

# Rights-Based Regulation and the Role of Civil Society: Case Study of Sin Taxation

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# Regulation by taxation

- Taxation is a form of regulation—encourage (incentivize) or discourage (disincentivize) different types of good (bad) behavior.
- The concept of sumptuary taxation is applied to discourage goods and services that society sees as undesirable—the excise taxes on alcohol and tobacco, for example.
- Regulation of undesirable goods and services: Through control/prohibition? Or through “nudge,” Thaler’s “paternal liberalism.”

# Rights-based approach

- Respecting choice (in most instances, far superior to restricting choice or freedom through prohibition).
- Democratic decision-making.
- Inclusiveness.
- In these respects, the role of non-government actors or civil society becomes fundamental.

# Relevance of case study

- Can serve as guide for the current advocacy on the comprehensive tax reform program (Tax Reform for Acceleration and Inclusion or TRAIN).
- Can likewise provide lessons to other areas of advocacy, which require multi-stakeholder participation, both in the Philippines and elsewhere (e.g., universal health care, education reform, food policy, pension reform).
- Philippine sin tax lessons have become a global best practice.

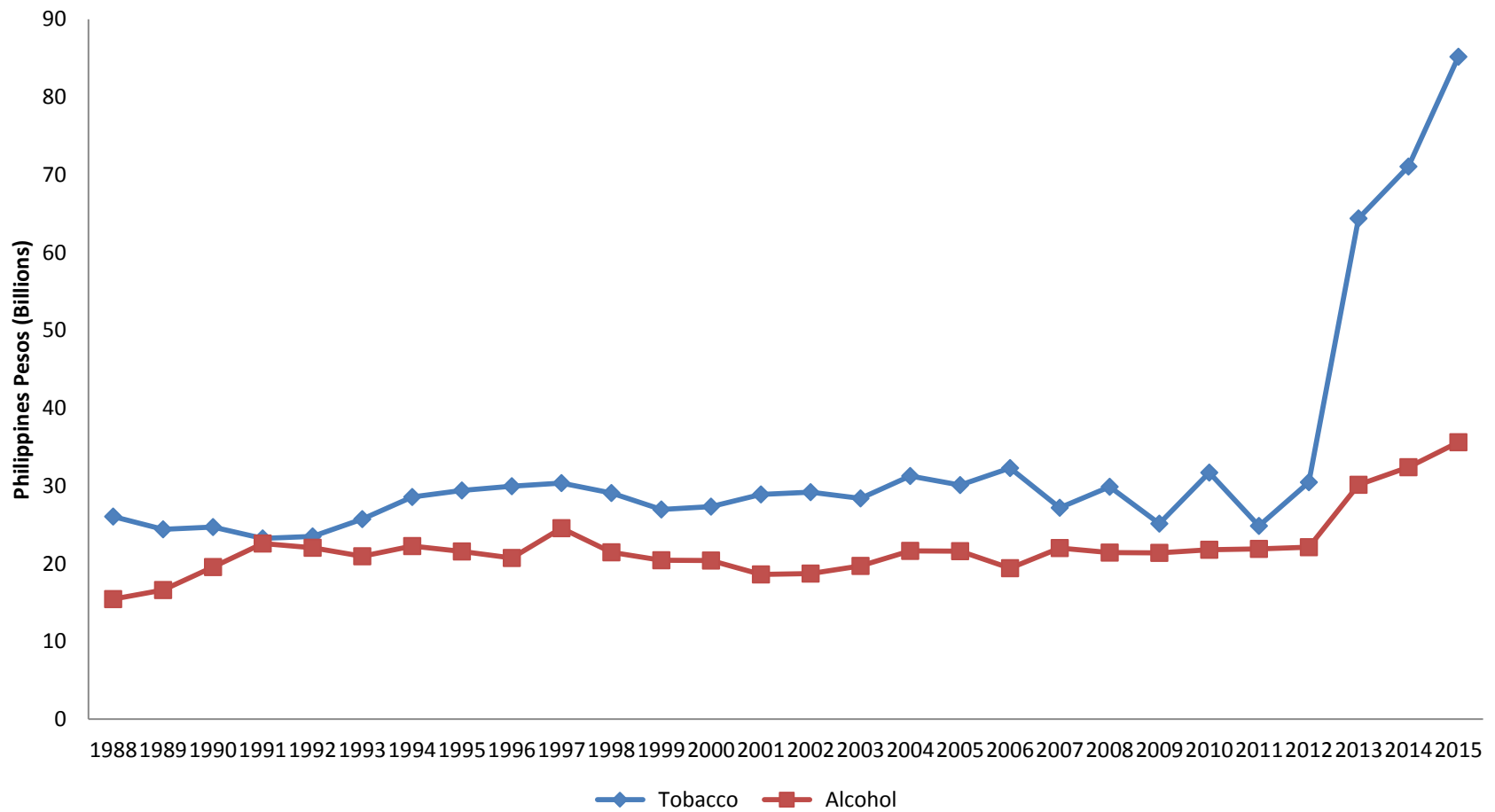
# The problems that sin taxation wanted to address (pre-2012)

- Very low tax rates, not adjusted to inflation.
- Bad structure: legacy brands were protected by having "frozen" rates; complex structure (different tax rates); discrimination against foreign goods (e.g., alcohol taxation was not compliant with WTO rules).
- High smoking and excess drinking prevalence.
- Heavy economic burden, especially for the poor arising from diseases associated with tobacco and alcohol use.

