

**LGBTIQ Advocate's Toolkit
to Pass SOGIESC
Anti-Discrimination
Ordinances and National Laws**



EnGendeRights, Inc

Asserting Gender Equality



Writer: Clara Rita A. Padilla

About the writer:

Atty. Clara Rita “Claire” Padilla is the founder and executive director of EnGendeRights. She co-drafted the 2014 Quezon City Gender-Fair Ordinance and its 2015 Implementing Rules and Regulations and pushed for affirmative actions, including the establishment of all-gender restrooms; ensuring safe spaces through training on LGBTIQ rights in schools and workplaces; establishing SOGIESC desks in police stations, dissemination of copies of the ordinance to all employees and posting of the Anti-Discrimination Ordinance (ADO) at offices, among others. She stressed the importance of the inclusion of extensive prohibited acts (including unjust detention, involuntary confinement, promotion of discrimination against LGBTIQ people, and other analogous acts). In the IRR, she successfully advocated for the inclusion of the issuance of Barangay Protection Orders (BPO) to address discrimination and abuses suffered by LGBTIQ persons and expanded the number of officers who can issue BPOs by authorizing VAW and GAD officers to issue BPOs as well.

As a consultant of Senator Miriam Defensor-Santiago, she was successful in including the prohibition against discrimination based on sex, gender, sexual orientation, gender identity, language, disability, or other status in the original bill of Senator Legarda prohibiting discrimination based on ethnicity, race, religion or belief which eventually became the first Comprehensive Anti-Discrimination Bill or SBN 2814 passed on third reading in November 2011 during the 15th Congress.

She also drafted the ordinance establishing the QC Protection Center for Women, Children, and LGBT Victim-Survivors of Gender-based Violence (2012) where she has been providing free legal consultations since 2011 up to the present. She has been defending women, girls, and LGBTIQ survivors of gender-based violence and discrimination for over 30 years.

She proposed language for other laws including the Anti-Sexual Harassment Act and Expanded Anti-Trafficking Act and she drafted the first version of the Reproductive Health Care bill in 2001.

She has won several Supreme Court *en banc* cases, including the 2010 *Ang Ladlad LGBT Party v. Commission on Elections* (G.R. No. 190582), as a co-counsel.

She has been published widely on sexual and reproductive rights, gender-based violence and women’s and LGBTIQ rights issues. Her writings are available at <https://LGBTIQLaw.com>, <https://engenderights.com>, and <https://clararitapadilla.blogspot.com>, among others.



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LGBTIQ Advocate's Toolkit to Pass SOGIESC Anti-Discrimination Ordinances and National Laws

I. BACKGROUND

A. Human rights violations experienced by LGBTIQ people

1. What are the violations experienced by persons of diverse sexual orientations, gender identities, and sex characteristics?

Lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people suffer widespread discrimination, harassment, and violence at the very hands of their parents and siblings, their teachers/schools and employers, and in their communities and churches because of their sexual orientation, gender identity, expression, and sex characteristics (SOGIESC). LGBTIQ people are subjected to physical abuse, rape,¹ torture, and murder.

They are preyed upon by sexual predators. A transgender man, E.M., was brutally raped and killed in 2021, her head bashed and her body bloodied. In July 2022, there was a young lesbian who was sexually assaulted by her supervisor who claimed he would get her to like men,² and another lesbian minor whom a much older man sexually assaulted.³ There are cases of rape of butch lesbians, some resulting in unwanted pregnancies.⁴ Some of these crimes were committed by their male friends or drinking buddies who specifically targeted the butch lesbians.⁵ Criminal charges against the perpetrators are rarely pursued for various reasons including the prohibitive cost of legal services and the stigma attached to being a lesbian rape survivor.⁶ Some Muslim lesbians were raped in Jolo,⁷ with the rape of one

1 A transgender woman who worked as a Barangay Councilor in Quezon City was sexually abused and verbally assailed by the Barangay Captain during her tenure. LADLAD documented case. May 2010. Barangay – smallest government unit in the community.

2 EnGendeRights Position Paper on the SOGIE Equality/Anti-Discrimination Bill, Clara Rita A. Padilla, submitted to the Senate Committee on Women in support of the SOGIE Equality Bill on Sept. 6, 2022.

3 *Id.*

4 EnGendeRights CEDAW 86th 2023 Shadow Report on Lesbian, Bisexual Women, and Transgender Women, high LBT adolescent/youth suicide rates, gender-based violence, and marriage submitted to the CEDAW Committee, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCSS%2FPHL%2F55986&Lang=en.

5 *Id.*

6 GALANG: A Movement in the Making for the Rights of Poor LBTs in the Philippines, at 6 and 9.

7 A 2013 report quoted a Tausug lesbian, president of a Jolo-based lesbian organization in “Dangerous Lives: Being LBT in Muslim Mindanao”, Outrage, December 10, 2013, accessed April 15, 2016, <https://outragemag.com/dangerous-lives-lgbt-muslim-mindanao/> [hereinafter “Dangerous Lives”].

lesbian arranged by her father.⁸ One Muslim lesbian committed suicide after being sexually abused.⁹ Many lesbians have fled their homes and now live with their friends.¹⁰

There is a failure to address gender-based violence of LGBTIQ people with due diligence when sexual assaults, hate crimes, abuses, and killings of LGBTIQ people happen with impunity and when law enforcement officers themselves perpetrate physical and sexual abuse against LGBTIQ persons.¹¹ They arrest and file trumped-up criminal charges for public scandal and Anti-Trafficking against LGBTIQ people to extort money.¹²

There are countless reports of transgender people forced to wear stereotyped clothes and hairstyles contrary to their gender identity and expression resulting in students dropping out of schools, denial of work applications, and employees failing to report back to work and ending up jobless. There was a case of a teacher who forced a transgender boy to parade in school in a makeshift skirt using a curtain and forcing him to wear clothes that were against his gender identity.¹³ Transwomen students are not allowed to attend school until they wear the “proper uniform for male students” and cut their hair short.¹⁴ At times, LGBTIQ people are prohibited from entering school premises, taking exams, and attending their graduation rites when they wear clothes and hairstyles conforming to their diverse sexual orientation and gender identities. “Conversion therapies” still happen¹⁵ where perpetrators are mostly religious groups.¹⁶

Hate crimes continue to happen. S., a transgender girl, was killed in 2015 while walking along a street in Quezon City. In 2021 in Maguindanao, an improvised explosive device exploded at an LGBTIQ volleyball game with seven injured and one killed. LGBTIQ people also suffer bashing in the streets or on social media.

2. What is the impact of discrimination and abuses against LGBTIQ people?

Experiences of discrimination and abuse forced some young LGBTIQ people to leave their homes and schools and have also led to suicides of young

8 *Id.*

9 *Id.*

10 *Id.*

11 A lesbian was illegally detained in a Police Station after she was forcefully abducted, ganged up and beaten by the family member and friends, including a police officer. Lesbian abducted and illegally detained in the Precinct, Armida Rico, May 31, 2011, available at http://www.abante-tonite.com/issue/may3111/crime_story02.htm.

12 Oscar Atadero, “Opening communication lines with fingers crossed,” *Outrage Magazine*, July 27, 2012, <http://outragemag.com/online/opening-communication-lines-with-fingers-crossed>.

13 Actual cases gathered by EnGendeRights from December 2011 onwards. Evidence-gathering methods and identities have been withheld for confidentiality.

14 *Id.*

15 LGBT psychology in the Philippines, available at https://pages.upd.edu.ph/sites/default/files/ejmanalastas/files/manalastas_torre_lgbt_psychology_in_the_philippines_posr_71_0.pdf.

16 [OPINION] It’s not okay to pray the gay away, available at <https://www.rappler.com/voices/ispeak/opinion-not-okay-pray-gay-away/>.

LGBTIQ people.¹⁷ When young LGBTIQ people leave their homes and drop out of school at a young age, they lack job skills and have limited career options due to low educational attainment. They face difficulty finding jobs and, at times, face discrimination by employers where they are told that they are not “feminine” or “masculine.”¹⁸ Many ended up in low-paying jobs or seasonal or labor-intensive jobs that they had difficulty sustaining in their older years.¹⁹

LGBTIQ people experience lifelong and continued discrimination based on their SOGIESC and various intersectional discrimination that impact them throughout their lives. This has resulted in joblessness, poverty, hunger, homelessness, lack of savings and social security pension, unstable housing, social isolation, and lack of access to health care and other government services that gravely impact their lives including as older LGBTIQ people beset with ailments and physical and mental health decline.²⁰ LGBTIQ people are at risk of continued marginalization due to isolation and lack of support systems including family support.

3. What are examples of denial of access to justice for LGBTIQ people?

Many LGBTIQ people were denied access to justice. They were discriminated against in court decisions implying LGBTIQ are “wants” rather than human rights,²¹ tagging a lesbian woman as immoral and justifying her beating and forced detention by her mother,²² allowing low penalty for the murder of a transgender woman,²³ implying lesbian mothers may be denied custody for showing affection to their lesbian partners in front of their children,²⁴ and denying numerous petitions to change the name and sex of LGBTIQ people. In the 2007 Supreme Court decision denying the petition of M.S. to change her name and sex assigned at birth from male-to-female sex marker after her gender affirmation surgery,²⁵ the court cited the bible, “*When God created man, He made him in the likeness of God; He created them male and female. (Genesis 5:1-2)*” violating the constitutional guarantee on non-establishment of religion.

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- 17 Christian Joy P. Cruz, University Research, Population Institute, College of Social Sciences and Philosophy, University of the Philippines – Diliman, Risk Behaviors and Health of Young Sexual Minorities in the Philippines: Findings from YAFS4 (March 21, 2016), available at [file:///C:/Users/Acer/Downloads/Risk%20behaviors%20and%20health%20of%20young%20sexual%20minorities%20in%20the%20Philippines%20\(working%20file\)%20as%20of%2021%20March%202016%20\(1\).pdf](file:///C:/Users/Acer/Downloads/Risk%20behaviors%20and%20health%20of%20young%20sexual%20minorities%20in%20the%20Philippines%20(working%20file)%20as%20of%2021%20March%202016%20(1).pdf).
- 18 Ging Cristobal, Clara Rita Padilla, Annette Visbal, and Grace Poore, “Golden Rainbow: Stories of Pain, Grit, Duty and Love of Filipino Older LGBT People”, 2023, available at <https://lgbtiqlaw.com/wp-content/uploads/2024/02/Golden-Rainbow-Older-LGBT-Storybook-English.pdf>.
- 19 Clara Rita Padilla, Ging Cristobal, and Grace Poore, “PHILIPPINES: Impacts Of Ageism And Lifelong Discrimination On Older LGBTI People [Fact Sheet], May 2023, produced by EnGendeRights, Outright International and SAGE, available at <https://lgbtiqlaw.com/wp-content/uploads/2024/02/EnGendeRights-Outright-Older-LGBTI-English-FactSheet-web.pdf>.
- 20 *Id.*
- 21 *Ang Ladlad LGBT Party v. Commission on Elections*, 2010 (G.R. No. 190582).
- 22 Court of Appeals Amparo Case.
- 23 Regional Trial Court Branch 74, Case No. 865-14.
- 24 *G v. G*, G.R. No. 154994, n.p. (June 28, 2005), available at https://lawlibrary.chanrobles.com/index.php?option=com_content&view=article&id=46694:154994&catid=1467&Itemid=566.
- 25 See *R.J. D.S. v. Republic of the Philippines* (G.R. No. 174689, October 22, 2007), available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/44532>.

