

**Submission of the Civil Society Organizations (CSOs)
Coalition Report on the situations of Lesbian, Gay, Bisexual
and Transgender (LGBT) persons in the Philippines for the
13th Session of the UN Universal Periodic Review
For the Philippines
(May 21 – June 1, 2011)**

This Report is submitted to the OHCHR by the following stakeholders:

- Akei
- Alliance of Young Health Advocates
- Alliance of Young Nurse Leaders & Advocates International Inc.
- Amnesty International Philippines - LGBT Group (AIPh-LGBT)
- Coalition for the Liberation of the Reassigned Sex (COLORS)
- Filipino FreeThinkers (FF)
- Lesbian Activism Project Inc. (LeAP!), Inc.
- 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)
- Ryan Silverio (Individual)
- TMC Globe Division League

Assistance on content and data analysis was provided by the International Gay and Lesbian Human Rights Commission (IGLHRC)

I. EXECUTIVE SUMMARY

Being a member of the United Nations, 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)¹. It has therefore committed itself to upholding the dignity, equality and human rights of all persons².

However, violations of the rights of LGBT persons in the Philippines are still observed and reported, though not consistently documented. As an LGBT Coalition submitting this report, we present below a summary of our recommendations:

Philippine Government must immediately:

- Enact an Anti-discrimination Law that will ensure equality of all people regardless of Sexual Orientation and Gender Identity (SOGI)
- Enact an Anti-Hate Crime Law that will address and prevent LGBT killings
- Enact a Gender Recognition law that will give legal recognition to gender identities of transgender person
- Enact Marriage Equality law in the Philippines
- Incorporate the definitions of SOGI in existing laws
- Include LGBT issues in the existing programs for sexual and reproductive health and rights
- Include issues and programs for children of all sexual orientations and gender identities in existing Government programs to protect and promote their freedom from violence in all settings
- Review and repeal existing laws that are used indiscriminately against LGBT persons
- Ensure that all complaints and redress mechanisms are accessible to and sensitive to the specific situations of LGBT people

II. DESCRIPTION OF THE METHODOLOGY AND THE CONSULTATION PROCESS FOLLOWED FOR THE PREPARATION OF INFORMATION PROVIDED UNDER THE UNIVERSAL PERIODIC REVIEW

This report was prepared by LGBT non-government organizations (NGOs)³ after a consultation workshop to identify priority issues and recommendations for the UPR where a drafting committee was formed. The drafting committee attended a consultation meeting co-sponsored by the Commission on Human Rights of the Philippines (CHRP) and The Philippine Alliance of Human Rights Advocates (PAHRA) to further assess the urgency and importance of the identified issues relative to the issues put forth by the larger mainstream community of human rights NGOs in the Philippines. A draft report was then circulated among NGOs working on LGBT human rights for feedback and validation before submitting the final report to the OHCHR.

¹ Ratification of International HR Treaties – Philippines. HR Library, Minnesota Univ. (<http://www1.umn.edu/humanrts/research/ratification-philippines.html>) accessed 2011-11-25

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

³ Akei; Alliance of Young Health Advocates; Alliance of Young Nurse Leaders & Advocates International Inc.; Amnesty International Philippines - LGBT Group (AIPH-LGBT); Coalition for the Liberation of the Reassigned Sex (COLORS); Filipino FreeThinkers (FF); Lesbian Activism Project Inc. (LeAP!), Inc.; 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); TMC Globe Division League

III. NORMATIVE AND INSTITUTIONAL FRAMEWORK OF STATE RATIFICATION OF INTERNATIONAL HUMAN RIGHTS STANDARDS

A. International Covenant on Economic, Social, and Cultural Rights (ICESCR)

As a state party to the ICESCR, the Philippines has violated Article 1, Sec 1⁴ and 12⁵ by its failure to ensure that LGBT persons can freely pursue economic social and cultural development and attain positive mental and physical well-being.

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. Lesbians' sexual health needs are still absent in the overall comprehensive women's health program⁶. The 2010 HIV and AIDS Report showed homosexual sex as one of the highest modes of transmission⁷, and only strengthened the prevailing stigma associating HIV and 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 from the DOH memo, homosexuals are forbidden to donate blood⁸.

