

THE SITUATION OF LGBTQ CHILDREN IN THE PHILIPPINES

A Report by the Commission on Human Rights

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Executive Summary

“What we are asking for is equal treatment.”

- Sam, a lesbian from Region 4A

Children in the Philippines face a wide range of human rights issues. Some children are made more vulnerable to human rights violations due to other aspects of their identities, such as class; ethnicity; disability; and sexual orientation, gender identity and expression, and sexual characteristics (SOGIE). For children who are perceived to be and/or identify as lesbian, gay, bisexual, transgender, queer and intersex (LGBTQ), these vulnerabilities are increased due to widely held heteronormative views that foster and justify the violence and discrimination against them. Despite this increased vulnerability, issues that are specific to LGBTQ children have for the longest time been on the fringes of LGBTQ rights and child rights discourses.

What is the situation of LGBTQ children in various spheres of their lives? What policies, programs and services exist to protect and promote the rights of LGBTQ children? How can the Philippine government better fulfill its obligations to respect, protect and fulfill the rights of LGBTQ children? These are the questions that the Commission on Human Rights (CHR), as part of its mandate to monitor the Philippine Government’s compliance to its international human rights obligations, endeavors to answer in this Report on the Situation of LGBTQ Children in the Philippines. This is in line with the Philippine Government’s obligation as a State Party to the UN Convention on the Rights of the Child (CRC) to respect, protect and fulfill the rights of all children, regardless of a child’s SOGIE.

The Commission, through its Center for Gender Equality and Women’s Human Rights (CGEWHR), Child Rights Center, and its sixteen (16) regional offices, collected information on the human rights of LGBTQ children through key informant interviews (KIIs) with LGBTQ children and focus group discussions (FGDs) with various government and non-government stakeholders.

The KIIs inquired on LGBTQ children's sense of safety in the home, local community, educational institutions, religious institutions and public facilities. The responses reveal various human rights issues that LGBTQ children face, including: violence in the homes, discriminatory school policies and practices, bullying and harassment, and lack of access to health services. These are perpetrated by diverse actors including law enforcers, parents and family members, school administrators and personnel, classmates, and people in their community.

The FGD results showed that while government agencies and local government units have existing policies, programs and services broadly designed to protect the rights of children that in principle cover LGBTQ children, they are insufficient in addressing the particular issues that they face. For instance, even if there are anti-bullying policies in schools, implementation of mechanisms for protecting victims from reprisal is weak, and there are no clear mechanisms that address SOGIE-based stereotypes and prejudices that make LGBTQ children targets for bullying to begin with. This is confirmed by KII responses that indicate that LGBTQ children do not feel safe enough to report bullying cases.

The domestic legal framework for the protection and promotion of the rights of LGBTQ children is comprised of a mix of child protection laws (Anti-Child Abuse Law, Anti-Bullying Law); laws addressing gender-based discrimination, violence and harassment (Magna Carta of Women, Anti-Violence Against Women and Children Law, Safe Spaces Act); health-related laws (HIV Law, Responsible Parenthood and Reproductive Health Law); and other criminal laws (Anti-Rape Law, Revised Penal Code). While the number of laws that are inclusive of SOGIE is increasing, none of these provide clear guidelines on how to address the unique and specific nature of SOGIE-based discrimination and violence.

In view of the human rights issues of LGBTQ children discussed in this report, the Commission on Human Rights puts forward the following recommendations:

For the Philippine Congress

- Pass a specific and comprehensive policy that addresses SOGIE-based discrimination through extensive awareness-raising and sensitization programs and by creating redress mechanisms for cases of discrimination in both public and private institutions.

For the Department of Education

- Conduct capacity-building and sensitization programs on SOGIE for teachers and school personnel in both public and private basic educational institutions
- Issue an administrative order requiring school administrators to respect students' SOGIE when enforcing uniform and haircut policies.
- Include discussions on SOGIE in the Comprehensive Sexuality Education curriculum.

For the Department of Interior and Local Government

- Issue an administrative order on the inclusion of SOGIE in local government units' gender and development (GAD) programs.

For the Department of Social Welfare and Development

- Make awareness-raising programs on SOGIE mandatory in Family Development Sessions under the *Pantawid Pamilyang Pilipino* Program.

For the Department of Health

- Ensure the full implementation of the Philippine HIV and AIDS Law

For the Philippine Commission on Women

- Include SOGIE in the national implementation of GAD programs and to urge local government units to engage with LGBTQ civil society organizations in conducting community discussions on SOGIE.

For the Local Government Units

- Pass and fully implement anti-discrimination ordinances and promulgate implementing rules and regulations thereof.

- Conduct community discussions, together with local LGBTQ organizations, on the respect for the rights of LGBTQ children as part of its GAD activities.

I. Background and Rationale of the Report

International Legal Framework

The United Nations Declaration of Human Rights states, “everyone is entitled to all the rights and freedoms set forth in this Declaration, 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.” This categorical statement on the universality and non-discriminatory nature of human rights is echoed in legally binding, core human rights treaties. While these treaties do not spell out sexual orientation, gender identity and expressions and sex characteristics (SOGIE) among the proscribed distinctions, the premise of human rights law is that all human beings, including LGBTQ persons, inherently have rights.

The Convention on the Rights of the Child (CRC) elaborates on the civil, political, economic, social and cultural rights of children. Its key principles include: 1) *Non-Discrimination*, which emphasizes that the rights set forth in the Convention must be enjoyed by all children without being subjected to discrimination; 2) *Best Interest of the Child*, which puts the best interest of the child as the primary consideration for all actions concerning the child; 3) *The Right to Survival and Development*, which underscores the right of the child to life and to basic needs for survival and development; and, 4) *The Views of the Child*, which highlights the imperative to give due weight to the views of the child in matters affecting them.

While SOGIE is not explicitly mentioned in the Convention, there is a growing list of General Comments (GC) issued by the Committee on the Rights of the Child that make reference to these grounds: GC Nos. 3 and 4 lists sexual orientation as a ground for

discrimination; GC Nos. 15 and 21 specifies sexual orientation and gender identity as grounds for discrimination; GC No. 14¹ recognizes that children are not a homogenous group and that sexual orientation is an aspect of a child's identity that must be taken into account in assessing their best interests; GC No. 13 emphasized the need to address the gender dimension of violence against children and specifies lesbian, gay, transgender or transsexual children as among the groups of children which are likely to be exposed to violence; GC No. 15 calls on the need for states to pay "gender-sensitive attention" to children who are discriminated against on the basis of sexual orientation or gender identity; GC No. 20 includes LGBTI children as among groups of adolescents that requiring particular attention, and urges States to repeal laws that criminalize and discriminate on the basis of SOGIE and adopt laws prohibiting discrimination based on these grounds.

The Committee on the Elimination of All Forms of Discrimination Against Women's General Recommendation No. 28 interprets discrimination based on sex as inextricably linked to other factors, such as sexual orientation and gender identity, and called on States to recognize "such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them."

