

Health Headaches Seek State Cure



BY **RHODA U. VIAJAR**

INADEQUATE PUBLIC spending, ineffective health programs, expensive medicines, declining breastfeeding practices, drug cartels, deceptive advertising by milk companies – these are some of the health issues that have long plagued the country and which again caught public attention in the first half of 2007.

As various measures were put forward to address the ills of the health sector, advocates underscored the government's commitments under the United Nation's Millenium Development Goals (MDGs) as well as State obligations in realizing the people's right to health.

The **Right to Health** is enshrined in various international instruments, including the Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention of the Rights of the Child (CRC). Among the recognized rights relating to health are:

- The human right to the highest attainable standard of physical and mental health, including reproductive and sexual health.
- The human right to equal access to adequate health care and health-related services, regardless of sex, race, or



other status.

- The human right to equitable distribution of food.
- The human right to access to safe drinking water and sanitation.
- The human right to an adequate standard of living and adequate housing.
- The human right to a safe and healthy environment.
- The human right to a safe and healthy workplace, and to adequate protection for pregnant women in work proven to be harmful to them.
- The human right to freedom from discrimination and discriminatory social practices, including female genital mutilation, prenatal gender selection, and female infanticide.
- The human right to education and access to information relating to health, including reproductive health and family planning, to enable couples and individuals to decide freely and responsibly all matters of reproduction and sexuality.
- The human right of the child to an environment appropriate for physical and mental development.

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Aside from the various international instruments of which the Philippines is a State Party, our country's Constitution itself sets a clear policy framework regarding the right to health.

Section 15, Article 2 of the 1987 Philippine Constitution states that "The State shall protect and promote the right to health of the people and instill health consciousness among them." Furthermore, Section 11, Article 13 provides that the "State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to people at affordable cost."

However, typical of many other policies and laws that look quite good on paper, the Constitutional recognition of the right to health has barely translated into implementable programs that address the urgent needs of the populace, much less foster an environment

for the achievement of the human right to the “highest attainable standard of physical and mental health.”

Low public spending on health: a perennial problem

Comparative data in 2003 by the National Statistics Coordinating Board (NSCB) on health expenditure of Asian countries against Gross Domestic Product (GDP) show the Philippines spending only 3.2%, much lower than the 5% norm established by the World Health Organization (WHO) for developing countries.

TABLE 1. Health Expenditure in Asian Countries, 2001

| COUNTRY | % of GDP |
|--------------------|------------|
| China | 5.5 |
| Indonesia | 2.4 |
| Malaysia | 3.8 |
| Philippines | 3.2 |
| Singapore | 3.9 |
| Thailand | 3.7 |
| Vietnam | 5.1 |

Source: 2003 PNHA, NSCB. From the paper “Imperatives of Real and Equitable Growth: An Alternative Proposal in Financing the Millennium Development Goals in the 2007 Budget (An NGO-Legislators’ Initiative)”

In its 2007 budget proposal, the Department of Health (DOH) itself notes that despite the increase in trend from 2004 to 2007, the DOH budget remains below its 2002 level. This is not entirely surprising given the government’s skewed budgetary priorities with debt payments perpetually getting the largest slice of the budget pie. Moreover, big amounts of the national budget are usually allocated to discretionary funds such as the pork barrel and the presidential Special Purpose Funds (SPFs) — budgetary items which have been alleged as usual sources of graft and corruption. Financing for health programs as well as other vital social services have therefore remained measly over several years. And the 2007 approved budget, hailed as the first-trillion peso national budget, does not break the pattern.

The problem of limited budget for health is an unassailable fact.



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The Second Philippine Progress Report on the MDGs pointed to low and ineffective public spending for health as one of the largest factors for the poor performance of the health sector in the achievement of the MDGs. How government will manage to reach by 2015 the health-related Millenium Development Goals it has set out to achieve remains a puzzle to many.

