Reproductive Justice: What It Means for Filipino Women

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I. INTRODUCTION

On 7 April 2023, Dr. Natalia Kanem, Executive Director of the United Nations Population Fund (UNFPA), reported that women die from giving birth every two minutes, albeit, in most instances, these deaths are actually preventable, and not inevitable, if only health services to them were available, accessible, affordable, and of good quality.[1]

The UNFPA executive director generally attributes this failure of health services for women and girls to gender discrimination, as manifested in the treatment of their health "as less important than other goals"[2] in policy decisions that "deprioritize and cut funds for essential, life-saving sexual and reproductive health services."[3]

The inability of women (and girls) to take charge of matters pertaining to their reproductive health, together with a health system that fails to provide available, accessible, affordable, and good quality services, especially in the area of reproductive health, sums up what reproductive justice seeks to address. However, to fully comprehend what reproductive justice entails requires an in-depth appreciation and recognition of intersecting forms of discrimination

1. United Nations Fund for Population Activities, Statement by UNFPA Executive Director Dr. Natalia Kanem on World Health Day 2023, *available at* https://vietnam.unfpa.org/en/news/statement-unfpa-executive-director-dr-natalia-kanem-world-health-day-2023-6 (last accessed Jan. 31, 2024) [https://perma.cc/7YKL-FTXG].

2. *Id.*

3. *Id.*

that women suffer. Mere acknowledgment that they have reproductive and sexual health rights is not enough. Awareness of existing barriers and how they operate to prevent women from exercising said rights must first be undertaken.

This Article discusses reproductive and sexual health rights within the framework of reproductive justice. It focuses on major barriers that intersect and prevent women from enjoying full and unimpeded access to reproductive health resources and services, especially modern contraception. The Article also gives particular attention to the persistent and enduring influence of one particular institution — the Catholic church — and argues that its influence has reinforced the government's reluctance to recognize the centrality of reproductive and sexual health rights to women's human right to health.

II. UNDERSTANDING REPRODUCTIVE JUSTICE

Reproductive justice has been defined by Loretta Ross as "the complete physical, mental, spiritual, political, social, and economic well-being of women and girls, based on the full achievement and protection of women's human rights."[4]

As a brief background, the term reproductive justice was first used in a 1994 Statement entitled *Black Women on Health Care Reform* to the United States Congress, by the Women of African Descent for Reproductive Justice, where they gathered more than 800 signatures to demand reforms, which not only covers "the full range of reproductive services,"[5] but also includes "strong anti-discriminatory provisions to ensure the protection of all women of color, the elderly, the poor[,] and those with disabilities."[6] The statement also emphasized non-discrimination on the basis of sexual orientation.[7]

This initiative was precipitated by the growing sentiment that the struggle for women's rights and equality predominantly represented issues significant

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4. Loretta Ross & SisterSong Women of Color Reproductive Health Collective, *What is Reproductive Justice? in* REPRODUCTIVE JUSTICE BRIEFING BOOK: A PRIMER ON REPRODUCTIVE JUSTICE AND SOCIAL CHANGE 4 (2007).

5. Vanessa Williams, *Why Black Women Issued a Public Demand for 'Reproductive Justice' 25 Years Ago*, WASH. POST, Aug. 16, 2019, *available at* https://www.washingtonpost.com/nation/2019/08/16/reproductive-justice-how-women-color-asserted-their-voice-abortion-rights-movement (last accessed Jan. 31, 2024) [https://perma.cc/7SJR-7K7E].

6. *Id.*

7. *Id.*

to white middle-class or wealthy women; that said struggle had not taken into account other forms of oppression reflective of the lived experiences of women of color.[8]

Although the concept of "reproductive justice" was articulated in 1994, it gained recognition as a framework for analysis that was grounded on human rights when it was introduced by the SisterSong Women of Color Reproductive Justice Collective.[9] The collective was formed in 1997, comprising 16 women organizations of varying ethnicities: African American, Asian American, Latina, and Native American.[10] Members of the SisterSong assert their right to represent themselves and their communities, and their responsibility in advancing the latter's needs and perspectives.[11]

Ross further elaborates —

> This definition[,] as outlined by Asian Communities for Reproductive Justice (ACRJ)[,] offers a new perspective on reproductive issues advocacy, pointing out that for Indigenous women and women of color[,] it is important to fight equally for[:] (1) the right to have a child; (2) the right not to have a child; and (3) the right to parent the children we have, as well as to control our birthing options, such as midwifery. We also fight for the necessary enabling conditions to realize these rights. This is in contrast to the singular focus on abortion by the pro-choice movement that excludes other social justice movements.[12]

As a framework for analysis, reproductive justice utilizes intersectionality; and building on the experience of women of color, it has generally looked into "race, class, and gender as contributing factors in the reproductive oppression of women."[13] Reproductive justice further draws on the expertise of women, and values their agency, both as leaders and stakeholders.[14]

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8. *Id.*

9. *See* Black Women of Color Reproductive Justice, The Reproductive Justice Framework, *available at* https://bwrj.wordpress.com/bwrj-reproductive-justice (last accessed Jan. 31, 2024) [https://perma.cc/639K-QHYR].

10. SisterSong, Inc., About Us (Information about SisterSong), *available at* https://www.sistersong.net/about-x2 (last accessed Jan. 31, 2024) [https://perma.cc/879U-MULH].

11. *Id.*

12. Ross & SisterSong, *supra* note 4, at 4.

13. Black Women of Color Reproductive Justice, *supra* note 9.

14. *Id.*

III. Reproductive Justice and Human Rights

The Programme of Action of the International Conference on Population and Development (ICPD) defines reproductive health as the

> state of complete physical, mental[,] and social well-being[,] and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health[,] therefore[,] implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when[,] and how often to do so.[15]

This definition has been adopted by the Committee on Economic, Social, and Cultural Rights in General Comment (G.C.) No. 22 of the International Covenant of Economic Social and Cultural Rights, as well as the World Health Organization's definition of sexual rights.[16] Thus, Paragraph 6 of G.C. No. 22 provides that —

> Sexual health, as defined by the World Health Organization (WHO), is 'a state of physical, emotional, mental[,] and social well-being in relation to sexuality.' Reproductive health, as described in the Programme of Action of the International Conference on Population and Development, concerns the capability to reproduce and the freedom to make informed, free[,] and responsible decisions. It also includes access to a range of reproductive health information, goods, facilities[,] and services to enable individuals to make informed, free[,] and responsible decisions about their reproductive behaviour.[17]

As earlier stated, it is not enough that reproductive and sexual health rights are recognized as an integral part of women's right to health, albeit both the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Covenant of Economic Social and

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15. United Nations Population Fund, Programme of Action of the International Conference on Population and Development 59 (2014).

