics are currently mandated to provide voluntary HIV tests, pre- and post-HIV test counseling and regular HIV prevention seminars, in addition to testing for other STDs. Testimony gathered by Human Rights Watch, however, suggests that some sex workers were not giving their informed consent for HIV testing, making the tests *de facto* mandatory in violation of Philippine law.

¹⁸⁸ Human Rights Watch interview with Aimee V., Manila, January 29, 2004.

¹⁸⁹ “Status and Trends of HIV/AIDS in the Philippines,” p. 13.

¹⁹⁰ Thanh-Dam Truong, *Sex, Money and Morality: Prostitution and Tourism in Southeast Asia* (1990), p. 329, cited in A. Jordan, “Commercial Sex Workers in Asia: A Blind Spot in Human Rights Law,” in Askin and Koenig, eds., *Women and International Human Rights Law*, vol. 2 (Ardsley, NY: Transnational, 2000), pp. 525-585.

Clara S., nineteen, told Human Rights Watch she had been a dancer at an entertainment establishment in Angeles City for four months. She described the treatment she received at the social hygiene clinic as follows.

They have me spread my legs, and they use cotton to get a sample. My friends and I never know if we've passed the tests or not. The nurses walk around and write down the results, but we never find out. . . . Once they told me I failed the test because I was having too much sex. All they said was that sex wasn't good for me, because I was having too much of it. They didn't tell me what disease I had.¹⁹¹

Twenty-seven-year-old Rosie P., a sex worker in Angeles City, said that she opted for regular HIV testing in addition to required STD tests because she "wanted to know" if she was HIV-positive. Still, she could not answer basic questions about HIV transmission.

I know that HIV starts as *tulo*, and then when it gets bad it becomes AIDS. . . . The last time I was tested for HIV was in 2003. They didn't tell me anything about AIDS, because I was [HIV]-negative. Nothing. All I know is that they drew blood from my arm. Sometimes they go to the bar and do tests there. They draw blood from all the girls in the bar.¹⁹²

Jericho M., twenty-four, a registered sex worker in Angeles City, gave a similar account.

I don't know anything about AIDS. All I know about is syphilis. . . . My last HIV test was in 2003. They told me I was getting an HIV test. They said that first HIV shows up as syphilis, and it could be up to four years before you find out if you have AIDS.¹⁹³

Testimony from Diane R., nineteen, suggested that some sex workers may not have been giving their informed consent to HIV tests administered in social hygiene clinics. A registered sex worker for eleven months, Diane R. was under the impression her HIV tests were required.

¹⁹¹ Human Rights Watch interview with Clara S., Angeles City, January 23, 2004.

¹⁹² Human Rights Watch interview with Rosie P., Angeles City, January 23, 2004.

¹⁹³ Human Rights Watch interview with Jericho M., Angeles City, January 23, 2004.

I get tested for HIV once a year. When I come to renew my license, I get tested. It's required. The health clinic told me that, and the place where I work tells me that. I do it because I really need my license. Without it, I can't work. I wouldn't do it if I didn't have to. I don't know why. I only get blood tests if I really need to get them done.¹⁹⁴

In Quezon City, the manager of a gay bar told Human Rights Watch that the Quezon City health department conducted annual mandatory HIV tests of all of the sex workers in the bar.

Once a year, the health department requires a blood extraction for HIV. The health department asked the permission of the bar owner to do the antibody testing. The owner said OK, because they brought a letter from the federal Department of Health. . . . The last time was September 2003. They only tested the sex workers, not the dancers or the receptionist. They tested over twenty people.¹⁹⁵

The manager added that the sex workers never received the results of their HIV tests. "The health office came back after one month," he said, "but by the time they came back, the claim stubs for the results were almost all lost, so no one claimed their result."

