



INTERNATIONAL GAY AND LESBIAN
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Regional Update: Asia

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Philippines: Will Hospital Be Held Accountable For Violating Gay Man?

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Background

On December 31, 2007, 39-year old Jan Jan (pseudonym), a gay man from Cebu, Philippines, had a sexual encounter on his way home from a party, during which a perfume canister was inserted into his rectum allegedly without his knowledge or consent, requiring him to have surgery. On January 1, 2008, Jan Jan went to the Vincente Sotto Memorial Medical Center in Cebu where rectal surgery was performed to remove the canister. A nursing student videotaped the procedure and posted the video on YouTube without Jan Jan's knowledge or consent. The videotape shows hospital personnel laughing and making jokes at Jan Jan's expense. Jan Jan knew nothing about the video until the head of his housing ward/district, Barangay Captain Dave Tumulak heard out about it, investigated, approached the hospital, got the video, and showed it to Jan Jan. Tumulak helped Jan Jan file an affidavit and found him an attorney. Jan Jan has been devastated by the experience. "I trusted them and yet they ridiculed me. Was that something a professional would do? I can't even walk on the streets without being laughed at by my neighbors. I want my ordeal to end. I hope it doesn't happen to anyone else."

Ongoing Problems With Healthcare Delivery

The Philippines Department of Health has a standing policy that it must pre-authorize any documentation of medical procedures on film, even before a patient's consent is requested. However, Magdalena Lepiten, of Lepiten and Bojos Law Office in Cebu and executive director of GAHUM¹ does not believe this case is about privacy or consent. "Even if there was consent to being videotaped by the hospital, the filming was clearly outside professionalism. It shows clear malice. That's why even the heterosexual public is so outraged."

Lepiten was initially asked to handle the administrative case to revoke the license of the hospital and doctors involved. She adds, "Patients have no rights in the Philippines. They can't even access their own medical records. One woman gave birth at this hospital and asked for her medical records and was told she had to perform sexual favors. This was in the newspapers and the hospital staff involved was fired. When single mothers go to this hospital, they are treated badly and told, 'Oh you are not married and you are pregnant!' Since abortion is illegal in the Philippines, women who have

abortions privately and go to the hospital face discrimination. So the issue here is not just a gay issue. It's a communitywide issue. What we need is a comprehensive healthcare bill."²

Ging Cristobal, co-founder of Lesbian Advocates Philippines (LeAP) and media relations officer for Ang Ladlad, a national organization of lesbian, gay, bisexual and transgender Filipinos in the Philippines sheds more light on the hospital. "Jan Jan's case is a reflection of the entire medical establishment working against a certain group of people, namely LGBTQ people. Vincente Sotto Medical Center is a government-run teaching hospital and the only one in Cebu that treats HIV positive people. A former medical resident and closeted gay man who received his training at the same hospital was not surprised by what happened to Jan Jan because he had witnessed homophobic jokes during his training there."

Activist Lawyer Taken Off Case

Although Lepiten joined Jan Jan's legal team on April 15, she was taken off the case on April 30 by Jan Jan's lead counsel, Guiller Ceniza. Lepiten believes this may be because she is an out lesbian and too radical. She also believes it's about money. "Ceniza decided his firm would handle the administrative and civil cases. The doctors involved in this case are very rich and there's pressure to stop litigation and settle this case before it goes to court. Although the newspapers are saying that the civil suit claim is for 6 million pesos, the suit hasn't actually been filed. There's been ongoing negotiation for damages. The filing fee is two hundred thousand pesos. Jan Jan doesn't have the money for the filing fee."

Cristobal adds, "There's also shame involved and highlighting Jan Jan's case will highlight the family and they will face further discrimination from the community. The family has told Jan Jan, 'You have disgraced the family already. Don't get involved with LGBT groups. Let's just settle this.' The family is poor. It's not surprising that they want the money."

Patrick Ty, a paralegal at GAHUM says, "I met Jan Jan's sister on May 1. We told Jan Jan about the conference call with IGLHRC [on May 3]. He decided on his own that he wanted to join the conference call. When I went to his house to get him, Jan Jan's older brother said no. As of now they want privacy. They want money for his counseling and legal fees. They only want him to talk to Tumulak and Ceniza and they stopped him from going out of the house. Even the counseling is being provided by a psychiatrist and a priest which given the Church's stand against homosexuality is troubling. So Jan Jan is not making his own decisions, the family is influencing him. In the Philippines it's part of the culture for elder brothers and sisters and parents to make decisions for the younger members of the family. Also Jan Jan finished school only up to fifth standard and the family thinks he doesn't have the capacity to make decisions."

Cristobal points out that although Jan Jan's family knows that he is gay their acceptance may be ambivalent. "In the Philippines, you can be gay but you are told, don't have a partner, don't profess you are gay. So it's one thing to be gay and one thing to be recognized as a sexual being. The family's acceptance is only up to a point." She says that Ang Ladlad is trying to find a psychologist who is supportive of the LGBT community to work with Jan Jan.

Possible Future Lawsuits

For Lepiten, the public interest aspects of the case are significant. Even if she is no longer allowed to represent Jan Jan, she plans to file two suits. "If Jan Jan settles out of court we can still file a taxpayer suit and get the public to sign a petition that says we should have a say in how a government-run hospital is managed. This will allow us to investigate the hospital. The suit will be based on the right to health and right to life which are in the Bill of Rights of the Philippines Constitution, Section 1." The second suit will be a class action suit on behalf of the LGBT community to challenge the institutional discrimination against LGBT people.

IGLHRC will continue to monitor the situation.



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ENDNOTES

¹ GAHUM used to stand for Gay Human Rights Movement. Since they registered as an NGO, it stands for power in the Visayan dialect.

² A Comprehensive Reproductive Health Bill has been pending for many years in the Philippines congress. It would have addressed many of the issues faced by patients at the hospital where Jan Jan's patient rights and dignity were violated.