“Imperatives of Real and Equitable Growth: An Alternative Proposal in Financing the Millenium Development Goals in the 2007 Budget,” a paper crafted by a group of 22 non-government organizations that include Social Watch Philippines, Freedom from Debt Coalition, Education Network and Womanhealth, in partnership with a number of legislators, noted that while the Department of Health (DOH) has specified concrete ways in achieving MDG targets in its National Objectives for Health 2005-2010, resources and finances have yet to be allocated by the Philippine government. Arguing for a bigger budget for health, the Alternative Budget proposal sought an additional P5,753,494,000 to the Arroyo administrations’ proposed P15,158,832,000 health allocation.

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Among the data highlighted by the paper to indicate the country’s disturbing health situation is a survey by the National Statistics Office in 2003 which revealed that “a child born in the Philippines is at a greater risk of dying than children born in other Southeast Asian countries.” The National Demography and Health Survey showed that the Philippines’ infant mortality rates are much higher compared to its neighboring countries such as Vietnam, Singapore, Thailand, Malaysia and Brunei.

TABLE 2. Infant and child mortality rate in the Philippines and other countries, 1990 & 2003

| COUNTRY | INFANT MORTALITY RATE (per 1000 live births) | | UNDER 5 MORTALITY RATE (per 1000 live births) | |
|--------------------|-------------------------------------------------|-----------|--------------------------------------------------|-----------|
| | 1990 | 2003 | 1990 | 2003 |
| Vietnam | 36 | 19 | 51 | 23 |
| Singapore | 7 | 3 | 8 | 3 |
| Thailand | 34 | 23 | 40 | 26 |
| Malaysia | 16 | 7 | 21 | 7 |
| Brunei | 10 | 6 | 11 | 6 |
| Philippines | 34 | 29 | 66 | 40 |

It was also stressed that despite advances in science and technology, women continue to die due to complications related to pregnancy and childbirth. With 10 Filipino women dying from child-related complications daily, the Philippines is counted as among the countries with the highest maternal mortality rate.

Results of the 2006 Family Planning Survey undertaken by the NSO revealed that for every 100,000 live births, 162 women die during pregnancy and childbirth or shortly after childbirth. Although this is slightly lower than the last available estimate of 172 deaths from the 1998 National Demographic and Health Survey, the NSO reported that the difference is statistically insignificant.

Seeking to address this distressing health situation as well as help government attain MDG goals, particularly targets reducing child mortality (Goal 4), improving maternal health (Goal 5), combating HIV/AIDS malaria and other diseases (Goal 6), the 2007 Alternative Budget identified adjustments and increases in various health budget items. The proposed changes were based on budget gaps in DOH's estimated cost for MDG-related programs and projects.

However, despite the active intervention and earnest lobby of the 2007 Alternative Budget advocates as well as the support of some legislators, the approved 2007 budget barely registered the proposed adjustments. Thus, the 2007 National Budget generally remains inadequate especially in safeguarding and promoting public health. With limited funds, significant advancement in the fulfillment of the Filipino's right to health remains simply an empty promise.

Public health absent in electoral candidates' agenda

Meanwhile, during this year's national elections, a group of health workers lamented the absence of public health in the agenda of political candidates. Gene Nisperos, secretary-general of the Health Alliance for Democracy (HEAD) was quoted in a news report as saying: "Most of the candidates do not even talk about programs to save the ailing health situation in the country."



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Among the health issues that concern many Filipinos are those involving birth control and family planning measures. A survey on family planning conducted by Pulse Asia between February 28 to March 5, 2007 found that 9 out of 10 Filipinos want publicly funded birth control including medication, intra-uterine devices, condoms, ligation and vasectomies.

Of the 1,800 adults surveyed, 76% said candidates in the 2007 elections should address family planning concerns, with 75% pledging to support those willing to fund birth control measures. In spite of this, family planning remained a sensitive issue among candidates as the influential Roman Catholic Church consistently condemned artificial birth control. The Arroyo administration has likewise stood by the church position and continues to give minimal attention and support to reproductive and sexual health.