Human Rights Watch asked Dr. Celia Flor Brillantes, chief of the social hygiene clinic in Baguio City, how her clinic ensured that sex workers gave full and informed consent to HIV testing. Brillantes said that because of the success of their information and education campaigns, 100 percent of the clinic's patients wanted HIV tests. "We try as much as possible to have them understand they need to be tested," she said. Her response also suggested, however, that informed consent was not something the clinic took seriously.

Perhaps some think it's mandatory, because sometimes it's automatic. . . . If the women start refusing tests, perhaps we would see ourselves as a failure in not making them understand the importance of the test. It's

¹⁹⁴ Human Rights Watch interview with Diane R., Baguio City, January 22, 2004.

¹⁹⁵ Human Rights Watch interview with Luis Gabrenbina, Quezon City, January 19, 2004.

all we're asking of them, we're not asking that much. And besides, it won't hurt them so much. It's just a prick of a needle.¹⁹⁶

HIV testing without informed consent is a violation of Philippine law as well as international public health and human rights standards.¹⁹⁷ Just as important, testing without informed consent may deter people who do not want HIV tests from seeking routine health care. Sex workers who think that attending to a health clinic will result in an involuntary HIV test may sooner not attend a clinic at all—thus being deprived of vital HIV prevention services and even primary medical care. Social hygiene clinics in the Philippines should review their policies in HIV testing to ensure that patients are fully apprised of their option to refuse HIV tests, in accordance with national and international law.

Towards reform of social hygiene clinics

Health experts interviewed by Human Rights Watch identified a number of problems with using a system of social hygiene clinics to prevent HIV/AIDS and other STDs among sex workers. Chief among them was that the clinics functioned more as an employment screening process than as a genuine health service. “The clinics should provide a more honest to goodness testing and treatment for STDs, rather than just a clearance to work in sex establishments,” said Dr. Corazon Manoloto, a public health adviser for USAID.¹⁹⁸ Other experts said that police sometimes used the mandatory testing system as a pretext for harassing sex workers whose tests were not up to date.¹⁹⁹ As a substitute, experts suggested that the government provide confidential STD testing and information through a network of mobile clinics and NGO outreach workers.

Social hygiene clinics also fueled the stereotype that sex workers were an unsanitary population that needed to be kept clean for their customers, experts said. “Even the term ‘social hygiene clinic’ itself is so repulsive,” said Dr. Michael Tan. “It’s all about keeping the sex workers clean for the men.”²⁰⁰ This approach also created a false sense

¹⁹⁶ Human Rights Watch interview with Dr. Celia Flor Brillantes, medical officer and chief of social hygiene clinic, Baguio City, January 22, 2004.

¹⁹⁷ Philippine AIDS Prevention and Control Act, sec. 16; OHCHR and UNAIDS, *HIV/AIDS and Human Rights: International Guidelines*, guideline 3, para. 28(b) (“Apart from surveillance testing and other unlinked testing done for epidemiological purposes, public health legislation should ensure that HIV testing of individuals should only be performed with the specific informed consent of that individual”).

¹⁹⁸ Human Rights Watch interview with Dr. Corazon Manoloto, Manila, January 26, 2004.

¹⁹⁹ Human Rights Watch interview with Wilfred Bidad, Manila, January 15, 2004; Human Rights Watch interview with Dr. Aurora E. Perez, country director, and Enrico Caja, The Futures Group International/Policy Project, Manila, January 20, 2004.

²⁰⁰ Human Rights Watch interview with Dr. Michael L. Tan, Quezon City, January 21, 2004.

of security among clients. “Because the pink card is stamped, clients think, ‘I’m OK,’” said Carmina Aquino, director of the USAID-funded ASEP program. “It makes women responsible for protecting their customers, when it’s not their responsibility.”²⁰¹ To remedy this problem, one social hygiene clinic in Angeles City had renamed itself the “reproductive health and wellness” center and begun to target populations other than sex workers.