4. How many LGBTIQ people experience violations and are impacted by the lack of legal protection?

There is no national estimate on the percentage of the Philippine population who are LGBTIQ people, however, the United Nations estimates up to 1.7% of the global population is intersex people or the equivalent of about two million intersex people in the Philippines.²⁶ This means that about two million intersex Filipino people in the Philippines are part of the LGBTIQ population who suffer discrimination and are affected by the lack of local and national laws protecting the rights of LGBTIQ people. If we add the percentage of other people with diverse SOGIESC, then over two million LGBTIQ people experience violations and are impacted by the lack of legal protection.

B. LGBTIQ rights are human rights

1. Why should we uphold the human rights of LGBTIQ People?

All human beings are born free and equal. Philippine law should uphold the basic human rights of everyone regardless of one's SOGIESC. LGBTIQ people enjoy the same rights to equality and non-discrimination, thus, Philippine laws should afford LGBTIQ people the same rights as heterosexuals, and should not in any way favor heterosexuals.

LGBTIQ people enjoy constitutional rights to equality, equal protection of the law, privacy, freedom of expression, and religion and belief. The constitutional right to freedom of religion also guarantees non-establishment of religion.

If the national anti-discrimination law upholding the rights of LGBTIQ people to equality and non-discrimination is not passed into law, there will always be people who will justify their discriminatory acts against LGBTIQ people.

Disallowing LGBTIQ people their basic right to equality and non-discrimination because it is against the teachings of certain churches violates the constitutional guarantee on non-establishment of religion. Our constitution guarantees the separation of church and state and the non-establishment of religion to prohibit the establishment of religion in our law and to guard against the views of any majority or minority religion in influencing our laws.²⁷ Our constitutional guarantee on the non-establishment of religion is significant to uphold the right of all persons to freedom of thought, conscience, and religion.

While the Philippines has not passed the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill into law, we are all complicit to the hate crimes committed against LGBTIQ people, all the bashing and bullying that LGBTIQ people suffer,²⁸ and all the discrimination

26 Computed at 118 million Philippine population in 2024.

27 The Supreme Court upheld the non-establishment of religion in the 2010 landmark case of Ang Ladlad v. COMELEC (G.R. No. 190582), available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/53918>.

28 Clara Rita A. Padilla, Jake Zyus, Vice Ganda, SOGIE bills, and the 2022 elections, Rappler, Feb. 22, 2022, available at <https://www.rappler.com/voices/thought-leaders/opinion-jake-zyrus-vice-ganda-sogie-bills-2022-elections/>.

that LGBTIQ people suffer daily. As a result of the delayed passage of laws protecting the rights of LGBTIQ people, there will be mothers who beat their daughters and lock them up in a room for weeks simply because their daughters are lesbians; there will be fathers who beat up their children because their children are gay or transgender; there will be teachers who force transgender male students to wear curtains as skirts to stop them from expressing their male gender identity.

Recognizing the rights of LGBTIQ people is an important step towards eliminating discrimination against LGBTIQ people, paving the way towards a society where LGBTIQ people live a life of dignity and respect.

As decent human beings who respect the rights of others, we should work towards a world where LGBTIQ people are not afraid of going to school because of fear of being bullied by their classmates or teachers, where LGBTIQ people are not made to suffer bashing and hate crimes, and where LGBTIQ people are free to come out and be considered equal in all aspects of life.

Homophobia, transphobia, biphobia, intersexphobia, and queerphobia have no place in our society where equality, non-discrimination, governance, the rule of law, and secular standards are foremost.

2. Can people justify their discriminatory acts against LGBTIQ people based on their morality and religious beliefs?

Discrimination based on SOGIESC cannot be justified because of one's morality and religious beliefs.

In the 2010 case of *Ang Ladlad LGBT Party v. Commission on Elections*,²⁹ the Supreme Court held that "as far as this Court is concerned, our democracy precludes using religious or moral views of one part of the community to exclude from consideration the values of other members of the community."

3. Can people justify their discriminatory acts based on their heteronormative beliefs?

Viewing the world as merely heteronormative fails to recognize the rights of people with diverse SOGIESC, those who identify as non-binary and are gender non-conforming. Oppressive beliefs, discrimination, hatred, and abuses against LGBTIQ people do not have a place in this world where there should be diversity, equality, and inclusion.

Instead of advocating for respect for human rights and justice, those who condemn "active homosexuals" and oppose the passage of laws protecting the rights of LGBTIQ people are complicit in propagating discrimination against LGBTIQ people.

29 *Supra* 27.

II. SOGIESC EQUALITY/SOGIESC ANTI-DISCRIMINATION BILL AND COMPREHENSIVE ANTI-DISCRIMINATION BILL

A. Rainbow story of the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill

1. Since when have the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill been pending?

The first SOGIESC Equality/SOGIESC Anti-Discrimination Bill (ADB) was filed in 1999 (HB 7165 Rep. Angara-Castillo) while Rep. Etta Rosales and Sen. Miriam Defensor-Santiago filed their bills in 2000. In 2004, the ADB passed on third reading with the House of Representatives.

As a consultant of Senator Miriam Defensor-Santiago, Atty. Clara Rita Padilla successfully advocated widening the scope of SB 2814 (sponsored by Senator Legarda et al.) to include the prohibition against discrimination based on "sex, gender, sexual orientation, gender identity, language, disability, or other status" in the original bill prohibiting discrimination based on "ethnicity, race, religion or belief" which eventually became the first Comprehensive Anti-Discrimination Bill (SBN 2814) passed on third reading in November 2011 during the 15th Congress.

The House ADB version was also passed on the third reading, hence, bicameral conference committee meetings could have been called since December 2011 and yet, despite the lapse of more than one year, no bicameral conference committee meetings on said bills were conducted during the 15th Congress.

It is a cause for grave concern that there is widespread discrimination against LGBTIQ people, yet the national SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill have not been passed into law despite the lapse of over 25 years since the first anti-discrimination bill was filed in 1999. This delayed passage of the law clearly shows a society that has failed to stand up for the rights of LGBTIQ people. It is time that our national laws effectively protect LGBTIQ people against discrimination and violence otherwise LGBTIQ people will continue to suffer human rights violations with impunity and the Philippines will continually fall short of complying with its obligation to respect, protect, and fulfill human rights of LGBTIQ people.

B. Need to pass the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill

1. Why should we pass the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and the Comprehensive Anti-Discrimination Bill?

All over the Philippines, countless LGBTIQ people suffer discrimination and are subjected to hate crimes. Indeed, this is cause for alarm and signals the urgency to pass the SOGIESC Equality/SOGIE Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill to prohibit all types

of discrimination and violence against LGBTIQ people and promote equality of LGBTIQ people. These violations are also exacerbated by the absence of other laws and policies, i.e., comprehensive national laws on SOGIESC equality and anti-discrimination, gender identity recognition, civil union/marriage equality and LGBTIQ-inclusive policies. These persistent violations are also fueled by homophobic, biphobic, and transphobic views and conservative religious beliefs that lead to the continued failure of the government to fully comply with its obligations under international law.

We need the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill to be passed into law to explicitly prohibit discrimination and abuses against LGBTIQ people, deter abuses, and provide effective remedies and affirmative actions. When passed into law, the SOGIESC Equality/SOGIESC Anti-Discrimination Law and Comprehensive Anti-Discrimination Law will prohibit violence, harassment, discrimination, exclusion, stigmatization, prejudice,³⁰ killings,³¹ torture, arbitrary arrest, and deprivation of political, economic, social, and cultural rights based on SOGIESC. The laws will ensure the right to equality and non-discrimination in all fields including employment, education, and adequate housing, among others, and mandate the conduct of education to uphold the rights of LGBTIQ people.

With the passage into law of the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and the Comprehensive Anti-Discrimination Bill, LGBTIQ people will have equal protection under the law. It will raise the discourse to the level of human rights and constitutional guarantees on equality, equal protection of the law, freedom of expression, freedom of religion, and non-establishment of religion. It will also be a strong pronouncement of the national policy that upholds the rights of LGBTIQ people against all forms of discrimination and abuses where erring individuals would be held liable and affirmative actions would be in place to promote and respect the rights of LGBTIQ people. With affirmative actions in place, modules and training on LGBTIQ rights will be ensured in schools, local government units, and workplaces; establishments will be required to provide all-gender restrooms; scholarship, educational, employment, business, health care, and housing needs of LGBTIQ people will be addressed; access to justice will be ensured through responsive services including access to barangay protection orders (BPOs) and restraining orders; discriminatory policies will be repealed and the enactment of inclusive laws and policies will be prioritized.

We need programs to address the violations against LGBTIQ people's rights and the provision of expanded assistance to LGBTIQ people as they have suffered lifelong and intersectional discrimination and abuses. Given the prevailing violations of the rights of LGBTIQ people and the lack of respect for diversity, equality, and inclusivity, LGBTIQ people will

30 Joint Statement of States before the UN General Assembly, December 18, 2008; See also the Human Rights Council First Resolution on Sexual Orientation and Gender Identity, June 17, 2011 (L9/rev.1)

31 See UN General Assembly Resolution passed in December 2010 which included a provision protecting LGBTs from extrajudicial executions based on sexual orientation.

continue to be marginalized and unable to access the government's intended programs, thus, the SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill must be immediately passed into law to uphold the rights of LGBTIQ people.

2. What is the significance of the passage of the SOGIESC Equality/SOGIESC Anti-discrimination Bill and the Comprehensive Anti-Discrimination Bill?

It is high time that the SOGIESC Equality/SOGIESC Anti-discrimination Bill and the Comprehensive Anti-Discrimination Bill are passed in this 19th Congress. As the representatives of the people, it is incumbent upon the members of the Senate and House of Representatives to lead Congress to finally pass these bills into law.

Enacting these laws brings us closer to ending discrimination and hate crimes against LGBTIQ people and paves the way toward a humane and just society where people respect the rights of LGBTIQ people. Let us fight for a truly free and equal world where there is diversity, equality, and inclusion.

Note: See **Annexes** for the provisions of the bills and additional language on prohibitions to be added to the ADOs, SOGIESC Equality/SOGIESC Anti-Discrimination Bill, and Comprehensive Anti-Discrimination Bill

III. INTERNATIONAL HUMAN RIGHTS STANDARDS AND GLOBAL GOALS

1. What international laws support the rights of LGBTIQ people?

All human beings are born free and equal in dignity and rights. Everyone is entitled to all rights and freedoms, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The basic rights to equality and non-discrimination of LGBTIQ people are enshrined in the Universal Declaration of Human Rights (UDHR), 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 Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and other relevant core human rights instruments.

Note: See the sample PowerPoint slides for the text of the international laws

2. What are the state obligations under the treaties ratified by the Philippines?

Under treaty obligations, the Philippines must respect (refrain from violations), protect (take steps to prohibit violations and impose sanctions for violations), and fulfill the rights of LGBTIQ people (take appropriate measures to ensure the realization of rights such as legislative, judicial, administrative, budgetary, and economic, among others). To comply with our treaty obligations, the

Philippines is obligated to take positive action to eliminate discrimination against LGBTIQ people through laws, policies, and all other appropriate measures.

Based on the CEDAW Convention's interrelated core principles of substantive equality, non-discrimination and state obligation, the Philippines must enact laws and policies (*de jure*) and implement affirmative action programs to uphold LGBTIQ rights and ensure that there is substantive equality in results and access to redress.

