The Sustainable Development Goals

Diffusion and Contestation in Asia and Europe

Edited by Paul Bacon, Mina Chiba and Frederik Ponjaert

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The Philippines

Elena Avramovska

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Introduction

In the Sustainable Development Goals (SDGs), sexual and reproductive health is framed as a human right. The prominence the SDGs give to this set of rights can be traced back to the landmark International Conference on Population and Development (ICPD) in Cairo in 1994. The ICPD opened roads for building an international framework on reproductive health rights, and the subsequent Beijing Platform for Action marked a normative shift from 'population control' to placing human rights at the core of population debates (Chandra-Mouli et al., 2015). In addition, the programme for action demanded the inclusion of gender equality and women's empowerment, and the needs of young people and adolescents (Haslegrave, 2013). Despite these milestones, the full inclusion of sexual and reproductive health into development has not always been steady. Finding consensus on the inclusion of sexual rights was not possible, nor were governments able to reach an agreement on full access to safe abortion (Haslegrave, 2013). Furthermore, since the ICPD, different religious organisations and right-wing governments have made international coalitions that continue to contest progress on gender equality rights (Bob, 2012; Buss, 2000 Chappell, 2006; Collantes, 2017).

Contestation pertaining to sexual and reproductive health rights (SRHR) has also manifested in the context of the Millennium Development Goals (MDGs). The backlash against SRHR resulted in the avoidance of using the term 'reproductive health', intended to replace the term 'maternal health' (Berro Pizzarossa, 2018). In 2005, universal access to reproductive health was brought back into the MDG framework (Haslegrave, 2013). In contrast, the 2030 Agenda for Sustainable Development, similar to the preceding ICPD and the Beijing Platform, makes more specific references to human rights instruments (Berro Pizzarossa, 2018). The protection of sexual and reproductive health is currently reflected in two of the SDG targets: SDG 3.7 and SDG 5.6. The 2030 Agenda for Sustainable Development pledges to ensure universal access to sexual and reproductive health-care services, including family planning, information and education, as well as to integrate reproductive health into national strategies and programmes.

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The following chapter examines how these international accords were implemented in the context of a specific case: the Philippines. It studies the evolution of the Philippine policy framework on sexual and reproductive health and the efforts by various governments to bring this policy domain into conformity with international frameworks, such as the SDGs. Focussing on sexual and reproductive health in the context of the Philippines is important as this policy domain embodies an outlier. In contrast to the notable progress in other legislative spheres on gender equality, such as violence against women and economic and political participation, in the domain of sexual and reproductive health, the country has remained a laggard (David et al., 2018). Abortion has been criminalised for over a century and access to contraceptives has remained highly restricted (Ruiz-Austria, 2004). What this chapter illustrates is the fact that many of the reasons why the Philippines maintained a restrictive legal framework concerning sexual and reproductive health can be understood by looking into the historic trajectory of specific legislation in this domain. Hence, this chapter focuses on the most substantive piece of legislation concerning sexual and reproductive health, *The Responsible Parenthood and Reproductive Health Act of 2012* (known as the RH Law). The many hurdles this bill had to overcome until its passing into law, as well as its contested nature after its adoption, are illustrative of the persistent difficulties governments have in legislating in this policy area.

While norm diffusion literature often assumes that states are unwilling to comply with certain human rights norms, rather than being incapable of doing so (e.g. Börzel & Risse, 2012), this chapter shows the reverse. The cumbersome trajectory of the RH Law illustrates how various governments attempted to make legislative progress in the area of sexual and reproductive health yet were stifled by a coalition led by the Catholic Church of the Philippines. Similarly, while norm diffusion scholarship, in particular in terms of the spiral model, makes a general assumption that civil society actors are either benign or supportive of international human rights norms, this chapter paints a different picture. It shows how various conservative civil society actors, in a coalition with the Catholic Church, acted as 'norm spoilers' with regards to sexual and reproductive health (Sanders, 2018). In this context, the chapter argues that the success of this coalition can be explained by the vast power resources the Catholic Church holds. To understand why it was able to amass these power resources, one needs to look at the role of 'limited statehood' (Börzel & Risse, 2012, 2016). To illuminate this, the chapter adopts a historical lens and discusses how the development of the Philippine state was closely tied to the Catholic Church. Given that historically, the Philippine state formed as a layer on top of a pre-existing institutional network operated by the church, it often failed to gain similar levels of legitimacy and social trust. The specific episode surrounding the RH Law illustrates how the Catholic Church could translate its high degree of legitimacy into political clout, which it then used to disrupt legislative processes in the domain of sexual and reproductive health.

