

**The human rights situation of transgender people in the Philippines**  
**Submission of the Society of Transsexual Women of the Philippines (STRAP) to the**  
**13<sup>th</sup> Session of the United Nations Human Rights Council Universal Periodic Review**

**Executive Summary**

- 1 Transgender people are one of the most marginalized and neglected sectors in the Philippines in terms of human rights protection, promotion and fulfillment. *Transpinays* and *transpinoys* (transgender/transsexual women and men of Filipino descent) continue to face barriers in legal recognition, accessing education, employment, health care and public accommodations and in seeking redress as victims of violence and bias-motivated crimes. Up until the present, transgender Filipinos remain vulnerable to widespread discrimination based on their gender identity and gender expression. Filipino transmen and transwomen experience human rights violations perpetuated both by transphobic State and non-State actors.

**Legal recognition**

- 2 In 2001, then President Gloria Macapagal-Arroyo signed into law *Republic Act 9048 (An act authorizing the city or municipal civil registrar or the consul general to correct a clerical or typographical error in an entry and/or change of first name or nickname in the civil register without need of a judicial order)* also known as the Clerical Error Law. RA 9048 expressly prohibits change in the civil registry of any person's nationality, age, status or sex although it allows for name change based on three reasons alone:

“(1) The petitioner finds the first name or nickname to be ridiculous, tainted with dishonor or extremely difficult to write or pronounce.

(2) The new first name or nickname has been habitually and continuously used by the petitioner and he has been publicly known by that by that first name or nickname in the community: or

(3) The change will avoid confusion.”

- 3 In 2007, when a petition was filed at the Supreme Court (SC) of the Philippines by a transsexual woman, Dr. Mely Silverio, to change her name and sex in her birth certificate after undergoing sex reassignment surgery (SRS), the SC invoked the provisions in RA 9048 regarding change of name and sex. The SC categorically denied Silverio's petition stating that based on RA 9048, Silverio filed her petition in the wrong venue and that the law does not allow for a change of name and sex based on SRS.
- 4 Prior to the enactment of RA 9048, transsexual-identified Filipino citizens had been able to seek legal document change through the local courts. After 2001 and especially after

the 2007 SC decision on *Silverio vs Republic of the Philippines*, changing a person's sex to reflect his or her gender identity and gender expression has been impossible.

- 5 *Silverio vs Republic of the Philippines* has proven prejudicial towards transgender-identified Filipinos both in the Philippines and abroad. Local court petitions for a change of name and sex filed by *transpinays* after 2007 have been rejected citing *Silverio vs Republic of the Philippines*. In 2010, a *transpinay* in Germany, who has not changed citizenship yet, found her passport confiscated by the Philippine embassy in Berlin when they found out she was issued travel documents by the German government reflecting her preferred name and sex. At that time, she was also carrying a Philippine passport reflecting the details of her original birth certificate putting her and thousands like her in legal limbo of being recognized as a person in one gender abroad but who is legally the opposite sex in her birth country.

*Recommendations:*

- 1) *Develop an education and training program for the judiciary and all other branches of government aimed at increasing public authorities' understanding of transsexualism and its attendant legal, medical, social, cultural, and economic dimensions including developments in human rights standards in relation to gender identity and gender expression*
- 2) *For Philippine Congress to take steps towards amending RA 9048 to allow change of sex in the civil registry*
- 3) *For Philippine Congress to pass legislation recognizing transpinays and transpinoyos in their chosen gender with no requirement for surgical modification of the body*

**Education**

- 6 More and more cases of gender identity-based discrimination in tertiary institutions are being documented. In 2008, Rio Moreno, a member of the Society of Transsexual Women of the Philippines (STRAP), was asked by the Dean of her nursing school to start wearing the school uniform for men after attending classes as female for five semesters. The Dean accused Moreno of fraud, which was proven otherwise later on, and insisted that she wear the uniform prescribed for male students in spite of explanations regarding her gender identity. Moreno decided to leave school and transfer to another university to avoid being coerced to wear male clothing.
- 7 In February 2011, the attention of Hender Gercio also a STRAP member, who identifies as transgender and female, a French major at the University of the Philippines (UP) Diliman, the country's premier state university, was called by her French 30-31 professor. The professor expressed her discomfort in referring to Gercio using feminine pronouns in class because of her Christian faith. In seeking to be recognized in her gender identity in the University, Gercio brought the case to the UP President, who has not acted on a request from

Gercio and UP Babaylan, a student organization for lesbian, gay, bisexual and transgender (LGBT) students to which Gercio belongs, for a system-wide policy protecting LGBT students, teachers and staff from discrimination based on sexual orientation and gender identity (SOGI) within the UP system.

