

THE IMPACT OF LAW ON FERTILITY BEHAVIOR: PERSPECTIVES OF PHILIPPINE INFLUENTIALS¹

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The degree to which individual fertility behavior is responsive to national policies and programs is one of the crucial issues facing the developing countries. The world-wide concern about rapid population growth has generated a host of programs designed to encourage a reduction in fertility rates. These programs have enjoyed varying degrees of success. The laws which regulate fertility, proscribe certain types of sexual behavior, offer incentives and disincentives for fertility, and provide a framework for particular approaches to fertility control have served as an important component of these programs. This paper explores the impact of a few of these types of laws in the Philippines, from the point of view of a selected group of 105 influentials, including government officials, religious leaders, lawyers, doctors and others.

If we regard law as an instrument of social engineering, we must deal with the critical issue of the relation of law to custom, particularly, the degree to which the law exerts an independent influence on customs or merely ratifies changes in social relations and patterns. For some anthropologists law and custom are practically identical. Thus, Hartland contends: "Primitive law is in truth the totality of the customs of the tribe."⁴ From this extreme perspective no degrees of freedom can be assigned to the law. Most other views, however, are less extreme. Hoebel, for instance, associates legality only with the application or threat of sanctions by some social body.⁵ Following Austin, he identifies law with the commands of

¹ This research was conducted by the Social Research Laboratory, Department of Sociology, University of the Philippines, with the Law and Population Programme, Fletcher School of Law and Diplomacy (Administered with the cooperation of Harvard University), Tufts University. Interviews were conducted in May and June, 1972. The attitudes and opinions described are specific to that period.

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⁴ *PRIMITIVE LAW*, 5 (1924).

⁵ *THE LAW OF PRIMITIVE MAN* (1954).

the sovereign, and therefore gives it far more room for independent variation and influence.⁶ But this greater sphere of influence may be illusory, for as MacIver and Page remind us: "A law which attacks a widespread custom, even though a majority support it, both lacks a ground of support that is essential to its effective operation and creates a force of resistance that endangers its authority."⁷ There is no simple separation then between law and custom. It is clear that law cannot be simply coercive, but must draw on public acceptance and cultivate other grounds for its legitimacy. While coercion is the ultimate resource available to the legal system, other resources, such as education, symbolism and the appeal to reason add to the effectiveness of the law. The particular form which legitimacy takes in a society can be crucial, for traditional and charismatic forms of legitimacy may require far less in terms of explicit public support for particular laws but far more implicit trust in the lawmakers than the "legal-rational" type of legitimacy. It may be misleading to believe that the latter type of legitimacy, since it is associated with relatively more modern societies, creates a more open and receptive climate for social change. Huntington, in fact, argues the reverse:

Modernization requires authority for change. Fundamental changes in society and politics come from the purposeful actions of men. Hence, authority must reside in men, not in unchanging law. In addition, men must have the power to effect change and hence authority must be concentrated in some determinate individual or group of men. Fundamental and unchanging law may serve to diffuse authority throughout society and thus to preserve the existing social order. But it cannot serve as authority for change except for lesser changes which can be passed off as restoration.⁸

From Huntington's perspective, law in a changing society is more likely to be the bulwark of the established order than the instrument for overturning it.

The question of how great an effect the law can have on fertility behavior is an aspect of this broader question of the impact of law on social patterns and processes. Can the law be a positive force in the attempt to reshape the demographic behavior of peoples from the top, or is it merely an obstacle course for reformers? Many of the developing countries have inherited, in a

⁶ THE LAW OF JURISPRUDENCE DETERMINED (1954).

⁷ SOCIETY: AN INTRODUCTORY ANALYSIS, 179 (1950).

⁸ POLITICAL ORDER IN CHANGING SOCIETY, 101 (1968).

wholesale manner, the laws of their erstwhile colonial masters, laws often at variance with traditional practices and current needs. This creates special problems of compliance, without which legal reforms are futile, if not actually harmful, through breeding contempt for the law. Compliance hinges upon diverse factors, such as the innate merits of the law, its timeliness, its enforceability, its congruence with particular cultural patterns, and the force of the traditional respect for authority. For each particular set of laws these factors come together in different combinations, so that the actual impact of law on fertility behavior is variable from country to country, from time to time, and according to specific subject matter.⁹

Method

Four sets of laws relating to fertility were chosen for consideration in this study: the law making abortion illegal, which is part of the Revised Penal Code; the regulations on the sale of contraceptives, part of the Pharmacy Law; various benefits guaranteed by law that may affect the cost or the motivation for having a baby (maternity benefits, tax exemptions for dependents, social security, medicare); and the law creating the Population Commission.¹⁰ Structured interviews were conducted in May and June 1972 with 105 respondents regarding their reactions to and evaluations of these four sets of laws, particularly on their enforcement, their impact on fertility, and possible changes in the law.

Respondents were chosen to fall into five major categories: (1) individuals with a legal background, working as judges, "fiscals" (prosecutors), police and in similar capacities; (2) doctors and paramedical personnel, especially those connected with a family planning organization; (3) policy-makers, such as legislators, city mayors and high government officials; (4) religious leaders; and (5) "ordinary" people, housewives, students, and such. In selecting respondents an attempt was made to cover the major governmental and non-governmental entities involved in population control. About two-thirds of the interviews were conducted in Greater Manila. The remaining interviews were split between two municipalities of Camarines Sur, Naga City and Iriga, which were chosen to provide some contrasts with attitudes in the metropolitan area.

⁹ *Law and Family Planning*, 2 STUDIES IN FAMILY PLANNING 81-98 (1971).

¹⁰ For a fuller discussion of these and related laws, see Sison, *Population Laws of the Philippines*, *infra*.

When the originally selected respondent was unavailable, for one reason or another, efforts were made to interview his deputy or a related official. Table 1 provides a profile of the sample.

Table 1. Sample Profile: Percentage Distributions by Place of Residence, Occupational Class, Education, Sex, Age and Marital Status.

Characteristic	Percent ^a	Characteristic	Percent ^a
<i>Place of Residence</i>		<i>Sex</i>	
Greater Manila	63	Male	60
Camarines Sur	37	Female	40
<i>Occupational Class</i>		<i>Age</i>	
Lawyer	24	Below 20	1
Doctor/Nurse	27	20-29	11
Policy-maker	13	30-39	16
Other ^b	36	40-49	28
<i>Education</i>		50-59	27
Less than college	4	Above 59	17
Completed college	29	No response	1
M.D./L.D.	51	<i>Marital Status</i>	
Postgraduate degree	16	Never married	15
No response	1	Married	85

^a Based on a total sample size of 105.

