



**OUTRIGHT**  
ACTION INTERNATIONAL

Human Rights for LGBTIQ People Everywhere.



**EnGendeRights, Inc.**  
*Asserting Gender Equality*

# **Trainer's Training to Address Domestic Violence and Family Violence (DV/FV) of LGBTI Persons**

**January 30-February 1, 2017**  
**Loireland Farm Resort, Antipolo City**

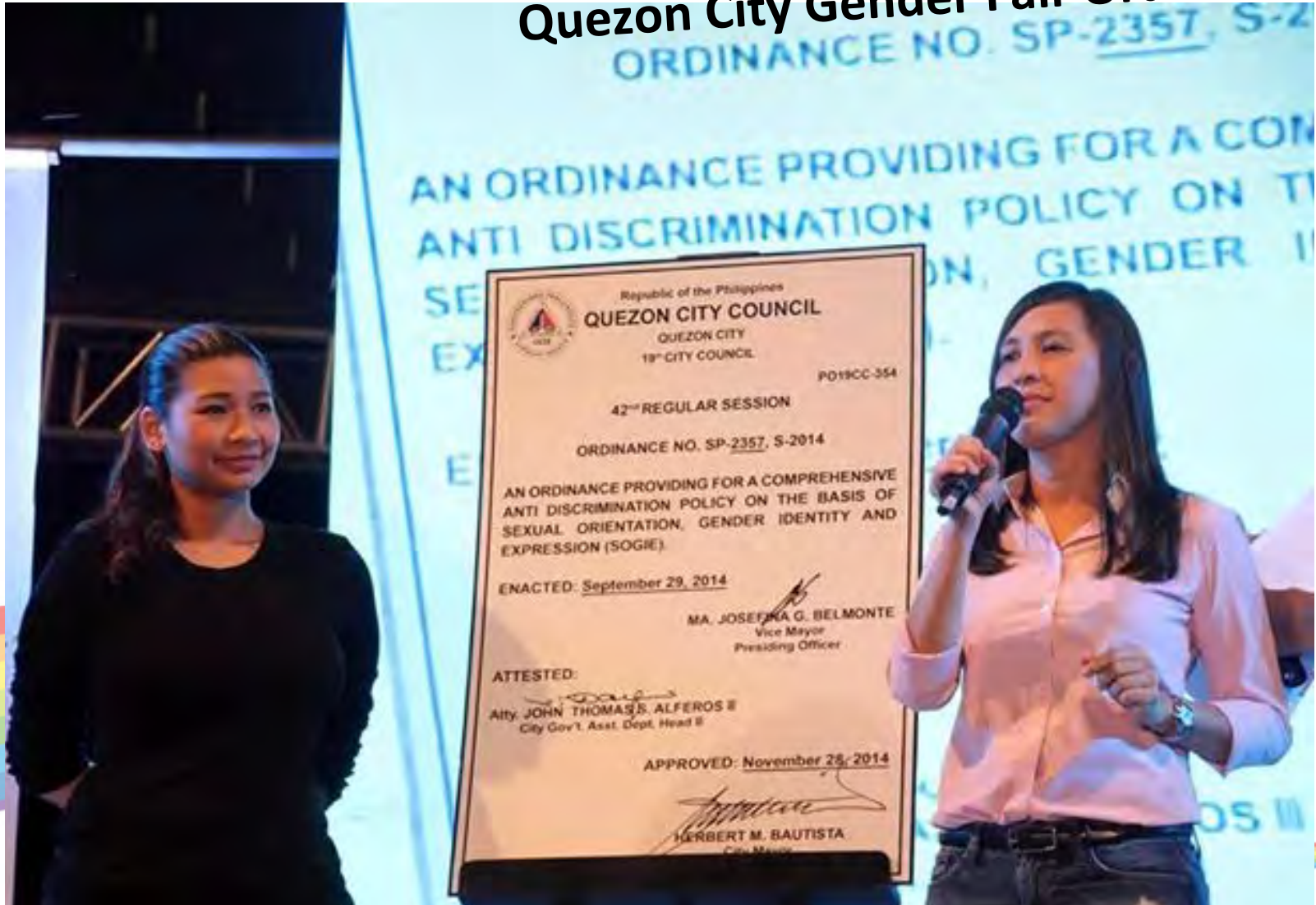


**Please stand for the Philippines  
national anthem**



# I. Why this training?

## Quezon City Gender Fair Ordinance



# LBT Project on DV/FV

- **Timeframe: 2016 – 2018**
- **Outputs**
  - **Protocol on LBT DV/FV**
  - **Module on LBT DV/FV**
  - **Trainer's Training for each districts**
  - **Echo training for each district**
  - **Community Forum for each district**
  - **Information materials for barangays**
  - **Monitoring for barangays in all districts**



# Aim of the Trainer's Training

- To enhance understanding of sexual orientation, gender identity, and gender expression (SOGIE),
- To deepen knowledge about lesbian, gay, bisexual, transgender, and intersex (LGBTI) people,
- To educate on the different forms of DV/FV experienced by LGBTI persons,
- To capacitate with skills to provide sensitive and appropriate interventions and assistance to LGBTI persons who are victims of DV/FV.

# Day 1 Overview

- Introduction to the Trainer's training
- Review of Human Rights concepts
- Workshop on Stigma, Stereotypes, Prejudice, Discrimination
- Workshop on Sexual Orientation, Gender Identity, and Gender Expression (SOGIE)

# Nice to meet you...

1. Introduce yourself
2. Barangay and area
3. Length of work sa Barangay
4. Expectation from other participants training.
5. Expectation from the training.
6. Ano iyong sexual orientation?
7. Ano ang iyong gender identity?

# House Rules

- Be on time. We will start without you.
- No cellphone and internet use during the training session.
- No imposition of religion or political beliefs.
- Courtesy all time time.
- No absent, no late = certificate.
- RESPECT in words, thoughts and actions.

# II. Review of Human Rights concepts



# Introduction/Rationale

Clara Rita A. Padilla, JD  
EnGendeRights, Inc.

(632) 3762578

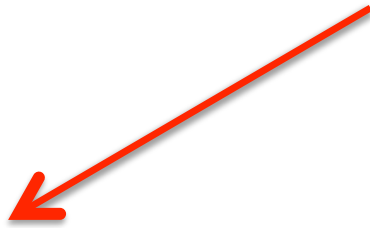
[engenderights@gmail.com](mailto:engenderights@gmail.com)

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

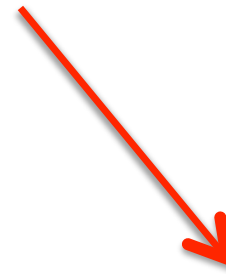


# Question:

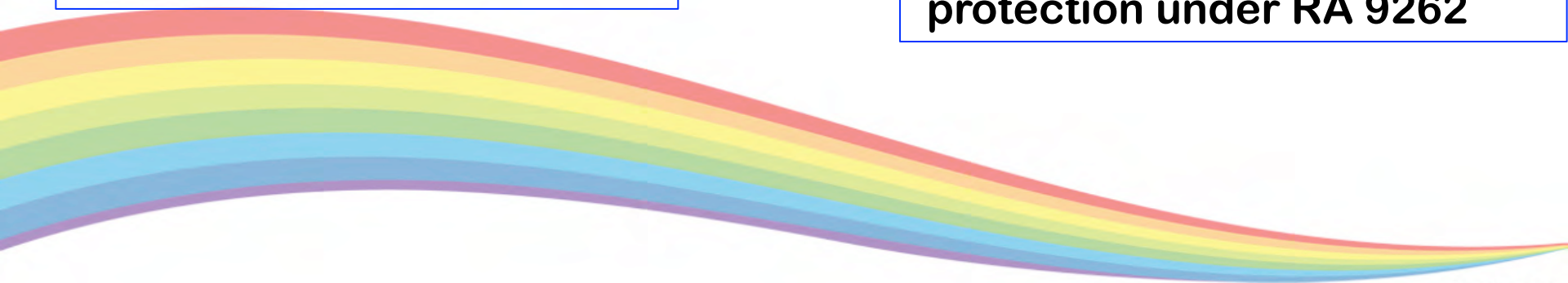
**Can a battered lesbian living with her lesbian partner seek protection under RA 9262?**



**Yes, pwedeng dumulog ang battered lesbian kumuha ng protection under RA 9262**



**HINDI! pwedeng dumulog ang battered lesbian kumuha ng protection under RA 9262**



# QUESTIONS:

- **Should LGBTI couples be allowed the following rights:**

- right to adopt children,
- own conjugal properties,
- intestate succession,
- immigration, custody,
- avail of tax exemption, and
- avail of benefits related to health/life insurance, social security, health care/medical, hospitalization, next-of-kin, burial, among others?

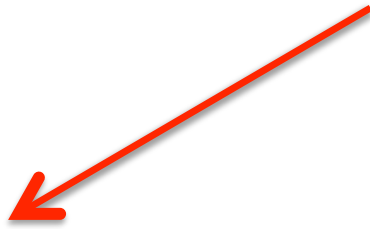


**Yes, dapat payagan sa mga Rights na ito**

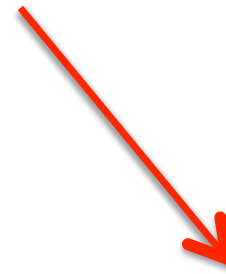
**Yes, dapat payagan sa mga Rights na ito**

## QUESTION:

- **Should the Philippines enact a marriage equality law where LGBTI people will have equal rights to marry?**



**Yes, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons**

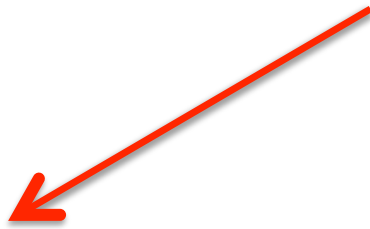


**HINDI, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons**

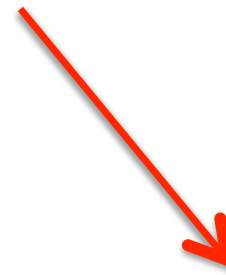


## QUESTION:

**Should the Philippines allow change of name/  
sex based on gender identity?**



**YES, dapat dapat payagan  
Magpalit ng name and sex  
dependent sa gender identity  
Isang tao**

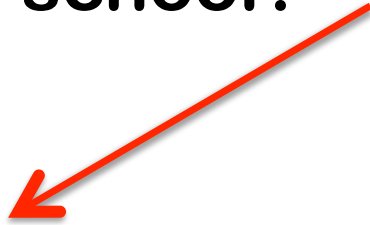


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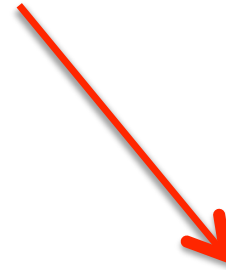


## QUESTION:

**Should a public school allow a lesbian to wear pants in school?**



**YES, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons**

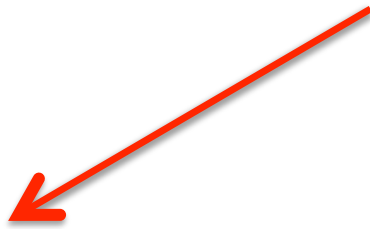


**HINDI, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons**

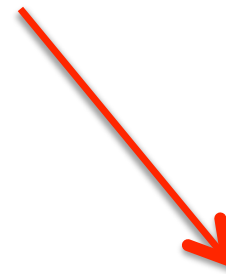


## QUESTION:

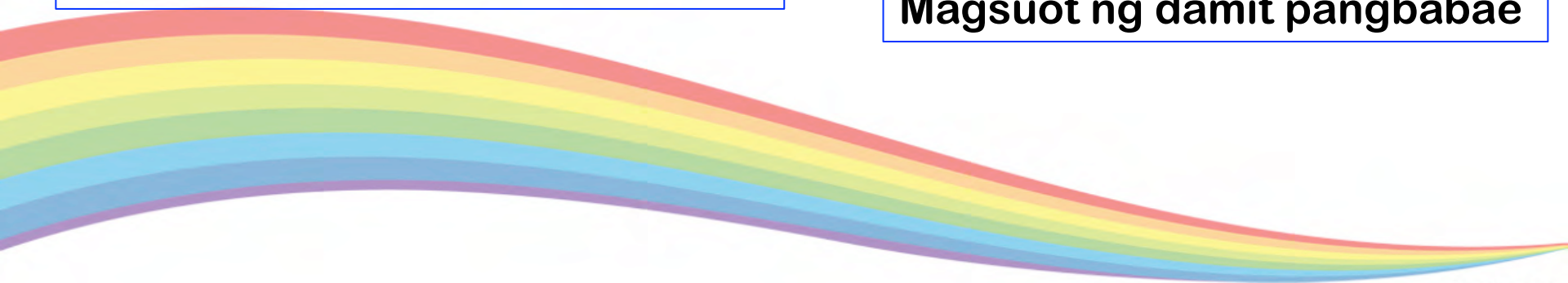
- **Should a public school allow a transgender woman/girl to wear a dress in school?**



**YES, dapat payagan ang Transgender woman na magsuot ng damit pangbabae**

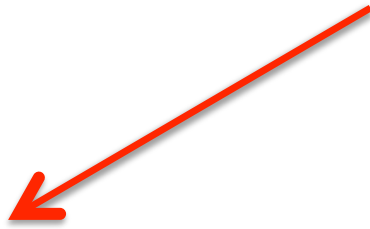


**HINDI dapat payagan ang Transgender woman na Magsuot ng damit pangbabae**

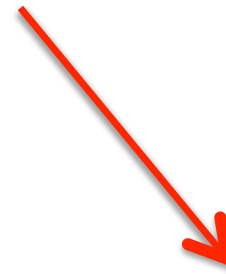


# QUESTION:

- Should a commercial establishment allow a transgender woman to use the women's toilet?



**Yes, dapat magkaroon ng  
Batas na magiging legal ang  
Relasyon ng LGBTI persons**



**HINDI, dapat magkaroon ng  
Batas na magiging legal ang  
Relasyon ng LGBTI persons**



## QUESTION:

- Should the Comelec deny the LGBTI group Ang Ladlad to register as a party-list group prohibiting it to run in Congress on the claim that they are “immoral” and “the Bible and the Qur’an prohibit LGBTI peoples”?



**YES, dapat ma-deny ang LADLAD to resigter...**

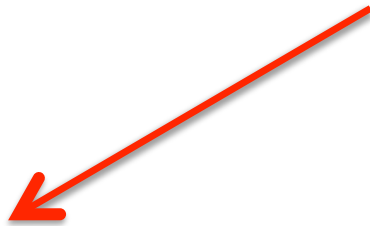


**HINDI, dapat ma-deny ang LADLAD to resigter...**

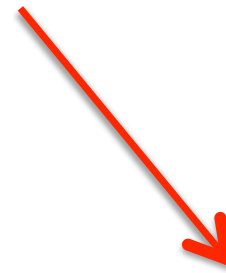


# Question

- Does a mother have the right to physically abuse her lesbian daughter simply because she is a lesbian?



**YES, may karapatan ang Ina to physically abuse her lesbian daughter kasi lesbian Siya.**

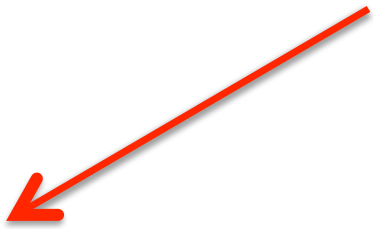


**HINDI, may karapatan ang Ina to physically abuse her lesbian daughter kasi lesbian Siya.**

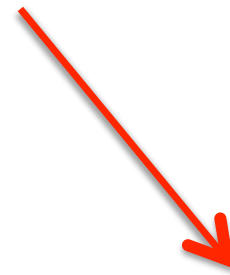


# Questions

- Can a transgender woman be raped?



**YES** pwede ma-rape  
ang isang transgender woman



**HINDI** nare-rape ang  
transgender woman



# Question

- Should Emergency Contraceptive Pills (ECPs) or the “morning after pill” be allowed in the Philippines to prevent unwanted pregnancy resulting from rape?

Yes, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons

HINDI, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons

# Question:

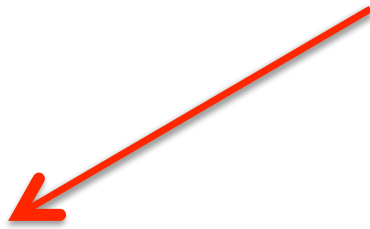
● Within a week after a woman rape survivor was raped, she related the incident to her best friend. Her best friend testified about what was related to her and the demeanor of the rape

Yes, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons  
admissible in evidence?