*Recommendations:*

- 1) *Include sexual and gender diversity training in the teacher education curriculum and institutionalize gender sensitivity training for students, faculty, administrators and staff in public and private schools*
- 2) *For DepEd, CHED and TESDA to include and strengthen a human rights component in basic, tertiary, technical/vocational education and alternative learning systems*

## **Employment**

- 8 Many transwomen in the Philippines face great difficulty in securing gainful employment. The 2007 study, *Transgender women of the Philippines* by Dr. Sam Winter et al, notes a high percentage of unemployment among transwomen respondents. The same trend was observed in an earlier research by Brenda Alegre of the University of Santo Tomas entitled *Phenomenological Case Study on Male to Female Filipino Transsexuals*. Section 4.1.2 of Alegre's paper, which details respondents' work and educational background, confirms that transphobia (negative attitudes towards gender variant and transgender-identified people) is pervasive in the corporate world.
- 9 Because of this, many transwomen in the Philippines are forced in illegal activities like prostitution to survive. Others revert back to niche industries that traditionally employ them such as the entertainment, fashion and beauty salon industries in spite of holding college degrees that over qualify them for such work. Some who are able to secure jobs in call centers, considered the country's sunshine industry, do so to the detriment of their gender identity and expression. Many call centers have no-crossdressing policies that target only transgender women and forbid transwomen employees from accessing the facilities of the gender they identify as (e.g., female toilets, changing rooms, etc.). There are some call centers that have, in fact, blatant discriminatory policies and explicitly do not hire transwomen applicants. Although there are a number of *transpinays* and *transpinoyos* working in corporate environments, they are more the exception than the rule. In government, transpeople face the same challenges. When the Office of the Mayor of the City of Makati, which is home to the country's main financial district, was still under now Vice President Jejomar Binay, it issued a memo barring employees from dressing in clothes of the opposite gender.

*Recommendations:*

- 1) *For the government to commission research on the impact of discrimination on minority populations including sex and gender diverse Filipinos*

### **Public accommodations**

- 10 While no law in the Philippines criminalizes cross-gender behavior, such behavior can be sanctioned in both private and public spaces with no legal consequence. The Philippines has many accounts of gender diverse people being refused entry to and service by establishments. In 2006, Inday Garutay, a well-known transgender comedic actor, was asked to leave a restaurant called Aruba Bar and Restaurant citing its no-crossdressing policy. Members of STRAP have also been turned away, refused service and asked to leave bars, clubs, gyms, hotels and single-gender public transport. Many have also been ordered to transfer to facilities of the gender they were assigned to at birth when using toilets, department store dressing rooms and massage and spa facilities.
- 11 In May 2010, the Civil Service Commission of the Philippines issued a memo on the handling of LGBT applicants of the civil service examination. For transgender applicants the memo asked that “if the applicant has changed his/her physical appearance or physical sex to conform with his/her gender identity or orientation, require him/her to submit an authenticated copy of his/her birth certificate to establish his/her sex identity.” This additional requirement is prejudicial to transpeople and constitutes procedural discrimination.

#### *Recommendations:*

- 1) *For Congress to pass an anti-discrimination law penalizing SOGI-based discriminatory practices, behavior and policy*
- 2) *For government agencies to develop more effective mechanisms to consult populations affected by policy they craft*

### **Health and well-being**

- 12 Transgender-related health care is available but limited in many respects. Hormone-replacement therapies (HRT) and gender-affirming surgeries can be accessed by a few who can afford the steep costs. Medical practitioners and establishments have been known to refuse treatment of transgender patients because of their religious beliefs. Transwomen have also expressed dissatisfaction with surgical procedures availed of in the Philippines. Transgender women are vulnerable to discrimination in HIV and AIDS programs with their continued inclusion in men-who-have-sex-with-men (MSM) populations.
- 13 There have been noted cases of violence involving *transpinays*. In 2006, Ruvic Rea, considered as the Philippines’ first transsexual politician, filed a case of *acts of lasciviousness* against two councilors of the city of Lucban, Quezon who sexually assaulted

her. In October 2011, members of the *transpinay* community in Cebu City fell victim to repeated pellet gun shooting by unknown assailants.

14 In October 2011, the Psychological Association of the Philippines (PAP) released a statement on *Nondiscrimination based on sexual orientation, gender identity and expression* upholding the inherent dignity of LGBT Filipinos.

- 1) *Separate MSM and TG in HIV and AIDS initiatives at the local and international level*
- 2) *Include transwomen in anti-violence against women and children (VAWC) laws, initiatives and campaigns*
- 3) *Develop a training program for law enforcement personnel, social workers and shelters regarding transpinay issues, needs and concerns*
- 4) *Amend the Anti-VAWC Law including other laws that protect women's rights to include lesbian, bisexual and transgender women*