The economic status of LGBT persons are continually deprived or challenged because they cannot find and secure employment. LGBT persons are not assessed by companies based on skills, work experience and competence but instead are judged because of their SOGI. The research⁹ of ISIS International Manila¹⁰ has documented discrimination faced by LGBT persons in employment. LGBT persons are asked inappropriate questions during job interviews, companies are prejudiced in the selection, hiring and promotion of LGBT persons, stereotypes are often used to decide on work responsibilities and tasks of LGBT persons and once hired, LGBT persons are expected to conform to binary gender roles in the workplace.

Transgender persons are not hired because they look like women, effeminate gay men can be discharged from military service once they are discovered to be gay, and lesbians and masculine women are informed that they will only be hired if they will dress and behave in a stereotypical feminine way. In the thesis of a Filipino clinical psychologist on the experiences of Filipino transwomen in the Philippines¹¹, 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, dressing in men's clothes, and acting in stereotypically masculine ways.

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

⁴ ICESCR, Article 1, Section 1, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

⁵ ICESCR, Article 12, "Right to highest attainable standard of physical and mental health"

⁶ Absence of SOGI issues in the DOH Reproductive Health Policy, Admin Order # 43 of 2000.

(<http://www.k4health.org/system/files/Philippines%20nat%20rh%20policy.pdf>) accessed 2011-11-25, Planned Parenthood Program

(<http://www.plannedparenthood.org/about-us/international-program/philippines-country-program-19029.htm>) accessed 2011-11-25

⁷ 2010 DOH HIV and 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>) accessed 2011-11-25

⁸ Actual interview with the gay man who was discriminated by hospital staff from donating blood because of his appearance. November 2011.

⁹ "Surfacing Lesbians, Bisexual Women and Transgendered People's Issues in the Philippines. Towards Affinity Politics in the Feminist Movements" 2010, pp 43-45

¹⁰ 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

¹¹ Alegre, B. R. (2006). Psychological perspectives and development of the transsexual woman: Phenomenological case study on Filipino male-to-female transsexuals.

transgender woman to appear masculine and to be repeatedly photographed before her passport could be renewed.¹² 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.¹³ Numerous court decisions have denied petitions of transgender women to change their names and sex on their birth records.¹⁴ 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 policy¹⁵.

From the 12th UPR where the Philippines accepted seventeen recommendations, in particular Recommendation 8, "***To establish an organic legal framework for eliminating gender-based discrimination and promoting gender equality***" (Italy), the Philippines must ensure that LGBT persons are also included in the protection clause of the Constitution.

RECOMMENDATION: To implement UPR Recommendation 8 and comply with the ICECSR, the Philippines must (1) pass an Anti-discrimination law and a Gender Recognition Law that will ensure legal protection, equality and non-discrimination of all people and (2) include LGBT issues in the existing programs for sexual and reproductive health and rights

B. International Covenant on Civil and Political Rights (ICCPR)

The Philippines is a state party to the ICCPR but has failed to ensure that LGBT persons are not subjected to torture or to cruel, inhuman or degrading treatment or punishment¹⁶, deprived of their liberty¹⁷ and illegally detained¹⁸ because of their SOGI. Police officers are usually involved when LGBT persons are

¹² 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>) accessed 2011-11-25

¹³ 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 is the smallest government unit in the community.

¹⁴ 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>) accessed 2011-11-25

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>) accessed 2011-11-25

¹⁵ 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&>) accessed 2011-11-25

¹⁶ ICCPR, Article 7, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

¹⁷ ICCPR, Article 9, Section 1, "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

¹⁸ ICCPR, Article 10. Section 1, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

illegally arrested and detained. Aside from the police, inhuman and degrading treatment and punishment comes from the medical health practitioners.

In 2008, a male patient sued the medical team at the government-owned Vicente Sotto Medical Memorial Center (VSMCMC) 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.

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 stationed¹⁹.

