

Human Rights Violations on the Basis of Sexual Orientation, Gender Identity, and Homosexuality in the Philippines

COALITION REPORT

Submission to the 103rd Session of the Human Rights Committee
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Submitted by:

International Gay and Lesbian Human Rights Commission (IGLHRC) www.IGLHRC.org

LGBT and Human Rights Groups:

Alliance of Young Health Advocates
Alliance of Young Nurse Leaders & Advocates International Inc.
Amnesty International Philippines - LGBT Group (AIPh-LGBT)
Babaylanes, Inc.
Bisdak Pride – Cebu
Cagayan De Oro Plus (CDO Plus)
Changing Lane Women’s Group
Coalition for the Liberation of the Reassigned Sex (COLORS)
Elite Men’s Circle (EMC)
EnGendeRights, Inc.
Filipino Freethinkers (FF)
Fourlez Women’s Group
GAYAC (Gay Achievers Club)
KABARO-PUP
Lesbian Activism Project Inc. (LeAP!), Inc.
Miss Maanyag Gay Organization of Butuan
OUT Exclusives Women’s Group
OUT Philippines LGBT Group
Philippine Fellowship of Metropolitan Community Churches (MCC)
Philippine Forum on Sports, Culture, Sexuality and Human Rights (TEAM PILIPINAS)
Philippine LGBT Hate Crime Watch (PLHCW)
Queer Pagan Network (PQN)
Rainbow Rights Project (R-Rights), Inc.
Redbridge Books Publishing Co. (LGBTQ Publishing House)
TLF Share Collective, Inc.
TMC Globe Division League
Tumbalata, Inc.
Ultimo Icono group
Women on Top Women’s Group

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INTRODUCTION

This report is a joint submission by the International Gay and Lesbian Human Rights Commission (IGLHRC) and the following lesbian, gay, bisexual, and transgender (LGBT) and human rights groups in the Philippines: Alliance of Young Health Advocates, Alliance of Young Nurse Leaders & Advocates International Inc., Amnesty International Philippines - LGBT Group (AIPh-LGBT), Bisdak Pride, Cagayan De Oro Plus (CDO Plus), Changing Lane Women's Group, Coalition for the Liberation of the Reassigned Sex (COLORS), Elite Men's Circle (EMC), EnGendeRights, Inc., Filipino Freethinkers (FF), Fourlez Women's Group, GAYAC (Gay Achievers Club), KABARO-PUP, Lesbian Activism Project Inc. (LeAPI), Inc., Miss Maanyag Gay Organization of Butuan, OUT Exclusives Women's Group, OUT Philippines, Philippine Fellowship of Metropolitan Community Churches (MCC), Philippine Forum on Sports, Culture, Sexuality and Human Rights (TEAM PILIPINAS), Philippine LGBT Hate Crime Watch (PLHCW), Queer Pagan Network (PQN), Rainbow Rights Project (R-Rights), Inc., Redbridge Books Publishing Co. (LGBTQ Publishing House), TLF Share Collective, Inc., TMC Globe Division League, Tumbalata, Inc., Ultimo Icono Group, Women on Top Women's Group and individual activists: Arnel Rostom Deiparine and Ryan Sylvério. It is written on the occasion of the fifth periodic report of the Government of the Philippines¹ on the implementation of the International Covenant on Civil and Political Rights ("the Covenant").

The purpose of this report is to highlight the widespread and systematic human rights violations experienced by LGBT persons because of their sexual orientation² and gender identity³ (SOGI); men who have sex with men (MSM); in the Philippines despite the country's international obligations under the Covenant.

IGLHRC and the above mentioned LGBT and human rights groups draw the attention of the Committee to the following human rights violations:

- The failure of the Philippine government to enact laws that protect LGBT persons from discrimination
- The failure of the Philippine government to enact laws that protect LGBT persons from hate crimes and Hate Speech
- The failure of the Philippine government to address the mental and physical health needs of LGBT persons
- The failure of the Philippine government to investigate and prosecute police mistreatment of the LGBT community and hate crimes against LGBT persons
- The absence of legal mechanisms to recognize the gender identities of transgender people.
- The absence of legal recognition of same-sex unions and families in the Philippines
- The failure of the Philippine government to address the sexual and reproductive health of LGBT persons
- The failure of the Philippine government to protect children with non-heteronormative sexual orientation or gender identity from abuse, discrimination and violence

¹ The Philippines signed the Covenant on Dec.19, 1966 and ratified on Feb. 28, 1986 and submitted the Instrument of Ratification on Oct. 23, 1986. The treaty entered force on Jan. 23, 1987. Initial report was submitted on Mar. 22, 1988 (CCPR/C/50/Add.1/Rev.1) and was considered by the Committee on Mar. 31 and Apr. 3, 1989. The combined 2nd and 3rd report was submitted on Aug. 26, 2002. The 4th periodic report was submitted on Sept. 12, 2010.

² Sexual Orientation is the direction of emotional sexual attraction or conduct, which can be towards people of the same sex (homosexual), towards the opposite sex (heterosexual) or towards both sexes (bisexual). Yogyakarta Principles definition. www.yogyakartaprinciples.org

³ Gender Identity is defined as the personal sense of identity as characterized, among others, by manner of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with the physiological characteristics of the opposite sex. Yogyakarta Principles definition. www.yogyakartaprinciples.org

SUBSTANTIVE VIOLATIONS

Non-Discrimination and Equal Rights of Men and Women – Art 2(1), Art. 3 and Art. 26

Articles 2(1), 3 and 26 of the Covenant provide for the respect, equality and non-discrimination of all individuals on the ground of, *inter alia*, “colour” and “sex”. In the landmark decision of *Toonen v Australia*⁴, the Human Rights Committee held that “sex” must be taken to include sexual orientation. In its previous Concluding Observations, the Committee has noted concern at anti-discrimination laws, which omit reference to sexual orientation and gender identity⁵, has called for positive steps to end LGBT prejudice⁶ and urged State Parties to allow transgender persons to have their acquired gender recognised on a birth certificate⁷. In its General Comment on Article 18, Section 3, the Committee states that restrictions on the freedom to manifest religion or belief should only be permitted if the law prescribes the limitations and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others⁸. State Parties must “proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26”.

The Philippines has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture (CAT), the Convention on the Rights of the Child (CAT), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the Convention on the Rights of Persons with Disabilities (CRPD)⁹. It has therefore committed itself to upholding the dignity, equality and human rights of all persons¹⁰.

Despite being a secular country, the Philippines, even with the absence of laws criminalizing homosexuality has adhered to a patriarchal and deeply embedded influence of Catholicism in the social and political sphere. The State has perpetuated gender-defined social norms that promote stereotypes, prejudice and the stigmatization of LGBT persons. Tolerance of sexual and gender diversity is tempered by the strong influence of the Catholic Church and a macho culture to which many within the general population subscribe. While Filipinos are generally comfortable with gay persons, this tolerance is conditioned on LGBT individuals fitting certain stereotypes and behaving according to accepted, non-threatening norms. Effeminate gay men are seen in places like theatres or beauty parlors, lesbians and masculine women as security guards and transgender women as celebrity impersonators but not as doctors or teachers.

⁴ *Toonen v. Australia*, Communication no. 488/192, U.N. Doc CCPR/C/50/D/488/1992 (1994).

⁵ CCPR/C/JAM/CO/3 at para 8, “While welcoming the adoption of the Charter of Fundamental Rights and Freedoms in April 2011, the Committee regrets that the right to freedom from discrimination is now expressed on the grounds of ‘being male or female’, failing to prohibit discrimination on grounds of sexual orientation and gender identity”

⁶ CCPR/C/MNG/CO/5, 2 May 2011 at para 9; CCPR/C/POL/CO/6, 15 November 2010 at para 8

⁷ CCPR/C/IRL/CO/3 at para 8, “concerned that the State party has not recognized a change of gender by transgender persons by permitting birth certificates to be issued for these persons and that the State party should also recognize the right of transgender persons to a change of gender by permitting the issuance of new birth certificates.”