16. Committee on Economic, Social and Cultural Rights, *General Comment No. 22 (2016) on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*, ¶ 6, U.N. Doc. E/C.12/GC/22 (May 2, 2016) [hereinafter *G.C. No. 22*] (citing World Health Organization, Sexual Health, Human Rights and the Law 5 (2015)).

17. *Id.*

Cultural Rights (ICESCR) emphasize this.[18] In the course of realizing these rights, discrimination continues to be a major obstacle, and this has to be addressed. Discrimination can be multi-layered and varied in forms, hence it is imperative that States-Parties take into account the diverse situations and conditions of women because, simply put, women are not one homogenous group. They do not experience discrimination solely on the basis of sex; neither do they experience layered discrimination in the same degree and frequency.

Thus, CEDAW General Recommendation (G.R.) No. 24 clarifies that States must pay attention to the biological differences between women and men as this could limit women's access to sexual and reproductive care services, and ultimately have an adverse effect on their health.[19] For instance, while provision for medical care might be available, the lack or absence of measures to ensure confidentiality during patient consultation would disadvantage women more because they are likely to be "less willing, ... to seek medical care"[20] with regard to reproductive function, menopause, sexually transmitted infections (STIs) and diseases (STDs), especially "where they have suffered sexual or physical violence."[21]

Furthermore, aside from the biological differences between women and men, G.R. No. 24 also emphasizes the importance of being sensitive to the different situations of women, for instance, within the family or the workplace, and how these influence their perspectives about their own health needs.[22] This way, States can properly address their reproductive and sexual health needs through responsive policies and measures.[23]

For example, younger women are more vulnerable because of their subordinate status as women and as adolescents or girls. Accordingly, "[g]irl children and adolescent girls are often vulnerable to sexual abuse by older men and family members, placing them at risk of physical and psychological harm

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18. Committee on the Elimination of Discrimination Against Women, *Report on Its Twentieth Session*, ch.1, § A, ¶ 4, U.N. Doc. A/54/38/Rev.1 (1999) [hereinafter G.R. No. 24].

19. *Id.* ch.1, § A, ¶ 12 (a).

20. *Id.* ¶ 12 (d).

21. *Id.*

22. *Id.* ¶ 12 (b).

23. *Id.* ¶ 9.

and unwanted and early pregnancy."[24] Likewise, Paragraph 22 mentions discriminatory practices that are specifically relevant to working women, among others, on "mandatory pregnancy testing as a condition of employment that violate women's rights to informed consent and dignity;"[25] for women with disabilities, Paragraph 25 particularly mentions the heightened vulnerability of those with mental disabilities, "as a result of gender discrimination, violence, poverty, armed conflict, dislocation[,] and other forms of social deprivation."[26]

Likewise, G.C. No. 22 acknowledges that because of "legal, procedural, practical and social barriers, access to the full range of sexual and reproductive health facilities, services, goods[,] and information is seriously restricted."[27] Further, "the full enjoyment of the right to sexual and reproductive health remains a distant goal for millions of people, especially for women and girls,"[28] and those who experience "multiple and intersecting forms of discrimination" suffer the most exclusion in law and in fact.[29]

According to SisterSong, reproductive justice is "[r]ooted in the internationally-accepted human rights framework created by the United Nations,"[30] and "combines *reproductive rights* and *social justice*."[31] "[Reproductive justice] is simply human rights[,] seen through the lens of the nuanced ways oppression impacts self-determined family creation."[32] For reproductive justice to be realized, these intersecting and multiple forms of oppression should be addressed, with the most marginalized as the center because "society will not be free until the most vulnerable people are able to access the resources and full human rights to live self-determined lives without fear, discrimination, or retaliation."[33]

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24. Committee on the Elimination of Discrimination Against Women, *supra* note 18, ¶ 12.
25. *Id.* ch.1, § A, ¶ 22.
26. *Id.* ch.1, § A, ¶ 25.
27. Committee on Economic, Social and Cultural Rights, *supra* note 16, ¶ 2.
28. *Id.*
29. *Id.* ¶ 2.
30. SisterSong, Inc., Reproductive Justice, *available at* https://www.sistersong.net/reproductive-justice (last accessed Jan. 31, 2024) [https://perma.cc/BWD7-HC2T].
31. *Id.* (emphases supplied).
32. *Id.*
33. *Id.*

Moreover, power systems must also be analyzed, with the end in view of eradicating nuanced power dynamics. For SisterSong, this power system is mainly based on "gendered, sexualized, and racialized acts of dominance that occur on a daily basis."[34]

IV. INTERSECTIONALITY AS AN ANALYTICAL TOOL FOR REPRODUCTIVE JUSTICE

Intersectionality, as a frame for analyzing discrimination, was introduced by Professor Kimberlé W. Crenshaw in 1989. In her Paper, she argued that "a single-axis framework"[35] does not only limit "the multidimensionality of Black women's experience"[36] but also erases it altogether, because inquiry has been confined "to the experiences of otherwise-privileged members of the group."[37] According to Professor Crenshaw, the exclusion of Black women's experiences is rooted in prevailing feminist and anti-racist discourses, which are mutually exclusive, and lacking discussion on the interaction between race and gender. Thus, "[b]ecause the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated."[38]

Consequently, there has to be a more purposeful effort in analyzing discrimination, which can be informed by applying an intersectional lens. Within the context of women's reproductive health, an intersectional approach provides a better understanding of the socio-cultural factors leading to health inequities, and how they impact the differing lives of women. It offers a broader perspective on reproductive oppression and discrimination. "Thus, the social factors conditioning the distribution of resources and power, and thus health, should be considered as interlinked[,] rather than as unidimensional."[39] It also facilitates "the mapping of inequalities in health[,]

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34. *Id.*

35. Kimberlé W. Crenshaw, *Demarginalizing the Intersection of Race and Sex*: *A Black Feminist Critique of Antidiscrimination Doctrine*, *Feminist Theory*, *and Antiracist Politics*, 1989 U. CHI LEGAL F. 139, 139 (1989).

36. *Id.*

37. *Id.* at 140.