Cheaper medicines unlegislated in 13th Congress

The 13th Congress adjourned in June 2007 without passing into law a bill that would have made medicines cheaper and more accessible to the Filipino public. Senate Bill 2263 and House Bill 6035, commonly referred to as the Cheaper Medicines Bill, sought to allow parallel importation of cheaper patented medicines and prevent pharmaceutical firms from issuing new patents for new uses of existing drugs.

Had Congress ensured the bill's passage, the development and distribution of generic versions of patented medicines would have been facilitated and affordable medicines consequently made available in the country. Ironically, Congress gave greater priority to the much-criticized anti-terror law that many deem to be violative of human rights.

The need for policy reforms addressing expensive medicines cannot be overemphasized. Next to Japan, the Philippines has the highest medicine prices in Asia. The cost of medicine in the country is 40 to 70% higher than in other ASEAN countries.



TABLE 3. Comparative Trade Prices of Branded Medicines in the Philippines, India and Pakistan (In Philippine Pesos)

| MEDICINE | MANUFACTURER | PHILIPPINES | INDIA | PAKISTAN |
|------------------------|--------------|-------------|--------|----------|
| Ponstan 500mg tab | Pfizer | 21.82 | 2.61 | 1.38 |
| Lopid 300mg cap | Pfizer | 36.39 | 12.27 | 2.72 |
| Buscopan 10mg tab | Boehringer | 9.61 | 2.28 | 0.57 |
| Bactrim 400/80mg tab | Roche | 15.55 | 0.69 | 1.03 |
| Adalat Retard 20mg tab | Bayer | 37.56 | 1.40 | 3.63 |
| Lasix 40mg tab | Aventis | 8.99 | 0.49 | 1.21 |
| Plendil ER 5mg tab | AstraZeneca | 35.93 | 4.58 | 7.78 |
| Diamicron 80mg tab | Servier | 11.46 | 7.05 | 4.71 |
| Ventolin 100mcg inh | Glaxo | 315.00 | 123.31 | 62.10 |
| Voltaren 50mg tab | Novartis | 17.98 | 0.86 | 3.70 |
| Isordil 5mg SL tab | Wyeth | 10.29 | 0.24 | 0.22 |
| Imodium 2mg cap | Janssen | 10.70 | 3.05 | 1.83 |
| Fortum 1g inj | Glaxo | 980.00 | 390.00 | 304.22 |

Source: World Health Organization

Philippine Daily Inquirer (PDI), health advocate Michael Tan explained that countries like India and Thailand have low-cost but good quality medicines because they had earlier declined accession to the international patent system, which the two countries considered unfair for developing countries.

Instead, he said, India practiced a system that recognized product patents but not process patents. This meant that drug companies, using another way or process for manufacturing, was able to produce the same medicine as a patent holder. Over the years, India has developed a national drug industry composed mainly of private companies that were able to put up stiff competition to multinational firms.

A similar track was pursued by Thailand. With both government and private drug companies churning out low-cost medicines, multinationals were compelled to lower medicine prices.

In his own PDI column "As I See It" (June 13, 2007), Neal Cruz attributed lower drug prices in other Asian nations to amendments in their Intellectual Property Code or the passage of laws that allow their local pharmaceutical companies to manufacture the same



drugs under certain conditions.

Meanwhile, the public health situation in the Philippines is remarkably different. For many years now, the medicine market in the country has been controlled by the drug cartel or oligopoly of foreign companies that rake in huge profits and spend large amounts of money on propaganda, marketing and advertising.

Citing that 70% of drug sales in the country are captured by multinational companies, Tan describes the pharmaceutical industry as segmented, "often with two or three multinationals cornering the sales for particular product lines."

Cruz underscored restrictions in the Philippines' Intellectual Property Code (IPC) as among the factors that sustain drug cartels in the country. He cited that importation of cheaper medicines that are the same as those sold in the country by multinational companies are prohibited by the IPC, "even if these medicines are produced by their satellite companies". He also pointed out that the 25-year patent granted to pharmaceutical companies that discovered or developed a particular drug gives companies monopoly of the production and sales of that medicine. Without competition, these companies get away with charging hapless and choiceless Filipino consumers terribly high prices of medicines.