Aside from discrimination and violence from state actors, the state has also failed to protect LGBT persons from hate speech²⁰ that regularly comes from the Catholic Church when they use the media to spread prejudiced statement against LGBT persons. Bishop Teodoro Bacani of the Catholic Bishops Conference of the Philippines (CBCP), shared his views on the recently held same-sex union, "Sorry na lang pero napapangitan ako talaga, para sa akin 'kadiri'" (*I'm sorry, but I really find it ugly, for me, it's disgusting*). The Philippine government must protect LGBT persons, as well as any sector, from sectors that attack and disrespect the reputation and honour²¹ of anyone and even incite society to justified discrimination and violence²² against LGBT persons.

The Philippines made some gains when the Supreme Court overturned a decision of the Commission on Election (COMELEC) when it denied LADLAD²³ from running for a seat in Congress in the May National Elections on grounds of immorality. The COMELEC's decision²⁴ cited verses from the Bible and the Koran to claim that LADLAD promotes immorality and is a threat to the youth. LADLAD's intention to run for public service was blocked by COMELEC officials' biased views on SOGI is a clear violation of ICCPR Article 25²⁵.

Research conducted by the Philippine LGBT Hate Crime Watch shows that of the 141 documented cases of hate crimes²⁶ 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

¹⁹ 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*. Armida Rico, May 31, 2011. (http://www.abante-tonite.com/issue/may3111/crime_story02.htm) accessed 2011-11-25

²⁰ ICCPR, Article 17, Section 2, "Everyone has the right to the protection of the law against such interference or attacks."

²¹ ICCPR, Article 17, Section 1, "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation."

²² ICCPR, Article 20, Section 2, "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

²³ 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) accessed 2011-11-25

²⁴ G.R. No. 190582, Supreme Court Decision on Ang LADLAD Party List versus Commission on Elections (*LADLAD vs COMELEC*)

(<http://sc.judiciary.gov.ph/jurisprudence/2010/april2010/190582.htm>) accessed 2011-11-16

²⁵ ICCPR, Article 25, "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country."

²⁶ 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/>) accessed 2011-11-25

from January to May 2011²⁷. The challenge in addressing Hate Crimes has been the lack of a legal framework in the Philippines as well as the limitation of the definition of “extra-judicial killings” to politically motivated crimes. Whether politically motivated or not, the loss of life of any human being is a violation of ICCPR Article 6, Section 1²⁸.

The Philippines accepted part of UPR Recommendation 6 (*To completely eliminate torture and extrajudicial killings (Holy See), to intensify its efforts to carry out investigations and prosecutions on extrajudicial killings and punish those responsible (Switzerland)...*) and all of Recommendation 8 (*To establish an organic legal framework for eliminating gender-based discrimination and promoting gender equality (Italy)*) from its last universal periodic review.

RECOMMENDATION: To implement UPR Recommendations 6 and 8 and comply with its obligations to the ICCPR, the Philippines must enact an Anti-Hate Crime Law to address and stop LGBT killings, repeal the Anti-Vagrancy Law, and pass an anti-discrimination law.

C. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Non-heterosexual women in the Philippines face discrimination on two fronts; as women who are stereotyped to be inferior to men; and as homosexuals, bisexuals, or transgenders who are abnormal at best, and immoral at worst. This situation has seen very little improvement despite the fact that the Philippine government is state party to the CEDAW as well as two domestic laws intended to protect the rights of women (RA9262: An Act Defining Violence Against Women and Their Children²⁹; and RA9710: Magna Carta of Women³⁰).

The ISIS research has exposed systematic rape³¹ of lesbians by men to ‘correct’ and to remind lesbians that they are “still women.” Unfortunately, lesbians are not afforded the same mental and psychosocial support and protection as heterosexual women. The language of RA9262 and RA9710 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 RA9710 where it made reference to sexual orientation³² but not to gender identity.

The Philippines accepted UPR Recommendation 1 (*To continue to develop a gender-responsive approach to issues of violence against women and continue to build supportive environment for women and children within the judicial system; this environment should take into account the special needs for rehabilitation and post-conflict care of women and children in vulnerable situations and conflict areas (New Zealand)*). In addition to respecting this commitment, the government must also take a truly gender-responsive approach by widening its definition to include all people who identify as women regardless of biological sex and socially imposed gender roles.

²⁷ 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/2011/09/in-beginning-posted-sometime-in-june.html>) accessed 2011-11-25

²⁸ ICCPR, Article 6, Section 1, “Every human being has the inherent right to life. The Law shall protect this right. No one shall be arbitrarily deprived of his life.”

