Politics and Fertility: The Evolution of Sexual and Reproductive Rights

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Rights function to protect the vulnerable from the powerful. The twentieth century has seen an expansion in the social acceptance of women as legitimate bearers of human rights in many countries in the world. Hence it has not been until relatively recently that different physical needs and cultural roles have justified the codification and application of human rights to the sexual and reproductive needs of women. With the growth of women’s ability to articulate their right to political, social and economic self-determination in many countries, sexual and reproductive rights have emerged as means for women (and non-heterosexual people) to label and condemn a number of barriers to well-being that women face, such as discrimination, domestic abuse, religious and traditional norms that reduce well-being and autonomy, rights violations by the state and health practitioners, and economic barriers to accessing healthcare.

Reproductive and sexual rights can be construed from existing rights that concern a person’s liberty, sovereignty over their person, freedom from violence and degrading or cruel treatment, and their right to health and to life, which in many places is severely endangered by pregnancy. However, from a political perspective, this is perhaps the least significant aspect of their entry into international human rights discussions. This is because of the degree to which the emergence and representation of sexual and reproductive rights has been framed by the major players in the Global North, particularly the US, rather than because they are logical extensions of pre-existing rights.

1 Global North and Global South are economic and political terms, used in preference to the terms developing and developed countries/world. Donna Dickenson identifies countries in the Global South as being characterised by relative poverty, high debt-GDP ratios, exposure to structural adjustment...
This paper focuses on organised Christian opposition to sexual and reproductive rights (as opposed to other religions and traditions), because the international debate over these rights has been framed most keenly by heated debate in the US, the source of both the most forthright proponents of fertility control and sexual liberation, and the most influential opponents of sexual and reproductive rights. In addition, the US Agency for International Development (USAID) is the largest donor of official development assistance (ODA). Consequently, US policy decisions on population assistance have an enormous impact on the conditions attached to funds offered to states and non-government organisations (NGOs) in the South to promote sexual and reproductive health, and consequently affects the very meaning of ‘development’ for those who receive USAID funding.

The first part of this paper will address the evolution of sexual and reproductive rights, in terms of women’s struggles against religion and traditional norms of sexuality and reproduction, and against attempts by states to control fertility in response to the population alarm that characterised the 1960s, 70s and 80s. The latter part of this paper will consider whether there is justification for the specific promotion of sexual and reproductive rights from more familiar human rights. The concluding remarks argue for a more comprehensive approach to enhance the realisation of sexual and reproductive health, stressing the inter-relatedness of sexual and reproductive rights with other aspects of economic and social justice.

1 Population Control

The increase in the total number of people from 1960 to 1983 was the same as the total world population in 1900, with 90 percent of population growth occurring in developing countries. Just as English politicians railed against the high fertility rates of unemployed Irish immigrants in the nineteenth century, in the 1960s and 1970s, relatively wealthy populations in countries

policies, and low provision of social services. The term Global North is defined in opposition to Global South, in terms of relative wealth, more extensive provision of social services etc. From D L Dickenson “What feminism can teach global ethics” in Tong et al (eds) Linking Visions: Feminist Bioethics, Human Rights and the Developing World (Rowman and Littlefield Lanham, Maryland, 2004).

with low fertility rates started to see the open-handed funding of family planning programmes in the developing world as a panacea to the ‘population explosion’. The welcome reaction that Western women had shown to new contraceptive technologies enabled governments and population organisations to justify their activities on both economic and humanitarian grounds. Continuous high fertility levels in the South, combined with persistent poverty, public debt, and child and maternal mortality are offered as reasons to encourage the expansion of access to contraceptives and the public promotion of reducing family size in poor countries.