^b E.g., religious leaders (four in all), teachers, housewives, students.

In the succeeding pages each of the four sets of laws will be discussed in turn from the viewpoint of these respondents followed by general observations on the possible role of law in fertility control in the Philippines.

Abortion

The Revised Penal Code considers induced abortion a felony, with penalties ranging from imprisonment for two years, four months and one day, up to imprisonment for 20 years. The Code distinguishes intentional abortion from unintentional abortion, which is the unintended consequence of physical assault. Both intentional and unintentional abortions are felonies. The law provides no exceptions: abortion is illegal under any and all circumstances. Some respondents argued nevertheless that abortion to save the life of the mother was permitted *de facto*. One fiscal claimed that "it is legal to have an abortion if the mother's

life is endangered, although the wordings of the law may not state so." There are varying interpretations on this point.

Opinion on this law is divided, but twice as many respondents consider this a good law rather than a bad law. Approval is stronger in Camarines Sur than in Manila (72 percent against 53 percent) and among lawyers than among other occupational groups (76 vs. 55 percent). The major reason for approval is religious or moral, as a few comments indicate:

- We are a Catholic country and it is against our morals to kill.
[a lawyer]
- Abortion is killing an innocent fetus, which is worse than murder.
- It's a sin against God. [a midwife]
- Our people do not accept the idea.
- It must have been a good law. We should give credit to the wisdom and intelligence of our law-makers. Who is man to thwart the will of God? [a policeman]

The prohibition of abortion is seen to follow divine law, from natural law, or from Philippine traditions. These respondents equate abortion with murder, and often speak of the "civil rights" of the fetus. They believe the government should enforce morality in this area. Two respondents go so far as to equate the government and its instrumentalities with the will of God. Another respondent describes the abortion law as "one of the best laws in our country." To determine how the respondent's religiosity affects approval of the law, the former was measured through a direct question: How religious would you say you are? Nineteen percent said they were "very religious," 52 percent were "quite religious," and 28 percent were "slightly religious" or "not religious at all."¹¹ Of the first group 75 percent considered the abortion law a good law, but in the second group approval dropped to 62 percent and in the third group to 48 percent.¹²

A secondary reason sometimes given for disapproving of abortion is that contraception is preferable:

- [The abortion law is a good law] because it's already there. People should use caution, such as pills and contraceptives, to avoid the performance of abortion.

¹¹ Percentages do not add up to 100 because one respondent failed to respond.

¹² Because 89 percent of the sample was Catholic, it was not feasible to test differences by religion.

- It depends on how you look at it. Progressive countries say that making abortion illegal exposes mothers to danger instead of protecting them, but personally I consider it a good law because I believe that abortion should not be performed due to the presence of contraception.

For some respondents the symbolic value of the law may have more significance than its actual enforcement. For example, one judge felt that the appropriate punishment for abortion was not an important issue, but merely "a matter of opinion." What was important for her was the principle: "as long as the people know that the state prohibits abortion — that we go on the principle that we are against abortion."

Arguments favoring abortion are of several types. The most moderate is the argument that the law should permit exceptions, primarily to save the mother's life. Another type of objection is that the law is unenforceable, at least partly because society has changed and the mores no longer have as firm a grip on individuals:

- [The law] is no longer effective because of the idea of population control. Besides there are many abortions going on. It cannot be stopped. Better to legalize it, more lives will be saved. [a judge]
- [The law] does not take into consideration the reasons and circumstances that prompt people to practice abortion.
- The abortion law is outmoded — two-thirds of the world population today are for abortion. The law needs to be revised considering the population growth rate. Abortion is necessary.
- It is just not in consonance with the trend of the times. It is outmoded. The law is a remnant of the Spanish law wherein they tried to venerate the sacredness of life. But that is not the modern concept. Our principle should be socio-economic, that the number of children would be equated with the economic conditions of society.

Another objection, given especially by those who qualified their answers about whether it was a good or a bad law, had to do with the severity of the penalties:

- It is not really a bad law, but it requires further study and revision and change. There is a need for change as the times change, making it a more reasonable and liberal law. The provisions are limited and the penalty is strict. It requires further study.
- It's neither a good law nor a bad law. It's not a good law since it is too harsh on penalties. It's not a bad law since we have to

Table 2. Appraisal of Abortion Law, by Residence, Occupation and Religiosity of Respondent (percent making each appraisal).

Appraisal	Residence		Occupation				Religiosity ^a			Combined
	Greater Manila	Camarines Sur	Lawyer	Doctor, Nurse	Policy-maker	Other	Very Rel.	Quite Rel.	Slightly, Not Rel.	
Good law	53	72	76	54	64	53	75	62	48	60
Bad law	32	23	12	39	21	34	15	29	38	29
Depends	15	5	12	7	14	13	10	9	14	11
Total (N)	100 (66)	100 (39)	100 (25)	100 (28)	99 (14)	100 (38)	100 (20)	100 (55)	100 (29)	100 (105)

^a Excluding one respondent whose religiosity was not ascertained.

consider our cultural background and some of our good traditions, like the honor of women.

- Abortion is usually done in secret. If the punishment were less severe, probably there would be more people who would be apprehended. Severity promotes more secrecy.

That the government should not enforce morality, that it should not interfere in private behavior that does no harm to anyone else, is an argument mentioned only by one respondent.

What is the extent of violation of the abortion law? Most of the respondents could not even guess. Those who tried to estimate the number of illegal abortions in the Greater Manila area came up with figures ranging from 50 a year up to 300,000 a year. Police statistics are not much of a guide, since very few cases come to their attention (in Quezon City, no more than five to eight a year). Estimates might be made from the number of hospital beds used for abortion cases, but this also requires making several crucial assumptions. An informal estimate based on the number of deaths due to illegal abortions gives two to five abortions a day, or between 700 and 2000 a year.

