



A Road in Search of a Map

The Philippines' Human Rights Compliance

A Compilation of the Commission on Human Rights
of the Philippines (CHRP) and Civil Society Reports
for the 2nd Cycle Universal Periodic Review (UPR) Process
for the Philippines, 2008-2011

Submitted to the UN Office of the High Commissioner for Human Rights (OHCHR)
on November 28, 2011 for consideration to the Philippine review during
the 13th session of the Universal Periodic Review of the Human Rights Council
conducted May - June 2012

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This publication was produced through the collaborative efforts of the Commission on Human Rights of the Philippines (CHRP), Philippine Alliance of Human Rights Advocates (PAHRA) and Philippine Human Rights Information Center (PhilRights) with the support of United Nations Development Program (UNDP) and Terre des Hommes (France).



Message



The Commission on Human Rights is pleased to share with you this compilation of submissions for the Second Cycle of the Universal Periodic Review of the Philippines.

The Commission views the UPR as an important mechanism to ensure that government is made accountable for its human rights record. It has democratized access to the United Nation's accountability process by enabling civil society organizations and National Human Rights Institutions to directly engage in the process. Its recommendations serve as an accessible yardstick for measuring state performance of its obligations every four-and-a-half years.

While it is a peer review, the participation of NHRIs and civil society organizations is an opportunity that nurtures the grounding of the review at the country level. As in all treaty reporting processes, independent reports given by relevant stakeholders – CSOs and NHRIs – are not only encouraged but are given due consideration. For it is through the independent reports that the Human Rights Council is provided with a broader picture of what is really happening on the ground.

This is where the result of collaboration in this publication plays a vital role: to allow all stakeholders – duty-bearers, rights-holders, and the members of the Human Rights Council – to put forward recommendations for government to put its human rights performance on track.

Thus, the UPR is a mechanism that contributes to building a culture of human rights in the country. As we actively engage in this mechanism we commit our active cooperation and participation alongside the involvement of the citizens through non-governmental organizations and civil society groups. Let us work together with one heart and one mission – for the country and for human rights.

LORETTA ANN P. ROSALES
Chairperson

Message



A paradigm shift has been announced by President Benigno Aquino III and vowed to be implemented during his administration – from the past culture of impunity to a governance wherein the primacy of human rights and rule of law prevail.

The United Nations Universal Periodic Review (UPR) gives all stakeholders in the country – the duty bearers and the claimholders – as well as the international community a unique opportunity to assess both the progress and the implementation gaps of the President’s pronouncement. Ultimately, the participants of the UPR session will also collectively encourage the best practices as well as offer recommendations to stay on the symbolic “straight and narrow road” of compliance of State obligations, particularly of the recommendations given at the end of the 2nd Periodic Review session.

The reports contained in this publication reveal a broadening convergent effort among civil society individuals, groups, institutions and organizations specially concerned with human rights to give a larger picture and a deeper source of information. Also, the collaborative efforts instilled with mutual respect between the Commission on Human Rights and non-government human rights formations for each other’s mandate and independence are encouraging. Such relationship should be maintained and enhanced.

The interrelatedness of civil, cultural, economic, social and political rights are shown in the annexes and incident reports which reinforce the truth of the indivisibility of these rights. The submission also offers supplementary if not alternative assessments of the human rights situation both on the local and national levels. In this manner, one is hopefully helped to discern the relationship between pronouncements, laws, policies, ordinances and their actual impact on the people in the progressive enjoyment of their rights. In fact, there is a disconcerting observation on the cases submitted on the loose implementation of superior and/or command responsibility that, if left unchecked, could raise an alarming pattern of “superior and/or command conspiracy”. Eventually, one is faced with the possible conclusion of the assessment – the paradigm shift is, at best, unsteady and uneven; at worst, it is stuck.

The amount of data, while more than the first joint NGO report, is neither comprehensive nor exhaustive. But, it argues the urgent need to still capacitate and widen the civil society—people’s monitoring mechanisms. Concomitantly, it is necessary to train these people to professionally and diligently document and monitor compliance and violations even at the level of the basic political units of local government. Only then can effective interventions be made to prevent and to break through impunity. It is hoped that the readers of these reports vicariously experience the repression and suppression of people’s rights. May the narratives of people’s struggles enthruse those who read these pages to unite with the people to assert their dignity and obtain justice.



MAX M. DE MESA

Chairperson

Philippine Alliance of Human Rights Advocates (PAHRA)

Introduction

This publication is a compilation of the independent submissions of the Commission on Human Rights of the Philippines (CHRP) and civil society organizations (CSOs) to the United Nations Human Rights Council (UNHRC) for the 2nd Cycle of the Universal Periodic Review (UPR) where the human rights situation of the Philippines will be assessed in May - June 2012.

This is one of the major outputs of the partnership between CHRP and the Philippine Alliance of Human Rights Advocates (PAHRA) and its network organizations towards popularizing the UPR process and lobbying the government to comply with its reporting requirement and more importantly, implement the recommendations that would come out of the said procedure.

Established in 2006 by the UN General Assembly, UPR is a reporting process under which the human rights performance of the UN's 192 member States is regularly evaluated every four and a half years. Countries will be assessed based on the commitments and obligations stated in the human rights instruments they ratified such as the UN Charter, Universal Declaration of Human Rights and other human rights treaties.

The UPR's goal is to help improve the human rights situation in UN member states by providing a venue wherein governments, with minimal participation of other stakeholders, could discuss issues in each country and suggest appropriate solutions and remedies. The process also facilitates sharing of best practices and encourages cooperation among States in promoting, protecting, and fulfilling human rights.

The Philippines was among the first batch of countries reviewed in 2008 yielding 17 recommendations. Of these recommendations, as raised by fellow member States of the Human Rights Council, 11 enjoy the support of the Philippine Government (with 4a, 6a and 6b representing sub-recommendations which have been accepted by government); 5 recommendations are referred for further study (with 4a) and 4 recommendations unsupported by government.

The UPR Recommendations can be grouped into thematic and procedural topics. Thematic/Sectoral Concerns include gender responsive approach to violence against

women and children and rights protection particularly in rehabilitation and care of those in vulnerable situations and conflict areas, attention to the following vulnerable groups: Indigenous Peoples, Victims of Trafficking, Migrant Worker and Migrant Families, Poor (persons living in poverty), Human Rights Defenders, Witnesses (strengthening protection) and addressing extrajudicial killings, enforced disappearance, and torture. On the other hand, Procedural Topics include engaging with special procedures mechanism, ratification of treaties (Optional Protocol to the Convention Against Torture and the Convention on Enforced Disappearance), regular reporting to treaty bodies, recalling previous treaty body recommendations, emphasizing participation of civil society in the follow up to UPR, the adoption of a human rights based national plan of action, addressing legislation gaps, human rights promotion efforts such as awareness raising, education and training as well as best practice exchange on the justiciability of economic, social and cultural rights.

The contents of this book are the observations and corresponding recommendations of the CHRP and the CSOs on how the Philippine government responded and acted on these 2008 UNHRC recommendations and more importantly, how these initiatives affected the status of human rights in the country.

It must be underscored that recommendations arising from the UPR process are priorities, implementation of which are deemed pivotal in creating positive impact on related rights. Addressing the broader Philippine human rights situation should be complemented by government in its responses to the recommendations of other mechanisms such as in the special procedures and treaty bodies.

In response to the reality that with regards to these international human rights mechanisms there remains a low level of awareness by the general public and even duty bearers in government, there is an urgent need to inform and educate the broadest number of people especially those in public service on the significance of human rights procedures like the UPR.

This book is offered to contribute in the task of making UPR and other UN processes a compelling force for the Philippine Government to strengthen its resolve to better its performance in the field of human rights.

This publication is also presented to inspire human rights defenders to build appropriate mechanisms in communities and institutions at all levels that would monitor government's compliance to respect, protect and fulfill its constituencies' human rights. Only then can these international human rights procedures be relevant to the lives of ordinary Filipinos.

February 25, 2012

Table of Contents

Commission on Human Rights of the Philippines.....	9
Philippine Alliance of Human Rights Advocates.....	19
International Rehabilitation Council for Torture Victims and BALAY Rehabilitation Center.....	38
ECPAT Philippines, AsiaACTs and PACT.....	43
Front Line Defenders and HRD – Pilipinas.....	52
Philippine Coalition on the U.N. Convention on the Rights of Persons with Disabilities.....	59
Philippine NGO Coalition on the UNCRC.....	79
Rainbow Rights Project and Philippine LGBT Hate Crime Watch.....	86



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A. The Commission on Human Rights

1. The Commission on Human Rights of the Philippines (CHRP) is the national human rights institution in the country with “A” status accreditation. CHRP was created under the 1987 Constitution to investigate human rights violations, monitor government compliance with international human rights obligations, provide human rights education and training, among others. This independent submission is a product of internal deliberations as well as regional and national consultations with Civil Society.¹

B. Institutional and Legal Framework for Human Rights, New Developments

2. Since the first UPR session on the Philippines,² Congress has passed a number of laws on human rights related to the UPR recommendations.³ Other major human rights laws have yet to be enacted including the Commission on Human Rights Charter, compensation to victims of human rights violations, and laws on protection against extra-judicial killings, enforced disappearance and protections for internally displaced persons.

3. The CHR has been given additional substantive roles under the Magna Carta of Women, Anti-Torture Law, and International Humanitarian Law (IHL) law. Without corresponding resources, these additional functions and the proposed prosecutorial mandate⁴ would overburden the Commission and impair its effectiveness. It still does not have full fiscal autonomy, its budget has been cut twice⁵ and it lacks the power to determine its own organizational structure; all of which weaken its independence. The long overdue CHR Charter bill⁶ should be a priority as a long-term, institutional measure for human rights protection and promotion. Strengthening the National Human Rights Institution is a long-term measure for human rights protection and promotion.

C. Human Rights Protection and Promotion on the Ground

Related to UPR Recommendations

Recommendation 1⁷ Violence against women, access to justice and rehabilitation and post-conflict care for women and children

4. The Anti-Violence against Women and their Children Act⁸ has been upheld by the Supreme Court as constitutional. Despite training programs for the judiciary, some court decisions seem to reflect the preference of some judges to not apply this law and other laws, including the 1997 special law on rape. A Court of Appeals decision shows gender stereotyping and high requirements for a woman to establish the occurrence of rape and lack of consent.⁹

5. The Magna Carta of Women¹⁰ addresses many of the issues related to discrimination and violence against women.¹¹ However, though the law provides that “measures to prosecute and reform offenders shall likewise be pursued,” it does not establish how to accomplish this.

6. Three cases have been filed in the CEDAW committee and the government has yet to respond to a request for an invitation from the CEDAW Committee.

7. Addressing special needs for rehabilitation and post-conflict care of women and children in vulnerable situations and conflict areas remains a challenge. The CHR will adopt a monitoring tool¹² to systematically monitor the situation of vulnerable groups including women and children.

Recommendation 2¹³ Train Security Forces on HR

8. The high number of complaints received by the CHR makes it necessary to review the efficacy of its human rights education program. In 2010, the CHR received 263¹⁴ complaints in which the respondents are either members of the police or the military.

9. Reports of hazing in academies for the security sector indicate that the culture of violence among security forces begin early and that this is when orientation in human rights should also begin. Reports from CHR regional offices show that law enforcers (and prosecutors) lack knowledge of the provisions of the Anti - Torture Act and their obligations under it.¹⁵

Recommendation 4¹⁶ Ratify OPCAT and Recommendation 5¹⁷ Report regularly to Committee against Torture

10. Immediately after the UPR session on the Philippines, the Government signed the OPCAT. The current administration has endorsed the instrument of ratification to the Senate for concurrence, but may defer implementation. The CHR and civil society continuously call for unconditional ratification.

Recommendation 6 Eliminate torture and extrajudicial killings,¹⁸ Intensify efforts to investigate and prosecute,¹⁹ Follow up report, taking into account recommendations of Special Rapporteur (SR) on EJK²⁰

11. The CHR has recorded complaints involving 385 incidents of extra-judicial killings with a total of 589 victims; 78 incidents of enforced disappearance with 210 victims; and 112 incidents of torture with 211 victims for the period 2001 – mid-2010²¹. With 2011 showing reduced HRVs²², the conclusions of the U.N. Special Rapporteur on EJKs

remain apt: “. . . the Government has failed to make sufficient substantive progress . . . far too little accountability has been achieved for the perpetrators.”²³ While Government has underscored a political solution to ending armed conflict, there remains a disjoint between policy and operation.

12. Currently, there is no focal institution in the executive branch to coordinate/oversee a strategic approach to reduce or eliminate torture and extrajudicial killings.

13. The recent case of police torture recorded on video by cell phone then aired on television²⁴ demonstrates that torture is indeed practiced and legal measures are still slow. It took over a year for a criminal case to be filed against the police officer identified from the video. He has yet to be arraigned. The PNP dismissed him from service but only three months later he was hired as a lecturer at a police academy. It is difficult to see how this would prevent impunity.

14. The Ampatuan Massacre in Maguindanao province is moving very slowly because of inefficient evidence - gathering. A recent Court ruling to present as many as 5-6 witnesses a day, was cited by the prosecution as an added burden to them.²⁵ To date, only 64 of the 196 accused have been arraigned.²⁶

15. The security sector has implemented some responses on these issues²⁷ but they have also administratively dismissed cases of erring members of the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP).

16. The team of Special Prosecutors for cases of extralegal killings, and the Special Courts designated by the judiciary²⁸ have not resulted in any significant improvement in the speed of prosecutions and trials. Many prosecutors do not prosecute under the Anti - Torture Law, but instead, for “physical injuries,” which carries a much lower penalty and fails to underline the human rights aspect.

17. To address impunity, a multi-sectoral body, the National Monitoring Mechanism (NMM)²⁹ has been established. It is composed of government, civil society and the CHR to monitor progress in resolving cases of extra-judicial killings, enforced disappearances and torture.

18. The CHR welcomes the ratification³⁰ of the International Court Statute. It is hoped that this, together with the IHL Law, will prove to be instruments in combating abuses and impunity in the armed forces.

Recommendation 8³¹ Legal framework for eliminating gender-based discrimination and promoting gender equality

19. It remains to be seen how effective the Magna Carta of Women is in eliminating gender-based discrimination and promoting equality. This law mandates, “The State shall, at all times, provide for a comprehensive, culture-sensitive, and gender-responsive health services and programs covering all stages of a woman’s life cycle and which addresses the major causes of women’s mortality and morbidity.”³² However, efforts to turn this into action through the Reproductive Health Bill, has failed to be enacted for several years. The bill under debate in the Senate maintains the current prohibition against abortion.

20. Congress needs to address existing gaps in law that have very real impact on the lives of women including the Family Code which gives preference to the decision of the husband in a number of issues.

21. Even the Magna Carta will not help unearth and stop discriminatory practices in places of employment. It took complaints from an employees’ group for CHR and the Department of Labor to discover that provisions in the collective bargaining agreement between carrier Philippine Airlines and the Flight Attendants and Stewards Association of the Philippines (FASAP) were gender discriminatory regarding retirement age, and maternity benefits.³³

Recommendation 9³⁴ Legislative gaps for children

22. The CHRP is very concerned by attempts in Congress to suspend the implementation of the Juvenile Justice and Welfare Act (JJWA) and to enact a law to reduce the age of criminal responsibility from 15 to as low as 9 years old. The weakness is not in the law but in the implementation. Many local governments across the nation have failed to implement a comprehensive program on juvenile justice which include facilities for juveniles in conflict with the law, despite budgetary provisions in the law.

