



REPUBLIC OF THE PHILIPPINES  
COMMISSION ON HUMAN RIGHTS

---

**POSITION PAPER ON HOUSE BILL NOS. 1015 and 6782, ENTITLED “AN ACT RECOGNIZING THE CIVIL PARTNERSHIP OF COUPLES, PROVIDING FOR THEIR RIGHTS AND OBLIGATIONS”**

---

The Commission on Human Rights (“Commission”) pursuant to its mandate to recommend to Congress effective measures to promote and protect human rights, submits this position paper on House Bill Nos. 1015 and 6782<sup>1</sup> entitled “*An Act Recognizing the Civil Partnership of Couples, Providing for their Rights and Obligations*” filed before the House of Representatives of the 19<sup>th</sup> Congress.

The proposed measure seeks to afford both same-sex and opposite-sex couples legal recognition as civil partners to be able to afford the same rights, protection, and privileges granted to legally married couples under existing laws or any other public policy, including property rights, adoption and child custody rights, inheritance rights, and dependency and legal beneficiary for social protection programs. Likewise, it penalizes infidelity while bound by civil partnership with a prison sentence similar to adultery as a crime.

The Commission issued a position paper on the same measure for the 17<sup>th</sup> Congress supporting its passage. At the outset, the Commission acknowledges the noble intent of the proposed measure to extend civil rights presently accorded only to opposite-sex couples (in the form of marriage) to same-sex couples by providing them the option to be legally recognized as civil partners. The Philippines, despite being considered one of the most “gay-friendly” countries in the Asia and Pacific region,<sup>2</sup> still lacks legislative measures which will advance the principle of equality and non-discrimination regardless of sexual orientation, gender identity, and expression (SOGIE).<sup>3</sup> The proposed measure, which was first introduced in the 17<sup>th</sup> congress, is the first of its kind that seeks to afford same-sex couples with the same legal coverage provided for married couples.

The right to equality and freedom from discrimination based on sex or other status are enshrined in the Universal Declaration of Human Rights (UDHR),<sup>4</sup> the International Covenant on Civil and Political Rights (ICCPR),<sup>5</sup> and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).<sup>6</sup> The Philippines, with a State policy to adopt generally accepted principles of international law as part of the law of the land and as a State Party to the ICCPR

---

<sup>1</sup> House Bill No. 1015 entitled, “An Act Recognizing the Civil Partnership of Couples, providing for their Rights and Obligations” authored by Rep. Bernadette “BH” Herrera; and House Bill No. 6782 entitled, “An Act Recognizing the Civil Partnership of Couples, Providing for their Rights and Obligations” authored by Rep. Pantaleon D. Alvarez.

<sup>2</sup> The Global Divide on Homosexuality Persists, Pew Research Center June 25, 2020, <https://www.pewresearch.org/global/2020/06/25/global-divide-on-homosexuality-persists/>

<sup>3</sup> This is in comparison to other jurisdictions which have advanced legal provisions on the matter. For example, several countries in Europe and America have adopted a policy recognizing same-sex civil union or marriage, if not both, in order to provide for rights and privileges to its citizens. In Asia, six cities in Japan are now issuing partnership certificates to same-sex couples to enjoy some of the rights and benefits of marriage, while Taiwan have legalized same-sex marriage in 2019 including same-sex transnational marriage and adoption in 2023

<sup>4</sup> Articles 1, 2, and 7, Universal Declaration of Human Rights

<sup>5</sup> Articles 2(1), 25, and 26, International Covenant on Civil and Political Rights

<sup>6</sup> Articles 2(2) and 3, International Covenant on Economic, Social, and Cultural Rights

and ICESCR, has the obligation to uphold the fundamental rights of equality and non-discrimination by adopting positive measures in all areas to enable every person to enjoy these rights. The proposed measure is an example of a positive action of the State to advance equality and non-discrimination among persons of diverse SOGIE.

The Commission, as the country's national human rights institution (NHRI) and as the Gender and Development Ombud,<sup>7</sup> is guided by the Yogyakarta Principles where it provides that ***“human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.”***<sup>8</sup> Under Principle No. 24 of the Yogyakarta Principles, the right to found a family is available to everyone regardless of sexual orientation or gender identity. Furthermore, it provides that States must take legislative measures to ensure this right.<sup>9</sup>

The Commission, while supportive of the intentions of the bill as elucidated above, however, has reservations on several provisions provided and respectfully submits, for consideration of the Committee on Population and Family Relations of the House of Representatives, the following comments and recommendations:

1. The Commission has reservations with respect to the availability of civil partnership among opposite-sex couples. This bill was essentially developed to address the lack of measures to afford equal rights and privileges for same-sex couples. From a legal perspective, couples of the opposite sex already have the provisions of the Family Code and other relevant provisions of the Civil Code to govern them. There is no adequate reason for the application of the provisions of these Bills among couples of the opposite-sex.
2. It is recommended that a provision be included in Section 11 on Benefits and Protections of Civil Partnership in HB No. 6782 that would allow for equal visitation rights in hospitals and detention facilities for civil partnered couples and ensure the right in making medical and burial decisions to be worded as follows:

*(1) Civil partnership couples shall be given equal visitation rights in hospitals and detention facilities and shall ensure their participation in medical and burial decision-making for their partner.*

According to a 1972 study in California,<sup>10</sup> parole success is greater for inmates with regular visits from their spouse or common-law partner and family members as it is a strong motivational force. These visits also reduce recidivism or the tendency for a convicted criminal to commit the same offense. The Yogyakarta Principles in Principle No. 9 provides that States shall ensure that conjugal visits, where permitted, are granted on an equal basis to all prisoners and detainees, regardless of the gender of their partner.

3. In the development of a substitute bill or consolidation of the proposed measures, we recommend the retention of Section 8 on Default Property Regime that the rules on co-ownership shall govern such that Article 147 of the Family Code shall be applied suppletorily, unless otherwise provided in a pre-civil partnership agreement. Therefore, each party will own the wages and salaries equally, and any properties acquired through their work or industry shall be considered co-owned, absent proof to the contrary. Properties acquired during the period of civil

---

<sup>7</sup> An Act Providing for the Magna Carta of Women [The Magna Carta of Women], Republic Act No. 9710 § 39 (2009)

<sup>8</sup> Principle 1 of the Yogyakarta Principles. The Yogyakarta Principles are a set of principles on the application of international human rights law in relation to sexual orientation and gender identity. The Principles affirm binding international legal standards with which all States must comply. They promise a different future where all people are born free and equal in dignity and rights.

<sup>9</sup> Principle 24(A) of the Yogyakarta Principles

<sup>10</sup> Holt, N. & Miller, D. (1972). Explorations in Inmate-Family Relationships. California Department of Corrections

partnership are presumed jointly obtained through their efforts, work, or industry, thus being shared equally.

A party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former's efforts consisted of in the care and maintenance of the family and of the household.

4. Paragraph (h), Section 11 of House Bill No. 6782, and Paragraph (h), Section 9 of H.B. No. 1015 with respect to insurable interest are not issues, considering that a person in a same-sex relationship can designate their partner as beneficiary in a life insurance policy, subject to certain limitations. Section 10 of Republic Act No. 10607 or the Amended Insurance Code provides that any person has an insurable interest in the life and health *of himself, of his spouse, and of his children.*<sup>11</sup>

The Insurance Commission issued Legal Opinion 2020-02, that “an individual who has secured a life insurance policy on his or her own life may designate any person as a beneficiary, provided that such designation does not fall under the enumerations provided in Article 739 of the Civil Code, without prejudice to the application of Section 12 of the Amended Insurance Code.” Hence, a couple in a Civil Partnership may designate his or her partner as a beneficiary in an insurance policy.

5. Section 11 (i) of HB No. 6782 and Section 9 of HB No. 1015, which discusses labor standards benefits and privileges accorded to employees based on marital status, should likewise include restrictions and responsibilities such as prohibition to appoint or recommend a relative within the fourth civil degree of affinity, which shall be observed by elective and appointive officials in the government.
6. The definition of infidelity in Section 12 of H.B. No. 6782, or that which is “committed by any partner who shall have sexual relations with a man or a woman who is not his or her civil partner” and “by a man or a woman who has sexual relations with the person whom the offender knows to be in a civil partnership,” is vague. The provision does not clearly state the definition of “sexual relations” and the prohibited acts therein. If approved into law, the same will pose arbitrary enforcement, leaving courts no standard by which to adjudge the guilt of a person accused of violating said provision.
7. It is recommended that Section 14 of H.B.B No. 6782 of this proposed measure be amended as it discriminates against civil partnership couples to be reworded as follows *civil partnership couples shall be allowed to legally adopt AND BE GIVEN THE SAME LEGAL STANDING AS THOSE LEGALLY married couples.* This provision shows that couples who enter civil partnership are deemed second-class citizens. Several studies have been conducted by the Australian Institute of Family Studies and the American Sociological Association in 2013 and 2014, respectively, which showed same-sex couples fared as well as different-sex couples in parenting quality and parental well-being<sup>12</sup> in terms of behavioral, emotional and social outcome of the children.