38. *Id.*

39. Aida Moreno-Juste, et al., *Multimorbidity*, *Social Determinants and Intersectionality in Chronic Patients*. *Results from the EpiChron Cohort*, 13 J. GLOBAL HEALTH 1, 2 (2023) (citing Maria Wemrell, et al., *An Intersectional Analysis Providing More Precise*

and therefore[,] better illustrate patterns of disadvantage. In addition, an intersectional approach helps us to shift the focus from individual risk factors to social power dynamics, reinforcing the importance of structural interventions that address social causes."[40]

V. REPRODUCTIVE JUSTICE AND THE INTERSECTING FORMS OF DISCRIMINATION: THE PHILIPPINE CONTEXT

In 2022, the National Health and Demographic Survey (NHDS) conducted by the National Statistics Office, reported that the unmet need for family planning was at 12% for married women and 42% for sexually active unmarried ones.[41] Women with the unmet need for family planning in the survey included those:

> (1) [W]ho are not pregnant ... and want to postpone their next birth for [two] or more years or stop childbearing altogether[,] but are not using a contraceptive method[;]
> (2) [H]ave a mistimed or unwanted current pregnancy[;] or
> (3) [Whose] ... last birth in the last [two] years was mistimed or unwanted.[42]

Also, women who were "living together as if married"[43] were included under the category of married women in the survey.[44]

The findings noted that the highest percentages of (married) women with unmet needs for family planning belonged to the age group between 15-19 (28.3%) and 20-24 (19.4%), respectively.[45] As for the level of education, women from Grades 11-12 had the highest percentage (21.5%), followed by

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Information on Inequities in Self-Rated Health, 20 INT'L J. FOR EQUITY IN HEALTH 1, 3 (2021)).

40. *Id.* (citing Wemrell, et al., *supra* note 39 & Michael Marmot, *Closing the Gap in a Generation*: *Health Equity Through Action on the Social Determinants of Health*, 372 LANCET 1661 (2008)).

41. PHILIPPINE STATISTICS AUTHORITY, 2022 PHILIPPINE NATIONAL DEMOGRAPHIC AND HEALTH SURVEY (NDHS) 101 (2023).

42. *Id.* at 106.

43. *Id.* at 35.

44. *Id.*

45. *Id.* at 122.

those who had no education (19.6%).[46] As to the wealth quintile, the women belonging to the lowest quintile registered the highest percentage at 13.7%.[47]

As far as the survey is concerned, women who are poor and with limited education appear to be the most disadvantaged as regards the unmet needs for family planning. This is not to say, however, that the disadvantages owing to limited resources and poor education are the only barriers to having their reproductive and sexual health needs met. Indeed, these women undoubtedly also face challenges in other aspects of their daily lives that may affect their ability to receive adequate and accurate information, exercise their agency in a free and full manner, or participate and have their decisions valued and respected (especially when it comes to the number and spacing of children). Conversely, other women who are not necessarily living in poverty, nor are poorly educated, may experience the same or similar challenges, albeit in different situations or conditions. Although women may suffer disadvantages in diverse forms, it is not difficult to deduce that they all experience the discriminatory effects of disempowerment and exclusion at some level.

VI. SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS: A HEALTH AND EMPOWERMENT ISSUES

The importance of family planning has been highlighted in a study conducted in four Southeast Asian countries, including the Philippines.[48] The study asserts that with women being able to control the spacing of children, there would be a reduced risk of unintended pregnancies and high-risk births.[49] At the same time, for adolescents who still are physically immature, delayed pregnancies are beneficial, while older women who could limit giving birth would also have reduced exposure to complications.[50]

46. *Id.*

47. PHILIPPINE STATISTICS AUTHORITY, at 122.

48. Chiew Way Ang & Siow Li Lai, *Women's Empowerment and Modern Contraceptive Use*: *Evidence from Four Southeast Asian Countries*, 25 J. INT'L WOMEN'S STUD. 1 (2023) (citing Guttmacher Institute, Family Planning Can Reduce High Infant Mortality Levels, *available at* https://www.guttmacher.org/report/family-planning-can-reduce-high-infant-mortality-levels (last accessed Jan. 31, 2024) [https://perma.cc/2HVN-YGMJ]).

49. *Id.*

50. *Id.* (citing Guttmacher Institute, *supra* note 48 & World Health Organization, Contraception, *available at* https://www.who.int/health-topics/contraception#tab=tab_1 (last accessed Jan. 31, 2024) [https://perma.cc/QM79-QJVA]).

The study also found that women who received secondary education had a high prevalence of using modern contraception and that, generally, "[e]ducated women have better knowledge of family planning and have more favorable attitudes towards the use of modern contraception, which explains the higher prevalence of modern contraceptive use among educated women."[51]

Moreover, women's ownership over property, such as land or their homes, had also translated to power in their household.[52] In turn, it was found that "Filipino women with higher empowerment in household decision-making were more likely than those with lower empowerment to use a modern contraceptive method."[53]

It is evident in the study that for women to reach the level of empowerment and be in a position to assert and exercise their reproductive rights, especially as regards having or not having children, they must possess decision-making capabilities in their own households.[54] Property ownership and good education are also important contributing factors to their empowerment.[55] More comprehensively, G.C. No. 22 articulates the need for States-Parties not only to address what it identifies as the underlying determinants of sexual and reproductive health, but also the social determinants of health, and assess how these factors enable or impede the enjoyment of reproductive and sexual health rights.[56] Thus —

II. Context

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51. *Id.* at 11 (citing Joseph Lasong, et al., *Determinants of Modern Contraceptive Use Among Married Women of Reproductive Age: A Cross-Sectional Study in Rural Zambia*, 10 BMJ OPEN 1, at 1 & 4 (2020) & Shanika Samarakoon & Rasyad A. Parinduri, *Does Education Empower Women? Evidence from Indonesia*, 66 WORLD DEV. 428, 440 (2015)).

52. *Id.* at 10 (citing Amy O'Regan & Gretchen Thompson, Indicators of Young Women's Modern Contraceptive Use in Burkina Faso and Mali from Demographic and Health Survey Data, 2 CONTRACEPTION AND REPRODUCTIVE MEDICINE 1, 1 & 6-7 (2017)).

53. *Id.* at 7.

54. *See generally* Ang & Lai, *supra* note 48.

55. *Id.*

56. Committee on Economic, Social, & Cultural Rights, *supra* note 16, ¶¶ 7-8.

> *Underlying and social determinants*
>
> 7. In its [G]eneral [C]omment No. 14, the Committee stated that the right to the highest attainable standard of health not only included the absence of disease and infirmity and the right to the provision of preventive, curative[,] and palliative health care, but also extended to the underlying determinants of health. The same is applicable to the right to sexual and reproductive health. It extends beyond sexual and reproductive health care to the underlying determinants of sexual and reproductive health, including access to safe and potable water, adequate sanitation, adequate food and nutrition, adequate housing, safe and healthy working conditions and environment, health-related education and information, and effective protection from all forms of violence, torture and discrimination[,] and other human rights violations that have a negative impact on the right to sexual and reproductive health.
>
> 8. Further, the right to sexual and reproductive health is also deeply affected by "social determinants of health[,]" as defined by WHO. In all countries, patterns of sexual and reproductive health generally reflect social inequalities in society and unequal distribution of power based on gender, ethnic origin, age, disability[,] and other factors. Poverty, income inequality, systemic discrimination[,] and marginalization[,] based on grounds identified by the Committee[,] are all social determinants of sexual and reproductive health, which also have an impact on the enjoyment of an array of other rights as well. The nature of these social determinants, which are often expressed in laws and policies, limits the choices that individuals can exercise with respect to their sexual and reproductive health. Therefore, to realize the right to sexual and reproductive health, States[-P]arties must address the social determinants as manifested in laws, institutional arrangements[,] and social practices that prevent individuals from effectively enjoying in practice their sexual and reproductive health. [57]

VII. INTERSECTIONALITY OF REPRODUCTIVE OPPRESSION

In the Philippines, gender, class, and religion have been identified as "the key intersections of [women's] reproductive oppression."[58]

To be sure, these are not the only factors that interact and intersect that are constitutive of reproductive oppression. But for the purpose of this Article, only these three key components will be discussed.