⁸ General Comment No. 22: The right to freedom of thought, conscience and religion (Art. 18) 07/30/1993 at para 8

⁹ Ratification of International HR Treaties – Philippines. HR Library, Minnesota Univ. <http://www1.umn.edu/humanrts/research/ratification-philippines.html>

¹⁰ Art. 2 Section 11 and Art. 3 Sections 1, Philippines Constitution, 1987.

Recently, the Philippine Permanent Representatives at the United Nations refused to support a Joint Statement by the UN Human Rights Council urging states to end LGBT violence¹¹. They also abstained from voting on a Resolution, which restored reference to killings on the basis of sexual orientation¹².

Absence of Anti-Discrimination Legislation

In the spirit of inclusiveness, sexual orientation is specifically mentioned in The Magna Carta of Women¹³ while abuse between members of the same-sex relations are covered in the Anti-Rape Law¹⁴ and The Anti-Violence Against Women and Children Act. However, in terms of implementation, nothing has been documented. In many cases, laws have actually disadvantaged LGBT persons¹⁵. For the past eleven years the Anti-Discrimination Bill¹⁶ has been languishing in Congress, despite support from legislators and the Commission on Human Rights – Philippines (CHRP)¹⁷. Legislators and Catholic fundamentalists¹⁸ who oppose LGBT rights have continually blocked enactment and have even proposed their own anti-LGBT laws¹⁹.

Discrimination by State Actors

State actors have the responsibility of implementing laws on behalf of the Philippine Government. They are mandated to uphold the principles of equality, non-discrimination and respect enshrined in the Philippine Constitution. However, religious convictions and personal bias of government officials—from law enforcement officers²⁰, to legislators from the Barangays²¹ to Members of Congress,²² contribute significantly to the violence

¹¹ The UN HRC passed the First-Ever Resolution urging states to end violence, criminal sanctions and related human rights violations based on sexual orientation and gender identity (SOGI). June 2011 <http://www.ighrc.org/cgi-bin/iowa/article/pressroom/pressrelease/1417.html>

¹² Reference to restore the inclusion of sexual orientation from extrajudicial executions (EJE) and other unlawful killings was adopted with 93 votes in favor, 55 against and 27 abstentions where the amended resolution had 122 yes votes, one against and 62 abstentions. Dec. 22, 2010. “UN Victory for Gay Rights Supporters.” <http://blogs.reuters.com/global/2010/12/22/un-victory-for-gay-rights-supporters/>

¹³ “An Act Providing for the Magna Carta of Women.” RA No. 9710 http://www.lawphil.net/statutes/repacts/ra2009/ra_9710_2009.html

¹⁴ Article 266-A.2 “An Act Expanding the Definition of the Crime of Rape, Reclassifying the Same as a Crime against Persons...” RA No. 8353 <http://pcw.gov.ph/index.php/laws-legislation-filipino-women/23-laws-criminal-laws/159-republic-act-8353> Lesbian partners can be punished for domestic violence, Section 3 “an Act Defining Violence Against Women and Children...” also known also as “The Anti-Violence Against Women and Children Act of 2004” (Anti-VAWC) Republic Act No. 9262 <http://pcw.gov.ph/index.php/laws-legislation-filipino-women/23-laws-criminal-laws/160-republic-act-9262>

¹⁵ Homosexuality and lesbianism are mentioned in the list of circumstances for marriages to be annulled based on fraud (Art.46 Sec. 4) and one of the grounds for legal separation (Art. 55 Sec.6). Upon the declaration of legal separation or annulment, the homosexual spouse is considered the guilty party and loses the rights of inheritance from the other spouse and any claim to the conjugal property. The Family Code of the Philippines 1987.

<http://filipinawives.com/FamilyCodePhilippines.htm>

¹⁶ “An Act Prohibiting Discrimination on the Basis of Sexual Orientation and Gender Identity and Providing Penalties Therefor” seeks to prohibit a wide-range of discriminatory policies and practices against Filipino lesbians, gays, bisexuals and transgenders (LGBT) persons in schools, workplaces, commercial establishments, public service, police and the military. The Anti Discrimination Bill” or “ADB” was first filed in 2000 at the 11th Congress. At present, the 14th Congress filed as HB 1483 and 515 by Bayan Muna Rep. Teddy Casino and Akbayan Rep. Kaka Bag-ao respectively and Senate Bill. 2995 filed by Senator Ramon Revilla, Jr. http://www.congress.gov.ph/download/index.php?d=billtext_results, http://202.57.41.248/lis/bill_res.aspx?congress=15&q=SBN-2995

¹⁷ Commission on Human Rights of the Philippines. http://www.chr.gov.ph/MAIN%20PAGES/about%20us/01consti_creation.htm. Former CHRP Chair Leila de Lima commented that LGBT persons remain to be one of the sectors most vulnerable to human rights abuses, such as discrimination in the workplace and even harassment in educational institutions. “CHR vows to promote gay, lesbian rights”. Inquirer.net, Dec. 6, 2008.

<http://newsinfo.inquirer.net/breakingnews/nation/view/20081206-176498/CHR-vows-to-promote-gay-lesbian-rights>

¹⁸ Petition against the anti discrimination bill <http://www.thepetitionsite.com/takeaction/659/877/848/>, <http://www.philstar.com/Article.aspx?publicationSubCategoryId=63&articleId=702813>

¹⁹ In 2006 at the 13th Congress, three bills were filed banning same-sex marriage. HB 1245 by Rep. Rufino Biazon seeks to amend the Family Code limiting marriage to ‘natural born males and natural born females’. A counterpart bill in the Senate, SB 1575, was filed by Sen. Rodolfo Biazon and, SB 1276 filed by Sen. Miriam Defensor Santiago prohibits legal recognition of same-sex marriages conducted in other countries.

<http://fullman.com.ph/2009/12/08/bill-criminalizing-same-sex-marriage-filed-in-congress/>. In 2009 Rep. Bienvenido Abante Jr. filed HB 6919, “Declaring Same-sex marriage illegal, Providing Penalties therefore, and for other Purposes” penalizing violators 15 years imprisonment and a fine of not more than P150, 000.00. 14th Congress. <http://www.congress.gov.ph/press/details.php?pressid=3962&key=Abante> in Feb 2011 HB 4269 by Rep. Rene Relampagos, Committee Chair of Human Rights, proposed to amend the Family code by denying same-sex marriage of a Filipino abroad if that person is still a citizen of the Philippines. <http://progressph.blogspot.com/2011/06/discriminatory-amendment-proposed-by.html>

²⁰ The stigma associated with LGBT people as being sexual predators is evidence in the recent directive of The Bureau of Jail Management and Penology (BJMP) preventing officers, who are assumed to be homosexuals, to frisk inmates and visitors. This order was not intended to discriminate but only to

and discrimination that LGBT people experience.

The Department of Health (DOH) has consistently failed to protect and promote the sexual and reproductive health and rights of people with non-heteronormative needs. Transgender women and lesbians' sexual health needs are still absent in the overall comprehensive women's health program²³. The 2010 HIV/AIDS Report showed homosexual sex as one of the highest modes of transmission²⁴, and only strengthened the prevailing stigma associating HIV/AIDS with the sexual practices of gay men, transgender women and MSMs. Upon seeing an effeminate gay man completing the form required for blood donors, a medical technologist informed him that based on the DOH memo, homosexuals are forbidden to donate blood²⁵.