Recommendation 11³⁵ Strengthen witness protection and address root causes of this issue (killings) in context of reform of judiciary and armed forces

23. The CHRP calls on the government to strengthen witness protection mechanisms. A witness in the massacre of journalists in Mindanao was killed – affecting the prosecution of the case. This is one example of how violence and intimidation of witnesses hampers investigation and successful prosecution. The CHRP itself has been hampered in its investigations because witnesses are afraid to give information. Despite the lack of resources, some witnesses continue to seek protection from the Commission.

Recommendation 13³⁶ Continue successful policy in combating trafficking

24. The government has instituted further measures to combat trafficking including strict immigration controls. However, this raises risk of discrimination against women, and profiling based on racial features. Legitimate travellers including migrant workers have been wrongfully prevented from travelling as a result.

25. Even as recently as 2008, prosecutors had preferred to file charges of kidnapping rather than apply the Anti-Trafficking Act. Convictions under the Anti-Trafficking Act significantly increased from 15 in 2006 - 2008 to 51 in 2009 to present³⁷. This is attributed to the familiarity in and greater acceptance of the law as well as the designation of Special Prosecutors. Government could use this approach to investigate and prosecute other rights violations.

Recommendation 14³⁸ Step up efforts to meet basic needs of poor and other vulnerable groups

26. Some policies and laws intended to help vulnerable groups in terms of their basic needs are poorly implemented or not enforced. For example, pharmacies refuse to comply with the law granting discounts for medicines for persons with disabilities³⁹. There is a better rate of compliance for the senior citizen's discounts for medicines and groceries.

27. In response the continuing policy and necessity to evict informal settlers (sometimes for flood control), the Commission issued guidelines on how to conduct these while mitigating rights violations.

28. It is necessary to conduct a household survey of indigenous communities to determine the performance in supply of basic needs and services. These communities, partly because of remote locations, continue to be among the most underserved in utilities, health services, education, etc.

Other Important Human Rights Issues

Violations by Non-State Actors

29. Non-state actors also must respect human rights. When the suspected perpetrator is not a state actor, whether from an armed group or the corporate sector, the State nonetheless has the duty to provide adequate and effective remedies.

Armed groups

31. There has been a rise in human rights violations committed by non-state actors, including armed groups and private armies. These include beheadings, use of land-

mines which have killed police in various locales, and kidnappings. Leftist insurgents threatened the right of suffrage during the 2010 elections by collecting fees to allow candidates to campaign in areas they control.

Business and human rights

32. Among the “business and human rights issues” in the Philippines: Airlines have policies allowing them to refuse passage to persons with disabilities. The abovementioned Philippine Airlines (PAL) policies on retirement and maternity discriminate against women.

33. Now that the government has expanded the granting of concessions for mining, vigilance must be exercised against more frequent violations, including displacement, violence against opponents of mining presence, and negative impact on the economic and cultural rights of indigenous peoples.

LGBT

34. Killings of lesbians, gays, bisexuals and transgenders (LGBT) have been reported by civil society.⁴⁰

35. Attitudes against LGBTs even among government officials was exposed when the Commission on Elections disapproved the application for registration of a sectoral representative political party, “*Ang Ladlad*,” to stand for sectoral representation seats in the 2010 elections. The application was disapproved on “moral grounds”.⁴¹ The CHR filed an *Amicus Curiae* brief that pointed out the right against discrimination and State obligations to protect that right. The Supreme Court ruled in favour of “*Ang Ladlad*”.

Compensation for Victims of Human Rights Violations During Martial Law

36. Because human rights protection involves not only prosecuting but also affording justice and reparation to victims and their families, the distribution of compensation checks to victims who had filed and won a civil case against Marcos in Hawaii, USA marks a milestone in human rights. The CHR, on request of the lawyers representing the victims, allowed to base the distribution in the CHR regional offices.

Political participation for persons deprived of liberty

37. The 2010 National Elections, for the first time in Philippine electoral history, persons deprived of liberty⁴² were able to vote *en masse* through facilities set up by the Commission on Elections. This was the result of advocacy by the CHR and civil society.

It addressed a large scale problem wherein hundreds of thousands of PDLs had been deprived of their right to vote, most of whom were still going through the investigation or trial process.

Endnotes

¹ All CHRP Regional Offices conducted CHRP – NGO Consultations on the UPR (14 Regions convened the consultations in July 2011). A National Consultation with Civil Society was conducted on 8 November 2011. Recommendations of the Universal Periodic Review have been mainstreamed in the treaty monitoring and advocacy activities of the Commission as early as 2008. The most recent is the conduct of a Multi-Stakeholders' Forum conducted in October of 2010 wherein UPR Recommendations became a basis, alongside treaty body recommendations, to present a Human Rights Agenda for the newly elected government. Representatives of Government were invited to these events (except for the 8 November National Consultations) As of this writing, the Commission has offered another forum where they can present their progress on the implementation of UPR Recommendations in another Multi-stakeholders' Forum scheduled for 6 December 2010.

² April 2008

³ Magna Carta of Women; Anti-Torture Law; Law Defining and Penalizing Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity; amendments to the Magna Carta for Migrant Workers; the Anti-Child Pornography Act.

⁴ The Commission en banc does not agree that prosecutorial powers are appropriate or desirable for lack of capacity and resources. It has been consistent on this position.

⁵ General Appropriations Act of 2011 and the General Appropriations bills for 2012

⁶ The bill would clarify the CHR's fiscal independence, power to create/collapse offices to meet human rights trends, and strengthen its protection capacity with subpoena powers, a.i.l.

⁷ Accepted

⁸ Enacted 2004, related only to violence within households and personal relationships

⁹ *People v. Carpentier*, Duplantis, Silkwood and Smith [Subic Rape Case]]. CA's decision which stated that, viz.:

"[r]esistance by word of mouth does not suffice to establish that she indeed did not give her consent to sexual intercourse, but it must be an act done in good faith and not through a mere pretense or token resistance under the circumstance. A woman has means to protect herself: she is equipped to interpose effective obstacles by means of her hands and nails, her limbs or even her pelvic muscles."

- ¹⁰ Enacted in 2009
- ¹¹ including physical, sexual, psychological, and economic violence in the household, the general community and even acts perpetrated or condoned by the State. The right to protection against violence is recognized even in situations of armed conflict and militarization.
- ¹² in partnership with an NGO, Balay Rehabilitation Center, with the support of the United Nations High Commissioner for Refugees
- ¹³ Accepted
- ¹⁴ CHRP Data from Information Systems Management Office
- ¹⁵ Enacted in 2010
- ¹⁶ Accepted
- ¹⁷ Accepted
- ¹⁸ Accepted
- ¹⁹ Accepted
- ²⁰ Not supported
- ²¹ From Case Reports Analysis of CHRP Legal and Investigation Office
- ²² Ibid.
- ²³ A/HRC/112/Add.8 “Follow up to country recommendations-Philippines”
- ²⁴ Brought to the attention of the CHRP and aired on television in July 2010
- ²⁵ With a recent directive from the Judge in the case, the prosecutor must present five or six witnesses per trial day in the Maguindanao multiple-murder case. This was cited as an added burden on the part of the prosecution. Available online at <http://ph.news.yahoo.com/prosecutors-maguindanao-massacre-case-cite-change-rule-witnesses-021418297.html>
- ²⁶ From the court monitoring report of the CHRP Legal and Investigation Office
- ²⁷ For example, designating human rights officers, establishing human rights offices down to regional and battalion/command levels, Human Rights-Based Intelligence Handbooks by the Philippine National Police (PNP) and Armed Forces of the Philippines (AFP), and the filing of cases against members of their ranks in coordination with the CHRP.

²⁸ Both established in 2007

²⁹ with the assistance of the European Union established through a bilateral agreement forged through the Europe – Philippines Justice (EPJust) program

³⁰ Senate concurrence on August 25, 2011 completed the Constitutionally required process for ratification of treaties

³¹ Accepted

³² Section 17

³³ The Collective Bargaining Agreement (CBA) executed by the FASAP and PAL, Section 144, Article XXIX sets the compulsory retirement age of cabin attendants at fifty-five (55) for females and sixty (60) for males for those hired before the signing of the Agreement, and at forty-five (45) and forty (40) for all cabin attendants hired after its signing and after 22 November 2000, respectively. *Flight attendants are also placed on prolonged leaves-without-pay and benefits are suspended during their pregnancy and maternity leaves. 22 November 1996.*

FASAP also filed before the courts a petition for reinstatement of the forced retirees. The handling of this case by the Supreme Court, though controversial, has no bearing on gender discrimination as such was not raised by the parties nor considered an issue in the decision, which has now been reversed.

³⁴ Accepted

³⁵ Not supported

³⁶ Accepted

³⁷ Figures from the Interagency Committee Against Trafficking (IACAT).

³⁸ Accepted

³⁹ Reports from CHR partner NGOs representing PWDs

⁴⁰ as documented by Rainbow Rights

⁴¹ Section 6, Republic Act 7941 or the Party-List System Act

⁴² except those who have lost political participation rights by way of criminal conviction, as provided by law

*This report was prepared by a network of sixty-three (63)
civil society organizations facilitated by the



Philippine Alliance of Human Rights Advocates (PAHRA)

Joint Civil Society Report for the 2nd Cycle Universal Periodic Review (UPR) Philippines

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I. Description of the methodology and the consultation process followed for the preparation of information provided under the universal periodic review

1. This submission was prepared through facilitation of the Philippine Alliance of Human Rights Advocates (PAHRA) with assistance of the Philippine Human Rights Information Center (PhilRights) in coordination with sixty-three (63) civil society organizations. Four (4) national workshops and consultations¹ including one with Commission on Human Rights of the Philippines (CHRP) were conducted to gather inputs and recommendations for this report.

II. Issues and concerns on the promotion and protection of human rights on the ground and implementation of international human rights obligations

2. During this UPR review period, Philippines adopted domestic laws that mirror international human rights instruments, such as Anti-Torture Law or Republic Act 9745, criminalization of violations of International Humanitarian Law (IHL) or Republic Act 9851, Magna Carta for Women, anti-child pornography law of 2009 and ratified the Convention on the Rights of Persons with Disabilities (CRPD) and Rome Statute of the International Criminal Court.
3. The Aquino government stated that human rights would be a pillar of his governance, a basis of his development plans and the core of the paradigm shift in the security sector. However, after one and a half years in power, it still has no clear human rights agenda with the draft National Human Rights Action Plan (NHRAP) still waiting presidential approval.
4. Furthermore, human rights violations persist while the culture of impunity remains to be a glaring reality in the country. Factors behind this are the militarist and punitive approach in addressing the root causes of insurgency, weak exercise of command responsibility and poor implementation of laws. Police and military forces continue to be among the top human rights violators as shown in the records of the CHRP. Human rights enjoyment also suffers due to lack of harmonization of and conflicts in the implementation of laws, such as the Indigenous Peoples Rights Act (IPRA) and the Mining Act of 1995.
5. In a study² of Atty. Parreño, among the 305 incidents of extrajudicial killings (EJKs) from 2001 to August 2010, 32% of victims were activists while 10% were farmers. This only shows that civil and political rights (CPR) violations such as EJKs and enforced disappearances could often be traced to suppression of people's assertion and claiming of their economic, social and cultural (ESC) rights.

6. The Philippines also failed to adopt its NHRAP that would have given direction to the State to implement its obligations under the rights of children, women, migrants, indigenous peoples, and lesbians, gays, bi-sexual, and trans-gender (LGBT), persons with disabilities as well as the rights to life, food, health, education and work. Concomitantly, there is lack of decisiveness and haphazard approach by State agents in following up the implementation of the accepted recommendations from the last UPR.
7. The absence of a National Monitoring Mechanism (NMM) composed of the CHR, government agencies, security sector, and civil society, exacerbated by the non-passage of a law on the right to information and lack of transparency in complaint processes has eroded the substance of human rights pronouncements and encouraged impunity to thrive.
8. The State has to fully integrate and consistently use the rights-based approach in its governance, legislative and development plans.
9. Government also needs to harness the potential of civil society by reinstating CSOs' participation in the revitalized Presidential Human Rights Committee (PHRC) and encouraging CHR deputization of human rights defenders (HRDs).
10. Finally, the State has to maximize the expertise and material assistance of the United Nations and its member nations, such as inviting the UN Special Rapporteurs, e.g., the Special Rapporteur in Promoting Human Rights while Combating Terrorism and the Special Rapporteur on Disability.

III. Achievements, best practices, challenges and constraints in relation to the previous review's recommendations

A. Gender-responsive approach to violence against women and children

11. The documented incidence of violence against women (VAW) rose to 37.4% from 2008 to 2009. In 2009 alone, the Philippine National Police reports an alarming increase from 10,630 incidents of VAW in 2008 to 14,040 in 2009³. Meanwhile the Philippine Deaf Resource Center (PDRC) documented over 240 cases from 2006-2011, at least 60 cases involve deaf women complainants of rape. Due to non-implementation of Supreme Court policies on providing sign language interpreters, these women encounter difficulties during proceedings on their cases.
12. The Children's Legal Rights and Development Center (CLRD) encountered cases where judges or Prosecutor, or in the local council, do not issue Protection Orders despite petitions, and despite mandatory requirement in the case of ba-

rangay chair, to issue Protection Orders in cases filed under the Anti-Violence Against Women and Their Children Act. There are judges refusing to issue contempt orders on husbands/partners who violate protection orders. In rape and child sexual abuse cases, many rape complaints are dismissed at the Preliminary Investigation level and Regional Trial Level.

13. Based on research⁴ of Women's Legal and Human Rights Bureau (WLHRB), most VAW victims do not get justice due to: a.) length and complexity of case proceedings; b.) lack of competence and sexist attitude of duty bearers; and c.) women's inability to file or sustain cases due to economic vulnerability.
14. The CHRP has not been able to perform its role as Gender Ombudsman under the 2009 Magna for Women as evidenced by the fact that up to now, there are no guidelines as to how CHRP would execute such responsibility. The Children Center as well as the Women Center of CHRP has no data on violence against women and children, and no clear program direction.
15. There is difficulty in prosecuting new forms of violence against women⁵ such as Information Communication Technology (ICT)⁶-related VAW⁷ ranging from cyberharassment, cyberpornography to cybertrafficking due to lack of readiness of law enforcement and absence of clear investigation guidelines.

Recommendations

16. Magna Carta for Women should be effectively implemented especially in terms of funding, appropriate structures and mechanisms, and competent personnel.
17. Pursue judicial reforms towards making the judiciary gender sensitive and accessible, both in terms of procedure and attitude.
18. Women's desk in Barangays (villages) and police stations should be fully functional, accessible and competently staffed.
19. The government should provide employment to women, prioritizing single or separated mothers who are heads of family. In cases of VAW, support services should also include livelihood opportunities.
20. Adopt procedural and investigative tools appropriate to ICT-related VAW; issue rules of institutions⁸ and provide capacity-building programs in addressing ICT-related VAW.

B. Human rights training for security forces

21. Since early 1990's, CHRP has been instrumental in designing and conducting human rights education for members of security forces. However, in a study⁹ commissioned by CHRP, human rights integration in schools and also for security sector has been limited and only at appreciation level. It is more theoretical and mechanical resulting in non-internalization of HR values and attitudes and weak application in day-to-day operations of security forces.
22. While CSOs appreciate the efforts of security sector like appointment of HR Desk, formulation of Armed Forces of the Philippines (AFP) HR Handbook, and HR-based operational guidelines, these are superficial and require review and improvements. Meaningful changes need to be done in HR education curricula and pedagogy for security forces; selection/recruitment, orientation and mandate of HR officers in various units of security sector.

Recommendations

23. Convene a multi-sectoral review body for HR curricula & modules of security sector. The review should focus on ensuring use of experiential learning methodologies, and their field application. The stress and starting point should always be respect of people's rights and dignity and appreciation of roles of HRDs. Regular monitoring of implementation and assessment of impact should be conducted.

