

THIRD DIVISION

G.R. No. 250627 – SANDRA JANE GAGUI JACINTO, *Petitioner*, v.  
MARIA ELOISA SARMIENTO FOUTS, *Respondent*.

Promulgated:

December 7, 2022

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CONCURRING OPINION

SINGH, J:

I concur that Republic Act No. 9262 or the Anti-Violence Against Women and Children Act (**Anti-VAWC Act**) protects all women from intimate partner violence, including women in lesbian relationships.

A contrary interpretation of the Anti-VAWC Act would discriminate against a certain class of women simply because they do not conform to society’s traditional conception of what relationships should be – one between a heterosexual man and a heterosexual woman. Similarly, a contrary interpretation will disregard the purpose for which the Anti-VAWC Law was enacted – to protect women from one of the most common and most horrific forms of violence and discrimination. This protection is not conditioned on an abused woman’s gender, gender expression, or sexual orientation.

The core question for this Court’s resolution is whether the Anti-VAWC Act applies to lesbian relationships.

The petitioner, Sandra Jane Jacinto (**Jacinto**), asserts that it does not because if the Anti-VAWC Act applies to lesbian relationships, that would mean that the law protects one woman in a relationship while denying the other woman the same protection.<sup>1</sup>

Jacinto also argues that the use of the term “any person” in Section 3 (a) of the Anti-VAWC Act should be interpreted to refer to men only because the enumeration in Section 3 (a) has “one denominator in that they refer to the male sex – husband, former husband, or a person with whom the woman has or had dating or sexual relationship, or shares a common child with...”<sup>2</sup> Further, Jacinto claims that the recent proposal by Congress to amend the Anti-VAWC Act to include “partners and their children” further strengthens the position that same sex relationships are not covered under the law.<sup>3</sup>

<sup>1</sup> Resolution. p. 4.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*



I concur with the Resolution rejecting this interpretation.

The text of the law is clear. Section 3 (a) provides in part –

**SECTION 3. *Definition of Terms.***- As used in this Act,

(a) “*Violence against women and their children*” refers to any act or a series of acts committed by **any person** against a woman who is his wife, former wife, **or against a woman with whom the person has or had a sexual or dating relationship**, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.<sup>4</sup>

Where the law is clear, there is no room for interpretation; there is only room for application.<sup>5</sup> Here, Section 3 (a) is unequivocal, it refers to “**any person**” who commits violence (as defined by the law) against a woman with whom “**the person** has or had a sexual or dating relationship...” The terms “any person” and “the person” should be given their plain and ordinary meaning. They literally pertain to a person without any qualification as to this person’s gender, gender expression, or sexual preference. To be sure, Section 3 (a) also contains the phrase “against a woman who is his wife, former wife...” The use of the pronoun “his” is not meant to qualify “any person” as male. It should be noted that under Philippine law, same-sex marriages are not recognized and thus, only men and women can legally marry.<sup>6</sup> This is the context within which the phrase “his wife, former wife” was used.

This is not the first time that this Court has had occasion to confirm that the Anti-VAWC Act applies to women in lesbian relationships. As the Resolution correctly states, the Court already explained in *Garcia v. Drilon*<sup>7</sup> (*Garcia*) that the use of the gender-neutral word “person” who has or had a sexual or dating relationship with the woman in Section 3 (a) encompasses lesbian relationships.<sup>8</sup>

Nonetheless, if there was any ambiguity in the language of the law (there is none), this is put to rest by the legislative intent behind the Anti-VAWC Act. During the meeting of the Bicameral Conference Committee Meeting on the Disagreeing Provisions of Senate Bill No. 2723 and House Bill Nos. 6054 and 5516, the following discussion confirmed the

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<sup>4</sup> Emphasis supplied.

<sup>5</sup> *Dubongco v. Commission on Audit*, 895 SCRA 53 (2019).

<sup>6</sup> FAMILY CODE OF THE PHILIPPINES, art. 1.

<sup>7</sup> 712 Phil. 44-176 (2013).

<sup>8</sup> Resolution, p. 8.