57. *Id.*

58. Satwinder Rehal, *Reproductive Justice in the Philippines: A Sociological Insight*, 69 PHIL. SOCIOLOGICAL REV. 27, 31 (2021).

A. Gender

According to Professor Satwinder Rehal, Filipino women's unmet needs can be attributed, among others, to socio-cultural factors that influence their decision to use contraceptives and avail of reproductive health services.[59] The decision, whether or not to use contraceptives, "is framed by a patriarchal system that projects them with stereotypes of docility and passivity."[60] For instance, unwanted pregnancies among women, belonging to the urban poor, have been found to be either the result of sexual explorations, male scheming, or even coercion, such that women have found themselves with almost no alternative, but to enter into a relationship with these men. On the other hand, the men who offer marriage, or some other form of companionship, are perceived as taking responsibility to alleviate the public shame and ridicule that women are bound to suffer.[61]

This gendered position of women in society, brought about by socialization, reinforces their subordinate status and stifles their freedom to exercise reproductive choices, not only as to when to have children, but also on how to avoid unprotected sex, despite the fact that such choices are actually legally sanctioned.

Unfortunately, aside from socio-cultural factors, the stifling of women's exercise of reproductive choices can likewise be attributed to law, policy, and jurisprudence which reinforce gender subordination. Indeed, Rehal points out that, during the COVID-19 pandemic, one of the more immediate resolutions of the government to address the problem was to divert resources from services that were categorized as non-essentials, in order to augment funds for the pandemic, including reproductive health services.[62] Citing Aglipay-Villar, Rehal notes that the facility, by which resources have been

59. *Id.* (citing Jean C. Peracullo, *A Feminist Reclaiming of the Mother's Womb: Beyond the Pro-Life/Pro-Choice Rhetoric on the Body, Subjectivity and Reproductive Control*, *in* FEMINISTA: GENDER, RACE AND CLASS IN THE PHILIPPINES 180 (Noelle Leslie dela Cruz & Jeane Peracullo eds., 2011).

60. *Id.* at 29 (citing Margarita L. Delgado-Infante & Mira A. P. Ofreneo, *Maintaining a "Good Girl" Position: Young Filipina Women Constructing Sexual Agency in First Sex Within Catholicism*, 24 FEMINISM & PSYCHOL. 390 (2014)).

61. *Id.* (citing Maria Dulce F. Natividad, *Catholicisms and Everyday Morality: Filipino Women's Narratives on Reproductive Health*, 14 GLOBAL PUB. HEALTH 37, 42 (2019)).

62. *Id.* at 28.

diverted, can be attributed to the fact that this area of health is seen, albeit mistakenly, merely as a woman's issue.[63]

Furthermore, before the passage of Republic Act No. 10354, otherwise known as the Responsible Parenthood and Reproductive Health Act of 2012 (RH Law),[64] the policy and programs on women's reproductive and sexual health, or their absence, have largely depended on the preference and disposition of the incumbent head of state. As a previous study describes,

> [t]he Philippines has seen several changes in government since the seventies[,] when the first Population Act was passed. From the time of the Marcos regime (1972-1986) when the policy on sexual and reproductive health and rights was boldly anti-poverty through population control to the time of Macapagal-Arroyo (2002-current) which has questioned the concept of reproductive health and pushed for Church-approved methods, women's reproductive health and rights have been subject to the pull of these two opposing forces.
>
> The Church gained ground with its major role in placing the Catholic widow, Aquino, in power in 1986. With a protestant president in place, from 1992-1998 (the period that covers ICPD), for a brief period[,] the reproductive health concept with its cafeteria approach to family planning came to acquire some importance. In 1998, a more aggressive Family Planning Programme explicitly geared towards reducing the population growth according to a set target [,] replaced this approach. With the Estrada administration's tenure cut short by another '[P]eople's [P]ower' revolt, we now have the Macapagal-Arroyo administration which, while presenting itself as being in favour of informed choice, has placed all [family planning] resources into promoting only natural family planning (NFP).[65]

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63. *Id.* (citing Emmeline Aglipay-Villar, *No Neglecting RH*, PHIL. STAR, July 13, 2021, *available at* https://www.philstar.com/opinion/2021/07/ 13/2112025/no-neglecting-rh (last accessed Jan. 31, 2024) [https://perma.cc/XFH3-ACEY]).

64. *See generally* An Act Providing for a National Policy on Responsible Parenthood and Reproductive Health [The Responsible Parenthood and Reproductive Health Act of 2012], Republic Act No. 10354 (2012).

65. International Conference on Population and Development, ICPD Ten Years On: Monitoring and Advocacy on SRHR — Philippines, at 118, *available at* https://arrow.org.my/wp-content/uploads/2015/04/ICPD-10_Monitoring-Report_Philippines_2005.pdf (last accessed Jan. 31, 2024) [https://perma.cc/BLZ7-6KNE].

Likewise, with the passage of the Local Government Code in 1991,[66] health services were devolved to the local government units (LGUs).[67] Since there was no specific provision regarding reproductive and sexual health services, the heads of the LGUs were practically given a free hand on what services and provisions would be available to women. The availability of reproductive health services and procedures, particularly modern contraceptives, became a problem "for areas where the head of the local units expressed preference for natural family planning."[68]

The Judicial branch is no exception. Notably, in the case of *Imbong, et. al., vs. Ochoa, et al.*, [69] the Supreme Court struck down the provision of the RH Law, which provides that, in case of conflict between spouses, the decision of the one who would undergo a reproductive health procedure would be followed.[70] According to the Court,

> [b]y giving absolute authority to the spouse who would undergo a procedure, and barring the other spouse from participating in the decision[,] would drive a wedge between the husband and wife, possibly result in bitter animosity, and endanger the marriage and the family, all for the sake of reducing the population.[71]

It is patently clear that this ruling is gender-blind. Plainly, it is the woman who would be more at a disadvantage because it is usually the wife who is expected to undergo procedures and who has to assert reproductive autonomy, not the husband. Also, requiring spousal consent is equivalent to upholding the objector of the procedure, thus defeating the Court's logic that such a decision belongs to both spouses.[72]

As far as women in situations of armed conflict, a research report by Oxfam points out that the Caraga Region has a sizable population of indigenous communities, while in the Bangsamoro Autonomous Region of

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66. An Act Providing for the Local Government Code of 1991 [LOCAL GOV'T CODE], Republic Act No. 7160 (1991).
67. *Id.* §§ 17 (b) (1) (iii) & 102.
68. Amparita S. Sta. Maria, *Government Medical Practitioners as Conscientious Objectors: An Examination of the Compelling State Interest and Religious Freedom in Imbong v. Ochoa, Jr.*, 61 ATENEO L.J. 1037, 1038 (2017).
69. *See generally* Imbong v. Ochoa, 732 Phil. 1 (2014).
70. *Id.* at 190.
71. *Id.*
72. Sta. Maria, *supra* note 68, at 1057.