3. What did the Human Rights Committee recommend about the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill?

As early as 2003, the Human Rights Committee, the committee tasked to monitor the implementation of the ICCPR, recommended in its Concluding Observations for the Philippines to:

- “[T]ake the necessary steps to **adopt legislation explicitly prohibiting discrimination**”
- “[T]o pursue its efforts to **counter all forms of discrimination**” on **sexual orientation**
- “[S]trengthen **human rights education to forestall manifestations of intolerance and de facto discrimination**”

4. What are the recommendations of the CEDAW Committee about the SOGIESC Equality Bill and Comprehensive Anti-Discrimination Bill?

The Committee on the Elimination of Discrimination Against Women (CEDAW Committee), the committee tasked to monitor the Philippine government's implementation of its obligations under CEDAW, recommended in its **2023 Concluding Observations for the Philippines to “[a]ccelerate the adoption of the Comprehensive Non-Discrimination Bill** and ensure that it covers direct and indirect discrimination in the public and private spheres, as well as intersecting forms of discrimination” and “[a]ccelerate the adoption of the Sexual Orientation and Gender Identity Expression (SOGIE) Equality Bill.”³² It is also significant that the CEDAW Committee has recommended that the Philippine government provide, within two years, written information on the steps taken to pass the SOGIE Equality Bill and Comprehensive Anti-Discrimination Bill into law.³³

5. What Sustainable Development Goals do we achieve in fighting for LGBTIQ rights?

By working towards the elimination of discrimination based on SOGIESC and achieving a world that is free and equal for LGBTIQ people, we are in line with the following Global Goals/Sustainable Development Goals:

32 CEDAW 2023 Concluding Observations on the Philippines, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPHL%2FCO%2F9&Lang=en, paragraphs 14.a and 14.b.

33 *Id.*, paragraph 58.

- Goal 5: Achieve gender equality and empower all women and girls
 - Target 5.1: End all forms of discrimination against all women and girls everywhere
- Goal 1: End poverty in all its forms everywhere

We also address other goals on hunger (SDG 2), good health (SDG 3), quality education (SDG 4), decent work (SDG 8), and promoting peaceful and inclusive societies and access to justice (SDG 16).

IV. LOCAL SOGIESC ANTI-DISCRIMINATION ORDINANCES

1. How many local SOGIESC Anti-Discrimination Ordinances have been passed into law?

There are 53 local government units (LGUs) that passed local SOGIESC Anti-Discrimination Ordinances (ADOs) with differing provisions affording protection for LGBTIQ people within their jurisdictions.³⁴ Some LGUs have several ADOs.

Cities:

- | | |
|----------------------------------|-------------------------------------|
| 1. Angeles City, February 2013 | 14. Dumaguete City, 2019 |
| 2. Antipolo City, January 2015 | 15. General Santos City, 2016 |
| 3. Bacolod City, April 2013 | 16. Himamaylan City, 2018 |
| 4. Baguio City, 2017 | 17. Ilagan City, 2019 |
| 5. Batangas City, 2016 | 18. Iloilo City, 2018 |
| 6. Borongan City, 2021 | 19. Lapu-Lapu City, 2023 |
| 7. Butuan City, 2016 | 20. Malabon City, 2018 |
| 8. Cagayan de Oro City, 2020 | 21. Malolos City, 2022 |
| 9. Calamba City, 2017 | 22. Mandaluyong City, June 2018 |
| 10. Candon City, August 2014 | 23. Mandaue City, 2016 |
| 11. Cebu City, October 2012 | 24. Manila City, 2020 |
| (Anti-Discrimination | 25. Marikina City, 2019 |
| Commission) | 26. Pasig City, 2022 (SOGIE |
| Cebu City, 2022 | Discrimination; Pride Council) |
| (SOGIESC Pride Empowerment | 27. Puerto Princesa City, September |
| Council) | 2015 |
| 12. Dagupan City, June 2010 | 28. Quezon City, September 2003 |
| 13. Davao City, November 2012 | (Workplace Discrimination) |
| Davao City, 2018 (Health | Quezon City, 2012 |
| Discrimination; Anti- | (QC Protection Center) |
| Discrimination Mediation and | Quezon City, 2014 |
| Conciliation Board that includes | (Gender-Fair Ordinance) |
| LGBTIQ members) | Quezon City, 2015 |

³⁴ See GALANG Philippines, Inc., Policy Audit: Social Protection Policies and Urban Poor LBTs in the Philippines, August 2013, available at http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/2892/ER21Policy_Audit_Social_Protection_Policies_and_Urban_Poor_LBTs_in_the_Philippines.pdf?sequence=7.

- | | |
|-----------------------------|-------------------------------|
| (IRR Gender-Fair Ordinance) | 31. Taguig City, 2018 |
| Quezon City, 2022 | 32. Valenzuela City, 2019 |
| (District Pride Council) | 33. Vigan City, December 2014 |
| 29. San Juan City, 2017 | 34. Zamboanga City, 2020 |
| 30. San Pedro City, 2023 | |

Provinces:

- | | |
|---------------------------|--------------------------|
| 1. Agusan del Norte, 2014 | 6. Dinagat Islands, 2017 |
| 2. Albay, 2008 | 7. Ilocos Sur, 2017 |
| 3. Bataan, 2021 | 8. Iloilo, 2016 |
| 4. Batangas, 2015 | 9. Laguna, 2023 |
| 5. Cavite, 2014 | |

Municipalities:

- | | |
|----------------------------------|-------------------------------------|
| 1. Angono, Rizal, 2019 | 5. Panglima Sugala, Tawi-Tawi, 2023 |
| 2. Giporlos, Eastern Samar, 2017 | 6. Poro, Cebu, 2019 |
| 3. Los Baños, 2018 | 7. San Julian, Eastern Samar, 2014 |
| 4. Orani, 2019 | |

Barangays:

1. Bagbag, QC, 2009
2. Greater Lagro, QC, 2014
3. Pansol, QC, 2008

2. What success stories can we draw from local ADOs that have been passed?

The senators, congressional representatives, and other government officials should emulate the example of various local governments that have passed local ordinances protecting the rights of LGBTIQ people.

3. What is the history of SOGIESC ADOs in Quezon City? How did Quezon City pass the Gender-Fair Ordinance?

In 2003, Quezon City (QC) was the first city to pass an ordinance penalizing workplace discrimination against LGBTIQ people. In 2011, to address abuses against LGBTIQ people, the QC Protection Center for Women, Children, and LGBT survivors of gender-based violence was established under the Office of Vice Mayor Joy Belmonte, and its ordinance was passed in 2012. In 2013, the QC Pride Council was established. In 2014, QC passed the Gender-Fair Ordinance with a clear mission to end discrimination based on SOGIESC.

It was Vice Mayor Joy Belmonte herself, then at the helm of the Sanggunian, who expressed her desire to pass an ADO in QC. This political will to pass an ADO was crucial in the enactment of the QC Gender-Fair Ordinance.

In November 2013, representatives of the Office of Vice Mayor Joy Belmonte (Atty. Clara Rita Padilla as a consultant) and the Office of Councilor Mayen

Juico as the principal sponsor (i.e., Atty. Elaine Hernandez and Lyza Baysa) started working together in co-drafting the ADO. The draft underwent countless editing rounds together with other representatives of said offices. The drafters and editors drew from various documents including laws (Magna Carta for Persons with Disability, Anti-Sexual Harassment Act, Constitution), CEDAW, existing ADOs, and draft bills (draft submitted to Senator Miriam for SB 2814, 15th Congress), existing research (e.g., Philippine LGBT Hate Crime Watch, shadow reports to the UN), and the Yogyakarta Principles.

Atty. Padilla urged the co-drafters to dream of a comprehensive ordinance by saying "*managinip tayo, libre lang managinip*" (let us dream, dreaming is free). She stressed the importance of the inclusion of extensive prohibited acts (including unjust detention, involuntary confinement, promotion of discrimination against LGBTIQ people, and other analogous acts) but also affirmative actions to protect the rights of LGBTIQ people including the establishment of all-gender restrooms; ensuring safe spaces through training on LGBTIQ rights in schools and workplaces; establishing SOGIESC desks in police stations; dissemination of copies of the ordinance to all employees and posting of the ADO at offices, among others.

To ensure passage of the Gender-Fair Ordinance and gather the recommendations and support of various stakeholders, the Offices of Vice Mayor Belmonte and Councilor Mayen Juico spearheaded the following:

- a) community discussions in all six districts of QC where barangay officials, residents, students, teachers, and religious leaders were invited to join the discussions;
- b) a summit with LGBTIQ persons;
- c) consultation meetings with LGBTIQ activists, NGOs, and QC government officials to discuss the draft ordinance

While the drafters of the ADO originally proposed the establishment of SOGIESC Desks in barangays, Vice Mayor Joy Belmonte met with the stakeholders during the Sanggunian ADO deliberations and recommended incorporating the SOGIESC concerns with functions of the existing barangay Violence Against Women's and Children's (VAWC) Desks to ensure immediate and effective implementation. Said recommendation was then incorporated into the ADO.

Through concerted efforts of various stakeholders including LGBTIQ activists and allies who were present during the Sanggunian deliberations to discuss with legislators, QC passed an extensive Gender-Fair Ordinance (Ordinance No. SP-2357, Series of 2014) that penalizes various forms of discrimination and abuses against LGBTIQ people and provides for affirmative actions to respect, protect, and fulfill the rights of LGBTIQ people.

This QC Gender-Fair Ordinance prohibits discrimination in employment, education, delivery of goods or services, and accommodation; verbal, non-verbal ridicule and vilification; harassment, unjust detention, and involuntary confinement; disallowance from entry and refusal to serve; promotion of discrimination against LGBTIQ people; and any other analogous acts.

The Gender-Fair Ordinance outlines affirmative acts such as the adoption of programs in employment, education, delivery of goods and services, accommodation; commemoration of LGBTIQ events; use of the 5% GAD budget for programs, and other anti-discrimination programs.

The other affirmative acts are, as follows:

- a) barangay VAWC Desk officers are mandated to handle gender-based discrimination and abuses against LGBTIQ people and a separate barangay logbook for abuses against LGBTIQ persons;
- b) public and private establishments are mandated to designate all-gender restrooms;
- c) designation of PNP SOGIESC desks and health desks for LGBTIQ people in hospitals;
- d) establishments are mandated to undergo SOGIESC training before issuance and renewal of business permits (implemented together with the 2016 QC GAD Ordinance Sec. 18, Art. V);
- e) trainings on SOGIESC/LGBTIQ rights are mandated to be conducted in schools and workplaces, among others;
- f) designation of oversight functions to the QC Pride Council;
- g) dissemination of copies of the ordinance to all employees and posting of the ADO at offices

Once the Gender-Fair Ordinance was passed, various stakeholders participated in the drafting of the Implementing Rules and Regulations (IRR). Atty. Padilla successfully advocated for the inclusion of the issuance of BPOs to address discrimination and abuses suffered by LGBTIQ persons and expanded the number of officers who can issue BPOs by authorizing VAW and GAD officers to issue BPOs as well.

The Gender-Fair Ordinance and the IRR were hailed as trailblazing and were emulated by other LGUs (including Los Baños and Laguna Province, among others). The Gender-Fair Ordinance, the IRR, and the programs of QC have inspired various local governments.