Just as there is wide variation in the estimates of number of abortions, so are there variations in respondents' views on how easy or difficult it is to obtain an abortion. Forty-one percent consider it "easy," but 47 percent consider it "hard" to get an abortion. In Camarines Sur it is much harder than in Manila (82 percent said "hard" against 31 percent in Manila). As many emphasize, it is a matter of the connections you have. Some respondents qualified their answers: it is easy for the affluent to get an abortion, but difficult for anyone else. One respondent made a different distinction: a medically safe abortion is hard to obtain, but if one is less choosy about the conditions under which the abortion is performed there is no difficulty. As noted above, very few abortion cases come to the attention of the police. Cases which were known to the respondents had either happened "a long time ago" or had come out of textbooks. The exception to this pattern was provided by two lawyers who had handled matters involving cases of unintentional abortion. Most of these cases involved quarrelling couples, with the expectant mother suffering some injury as a result. On the other hand, "intentional" abortions involve very little legal risk, either for the woman or for the abortionist. Fully 63 percent of the respondents are in agreement that the woman has only a small chance of being

prosecuted, and 55 percent say the same for the abortionist. Lawyers see the risk as even smaller than non-lawyers do (82 and 75 percent think the woman and the abortionist respectively run little legal risk). The principal reason for the absence of legal risk is that abortion is a private, victimless crime, and neither party has any motivation to expose it. Moreover, if the abortionist is a licensed physician, he may disguise the nature of the abortion by giving a number of medical reasons for its performance, even to the extent of asserting that he was merely completing the abortion.

Table 3. Estimates of the Effectiveness of the Abortion Law.

Questions	Possible Responses	Percent
1. If a woman wanted an abortion, do you think it would be very hard, hard, easy or very easy for her to get one?	Very hard	26
	Hard	21
	Easy	30
	Very easy	11
	Easy for rich, hard for poor	7
	Don't know/No response (DK/NR)	6
2. How great is the danger to the woman of being convicted for an illegal abortion?	Very great	15
	Great	17
	Small	18
	Very small	45
	DK/NR	5
3. How great is the danger to the doctor or midwife of being convicted for performing an illegal abortion?	Very great	20
	Great	20
	Small	18
	Very small	37
	DK/NR	5
4. The fact that abortion is illegal — would you say this fact reduces the number of abortions that take place:	Substantially	26
	Moderately	23
	Slightly	24
	Not at all	25
	DK/NR	3
5. If abortion were legalized, would you expect the number of abortions to go up:	Substantially	46
	Moderately	25
	Slightly	18
	Not at all	7
	DK/NR	5

Someone wanting an abortion would ordinarily begin by making inquiries of friends and acquaintances. Abortions are said to be common in several areas, such as along Rizal Avenue and Quezon Boulevard in downtown Manila, in Tondo and Pasay City. Small clinics do occasionally perform illegal abortions, though larger, reputable hospitals would not. The catheter method is judged to be the most common. The danger to the woman is considerable. Whether the law has any impact at all on controlling the number of abortions is not clear. About half the respondents feel that the illegality of the operation is a weak or totally ineffective deterrent. Between the law and the decision of the individuals to obtain or not to obtain an abortion, thinks one social worker, "there might be no relation at all." On the other hand, 71 percent of the sample feel that legalization would lead to a moderate or substantial increase in the number of abortions. "People who had fears before," said one, "will now feel that the act is justified." The increase will be substantial, says another, "because we Filipinos are by nature law-abiding people." The opinions of the minority, who argue that legalization will bring little change, are diverse: abortions will not increase much, they say, because

- as a people, we have a value against abortion. [a priest]
- of the presence of family planning and also the Catholic religion. Abortion is the resort when there is no family planning.
- the freedom that can be obtained is not necessarily utilized as a matter of course, because basically the mother would always like to have her child.... There will only be an increase in the number of reported cases.
- it will even go down, since it is customary on our part that when we are free to do it, we will not do it. [a hospital administrator]

It is possible that those who decide they want abortions are not prevented by the present law from having them, but the number who so decide would be increased by legalization. If this interpretation is accurate, the deterrent effect of the abortion law is indirect, through discouraging people from seeking abortions, but not restricting those who decide they want one.

Surprisingly, a large number of respondents (42 percent) feel that it is still possible to enforce the current abortion law. Some of them offer specific measures, such as self-policing by doctors and medical associations, or the creation of a special unit in the

National Bureau of Investigation (NBI) to go after abortionists. But most of these respondents offer no more than moral homilies about the need for greater dedication in the police, or the need to attack the problem with real "sincerity." One says, for instance:

- People who would enforce it should be more interested. They must really believe in the law and be interested in implementing it.

Interestingly, it is the less religious who stress dedication. The more religious are inclined to offer specific remedies. Those who think the law is unenforceable give such explanations as these:

- It's a very impractical law. People needing an abortion will resort to it.
- In most cases [the law-enforcement agents] are lukewarm. The crime is committed so secretly and clandestinely. Also in most cases it involves prominent persons, so that investigative work is frustrated there and then.
- People faced with an extreme necessity will always find ways to undergo abortion without having to account for it under the law.
- [Strict enforcement] would mean prying into private lives, would mean intensive investigation, and this is impractical.
- There are problems of prosecution. All parties concerned have no motive to keep the crime open. These are carefully done and in secret.
- There is the difficulty of producing evidence. Besides, is there any law in this country which is strictly enforced?

Doctors and lawyers are slightly more likely to be skeptical about enforcement, as are Camarines Sur residents.

On the question of legalizing abortion, it has already been indicated that several respondents estimate that this would have considerable effect on the number of abortions. Most are against legalization of abortion in general, but when asked about abortion under specific contingencies tend to approve of it when the woman's health is endangered (86 percent approve), when there is a strong chance that the baby will be defective (66 percent), and when the pregnancy is the result of rape (51 percent). There are relatively consistent differentials in approval favoring Manila over Camarines Sur, and the less religious over the more religious. If it is to be legalized, 60 percent would leave the decision about whether or not to allow an abortion to the woman and her private

doctor, individually or together. The rest would require a board of doctors to make the decision, with the occasional suggested addition of a clergyman, a social worker, or even an official of the Department of Justice. Most are skeptical of the prospects of legalization, because "the Philippines is a predominantly Catholic country." One legislator explains that "there are some *Catolicos cerrados* among our senators." Besides, he goes on, "some people are afraid of the Catholic Pope." One doctor takes the long view:

— We are still religiously bound to certain values. Abortion is immoral. But maybe 30 years from now if the country still is harassed by overpopulation and socio-economic problems, then probably we will legalize abortion.