Other human rights bodies have increasingly been bringing attention to SOGIE-related human rights issues. The Human Rights Council, a charter-based body in charge of monitoring human rights issues in all UN member-states, has issued several resolutions relating to SOGIE², the most notable of which was the 2016 resolution which established the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI)³.

¹ General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1). CRC/C/GC/14

² See: UN Human Rights Council, 'Resolution 27/32', A/HRC/27/L.27/Rev.1 (24 September 2014); Human Rights Council, 'Resolution 17/19', A/HRC/RES/17/19 (17 June 2011).

³ UN Human Rights Council, 2016. Protection against violence and discrimination on the basis of sexual orientation and gender identity, A/HRC/RES/32/2

Human rights review processes also yield more and more recommendations relating to SOGIE. During the Philippine's 2nd and 3rd Universal Periodic Review (UPR) cycles, the State received SOGIE-related recommendations from other countries, including, among others, the passage of a national anti-discrimination legislation⁴. Similarly, treaty bodies have included SOGIE issues in their concluding observations for the Philippines, including Human Rights Committee⁵, the Committee on the Elimination of All Forms of Discrimination Against Women⁶ and the Committee on the Rights of Persons with Disabilities⁷.

The Yogyakarta Principles provides a framework for SOGIE-related human rights issues in the absence of an international convention. While it is not a legally-binding document, it provides guidance on how States can apply human rights principles to issues of SOGIE.

Domestic Legal Framework

According to the 1987 Philippine Constitution, the State guarantees full respect for human rights and that no person shall be denied the equal protection of laws. LGBTQ persons are entitled to the human rights guarantees and protections in the Constitution.

While there are no laws that criminalize being LGBTQ, laws such as the Family Code views homosexuality negatively, treating it as a ground for annulment that is at par with

⁴ See Argentina's recommendation, UN Human Rights Council, 2012. Report of the Working Group on the Universal Periodic Review: Philippines, Addendum – Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/21/12/Add.1. and Australia's recommendation, UN Human Rights Council, 2017. Report of the Working Group on the Universal Periodic Review: Philippines, A/HRC/36/12

⁵ UN Human Rights Committee, 2012. Concluding observations on the fourth periodic report of the Philippines, adopted by the Committee at its 106th session, CCPR/C/PHL/CO/4.

⁶ Committee on the Elimination of All Forms of Discrimination Against Women, 2016. Concluding Observations on the combined seventh and eighth periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8

⁷ Committee on the Rights of Persons with Disabilities, 2018. Concluding observations on the initial report of the Philippines*, CRPD/C/PHL/CO/1

alcoholism and drug addiction. Certain sections in the Revised Penal Code are being used to penalize LGBTQ persons, such as Article 200 on Grave Scandal and Article 201 on indecent and immoral act.

No specific and comprehensive national policy has been passed for the protection and promotion of the rights of LGBTQ people. Various versions of bills seeking to penalize SOGIE-based discriminatory acts have been filed in Philippine Congress since 2000, but the farthest a bill of this nature has gone is passing the third and final reading in the House of Representatives in 2017. Similarly, there has yet to be a legislation which will give legal recognition to transgender people's gender identity, and allow for their gender markers and (new) name to be reflected in legal documents.

Various local government units (LGUs)— from province, city, municipality, to barangay levels — are ahead of the national government in enacting anti-discrimination legislations covering SOGIE-based discrimination. As of November 2019, about twenty-four (24)⁸ LGUs across the country have passed Anti-Discrimination Ordinances, which provide remedies for LGBTQ people who are subjected to discrimination in schools, employment, public facilities and health services.

Due to the lack of a national legislation that provides specific remedies for SOGIE-based violence and discrimination, the options for LGBTQ people include laws against gender-based violence, discrimination and harassment and other criminal laws. The Vi-

⁸ These include: Puerto Princesa City Council Ordinance No.657, s.2015; Vigan City Council Ordinance No.36, s.2014; San Julian, Eastern Samar Municipal Ordinance No.05, s.2014; Agusan del Norte Provincial Council Ordinance No.358,2014; Batangas Provincial Council Ordinance No.005, s.2015; Cavite Provincial Council Ordinance No.54, s.2014; Quezon City Council Ordinance No. SP-2501, s.2016; Barangay Pansol Council Ordinance No. 009, s.2018; Barangay Bagbag Council Ordinance No. 004, s. 2009; Barangay Greater Lagro Council Ordinance No. 005, s. 2014; Mandaluyong City Council Ordinance No. 698, s.2018; Baguio City Council Ordinance No. 13, s.2017; Batangas City Council Ordinance No.12, s.2016; Butuan City Council Ordinance No. 4998,s.2016; General Santos City Council Ordinance No.28, s.2016; Mandaue City Council Ordinance No.1083, s.2016; Dinagat islands Provincial Council Ordinance No.BBE2-007, s.2016; Iloilo Provincial Council Ordinance No.137, s.2016; Davao City Ordinance No. 0417-12, s. 2012; Cebu City Council Ordinance No. 2339, s. 2012; Dagupan City Council Ordinance No. 1953-2010, s. 2010; Poro Municipal Council Ordinance s. 2019; Dumaguete City S. 2013; Marikina City Council Ordinance No. 065, S. 2019

olence Against Women and their Children Act may be used by lesbian and bisexual women to seek remedies for domestic violence cases involving their same-sex partner. The Safe Spaces Act⁹, a measure for protection against gender-based sexual harassment, includes transphobic and homophobic harassment among the prohibited acts.

The Magna Carta of Women, a landmark legislation on the promotion of gender equality in the Philippines, lists sexual orientation as one of the prohibited grounds for discrimination. The law also provides requires government agencies and local government units to create gender mainstreaming programs and allot five percent (5%) of their overall budget to these programs. The law has given the Philippine Commission on Woman the mandate to serve as the overall monitoring and oversight body for this law is the, and the Commission on Human Rights the mandate to serve as Gender Ombud.

In the same way, most legislation and administrative policies on child protection provide broad sweep protection for all children against violence and discrimination. The Anti Child Abuse Law¹⁰ seeks to provide special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. Some of the administrative policies on child protection include the Department of Social and Welfare's Administrative Order No. 07, Series of 2015, otherwise known as the "DSWD Child Protection Policy in the Workplace" and the Department of Health's Administrative Order No. 2013-0011 or the "Revised Policy on the Establishment of Women and Their Children Protection Units in All Government Hospitals" .

RA 10627 or the Anti-Bullying Act, and its Implementing Rules and Regulations, provides for the protection of children from any form of violence, abuse, discrimination or

⁹ RA 11313 (2019)

¹⁰ RA 7610, otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act"

exploitation. Among the forms of bullying that the law seeks to address is gender-based bullying, or “any act that humiliates or excludes a person on the basis of the actual or perceived SOGI of the person.” This, and the Department of Education Order No. 40 s.2012, otherwise known as the DepEd Child Protection Policy, are the only child protection policies that recognize the uniqueness and specificity of sexual orientation and gender identity and expressions as bases for bullying.

