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Friday, 5 July 2019, 09:00-16.00
Bernas Conference Room, Ateneo Professional Schools, Rockwell Center
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Makati City

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QUEER THEORY, SEXUAL HEALTH CARE, AND BEING “MSM” (MEN WHO HAVE SEX WITH MEN) IN CAMBODIA

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Abstract

The majority of previous studies on men who have sex with men (MSM) identities in Cambodia are focused largely on individualistic risky sexual behavior as a result of the global HIV epidemic. This paper takes forward the research queer(y): “How does the categorization/stratification of sexual identity/behavior impact (or affect) the access to sexual health care of MSM in Cambodia?” This study employs queer theory and narrative in-queer(y) methodology in its analysis premised on the notion that privilege heterosexuality shapes access to sexual health services. Utilizing the narratives of Khmer MSM individuals, we unpack the medicalized notions of sexual identity (and behavior). This paper challenges the labeling, regulating and controlling of sexuality under categories of "deviance," "risk," and "illness" as a result of the HIV/AIDS crisis of the 80s, while it advocates for post-colonial queer literature to flourish. Biomedicine has constructed a causal link between homosexuality and HIV/AIDS developing standards wherein queer bodies are seen as diseased and heterosexual bodies as the standard of normality and health. Two things have resulted, as a consequence, of this excessive "fetishizing" of sexual behavior and identities, (1) the overt homogenizing (and to an extent erasure) of other non-heterosexual identities and behaviors, such as gay, bisexual and other Khmer indigenous sexual identities, with the MSM category, often for epidemiological statistic purposes, and (2) the production of a catch-all buzzword among communities collectively identify population categories as high risk for HIV/AIDS, due to their perverse, deviant, and unsafe practices (i.e., bareback condomless anal sex).

Keywords: Queer Theory, Sexual Health, HIV/AIDS, LGBTIQ, Human Rights to Health, MSM, Queer Paradigms

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I. Introduction

There is an admirable plethora of men who have sex with (MSM) and HIV/AIDS studies in Cambodia. These include works on MSM population size estimates (Yi, Chhoun, et al., 2016), factors associated with HIV testing of MSM (Yi, Tuot, et al., 2015), acceptability of HIV testing among MSM (Pal, Ngin, et al., 2016), prevention and care case study on MSM (Yi, Tuot, et al., 2016), mental health among MSM (Yi, Tuot, et al., 2016), and factors associated with inconsistent condom use among MSM (Yi, Tuot, et al., 2015). Other non-MSM-specific studies have shed light on achieving universal access to HIV health services, such as the work of Vun, Fujita, et al. (2014), and strengthening an otherwise weak economic structure that poses a formidable threat on HIV/AIDS financing, in the work of Yasar (2010).

The majority of previous studies on MSM behaviors and identities in Cambodia are focused largely on individualistic risky sexual behavior. Predominantly due to the global AIDS pandemic, populations most affected by the virus are consequently labeled under "high risk" categories and seen as "inverts" that have strayed away from the behavioral (and sexual) norm. Hoefinger and Srun (2017) have attempted to describe this categorization, and earlier studies by Girault, et al. (2004) have seen the need to explain the experiences of Cambodian "MSM" as they navigate this "identity" and "behavior".

This study's added value to the existing abundance of academic knowledge is its attention to sexual identity and subjectivities and its profound impact on the fulfillment of the fundamental right to health. This study argues that the epidemiological "high-risk" hypocritical categorization of MSM has nonchalantly homogenized these sexual identities (and behaviors). This is largely due to the need to be inclusive of varying sexual and behavioral identities (as to be explained in the succeeding sections). As we delve into this queer(y) on sexual identities and behaviors in Cambodia, this study endeavors to respond to this research question of "How does the categorization/stratification of sexual identity/behavior impact (or affect) the access to sexual health care of MSM in Cambodia?"

In arguing the dichotomized and stereotypical classification of sexual and behavioral identities vis-à-vis health status/risk and epidemiological data disaggregation, this study employs queer theory attributed to the early works of Michel Foucault and Judith Butler in 1990 and Eve Sedgwick in 1985. The pioneering work of these scholars cascaded into a branch of critical theory with focused inquiries into normal and deviant categories. A contextual backdrop into the human rights of sexual and gender minorities and the available indigenous sexual identity terminologies are essential in establishing a discussion into sexual health and challenging sex/gender binaries. The next parts will challenge existing taxonomies and sexual identity binaries in Cambodia.

II. Queer Theory (Re) Introduced

David Halperin's book (1995) "*Saint Foucault: Towards a Gay Hagiography*" yields a definition to the term "queer", not as a sexual category but as a site of engagement and contestation. Halperin (1995) argues that:

“Queer is by definition whatever is at odds with the normal, the legitimate, the dominant. *There is nothing in particular to which it refers.* It is an identity without an essence. ‘Queer’ then, demarcates not a positivity but a positionality vis-à-vis the normative. ”

Therefore, ‘queer theory’ addresses the categorizing and privileging of heterosexuality as the ‘normative’ and ‘natural’ and homosexuality as its ‘deviant’ and ‘abhorrent’ counterpart, as Cohen (1997) and Browne and Nash (2010) define it. It is this same notion that privilege heterosexuality as fundamental in a society which discriminates those outside this stem of power (Filax et al., 2011). Foucault's *Discipline and Punish: The Birth of the Prison* (1975) elucidates how normalizing discourses generate degrees of differences from the ideal norm. This logic validates and engenders the false depiction of homosexuality as the anomalous version of the ideal norm of heterosexuality (Foucault, 1975). The merging of queer theory and politics is as Sullivan describes, is "a set of practices and political positions that has the potential to challenge normative knowledge and identities (Sullivan, 2003). The challenging of these normative means to disrupt and transgress dichotomies that situate heterosexuals in a dominant position, (the “us” and the “them”).

Queer research pays close attention to the multiplicity and fluidity of the subject and subjectivities which are sculpted not only by sexuality and gender, but also race, ethnicity, postcoloniality and class, including categories of able-bodiedness and age along with the context of place, culture and time (Filax et al., 2011). Scholars have noted that while the sexual subject is deemed as the central focus of queer research, there is scope to extend its focus to the ‘stratifying of homosexualities’ and illuminating the interconnections between the class and sexuality of queer lives (Gorman-Murray, Johnston, et al., 2010 and Taylor, 2010).

Queer theory, as a liberatory politics, radically questions social and cultural norms and destabilizes the disciplinary regulation of sexuality and gender by "liberating sex, desire and sexuality that organizes all human behavior including religion, education, family and kinship, politics, work and so on" (Smyth, 1992 and Cossman, 2004). The borders of sexual identities, communities, and politics for the guarantee of civil rights ought to be explored and que(e)ried as some people are actively “visible” about their sexuality while others remain silent – the notion of the “closet” (Namaste, 1994). This problematization challenges and destabilizes how heteronormativity structures daily life in the confines of education, law, religion, family, health and any other area of human activity where heterosexuality is seen as normal and normalizing

mechanisms in human relations (and oftentimes in human rights) (Filax et al., 2011). In a word where 'deviant' sociosexual practices challenge global gendered structures (patriarchy), these transgressive sexual practices, including desire, pleasure and self-care need has to be addressed in discourses on sexuality and prevention (Gasch, 2018).

The lived experiences of the MSM participants of this study will evince the manifestation of the privileging to heterosexual identity in sexual identity formation, social interactions, engagement with power structures, and perceptions of the 'normal majority'. In Cambodia, the 'MSM identity' belongs to 'deviant' and 'risk categories' under sexual health care programming. This study recognizes the intersectional identities of these individuals to fully understand sexual identity as having a strong influence on access to sexual health care services. We also find evidence in studies conducted in Cambodia where the erasure of indigenous sexual identities and classifications have been overshadowed by the HIV/AIDS discourse through the lumping of all homosexual identities to the "MSM category" (Hoefinger and Sorn, 2017 and Earth, 2006). Employing a queer theory benefits this study as the aim is to shatter binary classifications. As an objective of post-colonial academia, this study recognizes that there is also a dearth of literature that utilizes queer theory to illustrate queer subjectivities in non-Western culture (as queer theory itself is a Western construct).

III. Queer Human Rights Paradigm

Human rights work must reject binary hierarchical categorization of gender and sexuality as it must take necessary measures to ensure the respect and liberation of sexualities (Miller, 1999 and Gross, 2012). The human rights discourse in non-Western countries involving non-normative sexual identities should critically consider these post-colonial perspectives in order to formulate an effective agenda on sexuality rights using political opportunity structures (Miller, 1999, Kollman and Waites, 2009 and Swiebel, 2009). However, this formulation should not be a template solution as certain political opportunity structures perpetuate the same binaries, hierarchization, and risk category classifications which queer theory hopes to dissolve.