It is clear that the abortion law falls into the class of laws labelled "repressive," defined as criminal because it "offends strong and defined states of the collective conscience."¹³ Thus, the advocates of this law cite divine law or natural law in condemning abortion. Repressive law, for Durkheim, is characteristic of homogeneous societies with pervasive and widely shared traditions. It is from these traditions that repressive law derives its force. That law of this type appears relatively ineffective is not surprising. As Sutherland says: "When the mores are adequate, laws are unnecessary; when the mores are inadequate, the laws are ineffective."¹⁴ The risk of prosecution for illegal abortion is slight, with the police hampered by problems of collecting evidence. In the opinion of most respondents, the law does not prevent any substantial number of abortions.

Nevertheless, if their estimates are anywhere near being accurate, the number of induced abortions in Greater Manila is not high. This may be a simple matter of lack of information, which the law at least is somewhat effective in choking off. It may, on the other hand, be a matter of the force of the mores, of popular sentiment being so strongly against abortion that it restrains those who would otherwise not be restrained by the law. The prospects for legal change are not favorable, considering that the respondents already represent the modern, urban, highly educated sector. There may be enough support to legalize exceptions to the law, where the health of the mother or the possibility of a defective baby is concerned. The prospects for subsidized abor-

¹³ DURKHEIM, *THE DIVISION OF LABOR IN SOCIETY*, 80 (1933).

¹⁴ *PRINCIPLES OF CRIMINOLOGY*, 11 (7th Ed., 1966).

tions, which might have more significant impact on fertility rates than a simply permissive law, are almost nil.

Regulations on Contraceptives

The Pharmacy Law requires that contraceptives be dispensed only with a doctor's prescription, and that the pharmacist keep a careful record of the customer's name, the prescribing doctor, the date of purchase, the quantity purchased, and so on. There is some disagreement about the status of this law. The record-keeping provisions, according to at least 12 lawyers and fiscals, have been repealed *de facto* by the Population Commission Law. One respondent claimed that these regulations were part of the Food and Drug Act and not the Pharmacy Law. (One lawyer in the Department of Health candidly admits: "I don't even know this law and I don't think we are following it.") At any rate, physician's prescriptions are still required for contraceptives, and it is respondents' reactions to this regulation that shall be considered.

Most respondents approve of this regulation: 84 percent think it is a "good law." Religiosity does not affect these judgments, but place of residence does. In Camarines Sur the figure is somewhat higher (97 percent), and in Manila somewhat lower (81 percent). Predominantly these respondents see the regulation as protecting the health of the woman:

- [The law] protects both the consumer from the danger of complications of unprescribed contraceptives, and protects the pharmacist from any responsibility. [a pharmacist]
- [It's a good law] because there are spurious contraceptives being sold which contain nothing but sugar; because different pills are suited to different people; and because doctors should be the ones to prescribe contraceptives.

A smaller number base their approval of the law on moral grounds: it keeps contraceptives out of the hands of the unmarried (specifically mentioned by 11 percent) and it discourages "moral abuse" and moral laxity (mentioned by an additional 13 percent). Three such responses, from an educator, a sociologist, and a lawyer, respectively, are as follows:

- These are things that have to be controlled since indiscriminate use might lead to dangerous practices among the young, like indiscriminate cohabitation.
- The methods of family planning should not be utilized by people who are having illicit sex relations. These contraceptives should only be for the married and not the unmarried couples. This

Table 4. Percent Favoring Legalization of Abortions Performed under Different Contingencies, by Residence, Occupation and Religiosity of Respondent.

Contingencies	Residence		Occupation				Religiosity ^a			Combined
	Greater Manila	Camarines Sur	Lawyer	Doctor, Nurse	Policy-maker	Other	Very Rel.	Quite Rel.	Slightly, Not Rel.	
	— If the woman's own health is endangered by the pregnancy	89	82	96	82	86	84	85	82	
— If she became pregnant as a result of rape	62	32	52	46	57	51	45	44	68	51
— If there is a strong chance of serious defect in the baby	70	59	60	61	71	71	55	60	83	66
— If the family has a very low income and cannot afford any more children	25	16	29	11	31	22	25	13	39	22
— If she is not married and does not want to marry the man	11	13	8	7	23	14	16	3	26	12
— If she is married and does not want more children	19	18	25	11	29	11	20	6	33	17
— If pregnancy is a case of incest	35	13	26	27	23	25	31	18	35	26

^a Percent of respondents giving valid answers. Not more than 4 respondents failed to respond to any particular item.

law takes care of this. It will be difficult for these unmarried couples to get them.

- If [the sale of contraceptives is] not recorded, it will encourage unmarried people to cohabit with each other and have internal (sic) relationships. If recorded, they will have a fear.

Those who object to the law or give it only qualified approval feel that prescriptions are unnecessary, at least for "non-medical" contraceptives. That the law should be selective is in fact mentioned by some who generally approve of the law. Contraceptives like condoms and jellies do not affect the woman's health, and should not require prescriptions, while pills and IUD's could have deleterious effects and should not be dispensed unless prescribed. (One doctor feels the pill need not be prescribed. He would draw the line at prostaglandins, because of their possible use as abortifacients.) A broader objection to the law is based on how it may limit access to contraceptives. One police doctor says:

- Contraceptives should be readily available to whoever needs them. Contraception is not immoral — there is no killing involved — so it should be encouraged rather than abortion.

In a similar vein, a nurse-professor thinks that "contraception should be made available to anyone who does not want to have a baby." There are also those who argue that morals and hence contraception are private matters. Two such comments from middle-aged, single males in important government positions:

- [The law] peers into the privacy of people who want contraception.
- Contraceptives [should be] easily accessible to those in need, for example, unmarried men and women who want to experience the act of love without benefit of marriage. Only dangerous drugs should have prescriptions and advice from doctors. We are only human beings and even an unmarried man like me at times wants to experience the act of love. The sexual act is a part of life.

How effective is the law? As Table 5 indicates, there is no consensus about how frequently it is violated. One respondent says: "The fact that there are people who peddle these things without control shows that it is violated frequently." Whatever the actual frequency, no one has ever been prosecuted for illegally dispensing contraceptives. No respondent knew of a single such case. The law has not been enforced "for the past 50 years," said one doctor, "and I don't see how they can enforce it now."

His negative attitude is not shared by others, who feel that the law can indeed be enforced, with stricter surveillance of drugstores and regular inspection of their records, a more sincere effort on the part of the police, a public education program and similar measures. More than half the respondents (60 percent) feel this way while only slightly over a third (35 percent) feel enforcement is impossible. Some of the reasons given by the latter group:

- Society has become tolerant. Although all drugs need a physician's prescription, pharmacists don't always follow this. For example, Cortal is dispensed without prescription.
- What organization or who can control this, since even penicillin can be bought without prescription directly from drugstores, let alone contraceptives, unless we really have inspectors in big drugstores.
- Although if we want to we can by some strict enforcement methods, who would want to stick to the regulations when it is better for us that it is not strictly enforced?

