

Imbong vs Ochoa

## **FACTS**

On December 21, 2012, the Republic Act (R.A.) No. 10354, otherwise known as the Responsible Parenthood and Reproductive Health Act of 2012 (RH Law), was enacted by Congress.

14 petitions and 2 petitions-in-intervention were filed by petitioners praying for the declaration of the RH Law as unconstitutional on the grounds, as alleged by the petitioners, that it violates:

1. Rights to life
2. Rights to health
3. Freedom of expression and speech
4. Privacy of families
5. Academic freedom
6. Due process of law
7. Equal protection and
8. Against involuntary servitude.

Petitioners also contended that RH law intrudes in the autonomy of local governments and the ARMM, and violate the natural law, and that delegation of authority to the FDA is invalid.

On March 15, 2013, the RH law took effect but on March 19, 2013, after considering the issues and arguments raised, the Court issued the Status Quo Ante Order (SQAQO), which effected a 120-day halt on the implementation or until July 17, 2013.

The Status Quo Ante generally states that the government has already supported this kind of law even as early as 1966 until August 2009. The Status Quo Ante shows the series of laws enacted which concludes the RH Bill is just an enhancement measure to fortify and make effective the current laws on contraception, women's health and population control.

Despite the legislative measures in the past, the population of the country kept on galloping at an uncontrollable pace. The RH Law role is to make it mandatory for health providers to provide information on the full range of modern family planning methods, supplies and services, and for schools to provide reproductive health education. To put teeth to it, the RH Law criminalizes certain acts of refusals to carry out its mandates.

On May 30, 2013, the Court held a preliminary conference with the counsels of the parties to identify the pertinent issues raised by the parties and the sequence by which these issues were to be discussed in the oral arguments.

On July 9 and 23, 2013, and on August 6, 13, and 27, 2013, the cases were heard on oral argument.

On July 16, 2013, the SQAQO was ordered extended until further orders of the Court.

Thereafter, the Court directed the parties to submit their respective memoranda within sixty (60) days and, at the same time posed several questions for their clarification on some contentions of the parties.

Petitioners prayed to maintain the status quo.

## **ISSUES**

### **I. PROCEDURAL ISSUES:**

- 1] Power of Judicial Review
- 2] Actual Case or Controversy
- 3] Facial Challenge
- 4] Locus Standi
- 5] Declaratory Relief
- 6] One Subject/One Title Rule

### **II. SUBSTANTIVE: Whether the RH law is unconstitutional:**

- 1] Right to Life
- 2] Right to Health
- 3] Freedom of Religion and the Right to Free Speech
- 4] The Family
- 5] Freedom of Expression and Academic Freedom
- 6] Due Process
- 7] Equal Protection
- 8] Involuntary Servitude
- 9] Delegation of Authority to the FDA
- 10] Autonomy of Local Government/ARMM

## **RULING ON PROCEDURAL ISSUES**

### **1. Whether the Court can exercise its power of judicial review over the controversy.**

**YES.** The Court may pass upon the constitutionality of acts of the legislative and the executive branches, since its duty is not to review their collective wisdom but to make sure that they have acted in consonance with their respective authorities and rights as mandated of them by the Constitution. If after said review, the Court finds no constitutional violations of any sort, then, it has no more authority of proscribing the actions under review. This is in line with Article VIII, Section 1 of the Constitution which expressly provides:

Judicial review is limited by four exacting requisites, viz : (a) there must be an actual case or controversy; (b) the petitioners must possess locus standi; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the *lis mota* of the case.

All requisites were met.

### **2. Whether on Not there is an Actual Case or Controversy**

**Yes.** An actual case or controversy means an existing case or controversy that is appropriate or ripe for determination, not conjectural or anticipatory, lest the decision of the court would amount to an advisory opinion.

Considering that the RH Law has already taken effect and that budgetary measures have already been passed, the subject petitions present a justiciable controversy. As stated earlier, when an action of the legislative branch is seriously alleged to have infringed the

Constitution, it not only becomes a right, but also a duty of the Judiciary to settle the dispute.

### **3. Whether or not the court may apply Facial Challenge**

**Yes it can.** This Court, under its expanded jurisdiction, is mandated by the Fundamental Law not only to settle actual controversies involving rights which are legally demandable and enforceable, but also to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch of the Government.

### **4. Whether or not the Petitioners have Locus Standi**

**Yes.** The petitioners invoke the "transcendental importance" doctrine and their status as citizens and taxpayers in establishing the requisite locus standi. The Court cannot exercise judicial restraint at this time when rights enshrined in the Constitution are being imperilled to be violated. To do so, when the life of either the mother or her child is at stake, would lead to irreparable consequences.