Critics of the population approach, however, observe that fertility levels may have more to do with child mortality and other social, cultural, and economic factors than the availability of contraceptives.3 This was certainly the case in England’s bigger towns, where rates of child mortality went from two thirds to one quarter in the space of 150 years.4 As Tannahill puts it, ‘to parents and population theorists alike, contraception was becoming a necessary substitute for infant mortality’.5 Similarly, many opponents of targeted fertility reduction from the South stress that development is the best contraceptive. As demographer Seamus Grimes notes:6

At the outset the framing of the population debate has been problematic, resulting, according to some, in a false problem being incorrectly posed, and in policies determined as much by self-interest on the part of the developed world, as by a genuine concern for alleviating poverty in the less developed South.


4 R Tannahill Sex in History (Scarborough House, New York, 1992) 413.

5 Ibid, 412-3.

Despite the relatively robust evidence that reducing fertility rates in poor countries called for more than just demographic targeting and a rapid increase in the prevalence of contraceptives, the ‘population explosion’ predicted a Malthusian Nightmare that provoked a highly political ‘development’ response. Political scientist Paige Whaley Eager suggests that the Cold War mentality had a significant influence on the linking of security concerns to population issues. She cites a US security policy document from the mid-1970s which warns that ‘young people [in developing countries] can be more readily persuaded to attack the legal institutions of the government or real property of the establishment, imperialists … or other foreign influences blamed for their troubles’. The study concludes that:

\[ \text{We [the US government] cannot wait for overall modernisation and development to produce lower fertility rates naturally since it will take many decades in most developing countries, during which time rapid population growth will tend to slow development and widen even more the gap between rich and poor.} \]

The concern that unrestrained population growth would increase the prevalence of large, young, poor populations, with a penchant for communism, played an important role in the US’s support of population policies in the Global South. The US government was integral to the framing of the ‘population problem’ that led to the formation of the United Nations Fund for Population Assistance (UNFPA) in 1969. The creation of UNFPA enabled successive US governments to indirectly fund population control policies through USAID, a concept that might have been much more difficult for the US constituency to stomach had ODA been in the form of direct state-state transfers of funds for the purpose of aggressively pursuing birth control in other countries. Eager suggests that ‘channelling funds through the UN

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system would shield the US from the charges of imperialism, racism, and genocide often levelled against US population control programmes.\textsuperscript{10}

For the next two decades, population control would be the dominant way in which development agencies viewed the role of women in the development of their countries. By playing on the Global North’s fear of invasion by immigrants from the South, the population control movement played a fundamental role in representing birth control and small families as critical aspects of the process of modernisation, and dramatically increasing the global availability and uptake of modern contraceptive technologies.

By the 1980s, however, dissenting opinions on the legitimacy of population control and reports of human rights abuses in the name of ‘family planning’ were beginning to make headway in the international arena. On one side, feminists and voices from the South had started to assert that women should be the ends, rather than the means, of development efforts. Population policies were accused of treating women in the South as a problem to be solved, rather than as reasonable beings, who are able to define and work towards their own development.\textsuperscript{11} On the other side, the US government was beginning to extricate itself from the population issue, implementing the Mexico City Policy in 1984 in response to the increasing influence of religious organisations and the ‘pro-life’ lobby in the US domestic arena.

\textbf{II \hspace{1em} Christian Opposition to Reproductive and Sexual Rights}

Churches have reacted to new technologies and parallel liberalisation of laws relating to reproduction and sexuality in different ways. Many churches, while not fully accepting of comprehensive sexual and reproductive rights, condone the use of contraceptive technology, and do not see contraception or condoms as either an offence to Christian principles, or threatening to the moral fabric of society. For example, the more moderate Evangelical Lutheran Church in America (ELCA) made the following statement about contraception:\textsuperscript{12}

\begin{footnotesize}
\textsuperscript{10} Ibid, 152.


\textsuperscript{12} www.elca.org/socialstatements/sexuality/ (last accessed 26 October 2005).
\end{footnotesize}
When a woman and man join their bodies sexually, both should be prepared to provide for a child, should conception occur. When that is not their intention, the responsible use of safe, effective contraceptives is expected of the male and the female. Respect and sensitivity should also be shown toward couples who do not feel called to conceive and/or rear children, or who are unable to do so.