With the requirement of a prescription being unenforced, one might infer that this regulation would have little practical effect. But here again there is a wide divergence of opinion among the respondents. Table 5 presents responses to three questions: Does

Table 5. Estimates of the Effectiveness of Contraceptive Regulations.

Questions	Possible Responses	Percent
1. In your estimation, are the regulations regarding contraceptives violated:	Very frequently	27
	Frequently	31
	Occasionally	22
	Seldom	13
	Don't know/No response (DK/NR)	7
2. It may be possible that because of these regulations some people who want contraceptives cannot get them. Do you think this is true for:	Many people	20
	Some people	34
	Few people	21
	Hardly anyone	22
	DK/NR	3
3. If these regulations were to be lifted, do you think the number of babies born every year could be reduced:	Substantially	28
	Moderately	27
	Slightly	29
	Not at all	16
	DK/NR	1

4. If the regulations concerning contraceptives were lifted, would the number of abortions be reduced:	Substantially	33
	Moderately	30
	Slightly	22
	Not at all	12
	DK/NR	3

the regulation prevent people from getting contraceptives? Would lifting the regulation reduce fertility? Would lifting the regulation reduce abortions? Of all the respondents, 54 percent feel the regulation makes the purchase of contraceptives difficult for some or many people, while 43 percent feel purchase is difficult for few or none. In answering the first question, some respondents may have been considering other factors that limit access besides the regulation, such as availability and cost. For instance, the distribution of contraceptives through family planning clinics undoubtedly improves access. Nevertheless, the spread of responses is unexpected, and indicates that informal, interpersonal sanctions may be much more important than strict enforcement of the law. The latter two questions are speculative, and the spread of responses to them is similar. If the regulation were lifted, 55 percent expect a moderate-to-substantial reduction in births, and 63 percent expect a moderate-to-substantial reduction in abortions. On the other hand, 45 percent feel there would be little or no effect on births, and 34 percent that there would be little or no effect on abortions. Perhaps those who see a reduction in births or abortions are considering the symbolic effects of repeal, as removing a moral bulwark or as indicating government encouragement of freer use of contraceptives. More people may become willing to admit the use of contraceptives, and therefore more sources of information would be available for potential users.

A large number of respondents (42 percent) are in favor of leaving the regulation unchanged, and an additional 5 percent actually want to make the law stricter. On the other side, 43 percent favor modifying the regulation, and 9 percent more think there should be no regulation at all. The modification suggested is almost always to permit over-the-counter sales of most contraceptives, excluding "potent drugs." A sampling of medical opinions:

- Contraceptives are medically safe and can be sold like patent medicines.
- Only dangerous drugs should be restricted. The more common methods are not dangerous.
- [The regulations should be modified so that] people will not feel guilty about using contraceptives.

Table 6. Favorability Toward Contraceptives for the Unmarried, by Residence, Occupation and Religiosity of Respondent (percent favoring and opposing).

Contraceptives for the Unmarried	Residence		Occupation				Religiosity			Combined
	Greater Manila	Camarines Sur	Lawyer	Doctor, Nurse	Policy- Maker	Other	Very Rel.	Quite Rel.	Slightly, Not Rel.	
Favor	60	26	68	44	29	40	32	42	64	47
Against	40	74	32	56	71	60	69	59	36	54
Total	100	100	100	100	100	100	101	101	100	101
(N)	(62)	(39)	(25)	(27)	(14)	(35)	(19)	(53)	(28)	(101)
(NR/DK)	(4)			(1)		(3)	(1)	(2)	(1)	(4)

— Non-medical methods should be made available over the counter for anyone, and those using more potent preparations like pills should be advised to undertake some sort of examination and be warned, giving them personal responsibility. . . . While the law is there, it is not being implemented the way we would like it to be implemented. Why not be realistic?

If access to contraceptives is to be liberalized, a crucial question is whether the unmarried should be granted equal access with the married. As already indicated, some respondents see the "protection" of the unmarried as a main function of the law. Table 6 shows a bare majority opposing allowing the unmarried to buy contraceptives, though Manilans and the less religious are more likely to be in favor. Some respondents qualified their responses. One argued that having contraceptives available does not mean using them. Since the moral question is use rather than availability, availability should not be restricted. Another would forbid the sale of contraceptives to the unmarried, except for prostitutes. (Since prostitution is illegal, it may be impossible to write this exception into law, but if it were so incorporated, there could be some unusual effects.) Still another felt that marriage should not be the criterion but age. The minimum age for purchasing contraceptives should be 18 or 21, well beyond puberty.

Providing information about contraceptives is important in making them more accessible to people. A large number of programs have started in the last few years, including training of motivators, the use of the mass media, house-to-house campaigns and lecture series, and involving the cooperation of doctors and paramedical personnel, social workers, educators, community development workers, and others. The respondents were asked about specific methods of providing contraceptive information that could be enacted into law. A majority (64 percent) approved of advertisements for specific contraceptives. Ninety-one percent agreed that women, immediately after childbirth or an abortion, should be required to learn about contraception. As to making family planning part of the school curriculum, 99 percent approved it for the college level, 84 percent for the high school level, and 41 percent for the grade school level.

Laws on Economic Benefits and Minimum Marriage Age

Several disparate laws provide benefits, mostly economic, which may, though they were not designed to, influence the fertility

behavior of recipients. The Woman and Child Labor Law provides maternity leaves with some proportion of one's regular pay; the Tax Code provides exemptions for dependents; Social Security and Medicare provide for old age and could possibly reduce the need to depend on one's children after retirement.¹⁵ A careful, comparative study or a field experiment could be devoted to the effect of each class of benefits on fertility, but here we restrict ourselves to the opinions of our sample.