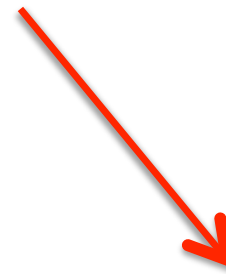
HINDI, dapat magkaroon ng Batas na magiging legal ang Relasyon ng LGBTI persons

# Question:

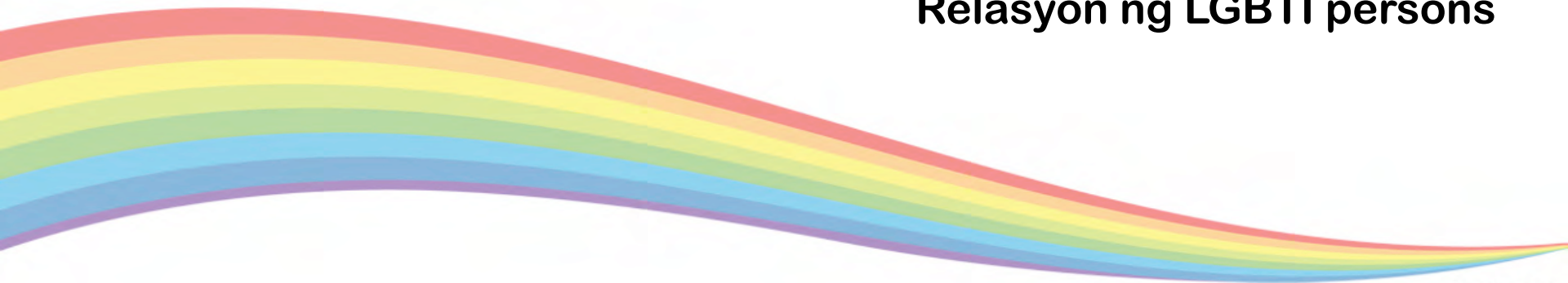
- Should abortion be allowed for women victims of rape?



**Yes, dapat magkaroon ng  
Batas na magiging legal ang  
Relasyon ng LGBTI persons**




**HINDI, dapat magkaroon ng  
Batas na magiging legal ang  
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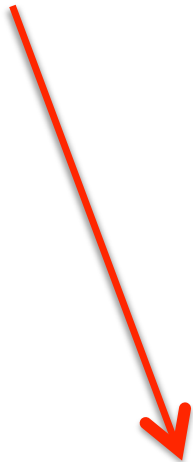


# Question:

- Should a doctor refuse treatment to a woman who is suffering complications from unsafe abortion?



**YES** dapat umayaw ang doctor na asikasihun ang isang babae dahil sa post-abortion complications



**HINDI** dapat umayaw ang doctor na asikasihun ang isang babae dahil sa post-abortion complications



# Pointers

- **There are differing points of views/beliefs**
- **Basic respect for the other person's beliefs**
- **Victims of patriarchy, culture, beliefs; we all have baggage; influence of almost 500 years of colonial Church influence.**



# Pointers

- **Keep an open mind**
- **Break mindsets**
- **“Debaters” for LGBTI persons’ rights**
  - eye for discriminatory laws/practices
  - **impact** of discriminatory laws/practices

- **social change**
  - towards **gender equality** and **non-discrimination**
- **What can you do as agents of social change?**
  - personal, community, school, workplace, church
  - **laws, policies, practices**
    - make a stand/ *Tumaya / aksyon*
    - **Fought for:**
      - » RA 7877, RA 8353/amendment, RA 9208/10364, RA 9262, repeal of vagrancy, RH, etc.;
      - » Ordinances (QC Gender-Fair, etc.), circulars, policies
- **What is your religion?**

# LGBTI People's Rights are Human Rights

- **Right to sexual orientation, gender identity and gender expression (SOGIE)**
- **Right to equality and non-discrimination**
  - Right to be free and equal
    - Heterosexuals should not be afforded more rights than LGBTI people
  - Right to privacy (closeted; as if disreputable) versus right to equality (being out)
  - Rights are not negotiable



# Characteristics of Human Rights

- **Universal**
  - Applicable to **ALL** persons - heterosexual, LGBTI people.
  - Race, sex, religion, nationality, disability, indigenous, etc
- **Inherent**
  - All human beings are **born** with human rights.
- **Inalienable**
  - human rights are **inseparable** from our personhood.
- **Indivisibility/interdependence**
  - human rights **cannot be divided from other rights**; it is interlinked.

\* Universal Declaration of Human Rights (1948)

\* The Vienna Declaration and Program of Action in 1993 affirmed that all human rights are universal, indivisible, interdependent, and interrelated, and States have a duty to fulfill them.

# Basis for Human Rights

## □ Universal Declaration of Human Rights (UDHR)

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

# Basis for Human Rights

- ❑ International Covenant on **Civil and Political Rights (ICCPR)**
  - **Article 2**
    - Each State Party to the present Covenant undertakes to respect and to ensure to **all individuals** within its territory and subject to its jurisdiction the rights recognized in the present Covenant, **without distinction** of any kind, such as race, colour, **sex**, language, religion, political or other opinion, national or social origin, property, birth or other status.

# Basis for Human Rights

- International Covenant on **Economic, Social and Cultural Rights (ICESCR)**
  - **Article 2**
    - The States Parties to the present Covenant undertake to guarantee that the **rights** enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, **sex**, language, religion, political or other opinion, national or social origin, property, birth or other status.





# LGBTI People's Rights are Human Rights

- ❑ Right to sexual orientation, gender identity and gender expression (SOGIE)
  
- ❑ Right to equality and non-discrimination
  - Right to be free and equal
    - Heterosexuals should not be afforded more rights than LGBTI people
  - Right to privacy (closeted; as if disreputable) versus right to equality (being out)
  - Rights are not negotiable

# International Covenant on **Civil and Political Rights** (ICCPR)

- Art. 1 – victim (note: actual violation of rights)
- **Art. 2** – rights of all individuals w/out distinction of any kind, such as race, colour, **sex**, language, religion, political or other opinion, national or social origin, property, birth or other status.
- **Art. 3 - equal right of men and women**
- **Art. 26 - equality before the law and non-discrimination; equal protection**
- Art. 14 – equal before the courts
- Art. 17 – right against arbitrary or unlawful interference with privacy, family, home or correspondence
- **Art. 23 - equality of rights to marriage**

# International Covenant on **Economic, social and Cultural Rights**

- **Art. 2** – non-discrimination of ESC rights on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- **Art. 3 - equal right to ESC rights**
- Art. 10 (2) - special protection should be accorded to women during a reasonable period before and after childbirth
- Art. 12 - right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

# Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW; Women's Convention)

- international convention adopted by the United Nations General Assembly in 1979 and entered into force on Sep. 3, 1981
- **Philippines ratified CEDAW on August 5, 1981**
- **One of the 9 core human rights treaties** (CESCR, CCPR, CERD, CEDAW, CAT, CRC, CMW, PWD, PED)
- CEDAW is the second most ratified treaty — second only to the Convention on the Rights of the Child
- 187 parties as of March 10, 2013

# CEDAW

- legally binding treaty
- creates an obligation on the part of the national government to enact and implement laws and policies that comply with international laws and standards
- as a state party to CEDAW, the Philippines is bound by its obligations under the convention.
- Note: the Philippines “adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations,” (Phil. Const. art. II, § 2)

# CEDAW

- Article 1 of CEDAW defines discrimination on the “basis of sex,” as follows:
- Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

# Treaty Obligations in relation to Human Rights

- Equality

- to realize substantive equality where the outcomes of laws, policies and programs are equal for all
- equality in access, opportunity, results

- Non-discrimination

- State obligation



# Obligations of States Parties under International Human Rights Law

- **To respect** human rights. This requires the government to abstain or refrain from denying or obstructing the rights of LGBTIs or not to violate LGBTI rights.
- **To protect** human rights. This requires the government to take steps to prevent violations and impose sanctions for violations, and
- **To fulfill** human rights. This requires the government to take appropriate legislative, judicial, administrative, budgetary, economic, and other measures to the maximum extent of their available resources to ensure that LGBTIs realize their rights.





# Intersectionality of Women's Discrimination

- Sex or Gender
- Class, Caste
- Race
- Religion or belief
- Disability
- Sexual Orientation and Gender Identity
- Marital or Family Status
- Age
- Health, Status
- Minority, Ethnicity Indigenous People
- Migrant Status
- Internally Displaced/Stateless

\*CEDAW General recommendation No. 27 on older women and protection of their human rights, Oct 2010

- General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of CEDAW

# Key Human Rights; Rights-based Approach

## 1. The Right to Life, Liberty, and Security

UDHR Art. 3;

## 2. The Right to Health, Reproductive Health, and Family Planning

UDHR Art. 25.1; Art 16, 12 CEDAW, CEDAW GR 24

## 3. 4. The Right to Consent to Marriage and to Equality in Marriage

UDHR Art. 16..1, Art. 16 CEDAW

# Key Human Rights

## 5. The Right to Privacy

## 6. Right to equality and non-discrimination

UDHR Art. 2, Art. 1, 2, 3, 15 CEDAW

## 7. The Right to be Free from Sexual and Gender-Based Violence



# Constitutional guarantees

- Right to dignity and full respect of human rights (Article II, Section 11)
  - “The state values the dignity of every human person and guarantees full respect for human rights.” Article II, Section 11
- Right to equality, equal protection of the law
  - **“No person xxx (shall be) be denied the equal protection of the laws.” (Article III, Section 1)**
- Right to human dignity; right against discrimination
  - “The enactment of measures that protect and enhance the right of the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities shall be given highest priority.” (Section 1, Article XIII)

# Constitutional guarantees

- Separation of church and state; Freedom of Religion and belief
- Non-establishment of religion
  - “SECTION 5. No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. X x x” (Article III, Section 5)

## Need to Change Laws, Policies & Practices

- Discrimination against LGBTI persons is prevalent
  - Discrimination breeds hatred, intolerance, and even violence
  - Religion is used as an excuse



# Realities

- LGBTI people are discriminated in law, policy, and practice
  - Violence against LGBTI (family, elsewhere)
    - involuntary confinement;
    - vulnerable to physical and sexual abuse (rape, torture, murder, violence, and abuse);
    - LGBTI killings
  - Discrimination and harassment
    - School – made to wear a skirt; drop out; suicidal
    - Work
    - elsewhere

# Realities

- LGBTI persons are discriminated in law, policy, and practice
- dress codes in government
- “immorality” in civil service/private firms
- Denial of right to custody of lesbian mothers;
  - judge called the lesbian wife “immoral” but was not appalled by the husband beating the lesbian wife
  - testimonies of lesbian mothers who raised their children to be responsible citizens and children’s testimonies; testimonies of psychologists/counselors
- Indigenous CAR community with predominantly LGBTI people



# Discriminatory Practices

- Use of discriminatory/sexist language
  - Bakla – when used to denigrate
  - Walang bayag



# SOGIE

- Right to equality and non-discrimination;
- Right to equal protection of the law
  - Passage of Laws/Need for Progressive Jurisprudence on:
    - Anti-Discrimination / Hate Crimes (SBN 2814\* passed on 3<sup>rd</sup> reading; supposedly for pre-bicameral conference committee last 15<sup>th</sup> Congress)
      - \*Prohibiting Discrimination, Profiling, Violence and All Forms of Intolerance against Persons Based on Ethnicity, Race, Religion or Belief, Sex, Gender, Sexual Orientation, Gender Identity, Language, Disability, or other Status  
Note: ADB- 1999; 2004 approved in House of Reps
    - Marriage Equality- lack of legal recognition perpetuates discrimination against LGBTs; Marriage is a fundamental human right
    - Gender Recognition
      - Denial of change of name in sex reassignment case in Silverio case;
        - » Rommel Jacinto Dante Silverio vs. Republic of the Philippines (G.R. No. 174689, October 22, 2007), a male to female transgendered person was denied her petition to change her sex and name in her birth certificate
      - Granted in female-male in Cagandahan case w/ congenital adrenal hyperplasia

# Discriminatory Laws/Policies

- The right to marry of heterosexual couples is recognized under existing Philippine law and their other related rights are protected under Philippine law as well.
- LGBTI couples are **denied** the right to marry and divorce and other rights
  - right to adopt children, own conjugal properties, intestate succession, immigration, custody, avail of tax exemption, and avail of benefits related to health/life insurance, social security, health care/medical, hospitalization, next-of-kin, death/burial, among others.
  - There are no laws ensuring the abovementioned rights



# Discriminatory Laws/Policies

- The right to marry of heterosexual couples is recognized under existing Philippine law and their other related rights are protected under Philippine law as well.
  - Example of SOGIE families; the non-biological lesbian partner is supporting the children of the biological lesbian mother who are not being supported by the biological father
  - same company benefits for heterosexual spouses and LGBT couples
  - e.g. health, dental, bereavement, etc. for LGBTI couples (e.g., Thomson Reuters, Accenture, HSBC, etc)
  - Insurance policies; Wills & trust agreements



# Discriminatory Laws/Policies

- No divorce law
- Equality in marriage (available in **predominantly Catholic countries/areas: Argentina, Belgium, France, Portugal, Spain; Mexico City, Brazilian states** (thru SC ruling entitling partnership rights through civil union); Uruguay (predominantly Catholic/Christian))
  - lack of legal recognition perpetuates discrimination
  - **Vestiges of colonialism**

# SOGI – Equality in Marriage

- Equal marriage rights are recognized in:
- Countries: Netherlands (2001), Belgium (2003), Canada (2005), Spain (2005), South Africa (2006), Norway (2009), Sweden (2009), Argentina (2010), Iceland (2010), Portugal (2010), Denmark (2012), [France](#) (2013), [Brazil](#) (2013), [Uruguay](#) (2013) and [New Zealand](#) (2013 August);
- Cites/states:
  - Mexico City and Oaxaca and [Quintana Roo](#) states (these marriages are recognized nationally through Supreme Court ruling)
  - United States -Massachusetts (2004), Connecticut (2008), Vermont (2009), Iowa (2009), New Hampshire (2010), Washington, D.C. (2010), New York (2011), Maine (2012), Maryland (2012), Washington (2012), Rhode Island (2013), Delaware (2013) Minnesota (2013) and California (in 2008 for four months and now in 2013); within the Coquille Indian tribe in Oregon (2009), within the Suquamish Indian tribe in Washington state (2011), and within the [Little Traverse Bay Bands of Odawa Indians](#) in Michigan (2013).

## Legal Argumentation (cont'd)

- Concept of the homosexual emerged late 19<sup>th</sup> century;
  - sodomy was not directed at homosexuals but vs. non-procreative sex;
  - only 1970s that same-sex relations were made criminally punishable in US (Lawrence vs. Texas, US 2003)
- constructs of “morality” and “religious beliefs” that breed hatred
- freedom of thought, conscience and religion



# Human Rights Committee

## General Comment 18

- emphasized the state parties' obligation to take affirmative action in order **to diminish or eliminate conditions that cause or perpetuate discrimination**
- called for **protection of homosexuals' right to life**



# HRC General Comment 19

- the HRC recognized that:
  - the **concept and structure of family may differ** from state to state
  - that the **right to marry and found a family** may be based on **diverse definitions of families and relationships**
- contrary to claims that LGBT relationships are "abnormal"

# Sexual Orientation

- CEDAW's General Recommendation 21 recognizes that:
  - “[t]he form and concept of the family can vary from State to State, and even between regions within a State.”
- CEDAW has also asked states parties to
  - reconceptualize lesbianism as a sexual orientation
  - to abolish penalties for its practice.

Human Rights Committee case  
Sexual Orientation  
Toonen v. Australia

- Tasmanian Criminal provisions on private sexual contact between consenting adult homosexual men  
Comm. No. 488/1992 (1994)
- Potential harm arising from the risk that an offending law may be applied to the “victim”
  - Did not exhaust domestic remedies and argued that pronouncements of gov’t officials preclude him from seeking effective relief
- HRC
  - 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
  - “the reference to ‘sex’ in Article 2, paragraph 1, and Article 26 (equal protection of the laws) is to be taken as including sexual orientation”
  - entitled to the repeal of the law
- Notes:
  - Tasmania repealed the law in question

## 2003 Concluding Observations on the Philippines from Human Rights Committee (HRC)\*

- urged the Philippine government to:
  - "take the necessary steps to **adopt legislation explicitly prohibiting discrimination**";
  - "to pursue its efforts to **counter all forms of discrimination**" pertaining to sexual orientation
  - "strengthen **human rights education to forestall manifestations of intolerance and de facto discrimination**"

\* tasked to monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR)

## 2012 Concluding Observations on the Philippines from

- Concerns : Human Rights Committee (HRC)\*

10. While welcoming the decision of the Supreme Court in the Ang Ladlad case and the statement of the delegation that it will take up a leadership role to promote LGBT rights, **the Committee is concerned that LGBT persons are subjected to arrest and prosecution by means of the “grave scandal” provision provided under article 200 of the Revised Penal Code.** The Committee is also concerned that the **comprehensive anti-discrimination bill that prohibits discrimination on grounds of sexual orientation and gender identity has not been passed into law.** Furthermore, the Committee is concerned at the prevalence of **stereotypes and prejudices against LGBT persons in the military, police and the society at large (arts. 2 and 26).**

\* tasked to monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR)

## 2012 Concluding Observations on the Philippines from

- **Human Rights Committee (HRC)\***  
urged the Philippine government to:

10. X x x

The State party should ensure that LGBT persons are neither arrested nor prosecuted on the basis of their sexual orientation or gender identity including for violating the “grave **scandal**” provision under the **Revised Penal Code**. The State party should adopt a **comprehensive anti-discrimination law that prohibits discrimination on the basis of sexual orientation and gender identity and take steps, including awareness raising campaigns, to put an end to the social stigmatization of and violence against homosexuals.**

\* tasked to monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR)

## UN Gains

- **Dec. 2010 – UN GA Resolution on extrajudicial executions including based on sexual orientation (93 states; Phils abstained)**
- **March 22, 2011 – Joint Statement of States at UN Human Rights Council to End Criminal Sanctions and Violence Based on SOGI (85 States)**
- **June 17, 2011 – UN HRC First Resolution on Sexual Orientation and Gender Identity (Phils. did not co-sponsor; not having been a member of the HRC then)**
  - affirms the universality of human rights
  - expresses grave concern about acts of violence and discrimination based on SOGI



# 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,



# Yogyakarta Principles

- In 2007, a group of human rights experts drafted the Yogyakarta Principles on the Application of Human Rights Law in Relation to Sexual Orientation and Gender Identity. The Yogyakarta Principles identifies obligation of States to respect, protect, and fulfill the human rights of all persons regardless of their sexual orientation or gender identity.