Likewise, a prominent US minister recently suggested that women’s freedom to make choices about their bodies is ‘central to what it means to be a human being’.¹³

However, more conservative churches have tended to oppose the use of contraceptive and barrier technologies, which they suggest are a major cause of contemporary social problems. One of the first statements of Pope Benedict condemned same-sex unions, divorce, and birth control as the ‘banalisation of the human body,’ maintaining that these practices threaten the future of the family.¹⁴ Like most opponents of sexual and reproductive rights, the Vatican’s statements consistently equate sexual enjoyment for its own sake with spiritual, moral and social decay. While many Christians consider sexual pleasure to be a positive aspect of a loving relationship, and not necessarily intended to produce children, opponents of sexual and reproductive rights have opposed any statements that imply a separation of sexuality and reproduction in international fora.

Such churches seemed to have retreated from mainstream society during the peak of population alarm, from the 1960s until the late 1970s, perhaps due to the pre-millennialism that was prevalent in the conservative Christian community in the US at this time. However, with the advent of televangelism and the revitalisation of the New Christian Right (religious right) in the US in the late 1970s, organisations began to form with the express purpose of improving society in this life, rather than allowing people to fall into sin and suffer in the hereafter. Groups like the Moral Majority (later the Liberty

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Federation), the Christian Voice, and the Religious Roundtable formed, and encouraged religious conservatives to embrace a more active political role in society. The number of like-minded organisations in the US has increased enormously since the late 1970s, and now constitutes the vanguard of opposition to sexual and reproductive rights language and programmes at UN conferences, alongside similar groups from other countries. Churches and religious organisations have been vociferous in condemning human rights abuses by the population control establishment, but as Eager suggests, these groups differ markedly in their proposed solution to rights violations.\textsuperscript{15}

This vigorous coalition of churches and church-affiliated NGOs now assemble under the umbrella term ‘pro-family’. For pro-family groups, the family is defined exclusively as a married husband and wife, and their biological offspring. Stated goals include helping to preserve traditional values,\textsuperscript{16} lobbying against pornography, legal and social acceptance of homosexuality,\textsuperscript{17} the prohibition of sex education, contraception and abortion,\textsuperscript{18} and the promotion of the Judeo-Christian worldview.\textsuperscript{19} These organisations have increased in number and intensity with each success of the sexual and reproductive rights movement from Roe vs Wade to the international conferences of the 1990s.

Pro-family groups have been successful in maintaining the US government’s opposition to the term ‘reproductive rights,’ on the grounds that it could be interpreted as the right to safe and legal abortion, despite the legality and relative safety of abortion in the US. They have also succeeded in their efforts to ensure that USAID development funding for HIV prevention is


\textsuperscript{16} See, for example, Focus on the Family’s mission at www.family.org/welcome/aboutfof/a0005554.cfm (last accessed 26 October 2005).

\textsuperscript{17} See, for example, the American Family Association at www.afa.net/about.asp (last accessed 26 October 2005).

\textsuperscript{18} See Human Life International’s website at www.hli.org/unholy_trinity.html (last accessed 26 October 2005).

\textsuperscript{19} See, for example, the mission of the Family Research Council at www.frc.org (last accessed 26 October 2005).
conditional on the allotment of one-third of prevention funds for abstinence-until-marriage sex education. These groups are unanimous in their proclamation that the family is harmed by divorce, feminism, secularism, sex outside of marriage, homosexuality and abortion.

