



The Lesbian and Gay Legislative Advocacy Network Philippines, Inc.

#17-D Kasing-kasing St. corner K-8th Street, Kamias, Quezon City, Philippines. Telefax: 9276008

Email: lagablab@yahoo.com blog: www.lagablab.wordpress.com

Position Paper on Senate Bill Nos. 165, 1641, and 1738

The notion that homosexuals are accepted in Philippine society is untrue. Indeed, despite the high visibility of gay entertainers or comedians in Philippine media or the slow but somehow increasing presence of lesbian images or role models in our society, Filipino LGBTs are still generally not accepted by the Philippine society.

A survey done by SWS in 2001, for instance, held largely negative attitude toward lesbians and gays. More than 50% of the respondents of the survey said that homosexuality cannot be justified, while almost a quarter said that they would rather not have lesbians or gays as neighbors.

The idea that we are already accepted actually stems from the tolerance of Philippine society toward stereotypes of lesbians and gays. It is ok to be gay, as long as one remains in the confines of show business or entertainment, the beauty industry and the arts. Lesbians are good employees because they can be told to work at night, they won't get pregnant, and they can, unlike "women" employees, carry heavy loads.

Let me get this straight – there is nothing wrong about being a gay entertainer or being a lesbian worker who has no qualms about working at night or can indeed carry a heavy load. What is wrong is when such quick, automatic assumptions are made – that gay men can or should only work in the entertainment industry, or that lesbians are really there to do the heavy load. What is wrong is that lesbians, gays, bisexuals, and transgenders who actually fit the stereotypes are considered trivial in our society.

Discrimination against LGBTs exists, as proven by glass ceilings that limit our productivity. It happens when we cross stereotype-based boundaries – when, instead of desiring to become *parloristas*, we opt to become soldiers or policemen, or when we aim for a higher position in our workplace.

Discrimination against LGBTs is common, invisible, and it remains unaddressed.

It is common because it is taking place in various areas. It is happening within our families, in our communities, in schools, workplace, health care, public service, in governance and politics and even in mass media. It is invisible because of the stigma attached to homosexuality creates a climate of impunity where abuses against LGBTs are viewed as

normal by the society. In many cases, physical and sexual assaults are considered curative and are employed to correct one's "abnormal" sexuality. Discrimination remains unaddressed because there are no laws that specifically penalize discriminatory practices and policies, even though they are already rampant and require meaningful intervention from the State.

In the course of LAGABLAB's work, we were able to document several cases of discriminatory practices that should be penalized:

- Within the family, Filipino LGBTs discover rejection for the very time. There are those who encounter physical abuse and rape from their relatives or from their own fathers and siblings. Others are asked to leave their home, and with no support structures, it is quite easy to surmise what usually happens to them. According to the YAFSS 2004, there is an increase in suicide incidents among young lesbians and gays, which they attribute to the strong biases of Filipino families against homosexuality.
- In education, some schools impose arbitrary "masculinity" tests to weed out gay enrollees. Implemented by some Catholic schools, the test is done by a panel of teachers and school admissions officials. Those who flunk the tests but have good academic records are admitted on probation for one year and prohibited to display any indication of one's homosexuality (such as sporting long hair and entering into a same-sex relationship).
- Refusal of entry or the provision of sub-standard services in commercial establishments. Ambiguous dress codes and related policies are used to bar LGBTs from entering establishments that are otherwise open to the public. With us today is Christopher Borja, more popularly known as Inday Garutay, who was asked to leave Aruba Restaurant in Metrowalk Ortigas because she was not conforming to the establishment's dress code. A door sign posted at Aruba's entrance states that sleeveless shirts and sandals for guys, shorts, hats of any kind are not allowed inside the restaurant. It also says that "the management reserves the right to refuse entry to those who are inappropriately dressed, mentally depraved and incorrigibly uncool." Inday was wearing a beige round-neck bell-sleeved shirt and black slacks; in short, she did not violate Aruba's dress code. Was she then asked to leave because she was incorrigibly uncool? Mentally depraved? When do policies like "no sandals and no hats" end and "homosexuals are prohibited" begin?
- In employment, stereotyping persists. Gays are accepted solely in fields where they presumably excel, such as the arts, entertainment and beauty industries. Outside these professions, however, homosexuals are discriminated in sectors that are typically male-dominated, such as the military, police and engineering, and to a certain extent, politics and government service. Recently, despite the existence of law that prohibits discrimination on the basis of sexual orientation in the police force, the leadership of the PNP expressed their support for the non-acceptance of homosexuals in the service.
- Also in employment, LGBTs sometimes face dismissal due to the disclosure of their sexual orientation or homosexual relationship, as in the case of two women working in a human rights NGO. They were dismissed after they revealed that they were lesbians and were having an affair. In some banks, lesbians and gays are denied promotion due to the