In discourses around global health, scholars of human rights have suggested a paradigm shift that centers on global health justice and pragmatic solidarity (Gostin and Dhai, 2014 and Farmer and Gastineau, 2009). The global burden of disease is shouldered by states that have little capacity to provide tenable solutions and the poor shoulder disproportionate levels of health disparity. Global health justice, according to Gostin and Dhai (2014), exhibits a shared responsibility of the global south and north. Pragmatic solidarity, for Farmer and Gastineau, encourages the rapid deployment of tools and resources to improve the health and well-being of those who suffer. This paradigm of global health justice should remember that "the distribution of AIDS is strikingly localized and non-random" (Farmer 2005). Farmer recognizes that HIV transmission and human rights abuses stem from structural violence affecting different populations.

In his book, Farmer recognizes intersectionality as he proposes a new agenda for health and human rights, “if you are likely to be tortured or otherwise abused, you are also likely to be in the AIDS risk group composed of the poor and the defenseless” (2005, p. 231). In his new proposed agenda, Farmer (2005) places the provision of services at the core while advocating for societal transformation in how health is prioritized by governments.

There is a difference between international health and global health as elaborated by Lock and Nguyen (2018). International health is built on early post-war biomedical efforts by states to improve health structures, counter diseases, improve sanitation, and develop better health economic policies within states. This feat took place during the early days of the League of Nations and the World Health Organization (Lock and Nguyen, 2018, p. 293). Global health was conceptualized exactly as a response to global epidemics like HIV, which easily spread because of globalization, including migration, decolonization, and industrialization. This response brought health concerns down to the state level while solutions were developed collaboratively among states to address the epidemic and ensure health security within their borders—the ‘pragmatic solidarity’ concept of Farmer and Gastineau (2009). In discussing global health justice, authors do not encapsulate health human rights as merely a “global” issue and ignoring specific country contexts. Global health brought concerns notably about national security but also of the state’s commitment to protecting human rights. HIV and AIDS is a good example of an epidemic that has brought to life health human rights. For example, activists have lobbied to states to ensure that access to antiretroviral treatment as a fundamental human right and the denial of which is unacceptable (Lock and Nguyen, 2018).

If we are to “queer” this paradigm, we have to reject divisions between the affluent and the poor, the hetero- and the homo-, the normal and the deviant, as well as the safe and the risky. We believe that this may indeed be a new concept evidenced by the dearth of literature that queers health human rights. We see various authors who challenge the biomedicalization of homosexuality but never with an effort to situate all components of queer identities in health human rights together.

To address this drawback, we have to fundamentally acknowledge sexualized and gendered subjectivities affecting health care by focusing our attention on the social binaries perpetuating oppression. Medical humanities would call this “critical healing”, involving a rejection of exclusive territories of defined normalcy by contesting standards and mechanisms of injustice and discrimination (Garden, 2019). Garden points out that biomedical history has been known to define persons as disordered, diseased and deviant. These definitions that earlier sprung up from public health’s effort to curve epidemic transmissions, has led to the identification of “risk groups” of sexually transmitted infections (STI) such as HIV/AIDS (Spurlin, 2019).

Queer theory looks at risk in lived contexts and queer men are seen to perform risky behaviors in the context of the HIV pandemic. This led to the hierarchization of identities against

health statuses and the categorizing of persons as “ab/normal, us/them, visible symptoms/invisible illness, and risk/non-risk. Furthermore, it prompted social and public health policing of the sexual subject’s sexuality and gender performativity, and the development by public health of a label for non-gay-identifying men, the “men who have sex men” (MSM) identity (Arguello, 2016; Young and Meyer, 2005).

Biomedicine had, in the early history of the pandemic, constructed a causal link between homosexuality and HIV/AIDS which has developed standards wherein queer bodies are seen as diseased and heterosexual bodies as the standard of normality and health (Spurlin, 2019). Beyond just the pathologization of homosexuality and the creation of standards, society’s perceptions of deviance, heteronormative and Western biases, and the enforcement of gender norms may have led to a critical failure in sexual health human rights (Garden, 2019).

Therefore, the rejection of the biomedicalization of homosexuality and categorization of "risk groups" would achieve global sexual health justice by reducing health disparities and improving current human rights strategies. This rejection does not mean the existence of the term should be altered (or totally erased) in medical and epidemiological literature but rather consciously avoiding homogenizing gay, bisexual and MSM under risk labeling. Re-quoting and expanding the insights of Kole (2007), the author points out that "... sexual diversity, gender plurality, sexual rights, and freedom must be preserved and upheld in diverse societies in their own way" (the same way that Khmer sexual identities should be celebrated) devoid of categorizations of "deviancy", "health risk", "criminality" and "the abnormal."

IV. Conclusion

As we continue to modernize queer literature in Asia, queer studies have to take into consideration that ‘queering’ should be accompanied with the decolonizing of gender and sexuality – ‘decolonial queer praxis’ as it is termed (Lee, 2019). Queer existence in the modernization process must acknowledge its pre-colonial roots and celebrate its gendered/sexual heritage. This should strive to work without the same Western milieu which brought to Asia the us/them, norm/deviant, and risky/healthy binaries. Sexual health care must catch up and refashion its terminologies to keep up with the times. Beyond this “queer paradigm” lies an effective sexual health care system that operates for communities that need it the most in Cambodia and other parts of Asia.

Expanding a little bit more on the ‘decolonial queer praxis’ in relation to the ever-evolving human rights agenda (where sexual health rights are lodged within interconnected economic, social and cultural rights), we look into Burke's 2010 book. Burke argues a post-colonial human rights agenda which asserts individual freedom, religious liberty, and democratic governance (2010, p. 33) with this concept's first emergence during the 1955 Asian-African Conference in Bandung, Indonesia. More importantly, Burke (2010) describes the Bandung Conference as being influential

in the creation of a "third world identity". This identity then turned into the political force of decolonization which reframed the United Nations human rights agenda between the 1950s to the mid-1970s.

More importantly, when we place this alongside queer Asian studies, "queering has everything to do with decolonising" (Lee, 2019). The macropolitics and micropolitics of 'queer asia' has everything to do with a critical contestation of sexual identity in relation to consumerism, cultural etiquette, national feelings, and patriotism in queer postcolonial societies. Hence, as Burke (2010) posits that the Bandung Conference has changed the landscape of human rights agenda until today, the condemning of colonialism in all its manifestations is essential to the queering of human rights and the challenging of categorizations of sexuality and gender.

To "queer" in itself is to destabilize any normative references and transforming assemblages. The dismantling of oppressive structures in social activism must, therefore, acknowledge that the "universality of rights" does not mean the erasure of sexual identities. The multi-dimensional nature of anti-colonialism and its relationship to individual rights would assist in the argument that there is multiplicity within queer communities (Burke, 2010). To put "queer" and "Asia" together is to operationalize gender equality and sexual rights in non-normative literature. The emerging "third world" voice that shapes the current human rights discourse along with the revolutionary influence of decolonization should be central values to ongoing queer Asian studies.

AIDS was earlier called GRID5 (Gay-Related Immunodeficiency Syndrome). Later, when the virus was identified in different population groups that the nomenclature was changed to AIDS. With this, gays became identified as a 'risk group', amongst others (Joseph, 2005). Though there has been a shift in the pathological definition of AIDS the stigma remains especially in public health discourse in relation to the "risk society". Paradoxically, straight men who have sex with men are lumped together with gay men in sexual health programming, but there is still the immutable "real" homosexual (Ward, 2015). In Jane Ward's book "Not Gay", the sincere 'gayness' is something that symbolizes romantic congenial engagements with the same sex and are homosexuals to their core; while "straight MSMs" exhibit an insincere and "meaningless" homosexuality. These 'insincere homosexuals' might reject the whole denomination of MSM that they were unwillingly homogenized into for epidemiology's sake. "The identification of gays as a risk group made it even more difficult to work with them as they were an already stigmatized population. The stigma experienced by MSM populations are similarly visible in different contexts (as we have discussed the "Men on the Down Low" phenomenon earlier in African-American communities). However, what is common in any context is that the combination of prejudices against homosexuality and AIDS drove gays underground, making it difficult for any intervention to reach them (Joseph, 2005).

The complexity of the “MSM” categorization is an aftereffect of the initial responses of biomedicine to the AIDS crisis over three decades ago. Therefore, we may even conclude that the “MSM” identity is a “queer identity” as it challenges conventional definitions of homosexuality. MSMs, as a homogenized sexual and behavioral non-heteronormative identity, challenges normativity of sexual behavior, the monogamy of relationships, and the singular, linear definition of homosexuality as a mere attraction. This then becomes a whole new discussion of what this paper hopes to achieve, which is the queering of human rights. In sexual health discourse, the “queer identity” is often a subject of concern as it provokes a sense of deviation from health standards.