Finally, by targeting establishment-based sex workers for mandatory STD testing, social hygiene clinics inadvertently discouraged others in the community—including freelance sex workers—from seeking health services. Social hygiene clinics are overwhelmingly frequented by sex workers and are typically located in the heart of red-light districts. “The clinics reinforce the idea that the only population that needs HIV testing is registered sex workers,” said Tan. Manoloto noted that freelance sex workers, while allowed in the clinics, might stay away for fear of arrest, inferior treatment, or simply because “the clinic has been branded as being for registered sex workers.”

²⁰¹ Human Rights Watch interview with Dr. Carmina Aquino, Manila, January 19, 2004.

VI. GOVERNMENT RESPONSE

Human Rights Watch interviewed a number of government officials in the Philippines about the adequacy of HIV/AIDS information for populations at risk of infection. Dr. Manuel Dayrit, the Secretary of Health and chair of the Philippines National AIDS Council (PNAC), told Human Rights Watch that his department's policy was "to provide as much information as possible" about HIV/AIDS, but that "the preferred message for avoiding HIV infection for the general population would be to avoid risky sex and [practice] abstinence." Dayrit expanded on this as follows:

The use of condoms would be more appropriate for people who are already engaging in high-risk behavior. . . . The message that would be given is that the best way to avoid HIV is to abstain from risky behavior, not to use injecting needles, and if you can't help yourself, you have to consider using a condom.²⁰²

On the issue of the government's supplying condoms to vulnerable populations, especially in places where local governments were not doing so, Dayrit said that as long as USAID and other donors were donating condoms, "given the tightness of the budget, . . . money won't be used for that purpose." Asked whether the government might pick up the slack when USAID ended its condom shipments, he replied, "Perhaps, I don't know. Donations won't end until three or four years."²⁰³ In July 2002, newspaper columnist Rina Jimenez-David reported that President Gloria Macapagal-Arroyo had responded "No" to the same question.²⁰⁴

Human Rights Watch asked Secretary Dayrit about the alleged diversion of P50 million worth of national funds from contraceptive supplies to natural family planning. He replied that the government had adopted a "nuanced" approach whereby the national health department would finance natural family planning for those who wanted it, and local governments would finance artificial contraception. For its part, the national government had already awarded a P50 million (approximately U.S.\$888,000) contract to

²⁰² Human Rights Watch telephone interview with Dr. Manuel Dayrit, New York, February 9, 2004.

²⁰³ In fact, USAID sent what it said would be its final shipment of condoms to the Philippines in November 2002. As noted above, an official of UNFPA told Human Rights Watch in January 2004 that the Department of Health's condom stocks would be depleted within three months. It is possible that Dayrit was referring to condoms donated by other sources.

²⁰⁴ Philippine Legislators' Committee on Population and Development Foundation, Inc. (PLCPD), "Government Must Take Responsibility for Reproductive Health – RHAN [Reproductive Health Action Network]," *The Advocacy Chronicle*, August 2002, <http://www.plcpdfound.org/News/aug/govt.asp> (retrieved March 25, 2004).

an NGO, Couples for Christ, to teach natural family planning. By contrast, the entire HIV prevention budget of the ministry of health was, according to Dayrit, “in the neighborhood of P100 million [approximately U.S.\$1,776,000].” Dayrit defended this expenditure on natural family planning in these terms:

People pay lip service to natural methods, but actually they don’t understand it. They think rhythm and withdrawal are the only natural methods, which they’re not. So the national government is saying, we’ll primarily promote natural, which has never been truly promoted before. So artificial methods can continue to be promoted, particularly for local governments who can distribute artificial contraception in their health centers any way. So it’s a very nuanced policy.

Asked whether a national policy on condoms was needed to leverage local resources, Dayrit said this was a “sweeping generalization,” and that many local governments had funded condoms on their own initiative. He acknowledged that Manila City had banned all artificial contraception, saying that Mayor Atienza “is given local government authority to decide on these issues,” and “we can only persuade them, but we cannot for example push them.” He later added that the passage of a national reproductive health law would mandate Manila City to provide reproductive health services, which is precisely why he thought the proposed bill was so controversial.