Congressional intent to extend the protection of the Anti-VAWC Act to women in lesbian relationships:

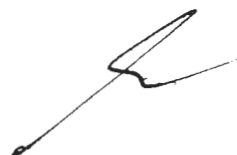
**REP. ABAYON.** May I just have a clarification here, Madam Chair, because there might be a case that will be brought before the courts. I just want to clarify whether we are really strict on the definition under letter (e) because the words used is “husband and wife.” **Does that mean that this refers only to a man and a woman or woman-to-woman would be included? Because this might – we should know here what is really our interpretation. Because if we really consider that a woman-to-woman relationship can still be called as husband and wife relationship, then there might be no more problem in the interpretation brought before the court. So, the intent here of the legislators should be stated in the journal in this Bicam so that there would be no wrong interpretation in the course of a case that might be filed later.**

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**REP. SARENAS.** Madam Chair, I don’t know. If just for the record we could say that lesbian relationships are included because we are using the conjunctive word “or” and therefore “or” are romantically involved over time and on a continuing basis. So, that would cover because we do know women’s crisis centers’ report that there are many abuses done against women by their lesbian partner. So, it is not limited to husband and wife by the mere fact that we’re using the conjunctive “or” so the that lesbian relationship would already be covered by the parties that are romantically involved over time in a continuing basis. If for the record, we are agreed on that it is not. It’s a little vague but it should cover.

**REP. ANGARA-CASTILLO.** No, as a matter of fact, Madam Chair, if you look at Section 3, that is the way it was defined by the Senate, “committed by any person against.” Meaning to say, any person can be a man or a woman. The offender can refer to a man or a woman. That’s why it can be covered. So we don’t touch it, it’s covered.

**REP. ABAYON.** No, no, Madam Chair, we have to clarify here. Because the way I look at it, the Senate version does not seem to cover such woman-to-woman relationship. Which is which now? So that when a case is brought before the court, there might be a problem on this definition because a husband and wife - - And then, if we refer to the dictionary, a husband is always a man, but there are cases which is now woman-to-woman which a woman would act as a man and which in our ordinary parlance will be considered as a husband insofar as that woman partner is concerned. So, we have to clarify here so that there will be no problem anymore when a case is brought before the court on the issue of definition. So, what is really our legislative intent, to cover or not? So, we have to be consistent here. The Senate would agree on the coverage, then I think we have no more problem on that because when the journal of the bicam will be taken up and part of the intent will be the pivotal point that the court will decide, then there will be no more issue. So, that’s why I want to clarify it here. What is really our intent?



**REP. ANGARA-CASTILLO.** Madam Chair, my reading is that based on the wording adopted by the Senate using “any person” in defining sexual – in defining violence against women and children, it will cover and it does cover both men and women. And under this “dating relationship,” I do not even think that the wording here is really inconsistent with the definition of violence because you say, living as husband and wife, when a lesbian couple live together, one of them takes the role of the husband. So they live as husband and wife. But I am glad that Congressman Abayon has raised that point because **we would like to make it clear that the offender in this proposed bill can be either a man or a woman.**

**THE CHAIRPERSON (SEN. EJERCITO-ESTRADA).** You know, in the definition of violence against women, it states here that: “refers to any act or series of acts committed by any person against a woman who is his wife” – “who is his wife”

**REP. ANTONINO-CUSTODIO.** Actually, ma’am, I think it is covered by the dating relationship kasi nakalagay dito or basically ang definition natin ng “dating relationship” covers two areas: a situation where parties live as husband and wife; and then another situation where the relationship refers to the two people romantically involved over time. So I think that would cover actually – that would cover both eh. Kung ang interpretation natin dito sa definition natin but exactly the point of Congressman Abayon is for us to settle here in the bicam in order for the court when they decide on the definition kung covered ba sila or hindi, ano ang intent natin? To cover them or not. ‘Yun ‘yung, I think, ‘yun ‘yung ano natin dito.

**REP. ABAYON.** Madam Chair, actually, my own interpretation here – is my own interpretation, I repeat, is really that we cover both relationships. Why? Because the definition is very clear, “or against a woman with whom the person has or had” and then we go also “or are romantically linked.” So that – I just would like to clarify because this might be a cause of definition wherein a lawyer will define in the other way. That is why we really have to put this as what is really our legislative intent so that there will be now – the decision of the courts will rely on the transcript of the journal in the event a case is brought which I believe many cases will be brought. So this now should be settled. We would like to know if the Senate will agree on the interpretation of the House on the issue.

**THE CHAIRPERSON (SEN. EJERCITO-ESTRADA).** So we agree on it.

**REP. ABAYON:** So, thank you for that, Madam Chair. So this is now clear that a woman-to-woman relationship is covered as long as that woman would act as a husband and romantically linked or rather “or.” Thank you, Madam Chair.<sup>9</sup>

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<sup>9</sup> Committee on Youth, Women and Family Relations, Minutes of Bicameral Conference Committee Meeting on the Disagreeing Provisions of Senate Bill No. 2723 and House Bill Nos. 6054 and 5516 (2004), 13th Congress pp. 38-46; emphases supplied.