This fact now leaves a corridor of opportunities to boost policy advocacies and social science scholarship as advocates can lobby to enact laws that provide protection against discrimination not only on the basis of sexual orientation and gender identity but also on the basis of health status and sexual practices (as it is uncommon to speak about MSM behavior and other non-normative sexual behaviors in sexual orientation and gender identity anti-discrimination laws). This opportunity also encourages the sensitization of public health programming to reconsider its treatment towards MSM individuals and to ensure inclusive sexual health care in Cambodia.

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THE INFLUENCE OF WOMEN POLITICIANS ON IMPROVING WOMEN'S RIGHTS: A CASE STUDY OF FILIPINA SENATORS' BILL PROPOSALS SINCE 2000

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Abstract

Women have had the same right to vote as men for over one hundred years; however, most of the political sphere is still perceived as the domain of men. There has been much research looking at the correlation between numbers of female politicians and the state of women's rights. The scholars who advocate that it is necessary to have female politicians for the development of women's rights insist that women in positions of power can advocate for their rights, women's rights. However, some suggest that female politicians do not always represent women's rights. Female politicians can represent their own interests and the interests of their political party, not only women's rights. The objective of this article is to assess the impact of female senators on women's rights in the Philippines from the 13th Congress to the 17th Congress. This article studies the extent of the influence which female senators have in improving women's rights. Additionally, it also analyzes the correlation between female senators' background related to women's rights before entering politics and their proposed bills related to women's rights. The results of the study revealed that female senators work for women's rights in their legislation tenure. Filipina Senators proposed more bills overall than male politicians. This fact shows that female senators are not only working for women's rights but also doing more than male politicians. However, female senators' backgrounds of women's rights before entering the political arena does not affect their legislation.

Keywords: Women in politics/female politicians/Philippine politics/Women's rights

I. Introduction

It has been over a hundred years since the first women's suffrage, yet it is still difficult for women to take their rightful share of the political arena. The reason for some countries having over 50 percent of female senators is the use of a gender quota system in Congress. Female candidates would find it difficult to get a foothold in politics if gender quota systems did not exist.

Then why is it important for women to participate in politics, and in what form should they participate? It is not just a symbolic gesture for women to make up half of the political arena.

According to Jang (2008: 36), the political realm is mostly monopolized by men, which means that the resources are partially distributed according to gender. In other words, the more male politicians there are, the more favorable the society is for men. And the experiences and the responsibilities that female politicians have as women influence their attitudes and behaviors for supporting women's rights. Indeed, the political participation of female politicians results in policy priorities on women's rights.

However, there is an ongoing and heated discussion as to whether political representation for women and women's rights simply means increasing the number of female politicians. There is also some opposition to the suggestion that female politicians always work for women's rights, and that male politicians do not work for women's rights. Some research shows that there is no gender difference in legislative activities in some countries. Loudres (2008) argued that there are differences among female politicians based on their ideological, ethnic, religious, economic, social and other differences.

For that reason, this article aims to identify if the presence of female senators has an effect on women's rights in the Philippines, based on previous studies mostly looking at developed countries. This study will try to discover if the findings, or which findings, of previous research on developed and advanced countries, are consistent with the political situation in the Philippines, as a less developed country in Asia; or if inconsistent, to identify the situation in the Philippines and where the inconsistencies occur.

II. Women's rights in the Philippines Politics

The social status of Filipino women is known to be higher than that in other countries. The women of the Philippines were granted the right to vote in 1937 through a movement for female suffrage. According to the *World Economic Forum*, the Philippine's 'Global Gender Gap Score' is always ranked within 10th until 2006. However, the percentages of female senators have been stable. In the 10th Congress, female senators took 4/24 seats (16.67 percent); 4/23 (17.39 percent) in the 11th Congress; 3/24 (12.5 percent) in the 12th Congress; 4/23 (17.39 percent) in the 13th Congress; 4/23 (17.39 percent) in the 14th Congress; 3/23 (13.04 percent) in the 15th Congress; 6/24 (25 percent) in the 16th Congress; and 6/24 (25 percent) in the 17th Congress. The Philippines is also the 32nd of the 79 countries that have adopted the bicameral system (Inter-Parliamentary Union, 2019/02/01).

Why is it that the female politicians in the Philippines do not participate politically in proportion to the level of women's rights in the country? This phenomenon results from prevailing patriarchal norms and values and gender stereotypes. The political arena is considered as an area for men because politics is treated as dirty, and elections and campaigns are organized with violence in the Philippines. Hence, the political system of the Philippines is characterized by 'guns, gold, and goons'. Moreover, the existence of stereotypes toward women affects female politicians in two

ways. Firstly, female politicians cannot get the favor of political parties or groups more than their male counterparts because stereotypes about women deter voters. Female candidates are considered weak, emotion and indecisive. Secondly, voters do not prefer female candidates; thus, female candidates who are willing to participate and work in Congress cannot receive sufficient financial support.

III. Comparison of proposed bills by female senators during their tenure

From 13th Congress to 17th Congress, there were four female senators in the 13th and 14th Congress, three female senators in the 15th Congress, and six female senators in each of the 16th and 17th Congress.

- Female senators in the 13th Congress

There were 23 senators elected, including four female senators: Miriam Defensor-Santiago, Jamby Madrigal, Loi Ejercito, and Pia Cayetano. These 23 senators submitted a total of 2,682 proposed bills, of which 779 (29.05 percent) were proposed by the female senators. The total number of proposed bills of each female senator, in descending order, is Miriam Defensor-Santiago (66 bills), Loi Ejercito (22 bills), Pia Cayetano (3 bills), and Jamby Madrigal (2 bills). The percentages of each female senator's bills which are related to women's rights are as follows: Miriam Defensor-Santiago (13.04 percent), Loi Ejercito (11.96 percent), Jamby Madrigal (7.41 percent), and Pia Cayetano (4.83 percent). Across all of the female senators, the total percentage of their proposed bills which are related to women's rights is 11.94 percent.

Including male senators who proposed bills related to women's rights in the legislation of the Primary Committee 'Women, Children, and Family Relations' or 'Women, Children, Family Relations and Gender Equality', the number of such bills proposed by each senator in the 13th Congress are as follows: Miriam Defensor-Santiago (13 bills), Manny Villar (8 bills), Luisa "Loi" P. Ejercito Estrada, Osmena III and Sergio R. (7 bills). and Jinggoy Ejercito-Estrada (4 bills). Eleven male senators did not propose any bills related to women's issues.

- Female senators in the 14th Congress

There were 23 senators elected, including four (17.4 percent) female senators: Miriam Defensor-Santiago, Loren Legarda, Jamby Madrigal, and Pia Cayetano. During this Congress, the 23 senators proposed a total of 3,596 bills, and among them, the female senators proposed a total of 1,218 bills, making up 33.87 percent of the total bills proposed. The total number of bills proposed by each female senator, in descending order, are as follows: Miriam Defensor-Santiago (77 bills), Loren Legarda (21 bills), Pia Cayetano (11 bills), and Jamby Madrigal (7 bills). The percentages of proposed bills related to women's rights are as follows: Jamby Madrigal (15.22 percent), Pia Cayetano (11.96 percent), Miriam Defensor-Santiago (9.19 percent), and Loren

Legarda (8.68 percent). For all female senators combined, the total percentage of proposed bills which are related to women's rights is 9.52 (percent).

In addition, among these proposed bills, five bills were passed into law in the 14th Congress. When including male politicians who proposed bills related to women's rights in the legislation of the Primary Committee 'Women, Children, and Family Relations' or 'Women, Children, Family Relations and Gender Equality', the numbers are as follows: Miriam Defensor-Santiago, 14 bills; Jinggoy Ejercito-Estrada, 13 bills; Manny Villar, 11 bills; Loren Legarda, 7 bills; and Ramon Revillar Jr., 5 bills. Nine male senators did not propose any bills related to women's rights.

- Female senators in the 15th Congress

There were 23 senators elected, including three (13.04 percent) female senators: Miriam Defensor-Santiago, Loren Legarda, and Pia Cayetano. Altogether, the 23 senators submitted 3,405 proposed bills, and of this total, 1,127 or 33.1 percent were proposed by the female senators. The number of proposed bills on women's rights of each female senator, in descending order, are as follow: Miriam Defensor-Santiago, 50 bills; Loren Legarda, 18 bills; and Pia Cayetano, 7 bills. In terms of percentages of their total number of proposed bills which are related to women's rights, they are as follows: Loren Legarda, 10.34 percent; Pia Cayetano, 9.09 percent; and Miriam Defensor-Santiago, 5.7 percent. Across all of the female senators, the total percentage of women's rights bills is 6.65 percent.