The Responsible Parenthood and Reproductive Health Law is a key legislation which interfaces with several LGBTQ human rights issues, such as access to safe, appropriate and gender-responsive medical and mental health services and information, reproductive health and sexuality education, and gender equality. The law, however, does not mention LGBTQs, nor nuance reproductive health from the perspective of diverse SOGIE. The invisibility of LGBTQ in the law has resulted to its narrow interpretation covering only heterosexual relations, and reinforcement of heterosexist ideas of sexuality, parenthood and families.

The RA 11166 or the Philippine HIV and AIDS Policy Act is also among the handful of legislation that recognizes sexual orientation, gender identity and expressions as grounds for discrimination. As a new law, it strengthens the government’s response to the rapidly growing HIV epidemic in the country through evidence-based prevention mechanisms, free and accessible testing and treatment, as well as more comprehensive services for people living with HIV, including minors. One of its strongest points is that it allows minors of fifteen to seventeen years old to give their own consent to HIV testing, in place of the parental consent requirement in the previous law. Further, children below fifteen years old who are pregnant or engaged in high-risk behavior can also provide their own consent.

The increasing number of legislations and administrative policies that mention SOGI are reflective of a growing recognition by the government of the issues faced by LGBTQ people, thanks to the relentless efforts of LGBTQ activists.

II. Methodology

The Commission conducted research for this report in sixteen (16) regions, namely: National Capital Region, Cordillera Administrative Region, Region I, Region II, Region III, Region IVA, Region IVB, Region V, Region VI, Region VII, Region VIII, Region IX, Region X, Region XI, Region XII, and CARAGA.

Each of the CHR's Regional Offices gathered data using two (2) methods: key informant interviews (KIIs) and focus group discussions (FGDs).

The target respondents for the KIIs were children and youth (aged 13-17 years old) who identify as LGBTQ. Written informed consent from parents or guardians of each participant was obtained prior to the conduct of the interviews. In regions where there was not enough number of children who are willing to be interviewed, CHR interviewed individuals aged 18-21 years who identified as LGBTQ during early to middle adolescence (10-17 years of age).

CHR developed a tool for the KII that inquired on: 1) how the children identify or would describe their SOGIE; 2) the children's feeling of safety in the various spheres of social interaction, including the family, community, school, and public spaces; 3) an exercise called the 'Problem Tree' where the children identified one central issue they face as an LGBTQ child, the root of said issue and its implications on their life; and 4) an activity called the 'Rainbow Collage' where the children articulated messages addressed to the government. The same tool was used for adult subjects with the instruction that they respond based on their experiences as a child.

A total of ninety-four (94) LGBTQ people were interviewed for the KIIs. Twenty-two (22) of the respondents identified as gay, nine (9) as lesbian, ten (10) as transgender girls, two (2) as transgender boys, one (1) as pansexual, fifteen (15) as bisexual, one (1) as "gay/girl", one (1) as "*bakla*/woman", and one (1) as "bakla, bisexual, woman", and one

(1) undecided. The identities were not indicated for thirty-one (31) respondents. None of the respondents identified as intersex. Eight (8) of the key informants were eighteen (18) years old and above.

The focus group discussion participants included various stakeholders who have been engaged in and/or have the mandate to protect and promote the rights of LGBTQ children. These include representatives from government agencies, local government units, civil society organizations and community groups, academic institutions, faith-based organizations, the media and LGBTQ individuals.

A desk review was conducted to gather information on international and domestic laws and policies, as well as other resources, that are relevant to this report.

The data-gathering by the Regional Offices was conducted between May to August 2019, while the desk review and report-writing took place between September to December 2019. A validation meeting was held on 21 November 2019 where the report's finding and analysis were presented, and government agencies and LGBTQ civil society organizations provided their feedback.

This report uses pseudonyms for KII informants and FGD participants to protect their identities.

III. Existing interventions to promote and protect the rights of LGBTQ children.

To map existing programs and services that promote and protect the rights of LGBTQ children, the CHR conducted focus group discussions (FGDs) with various stakeholders such as government agencies, local government units and civil society organizations in fifteen (15) regions. Information on other programs and services were likewise obtained through online research and from inputs from the attendees of the Validation Meeting last 21 November 2019.

From the FGDs, it was found that there are very few programs and services that are specifically targeted for the promotion and protection of the right of LGBTQ children; much of the programs and services being provided by the government are for children in general. Many government agencies and CSOs attribute this to a lack of national legal framework that is specific to LGBTQ children.

Government agencies that have child protection policies, such as the Department of Education, Department of Social Welfare and Development and the Department of Health, noted the following challenges in providing services to LGBTQI children:

- 1) A general lack of knowledge among personnel on SOGIE; there are no institutional programs for awareness-raising on SOGIE issues within these agencies. No training on handling cases of LGBTQI children is provided for service providers (e.g. social workers and case managers).
- 2) There is no proper monitoring of the implementation of these policies, particularly DepEd's Child Protection Policy. Consequently, there is a failure to ensure school's compliance to the policy, and incidents of bullying against LGBTQI children are not being recorded.

Local government units also have limited capability in addressing SOGIE-related discrimination and violence. Where anti-discrimination ordinances that cover SOGIE-based discrimination exist, not all LGUs are operationalizing the provisions due to a lack of implementing rules and regulations. *Barangay* officials are not trained to handle cases of LGBTQI children.

The following table summarizes existing interventions that of relevance to LGBTQI children:

Type of Intervention	Programs, Services, coordination mechanisms, and other initiatives
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Sensitization on SOGIE Issues	<p>A number of government agencies and local government units include discussions on SOGIE as part of their Gender and Development Programs.</p> <p>Civil society organizations and individuals undertake initiatives to sensitize the public on SOGIE issues through various means like sensitization orientations and workshops, community discussions, and the production of IEC materials.</p> <p>In some regions, DSWD’s Family Development Sessions under the 4Ps program include gender sensitivity discussions which touch on SOGIE issues.</p>
Capacity Building for LGBTQ people	<p>Various seminars for LGBTQ children are being provided by government stakeholders, such as leadership and skills-development trainings.</p>
Sexual and Reproductive Health and Rights Promotion	<p>The Department of Health has adolescent health programs and HIV-related programs. Part of the Metro Manila Center for Health and Development’s (under DOH-NCR) adolescent health program are a series of IEC materials called “Healthy Young Ones” which includes a toolkit for sensitizing health service providers on issues concerning SOGIE. The toolkit includes a child-friendly material that includes discussions on SOGIE and the transmission of HIV.</p> <p>The Department of Education’s implementation of the Comprehensive Sexuality Education, which is mandated in the Responsible Parenthood and Reproductive Health Law, is not inclusive of SOGIE.</p> <p>CSOs also provide HIV testing services, such as the Metropolitan Community Church Baguio and LoveYourself.</p>
Gender-Affirming Health Services	<p>There is no nationwide program for the provision of gender-affirming health services (e.g. transition-related health care and information).</p> <p>One only one private health facility is known to offer these services: the Gender and Diversity Center in Manila Medical Center. The Center offers psychological screening, hormone treatment and gender-affirming counseling. For a child to access services in the Center, the staff requires parental consent.</p>