presumption that they wish to evade the “natural responsibility” of creating a family, and thus cannot be trusted with additional responsibilities in the office.

- Gay and lesbian teachers also encounter discrimination because parents and school authorities believe that they are out to “recruit children into homosexuality.” A lesbian teacher from LAGABLAB was unceremoniously demoted from being a Guidance Counselor to merely an Office Clerk after the Directress of the school discovered that she was counseling students who have problems with their sexual identities that accepting one’s sexual orientation is healthy.
- Discrimination is also rampant in the enforcement of laws. The police use vintage laws like the anti-vagrancy and anti-public scandal laws to harass, physically abuse and/or extort from gay men. The anti-kidnapping law is regularly used to break apart consensual relationships between adult lesbians, since it is presumed that such relationship could only exist when one of the partners is forced into it.

What, then, should be done? For more than six years now, **LAGABLAB** has been pushing for a national legislation that would criminalize discrimination on the basis of sexual orientation and gender identity. Since the 11th Congress, AKBAYAN Rep. Etta Rosales has been filing and pushing for an anti-discrimination bill that prohibits a wide range of discriminatory practices and policies against LGBTs. During the 12th Congress, the anti-discrimination bill was approved by the House of Representatives on Third and Final Reading. However, due to 2004 elections, the Senate did not have enough time to tackle the bill.

We are extremely happy to note that this term, not one but three senators separately filed bills that seek to penalize discrimination against lesbians, gays, bisexuals and transgenders in different areas. The three bills, SBN 165 filed by Sen. Luisa Loi Ejercito-Estrada, SBN 1641, filed by Sen. Miriam Defensor-Santiago, and SBN 1738, filed by Sen. Ramon “Bong” Revilla Jr., vary in terms of scope and the status that they wish to protect from discrimination.

We thank Sen. Loi Ejercito-Estrada for the rigorous anti-discrimination policy in employment that her bill aspires to enforce. Although we have reservations about the exemptions that it grants to the military and establishments owned by religious organizations, we wish to extend our solidarity to the Senator for recognizing that the right to work and the right to organize inside workplaces are indeed fundamental human rights that must be recognized, promoted and protected.

We also commend Sen. Miriam Defensor-Santiago for filing a broad anti-discrimination bill that recognizes that the human rights and freedoms being sought for by the LGBT community are not special rights. They are, as stated by Sen. Defensor-Santiago in the bill’s explanatory note, affirmations of the Bill of Rights as enshrined in our Constitution and of the various international human rights agreements that we have signed, among them the Universal Declaration on Human Rights, International Convention on Civil and Political Rights, International Convention on Economic and Social Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, among others.

Lastly, we wish to give our full support to SBN 1738, or the Anti-Gender Discrimination Bill. Of the three bills, it is the most comprehensive. It would bar discrimination based on sexual orientation or gender identity, actual or perceived, in employment, education, healthcare, housing and the provision of services. It would affirm the freedom of association. It would also ban forced medical or psychological testing or treatment that attempts to identify, or change, a person's sexual orientation or gender identity. It also penalizes law enforcers that manipulate our laws to exploit our marginalized community.

To conclude, I wish to raise a question that we, lesbian and gay activists, oftentimes ask ourselves: would an anti-discrimination law really be able to put an end to discrimination? We often joke that you can't use a bunch of papers to shoo away someone who's about to physically hurt you or sexually molest. We do recognize, however, that if these bills get enacted, and we do appeal to the good Committee to approve them as soon as possible, Filipino LGBTs at least have a tool not only to fight back but also to change the views of our society. The bills' approval will certainly make us feel freer and more accepted as equal members of the human family.

Prepared by:

JONAS BAGAS
Secretary General
LAGABLAB