Thus, the chapter proceeds as follows. Firstly, it starts with a theoretical debate on norm diffusion and introduces the idea of 'limited statehood' and

its implications for understanding failures with norm compliance. Secondly, by adopting a historical perspective, it explains how the limited consolidation of the Philippine state in its formative years kept the balance of power between church and state in favour of the church and enabled it to become a forceful veto player in the domain of sexual and reproductive health politics. Finally, the chapter traces the contestations pertaining to the attempts of translating international covenants on SRHR into domestic legislation.

Norm diffusion and areas of limited statehood

The following section discusses the conditions under which states might not comply with international norms and introduces the concept of limited statehood. Before engaging in a discussion of specific conditions that lead to the failure of norm compliance, it needs to be delineated how the concept of 'norm compliance' differs from 'norm commitment', two concepts that are often conflated (for a more detailed discussion see Chapter 2). In line with the definitions posed by Börzel and Risse (2012, p. 7), actors are 'committed' to international norm frameworks when they accept them as valid and binding. In practice, this implies the signing and ratification of international human rights accords. On the other hand, compliance with international norms signifies continued conduct and domestic practices that correspond to international human rights norms. Norm compliance is also known as 'rule-consistent' behaviour (Börzel & Risse, 2012). As discussed in more detail in Chapter 2 with regards to the specific elements of the spiral model, such rule-consistent behaviour is normally preceded by states giving human rights norms a 'prescriptive status' (Risse, Ropp & Sikkink, 2013). This phase of the spiral model is characterised by implementing a variety of state actions, such as translating international covenants of human rights into domestic legislation. The distinction between these concepts is important as the account of the Philippines presents a case in which norm commitment and norm compliance strongly diverged. As this chapter shows, while the country showed strong commitments to international covenants on SRHR, we observe only a 'partial prescriptive status' when it comes to adjusting the national legislation to these norms. Ultimately, this led to incomplete norm compliance with regards to sexual and reproductive health.

Different mechanisms leading to norm compliance have been identified across the literature, such as coercion, changing incentives, and persuasion and discourse (e.g. Checkel, 2001; Risse et al., 2013; Tallberg, 2002). However, scholars still struggle with understanding the varying success of these mechanisms across cases. In this context, Börzel and Risse (2012) advise us to examine the more general scope conditions under which these mechanisms unfold, such as the degree of state centralisation or the type of political regime. When it comes to scope conditions, only recently have scholars started to consider the question of state consolidation. In some early norm diffusion theories (e.g. Risse et al., 1999), it was assumed that states are unwilling, rather than incapable or constrained in their ability to comply with international human rights norms. By taking consolidated statehood

for granted, they assumed that states have a full monopoly over the means of violence and the ability to implement rules, an assumption that proved unattainable in many states. Rectifying this, Börzel and Risse (2012, p. 7) in their updated norm diffusion theory, underlined the importance of distinguishing between consolidated and limited statehood. They define limited statehood as 'parts of a country's territory or policy areas where central state authorities cannot effectively implement or enforce central decisions or even lack the monopoly over the means of violence' (p. 2; see also Risse, 2011)). Most scholars have studied these areas of limited statehood in terms of territorial limitations as more than 70% of all countries in the world contain areas that are not under full control of the central state (Stollenwerk, 2018).