# Yogyakarta Principles

- 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 (UN Special Rapporteur on extrajudicial, summary and arbitrary executions) and Paul Hunt (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

Homosexuality and lesbianism were removed from the list of mental

disorders:

- American Psychiatric Association on December 15, 1973
- American Psychological Association in January 1975
- Note: DSM 5 **transsexualism is now gender dysphoria (May 2013)**

# Psychological Association of the Philippines (PAP)

- PAP: “prejudice and discrimination tend to be based on a rhetoric of **moral condemnation** and are **fueled by ignorance or unfounded beliefs** associating these gender expressions and sexual orientations with psychopathology or maladjustment”



# Magna Carta of Women

- Incorporates Article 1 of CEDAW defining discrimination against women as “any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” and specifically recognizes diverse sexual orientation and intimate relationships.

# Magna Carta of Women

## SEC. 3. Principles of Human Rights of Women.

- “All individuals are equal as human beings by virtue of the inherent dignity of each human person. No one, therefore, should suffer discrimination on the basis of ethnicity, gender, age, language, **sexual orientation**, race, color, religion, political, or other opinion, national, social, or geographical origin, disability, property, birth, or other status as established by human rights standards.”



# National Laws

- **DepEd Child Protection Policy\***
  - mandates all public and private elementary and secondary schools to prohibit discrimination based on sexual orientation and gender identity;
- **DepEd IRR of the Anti-Bullying Act\*\***
  - expounds “gender-based bullying” to include acts committed on the basis of perceived or actual SOGI;
- **Commission on Higher Education (CHED) Memo Order 1-2015**
  - identifies SOGI as one of the priority areas for research in all the higher education institutions.

\*DepEd Order No. 40, Series 2012, Child Protection Policy, Sec. 3, para. J.

\*\*Anti-bullying Law Implementing Rules and Regulations, 2013.

## DepEd Order 45 2008 & 46 2008

- DepEd Order 45 2008 No School Uniform
- DepEd Order 46 2008
  - Girls -Pants/Dress/Skirt
  - Boys –Pants/Polo/T-shirt





# Laws

- Protection Order for women abused by their lesbian, bisexual partners under the Anti-VAWC law
- Ordinances
  - Quezon City Sept 2003; 2014
  - Albay Province 2008
  - Dagupan City June 2010
  - Cebu City October 2012
  - Davao City November 2012
  - Angeles City February 2013
  - Bacolod City April 2013
  - Agusan del Norte and Cavite
  - Candon City Aug. 2014
  - Vigan City Dec. 2014
  - Antipolo City Jan. 2015
  - Puerto Princesa City Sept. 2015

## Discussion on Lack of Access to Safe and Legal Abortion

- 2006 CEDAW Committee
  - remove punitive provisions imposed on women who induce abortion
  - provide access to quality services for the management of complications arising from unsafe abortions in order to reduce maternal mortality rates.
  - Note: stated in the main areas of concern of the EnGendeRights et al Shadow Report

## Discussion on Lack of Access to Safe and Legal Abortion

- **2015 CEDAW Committee report on the inquiry** on reproductive rights violations
  - amend articles 256 to 259 of the Revised Penal Code to “**legalize abortion in cases of rape, incest, threats to the life and/or health of the mother, or serious malformation of the foetus and decriminalize all other cases where women undergo abortion.**”
  - ensure that **women experiencing abortion-related complications are not**
    - **reported to law enforcement authorities** and are not threatened with arrest, or
    - **subjected to physical or verbal abuse, discrimination, delays** in access to or denial of care
    - **adopt a patient privacy policy ensuring doctor-patient confidentiality** for post-abortion complications.
  - provide access to quality post abortion care to women including by reintroducing misoprostol to reduce maternal mortality and morbidity rates

## Discussion on Post-Abortion Care

- The DOH Prevention & Management of Abortion Complications (PMAC) Policy (2000) was not fully implemented throughout the country.
  - After the initial pilot programs conducting trainings from 2000 through 2005, the policy has not been actively implemented by the DOH.
  - New PMAC Policy (DOH AO on Prevention & Management of Abortion Complications 2016-0041 dated Nov 25, 2016); engagement with DOH discussing results of the CEDAW Inquiry.
- Women suffering abortion complications often face humiliation and threatened with arrest and prosecution at health care facilities.
- Many women suffering complications due to spontaneous abortion, abortion due to trauma from intimate partner violence, and even fetal death have also been denied access to humane, nonjudgmental, compassionate post-abortion care and were threatened with criminal prosecution.

# CEDAW Committee 2016 Concluding Observations

- Priority follow up issues: requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations
  - Reproductive rights
  - 40. The Committee recommends that the State party fully implement, without delay, all the recommendations issued by the Committee in 2015 in the report on its inquiry (CEDAW/C/OP.8/PHL/1, paras 49 to 52), including on **access to modern contraceptives** and **legalization of abortion under certain circumstances**.
  - Violence against women

# Health Impact of Penalty Imposed on Women Who Induce Abortion

- Problem: women who induce abortion are threatened by doctors at the hospitals
  - denial of treatment for fetal death, spontaneous abortion, abortion due to trauma, induced abortion
  - Because of the threats, women do not seek medical attention and end up dying from abortion complications
  - delaying proper management of abortion complications [inhumane, judgmental care]
- DOH Policy on Prevention and Management of Abortion and its Complications (**PMAC Policy**, DOH AO No. 45-B, s. 2000)
  - New **PMAC Policy** (DOH AO on Prevention & Management of Abortion Complications 2016-0041 dated Nov 25, 2016); engagement with DOH discussing results of the CEDAW Inquiry.

# Health Impact of Penalty Imposed on Women Who Induce Abortion

- National gov' t –run special units to treat abortion complications at Fabella, Bulacan Provincial Hospital
- Magna Carta of Women
  - Prevention of abortion and management of pregnancy-related complications (childbirth, abortion)
- RH Law - humane, nonjudgmental post-abortion care/penalty; RA 8344 on emergency or serious cases; stabilize patient/penalty
- No law requiring doctors to report women who induce abortion (PD 169 requires medical practitioner who treated **serious or less serious physical injuries** (RPC 262-265) to report injury, diagnosis, treatment)





# My Husband's Lover Bill

## Realities:

- some people **belatedly realize** their sexual orientation or gender identity--  
**sometimes after having been married for several years**;
- there are **battered married women** who have chosen to **live another life with their new same-sex partners**
- there are **closeted** lesbians, gays, and bisexuals **who marry and realize later on that they prefer same-sex relationships**
  
- discriminates against LGBTIs
- infringes on one's right to have sexual relations
- will indirectly discriminate against women because more women will end up facing criminal charges since more men still have more money than women**





## Section 377 of the Indian Penal Code

- Section 377 of the Indian Penal Code dating back to 1860, introduced during the British rule of India, criminalises sexual activities "against the order of nature", arguably including homosexual sexual activities.
- decriminalized sex between consenting adults by the High Court of Delhi on July 2009.
- overturned by the Supreme Court of India on 11 December 2013
- 6 February 2016, the final hearing of the curative petition submitted by the Naz Foundation and others heard before the Supreme Court.
- the 8 curative petitions will be reviewed afresh by a five-member constitutional bench.
  - Indian NGO, NAZ Foundation, working with HIV/AIDS sufferers

- Query: “Are we teaching immorality?”;
- Answer:
- We are teaching human rights, equality, non-discrimination; secular governance.
- No one should be discriminated based on their SOGI
- No mother should beat her daughter because she feels it is immoral for her daughter to have a lesbian relationship
- No school should force a student to run the basketball court for several rounds just because she is a lesbian
- No school should force a lesbian to wear a dress to school



## SOGI Consensual Acts; Unconstitutionality of laws penalizing Sodomy

- **1) *Lawrence v. Texas*, (2003) 539 U.S. 558**
- A state law criminalizing oral and anal sex by consenting gay couples is invalid as the constitutional right to liberty allows all persons the right to make the choice as to whether to enter into a personal and intimate relationship in the confines of their own homes and free from unwarranted governmental intrusion. (Supreme Court of the United States), online: <http://supct.law.cornell.edu/supct/html/02-102.ZO.html>
- **2) *Nadan & Anor v The State*, (2005) Crim Appeal Case Nos. HAA 85 & 86/2005**
- Criminalisation of consenting adult homosexual acts carried out in private **declared Unconstitutional**. (High Court, Fiji), online:
- <http://www.paclii.org/fj/cases/FJHC/2005/224.html>

- The Repatriation Commission **denied Young's application for pension for his war veteran same-sex partner of 38 years;**  
Young v. Australia (2003)  
the Veterans Review Board affirmed the decision  
Communication No. 941/2000
- **HRC decision**
  - found a violation by Australia of article 26 of the Covenant
  - **entitled to reconsideration of his pension application without discrimination based on his sex or sexual orientation,** if necessary through an amendment of the law
  - State party is under obligation to ensure that similar violations of the Covenant do not occur in the future

- There are cases where the HRC found that the petition for change of name <sup>Coeriel & Aurik v. The Netherlands</sup> should be granted because **the right to choose one's name and identity is covered by the right to privacy under article 17 of the ICCPR.**
- . See, Coeriel and Aurik v. The Netherlands, Communication No. 453/1991, UN Doc. CCPR/C/52/D/453/1991 (1994).

- In the cases of *Goodwin v. United Kingdom* and *Case of I. v. United Kingdom*, the European Court of Human Rights considered the cases of two transsexual women who claimed that the United Kingdom's refusal to change their legal identities and papers to match their postoperative genders constituted discrimination. Reversing a number of its previous decisions — and offering a major victory for transgender people's rights — the Court held that their right to respect for their private lives, and also their right to marry, had been violated (articles 8 and 12 of the European Convention).
- .*Goodwin v. United Kingdom*, Application No. 28957/95, 35 EHRR 447 (2002).
- .*Case of I v. United Kingdom*, Application No. 25680/94 (2002).

- ***Minister of Home Affairs and Another v. Fourie and Another, with Doctors for Life International, John Jackson Smyth and Marriage Alliance of South Africa; and Lesbian and Gay Equality Project and Eighteen Others v. Minister of Home Affairs and others***

**(2005) Case CCT 60/04 and 10/05**

- The common law and statutory definitions of “marriage” are inconsistent with the Constitution and invalid to the extent that they do not permit same-sex couples to enjoy the status, benefits and responsibilities afforded to heterosexual couples. (Constitutional Court of South Africa), online:
- <http://www.saflii.org/za/cases/ZACC/2005/7.html> ; and
- <http://www.saflii.org/za/cases/ZACC/2005/8.html>



## Proposition 8/Dismissal

- Proposition 8 sought to ban same-sex marriage in California
- In the Proposition 8 case (*Hollingsworth et al v. Perry et al*), the Supreme Court dismissed the petition seeking to uphold Proposition 8 for lack of standing of the petitioners ruling that petitioners did not suffer a concrete and particularized injury as a result of allowing gay marriage. **The Proposition 8 referendum was previously overturned as having violated the US Constitution and was later appealed to the US Supreme Court.**



- In the DOMA case (*United States v. Windsor, Executor of the Estate of Spyer, et al.*), the DOMA definition of marriage between spouses of the opposite sex was found unconstitutional on equal protection and federalism grounds with the Supreme Court ruling that limiting the definition of spouses to between a man and woman interferes with the equal dignity of same sex marriages. With DOMA found unconstitutional, the marriages of LGBT couples are recognized not just in the states where their marriages were celebrated but also federally. Married LGBTs can avail of marital benefits related to immigration, health insurance, tax, among others, and they can no longer be denied the over a thousand marital benefits and obligations afforded by the US federal government to heterosexual couples.

OBERGEFELL et al. v. HODGES,  
DIRECTOR, OHIO DEPARTMENT OF HEALTH, et al.

June 26, 2015

- Michigan, Kentucky, Ohio, and Tennessee define marriage as a union between one man and one woman. The petitioners, 14 same-sex couples and two men whose same-sex partners are deceased, filed suits in Federal District Courts in their home States, claiming that respondent state officials violate the Fourteenth Amendment by denying them the right to marry or to have marriages lawfully performed in another State given full recognition. Each District Court ruled in petitioners' favor, but the Sixth Circuit consolidated the cases and reversed.
- Held: requires a State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-State.

# Progressive Politicians

- Spain – Prime Minister Zapatero (same sex marriage, divorce, further liberalization of abortion)
- NY – Mayor Bloomberg, Gov. Cuomo, Pres. Obama



# Predominantly Catholic countries

- Query:
- What does being a Catholic represent?
- What is foreign to us?
- Catholic religion is foreign to us; the term Philippines is foreign to us
- Catholic church is not monolithic

# International trend

- **Constitutional protection** for sexual orientation in South Africa since 1996
- Constitutional protection for sexual orientation in Namibia since 2005 and laws against discrimination in the labor code since 1992.

# International trend

- Turkey has **ratified** the **Optional Protocol to CEDAW**.
- **Overtaken** a **regulation banning women civil servants** from wearing pants.

*[U.S. Department of State, Country Reports on Human Rights Practices 2002: Turkey, [www.state.gov/g/drl/rls/hrrpt/2002/18396pf.htm](http://www.state.gov/g/drl/rls/hrrpt/2002/18396pf.htm) (last viewed June 12, 2003).*

- Iranian clerics have recently stated that transgendered have given approval to gender reassignment surgery.

*[“Homosexuality laws of the world” available at [http://en.wikipedia.org/wiki/Homosexuality\\_laws\\_of\\_the\\_world](http://en.wikipedia.org/wiki/Homosexuality_laws_of_the_world)] (last viewed Sept. 7, 2006)*

- In Lebanon, a small public campaign exists to legalize homosexual relations between consenting adults [in private].

*[“Homosexuality laws of the world” available at [http://en.wikipedia.org/wiki/Homosexuality\\_laws\\_of\\_the\\_world](http://en.wikipedia.org/wiki/Homosexuality_laws_of_the_world)] (last viewed Sept. 7, 2006)*

# Lesbian Mother's Right to Custody of her Children

- Gualberto vs. Gualberto, G.R. No. 154994, the Philippine Supreme Court stated that, “**sexual preference x x x does not prove parental neglect or incompetence.**”
- This recognizes that lesbian mothers have a right to custody of their children and their being lesbians do not make them unfit mothers as contemplated under Article 213 of the Family Code.



Ordinance Providing for a Comprehensive **Anti-Discrimination Policy on the Basis of Sexual Orientation, Gender Identity and Expression (SOGIE)**  
(Ordinance No. SP-2357, Series of 2014)

- **“The Quezon City Gender-Fair Ordinance”**
- It was approved on 3<sup>rd</sup> reading on Oct. 27, 2014 and signed by the Mayor on Nov. 28, 2014



# Anti-Bullying Act of 2013

## RA 10627

### Section 9. Child Protection Committee as Anti-Bullying Committee

- Section 9. **Child Protection Committee as Anti-Bullying Committee**
- For the implementation of this IRR, the **Child Protection Committee (CPC)** established by DepED Order No. 40, s. 2012, shall also be the committee that will handle bullying cases in the public or private school.
- The Committee, as provided in DepED Order No. 40, s. 2012, shall be composed of the following:
  - 1. School Head/Administrator – Chairperson
  - 2. Guidance Counselor/Teacher – Vice Chairperson
  - 3. Representative of the Teachers as designated by the Faculty Club
  - 4. Representative of the Parents as designated by the Parents-Teachers Association
  - 5. Representative of students, except in kindergarten, as designated by the Supreme Student Council; and
  - 6. Representative from the Community as designated by the Punong Barangay, preferably a member of the Barangay Council for the Protection of Children (BCPC). For private schools, a representative from the Community provided in the preceding number shall be optional.