C. Torture, extra-judicial killings (EJKs), and enforced disappearance

24. From 2008-2011, Task Force Detainees of the Philippines (TFDP) documented 23 cases of EJKs claiming 30 victims and 105 cases of torture with 163 victims while Families of Victims of Involuntary Disappearance (FIND) documented 79 victims - 50 surfaced alive; 24 still missing; and 5 found dead.
25. Atty. Al Parreno, in recent study¹⁰ documented 31 cases of EJKs from 2008 to August 15, 2010 with 8 incidences under Aquino administration. The same research unearthed 305 cases from 2001-August 2010 of which 32% of victims were human rights defenders (HRDs). From same 305 EJK cases, 56.29% were filed before prosecutors, 33.22% prosecuted, 32.52% tried in court, and only 1.05% had convictions. In short, 99% of 305 cases surveyed remain unsolved.
26. Although the Anti-Torture Act was passed in 2009, non-compliance and complicity by law enforcers have rendered the law ineffective in providing justice to victims. PAHRA members in cooperation with CHRP filed two torture cases both in 2010 involving victims Lenin Salas, et al. and Ronel Cabais. The victims were

both tagged as rebels by law enforcers.

27. Salas' case, with police as alleged perpetrators, was dismissed because the victims could only identify their assailants through their voices. The victims were blindfolded during their ordeal. The prosecutor disregarded the fact that blindfolding itself is prohibited act under the anti-torture law and the arresting police officers were responsible for it. Meanwhile, the prosecutor found the Cabais case meritorious and had the court issued a warrant for the arrest of alleged torturers. However, the warrant could not be served because AFP officials claimed that the suspects' names were not in their roster.
28. In July 23-26, 2011, Abdul-Khan Balinting Ajid, a Muslim baker in Basilan was illegally arrested and tortured by members of the 39th Scout Rangers of AFP. He reportedly experienced beating, water cure and burning of his forehead and abdominal area. His arrest was illegal because the warrant was intended for one Kanneh Malikil. Despite Ajid's insistence that he was not that person by showing identification card, the soldiers brought him to a camp where he was allegedly tortured. The case caught media attention forcing the military to dismiss the two personnel allegedly involved while the officer implicated was still under investigation.
29. The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) has not been ratified. The Department of Justice (DOJ) wants to defer for three years the visit of the Sub-Committee on Prevention of Torture to places of detention in the Philippines once OPCAT has been ratified. PHRC in 2008 supported the full ratification of OPCAT.
30. President Aquino has not officially endorsed the signing and ratification of the International Convention on the Protection of All Persons from Enforced Disappearance (ICPAPED) and the immediate enactment of an anti-enforced disappearance law despite the persistent lobbying of CSOs.
31. Impunity in Muslim areas is compounded by political warlordism¹¹ and practice of Rido¹². There is general knowledge that there are more cases of human rights violations and abuses in Mindanao however most are unreported. The victims are compensated through blood money which even the military takes advantage of to avoid accountability. A commission on human rights in the Autonomous Region of Muslim Mindanao (ARMM) is still non-existent despite provision for such institution under ARMM law or Republic Act 6734.¹³ The Maguindanao massacre where 58 people, many of whom media people, were killed allegedly by top government officials of the region was the epitome of violations in Mindanao.

32. In October 2011, military offensives to hunt down “lawless elements” behind killings of soldiers in Mindanao triggered mass exodus of civilians. Almost one month later, 34,000 persons¹⁴ still could not return to their homes, particularly in Basilan and Zamboanga Sibugay provinces. Five civilians were killed while ten were wounded during this conflict.¹⁵

Recommendations

33. Enact laws addressing internal displacement, protecting HRDs, criminalizing enforced disappearance and extra-judicial killings and utilize the Minnesota Protocol in investigating EJK.
34. Ask CHRP to conduct investigations on violations of IHL in conflict-affected areas and take corresponding actions in line with RA 9851.
35. Immediately ratify International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED) and respond to repeated requests of the UN Working Group on Enforced or Involuntary Disappearances to visit the country.
36. Institutionalize and strengthen the multi-stakeholder NMM being formed through EP-JUST of European Union in April 2011 headed by CHRP and PHRC. NMM could be strengthened through replication and coordination at local levels.
37. Immediately convene the Anti-Torture Law’s oversight committee to address obstacles in prosecuting cases and making government agencies especially police, military and the justice department accountable.
38. Immediately create a human rights institution in ARMM under the jurisdiction of CHRP.

D. Eliminating gender-based discrimination

39. Anti-discrimination bills, originally, House Bill 956 and Senate Bill 11 were filed in Congress in 1998 but up to now, thirteen (13) years later, the HoR has yet to adopt them.
40. Laws like vagrancy act, anti-public scandal and anti-trafficking act are being used to discriminate, abuse and criminalize women and LGBTs.
41. In September 2011 alone, Coalition against Trafficking in Women – Asia Pacific

(CATWAP), had to rescue at least 27 women out of jail, after being arrested by police. By experience, policemen ask sexual favors or extort money from arrested women in prostitution.

42. According to the Philippine LGBT Hate Crime Watch research on violence against the LGBT population in the Philippines, around 141 deaths of LGBTs with varying elements of motives of hate or bias, extrajudicial killing, and/or discrimination-related violence related to sexual orientation and gender identity have been documented in media mass media reports and oral testimonies since 1996.

Recommendations

43. Prioritize enactment of law against discrimination based on Sexual Orientations and Gender Identities (SOGI), reproductive health bill, and anti-prostitution law to shift liability from women to patrons and sex syndicates.
44. Integrate repeal of Vagrancy Act, in the ongoing process to amend the Anti-Trafficking Law of 2003.
45. Hate crime should be legislated in Congress as particular criminal offense. The State should compel the police and the Department of Justice to work with the Commission on Human Rights, and LGBT experts and groups to define hate crime and implement procedures in the investigation of incidents, assisting survivors in accessing justice mechanisms, and the serious prosecution of accused parties.

E. Addressing legislative gaps on children's rights

46. Juvenile Justice Law has not been properly implemented due to following: a.) low level of knowledge and lack of capacity of local officials and law enforcers; b.) non-allocation of mandated budget for local councils for the protection of children (LCPCs); c.) absence of intervention programs in many areas; and d.) lack of resources and unclear mandate of the Juvenile Justice Welfare Council.
47. And yet there are proposals in Congress to suspend the Juvenile Justice Act and lower the Minimum Age of Criminal Responsibility from 15 to 11 or 9 years old.
48. According to CLRD, there are 756 children in detention in Metro Manila alone, detained in cramped, unventilated, dark, stinky, detention centers. From June 2009 to June 2011, CLRD documented 76 cases of torture of children from their arrest, and even while in detention awaiting trial. In provinces, many child suspects were detained for extended periods without access to social workers and lawyers and not segregated from adult criminals.

49. Torture of children in conflict with the law (CICL) is prevalent¹⁶ but no reporting and documentation of child torture incidents is conducted. While policies fail to address torture in children, there is also lack of differentiation between child abuse and child torture¹⁷ resulting to low awareness of torture of children. Children are at risk of torture from time of arrest and until/if the child reaches a youth centre or NGO. In worst cases, torture and maltreatment take place in closed institutions, places of detention or in youth homes.
50. Nationwide, the Department of Social Welfare and Development (DSWD) recorded 6,524 child abuse cases in 2009 and 4,749 incidents in 2010.¹⁸
51. On corporal punishment, a study of UNICEF, Plan International and the Council for the Welfare of Children in 2009 on 6,931 children revealed that “at least four (4) out of ten (10) children in Grades 1-3 and seven (7) out of ten (10) in Grades 4-6 and high school have experienced violence in school”. Verbal abuse by teachers was the most frequent form of violence experienced by children in educational setting.
52. According to the 2011 report of the Secretary-General to Security Council (A/65/820-S/2011/250) issued 23 April 2011 there was an increase in the recorded number of cases of child recruitment and use by armed groups in 2010 (24 children), compared to 2009 (6 children). Three cases were verified in 2010 involving boys, aged 13, 15 and 16 years old. Also, there are problems with regards the post-conflict care facilities for women for those affected by the conflict such as food, shelter and clothing.¹⁹
53. Despite ratification of the Convention on the Rights of Persons with Disabilities, and enactment of Magna Carta for Persons with Disabilities, abuse and violence against children with disabilities has not been addressed. The PDRC reported that of over 240 deaf cases from 2006-2011, at least 50 cases involve children, all on crime of rape.
54. Furthermore, accessibility through disability/gender/age- appropriate accommodations have not been provided, e.g., CASAGALs (Court Appointed Special Advocates & Guardian Ad Litem), and sign language interpreters. The Supreme Court’s Order No. 59-2004 and 104-2007 on free court interpreting is not effectively implemented because of absence of specific national budget appropriations, as well as administrative procedures.
55. The Reproductive Health Bill (now known as Responsible Parenthood, Reproductive Health and Population Development Act of 2011) is still pending in Congress. With lack of access to sexual and reproductive health information and services,

young people continue to face risk of early pregnancy, reproductive tract infections and sexually transmitted infections, including HIV and AIDS.

Recommendations

56. Enactment of laws concerning children's rights such as the following: anti-statutory rape, "SB 873 - Anti-Corporal Punishment of Children Act," House Bill (HB) 4480 – Special Protection of Children in situations of armed conflict, HB 4631 or "Court Interpreters for Persons with Disabilities Act."
57. Maintain the current minimum age of criminal liability to 15 years old as stated in Juvenile Justice Law.
58. The Juvenile Justice Law should be implemented effectively and not amended. The conditions of children in jails should be addressed by government especially the issue of torture, forced labor/slavery, ill treatment. Provide a healthy living environment for children in detention. Local councils must be trained on how to conduct programs for Diversion of released child detainee.
59. Effectively implement the following: a.) National Plan of Action on the Decade of Persons with Disabilities; b.) 1% allocation from national budget and 5% from internal revenue allotment for local government units for persons with disabilities; c.) Supreme Court Rules on Examination of a Child Witness, specifically appointment of CASAGALS and court-appointed sign language interpreters; and d.) Republic Act (RA) 8505, establishing Rape Crisis Centers in every province and city.
60. Government should ensure budget allocation both at national and local government institutions/agencies for programs related to recovery and reintegration of children such as intervention and diversion programs for CICL and Alternative Learning System. Improve existing programs of government institutions that cater to promotion and protection of children's rights such as implementation of the National Program of Action on Violence against children and pursuance of the National Strategic Framework for Plan Development for Children.
61. Enhance effective sharing of information and coordination among actors involved in monitoring and reporting of Children in Armed Conflict.

F. Economic, Social, and Cultural (ESC) Rights Justiciability

62. Lack of effective redress mechanisms for economic, social, and cultural (ESC)

rights violations in the country could be attributed to low awareness and capability on ESC rights of State instrumentalities especially the judiciary and weak implementation of ESC-related laws such as Urban Development Housing Act (UDHA) and Magna Carta of Persons with Disabilities.

63. ESC rights justiciability is also weakened by the fact that existing jurisprudence²⁰ limit CHRP's investigative power to civil and political rights violations.

Recommendations

64. The Philippines must sign and ratify Optional Protocol to the International Covenant on ESC Rights.
65. Prioritize enactment of CHRP Charter bill to strengthen and expand the mandate of this institution to monitor and investigate ESC rights violations. Increase budgetary appropriation for CHRP.
66. Conduct a comprehensive study on how ESC-related laws are being implemented.

G. Civil society participation in national report and follow-up process to UPR

67. CSOs were not consulted in the drafting of 2008 UPR Philippine Report. The result of review A/HRC/WG.6/1/PHL/3, 11 March 2008, was also not disseminated to CSOs and public. CSOs on their own initiative sought the document and tried to lobby its recommendations when there were opportunities. No activity was facilitated by State Party to allow CSOs to join the follow-up process for UPR recommendations.
68. As of writing of this stakeholder's submission, no consultation on the national report for the 2nd cycle of the UPR has been conducted by the State Party.

H. Trafficking in human beings

69. Despite the removal of Philippines in trafficking Tier 2 watchlist, substantial number of Filipinos still fall prey to trafficking due to lack of local decent employment. Worse, victims are the ones being criminalized especially in cases of undocumented women overseas workers.
70. According to CATWAP, almost every day they receive at least one call to help a trafficked woman arrested and detained especially in Malaysia. Before they

could be repatriated, imprisoned women abroad have to suffer months of lack of food, cruel treatment, and delays in processing their travel documents due to corruption in embassies.

71. Although Magna Carta for Women stipulates the designation of gender focal person in Philippine embassies and consulates but no de facto budget has been provided, thus this function is usually assigned to existing personnel with no gender expertise.
72. Protection and rehabilitation of rescued women are jeopardized by lack of resources of frontline agencies such as the social welfare department and police and by lack of shelters in provinces especially in ARMM. These problems persist despite the \$550,000 Congress allocation to the Inter-agency Council Against Trafficking (IACAT).

Recommendations

73. The Anti-trafficking in Persons Act of 2003 should be allocated sufficient funds and effectively implemented.
74. Strictly audit and report disbursement of anti-trafficking budget to Congress.
75. Prosecute corrupt officials in Philippine embassies especially in Malaysia and ensure speedy repatriation of trafficking victims, by setting a humane timeframe for their stay in holding or detention areas abroad.
76. Recommend for Malaysia and other receiving countries to sign and ratify the UN Trafficking Protocol, and legislate against criminalization of trafficked persons.
77. Develop follow up mechanisms on the Off-loading passengers scheme in local/ domestic seaports/airports through investigation and verification while ensuring respect for human rights when offloading them.
78. Confiscation or forfeiture of property of alleged perpetrators of trafficking as indicated in RA9208 should be implemented.

I. Meeting basic needs of the poor and other vulnerable groups

79. The flagship anti-poverty program of the government is the Pantawid Pamilyang Pilipino Program (4Ps), a conditional cash transfer scheme targeting the poor. However, criticisms have been raised on aspects of the program including selec-

tion of beneficiaries, funding sources, impact, and effectiveness in addressing poverty.

80. Based on a survey²¹ among program beneficiaries, Social Watch Philippines (SWP) made the following observations regarding 4Ps:

4Ps does not cover other vulnerable groups like poor senior citizens, chronically sick, people with disabilities, millions of out-of-school, and functionally illiterate or unemployed poor. In fact, budgets for these sectors have been reduced to provide bigger funding for 4Ps;

Success of 4Ps which addresses demand side might be endangered if supply side such as schools, health centers, and transport facilities could not be ensured given low public investment on these infrastructures; and

Most of 4Ps beneficiaries expressed that what would lift them out of poverty is productive employment.