By advocating for family values as though they are static, known and indisputably ‘good,’ pro-family groups ignore the social problems that exist within the family, such as unhappy marriages and child abuse. In the same way, they also obscure the extent to which other issues, such as inequality, violence and poverty contribute to social ills. Exaggerating the importance of sex as the measure of social morality conceals serious social problems that are likely to demand far more complicated (and costly) political solutions: sex can be a very effective scapegoat for issues that authorities do not wish to address. When mixed with religious zeal, it can also be a powerful political tool to label and marginalise people with different beliefs. Consider the statement by US Christian leader, the Rev. Jerry Falwell, that ‘the abortionists, the feminists, and the gays and the lesbians’ are responsible for the 2001 September 11 attacks: in his view, ‘the abortionists have got to bear some burden for this, because God will not be mocked’.21

III The Family

Donna Sullivan argues that because the family itself is the site of many of the worst abuses of women, ‘blanket deference to the institution of the family or privacy rights within the family has disastrous consequences for women’.22 In understanding why human rights law has been so slow to incorporate women’s issues into the broader human rights arena, Sullivan suggests that:

One factor contributing to this silence is the historic focus within international law on violations committed directly by the state against

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21 From a speech delivered by Adrienne Germain, President of the International Women’s Health Coalition. A Germain “Reproductive Rights, Religion and Culture: Defending the Goals of the UN Conferences in the 1990s”, above 2.


23 Ibid, 126.
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individuals. Within this conceptualisation of the law as a constraint on the power of the state, many abuses against women have not been acknowledged as human rights violations because they are committed by private persons rather than by agents of the state.

This also offers a clue as to why the very terms ‘sexual rights’ and ‘reproductive rights’ have taken half a century after the UN declaration of human rights to be employed in UN conferences: the context in which they are exercised is private. To function effectively (in the sense of protecting the vulnerable), rights must be debated, decided and declared in the public realm. Any separation of public and private realms seriously challenges the operation of rights that function in private spaces.

In her analysis of The Transnational Geography of Sexual Rights, Ara Wilson helps us to understand this desire to restrict the sexual and reproductive freedoms of women, and why secular norms about sex might be felt so invasively:24

The dramatic and well-chronicled changes of the new world order have created an anxious awareness that the norms, boundaries and legitimacies of all kinds of established regimes are in flux worldwide. That bodies and sexuality, especially female ones, might come to stand as particularly potent signals of this flux is not surprising and is a virtual anthropological truism. As numerous feminists have argued, female bodies often signify borders of kin, community, people and nations – ergo, they are often also symbols of international crises, for example in the grave signification of ethnicity and nationalism wrought through female bodies in the former Yugoslavia. One could argue that the regulations and surveillance of corporeal and relational symbols – women’s bodies, sex – increase in this content of flux.

Those who do not accept the authenticity of sexual and reproductive rights do not see them in this way; rather they appear to pro-family opponents as the doctrine of an invasive rival religion that threatens their core beliefs and values.

Because they associate the integrity of their society with the traditional position of women, pro-family groups have increasingly felt the need to fight

their battles abroad as well as at home. Through USAID, pro-family groups have had considerable success in exercising their influence over the type of development funding offered to poorer countries. Well-funded and networked with right-wing elements in the US, as well as having the international support of the Vatican and some Catholic and Islamic states, the pro-family struggle against the international women’s rights movement is increasingly being waged over the sexual and reproductive health status of women in the Global South. These observations help us to appreciate why pro-family groups themselves have ‘gone global’ since the UN conferences in the 1990s, particularly since the International Conference on Population and Development (ICPD) in 1994.

IV Sexual and Reproductive Rights in UN Conferences and International Agreements

The ICPD built on previous conferences on population and development, stressing a human rights approach to development and health, and the right of women to access reproductive technologies as part of their right to self-determination. The outcome document of the conference affirmed that ‘reproductive rights embrace certain human rights that are already recognised in national laws, international human rights documents and other consensus documents’.  

Reproductive rights, as defined by the ICPD:


26 Ibid para 7.3.

... rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence.

Although feminists and NGOs had used it previously the phrase ‘reproductive rights’ did not appear in UN documents and conferences until
the publication of the ICPD in 1994. Reproductive rights are invoked in opposition to both active violations of an individual’s reproductive autonomy, and state negligence in the provision of obstetric care, sex education and contraceptive technology.