Less attention has been given to the aspect of limited statehood in the context of policymaking (for exceptions see Ellersiek, 2018; Holzscheiter, 2018). Limited statehood in terms of policymaking occurs when the state technically has the capacity to reach a territory, yet it competes with a powerful competitor organisation within this area. This form of limited statehood is, thus, less about technical capacity but about legitimacy (e.g. Gilley, 2009; Levi et al., 2009; Schmelzle & Stollenwerk, 2018). Competitor organisations, whether these are economic, religious or even criminal, are here understood as organisations that enjoy higher levels of legitimacy within a specific cohort of the population or a given territory (Risse & Stollenwerk, 2018). In contrast to the legal authority of modern nation-states, non-state organisations can draw their legitimacy from tradition or long-established customs and social structures, the presence of charismatic leadership or the more effective provision of goods and services (Weber, 2008(1919)).

With regards to the Philippines, the chapter will use the concept of limited statehood to explain how the Catholic Church became a powerful player in the domain of sexual and reproductive health. By adopting a historical perspective, it discusses how, in many ways, the Philippine state consolidation was hindered, especially in its formative years. The difficulty for the Philippine state to consolidate has to be partly understood through the vast pre-existing institutional network of the Catholic Church and its role in providing substantial governing functions. As this chapter shows, the church has continuously substituted the state in the provision of education, health and welfare services (Grzymala-Busse & Slater, 2018). Through this, it gained immense legitimacy and political leverage. Although some of these functions diminished over the years, the church used its political clout to remain a dominant actor in the domain of sexual and reproductive health, both as a moral authority and a veto player in legislative politics. The next sections discuss these processes in more detail.

Limited statehood and SRHR in the Philippines

This chapter uses the concept of limited statehood to explain how the Catholic Church acquired a profound influence in the policy domain of sexual and reproductive health in the Philippines. Looking into history explains how the Catholic

Church gained the necessary legitimacy to function as a veto player (Tsebelis, 2011) in this legislative area.

The evolution of the Philippine state is closely intertwined with the role of the Catholic Church. In the Philippines, there is a strong fusion of national and religious identities (Grzymala-Busse & Slater, 2018). The Catholic Church arrived in the Philippines as a Spanish colonial import and preceded any notion of a nation across the Asian archipelago. Before the Spanish colonisation (1565–1898), the Philippine islands had not been united under a single political power (Grzymala-Busse & Slater, 2018). The Catholic friars became the central authority figures in the country and their first mission was to Christianise the population (Schumacher, 1979; Shirley, 2004). Without a separation of church and state, the Catholic Church swiftly penetrated all spheres of life and slowly became a bedrock of morality and national identity (Moreno, 2008, p. 32). Even after the replacement of Spain as a colonial occupier by the United States in 1898, the fabric of Philippine society remained closely intertwined with Catholicism. While the United States introduced a separation of church and state as well as various political and institutional reforms, it did not challenge the societal authority of the church. The church continued to replace the weak state in the provision of goods and services, such as education, health care and even natural disaster relief, especially in areas distant from the capital (Grzymala-Busse & Slater, 2018). Furthermore, even after Philippine independence from the United States in 1946, there was no secular nation-building process that could have offered a counterweight to the long-established fusion of religious and national identities (Grzymala-Busse & Slater, 2018). Hence, by taking over the functions of the state, the Catholic Church acquired strong legitimacy and social trust, which enabled it to extend its power prerogatives from community life to political institutions.

However, the provision of goods and services was not the only source of legitimacy for the Catholic Church. As discussed in the next section, the church's political authority was additionally heightened in the context of the People's Power Revolution that ousted Ferdinand Marcos. By standing on the right side of history as the main organiser of the revolution, the church once again bolstered its standing as a human rights defender (Boudreau, 2009). While Philippine politics, had been and remains until today, defined by vast inequalities, corruption and elitism, the church managed to create an image of standing above the political as a morally superior entity and later on translated this legitimacy into political power (Grzymala-Busse & Slater, 2018). In particular, it used its political authority to meddle in legislative processes in the area of sexual and reproductive health. The trajectory of the sexual and reproductive health policies in the Philippines, in particular with regards to the enactment of the RH Law, exemplify these arguments in the following section.