81. The government borrowed US\$405M from World Bank and US\$400M from ADB for the 4Ps which is a cause for concern because it not only increases the country's public debts. The government has likewise placed massive investment on a strategy heavily criticized for its limited and short-term impact on poverty.
82. Despite the fact that poverty incidence among persons with disabilities is higher compared to other Filipinos, CRPD mandated access to poverty reduction programs has not been fulfilled. Neither are there disability-specific interventions in social protection.
83. A basic need which is also a basic right of vulnerable groups is housing, specifically security of housing tenure. Data provided by Centre on Housing Rights and Eviction (COHRE), an estimated 16.5 million or 30% of the country's urban population live in informal settlements while around 300,000 families in Metro Manila alone are currently threatened with eviction.
84. Food security is also a priority concern yet it seems that government has not come up with realistic and comprehensive food strategy program that will forestall, if not prepare the population for another food crisis such as that of 2008.
85. In June 2008, when the Comprehensive Agrarian Reform Program (CARP) was about to expire, there were 1.61 million hectares of private agricultural lands still undistributed. As of December 2010, more than one year after Congress passed

the CARP Extension with Reforms law (CARPER), reports showed that 960,726 hectares have yet to be distributed. This means that Department of Agrarian Reform (DAR) has to distribute 26, 686 hectares monthly if it wants to beat its 2014 deadline, a daunting task given its performance of only 12,667 hectares from January to June 2009 and 18,635 hectares from January to June 2010.²²

86. With the trend in business of outsourcing and subcontracting to reduce overhead costs, a serious workers' rights issue is labor contractualization. The Aquino government stamped its approval to this when it upheld the decision of Philippine Airlines (PAL) management to outsource its "non-core" operations such as catering, reservation and ground handling.²³ This resulted to the retrenchment of 2,600 regular PAL employees²⁴. When the Philippine Airlines Employees Association (PALEA) staged a work stoppage on September 28, 2011 to protest this scheme, President Aquino initially referred to the act as economic sabotage and asked lawyers if legal actions could be filed against PALEA.
87. Government has not reviewed its labor migration policy in view of realizing the right of Filipino migrant workers to decent work in the country. As a result, yearly, more than a million Filipinos continue to migrate for work abroad, 1.23M in 2008, 1.42 in 2009 and 1.47 in 2010.
88. By all indications, the Aquino government will not revise its predecessor's policy of aggressively promoting large-scale mining even if Mining Act of 1995 runs contrary to indigenous people's rights to self-determination and ancestral domain as guaranteed by 1987 Constitution and IPRA.
89. Last August 2011, President Aquino showed his support to the mining industry by bringing along 15 mining executives to his official visit to China where he witnessed signing of four (4) mining agreements²⁵. Large-scale mining has also been retained as one of key priority areas under the Philippine Development Plan (PDP) for 2011-2016².

Recommendations

90. Conduct of an independent and transparent monitoring and review of 4Ps with CSO participation before expanding the program.
91. Come up with a comprehensive anti-poverty strategy with increased public spending that targets other vulnerable groups such as persons with disabilities, indigenous people, etc.

92. Job creation and protection of workers' rights including women's rights should be at the forefront of government's anti-poverty agenda.
93. Allocate additional funds for programs aimed at providing security of tenure and affordable housing, particularly to members of disadvantaged groups.
94. Prevent forced evictions and undertake participatory and meaningful consultations with affected residents prior to implementing development and urban renewal projects, and ensure that persons evicted from their properties be provided with adequate compensation and/or relocation.
95. Fulfill right to food by fast-tracking distribution of private agricultural lands and ensure that agrarian reform beneficiaries (ARBs) under RA 9700 or CARPER are awarded ownership especially those in sugar lands, coconut lands and other problematic landholdings measuring above 24 hectares. Pursue and protect CARPER provisions such as providing support subsidies, banning conversion of irrigated and irrigable lands, and giving equal support services to rural women and farmer associations.
96. Prioritize passage of Security of Tenure Bill to reverse the trend of labor contractualization and the Food Security Bill to address hunger and food shortage.
97. Enact Alternative Minerals Management Bill that will repeal the 1995 Mining Act and usher in a rights-based, democratic, and pro-environment mining policy regime.

J. National Human Rights Action Plan

98. As of drafting of this stakeholder report, the 2nd NHRAP has not been approved by the Aquino government. It was adopted during the term of former Pres. Gloria Arroyo but was shelved by Pres. Aquino when he came to power in June 2010. CSOs were consulted once during the formulation of the NHRAP.
99. According to draft NHRAP, among the priority areas are the 2008 UPR results, recommendations of treaty bodies, special procedures, as well as proposals from CSOs. However, said document did not articulate legislations and policies recommended by the UN HRC and other treaty bodies. It would have been best if the commitments made by the Philippines have been categorically stated in the plan so as to ensure that these would be acted upon.

IV. Development of human rights situations in the State and Emerging Issues

100. Despite domestic law on International Humanitarian Law, several violations were documented such as the cases of the Miraflores brothers in Zambales and of Mariano-Esquivel in Bulacan. In both cases, victims were accused or mistaken as rebels and the identities of suspected military or police personnel were not established.
101. On June 2, 2010, the 3 Miraflores brothers sustained gunshot wounds when they were shot by Zambales policemen on their way to make charcoals. While on July 19, 2011, the hut of Mariano-Esquivel family was strafed by soldiers belonging to the 56th Infantry Battalion. The father died, the son survived but sustained gunshot wounds while the grandmother was unhurt. It took several hours before the dead body and injured could be brought out because of continued harassment of suspects after the shooting.
102. Government established Special Economic Zones (SEZs) to lure foreign investments by giving tax incentives, exemptions, and minimum labor standards regulation. As a result, reports of workers' rights abuses by firms in SEZs have persisted over the years such as union busting, harassment, and violation of minimum wage law and occupational health and safety guidelines.
103. Hanjin Heavy Industries, a Korean shipbuilding firm operating in Subic Freeport Zone, has become notorious due to numerous work-related accidents over recent years. In March to April 2011, Samahan ng mga Manggagawa sa Hanjin (SAMAHAN) documented nine accidents that resulted to death of two and serious injury of ten (10) workers.
104. In the light of several bilateral and multilateral free trade agreements that government plans to enter into, it needs to balance these vis-à-vis effects on the rights of its people and environment. Already there are industries and businesses such as mining and agro-bio fuel that affect rights of vulnerable groups such as indigenous peoples, farmers, and fisherfolks. State must study and adopt the Ruggie Framework²⁷ to uphold the rights of its citizens while pursuing economic development.

Endnotes

- ¹ 1.) FIDH Civil Society Consultation on the Philippine Government’s Compliance on the CESCR, UPR and CAT Recommendations, June 17, 2010, 2nd floor conference room, PRRM Building, Mother Ignacia Ave., Quezon City
- 2.) NGO Consultation on the UPR, March 26, 2011, Ciudad Christia Resort, Brgy. Ampid, San Mateo, Rizal
- 3.) Universal Periodic Review 2nd Cycle Writeshop, September 12, 2011, Max’s Restaurant, Quezon Memorial Circle, Quezon City.
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- ⁶ Information and Communications Technology
- ⁷ In the study ICT-related VAW ranges in different forms- from cyberharassment which includes cyberstalking, blackmail and threats, monitoring and surveillance, and trolling and flaming; to cyberpornography and cybertrafficking, among others.
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Child Torture in the Philippines

A Joint Report to Universal Periodic Review (UPR)
by the International Rehabilitation Council
for Torture Victims (IRCT) and BALAY Rehabilitation Center

1. Introduction

Violence against children is a concern that has drawn wide public attention in the Philippines, with corporal punishment as one of the most recognized forms of ill treatment of minors. But there is yet another serious type of violence among young people below 18 years old that has to be distinguished and responded to. This is the phenomenon of torture among children.¹ This particularly happens in places where a large number of street children increases the likelihood of a minor being picked up by the police.² Many of these children do not have access to basic needs such as food, proper health care and education increasing their vulnerability to assaults by the authorities. Children involved in armed conflict can also be subjected to torture as a way of extracting information or as a method to intimidate communities.³ Reports show that children in detention and in some youth centers are subjected to ill treatment from the authorities as well.⁴

¹ The Convention against Torture (CAT) and the Convention on the Rights of Children (CRC) define torture as the intentional infliction of severe pain or suffering by a public official or an agent of a person in authority against another person for such purpose as obtaining confession or information, or as a form of punishment, intimidation, or coercion.

² Estimated number of street children in the Philippines: 250.000. See Committee on the Rights of the Child, Fifty-second session, Consideration of Reports Submitted by States parties under article 44 of the Convention. Concluding observations: The Philippines CRC/C/PHL/CO/3-4 2 October 2009, paragraph 74; Indonesia estimates: 170.000, India estimates: 11 million. See Consortium for Street Children. Street Children Statistics at http://www.streetchildren.org.uk/uploads/resources/Street_Children_Stats_FINAL.pdf

³ Journal on Rehabilitation of Torture Victims and Prevention of Torture Volume 19, NO.2, 2009, ISSN 1018-8185

⁴ Proceedings of a round-table discussion on Children and Torture, Balay Rehabilitation Center and IRCT, Quezon City, September 22, 2011

The Philippines is a state party to the United Nations Convention on the Rights of the Child (CRC) since 1990 and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1986.

2. Context of the Report

This report is prepared jointly by BALAY and IRCT. BALAY is a duly-registered non-profit organization that provides psychosocial support for survivors of torture and organized violence in the Philippines. It is a convener, and currently heads the secretariat, of the United Against Torture Coalition (UATC), a network of around 20 national civil society organizations that contributed for the passage of the anti-torture law in the Philippines in 2009.

The IRCT is a health-based umbrella organization that supports the rehabilitation of torture victims and the prevention of torture worldwide. The members of IRCT comprise more than 140 independent organizations in over 70 countries who govern the work of the IRCT. Today, the IRCT is the largest membership-based civil society organization to work in the field of torture rehabilitation and prevention.

In September 2011 BALAY and the IRCT undertook a joint fact finding mission and organized a forum on children and torture in the Philippines.⁵ **The findings of the fact-finding mission illustrate that:**

- The torture of children in conflict with the law (CICL) is widespread. At the same time no systematic reporting and documentation on cases of child torture is conducted, making the issue an urgent and alarming matter.
- There is a lack of differentiation between child abuse and child torture⁶ with the result that the awareness of torture of children is low, and therefore rarely reported.
- Philippine policies and laws fail to address the issue of children and torture in a comprehensive manner; or do not address the matter at all.
- Children are at most risk of torture from the time of arrest and until/if the child reaches a youth centre or NGO providing for care and rehabilitation - that is in places of detention, police lock-ups and jails. In the worst cases, torture and ill treatment continues to take place in closed institutions, places of detention or even in the youth homes.

⁵ “Are children being tortured?”, <http://worldwithouttorture.org/2011/10/25/%E2%80%99Care-children-being-tortured%E2%80%9D/>

⁶ UNICEF Innocenti Research Centre: Child Victims of Torture and Cruel, Inhuman Or Degrading Treatment. Dan O'Donnell and Norberto Liwski, IWP 2010-11, June 2010.

- Torture of children is used as a means of forcing confessions of a crime the child may or may not have committed; corporal punishment or correctional measures for petty crimes or delinquent behaviour, even when the behaviour does not fall under criminal measures; repression or threat to the families of the children i.e. for the parents to pay a bail for the release of the child
- The methods of torture used against children include; beatings, electrocution, placing bullets between the fingers, threats with gun, blind folding, bag over the head and punches, rape, stabbing in the legs, caging, threats towards the child and the family of the child, placement of “bomb” in hands, maltreatment and abuse in prisons and/or closed institutions.
- The main perpetrators of child torture is the police and/or local security forces or peace keepers known as “*tanods*” operating in the Barangays⁷.

TORTURE AND KILLING OF CHILDREN IN ZAMBOANGA - THREE CHILDREN WERE TORTURED AND BRUTALLY KILLED AND THEIR BODIES DUMPED IN AN IRRIGATION CANAL IN A FARMING VILLAGE IN ZAMBOANGA CITY IN THE SOUTHERN PHILIPPINES. CIVILIANS DISCOVERED THE BODIES – THEIR HANDS TIED BEHIND THE BACK AND HEAD COVERED WITH PACKING TAPE - IN THE VILLAGE OF TALABAAN ON WEDNESDAY, MARCH 31, 2011. POLICE SAID THE BODIES BORE HACK WOUNDS WHEN THEY FOUND THEM STILL COVERED ON HAYS TO HIDE THE GRIZZLY MURDER AND VICTIMS OF SUMMARY EXECUTIONS. NO GROUP CLAIMED RESPONSIBILITY FOR THE KILLINGS, BUT VILLAGERS CLAIMED TO HAVE SEEN A WHITE VAN LATE ON TUESDAY NEAR WHERE THE BODIES HAD BEEN FOUND. THE THREE VICTIMS WERE IDENTIFIED AS JERIC ESCOVER, 12; ELBY DABLO, 16; AND CARLO CATALAN, 13.⁸

Appendix A provides several illustrative examples of CICLs who have been exposed to torture. Common for all cases is that they all come from impoverished families, have lived a life on the streets, and have been suspected to or have been actually involved in petty crimes.

⁷ The *barangay* is the basic geo-political unit in the Philippines. It is run by elected officials that compose the Barangay Council, the leading governance structure in a barangay. A committee in a Barangay Council is responsible for the behavior and activities of the ‘*tanods*’ who serve as civilian peace keepers or neighborhood security force in a barangay. Several barangays can constitute a town or municipality, or even a city.

⁸ ‘Three teenagers brutally killed,’ Mindanao Examiner, March. 31, 2011. <http://zamboangajournal.blogspot.com/2011/03/3-teeners-brutally-killed-in-zamboanga.html>

3. Lack of reporting and documentation on cases of child torture

The Monitoring and Reporting Mechanism (MRM) established through UN Resolution 1612 on Children in Armed Conflict and led by UNICEF Philippines is mandated to verify cases of grave child rights violations; however the mechanism does not cover non-conflict situations and reports only on physical damage on the child. Capacity does not include reporting on psychological damage and no differentiation is made between intended and unintended violence. Thus, the MRM does not capture cases of tortured children. Representatives from UNICEF Philippines confirm a gap in reporting on torture in armed conflict as well as in the context of children in conflict with the law.

The Council for the Welfare of Children and the Juvenile Justice Welfare Council have no policies or mechanisms to monitor torture of CICLs. However, government social workers have instructions to document and obtain the profile and case history of so called child offenders for possible diversion or rehabilitation programs under the Juvenile Justice Law. This is due to the fact that CICLs are basically regarded as offenders and not as victims themselves. This kind of viewpoint disregards the fact that CICLs are in fact among the category of children in need of special protection.

4. National & local legislative framework Philippines

In 2009, the Philippines adopted an Anti-torture Act in which there is a special provision for aggravated penalties when torture is committed against children (Republic Act 9745, section 14). In addition, the Implementing Rules and Regulations (IRR) of the Anti-torture Act deal with the issue of children in a number of sections (15(b), 17 and 23) relating to support in the investigation process, support during testimonies in court proceedings and confidentiality of medical reports. However, the Anti-torture act includes no comprehensive thinking on how to address torture of children. An example is the lack of or inadequate consideration on the indicators for determining the level of pain or suffering for children that may qualify as an element of torture. There seems to be no clear cut distinction between what could constitute torture for adults and that of children considering that children are more vulnerable in the light of their level of human development. Jurisprudence from the European Court of Human Rights, Inter-American Court of Human Rights and United Nations agree that: "when the victim is a child, his or her greater vulnerability must be taken into account in determining whether the acts inflicted constitute torture or cruel, inhuman, degrading treatment or punishment (CIDT)"⁹. There is a considerable need for addressing the threshold of torture when the victim is a child.

The Philippine Juvenile Justice and Welfare Act (RA 9344) adopted in 2006 stipulates that every *child in conflict with the law* shall have "*the right not to be subjected to*

⁹ UNICEF Innocenti Research Centre: Child Victims of Torture and Cruel, Inhuman Or Degrading Treatment, pp. 21. Dan O'Donnell and Norberto Liwski, IWP 2010-11, June 2010.

torture or other, cruel, inhuman or degrading treatment or punishment (Chapter II, sec. 5)". Importantly, in the context of children and torture, RA 9344 provides for protection and child-friendly proceedings for child offenders or children in conflict with the law (CICLs). Nonetheless, 5 years after the adoption of RA 9344 its is still not being effectively implemented, which has resulted in heavy criticism of the the law in the Philippine Congress as well as by the media. Recently, a new bill lowering the age of criminal responsibility from 15 to 9 has been proposed and is currently in process. This is a turn around from the fundamental concern for the protection of children's rights and juvenile justice being promoted by the UNCRRC.¹⁰

Meanwhile, Republic Act 7610 or the law that aims to protect children against child abuse, exploitation and discrimination has defined "child abuse" as the "maltreatment, whether habitual or not, of the child." It cited the following kinds of abuse, such. (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment; (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death. While these kind of abuse may very well point to a torture situation, the law has failed to include torture of children as a very serious form of violation of the right of the child in conformity with the UNCRRC.

