

Universal Periodic Review 4th Cycle

Summary of the Situation of LGBTQIA+ Rights in the Philippines

1. UPDATES SINCE THE 3RD UNIVERSAL PERIODIC REVIEW

The Philippines has made some crucial inroads in making policy changes at different levels of government to create explicit sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) protections for its LGBTIQ constituents. Some critical advances as of this writing are:

1.1. Developments at the National Level. Republic Act No. 11313, also known as the “Safe Spaces Act” (SSA) of 2019, penalizes all forms of sexual harassment in the streets, public and online spaces, and educational and training institutions. Significantly, it covers sexual harassment, including catcalling, misogynistic, transphobic, homophobic, and sexist slurs.¹ In conjunction with this, the Supreme Court recently released an 18-page decision sanctioning a municipal judge for uttering homophobic slurs against litigants in open court.

Also, then President Rodrigo Duterte issued Executive Order No. 100 in 2019, institutionalizing a national Diversity and Inclusivity Program to advance and protect the rights and welfare of all Filipinos regardless of age, disability, health status, ethnicity, religious affiliation or belief, sexual orientation, and gender identity. However, as of writing, civil society organizations (CSOs) are unaware of the executive order’s implementation status.

1.2. Advances in Local Legislation. Twenty-seven local government units (LGUs) passed local anti-discrimination ordinances around the country. While indicating a positive development, the ordinances remain limited in jurisdiction and can only provide legal protection to less than 15% of the total population. In addition, not all ordinances have implementing rules and regulations (IRR); thus, the rest of the LGUs have no clear direction on how these will be implemented. However, even in LGUs with IRRs, these ordinances have been poorly enforced, if at all.

1.3. Policies in Government Institutions. Various agencies have further strengthened their LGBTIQ-inclusive policies, including: government agencies issued a joint memorandum on how the local LGUs shall implement the SSA in streets and public spaces; the Civil Service Commission (CSC) issued a resolution that amended their policies on sexual harassment in the public sector to harmonize with the SSA, which extends to LGBTIQ persons² in government service; the Department of Education (DepEd) issued guidelines on the implementation of the Comprehensive Sexuality Education (CSE), anchored on cognitive, emotional, physical and social aspects of sexuality that are scientific, age- and developmentally appropriate, culturally and gender-responsive, and with a rights-based approach;³ regional branches of the DepEd in CAR and CALABARZON replicated the department’s policy on gender-responsive basic education; and, following a recent controversy, DepEd NCR issued a memorandum that allowed students to wear clothing that align with their gender identity.⁴

2. ONGOING CHALLENGES

According to various stakeholders, many challenges remain unresolved, exacerbated by the shrinking spaces for human rights and the COVID-19 pandemic.

2.1. Failed Attempts to Pass National Legislation. Despite the two (2) SOGIE-specific recommendations from Australia and Mexico during the last UPR cycle, and while there have been earnest efforts to pass related national legislation, *the Philippines still does not have a comprehensive anti-discrimination law that protects LGBTIQ Filipinos.*

In the Senate and the House of Representatives, 28 SOGIESC-protection measures were introduced in the 18th Congress. These included bills aimed at enacting: a SOGIESC-specific anti-discrimination law,^{5,6} a comprehensive anti-discrimination law that is inclusive of SOGIESC,^{7,8} a law on the prohibition of SOGIESC-based discrimination in employment,⁹ creating LGBT help desks in police stations,^{10,11} proposing the recognition of the National Day against Homophobia, Transphobia, and other related SOGIE-phobias.^{12,13} One bill calling for an anti-discrimination law that covers SOGI was considered by the Committee on Human Rights and Committee on Appropriations in the House of Representatives, together with others focusing on discrimination based on race, religion, and ethnicity.¹⁴ However, the final consolidated bill erased sexual orientation and gender identity from its scope. In both the Senate and the House of Representatives, none of these legislative measures were passed in the 18th Congress.