In compliance with the Gender-Fair Ordinance, QC has the following "InKYUSlve" programs advancing LGBTIQ rights:

- QC had a partnership with EnGendeRights and Outright to conduct training on the protocol to handle domestic and family violence experienced by LGBTIQ people;
- The QC Pride Council and its Technical Working Group were recently re-organized;
- QC came up with its P-R-I-D-E Goals (with P for Pride bodies in the barangays and districts; R for Redress for discrimination; I and D for Inclusion and Diversity measures to be implemented in the private and public sectors; E for Empowerment of LGBTIQ people to access social services and vibrant LGBTIQ groups);

- SOGIESC awareness training for city hall employees, barangays, and districts;
- All-gender restrooms were set up at the City Hall;
- Some private establishments have undergone SOGIESC training before the issuance and renewal of business permits;
- QC Social Hygiene and Sundown Clinics provide diagnostic tests, treatment, and referral for medical services to people of diverse SOGIESC;
- Annual QC LGBTIQ Summit attended by LGBTIQ organizations from various barangays;
- QC sponsors an LGBTIQ commitment ceremony for LGBTIQ couples every February 14 called "Love is Pride, Pride is Love";
- QC organized the June 2023 Pride March with over 110,000 LGBTIQ members and allies who participated in the event;
- QC established the QC Protection Center, a one-stop crisis center, and the Bahay Kanlungan shelter that provide a multi-disciplinary approach for women, children, and LGBTIQ victim-survivors of violence. In 2019, the Philippine Commission on Women recognized the QC Protection Center as a Gender and Development Local Learning Hub;
- In collaboration with other stakeholders, QC now has the Right to Care Card for LGBTIQ couples, the first-ever Special Power of Attorney card for LGBTIQ couples where the right of partners to take care of the health needs of their partners are recognized by health institutions in QC and elsewhere.

4. What are the updates from other LGUs?

In 2012, Cebu City passed its ADO prohibiting discrimination based on disability, age, health status, sexual orientation, gender identity, ethnicity, and religion and creating an Anti-Discrimination Commission with its executive director. In 2022, Cebu City passed another ADO creating a SOGIESC Pride Empowerment Council. LGBTIQ advocates in different cities from Cebu province have been assisting each other in the passage of their respective ADOs and IRR.

In 2012, Davao City passed an ADO prohibiting discrimination based on sex, gender identity, sexual orientation, race, color, descent, national or ethnic origin, and religious affiliation or beliefs. In 2018, Davao City passed another ADO prohibiting discrimination on health status and included the membership of the City Health Office, LGBTIQ representatives, and the Integrated Gender and Development Division (IGDD) in the Anti-Discrimination Mediation and Conciliation Board. The LGBT Davao City Coalition is vibrant with 97 member LGBTIQ organizations.

In 2020, Cagayan De Oro City passed its ADO promoting diversity and equality through affirmative action and prohibiting discrimination based on

age, racial or ethnic origin, religious belief, sex, gender, sexual orientation, gender identity and expression, disability, health status, among others, and creating a Diversity and Equality Commission.

5. What is the impact of the collaborative work of stakeholders in the passage of ADOs?

Laguna

In 2022, EnGendeRights in partnership with the Office of Laguna Vice Governor Karen Agapay and its Youth Affairs and the youth group Kaakibat sa Inklusibong San Pablo (KAISA) conducted an Advocacy Workshop to Pass SOGIESC ADOs in Laguna with about 60 Laguna LGU officials/legislators, LGBTIQ people, and youth allies. With speakers discussing SOGIESC 101, LGBTIQ rights and their advocacy efforts to pass ADOs from various LGUs (Laguna Vice Governor Karen Agapay, San Pedro City Councilor Bernadeth Olivares, San Pablo City Councilor Angie Yang, Provincial Board Member Karla Adajar, and KAISA), EnGendeRights received feedback that the event contributed in the empowerment of the participants to strongly advocate for the passage of ADOs in Laguna.

By 2023, through the tireless efforts of local Laguna stakeholders, the ADOs of San Pedro City prohibiting SOGIESC-based discrimination and Laguna Province prohibiting discrimination based on gender were passed and established the Laguna Equality Council and a technical working group while the efforts for the passage of the San Pablo City ADO were ongoing. There were also new proposed ADOs in the pipeline prohibiting discrimination based on SOGIESC such as the proposed ADOs of Lumban and Sta. Maria.

Cross-Learning with Laguna, Cagayan De Oro, Makati, QC, Cebu and Davao

In July 2023, EnGendeRights together with co-sponsors (Balaod Mindanaw and CHR X from Cagayan De Oro (CDO); Office of the Vice Governor and KAISA from Laguna; Gays and Lesbians Association of Makati (GLAM)) conducted a "Cross-Learning Workshop on the Successful Passage of Anti-Discrimination Ordinances". The cross-learning activity was immensely effective in inspiring the activists and lawmakers from Cagayan De Oro, Makati, and other parts of Laguna because several LGU officials spoke about their successful efforts to pass their local ordinances including Laguna Vice Governor Karen Agapay and San Pedro Laguna Councilor Bernadeth Olivares while Lumban Laguna Councilor Jeromme Lacbay and CDO Councilor Imee Moreno spoke about their ongoing work and GLAM Makati Adviser Allan Cruz shared the active political representation of LGBTIQ groups and individuals in the Makati local development council, among others.

In October 2023, EnGendeRights together with co-sponsors Outright International and Sentrong APILA conducted a "Cross-Learning Forum on the SOGIESC Anti-Discrimination Ordinances of Cebu City, Davao City, and Quezon City". The Cross-learning was immensely effective in inspiring the activists from Cebu, Davao, QC, and other parts of the Philippines because we had several speakers from the local governments and LGBTIQ activists who spoke about their successful efforts to implement their local ordinances

and it was a great opportunity to discuss best practices and ways to improve the ADOs and their implementation.

Learning Session on SOGIESC Rights and Updates on ADOs and Pending Bills

On March 7, 2024, EnGenderRights and Outright International in partnership with the Office of Rep. Arlene Brosas and the GAD Offices of the House of Representatives and Senate conducted the **Learning Session on SOGIESC Rights and Updates on ADOs and Pending Bills** via Zoom. Representatives Arlene Brosas and Geraldine Roman, Joy Piccio (HReps Committee on Women Secretary), and other advocates presented updates on SOGIESC-related bills. With the high number of participants (237) including representatives from the government (HReps, Senate, Supreme Court, and other government offices) and LGBTIQ activists and allies, and the extensive discussions of the speakers and representatives from Congress, it was a great learning opportunity and an excellent venue to discuss updates on the bills, express support, and discuss ways to move forward.

6. What is the jurisdictional scope of the ADOs?

ADOs have differing provisions that afford protection for LGBTIQ people within their respective LGUs. While ordinances are necessary, their reach is only limited within the confines of the local government units, and discrimination and violence against LGBTIQ people continue to happen, hence, the need to pass national laws and intensify efforts to raise awareness of LGBTIQ people's rights, prevent discrimination against LGBTIQ people and effectively protect the rights of LGBTIQ people.

V. ADVOCACY/CAMPAIGN

1. What do we need to do to be able to pass local ADOs and national laws and effectively address discrimination based on SOGIESC?

We need to do the following:

Educate

- Conduct public awareness training on LGBTIQ people's rights, the violations LGBTIQ people suffer, access to remedies, existing laws/ADOs, best practices, and the need to pass new laws upholding LGBTIQ rights to be able to: eliminate discrimination against LGBTIQ people, gather public support to pass local ADOs and national SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill and ensure access to justice and services of LGBTIQ people
- Ensure that the rights of LGBTIQ people are incorporated in the comprehensive sexuality education modules under the Responsible Parenthood and Reproductive Health Law (RPRH Law or Republic Act 10354)
- Ensure that school curricula do not perpetuate harmful gender stereotypes

- Ensure access to information on existing ADOs/laws upholding LGBTIQ rights (see <https://LGBTIQLaw.com> for copies of the ADOs)

Organize and Strengthen Coalitions/Networks

- Organize people from diverse backgrounds/sectors (e.g., students/youth, teachers, workers, business sector, human rights activists, LGBTIQ groups, media, representatives from government, professional groups, and churches) to actively show their support for the passage of these laws
- Capacitate advocates and build/strengthen coalitions/networks to empower them to effectively advocate the passage of laws and effective implementation of laws
- Establish LGBTIQ organizations (e.g., LGUs, schools, workplaces)

Advocate

- Identify local and national champions (e.g., students/youth, LGBTIQ activists and allies, and local and national legislators)
- Ensure the passage and implementation of local ADOs throughout the Philippines; ensure that the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill cover all forms of discrimination and provide affirmative acts in all fields (e.g., education, employment, business, housing, health care, access to goods/services/ accommodation, political representation)
- Ensure the creation of local institutional diversity, equality, and inclusion policies (DEI) protecting LGBTIQ people in schools, workplaces, communities, and organizations

Prevent and Investigate Discrimination Against LGBTIQ People and Ensure Access to Redress (Due Diligence to Address Gender-Based Violence)

- Prevent discrimination against LGBTIQ people through education; investigate discriminatory acts and ensure that LGBTIQ people have access to redress

Implement, Monitor, and Evaluate DEI Policies and Programs; Ensure Representation of LGBTIQ People

- Create a body to implement and conduct monitoring and evaluation of the ADOs and DEI programs such as Pride Councils (city, provincial, municipal, barangay; schools; workplaces)
- Ensure representation of LGBTIQ activists in local development councils and crafting of local development plans
- Monitor the DEI policies that are in place (e.g., LGU and national government offices/establishments, schools/universities, private offices and establishments, hospitals, public transportation) and evaluate implementation
 - Monitor that schools/workplaces recognize and respect diverse expressions of SOGIESC (e.g., hairstyles, clothing, lived names, and pronouns, among others)

- Monitor the establishment of all-gender restrooms
- Monitor the creation of training modules and conduct of training and evaluate implementation and outcomes
- Ensure pro-active use of LGBTIQ-responsive language
- Ensure that forms to be filled out are inclusive allowing the use of names and pronouns based on one's gender identity, expression, or intersex status
- Ensure inclusive access to health care, health insurance, and right to care by partners; Also popularize intersex and transgender health guidelines of the Philippine Professional Association for Transgender Health, the World Professional Association for Transgender Health, and the World Health Organization
- Ensure that workplace settings are aligned with UN Guiding Principles on Business and Human Rights

2. What are various forms of campaign efforts?

Below are various forms of campaign efforts:

- Law and policy-making (bill, ordinance, Administrative Order drafting)
- Training/echo training (discussions/zoom galore, fora)
- Research and publication
- Networking/Coalition building
- Mobilizations/Rally/Online Rally
- Petitions/position papers/Letters/Pro-forma support letters
- Opinion/letter to the editor; Press releases, statements
- Mass Faxes/Calls/SMS/Viber/Emails/Postal mail
- Consultancies
- Engage government agencies
 - Congress/Senate visits/advocacy week
 - PCW, CHR, DOJ, PHRC, SC, CGRJ, PHILJA, etc.
- Social media campaign
 - FB posts, FB messages, boosting; FB page & chat groups
 - ❖ Hashtags - can boost the issue/post; facilitate search
 - ❖ Infographic/social media cards
 - ❖ Photo/videos (supporters' photos/videos)
 - ❖ Profile pictures
 - Tweeter; Instagram; YouTube; Tik Tok; Reddit
 - Twibbon
 - Websites
 - Blogs

- Art exhibits, songs, concerts
- Collaterals (t-shirts, pins, posters, stickers)
- Submission of Shadow Reports
 - CEDAW Committee, CRC, CESCR, HRC; UN Human Rights Council Universal Periodic Review; UN Special Rapporteurs, etc.
- Court Cases
- Organize
 - Youth groups, Sangguniang Kabataan
 - LGBTIQ groups
 - LGBTIQ business groups
 - Allies (various sectors, business groups, etc.)
- Political Representation
 - Student Council
 - Sectoral representatives in Local Development Councils
 - Party-list
 - Congress, government