In addition, among the proposed bills, five bills were passed into law during the 15th Congress. When including male politicians who proposed bills related to women's rights in the legislation of the Primary Committee 'Women, Children, and Family Relations' or 'Women, Children, Family Relations and Gender Equality', the numbers are as follows: Miriam Defensor Santiago, 10 bills; Manny Villar, 9 bills; Jinggoy Ejercito-Estrada, 6 bills; Loren Legarda and Antonio "Sonny" Trillanes, 4 bills. Eleven male senators who did not propose any bills related to women's issues.

- Female senators in the 16th Congress

There were 24 senators elected, including six (25 percent) female senators: Miriam Defensor-Santiago, Loren Legarda, Pia Cayetano, Nancy Binay, Grace Poe, and Cynthia Villar. The 24 senators submitted 3,227 proposed bills in total, of which the female senators proposed 1,615 bills, amounting to 50.05 percent of the total proposed bills. The number of bills related to women's rights, proposed by each of the female senators, in descending order, are as follows: Miriam Defensor-Santiago, 52 bills; Nancy Binay, 27 bills; Loren Legarda, 13 bills; Pia Cayetano, 8 bills; Cynthia Villar, 5 bills; and Grace Poe, 1 bill. Converting to the percentages of their proposed bills which are related to women's rights, the results are as follows: Nancy Binay, 21.85 percent; Pia Cayetano, 10.13 percent; Loren Legarda, 6.19 percent; Miriam Defensor-Santiago, 5.67 percent; Cynthia Villar, 2.39 percent; and Grace Poe, 1.23 percent. All of the bills related to women's rights accounted for only 6.56 percent of all bills proposed.

Among the bills related to women's rights proposed in the 16th Congress, only two bills were passed into law. And in the 16th Congress, when including male politicians who proposed bills related to women's rights in the legislation of the Primary Committee 'Women, Children, and Family Relations' or 'Women, Children, Family Relations and Gender Equality', the numbers are as follows: Nancy Binay, 14 bills; Miriam Defensor-Santiago, 11 bills; Jinnoy Ejercito-Estrada, 7 bills; Loren Legarda, 6 bills; and Pia Cayetano, 5 bills. Thirteen senators did not propose any bills related to women's rights, including one female senator Grace Poe.

- Female senators in the 17th Congress

There were 24 senators elected, including six (25 percent) female senators: Loren Legarda, Nancy Binay, Grace Poe, Cynthia Villar, Leila de Lima, and Risa Hontiveros. The 24 senators submitted 2,235 proposed bills, of which 890 were proposed by the female senators, making up 39.8 percent of the total. The number of bills related to women's rights proposed by each of the female senators, in descending order, are as follows: Nancy Binay, 25 bills; Risa Hontiveros, 22 bills; Loren Legarda, 13 bills; Leila de Lima, 10 bills; Grace Poe, 5 bills; and Cynthia Villar, 3 bills. When converted to percentages of their total numbers of bills proposed, the results are as follows: Risa Hontiveros, 21.78 percent; Nancy Binay, 13.66 percent; Leila de Lima, 6.8 percent; Loren Legarda, 6.22 percent; Grace Poe, 3.31 percent; and Cynthia Villar, 3.03 percent. The total percentage of bills related to women's rights between all of the female senators is only 8.76 percent.

Among these proposed bills related to women's rights, two were passed into law. In the 17th Congress, when including male politicians who proposed bills related to women's rights in the legislation of the Primary Committee 'Women, Children, and Family Relations' or 'Women, Children, Family Relations and Gender Equality', the numbers are as follows: Nancy Binay and Risa Hontiveros, 13 bills; Loren Legarda, 8 bills; and Leila de Lima, 7 bills. Senators who did not propose any bills on women's rights included one female senator Cynthia Villar.

IV. Comparison between activities background and proposed bills by female senators

From the 13th to 17th Congress, there was a total of 10 female senators. Of the female senators discussed in this research, three have backgrounds related to women's rights or human rights before they entered politics: Cynthia Villar, Leila de Lima, and Risa Hontiveros. Cynthia Villar was elected in 16th Congress and 17th Congress and proposed five bills (2.39 percent) related to women's rights in the 16th Congress and three bills (3.03 percent) in the 17th Congress. Leila de Lima was elected in the 17th Congress. She proposed 10 bills (6.8 percent) on women's issues. Risa Hontiveros was elected in the 17th Congress and proposed 22 bills (21.78 percent) on women's issues.

According to this analysis, except for Risa Hontiveros, no other female senator with a background on women's rights or human rights was included in the top five senators who proposed the highest proportion of their bills in areas of women's rights.

V. Conclusion

The analysis of the results of this study are as follows:

- 1) Female politicians' proposed bills relating to women's rights do not exceed 10 percent of their total proposed bills, except for in the 13th Congress.
- 2) Despite a large number of proposed bills related to women's rights, only 14 were passed into law.
- 3) By comparing the legislation of the Primary Committee 'Women, Children, and Family Relations' or 'Women, Children, Family Relations and Gender Equality,' female senators submit more bills related to women's rights than male senators.
- 4) Among the male senators, many do not propose any bills on the 'Women, Children, Family Relations' or 'Women, Children, Family Relations and Gender Equality' Primary Committee during their session.
- 5) Among the female senators, some do not present any bills relating to women's rights, but this number is fewer than male politicians.
- 6) Among the male senators, some are active in presenting legislation related to women's rights.
- 7) Female politicians' backgrounds in women's rights or human rights do not lead to an increased number of bills relating to women's rights once they become a senator.

Through this research, three main points were identified.

Firstly, female politicians are still a minority in the Philippine political arena, making it difficult to implement women's rights policy. The percentage of female senators does not go over 30 percent. In 2019, among 62 candidates, there were only 11 female candidates. It shows that there are barriers to women entering the political arena. Additionally, women's rights bills proposed make up only 6 percent ~ 11 percent of the total bills proposed by female senators from the 13th Congress to 17th Congress. However, when considering the legislation of the Primary Committee on women's rights, female senators propose more legislation on women's issues than male senators. Furthermore, the study also showed that many male senators did not submit any legislation related to women's rights. This fact shows that male politicians, who make up more than half of the Senate, are not sufficiently interested in women's issues, suggesting that women's rights cannot be made into law.

Secondly, the Philippine female senators' backgrounds related to women's rights, prior to entering the political arena, do not significantly affect the bills which they propose. In addition, only 10 female senators were elected within the 15-year period. This number reveals to a lack of diversity in the backgrounds of female senators compared to those of male senators. For this reason, similar legislation repeatedly presented on women's issues, yet often not passing into law.

Finally, women are not always interested in women's issues. Female politicians can also be interested in economics, security, agriculture, and so on, not just women's issues alone. Some male politicians are interested in women's issues. However, in the Philippines Senate, from the 13th Congress to 17th Congress, some female senators worked towards other interests, rather than women's rights; but overall, female senators worked more for women's rights than male senators during their tenure. For that reason, female politicians are more interested in women's rights and seem to work more for women's rights.

This article has found that women's rights policies do not pass into law due to the lack of female politicians who are interested in women's issues. Thus, to improve women's rights in the political arena, it is necessary to have female politicians. Regardless of which women become politicians, the greater the number of women elected as politicians, the greater the possibility that women's right will strengthen and develop.

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HEALTH DISPARITIES AMONG TRANSGENDER WOMEN: ACCESSIBILITY OF SEXUAL HEALTH SERVICES IN KATHMANDU, NEPAL

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Abstract

Transgender people in Nepal like in many countries worldwide are vulnerable to HIV, and this leads individuals to experience health disparities in accessing sexual health services. Due to the involvement of receptive anal intercourse, transgender women population's severity towards HIV infection and transmission plays an important factor in their sexual health. High experiences of health disparities and enabling factors among transgender women affect their access to sexual health services. The social, cultural, and personal factors to achieve sexual health rights of transgender women are possible by using the four principles of accessibility, namely non-discrimination and quality, physical accessibility, information accessibility, and economic accessibility. Despite reforming laws and constitution guarantee to transgender women, Nepal's stance in the protection of their rights to sexual health does not meet the international human rights standards. The efforts of the state to realise the human rights obligations, in particular, to transgender-specific sexual health needs and services are not adequately addressed in Nepal. Therefore, both governments and state actors should comply and cooperate to work effectively to enhance the accessibility of services at both the private and public health care settings in Nepal.