<p>Education</p>	<p>The Department of Education implements its Child Protection Policy, which covers bullying in both public and private schools.</p> <p>In compliance with DepEd’s Child Protection Policy and the Anti-Bullying Act, some schools have created anti-bullying policies and mechanisms. Some examples include the program called “A Day with the Principal” that is being implemented in schools in Las Pinas, Manila and Paranaque to open the communication lines with students, parents and teachers on issues like bullying.</p> <p>Some schools in Makati, Quezon City, Pasay City and Marikina likewise have a Committee on Decorum and Investigation as a mechanism for processing cases of abuses committed against students. The Committees are composed of representatives from local government units, teachers and student governments.</p>
<p>Research and Advocacy</p>	<p>Government agencies have noted the lack of SOGIE-disaggregated data as a contributing factor to the lack of information on issues faced by LGBTQ people and as a challenge in their service delivery. LGBTQ people do not figure as a demographic in the National Census and other statistical data sourced by the Philippine Statistics Authority. Similarly, the Department of Education, which issued Department Order 40 s. 2012, which mentions SOGIE as a basis for exclusion, has not conducted any inquiry into the forms of bullying faced by LGBTQ children.</p> <p>There are a few government and civil society-led researches that have been conducted on SOGIE and children’s rights separately, with some discussion on the interface between the two. The Council for the Welfare of Children and UNICEF’s National Baseline Study on Violence Against Children scoped the different forms of violence faced by various types of children and noted the prevalence of violence among LGBTQ children. Save the Children’s Child Rights Situation Analysis also provided some data on LGBTQ children. LGBTQ organizations like Rainbow Rights, GALANG, and Metro Manila Pride have conducted studies on LGBTQ rights. Other researches have been made by members of the academe and other research-oriented organizations like the Psychological Association of the Philippines. Of the studies done on these two themes, only the studies/inquiries done by the ASEAN SOGIE Caucus focused on the rights of LGBTQ children.</p> <p>Civil society organizations conduct a wide range of advocacy initiatives, from the production of IEC materials to activities such as lobbying and legal literacy trainings.</p>

Local Government Initiatives	Apart from local anti-discrimination ordinances, some local government units implement activities for LGBTQ people in their communities. For example, Brgy. Lagro and Bagbag in Quezon City implement local Pride Marches as part of their GAD activities.
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IV. Key Findings

The findings from the key informant interviews and focus group discussions highlight the issues faced by LGBTQ children. These include: family violence, sexual abuse, discrimination, harassment and bullying. LGBTQ children’s responses to questions about their sense of safety in various spheres in their lives show that safe and affirming spaces — spaces where they can feely express their identity — are scant. The findings also show that LGBTQ children likewise face threats to their right to health such as mental health issues resulting from their experience of violence and discrimination and lack of access to SOGIE-responsive health services and education. Despite these threats, LGBTQ children show a strong awareness of the rights that they are entitled to and themselves try to carve out safe and affirming spaces by participating in LGBTQ organizations.

A. Safe and Affirming Spaces

Family

The Preamble of the Convention on the Rights of the Child recognizes that the development of a child’s personality is incumbent upon growing up, “in an atmosphere of happiness, love and understanding.” The Committee on the Rights of the Child in a general discussion¹¹ talks about the role of families in the promotion of the rights of the child, calling it “the basic institution in society for the survival, protection and development of the child.”

¹¹ CRC/C/24, Report adopted by the Committee at its 130th meeting on 28 January 1994. Annex V: Role of the family in the promotion of the rights of the child (p.63)

From the KIIs, most of the LGBTQ children said that they generally felt safe with their families. One indicator of this sense of safety is the family members' awareness and acceptance of the children's SOGIE, which makes them feel free and safe to express their identities when in the company of their family. Jem*, a gay student from Region 1, said:

“I feel safe especially since I've lived with my father's side of the family ever since I was small, it's like they've accepted who I am because it runs in the blood. They're okay with whatever I wear, wherever I go. If I wear masculine clothes, they're okay with it; if I wear feminine clothes, they're even more ok with it. That's why I'm really safe with them and they support whatever I want.”

Some children see their family as their refuge — family members are people they run to for comfort and protection when they get bullied or harassed by other people. Ram*, who identifies as *bakla* and as a woman, recounted how her mother accompanied her to the *barangay* to report an incident of harassment by someone from the community.

Other children feel that their acceptance comes with conditions. June, a 17-year old student, said that their father has expressed his acceptance as long as they “don't do anything that would shame the family name.” Mark*, a 14-year old student and street vendor who identifies as gay, narrated how his brother used to beat him up but eventually became the first person in the family to accept him with a reminder that Mark should not bring shame to the family.

There were also children who said that while they felt safe among their immediate family members, they are unsure of their safety when in the company of other relatives primarily because their relatives are not aware of their SOGIE and the children do not know how they are going to react once they find out.

A number of children talked about feeling unsafe with their families, often due to being subjected to physical and emotional violence as punishment for their SOGIE. Andrew*, a 17-year old gay youth from CAR, said that when, at 6 or 7 years old, he started dress-

ing up and playing with his sisters' dolls, his mother would beat him up and drag him outside to be kept inside a plastic drum. He said, "The only thing I know is: when I started doing girly things, she (the mother) would hurt me to make me realize that what I was doing was wrong." His father also told him, "You were not created by God; you were created by the devil."

Sarah*, a 16-year old trans girl from Region IX, narrated how her father beats her up regularly because of her gender identity, and how she tries to prove her worth to her father by helping out with house work, "So that even if I wear feminine clothes, I am able to contribute in the household. I try to show them that I am good. But it seems that my father is not contented with that. He wants to kill me."

Dianne*, a 15-year old trans girl from Region IX, also faces similar treatment from her uncle: "They would order me to do household chores, and I do them. But whenever I make mistakes, he would punch me."

Karen, a 17-year old trans girl from NCR, narrated how her father once punched her in the stomach when she was younger, but thanks to her mother's intervention, it never happened again.

A child's socialization within the family helps shape their values, their notions about themselves and the role they play in the world around them. In the Philippines, as in many countries, the family is often the first site of gendered socialization — it is where they learn rigidly defined roles and expectations from men and women. As one FGD participant noted, gender roles are taught within the family, such as how to act like a man or a woman. Non-conformity to these norms is stigmatized as unnatural, immoral or deviance.

An FGD participant in CAR observed that the lack of awareness on SOGIE should be treated as a societal problem, "I don't think it's a family problem per se. It's a society problem. What would parents do if they have LGBTQA children? What do they know

about it? What have they learned? They would react based on how other people would react, based on what they have learned in the community. If they learn that being gay is wrong, then that's how they would treat their children. This is a societal problem as a whole.”