Muslim Mindanao (BARMM), communities are mainly Muslim.[73] Both regions (which are characterized as among the "poorest areas in the country")[74] are conflict-stricken, which further exacerbates the sexual and reproductive health of women and girls.[75] For instance, in the BARMM region, conflict and displacement have given rise to early marriages mainly to secure a green card — a requirement for receiving aid.[76] This strategy has reinforced norms associated with early marriages.[77] In 2021, Republic Act No. 11596,[78] prohibiting child marriages, was passed into law.[79] However, it remains a challenge whether the law will be fully and effectively implemented.

Meanwhile, in the Caraga Region, the research mentions that a male community leader, who was interviewed, argued that, "[i]f you decided to get married, you should be ready to have children. If you still don't want to have children, you better not marry."[80] In both regions, the dominant belief on gender roles is that "women should be submissive and nurturing, and look after their children and home[,] [while] men should be strong and decisive and provide economic and financial security."[81] As far as decisions on family planning are concerned, the prevailing norm is that it should be the men who should decide on family planning.[82]

B. Class

The Filipino women's access to reproductive services, particularly to modern contraception, is undoubtedly primarily affected by their socio-economic

73 KRISTINE VALERIO & ANAM PARVEZ BUTT, INTERSECTING INJUSTICES: THE LINKS BETWEEN SOCIAL NORMS, ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS, AND VIOLENCE AGAINST WOMEN AND GIRLS 2 (2020).

74. *Id.*

75. *Id.* at 4.

76. *Id.* at 28.

77. *Id.*

78. An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof, Republic Act No. 11596 (2021) (also known as the Anti-Child Marriage Act).

79. Anti-Child Marriage Act, § 4.

80. Valerio & Butt, *supra* note 73, at 24.

81. *Id.* at 22.

82. *Id.*

status.[83] Citing Ruth Maklin, Elisabeth S. Smith observes that contraceptives, while available in the Philippines, are expensive for low-income women, making the cost prohibitive, and the access, difficult.[84] Consequently, these women are also more likely "to experience an unmet family planning need."[85] Clearly, this has been affirmed by the NHDS survey mentioned above, where women belonging to the lowest wealth quintile had the highest percentage of unmet need for family planning.[86] They also had the highest percentage of teenage pregnancy at 10.3% (have ever been pregnant).[87]

Further, women's wealth quintile may also affect the amount of knowledge about modern contraceptives, and their awareness of other reproductive services.[88] As a matter of fact, they also registered as having the lowest percentage of knowledge about HIV prevention at 16.1%.[89]

Smith further observes that

> [s]tudies in the Philippines have linked an increased number of children to a decline in family savings, a reduction in maternal employment rates and income, and a smaller proportion of children attending school. The effects of additional children on families living in poverty are even greater because 'the associations between larger family size, poverty incidence[,] and vulnerability to poverty are strong and enduring.'[90]

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83. Elisabeth S. Smith, *Reproductive Justice Begins with Contraceptive Access in the Philippines*, 23 PAC. RIM L. & POL'Y J. 203, 203-04 (2014).

84. *Id.* at 214 (citing RUTH MACKLIN, ETHICS IN GLOBAL HEALTH: RESEARCH, POLICY, AND PRACTICE 43 (2012)).

85. *Id.* at 215 (citing Nancy Felipe Russo & Julia R. Steinberg, *Contraception and Abortion: Critical Tools for Achieving Reproductive Justice*, *in* REPRODUCTIVE JUSTICE: A GLOBAL CONCERN 158 (Joan C. Chrisler ed., 2012)).

86. Philippine Statistics Authority, *supra* note 41, at 122.

87. *Id.* at 86.

88. Smith, *supra* note 83, at 215 (citing GILDA SEDGH, ET AL., WOMEN WITH AN UNMET NEED FOR CONTRACEPTION IN DEVELOPING COUNTRIES AND THEIR REASONS FOR NOT USING A METHOD, at 39 (2007)).

89. Philippine Statistics Authority, *supra* note 41, at 274.

90. Smith, *supra* note 83, at 235-36. (citing Ancieto C. Orbeta, Jr., Poverty, Vulnerability, and Family Size: Evidence from the Philippines, at III, *available at* http://www.adbi.org/files/2006.05.rp68.pvf.evidence.philippines.pdf (last accessed Jan. 31, 2024) [https://perma.cc/5XHR-HELK]).

C. Religion

According to the aforementioned Oxfam Report, in the BARMM, Muslim religious leaders are highly influential over communities regarding sexual and reproductive health information, services, and the use of contraceptives. [91] There are different interpretations of Islam, as far as access to, and use of, modern contraception are concerned. Some religious leaders and community members hold the conservative view that "they are un-Islamic and interfere with God's will."[92] One of the key findings cited the views of an Iman (religious leader) who expressed the view that — "[i]f you are using a condom and pills for the women, you [are] like a murderer that kills millions and millions of human beings. It is not allowed to use contraceptives in Islam. You would have a sin to God. You [would] die. That [is] your punishment."[93] That said, there are also religious leaders who are more progressive and support the use of modern contraception.[94] In these opposing sides, both view that their belief is "based on [the Quran]" and "not an individual or a particular community interpretation"[95]

As a matter of fact, Smith writes that in 2012, and even earlier, there were already several issuances regarding reproductive health in the Autonomous Region in Muslim Mindanao —

> In the Autonomous Region in Muslim Mindanao (ARMM), religious leaders support contraceptive use by married couples. On 22 November 2003, the Assembly of Darul-Iftah issued a fatwah on Reproductive Health and Family Planning stating [—] 'reproductive health and family planning, as practiced under valid reasons and recognized necessities, are in accordance with the teachings of Islam.' In 2010, the ARMM Regional Legislative Assembly passed the Muslim Mindanao Autonomy Act No. 280, which assures access to family planning services and supplies, as well as youth sexuality education. In 2012, the Assembly passed its version of the RH Act. The 'Reproductive Health Care Act of 2012 for the Autonomous Region in Muslim Mindanao' ensures access to reproductive health services and education for ARMM citizens.[96]

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91. VALERIO & BUTT, *supra* note 73, at 29.