Sexual rights, as defined by the Fourth World Conference on Women, are the rights of all people to:

- decide freely and responsibly on all aspects of their sexuality, including protecting and promoting their sexual and reproductive health;
- to be free of discrimination, coercion or violence in their sexual lives and in all sexual decisions; and
- to expect and demand equality, full consent, mutual respect and shared responsibility in sexual relationships.

In many respects, sexual rights have a broader scope than reproductive rights, and have been appealed to in protest against a wide range of grievances based on sex and sexuality. Activists have employed the term ‘sexual rights’ in many ways, including the right of women to refuse marriage, the right of adolescents to access sex education, the rights of children to escape genital mutilation, the right of access to employment regardless of gender, and the right of sex workers to sell their labour legitimately.

Sexual rights and reproductive rights emphasise different freedoms. Reproductive rights are stressed more frequently in economic and development discourse, in that their enjoyment improves the ability of women and children to survive where resources are scarce, and over generations tends to improve the economic conditions of society as a whole. Reproductive rights also make significant economic demands on the state, in the provision of health care that enables safe pregnancy and universal access to emergency services. Sexual rights focus more heavily on the political right of individuals to be free from violence, discrimination and

29 From a cross-country study of countries’ investment in family planning plotted against 25-year-lagged GDP/capita change and improvement on the Human Development Index. J Wigley Sex, Politics and Economics (Submission for Master’s degree, Victoria University of Wellington, 2005).
ill health in relation to sex and gender, and tend to be downplayed in international discussions where consensus is sought and conservative elements are present. However, on the whole, they are practically and conceptually indivisible – hence they are considered together here.

Political scientists Rosalind Petchesky and Sonia Corrêa suggest that sexual and reproductive rights incorporate the following four rights, already enshrined in human rights documents:30

(1) bodily integrity, or the right to dignity and respect in one’s physical body and to be free from abuses and assaults; (2) personhood, which is closely associated with bodily integrity and implies the right to self-determination and respect in one’s decisions about reproduction and sexuality; (3) equality in access to health services and all social resources; and (4) diversity, or the right to be respected in one’s group affinities and cultural differences, insofar as these are freely chosen and women are empowered to speak on their own behalf, not subordinated to group claims in the name of tradition.

Despite their theoretical consistency with widely accepted human rights, opposition to sexual and reproductive rights from traditional and religious communities has been a hallmark of efforts to have them accepted as universal human rights in international documents. This is understandably the case, as they are intended to emancipate individuals from the dictates of such authorities.

From this perspective it is easy to see why this has become a zero-sum game: liberals and pro-family groups see the other as political rivals, with their vision of the ‘public good’ at stake. A win for one side, say in terms of a school curriculum change to abstinence-only education, is necessarily perceived as a loss to the other. This goes some way to explaining the increasing aggression and bitterness of both sides of the reproductive and sexual rights debate. Sex is increasingly the battleground over which secular and pro-family visions of what is good and right are fought. Internationally, this has led to increasingly weaker agreements on how to combat the spread of HIV and improve the maternal health of women in the Global South.

30 R Petchesky Reproductive and Sexual Rights: Charting the Course of Transnational Women’s NGOs (Geneva, United Nations Research Institute for Social Development 71, 2000) 5.
The international development community, whether intentionally or not, has avoided the more controversial elements of the ICPD in the creation of the Millennium Development Goals (MDGs) which focus on goals to which most parties to the UN agree. The goals relevant to improving sexual and reproductive health are improving maternal and child health, increasing girl’s access to primary education and reducing the spread of HIV. The goals notably do not include access to contraception, condoms, safe and legal abortion, or sex education.

Despite finding the ‘middle ground’, funds to support development assistance have still run well below the agreed 0.7% of Gross National Income (GNI) that would see their realisation. It could be argued that the watered-down attempts to improve the lives of mothers and children in developing countries is laudable in that it shows a willingness on the part of the international coalition of women’s health activists to compromise its own beliefs in order to maintain the flow of ODA to poor women. However, to many observers, the MDGs represent an untenable compromise that both ignores the contributions of countries and organisations that are willing to work within the framework of sexual and reproductive rights, and has fatally overlooked the US religious rights’ anxiety about the secular UN, even with a diluted set of development goals.