3. Who are the congressional champions?

A. SOGIE Equality/SOGIESC Anti-Discrimination Bill

19th Congress

- Senate - Substitute Bill (S.B. 1600), Dec. 2022 - Comm. on Women, Children, Family Relations and Gender Equality (Primary Committee)
 - Sen. Risa Hontiveros (SB 139)
 - Sen. Loren Legarda (SB 245)
 - Sen. Mark Villar (SB 442)
- House of Representatives approved the bill in substitution of House Bills 222, 460, 3418, 4277, 5551, 6003, and 7036, May 2023 (additional co-sponsors: Rep. Jolo Revilla, Rep. Gus Tambunting, Rep. Ching Bernos, Rep. Bong Rivera, Rep. Coco Yap, Rep. Ma. Cynthia Chan, Rep. Ysabel Maria Zamora, Rep. Rachel Marguerite Del Mar, Rep. Maria Fe Abunda, Rep. Amparo Zamora) – Comm. on Women and Gender Equality (Primary Committee)
 - Rep. Geraldine Roman (HB 222)
 - Rep. Arjo Atayde (HB 460)
 - Rep. AA Legarda (HB 3418)
 - Rep. Ralph G. Recto (HB 3702)
 - Rep. Harris Christopher Ongchuan (HB 4177)
 - Rep. Christopher V.P. De Venecia (HB 4277)
 - Rep. Arlene Brosas/Gabriela Women’s Party, Rep. France Castro/ACT Teachers Party-List, Rep. Raoul Manuel/Kabataan Party-List (HB 5551)

- Rep. Patrick Michael D. Vargas (HB 6003)
- Rep. Edwin L. Olivarez (HB 7036)

18th Congress*

- Rep. Malou Acosta-Alba (HB 95)
- Rep. Alyssa Tan (HB7754)

B. Comprehensive Anti-Discrimination Bill

19th Congress

- Rep. Geraldine Roman (HB 224) – Comm. on Human Rights (Primary Committee)
- Sen. Grace Poe (SB 108) – Comm. on Social Justice (Primary Committee)
- Sen. Joel Villanueva (SB 747) [Note: No prohibition based on SOGIESC in this bill]

18th Congress*

- Sen. Sonny Angara (HB 137)

C. Civil Partnership Bill

19th Congress

- Rep. Bernadette Herrera Dy (HB 1015) – Comm. on Population & Family Relations (Primary Committee)
- Rep. Pantaleon D. Alvarez (HB 6782)
- Sen. Robinhood Padilla (SB 449) – Comm. on Women, Children, Family Relations and Gender Equality (Primary Committee)

D. Bill Recognizing Property Relations between Cohabiting Gender-fluid Couples amending Article 148 of the Family Code

- Rep. Margarita Nograles (HB 9502) – Comm. on Population & Family Relations (Primary Committee)

E. Cagandahan Bill (Allowing Change of Name and Sex for Intersex People Without Need of a Court Order Amending RA 9048 and RA 10172)

- Rep. Geraldine Roman (HB 9555) – Comm. on Justice (Primary Committee)
- Sen. Risa Hontiveros (SB 2626)

* Note: Names of legislators were not repeated in the 18th Congress

4. What other laws need to be passed?

Apart from the passage of the comprehensive national laws on SOGIESC Equality and anti-discrimination, **other laws that uphold the rights of LGBTIQ people including the gender identity recognition law, civil union/marriage equality law, and other LGBTIQ-inclusive policies need to be passed.**

Civil Union/Marriage Equality

The right to civil partnership, just like marriage equality, is a basic human right that everyone should enjoy – heterosexuals and LGBTIQ people alike. It is guaranteed by our constitutional rights to equality, equal protection of the law, privacy, religion, and belief.

It is an injustice to afford the benefits of marriage to heterosexuals and deny civil partnership and rights related to marriage to LGBTIQ people. The right to civil partnership and marriage equality rights must be recognized by Philippine law to afford them the same benefits enjoyed by heterosexuals such as the rights to jointly adopt children, own conjugal properties, intestate succession, immigrate/travel including under the Balikbayan Program under RA 6768 (as amended by RA 9174)/apply for visas as a couple, and avail of benefits related to insurance, social security, medical, hospitalization, next-of-kin, burial, housing (e.g., Pag-IBIG), among others.

There are LGBTIQ people who belong to various religions such as the Catholic Universalist Church of Asia Pacific, Ekklesia UCCP Iloilo, Freedom in Christ Ministries, Inclusive Church of the Philippines, LBGTs Christian Church Inc., Metropolitan Community Churches (MCC) Marikina, Northern Sanctuary MCC, Open Table MCC, Reformed Catholic Church, and Unitarian Universalist Church of the Philippines (UU) whose unions were celebrated by their churches here in the Philippines and now these couples want to be validly recognized as civil partners and, in the future, married by their Churches. Some of these Churches celebrate marriage for LGBTIQ couples in other countries where they are present such as UU and MCC.

In QC, hundreds of LGBTIQ couples have celebrated their unions in ceremonies held by the city government.

There are also LGBTIQ couples who do not belong to any church but would want to be married civilly. The absence of laws on civil partnership and marriage equality discriminates against LGBTIQ people and denies people of different faiths and beliefs their right to civil partnership and the right to marry.

Furthermore, the estimated over two million intersex Filipino people and people of other diverse SOGIESC in the Philippines are affected by the lack of a civil partnership and marriage equality law.

Spain, from which the Philippines inherited the Catholic religion, is the third country that recognized equality in marriage of LGBTIQ people in 2005. Recent predominantly Catholic countries that enacted marriage equality laws include Argentina, Belgium, Brazil, Ireland, Mexico, and Portugal.

As long as civil partnership and marriage equality are not recognized, people will always justify discrimination against LGBTIQ people.³⁵ Recognizing the right to civil partnership and marriage equality of LGBTIQ people is an

35 Clara Rita A. Padilla, PH law must recognize LGBTs' right to marry as basic human right: Rappler, Aug. 4, 2015, available at <https://engenderights.com/resources/sogie/lgbts-right-to-marry/>; <https://www.rappler.com/voices/ispeak/101507-ph-law-recognize-lgbt-right-marry/>.

important step towards eliminating discrimination against LGBTIQ people, paving the way towards a society where LGBTIQ people live a life of dignity and respect.

5. Are there existing national laws and policies that protect LGBTIQ people?

Certain national laws and policies afford protection for LGBTIQ people, namely:

- The Safe Spaces Act or RA 11313 penalizes all forms of gender-based sexual harassment (GBSH) such as words, gestures, or actions that ridicule based on SOGIESC including sexist, homophobic, transphobic statements, and slurs committed in public spaces, educational or training institutions, workplace, and online space. **RA 11313 defines gender identity/expression under Sec. 3.f.**, "Gender identity and/or expression refers to 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 physiological characteristics of the opposite sex, in which case this person is considered transgender."
- **Philippine HIV and AIDS Policy Act or RA 11166 defines gender expression under Sec. 3** "(j) Gender Expression refers to the way a person communicates gender identity to others through behavior, clothing, hairstyles, communication or speech pattern, or body characteristics" **and gender identity** under "(k) Gender Identity refers to 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."
- Degrading remarks or innuendoes based on one's sexual orientation can also be penalized under the Anti-Sexual Harassment Act, certain provisions of the Revised Penal Code, and administratively in violation of Civil Service Commission (CSC) Resolution No. 01-0940, or the Administrative Disciplinary Rules on Sexual Harassment Cases, which applies to all officials and employees in government.
- In December 2023, Executive Order 51³⁶ was issued creating the Special Committee on Lesbian Gay, Bisexual, Transgender, Queer, Intersex, and Asexual (LGBTQIA+) Affairs; reinforcing the Diversity and Inclusion Program (DIP); and reconstituting the Inter-Agency Committee on Diversity and Inclusion as the **Diversity and Inclusion Committee** to be led by Department of Social Welfare and Development (DSWD).³⁷

36 Executive Order 51 creating the Special Committee on Lesbian Gay, Bisexual, Transgender, Queer, Intersex, and Asexual (LGBTQIA+) Affairs, available at <https://www.officialgazette.gov.ph/2023/12/23/executive-order-no-49-s-2023-2/>.

37 The Secretaries of the Department of Migrant Workers (DMW) and the Department of Labor and Employment (DOLE) will co-chair the Committee while the Department of the Interior and Local Government (DILG) Secretary will serve as Vice Chair. The Department of Education (DepEd) Secretary will serve as a member along with the Secretaries of the Department of Justice (DOJ) and the Department of Health (DOH), and the chairpersons of the Commission on Higher Education (CHED) and the Special Committee on LGBTQIA+ Affairs. The Special Committee on LGBTQIA+ Affairs, on the other hand, is created under the Inter-Agency Committee with a rank of an Undersecretary with three members with the rank of Assistant Secretary, who shall all be appointed by the President from among members of reputable LGBTQIA+ community.

- The **Department of Education (DepEd) Gender-Responsive Basic Education Policy (DepEd Order No. 32, s. 2017)** protects children from all forms of gender-based violence, abuse, exploitation, discrimination, and bullying, and promotes gender equality and non-discrimination in the workplace and within the DepEd. In **DepEd Regional Memorandum NCR No. 358, s. 2022, DepEd NCR** reiterated, “[T]his Office reminds the field to respect the gender expression of students. Gender Expression refers to the way in which a person acts to communicate gender within a given culture, for example, in terms of clothing, communication patterns and interests. X x x School heads/School Administrators and all school personnel are hereby advised to **allow students to attend school-initiated activities such as End-of-School Year (EOSY) rites wearing clothes which are aligned with their gender identity, without restricting students’ gender expression x x x.**” [highlight supplied]
- **DepEd Child Protection Policy (DepEd Order No. 40, Series 2012 Sec. 3, para. J.)** mandates all public and private elementary and secondary schools to **prohibit discrimination based on SOGI**
- **DepEd IRR on the Anti-Bullying Act, 2013 expounds “gender-based bullying” to include acts committed based on perceived or actual SOGI**
- DepEd Order 45 (2008) No School Uniform - The wearing of a school uniform shall not be required in public schools.
- CHED Memorandum Order 1-2015 identifies SOGI as one of the priority areas for research in all the higher education institutions
- **CHED Memo Order 3, Series of 2022 Guidelines on Gender-based Sexual Harassment in Higher Education Institutions**
- As part of the Court’s Strategic Plan for Judicial Innovation, the court approved the Guidelines on the **Use of Gender-Fair Language in the Judiciary and Gender-Fair Courtroom Etiquette in 2022.**³⁸ In 2022, the Supreme Court suspended Manila MeTC Branch 26 Presiding Judge Jorge Emmanuel Lorredo for 30 days without pay for uttering homophobic slurs against two litigants in court.³⁹ In 2023, five lawyers were given a stern warning by the Supreme Court for their homophobic social media remarks.⁴⁰

6. What resolutions have been passed by the Bangsamoro Parliament to protect LGBTIQ rights?

The Bangsamoro Parliament passed two resolutions in September 2021 (**Proposed Resolution (PR) No. 524 and Resolution 170 (PR 526)**)

38 Guidelines on the Use of Gender-Fair Language in the Judiciary and Gender-Fair Courtroom Etiquette in 2022 A.M. No. 21-11-25, available at <https://sc.judiciary.gov.ph/wp-content/uploads/2022/11/21-11-25-SC.pdf>.