### **5. Whether or not Petitioners are praying for Declaratory Relief**

**YES.** The respondents also assail the petitions because they are essentially petitions for declaratory relief over which the Court has no original jurisdiction. Suffice it to state that most of the petitions are praying for injunctive reliefs and so the Court would just consider them as petitions for prohibition under Rule 65, over which it has original jurisdiction. Where the case has far-reaching implications and prays for injunctive reliefs, the Court may consider them as petitions for prohibition.

### **6. Whether or not the One Subject-One Title is violated**

**NO.** The RH Law does not violate the one subject/one bill rule: The one subject/one title rule expresses the principle that the title of a law must not be "so uncertain that the average person reading it would not be informed of the purpose of the enactment or put on inquiry as to its contents, or which is misleading, either in referring to or indicating one subject where another or different one is really embraced in the act, or in omitting any expression or indication of the real subject or scope of the act."

Considering the close intimacy between "reproductive health" and "responsible parenthood" which bears to the attainment of the goal of achieving "sustainable human development" as stated under its terms, the Court finds no reason to believe that Congress intentionally sought to deceive the public as to the contents of the assailed legislation.

## **RULING ON SUBSTANTIVE ISSUES**

### **1. Does RH Bill violate the Right to life? No.**

This issue relies on the answer as to when life of a fetus begins in order to define life. It was established that life is not synonymous with civil personality. One need not acquire civil personality first before he/she could die. Even a child inside the womb already has life.

After study of the deliberation of the framers of the law, it was established that life begins at fertilization, so that when there is no union yet of the sperm and egg, there is no life to speak of and there is no right to be protected yet.

Contraceptives that kill the ovum (fertilized egg) are banned. Only those that prevent the union of the egg and sperm are permitted to be used.

## **2. Does RH Bill violate The Right to Health? No.**

In the distribution by the DOH of contraceptive drugs and devices, the provisions of R.A. No. 4729 ensures that the contraceptives to be procured shall be from a duly licensed drug store or pharmaceutical company and that the actual dispensation of these contraceptive drugs and devices will done following a prescription of a qualified medical practitioner. The distribution of contraceptive drugs and devices must not be indiscriminately done. The public health must be protected by all possible means.

## **3 -Freedom of Religion and the Right to Free Speech**

### **Does RH bill violate Right to Freedom of Religion? No.**

The state may still pursue its objectives without being dictated by policies of any religion. To allow any religion to dictate the state would be unconstitutional. By seeking the declaration that the RH Law is unconstitutional, the petitioners are asking that the Court recognize only the Catholic Church's sanctioned natural family planning methods and impose this on the entire citizenry.

### **Does RH Law violate Right to Free Speech? Yes.**

RH law threatens conscientious objectors of criminal prosecution, imprisonment and other forms of punishment, as it compels medical practitioners 1] to refer patients who seek advice on reproductive health programs to other doctors; and 2] to provide full and correct information on reproductive health programs and service even against their beliefs. As the Implementing Rules and Regulations of the RH Law provides, skilled health professionals who are public officers such as, but not limited to, Provincial, City, or Municipal Health Officers, medical officers, medical specialists, rural health physicians, hospital staff nurses, public health nurses, or rural health midwives, who are specifically charged with the duty to implement these Rules, cannot object as they are considered as conscientious objectors, thus suppressing the right of free speech.

## **4-Does the RH Law violate constitutional provisions on the Family and the Right to Privacy? Yes**

RH law violates the provisions of the Constitution by intruding into marital privacy and autonomy by giving absolute authority to the spouse who would undergo a procedure, and barring the other spouse from participating in the decision would drive a wedge between the husband and wife, possibly result in bitter animosity. So as debarment of parental consent in cases where the minor, who will be undergoing a procedure, is already a parent or has had a miscarriage. Even if she is not yet emancipated, the parental authority is already cut off just because there is a need to tame population growth.

## **5 - Does RH Law violate constitutional provisions on Academic Freedom? Undecided.**

At this point, suffice it to state that any attack on the validity of Section 14 of the RH Law is premature because the Department of Education, Culture and Sports has yet to formulate a curriculum on age-appropriate reproductive health education.

While the Court notes the possibility that educators might raise their objection to their participation in the reproductive health education program provided under Section 14

of the RH Law on the ground that the same violates their religious beliefs, the Court reserves its judgment should an actual case be filed before it.

**6 - Does RH Law violate constitutional provision on Due Process? No.**

The RH law is not vague and confusing. "Private health care institution" is the same with "private health care service provider". The same with "service" and "methods".

**7-Does RH law violate constitutional provisions on Equal Protection? No.**

Pursuant to Section 11, Article XIII of the Constitution recognizes the distinct necessity to address the needs of the underprivileged by providing that they be given priority in addressing the health development of the people. RH Law prioritizes poor and marginalized couples who are suffering from fertility issues and desire to have children. It also sanctions abortion as Section 3(1) explains, the "promotion and/or stabilization of the population growth rate is incidental to the advancement of reproductive health."