Conscious of the importance of legislative intent in interpreting laws, and aware of the possibility that a case may be one day filed in court claiming that the Anti-VAWC Act applies only to women in heterosexual relationships, the Bicameral Committee made it a point to record the legislative intent that the Anti-VAWC Act covers lesbian relationships. As the law is clear and the legislative intent is unequivocal, this Court cannot but read the Anti-VAWC Act in accordance with its language and intent.

The interpretation that the Anti-VAWC Act applies to both heterosexual and lesbian relationships is also consistent with the Constitutional right to the equal protection of the laws.<sup>10</sup> Indeed, interpreting the Anti-VAWC Act to protect only women in heterosexual relationships would discriminate against a class of women solely on the basis of their gender and sexual preference.

The Equal Protection Clause dictates that all persons similarly situated should be treated alike, both as to rights conferred and responsibilities imposed. In *Biraogo v. Philippine Truth Commission*,<sup>11</sup> the Court explained:

...The purpose of the equal protection clause is to secure every person within a state's jurisdiction against intentional and arbitrary discrimination, whether occasioned by the express terms of a statute or by its improper execution through the state's duly constituted authorities. In other words, the concept of equal justice under the law requires the state to govern impartially, and **it may not draw distinctions between individuals solely on differences that are irrelevant to a legitimate governmental objective.**<sup>12</sup>

The purpose of the Anti-VAWC Act is clear. Section 2 of the Anti-VAWC Act states:

**SECTION 2. Declaration of Policy.-** It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. **The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.**

Towards this end, **the State shall exert efforts to address violence committed against women** and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party.<sup>13</sup>

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<sup>10</sup> CONST., art. III, sec. 1.

<sup>11</sup> 651 Phil. 374-773 (2010).

<sup>12</sup> Citations omitted; emphasis supplied.

<sup>13</sup> Emphases supplied.



Recognizing that intimate partner violence is one of the worst forms of violence and discrimination inflicted on women, the Anti-VAWC Act was enacted to provide penalties for various forms of intimate partner violence committed against women and affords abused women a set of remedies not only so that their abusers may be penalized but also so that women will be granted immediate refuge in the form of protection orders.

As it is the protection of women from intimate partner violence that is the avowed purpose of the Anti-VAWC Act, for this law to cover only women who are in heterosexual relationships would be discriminatory to an entire class of women who are in lesbian relationships.

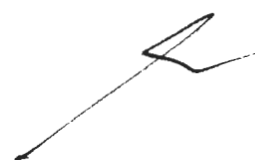
Distinguishing between abused women in heterosexual relationships and abused women in lesbian relationships is not a valid classification. There are no substantial distinctions between these two classes. Intimate partner violence is no less horrific if it occurs within lesbian relationships. Nor are women in lesbian relationships less oppressed and thus, in need of lesser protection. Victims of intimate partner violence in same-sex relationships may have distinct experiences of abuse compared to their heterosexual counterparts but these victims similarly suffer stressors albeit unique to their sexual minority status such as homophobia, transphobia, and in certain cases, the fear that their sexuality may be disclosed to others.<sup>14</sup> Indeed, whether an abused woman has a heterosexual relationship or a lesbian relationship is a superficial difference. “Superficial differences do not make for a valid classification.”<sup>15</sup>

If the purpose of the Anti-VAWC Act is to protect women from one of the worst kinds of violence suffered by women in general, with the ultimate goal of aiding in eradicating gender discrimination, then the protection afforded by the law must necessarily extend to all women, regardless of gender, gender expression, and sexual orientation. To withhold the protections afforded by the Anti-VAWC Act to women in lesbian relationships on the basis solely of the fact that their abuser is also a woman is discriminatory. It would mean that the State only affords protection to those who conform to what society regards as “normal” and, in effect, invalidates and penalizes those who are “different.” This would effectively affirm to this entire class of women (as well as members of the LGBTQI community in general) that they are right to fear going to the authorities to report their abuse; that their choices are less valid and merit less protection from the law; that the law views them as less than heterosexual women. The law cannot be read in this way.

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<sup>14</sup> Adam M. Messinger, *Invisible Victims: Same-Sex IPV in the National Violence Against Women Survey*, *Journal of Interpersonal Violence* (2011), available at <<https://journals.sagepub.com/doi/epdf/10.1177/0886260510383023>> (last accessed on January 10, 2023).

<sup>15</sup> CARLO L. CRUZ, *CONSTITUTIONAL LAW*, 128 (2003 ed).



Nor should the Anti-VAWC Act be read in a manner that would allow women who abuse their same-sex partners to escape liability. Gender is relevant under the Anti-VAWC Act only with respect to the gender of the victim of intimate partner violence. The protection of the law is triggered when a woman is the victim of intimate partner violence regardless of whether the relationship is heteronormative or not. The law is blind as to the gender of the abuser. It does not function to perpetuate the gender-based stereotype that all women have no agency and thus require protection even in instances where they commit violations of the law. The law recognizes that women have free will and are capable of independent thought and action and will, therefore, be held liable for the consequences of their act. That, too, is gender equality.