²⁹ “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>) accessed 2011-11-25

³⁰ “An Act Providing for the Magna Carta of Women.” Republic Act No. 9710 (http://www.lawphil.net/statutes/repacts/ra2009/ra_9710_2009.html) accessed 2011-11-25

³¹ “Surfacing Lesbians, Bisexual Women and Transgendered People’s Issues in the Philippines. Towards Affinity Politics in the Feminist Movements” 2010, p 16

³² 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

RECOMMENDATION: To implement UPR Recommendation 1 and comply with its obligations to the CEDAW, the Philippines must immediately incorporate sexual orientation and gender identity and expression (SOGI) into the existing laws for Women and Children.

D. Convention on the Rights of the Child (CRC)

The Philippines ratified the Convention on the Rights of the Child without reservations. However, violations of children's rights are still reported. The 2006 report of the Secretary General to the UN General Assembly noted that violence is increasingly directed against lesbian, gay, bisexual and transgendered children and young people³³. In addition, the UN Committee on the Rights of the Child has included lesbian, gay, bisexual and transgendered children as among those who are in a position potentially vulnerable to violence³⁴. A report published in 2009 noted that school officials have witnessed that gay children were bullied in schools³⁵ and experience violence and abuse³⁶ in the homes and communities yet the perpetrators remain unpunished³⁷.

The Philippines accepted UPR Recommendation 9 (*To address legislative gaps in the field of children rights in order to fully comply with the 2005 recommendations of the Committee on the Rights of the Child (Italy)*) but has failed to implement comprehensive and inclusive laws that will ensure equal protection and security of all children regardless of sexual orientation and gender identity.

RECOMMENDATION: To implement UPR Recommendation 1 and comply with its obligations to the CRC, the Philippines must promote and protect the rights of all children regardless of SOGI by:

- Integrating issues of all children in the overall Child's Rights Programs of the State,
- Ensuring issues of LGBT Children are included by reviewing and revising existing national plans of action, policies and programmes including research and documentation of violence against children,
- Ensuring that redress mechanisms are accessible, gender-sensitive and capable in handling complaints of violence experienced by children of all sexual orientations and gender identities

IV. ISSUES AND CONCERNS BASED ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND AND IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

A. Right to Equality and Freedom From Discrimination

The Philippines' commitment to the Universal Declaration of Human Rights (UDHR) will never be fulfilled as long as discrimination against any marginalized sector continues. The 1987 Constitution of the Philippines assumes that all citizens fall within either of the two categories of "man" and "woman." By

³³ United Nations General Assembly, Rights of the Child: Notes by the Secretary General, A/61/299, 29 August 2006

³⁴ 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.

³⁵ 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.

³⁶ Violation of CRC, Article 2, Section. 2, "The State must take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members"

³⁷ 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 these 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.

disregarding sexual orientation and gender identity, the law, in fact, perpetuates discrimination and violates Articles 1 and 2 of the UDHR. Furthermore, all member states to the UN are encouraged by the Yogyakarta Principles under Principle 1, sub-item A to “*embody the principles of the universality, interrelatedness, interdependence and indivisibility of all human rights in their national constitutions or other appropriate legislation and ensure the practical realization of the universal enjoyment of all human rights.*” Enforcing an anti-discrimination law takes the country closer to this goal.

B. Right to Life, Liberty, and Security

As earlier cited in this report, LGBT Filipinos have been killed or have been victims of violence based on hate. The reported³⁸ 141 cases of killings since 1996 is a clear indication that the Philippines has not been able to uphold Article 3 of the UDHR. In addition to Article 3, the Philippines must also respect Principles 4 (The Right to Life) and 5 (The Right to Security of the Person) of the Yogyakarta Principles.