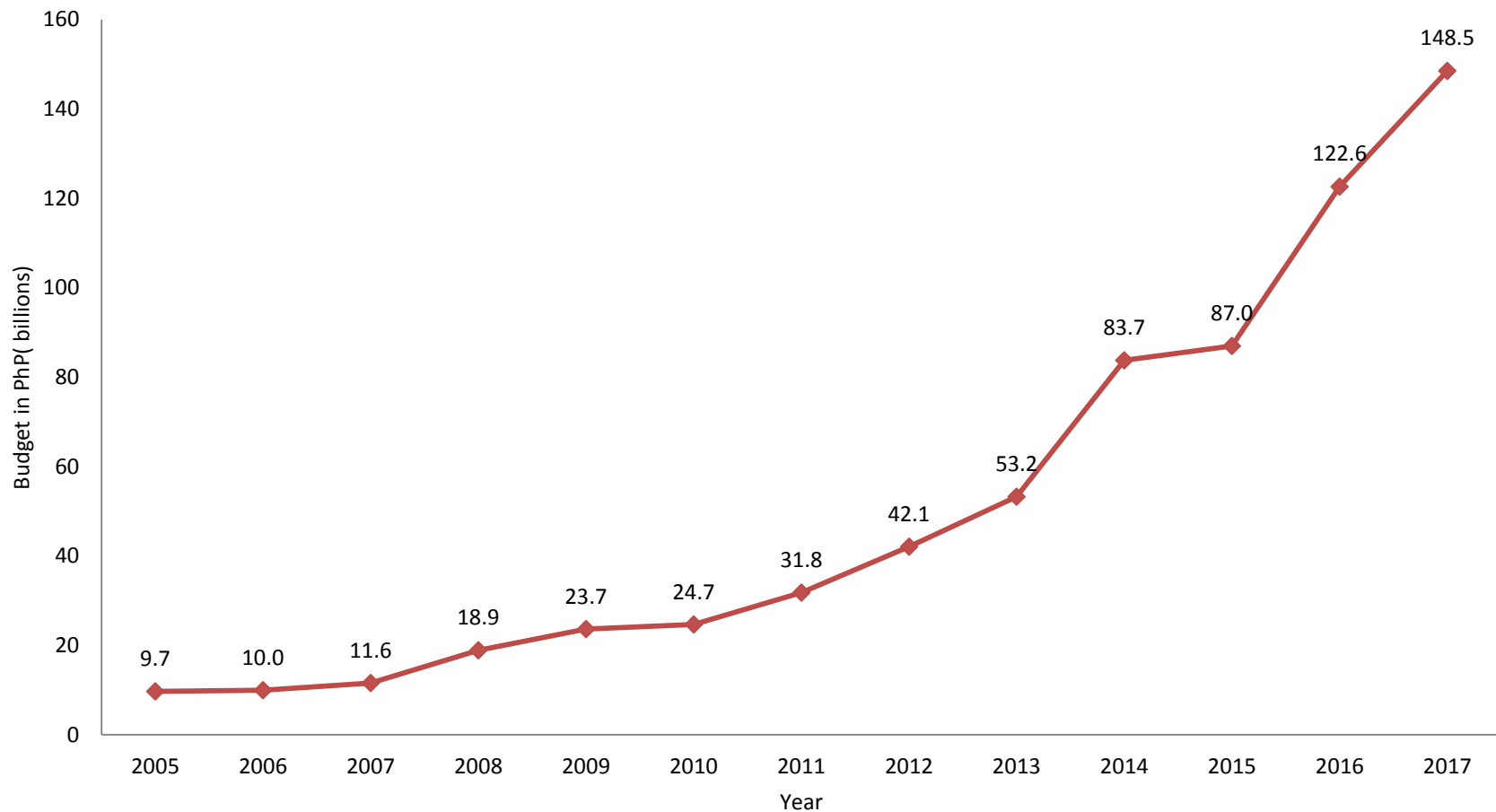
# Outcomes

- Significantly higher rates.
- Correction of tax structure: removal of protection to legacy brands, unitary tax for tobacco and beer products, automatic adjustment of rates to inflation (4 percent every year, starting in 2017).
- Earmarking of the incremental revenue for health programs.