Keywords: Health disparities, accessibility, sexual health, transgender women

I. Introduction

A developing country sandwiched between the two largest economies, China and India; Nepal is predominantly a patriarchal society. The acceptance towards diverse gender and sexual minorities in the conservative society of Nepal has been a struggle in guaranteeing and exercising full fundamental human rights. The traditional norm that gender is binary comprising of "male" and

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“female” and the notion that sex assigned at birth determines one’s gender, which is “man” or a “woman” is highly prevalent in Nepal. However, the idea of binary sex has questioned due to the long and continuous efforts of human rights activists and organisations. The 2007 Supreme Court decision on the legal provisions for sexual minority and gender identity in Nepal gave full fundamental rights to the Lesbians, Gay, Bisexual, Transgender, and Intersex (LGBTI) community in Nepal. The verdict of *Sunil Babu Pant V. Government of Nepal* was a remarkable achievement in recognising the rights of gender and sexual minorities (Bochenek and Knight, 2012). The Court ruling promoted the rights of LGBTI people, which included “anti-discriminatory laws, the establishment of a committee on same-sex marriage, and the explicit recognition of transgender people” (UNDP, USAID, 2014).

Furthermore, Nepal made a significant impact on the lives of the LGBTI community through the 2015 Constitution of Nepal by establishing legal protections for the minorities. Article 18 of the 2015 Constitution of Nepal recognises LGBTI population as gender and sexual minorities who are among the disadvantaged groups besides other minority groups and also mentions right to equality regardless of their gender identity (Constitution of Nepal, 2015). However, among the three areas of the court ruling, only the third gender category had some implementation (UNDP, USAID, 2014). These included issuing of citizenship documents and passports with the “other” category. Despite legal gender recognition, equal opportunities for the third gender category in terms of education, employment, and access to healthcare is still missing.

Transgender people in Nepal like in many countries worldwide are vulnerable to HIV, and this leads individuals to experience health disparities in accessing sexual health services. The latest data in 2014 showed that the prevalence of HIV in Nepal was 0.2, which is relatively low compared to 0.35 percent in 2005 (UNDP, 2017, p. 7). Within the estimate of 26 percent of people living with HIV, 8 percent of population is comprised of transgender people (UNDP 2017, p. 7). “Within Nepal’s sexual and gender minority populations, those who identified as the third gender and were assigned male at birth were economically vulnerable, and those who were third gender, whether assigned male or female at birth, were the most likely to experience discrimination, harassment, and violence” (UNDP, Williams Institute, 2014). Transgender women who are often identified as “*meti*” in Nepal and is assigned male at birth and portrays feminine self-identity and “are archetypically associated with the penetrated role in anal sex” (Boyce and Coyle, 2013).

Although the provisions and articles in the Constitution support the right to equality for the minorities, the translation of implementation of laws, in reality, is a far cry. “Discrimination still

happens in the state-funded health care facilities, along with discrimination from citizens regarding their perception that transgender people are all sex workers and HIV positive, although sex workers and HIV positive individuals are still entitled to health care regardless of the health status" (Blue Diamond Society, Heartland Alliance for Human Needs & Human Rights, 2013). Due to the involvement of receptive anal intercourse, transgender women population's severity towards HIV infection and transmission play an essential factor in their sexual health.

Right to health codified in the Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social, and Cultural Rights (ICESCR), Yogyakarta Principles (YP), and many other human rights instruments provide a framework for the implementation of health-related policies and programmes. Thus, the achievement of the highest attainable sexual health has a direct correlation with the protection of human rights. Substantial health disparities and enabling factors among transgender women affect in accessing sexual health services and therefore, are the main focus of this research.

II. Overview of Gender Transgender Women-Specific Sexual Health Issues in Nepal

The establishment of the third gender category in Nepal, which is the legally recognised category, need to be understood in order to find out the factors that affect transgender women's access to sexual health services. In Nepal, the third gender category was established after the court ruling of *Pant VS. The Government of Nepal*. Knight (2012) provides a comprehensive definition of the third gender category in Nepal which states that "The third gender in Nepal is an identity-based category for people who do not identify themselves as either male or female. It includes people who want to perform as a gender different than the one, which was assigned to them at birth, based on genitalia or other criteria. It also includes people who do not feel the male or female gender roles that their culture dictates to them match their true social, sexual, or gender role preference". The third gender is a term used "to describe biological males who have a feminine gender identity or expression and biological females who have masculine gender identity" (Bochenek and Knight, 2012). Nepal officially recognises the third gender category, including transgender or gender variant as the "Other" or "Anya". Hence, the identity of gaining the third gender in official citizenship documents means- "it is the keystone of accessing of all state services in Nepal" (NJA L. J., 2008).

Addressing transgender women-specific sexual health issues need to consider various other issues that transgender women encounter over their lifetime. Transgender women have many of the same health needs as a general population; however, there are some needs which require specific

care. Unlike cis-gender individuals, transgender women's sexual health needs vary accordingly and depend on whether an individual chooses to undergo transition. Transition-related care or gender affirmation refers to "the process of being affirmed and recognised in one's gender identity or expression" (Reisner, 2018).

Gender affirmation service is also linked with health outcomes such as HIV. Researches also indicate that transgender women who have an unmet need to gender affirmation in ways that "increase the risk for HIV and other health outcomes such as engaging in sex work, pursuing dangerous silicone injections, having sex to obtain gender affirmation" (Sevelius, 2013). Thus, gender affirmation services trans-specific needs as respectful and appropriate transition-related care have an impact on the physical and emotional health and wellbeing of transgender women.

The adverse health outcome proves that transgender communities prioritise medical transition in their daily lives (Reisner, Radix, and Deutsch, 2016). "The lack of information and ignorance on the risks associated with neo-vaginal intercourse and lubricants, and of how trans* women use cross-sex hormone, hormone blockers and silicone injections, or their cis partners' use of penile implants and drugs for erectile dysfunction" increases the vulnerability of transgender women to HIV (Winter, 2012). Hence, the trans-specific sexual health issues encompass not only the HIV prevalence but areas of STI's, STD's, and most importantly, gender-affirming services such as sex-reassignment surgery or/and hormone treatment.

III. Interviews, Findings, and Analysis

A. Interviews

The data was collected by interviewing six transgender women, two key informants, and three health care providers, who were affiliated with Blue Diamond Society (BDS).

B. Findings and Analysis

After conducting the interview, the research has come up with the following findings and are divided according to the four principles of accessibility discussed below.

1. Principles of non-discrimination and quality are the first principles of accessibility. Participants mentioned various factors that affected the principle of non-discrimination

and the quality of health-care. Firstly, transgender women struggled a lot during their early age as they did not know about their gender identity. During their coming out stage, in particular, they experienced rejection and isolation from their family members and neglect from their peers. Participants also shared that they experienced stigma and exclusion from their society, and this was further magnified due to their visibility as a transgender woman.

Overall, these social, cultural, and personal factors had a significant impact on their accessibility to health services, as they often faced discrimination in health-care settings. Health care providers had a lack of knowledge and were not culturally competent to provide services to a diverse population, including transgender women. Absence of appropriate health competency delivered by health care providers resulted in the overall, denial and avoidance of services among transgender women.

2. Principle of physical accessibility is the second principle of accessibility. Participants mentioned various factors that affected the principle of physical accessibility. Physical accessibility for the current participants was not a challenge in accessing sexual health services as most interviewees worked in BDS as a staff or volunteer. Most had access to sexual health services, which were provided by the BDS.

Most transgender women preferred BDS services over the services from the public health system as they felt safe and secure. Also, initiatives of HIV prevention program such as CLT was an effective way to reach the key populations, including transgender women as they did not have to travel distance to acquire for services. The following section addresses the principle of physical accessibility and how several factors contribute to the accessibility of sexual health services, which affect the health disparities among transgender women in Kathmandu, Nepal.

3. Principle of information accessibility is the third principle of accessibility. Participants mentioned various factors that affected the principle of information accessibility. The factors influencing information accessibility was one of the critical findings of the study. Study participants mentioned that there was a lack of sexual health literacy and comprehensive sexuality education taught in the educational curriculum. There were no policies and awareness regarding health services for transgender women at the

institutional level in Nepal, which affected the accessibility of information they received from in the public health system. Participants also shared that at the institution level, there was bureaucracy in the legal gender marker process due to institutional erasure, which is further discussed in the section.

4. Principles of economic accessibility and availability are the final principles of accessibility. Participants mentioned various factors that affected the principle of economic accessibility and availability of health-care. Firstly, transgender women favoured to get health services from Cruise Aids Nepal, a branch of BDS as the services were free of cost. However, the services were only limited to CLT and distribution of condoms, and lubricants. The public health system in Nepal lacks transgender-specific services such as gender affirmation care.