V  Theoretical Issues with Reproductive and Sexual Rights

Proponents of sexual and reproductive rights acknowledge that public authorities and individuals are not equal stakeholders in the sexual health and reproductive decisions of the individuals themselves. This is not to say that communities are not affected by the sexual and reproductive behaviour of individuals. They most certainly are, albeit to different degrees. By the term unequal stakeholders, it is meant that people are more directly affected by the outcomes of their own sexual behaviour and experiences than others.

For example, I may pay taxes to support the provision of obstetric care to a woman I do not know, but I cannot argue that I am more directly affected by the birth of her child than she is. Likewise, I may be contributing to a strain on the resources of my community by my decision to have a child that I know I cannot nourish without the support of others, but no one in the community feels the strain to a greater degree than I do, as I know that the child I bear will require an enormous amount of my labour to grow and thrive. Similarly, another woman’s choice to use contraception or to have an abortion may upset me greatly due to my moral convictions, but I cannot
argue that I am more affected by her choices than she is, because it is her body and her burden to raise the children she produces.

My having a sexually transmitted infection may affect the community at large through my capacity to infect others, but it is highly likely that it affects my well-being enough that I will want to treat it and hopefully be cured of it, if I can access treatment. The public provision of anti-retroviral (ARV) treatment to prevent mother-to-child transmission of HIV may disproportionately burden the higher-income members of my country, but the argument that ARV creates a moral hazard ignores the fact that HIV is still a severe deterrent to risky sexual behaviour. Just as the compulsory wearing of crash helmets on bicycles does not mean that I will be necessarily more inclined to ride my bicycle out in front of a truck, it does not follow that the mitigation of sexual and reproductive harm should be understood as encouragement of risk behaviour, especially because the health risks of irresponsible sexual behaviour are so high even with the provision of healthcare. To arguments that certain sexual behaviour is ‘just wrong’, proponents of sexual and reproductive rights seek to find physical or psychological harm caused by the behaviour before proscribing it.

The theoretical position here follows J. S. Mill, that power should only be exercised over individuals against their will for the purpose of preventing harm to others31. To claim to exercise power over a person for their own good, either physical or moral, is not sufficient: people are sovereign over their own bodies. Fundamental to this position is the belief that (given information about sex and reproduction), individuals and couples are in the best position to make decisions about their own behaviour, because they individually have a greater stake in the outcomes of their reproductive and sexual actions than state or religious authorities. Certainly it is the case that few people report that they regret having children once they are born, but this may be evidence that people can make the most of an unplanned turn in their lives, rather than demonstrating that people should have no control over their reproductive destinies. Conversely, to argue that women must be prevented from having too many children for the greater good ignores the potential that women’s reasoned and uncoerced agency can contribute to the definition and realisation of a greater good.

Accepting this at face value, however, may lead to a low-taxation minimalist state, which also fails to serve the reproductive needs of women and the sexual health needs of the community. It also highlights the tension between individual and public rights in the question of universal provision of sexual and reproductive health care. A user-pays system will tend to ignore the fact that it is only women (as yet) who require care before, during, and after pregnancy, and yet a system of universal provision will disproportionately punish those who choose not to have children. Those who disapprove of abortion argue that they should not be forced to contribute to public money that is used to perform abortions. But men are half responsible for the conception of unwanted children, which will not be taken into account by a privatised health system. In the cases where couples have conflicting reproductive desires, such as one partner wanting a child and the other not wanting one, reproductive rights may be the wrong type of approach to deal with the problems that arise. Like human rights discourse in general, the arena of sexual and reproductive rights is fraught with complications and compromises.