# Action points

## SOGIE

- Need to advocate for **equality & non-discriminatory policies** in:
- hospitals, educational institutions (affirmative action; orgs)
- Collective Bargaining Agreement/company benefits that provide
  - same company benefits for heterosexual spouses and LGBT couples
  - e.g. health, dental, bereavement, etc. for LGBT couples
- e.g., Thomson Reuters, Accenture, HSBC, etc
- Insurance policies; Wills & trust agreements



# Thank you!

Atty. Clara Rita A. Padilla  
Executive Director  
EnGenderRights, Inc.  
Tel: 6645696

engenderights@gmail.com

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



# III. Workshop on Stigma, Stereotypes, Prejudice, Discrimination

## Ging Cristobal

- Project Coordinator for Asia & Pacific, OutRight Action International
- Co-coordinator, Stop the Discrimination (STD) Coalition
- Technical Advisor, UNDP Being LGBT in Asia
- Co-founder & Stee-rCom member – ASEAN SOGIE Caucus
- Amnesty International – Philippines
- Former Vice chairperson – Quezon City Pride Council

# LBT Project on DV/FV

- **Timeframe: 2016 – 2018**
- **Outputs**
  - **Protocol on LBT DV/FV**
  - **Module on LBT DV/FV**
  - **Trainer's Training for each districts**
  - **Echo training for each district**
  - **Community Forum for each district**
  - **Information materials for barangays**
  - **Monitoring for barangays in all districts**



# Imagine – a construction worker





# Soldier during a break



# #1 – Imagining Images

- What words describe the person in each picture?
- Anong katangian (traits) ang maisip mo sa bawat picture?
- Ano ang sinasabi ng bawat larawan tungkol sa :
  - Kakayahan / Skills?
  - Personalidad/Personality?
  - Values?

# Answer:

- **DARNA!!!** - if you agree
- **HHMMMMMM** - if you are not sure
- **PAK!** – if you don't agree





**Healer**

**Machino**

**Machino**

**Professional**



**OUTRIGHT**  
ACTION INTERNATIONAL  
Human Rights for LGBTQ+ People Everywhere.



**EnGenderRights, Inc.**  
Assessing Gender Equality



**Idol ng kabataan**

**Ideal man**

**Athlete of the year**

**Lalakeng - lalake**







**Ideal woman**

**Graceful**

**Feminine**

**Idol ng nga babae**

**Happy family**

**Happy mother**

**Caring mother**

**Fulfilled**





**OUTRIGHT**  
ACTION INTERNATIONAL

Human Rights for LGBTIQ People Everywhere.

# PAANO KUNG...





**Healer**

**Matalino**

**Macho**

**Professional**



**Ideal woman**

**Graceful**

**Feminine**

**Idol ng women**





**Ideal man**

**Lalakeng - lalake**

**Idol ng kabataan**

**Athlete of the year**



**Happy family**

**Happy mother**

**Fulfilled**

**Caring mother**



**OUTRIGHT**  
ACTION INTERNATIONAL

Human Rights for LGBTIQ People Everywhere.

# PAANO KUNG...





**Idol ng women**

**Ideal woman**

**feminine**

**graceful**



**Happy family**

**Happy mother**

**Fulfilled**

**Caring mother**





**Ideal man**

**Lalakeng - lalake**

**Idol ng kabataan**

**Athlete of the year**



**Healer**

**Matalino**

**Macho**

**Professional**

# Think about it...

- Approve or not approve?
- Bakit?
- Anong picture made you feel uncomfortable?
  - Bakit? Saan nanggaling itong mga feelings na ito?
- How do you react when someone acts gay? Lesbian? Transgender?
- Reflect on your attitudes on sexuality and gender roles?
- Ano ang pwedeng magpabago ng pananaw mo tungkol sa mga taong hindi sumusunod sa gender roles gaya ng mga lesbian, gay, bisexual, transgender, and intersex (LGBTI) people ?



**Stereotype**

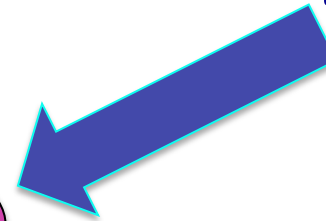


**STIGMA**

-Nasa ISIP mo na impression pag may nakitang isang tao/ grupo

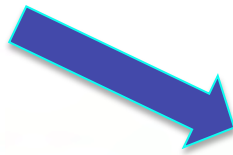
-Nasa SALOOBIN, pananaw at pinaniniwalaan

**PREjudice**



- Panghuhusga agad-agad ng di isinasaalang-alang ang datos

**DISKRIMINASYON**



- Panglalait, Pangmamaliit, Panghuhusga ng negatibo  
- Pagdududa sa kakayahan, talino, prinsipyo, katauhan ng tao o grupo ng tao – SADYA MAN O HINDI

# IV. Workshop on Sexual Orientation, Gender Identity, and Gender Expression (SOGIE)

# Grouping

1 = lesbian

2 = gay man

3 = bisexual woman

4 = transgender man

5 = transgender woman

6 = heterosexual man

- **Group discussion – 20mins**
- **Group presentation – 10mins**

<b>Physical good      bad</b>	<b>Emo/Psycho good      bad</b>	<b>Chika good      bad</b>	<b>Tanong</b>
	<b>Emotional</b>		
<b>Maporma</b>	<b>Manlalait</b>		<b>Bakit may bakla?</b>
<b>Banidosa</b>		<b>Masarap maggmahal?</b>	
		<b>Pumapatay</b>	

# Group Presentation

1 = lesbian

2 = gay man

3 = bisexual woman

4 = transgender man

5 = transgender woman

6 = heterosexual man

## GENDER IDENTITY

- Male, Female, Transgender (transsexual, cross dresser)

## SEXUAL ORIENTATION (Attraction)

- Heterosexual
- Homosexual (lesbian, gay)
- Bisexual
- Asexual

## SEX

- Male, Female, Intersex

## SEXUAL BEHAVIOR

- Heterosexual
- Homosexual
- Bisexual
- Celibate

## GENDER ROLE

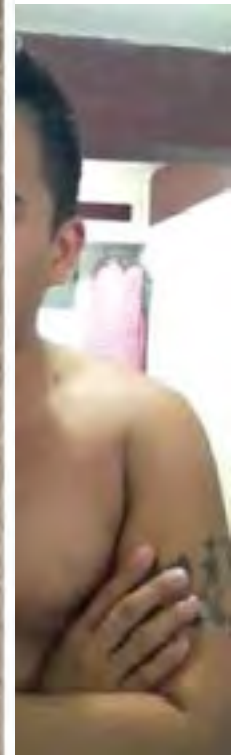
- masculine, feminine, both, none

## GENDER EXPRESSION

- How you express your gender



# Transgender persons



hari  
nan,  
der woman  
ay

gender man

dilla, now BB Gandanghari





# ANO ANG SOGIE MO?

## GENDER IDENTITY

- Male, Female, Transgender (transsexual, cross dresser)

## SEXUAL ORIENTATION (Attraction)

- Heterosexual
- Homosexual (lesbian, gay)
- Bisexual
- Asexual

## SEX

- Male, Female, Intersex

## SEXUAL BEHAVIOR

- Heterosexual
- Homosexual
- Bisexual
- Celibate

## GENDER ROLE

- masculine, feminine, both, none

## GENDER EXPRESSION

- How you express your gender



# ANO ANG SOGIE MO?

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## SEXUAL BEHAVIOR

- Heterosexual
- Homosexual
- Bisexual
- Celibate

## GENDER ROLE

- masculine, feminine, both, none

## GENDER EXPRESSION

- How you express your gender



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- Asexual

## SEX

- Male, Female, Intersex

## SEXUAL BEHAVIOR

- Heterosexual
- Homosexual
- Bisexual
- Celibate

## GENDER ROLE

- masculine, feminine, both, none

## GENDER EXPRESSION

- How you express your gender



# ANO ANG SOGIE MO?

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## SEXUAL ORIENTATION (Attraction)

- Heterosexual
- Homosexual (lesbian, gay)
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- Asexual

## SEX

- Male, Female, Intersex

## SEXUAL BEHAVIOR

- Heterosexual
- Homosexual
- Bisexual
- Celibate

## GENDER ROLE

- masculine, feminine, both, none

## GENDER EXPRESSION

- How you express your gender



# ANO ANG SOGIE MO?

## GENDER IDENTITY

- Male, Female, Transgender (transsexual, cross dresser)

## SEXUAL ORIENTATION (Attraction)

- Heterosexual
- Homosexual (lesbian, gay)
- Bisexual
- Asexual

## SEX

- Male, Female, Intersex

## SEXUAL BEHAVIOR

- Heterosexual
- Homosexual
- Bisexual
- Celibate

## GENDER ROLE

- masculine, feminine, both, none

## GENDER EXPRESSION

- How you express your gender





**GENDER IDENTITY**

**SEXUAL ORIENTATION**

**(SOGIE)**

**GENDER EXPRESSION**

- ✦ **Sexual orientation** - Heterosexual, homosexual & bisexual
- ✦ **Gender identity** - Male, female, Transgender
- ✦ **Gender expression** – ALL express gender identity



# Lesbian, Gay, Bisexual, Transgender & intersex (LGBTI) persons



# Pidgeon



Sinira ng mga medical experts ang aking ari at reproductive organs.

## **Bakit?**

Para daw tumugma yung aking ari  
sa kung ano day ang “normal” na hitsura ng babae.



# Lesbian, Gay, Bisexual, Transgender & intersex (LGBTI) persons



## 2 GOLDEN RULES

# 1. Do not assume (Wag manghula)

# 2. ASK courteously and respectfully



## 2 GOLDEN RULES

# 1. Do not assume (Wag manghula)

# 2. ASK courteously and respectfully

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## 2 GOLDEN RULES

- # 1. Do not assume (Wag manghula)
- # 2. ASK courteously and respectfully





**STOP DISCRIMINATION  
VIOLENCE AGAINST  
LGBT COMMUNITY**  
FILO-HK - GABRIELA-HK

# Review the group reports



# Assignment for Day 2

- 6 Groupings
- 2 cases per group
- Present in the morning



# Group work questions

- Ano-anong mga criminal cases ang pwedeng i-file sa korte?  
*(What criminal cases can be filed in court?)*
- Ano-anong mga remedyo ang mayroon sa Barangay?  
*(What are the remedies available at the barangay?)*
- Ano-ano ang mga remedyo na makukuha mula sa DSWD/Local Social Welfare?  
*(What are the remedies available with DSWD/Local Social Welfare?)*
- Ano-ano ang mga sibil o espesyal na mga remedyo na makukuha sa Korte?  
*(What are the civil/special remedies available with the court?)*
- Anong mga tulong ang pwede pang makuha ng isang nagrereklamo sa ibang mga ahensya?  
*(What assistance can the complaint seek from other agencies?)*
- Para sa karagdagang tulong, saan pang mga ahensya pwedeng sumangguni ang nagrereklamo?  
*(Which other agencies can the complainant be referred for assistance?)*



# Pre-test checking



# Day 1 Evaluation





# Schedule

- **Dinner tonight: 6:30pm to 8:30pm**
- **Exercise tomorrow: 6:00 to 7:00 am**
- **Breakfast: 6:30am, ends at 8:15am**
- **DAY 2 starts at 8:30am**





**OUTRIGHT**  
ACTION INTERNATIONAL

Human Rights for LGBTIQ People Everywhere.



**EnGendeRights, Inc.**  
*Asserting Gender Equality*

# **Trainer's Training to Address Domestic Violence and Family Violence (DV/FV) of LGBTI Persons for District 5 – Quezon City**

**January 30-February 1, 2017  
Loreland Farm Resort, Antipolo City**

# Recap Day 1



# Day 2 Overview

- DV/FV experienced by LGBTI persons
- Addressing DV/FV experienced by LGBTI persons
- Processing on Remedies addressing DV/FV
- Ethics, Privacy & Confidentiality



# VI. Case Study presentation



# **VII. Domestic Violence and Family Violence (DV/FV) Experienced by LGBTI persons**





# Issues of LGBTI persons

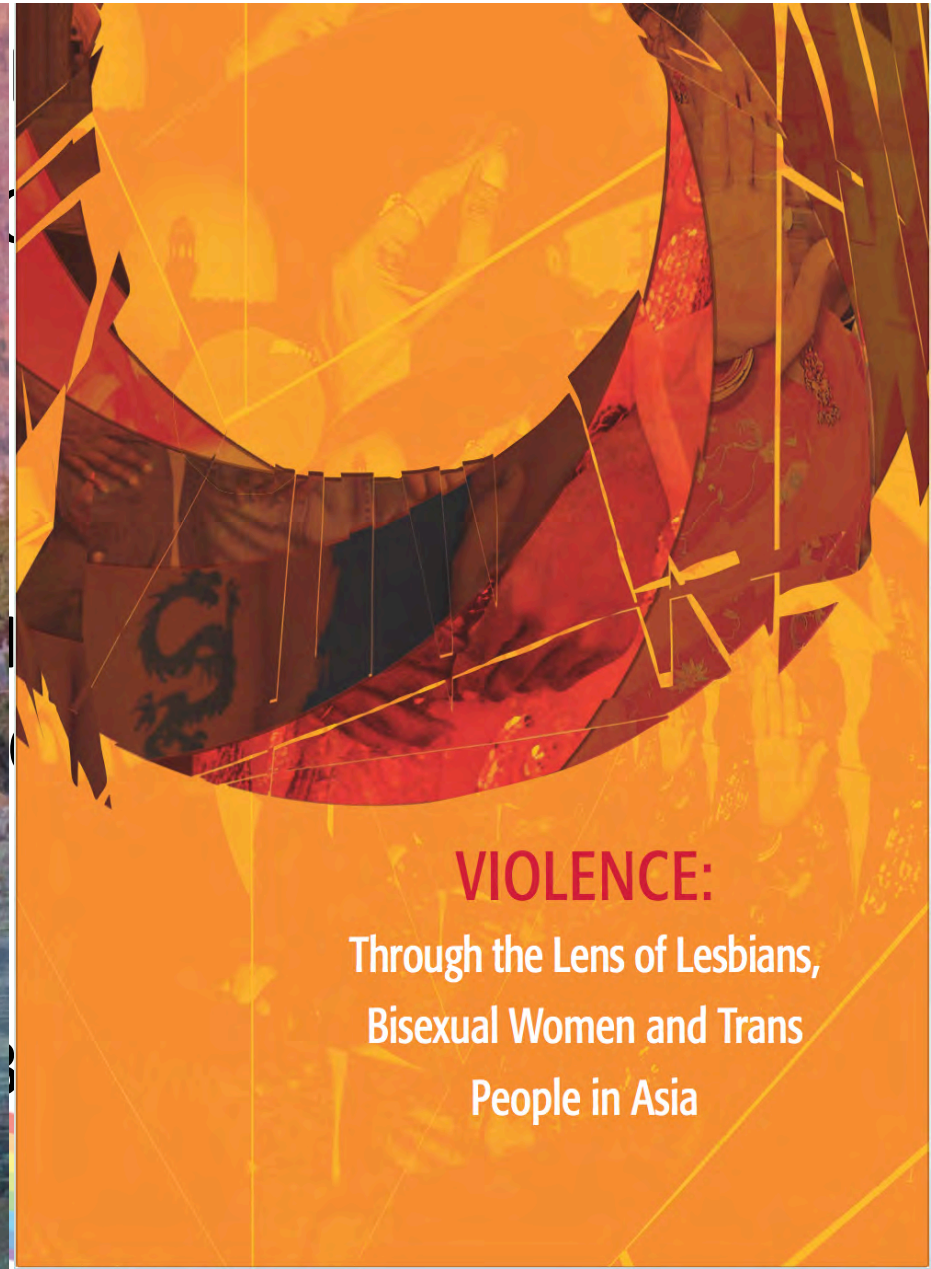


TO  
**SERVE & PROTECT**  
WITHOUT EXCEPTION

Addressing Police Abuse Toward  
Lesbian, Gay, Bisexual, Transgender,  
and Intersex (LGBTI) People in the Philippines



**OUTRIGHT**  
ACTION INTERNATIONAL



**VIOLENCE:**

Through the Lens of Lesbians,  
Bisexual Women and Trans  
People in Asia

## SELF

- Self-hatred
- Internalized homophobia
- Low self-esteem

## MEDIA

- Stereotyping
- Labeling / name calling

## WORKPLACE

- Not hired &/or promoted
- Stereotyped/limited work options

## RELIGION

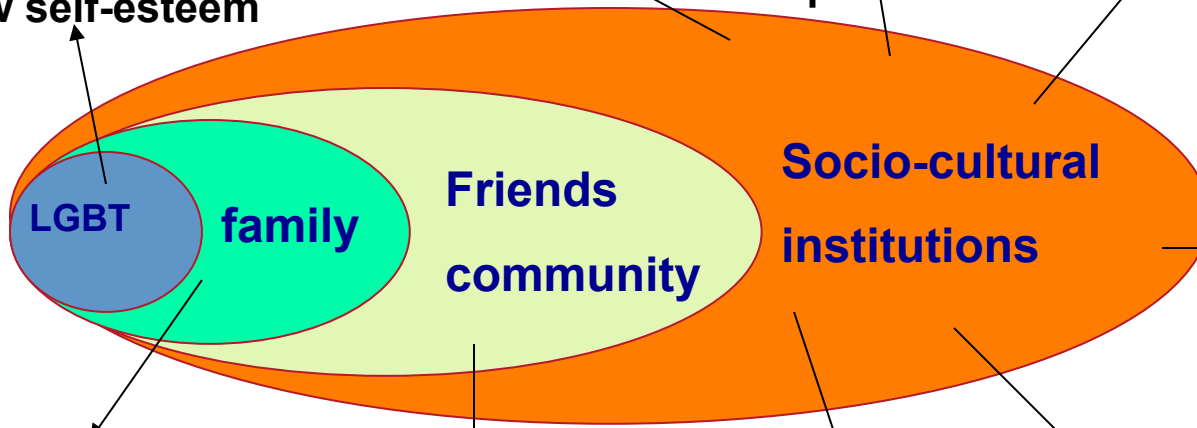
- Excommunicated
- Pastoral letters
- Transformative therapy
- No communion

## EDUCATION

- Expulsion
- Dismissal
- “Masculinity test”
- “Femininity test”

## STATE

- NO LAWS to PROTECT LGBT’S BASIC HUMAN RIGHTS!