What effect these laws, taken collectively, have appears to be in some dispute. Of the respondents, 12 percent think these benefits have "great effect" on fertility, 25 percent think they have "medium effect," 33 percent think they have "little effect," and 27 percent say they have no effect at all. Among those directing different family planning organizations, who are presumably in direct contact with the problem, the full range of opinions can be found. Legislators, on the other hand, seem generally pessimistic about the effects of these benefits on fertility. Respondents were asked to consider some specific reforms in child benefits and to estimate how much effect they would have. On none of the six reforms investigated was there any clear consensus (Table 7). The idea of a child subsidy, for the first three children only, was rated slightly but not significantly more likely to have an impact than the others, with 51 percent assessing its potential effects at moderate-to-substantial. An important consideration is whether these reforms are feasible at all, considering their expense and the vagaries of the legislative process. The predominant view is that chances for such laws range from poor to very poor. This is the opinion of 58 percent regarding the child subsidy; 54 percent regarding eliminating the income tax exemption for the fourth and later children; 64 percent regarding doubling or tripling Social Security benefits and making them universal; 59 percent regarding eliminating maternity benefits for children after the third; and 59 percent regarding raising the minimum legal age for marriage to 21. Thus, asking for estimates of the impact of these laws may have been too hypothetical a question for many respondents.

In broader terms, respondents were asked whether modifying benefits was a good or a bad way to attempt to control population. Although 69 percent considered it a good way, in the sense that it was a positive measure rather than a coercive one, their approval is somewhat lukewarm, because of doubt about the effectiveness

¹⁵ Cf. Sison, *infra*. Various decrees, letters of instruction and departmental orders have since modified these provisions.

of such benefits. Legislation of this type, said several, is good but will not have substantial effect. One respondent expressed her approval because of the need for legal consistency:

- Without modifications in the law, family planning will not succeed. There are contradictions in policy, i.e., many laws are pro-natalist. A program will not succeed with such contradictory policies.

Another objected to such laws on Constitutional grounds:

- [These reforms] are not realistic and are violative of Constitutional protection of law — equal protection for all. Since if you give a subsidy for the first three children, what about the fourth child and the next?

In a somewhat similar vein, another respondent asks:

- Why punish families with more children? Children are not solely the responsibility of the parents but of society.

Finally, two respondents questioned the motivational assumptions of the systems of benefits:

- Pregnancies are products of emotions and lack of knowledge to control fertility. Economic incentives will not affect fertility. The government cannot attend to giving the people the minimum necessities, such as free delivery. How can it provide for subsidies?
- Education of people is what is important. [It makes] them aware that having less children is more advantageous and makes them aware that they can control the number of children they can have. These laws or any other law and economic benefits are never taken into consideration when people bear children. Besides, more often than not children come even if the couple does not plan to.

As part of an over-all rationalization of population policies, modifications of benefits associated by law with family size would be an important step. However, the danger of generating organized opposition, as well as basic and possibly constitutional questions of equity and equal protection, should be considered and weighed in the balance against the not more than moderate effect the reforms may be expected to have, especially if they have to be diluted in the political process.

Population Policy

Executive Order 171 of 1969 created the Population Commission to study population problems and recommend policies and

Table 7. Estimates of Effect on Fertility of Proposed Laws on Economic Benefits and Minimum Marriage Age, by Residence, Occupation and Religiosity of Respondent (percent expecting moderate-to-substantial impact)

Proposed Laws	Residence		Occupation				Religiosity			Combined
	Greater Manila	Camarines Sur	Lawyer	Doctor, Nurse	Policy- maker	Other	Very Rel.	Quite Rel.	Slightly, Not Rel.	
— Providing a child subsidy for the first three children only	45	66	52	56	54	51	42	60	44	53
— Eliminating the income tax exemption for any children after the third	42	53	40	52	31	51	53	49	37	46
— Doubling or tripling social security benefits and making them universal	44	58	42	48	46	57	47	56	37	50
— Increasing the maternity benefits for the first three children but eliminating them for later children	45	58	44	48	39	60	47	58	37	50
— Raising the minimum legal age for marriage to 21 for boys and girls	37	55	36	48	36	49	35	46	48	44

programs to the government. This commission was put on a statutory basis by Republic Act No. 6365, an important section of which reads:

SECTION 2. *Declaration of Policy.*—The Congress of the Philippines hereby declares that for the purpose of furthering the national development, increasing the share of each Filipino in the fruits of economic progress and *meeting the grave social and economic challenge of a high rate of population growth, a national program of family planning which respects the religious beliefs of the individuals involved shall be undertaken.* The Congress of the Philippines further declares that the national population policy and program will include the following elements: quantitative goals will be established and adopted; a broad understanding of the effects of alternative rates of population growth on family national welfare will be promoted; *family planning will be made part of a broad educational program; safe and effective means will be provided to couples desiring to space or limit family size;* mortality and morbidity rates will be further reduced; policies and programs guiding and regulating labor force participation, internal migration, and spatial distribution of population will be adopted; and contact with international agencies and private organizations concerned with population problems will be established and maintained on a regular basis. (Italics supplied)

The italicized portions were read to the respondents, many of whom were familiar with the law as legislators, as members or staff of the Population Commission, or through their connection with family planning agencies. No one disagrees with this policy. The only distinction among the respondents on this issue is between those who strongly approve (82 percent) and those who merely approve (17 percent). However, from some of their comments it seems that at least a few believe that economic growth will solve the population problem, and direct action to reduce fertility is not essential.

Where implementation is concerned, 62 percent think the policy has been effectively carried out to date, and only 28 percent rate the implementation as ineffective. It may be too early to make any reliable evaluation. The program, says one, "is still being tested and we cannot really judge it now. But based on the trend it is effective." At least one legislator agrees, and thinks that no new legislation should be introduced for a while. There are few suggestions for specific additional legislation. What is needed, most

Table 8. Attitudes Toward Law and Population Policy, by Residence, Occupation and Religiosity of Respondent.

Attitudes	Residence		Occupation			Religiosity			Combined	
	Greater Manila	Camarines Sur	Lawyer	Doctor, Nurse	Policy- maker	Other	Very Rel.	Quite Rel.		Slightly, Not Rel.
— Percent approving of family planning	94	92	83	100	100	92	95	94	90	93
— Percent who strongly approve of the Population Commission Law ^a	83	82	84	93	79	76	85	84	79	83
— Percent agreeing with Teheran Declaration that family planning is a basic human right	92	95	88	93	100	94	90	95	93	93
— Percent who think that law has a role in solving population problems ^b	89	93	83	92	92	94	94	86	96	90

^a The rest approve, but not strongly. Nobody disapproves.

^b Fourteen respondents did not respond to this question.

think, is implementation of policies and continuation of programs already started. Some respondents mention more funds, more equipment, wider educational programs. One specific suggestion is to allow paramedical personnel to dispense contraceptives, in order to increase the available manpower and relieve doctors of some responsibilities.