LGBT persons frequently experience challenging financial circumstances due to their inability to secure stable employment. LGBT persons are often not assessed by prospective employers on the basis of skills, work experience and competence, but rather are judged because of their sexual orientation and gender identity. The research²⁶ of ISIS International Manila²⁷ has documented discrimination faced by LGBT persons in employment. LGBT persons are asked inappropriate questions during job interviews, and companies show prejudice in selection, hiring and promotion of LGBT persons. Stereotypes are often used to decide the work responsibilities and tasks of LGBT persons and once hired, LGBT individuals are expected to conform to binary gender roles in the workplace.

Discrimination based on Gender Identity

The absence of laws and policies to protect and respect the civil status of transgender people sustains and enables discrimination based on gender identity. The head of the Department of Foreign Affairs forced a transgender woman to appear masculine and to be repeatedly photographed before her passport could be renewed.²⁸ A transgender Council member was sexually and verbally assaulted by her Barangay Captain who labeled her a pedophile, and denied her job benefits for resisting the Captain's advances.²⁹ Numerous court

prevent complaints of sexual harassment and protect the interest of the general public. [BJMP bans gay officers from frisking inmates, visitors](http://www.abs-cbnnews.com/nation/07/20/11/bjmp-bans-gay-officers-frisking-inmates-visitors)

²¹ A transgender woman who worked as a Barangay Councilor in one of the cities in Quezon City was sexually abused and verbally assailed by the Barangay Captain during her tenure. The Barangay Captain smeared a rumor that she's a pedophile and withheld her benefits and remuneration when she resists his advances. [LADLAD documented case](#). May 2010. Barangay – smallest government unit in the community.

²² Rep. Abante, a Baptist pastor, charged that the enactment of the anti discrimination bill would invite the wrath of God and “the death to the most cherished Filipino values of Godliness and moral rectitude.” Abante said that the bill is against the equal protection clause of the Constitution because it gives undue preference to LGBT. His speech “[Rejecting a Culture of Death](#)” was read during the Congress Plenary.

<http://lagablab.wordpress.com/2006/11/22/abante-speech/#more-151>

²³ Absence of SOGI in DOH Reproductive Health Policy, Admin Order # 43 of 2000.

<http://www.k4health.org/system/files/Philippines%20nat%20rh%20policy.pdf> Planned Parenthood Program

<http://www.plannedparenthood.org/about-us/international-program/philippines-country-program-19029.htm>

²⁴ 2010 DOH HIV/AIDS Registry report totaled 6,016 from 1984 to 2010 and of the 1,591 cases for 2010; about 95% were males aged 19 to 41 years old who got infected through sexual contact. <http://newsinfo.inquirer.net/breakingnews/nation/view/20110203-318317/HIV-and-AIDS-cases-in-Philippines-exceed-6000>, <http://aidsdatahub.org/en/country-profiles/philippines>, <http://www.slideboom.com/presentations/368098/Philippines-%282011%29%3A-HIV-Prevalence-and-Epidemiological-Status>

²⁵ Actual interview with the gay man who was discriminated by hospital staff from donating blood because of his appearance. November 2011.

²⁶ “Surfacing Lesbians, Bisexual Women and Transgendered People's Issues in the Philippines. Towards Affinity Politics in the Feminist Movements” 2010, pp 43-45

²⁷ Isis International is an organization that works “through media and information and communications technologies (ICTs) towards achieving women's human rights and facilitating networking and information sharing of women's movements in the global south.”

http://www.isiswomen.org/index.php?option=com_content&view=article&id=1372&Itemid=41 accessed 2011-11-25

²⁸ One of the heads of the Department of Foreign Affairs (DFA) informed a transgender woman that, as per department policy for passport applications, male applicants should look masculine in their passport photo. She had her photo taken amidst the scornful looks of other applicants and department personnel. [Discrimination to Transgenders in Department of Foreign Affairs' Passport Process](#). Magdalena Robinson, Feb. 7, 2011.

<https://www.facebook.com/notes/magdalena-robinson/discrimination-to-transgenders-in-department-of-foreign-affairs-passport-process/10150136712803453>

²⁹ See footnote 21.

decisions have denied petitions of transgender women to change their names and sex on their birth records.³⁰ The University of the Philippines (UP) Diliman dismissed a gender discrimination complaint by a transsexual student whose professor refused to address her as a female in class, citing the absence of applicable provisions in the University policy³¹.

Proposed Questions for the Philippine Government:

- What is the Status of the Anti-Discrimination Bill in the National Congress? What measures is the Philippines Government taking to ensure that every citizen enjoys the Right to Equality as set out in Articles 2(1), 3 and 26 of the Covenant?
- What steps are being taken to ensure that state actors are not discriminating against LGBT people in the name of religion?
- Please provide information on measures, which the Government is taking to ensure that transgender individuals may have their acquired gender legally recognized.

Right to Life – Art. 6

Article 6 of the Covenant provides that every human being has the inherent right to life, that no one shall be arbitrarily deprived of one's life and that the law shall protect this right. In its previous Concluding Observations, the Committee has noted concern at allegations of widespread violence perpetrated against sexual minorities, including by law enforcement officials. It has also expressed regret at the absence of Hate Crimes and Hate Speech legislation, which would protect members of the LGBT community³². Where individuals incite hatred on the basis of sexual orientation or gender identity, the Committee has made it clear that such persons should be investigated, prosecuted and properly sanctioned³³.

The Philippine Constitution, having stipulated that no person shall be deprived of life³⁴, abolished the death penalty in 2006³⁵. But in recent years, the crime rate in the Philippines has not

³⁰ Zoila Villanueva will remain male in her birth certificate when the Court of Appeals reversed a lower court ruling that allowed the entry in her to be corrected to indicate that she is female reasoning that she failed to present at the proper time the certification from a government doctor attesting to her sex. *Woman, 32, will have to remain a 'he' in birth certificate*. Leila Salaverria, Philippine Daily Inquirer, Mar 13, 2008.

<http://newsinfo.inquirer.net/breakingnews/metro/view/20080313-124551/Woman-32-wi%5C>

Mely Silverio, a post-op transsexual woman, won a legal petition to change her name and her sex from male to female in the trial court. When the Office of the Solicitor General (OSG) appealed the decision, arguing that since there are no laws allowing the change of entries in the birth certificate by reason of sex alteration, the Court of Appeals in 2006 reversed the decision of the lower court. Mely appealed the decision to the Supreme Court. The Supreme Court said, "Under the Civil Register Law, a birth certificate is a historical record of the facts as they existed at the time of birth the determination of a person's sex made at the time of his or her birth, if not attended by error, is immutable." In October 2007, the Supreme Court not only ruled against the appeal of Mely; that ended the possibility of changing ones sex by petitioning the courts but also gave a contentious definition of male and female, when it said that, "Female is the sex that produces ova or bears young and male is the sex that has organs to produce spermatozoa for fertilizing ova."

Our Brave New World: The Birth of Transgender Liberation in the Philippines. Sass Sassot, Jan. 2, 2011.

<http://transpinayrising.blogspot.com/search/label/Article%20-%20Our%20Brave%20New%20World%3A%20The%20Birth%20of%20Transgender%20Liberation%20in%20the%20Philippines>

<http://sc.judiciary.gov.ph/jurisprudence/2007/october2007/174689.htm>

³¹ At present, the student plans to elevate her appeal to the dismissal of her complaint to the Office of Vice-Chancellor for Student Affairs if the Dean of the college where she is taking her European Languages will not respond to her letter. One section of the Code of Ethics for Faculty Members' in the UP Diliman Faculty Manual states that members of the faculty should "promote a strong sense of nationalism and enduring concern for social justice, gender equality, cultural values, community welfare, and protection of the environment." *UP Diliman student claims gender discrimination* Bernice P. Varona *UP Newsletter, the UP Community Newspaper April 2011 Vol. 32 No 04 pp. 3 & 5* <http://up.edu.ph/upnewsletter.php?i=1419&>

³² CCPR/C/USA/CO/3/Rev.1 at para 25

³³ CCPR/C/JAM/CO/3 at para. 8

³⁴ Art. 3, Section 1, Philippines Constitution, 1987.