Human Rights Watch asked an official of the Department of Interior and Local Government (DILG), Assistant Secretary Austere Panadero, about the effectiveness of delegating condom promotion efforts to the local level without a clear national policy. “It’s a political issue,” he said, adding:

The president said it has to be a local action. There will not be a national policy on 100 percent condom use. The church is very influential here. The condom issue is not seen as an HIV issue—it’s associated with artificial birth control.²⁰⁵

Panadero said that as of January 2004, AIDS ordinances had been enacted in eighteen LGUs, and that DILG’s ultimate target was forty cities.

²⁰⁵ Human Rights Watch interview with Austere A. Panadero, assistant secretary, Department of the Interior and Local Government, Quezon City, January 26, 2004.

Human Rights Watch interviewed the officer in charge of the Philippines National AIDS Council, Dr. Rhoderick Poblete, about various obstacles to implementation of the national AIDS Act. Poblete said that the impact of the church on HIV prevention efforts was “very evident” at the national level, and he cited provisions of the AIDS Act requiring abstinence messages on condom packaging (a measure he said had not been enforced) and restricting condom information in schools.²⁰⁶ The church is “that silent and invisible hand” when it comes to AIDS policy, he said. In the area of school-based HIV/AIDS education, Poblete said that a curriculum developed by the Department of Education in 1996 had “not yet been fully implemented,” and that this was being done “slowly, in collaboration with some parent-teacher associations.” One obstacle to school-based HIV/AIDS education was that school administrators would generally not implement it without “a big national memo” directing them to do so.

On the issue of HIV prevention among sex workers, Poblete said that “we have two contrary policies” in the Philippines, one of which requires STD testing as a prerequisite for employment in entertainment venues, and the other of which forbids mandatory HIV testing. Asked whether safeguards existed to ensure informed consent for HIV testing, Poblete said that the government relied on NGOs to inform sex workers of their right to refuse testing. “They are already informed of their rights before they go to the [social hygiene] clinic,” he said. “The check and balance comes from the interface with NGOs.” Poblete said that outside of government-supervised sentinel surveillance sites, “you will hear horror stories from NGOs and vulnerable populations that some of them were required to be tested for HIV.”

Interviews with local health officials in the Philippines shed further light on the government’s perspective on HIV prevention. The chair of the Baguio AIDS Watch Council, Dr. Charles L. Cheng, told Human Rights Watch that his area had “a long way to go in terms of addressing gaps in knowledge” of HIV, and that their information and education campaigns had reached “maybe 10 percent of the population.”²⁰⁷ Among the neglected populations, he said, were freelance sex workers, whom the city lacked “the manpower, logistics, and vehicles” to reach, as well as clients of sex workers. Jane Perez, program coordinator for the Angeles City AIDS Council, expressed the same challenge of reaching freelance sex workers with HIV testing and preventing services. “Some sex workers don’t even want services, because they don’t want people to know they are sex workers,” she said. “They are a population in hiding.”²⁰⁸

²⁰⁶ Human Rights Watch interview with Dr. Rhoderick Poblete, Quezon City, January 26, 2004.

²⁰⁷ Human Rights Watch interview with Dr. Charles L. Cheng, medical director, Baguio City AIDS Watch Council, Baguio City, January 22, 2004.

²⁰⁸ Human Rights Watch interview with Jane Perez, January 23, 2004.

VII. CONCLUSION

The passage of the Philippine AIDS Prevention and Control Act in 1998 marked a watershed in the country's fight against HIV/AIDS. Six years later, however, implementation of this law is plagued by religious opposition to condoms, lack of political will, and deliberate government policies that interfere with the provision of complete HIV/AIDS information. HIV prevention in the Philippines is conducted in an environment both hostile to reproductive health and conducive to messages that privilege sexual abstinence over condom use. However comprehensive the AIDS law on paper, it has proved a weak match for government-promoted anti-condom policies and misinformation about HIV/AIDS.