5. Recommendations

- a. Establish a systematic inter-agency national monitoring, documentation, and reporting mechanism for tortured children consist of the Council for the Welfare of Children, the Commission on Human Rights and Non-Governmental Organizations
- b. Withdraw the amendment of the RA 9644 that seeks to lower the age of criminal responsibility of children from 15 to 9 years old.
- c. Include the prevention, documentation, reparation, and rehabilitation of tortured children in the National Plan of Action for Children (NPAC)
- d. Amend RA 7610 – the law on child protection – to include references to torture of children as an aggravated form of child abuse.
- e. Improve the Monitoring and Reporting Mechanism being promoted by the UNICEF in the Philippines to include the category of child torture as one of the six grave human rights violations.
- f. The issue of children and torture should be included in the reporting to international mechanisms.

¹⁰ South Asia and the Minimum Age of Criminal Responsibility: Raising the Standard of Protection for Children's Rights; http://www.unicef.org/rosa/Criminal_Responsibility_08July_05%28final_copy%29.pdf

The PHILIPPINES Report

**Information Submitted
to the Human Rights Council
Universal Periodic Review**

Cycle 2 Review, 13th Session (2012)

A joint Submission
by the ECPAT Philippines, AsiaACTs and PACT
in collaboration with ECPAT International
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About the ECPAT Philippines and ECPAT International, Asia ACTS and PACT

This is a joint submission for the Philippines Universal Periodic Report focusing specifically on the situation of commercial sexual exploitation and trafficking of children. The lead organizations in this report are End Child Prostitution, Child Pornography and Trafficking of Children for sexual purposes (ECPAT) Philippines, Asia Against Child Trafficking (Asia ACTS) and Philippines Against Child Trafficking (PACT) in collaboration with ECPAT International.

Since 1996, ECPAT Philippines has been working in the Philippines as a member organization of the ECPAT International global network of 82 member organizations based in 75 countries around the world aiming at preventing and eliminating all forms of child prostitution, child pornography and the trafficking of children for sexual exploitation. ECPAT International seeks to encourage the world community to ensure that children everywhere enjoy their fundamental rights, free and secure from all forms of commercial sexual exploitation.

Asia ACTS is a regional network of more than 100 organizations in Southeast Asia. Since its inception in 2001, it has been working with other non-government organizations and agencies at the international, regional and national levels to advance measures that address child trafficking and to establish strong and effective child protection mechanisms in South East Asia.

Finally, The Philippines Against Child Trafficking (PACT) is a network of child rights advocates committed to building communities that protect children against trafficking. Its members include non-government organizations and people's organizations as well as individuals from government, who believe it is the moral responsibility of the government, business sector, academe and faith-based organizations, people's organizations and families to create such a community.

Executive Summary

The report aims to provide a review of the four-year period between 2008 and 2011 of the situation of the implementation of international obligations and commitments to end commercial sexual exploitation of children (CSEC) and child trafficking in the Philippines. It has been observed that in the first session of the Universal Periodic Report in 2008, the Philippines accepted the recommendation made by Italy "to address legislative gaps in the field of children's rights in order to fully comply with the 2005 recommendations of the Committee on the Rights of the Child."

Furthermore, by recognizing the Philippine Government's response to the recommendation of Belarus, which is "to continue its successful policy in combating trafficking in human beings at the national level and to play a leading role at the international level on this matter," the issue of domestic and cross-border trafficking and the gaps in implementing child protection laws to address the problem has to be raised

The Philippines has comprehensive legislation, committees and child protection structures to address the human rights concerns of trafficking and CSEC. However, the major challenges are its lack of implementation, coordination, and adequate budget. For instance, the new law on Anti-Child Pornography (Republic Act 9775) does not have a budget appropriation for its effective implementation.

The issue of adequately appropriating funds is a major gap in effectively implementing existing legislations especially in the area of child protection throughout the Philippines. Therefore, in order to completely fulfill its human rights obligations, Asia ACTs, ECPAT Philippines and PACT urges the Philippine Government to allocate sufficient resources for the full implementation of existing laws and for relevant activities, such as training of law enforcers and data collection and monitoring mechanisms, in order to eliminate trafficking and commercial sexual exploitation of children.

The allocation of sufficient resources must also cover the capacity building of social service providers for the successful prosecution of trafficking and CSEC cases. At present, prosecution are minimal, disposition of cases are slow, and no national data is generated from the Inter-Agency Council Against Trafficking (IACAT).

Observations of the Committee of the Rights of the Child, it is stated that, “with regard to the trafficking of children in the Philippines, within the country and across its borders, the Committee endorses the recommendation adopted by the Human Rights Committee at its seventy-ninth session in 2003 on taking appropriate measures to combat trafficking in all its forms, by ensuring effective enforcement of the relevant legislation and imposing sanctions on those found responsible” (Paragraph 83).¹

This report endeavours to evaluate the measures taken by the Philippine Government since participating and affirming its commitments to the *2008 World Congress III* on the Commercial Sexual Exploitation of Children and Adolescents (held in Brazil). The authors of this report hope to make a contribution to the evaluation of the measures taken by the Philippines Government in these areas of minimizing CSEC.

Part of the information presented in this document is based on the *Global Monitoring Reports on the Status of Action Against Commercial Sexual Exploitation of children from 2011*². These documents are produced by ECPAT International in order to provide comprehensive baseline of information on actions taken and remaining gaps for addressing CSEC, based on the framework of the Agenda for Action from the first World Congress against Commercial Sexual Exploitation of Children. Further findings have are drawn from relevant literature from partner organizations working in the field of trafficking and Philippine Government agencies.

Key words: Commercial Sexual Exploitation of Children, Trafficking, Child Prostitution, Child Pornography, Labor Trafficking, Organ trafficking, legal frameworks.

¹ Committee of the Rights of the Child, 2005, Para 13

² ECPAT Philippines, Global Monitoring Report, 2011.

Addressing Commercial Sexual Exploitation of Children and Child Trafficking in the Philippines

1. International, Regional and Domestic legal standards in relation to CSEC

The Philippines have ratified all core legal standards protecting children from commercial sexual exploitation (Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the ILO Convention on the Worst forms of Child Labor. Also, the Philippines has reaffirmed its commitments to make progress with regard to the protection children from sexual exploitation during the World Congress III against the Sexual Exploitation of Children and Adolescents, in November 2008 in Brazil. Moreover, the Philippine Government, in December 2008 Philippines has signed the ASEAN Declaration Against Trafficking in Persons in 2008. And furthermore, in 2007 the Philippines as a member of ASEAN The Guidelines for the protection of the rights of trafficked children.

2. Domestic Legislation Addressing Child Prostitution

The provisions of the Anti-Child Abuse Act of 1992 addressing the prostitution of children are largely in line with Article 2 of the Optional protocol on the sale of children, child prostitution and child pornography. However, the Filipino legislation does not explicitly stipulate that a child who is a victim of prostitution will be exempted from prosecution. Even though it is reported that in practice children victims of prostitution are not prosecuted under these laws and are treated as victims, such a legal loophole could leave children involved in prostitution at risk of being prosecuted³. This report urges for the amendment to current legislation to prevent the occurrence of such situations.

Both the Anti-Child Abuse and Anti-Child Pornography Acts establish national jurisdiction over commercial sexual exploitation of children related crimes, which is in line with Article 4 of the Optional Protocol on the sale of children, child prostitution and child pornography.

However, Filipino citizens who sexually exploit children in a foreign country and who escape prosecution in the country where the alleged acts were committed cannot be prosecuted under Filipino penal laws for such crimes as the Philippines have not yet enacted extraterritorial legislation which could be used by Filipino courts to prosecute and convict those offenders. This is a major legal vacuum that should be urgently covered by the enactment of extraterritorial laws addressing all commercial sexual exploitation of children related offenses⁴.

³ Ibid.

⁴ ECPAT International *Global Monitoring Report on the status of action against commercial sexual exploitation of children Philippines* – 2011

Recommendations:

- Amend the Anti-Child Abuse Act of 1992 to ensure that a child victim of prostitution will not be prosecuted.
- Extraterritorial laws covering all commercial sexual exploitation of children related offenses in the Philippines should be urgently enacted.

3. The New Legislation Addressing Child Pornography

In 2009, the Anti-Child Pornography Alliance (ACPA), including ECPAT Philippines, together with UNICEF, the Council for the Welfare of Children (CWC) and Microsoft Philippines coordinated their efforts in lobbying for the passage of the Anti-Child Pornography Bill. As a result, in November 2009, the Philippines enacted Republic Act No. 9775, or the *Anti-Child Pornography Act of 2009*. The Act created the *Inter-Agency Council against Child Pornography (IACACP)* as the body that is primarily tasked to coordinate, monitor, and oversee the implementation of the Act.

The Act 2009 is a comprehensive law that offers protection beyond the minimum requirements of the Optional protocol on the sale of children, child prostitution and child pornography. The Act provides a definition of child pornography fully in line with the requirements of the Optional Protocol, which include the criminalization computer-generated representations of a person who is represented or who is made to appear to be a child. In addition, in line with the requirements of the OPSC and in line with the Rio Declaration and Call for Action, an outcome document of the Third World Congress against Sexual Exploitation of Children and Adolescents (2008), the Act of 2009 defines and prohibits the solicitation of children for sexual purposes (grooming) and prohibits the act of knowingly accessing child pornography. The Act 2009 also imposes reporting obligations also upon private sector actors (internet service providers, photo developers, Information Technologies professionals, credit card companies, banks) that are well placed to assist in the fight against child pornography.⁵

The Act also requires the appropriate protection measures to be established for child victims of pornography and online abuse offences. Confidentiality in evidence-handling process and witness protection are guaranteed by the Act as well as the access by victims to adequate recovery and reintegration services.

Even though the *Anti-Child Pornography Act* is a very comprehensive law to prevent and combat child pornography, its effective implementation remains challenging, as it requires huge resources especially with regard to the provision of adequate assistance and support to child victims and training of law enforcement personnel.

⁵ Republic Act No. 9775, 2009 *ibid*

Recommendations:

- The government should ensure that the national and local government units (LGU) implement a sufficient budget for the implementation of legislation. That working groups, such as the *Inter-Agency Council against Child Pornography* (IACAP) have adequate budgets to popularize legislation to ensure implementation occurs.
- Filipino public authorities should ensure the new anti-child pornography laws are effectively enforced by adequately trained and equipped law enforcement personnel

4. Key areas of concern with regard to the implementation of children's rights to protection against Commercial Sexual Exploitation and trafficking in practice

There is limited budget allocated for the implementation child's rights laws and policies. Even though comprehensive legislation and policies protecting children from all forms of commercial sexual exploitation do exist, their translation into concrete programs and welfare services for children suffers from inadequate budgeting⁶. For example, the Anti-child Pornography Act (2009) was enacted without a budget allocation for the body in charge of monitoring its implementation. In addition, many Barangay Councils for the Protection of Children, in charge of promoting child rights and monitoring crimes committed against children are not fully operational due to lack of adequate resources to fully implement the relevant policies, programs and services that they are in responsible for. Furthermore, the Anti-Trafficking in Persons Act of 2003 or Republic Act 9208 (RA9208) requires a greater amount of resources from the national level down to the local government units. To fully implement the legislation effectively the existing resources must be equipped with knowledge, capacities, skills and tools in order to carry out targeted and sustainable prevention, protection, and prosecution efforts. Without sufficient budget, there is difficulty in the full implementation of the law, to generate appropriate and sufficient programs, limited awareness raising and an incapacity to generate appropriate data.

IACAT developed the Philippine Anti-Trafficking in Persons Database (PATD) in October 2009. This measure reflects a positive response to the Committee on the Rights of the Child's recommendation on "*Establishing a strong and systematic monitoring mechanism for gathering data to ascertain the number of victims and the purpose of trafficking.*"⁷ Also, that gathered data should aid the Government in the development and formulation of programs that would eliminate child trafficking.

⁶ Council for the Welfare of children Republic of the Philippines, 2010 State of Filipino Children Report: Child friendly governance: focus on resource allocation.

⁷ United Nations Committee on the Rights of the Child. *Concluding Observations: The Philippines*. 2009

However, despite the adoption and development of these instruments and tools, their valuable objectives are not fully realized because they are not properly implemented and utilized. The Philippines still does not have a national data that would determine the extent of child trafficking within and across borders. As a way to ensure the adoption of practices Inter-Agency Councils Against Trafficking (IACAT) should endeavor to coordinate programs, trainings and measures against trafficking in children.

In relation to the Anti-Trafficking Act RA9208 in 2003, there have been 61 convictions for human trafficking cases, and out of these convictions, only 25 cases involve children victims.⁸ Majority of these trafficked children are victims of sexual exploitation, while the rest were survivors of forced labor. The state Party needs to still continue to improve the investigation methods of cases, which should be done through building the capacity of law enforcement to handle cases of trafficking in children.

Lastly, it has been reported that corruption in the Philippines may have an impact on the allocation of funding for children's rights. President Aquino stated in his budget message of 2011 that an equivalent of 20% of the country's budget is wasted due to corruption⁹.

Recommendations:

- Utilize the Philippine Anti-Trafficking in Persons Database and maximize this tool and the reports it can generate to determine the extent of the problem and to develop/formulate concrete and targeted programs
- Further strengthen the National and Local Inter-Agency Councils Against Trafficking (IACAT) by enhancing their capacities to prevent and protect the children and to effectively coordinate anti-trafficking efforts of different agencies, NGOs and civil society.
- Ensure that coordinating and implementing bodies at the national, provincial and local level are adequately funded and equipped with tools and human resources to respond to the specific needs of children victims of commercial sexual exploitation and trafficking.
- Improve efforts to prosecute and convict child trafficking offenders by, for instance, developing a specific training programme for judges and prosecutors on child trafficking related issues

⁸ Inter-Agency Council Against Trafficking. *TIP Convictions*. 17 Nov 2011.

⁹ President Aquino's 2011 Budget Allocation Speech accessed October 29 2011 <http://www.gov.ph/2010/08/24/president-aquino-2011-budget-message/>

- Continue sensitizing and training prosecutors, judges and law enforcers about child trafficking.
- Equip law enforcers with knowledge and practical skills in gathering and preserving evidence.

5. A lack of common understanding of commercial sexual exploitation and trafficking of children related issues by relevant stakeholders.

While much training on child protection laws and learning toolkits have been provided to relevant stakeholders by the Philippine government and civil society organisations, the lack of a programmatic approach and the lack of consistency and sustainability of such initiatives have been criticised.

Therefore, as highlighted by the Council for the Welfare of Children in 2008, there is a lack of adequate and common understanding of the provisions of relevant international and national legal standards by majority of the stakeholders, including both government agencies and the civil society organisations, which constitutes a major challenge with regard to the effective implementation of those legal standards.¹⁰

Recommendations:

- Ensure that regular training on child trafficking and on commercial sexual exploitation of children related issues is planned, funded and delivered to relevant stakeholders (law enforcement personnel - including judges, prosecutors and social workers) as well as to civil society organizations and private sector.

6. Lack of assistance and support services for child victims of Commercial Sexual Exploitation and Trafficking

Even though the Filipino government has made some efforts to develop assistance and support services for victims of trafficking as mandated under RA 9208, including: counseling; legal services; transportation assistance; family assessment; temporary shelter; referral for medical and dental examination; educational assistance and skills training¹¹, such services are not systematically available for all children victims of commercial sexual purposes and trafficking. For instance, the 42 temporary shelters for victims of all types of abuse run by the Department of Social Welfare and Development are not sufficiently specialized and adequately equipped and staffed

¹⁰ Council for the Welfare of Children (CWC), 2008 Report to the World Congress III Against Sexual Exploitation of Children and Adolescents.