Transition-related care such as sex-reassignment surgeries and hormonal treatments are not readily available in Nepal. Few transgender women had to travel abroad for surgeries and some; they had to order feminising hormones from abroad, which were both not affordable. These factors influenced transgender women in opting for contraceptive pills with higher estrogen level and hormones injection. The following section addresses the principle of economic accessibility and availability and how these several factors contribute to the accessibility of sexual health services, which affect the health disparities among transgender women in Kathmandu, Nepal.

IV. Conclusion

In conclusion, transgender women experience substantial disparities in the health sectors of Kathmandu, Nepal. Even though Physical Accessibility was not a challenge in the given study, however, due to the inaccessibility of health services, transgender women continue to face disparities in the health settings. This research argues that the social, cultural, and personal factors act as barriers in the accessibility of sexual health services among transgender women. The research findings determine the common factors that influence inaccessibility include social neglect, exclusion, and legal bureaucracy in the gender recognition process. These factors result in health care discrimination, weak service provider-user relationship, lack of knowledge on transgender-

specific issues, lack of sexual health literacy, poor trans-specific services, and reported medicine intake without prescription.

Many transgender individuals reported suffering from health care discrimination by health care providers, which is a violation of their health rights. Discrimination from health care workers affects the overall health and wellbeing of transgender women. Health care workers and professionals have a primary role in reducing health disparities, which lead to adverse health outcomes of transgender women. Hence, to improve the cultural competency of health-care professionals, gender sensitivity training and education about transgender-specific issues is crucial.

To conclude, Nepal is relatively progressive towards the LGBTI community in one way, but on the other hand, the country faces a long battle for the overall LGBTI equality. The verification of sex-change operation for acquiring citizenship for the third gender category is a requisite in the recent controversial bill to the parliament. The country has introduced measures, which halt the rights of transgender women and the third gender individuals. The retrogression of these rights demonstrates the failure to respect, protect, and fulfil the core obligations of the state, thus can result in the discrimination on gender and sexual minorities in Nepal. Despite reforming laws and constitution guarantee of the third gender category, Nepal's stance in the protection of transgender women's rights to sexual health does not meet the international human rights standards. Social, cultural, and personal factors still affect the way how society views transgender women, hence hindering their access to health services. Hopefully, with the continuous activism from the civil society groups and human rights activists, Nepal will be able to dismantle the traditional patriarchal society, challenge its legal system, and finally embark its name as the pioneers in the LGBTI movement worldwide.

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**BETWEEN THE DOMINATION OF TRANSNATIONAL COMPANIES
AND THE BUSINESS AND HUMAN RIGHTS DISCOURSE:
CONTRACT FARMING AND BANANA SMALL FARMERS IN
THE DAVAO REGION (THE PHILIPPINES)**

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Abstract

This research examines violations of small farmers' rights, of the banana plantation who have an agreement with transnational agribusiness corporations in Santo Tomas and Compostela Valley, Davao Region, Mindanao, the Philippines. By focusing on right to work and right to the enjoyment of safe and healthy working conditions, the researcher used a case study method on the implementation process of CF and the impact of it in the production cycle of small growers. In terms of data collection, the study holds in-depth interviews and focus group discussion with eight small farmers, academics, NGOs, and journalist; examination of government documents/policies; and direct observation of several key events on the field. The research found that the companies dominate the small farmers or growers as well as workers in many ways which influence their social, economic, and political aspects. TNCs were controlling the market and the production chain through their subsidiaries or affiliations companies by rejecting the UN Guiding Principles which obligate them to respect the rights regardless of their size, sector, operational context, ownership, and structure. However, since the UN Guiding Principles is soft law, the companies do not have an obligation to follow it. Instead, the companies had violated the right to work and right the enjoyment of just and safe working conditions of the small farmers and workers. It starts from unfair signing contract; low payment on rent land and wage; and unhealthy working conditions. However, as contract farming was not a simple, single phenomenon, the small farmers and workers have three strategies to gain their rights. They fight using formal and non-formal ways in order to demand the companies to respect and fulfill their rights. In the end, the research in Davao is strengthen Vellema's argument, which says that companies control the small farmers and workers under the contract farming' system through social, economic, and political levels.

Keywords: Banana/Contract Farming/Farmers' Rights/Socio-Economic and Political Control/Philippines.

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I. Introduction

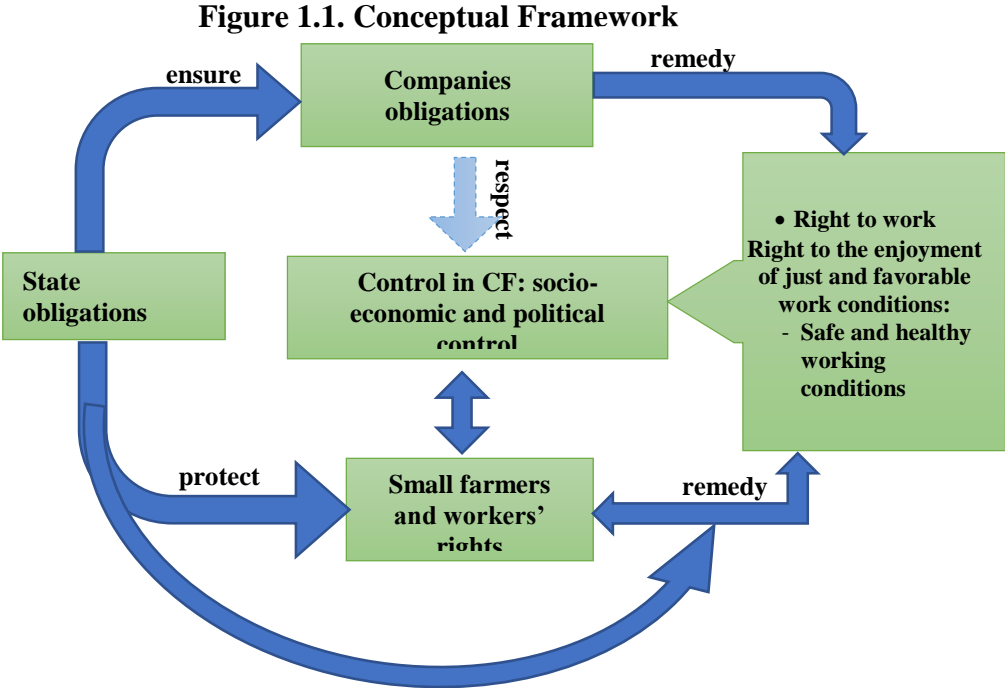
This research held in Santo Tomas and Compostela Valley, Davao Region, Mindanao, the Philippines due to they have a significant and strategic position of a banana industry of the Philippines. Davao region itself is known as the top export region of banana in 2016, which valuable approximately \$84.85 million (Arado, 2017). As a banana capital of the Philippine (Monforte, 2017), Davao Region has a vast banana plantation, which it is in total 10,180.05 hectares (ibid.), and it consists of many kinds of the farm. Historically, Mindanao has been exposed in the international market as a commercial plantation venture since in the American period. According to Vellema, Borrás, and Lara (2010 p.306), there are two reasons why Mindanao was very attractive to the American government and its business alienate. *First*, ecological conditions of Mindanao is fertile and its location, which makes it typhoon-free (2010 p. 306). *Second*, the American government assumed that the land in Mindanao is public owners due to there was no Western-style title which shows the land ownership there, hence many corporates, both transnational and national, attracted with it and the government-supervised them to acquire vast tracts of land (2010 pp. 306-307). Penetration of agri-business in Mindanao is in line with another economic agenda in the Philippines, including through CARP and CARL as well. Mindanao has involved in agricultural modernization of the Philippines government by time to time. By seeing the fact that the transnational companies cannot be divided from the development of banana industry in the Philippines, the research will examine the practices of TNCs towards the small farmers or growers and the workers' rights. Furthermore, the research also investigates the remedy process that has been done by the small farmers or growers and the workers in order to gain their right.

II. Conceptual framework: Contract Farming Between Respect the Rights and Companies' Domination

This study understands that the state should ensure the business enterprises to respect the farmers' right in the contract farming system. Furthermore, according to the literature review, the contract farming system tends to biased as political phenomena (see Sáens-Segura, D'Haese, and Ruben, 2007; Delfolge, 2007; Clapp, 1994). Which means it considers the contract to be a tool to control small farmers in the global agribusiness within a system which the small farmers entered the system as a grower for the companies. Moreover, the state tends to favor the companies through their regulation and its system, instead of protecting the small farmers. However, a contract should be acknowledging farmers' rights which explain in the United Nations treaties and UN Guiding Principles which regulate the state to protect the farmers' right in the contract farming process in general, including ensuring the companies

protect the rights through its policies and mechanisms. As mentioned in the UNGP, the companies should respect the rights regardless of their size, area, structure, and locations.