To a large extent, HIV prevention efforts in the Philippines are a casualty of the politics of birth control. Many people at risk of HIV view condoms as purely a method of contraception, a predictable outcome of the Catholic church hierarchy's denunciation of condoms as a form of birth control. The Philippines Department of Health diverts scarce resources away from effective HIV/AIDS education and prevention to organizations that promote natural family planning, ignoring the fact that these programs offer limited protection against HIV or against pregnancy. Religious conservatives oppose comprehensive reproductive health legislation, minimizing the critical link between women's health and HIV prevention. Such actions closely mirror trends in the United States, where restrictions on international family planning services have had a devastating impact on HIV prevention efforts.

Like their counterparts in the United States, however, condom opponents in the Philippines do not stop at birth control. At their most extreme, they oppose condom use for any purpose and make false scientific claims about the effectiveness of condoms against HIV/AIDS. They demonize condoms not only as tantamount to abortion, but as a promoter of sexual promiscuity and moral weakness. In response to rising HIV rates, they offer "abstinence until marriage" as a primary prevention strategy, even for populations such as sex workers and gay men. Such messages imply that marriage is the ultimate prophylactic against AIDS, despite the prejudice this implies for many people living with the disease, as well as the risk it poses for people who cannot rely on their spouse's fidelity.

In this environment, service providers who attempt to deliver comprehensive HIV prevention services confront constant resistance—or worse, possible retribution from government officials. School-based educators are told to withhold information about condoms from students, while others are told to sanitize comprehensive HIV prevention

materials on television, radio, and the Internet. Nongovernmental organizations that advocate for expanded condom access risk censure from anti-condom elected officials. Community health outreach workers resort to distributing condoms in inconspicuous places for fear of being noticed by city authorities and told to cease and desist.

Restricting access to condoms not only violates individual human rights, but also detracts attention from the larger challenges of HIV prevention. Preventing HIV/AIDS requires a full range of human rights protections for people at risk of HIV, including legal protections that enhance women's ability to negotiate safer sex, freedom from police harassment for populations such as sex workers and men who have sex with men, and access to female-controlled HIV prevention technologies such as female condoms and microbicides.²⁰⁹ Male latex condoms cannot and will not slow the spread of AIDS until marginalized populations, particularly women, are able to negotiate condom use and make informed decisions about their health. In the meantime, the struggle to empower vulnerable populations to protect their health is only frustrated by governments who question the efficacy and morality of condom use in the name of an agenda other than HIV prevention.

In the Philippines, as in any country, preventing HIV/AIDS requires that the government not only refrain from outright censorship, but actively confront misinformation and take steps to ensure that vulnerable populations can make informed decisions about their health. Governments that are charged with the protection of public health cannot sit back and allow condoms to be publicly disparaged while people become infected with HIV. They cannot, if they are to respect the rights to information, health and life, support programs that make misleading statements about condoms while at the same time failing to implement programs that in fact are the most effective at preventing this fatal disease.

The Philippines has all the ingredients of an explosive AIDS epidemic: widespread high-risk behaviors, low AIDS awareness, sporadic condom use—and a government that panders to anti-condom Catholic bishops. The country appears to have an opportunity to stave off an HIV/AIDS catastrophe, but only if it acts quickly and decisively. Promoting condoms as part of a comprehensive HIV prevention strategy would not just be sound health policy. It would be a test of the government's commitment to

²⁰⁹ See, e.g., L.L. Heise and C. Elias, "Transforming AIDS Prevention to Meet Women's Needs: A Focus on Developing Countries," *Social Science and Medicine*, vo. 40, no. 7, pp. 931-943 (1995), especially pages 936-938. See also, Human Rights Watch, "Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa" (New York: Human Rights Watch, 2003), and reports cited therein.

confronting the stigma of HIV/AIDS and respecting the dignity and human rights of those living with and affected by the disease.

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