³⁵ The Philippines became the first Asian country to abolish the death penalty for all crimes in 1987. It was reintroduced in late 1993 for 46 different offences. Executions resumed in 1999 until former President Estrada announced a moratorium on executions in 2000 up to present.

decreased³⁶ and there is concern about the number of violent deaths, including an upsurge in LGBT killings. Research conducted by the Philippine LGBT Hate Crime Watch shows that of the 141 documented cases of hate crimes³⁷ from 1996 to August 2011, ninety-five cases involved gay men, twenty-six involved transgenders, sixteen involved lesbians, and four involved bisexuals. From an average of ten LGBT people murdered between 1996 and 2008, the number has risen to twelve in 2009, 26 in 2010, and 27 from January to May 2011³⁸.

Negative prejudices towards LGBT persons often trigger intense hatred and feelings of superiority, as evidenced by the savagery of the crimes – LGBT people were brutally stabbed, shot, raped, strangled, suffocated, burned, tortured, poisoned, dismembered, and killed execution style. In some cases, killings involved a combination of these methods³⁹.

Several lesbians were murdered by jealous male suitors of women they were courting or having relationships with. The killers justified their crimes as their male privilege and duty to stop lesbians from “stealing” their women^{40 41} or leading their female relatives to immorality and sinful lives⁴².

Police are still investigating a series of drive-by shootings in Cebu City where unidentified men used pellet guns targeting gay men and transgender women. The victims of the attack reported the incidents in three Police Stations in Cebu City⁴³. Up to now there has been no lead in the investigation.

A resolution has been submitted to Congress⁴⁴ urging the House of Representatives to launch an investigation into these killings and attacks.

<http://www.amnesty.org.au/news/comments/2412/>

³⁶ See 2010 Human Rights Report <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154399.htm>, <http://www.nationmaster.com/red/country/rp-philippines/crime-crime&all=1>

³⁷ Hate crimes generally refer to criminal acts that are seen to have been motivated by bias against persons belonging to a certain social group, usually defined by race, religion, sexual orientation, disability, class, ethnicity, nationality, age, gender, gender identity, social status or political affiliation.

<http://thephilippinelgbthatecrimewatch.blogspot.com/>

³⁸ Aside from the 141 cases there are 31 cases of LGBT killings that are in the process of being reviewed and verified as of Aug 2011.

<http://thephilippinelgbthatecrimewatch.blogspot.com/>

³⁹ Philippine LGBT Hate Crime Watch research on mass-media reports and personal accounts. Lacsamana, Marlon, Labilles, Reighben and Salvatierra, Chris. The Philippine LGBT Hate Crime Watch: A Database of Killed LGBT Filipinos. August 19, 2011.

<http://thephilippinelgbthatecrimewatch.blogspot.com/>

⁴⁰ Police are looking into the death of a 38-year-old ‘tomboy’ in Tondo, Manila who was stabbed in the chest. [Love Triangle in tomboy’s death](#). Juliet de Loza, Abante, Sept 8, 2011. http://www.abante-tonite.com/issue/sep0810/crime_news2.htm

⁴¹ Police in Zamboanga have started a manhunt for a male suspect in the massacre of a woman and her family. The main suspect who is being hunted was jealous and deeply resentful to the woman’s reported relationship with a lesbian who recently visited her. The police said that the mode of killings indicated deep anger toward the victims because the killers stabbed and axed the victims to death near midnight while they were asleep and none of the female victims had been sexually abused. [Police hunt Zamboanga del Sur killers](#). Hernan dela Cruz. Inquirer Mindanao, Sept. 28, 2011.

<http://newsinfo.inquirer.net/66815/police-hunt-zamboanga-del-sur-killers>

⁴² [Tomboy lover dead from multiple gunshots](#). Alvin Madan, Abante, Jun. 28, 2011. <http://www.abante.com.ph/issue/jun2811/crimes03.htm>

⁴³ Attacks took place in front of their homes or along the streets. In one incident the assailants onboard a white minivan stopped in front of a group of transgender women and fired successive shots at them [Transgender Pellet Attack in Cebu](#). Carine Asutilla, ABS-CBN News Central Visayas Oct 13, 2011

<http://www.abs-cbnnews.com/nation/regions/10/13/11/pellet-gun-attacks-target-gays-cebu>

⁴⁴ The Inquiry will be on Nov. 29, 2011. “Resolution directing the Committee on Human Rights to Conduct an Inquiry, in Aid of Legislation, on the Reported Killings and the Hate Crimes Against LGBT persons” House Resolution 1432, Oct. 19, 2011. <http://www.sunstar.com.ph/cebu/local-news/2011/10/19/casino-bayan-muna-alarmed-hate-crimes-against-gay-185849>,

<http://www.congress.gov.ph/press/details.php?pressid=5349&key=Hate>

Proposed Questions for the Philippine Government:

- What measures is the Government taking to ensure that LGBT persons have appropriate protection from hate speech and violent hate crimes?
- Where a violent crime is perpetrated against an individual because of sexual orientation or gender identity, what measures are in place to ensure that the crime is properly investigated, prosecuted and sanctioned?
- What specific measures has the Philippines Government taken to protect lesbians and sexually and gender non-conforming women or non-heteronormative women from hate crimes, understanding that these individuals may be particularly vulnerable to violence because of additional social factors such as gender bias, patriarchy and poverty?

Prohibition of Torture and Cruel, Inhuman or Degrading Treatment or Punishment – Art. 7

The Covenant recognizes the right of every individual to be free from torture, arbitrary arrest and cruel, inhuman or degrading treatment or punishment. Under its terms, no one should be subjected without his or her free consent to medical or scientific experimentation. In its previous Concluding Observations, the Committee has expressed concern at the large number of torture cases in State Parties⁴⁵ and the apparent impunity with which law enforcement officers can perpetrate human rights violations.⁴⁶ It has called for an end to arbitrary detention⁴⁷, and urged State Parties to investigate allegations in a robust and transparent manner⁴⁸.

Numerous cases of assault and physical abuse towards LGBT persons involving the Philippine National Police⁴⁹ have been reported in the media but have not attained an appropriate legal resolution.

In 2008, a male patient sued the medical team at the government-owned Vicente Sotto Medical Memorial Center (VSMCC) after they uploaded a video of his operation onto YouTube. The video showed the medics laughing when a can of Black Suede body spray was removed from the patient's rectum. Although the team members were disciplined for their actions, the patient continues to experience the embarrassment of the video being available on an unknown number of private websites.

The ISIS research⁵⁰ has exposed systematic rape⁵¹ of lesbians by men to 'correct' and to remind lesbians that they are "still women." Lesbians are not afforded the same mental and psychosocial support and protection as heterosexual women. The language of The Magna Carta for Women⁵² and The Anti-Violence Against Women and Children Act⁵³ when using the word "women" does not comprehensively include lesbians and bisexual women and made transgender women invisible as evidenced in the Implementing Rules and Regulations of RA 9710 where it made reference to sexual orientation⁵⁴ but not to gender identity.

⁴⁵ CCPR/C/BGR/CO/3 at para 8

⁴⁶ CCPR/C/BGR/CO/3 at para 8

⁴⁷ CCPR /C/TGO/CO/4, 18 April 2011 at para 17.