As such, the Philippine medicine market has been a veritable gold mine for many foreign firms. Oxfam's 2006 briefing paper "Patents versus Patients: 5 years after the Doha Declaration" cites the pharmaceutical industry as one of the most profitable with an average profit of 19% annually compared to the 5% average of the world's five hundred richest companies. In addition, companies spend an average of 32% of their revenues on marketing and administration while allocating only 14% on research and development (R & D). Practically all of these drug companies operate in the Philippines.

With huge profits at stake and big money at their disposal, it is no wonder that pharmaceutical firms have aggressively lobbied against the passage of the Cheaper Medicines Bill. At one point









during the bill's deliberations in the Lower House, individuals from the Pharmaceutical and Health Care Association of the Philippines (PHAP) were made to leave the plenary hall. Makati Representative Teodoro Locsin and other legislators were outraged when PHAP lobbyists slipped a note to Locsin asking him to question the quorum and to call on PHAP's Chief Executive Officer Leo Wassmer. The Congress officials took PHAP's act as undue interference as well as an exhibition of corporate arrogance.

It appears that a strong political will must be mustered by government officials in order to resist corporate interests and loosen the stranglehold of drug monopolies. Better access to essential health medicines, which WHO considers as a priority health issue, has to prevail.

Legislation of the Cheaper Medicine Act becomes all the more important and urgent in the midst of international agreements that favor profiteering multinationals. For one, developing countries like the Philippines are confronted with the Trade Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO). The agreement provides for more stringent rules on intellectual property and renders poorer nations more vulnerable to foreign monopolies and expensive medicines.

As struggling governments raised alarm on the potential impact of the TRIPS on public access to medicines and other consequences to public health, WTO members unanimously enacted the Doha Declaration on the TRIPS Agreement and Public Health in 2001. The declaration enables developing countries to enforce public health safeguards and reduce medicine prices through generic competition.

The bill on Cheaper Medicines was a safeguard that could have protected public health interest as well as bring medicine prices down. As health advocates gear up for more active lobbying and engagement for the bill's passage, it is hoped that the newly-elected legislators and members of the 14th Congress will do better than their predecessors. The sooner they approve the Cheaper Medicines Bill, the better for the healthcare-deprived Filipinos.

Fighting for breastfeeding

Apart from the high cost of medicines, another health-related battle is being waged against the Pharmaceutical and Healthcare Association of the Philippines (PHAP). The issue involves stricter regulations on breastmilk substitutes, the unethical marketing of which the DOH identifies as the culprit in the decline in breastfeeding rates.

On June 19, 2007, the Supreme Court heard oral arguments by the DOH and PHAP concerning the implementation of the Revised Implementing Rules and Regulations (RIRR) on Executive Order 51, otherwise known as the Milk Code.

The RIRR that was approved by the DOH in July 2006 prohibits the promotion of breastmilk substitutes for children up to two years of age; bans breastmilk substitutes from making any health and nutrition claims; and requires breastmilk substitute containers to be labeled with a warning that inappropriate preparation and improper use may have health hazards.

Immediately after the issuance of the RIRR, a suit was filed by PHAP against all DOH officials who signed the revised IRR. The pharmaceutical association likewise petitioned the Supreme Court for a temporary restraining order (TRO) on the RIRR's implementation.

The high court denied PHAP's petition. However, on August 15, 2006, it overturned its previous decision and granted the TRO being asked by the pharmaceutical and milk companies.

The Supreme Court's reversal of its earlier ruling came four days after Thomas Donahue, President and Chief Executive Officer of the United States Chamber of Commerce, wrote to President Gloria Macapagal-Arroyo. In his August 15, 2006 letter, Donahue said that the RIRR "would have unintended negative consequences for investors' confidence in the predictability of business law in the Philippines."



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Recognizing the “far-reaching” implications of the dispute over the Milk Code, Chief Justice Reynato Puno said in June 2007 the Supreme Court would soon resolve the case.