92. *Id.* at 28.

93. *Id.*

94. *Id.* at 19, 26, & 28.

95. *Id.* at 28.

96. Smith, *supra* note 83, at 225 (citing *Muslim Decree on Reproductive Health, Family Planning Underway*, PHILSTAR, *available at* https://www.philstar.com/nation/20

On the other hand, it is a different struggle for Catholic women.

The opposition of the Catholic church to modern contraception has never been so pronounced, as when it took a stand against the passage of Republic Act No. 10354, the RH Law.[97] The Catholic church only approves of natural family planning in the form of abstention.[98] Smith gives a brief description of the kind of pressure the church had applied which undoubtedly contributed to women's reproductive oppression —

> In the fall of 2012, as the Philippine Congress debated the RH Act, Socrates B. Villegas, Archbishop of Lingayen-Dagupan, wrote in a pastoral letter that 'contraception corrupts the soul.' He then linked contraception to abortion [—] 'a contraceptive mentality is the mother of an abortion mentality.' *These tactics allowed the Catholic Church to stall approval of the RH Act for fourteen years, highlighting the Church's overwhelming influence and the Philippines's active religious population.*[99]

Furthermore, during the deliberations of the RH Law, there was constant reference to the Catholic church's "pro-life" position, and the will of God —

04/02/28/240599/muslim-decree-reproductive-health-family-planning-underw ay (last accessed Jan. 31, 2024) [https://perma.cc/52Q7-7GZN]. *See also* An Act Providing for the Gender and Development Code of the Autonomous Region in Muslim Mindanao and for Other Purposes [The ARMM GAD Code], Muslim Mindanao Autonomy Act No. 280, § 44 (2010) & An Act Creating and Establishing the Reproductive Health Care for the Autonomous Region in Muslim Mindanao, Providing Funds Therefor and for Other Purposes [Reproductive Health Care Act of 2012 for the Autonomous Region in Muslim Mindanao], Muslim Mindanao Autonomy Act No. 292 (2012)).

97. Evelyn Macairan, "*Fight vs RH Bill Is Catholic Church's Biggest Challenge*," PHIL. STAR, Dec. 16, 2012, *available at* https://www.philstar.com/headlines/2012/12/16/886554/fight-vs-rh-bill-catholic-churchs-biggest-challenge (last accessed Jan. 31, 2024) [https://perma.cc/XB4P-8QAP]. *See* Jovic Yee, *Church Opposition Stalling Reproductive Health Law*, PHIL. DAILY INQ., July 22, 2019, *available at* https://newsinfo.inquirer.net/1144442/church-opposition-stalling-reproductive-health-law (last accessed Jan. 31, 2024) [https://perma.cc/Z9NG-DVAT].

98. Emily Rauhala, *Philippines: Hope, Finally, For a Family-Planning Law*, CNN, Nov. 25, 2010, *available at* https://content.time.com/time/world/article/0,8599,2032491,00.html (last accessed Jan. 31, 2024) [https://perma.cc/9Y45-ET2Z].

99. Smith, *supra* note 83, at 225 (emphasis supplied) (citing Kristine L. Alave, *Contraception is Corruption!*, PHIL. DAILY INQ., Aug. 5, 2012, *available at* https://newsinfo.inquirer.net/242667/bishop-soc-lambasts-aquino-says-contraception-is-corruption (last accessed Jan. 31, 2024) [https://perma.cc/3A2U-PVGC] (emphasis supplied).

> During the deliberations on the RH Bill in Congress, it was not uncommon for representatives to cite personal beliefs and their 'conscience' as basis for their opposition.
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> In the second reading of the RH Bill in the House of Representatives[,] for example, Saranggani Representative and internationally renowned boxer, Emmanuel 'Manny' Pacquiao, voted 'no' to the bill's passage, stating [—] '*Ang buhay ay sagrado ... hindi kailangan dapat ilagay sa kamay ng kanyang kapwa tao, tang-ing ang Diyos ang may karapatan dito*' (Life is sacred ... It should not be put in the hands of humans, only God has the right over it). Pampanga Representative, Aurelio Gonzalez, also voted against the bill because it was the dying wish of his mother. Representative Jun Alcover Jr. of the Alliance for Nationalism and Democracy (ANAD) Party-List also voted against the bill's passing, stating [—] '[w]e consider this Bill an evil one and the target of this Bill is the Catholic Church. ANAD Party-List will follow the Church. We will not follow the dictates of Malacañang (the seat of the presidency).' The representative further stated that the bill was a product of 'godless elements' and asked God to forgive those 'elements.' Another representative declared that '[t]he legislature has no business interfering with [the] natural law and the law of God[,] unless one is an atheist.'
>
> ...
>
> The influence of religion on the RH Bill proceedings was so pervasive that those who voted in favor of the RH Bill felt the need to defend their votes against perceptions that they were godless or 'evil.' House Representative Arlene 'Kaka' Bag-Ao, for example, explained that her affirmative vote for the RH Bill was 'not just a question of religion or of faith, but of integrity.' She also acknowledged the authority of Church leadership[,] but maintained that Congress should listen to the voice of the people. Another [S]enator invoked the Church's teachings on 'conscience' and how such teachings were not against the RH Bill.[100]

When the law was passed and challenged before the Supreme Court, the Court justified upholding the non-referral of women to other health service providers by conscientious objectors under the Doctrine of Compelling State Interest.[101] Accordingly, religion must be protected from the battery of the state.[102] Citing *Estrada vs. Escritor*,[103] the Court said —

100. AMPARITA STA. MAIRA, TILTED INTERPRETATIONS: REPRODUCTIVE HEALTH LAW AND PRACTICE IN THE PHILIPPINES 163-64 (2019).

101. *Imbong*, 732 Phil. at 519.

102. *Id.*

103. *See generally* Estrada v. Escritor, 455 Phil. 411 (2003).

> The test requires the [S]tate to carry a heavy burden, a compelling one, for to do otherwise would allow the [S]tate to batter religion, especially the less powerful ones[,] until they are destroyed. In determining which shall prevail between the [S]tate's interest and religious liberty, reasonableness shall be the guide. The 'compelling state interest' serves the purpose of revering religious liberty while at the same time affording protection to the paramount interests of the [S]tate.[104]

As this Author pointed out in a previous article,

> This scenario, however, does not apply to the Philippines. There has been no 'battery' of the Catholic church, especially on the issue of women's reproductive rights. In fact, one of the reasons why it took more than thirteen years for the RH Law to pass is because of the strong opposition of Catholic groups.[105]

As can be seen, contrary to experiences of persecution on account of one's religion, on the issue of modern contraception, it is the Filipino women who suffer discrimination due to religious oppression.

VIII. A Phenomenological Encounter with Intersectional Discrimination

The issuance and implementation of Executive Order No. 003, Series of 2000 in the City of Manila is a textbook example of how the intersectionality of gender, class, and religion resulted in reproductive oppression.