39 Judge Jorge Emmanuel Lorredo A.M. No. MTJ-22-007 promulgated March 9, 2022, available at <https://sc.judiciary.gov.ph/sc-adopts-jib-recommendation-suspends-judge-for-uttering-homophobic-slurs-in-court/#:~:text=Caguioa%2C%20the%20High%20Court%20adopted,for%20simple%20misconduct%2C%20after%20he.>

40 Re: Disturbing Social Media Posts of Lawyers/Law Professors, A.M. No. 21-06-20-SC promulgated April 11, 2023, available at <https://sc.judiciary.gov.ph/wp-content/uploads/2023/08/21-06-20-SC.pdf>.

condemning the discrimination based on SOGIESC in the region, reiterating the role of the Bangsamoro Human Rights Commission as gender ombud, and emphasizing concrete action plans to address SOGIESC-based violence in the region. Resolution No. 524 was authored by MP Punduma Sani while Resolution NO. 526 was authored by MP Susana Anayatin. Both resolutions were supported by MP Atty. Laisa Masuhud Alamia whose proposed amendments were adopted by the Parliament.

The adopted Proposed Resolution No. 524 condemns the killing of Omar Zinal and Hamza Rauf and urged the Bangsamoro Human Rights Commission as gender ombud to investigate the progress of the case.

Resolution No. 170 condemns the discrimination, violence, and murder of LGBTIQ community members in the municipality of Datu Piang in Maguindanao on September 18 and 19. The final version was amended to emphasize the need to “develop a concrete action plan” to respond to SOGIESC-based violence in the region.

7. Do the existing national laws and policies provide adequate protection for LGBTIQ people?

The existing laws on Safe Spaces, the Revised Penal Code,⁴¹ Child Abuse, Anti-Bullying, Magna Carta of Women, and the DepEd policies, among others, however, do not provide adequate protection for LGBTIQ people as evidenced by the ongoing violations of LGBTIQ people’s rights. Many violations against LGBTIQ people are not covered, express affirmative actions are not adequately provided and programs promoting LGBTIQ rights are not included in these existing laws, hence, the need to pass local ADOs and the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill.

41 Physical Injuries; Unjust vexation (Art. 287, 2nd par) is defined as “any conduct which unjustifiably coerces, annoys or irritates an innocent person” (penalty: *arresto menor*/1 day to 30 days or P5 or P200); Slander (Art. 358, RPC); Slander by Deed (Art. 359) (penalty: 1 day to 2 yrs. 4 mos. or P200-P1000); Grave Coercion (Art. 286, Revised Penal Code (RPC)); Light Threats (Art. 285, RPC) and Grave Threats (Art. 282, RPC); Serious Illegal Detention (Art. 267, RPC) and Slight Illegal Detention (Art. 268, RPC); Acts of lasciviousness (Art. 336) (penalty: *prision correccional*/6 mos. 1 day to 6 yrs.); Rape (incest; conspiracy; intimate partners/date rape).

VI. TOOLS

A. Sample PowerPoint presentation

1. Our call to uphold LGBTIQ Rights

Equality
Non-Discrimination
Diversity
Inclusion
Safe Space
Free from Fear and Discrimination
Respect
Access to Services and a Strong Support System
Participation/Representation

2. Constitutional Guarantees under the 1987 Constitution

- Right to equality and non-discrimination, equal protection of the law, and right to due process
 - Article III, Section 1 of the Bill of Rights: “[n]o person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.”
 - Article II on Declaration of Principles and State Policies, Sec. 14: The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.
- Right to Privacy
 - Rights to privacy and bodily integrity
- Freedom of thought, conscience, and religion
 - Separation of church and state
- Article II, Section 6: “The separation of the Church and State shall be inviolable.”
 - Non-establishment of religion
- Article III, Section 5: “No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. X x x ”

3. Universal Declaration of Human Rights⁴²

Article 1

All human beings are born free and equal in dignity and rights.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion,

42 Drafted by representatives from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A). It sets the fundamental human rights to be universally protected and sets a common standard of achievements for all peoples and all nations.

political or other opinion, national or social origin, property, birth or other status.

4. CEDAW

- **Discrimination against women** (Art. 1)
- Eliminate discrimination by **all appropriate means; enact policy measures** (Article 2)
- **Take all appropriate measures to guarantee women's human rights and fundamental freedoms** on a basis of **equality** (Article 3)
- Adopt **temporary special measures** aimed at accelerating de facto equality between men and women (Article 4; General Recommendation 5 and 25)
- **Right against the reinforcement of traditional attitudes and stereotypes against women** (Art. 5 (eliminate prejudices and customary practices based on gender roles), Art. 10 (education) and Art. 11 (employment))
- Right to non-discriminatory health care (Art. 12)
- Economic and social benefits (Article 13)
- Equality before the law (Article 15)
- Rights in marriage (Art. 16)
- Adopt all necessary measures to achieve the **full realization of the rights** recognized in CEDAW (Article 24)

The **intersecting forms of discrimination against women including SOGIESC** are recognized in **articles 1 and 2** of the Convention and the CEDAW Committee's **general recommendation Nos. 27 (older women), 28 (on the core obligations of States parties under article 2), 32 (gender-based violence related to refugee, asylum, nationality), 33 (access to justice), and 35 (gender-based violence).**

5. CEDAW General Recommendation 27 (protection of rights of older women and intersectionality of discrimination), October 2010

The discrimination older women experience is often multidimensional, with age discrimination, compounding other forms of discrimination based on sex, gender, ethnic origin, disability, levels of poverty, **sexual orientation and gender identity, migrant status, marital and family status, literacy and other grounds.** Older women who are members of minority, ethnic or indigenous groups, or who are internally displaced or stateless often experience a disproportionate degree of discrimination.⁴³ [highlight supplied]

6. CEDAW General Recommendation 28 (on the Core Obligations of States Parties under Article 2 of CEDAW)

18. Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2. The discrimination of women based on sex and gender

43 CEDAW G.R. 27, para 13.

is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, **health, status, age, class, caste, and sexual orientation and gender identity**. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways than men. **States parties must legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact** on the women concerned. They also need to **adopt and pursue policies and programmes designed to eliminate such occurrences**, including, where appropriate, **temporary special measures** in accordance with article 4, paragraph 1, of the Convention and General Recommendation No. 25. [highlight supplied]

7. **ICCPR - Human Rights Committee Case on Sexual Orientation
Toonen v. Australia, Comm. No. 488/1992 (1994)**

- **Prohibition of private homosexual behavior is an arbitrary intrusion on privacy rights** (Article 17 of the ICCPR)
- Criminalization of homosexual behavior cannot be considered a reasonable means of combating HIV/AIDS
- **Sexual orientation** is considered "sex" and protected under articles 2 and 26 (**equal protection of the law**)

8. **Homosexuality, lesbianism & transgenderism were removed from the list of mental disorders:**

- American Psychiatric Association on December 15, 1973
- American Psychological Association in January 1975
- World Health Organization removed homosexuality on May 17, 1990 (IDAHOT)
- WHO International Classification of Diseases (ICD) - 11 (2019) - **transgender identity is not a mental disorder** [considered "gender incongruence" between a person's experienced gender and assigned sex]
 - Reject the pathologization of gender identities and expressions

9. **Yogyakarta Principles, March 26, 2007**

- Affirmation of the rights to sexual orientation
- Released by international human rights experts in a worldwide call for action against sexual orientation discrimination
- The Principles were adopted by 29 distinguished experts in international law following a meeting in Yogyakarta, Indonesia

Among the group of experts were

- former United Nations High Commissioner for Human Rights and former President of Ireland Mary Robinson
- UN independent experts including Philip Alston (former UN Special Rapporteur on extrajudicial, summary, and arbitrary executions) and

Paul Hunt (former UN Special Rapporteur on the right to the highest attainable standard of health)

- current and former members of human rights treaty bodies, judges, academics and human rights defenders

10. Important Activism Events

- Women's Month, March
- International Transgender Day of Visibility (TDOV), March 31
- Lesbian Visibility Day, April 26
 - Lesbian Visibility Week starting with Lesbian Visibility Day
- The International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT), May 17
- Women's Health, May 28
- Pride Month, June
- Celebrate Bisexuality Day (CBD; also called Bisexual Pride Day, Bi Visibility Day, Bisexual Pride and Bi Visibility Day, and Bisexuality+ Day), September 23
- National Coming Out Day (NCOD), Oct. 11
- Intersex Awareness Day, October 26
- Transgender Day of Remembrance (TDOR), Nov 20
 - Trans Awareness Week (week before TDOR)
- 16 Days of Activism Against Gender-Based Violence, Nov. 25-Dec. 10
- Human Rights Day, Dec. 10

Note: See discussion on national laws where RA 11166 and 11313 define gender identity and expression

B. Sample letter to legislators

RE: Support the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill

Dear (Hon. Representative/Senator),

Lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people suffer discrimination and violence based on their sexual orientation, gender identity, expression and sex characteristics (SOGIESC). Discrimination and violence also lead to suicides of LGBTIQ people.

We call on our legislators to end discrimination, violence, and hate crimes against LGBTIQ people by urgently passing the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill to prohibit all types of discrimination and violence against LGBTIQ people and promote equality of LGBTIQ people.

The SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill have not been passed into law despite the lapse of over 25 years since the first anti-discrimination bill was first filed in 1999. This

continued inaction makes the Philippines complicit to the countless violations of the rights of LGBTIQ people.

Stand up and be counted. We need your support to pass the SOGIESC Equality/SOGIESC Anti-Discrimination Bill and Comprehensive Anti-Discrimination Bill to be passed into law to explicitly prohibit discrimination and abuses against LGBTIQ people and provide effective remedies and affirmative actions.

Sincerely,
(Your name and signature)
(Designation and organization)

C. Sample press release

July 24, 2023

FOR IMMEDIATE RELEASE

Contact Person:

Atty. Clara Rita "Claire" A. Padilla

Executive Director

EnGendeRights, Inc.

Mobile: x x x

Email: engenderights@gmail.com

Blog: <https://clararitapadilla.blogspot.com>

Twitter: @EnGendeRights

YouTube: EnGendeRights

Like us: <https://www.facebook.com/engenderightsphilippines>

Website: <https://engenderights.com>; <https://LGBTIQLaw.com>

SONA patently absent on the rights of LGBTIQ people;
EnGendeRights calls on President Marcos to address long-standing violations of LGBTIQ people's rights, provide expanded assistance and certify the SOGIESC Anti-Discrimination Bills as priority⁴⁴

July 24, 2023, Quezon City – "While President Marcos Jr. mentioned social protection, economic and employment programs, quality education for all, and programs to increase access to health services, we have reports of the long-standing and continued discrimination and abuses against lesbian, gay, bisexual, intersex and queer (LGBTIQ) people by parents, teachers/schools, community, employers and churches. LGBTIQ people are forced to leave their homes and schools due to abuses at a young age and they have difficulty finding jobs and face discrimination by employers. This has resulted in homelessness, joblessness, hunger, lack of savings, lack of access to social security, health care, and other government services. We wanted to hear about his administration's plans to

44 Covered in <https://www.rappler.com/nation/groups-flag-lack-lgbtq-rights-marcos-sona-2023/> and <https://headtopics.com/ph/groups-flag-lack-of-lgbtq-rights-in-marcos-sona-2023-41508889>.

address the violations of LGBTIQ people's rights and to provide expanded assistance to LGBTIQ people as they have suffered lifelong discrimination and abuses. Given the prevailing violations of the rights of LGBTIQ people and the lack of respect for equality, diversity, and inclusivity, LGBTIQ people will continue to be marginalized and unable to access the government's intended programs, thus, we call on the president to uphold the rights of LGBTIQ people and certify the SOGIESC Anti-Discrimination Bills as a priority," said Atty. Clara Rita Padilla, the Executive Director of EnGenderRights.

