

FACT SHEET

Joint Submission on the Situation of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) Persons in the Philippines Universal Periodic Review, Cycle 3, 2017

1. UPDATES SINCE CYCLE 2

The Philippines saw progress in making government more responsive to issues of sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC). During Cycle 2, the country received just one recommendation on SOGIESC issues: to “consider establishing a comprehensive legislation to combat discrimination faced by LGBT people”. This recommendation was noted.

However, there have been some notable developments in the past four and half years:

- Anti-discrimination local legislations which include sexual orientation, gender identity and expression (SOGIE) in its list of protected categories have been adopted by at least twenty (20) local government units. At the national level, anti-discrimination bills explicitly listing SOGIE have been filed in both Congress and the Senate.
- LGBTIQ-inclusive policies have been adopted by various government institutions, including: the Department of Education’s Child Protection Policy, which prohibits discrimination of children on the basis of SOGIE; the Department of Social Welfare and Development’s memo “Fostering a Gender-Inclusive Workplace”, which allow staff to wear uniforms matching their gender identity; the Women’s Empowerment, Development, and Gender Equality Plan for 2013-2016 of the Philippine Commission on Women, which devotes an entire chapter to addressing the issues of LGBT people; and the Gender Ombud Guidelines of the Commission on Human Rights, which specifies a protocol for handling human rights cases related to SOGIE.

2. ONGOING CHALLENGES

Lack of Legal Gender Recognition – The Clerical Error Law of 2001 (R.A. 9048) makes it illegal for transgender persons to change their sex in one’s birth certificate. In one case (Silverio vs. Philippines, G.R. 174689), the Supreme Court reversed a lower court decision allowing a transgender woman to change her gender legal marker citing that a person’s “biological sex” is “an essential factor in marriage and family relations”. This legal impediment discriminates transgender persons in employment and access to social services.

Violence Against LGBT Children – Discriminatory policies coupled by broader stigma against LGBTIQ people often translates into bullying and other acts of physical and psychological violence, with victims often being children. In one workshop, many reported being the subject of slurs like “ipako sa krus” (“nail to a cross”), “salot sa lipunan” (“disgrace to society”), and “anak kayo ng demonyo” (“you are the devil’s children”). These experiences often begin in the home, with perpetrators being the child’s own family. Another child reported a violent case of extortion, with the perpetrator threatening the child with a sharp object.

Discrimination in Accessing Social Services – LGBTIQ persons face discrimination in accessing social services, particularly in the context of same-sex partnerships. In the case of housing, it was found that lesbian-headed households were systematically de-prioritized in resettlement of evicted informal settlers because their family arrangements were not legally recognized. Government-managed social security and health insurance benefits are not awarded to a person’s same-sex spouse because existing laws do not recognize their partnership. In cases of emergency, a person’s same-sex partner is often denied visitation right and is barred from participating in important medical decisions. In other cases, provisions of Article 67 (“Kidnapping and serious illegal attention”) of the Revised Penal Code has been used to harass LGBTIQ people who elope with their partners.

Discrimination in Education – Child protection committees were set up in schools. However, personal narratives of children suggest these have not deterred the prevalence of discrimination. A group of transgender women students from Jose Rizal Memorial State University challenged their dean’s policy wherein non-compliance to a prescribed male haircut would negatively impact their academic standing.

Discrimination in Labor and Employment – The absence of an anti-discrimination law or a provision in the Labor Code prohibiting discrimination on the basis of SOGIESC makes it difficult for private institutions to address discrimination. In one case, a photograph of a gay teacher, dressed in bridal garments for a personal event outside of school, was used by school officials to fire him. In another case, a transgender woman was harassed during a pre-employment medical examination where she was examined by a male doctor. In the hiring process, there are companies with unwritten rules to not accept transgender or gender non-conforming persons, using "lack of necessary competencies and/or experiences" as justification for turning down their applications. Transgender employees remain to have difficulty in accessing sex-segregated workplace facilities such as toilets.

Killings of LGBT Persons – Violence against LGBTIQ persons remains prevalent. The case of Jennifer Laude, a 26-year-old Filipino transwoman who was murdered by US Private First Class Joseph Scott Pemberton through “asphyxiation by drowning” on 11 October 2014 in Olongapo is the most famous example. But in the absence of popular media coverage, other murders have been independently reported by concerned citizens. Many murders still go unreported.

3. RECOMMENDATIONS FOR CYCLE 3

We request UN member states to recommend the following:

- Undertake efforts to pass anti-discrimination legislation protecting people from all forms of discrimination on the basis of sexual orientation, gender identity and expression, and sex characteristics (SOGIESC).
- Adopt a national labor policy that includes prohibitions on employment discrimination on the basis of sexual orientation, gender identity and expression, and sex characteristics (SOGIESC), and require LGBTIQ-affirmative programs in workplaces.
- Strengthen existing social protection and social service programs to make them more inclusive of LGBTIQ people, such as by extending social security, health and housing benefits to a person’s same-sex partner.
- Strengthen the role of the Philippine Commission on Human Rights and community-based redress systems, such as the Barangay Justice System and the Barangay Council for the Protection of Children, to investigate and respond to human rights violations related to sexual orientation, gender identity and expression and sex characteristics (SOGIESC).
- Ensure that school policies and curricula promote the rights of LGBTIQ persons, such as by removing all discriminatory content in all learning materials, providing LGBTIQ-inclusive counseling services, and providing access to gender-neutral restrooms in all educational facilities.

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