

FACT SHEET

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





1. UPDATES SINCE THE 2nd PERIODIC REVIEW

The Philippines has seen some progress in making its state institutions more responsive to issues of sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) and to its lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) constituents. During the Universal Periodic Review's 2nd cycle, one recommendation was made by Argentina to "consider establishing a comprehensive legislation to combat discrimination faced by LGBT people", which the Philippines noted. Some notable developments as of this writing are the following:

1.1. Anti-discrimination policies which include sexual orientation, gender identity and expression (SOGIE) in its list of protected categories have been adopted by twenty (20) local jurisdictions^[1], including Cebu City, the Municipality of San Julian in Eastern Samar, and the Province of Agusan Del Norte. Of these, only Quezon City's ordinance has Implementing Rules and Regulations.^[2]

1.2. Numerous anti-discrimination bills explicitly listing SOGIE have been filed in both Congress and the Senate. Of these, two have been approved at the committee levels and will be deliberated for second reading.^[3, 4]

1.3. LGBTIQ-inclusive policies have been adopted by various government institutions, including: the Department of Education's Child Protection Policy^[5], which prohibits discrimination of children on the basis of SOGIE; the Department of Social Welfare and Development's memo "Fostering a Gender-Inclusive Workplace"^[6], 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^[7], which devotes an entire chapter to addressing the issues of LGBT people; and the Gender Ombud Guidelines of the Commission on Human Rights^[8], which specifies a protocol for handling human rights cases related to SOGIE.

2. ONGOING CHALLENGES

Serious challenges remain to be resolved in various areas of public life. Consultations with stakeholders point to several key issues, including but not limited to:

2.1. Lack of legal gender recognition. - The Clerical Error Law of 2001 (R.A. 9048)^[9] makes it illegal to change the sex in one's birth certificate. Consequently, this allows transgender and intersex persons to be unjustly penalized with no legal consequence for the perpetrator. In one case, the Supreme Court reversed a 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".^[10] This legal impediment has had implications on the real lives of transgender and intersex persons, allowing private and public institutions to harass them with impunity through the denial of services and other means.

2.2. Violence Against LGBT Children. - Discriminatory policies coupled by broader stigma against LGBTIQ people often translates into acts of physical and psychological violence, with victims often being children. In one workshop^[11], 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 of violence 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.

2.3. 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^[12], 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 267 (“Kidnapping and serious illegal attention”) of the Revised Penal Code has been used to harass LGBTIQ people who elope with their partners.

2.4. Discrimination in education. - Child protection committees were set up in schools to monitor, report, receive and respond to cases of discrimination. However, personal narratives of children suggest these have not deterred the prevalence of discrimination. In 2013, a student^[13] in Batangas province committed suicide following incidents of SOGIESC-related bullying. In another case^[14], 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.

2.5. Discrimination in labor and employment. - Without a comprehensive anti-discrimination law or a provision in the Labor Code prohibiting discrimination on the basis of SOGIESC, obliging private institutions to address discrimination has been difficult. 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 neither case were the perpetrators penalized.^[15] 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.^[16] In addition to this are reports of transgender women being prohibited from using the female toilet and female sleeping rooms.^[17]

2.6. Murders of LGBT persons. - The disturbing reality is that violence against LGBTIQ persons remains prevalent, and in more than few cases has resulted in death. The case of Jennifer Laude^[18], 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, many other murders have been independently reported by concerned citizens^[19], including: Richelle Labitad Bequilla, a 33-year-old transgender woman from Cebu City who was found dead on 30 May 2015; Jordan Borabien from Camarines Sur, reported on 18 August 2015; and Joice Florance, a 30-year-old transgender woman from Northern Samar, reported on 6 June 2016. Many other murders have gone unreported.

3. RECOMMENDATIONS FOR MOVING FORWARD

Given these developments, we recommend the following:

- 3.1.** Undertake efforts to pass anti-discrimination legislation protecting people from all forms of discrimination on the basis of SOGIESC.
- 3.2.** Adopt a national labor policy that includes prohibitions on SOGIESC-based employment discrimination and requires SOGIESC-affirmative programs in workplaces.
- 3.3.** Strengthen existing social protection and social service programs to make them more inclusive of LGBTIQ people.
- 3.4.** 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 SOGIESC.
- 3.5.** Ensure that education policies and school curricula promote the rights of LGBTIQ persons, such as by removing all SOGIESC-based discriminatory content in all learning materials, providing SOGIESC-inclusive counseling services, and providing access to gender-neutral restrooms in all educational facilities.

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