⁴⁸ CCPR/C/KAZ/CO/1 21 July 2011, at para 14; CCPR/C/BGR/CO/3 25 July 2011, at para 8.

⁴⁹ A police was charged with physical assault by the lesbian partner of her sister in law after he punched and pointed a gun to the complainant while she was on the ground. [Lesbian Accused Police of Assault](http://www.abante.com.ph/issue/may1810/crimes03.htm). Tina Mendoza, May 18, 2010. <http://www.abante.com.ph/issue/may1810/crimes03.htm>

⁵⁰ See footnote 26

⁵¹ See footnote 27

⁵² See footnote 13

⁵³ See footnote 14

⁵⁴ Magna Carta of Women Implementing Rules and Regulations 2010 pp 3, 37, 45, & 65 (http://pcw.gov.ph/index.php/downloads/doc_download/376-republic-act-9710-magna-carta-of-women) accessed 2011-11-25

Proposed Questions for the Philippines Government:

- What measures has the Government taken to ensure that LGBT persons in the Philippines are not subject to torture, or cruel, inhuman and degrading treatment?
- Where LGBT persons have been subject to such treatment, what safeguards are in place to ensure that the incidents are thoroughly investigated, prosecuted and sanctioned?

Right to Liberty and Security of the Person – Art. 9

Article 9 of the Covenant recognizes that everyone has the right to liberty and security of the person, that no one shall be subjected to arbitrary arrest or detention nor be deprived of one's liberty except on such grounds and in accordance with such procedure as are established by law.

The Philippines may not have an anti-sodomy law in the country, but some laws, when enforced by the police, have the effect of criminalizing homosexuality. The application of these laws is often flawed and the complaints should be dismissed. But whether it is the archaic laws like the prohibition on public scandal, vagrancy and other crimes under the Revised Penal Code or special laws like The Anti-trafficking Law, the message is clear – LGBT are second-class citizens in the Philippines. LGBT people are subject to police abuse and illegal detention⁵⁵. Many police officers do not see LGBT persons as having equal rights, and take advantage of the fact that most LGBT individuals are not fully aware of their own rights.

In the Philippines, most raids⁵⁶ on LGBT venues usually take place when there are LGBT-related events because police see these occasions as an opportunity to extort money and the LGBT persons are denied their rights as accused during detention. In particular, law enforcement officers target gay men, as they frequently remain silent about abuse – often for fear of being “outed” to peers and family members.

In a recent raid in an exclusive all-male, member-only gay and bisexual Queeriosity Bathhouse in Metro Manila, the raiding team, without a warrant, forcibly entered the establishment and arrested one hundred and five male clients, the manager and the staff for allegedly violating The Anti-Trafficking law. Everyone was detained while the police bargained for P300, 000.00 bribe money from the establishment and P5, 000 from each client. The policemen announced that the clients were told to go inside the precinct so that their release could be processed. The released clients revealed that the police took their mobile phones and demanded

⁵⁵ A lesbian was illegally detained in a Police Station after she was forcefully abducted, ganged up on and beaten by the family member of the person she owed money to and friends, including a policeman. The victim was illegally jailed by the policeman who accused her of using and selling drugs and was only released when the Chief Inspector of Police of another station went to search for the victim after her sister filed a missing person report at the Police Station where the Chief Inspector is stationed. Unlawful arrest and serious physical injuries were filed against the perpetrators but were dismissed after the lesbian's family agreed to an out of court settlement. The policeman however, will still have to face administrative charges for failing to write a police blotter and using a fabricated case against the victim. [Lesbian abducted and illegally detained in the Precinct](http://www.abante-tonite.com/issue/may3111/crime_story02.htm). Armida Rico, May 31, 2011. http://www.abante-tonite.com/issue/may3111/crime_story02.htm

⁵⁶ Six persons were arrested in the early morning of Friday, Aug 28, 2009 when the police raided an establishment catering to gays, bisexual and transgender women. While detained at the Police Station until formal charges would be filed against them, the police timed the filing of the complaint just when the weekend court is about to close. With no court open, bail could not be posted. The court opened on Tuesday, more than 72 hours of jail time and if the persons are found guilty of violating an ordinance, a maximum fine of P200 per person will be imposed. After five days of detention, they were released after the Chief Prosecutor reversed the decision of the Prosecutor finding probable cause in the complaint filed by the police. [Raids in Gay/Bi/Trans Venues](http://fullman.com.ph/2009/08/29/raids-in-gaybitrans-venues/). Jonas Bagas, Aug. 29, 2009. <http://fullman.com.ph/2009/08/29/raids-in-gaybitrans-venues/>

each client to pay from P100 to P2, 000, depending on the amount policemen found inside their pockets or wallets. The police hit three men after they begged to be released without paying since they have no money. The police report that was later released mentioned that 10 macho dancers from the establishment were arrested, detained and charged. No actual charges were filed against anyone who was arrested during the raid⁵⁷.

Proposed Questions for the Philippines Government:

- Please provide information on the application of the following laws, disaggregated by sexual orientation and gender identity: Anti-Trafficking Law; Vagrancy (including the its provisions penalizing prostitution) and Kidnapping under the Revised Penal Code.
- Please provide information on measures taken to investigate and prosecute (where applicable) allegations of extortion by law enforcement officers against LGBT persons?

Right to Freedom of Expression and Opinion – Art. 19

Article 19 of the Covenant recognizes the rights of free expression and opinion. In its General Comments on Article 19, the Committee has stated that both these ideas represent “the foundation stone for every free and democratic society⁵⁸.”

While the Philippine Constitution upholds the right to freedom of expression⁵⁹, there are no specific laws that protect individuals’ freedom to express their sexual orientations and gender identities.

In 2009, the Armed Forces of the Philippines (AFP) issued a statement saying that it would allow lesbians and gay men to serve in the military⁶⁰ provided that they adhere to the Code of Ethics that includes policies against the expression of LGBT identities among military personnel. Members of the military who are openly gay or lesbian, or who cross-dress, can be dishonorably discharged⁶¹.

The Philippine National Police (PNP) in 2007 issued a warning to gay police officers that they must not act in ways that are associated with homosexuality, such as “swaying their hips” or “engaging in lustful conduct” otherwise they will face termination from the Police Force. A PNP spokesperson stated that the warning does not interfere with individual officers’ sexual and identity preferences, but rather ensure that officers “behave within the norm⁶².”

⁵⁷ In the morning of September 24, 2010 plainclothes operatives arrested everyone after they found used and unused condoms at the venue. The manager was hit on the head, punched in the stomach, and was told not to ask questions when he asked the policemen for a search warrant. While waiting for the charges to be filed against the arrested persons a policeman barked at the clients and lectured them about the immorality of their acts. He asked who among the arrested are married, and two clients responded. They were allowed to leave because the police said they were the only real men in the crowd. The condoms that were confiscated by the police as evidence were provided by the Pasay City Health Department and safer sex NGOs and procured through the Global Funds. This the summary of the documentation of Jonas Bagas, who went to the precinct representing TLF Share, an NGO of men who have sex with men, and Akbayan Party-list. For the full report please refer to the annex.

⁵⁸ CCPR/C/GC/34, 21 July 2011.

⁵⁹ 1987 Constitution of the Republic of the Philippines, Art. III, Sec. 4.