In 2000, then Manila Mayor, Jose "Lito" Atienza, issued Executive Order No. 003, which declared that "the City promotes responsible parenthood and upholds natural family planning[,] not just as a method[,] but as a way of self-awareness in promoting the culture of life[,] while discouraging the use of artificial methods of contraception like condoms, pills, intrauterine devices, surgical sterilization, and other."[106] It is noteworthy to mention that Mayor

104. *Id.* at 578.

105. Sta. Maria, *supra* note 68, at 1052. (citing The Partnership for Maternal, Newborn & Child Health, The Philippines passes Reproductive Health Law, *available at* https://web.archive.org/web/20180918112536/http://www.who.int/pmnch/media/news/2013/20130107_philippines_reproductive_health_law/en (last accessed Jan. 31, 2024).

106. LINANGAN NG KABABAIHAN, INC., IMPOSING MISERY: THE IMPACT OF MANILA'S CONTRACEPTION BAN ON WOMEN AND FAMILIES 9 (2007) (citing Office of the City Mayor of Manila, Declaring Total Commitment and Support to the Responsible Parenthood Movement in the City of Manila and Enunciating

Atienza has been vocal about his religious views as a Catholic, and has been quoted as saying —

> [v]aluing life is a golden value of the Filipino mindset. The contraceptive mentality is not correct. The life that is conceived in a woman's womb is a creation of the Almighty. Allow your reproductive system to function naturally and do [not] meddle with it, and you [will] have good health, as a woman and as a mother.[107]

Although the Executive Order did not state that it is banning artificial contraception, the way that it was implemented amounted to the total prohibition of access to modern contraception. According to a study —

> While the order does not explicitly ban 'artificial' contraception, it has in practice resulted in a sweep of these supplies and services from city health centers and hospitals, depriving many women — especially poor women — of their main source of affordable family planning supplies. The EO also has had a chilling effect on the provision of information[,] [ ] services in non-city facilities[,] and venues that technically are not subject to the order. Private clinics and clinics run by nongovernmental organizations (NGOs) that previously provided family planning information and services have been shut down. Health-care workers in such institutions have been harassed and labeled abortionists. Medical missions to offer artificial methods of family planning have ceased. Condoms and pills have gone underground.[108]

After the term of Mayor Atienza ended, the subsequent mayor, the late Alfredo Lim, issued Executive Order. No. 030, superseding Executive Order No. 003. Although it did not prohibit modern contraceptives, Executive Order No. 030 stated that the city will not provide for the procurement of such contraceptives.[109] Thus, in effect, while the prohibition in law was no

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Policy Declarations in Pursuit Thereof, Executive Order No. 003, Series of 2000 [E.O. No. 003, s. 2000], whereas cl. para. 7 (2000)).

107. Sonia Narang, Catholic Leaders Battle Against Free Birth Control in the Philippines, *available at* https://theworld.org/stories/2015-01-22/catholic-leaders-battle-against-free-birth-control-philippines (last accessed Jan. 31, 2024) [https://perma.cc/GW23-TQEP].

108. Linangan ng Kababaihan, Inc., *supra* note 106, at 9. (citing Jaileen F. Jimeno, Freedom to Choose is Key to Population Control, MANILA TIMES, May 24, 2005, *available at* https://web.archive.org/web/20080821202511/http://www.manilatimes.net/others/special/2005/may/24/20050524spe1.html (last accessed Jan. 31, 2024)).

109. Jee Y. Geronimo, *Manila Admits RH Violation Under Former Mayor Atienza*, RAPPLER, June 30, 2015, *available at* www.rappler.com/nation/97847-manila-

longer existing, the residual effects of the ban on contraceptives created by Executive Order. No. 003 still persisted, and modern contraception continued to be inaccessible to women, especially the poor.

Subsequently, a communication (complaint) was filed by Non-Governmental Organizations under Section 8 of the Optional Protocol of the CEDAW (Inquiry Procedure), and thereafter, the CEDAW Committee issued its views on the Inquiry, finding the Philippines in violation of Section 12 (Health) of CEDAW:

> 13. The Committee finds that *the continued implementation of Executive Order* No. 003 under Messrs. Atienza and Lim, followed by the issuance and implementation of Executive Order No. 030 under Mr. Lim, had detrimental consequences for economically disadvantaged women and drove them further into poverty by depriving them of an opportunity to control the number and spacing of their children. The numerous testimonies received by the designated members during their interviews[,] with 60 affected women[,] revealed the pervasive impact of the consecutive implementation of the executive orders on the lives and health of women in Manila, in particular the economic, social, physical, and psychological consequences for women from low-income groups. Women also described extensively the difficulties that they experienced in using natural family planning methods, which many times contributed to tension and conflicts with their husbands or partners and fostered domestic violence. The Committee further notes the damage caused to the women's mental and physical health[,] resulting from multiple pregnancies[,] [ ] their increased exposure to HIV/AIDS[,] and other sexually transmitted diseases.
>
> ...
>
> 33. The Committee recalls its factual findings regarding the consequences of the implementation of Executive Orders Nos. 003 and 030 on women and observes that such implementation over many years had a severe impact on their health and on their access to adequate health-care services. *The Committee observes that the lives and health of many women were put at risk, given that they were compelled to have more children than they wanted*[,] *or than their health permitted them to have.* The Committee particularly takes note of the potentially life-threatening consequences of unplanned and/or unwanted pregnancies as a direct consequence of the denial of access to the full range of contraceptive methods, as well as of the strict criminalization of abortion[,] without any exemptions provided for in the State[-P]arty's legislation. *Complications resulting from unsafe and illegal abortions are a prominent cause of maternal death in Manila, as acknowledged by the State*[-*P*]*arty.* It is[,] therefore[,]

admits-rh-violation-under-atienza (last accessed Jan. 31, 2024) [https://perma.cc/M923-R6UW].

evident for the Committee that the failure of the State[-P]arty to provide the full range of sexual and reproductive health services, commodities[,] and information resulted in unplanned pregnancies, unsafe abortions[,] and unnecessary and preventable maternal deaths.

34. The Committee finds that Executive Order No. 003 effectively resulted in a systematic denial of affordable access to modern methods of contraception and related information and services. *This ban particularly harmed disadvantaged groups of women, including poor women, adolescent girls*[,] *and women in abusive relationships. For example, adolescent girls were exposed to an increased risk of unwanted pregnancies and pregnancy-related injuries or death following unprotected or coerced sex, to which they are particularly vulnerable. Furthermore, the inability of women*[,] *with little or no income*[,] *to control their fertility is directly linked to high poverty levels in Manila.* The Committee notes that the impact of Executive Order No. 003 was compounded by the funding ban contained in Executive Order No. 030. The Committee finds that the State[-P]arty failed to eliminate economic and social barriers to reproductive health services so that all women, irrespective of their age and income level, would have equal access to affordable services responding to their specific health needs. The Committee also stresses that the lack of access to modern methods of contraception has resulted in an increasing exposure of women to HIV/AIDS and other sexually transmitted diseases.