2.2 Effect of COVID19 pandemic. It has been repeatedly pointed out that the number of medical facilities specializing in HIV and AIDS operating during the pandemic remains inadequate given the constantly increasing reported cases and the lack of such facilities outside city centers. These services and facilities, including the availability of antiretrovirals (ARVs), were even more difficult to access during the prolonged COVID19 lockdowns.

During the onset of pandemic lockdown, unequal access to social services and financial assistance were reported by CSOs. In Quezon City, LBT couples were not considered household families by the local village (Barangay) government and were ineligible for relief goods and hygiene kit assistance. This seemed to be a shared experience amongst LGBTIQ households that Pasig City clarified that LGBTIQ persons and their families should be considered in the assistance distribution.

A significant number of LGBTIQ Filipinos are employed in the informal sector or industries without a regular income, social security benefits and/or health insurance, such as the entertainment business, beauty parlors and hair salons, or small-scale food industry. Thus, they were the hardest hit during the COVID pandemic lockdowns which closed a lot of establishments.

2.3. Violence Against LGBTIQ Persons. There is an alarming increase in reported LGBTIQ deaths in recent years. From January 2021 to September 2021, sixteen (16) horrifying murders of the following transgender persons were recorded by civil society organizations: Emy Yruma, Erika Endrina, Nicole Quilaneta, RR Bondoc, F. Escalante, L. E. Parama, Julie Catamin, Pet Galea Madrijanon, Ebeng Mayor, Jhie Bangkiao, S. Militante, Bryan Gallan, Cindy Jones Torres, Muslimah Hasim, R. Tamboong, and one unnamed case. This is the highest recorded number since official documentation of the murder of transgender persons in the Philippines began in 2008.¹⁵

Various other incidents of SOGIE-based violence were recorded across the country, including: the public humiliation and harassment of LGBTIQ youth in Pandacaqui, Pampanga, as punishment for violating pandemic curfews;¹⁶ several cases in Zamboanga City such as a violent attack on a gay man by a group of men in Barangay Tentuan, another assault on an LGBTIQ person in Barangay Putik, the murder of another LGBTIQ person in Pagadian City, and a number of attacks on transgender women in the Zamboanga Peninsula; and the forced shaving of the heads of six young women in a community in Maguindanao as a punishment for their sexual orientation.¹⁷

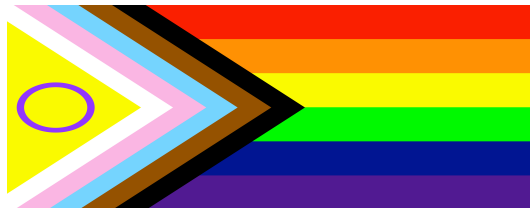
3. RECOMMENDATIONS FOR MOVING FORWARD

Given these developments, we firmly recommend the following:

- Intensify efforts in finally passing a comprehensive anti-discrimination law that protects all persons from all forms of discrimination based on sexual orientation, gender identity and gender expression, and sex characteristics in all settings;
- Legislate a criminal law that penalizes “hate crimes” committed based on SOGIESC as an aggravating circumstance;
- Strengthen policy and redress measures to address SOGIESC-based violence in educational institutions, including a) integrating SOGIESC policy guidelines and protocols in the school’s GAD-related guidelines and anti-sexual harassment code; (b) undertaking capacity-building activities within the school; (c) institutionalizing monitoring, documentation, reporting and coordination mechanisms; (d) establishing gender-responsive and inclusive facilities; (e) sustaining SOGIESC advocacy campaigns and the conduct of regular consultations for affirmative development and action;
- Adopt a national SOGIESC-inclusive labor policy that includes the prohibition of SOGIESC-based employment discrimination and support for SOGIESC-affirmative programs in workplaces;
- Ensure that community-based redress mechanisms, e.g., the Barangay Justice System, focal persons on violence against women, and the Barangay Council for the Protection of Children, are competent to address discrimination and violence against LGBTIQ persons; and
- Adopt a national policy that ensures SOGIESC-inclusive access to all social protection, social security, and humanitarian or emergency response programs.

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Link to the full UPR submission: bit.ly/UPR4LGBTIQCSOPH

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