- “Invisible”
- Physical, verbal, emotional abuse
- Thrown out of the house
- Stop schooling
- “Black sheep”
- Cure = Rape

- Stigmatized
- Bashing
- Name calling
- sexual assault
- physical, verbal abuse

- Health service
- “Invisibility”
- Prejudiced treatment
  - Deny treatment
  - ? Quality health care
- stereotype
  - gays = HIV/AIDS
  - Lesbians = ???!?!?



# Issues faced by LGBTI children & Youth



Abuse  
Bullying  
Fear  
Threat  
Rejection  
Hate



SUICIDE – NOT because they are LGBT BUT to END the pain of constant rejection and abuse.

# Families with same-sex parents





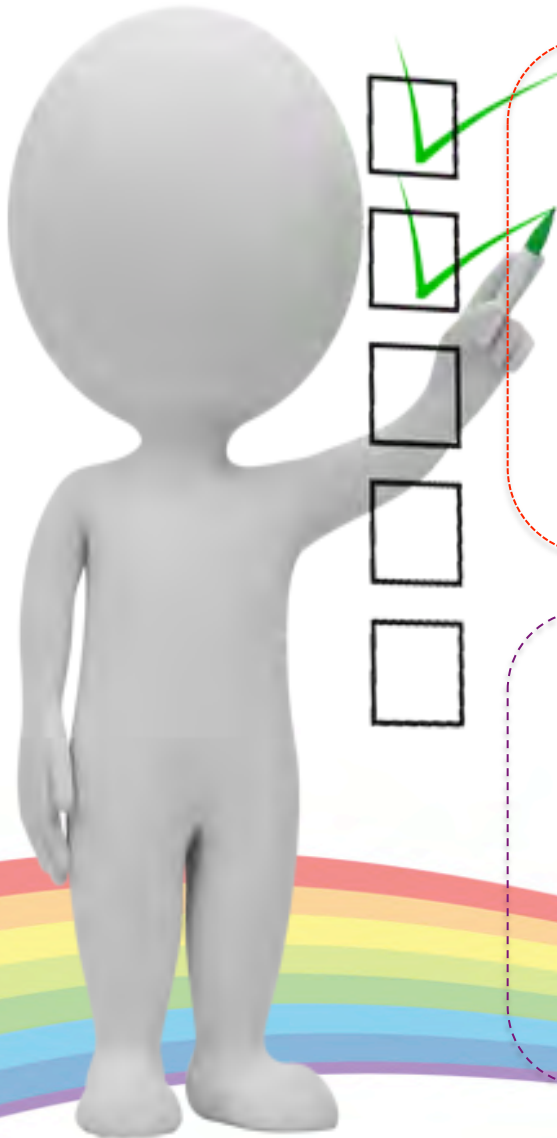
# LGBTI Rights issue in the Philippines

- **Violence, abuse & discrimination due to homophobia, biphobia & transphobia**
  - Employment
  - Education
  - Health & well-being
  - Access to basic services (housing, toilet, etc.)
  - Legal change of sex & name of transgender persons
  - Legal recognition of same-sex relationships
    - Next-of-kin status
    - adoption
  - Bullying & abuse of LGBTI children & youth

**Exclusion & denial**



# What is Domestic Violence and Family Violence?



**DOMESTIC VIOLENCE** happens when an intimate partner, person you are dating, or a former intimate partner becomes abusive, controlling & violent.

- It's also called partner abuse, intimate partner abuse, or battering.
- This can be a homosexual, heterosexual or bisexual relationship.

**FAMILY VIOLENCE** is also a kind of domestic violence.

- Occurs between family members such as parents, siblings, relatives, or across generations, and friends living together under roof.

## Characteristics of Domestic Violence and Family Violence:



**There is a pattern of abusive behavior**



**Control the thoughts, beliefs, actions, and words**



**Uses word, action, money and emotions to control**



**There is an intention to cause fear and intimidation**



**There is an aim to gain and maintain power and control**

# Forms of Violence

1. Physical abuse
2. Sexual abuse
3. Financial abuse
4. Emotional abuse



# Intersecting Violence



**DISABILITY**

**Indigenous People**

**Taga-manila Or promdi**

**Young**

**Old**

**Social status**  
- rich, poor, middle

**Religion**  
- Islam, Katoliko, Buddhist, walang relihiyon

## FORMS OF PHYSICAL ABUSE

Pushing

Shoving

Stabbing, cutting

Hitting, biting, slapping, kicking,

Hair-pulling

Shooting

Killing someone

Physical assault

Burning

Strangling or choking

Throwing object at someone

Harassment or intimidation

Holding someone down for someone else to assault

Threat to destroy/ destruction of the person's belonging



## **FORMS OF SEXUAL ABUSE**

Rape, Incest

Forced to perform sexual acts, contact, activity & touching

Sexual acts that causes pain and humiliation

Exposure to HIV and other sexually transmitted infections

Forced or coerced sterilization

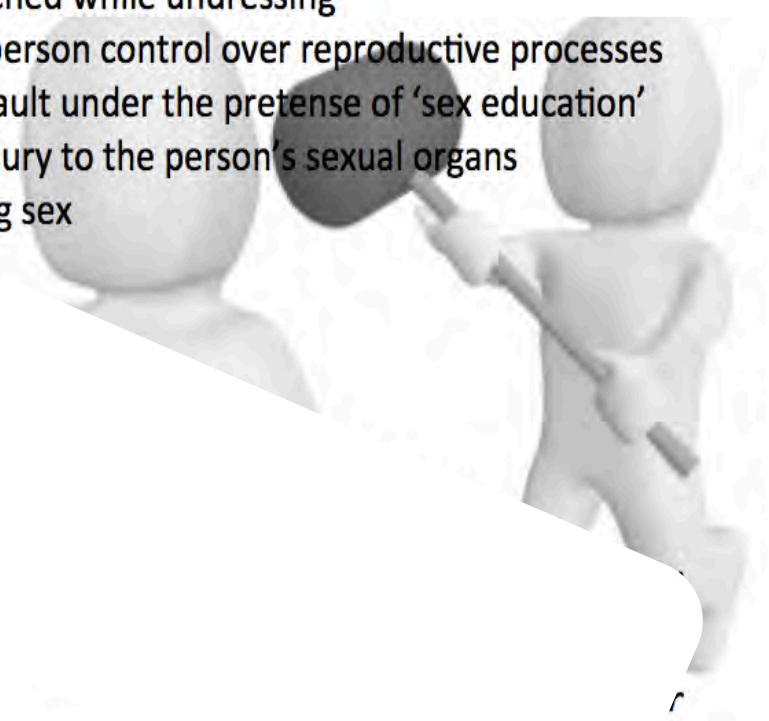
Being watched while undressing

Deny the person control over reproductive processes

Sexual assault under the pretense of 'sex education'

Causing injury to the person's sexual organs

Demanding sex



## **FORMS OF FINANCIAL ABUSE**

- Taking someone's money or property without consent
- Controlling money or investments
- Controlling all finances, spending and decisions;
- Preventing someone to earn
- Pressuring someone to sign or change legal documents
- Withholding or limiting money/financial support
- Forcing someone to sell or buy something
- Forcing someone to beg for money
- Forcing someone to engage in sex work or prostitution

## FORMS OF EMOTIONAL ABUSE

- Blackmail, forced alcoholism
- Use cold treatment, silence or withdrawal
- Making the victim feel stupid, worthless, or insane
- Putting down or making fun of the victim
- Preventing someone from practicing their culture, traditions, faith or religion.
- Destroying the belongings or hurting pets or threatening to do so.
- Bullying, intimidation or humiliation, whether actual or using the internet.
- Intentionally neglecting the needs or failing to prevent physical harm
- Verbal abuse includes putdown, name-calling, insults, humiliation, cursing, constant yelling or criticisms.
- Threats include threatening to harm the victim and victim's children and family members, friends, pets and threatening to commit suicide or kill partner.



## SHORTENING OF THE CYCLE OF VIOLENCE

### **BUILD UP PHASE**

- Tension
- Anxiety
- Depression

### **STANDOVER PHASE**

- Tension
- Anxiety
- Depression

### **VIOLENT OUTBURST PHASE**

- Physical Injury
- Fear





**DV/FV by INTIMATE PARTNER  
or FAMILY MEMBER**



**Victimized Multiple Times**



**BY THE LGBTI  
COMMUNITY  
That does not  
acknowledge it**

**BY SERVICE  
INSTITUTIONS that  
are supposed to  
help them**

**Double crisis when seeking support**

**NEED TO COME OUT  
AS AN LGBTI  
PERSON at a time  
when there is crisis.**

**NEED TO  
DISCLOSE THE  
VIOLENCE from  
one's relationship.**

# WHY CAN'T YOU LEAVE?

## FROM FAMILY & PARTNER

- Financial dependence
- Emotional dependence
- Low self-esteem
- Lack of external support from job, money, friends
- Fear of revenge
- Social isolation believing no one can help
- Fear of being alone
- Fear of rejection
- Self-blame and self-shaming; believing that one deserves the abuse.
- Believing no one will love and accept one's self.



## FROM PARTNER

- Fear of being outed by abusive partner.
- Fear from threat from abusive partner to harm or kill one's self, one's children or others.
- Fear from threat of abusive partner to commit suicide.
- Don't want the LGBTI community know the abuse.
- Emotionally dependent to abusive partner

# Recognizing Abusive Behavior

- **Risks of abusive behavior**
  - Narcissistic personality disorder
  - Anti-social (sociopath or psychopath) personality disorder
  - Borderline personality disorder
- **Violence as a learned behavior**
- **Batterer mentality**

# Psychological Disorders

Clara Rita A. Padilla, JD  
EnGendeRights, Inc.

(632) 3762578

[engenderights@gmail.com](mailto:engenderights@gmail.com)  
[www.facebook.com/engenderightsphilippines](http://www.facebook.com/engenderightsphilippines)

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# ABUSIVE BEHAVIOR DUE TO MENTAL/PSYCHIATRIC DISORDERS

- Service providers must recognize controlling, abusive, violent behaviors and personality disorders in intimate partner violence.
- mental disorders
  - negatively impact personal and interpersonal relationships
  - demonstrate a pattern of pathological traits
    - not solely due to the substance abuse/medication or medical condition/severe head trauma
  - may lead to persistent abuses, making the abuser dangerous and prone to criminal behavior



# ABUSIVE BEHAVIOR DUE TO MENTAL/PSYCHIATRIC DISORDERS

## ● A) **NARCISSISTIC PERSONALITY DISORDER**

- **exaggerated sense of self-importance, an intense need for admiration, a sense of entitlement, and a lack of empathy for others**
- Traits of a Narcissistic Person
- Seeks attention and admiration or excessively attempts to attract and be the focus of the attention.
- **Impaired ability to recognize the feelings and needs of others and their relationships exist to serve personal gain,**
- Conceited, boastful or pretentious,
- **When denied certain entitlements, they may become impatient or angry, and**
- Feeling or grandiosity or the feelings of entitlement, **self-centeredness; others are inferior;** they may react with rage or contempt and try to **belittle others** to make themselves appear superior.

## MENTAL/PSYCHIATRIC DISORDERS

- B) **ANTISOCIAL PERSONALITY DISORDER**
- **Sociopaths/Psychopaths: show no regard for right and wrong** and ignore the rights and feelings of others, and **tends to antagonize, manipulate or treat others harshly or with callous indifference.**
- Traits of a Sociopath or Psychopath
  - **Cannot fulfill responsibilities related to family, work or school** and failing to honor financial and other obligations or commitments; lack of respect for and lack of follow through on agreements and promises,
  - Gross and persistent attitude of irresponsibility and **disregard for social norms, rules and obligations**, and **often violate the law**, and the **rights of others without remorse or guilt**,
  - Incapacity to maintain enduring relationships,
  - **Very low tolerance to frustration** and a **low threshold for discharge of aggression, including violence**,

## MENTAL/PSYCHIATRIC DISORDERS

- B) ANTISOCIAL PERSONALITY DISORDER
- **Sociopaths/Psychopaths**: show no regard for right and wrong and ignore the rights and feelings of others, and tends to antagonize, manipulate or treat others harshly or with callous indifference.
- Traits of a Sociopath or Psychopath
- Incapacity to experience guilt or to profit from experience, particularly punishment,
- **Marked proneness to blame others**, or to offer plausible rationalizations, for the behaviour that has brought the patient into conflict with society, and
- Shows antagonism by being manipulative, dishonest, lack of concern for feelings or problems of others; lack of guilt or remorse about the negative or harmful effects of one's actions on others; **aggression; sadism hostility, significant irritability, agitation, aggression or violence.**

## MENTAL/PSYCHIATRIC DISORDERS

- C) **BORDERLINE PERSONALITY DISORDER (BPD)**
  - **emotionally unstable personality disorder**; long-term pattern of abnormal behavior characterized by **unstable relationships** with other people; **unstable sense of self, unstable emotions**, which often **result in impulsive actions and unstable relationships**
- Traits of a person with BPD:
  - Pattern of intense and unstable relationships with family, friends, and loved ones, often **swinging from extreme closeness and love (idealization) to extreme dislike or anger (devaluation)**,
  - Distorted and unstable self-image or sense of self,



## MENTAL/PSYCHIATRIC DISORDERS

- C) **BORDERLINE PERSONALITY DISORDER (BPD)**
- emotionally unstable personality disorder; long-term pattern of abnormal behavior characterized by unstable relationships with other people; unstable sense of self, unstable emotions, which often result in impulsive actions and unstable relationships
- Traits of a person with BPD:
  - **Impulsive and often dangerous behaviors, such as spending sprees, unsafe sex, substance abuse, reckless driving, and binge eating,**
  - **Recurring suicidal behaviors or threats or self-harming behavior, such as cutting,**
  - **Inappropriate, intense anger or problems controlling anger, and**
  - **Feels angry and distressed over minor separations—such as vacations, business trips, or sudden changes of plans—from people to whom they feel close.**



# Thank you!

Atty. Clara Rita A. Padilla  
Executive Director  
EnGenderRights, Inc.  
Tel: 6645696

engenderights@gmail.com

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



# CHARACTERISTICS OF PERPETRATORS

- Internalization of traditional male role
- Low self-esteem
- Insecure
- Immature
- Self-righteous
- Extreme jealousy or shows anger when partner talks to others
- Frequently accuses partner of being unfaithful
- Possessiveness
- Prone to violence (may also have been abused in the past); violence as a learned behavior because of being raised in a violent and dysfunctional family
- Prone to drug and alcohol abuse
- Prone to gambling
- Difficulty in holding on to a job

# Case Study Discussion

- **Family Violence – Case 1, 2, 3 & 9**
- **Domestic Violence – Case 4,5 & 6**
- **Sexual Family Violence – Case 7 & 8**
- **Sexual Domestic Violence - Case 10**



# VIII. Addressing DV/FV Experienced by LGBTI persons



# Group Activity

- Same grouping, 1 to 6
- Film showing during lunch break
- After lunch group report / presentation



# Group report





# Addressing DV/FV Experienced by LGBTI persons

Family violence - wrong

1. “Nang Nagalit si Lola sa Haba ng Gabi”
2. “Magbago ka na Carla!”

Domestic violence – wrong

3. “Ikaw talaga Kuya, Wala Nang Iba”

Family violence – good

4. “Ibalik mo ang Anak ko!”

Domestic violence – good

5. “May Pag-ibig pa Kaya?”
6. “Wag po Kuya, Wag po!”

# Providing SOGIE-sensitive service

- **intervention** provides an opportunity to
  - explain the rights of the victim-survivor,
  - the available remedies,
  - make referrals and
  - assist the victim-survivor to fight for her/his rights



# Role of Service Providers

**G**uide

...the victim to make  
informed choices and  
decisions.

**A**ssist

**S**upport




# Intervention Guidelines

1. **Seek informed consent**
2. **Sensitive information gathering**
  - **Victim**
  - **Perpetrator**
  - **Witness**
3. **SOGIE of victim & perpetrator**
4. **Assessing relationships**



# Pagtanong Tungkol sa Sexual Orientation



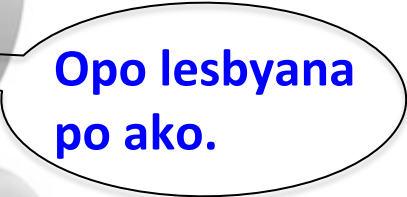
Kanino ka nagkakaroon ng attraction, sa lalake, sa babae o pareho?