The trajectory of sexual and reproductive health policies in the Philippines

The following section examines the evolution of the Philippine policy framework on sexual and reproductive health and the efforts by several governments

to bring this policy domain into conformity with international accords. In particular, it illustrates how, at different points in history, the attempts to legislate in this domain were impeded by the Catholic Church.

As mentioned, before the ICPD in 1994, the provision of reproductive health services did not have a human rights dimension, but it was framed as an issue of population management. Similar developments also occurred in the Philippines. Already under the authoritarian rule of President Ferdinand Marcos (1965–1986), his administration was the first to introduce programmes on family planning which were aimed at regulating the size of the population (Collantes, 2017). Their National Population Programme promoted information and services on family planning, and by doing so, touched upon a domain previously solely held in the hands of the church (Abinales & Amoroso, 2005). These programmes sparked a wide condemnation by the Catholic bishops. In their extensively disseminated pastoral letters,[1] the bishops firmly positioned themselves as being opposed to the use of any modern contraceptive methods. This was the start of a long crusade against any legal regulation in the domain of sexual and reproductive health.

However, the programmes on family planning introduced by Marcos ceased once his dictatorship ended and Corazon 'Cory' Aquino took over the presidency in 1986. Cory Aquino came to power with the help of the People's Power Revolution, which was led by the Catholic Church and a variety of civil society organisations (Abinales & Amoroso, 2005; Boudreau, 2009), including several feminist and women's organisations. The start of her presidency, marked by the drafting of a new constitution, opened avenues for the Catholic Church to meddle in legislative processes in the years to come. The interests of the church were reflected in a variety of constitutional provisions, such as non-taxation of church property and the introduction of religious instruction in public schools (Collantes, 2017). Yet, the strongest legislative gains for the church occurred in the sphere of sexual and reproductive health. Although abortion had been criminalised for centuries, its ban was elevated to the constitutional level with a provision that guaranteed the 'right to life of the unborn' (Melgar et al., 2018). In addition, the constitution reiterated that divorce would remain prohibited by stating that 'marriage, as an inviolable institution, [was] the foundation of the family and shall be protected by the state' (Philippine Constitution, 1987, Article XV, section 2). However, while the Catholic hierarchy opposed legislative progress with regards to sexual and reproductive health, the democratic transition brought a variety of laws on gender equality in various domains due to the pressure of women's and gender organisations. These included policies on violence against women, female political participation and gender budgeting, making the Philippines a leader in these legislative domains in the region and beyond (e.g. David et al., 2018).

Despite the success in other domains on gender equality, struggles to legislate in the area of sexual and reproductive health continued in the following years. The election of Fidel Ramos (1992–1998), the only former Protestant President, brought new attempts to provide contraceptive service to the large

population. These attempts were however swiftly stifled. Soon after taking office, Ramos, as part of his economic reforms, introduced a programme for the promotion of 'freedom of choice' and the use of modern contraceptives. The Catholic bishops responded to this campaign by 'declaring a war' on his policies (Youngblood, 1998, p. 12). The strained relations between Ramos and the Catholic Church further deteriorated with regards to the Philippines' role at the ICPD in Cairo in 1994. In anticipation of the Conference, Cardinal Sin, who was a central figure in the People's Power Revolution in 1986, stepped into the debate claiming that Ramos' programmes were set to 'destroy the family'. In addition, the bishops organised large-scale mobilisations and protests ahead of the event and published new pastoral letters asking Catholics to subvert the governmental proposals. Resulting from this mounting pressure, Ramos replaced two of the representatives scheduled to attend the conference with religious authorities. Furthermore, his administration, together with the Catholic Church, agreed on a joint statement that asserted that the country would stay univocally opposed to abortion, despite abortion being illegal in the Philippines (Youngblood, 1998).