Community

LGBTQ children described varying feelings of safety in the communities that they live in. Some children indicated that they feel safe within the community because their family is there to protect them. Some children responded that they felt unsure about their safety because they have experienced being insulted, shamed and judged by people in their community.

Children who responded that they felt unsafe attributed it to their experience of being subjected to harassment such as taunting, catcalling and lewd comments. R* from Region XII said, “I don't feel safe because there are a lot of people who don't accept us. Many of them bully us and throw lewd comments at us like, ‘you want to give me a blowjob?’ and ‘150!’” An FGD respondent, M* from Davao, talked about how he was sexually abused by an older man from the community when he was a child.

The community's perception and treatment of LGBTQ children are largely influenced by culturally-specific views on gender. In indigenous people's communities such as in the Cordillera region, for instance, there is an emphasis on the importance of child-bearing, which contributes to the prejudice against LGBTQ people. An FGD participant from CAR noted that despite this, the “warrior race” culture allows for more tolerance for lesbians because of their masculinity and ability to perform roles that men usually perform. However, the pressure to bear children still exist.

In some cases, State actors use laws like curfew ordinances, which are meant to protect children, to persecute against LGBTQ children. Three trans girls from Region IX responded that they felt unsafe because they experienced harassment by law enforcers.

The children have been either summoned or forcibly brought to the *barangay* under the pretext of having violated the curfew ordinance or for vague reasons, and in most cases, were subjected to harassment and physical violence. Dianne* talked about being summoned by the *barangay* police to the *barangay* hall: “They said I am a trouble-starter, but I’m not. I was shocked when I was accused of being the ‘leader’ of trouble-makers.” However, the *barangay* police did not tell her what trouble she allegedly caused. Dianne recalled having been either brought or summoned to the *barangay* for a total of four times.

Nia*, a 16-year old student, has likewise experienced being picked up by the *barangay* police for allegedly violating the curfew for minors, though she is not aware that such ordinance exists in their *barangay*. She recounted how she and her friends were harassed in the *barangay* hall: “They told us many things, like, since we’re *bayot*, we go out at night to make money.”

Ali recalled a similar experience with the *barangay* police: “They would nag us. One of us were slapped. Another one was almost slapped — (the *tanod*) kept on nagging them, accusing them of roaming the streets just to be ‘fucked in the ass.’”

School

Schools are supposed to be safe havens for children to learn and grow to become empowered people. However, many children responded that they felt unsafe or unsure of their safety in their schools due to experiences of bullying, and because of discriminatory policies and practices of school administrators and personnel.

LGBTQ children face different forms of bullying, the most prevalent of which is name-calling and verbal harassment. The children would get taunted with words like “*bayot*,” “*bakla*,” “*badap*,” “*tomboy*” and other names.

Raine* from NCR shared how she got bullied by her male classmates. Raine said, “they

told me not to hang out with them because they too might get teased for being *bakla* or for having a *bakla* partner if they are seen with me.” Anne* from Region II said, “[my schoolmates] tell me that I shouldn’t be like this, that LGBT people have no place in the Philippines.”

LGBTQ children also experience harassment from schoolmates. “150! 150!” is a common refrain thrown at gay and trans (girl) children, alluding to sexual services in exchange for payment of 150 PHP. Mon*, an 18-year old gay student from Region VIII shared how fellow students would tell him, “*Badap*, let’s fuck [for just] 150!” Mon added, “It pains us to hear these words (...) whoever hears them will judge us. One time, a teacher overheard someone telling me, ‘Come on, 150, let’s do it!’, and all I could do was hang my head in shame.”

While anti-bullying policies exist in some schools, there is insufficient discussion on the specific ways it manifests for LGBTQ children and the fact that the protection extends to LGBTQ children. Raine, for instance, said that she is aware that her school has a policy against bullying: “There is an anti-bullying rule but it should include that we [LGBTQ] shouldn’t be teased.”

Children often do not report their experiences to their teachers and other school officials due to fear of being victim-blamed and of retaliation. Ram said, “When a friend of mine reported to a teacher, it seemed as though they (the friend) were made out to be the one at fault.” Further, Ram fears that if she reports to her teachers, her school mates might beat her up once she steps outside the school.

In some instances, these experiences of bullying and harassment drive children to quit school altogether. Andrew*, a 17-year old gay person from CAR, talked about being bullied and felt that he was in constant threat in high school. He dropped out of school because a group of gangsters threatened to kill him. Despite the school’s anti-bullying policy, he did not receive any support— something that strengthened his conviction to drop out.

Karen* from NCR talked about being subjected to ill-treatment by teachers and school personnel due to her gender identity. Once, a janitor in her school forcibly cut her hair because it was “too long for a male student”. Karen’s experiences caused her to become so scared that she stopped going to school for a few years. The same was done by Dianne who, due to her experiences, dropped out of her school and opted instead to enroll in the Alternative Learning System (ALS).

Despite the Department of Education’s Department Order 45, which states that wearing school uniforms shall not be a requirement in public schools, public school administrators enforce policies that require students to wear uniforms in accordance to their sex assigned at birth (pants for boys and skirts for girls). Additionally, schools also enforce rules on the student’s hair length. Failure to adhere to these rules often result to children being given disciplinary sanctions or altogether barred from attending class.

Maan* from Region II narrated how one male teacher warned her and another lesbian classmate that if they don’t wear skirts, they wouldn’t be allowed to join his class. Maan and her friend had no choice but to come to the teacher’s class wearing skirts, only to be laughed at by their classmates.

For LGBTQ children, especially transgender children, gendered uniform and haircut policies negatively impact LGBTQ children’s wellbeing and impedes their right to education. It is possible that school administrators and teachers lack understanding on how a child’s SOGIE is an integral part of their identity, and that when children are restricted from and/or punished for expressing this aspect of their identity, psychosocial harm is inflicted on children. In the case of Maan, she share how she and her classmate felt ashamed and humiliated when they were forced to wear skirts, and as a result contemplated not coming to class in order to avoid that experience.

Discriminatory policies may even be more prevalent in private schools, which are predominantly run by Roman Catholic congregations. An FGD participant from NCR shared

that one private school in Mediola allegedly conducts psychological tests as requirement for student who wish to enroll in their school, and if the child has been found to have a “tendency” to be gay, they are rejected.

While religion is formally not a subject in public schools, the Department of Education DO 13, s. 1998 on the provision of optional religious education to students whose parents or guardians opted to request that their children “be taught the religion of their choice.” Often, these religious instructors are external to the school, and just come and teach. One such instructor, an FGD participant from Region XI recalled, showed hostility during one of the meetings of their school’s LGBTQ club.

Public Facilities

When asked about whether they feel safe in public transportation, some of the children responded that they felt unsafe. Those who feel unsafe cited experiences of sexual harassment, physical assault and verbal harassment by fellow passengers.