So lesbyana ka po



Sa kapwa babae ko po.



Opo lesbyana po ako.



# Pagtanong Tungkol sa Gender Identity

Ano ang tingin mo  
o pagkilala sa sarili mo?  
lalake o babae?

So Transgender man  
ka po?

Kahit babae po akong  
pinanganak ang tingin ko po sa  
sa sarili ko ay lalake.

Siguro nga po.  
Hindi ko alam na yun  
ang tawag.





# Intervention Guidelines

## 5. Disclosure situation

- level of outness
- Source of support

## 6. Document!

## 7. Assess needs of victim-survivor

## 8. Messages to the victim-survivor

## 9. Intervene as appropriate



# Intervene as appropriate

- Role as a service provider is to
  - **guide, support and assist the victim to make informed choices and decisions.**
- Provide a resource of support services to the victim, and
- Recommend priority service based from the assessment of the victim and the abuse

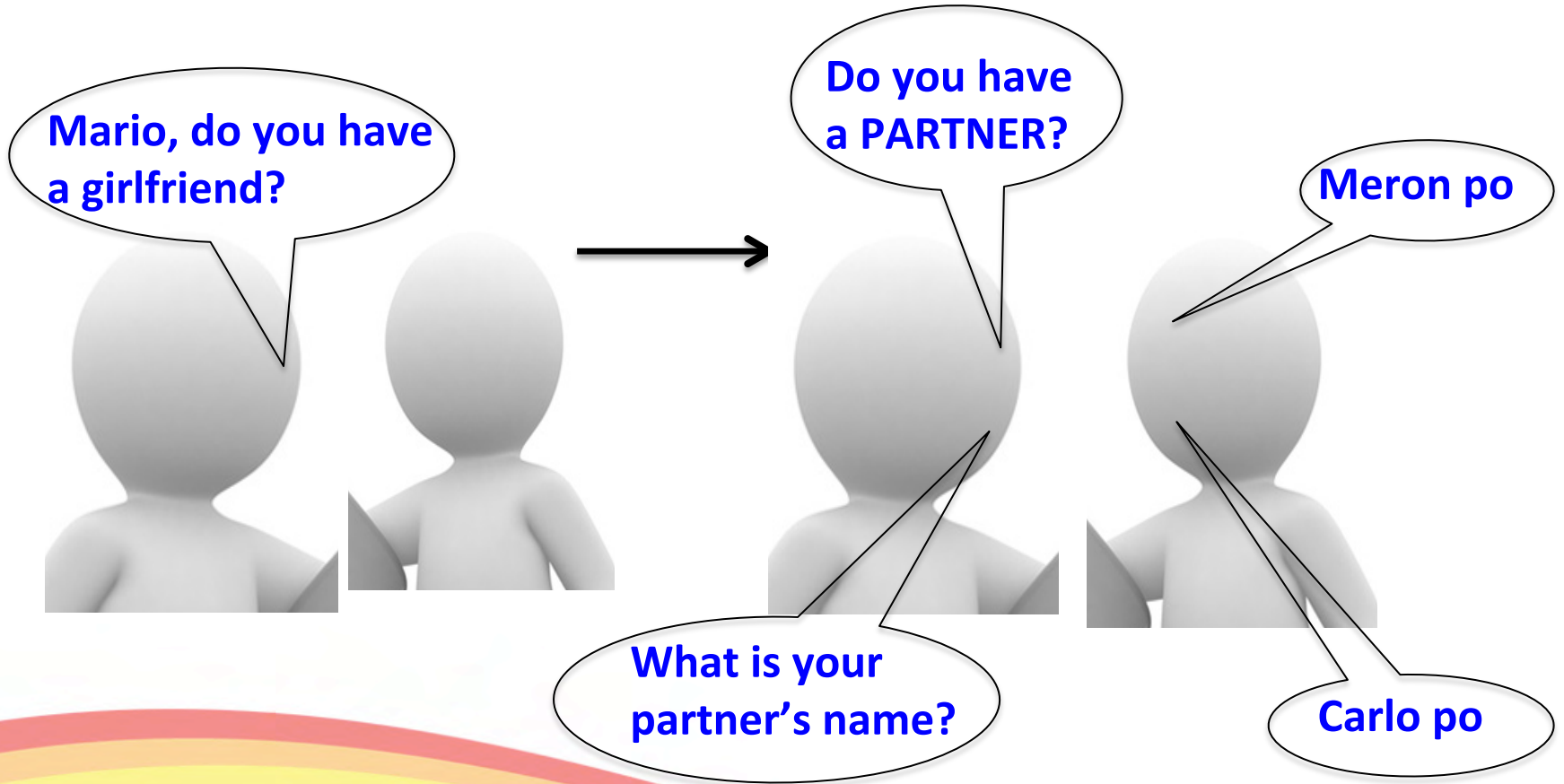
# Interview Guidelines

- 1. Do not assume anything.**
  - Let the victim narrate every incident
  - Do not assist in remembering facts about the victim's experience and
  - Do not to force the victim to remember everything.
- 2. LBT women victims handled by female investigators and gay men, bisexual victims with male investigators – good to provide options.**
- 3. Be sensitive to non-verbal cues of the victim.**

# Interview Guidelines

4. Information from the victim will not be presented chronologically
  - Just let them talk.
  
5. There is no standard behavior of a victim
  - Some will appear angry, some clam, some frightened or distressed.
  
6. Conduct the interview in a respectful and attentive manner
  - Do not appear judgmental, disapproving or doubting the victim with your words and body and facial expressions.

**BE INCLUSIVE  
and SENSITIVE**



# Interview Guidelines

- 7. Maintain a neutral but supportive disposition**
  - Don't show or project shock or horror to what the victim is sharing. Reactions may affect how open or reluctant the victim will be in sharing information.
- 8. Sit eye-level when conducting the interview.**
- 9. Never make promises that you or your office cannot fulfill.**





# Interview Guidelines

## 10. When interviewing LGBTI children or children of LGBTI parents

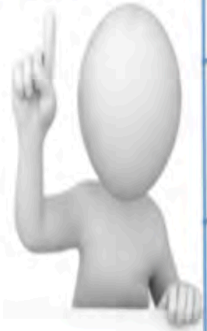
- Prioritize the best interest of the child throughout the interview process.
- right to be treated with respect, dignity and compassion, privacy and safety should highly be protected, and
- Assistance and preventable measures should be available.



# **IX. Remedies to Address DV/FV Experienced by LGBTI persons**



## REMEDIES OF LGBTI VICTIM-SURVIVORS



### **Other Points:**

- Regular Monitoring of Victim-Survivor and Perpetrator;
- Prevention of discrimination and abuses
- Intervention of Family, Relatives, Community



**Procedure When  
Assisting LGBTI  
Victim-Survivors**





# Options of Victim-survivor

- Remedies of LGBTI victim-survivor
- Documenting using forms
- Protection Clauses





# Remedies

Clara Rita A. Padilla, JD

EnGendeRights, Inc.

(632) 3762578

engenderights@gmail.com

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# Importance of Gender-Responsive Services

- **make or break situation for the victim-survivor on whether she/he will decide to file a complaint**
  - seek remedies from the barangay,
  - avail of services of the medico-legal, psychologists/psychiatrists, etc.;
  - leave her abusive relationship
- **opportunity to explain the rights of the victim-survivor:**
  - the available remedies
  - make referrals
  - assist the victim-survivor to fight for her/his rights

# Eliminating DV/FV

- perpetrators of DV/FV must be made accountable for their acts
  - to prevent them from further committing DV/FV
  - must not be allowed to commit DV/FV with impunity
- Stop impunity; prevent, prosecute

# Eliminating DV/FV

- pagbabago ng kamalayan; culture of change for the better
  - our society should not tolerate violent and abusive people
    - If not placed in jail, abusers will continue to wreak havoc and commit violence against the victim and against other people in the community
  - Stop DV/FV; Zero tolerance of DV/FV
    - Not a private matter
    - Shaming; Condemnation by parents, siblings, family, community
    - Immediate and effective intervention(recognition of danger, threat to life and limb)



# Eliminate DV- Empower LGBTI people

- Domestic violence
  - stay away from abusive people or those with predisposed violent behavior and sever ties



# Portrait of an abusive partners

- Abusive partners justify their abusive behavior;
  - find fault on their wives/partners
- Previous Acts
  - They are violent not just to their wife/partner but to other people as well (showing a pattern of violent and abusive behavior)
  - See RA 9262

Note: Impact of abuse on children



# Messages for survivors

- They can't change their abusive partners
- They should be good to themselves
- They deserve to be respected and to have life that's free from abuses



- ## • Step-by-Step Procedure When Assisting LGBTI Victim-Survivors
- **STEP 1** – Designate an Officer-of-the-Day who will assist LGBTI victim-survivors of domestic and family violence. (In QC, the VAWC Desk Officer is designated as the SOGIE Help Desk Officer. In case the VAWC Desk Officer is not available, there should be a designated alternative Officer-of-the-Day)
  - **STEP 2**- Get immediate assistance from the police or BPSO
    - Police or barangay may arrest the offender if the arrest qualifies as a lawful warrantless arrest;
    - Police may confiscate any deadly weapon in the possession of the perpetrator or within plain view and assist the survivor in removing personal belongings from the house (RA 9262)
  - **STEP 3** – Get Referral Letter for medico-legal exam from the police

## Step-by-Step Procedure When Assisting LGBTI Victim-Survivors

- **STEP 4** – Get immediate medico-legal exam from:
  - a) QC Protection Center, QC General Hospital and Medical Center, Seminary Road, Quezon City;
  - b) PNP Crime Laboratory (e.g., Quezon City PNP Station 10; Camp Crame Crime Laboratory);
  - c) Women and Children Protection Units and Protection Centers at government hospitals;
  - d) Emergency rooms of government hospitals
- **STEP 5** – Get copy of the Complaint-Affidavit (Sinumpaang Salaysay) for violation of appropriate laws at the police station
- **STEP 6** – Get the Barangay Protection Order (BPO) from the barangay to protect the survivor and children against physical harm and threats of physical harm (RA 9262; QC Gender-Fair Ordinance)

# Step-by-Step Procedure When Assisting LGBTI Victim-Survivors

- **STEP 7** – File the necessary administrative, civil and criminal complaints.
- For criminal complaints, file the complaint (Complaint-Affidavit/Sinumpaang Salaysay) with the Prosecutor’s Office that has jurisdiction.
- Seek appropriate civil remedies (e.g., Temporary/Permanent Protection Order by filing the petition with the Regional Trial Court/Family Court where the survivor resides or with the court hearing the criminal complaint)
  - Include claim for support and ask for Hold Departure Order
  - File criminal & administrative complaints
- if not arrested immediately and criminal case has not reached court, file petition for TPO/PPO ahead of criminal case

# Step-by-Step Procedure When Assisting LGBTI Victim-Survivors

- **STEP 8** – Get counseling and counseling/psychological/psychiatric evaluation report from:
  - a) Quezon City Protection Center, QC General Hospital and Medical Center, Seminary Road, Quezon City;
  - b) UP-PGH Women's Desk;
  - c) UP-PGH Child Protection Unit or any Women and Children Protection Unit in the locality;
  - d) Women's Crisis Center, St. Scholastica Archives & Museum Center, Pablo Ocampo St., Manila;
  - e) National Center for Mental Health for survivors with mental disability;
  - f) Any center providing such services (e.g. Psychiatry Department, Eastern Visayas Regional Medical Center (EVRMC); Mental Health Dept., Cotabato Regional & Medical Center)
- **STEP 9** – Refer the survivor to a **shelter** if necessary

# REMEDIES

- The victim-survivor of SOGIE-related domestic and family violence may seek remedies through the following:
  - Barangay
  - Court
  - Quezon City Gender Fair Ordinance
  - Commission on Human Rights (CHR)





# REMEDIES

- The victim-survivor of SOGIE-related domestic and family violence may seek remedies through the following:
  - **BARANGAY TASKS**
  - Under Republic Act 9262 (Anti-VAWC), the following are the responsibilities of the Barangay:
    1. Take immediate action upon being informed of a violent incident.
    2. Issue a Barangay Protection Order (BPO) on the date of filing after *ex parte* determination of the basis of application.
    3. Not to allow all forms of amicable settlement under the *Katarungang Pambarangay* such as mediation, settlement, conciliation, arbitration to cases of VAWC.
    4. Report within 4 hours the incident to the Philippine National Police (PNP) and to the C/MSWDO from the time of reporting.

# REMEDIES

## BARANGAY

- **In Quezon City, two types of Barangay Protection Orders (BPO) may be issued:**
  1. BPO under RA 9262
  2. BPO under the Gender-Fair Ordinance (Comprehensive Anti-Discrimination Policy on the Basis of SOGIE (Ordinance No. SP-2357, Series of 2014))

# REMEDIES

a) Criminal complaint for violation of national penal laws

- Anti-VAWC (RA 9262)
- Child Abuse Children exploited in prostitution & other sexual abuses (RA 7610)
- Physical injuries and Maltreatment (Art. 266, RPC)
- Grave Coercion (Art. 286, Revised Penal Code (RPC))
- Unjust vexation (Art. 287, 2nd par., RPC)
- Slander (Art. 358, RPC)
- Slander by deed (Art. 359, 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)
- Rape (RA 8353)
- Acts of Lasciviousness (Art. 336, RPC)
- Expanded Anti-trafficking (RA 10364)
- Anti-Photo & Video Voyeurism (RA 9995)
- Anti-Child Pornography Act (RA 9775)
- Cybercrime Prevention (RA 10175)
- Note: Criminal complaints for kidnapping filed against an LGBTI adult partner who is in a consenting live-in relationship with an adult LGBTI is discriminatory against LGBTI persons and should not be encouraged

# REMEDIES

b) Criminal complaint for violation of local ordinances

- In QC, the following criminal complaints for violation of local ordinances may be filed with the Court:

**1) QC Gender-Fair Ordinance (Comprehensive Anti-Discrimination Policy on the Basis of SOGIE (Ordinance No. SP-2357, Series of 2014) - The victim-survivor may file the following complaints with the MeTC for discrimination and abuses based on actual or perceived SOGIE:**

- **Verbal, Non-Verbal Ridicule and Vilification** (Sec IV, para. 5):
- **Harassment, unjust detention and involuntary confinement** (Sec IV, para. 6)
- **Any Other Analogous Act** (Sec IV, para. 9):

**2) Quezon City GAD Code (Ordinance No. SP 1401-1, S-2004) penalizing sexual harassment of women in public spaces:**

# REMEDIES

**1) QC Gender-Fair Ordinance** - The victim-survivor may file the following complaints with the MeTC for discrimination and abuses based on actual or perceived SOGIE:

- **Verbal, Non-Verbal Ridicule and Vilification** (Sec IV, para. 5):
  - Making fun or contemptuous imitating or making mockery whether in writing, or in words, or in action
  - Uttering of slanderous and abusive statements
  - Executing any activity in public which incites hatred towards, serious contempt for, or severe ridicule of a person
  - Analogous act of ridicule which could intimidate or result in loss of self-esteem of the person
- **Harassment, unjust detention and involuntary confinement** (Sec IV, para. 6) – when committed because of one's actual or perceived SOGIE
- **Any Other Analogous Act** (Sec IV, para. 9):
  - Any act of discrimination or harassment based on actual or perceived SOGIE which demeans the dignity and self-respect of a person or impairs, mars, reduces, or nullifies the recognition, enjoyment or exercise of a person's human and legal rights and basic freedoms in the civil, political, labor, economic, social, cultural, educational spheres, and other spheres

# REMEDIES

## 1) QC Gender-Fair Ordinance –

- In the absence of the Barangay Head, any Barangay Kagawad (official),
- Barangay VAWC Desk Officer or GAD Focal Person can act on & sign the application for a BPO with an attestation that the Barangay Head was unavailable at the time of the issuance of the BPO.