⁶⁰ The Philippines: Acceptance of Gays in the Military does not Mean Equality (Yet). Mar. 18, 2009. <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/876.html>, <http://www.365gay.com/news/philippines-ends-ban-on-gays-in-military>

⁶¹ Under the section on discipline, "An individual may be discharged by reason of unsuitability, not due to misconduct, when it has been determined that he is unsuitable for further military service because of homosexual tendencies, desires or interests accompanied by overt homosexual acts. A homosexual is an individual who demonstrates, by behavior, a preference or desire for sexual activity with persons of the same sex." Once inside the military, gays and lesbians must therefore ‘hide’ their sexuality in order to remain there. <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/876.html>

⁶² PNP warns officers not to sway hips. Mar. 22, 2007. <http://www.gmanews.tv/story/35399/PNP-warns-gay-officers-not-to-sway-hips>

In two campuses of the UP, LGBT groups are subjected to discrimination from professors and other students, especially when entering school organizations inside the campus. The LGBT student organizations, UP-Babaylan⁶³ in UP Diliman and UPLB Babaylan⁶⁴ in UP-Los Baños (UPLB), have documented cases of transgender students who were made to leave the classroom⁶⁵ or threatened with being barred from graduating on the basis of their gender expression. UPLB Babaylan⁶⁶ also recorded instances where teachers have made gay students stand in front of their class for prolonged periods.

In the thesis of a Filipino clinical psychologist on the experiences of Filipino transwomen⁶⁷, two of the three women who participated in the study disclosed the discrimination they have experienced in obtaining employment, specifically being denied the right to express gender identity in the workplace. The transwomen were told by recruitment officers that they would only be hired if they presented themselves as males by cutting their hair short, dressed in men's clothes, and acted in stereotypically masculine ways.

Proposed Questions for the Government:

- What measures has the Government taken to ensure that LGBT persons enjoy the rights enshrined in Article 19 rights without restriction.
- What measures have been taken to repeal policies that place restrictions upon the sexuality and gender expression of LGBT army officers and members or the police force?
- Please provide information on measures taken to ensure that transgender students at secondary and third level education are fully entitled to freely express their gender identity.
- Please provide information on measures, which the Government has taken or intends to take in order to ensure that LGBT persons are not penalized for being open about their sexual orientation and gender identity in the workplace.

Right to Freedom of Association – Art. 22

Although the Committee has not issued General Comments in this area, it has used its Concluding Observations to underline the importance of Article 21 and 22. In particular, the Committee has criticized laws, which require state sanctioning of assemblies⁶⁸, and which force people to assemble in inaccessible areas⁶⁹.

The Philippine Constitution upholds citizens' right to form "unions, associations, or societies for purposes not contrary to law"⁷⁰. However, in 2009, the Commission on Elections (COMELEC) rejected the application of LGBT group LADLAD⁷¹, to participate in the 2010 elections. The COMELEC denied the application for accreditation on

⁶³ See link - <http://upbabaylan.blogspot.com/>

⁶⁴ See link - <http://uplbbabaylan.blogspot.com/>

⁶⁵ UPLB LGBT community march for equality, Andrea Velasquez, Aug. 15, 2011. <http://www.upiu.com/human-rights/2011/08/15/UPLB-LGBT-Community-March-for-Equality/UPIU-2081313393367/>

⁶⁶ UP Babaylan have received reports of students and teachers experiencing disciplinary actions on the basis of their expressions of their SOGI through preferred clothing, demeanor, titles and pronouns. Lesbian and gay students have also experienced termination of their membership and even leadership in student organizations such as fraternities/sororities upon disclosure of their SOGI.

⁶⁷ Alegre, B. R. (2006). Psychological perspectives and development of the transsexual woman: Phenomenological case study on Filipino male-to-female transsexuals.

⁶⁸ CCPR/C/KAZ/C/1, 21 July 2011 at para 26.

⁶⁹ CCPR/C/POL/C/6, 15 November 2010 at para 23.

⁷⁰ 1987 Constitution of the Republic of the Philippines, Art. III, Sec. 8.

⁷¹ LADLAD Partylist is the national LGBT organization that will run for a seat in the Congress in the May 2013 elections. http://www.ladlad.org/?page_id=2

moral grounds and cited the Bible and the Koran, claiming that LADLAD tolerates immorality, and that practicing homosexuals are a threat to young persons⁷².

When the Supreme Court reversed the decision and allowed LADLAD to run for Congress⁷³, the Catholic Bishops Conference of the Philippines (CBCP) immediately went to the media and warned everyone that the presence of a gay party could lead to the legalization of same-sex marriage, sexual anarchy and the destruction of family values⁷⁴. The CBCP argued that LGBT persons are not discriminated against and, as part of the global homosexual movement, are exaggerating claims to appear victimized by oppression “to advance homosexual rights, [and] ultimately to include the recognition of these rights by the law”⁷⁵. The ability of LADLAD to compete at the subsequent election was materially damaged by the suggestion that it was “immoral”.

For years, the Catholic Church has waged a campaign against all parliamentary bills that they consider as anti-life or anti-family, even going so far as to label such legislation as “death bills”. In the acronym D.E.A.T.H., D stands for divorce, E for euthanasia, A for abortion, T for total contraception, and H for homosexual relations—all issues that in the eyes of the Church diminish the value of life and tarnish the Filipino family⁷⁶.

Proposed Question for the Philippines Government:

- Please provide information on the extent to which individuals are entitled to form associations or groups with the aim of running for national elections. In particular, please provide information on any restrictions which are permitted to be placed on that right because of the sexual orientation or gender identity of members of the group or association.

Family Life and Right to Marry – Art. 23

Article 23 of the Covenant stipulates that the family is the natural and fundamental group unit of society and is entitled to protection. In its previous Concluding Observations, the Committee has welcomed the adoption of the Civil Union Act 2005 in New Zealand⁷⁷ and the Civil Partnership Act 2004⁷⁸ in the United Kingdom. At the same time, it has noted concern about discrimination against LGBT persons in employment, housing, social security, health care, education and other fields regulated by law⁷⁹ and has recommended that State Parties ensure that “benefits granted to unmarried cohabiting opposite-sex couples are equally granted to unmarried cohabiting same-sex couples” in line with Article 26⁸⁰.

Article 15 of the Philippines Constitution recognizes the family as the foundation of the nation. Accordingly, it mandates that the solidarity of the family be strengthened and its development actively promoted (Sections 1 and 2).

⁷² Philippines: Gays Legally Deemed Immoral and a Danger to Youth. Virginia M. Moncrieff. Nov. 22, 2009. http://www.huffingtonpost.com/virginia-moncrieff/philippines-gays-legally_b_367017.html

⁷³ The Supreme Court reversed the decision on April 8, 2010 three weeks before the elections, which gave LADLAD little time to campaign. <http://www.philstar.com/Article.aspx?articleid=522907> <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100409-263173/SC-lets-Ang-Ladlad-do-what-Comelec-denied-it>

⁷⁴ Philippines: Catholic Church criticizes acceptance of gay party in May 2010 elections. Asia News, Jan. 20, 2011. <http://www.speroforum.com/a/25903/Philippines---Catholic-Church-criticises-acceptance-of-gay-party-in-May-2010-elections>

⁷⁵ Being portrayed as oppressed is best way to public sympathy, homosexual activists told. CBCP for Life, Nov. 23, 2011. <http://cbcpforlife.com/?p=5005>

⁷⁶ Philippines: Religious Opposition Stalls Progressive Legislation. Aug. 8, 2008. <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/29.html>

⁷⁷ CCPR /C/NZL/CO/5 at para 3.a

⁷⁸ CCPR/C/GBR/CO/6

⁷⁹ CCPR/C/JPN/CO/5 at para 9

⁸⁰ CCPR/C/JPN/CO/5 at para 5

The recent celebration of the 2011 June Pride Month was highlighted by a mass same-sex union in Baguio⁸¹. This attracted not only the media but also the wrath of the Catholic Church⁸², which condemned the event as “immoral” and “disgusting”. The Church also discriminated against the officiating pastors from Metropolitan Community Church (MCC)⁸³ and the eight same-sex couples who took part.