However, a few years later, in 1998, the Department of Health (DOH) adopted a new framework on sexual and reproductive health. In line with the agreed recommendations at the ICPD, the framework aimed at shifting the debate on access to sexual and reproductive health services from being an issue of population management to being a human right. The new programme also aimed at resuming a reproductive health strategy on the national level (Melgar et al., 2018). Yet such attempts remained futile in the next decade. A large coalition headed by the Catholic Church continued to hamper legislation in this domain. The strength of the coalition became particularly evident when looking at the events that preceded the enactment of the Reproductive Health Law in 2012. This will be discussed in more detail in the following section.

Reproductive Health Law of 2012

The following section examines the events preceding the enactment of *The Responsible Parenthood and Reproductive Health Act of 2012*, which became known as the RH Law. As discussed in more detail in the following, the RH Law was enacted after a longer-than-a-decade legislative battle with a conservative coalition led by the Catholic Church. The RH Law was the first of its kind at the national level, as it invokes respect for human rights and non-discrimination. The bill's declaration of principles states the following:

> The state recognizes and guarantees the human rights of all persons that include the right to equality and equity, the right to development, the right to reproductive health, the right to education, and the right to choose and make decisions for themselves. The state shall ensure universal access to reproductive health, services, information, and education.
>
> (House Bill No. 4110)

While the enactment of the legislation was undoubtedly a big success for those who long campaigned for it, its trajectory was arduous, and it fell short of its original intent. For instance, in its final version, the bill mandated that married individuals required spousal consent before having basic reproductive health services, as well as that health practitioners were allowed to deny married couples reproductive health assistance based on their religious beliefs (Melgar & Carrera-Pacete, 2016).

Even in the aftermath of its enactment, the Catholic hierarchy, yet again, demonstrated its stronghold in the domain of sexual and reproductive health. A coalition led by the Catholic Church challenged the law's constitutionality in front of the Supreme Court, which ruled that some of its 'controversial' provisions were unconstitutional. As a result, access to contraceptives for adolescents became further restricted, spousal consent for receiving reproductive health became mandatory and the court broadened the meaning of 'conscientious objection' pertaining to the provision of reproductive health services (Melgar & Carrera-Pacete, 2016). Furthermore, some constraints occurred with regards to its implementation and the de facto availability of contraceptives. After the filing of another petition, the Supreme Court ruled that before the state purchases and distributes them, the Food and Drug Administration (FDA) must certify that they are not an abortifacient, defined as 'any drug or device that induces abortion, or the destruction of the fetus inside the mother's womb' (Republic Act No. 10354). Furthermore, governmental hospitals and local government health institutions were not permitted to purchase or acquire emergency contraceptive pills (Hilbay, 2016).

Challenges before the Supreme Court were only the final strikes the coalition led by the Catholic Church took against this piece of legislation. Attempts at undermining it went as far back as its first draft proposal, which in itself had been a response to a trend of undermining sexual and reproductive freedoms. The first version of the RH Bill was filed in 2001 after a series of decisions that further restricted the already limited access to 'family planning' services across the country. One of these was the banning of family planning services by pro-life executives in the City of Manila and some other local governments (2000–2010). Another was the FDA delisting of the emergency contraceptive pill. Furthermore, the education department stopped a pilot project on adolescent sexual education (2009) and the DOH started using only 'natural family planning' methods (2003–2010) (Melgar et al., 2018, p. 9). Another event that motivated the filing of the RH Bill originated at an international level. In 1999, the United Nations Population Fund (UNFPA) organised the ICPD+5 Conference aimed at revising the implementation of the ICPD Plan of Action. The conference motivated the Philippine delegates to start working on a new reproductive health bill, centred on human rights in line with international frameworks on sexual and reproductive health (Melgar et al., 2018). The filing of the bill sparked a long legal odyssey in the years to come.