...

36. The Committee concludes that the State[-P]arty has failed to ensure access to the full range of sexual and reproductive health services and commodities, including information and counselling on modern methods of family planning, in violation of [A]rticle 12 of the Convention. It also considers that the State[-P]arty has failed to remove barriers to ensure women's effective access to sexual and reproductive health services, *pursuant to* [*P*]*aragraph 21 of* [*G*]*eneral* [*R*]*ecommendation No. 24.* The Committee finds that such failure amounts to discrimination and to a violation of [A]rticle 12.

...

IV. Recommendations

...

51. The Committee calls on the State[-P]arty to:

...

(l) In line with its Constitution[,] providing for the separation of the Church and the State [ ] ensure that State policies and legislation give priority to the protection of women's health rights, in particular their sexual and reproductive health rights, over any religious postulates that may lead to de facto or de jure discrimination against women[,] and negatively impact their access to sexual and reproductive health services, commodities[,] and

> information, including[,] by designing strategies to sensitize members of parliament, government officials, political parties, as well as local government's executive and legislative, with a view to eliminating all ideological barriers limiting women's access to sexual reproductive health services, commodities[,] and information.[110]

Even after the passage of the RH Law, local governments still presented a challenge in making modern contraception available and accessible for women. For instance, in Sorsogon City, Mayor Sally Lee, through an Executive Order, declared the city as Pro-Life.[111] As a result, all artificial contraceptives were withdrawn from community health facilities in the city.[112] The Commission on Human Rights of the Philippines conducted an investigation and subsequently reported the following findings:

> There is [an] outright refusal to implement the RPRH law, particularly with respect to [the] provision of artificial contraceptives and in according women the whole range of reproductive health services and information. *Accounts of women acceptors of artificial Family Planning commodities, the nurses deployed by the Department of Health, and RH Civil Society Organizations in Sorsogon City attest to the denial of RH commodities, the stigma accorded to both acceptors of and providers of artificial contraceptives, and the financial and psychological burden of the EO on women, especially the marginalized.* Reports of misinformation on artificial Family Planning commodities were also documented.
>
> Since the 'pro-life' declaration, the Commission has documented reports of denial of family planning commodities, the added financial burden on women who have to purchase commodities, unwanted pregnancies, women giving up their babies for adoption, and of women from [far-flung] barangays whose RH needs remain unmet. To the present, the women of Sorsogon City continue to be deprived of artificial family planning commodities from

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110. Committee on the Elimination of Discrimination against Women, *Summary of the Inquiry Concerning the Philippines Under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*, ¶¶ 13, 33-34, 36 & 51 (l), U.N. Doc. CEDAW/C/OP.8/PHL/1 (2015) (emphases supplied).

111. Dona Z. Pazzibugan, *CHR*: *Sorsogon City Depriving Women of Artificial Contraceptives*, INQUIRER, Nov. 14, 2016, *available at* https://newsinfo.inquirer.net/843981/chr-sorsogon-city-depriving-women-of-artificial-contraceptives (last accessed Jan. 31, 2024) [https://perma.cc/6T67-7QS7].

112. *Id.*

the City. Their needs [ ] are[,] instead[,] supplemented by efforts of the National Government through the Department of Health (DOH).[113]

IX. SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS AND THE CONSTRICTED PARADIGM OF PRO-CHOICE AND PRO-LIFE

Despite the fact that reproductive health care under Section 4 (q) of the RH law covers many components, including sexual health,[114] the discussion about providing for reproductive health has always been reduced to the issue of family planning, particularly access to contraceptives. Whenever a debate ensues, the arguments have almost always been focused solely on whether or not the contraceptives being made available to women are abortifacients. To a certain extent, the church and those who oppose modern contraceptives have been successful in limiting the issues within the binary argument of pro-choice versus pro-life; with pro-choice being closely associated with wanting to legalize abortion. Thus, the women and their real issues and concerns become invisible. As Krisztina Morvai observes,

> [t]he 'pro-choice rhetoric,' along with its 'pro-life' counterpart, pretends that the fetus just 'happens' on the woman. The discourse treats an unwanted pregnancy as if it were a 'natural disaster' as opposed to a clear consequence of power relations in sexuality.
>
> ...
>
> The essential element of women's true liberation should be not having to choose only between the two painful options of abortion or bearing an unwanted child. *The positive connotation of the conventional meaning of 'choice,' which is also attributed to it in the abortion context, does not reflect the reality of the dilemma for most women. The majority of women who seek abortions do not exercise a free 'choice.' They are forced to make a decision*[,] *which is not an exercise of self-determination as pro-choice rhetoric suggests, but the consequence of the lack of self-determination. Women do not exercise control over their bodies and sexualities when having abortions. They undergo abortions because, at an earlier point, they were not in the position to exercise full control over their body and sexuality — at least one*

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113. Commissioner Karen S. Gomez-Dumpit, *Insights and Reflections on the CHR National Inquiry on RH*, *in* "LET OUR VOICES BE HEARD:" REPORT OF THE COMMISSION ON HUMAN RIGHTS PHILIPPINES' NATIONAL INQUIRY ON REPRODUCTIVE HEALTH AND RIGHTS 16 (2016) (emphasis supplied).

114. Responsible Parenthood and Reproductive Health Act of 2012, § 4 (q).

> *would presume that most women would have preferred not to get pregnant and undergo an abortion if they had full control over what happened to their bodies.* [115]

X. CONCLUSION: TRANSCENDING THE PRO-LIFE: PRO-CHOICE BINARY

Applying the lens of intersectionality enables us to go beyond the "pro-life" versus "pro-choice" paradigm. We need to hear and listen to the voices and views of women, especially the most disadvantaged and vulnerable. Instead of confining ourselves to the "pro-life" versus "pro-choice" debate and belaboring the fact that we value human life, we must pay attention to the more critical issues of why women and girls continue to get pregnant against their will, why teenage pregnancies persist especially among the poor, and how to properly respond to women's and girls' unmet needs to ensure the fulfillment of their human right to reproductive and sexual health. This Article has endeavored to demonstrate the need to refocus the discourse, using as a tool for analysis the intersecting factors of gender, class, and religion to appreciate the complexity of reproductive oppression. Indeed, it is time to ignite the conversation on reproductive justice and define its meaning within the Philippine context.

115. Krisztina Morvai, *What Is Missing from the Rhetoric of Choice? A Feminist Analysis of the Abortion Dilemma in the Context of Sexuality*, 5 UCLA WOMEN'S L.J. 445, 446 & 456-57 (1995) (emphasis supplied).