¹¹ Committee on the Rights of the Child, Third and fourth periodic reports of States parties due in 2007 – Philippines, 2008,

with specifically trained social workers to meet the specific needs of child victims of sexual exploitation.

Continuing its Anti-human trafficking efforts, the Philippine Government, through the Inter-Agency Council against Trafficking (IACAT), adopted the Philippine Guidelines for the Protection of the Rights of Trafficked Children in July 2008 and the National Referral System in March 2009. These systems aimed to facilitate the provision for appropriate and timely services for referred trafficked children upon their rescue and throughout their recovery and reintegration. However, there is concern in relation to the full implementation and evaluation of these guidelines to assist and support child victims.

Further research and studies that comprehensively examine trafficking in children related to all forms such as for sexual exploitation, organ harvesting, illegal adoption and forced labor is much needed to be enacted by the State Party. This would assist in developing more comprehensive data on the existence of these clandestine issues, raise awareness for these human rights concerns and provide more information to improve policy and legislation in the Philippines.

Recommendations

- Ensure that adequate support services are systematically available to children victims of trafficking and any form of commercial sexual exploitation.
- The Philippine Guidelines for the Protection of the Rights of Trafficked Children, the National Referral System need to be fully implemented with the support of IACAT and a sufficient budget.
- Comprehensive research on all forms of trafficking needs to take place by the State Party to completely address the issue in the country.

f FRONT LINE DEFENDERS



Submission by: Front Line Defenders - the International Foundation for the Protection of Human Rights Defenders, and Human Rights Defenders - Pilipinas

Related to:
The Philippines

UPR Session:
13th Session of UPR, 21 May – 4 June 2012

Submitted:
28 November 2011

1. The following submission has been prepared jointly by Front Line Defenders – the International Foundation for the Protection of Human Rights Defenders, and the Human Rights Defenders – Pilipinas (HRDP) based on research carried out by these organisations and information received from independent human rights defenders in the Philippines from January 2008 to November 2011.

2. Front Line Defenders (www.frontlinedefenders.org) is an international NGO based in Ireland with special consultative status with the Economic and Social Council of the United Nations. Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on Human Rights Defenders adopted by General Assembly resolution 53/144 of 9 December 1998.

3. HRDP is a membership organisation of individual human rights defenders actively engaging in the promotion, defence, protection and fulfilment of “human rights for all” in the Philippines on various issues including civil, political, economic, social, cultural spheres or in the field of development and peace. It focuses on the protection of human rights defenders.

General trends facing human rights defenders

4. Ms Margaret Sekkagya, the UN Special Rapporteur on the situation of human rights defenders, stated in her report to the 16th session of the Human Rights Council that “the Special Rapporteur remains seriously concerned regarding the persistent challenges faced by human rights defenders in the Philippines”.

5. The threats against human rights defenders since the last UPR session on the Philippines in April 2008 remains unchanged. Human rights defenders face extra-judicial killings, enforced disappearances, threats and intimidations, illegitimate restriction to the rights of freedoms of opinion and expression, peaceful assembly, and association. Human rights defenders working in the field of peasants’ rights, land rights, and indigenous human rights defenders continue to face specific threats. The state security forces, including the military and the police, continue to abuse human rights defenders with impunity. The cases mentioned in this report were not properly investigated by the authorities and the perpetrators remained unpunished.

6. Human rights defenders regardless of their geographical locations continue to be branded as working as fronts for the Communist Party of the Philippines and its armed wing, the New People’s Army (CPP-NPA) as a way to dismiss their work and legitimate concerns. Defenders, working specifically in the Southern Mindanao area, have been branded as members of the Moro Islamic Liberation Front or the Abu Sayyaf terrorist group. The security forces have used this rhetoric to implement their “shoot to kill” policy against human rights defenders.

Extra-judicial killings, enforced disappearances, and impunity

7. At the first UPR review, the Philippines accepted the recommendation “to completely eliminate torture and extrajudicial killings” (Holy See) and “to intensify its efforts to carry out investigations and prosecutions on extrajudicial killings and punish those responsible” (Switzerland). Despite this commitment, 23 cases of extra-judicial killings were documented from 2008 to 2011, claiming 30 victims.¹ In the same period, 79 cases of enforced disappearance were reported. Of these, 50 ended with the victim reappearing alive; in five cases the victim was found dead; and 24 remain missing.²

8. The Philippines, despite being a party to international human rights treaties, which impose a duty on the state to investigate alleged violations of the right to life, including extra-judicial killings, has provided human rights defenders with little or no protection. While soldiers, police, and militia members have been implicated in many of these killings, no member of the military active at the time of the killing has been brought to justice.

9. While different statistics exist relating to the exact number of human rights defenders killed in recent years, human rights lawyers, journalists, union and community leaders, continue to be targeted and extra judicially killed or disappeared with impunity. These cases have not been treated with priority by the government. The authors of these killings are usually unidentified individuals on motorcycles, suspected of having ties with the army, the police and other law enforcement agencies.

10. Mr Celso Pojas was shot dead on 15 May 2008 outside the offices of the Farmers Association in Davao City (FADC). He was the secretary-general of the FADC and very vocal against militarisation in indigenous communities. He worked to defend the land rights of farmers and indigenous people in the Philippines. The day he was shot, he had planned to travel with members of the FADC and the Peasants Movement in the Philippines (Kilusang Magbubukid ng Pilipinas -KMP) to Compostella Valley to visit an indigenous farming community which had been forcibly displaced by the military. In February and March 2008 Pojas campaigned against military operations which had allegedly caused increased human rights violations against indigenous people and farmers in the Compostella Valley Province. Pojas had been under surveillance since December 2007 and had received death threats since March 2008.

11. Mr James M. Balao is a victim of enforced disappearance since 17 September 2008. He is a member of the Cordillera Peoples' Alliance (CPA), an independent group of non-government organisations in Cordillera region which works to promote democracy and protect the rights of indigenous peoples. On the morning of 17 September 2008, Balao left Fair view, Baguio City to go to his family residence in La Trinidad,

¹ Task Force Detainees of the Philippines. Collated Statistics. October 2011.

² Families of Victims of Involuntary Disappearance. Collated Statistics. October 2011.

Benguet. He did not reach La Trinidad, and his family and associates have been unable to obtain any information regarding his whereabouts since then. Prior to the incident, Balao had reported that he had been under surveillance since June 2008. It is reported that organisations such as CPA may have been categorised by the security forces under Oplan Bantay Laya policy as sectoral fronts for the CPP-NPA.

Arbitrary arrest and torture

12. Arbitrary arrest and torture in detention have been used to impede and discourage the activities of human rights defenders. The Anti-Torture Act criminalizes torture and introduces mechanisms to prevent torture. Although it was passed in 2010, non-compliance by law enforcement officials and prosecutors has persisted resulting in the dismissal of cases brought by victims against the alleged perpetrators. While the national police and the military are conducting training on the law, they have yet to disclose the location of secret detention facilities where instances of torture are reported to occur. Furthermore, they have yet to prove that torture is not part of their “standard operating procedure”. From 2008 to 2011, 105 cases of torture were documented involving with 163 victims.³

13. On 27 May 2009, Mr Rafael Limcumpao, Mr Domingo Alcantara and Mr Archie Bathan were arrested by combined elements of the 303rd Provincial Mobile Group (PMG) of the Philippine National Police (PNP), and 72nd Military Intelligence Company and 3rd Infantry Battalion, both under the command of the 703rd Brigade of the Philippine Army (PA), all armed with automatic rifles and firearms. The three human rights defenders were attending a meeting at the private residence of Patricio Esconde, in Samal, Bataan. The combined police and military personnel raided the residence and ordered the three to lie down on the floor. Bathan tried to escape and ran outside towards the rice fields. He was chased and eventually apprehended after warning shots were fired. Limcumpao, Alcantara and Bathan were then kicked and beaten with rifles while they were being frisked and handcuffed. They were forced separately into two vehicles and taken to the 303rd PMG headquarters in Camp Tolentino, Balanga, Bataan. At no point were they presented with arrest warrants or informed as to why they were being arrested. While at Camp Tolentino, Limcumpao, Alcantara and Bathan were tortured by members of the Police Intelligence Branch (PIB) during interrogation. Bathan was reportedly blindfolded and hit in the face with a solid object. They also used the torture technique called “Russian roulette” and struck his ears with cupped hands several times without warning. Alcantara was punched in the head and chest. Limcumpao was also beaten and suffocated using a thick plastic bag. All three were forced to admit that they were members of the armed group Rebolusyunaryong Hukbong Bayan (RHB) of the Marxist-Leninist Proletarian Party (MLPP). The victims were also forced to submit their fingerprints. The beatings continued until approximately 2am the following day.

³ Task Force Detainees of the Philippines. Collated Statistics. October 2011.

Freedom of assembly

14. Philippine law provides for freedom of assembly. In practice however the authorities restrict it and peaceful demonstrations were broken up. Such an infringement to the right of freedom of assembly was observed on 14 June 2011, when private guards employed by the Central Mindanao University (CMU) opened fire and beat protestors who had set up camp outside the university in Dologan, Maramag, Bukidnon in the southern Philippines.

15. Human rights defenders Messrs Billy Jardin, Gregorio Santillan and Larry de Vera received gunshot wounds and Messrs Wenni Loable, José Benemerito and Ms Marilou Portin were seriously injured. The protesters were members of Buffalo-Tamaraw-Limus– (BTL) Farmer's Association and BTL Women's Association. BTL is an umbrella organisation of three local peasant groups Buffalo, Tamarawa and Limus. They were protesting against the forcible eviction of 800 peasant families from these lands. Jardin, Santillan and de Vera sustained gunshot wounds and were rushed to the nearest hospital where they awaited surgery to have the bullets removed. It was reported that no one from the authorities helped the human rights defenders while medical care was delayed as they had no means to pay for it.

Death threats and intimidation

16. One other method of hindering and in some cases stopping the work of HRDs in the Philippines is threatening and intimidating them. For HRDs, receiving threats and experiencing intimidation are signs that someone, usually state authorities, is uncomfortable with their work. Threats act as a warning and bring some human rights defenders to stop their work and close offices or face death.

17. On 27 June 2009, Ms Aurora Broquil, Chairperson of Movement for National Democracy (Kilusan para sa Pambansang Demokrasya - KPD) in Central Luzon, Mr Francisco Honra, Secretary-General of the Nuclear Free Bataan Movement (NFBM) and Ms Emily Fajardo, KPD worker organiser and NFBM treasurer, received direct death threat through a text message from an anonymous sender alleged that they were members of the Communist Party of the Philippines. At 9.44am, a text message was sent to Broquil's mobile phone stating "the barrel of our guns will be the last thing that you will see! You, communists who have blood debts in the Filipino people will pay for it!". A few minutes later, around 10am, the same message was sent to Fajardo, while Honra had received it the day before. The next morning, on 28 June, Broquil was alarmed by the unusual presence of two identified men riding in two motorcycles roaming several times near her office in Dolores, city of San Fernando.

18. Following an ongoing campaign of intimidation against members of its staff, namely Ms Emerita Lor, Ms Gloria Jandayan and Ms Julieta Casinillo, the Community-Based Health Services-Northern Mindanao Region (CBHS-NMR) was forced to close its office temporarily. CBHS-NMR works to ensure the delivery of basic services in

rural areas and advocates the interrelation of health and human rights. On 2 June 2011, CBHS-NMR decided to close its offices and relocate Lor, Jandayan and Casinillo due to the ongoing harassment and intimidation to which they were subjected. On 1 June 2011, Lor noticed a man loitering near the office of CBHS-NMR from around 9am to 1pm. She recognised the man as the same person who had followed her for a long time on 12 May 2011 before she was able to get into a taxi. Jandayan and Casinillo identified him as the same man who had approached them as they were working in the Medical Centre. He had asked them about their personal circumstances and those of the patients they were treating. On 31 May 2011 an unidentified caller rang the office of CBHS-NMR and told the Resident Nurse that CBHS-NMR and Emerita Lor should watch out. The caller claimed that CBHS-NMR staff were medics of the New People's Army (NPA), a rebel group. On the same date of the threatening phone call, Lor reported that she had been trailed by two unidentified men following a community health training. These acts of harassment and intimidation came before a number of phone calls to the CBHS-NMR office beginning April 2011 from unidentified callers inquiring as to the whereabouts of its staff.

Cooperation with the UN Special Rapporteur on human rights defenders

19. The Philippines government has not fully cooperated with the UN Special Rapporteur on the situation of human rights defenders. The mandate-holder issued a request to visit the country in November 2008 and has issued a follow-up request on 21 January 2010, however, she has yet to received a positive response from the government.

20. According to the report of the Special Rapporteur on the situation of human rights defenders to the 16th session of the Human Rights Council (HRC) in February 2011, the authorities has not replied to 22 urgent appeals and letters of allegations concerning the safety of 215 human rights defenders at risk that the mandate-holder had transmitted to the government from 21 January 2004 to 29 November 2010.

21. The Special Rapporteur and former Special Representative of the Secretary General have continued to raise their concerns regarding the situation of human rights defenders in the country. The Special Rapporteur stated in her reports to the 10th, 13th, and 16th session of the HRC in May 2009, February 2010, and February 2011 that she remains seriously concerned of the challenges faced by Filipino human rights defenders and expressed the need to “strengthen the dialogue with the authorities on the worrying situation of human rights defenders in the Philippines” through her country visit.

Development since the previous UPR Cycle

22. In the first UPR cycle, the Philippines accepted a recommendation from Canada to “[e]nsure that members of the security forces are trained on human rights and on their responsibility to protect human rights and human rights defenders”. The Philip-

pinas has not made a mid-term report to the Human Rights Council regarding the progress of its implementation, despite a recommendation in this sense. The absence of such report makes it difficult for relevant stakeholders to monitor any progress.

23. Philippine authorities indicated to Front Line Defenders and HRDP that the Philippine National Police (PNP) has implemented its human rights development programme which included creating 1,740 positions of Human Rights Desk Officers to mainstream human rights in all its stations throughout the country; training 474 police personnel through human rights seminars; and inspecting 1,381 detention facilities. However, besides any possible other concerns, the PNP programme does not seem to include a specific focus on human rights defenders and their right to promote and protect human rights. The information provided in this submission shows how human rights principles and standards are yet to be integrated in the work of military and security personnel, as evidenced by the persistence of a militarist approach towards insurgency problems, vilification campaign against HRDs and the frequent use of torture to extract information.

24. Front Line Defenders and Human Rights Defenders – Pilipinas call upon the UN to urge the Philippine authorities to prioritise the protection of human rights defenders and in doing so to:

1. Conduct an independent inquiry into the source of threats, ill-treatment, torture and all forms of intimidation and harassment directed towards all those human rights defenders mentioned in this report;
2. Take urgent measures to end extra-judicial killings and enforced disappearances of human rights defenders, investigate all the cases, and bring those responsible to justice;
3. Ensure that all human rights defenders in the Philippines are free to carry out their human rights activities free from persecution;
4. Cooperate fully with the UN Special Rapporteur on the situation of human rights defenders by responding to urgent appeals and letters of allegations and accept the mandate-holder's request to visit the country;
5. Fully implement the adopted UPR recommendations on human rights defenders in a transparent and participatory manner with full involvement of human rights defenders at all levels;
6. Publicly review the content, methodology, and application of human rights curricula and modules for the security sectors and include a specific focus on the legitimate role and work of human rights defenders.