Atty. Padilla added, "LGBTIQ people suffer discrimination and violence at the very hands of their parents and family, their schools and employers, and in their communities. They are subjected to rape, torture, murder, violence, and abuse because of their SOGIESC, and experiences of discrimination and violence also lead to suicides of LGBTIQ people."

Atty. Padilla added, "This is a cause for grave concern. There is widespread discrimination against LGBTIQ people, yet the national SOGIESC Anti-Discrimination Law has not been passed into law despite the lapse of over 24 years since the first anti-discrimination bill was first filed in 1999. Government officials should emulate the example of various local governments that have passed local ordinances protecting the rights of LGBTIQ people. In Quezon City, I helped out in drafting the QC Gender-Fair Ordinance that was passed into law in 2014. It penalizes all forms of discrimination and abuses against LGBTIQ people and provides for affirmative acts to protect LGBTIQ people. In the QC Gender-Fair Ordinance, the barangay VAWC Desk Officers handle gender-based violence against LGBTIQ people; barangay protection orders can be issued to LGBTIQ survivors of discrimination and gender-based violence; public and private establishments are mandated to designate all-gender restrooms; establishments are mandated to undergo SOGIESC training before issuance and renewal of business permits; training on SOGIESC are mandated to be conducted in schools and workplaces, among others. It is high time that the SOGIESC Anti-discrimination Bill and Comprehensive Anti-Discrimination Bill are passed into law this 19th Congress."***

D. Sample opinion/letter to the editor

TO: Editor in Chief/Opinion Section Editor, Rappler

FROM: Atty. Clara Rita "Claire" Padilla, Executive Director, EnGenderRights

DATE: February 21, 2022

RE: Opinion

Email: opinion@rappler.com

Contact Details:

Atty. Clara Rita "Claire" A. Padilla

Executive Director

EnGenderRights, Inc.

Mobile: x x x

Email: engenderights@gmail.com

Twitter: @Clara Rita Padilla

Jake Zyrus, Vice Ganda, SOGIESC Equality and Comprehensive Anti-Discrimination Bills and the 2022 Elections

Last February 18, Jake Zyrus posted his shirtless photo. Before this, news articles and videos on Vice Ganda's wedding with husband Ion Perez also came out.

There were many appreciative comments but deeply concerning were the scathing comments of netizens against Jake Zyrus and Vice Ganda and husband. Insults were hurled and derogatory and discriminatory statements were made, some in the name of religion and God clearly showing that homophobia, transphobia, and discriminatory attitudes against LGBTIQ people abound in the Philippines.

With such flagrant disrespect for LGBTIQ people's rights, one would question what schools, parents, and even churches are imparting to their students, families, and members when basic values of respect and compassion for other people are blatantly absent. Are basic rights to being born free and equal not taught at all? How about being decent human beings who respect diversity? In this age of the internet, anybody can easily research and find the United Nations citing statistics that intersex people comprise about 1.7% of the global population, a similar percentage of red-haired people, with an estimated 1.8 million Filipino intersex people.

Such kinds of oppressive beliefs and discriminatory attitudes fuel hatred and even violence against LGBTIQ people. In my human rights work, there have been many LGBTIQ people who suffered abuses at the very hands of their parents and family, their schools, and employers. Countless LGBTIQ people have been subjected to hate crimes. Certainly, such oppressive beliefs, discrimination, hatred, and abuses against LGBTIQ people do not have a place in this world where there should be equality, respect, diversity, and inclusion.

These discriminatory attitudes highlight the urgent need to pass laws on SOGIESC Equality and Comprehensive Anti-Discrimination based on all forms of discrimination to put a stop to discrimination against LGBTIQ people. A law upholding the right to one's sexual orientation, gender identity, expression, and sex characteristics (SOGIESC) protects LGBTIQ people against all forms of discrimination and abuses where erring individuals would be held liable and affirmative actions would be in place to promote and respect the rights of LGBTIQ people. With affirmative actions in place, modules and training on LGBTIQ rights will be ensured in schools, local government units, and workplaces; establishments will be required to provide all-gender restrooms; scholarship, educational, employment, business, health care, and housing needs of LGBTIQ people will be addressed; access to justice will be ensured through responsive services including access to barangay protection orders and restraining orders; discriminatory policies will be repealed and the enactment of inclusive laws and policies will be prioritized.

At this crucial election campaign and upcoming elections, it is important to support and vote for candidates who will uphold the rights of LGBTIQ people including the passage of the SOGIESC Equality Bill/Comprehensive Anti-Discrimination Bill, gender recognition, marriage equality and inclusive laws and policies. Track record on upholding human rights, democracy, basic freedoms of

speech and assembly, good governance, holding accountable state and non-state actors liable, and basic honest, incorruptible, law-abiding tax-paying citizens are all important considerations.

Your vote in support of LGBTIQ people’s rights, basic freedoms, and good governance will lead us closer to ending discrimination based on SOGIESC towards the path to equality of LGBTIQ people.***

About the writer: Clara Rita “Claire” Padilla is the founder and executive director of EnGendeRights. She has been practicing law for over 27 years and is known in the Philippines and internationally, working in the fields of gender and diverse sexual orientation, gender identities, and expression. She has worked in the Philippines and New York (i.e., International Visiting Legal Fellow at the Center for Reproductive Rights).

Note: This opinion was published by Rappler entitled, “**Jake Zyrus, Vice Ganda, SOGIE bills, and the 2022 elections**”, Clara Rita Padilla, Feb. 22, 2022, available at: <https://www.rappler.com/voices/thought-leaders/opinion-jake-zyrus-vice-ganda-sogie-bills-2022-elections/>

E. Sample Letter to DepEd/CHED against gender-based discriminatory policies in basic and higher education

RE: Complaint against gender-based discriminatory policies in basic and higher education

Hon. _____
Secretary
DepEd
2F Rizal Bldg., DepEd Complex
Meralco Ave., Pasig City
Tel: 8633-7208 8633-7228 8687-2922
Fax: 8636-4876 8637-6209
Email: sec@deped.gov.ph

Chairperson
CHED Center Building
C.P. Garcia Ave, Diliman, Quezon City, Philippines
Tel. (02) 8441-1260; 0999-4445-996
Email: chairperson@ched.gov.ph; info@ched.gov.ph

[name of school head]
(designation)
(name of school)
(address; email; telephone)

Dear Hon. ___ /Chairperson ___/School Administrator,

We are concerned with the recent discriminatory acts against ___ [name of student] ___ who was refused from ___ [cite acts of discrimination] ___.

Refusing a student from entering school premises and attending class, graduation, and other school activities based on discriminatory practices and policies on hairstyles, uniforms, and behavior infringes on a student's rights to education and freedom of expression.

We urge your office to take action on the complaint of the student and to protect the rights of said student against discrimination. We urge your office to take active steps to:

- Eliminate all forms of discrimination and abuse and promote basic respect for gender identity, expression, and intersex status
- Recognize and respect diverse expressions of sexual orientation, gender identity, expression, and sex characteristics (SOGIESC) that are aligned with the student's gender identity, expression, and intersex status (e.g., hairstyles, clothing, lived names, and pronouns, among others)
- Ensure that school curricula do not perpetuate harmful gender stereotypes

We call on your office to abide by the DepEd/CHED policies and other related national and international laws, to wit:

- **DepEd Gender-Responsive Basic Education Policy (DepEd Order No. 32, s. 2017); DepEd Regional Memorandum NCR No. 358, s. 2022; DepEd Child Protection Policy (DepEd Order No. 40, Series 2012 Sec. 3, para. J.); DepEd Order 45 (2008) No School Uniform**
- **CHED Memo Order 3, Series of 2022 Guidelines on Gender-based Sexual Harassment in Higher Education Institutions**

Sincerely,

(Your name and signature)

(Designation and organization)

Note:

1. See the **Collective Letter of CSOs to Dep-Ed and CHED against Gender-Based Discriminatory Policies in Basic and Higher Education: Discriminatory Policies on Haircuts, Uniforms, and Names; Respect Students' Lived Name, Gender Identity and Expression**, August 31, 2022,⁴⁵ available at <https://LGBTIQLaw.com>
2. **CHED Public Assistance and Complaints Desk** – (02) 8441-1260; CHED Hotline – 0999-4445-996

45 Collective Letter of CSOs to Dep-Ed and CHED against Gender-Based Discriminatory Policies in Basic and Higher Education, available at <https://www.facebook.com/photo/?fbid=5428662717225610&set=pcb.5428672240557991>.

VII. ANNEXES

A. SOGIESC Equality/SOGIESC Anti-Discrimination Bill outline of provisions - Senate – S.B. 1600, Dec. 2022

1. Discriminatory practices:

- Including SOGIESC in the hiring, promotion, dismissal, and benefits in private and public sectors including contracting juridical persons
- Refusing admission or expelling in education or training including police and military based on SOGIESC of student/parents/guardian
- Imposing disciplinary sanctions, penalties harsher than customary or similar punishments, restrictions, or prohibitions that infringe on the rights of students' SOGIESC
- Refusing registration of an organization, group, or political party based on SOGIESC
- Denying access to emergency or necessary health services based on SOGIESC
- Subjecting a person deprived of liberty to extortion, abuse, or punishment based on SOGIESC
- Subjecting a child or forcing a child to undertake any medical or psychological examination or procedures to determine and/or alter one's SOGIESC
- Preventing a child from exhibiting or expressing one's SOGIE or manifesting rejection of the child's SOGIESC by inflicting or threatening to inflict physical harm, emotional suffering, or committing any act or omission prejudicial to the child as a result of bias against the child's SOGIESC
- Denying access to public services based on one's SOGIESC
- Denying an application for or revoking a license, clearance, or certification issued by a government based on SOGIESC
- Denying a person access to or use of establishments, facilities, utilities, or services including housing based on SOGIESC and provision of inferior accommodation or services
- Subjecting any person or groups to unwarranted investigatory activities, searches based on SOGIESC

Note: a) Defines bisexual, discrimination (direct and indirect), gay, gender expression, gender identity, hate crimes, intersex, lesbian, persons of diverse SOGIESC, sexual orientation, and transgender; b) Has a provision on "Communities Vulnerable to Discrimination and Abuse on the Basis of SOGIESC"

2. Privacy rights

3. Administrative Sanction for Delay

4. Penalties - Gradation of penalties: P100,000-P500,000 and/or 1-6 years; prescription 3 years; Special Aggravating Circumstance

5. Redress:

- Women and Children and Persons of Diverse SOGIESC Protection Desk
 - CSC/DOLE grievance
 - CHR to investigate and recommend filing
6. Government Programs:
 - Environment free of stigma
 - Social Protection Programs
 - Diversity and Inclusion Programs and Training in government, LGU, private institutions, and schools
 - IEC
 7. Empowering portrayal in media, incentives, and awards
 8. SOGIESC Equality Congressional Oversight Committee (SECOC):
 - Create the Anti-Discrimination Oversight Committee within 60 days from enactment; 5 members
 - Senate members – Chair of Committees on Women and Justice
 - House – Chair of Committees on Women and Human Rights
 - Monitor compliance of public institutions; audit within 3 years of national and local policies that discriminate based on SOGIESC and report to Congress, Office of the President, and Supreme Court
 9. Inter-Agency Council on SOGIESC Equality
 10. Appropriations – Utilize the Gender and Development (GAD) budget and LGUs may use 20% of their internal revenue allotment
 11. Crafting of IRR
 12. Repealing Clause
- B. SOGIESC Equality/SOGIESC Anti-Discrimination Bill outline of provisions – House substitute bill for House Bills 222, 460, 3418, 4277, 5551, 6003, and 7036, May 2023**
1. Discriminatory practices:
 - Advertising, producing, and publishing materials promoting, encouraging, and perpetuating stigma or inciting violence and sexual abuse against any person or group based on SOGIESC
 - Denying access to public services to any person based on SOGIESC
 - Including SOGIESC, as well as the disclosure of one’s SOGIESC, in the criteria for hiring, promotion, transfer, designation, work assignment, re-assignment, and dismissal
 - Refusing admission or expelling a person from any educational or training institution, such as police and military academies or training institutions, based on SOGIESC

