

because of the danger it poses to the people especially the youth. Once it is recognized by the government, a sector which believes that there is nothing wrong in having sexual relations with individuals of the same gender is a bad example. It will bring down the standard of morals we cherish in our civilized society. Any society without a set of moral precepts is in danger of losing its own existence.¹⁶ The Supreme Court however ruled that the said denial was violated the right to Equal protection and Freedom of association.

Eric Heinze in 1995 published *Sexual Orientation: a human right: an essay on international human rights law* (1995). He wrote about how existing international norms should be construed to include rights against discrimination on the basis of sexual orientation, including the rights of privacy, equality, speech, expression, and association.¹⁷ To have a greater understanding of this group the United Nation on Human Rights Defines LGBT as “lesbian, gay, bisexual and transgender.” While these terms have increasing global resonance, in different cultures other terms may be used to describe people who form same-sex relationships and those who exhibit non-binary gender identities (such as hijra, meti, lala, skesana, motsoalle, mithli, kuchu lawen, travesty, muxé, fa’afafine, fakaleiti, hamjensgara and Two-Spirit). In a human rights context, lesbian, gay, bisexual and transgender people face both common and distinct challenges. Intersex people (those born with atypical sex characteristics) suffer many of the same kinds of human rights violations as LGBT people, as indicated below.¹⁸

In 2015, the world was astounded by the pronouncement of the United States Supreme court in the Case of *Obergefell vs. Hodges* where the court said that the right to marry entails the right to liberty and protects the life to property and declared that individuals having the same sex who intends to enter into marriage should be afforded equal protection as those men and women who entered marriage. While the said precedence is not applicable in our courts our legislatures should take cognizance of the wisdom behind the decision as the increase of same sex relationship increases in the Philippines.

16 *Ladlad Vs. Comelec*

17 Heinze, E. (1995). *Sexual orientation - a human right: An essay on international human rights law*. Leiden, Netherlands: Martinus Nijhoff.

18 www.ohchr.org, <https://www.unfe.org/wp-content/uploads/2017/05/LGBT-Rights-FAQs.pdf>

A major factor in the Philippine context is the influence of the Catholic Church, which strongly opposes same-sex marriage¹⁹. However, the hold of the Church on legislation may not necessarily be absolute, as seen in the recent passage of the Reproductive Health (RH) Law, which had strong public support despite vocal opposition from Church leaders. Notably, to counteract anti-RH advocates' emphasis on God and the sanctity of life in their moral messaging.²⁰

One of the most significant contentions of petitioners in the case of *Obergefell vs. Hodges* the prohibition entails a denial of due process to individuals of the third gender. In the Philippine context, due process is comprised of two components — substantive due process which requires the intrinsic validity of the law in interfering with the rights of the person to his life, liberty, or property, and procedural due process which consists of the two basic rights of notice and hearing, as well as the guarantee of being heard by an impartial and competent tribunal.²¹

Principles and traditions demonstrate that the reason marriage is fundamental under the Constitution apply with equal force to same-sex couples. The first premise of this Court's relevant precedents is that the right to personal choice regarding marriage is inherent in the concept of individual autonomy. This abiding connection between marriage and liberty is why loving individuals challenged interracial marriage bans under the Due Process Clause. Decisions about marriage are among the most intimate that an individual can make this is enunciated in the case of *Lawrence vs. Texas*. This is true for all persons, whatever their sexual orientation. Another principle in this Court's jurisprudence is that the right to marry is fundamental because it supports a two-person union unlike any other in its importance to the committed individuals. The intimate association protected by this right was central to *Griswold v. Connecticut*, which held the Constitution protects the right of married couples to use contraception, and was acknowledged in *Turner v. Safley*. Same-sex

19 Villegas, S. B. (2015, August 28). A pastoral response to the acceptance of homosexual lifestyle and the legalization of homosexual unions. Retrieved September 9, 2018, from <http://www.cbcpnes.com/cbcpnews/?p=62674>

20 Luczon, C. A. P., & Francisco, J. S. (2015). Commentary: Sustained advocacy produces success in the Philippines. *Global Public Health*, 10, 271-272

21 SECRETARY OF JUSTICE vs. LANTION, G.R. No. 139465 January 18, 2000

Sometimes Doe does not return to school after being sent home, and she eventually accumulated enough absences to require that she repeat a grade. Doe stopped attending school and said that administrators created a hostile environment for her at school. The school district claimed that Doe's clothing created a disruption at school. When Doe tried to enroll to repeat eighth grade, she was told that she could not come to school wearing girl's clothing. Finally, Doe filed a suit against the school district. Doe's desire to wear girl's clothing was an expression of her desire to be identified as a female. The court found that prohibiting Doe from wearing girl's clothing, which was important to her well-being, suppressed her freedom of expression and constituted sex discrimination.³¹

In another case, Anthony Colin at tenth grade, wanted to start a Gay-Straight Alliance Club (GSAC) at his school. The school had dozens of extracurricular student clubs, but when Colin submitted the necessary paperwork to start the GSAC, the application was treated atypically and subjected to discriminatory procedures. The principal sent the application to the school board and told Colin the proposed name was inappropriate. The principal suggested that Colin remove the words "gay" and "straight." a member of the school board said that the Bible says that we are all sinners, but this in my opinion is asking us to legitimize a sinner. The board held a public forum allowing community members to express their views about the GSAC. Colin and other members were subjected to derogatory remarks about gays and lesbians. Subsequently, the board voted to deny the GSAC permission to meet, and told the students that they would need to change the club name and promise not to discuss issues related to sexual orientation and homophobia. As a result, Colin and another GSAC member filed a suit against the school district and school officials for violating the student's rights under the Equal Access Act (1984). A judge ordered the school district to allow the GSAC to meet. Consequently, the school board settled the lawsuit and gave the GSAC equal access and treatment with other extracurricular groups, the group retained their name, and discussed issues related to sexual orientation.³²

In recent years, lawmakers and school administrators in the Philippines have recognized that bullying of LGBT youth is a serious problem, and designed interventions to

³¹ Doe v. Yunits et al, Superior Court of Massachusetts, United States (11 October 2000)

³² Colin Ex Rel. Colin v. Orange Unified School Dist., 83 F. Supp. 2d 1135 (C.D. Cal. 2000)