# REMEDIES

- 2) QC Quezon City GAD Code  
(Ordinance No. SP 1401-1, S-2004)

**penalizing sexual harassment of women in public spaces:**

- Light violations - **cursing, wolf-whistling, catcalling, calling** a woman in public with words having **dirty connotations or implications** which **tend to ridicule, humiliate, or embarrass the woman**;
- Medium violations - **stalking**, making **offensive mouth, tongue, lip, hand or body gestures** at someone, or other **analogous gestures or visual harassment** directed at a woman for the sexual gratification of the perpetrator or **with the intention to demean, sexually harass, intimidate, or threaten a woman**;
- Severe violations - **Touching, pinching, or brushing up against the body of a person unnecessarily or deliberately**; the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex; public masturbation, lascivious exhibition of the genitals or pubic area of a person or other analogous acts of lasciviousness directed at a woman for the sexual gratification of the perpetrator or with the intention to demean, sexually harass, intimidate, or threaten a woman

# REMEDIES

- COURT CIVIL, SPECIAL OR PROVISIONAL REMEDIES victim-survivor may avail the following:

- A

## 1. Anti-VAWC Law (RA 9262)

- Temporary Protection Order (TPO)
- Permanent Protection Order (PPO)
- Hold Departure Order against the perpetrator prohibiting travel outside the country

## 2. Writ of Habeas Corpus (Rule on Habeas Corpus)

- ordering the perpetrator to bring the body of the victim-survivor to the Court

## 3. Writ of Amparo (violation of life, liberty, security)

- a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

# REMEDIES

- COURT CIVIL, SPECIAL OR PROVISIONAL REMEDIES

4. In favor of the petitioner-victim, children, friends, relatives and those assisting the victim

- TRO
  - If the matter is of extreme urgency and the victim-survivor will suffer grave injury and irreparable injury, the court may issue **ex parte** (without hearing) a TRO effective for **72 hours**.
- **Preliminary Injunction**
  - order issued prior to the judgment requiring a party or a court, agency or a person to **refrain from** or **require a particular act or acts**.
    - filed where the action is pending and after hearing and prior notice to the person sought to be enjoined
- **Permanent Injunction after hearing**
  - the court shall grant a **final injunction perpetually restraining the party or person enjoined from the commission or continuance of the act or acts**

5. Damages - Civil complaints for damages filed with either MeTC or Regional Trial Court (RTC)

# REMEDIES

## ● REMEDIES FOR CHILD OR MINOR VICTIMS

### ● 1. Writ of Habeas Corpus and Protection Order Rule on the Custody of Minors

● The Family Court may issue the following:

I. **Writ of Habeas Corpus** to bring the body of the victim-survivor to the Court

II. **Protection Order** requiring **any person**:

- To **stay away** from the **home, school, business, or place of employment of the minor, other parent or any other party, or from any other specific place** designated by the court;
- To **cease and desist** from **harassing, intimidating, or threatening such minor or the other parent or any person to whom custody** of the minor is awarded;
- To **refrain** from acts of commission or omission that create an **unreasonable risk to the health, safety, or welfare of the minor**;

# REMEDIES

- **REMEDIES FOR CHILD OR MINOR VICTIMS**

- **1. Writ of Habeas Corpus and Protection Order Rule on the Custody of Minors**

- The Family Court may issue the following:

- II. Protection Order** requiring any person:

- To permit a **parent, or a party entitled to visitation** by a court order or a separation agreement, **to visit the minor at stated periods;**
- To **permit a designated party to enter the residence during a specified period of time** in order to take personal belongings not contested in a proceeding pending with the Family Court; and
- To **comply with such other orders as are necessary** for the protection of the minor.

# REMEDIES

## ● REMEDIES FOR CHILD OR MINOR VICTIMS

### II. **Protection Order** requiring any person:

- If the court judgment finds that both parties **are unfit to have the custody of the minor**, the court may **designate the grandparents, oldest brother or sister, or any reputable person to take charge** of such minor, or **commit him to any suitable home for children**.



# REMEDIES

## • REMEDIES FOR CHILD OR MINOR VICTIMS

**2. Protective Custody under DOJ Rules & Regulations on Sec. 32 of RA 7610** - If the investigation discloses **sexual abuse, serious physical injury of life-threatening neglect of the child\***, the duly authorized officer or social worker of the Department of Social Welfare and Development\*\* (DSWD) shall immediately remove the child from his home or the establishment where he was found and **place the child under protective custody** to ensure safety of the child.

•\*Note: **include threat to life and limb**

•\*\*Department – refers to a **duly authorized officer or social worker of the DSWD or similar agency of a local government unit**

- Section 17 of A.M No. 03-04-04-SC
- Section 18 of A.M. No. 03-04-04-SC
- Section 9

# REMEDIES

- **REMEDIES UNDER THE CHILD AND WELFARE CODE**  
**(Presidential Decree 603)**

- **Petition for Involuntary Commitment of a Child:** -The DSWD Secretary, authorized representative or any duly licensed child placement agency having knowledge of a child who appears to be dependent, abandoned or neglected, may file a verified petition for involuntary commitment of said child to the care of any duly licensed child placement agency or individual. The petition shall be filed with the Family Court, if any, or with the Regional Trial Court of the province or City Court in which the parents or guardian resides or the child is found.

# REMEDIES

- **REMEDIES UNDER THE CHILD AND WELFARE CODE**  
**(PD 603)**
- **Supervision of DSWD while the Child Stays at Home** - If in the court's opinion the cases of the **abandonment or neglect of any child may be remedied**, it may permit the child to stay in her/his own home and under the care and control of her/his own parents or guardian, subject to the supervision and direction of the DSWD.
- When it appears to the court that it is **no longer for the best interests of such child to remain** with her/his parents or guardian, **it may commit the child**

# REMEDIES

- REMEDIES UNDER THE CHILD AND WELFARE CODE  
(Presidential Decree 603)

- **Protective Custody** - Any minor who is **apprehended or taken into custody by the duly authorized officers of the DSWD for engaging in prostitution or illicit conduct punished under existing laws** shall, immediately from such **rescue/apprehension, be delivered by the law enforcement officer to the DSWD or to its duly authorized office or agency** within a particular territorial jurisdiction **for protective custody**. The DSWD shall be responsible for the appearance of the minor under its protective custody in court or any administrative agency whenever required.

## Administrative Cases

- Complaints against perpetrators of domestic and family violence who are public officials may be filed with:
  - Ombudsman
  - People's Law Enforcement Board (PLEB)
  - Philippine National Police Internal Affairs
  - National Police Commission (NAPOLCOM)
  - Armed Forces of the Philippines Provost Marshal.

# REMEDIES

## REMEDIES UNDER THE COMMISSION ON HUMAN RIGHTS

• LGBTI victims of human rights violations are entitled to assistance from the Commission on Human Rights Gender and Development Ombud (Sec 39, Magna Carta of Women):

1. Designate one commissioner and/or its Women's Human Rights Center to investigate complaints of discrimination and violations under this Act.
2. Assist in the filing of cases against individuals, agencies, institutions or establishments that violate the provisions of this Act.
3. Recommend to the President or the Civil Service Commission any possible administrative action based on noncompliance or failure to implement the provisions of the Magna Carta of Women
4. Assist in the filing of cases against a private individual for violation of the Magna Carta of Women, specifically for damages and other applicable criminal laws (Sec. 41)



# Useful Evidence for Gender-Based Violence Complaints

## ● **Medico-legal Report**

- **Sexual abuse** –genital injuries, bruises, contusion;
- 72 hours -cutting of fingernails, DNA swab from vagina & buccal swab from the complainant, DNA swab from penis & buccal swab of perpetrator; air dry under room temperature and place in paper envelope
- Alcohol/drug induced- get urine sample, label & refrigerate; get blood sample, label & freeze
- Get clothing and underwear; encircle the blood and semen with pentel pen markings of date of collection
- Ask police to deliver the specimen to Crame for DNA analysis & toxicology analysis
- Crime scene investigation

# Useful Evidence for Gender-Based Violence Complaints

## ● **Medico-legal Report**

### ● **Physical abuse –**

- Remind survivor to come back the day after or within 3 days later if bruises appear so an additional medico-legal report can be issued
- Refer to concerned hospital department (ophthalmology, dentistry, ob-gyne/pedia, psychiatry, etc.)



# Useful Evidence for Gender-Based Violence Complaints

## ● Medico-legal Report

- NOTE:
- SOP to issue the Medico-legal Report (Initial/Provisional) immediately
  - If respondent is **arrested w/in 3 days**, the **inquest** procedure by the Prosecutor to **determine** if the arrest was made properly and **if respondent will not be released must be done within 12, 18, 36 hours from the arrest** depending on the **crime committed**
- Dos
  - Issue typewritten medico-legal report (whether initial or final)
  - Examining physician and on-duty supervisor must sign the medico-legal report
  - Any of the following can testify in court: 1) examining physician; 2) on-duty supervisor; 3) any representative of the concerned hospital department (to testify as expert witnesses)
- Don'ts
  - Don't forget to sign the medico-legal report
  - Don't delay the issuance of the medico-legal report

Failure of public officer to deliver the detainee to the proper judicial authorities within the period of (Art. 125 Revised Penal Code):

<b>Period to deliver</b>	<b>Crime</b>	<b>Examples of Crimes</b>
<b>12 hours</b>	<b>Light Penalties</b>	<b>Light physical injuries</b>
<b>18 hours</b>	<b>Correctional Penalties (punishable by 10 years)</b>	<b>Acts of Lasciviousness</b>
<b>36 hours</b>	<b>Afflictive Penalties (punishable by 15 years or longer)</b>	<b>Rape</b>

# Useful Evidence for Gender-Based Violence Complaints

## ● **Medical Treatment**

- Sexual abuse-
- w/in 3 days –refer to PGH Sagip Unit (5548400 loc 3249) for **HIV testing and counseling & 28-day regimen of post exposure prophylaxis (PEP); repeat HIV test 3rd & 6th month;**
- w/in 5 days - prescribe emergency contraceptive pills
- w/in 7 days – insert copper-releasing IUD [must be trained by PSPI for IUD as EC]
- Post-Abortion Care - To save women's lives by increasing access to humane, non-judgmental and compassionate post-abortion care (RA 8344, RA 10354, RA 9710)

# Useful Evidence for Gender-Based Violence Complaints

- **Treat Infections/Health Conditions Resulting from Rape And Present as Evidence**
  - Treat sexually transmitted infections (STIs) and reproductive tract infections (RTIs) resulting from rape
  - If there was penile penetration, refer the survivor for screening examinations to diagnose and treat human papilloma virus (HPV) infections/lesions (e.g. HPV types 16 and 18) that lead to cervical cancer:
    - collection and analysis of pap smear specimen; PAP smear within a year and thereafter; HPV vaccine
    - visual inspection of the cervix using acetic acid wash (VIA) and cryotherapy if needed
- **Medical Certificate** regarding **diagnosis and treatment of infections resulting from rape (e.g., gonorrhea, chlamydia, syphilis, hepatitis B & C, cervical lesions from HPV 16 & 18, HIV, UTI)**



# Useful Evidence for Gender-Based Violence Complaints

- **Treat Infections/Health Conditions Resulting from Rape  
And Present as Evidence**

- Diagnosis & treatment of RTI/STI (e.g., gonorrhea, chlamydia, syphilis, hepatitis B & C, HIV, UTI, HPV 16 & 18, etc)

- STI/venereal disease smear exam (cervical and vaginal)

- serologic exam/HIV/HIV counseling, VDRL, RPR;

- For positive/reactive result of VDRL/RPR, specimen will be scheduled for TPPA Test (confirmatory test for syphilis) and screen-tested for hepatitis B and C;

- For positive result of HPV 16 & 18, client will undergo pre-counseling, treatment, post - counseling;



## Useful Evidence for Gender-Based Violence Complaints

- **Toxicology Report** for **presence of drugs and alcohol**
- **Psychological or Psychiatric Report** after undergoing evaluation and counseling for trauma
- **Psychological Report** for survivors with mental disability (e.g. issued by the National Center for Mental Health)

# Useful Evidence for Rape Complaints

- **Forensic DNA Analysis** to prove presence of perpetrator's DNA:
  - collected from the body of the victim-survivor and her clothing (e.g., skin of perpetrator from the fingernails of the victim-survivor as a result of the victim-survivor scratching the perpetrator)
  - collected from the crime scene (e.g., cigarette butt, towel) and body of the perpetrator
    - Sample Consent Form for DNA Collection & Analysis
    - Sample Request Letter for DNA Analysis

# Useful Evidence for Rape Complaints

- **Pregnancy Test and Forensic DNA Analysis proving paternity** if victim-survivor became pregnant as a result of rape and subsequently gave birth
- **Birth Certificate or Dental Examination Result** if the child is below 12 years old to prove statutory rape

# Follow Up for Sexual Abuse

- **2 weeks, 3 mos. & 6 mos.**
- **2<sup>nd</sup> week hepa b vaccine in 1st mo.**

- **3<sup>rd</sup> month**

- **repeat HIV test 3rd**
- **Pregnancy**
- **Psychological state**

- **6th month**

- **Repeat HIV test**
- **STI – hepa b vaccine**
- **Psychological state**

# Useful Evidence for Rape Complaints

- **Complaint-Affidavit of Survivor**

- Complaint must **specify circumstances proving lack of consent including coercive circumstances and women's form of resistance** such as:

- effect of alcohol or drugs on the woman
- means the woman employed to evade the sexual assault (e.g., stalling, pleading, expressing a desire to go home, constantly moving away from the perpetrator)
- keeping her thighs tightly closed
- inability to physically resist due to fear of being beaten or killed



# Useful Evidence for Rape Complaints

- **Affidavits of Witnesses**

- Affidavits of **eyewitnesses**

- Affidavits executed by **friends and family** to whom the rape survivor related the incident while suffering from trauma may be admitted as *res gestae* evidence (exception to hearsay evidence)

- *Res gestae* evidence - statements made by a person while a **startling occurrence** is **taking place** or **immediately prior** or **subsequent** thereto with respect to the **circumstances** thereof (Rule 130, Sec. 42 Rules on Evidence)

# Useful Evidence for Rape Complaints

- **Affidavits of Witnesses**

- **Similar acts as evidence.** – Evidence that one did a certain thing at one time may be received to prove a specific intent or knowledge, identity, plan, system, scheme, habit, custom or usage, and the like (Rule 130, Sec. 34)

# Useful Evidence for Rape Complaints

- **Forensic DNA Analysis** to prove presence of perpetrator's DNA:
  - collected from the **body of the victim-survivor and her clothing** (e.g., skin of perpetrator from the fingernails of the victim-survivor as a result of the victim-survivor scratching the perpetrator)
  - collected from the **crime scene** (e.g., cigarette butt, towel) and **body of the perpetrator**
    - Sample Consent Form for DNA Collection & Analysis
    - Sample Request Letter for DNA Analysis

# Emergency Contraception

## Regimen for Emergency Contraceptive Pills (ECPs)

- Specifically dedicated ECPs
  - (progestin; estrogen free; e.g. levonorgestrel)
  - 1 pill (1.5 mg)/2 pills (750 micrograms each) up to 5 days
- Oral Contraceptive Pill (estrogen-progestin)
  - 2 pills + 2 pills after 12 hours = High-Dose Pills
    - (Femenal, Nordiol, Olygnon, Ovidon, Ovral)
  - 4 pills + 4 pills after 12 hours = Low-Dose Pills
    - (Lo-Gentrol, Microgynon 30, Nordette, Rigevidon 21+7, Trust, Lady)
    - \*taken with one meclizine (e.g., Bonamine) with every dose

## IUDs as Emergency Contraception

- IUDs
  - within 7 days (PATH, 2004); up to 5 days (WHO 1998)

## Best Practice

### QC Protection Center

for women, children & LGBT victims of GBV (Ord.  
No. SP-2191, Series of 2012; Dec. 2012)

- Ordinance (old & new)
  - Office of the Vice Mayor
- **QC General Hospital, Seminary Road**
  - Across the emergency room where medico-legal exam is conducted (Dec 12, 2011); new bldg. in 2016
- social worker (shelter, home visit; referral for rescue/protective custody), police, lawyer, psychiatrist (Nov. 2016), medico-legal services

# HOTLINES/USEFUL CONTACTS

## **Metro Manila**

Philippine National Police – Dial 911; 117

IACAT Action Line – Dial (02) 1343

CIDG Women & Children Protection Division -7230401 loc. 3480

QC Protection Center, Quezon City - 4261318 loc. 1047

Women's Crisis Center, Quezon City – 9225235, 9267744

PNP Crime Laboratory – 7230401 loc. 3947; 4151806

## **Mindanao**

Touch Foundation, Cagayan de Oro City – 0916-8832652; 0920-8497663

Mindanao Human Rights Action Center (MinHRAC), Cotabato City - 09057097515

Community and Family Service International (CFSI), Cotabato City – 09175342374

Iligan City Council of Women, Iligan City – 09153471528

## **Visayas**

Gabriela, Panay - (033) 329-5778





# SIGN LANGUAGE INTERPRETERS FOR DEAF SURVIVORS

Deaf Resources Philippines – 9941441;  
deafresourcesphilippines@mail.com

- Dr. Liza B. Martinez - 0927.5288662

# HIV Voluntary Confidential Counseling and Testing Centers

## **Luzon**

San Lazaro Hospital (SLH), Quiricada St., Sta. Cruz, Manila

Dr. Arturo Cabanban - Medical Center Chief; Dr. Rosario Jessica Tactacan – Abrenica - HIV AIDS Core Team Leader ; Tel: 3099528-29; 7438301 local 6000 Mobile #: 09175359380

Research Institute for Tropical Medicine (RITM), Filinvest Corporate City, Alabang, Muntinlupa City

Dr. Remigio M. Olveda - Executive Director; Dr. Rossana A. Ditangco - Head, HIV Research Unit; Tel: 8072628/32/38 local 801/414/208; 8072636; 8097599; 8422245; 526-1705; Mobile # 0927510028

Philippine General Hospital (PGH), Taft Avenue, Manila

Dr. Rolando Enrique Domingo - Director; **Dr. Jodor Lim - HIV AIDS Core Team Leader;**  
**Ms. Dominga C. Gomez SAGIP Unit ; Tel: 5548400 loc 3249; 5261705; 5673394 Mobile**  
**#: 09396258730**



# RA 10630 Amending RA 9344

## Exempting Circumstance

### (Children in Conflict with the Law)

#### 1. 15 years of age or under\*

however the child shall be subject to an **intervention program** under Sec. 20 of RA 9344 or “Juvenile Justice and Welfare Act of 2006”(sec.6);

Note: considered 15 at the time of the 15<sup>th</sup> birth anniversary

#### 3. 16-17 shall be subjected to an **intervention program\***

**unless he/she acted with discernment**; in such case appropriate proceedings will be conducted

\*Note: not exempt from civil liability

## RA 10630 Amending RA 9344

- “SEC. 20-A. *Serious Crimes Committed by Children Who Are Exempt From Criminal Responsibility.* – A child who is **above twelve (12) years of age up to fifteen (15) years of age** and who commits parricide, murder, infanticide, **kidnapping and serious illegal detention where the victim is killed or raped, robbery, with homicide or rape, destructive arson, rape, or carnapping where the driver or occupant is killed or raped** or offenses under Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) punishable by more than twelve (12) years of imprisonment, shall be deemed a **neglected child** under Presidential Decree No. 603, as amended, and shall be **mandatorily placed in a special facility within the youth care faculty or ‘Bahay Pag-asa’ called the Intensive Juvenile Intervention and Support Center (IJISC).**

## RA 10630 Amending RA 9344

- “SEC. 20-A. *Serious Crimes Committed by Children Who Are Exempt From Criminal Responsibility.* –
- the **petition for involuntary commitment** and placement under the IJISC shall be **filed by the local social welfare and development officer of the LGU** where the offense was committed, or by the DSWD social worker in the local social welfare and development officer’s absence, **within twenty-four (24) hours** from the time of the receipt of a report on the alleged commission of said child.
- The **court**, where the petition for involuntary commitment has been filed shall **decide on the petition within seventy-two (72) hours** from the time the said petition has been filed by the DSWD/LSWDO. The court will determine the initial period of **placement of the child within the IJISC which shall not be less than one (1) year.**

## RA 10630 Amending RA 9344

- “SEC. 20-A. *Serious Crimes Committed by Children Who Are Exempt From Criminal Responsibility.* –
- The multi-disciplinary team of the IJISC will submit to the court a case study and progress report, to include a psychiatric evaluation report and recommend the reintegration of the child to his/her family or the extension of the placement under the IJISC. The multi-disciplinary team will also submit a report to the court on the services extended to the parents and family of the child and the compliance of the parents in the intervention program.
- The court will decide whether the child has successfully completed the center-based intervention program and is already prepared to be reintegrated with his/her family or if there is a need for the continuation of the center-based rehabilitation of the child. The court will determine the next period of assessment or hearing on the commitment of the child.”