- Imposing disciplinary sanctions, penalties harsher than customary or similar punishments, requirements, restrictions, or prohibitions that infringe on the rights of the students based on SOGIESC
- Refusing registration of an organization, group, or political party based on SOGIESC
- Denying access to medical or other health services based on SOGIESC
- Denying an application for or revoking a license, clearance, or certification issued by a government based on SOGIESC
- Denying a person access to or use of establishments, facilities, utilities, or services including housing open to the general public based on SOGIESC.
- Subjecting or forcing any person to undertake any medical or psychological examination or procedures to determine and/or alter one's SOGIESC
- Harassment, coercion, or threats committed based on SOGIESC by those involved in law enforcement whether they belong to the public or private sector including arresting and subjecting to extortion, physical, verbal abuse, or sexual abuse; including harassment of juridical persons, clients
- Publishing information intended to "out" or reveal the SOGIESC without their consent and made with malicious intent or primarily motivated by a desire for commercial profit
- Engaging in public speech, except religious speech made in a religious service, meant to shame, insult, vilify, or which tends to incite or normalize the commission of discriminatory practices against persons of diverse SOGIESC and which acts or practices intimidate or result in the loss of self-esteem
- Subjecting persons or groups of persons to harassment that is motivated in whole or in part by the offender's bias, or belief regarding the offended party's SOGIESC including physical assault, stalking, or making derogatory comments, slurs, or lewd propositions and may be conducted through any form of medium including but not limited to visual representation, broadcast communication, correspondence or communication through mail or any telecommunication or through cyberspace
- Subjecting any person, natural or juridical, to gender profiling or any investigatory activities which include: (i) unnecessary, illegal, or degrading whether an individual is engaged in an activity presumed to be unlawful or socially unacceptable; (ii) recording and analyzing a person's psychological and behavioral characteristics to make generalizations about one's SOGIESC

- Preventing a child from exhibiting or expressing one's SOGIESC or manifesting rejection of the child's SOGIESC by inflicting or threatening to inflict physical harm, emotional suffering through intimidation, harassment, public ridicule or humiliation, repeated verbal abuse, or committing any act or omission prejudicial to the child as a result of bias against the child's SOGIESC
- Adopting a measure that fails to address SOGIESC disadvantages resulting in persons of diverse SOGIESC being denied their rights and access to opportunities or benefits including denial of reasonable accommodation, economic assistance programs extended only to heterosexual couples to the exclusion of those couples with diverse SOGIESC
- Subjecting a person to analogous acts that shall have the effect or purpose of impairing or nullifying the enjoyment or exercise of a person's rights and freedoms

Note: a) Defines asexual, bisexual, discrimination (direct and indirect), gay, gender expression, gender identity, hate crimes, intersex, LGBTQIA+, lesbian, sexual orientation, transgender, queer; b) Has a provision on "Communities Vulnerable to Discrimination and Abuse on the Basis of SOGIESC"

2. Penalties - P100,000-P500,000 and/or 1-12 years; prescription 3 years; Special Aggravating Circumstance

Note: Other provisions are similar to the Senate version

C. Comprehensive Anti-Discrimination Bill outline of provisions – HB. 224 filed by Rep. Geraldine Roman, June 2022

1. Prohibited Grounds for Discrimination – indirect or direct discrimination based on actual or perceived ethnicity, race, color, sex, gender, sexual orientation, gender identity, gender expression, sex characteristics, language, religious expression or belief, political or other opinion, national or social origin, property, birth, and other status, and other protected attributes, including disability, age, nationality, marital and family status, health status, place of residence, economic and social situation, maternity and pregnancy; these personal characteristics shall be collectively termed as Protected Attributes
2. Prohibited Acts of Discrimination – actual or perceived
 - Denial of right:
 - to political participation/organization/employment/education and training
 - access of goods and services/reasonable accommodation/access places, facilities and modes of transportation for public use and to attend meetings open to the public
 - to publication of advertisement or access to mass media
 - against wrongful portrayal
 - to freedom of speech, utterances, acts of hatred and similar acts

- to health and well-being
- against profiling
- against illegal detention and confinement
- Denial of protection against inflicting stigma
- Discrimination through Analogous Acts That Result in Impairment of the Enjoyment of Human Rights and Fundamental Freedoms

Note: Defines direct and indirect discrimination, gender expression, gender identity, intersex, sexual orientation

3. Inciting others to commit acts of discrimination
4. Protection Against Abuses by State and non-state actors
5. Exceptions to Prohibited Acts of Discrimination:
 - genuine occupational qualification
 - inherent requirement
 - where the religious doctrines or beliefs of a person or a body established exclusively for religious purposes compel such person or body to perform acts necessary to avoid injury to the religious sensitivities of adherents of that religion provided that such acts or practices do not result to disruption of public service or promote discrimination against protected sectors under this Act
 - measure of equality or affirmative action programs
 - where sectarian education and training institutions invoke their right to academic freedom to determine and implement school policies, rules, and regulations, these should not be contrary to law, public order, public policy, and the Constitution
6. Persons Liable – Any person, natural or juridical, including government or private corporation, institution, or company who commits discrimination through any of the acts described in Sections 5, 6, and 7; any person who requests, instructs, induces, authorizes or assists another to commit acts of discrimination; any person who is duty bound to act on complaints of discrimination but fails, refuses or cause under delay
7. Creation of Non-discrimination and Equal Opportunity Committees
8. Duty of CHR – assist, review, and recommend procedures for the resolution or prosecution; create a Non-Discrimination and Equal Opportunity Office
9. Responsibility to Promote a Non-discrimination and Equal Opportunity Environment
 - Duty of all to ensure non-discrimination and equal opportunity and that no discriminatory acts are committed; environment free of stigma
 - Social Protection Program
 - Diversity and Inclusion Programs and Policies - government, private institutions, and schools

10. IEC
11. Affirmative Acts
12. Penalty 1-6 months; fine P10,000-P100,000
13. Administrative Proceedings and Sanctions
14. Reparation to Victims
15. Burden of Proof
16. Creation of an Oversight Inter-Agency Committee

D. Proposed prohibition to be added to the ADOs, SOGIESC Equality/SOGIESC Anti-Discrimination Bill, and Comprehensive Anti-Discrimination Bill

Add additional prohibited acts to include: Refuse a student to enter school premises, attend class, graduation, and other school activities based on discriminatory practices and policies on hairstyles, uniforms, and behavior that infringe on a student's rights to education and freedom of expression.

VIII. AVAILABLE RESOURCES

Copies of the ADOs, Toolkit, bills, Collective Letter of CSOs to DepEd/CHED,⁴⁶ Shadow Report, and other related publications mentioned below are available at the EnGendeRights websites <https://LGBTIQLaw.com> and <https://engenderights.com>:

- **Golden Rainbow: Stories of Pain, Grit, Duty and Love of Filipino Older LGBT People**, 2023, produced by EnGendeRights, Outright International, and SAGE. Written by: Ging Cristobal, Clara Rita Padilla, Annette Visbal, and Grace Poore, available at <https://lgbtiqlaw.com/wp-content/uploads/2024/02/Golden-Rainbow-Older-LGBT-Storybook-English.pdf>
- **PHILIPPINES: Impacts Of Ageism and Lifelong Discrimination on Older LGBTI People [Fact Sheet]**, May 2023, produced by EnGendeRights, Outright International and SAGE. Written by Clara Rita Padilla, Ging Cristobal, and Grace Poore, available at <https://lgbtiqlaw.com/wp-content/uploads/2024/02/EnGendeRights-Outright-Older-LGBTI-English-FactSheet-web.pdf>
- **Protocol to Address Domestic and Family Violence Experienced by LGBTI Persons in the Philippines**, Outright International and EnGendeRights, Ging Cristobal and Clara Rita A. Padilla, available at <https://lgbtiqlaw.com/wp-content/uploads/2024/02/VI.A.1-PROTOCOL-Addressing-DV-FV-Experienced-By-LGBTI-Persons-lowres.pdf>

⁴⁶ *Id.*

About EnGendeRights

EnGendeRights has a long track record in championing the rights to equality and non-discrimination of women and lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) persons through its domestic and international legal and policy work, research, publication, training, and impact litigation. EnGendeRights has actively advocated for the adoption of laws, policies, and even international conventions (with Atty. Clara Rita Padilla as part of the IWRAP-AP NGO contingent to the Geneva Open-Ended Working Group that advocated for the adoption of the OP ICESCR adopted in 2008) and regional human rights mechanisms (to establish the ASEAN Intergovernmental Commission on Human Rights (AICHR) launched in 2009) upholding the rights of women and rights based on sexual orientation, gender identity, expression, and sex characteristics (SOGIESC).

EnGendeRights has done groundbreaking work raising Filipino women's and SOGIESC concerns using United Nations mechanisms through shadow reports and oral interventions (CEDAW Committee in New York 2006, Geneva 2016 and 2018, 2023; Human Rights Council Universal Periodic Review in Geneva, 2008, 2012, 2016) and the request for inquiry on reproductive rights violations in the Philippines submitted to the CEDAW Committee working closely with various domestic and international organizations. EnGendeRights through its executive director Atty. Clara Rita Padilla has also been part of the Outright International Advocacy Week team (NY 2016) where they raised LGBTIQ concerns with UN officials and diplomats of various embassies.

EnGendeRights actively promotes the right to SOGIESC in its trainings since 2005 with various stakeholders as participants (judges, justices, prosecutors, lawyers, teachers, students, barangay officials, police officers, doctors, nurses, social workers, psychologists, media, other government representatives (legislators, PCW, CHR, among others), NGO workers, women, workers, LGBTIQ advocates, and other allies).

In partnership with Outright International from 2016 until the present, EnGendeRights has worked closely with numerous local government units (QC, Muntinlupa, Pasig, San Juan, among others) by training its officials and developing protocols to address gender-based violence and discrimination based on SOGIESC including against police-perpetuated abuses. In partnership with Outright International, EnGendeRights has been implementing a project to further the rights of older LGBTIQ people since 2021.

Under the EMERGE project, EnGendeRights has been working on the passage of SOGIESC anti-discrimination ordinances and the SOGIESC Equality and Comprehensive Anti-Discrimination Bills through training, press releases, opinions, publication, and other advocacy efforts.

EnGendeRights through Atty. Padilla has conducted various trainings and discussions on SOGIESC rights in the Philippines and internationally (APCRSH in India, 2007; ILGA World Conference in Bangkok, 2016; Outright International event for global companies in Seattle, June 2018; UN mechanism litigation strategies in Nepal, 2007; UN treaty monitoring body jurisprudence on SOGIESC rights in Jakarta, 2007).

EnGendeRights uses a rights-based approach to advocate for sexual and reproductive health and rights, repeal of discriminatory laws and policies against women and LGBTIQ persons, and the passage of laws and policies upholding LGBTIQ rights including anti-discrimination laws and ordinances, gender identity recognition, marriage equality and other LGBTIQ-inclusive policies.

EnGendeRights has various trailblazing resources available at <https://LGBTIQLaw.com> and <https://engenderights.com>.



EnGendeRights, Inc
Asserting Gender Equality

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