Philippine Coalition on the U.N. Convention
on the Rights of Persons with Disabilities

**A submission to the United Nations
Human Rights Council
on the Universal Periodic Review**

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SUMMARY

Human rights violations of Filipinos with disabilities in the context of the U.N. Convention on the Rights of Persons with Disabilities revolve around the human rights of education, social protection and work. Particularly compelling among other violations are those consisting of inhumane treatment and violence against women and children with disabilities. These are perpetuated by noncompliant domestic legislation, many of which are also not even fully implemented. These are further compounded by multiple exclusion in areas needing participation and accessibility. As a result, there continues to be serious impact on access to justice, independent living, inclusive education for all, poverty reduction and political participation - all undermining the inherent dignity and worth of Filipinos with disabilities.

Key Words: Persons with disabilities, education, social protection, work, inhuman treatment, violence, participation, accessibility, access to justice, independent living, poverty reduction, political participation

KEY RECOMMENDATIONS

Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Revise or abolish domestic laws discriminatory to persons with disabilities.

- 1. On the right to full and effective participation including political participation and the right to vote:**
Ensure full participation of persons with disabilities in all legislative, policy-making, electoral and budget proceedings.
- 2. On the right to language and culture:**
Protect the cultural and linguistic identity of children with disabilities and actively employ teachers with disabilities.
- 3. On the right to education:**
Ensure fully accessible learning environments to children with disabilities according to the principles of Universal Design.
- 4. On the right to work:**
Remove discriminatory barriers to persons with disabilities in formal and informal employment.

5. **On accessibility, particularly the rights to personal mobility, liberty of movement and information and communication:**
Ensure full accessibility to the physical environment, transportation, information and communication for all persons with disabilities in urban or rural areas.
6. **On the right to live independently and be included in the community:**
Ensure full enjoyment to live and participate in the community for all persons with disabilities.
7. **On the right to an adequate standard of living and social protection:**
Ensure disability-specific social protection measures which address the needs of persons with disabilities and their families, particularly those in extreme poverty.
8. **On the right to integrity of the person:**
Protect persons with psychosocial disabilities from all forms of violence, and investigate and prosecute allegations of torture or inhuman treatment.
9. **On the right to protection against violence:**
Address the root causes of violence against persons with disabilities, particularly considering the intersection of disability with gender and age.
10. **On the right and access to justice**
Protect and ensure access to justice by persons with disabilities, specially for law enforcement, and in courts and prisons.

ABOUT THE COALITION

1 The Coalition was initially organized in 2010 and formally constituted in February 2011. The core group is currently comprised of eighteen disabled people's organizations (DPOs) and nongovernment organizations (NGOs), covering nine disability constituencies, and several national federations. The Coalition as a whole represents over 65,000 Filipinos with disabilities.

2 Communication within and among these national organizations / federations on disability rights has been going on informally for decades. However, it is only in the past year, with the creation of the Coalition, that these consultations have been formalized. Ongoing regional / provincial consultations across the 7,000 islands are a major activity of the Coalition. Aside from these grassroots workshops, feedback from remote areas are done through internet and mobile phone communications. Other prominent activities of the Coalition include: policy review of domestic law in the context of international commitments, disability budget analysis, engagement with various national and local government agencies for participation in public fi-

nance, and legislative lobbying with Congress and Senate. Individual disability member organizations also participate in local projects, programmes and services directly impacting their constituency.

OVERALL HUMAN RIGHTS SITUATION IN THE PHILIPPINES

3 The framework for human rights for all Filipinos is anchored in the Philippine Constitution, from which the executive, legislative and judicial branches of government draw their mandates and scope of responsibilities. The Constitution also provides for the creation of the independent Commission on Human Rights to monitor government compliance.

4 There have been at least twelve disability related laws and executive orders since the 1950s. However, these have faced challenges of implementation, monitoring and budgetary appropriations (1).

5 The Philippine Human Rights Committee was also directed to formulate the National Human Rights Action Plan. Human rights entities down to the grassroots include inter-agency councils (on trafficking, juvenile justice, violence against women and children, and others), offices in the Armed Forces, Philippine National Police (including Women's & Children's Desks), barangay human rights action centers. The *Katarungang Pambarangay* (Village Justice System) assists in dispute settlement under the Local Government Code. Particular justice systems are also present for Indigenous Peoples and Muslim Filipinos.

6 The Philippines has also ratified U.N. core treaties including the Optional Protocols of the CEDAW and CRC. It must be noted that the Optional Protocol of the U.N. Convention on the Rights of Persons with Disabilities (UNCPRD) has not been ratified. The National Human Rights Action Plan was formulated two years ago but it has not been approved by the current administration. The government has also legislated human rights laws pertaining to the rights of other vulnerable sectors such as women, children, indigenous peoples, migrant workers, and older persons.

7 The Philippines has a vibrant human rights movement comprised of many NGOs and peoples' organizations covering a wide range of advocacies. Civil society is a strong political force as vanguards of human rights as well as providers of programs and services. Within the sector of persons with disabilities, civil society entities are frequently the frontlining and / or sole advocates for policy reform and sustainable, grassroots development which are targeted through innovative and nonbureaucratic strategies.

OVERALL SITUATION OF PERSONS WITH DISABILITIES IN THE PHILIPPINES

8 *Statistics on persons with disabilities* According to the 2000 census, there are 942,098 Filipinos with disabilities who make up 1.23% of the population. This includes

the following impairments: visual, hearing, speech, mobility, intellectual, psychosocial, extensive and various low incidence impairments. Half of the sector are female, and children and youth comprise significant proportions. Through the past three decades however, the incidence of disability has been reported variably by different entities leading to serious doubts on overall accuracy. National statistics have been a longstanding concern as national / local legislation and policy rely heavily on documented numbers of disadvantaged Filipinos to justify appropriations for programs, activities and services. In a developing country where public finances are subject to many limitations, budgets for various vulnerable sectors will at times, compete with each other, and other national priorities.

9 The majority of persons with disabilities are in the rural areas. The poverty threshold in 2007 for persons with disabilities in Metro Manila (in the National Capital Region) was reported to be approximately US\$442; or about \$1/day. In this independent study of poverty in Metro Manila, the proportion of employed persons with disabilities households below the poverty threshold was reported to be 36.5% in the sample (2). Tracking of poverty incidence by the National Statistics Coordination Board from 2006 to 2009 sets national incidence at approximately 20%, with a specific estimate for the National Capital Region at 2.6% (3). Data from the rural areas is still being gathered.

10 The only existing social protection mechanisms are: disability benefits / pensions for those who are employed and who acquired their disability while working; Philippine health insurance, generally afforded only by persons with disabilities who have employment; and a 20% discount on transportation, medicine, medical services, and services in eating and cultural establishments. Persons with disabilities are presumed to be greater risks and are charged higher premiums for insurance. There are no disability-specific allowances or interventions, considering the much higher cost of living of households with members who have a disability. The majority of persons with disabilities are unemployed and so are not eligible for these benefits / pensions and insurance. Furthermore, since many of them are also poor, they would not even have the minimum capacity to purchase medicine, medical services, etc. in the first place so that they can avail of the 20% discount. This 20% discount is not available in areas where there are no establishments mandated to provide such discounts. Also, labor market programs for persons with disabilities have not been systematic enough to have a significant impact.

11 Data collection on persons with disabilities Throughout the years, persons with disabilities have remained largely invisible because of discrimination. This invisibility has been the cause of continual marginalization. Thus, there is a dire lack of documentation for even the most fundamental information about Filipinos with disabilities. The fact that there is no mention of any disability rights, nor any participation by the sector in the 1st UPR are clear evidences of this. The proposed Freedom

of Information Bill hopes to address difficulties in accessing data for the effective participation of all, including persons with disabilities.

12 This lack of attention to the human rights situation of the sector is demonstrated in access to justice. In 2007, the Commission on Human Rights conducted a survey of 41 national government agencies regarding persons with disabilities. It reported 57 victims of human rights violations during 1987-2006 (roughly three cases a year), 17.5 % of whom involved children (4). These statistics viewed relative to the cases documented for a single disability alone for only the past five years, totaling 250 (see Human Rights Situation among persons with disabilities) point to great disparities in national documentation.

13 Data have not been gathered sufficiently nationwide, e.g., regarding the number of rape cases against persons with disabilities. For instance, reported rape cases of all other women have largely been documented only for the National Capital Region.

14 By and large, there is no way to systematically secure information about cases in trial courts except for those which have reached the Supreme Court. Request for assistance by civil society from the Supreme Court – Office of the Court Administrator to track and follow-up cases involving deaf parties for instance, have yielded only a few responses from the lower courts. Without information on the status of these cases, or mechanisms to secure this information, the pursuit of justice by persons with disabilities becomes very difficult and pushes them even deeper into marginalization.

15 *Legislation* Aside from the generally inadequate implementation of disability related laws, a National Plan of Action for the Philippine Decade for Persons with Disabilities (2003-2012) formulated by the (then) National Council for the Welfare of Disabled Persons, which is based on the Biwako Millenium framework, has not been fully implemented.

16 *Accessibility* Accessibility in various areas particularly transportation, the physical environment, information and communication are major concerns of the different disability constituencies in both urban and rural locations.

17 *Rehabilitation* Regional and provincial hospitals, provide some rehabilitation services including the provision of assistive devices. However, the 2010 Regional Conference on ASEAN and disability reports that less than 1% of persons with disabilities in the National Capital Region are able to access center-based rehabilitation services. Furthermore, since most service facilities are concentrated in the capital i.e., Metro Manila, many persons with disabilities living in rural and isolated communities have limited access to any form of rehabilitation or health services (5).

HUMAN RIGHTS SITUATION OF PERSONS WITH DISABILITIES

18 Describing the overall situation of human rights reveals violations of civil, political, cultural and economic rights as undeniable realities in the lives of many persons with disabilities. These violations of specific rights on participation, language and culture, education, work, personal mobility, liberty of movement, independent living, adequate standard of living, social protection, integrity and protection against violence, and access to justice are unrelentingly experienced in the home, school, the workplace, with mass media, in trial courts, places of recreation and leisure, and other spaces. Exclusion and discriminatory practices have been so rampant and have existed for such a long time that it has covered the entire sector with a shroud of invisibility which has to date been very difficult to overcome.

19 The snapshot of the current human rights situation among persons with disabilities in the Philippines is particularly provocative in the few, or even *single* reports of disturbing, heinous incidents. One set of these incidents almost always involve women and young girls: rape to the point of death; gang rape by as many as ten men; rape cases of girls five years old and younger; years-long incest regularly by fathers; sexual violence under threat of deadly weapons, and rape by a religious figure or teacher.

20 Another set of disturbing incidents involve cruel and inhumane treatment particularly of children with disabilities. There are several reports of children being battered and physically abused while being restrained, chained or caged by their own parents.

21 Persons with disabilities being put up on display in public fairs as objects of novelty because of their physical disfigurement has been decreasing, but still exists.

22 Persons with psychosocial disabilities are kept in institutions in inhuman and deplorable conditions which takes place in both national and local facilities.

23 Women and children with disabilities who live on the streets, or face sexual assault on a daily basis, including several prostituted women have been reported. Women with disabilities have been trafficked. They have been victimized by e-VAW (electronic Violence against Women), lured into online pornographic exposure of their physical condition for economic reasons.

24 The figures on gender-based violence unearthed among deaf women and girls in the past five years, and particularly this last year epitomize the *tip of the iceberg* situation that likely exists across all the disabilities. Some human rights violations are experienced by thousands or millions of persons with disabilities while other heinous incidents are experienced by one or a few persons with disabilities. Systematic efforts for data gathering and documentation on a national basis have been so very meager and this has caused continuing cycles of increasing powerlessness and marginalization.

25 Recommendations

- Ratify the Optional Protocol to the CRPD
- Review the proposed National Human Rights Action Plan, closely consulting the persons with disabilities sector on the CRPD

Main issues of concern

Discriminatory domestic laws

26 There has been no systematic, comprehensive review of domestic laws to harmonize these with the UNCRPD. This includes laws which do not recognize persons with disabilities as being legally competent in articles of the Civil Code on Contracts (6), Succession (7); several Rules of Court (8, 9) concerning guardianship; and mandated national and local government appropriations for persons with disabilities programs and activities (10).

27 This is true as well for local government ordinances in the provinces, cities, municipalities and barangays (villages).

28 Recommendation

- Beginning in 2012, do a comprehensive policy review and revise or abolish laws and policies which are discriminatory on the basis of disability.

The right to full and effective participation including political participation and the right to vote

29 Persons with disabilities have seriously limited opportunities to participate in governance and the conduct of public affairs. They have not been given opportunities to participate in the formulation of critical legislation, e.g., Magna Carta for Women, Magna Carta for Small Enterprises; drafting of critical policy such as Executive Order 33 transferring the National Council for Disability Affairs from the Office of the President to the Department of Social Welfare and Development; or on the formulation of programs such as the Conditional Cash Transfer program for poverty reduction. The sector has no representation in Congress and last year, its party list was arbitrarily disqualified from participation in the election.

30 The right to vote, and participation in elections by persons with disabilities have been hindered by discriminatory provisions in the Omnibus Election Code and widespread accessibility issues such as lack of sign language interpreting; physical inaccessibility, and non-guarantee of privacy / confidentiality at the polling places.

31 Recommendations

- Beginning 2012, conduct comprehensive and continuing awareness raising campaigns on disability with national and local government.
- Ensure full and consistent participation of persons with disabilities throughout the entire calendars of the crafting of legislation and budget planning.
- Review and revise portions of the Omnibus Election Code that are discriminatory to persons with disabilities.
- Particularly for the 2013 election, engage with the Commission on Elections according to constitutional and electoral law provisions to ensure communication and physical accessibility to persons with disabilities.

The right to language and culture

32 Deaf children have been denied of recognition and support of their cultural and linguistic identity including sign language and deaf culture. Despite international commitments to the Salamanca Statement and Framework for Action for Special Needs in Education as well as the UNCRPD, comprehensive access to the national sign language for deaf children in school has not been given (11-13). Existing national policy that Filipino Sign Language (14) be used in deaf education has not been implemented. On the contrary, an oral approach and the use of artificial sign systems (15) has been promoted. This has resulted in extremely low literacy for the few deaf students who are able to go to school, and in turn, further decreases their opportunities for employment. This also affects overall quality of life and ability to live independently, resulting in further isolation from society and culture.

33 Recommendations

- Recognize and support the specific cultural and linguistic identity of Filipino children with disabilities, including Filipino Sign Language.
- Beginning schoolyear 2012, create fully accessible learning environments for children with disabilities as guided by the principles of Universal Design.
- Institute affirmative action policy for the hiring of teachers with disabilities, including the Deaf, through language- / culture-fair testing and licensing of prospective teachers by the next Licensure Examination for Teachers in 2012.

The right to education

34 Children with disabilities throughout the country are unable to fully access inclusive, quality primary education. State education is focused largely only on formal special education programs and weakly on inclusive education. Furthermore, most educational facilities are in urban areas whereas most children with disabilities are in

the rural areas. There is frequent denial of reasonable accommodation as well as a serious lack of systemic support for inclusion.

35 About 1.9M Filipino children were enrolled in pre-school in public and private schools in 2010, and an additional 21% (or 2.5 million children) is targeted for 2011. From 2007-2008, the Department of Education reports that ninety-seven percent of children with disabilities aged 7-12 years old are not enrolled. For those who are enrolled, the majority (156,270 students) are in formal Special Education programs. This contrasts with only 3,028 who are mainstreamed in elementary and high school (16, 17). Furthermore, majority of these Special Education programs and schools are located in urban areas.

36 Children with disabilities who are unable to be part of inclusive education become seriously disadvantaged in the development of their full potential, and their sense of dignity and self-worth.

37 Recommendations

- Review, institute, and assess support services necessary for inclusion of children with disabilities into the mainstream beginning schoolyear 2012.
- Update numbers of children with disabilities in both formal schools and alternative community-based programs semestrally and yearly.