I echo what Senior Associate Justice Marvic M.V.F. Leonen said in his Concurring Opinion in *Acharon v. People*:<sup>16</sup>

Truth be told, our law cruelly defines the normal. This Court has started to take steps to address this where possible. In a concurring opinion from *Republic v. Manalo*, we have acknowledged that couples of all genders may constitute loving families:

The restrictive nature of our marriage laws tends to reify the concept of a family which is already far from the living realities of many couples and children. For instance, orthodox insistence on heteronormativity may not compare with the various types of care that various other "non-traditional" arrangements present in many loving households.

The worst thing we do in a human relationship is to regard the commitment of the other formulaic. That is, that it is shaped alone by legal duty or what those who are dominant in government regard as romantic. In truth, each commitment is unique, borne of its own personal history, ennobled by the sacrifices it has gone through, and defined by the intimacy which only the autonomy of the parties creates.

In other words, words that describe when we love or are loved will always be different for each couple. It is that which we should understand: intimacies that form the core of our beings should be as free as possible, bound not by social expectations but by the care and love each person can bring.

In *Republic v. Cagandahan*, this Court upheld the trial court's allowance of the respondent's change of name and recognized the situation of intersex individuals:

In the absence of a law on the matter, the Court will not dictate on respondent concerning a matter so innately

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<sup>16</sup> G.R. No. 224946, November 9, 2021.



private as one's sexuality and lifestyle preferences, much less on whether or not to undergo medical treatment to reverse the male tendency due to CAH. The Court will not consider respondent as having erred in not choosing to undergo treatment in order to become or remain as a female. Neither will the Court force respondent to undergo treatment and to take medication in order to fit the mold of a female, as society commonly currently knows this gender of the human species. Respondent is the one who has to live with his intersex anatomy. To him belongs the human right to the pursuit of happiness and of health. Thus, to him should belong the primordial choice of what courses of action to take along the path of his sexual development and maturation. In the absence of evidence that respondent is an "incompetent" and in the absence of evidence to show that classifying respondent as a male will harm other members of society who are equally entitled to protection under the law, the Court affirms as valid and justified the respondent's position and his personal judgment of being a male.

In so ruling we do no more than give respect to (1) the diversity of nature; and (2) how an individual deals with what nature has handed out. In other words, we respect respondent's congenital condition and his mature decision to be a male. Life is already difficult for the ordinary person. We cannot but respect how respondent deals with his unordinary state and thus help make his life easier, considering the unique circumstances in this case. (Citation omitted)

Recently, this Court promulgated the Rules on the Use of Gender-Fair Language in the Judiciary and Gender-Fair Courtroom Etiquette in an effort not to "perpetuate gender stereotypes, which rest on unfounded generalizations regarding the characteristics and roles of binary and non-binary genders, but indisputably influence the perspectives of the judges and litigants alike."

We continue to fight toward genuine and meaningful equality for men and women, as well as those who are nonbinary. It is vital to this movement that we take apart the structures that perpetuate the abuse of women.<sup>17</sup>

The protections afforded by the Constitution ensure that people are free from arbitrary governmental interferences, that people are free to make choices about how they live their lives, that people are free to embark on their own manner of pursuit of happiness. Our laws and our courts guarantee these not just by preventing and penalizing acts that directly threaten fundamental freedoms; they also guarantee these by ensuring that minorities who pursue choices that do not conform to the generally accepted template of what happiness should look like are not discriminated against for these

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<sup>17</sup> Citations omitted.





choices; and that their unique experiences are not invalidated by laws that are blind to their plight.

I reiterate the pronouncement of the Court in *Garcia*:

...[T]he history of the women's movement against domestic violence shows that one of its most difficult struggles was the fight against the violence of law itself. If we keep that in mind, law will not again be a hindrance to the struggle of women for equality but will be its fulfillment.<sup>18</sup>

The Anti-VAWC Act is a progressive piece of legislation and should not be interpreted in a manner that would reinforce gender biases against minorities. By interpreting the Anti-VAWC Act to cover all women subject to intimate partner violence regardless of the gender, gender expression or sexual orientation of the victim and the abuser, the Court recognizes that even women who do not conform to what is generally defined as "normal" or traditional relationship structures are protected by the law. When the law states that it protects women who are victims of domestic abuse, it protects all women without qualification.

I vote to deny the Petition.

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<sup>18</sup> Citations omitted.