Accessing public restrooms, which are often sex-segregated, make some LGBTQ children feel unsafe or unsure about their safety. Children who are visibly gender non-conforming have experienced being driven out of comfort rooms. Transgender children, in particular, face harassment in both men’s and women’s restrooms. Dianne*, a 15-year old trans girl, shared how one time she was called a pervert when she used the women’s restroom. Mimi*, another trans girl, was discriminated in the men’s restroom.

Religious Community

Many LGBTQ children answered that they feel safe because they have not experienced discrimination in places of worship. Some children replied that they felt unsafe because they often hear LGBTQ people get vilified in religious teachings and get discriminated in places of worship. Ali from Region IX shared that her religion, Islam, considers LGBTQ

people as *haram* or forbidden. Hence, she has never gone to church.

Roman Catholic theology views homosexuality as a spiritual illness; the Catechism of the Catholic Church, a summary of the Church's official beliefs, declares that “homosexual acts are intrinsically disordered” and homosexual inclinations “as objectively disordered,” and in the same breath calls for compassion for LGBT people to be “accepted with respect, compassion and sensitivity.” The same statements have been echoed by the Catholic Bishops Conference of the Philippines in its pastoral statement on same-sex marriage¹². While not all Catholics may share the same views, these beliefs often motivate and serve as justification for discrimination against LGBTQ people.

One of the FGD participants from NCR said, “Inside the Church, there is also a strong sense of bullying. People will say that it’s a sin to be gay, that you will go to hell (...). Some people say that it’s okay to be gay but not commit homosexual act, (but) there is no difference. They still discriminate (you for being homosexual and for doing the homosexual act).”

There are, however, some religious institutions and organizations that are more welcoming of LGBTQ people, but these tend to be smaller denominations of Christian churches. These include the National Council for Churches in the Philippines, Metropolitan Community Church, *Iglesia Filipina Independiente*, and the United Church of Christ in the Philippines.

B. Other Themes

Health

LGBTQ children face various health issues. For one, the lack of programs that provide access to transition-related information and gender-affirming health professionals force

¹² CBCP (2015)

transgender children to take unsafe routes to transitioning such as do-it-yourself hormone treatments and silicone pumping (for body feminization), which pose a wide range of health risks. Raine from NCR shared how she obtained oral contraceptives, a known popular source for estrogen, from an older friend and manager for beauty pageants. She did this without the knowledge of her parents, and without advice from a health professional, until she noticed that taking the pills caused her to have shortness of breath, at which point she was told by her friend to stop.

Access to SOGIE-inclusive sexuality education is likewise lacking among LGBTQ children. The current curriculum for the Comprehensive Sexuality Education program being implemented by the Department of Education does not include discussions on the sexual health and rights of young LGBTQ persons.

Government and civil society stakeholders have noted an alarming rise in the prevalence of HIV among young people. In Davao, for instance, an FGD participant noted the prevalence of “*nota para sa DOTA*” which refers to the practice of performing sexual acts in exchange for money used for internet gaming. While there are HIV-related interventions being implemented by the Department of Health, local government units, and CSOs, the accessibility of these services for children is still an issue. The recently enacted Philippine HIV and AIDS Act has removed the requirement for parental consent for HIV testing for people who are 15-17 years of age, but as an FGD participant from Region 11 noted, parental consent is still required for children to access treatment. As a result, children living with HIV who are afraid to disclose their HIV status to their parents end up not being able to receive treatment.

Discrimination, violence, bullying and other types of abuse likewise take a toll on the health of LGBTQ children. When asked about what they think are the effects of discrimination and violence on LGBTQ children, the KII respondents mentioned hurt, fear, trauma, stress, depression, loss of self-esteem and self-confidence, anxiety, loneliness, substance abuse, feeling of being unprotected and of insecurity, and sometimes even

suicidal thoughts. J* from NCR shared how they felt when they experienced bullying in the school, community and in public spaces:

“Unworthiness — especially when your religious friend makes you feel like being gay is a sin and a sickness in society. It’s like you become unworthy if there’s something wrong with your identity. It’s like I shouldn’t live — that’s how it feels. (...) Especially in my first year in high school, because (it’s the type of bullying) that they really rub in your face. So I felt unworthy of living.”

Rights-Awareness and Participation

Majority of the children interviewed displayed a high level of awareness of their rights as children and as LGBTQ persons. Many of them insist on exercising their rights to self-determination and to freedom of expression when it comes to their SOGIE, even when faced with discrimination. For instance, Evan, a bisexual boy from Region II, said that he’s always known that he was attracted to boys, but recently found that he was likewise attracted to girls. He said, “I heard about (the term) LGBT. I studied it and found that I was bisexual.” Raine from NCR highlighted their right to education and lamented their school’s haircut policy and said that LGBTQ children should be allowed to express themselves in schools.

Some children said that they are members of LGBTQ organizations in their communities and schools, and it is from the older people in the organization that they get their information on LGBTQ rights. In Region 11, for example, a student organization called “Bahaghari” was established by a teacher in Crossing Bayabas National High School.

Many of them are able to clearly articulate their messages to the government. A number of them highlighted the need for the government to educate people on the rights of LGBTQ children. Sam, a lesbian from Region 4A, said, “The government needs to educate the people in order to protect us LGBT (children), so that they know that they need to protect us. They have to widen advocacy campaigns to increase awareness on the

rights of LGBT children.” She emphasized: “We only want equal treatment because it seems like we’re being isolated.”

Similarly, Evan from Region II said:

“As a student and individual here in the country, the government should empower LGBTQ children through educating and emphasizing that information dissemination. Create law that would recalibrate the mind of others, to change their impressions toward the LGBTQ community. It can increase or maximize the strength and personality most especially their potentials as an individual, contributing, living in our society.”

Sexual Abuse

A number of FGD participants have shared accounts of LGBTQI children being subjected to sexual abuse. Of the cases shared, the perpetrators are relatives and other people in charge of their care. A representative from PNP NCR shared that they have encountered a lot of cases of lesbians who have experienced sexual abuse. Another FGD participant from NCR shared a case where a gay child was raped while staying in a child rehabilitation center in Manila. The “house parent” of the rehabilitation center reportedly pimped the child.