This research borrows several indicators to examine the phenomenon from previous studies. Investigating the implementation of farmers' rights in the CF system, the research will apply a concept of control from Vellema (1999, p.100) in socio-economic and political control's level in order to investigate the farmer's rights. Firstly, the focus of the farmers' rights in the study is on the right to work and right the enjoyment of just and favorable work conditions. Furthermore, by understanding the responsibility of the companies and the state, the study will identify how they should be respected and protect the farmers' rights as mandated in the UN Guiding Principles on Business and Human Rights. Next, the study will examine the implementation process of the CF in the small farmers from socio-economic and political control in terms of the right to work and right the enjoyment of just and favorable work conditions. In the end, the study wants to show how the companies control the implementation process of the contract as well as show the violations that they made to small farmers live.



Source: Analyses of the author, 2019.

The other aims of the research are to examine how small farmers react to the CF system in the Mindanao as mentioned before that it is also essential to see dynamic of the lowest steps of the CF due to small farmers, even the active actor who has power and contribution to develop the system. Many scholars have been studying these issues, and the result shows that in some areas, the small farmers tend to continue the contract, although they are harmful to the system, and the way they react to it influences the community in general (Clapp, 1994; Carney, 1994;

Glover and Kusterer, 1990; Delforge, 2007). By using the right to work and right to the enjoyment of just and favorable work conditions and using the three-level control of Vellema, the research will investigate the small farmers' dynamic in a banana plantation in Mindanao to respond the system and gain their rights as well.

III. TNCs companies in the banana industry in Mindanao

The companies which involve in the contract farming system in the Philippines have a varied background, even some of them belong to the biggest agribusiness banana companies in the world, e.g., Del Monte, Dole, Sumitomo, and Chiquita/Unifrutti. Digal explains that those companies already change their operations system from direct growing into contract growing due to the implementation of the Comprehensive Agrarian Reform Law (CARL). However, most of the growers are affiliated with the leading companies itself, or affiliated with other conglomerates in Mindanao and Philippines in general, such as Anflo Group, Dizon Group, and Tristar Group of Banana Companies. Moreover, the five companies have several subsidiaries as growers as part of their companies' structure, such as between Del Monte Fresh Produce (Philippines) and Agrinanas Development Co., Inc., Delinanas Development Corporation, Mindanao Agri-Traders, Inc. Last, there is also TNCs company which stand uses its name, for instance, Nader & Ebrahim S/O Hassan Phils., Inc. which instead of affiliated with another a company grower, their grower is direct to the small farmers itself. In the end, the relationship between the companies influences the nuance of the contracts.

The structure of the companies, which centralized in the leading corporations, influences the dynamic of contract in the field, and it is also weakening the human rights' concept. As mentioned in the UN Guiding Principles that all form of business enterprises should respect and implement the human rights values regardless of their size, sector, operational context, ownership, and structure. However, since the UN Guiding Principles is soft law, the companies do not have an obligation to follow it. Also, what happens in Mindanao shows that the small companies, which consists of subsidiaries or affiliations, have weak supervision on the small farmers' rights, particularly on the right to works and right the enjoyment of the just and favorable work conditions. It is because usually, the TNCs agribusiness companies as the leading companies have more control to their subsidiaries, for instance, to set standards of the product and manage those small companies. It also shows that companies can reject the principles altogether without consequences. Instead, the small farmers, as part of the banana industry, get the impact by feeling more pressure since usually the subsidiaries companies merely forward the leading companies' policy. This process demonstrated how the few TNCs

controlling the market and the production chain through their subsidiaries or affiliations companies by rejecting the UN Guiding Principles while they still earn much profit.

IV. Unbalanced relation in the implementation process and its impacts of the small farmers and workers

From the field study, it shows that contract farming has crucial effects in the banana industry in Santo Tomas and Compostela Valley, Davao Region. The contract system brings two edges of swords for the small farmers or growers and the banana plantation workers. The first phase is from the implementation process of the banana contract farming, which has three significant results:

- a. *A non-transparent process on contract signing, which violates the right to equal opportunity in terms of work information.* As the contract writes in English, the small growers do not notice about the tax issue, and they do not have imagined what the risk that they will face and how to react with it.
- b. *The companies are building a dependent relationship through control of the daily production process, which violates the right to get equal remuneration and proper implementation.* The regular control through supplying the input supplies for the small growers and visiting the plantation every day, make the small farmers or growers are highly dependent on the companies in every decision they had made. The inputs supply from the companies also decreases their income while they also need to consider their workers' wage.
- c. The workers are hiding under the banana canopy as an escape way from the aerial spray, which *violates the right to the enjoyment of safe and healthy work conditions.* The lack political will of the government, which only ban the aerial spray in Davao City which it is also known as the capital and business center, makes the companies utilize it in terms of gain profit in the most effective way without considering the workers' life.

This research shows that the implementation of contract farming is the time when the companies use the power to control the small farmers or growers and the workers at many levels of their life. Moreover, this controlling process violates their right to work and safe and healthy conditions in many ways.

Subsequently, the research in Davao regions shows a typology of banana companies, which shows the soft of the UN Guiding Principles on Business and Human Rights. The minimum standard of wage and rent land of the companies are not enough to guarantee a decent living of the small farmers and workers. The low price on banana shows the companies can

avoid the principles of human rights in business relationships. The small farmers as part of banana chain industry entitled to get recognition on their rights. Also, in risk prevention or mitigation, the companies focus on the impact of Panama disease and its production. The companies do not concern workers' risk as well as their health issue. Furthermore, safe and favorable working conditions have a more critical problem that needs to be raised. This issue could be tricky because the Philippines does not have the National Action on Business and Human Rights yet, the companies do not have the sense to guarantee the health and safe work conditions in the plantation areas. The practices of banana companies are not only harmful to their business partners, the small farmers and growers but also still lack the ideal principle of responsible business.

V. Remedy actions from the small farmers and workers in Santo Tomas and Compostela Valley

As contract farming is not a single phenomenon, the research reveals that the small farmers or growers, as well as the workers, have been doing some action to fight the unfair system. *First*, the small farmers or growers bring the unfair contract by the companies into a formal channel which guarantees in the law. *Second*, the growers, who cooperated with the workers, steal the banana at night, then they sell it to mini-plants which have a higher price and without any deductions. *Third*, they are starting a new system as independent growers who cooperate with the over a hundred mini-plants located nearby with their plantation areas. The remedy actions that have been done by the small farmers or growers show that they can influence the banana contract farming process and the companies in general. Their actions represent that they are aware of their right, and they demand the companies to respected and fulfilled it.

VI. Conclusion

In the end, the research in Davao regions shows a typology of banana companies in controlled the small growers or farmers through the substance of the contract, daily implementation of it, and domination the workers' life. Furthermore, the control of those companies also shows that as soft law, the companies can use and turn the obligations of the UN Guiding Principles on Business and Human Rights to improve their profit only. In practices, the guiding is not enough to push the companies to respect and implement the rights. They are violated and avoid the obligations which written in the guiding instead by set lower standards of wage and rent land, unfair contract signing, etc. The practices of banana companies are not

only harmful to their business partners, the small farmers and growers but also still lack the ideal principle of responsible business. The control influences various aspects of small farmers and workers life start from land acquisition, low wage, health, even their child's health, until in the local government level which tends to favor the companies. That fact is strengthener Vellema's argument, which says that under contract farming, the companies could control the small farmers or growers in their social, economic, and political control. In the end, the small farmers and workers cooperate to demand the companies to respect and fulfill their rights as guaranteed in the international and national law.

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ONLINE JOURNALISTS' RESPONSES TO DUTERTE'S ADMINISTRATION ATTACKS ON PRESS FREEDOM

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Abstract

With the irruption of the Internet in the 90s, every single sector experienced certain changes that modified the way of understanding them. Traditional journalism has been one of those, creating what is widely known nowadays as “*online journalism*.” A branch of journalism that emerges from the traditional one while possessing a set of new defining characteristics, type of professionals, with their own roles and skills, and platforms where disseminating the content. When it comes to applying it to the Philippines, online journalism is marked by the legal framework that guarantees a free practice of journalism and the social and political situation in the country, in which the national government implements the war on drugs policy in order to end with drug consumption and trafficking. Due to the application of such measures, online journalists are critically reporting the government's actions on that matter, something that led them to deal with pressures and threats carried out by the Duterte's Administration. As a consequence of that, the study has focused on how online journalists have continued reporting critically on this through the content that they create despite the consequences mentioned above. This paper is part of the author's dissertation entitled “Online journalists' responses to Duterte's administration attacks on press freedom.”

Keywords: Online journalism, online journalist, Fourth Estate, responses, freedom of the press.