In terms of the rationale for population policy, the Philippines is a signatory to the Teheran Declaration (of the United Nations Conference on Human Rights), which states that parents have a "basic human right to determine freely and responsibly the number and the spacing of their children." Table 8 indicates that most respondents support this declaration. Those who disagree feel that the society's right to determine its optimum population takes priority over the individual's right to control the number of children he has.

- I believe in the policy of limiting family size, and this right is against such policy. [a family planning official]
- A child is not a creature solely of the parents. Children should be the responsibility of society. It should be the state which should determine the number the state can support.
- "Responsibly" — modify the word [the word is important]. If all persons are educated and maybe, know the implications of high population — but suppose they are irresponsible. . . .

Is this legal right adequately safeguarded in the Philippines? The majority (69 percent) say yes, interpreting it as the right to have as *many* children as you want. One respondent says:

- Nobody, not even the Government or our laws, dictates to couples how many children they should have.

Another respondent thinks:

- Nobody really cares how many children people have.

There is no need therefore for further measures to safeguard this right, since already "we leave the parents very freely to determine number of children." One respondent remarks that the stress should not be on right but on responsibility. Not enough emphasis is placed on parents' considering the relevant personal and social factors when they make decisions about having children. A minority of the respondents (25 percent) think the right is not safeguarded. They interpret it as the right to have as *few* children as you want. Some of their reasons are:

- We're still influenced or constrained by cultural and religious factors and we are constrained to practice it as a right. In the rural areas [insofar as having babies is concerned] it's the *bahala na* system [letting happen what will happen].
- Some people are not even aware that they have a choice.
- There is still an existing fear due to superstitious beliefs about the effect of contraceptives and this pressure prohibits the parents to fully practice this human right.

People lack information about family planning, and access to facilities is still limited. Some are not aware of the fact that they can limit their families, or are dissuaded by cultural and religious factors from doing so. For these minority respondents, the right to determine how many children one will have is not being exercised if one leaves it to God or to fate.

Conclusion: The Role of Law in Population Programs

The results of this survey may be interpreted from a variety of perspectives. For those simultaneously committed to family planning and legal reform the critical question seems to be: what leverage has the study uncovered for introducing new laws or particular amendments to existing laws regarding the regulation of fertility? For those interested in enforcing current statutes, the opinions of this group of influentials will be significant for different reasons. This latest section attempts to review the evidence on the impact of the different laws on fertility behavior, and the effects that law in general can leave.

The results of interviews on each of the four sets of laws can be briefly summarized.

Abortion Law. Despite the complete prohibition of abortion under the present law — allowing for no exceptions whether to save the mother's life, to prevent the birth of a defective baby, or for pregnancies caused by rape or incest — a majority of respondents (60 percent) consider it a good law. This is perhaps reflected in the reluctance to introduce any legal reform in this area: neither of two proposed revisions of the Criminal Code contains any modification or liberalization of the present abortion law.¹⁶ The draconian and restrictive nature of the abortion law should be contrasted,

¹⁶ See proposed Penal Code of the Philippines, Official Draft, Division of Research and Law Reform, U.P. Law Center, December 29, 1966; Seventh Congress of the Republic of the Philippines, Third Session, House of Representatives (introduced by Congressman Caram, Jr. and the Committee on Revision of Laws), H. No. 1855.

however, with the lack of prosecution in recent years — either of the woman or of the abortionist. Frequent resort to abortion without prosecution has thus been cited as evidence of the ineffectiveness of the law.

Notwithstanding the absence of prosecution, the abortion law may be deemed to have some effect in discouraging abortions. Thus 47 percent of the respondents consider it “hard” or “very hard” to obtain an abortion, and 7 percent more judged that while it was easy for the rich, it was difficult for the poor. In addition, 71 percent foresaw a moderate-to-substantial increase in abortions should they be legalized. It was argued that the abortion law restricted the flow of information and discouraged people from seeking abortions, but did not deter those who had made up their minds. It is difficult to separate this effect from the effect of the mores, particularly since actual prosecutions are so rare. The marginal impact of the abortion law on fertility, when the effect of popular condemnation is controlled, may in fact be minimal, and legalization in the absence of shifts in public opinion may similarly have little effect.

This is not to argue that legalization should not take place on other grounds, such as the danger to maternal health and the social and economic consequences attendant upon resort to illegal abortion. It is worth noting again that despite their approval of the abortion law most respondents were in favor of various exceptions. Fully 87 percent supported legalization of abortions for women whose health (and not simply life) would be endangered by pregnancy, and the majority also favored legalization of abortion if pregnancy were the result of rape or if there were a strong chance of the birth of a defective baby.

Regulations on contraceptives. Most respondents regard as “good” the law requiring prescriptions by physicians for the dispensing of contraceptives, despite its apparent deficiencies—the failure to distinguish between “medical” and “non-medical” contraceptives, widespread violations of the law, and the large number of people presumably adversely affected. How many are actually affected is questionable, and the law may really have negligible impact. It is never enforced, and its legal status is in doubt. While 54 percent feel the purchase of contraceptives is difficult at least for some people, this does not seem to be due to the specific regulation. Nevertheless 47 percent of the respondents are for maintaining the regulation or making it stricter, and 52 percent

are against allowing the unmarried to buy contraceptives. Close to half do advocate a liberalized law that would sanction "over-the-counter" sales of most contraceptives. As with the abortion law, the desire to regulate the purchase of contraceptives may reflect the cultural dominance of a particular moral code. It also reflects, however, some concern about health, though in this regard a distinction should be made between "medical" and "non-medical" contraceptives. As with abortion, the regulation of contraceptives has an important symbolic value.

The overwhelming majority of the respondents are in favor of making contraceptive information available to all who desire it. Thus, 64 percent would allow contraceptive advertisements in the mass media, and 90 percent would favor a compulsory post-partum program in family planning for all women. Despite the strong Catholic influence in the Philippines, 98 and 84 percent of the respondents would make family planning and sex education a mandatory part of college and high school education, respectively. In this regard, the respondents' views approach the standards laid down at the International Conference on Human Rights in Teheran, which include specifically the right to adequate education and information on family planning.