C. Freedom from Torture and Other Degrading Treatment

With the continued reports of women being raped³⁹ and children being bullied⁴⁰, it is clear that the Philippine government has not been successful in upholding Article 5 of the UDHR. The government must also be reminded of Principle 10 (The Right to Freedom from Torture and Cruel, Inhuman or Degrading Treatment or Punishment) of the Yogyakarta Principles: “*Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.*”

D. Right to Equality Before the Law

As long as LGBT persons continue to experience illegal detention and extortion from the punitive actions of police enforcers, the Philippine government will continue to violate Article 9 of the UDHR. Principle 7 of the Yogyakarta Principles, (The Right to Freedom from Arbitrary Deprivation of Liberty), “*No one shall be subjected to arbitrary arrest or detention. Arrest or detention on the basis of sexual orientation or gender identity.*”

E. Right to Freedom of Religion

The recent celebration of the 2011 June Pride Month was highlighted by a mass same-sex union in Baguio⁴¹. This attracted not only the media but also the wrath of the Catholic Church⁴², which condemned the event as “immoral” and “disgusting”. The Church also discriminated against the officiating pastors from Metropolitan Community Church (MCC)⁴³ and the eight same-sex couples who took part.

³⁸ The Status of Lesbian, Gay Bisexual, and Transgender Rights in the Philippines 2010, p. 1 (<https://skydrive.live.com/?cid=f5a5ccd7c8a4c0ec&id=F5A5CCD7C8A4C0EC%21150#>) accessed 2011-11-16

³⁹ “Surfacing Lesbians, Bisexual Women and Transgendered People’s Issues in the Philippines. Towards Affinity Politics in the Feminist Movements” 2010, p. 16

⁴⁰ 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.

⁴¹ 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*. Artemio Dumlaog, Philippines Star, Jun. 26, 2011. (<http://www.philstar.com/Article.aspx?publicationSubCategoryId=63&articleId=699910>) accessed 2011-11-25

⁴² 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” ⁴² (<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>) accessed 2011-11-25

⁴³ MCC is a Christian Church that affirms and accepts gays, lesbians, bisexuals, and transgenders. (<http://www.mccqc.webs.com/>) accessed 2011-11-25

Baguio government officials have since proposed a city ordinance banning same-sex unions⁴⁴ and attempted to declare the individuals who took part as outcasts.⁴⁵ One official stated “a person can be determined as a ‘persona non grata’ if the person violates or obstructs the law⁴⁶, contradicts the principle and ordinances of the city, and if the action is oppressive or is seen as oppressive by other people. We have to investigate if the wedding that took place is oppressive to the people of Baguio city⁴⁷.”

President Aquino⁴⁸ in an interview voiced sympathy for gay rights but said he had mixed feelings about whether gay couples should adopt children in the predominantly 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. This expression of partial support must be transformed into complete and all out support in order to fulfill the country's commitment to UDHR Article 18⁴⁹. The President and the government are also urged to “*take all necessary legislative, administrative and other measures to ensure the right of persons, regardless of sexual orientation or gender identity, to hold and practice religious and non-religious beliefs, alone or in association with others, to be free from interference with their beliefs and to be free from coercion or the imposition of beliefs*” as declared in Principle 21 sub-item A (The Right to Freedom of Thought, Conscience and Religion) of the Yogyakarta Principles.

F. Right to Participate in Government and Free Elections

As seen in the *LADLAD vs CoMELEC* case⁵⁰, LGBT Filipinos are now closer to being represented and participating in government. However, with religious groups freely attacking⁵¹ LGBT people without fear of punishment, it remains to be seen if true and meaningful participation without harassment and intimidation is possible. The government must take all necessary steps to uphold UDHR Article 21 as well as Principle 25 (The Right to Participate in Public Life) of the Yogyakarta Principles.

G. Right to Work

As highlighted by ISIS International's report⁵², LGBT persons right to work continues to be violated because of discriminatory practices in employment. They are continuously forced into jobs that only fit social conventions but not necessarily their skills and expertise. This is a direct violation of UDHR Article 23. Principle 12 (The Right to Work) of the Yogyakarta Principles states “*Everyone has the right to decent and productive work, to just and favorable conditions of work and to protection against unemployment, without discrimination on the basis of sexual orientation or gender identity.*” This will be

⁴⁴ Philippines: Activists Demand Anti-Discrimination Ordinance after Baguio City Proposes Prohibition of Same-Sex Marriage. July 27, 2011 (<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1423.html>) accessed 2011-11-25

⁴⁵ Condemnation of the same-sex weddings came not only from the Church but also from Baguio City Council members. Richard Cariño, Baguio City Councilor stated, “a person can be determined as a ‘persona non grata’ if the person violates or obstructs the law, contradicts the principle and ordinances of the city, and if the action is oppressive or is seen as oppressive by other people. We have to investigate if the wedding that took place is oppressive to the people of Baguio city.” Philippines: Activists Demand Anti-Discrimination Ordinance after Baguio City Proposes Prohibition of Same-Sex Marriage. July 27, 2011 (<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1423.html>) accessed 2011-11-25

⁴⁶ 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.