I. Introduction

During the last two decades, traditional journalists faced new challenges caused by the digitalization of their working environments. It led them to develop new skills or adjust the existing ones in order to create content, among other tasks, and disseminate it through the new online platforms. That is how a new type of professionals was born: online journalists. They are a group of individuals that, besides the skills and the tasks, still keep the historical role of the press as the “*Fourth Estate*” by reflecting it on pieces that they produce.

In the Philippines, online journalists struggle to keep acting as the “*Fourth Estate*” when reporting critically the government' policies on the war on drugs and its outcomes (Bilena,

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2017), something that Rodrigo Duterte hasn't looked upon it favorably when going publicly on tirades against those who were being critical to the government decisions on that matter (DW, 2018). For instance, the Duterte administration has threatened specific individuals (Maria Ressa, Rappler CEO) and online news outlets (Rappler, the Philippine Daily Inquirer or Reuters).

In a country that has been historically considered as the freest country in Asia to practice journalism and that has a robust legal framework to protect it, branding specific online news sites as "*fake news*" or threatening them to shut down their operational licences seems to be damaging not only for the online journalists' working environments but for the Philippine democracy, and in parallel, raises press freedom fears among the international community (Johnson, 2017; Report Without Borders, 2018). Given that context, should be noted that some online journalists are fearless to capture the reality that surrounds the war on drugs by performing the "*Fourth Estate*" role, so they get to publish content highlighting the measures carried out by the national government despite the consequences. For research purposes, the content produced has been named as "*responses*."

II. Online journalism

Through a revision of the existing literature, the author has been able to have a closer approach to online journalism in order to understand it in a whole with its particularities, type of professionals and platforms, and where they disseminate the content.

A. Online Journalism

Thanks to the definitions of online journalism proposed by Deuze (2003), Kawamoto (2003) and Harcup (2014), the author has offered a new definition that encompasses the ones mentioned above. Therefore, online journalism can be understood as "*the production of journalistic content by online journalists for the Internet in order to reach an audience.*" Besides that, it is indeed a sector that contains several new characteristics that distinguish itself from traditional journalism. Taking the characteristics from Deuze (2003), online journalism is marked by: (1) Interactivity, as the interaction between the content creator –online journalist, in our case– and those who receive the information, (2) Multimediality, which is based on the use of new formats to display or complement the information that is being disseminated, and (3) Hyperlink, understood as the way that two or more different information are connected through hyperlinks. Two more characteristics can be added to the existing ones being: (4) Immediacy, which allows any information to be constantly updated, and (5) Convergence,

meaning the opportunity to combine and take advantage of intrinsic attributes of those that configure a media dimension.

B. Online journalists

By applying the same definition of online journalism proposed in the research, online journalists can also be defined as “*those in charge of the production of journalistic content for the Internet in order to reach an audience.*” Among their different tasks, “*content creators*” has been mainly tackled in the research, something that led the study to focus on the role behind such creation. Deuze (2005) states that there are five different roles that online journalists perform when producing content: 1) Acting as a watchdog, by putting into practice the traditional role of the “*Fourth Estate of the realm*”, 2) Gatekeepers, when deciding what it is going to be shown to the general public, 3) and 4) as they are responsible for achieving objectivity and editorial autonomy, and 5) having a sense of ethics. In order to accomplish with the aforementioned roles, they need to achieve certain skills, which can be summarized into two different groups, as Carpenter proposes (2009) (cited in Himma-Kadakas and Palmiste, 2018): 1) Media multi-skilling and 2) Technical multi-skilling.

C. Online platforms

The content created by online journalists is aimed to be published, the places designed to do so are considered as "online platforms," and Deuze (2003) establishes four different types; however, only two of them have been taken into consideration for the study. These are (1) News sites, which offers a selection of editorial content and participatory communication; two examples are BBC and Rappler, and (2) Share & Discussion sites, a type of platforms that can be considered as the first prototype of the current social media sites.

D. Online journalism in the Philippines

When it comes to applying online journalism to the Philippines for the study of it in the country, some particularities should be stated for a greater understanding.

1. The legal framework of freedom of the press

The freedom that ensures and protects both online and offline journalists to accomplish with their journalistic work is actually guaranteed on their written law. It is indeed detailed in Article 3, section 4, and section 7 of the Filipino Constitution created in 1987. Beside that, the country ratified the International Covenant on Civil and Political Rights (ICCPR) in October

1986, an international treaty in which the protection of the freedom of the press is also contemplated.

2. The importance of social media sites

By looking at the numbers of followers that the leading social media sites (Rappler, The Philippine Daily Inquirer, Philstar and ABC-CBN) have on their Facebook pages, the study concludes that there is an increasing desire within Philippine society to have access to the Internet and be informed on social media sites. In fact, the numbers proved that almost one out of three Filipino social media users follows one of the studied media outlets, something that accounts for 24% of the total Philippine population.

III. Interviews, findings, and analysis

A. Interviews

The data collection has been done by interviewing seven different Philippine online journalists, all of them based in Manila, where they are currently working or have worked in a threatened media outlet, and where they write about the government's actions on the war on the drugs issue. Also, one interview with an NGO representative has also been conducted.

B. Findings and analysis

After conducting the interviews, the research has come up with the following findings, which have also presented an analysis through the "*Fourth estate*" lens.

1. Online journalists consider that press is currently endangered in the Philippines. Although the legal protection of such freedom is acknowledged and the Philippines is posed as one of the most protecting countries on press freedom in Southeast Asia, the implementation is quite different from what it has been written on papers. In fact, when Rodrigo Duterte goes publicly on tirades against online journalists or when he simply labels Rappler as "*fake news site*," the government is not ensuring press freedom but demonizing it, which is something against what the "*fourth estate*" needs as a basis for being developed as such. Another sign of not guarantying press freedom is all the threats and menaces that online journalists constantly are receiving with no help from the government or the blockage from public officials when online journalists from certain media outlets try to get information from them and they do not access to provide it. Despite the facts presented here, as the press being endangered, this study

acknowledges that there is still press freedom that allows analytical voices to report critically against the government; otherwise, this research could not have been done.

2. Despite the status of press freedom, the “*fourth estate*” does exist in the Philippines and takes the form of online journalists who resort to the role of acting as watchdogs of the government when creating content. Even though it is not always named as “*watchdogs*” per se, “speaking truth to the power” or “hold the government accountable” also reflect how online journalists’ work responds to that relationship with the government.

3. Once it comes to the responses that online journalists produce, which should “*report what the government does*” according to the “*fourth estate*” idea, this research has found out that all of the participants reflect on their pieces the government's measures in the war on drugs. Although the extent varies, they have all reported at least twice about the government's actions on the issue.

4. Responses are not produced at the reporter's gallery and printed afterward anymore, with which the initial idea of the “*fourth estate*” was born. In fact, they are now breaking news and in-depth reports published on news sites’ websites and contain certain attributes that illustrate “*what the government does.*” In digital environments, online journalists always include on their pieces their name as the author and a particular vocabulary, which tends to be as descriptive and real as possible.

5. “*The fourth estate*” understands that the general public is the recipient of “*reporting critically about the government’s actions.*” In this study, it would be the Philippine society on the Internet, who are way more significant than the general public reached in the S. XVIII, when the “*fourth estate*” concept was first coined; therefore, their perception of the responses doesn't follow a common tendency, they are mixed and divided, as it depends on their perception of the government. Those who tend to dislike Duterte's administration will be prone to read, react, and believe in critical reporting to his decisions while those in favor of him will not.

6. By the role of being a watchdog of the government, the “*fourth estate*” tries to guarantee democracy. However, this idea should cohabit with previous protection that should be continuously sought by the government and journalists. In the case of the Philippines, where press freedom, and, therefore, democracy is under attacked according to the participants, the “*fourth estate*” could improve alternatives to strengthen both realities that go beyond the

responses per se. For instance, encouraging collaborations between media outlets, or regaining the trust of the people by only revealing the truth of different issues.

IV. Conclusion

In conclusion, the Philippines is experiencing tough times when it comes to reporting on the government's actions on the war on drugs. The responses of online journalists leave a bitter feeling. Although there are still very inspiring voices that keep on doing their work no matter the negative consequences they may face, it is the government who doesn't stop demonizing those who are critical to it and failing in the protection, fulfilment and respect of the freedom of the press, which invalidates the discourse of being one of the most protective countries in Asia on the aforementioned freedom and showing the Philippine Constitution as a mere paper with no practical guarantees, at least for online journalists.

Further researches could address different types of journalism under the same scope, such as citizen journalism or social media journalism, or could look into the skills that journalists must possess for reporting this kind of situations. Also, a more extensive human rights-based approach could be employed to analyze the government crackdowns and threats on online journalists.

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