**8- Does RH law violate constitutional provisions on Involuntary Servitude? No.**

While petitioners aver that requiring private and non-government health care service providers to render forty-eight (48) hours of pro bono reproductive health services amounts to involuntary servitude because it requires medical practitioners to perform acts against their will, it can hardly be considered as forced labor, as reproductive health care service providers have the discretion as to the manner and time of giving pro bono services.

**9-Whether or not the Delegation of Authority to the FDA is valid. Yes.**

Section 4 of R.A. No. 3720, as amended by R.A. No. 9711 states that powers and duties of the FDA are specific to enable the agency to carry out the mandates of the law. Being the country's premiere and sole agency that ensures the safety of food and medicines available to the public, the FDA was equipped with the necessary powers and functions to make it effective.

**10- Does RH Law Infringe Autonomy of Local Governments and the Autonomous Region of Muslim Mindanao (ARMM)? NO.**

Unless an LGU is particularly designated as the implementing agency, it has no power over a program for which funding has been provided by the national government under the annual general appropriations act, even if the program involves the delivery of basic services within the jurisdiction of the LGU.

In this case, a reading of the RH Law clearly shows that whether it pertains to the establishment of health care facilities, the hiring of skilled health professionals, or the training of barangay health workers, it will be the national government that will provide for the funding of its implementation. Local autonomy is not absolute. The national government still has the say when it comes to national priority programs which the local government is called upon to implement like the RH Law.

The fact that the RH Law does not intrude in the autonomy of local governments can be equally applied to the ARMM. The RH Law does not infringe upon its autonomy.

**11 - Natural Law**

The Court does not duly recognize it as a legal basis for upholding or invalidating a law. Our only guidepost is the Constitution. While every law enacted by man emanated from what is

perceived as natural law, the Court is not obliged to see if a statute, executive issuance or ordinance is in conformity to it.

At any rate, as earlier expounded, the RH Law does not sanction the taking away of life. It does not allow abortion in any shape or form. It only seeks to enhance the population control program of the government by providing information and making non-abortifacient contraceptives more readily available to the public, especially to the poor.

**HELD:**

**Petitions are PARTIALLY GRANTED. Accordingly, the Court declares R.A. No. 10354 as NOT UNCONSTITUTIONAL except with respect to the following provisions which are declared UNCONSTITUTIONAL:**

- 1) Section 7 and the corresponding provision in the RH-IRR insofar as they: a) require private health facilities and non-maternity specialty hospitals and hospitals owned and operated by a religious group to refer patients, not in an emergency or life-threatening case, as defined under Republic Act No. 8344, to another health facility which is conveniently accessible; and b) allow minor-parents or minors who have suffered a miscarriage access to modern methods of family planning without written consent from their parents or guardian/s;
- 2) Section 23(a)(l) and the corresponding provision in the RH-IRR, particularly Section 5 . 24 thereof, insofar as they punish any healthcare service provider who fails and or refuses to disseminate information regarding programs and services on reproductive health regardless of his or her religious beliefs.
- 3) Section 23(a)(2)(i) and the corresponding provision in the RH-IRR insofar as they allow a married individual, not in an emergency or life-threatening case, as defined under Republic Act No. 8344, to undergo reproductive health procedures without the consent of the spouse;
- 4) Section 23(a)(2)(ii) and the corresponding provision in the RH-IRR insofar as they limit the requirement of parental consent only to elective surgical procedures.
- 5) Section 23(a)(3) and the corresponding provision in the RH-IRR, particularly Section 5.24 thereof, insofar as they punish any healthcare service provider who fails and/or refuses to refer a patient not in an emergency or life-threatening case, as defined under Republic Act No. 8344, to another health care service provider within the same facility or one which is conveniently accessible regardless of his or her religious beliefs;
- 6) Section 23(b) and the corresponding provision in the RH-IRR, particularly Section 5 . 24 thereof, insofar as they punish any public officer who refuses to support reproductive health programs or shall do any act that hinders the full implementation of a reproductive health program, regardless of his or her religious beliefs;
- 7) Section 17 and the corresponding provisions in the RH-IRR regarding the rendering of pro bona reproductive health service in so far as they affect the conscientious objector in securing PhilHealth accreditation; and
- 8) Section 3.0l(a) and Section 3.01 G) of the RH-IRR, which added the qualifier "primarily" in defining abortifacients and contraceptives, as they are ultra vires and,

therefore, null and void for contravening Section 4(a) of the RH Law and violating Section 12, Article II of the Constitution.

The Status Quo Ante Order issued by the Court on March 19, 2013 as extended by its Order, dated July 16, 2013 is hereby **LIFTED**, insofar as the provisions of R.A. No. 10354 which have been herein declared as constitutional.

SO ORDERED.

JOSE CATRAL MENDOZA  
Associate Justice