VI Realising Sexual and Reproductive Rights

Krishnaraj Shanthi raises two very important issues in her work on the enjoyment of reproductive rights in India. The first, already touched on here, is that while contraceptive technologies have allowed women to make important choices that were not previously possible, such as the choice to remain in the workforce, their existence has also made it possible for the state to interfere in women’s reproductive lives in the service of demographic goals. The second is that reproductive rights depend on the realisation and interaction of other rights, rather than a function of the availability of contraceptive technology. She argues that:

To the extent that women are economically disadvantaged, socially marginalised and politically voiceless in a society, their reproductive rights will be constrained. Unless issues such as poverty, inequality, unemployment, 

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33 Ibid, 120.
Human Rights and environmental degradation are addressed first, women’s rights and human rights will remain abstract concepts.

It follows from Shanthi’s argument that improvements in sexual and reproductive health will require multi-faceted development efforts, rather than a single-minded focus on increasing the uptake of contraceptives. In addition, we should be wary of efforts to create ‘demand’ for contraceptive services by attempting to ‘sell’ Western culture as a means of promoting a desire for small families to high-fertility regions in the South, as some donors continue to do.\textsuperscript{34} Conflating reproductive and sexual rights with consumer choice is problematic, and likely to be seen by many in the South as part and parcel of neo-liberal globalisation, which many have experienced as negative in the extreme.

While this paper has focussed on pro-family groups and population control policies as the chief opponents of sexual and reproductive rights at the international level, the violators and defenders of these rights cross every social boundary; as international institutions, religious organisations, states, sexual partners and women themselves all intersect in both the protection and violation of women’s sexual and reproductive rights in different contexts and in different ways.

An example of this is the continued downgrading of public services as demanded by Structural Adjustment Policies (SAPs), which pull access to reproductive health care out of the reach of poor women, even while the term ‘reproductive rights’ is incorporated into the rhetoric of such institutions, and even as these institutions call for fertility reduction targets in poor countries.\textsuperscript{35} In their cross-country study, Petchesky and Judd found that in some countries women use religious justifications to further their reproductive autonomy (although they almost never use this terminology). For example, some Islamic women in Malaysia and Northern Nigeria who were interviewed based their sense of entitlement to divorce in Islamic law,

\textsuperscript{34} For example, Grimes notes that between 1986 and 1990, the Johns Hopkins University Population Communication Service received more than US$100 million from USAID to develop radio and television programmes to promote family planning services in sub-Saharan Africa. Grimes “From Population Control to ‘Reproductive Rights’: Ideological Influences on Population Policy”, above 375-394.

\textsuperscript{35} Ibid.
while Brazilian and Filipino women justified having an abortion by appeal to a forgiving and benevolent God who understands their need to protect their families from deprivation.\textsuperscript{36} It is women who perform and perpetuate the practice of female genital mutilation, and it is often the degrading and insensitive treatment offered by providers of reproductive and sexual health services who are responsible for women continuing to use less effective traditional methods of birth control. The state may be imperfect (and may even be the principal violator) in the area of women’s rights, but its existence is vital to the ability of women to appeal against domestic violence and rape, and the only chance they have to improve access to reproductive health services. It becomes clear when one looks at the way that real people deal with their needs that the actual enjoyment of reproductive and sexual rights is extremely complicated, and may be more about daily negotiation than continued international assertion.

\textbf{VII Concluding Remarks}

Western feminists have been accused of ignoring basic needs in favour of pushing the sexual and reproductive rights agenda. At a UN conference in 2000, for example, the Pakistani delegate accused Western representatives of ‘holding the women of the world hostage … when their real needs are clean water and help in overcoming illiteracy’.\textsuperscript{37} In similar vein, it could be argued that less controversial development initiatives may improve the status of women over time, without explicitly addressing their reproductive and sexual needs. In addition, even if there was international consensus on these rights, public health services in developing countries would still be ill-equipped to cope with the communities that they serve. It will take a revolution in the international economy for the right to health to be realised: the wiping of debt, the assigning of SAPs to history, the removal of patents for life-saving pharmaceuticals, and a massive increase in fund and technology transfers.