The nature of this legal odyssey was unprecedented as it involved a multitude of actors who joined one of two large coalitions: one in favour of the proposed

legislation and one opposed to it. Most of the advocacy activities of the coalition in favour of the RH Bill were headed by a grand non-governmental organisation (NGO) consortium composed of various NGOs who worked on gender equality and sexual and reproductive health. Many of these organisations were long-standing advocates for gender equality in the Philippines (Ocampo, 2014). The RH Bill was also strongly and publicly supported by various government agencies, such as the DOH, the Department of Social Welfare and Development (DSWD) and the Philippine Commission on Women (PCW). In addition, different Christian denominations and the Islamic Clerics of the Autonomous Regime of Islamic Mindanao publicly supported it, as did numerous academics and public figures. It also enjoyed the support of the public, with 71% agreeing to its content, according to the Social Weather Survey of 2008. Most importantly, the proposed legislation was supported by the then President Benigno Aquino III, who became the first-ever Philippine head of state to publicly endorse a piece of legislation that went against the insistence of the Catholic Church for the use of 'natural only' methods of contraception. Aquino's endorsement sparked a fierce reaction and mobilisation by the coalition that opposed the passing of the law.

The opposition to the enactment of the bill was composed of actors with different profiles, including several pro-life organisations, such as 'Couples for Christ' and 'Human Life International'. However, the main protagonist of the so-called 'anti-RH Bill coalition' was the highest body of the Catholic Church: the Catholic Bishops Conference of the Philippines (CBCP). The CBCP had been a central actor in the organisation of the People's Power Revolution in the late 1980s and enjoyed a high 'moral' standing in Philippine society (Bautista, 2010). As a leader of the coalition against the RH Bill, the CBCP took a forceful role and moved the disputes pertaining to the RH Bill from the political institutions and the media to the lay communities. Within its vast institutional network, the church's hierarchy mobilised citizens all across the country and organised large campaigns against the proposed legislation (Ocampo, 2014, p. 14). It continuously instructed citizens not to vote for any politicians who supported the proposed bill (e.g. Collantes, 2017). Furthermore, some religious authorities reprimanded their members for supporting the RH Bill and the CBCP even threatened to deny them religious services (Cornelio & Raffin, 2009; Radford Ruether, 2008). While such strategies might not have impacted legislative processes in other countries, in the Philippines, they proved to be a successful way of hampering the enactment process (Ocampo, 2014).

When seen through the prism of the spiral model of norm diffusion, we could argue that in the Philippines, the norms on sexual and reproductive health reached a 'partial prescriptive status'. As exemplified through the enactment of the RH Law, various governments attempted to shift the discourse on SRHR as well as to change the domestic legislation in line with international norms. However, these processes have only been partially successful. The actual implementation of the prescribed norms has remained incomplete, as the state's ability

to continuously sustain its rule-consistent behaviour with regards to sexual and reproductive health continued to be challenged.

Conclusion

This chapter aimed at examining how international accords on sexual and reproductive health, such as the SDGs, were implemented in the context of the Philippines. It proceeded from the observation that the lack of consistent progress in the domain of sexual and reproductive health stands in stark contrast to the other gender policy areas of the Asian archipelago. The chapter demonstrated how, despite the country showing strong commitments to sexual and reproductive health norms, the actual compliance with these prescribed norms has been incomplete. To examine this discrepancy, the chapter looked closely into the evolution of the most substantive piece of relevant legislation, *The Responsible Parenthood and Reproductive Health Act of 2012*, the chapter shows how a powerful coalition headed by the Catholic Church obstructed governments in their attempts at comprehensively legislating in the domain of sexual and reproductive health. Looking at the reasons for the political clout that the church had in opposing this bill, it introduces the concept of limited statehood. It shows how the church's political power originated in the high degree of legitimacy it had gained throughout history. Functioning as a competitor organisation to the state, when it comes to the provision of goods and services and by having had a unique role during the democratic transition of the country, the church enjoyed a strong moral authority. The case study of the RH Law shows how the church managed to translate this authority into raw political power, which it used to stifle comprehensive legislation in the domain of sexual and reproductive health.

Note

1 Catholic Bishops Conference of the Philippines (CBCP). 1973. *Pastoral Letter of the Catholic Hierarchy of the Philippines on the Population Problem and Family Life*.

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