Baguio city officials, particularly Catholic politicians⁸⁴, have since proposed a city ordinance banning same-sex unions⁸⁵ and attempted to declare the individuals who took part as outcasts⁸⁶. One official stated “a person can be determined as a ‘persona non grata’ if he violates or obstructs the law⁸⁷, contradicts the City’s principle and ordinances, and if the action is oppressive or is seen as oppressive. We have to investigate if the wedding is oppressive to the people of Baguio City⁸⁸.”

President Aquino⁸⁹ in an interview voiced sympathy for gay rights but said he had mixed feelings about whether gay couples should adopt children in the mostly Catholic nation. "But if the next step happens to be, we want the right to adopt, then I would be in a dilemma," he said at the Asia Society.

Proposed Questions for the Philippine Government:

- Please provide information on the protections which individuals in same-sex relationships are afforded under national law.
- Please provide a comparison between the rights which LGBT couples in the Philippines enjoy and the rights of heterosexual couples
- Please provide information on the measures being taken by the Government of the Philippines to address the inequalities between heterosexual and same-sex relationships under national law.

⁸¹ The mass same-sex wedding performed by the Baguio City Metropolitan Christian Church was nationally televised and widely publicized in newspapers across the country. Interviews with the eight couples and footage of the wedding ceremony drew homophobic reactions from the city government of Baguio and Christian churches throughout the Philippines [10 Couples Exchange Vows in Baguio’s First Same-sex Wedding](http://www.philstar.com/Article.aspx?publicationSubCategoryId=63&articleId=699910). Artemio Dumlaog, Philippines Star, Jun. 26, 2011. <http://www.philstar.com/Article.aspx?publicationSubCategoryId=63&articleId=699910>

⁸² The CBCP tagged the weddings as an insult to the Roman Catholic Church. “People who engage in same-sex weddings are mentally ill and abnormal,” said Bishop of Baguio, Carlito Cenzon. Novaliches Bishop Emeritus Teodoro Bacani said the pastors who officiated the same-sex wedding should be prosecuted and their licenses revoked. He added, “I find it ugly, it’s disgusting...this is against the word of God” ⁸² <http://www.spot.ph/the-feed/48690/cbcp-insulted-by-gay-marriages-in-baguio>, <http://newsinfo.inquirer.net/18348/catholic-bishop-wants-gov-t-to-stop-same-sex-marriage-rites>, <http://www.abs-cbnnews.com/lifestyle/06/28/11/bishop-calls-same-sex-weddings-kadiri>

⁸³ MCC is a Christian Church that affirms and accepts gays, lesbians, bisexuals, and transgenders. <http://www.mccgc.webs.com/>

⁸⁴ When legislation in favor of the recognition of homosexual unions is proposed for the first time in a legislative assembly, the Catholic lawmaker has a moral duty to express his opposition clearly and publicly and to vote against it. [Positions of Catholic Politicians with Regard to Legislation in favor of Homosexual Unions](http://couragephilippines.blogspot.com/2011/07/on-same-sex-marriage.html). Document written by then Cardinal Joseph Ratzinger, now Pope Benedict XVI. The Sovereign Pontiff John Paul II, in the Audience of March 28, 2003, approved the present Considerations, adopted in the Ordinary Session of this Congregation. <http://couragephilippines.blogspot.com/2011/07/on-same-sex-marriage.html>

⁸⁵ [Philippines: Activists Demand Anti-Discrimination Ordinance after Baguio City Proposes Prohibition of Same-Sex Marriage](http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1423.html). July 27, 2011 <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1423.html>

⁸⁶ Condemnation of the same-sex weddings came not only from the Church but also from Baguio City Council members. [Philippines: Activists Demand Anti-Discrimination Ordinance after Baguio City Proposes Prohibition of Same-Sex Marriage](http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1423.html). July 27, 2011 <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1423.html>

⁸⁷ Banning same-sex weddings also contravenes Article 3, Section 5 of the Philippines Constitution, which states, “No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.

⁸⁸ <http://www.abs-cbnnews.com/nation/regions/06/28/11/baguio-declare-married-lgbts-unwelcome>

⁸⁹ <http://www.abs-cbnnews.com/nation/09/21/11/pnoy-sympathizes-gay-rights-not-gay-adoption>

Special Protection of Children – Art. 24

Article 24 states that every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. Although there has been little discussion of LGBT youth within the Human Rights Committee, the Committee on the Rights of the Child has stated its concern that “homosexual and transsexual young people do not have access to the appropriate information, support and necessary protection to enable them to live their sexual orientation⁹⁰”. The Committee has also noted that LGBT children continue to experience discrimination, social stigmatization and a general climate of intolerance and negative public attitudes.⁹¹

The 2006 report of the Secretary General to the UN General Assembly noted that violence is increasingly directed against LGBT children and young people⁹². In addition, the UN Committee on the Rights of the Child has included children with non-heteronormative sexual orientation or gender identity as among those who are in a position potentially vulnerable to violence⁹³. A report published in 2009 noted that school officials have witnessed that gay children were bullied in schools⁹⁴.

The Philippines is a signatory of the United Nations Convention on the Rights of the Child (UN-CRC), which stipulates that the state must uphold and protect the rights of Filipino children (defined as anyone aged below 18) to survival, development, participation, and protection.

However, there are documented cases of children experiencing discrimination, violence, and abuse on the basis of their real or perceived sexual orientation or gender identity⁹⁵. It must also be noted that while there exist entities and programmes that aim to protect children who are at greater risk of experiencing violence and abuse, these programmes do not currently include children with non-heteronormative sexual orientation or gender identity⁹⁶. In the study by Alegre’s⁹⁷ on the experiences of transwomen, they recollected being the target of physical violence due to their gender identity and gender expression even at a young age.

One of them shared that during her childhood; her two older brothers would beat her up every time they observed her acting in “feminine” ways. Her brothers also reported these instances to their father, who would then threaten to beat her too if she did not refrain from acting “feminine”. Another recounted being the target of physical and verbal aggression from grade school classmates due to her “feminine” behaviors. One incident led her to get into a physical fight, after which she underwent counseling at school and was told that

⁹⁰ CRC/C/15/Add.188 at para 43

⁹¹ CRC/C/GBR/CO/4 at para 24

⁹² United Nations General Assembly, Rights of the Child: Notes by the Secretary General, A/61/299, 29 August 2006

⁹³ UN Committee on the Rights of the Child, General Comment No. 13: The Rights of the Child to Freedom from All forms of Violence, CRC/C/GC/13, 18 April 2011.

⁹⁴ UNICEF, Plan International and Council for the Welfare of Children, 2009. Towards a Child-friendly Education Environment: A baseline study on violence against children in public schools, p. 31. The said report acknowledges the research’s limitation to probe on the extent of violence against LGBT children and cited as a recommendation to “look into gender-based discrimination in schools, particularly as it related to actual or perceived sexual orientation of a child” (p.64) as an important area of study.

⁹⁵ According to Lemuel’s parents, he is a victim of Cyber Bullying by both some classmates and faculty members due to the former’s alleged homosexuality because of effeminacy. LADLAD documented cases and interviews. April 2011

⁹⁶ http://www.doj.gov.ph/files/Filipino_children.pdf

⁹⁷ Alegre, B. R. (2006). Psychological perspectives and development of the transsexual woman: Phenomenological case study on Filipino male-to-female transsexuals.

she should not act like a girl because she was a boy⁹⁸. Children with non-heteronormative sexual orientation or gender identity have shared with media their experiences of violence and abuse in the homes and communities yet the perpetrators remain unpunished⁹⁹.