\textsuperscript{37} This is a quote from the 23\textsuperscript{rd} Special Session of the UN General Assembly (UNGASS), “Women 2000: Gender Equality, Development and Peace for the 21\textsuperscript{st} Century” or “Beijing+5”. For more information, see Fireworks Ignite During Late-Night Negotiations on Outcome Document, at www.cwfa.org (last accessed 26 October 2005).
from North to South. Women in developing countries tend not to frame their sense of entitlement to sexual and reproductive decision-making in terms of rights, and in many contexts, they may not in fact find the rights framework particularly useful to achieving their goals. Lastly, given the co-option of the term ‘reproductive rights’ by international institutions that are perceived as oppressive, pressing for women’s rights may be equated with Westernisation and dismissed as inapplicable or unpatriotic. Are these sufficient justifications to put reproductive and sexual rights to the side, in order to pursue an alternative, more effective means of improving sexual and reproductive health?

Petchesky notes that without a human rights framework, there is nothing to prevent governments, population experts or religious bodies from making sexual and reproductive decisions on behalf of individuals on the basis of ‘political expediency, aggregate data, or fundamentalist interpretations of scripture’. Rights and needs are not mutually exclusive: both originate from people, and both are claims to and against higher authorities. Petchesky illustrates the indivisibility of rights and needs in the following example:

> How can the right to development, usually classified in the economic and social category, be separated from the (social) right to education, the (political) right to participation in women’s NGOs and the cultural changes necessary to nourish women’s empowerment and self-worth? What about the women in Iran who suffer infertility, birth complications or stillbirths because of working since early childhood in the carpet-weaving industry and having underdeveloped pelves? If they could bring their case before the human rights treaty bodies, would they cite violations of their health rights, their reproductive rights, their right to education or their right not to be exploited by child labour practices or involuntary servitude? But of course, all these rights are relevant here, all are interconnected, and all are grounded in basic needs. I would like to think as well that all should be understood as integral to what we mean when we speak not only of fundamental human rights but also of sustainable human development.

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38 R P Petchesky and K Judd (eds) Negotiating Reproductive Rights: Women’s Perspectives Across Countries and Cultures, above.
39 Ibid, 10-11.
40 Ibid, 11-12.
If the problems with sexual and reproductive rights highlight anything, it is that human rights are worth working towards from a broader human rights framework, rather than in single-issue areas. Political and economic obstacles to achieving sexual and reproductive health are both inherited from gender inequalities in the past, and reproduce gender inequalities for the next generation. The removal of political and economic impediments to well-being is a necessary but insufficient condition for improving women’s sexual and reproductive well-being. A rights-based approach may be the best chance women have for removing these obstacles over time.

Other research highlights the importance of women’s social interaction as a condition that increases their abilities to resist the dictates of tradition, religion and partners in making reproductive decisions. Belonging to a group or union was highlighted as one of the most significant ‘enabling’ factors in terms of contributing to women’s sense of entitlement with regards to sexuality and reproduction in Petchesky and Judd’s seven-country study. It is clear that the possibilities that women have to participate in the public sphere also strongly shape their ability to articulate their rights in the private realm. In turn, their participation in civil society plays a critical role in advocating for societal norm change that enables women to improve their status.

It is difficult to imagine giving up on human rights because opposition to them exists, even if that opposition is strong and multi-faceted. While reproductive and sexual rights may be imperfect in theory and difficult to negotiate in practice, they may also be enabling and beneficial to people who seek to improve their circumstances. The fact that there is so much opposition to them may be the best evidence there is that they are having an effect.

While sexual and reproductive rights may have emerged in less than ideal circumstances – as do all rights that are intended to protect people from abuse and discrimination – they nonetheless stand as language that can be used to condemn a number of unjust and harmful practices and conditions. Sexual and reproductive rights form a set of obligations and freedoms that require a specific type of protection and promotion, particularly as a bulwark against traditional, religious and politico-economic dictates that seek to limit and
control people’s sexual behaviour for a variety of purposes. However, while they justify specific promotion as a means to articulate abuses and violations that might otherwise be ignored, they cannot be enjoyed in isolation from other human rights.