Table: Summary of Issues

Issues	Forms
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Discrimination	<p>Institutional: School administration-enforced gendered uniform and haircut policies that prohibit children from wearing uniforms and sporting haircuts that affirm their gender identity and/or expression.</p> <p>Lack of administrative policy from the DepEd that instructs school administrators to respect children’s gender identity and expression.</p> <p>Lack of SOGIE-inclusive comprehensive sexuality health education.</p> <p>Discriminatory use of existing laws such as curfew ordinances to target LGBTQ children.</p> <p>Vilification of LGBTQ people by religious institutions.</p> <p>Access to public facilities such as restrooms and public transportation is an issue, especially for transgender and other gender non-conforming children.</p> <p>Individual: Teachers enforcing gendered dress code in their classrooms; LGBTQ children who do not conform to the dress code are prohibited from attending class.</p>
Violence	<p>Physical: LGBTQ children are subjected to physical violence by family members as punishment for their SOGIE. They likewise experience violence from strangers in their communities and in other public spaces.</p> <p>Emotional: LGBTQ children face emotional violence from various people around them. Physical violence inflicted by parents often come with emotional violence.</p> <p>Sexual: LGBTQ children are also vulnerable to sexual assault. Perpetrators are commonly people who are close to them or are in charge of their care.</p>
Bullying and Harassment	<p>LGBTQ children face harassment in the school, community and in other public spaces. The most common refrain thrown at them is “150!”, which refers to the amount it would cost a gay or trans (girl) child to receive sexual services, reinforcing the stereotype of LGBTQ people as buyers of sex.</p> <p>Some children have likewise shared that they experienced groping in schools and public spaces.</p>
Abuse by Law Enforcers	<p>There were accounts of <i>barangay</i> police rounding up or summoning LGBTQ children to <i>barangay</i> halls. These <i>barangay</i> police would cite various reasons, such as curfew ordinances and vague accusations, for doing so. In these instances, trans girls have been harassed and physically assaulted while detained in the <i>barangay</i>.</p>

Health	<p>Transition-related Health Care: The lack of information on, and the accessibility of, transition-related health services endangers the health of transgender children. Transgender children adopt a do-it-yourself approach to hormone treatment, which can take a dangerous toll on their health.</p> <p>Mental Health: As a result of the discrimination and violence they face, many LGBTQ children suffer from a wide range of mental health issues like trauma, anxiety, depression, and suicidal thoughts.</p> <p>Sexual and Reproductive Health: While the new Philippine HIV and AIDS Act has removed the requirement for parental consent for HIV testing for people 15-17 years of age, access to treatment is still an issue since parental consent is still being required for HIV treatment.</p>
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V. Analysis

In answering the question, what can the Philippine government do to better respect, protect and fulfill the rights of LGBTQ children, this section analyzes the findings vis-a-vis the international human rights standards and relevant domestic laws and policies.

Freedom from Discrimination

On children’s right to be free from discrimination, Article 2 of the CRC states that: “State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.” As the Committee on the Rights of the Child noted in its General Comment No. 13, the duty to non-discrimination covers discrimination based on sexual orientation and gender identity.

The obligation to respect freedom from discrimination calls on States to refrain from using laws in a discriminatory manner. The findings on law enforcers using curfew ordinance to persecute LGBTQ children exhibits a clear human rights violation and failure of the Philippine government to fulfill the obligation to respect the right of LGBTQ children

to non-discrimination. Curfew ordinances are intended for the safety of children, and not to subject them to further harm.

Non-discrimination is not a passive obligation, as emphasized in CRC's General Comment No. 14 — more than prohibiting all forms of discrimination, it also requires that “appropriate proactive measures taken by the State to ensure effective equal opportunities for all children to enjoy the rights under the Convention” (para. 41)¹³.

The enforcement of gendered school uniform and haircut policies by school administrators and teachers discriminate against LGBTQ students. While the Department of Education Department Order 45 states that “the wearing of a school uniform shall not be required in public schools,” discrimination persists and remains unaddressed since the Department has not taken any proactive measures to specifically direct schools to respect LGBTQ children's right to wear clothes and wear their hair in accordance to their gender identity and/or expression.

Further, the lack of a comprehensive national legislation that specifically addresses SOGIE-based discrimination leaves LGBTQ children with little protection from discrimination not just in schools but in other spaces as well. LGBTQ children's difficulty in accessing public facilities such as public transportation and restrooms also constitute discrimination. In order for the Philippine Government to fulfill its obligation to protect and fulfill the rights of LGBTQ children, it must enact a national legislation that will prevent discrimination against these children through widespread sensitization and awareness-raising initiatives, and providing redress to those who are subjected to discrimination.

Right to Education

¹³ CRC General Comment No. 14

The right to education is enshrined in various core human rights instruments, including the CRC. Part of fulfilling a child's right to education includes the State's obligation to recognize and achieve this right "on the basis of equal opportunity".

The findings show that bullying is a major obstacle to LGBTQ children's exercise of the right to education. Based on the children's accounts, the bullying they are subjected to is often based on their SOGIE. While the Philippine Government acknowledges the gravity of bullying, as reflected in its enactment of the Anti-Bullying Law, it falls short in the implementation of the law, especially in addressing SOGIE-based bullying.

The law directs school administrators to adopt policies that address the bullying in their respective institutions which must include administrative disciplinary actions against the offender, education for parents and guardians about bullying, and clear procedures and strategies for protection victims from retaliation.

The responsibility of school administrators to address bullying is echoed in the DepEd's Child Protection Policy, which provides clearer descriptions of the forms that bullying and violence take; the roles of different offices within the Department in implementing the law; the duties and responsibilities of school administrators, as well as of the students; establishes preventive measures and redress mechanisms, including the procedures for handling bullying incidents and for referral and assessment of both victims and offenders.

However, not all schools comply with the law and policy, and monitoring of schools' compliance is non-existent. Even where schools have institutionalized an anti-bullying policy, the implementation is insufficient to protect LGBTQ children as it neither empowers them to report cases of bullying, nor does it make them feel safer due to the failure of school administrators to protect victims from reprisal and prevent bullying by addressing the stigma against them. In fact, discrimination, stigmatization and stereotyping are further perpetuated by school administrators, teachers and personnel by enforcing gen-

dered uniform and haircut policies, and by themselves ridiculing and shaming LGBTQ students which sets a harmful example for other students to follow.

Thus, schools must ensure that the policies and mechanisms for preventing bullying are responsive to the SOGIE-based bullying and are enabling for LGBTQ children to report when they experience it. The Department must strive to more effectively monitor the compliance of public and private schools to the policy.

As the findings show, when LGBTQ children face discrimination, bullying, and harassment in schools, they are denied the right to education. Many children who have experienced these are likely to drop out of school.

In order for the Philippine Government to fully perform its obligation to respect, protect and fulfill LGBTQ children's right to education, it must ensure that schools provide a safe and affirming environment. The Department of Education must provide comprehensive trainings and awareness-raising programs for school administrators, teachers and personnel on the respect for the rights of LGBTQ children. The Department must likewise ensure that the school curricula includes modules on respect for human rights, including those of LGBTQ children.

Protection from Abuse and Neglect

Many LGBTQ children face abuse from the very people who are responsible for their care and well-being: their family members and relative. Often, abuse takes the form of physical and psychological violence, and unlike with children who are non-LGBTQ, the violence is inflicted as punishment for the child's SOGIE and as a means to 'set them straight' — which is often defined as conformity to gender norms.

Article 19 of the CRC states that:

“1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

That children need to be afforded special protection from all forms abuse is provided in the Philippine Constitution¹⁴. Children who have experienced abuse may seek remedies under RA 7610 or the Anti-Child Abuse Act, which would automatically put them in protective custody of the Department of Social Welfare and Development (DSWD). Despite the existence of this law, none of the LGBTQ children interviewed who experienced abuse have reported these cases, especially if the perpetrators are family members.