Proposed Questions for the Government:

- Please provide information on the measures, which the Philippines Government is taking to ensure that LGBT youth are free from stigmatization, bullying and abuse, particularly within the educational environment.
- Please provide specific information on measures being taken by the Philippine Government to alleviate poverty and the conditions that make transgender youth vulnerable to homelessness, economic abuse, and sexual exploitation.

⁹⁸ Her parents reiterated this message throughout her adolescence, telling her that she would not be able to find jobs and would be taken advantage of by men if she continued to identify and express her gender as female.

⁹⁹ There were two video documentaries produced by mainstream media organization that provided narratives of gay children who have experienced violence and discrimination. The report has to rely on this available reliable information for purposes of the report. "Buhay Becky" (Gay Life) was produced by ABS-CBN's news and current affairs program and was broadcasted last 13 August 2011. Another documentary entitled "Batang Ladlad" (Out Children) was produced by ABS-CBN's news and current affairs program and was broadcasted last 25 October 2011.

ANNEX

Queeriosity Raid Report

While male-to-male sex is not explicitly prohibited in the Philippines, the police enforce certain laws based on their own interpretation such that these laws have the effect of criminalizing gay sex. These laws include the anti-vagrancy, anti-public scandal, and the anti-prostitution laws. The most recent and most stringent is the law against human trafficking, a non-bailable crime, which has an anti-prostitution provision.

For the police, the presence of condoms (used and unused) is evidence that prostitution is taking place, a belief founded on the premise that gay sex is transactional.

Reports on raids conducted by the police in all-male establishments include stories of extortion and other human rights abuses. The charges are oftentimes legally flawed and designed to fail.

A gay/bi establishment, an exclusive members-only all-male bathhouse called Queeriosity Palace along FB Harrison in Pasay City, was raided at 1 am on September 24, 2010. Membership is given to men who are of legal age only, and upon entrance it requires the presentation of the club membership ID and another valid ID.

A raiding team of around 12 policemen, in plain clothes, barged into the bathhouse and announced that they are conducting a raid. They took the cash box, confiscated boxes of condoms and other paraphernalia, and arrested 105 clients for allegedly violating the Anti-Human Trafficking Law. They also arrested the staff members of the bath house.

They were all told to stay in the driveway of the precinct. The manager of the bathhouse, who was also arrested, narrated that when he asked the police for a search warrant, he was thumped on the head, punched in the stomach, and told not to ask questions. The police reportedly ordered the patrons to stay in the main lobby of the bath house while they searched the premises for 'evidence' like condoms. They took away the cash box and attempted to break the security deposit boxes where members keep their valuables, including wallets and cellphones.

The Global Fund through TLF Share, AIDS Society of the Philippines, and the Pasay City Health Department provided some of the condoms that were confiscated by the police.

After searching the place, they told the clients and the staff members to board the five jeepneys that were parked outside the establishment. Everyone was brought to the Criminal Investigation Division of Pasay City, which is located inside the Pasay City Hall.

The policemen in the precinct were cooperative initially and allowed the community representative* who arrived in the precinct to talk to the manager. However, when asked about the details of the raid and the charges that would be filed against the arrested individuals, they became hostile. They asked for the representative's ID and discovered that he is a congressional staffer of Akbayan. One of the policemen derisively said, 'O, taga-Akbayan ka pala. Binoto ko pa naman kayo. Alam ko ang pinaglalaman ng Akbayan, pero bakit kayo pumapasok sa kalaswaan?'. ("So you're from Akbayan. I voted for you. I know what Akbayan stands for, but why are you into promiscuity?") They ignored the questions asked by the representative, refusing even to give their names. They all went to a room, apparently to confer among themselves.

One or two of them would come out every so often and talk to the representative. One said that they were already preparing the documents and evidence to charge the clients and staff members for violating the Anti-Human Trafficking Act. Another remarked that the police should not be disturbed while doing legitimate police operations. They also repeatedly said that what was going on inside the establishment was 'masama at bawal' (wrong and illegal), that they have videos to prove that sex was happening inside, and that they have enough used and unused condoms to prove that prostitution was taking place. They said that the raid was 'utos ni Mayos' (*upon the Mayor's orders*).

Outside, one policeman barked at the arrested clients and ordered them to fix their formation. He also told them that what they did is wrong and violates the law. He asked who among the arrested is married, and only two men raised their hands. The policeman then said that only two would be allowed to go home, presumably because they're the only real men in the crowd.

It was relayed to the community representative earlier that the policemen were asking for P300,000 from the establishment and P5,000 from each client.

The community representative negotiated with the police and urged them to release the detained patrons and clients, explaining that condoms cannot be used as evidence for prostitution. He also informed Rep. Kaka Bagao of Akbayan, who at around 4 AM contacted Pasay City Rep. Emy Calixto-Rubiano, whose brother is the incumbent Mayor of Pasay City.

At around 5 AM, one policeman, who introduced himself as Officer Bimbo, said that 'marami na ang tumatawag dito', admitting that "may mga nakikialam na". (We are already getting a lot of calls, some officials are already intervening).

Shortly after, they asked the clients to line up and enter the precinct to facilitate the filing of charges. Some of the detained clients started to panic and appealed to the policemen for their release. They were scolded and told to follow orders. They were all squeezed into the small precinct. The community representative was not allowed to enter the precinct.

The head of the unit, who introduced himself as Officer Raymund Montante (it was learned later that Montante is not his real surname), approached the representative and said that '*payag na kami pakawalan sila, arbor na lang*' (The clients will now be released with no charges as a favor) and that their release was just being processed. The staff members of the establishment, however, will be charged because one of them reportedly admitted that prostitution is indeed taking place in the bath house. The community representative clarified to the police that the clients should not be asked to pay anything for their release, and 'Officer Montante' assured him that no 'processing fee' would be asked.

'Officer Montante' also said to the representative that if the establishment owner is open to negotiations, the police can lower the charges from trafficking to prostitution based on the Revised Penal Code. (Note: Under the RPC, only prostituted women can be charged with the crime).

At around 6 AM, the police started releasing the clients. Those who got out told the community representative that they were actually asked to pay, from P100 to P2,000, or depending on the amount of money that the police would find in their pockets or wallets. They would take the cellphone, too, if the cash was deemed insufficient.

Some even asked the community representative for fare money so that they would at least be able to go home.

'Officer Montante' was informed of the situation. He said that the police officers handling the release shouldn't ask for anything, and he said that he'll tell them to stop collecting payment. When the same stories of extortion persisted, 'Montante' was suddenly dismissive and said 'baka voluntarily naman sila nagbibigay'. (Maybe they were giving it voluntarily).

The policemen wouldn't allow the community representative to get near the clients while their release was being processed - they would close the door every time he attempts to go inside the precinct. Officer Bimbo told him that 'natataranta ang mga kasama ko pagnakikita ka nila'. (My fellow officers panic when they see you). From afar, however, it was evident that money was being demanded and money was being passed.

All clients were released before 7 AM.

There was group of clients that huddled right in front of the City Hall after they were released, and they narrated that they were all asked to pay by the policemen. The mobile phones of those who have no money were taken. While lining up inside the precinct, three men begged that they be released without paying because they have no money, but they were punched in the stomach.

The staff members of the establishment was released before noon. A police report came out of the media that a raid in the establishment resulted in the detention and filing of charges against 10 macho dancers when in reality 105 clients and 9 staff members, two of whom female, were detained.

No charges were filed at all against any of those who were actually arrested.

*this is the documentation of Jonas Bagas, who went to the precinct representing TLF Share, an NGO of men who have sex with men, and Akbayan Party-list.