For breastfeeding advocates and the Department of Health, tighter regulation on breastmilk substitutes urgently need to be put in place given the alarming decline in the country’s breastfeeding rates, which has resulted in death and malnutrition of children under 5 years of age.

The 2003 National Demographic and Health Survey revealed that:

- Only 16.1 percent of infants are exclusively breastfed up to four to five months of age;
- 13 percent of infants were never breastfed
- 39 percent of infants are using infant formula in their first 12 months of life.

In 2004, there was a reported 82,000 deaths of children under 5 years old, making the Philippines one of the 42 countries that account for 90 percent of under 5 deaths, according to the Philippine Center for Investigative Journalism (PCIJ).

On the other hand, WHO cites that at least 16,000 infants die in the Philippines yearly because they are not adequately fed. These deaths could have been prevented had there been exclusive breastfeeding in the first hour; exclusive breastfeeding for the first six months; and continued breastfeeding and appropriate complementary feeding to at least two years.

The Foreign Policy Association further explains that exclusively breastfeeding infants for the first six months is vital to ensuring adequate developmental health, a fact that has been scientifically proven and agreed upon by all reliable medical professionals. Combined with complementary foods, breastfeeding for the first two years is also seen as paramount for the full development of a child.

by the aggressive marketing practices of milk companies. Such practices “contribute to misleading the public by claiming that breastfeeding can not be done by a majority of women and that their products raise healthy, smart and happy babies,” according to FPA.

Aside from wide-spread media advertising, the aggressive promotional efforts of milk companies include incentive plans, promo-gift bags at hospitals, and free samples. These deceptive strategies have succeeded in making mothers as well as the general public think that it is safe and even desirable for babies to be fed with milk formula.

But contrary to the claims of milk companies, breastmilk substitutes pose great risks for children. WHO estimates 20% of infant deaths in the Philippines are related to bottle feeding. UNICEF has cited the following dangers of breastmilk substitutes:

- Breastmilk substitutes cause deaths among children. In the first two months of life, an infant who receives infant formula is up to 25 times more likely to die from diarrhea and four times more likely to die from pneumonia than an exclusively breastfed baby.
- Infants who are formula-fed experience more severe respiratory tract illness and require more hospitalization than infants who are exclusively breastfed. Acute respiratory infections are among the leading causes of deaths among infants and children in the Philippines.
- Infant formula is sometimes intrinsically contaminated or becomes contaminated during preparation, leading to illnesses and deaths. Specific brands of infant formula have been recalled from the market due to contamination with enterobacter sakazaii, salmonella, and other bacteria. Contamination can also take place when feeding bottles, artificial nipples and water are not properly sterilized during milk preparation.



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- Other dangers. The use of infant formula has also been linked to a host of other diseases and disadvantages, such as: asthma, allergies, lower IQ and cognitive skills, childhood cancers, Type 1 diabetes (during childhood and later in life), cardiovascular disease, obesity, gastrointestinal infections, ear infections, and exposure to environmental contaminants (whereas breastmilk counteracts the adverse effects of pollutants).

Despite compelling arguments for stringent regulations for breastmilk substitutes, milk companies are hell-bent in opposing the move. Earning an annual profit of P21 billion (a conservative estimate, according to the DOH), the companies' motivations are quite obvious. And it is doubtful that children's good health is their primary concern.

GMA government must fulfill its human rights obligations

The first half of 2007 saw various groups and individuals both from government and civil society put up a good fight for better policies and socially just measures that would address the alarming trend in the country's health situation.

As State Party to human rights treaties, the Philippine government is compelled to institute policies that safeguard and promote public health as well as enforce programs that address the health needs of many Filipinos.

With the active support and intervention of health advocates and cause-oriented groups, backed by concrete policy proposals for higher health budget, cheaper medicines and tighter regulation on milk companies, there is no reasonable excuse for the Arroyo government to fail in fulfilling its obligations on the human right to health. It is high time that some of the country's long-standing health headaches finally find effective State cure.

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