⁴⁷ Baguio to declare married LGBTs 'unwelcome' (<http://www.abs-cbnnews.com/nation/regions/06/28/11/baguio-declare-married-lgbts-unwelcome>) accessed 2011-11-25

⁴⁸ PNoy sympathizes on gay rights, not gay adoption (<http://www.abs-cbnnews.com/nation/09/21/11/pnoy-sympathizes-gay-rights-not-gay-adoption>) accessed 2011-11-25

⁴⁹ UDHR Article 18, “*Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.*”

⁵⁰ G.R. No. 190582, Supreme Court Decision on Ang LADLAD Party List versus Commission on Elections (*LADLAD vs COMELEC*) (<http://sc.judiciary.gov.ph/jurisprudence/2010/april2010/190582.htm>) accessed 2011-11-16

⁵¹ “Same sex marriage sa Baguio City, binatikos ni Bishop Teodoro Bacani” (<http://www.abs-cbnnews.com/video/nation/06/28/11/bishop-condemns-same-sex-marriage-baguio>) accessed 2011-11-16

⁵² “Surfacing Lesbians, Bisexual Women and Transgendered People’s Issues in the Philippines. Towards Affinity Politics in the Feminist Movements” 2010, pp 43-45

directly addressed if the government enacts into law either of the two pending Anti-Discrimination Bills that have been in congress, one of which has been in limbo for more than a decade.

V. RECOMMENDATIONS PRESENTED BY THE LGBT COALITION

In order for the Philippine Government to realize its duty to promote, protect, and fulfill the rights of LGBT Filipinos and comply with its obligations to international human rights treaties, we strongly recommend that the following actions be immediately taken:

1. Pass an Anti-Discrimination Law that will protect LGBT persons from discrimination
2. Pass an Anti-Hate Crime Law to stop LGBT killings and provide a legal definition of extra-judicial executions that incorporates sexual orientation and gender identity and expression
3. Pass a Gender Recognition Law to give legal recognition to gender identities of transgender person
4. Pass a Marriage Equality Law to recognize the right of all people to found a family
5. Incorporate sexual orientation and gender identity and expression into the existing Violence Against Women and Children Law.
6. Promote and protect the freedom of children from violence in all settings by:
 - Integrating issues of LGBT children in the overall Child's Rights Programs of the State
 - Ensuring issues of LGBT children are included by reviewing and revising existing national plans of action, policies and programmes including research and documentation of violence against children
 - Ensuring that redress mechanisms are accessible, gender-sensitive and capable in handling complaints of violence experienced by LGBT children.
7. Repeal the Anti-Vagrancy Law and review all existing laws that perpetuate discrimination against LGBT people
8. Ensure that all complaints and redress mechanisms are accessible to and sensitive to the specific situations of LGBT people

VI. STAKEHOLDER LIST

This Report is being submitted to the OHCHR by the following stakeholders:

1. Akei
2. Alliance of Young Health Advocates
3. Alliance of Young Nurse Leaders & Advocates International Inc.
4. Amnesty International Philippines - LGBT Group (AIPh-LGBT)
5. Coalition for the Liberation of the Reassigned Sex (COLORS)
6. Filipino FreeThinkers (FF)
7. Lesbian Activism Project Inc. (LeAP!), Inc.
8. OUT Philippines
9. Philippine Fellowship of Metropolitan Community Churches (MCC)
10. Philippine Forum on Sports, Culture, Sexuality and Human Rights (TEAM PILIPINAS)
11. Philippine LGBT Hate Crime Watch (PLHCW)
12. Ryan Silverio (Individual)
13. TMC Globe Division League

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