Laws on economic benefits. Speaking generally, two-thirds of the respondents consider the granting or withholding of economic benefits associated with the number of children in a family a good way to influence family size. Such measures are or at least appear non-coercive, and can be presented in terms of positive inducements rather than restrictions. There is no consensus on the likely impact of these laws, however, and it may be preferable to evaluate the proposals as part of an integrated program rather than individually. Many respondents clearly doubt the feasibility of these reform measures, and find it difficult to empathize in situations they consider too hypothetical and remote in the light of actual economic conditions. While constitutional issues like the compatibility of these economic benefits with the Equal Protection Clause must be left to the courts to decide, it may be worth conducting experiments to see whether the granting or withholding of such benefits contingent upon the number of children would, in fact, produce the desired effects.

As part of an over-all rationalization of population policies, modification of benefits associated with family size should be an important step. However, the danger of generating organized

opposition should be considered, and weighed in the balance against the possible slight effect the reforms may be expected to have, especially if they have to be moderated in the political process.

Population policy law. Of the various laws surveyed, the population policy law affects individuals only indirectly, through the implementing laws adopted pursuant to it. It would be up to the Department of Education, for example, to implement the policy of integrating family planning into the education program, to the Department of Health to see that "safe and effective means will be provided to couples desiring to space or limit family size." It is interesting to note that 61 percent of the respondents already consider the population policy law as having been "effectively" carried out, as against only 28 percent who rate the implementation as ineffective. It is noteworthy further that no one disapproves of the law creating the Population Commission. Similarly most respondents support the Teheran Proclamation that parents have a "basic human right to determine freely and responsibly the number and the spacing of their children." There is some confusion as to whether the right is to have as many or as few as one desires. This may be clarified by spelling out the right as including the right to adequate education and information (Teheran Resolution) as well as the right to the "means" necessary to practice family planning (1969 U.N. Declaration on Social Progress and Development).

Each of these four sets of laws then has variable impact and variable potential for affecting fertility behavior. As to law in general, the majority of respondents support the idea that law is an important element in any population program. According to 78 percent, law can play a role in solving population problems. Only 9 percent disagree. Such consensus is not surprising, particularly since this question was asked after specific laws had been discussed, but the important question is how large this role is and what it would consist of. The specific role law is assigned is variable.

- Legalize divorce, and legal reform to give individuals more freedom, such as the abortion law.
- Make birth control part of the education curriculum and provide for free contraceptives. [a doctor]
- Law should provide economic incentives to small families.
- Pass laws which will allow people to limit the number of children. E.g., abolish the abortion and pharmacy laws. [a doctor]
- All laws which are contrary to the population policy should be amended.

Most of these suggestions repeat themes that were touched on with regard to specific laws. There were a few respondents, however, who took a different tack when asked about the role of law in general, and proposed that the solution to population problems was economic growth:

- To solve the population problem the government should stabilize the economy and intensify food production. Improved economic conditions can support a big population.
- The government can help in the solution of population problems indirectly only by solving the problem of mass poverty (that is, providing more opportunities). [a doctor]
- The law should give incentives for students to go into agriculture instead of white-collar jobs. This way agricultural production will help solve the population problem. Idle lands should be utilized. [a lawyer]

A few others think law is important simply because most people respect it.

- Law directly affects the solution of population problems because no matter how good or bad our laws are people abide by them. People are compelled to follow.
- Filipinos are law-abiding.

The minority who think law is an ineffective instrument in population control usually consider education of much more consequence. Some of these respondents are completely skeptical about attempting any legal reform:

- Education not law can solve population problems. [a lawyer]
- We cannot legislate human nature. [a lawyer]
- Law and freedom seem to be contradictory since law and the increase of options do not go together. The main purpose of family planning is to increase individual freedom. Law plays little role in solving the population problems since family planning is a personal matter. There are many circumstances wherein it is best not to pass a law, as in the case of population control.
- Laws are effective in the city, but in the rural areas who cares about them? Besides they do not even know the law.
- No amount of legislation will change our cultural patterns. Education to change attitudes is what is needed.
- I am a Filipino and I know how Filipinos treat laws. Whether you make a good law or a bad law, it does not matter. We have so many good laws, but. . . [a doctor]

These opinions are varied and divergent, and only further research can determine which are the most accurate. It may be signi-

ficant that no one denies that law can play a negative role, that it can serve to obstruct a population control program. Many respondents agree that cultural and religious barriers to liberalization of abortion law and contraceptive regulations are still strong, and a number of respondents are themselves opposed to such reform. Where such value conflicts exist, law may be unable to play a strong positive role Parsons says:

The prominence of and the integrity of a legal system as a mechanism of social control are partly a function of a certain type of social equilibrium. Law flourishes particularly in a society in which the most fundamental questions of social values are not currently at issue or under agitation. If there is sufficiently acute value conflict, law is likely to go by the board. Similarly, it flourishes in a society in which the enforcement problem is not too seriously acute. This is particularly true where there are strong informal forces reinforcing conformity with at least the main lines of the legally institutionalized tradition.¹⁷

The most law can do when major disagreement on values exists is to be permissive. This may be accomplished by failing to enforce the law, although this method leaves it legitimate to exercise some repression occasionally. Perhaps the path that legal reform can take can be envisioned as a cycle, with repressive laws based on the traditional moral consensus gradually giving way to unenforced or permissive laws that permit individuals to innovate and permit knowledge of innovations to spread. The symbolic importance of repealing a repressive law may itself be considerable. When a consensus on some innovation has been reached, it may be time for the law to become compulsory again, this time enforcing a different set of behaviors in order to consolidate and institutionalize the gains that have been made. While this cycle may apply most clearly to abortion and contraceptive regulations, such laws as the Population Commission law may also require a permissive phase, in which experimentation with a variety of campaign methods can take place before they are fully and widely implemented.

This three-stage cyclical model returns us to the question of the relative impact of law and custom. For convenience, the three stages can be labelled the traditional-repressive stage, the permissive or non-enforcement stage, and the reformatory-compulsory stage (which, as society changes, may be seen as repressive again, though at a different level). At each stage, some variance between law and custom is possible, but presumably

¹⁷ *The Law and Social Control*, in W.M. EVANS (Ed.), *LAW AND SOCIOLOGY*, 71 (1962).

this latitude is greatest at the permissive stage. An assimilation-contrast effect may be presumed to operate, in the sense that law which is not too different from existing custom is tolerated but law which is too much at variance is rejected. Moderate differences, at the same time, set up a feedback relationship that pulls law and custom closer together. The critical questions, then, are how far out of step law can be while yet retaining some anchorage in existing custom, and what the appropriate timing is for progressing from one stage to another. These questions and conceptions are suggested by a brief overview of influentials' opinions on population law, but further specification of parameters and much more empirical research is necessary to flesh them out.

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