In *Pablo-Gualberto v. Gualberto V*<sup>13</sup> (G.R. no. 154994), the Supreme Court held that sexual preference or moral laxity alone does not prove parental neglect or incompetence. The best interest of the child is also protected in case of a dissolution

---

<sup>11</sup> An Act Strengthening the Insurance Industry, Further Amending Presidential Decree No. 612, Otherwise known as “The Insurance Code”, Republic Act No. 10607 § 10 (2013)

<sup>12</sup> Anne Davies, Children raised by same-sex parents do as well as their peers, study shows, available at <https://www.theguardian.com/australia-news/2017/oct/23/children-raised-by-same-sex-parents-do-as-well-as-their-peers-study-shows> (last accessed May 29, 2023)

<sup>13</sup> Joycelyn Pablo-Gualberto v. Crisanto Rafaelito Gualberto V, G.R. No. 154994, June 28, 2005, available at <http://sc.judiciary.gov.ph/jurisprudence/2005/jun2005/154994.htm> (last accessed May 29, 2023)

of civil partnership where the custody of the child will not only rely on the age but also on the needs of the child and the capacity of the parent. The Committee on the Rights of the Child reaffirms through General Comment no. 14<sup>14</sup> that the courts must provide for the best interest of the child to be considered in all situations and decisions including adoption and divorce in consonance with the rights provided for in the Convention on the Rights of the Child.

8. It is recommended that in Section 16 of House Bill No. 6782, when applying the procedures and grounds for legal separation and annulment of marriage in the context of civil partnership, we reiterate our position<sup>15</sup> to remove “grossly” as a qualifier for abusive conduct as a ground for dissolution of Civil Partnership which was likewise mentioned in Section 14 of House Bill No. 1015.

Requiring for the ground of dissolution to be “grossly” abusive exposes the petitioner and/or their children to greater risk of being a victim of abuse. It also provides an additional burden of establishing that there was, in fact, a “grossly” abusive conduct which, regardless of severity, should be a ground for dissolution.

9. On penalties in Section 20 of House Bill No. 6782 and Section 18 of House Bill 1015, the refusal of the officer to issue civil partnership licenses or certificate despite being authorized to do so should amount to an administrative liability and not a criminal offense unless otherwise proven that such acts are attended or coupled with elements constitute a discriminatory act as defined in the same bill or other bills protecting individuals against discrimination.<sup>16</sup>
10. Section 22 of H.B. 6782 and Section 20 of H.B. 1015 shall likewise be updated considering that Republic Act No. 8552 or the Domestic Adoption Act of 1998 had already been repealed by Republic Act No. 11642 or the “Domestic Administrative Adoption and Alternative Child Care Act”.
11. The Committee on Economic, Social and Cultural Rights<sup>17</sup> reaffirms the right to equality through General Comment No. 20<sup>18</sup>, which obliges states parties that the rights provided for in the ICESCR shall be exercised without discrimination as to any status, and this includes sexual orientation and gender identity in the right social security. In current laws and policies, same-sex couples are not recognized in government-managed social protection because the law only covers marriage between a man and a woman.

We likewise propose a provision prohibiting discrimination against children of couples in a civil partnership such as bullying, refusing to enroll or admit in educational institutions, access to healthcare, and access to goods and services available to the general public.

In conclusion, it is high time that the Philippine government provide for equal rights and recognition for two fully-consenting adults who merely wish to love, care, and support each other. These bills only seek to grant protection and adequate legal instruments such as basic social protection and security to their partnerships with no prejudice as to sexual orientation or gender identity and who, in a non-traditional meaning, constitute a family. Providing for

---

<sup>14</sup> General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14 (May 29, 2013).

<sup>15</sup> Commission on Human Rights Position Paper on the Divorce Bills filed in the 19<sup>th</sup> congress, issued on 13 February 2023, available at <https://chr2bucket.storage.googleapis.com/wp-content/uploads/2023/03/08151631/CHR-Position-Paper-on-Divorce-Bill-Filed-in-the-19th-Congress.pdf>

<sup>16</sup> Such as House Bill No. 222 and 5551, or “An Act prohibiting discrimination on the basis of sexual orientation or gender identity or expression (SOGIE) and providing penalties therefor” filed in the 19<sup>th</sup> Congress

<sup>17</sup> Created under the International Covenant on Economic, Social and Cultural Rights

<sup>18</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, 2 July 2009, E/C.12/GC/20, available at: <https://www.refworld.org/docid/4a60961f2.html> [accessed 29 May 2023]

equal rights and privileges for same-sex couples will in no way diminish or trample on the rights granted to married couples.

Issued this 17<sup>th</sup> day of January 2025, Quezon City, Philippines.



**RICHARD P. PALPAL-LATOC**  
Chairperson



**BEDA A. EPRES**  
Commissioner



**FAYDAH M. DUMARPA**  
Commissioner



Justice **MONINA A. ZENAROSA (Ret.)**  
Commissioner



Judge **MARIA AMIFAITH S. FIDER-REYES (Ret.)**  
Commissioner