It is crucial to take educational measures in order to prevent the abuse of LGBTQ children by their family members. Currently, no awareness-raising or sensitization programs targeting parents, guardians and other family members include discussions on SOGIE and prevention of abuse. A good platform for this would be the Family Development Sessions (FDS) conducted by the DSWD as part of its *Pantawid Pamilyang Pilipino* Program (4Ps), a government program that provides conditional cash grants to “the poorest of the poor, to improve the health, nutrition, and the education of children aged 0-18”¹⁵. Since the FDS is part of the conditionalities for the cash transfer, beneficiaries are required to attend these monthly discussion sessions on topics like responsible parenting, health and nutrition, protection and psychological needs of their children.

¹⁴ Constitution of the Republic of the Philippines (1987), art. XV, sec. 3(2), <http://www.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-xv> (accessed November 20, 2019)

¹⁵ See: www.officialgazette.gov.ph/programs/conditional-cash-transfer/

Right to Health

Article 24 of the CRC provides for the obligation of States to recognize “the right of children to enjoy the highest attainable standard of health and to facilities for treatment of illness and rehabilitation of health,” and to “strive to ensure that no child is deprived of their right to access to such health care services.”

Ensuring LGBTQ children’s right to enjoy the highest attainable standard of health entails addressing their specific health needs. For transgender children, this means ensuring their access to gender-affirming health services. Due to a general non-recognition of gender-affirming health care as a public health issue, there are no nationwide programs that address the transition-related health needs of transgender people. Gender-affirming health care can come in different forms — from hormone treatments, to gender alignment surgeries, to psychosocial services, to providing transition-related information. At the minimum, transgender children must be able to access gender-affirming information in order to help them make informed decisions about their transition.

The UN CRC in General Comment No. 15 underscored that gender-based discrimination is pervasive and affects a wide range of health outcomes. In view of this, the CRC encourages States to give attention to “the impact of gender-related social norms and values on the health and development of boys and girls” and the “harmful gender-based practices and norms of behavior that are ingrained in traditions and customs and undermine the health of girls and boys.” Further, the CRC has said that “[a]ll policies and programmes affecting children’s health should be grounded in a broad approach to gender equality that ensures full political participation; recognition of equal rights related to sexual and reproductive health; and equal access to information, education, justice and security, including the elimination of all forms of sexual and gender-based violence”¹⁶.

¹⁶ CRC/C/GC/15 (10)

Discrimination and violence take a heavy toll on the health of LGBTQ children. Not only do these often lead to physical harm, but these also deeply affect the children's mental health. This underscores the high stakes in eliminating SOGIE-based violence and discrimination.

To ensure the fulfillment of LGBTQ children's sexual and reproductive health and rights, there is a need for SOGIE-inclusive comprehensive sexuality education. While Section 14 of RA 10353 or "The Responsible Parenthood and Reproductive Health Act of 2012" provides for age- and development-appropriate reproductive health education, the standard curriculum being implemented by the Department of Education is largely heteronormative and is thus unresponsive to the sexual and reproductive health and rights of LGBTQ children.

The Philippine Government must likewise ensure the full implementation of RA 11166 or the "Philippine HIV and AIDS Act", which provides for the prevention, testing and treatment of HIV and AIDS, as well as for the rights of people living with HIV. This new law has lowered minimum age for HIV testing without the requirement for parental consent to fifteen years old, but the law does not waive the same requirement for minors who have tested positive with HIV and need to access treatment. As noted by one of the FGD participants, the practice remains that minors are asked to present proof of parental consent before they are given treatment. Consequently, if a child has not disclosed their HIV status to their parents or guardians — whether out of fear, shame or other reasons — they cannot access life-saving HIV treatment.

VI. Recommendations for policy reforms and program development.

Recommendations from LGBTQ Children:

- Pass an anti-discrimination law and a legislation for the protection of LGBTQ children;
- Provide support and capacity-building programs for LGBTQ children in *barangays*;
- Create new, and provide support for existing, LGBTQ organizations in schools; and,
- Conduct sensitization programs to promote awareness on SOGIE issues.

Recommendations from CHR

Philippine Congress

- Pass a specific and comprehensive policy that addresses SOGIE-based discrimination through extensive awareness-raising and sensitization programs and by creating redress mechanisms for cases of discrimination in both public and private institutions.

Department of Education

- Conduct capacity-building and sensitization programs on SOGIE for teachers and school personnel in both public and private basic educational institutions
- Issue an administrative order requiring school administrators to respect students' SOGIE when enforcing uniform and haircut policies.
- Include discussions on SOGIE in the Comprehensive Sexuality Education curriculum.

Department of Interior and Local Government

- Issue an administrative order on the inclusion of SOGIE in local government units' gender and development (GAD) programs.

Department of Social Welfare and Development

- Make awareness-raising programs on SOGIE mandatory in Family Development Sessions under the *Pantawid Pamilyang Pilipino* Program.

Department of Health

- Ensure the full implementation of the Philippine HIV and AIDS Law

Philippine Commission on Women

- Include SOGIE in the national implementation of GAD programs and to urge local government units to engage with LGBTQ civil society organizations in conducting community discussions on SOGIE.

Local Government Units

- Pass and fully implement anti-discrimination ordinances and promulgate implementing rules and regulations thereof.
- Make SOGIE-sensitivity trainings mandatory for local law enforcers.
- Conduct community discussions, together with local LGBTQ organizations, on the respect for the rights of LGBTQ children as part of its GAD activities.

VII. Conclusion

This report has illustrated the situation of LGBTQ children in the Philippines. It shows that various rights of LGBTQ children are under threat such as their rights to education, non-discrimination, protection from abuse and neglect, health and participation. They face the same threats that other children often do, but they are also particularly targeted because of their SOGIE. The stigmatization of non-conformity to gender norms is so deeply embedded in the society and in institutions that it translates to policies, practices and behaviors that restrict, punish, and abuse LGBTQI children.

Existing laws and policies are still largely insufficient in protecting and promoting the rights of LGBTQ children. It is notable, however, that more and more laws and policies are becoming more inclusive of LGBTQ people in general. But even in laws that recognize the uniqueness and specificity of SOGIE-based discrimination, abuse and violence, there are still no clear mechanisms for these issues. International human rights bodies already provide substantial guidance for creating and implementing policies that are adequately responsive of the needs and vulnerabilities of LGBTQ children, and it is incumbent upon the Philippine Government to adhere to these.

One issue that stands out from the findings of this report is the weak implementation of laws that could protect LGBTQ children. This is due in large part to a gap in terms of awareness on SOGIE issues among duty-bearers like government officials, service providers, and law enforcers. Thus, for government agencies to effectively implement these laws, they must immediately address this gap.

The lack of a national legal framework on the rights of LGBTQ children is also one major issue. The Philippine Congress has yet to enact a national legislation that would address SOGIE-based discrimination. If enacted, this measure could provide for extensive sensitization trainings for various stakeholders, provide remedies for SOGIE-based discrimination, and provide clear mandates for government agencies to address SOGIE-based discrimination.

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