# Dramatic increase in excise tax revenues, especially for tobacco (in constant 2010 prices)



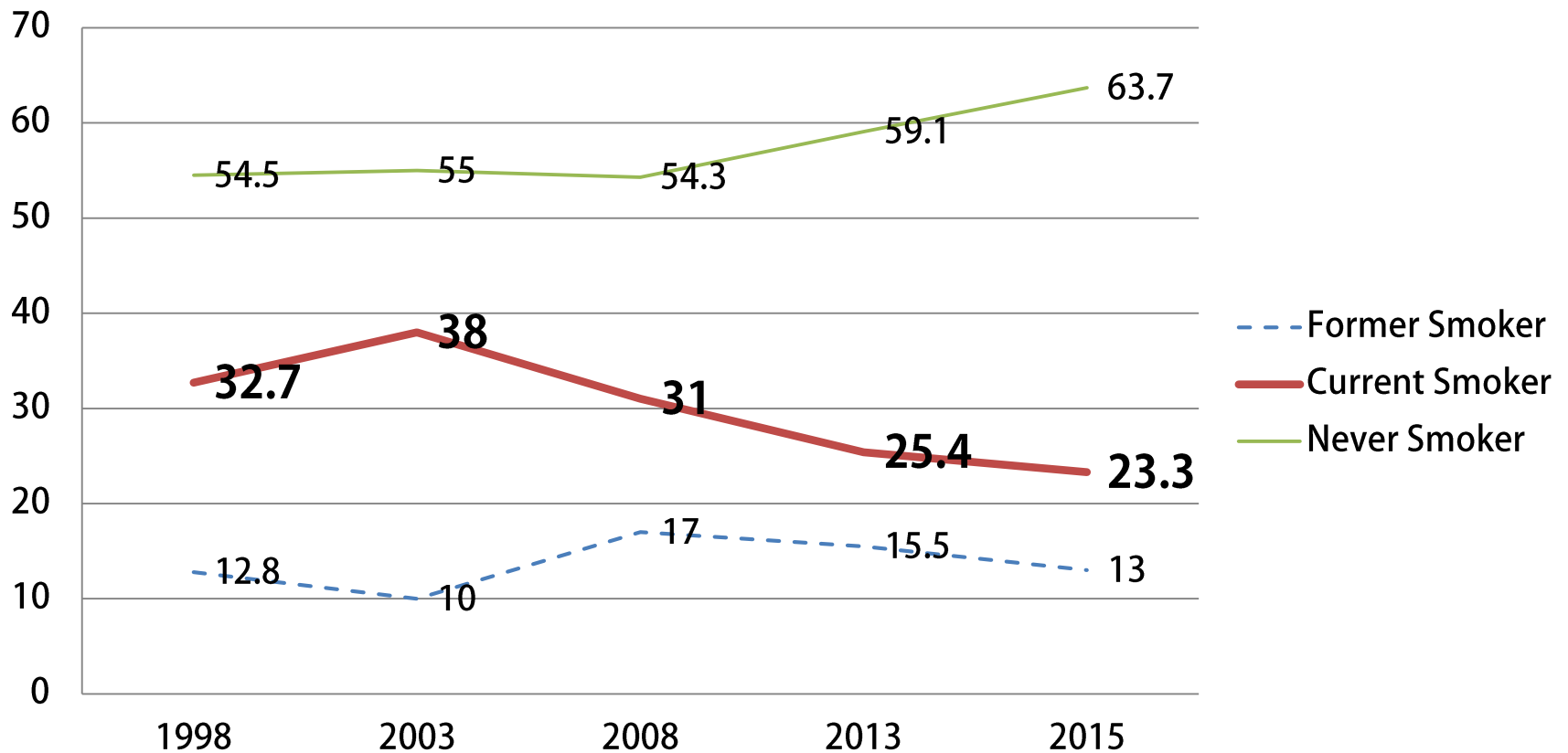
# Dramatic increase in the Department of Health budget





# Dramatic decline in smoking prevalence

Smoking Prevalence (NNS)



# Summary of Lessons: Sin Tax Law (2012)

- Firm, consistent support of the President.
- Solid core group of government champions in the Executive and Legislative branches.
  - Finance Secretary Cesar Purisima, Health Secretary Ike Ona, Internal Revenue Commissioner Kim Henares, Budget Secretary Butch Abad.
  - Senator (now Senate President) Frank Drilon, Representative Sid Ungab, Representative (now Transportation and Communication Secretary) Jun Abaya, Representative (now Deputy Speaker) Dina Abad