## RA 10630 Amending RA 9344

- “SEC. 20-B. *Repetition of Offenses.* – A child who is above twelve (12) years of age up to fifteen (15) years of age and who commits an offense for the second time or oftener: *Provided,* That the child was previously subjected to a community-based intervention program, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall undergo an intensive intervention program supervised by the local social welfare and development officer: *Provided, further,* That, if the best interest of the child requires that he/she be placed in a youth care facility or ‘Bahay Pag-asa’, the child’s parents or guardians shall execute a written authorization for the voluntary commitment of the child: *Provided, finally,* That if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the LSWDO pursuant to Presidential Decree No. 603, as amended.”

# Amendment of CICL

- lowering the age of discernment for rape cases under the Children in Conflict with the Law (RA 9344)
  - In one case, certainly the acts of the minors in placing the girl in a sack and throwing her to the river clearly shows discernment and even acts to escape liability by disposing of the child's body to hide evidence.
  - Need for studies of psychologists, psychiatrists and social workers working on rape victims and perpetrators
  - congressional oversight hearing on the CICL vis-à-vis incidence, intervention done by DSWD re counseling and crime prevention, psycho-social analysis of perpetrators by psychiatrists, review of national and international studies

**RA 7610** – Special Protection of Children  
Against Child Abuse, Exploitation and  
Discrimination Act

**DOJ Rules and Regulations on the Reporting  
and Investigation of Child Abuse Cases**

**RA 8369** - Family Courts Act of 1997

**RA 7309** – An Act Creating a Board of Claims  
under the DOJ for victims of violent crimes

# Claims

- Gov't
  - DOJ-Board of Claims (not exceeding P10,000 or reimbursement of medical treatment, loss of wage, or other expenses related to the injury; w/in 6 mos from incident under RA 7309)
    - Victims of violent crimes including rape and offenses committed with malice resulting in death or serious physical injury and/or psychological injuries, serious trauma, or committed with torture, cruelty or barbarity

– CHR

# Thank you!

Atty. Clara Rita A. Padilla

Executive Director

EnGendeRights, Inc.

Tel: 6645696

engenderights@gmail.com

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# X. Ethics, Privacy & Confidentiality





# Reporting, Protection, Ethics

Clara Rita A. Padilla, JD  
EnGendeRights, Inc.

(632) 3762578

engenderights@gmail.com

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# RA 7610

- Sec. 27. Who May File a Complaint. - Complaints on cases of unlawful acts committed against the children as enumerated herein may be filed by the following:
  - (a) Offended party;
  - (b) Parents or guardians;
  - (c) Ascendant or collateral relative within the third degree of consanguinity;
  - (d) Officer, social worker or representative of a licensed child-caring institution;
  - (e) Officer or social worker of the Department of Social Welfare and Development;
  - (f) Barangay chairman; or
  - (g) At least three (3) concerned responsible citizens where the violation occurred.

# RA 7610

- Sec. 28. Protective Custody of the Child. - The offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56, series of 1986. In the regular performance of this function, the officer of the Department of Social Welfare and Development shall be free from any administrative, civil or criminal liability. Custody proceedings shall be in accordance with the provisions of Presidential Decree No. 603.

# RECORDING AND REPORTING CHILD ABUSE DOJ

## Rules & Regulations RA 7610, Sec. 32

### RULES AND REGULATIONS ON THE REPORTING AND INVESTIGATION OF CHILD ABUSE CASES

- SECTION 3. Reporting. — A person who learns of facts or circumstances that give rise to the belief that a child has suffered **abuse** may report the same, either orally or in writing, to the **Department, to the police or other law enforcement agency or to a Barangay Council for the Protection of Children.**
- SECTION 4. **Mandatory Reporting.** — The **head of any public or private hospital, medical clinic and similar institution**, as well as the **attending physician and nurse**, shall report, either orally or in writing, to the **Department\* [DSWD/local SWD]** the examination and/or treatment of a child who appears to have suffered abuse within forty-eight (48) hours from knowledge of the same.
  - **\*Department** – refers to a duly authorized officer or social worker of the **DSWD or similar agency of a local government unit**

DOJ Rules & Regulations RA 7610, Sec. 32  
RULES AND REGULATIONS ON THE REPORTING AND  
INVESTIGATION OF CHILD ABUSE CASES

- SECTION 5. **Duty of Government Workers to Report.** — It shall be the **duty of all teachers and administrators in public schools, probation officers, government lawyers, law enforcement officers, barangay officials, corrections officers and other government officials and employees** whose work involves dealing with children to **report** all incidents of **possible child abuse** to the Department [DSWD/local SWD].
- SECTION 6. Failure to Report. — Failure of the individuals mentioned in Section 4 above and the administrator or head of the hospital, clinic or similar institution concerned to report a possible case of child abuse shall be punishable with a **fine** of not more than two thousand pesos (P2,000.00).

# DOJ Rules & Regulations RA 7610, Sec. 32

## RULES AND REGULATIONS ON THE REPORTING AND INVESTIGATION OF CHILD ABUSE CASES

- SECTION 8. Investigation. — **Not later than forty-eight (48) hours** after receipt of a report on a possible incident of child abuse, the Department shall immediately **proceed to the home or establishment** where the alleged child victim is found and interview said child to determine whether an abuse was committed, the identity of the perpetrator and the need of removing the child from his home or the establishment where he may be found or placing him under protective custody pursuant to Section 9 of these Rules.
- Whenever practicable, the Department shall conduct the interview jointly with the police and/or a barangay official.
- **To minimize the number of interviews of the child victim, his statement shall be transcribed or recorded on voice or video tape.**



# DOJ Rules & Regulations

- SECTION 9. Protective Custody. — If the investigation **discloses sexual abuse, serious physical injury of life-threatening neglect of the child**, the duly authorized officer **or social worker of the Department\*** [DSWD/local SWD] shall **immediately remove the child from his home** or the establishment where he was found and place him under **protective custody** to ensure his safety.
  - \*Department – refers to a duly authorized officer or social worker of the DSWD or similar agency of a local government unit

# RECORDING AND REPORTING ANTI-VAWC

- RA 9262
  - a report shall within four hours from the time of reporting be submitted to the **C/MSWDO and the Women and children's Desk** [See IRR]

# PROTECTION CLAUSES

- **PROTECTION OF COMPLAINANT**
  - **No dismissal based on desistance** in RA 7610 & ANTI-TRAFFICKING

# PROTECTION CLAUSES

## • PROTECTION OF SERVICE PROVIDERS FROM LIABILITY

### ▪ Protection from liability

- RA 7610

- SECTION 10. **Immunity of Officer Taking the Child Under Protective Custody.** — The duly authorized officer or social worker of the Department\* [DSWD/local SWD] and the assisting police officer or barangay official, if any, who shall take a child under protective custody shall be **exempt from any civil, criminal and administrative liability therefor.**

- \*Department – refers to a duly authorized officer or social worker of the DSWD or similar agency of a local government unit

# PROTECTION CLAUSES

- **PROTECTION OF SERVICE PROVIDERS FROM LIABILITY**

- Protection from liability

- RA 7610

- SECTION 7. Immunity for Reporting. — **A person who, acting in good faith, shall report a case of child abuse** shall be **free from any civil or administrative liability** arising therefrom. There shall be a presumption that any such person acted in good faith.

- RA 9262 - Any person, police, barangay official acting in accordance with law & w/o using violence or restraint greater than necessary to ensure safety of the survivor shall not be liable for any criminal, civil or administrative liability (Sec. 34).

-

# Exemption from Liability of Persons Intervening

Any person, police, barangay official **acting in accordance with law & w/o using violence or restraint greater than necessary to ensure safety of the survivor shall not be liable for any criminal, civil or administrative liability (Sec. 34).**



# Exemption from Liability

## ***IRR RA 9262***

### ***Section 43. Persons Intervening Exempt from Liability. –***

In every case of VAWC as herein defined, any person, private individual or police authority or barangay official who, acting in accordance with law, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim-survivor, shall not be liable for any criminal, civil or administrative liability resulting therefrom.

Workers of NGOs , POs, church, civic and other groups, be they Filipino citizens or foreigners, fall under “any person”, are free from any criminal or civil liability when acting in accordance with law in responding to a call for help or when assisting the victim-survivor.

# Justifying & Exempting Circumstances

## A. Justifying Circumstances

No crime was committed since the act was done in accordance with the law under the following circumstances:

1. **Self-defense:** acting in defense of one's person or rights provided there was:
  - a. unlawful aggression;
  - b. reasonable necessity of the means employed to prevent or repel it; and
  - c. lack of sufficient provocation on the part of a person defending herself.

## 2. Defensive of relative

Acting in defense of the person or rights of the spouse, ascendants, descendants, or legitimate/natural/ adopted brothers or sisters, uncles and aunts, first cousins.

### Elements:

- a. Unlawful aggression;
- b. reasonable necessity of the means employed to prevent or repel it; and
- c. in case the provocation was given by the person attacked, the one making the defense had no part therein.

### 3. **Defense of stranger:** Acting in defense of the person or rights of the stranger.

#### **Elements:**

- a. unlawful aggression;
- b. reasonable necessity of the means employed to prevent or repel it; and
- c. the person defending was not induced by revenge, resentment, or other evil motive.

## 4. Avoidance of a greater evil

Doing an act which causes damage to another in order to avoid an evil or injury feared to be greater than that done to avoid it.

**5. Fulfillment of duty or lawful exercise of right.**

**6. Obedience to a lawful order by a superior.**





# Warrantless arrests

- Sec. 5 RULE 113 Rules of Criminal Procedure
- Arrest without warrant; when lawful. — A peace officer or a private person may, without a warrant, arrest a person:
- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- In cases falling under paragraph (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112. (5a)

# ETHICS, PRIVACY, CONFIDENTIALITY

- Sensitivity
- Privacy
- Confidentiality
  - **Confidentiality** – Violations of R.A. 9262 (Anti-Violence against Woman and Children), R.A. 8353 (Rape), R.A. 8505, R.A. 8504 are strictly confidential.
  - **Use alias of the child for RA7610 in the police blotter, child's sworn statement, police investigation report, endorsement letter to Prosecutors Office, resolution, criminal information**; name should not be in the court calendar, in the court decision and not mentioned in arraignment [FOOTNOTE]
  - Pink case file for child abuse; violet case file for VAW [FOOTNOTE]
- **Note: See ADO**
- DOJ Cir. 54

# XI. Planning & Next Steps

- Group per Barangay / area
- Assess your Barangay on
  1. Level of capacity to address DV/FV of LGBTI persons
  2. What have you been doing to address LGBTI concerns?
- Plans for your Barangay
  1. What do you plan to do?
    - Echo training
    - Prevention plans to address DV/FV
    - Community forum
    - Other plans
  2. Who will implement? When & where? Who are the participants?
- Report tomorrow 😊

**NAME OF GROUP MEMBERS:**

**BARANGAY :**

**DISTRICT:**

<b>Echo training</b>			
<b>IEC materials</b>			
<b>Community forum</b>			
<b>Monitoring</b>	<b>Ging, EnGendeRights OVM</b>	<b>Barangay OVM</b>	<b>Starting end of July every 3 months</b>
<b>Other plans...</b>			

# Day 2 Evaluation



# Schedule

- **Dinner tonight: 6:30pm to 7:30pm**
- **Solidarity night: 7:00pm to 9:00pm**
- **Exercise tomorrow: 6:00 to 7:00 am**
- **Breakfast: 6:30am, ends at 8:15am**
- **DAY 3 starts at 8:30am**







**OUTRIGHT**  
ACTION INTERNATIONAL

Human Rights for LGBTIQ People Everywhere.



**EnGendeRights, Inc.**  
*Asserting Gender Equality*

# **Trainer's Training to Address Domestic Violence and Family Violence (DV/FV) of LGBTI Persons for District 5 – Quezon City**

**January 30-February 1, 2017  
Loreland Farm Resort, Antipolo City**

# Recap Day 2



# Day 3 Overview

- Prevention of DV/FV experienced by LGBTI persons
- Presentation of Barangay / Area Plans
- Closing



# **XII. Prevention of DV/FV experienced by LGBTI persons**



# **XIII. Group Presentation of Plans and Next Steps**



# Prevention & Monitoring of LGBTI Victim-Survivor

- **Due Diligence of Service Providers**
- **Awareness-raising, home visits & Monitoring**
- **Comprehensive Education of Marginalized Groups and Sectors**
- **Coordinate with Private & Government Schools covered by the Barangay.**
- **Separate logbook**



# Follow up

Clara Rita A. Padilla, JD

EnGendeRights, Inc.

(632) 3762578

engenderights@gmail.com

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# PREVENTION AND MONITORING OF LGBTI VICTIM-SURVIVORS

- SOGIE-related domestic and family violence must be stopped.
- Such violence is not a private matter.
- The parents, siblings, family, community and the service providers must take immediate and effective intervention and must recognize the danger and threat to life and limb.

# PREVENTION AND MONITORING OF LGBTI VICTIM-SURVIVORS

- **Due Diligence of Service Providers**

Service providers must prevent, investigate, and provide the necessary assistance should the victim-survivor decide to prosecute.

Such due diligence in holding perpetrators of SOGIE-related domestic and family violence will prevent any further acts of violence.

# PREVENTION AND MONITORING OF LGBTI VICTIM-SURVIVORS

- **Awareness-raising, Home Visits, Monitoring**

The barangay officials and the community must be involved in prevention activities including awareness-raising trainings on the rights of LGBTI persons and the remedies under the law, intervention, home visits, among others. Home visits by the barangay and community members can deter future acts of abuse and even strengthen the resolve of the victim-survivor in finally deciding to sever the ties with the abusive domestic partner or leave the abusive home.

# PREVENTION AND MONITORING OF LGBTI VICTIM-SURVIVORS

- Accompanying victim-survivors when seeking medical, medico-legal, psycho-social and legal services and in pursuing their civil, criminal, and administrative cases is crucial to the empowerment, well-being, recovery, and reintegration of the victim-survivor and bolsters the victim-survivor's resolution to pursue her/his case, greatly impacting the success of the victim-survivor's access to justice.
- **Coordinate with private and government schools covered by the Barangay**
- **Separate logbook**

# Thank you!

Atty. Clara Rita A. Padilla  
Executive Director  
EnGenderRights, Inc.  
Tel: 6645696

engenderights@gmail.com

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# Sample Forms

- Sample Complaint-Affidavit
- Sample Barangay Protection Order
- Sample Intake Form
- Sample Consent Form



# XI. Planning & Next Steps

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<b>Other plans...</b>			

# Day 3 Evaluation



# Presentation of Certificates





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ACTION INTERNATIONAL

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# Group Picture



**Thank you 😊**