# Main Lessons

- Broadest coalition possible of government champions and civil society. The broad spectrum of civil society encompasses:
  - Economic reform groups: Action for Economic Reforms, Foundation for Economic Freedom, University of the Philippines School of Economics faculty.
  - Health groups: Philippine College of Physicians, University of the Philippines College of Medicine, Framework Convention on Tobacco Control, Philippines, and others.
  - Former senior government officials: former Finance Secretary Gary Teves, former Finance Secretary Ernest Leung, former Health Secretary Espie Cabral, former Health Secretary Quasi Romualdez (deceased), former Economic Planning Secretary Winnie Monsod, former National Treasurer Liling Briones, former Finance Undersecretary Nene Guevara, former finance undersecretary Romy Bernardo.
  - Business groups: Makati Business Club.
  - Youth groups.
  - Tobacco farmers.
  - People's organizations: urban poor and women.

# Lessons

- Framing: Sin tax is primarily a health issue.
- Clear, concrete, creative communication strategy.
- Incentives: Earmarking of the bulk of incremental revenues for universal health care, benefiting local governments and congressional districts; some earmarking for tobacco farmers and alternative livelihood.
- Unity with regard to bottom-line positions (e.g., unitary tax rate, automatic adjustment to inflation, removal of protection to legacy brands, compliance to World Trade Organization rules).

# Main Lessons

- Technical competency, led by the Department of Finance with support from the World Bank, World Health Organization and civil society groups like Action for Economic Reforms, Philippine College of Physicians, and University of the Philippines College of Medicine.
- Smart, bold, unconventional actions, employing a wide range of tactics: pressure politics, art of compromise and tactical alliances, dividing the ranks of those opposing the reforms.

# Civil Society's Indispensable Role

- Framing the health issue.
- Pushing for the maximum objectives.
- Pressuring politicians: Resignation of pro-tobacco Senator Ralph Recto (the “Recto Morris” slogan) as the Chair of the Senate Ways and Means Committee. Removal of pro-tobacco Congressman Hermilando Mandanas from the chairmanship of the House of Representatives Ways and Means Committee.
- Shaping public opinion through a sharp and clear communication strategy, employing traditional and new media.
- Addressing the coordination problem between government and other stakeholders as well as within government.

# Built-in attributes of civil society organizations (CSOs)

- Freed from bureaucratic constraints, thus having the mobility and flexibility to quickly respond to ever-changing conditions.
- Can be assigned sensitive tasks that government has difficulty executing, including intelligence work, playing bad cop, facilitating talks, and the like.
- Additional resources (human, intellectual, logistical) to carry out an all-round campaign.
- Informal networks.

# Caveat

- Civil society is diverse. Some CSOs have the political capital, the technical knowhow, and the sophistication, which are necessary to conduct an effective campaign.
- Other groups are hampered by rigid ideology or fundamentalist, hard-line views.
- We separate the grain from the chaff—distinguishing between good and bad CSOs.
- Thus the importance of reliable information and networks to identify the good and capable CSOs.



# An Illustration: Action for Economic Reforms (AER)

- Leading civil society organization in the sin tax campaign.
- Founded in late 1996; composed of progressive and activist economists, academics, scholars and public intellectuals.
- Focused on tax reforms, other macroeconomic issues, and good governance and institutions.
- Has extensive links with (civil society and political) movements, academe, government career officials, and politicians.

# AER and the Sin Tax

- Participated in various tax reform efforts, and collaborated with other reformers, including those in government.
- Learned painful lessons from the defeat of sin tax reforms in 1997 and 2004.
- Has been working with DOF since its founding in 1996 and has thus earned the DOF's trust.
- Has good relations with reformers in the administration.

## AER's Role in Legislating the Sin Tax Reforms: Comparing the AER bill and the original DOF bill

	Price Cut-off (NRP in PhP)	Tax Rates (in PhP)					
		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6 hereafter
HB 2687 (Original Department of Finance bill)	≤ 6.50	8.00	14.00	Rates indexed to inflation			
	> 6.50	14.00					
HB 3465 (Abad and AER bill)	≤ 10.00	14.00	22.00	30.00	Rates indexed to inflation		
	> 10.00	28.30	30.00				
RA 10351	≤ 11.50	12.00	17.00	21.00	25.00	30.00	4% automatic annual increase
	> 11.50	25.00	27.00	28.00	29.00		

# Concluding Message

- The conventional thinking is that civil society organizations are critical of or skeptical of government.
- But the sin tax campaign leading to the historic 2012 legislation showed that civil society can be harnessed to work with government for the public interest; that it has the capacity to make things happen.

# Concluding Message

- Government will encounter challenges and difficulties in securing major reforms—resistance from highly organized and resource-rich vested interests, possible hostile public opinion, collective action problems, and the like.
- Government benefits from harnessing the potentials of civil society to help address such difficulties.
- Ultimately, ownership of reforms is broadened and strengthened.