The right to work

38 Despite some existing government programs, there is a lack of effective employment policies for persons with disabilities. There are numerous discriminatory barriers in hiring and continuance of employment as well as career advancement and conditions of work.

39 Thus, persons with disabilities are unable to enter the mainstream employment public/ private pools and have to make do with unstable, informal forms of livelihood. These programs along with mandated hiring quotas of persons with disabilities in government agencies have not been implemented sustainably, nor monitored consistently. Hiring has also been limited only to casual, contractual and emergency positions only for certain government agencies providing social services.

40 Unfair policy exists such as recent requirements for unreasonable educational and licensing requirements for blind massage therapists (18). This neglects the reality of their very limited access to formal education in the first place, and so, effectively discriminating their niche in a well-entrenched industry (19).

41 Recommendations

Beginning 2012 for both urban and rural settings:

- Set comprehensive national labor targets for persons with disabilities to be monitored annually at the regional and local levels.
- Remove discriminatory barriers to persons with disabilities in formal and informal employment and entrepreneurship.
- Implement widely mandated quotas for hiring of persons with disabilities at national and local levels

Accessibility particularly the rights to personal mobility, liberty of movement and information and communication

42 Despite international and local legal obligations for ensuring accessibility of facilities and services, transportation is largely inaccessible. Even in urban areas, mass public transport is not accessible leaving options only for costly taxis. Persons with disabilities who use wheelchairs are unable to use public vehicles such as buses, jeepneys, and even light rail transit facilities in cities. Despite the existence of Batas Pambansa 344, physical accessibility is still largely unimplemented.

43 Options for inter-island travel by sea or air throughout the 7,000-island archipelago is available only to some persons with disabilities. Aside from this, there have been several incidents of discrimination among wheelchair users, and those with intellectual disability. Also ten Deaf individuals were not allowed to continue on a domestic flight as a group (20, 21). A Deaf man bound for Qatar for training and employment was prevented by the Bureau of Immigrations from leaving just because he was deaf (22, 23).

44 Despite the National Plan of Action mandated for the Philippine Decade for persons with disabilities (2003-2012), no national system for sign language interpreting has been instituted for the 2007 target. Government owned and run TV stations have no interpreting or captioning for newscasts despite a section on telecommunications in the Magna Carta for Persons with Disabilities. The scope and implementation of policy on court interpreting is seriously inadequate (see Access to Justice).

45 Without comprehensive accessibility measures in all aspects of daily living, persons with disabilities experience isolation and exclusion. They are not enabled to become productive citizens.

46 Recommendations

- Craft and implement policy based on Universal Design for the physical environment, transportation and information and communication.
- Immediately and fully implement the National Plan of Action for the Decade of Persons with Disabilities (2003-2012).
- Immediately impose penalties on violators of accessibility laws widely and consistently without exception, whether public services providers and facilities or private companies.

The right to live independently and being included in the community

47 Despite the Philippines' commitment to implement the World Programme of Action Concerning Disabled Persons, and the ratification of the CRPD, Filipinos with disabilities continue to face numerous barriers to their right to live independently and be included in the community. They are still denied the ability to make their own decisions, and constantly face barriers in information and communication. Because of discrimination, they are also continuously denied of their right to work, a vital step toward living independently. Barriers to personal mobility include inaccessible transportation, lack of accessible and inclusive educational settings which respect school preferences, and the lack of access to cultural, recreational, leisure and sports activities. All these prevent persons with disabilities from being included, and from interacting in daily community life.

48 Presently, there are no available in-home, residential or other community support services such as personal assistance service to support independent living and inclusion in the community. The services and facilities available for the general population are unresponsive to the needs of persons with disabilities. The lack of specific support for an adequate standard of living denies persons with disabilities the choice of where they would like to live, and with whom they want to live.

49 Recommendation

- Craft clear strategies for implementing Article 19 of the CRPD, closely consulting and actively involving DPOs, particularly the Independent Living Centers.

The right to an adequate standard of living and social protection

50 The majority of persons with disabilities live in poverty and have no access to social protection. (24, 25). However, the National Anti-Poverty Commission has not included persons with disabilities in their priority agenda. There are minimal provisions to address the needs of persons with disabilities even in development plans (26) and budget implementation (27). Poverty reduction through the State's centerpiece Conditional Cash Transfer (CCT) program incidentally notes over 97,000 PWD members in the beneficiary households. However, disability is not considered as a proxy variable in targeting / identifying who the poor are (28, 29). Thus, it does not effectively address the needs of persons with disabilities, particularly those in extreme poverty, and those with extensive, multiple, intellectual and psychosocial disabilities. It must be noted that the proposed budget for 2012 for social services reduces over 90% of appropriations of the previous year from persons with disabilities, accompanied by staggering increases towards CCT (30).

51 It should be noted as well that there are no other national appropriations which comprehensively and directly address disability-specific needs distinct from the basic needs of food, clothing and housing.

52 Recommendations

- In the next budget cycle, provide for the targeting of disability in poverty reduction programs.
- Beginning 2012, institute general disability-specific mechanisms for social protection, and in particular, for those persons with disabilities in extreme poverty, and including persons with extensive, multiple, intellectual and psychosocial disabilities.

The right to integrity of the person

53 Little, if any, attention has been given to recognizing and protecting the physical and mental integrity of Filipinos with psychosocial disabilities. The Coalition views the importance of ratifying the CAT - Optional Protocol as it adopts the position of the World Network of Users and Survivors of Psychiatry that institutional electroconvulsive therapy with forced drugging as practiced in the country (31) violates the rights of persons with psychosocial disability, notwithstanding proposed legislation on the Mental Health Care Act (32, 33)

54 Recommendations

- Immediately halt forms of violence against persons with psychosocial disabilities, and investigate and prosecute those responsible for alleged torture or ill treatment in mental health facilities, and in the community, including homes.

- In the next national planning and budget formulation, explore and initiate broad-based community support services for independent living and inclusion in the community.
- Legislate the proposed Mental Health Care Act as a domestic law consistent with the CRPD.

The right to protection against violence

55 The longstanding problem of gender-based violence against women and children with disabilities is a complex situation compounded by barriers in accessibility to the legal and judicial systems. Rape is the most commonly documented form of violence but other reports include battering, sexual harassment, trafficking, and electronic violence against women (e-VAW). A largely overlooked and undocumented area is the widespread sexual abuse of boy-children with disabilities.

56 There are occasional reported Supreme Court cases of violence among women and girl-children with intellectual disability, and psychosocial disability. Unpublished NGO data from eight regions report that: one out of two to three deaf women are raped, while as high as 65-70% of deaf children are victims of sexual violence. Case monitoring (34) for deaf parties have documented over 240+ cases in 14 regions for the past five years, three quarters of which were documented only in the past year. Half of the cases are in the rural areas. The majority of all the cases are rape cases, at least sixty-five cases involving children complainants.

57 Widespread gender-based violence seriously undermines the dignity and worth of individuals as well as their families. It has far-reaching consequences on their full development and advancement.

58 Recommendations

Beginning 2011:

- Address the root causes of gender-based violence among women and children with disabilities through concerted and participatory engagement between government and various stakeholders
- Mainstream reporting and monitoring of cases of violence against women / children with disabilities into national databases and mechanisms.

The right and access to justice

59 As a whole, the justice system is characteristically slow, tedious and expensive. Furthermore, disability-, gender- and/or age- appropriate accommodations in law enforcement, prosecution, courts and prisons have not been provided. Less than a fifth of documented cases of deaf parties have court-appointed sign language interpreters, of which none have been compensated by the Supreme Court for the past five years (34).

60 Existing Supreme Court policies (35, 36) only deal broadly with compensation of interpreters but have no guidelines on the qualifications and ethical conduct of interpreters. There is no designated item in the national budget appropriations in the Judiciary specifically for sign language interpreting in courts (37). Consistent appointment of interpreters is not done, as well as the appointment of Court Appointed Special Advocates / Guardian ad litem (CASAGAL) for children as prescribed by the Rules of Court in the Examination of Child Witnesses. These systemic inadequacies all underlie the basis of a 2011 Communication through the CEDAW-Optional Protocol for the rape case of a deaf minor (38).

61 Cases at the local government level with the *Katarungang Pambarangay* (village justice system) are rarely documented. However, an ongoing complaint of two deaf women who were mauled by ten hearing residents in a barangay have been fraught with oppressive and discriminatory attitudes of the barangay officials, and an absence of provision for interpreting (34).

62 Staff of police stations, prisons, and public shelters are largely unaware of disability needs and issues. Physical accessibility is a major concern, as well as that for information and communication, including sign language interpreting (34).

63 Because of the above situation, women and children with disabilities who are victims of violence suffer further trauma with their families in the face of barriers to accessibility. This in turn, hinder personal growth and productivity in society. For some, these barriers lead to further victimization such as prostitution and trafficking, or multiple trauma leading to psychosocial disability.

64 Recommendations

- Beginning 2012, raise the awareness of the Department of Justice and the Judiciary regarding disability rights in legal proceedings, and institutionalize comprehensive case monitoring
- Beginning 2012, Conduct sensitivity training on gender-, age- and disability –appropriate practices at the national and local levels.

- Starting in the 2011 Bicameral Committee meeting on national appropriations and henceforth, institutionalize mandated appropriations to the Department of Justice and the Judiciary to comply with accessibility needs of persons with disabilities
- Pass House Bill 4631 requiring sign language interpreting for all public hearings during the 15th Congress of the House of Representatives

OTHER RECOMMENDATIONS

65 Statistics and data collection

- Ensure regular conduct and appropriations for the national census, particularly relating to data collection on persons with disabilities:
 - Resolve methodological issues on definitions of disabilities, enumerators during field data collection
- Beginning 2012, require all national government agencies to collect and disseminate statistics and research data within their specific mandate that pertains to persons with disabilities:
 - Data should be disaggregated, transparent and accessible
 - The information should be assessed annually and be disseminated widely to national and local branches of government at the start of the budget cycle so that these serve as the basis for policies, activities and programs.

66 International Cooperation

- Beginning 2012, in partnership with international and regional organizations, facilitate and support capacity-building of duty-bearers and claim holders at the national and local levels, specially in the rural areas:
 - Ensure full participation of persons with disabilities in negotiation and planning with multilateral funding institutions.
 - Promote the understanding of the intersection of disability rights with women's rights and children's rights
- Within the next five years, maximally utilize Special Procedures for the promotion of the rights of persons with disabilities established by the Human Rights Council, by engaging with the Special Rapporteur on Disability.
- By 2012, follow-up implementation in response to the Report of the Special Rapporteur on The Right to Education of Persons with Disabilities which includes the Philippines (submitted to the Human Rights Council in 2007)

67 National Monitoring and Implementation

- Beginning 2012, annually assess and strengthen performance of designated coordination / independent mechanisms such as the National Council on Disability Affairs, and the Commission on Human Rights, in the implementation of the UNCRPD:
 - o Ensure full accessibility and effective participation of the claim holders in this annual assessment
 - o Disseminate the findings and recommendations to the public.

Philippine Coalition on the U.N. Convention on the Rights of Persons with Disabilities

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 Las Piñas Federation of Persons with Disabilities
 Leonard Cheshire Disability Philippines
 Life Haven
 New Vois Association
 Nova Foundation
 Parents Association of Visually impaired Children
 Philippine Association of Children With Learning and Developmental Disabilities
 Philippine Chamber for Massage Industry for Visually Impaired
 Philippine Deaf Resource Center
 Philippine Federation of the Deaf
 Punlaka
 Quezon City Federation of Persons With Disabilities
 Tahanang Walang Hagdanan
 Women with Disabilities Leap To Social and Economic Progress

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Philippine NGO Coalition on the UNCRC

PHILIPPINES

**Information Submitted
to the Human Rights Council
Universal Periodic Review
Cycle 2 Review, 13th Session (2012)**

Submitted by the Philippine NGO Coalition on the UNCRC
28 November 2011

About the Philippine NGO Coalition on the UN CRC

The Philippine NGO Coalition on the UN CRC (NGO Coalition) is a network of 17 local and international non-government organizations that monitors the implementation of the Convention on the Rights of the Child (CRC) in the country. It was founded in 1993. It has been submitting periodic reports to the UN Committee on the Rights of the Child since 1994, following the Philippines' ratification of the UN CRC in 1990. It also submits information to or participates in other human rights reporting mechanisms such as the NGO alternative reporting for the International Covenant on the Economic, Social and Cultural Rights.

The NGO Coalition has seventeen members to date, namely, Asia Against Child Trafficking (Asia ACTS), Child Hope Asia, ChildFund International, Consuelo Foundation, ECPAT Philippines, The ERDA Group, John J. Carroll Institute of Church and Social Issues (JJCICSI), Lunduyan Foundation, National Council for Social Development (NCSD), Open Heart Foundation, Philippines Against Child Trafficking (PACT), Plan Philippines, Salinlahi Alliance for Children's Concerns, Save the Children, VIDES Philippines Volunteers Foundation Inc., Visayan Forum and World Vision Development Foundation.

Implementation of International Human Rights Obligations and follow-up to UPR recommendations from the 1st Cycle:

In the first session of the UPR in 2008, the Philippines accepted the recommendation made by Italy "to address legislative gaps in the field of children's rights in order to fully comply with the 2005 recommendations of the Committee on the Rights of the Child." One of the identified legislative gaps was the absence of a national law that will prohibit the use of corporal punishment in all settings including in the home, school, justice system and alternative care. Another legislative gap identified in the Concluding Observations was the lack of a law that will establish a "Comprehensive Juvenile Justice System and Delinquency Prevention Programme and raise the minimum age of criminal responsibility to an internationally acceptable level."

1. Right to Life, Liberty and Security of the Person: Prohibition of Corporal

Punishment in All Settings The Committee on the Rights of the Child in General Comment No.8 (2006) defines corporal punishment as "any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light." Corporal punishment of children contradicts the right to be free from torture and other cruel, inhuman or degrading treatment or punishment enshrined in the Universal Declaration of Human Rights. It also violates CRC Article 19 and 28, which guarantee children's right to physical integrity and protection from all forms of abuse,

maltreatment, exploitation and violence by parents, guardians and others with parental authority over the child.

The Committee on the Rights of the Child in its Concluding Observations of 2005 recommended that the Philippines “prohibit by law all forms of corporal punishment in the home, in schools and in private and public institutions, in the juvenile justice system and the alternative care system” and that the State Party “sensitize and educate parents guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of ‘discipline’ and promote positive, non-violent forms of discipline as an alternative to corporal punishment.” The Committee in its Concluding Observations of 2009 called on the Government to enact the Anti-Corporal Punishment Bill filed in Congress.

In the Philippines, corporal punishment still prevails in homes, schools and communities as it is still viewed as a form of discipline and is reinforced by culture and tradition, i.e. that children are possession of adults, adults know what’s best for children, and that children “learn their lesson” when they are spanked, hit or yelled at. Studies over the last five years show the prevalence of corporal punishment in homes, schools and communities.

A study conducted by UNICEF, Plan International and the Council for the Welfare of Children in 2009 on child-friendly educational environments shows that verbal abuse by teachers, such as being called “tanga” (stupid), “bobo” (dumb), “tamad” (lazy), and “peste” (pests) was the most frequent form of violence experienced by children in the educational setting. The most common form of physical abuse is pinching. Other forms of physical punishment used by teachers on their students include: spanking, having them stand under the sun for long periods of time, throwing things at them, and locking them in enclosed places.¹

A 2010 survey of 270 sixth grade students with an average age of 12 found that 61.1% of them had experienced physical punishment at home, 74.5% of whom had been pinched, 49.7% beaten, 13.9% slapped, 3.6% kicked and 3% punched. The most common reasons for being physically punished were disobedience, cited by 35.6% of children who had been punished, and “pasaway” or being naughty (35.3%), which includes causing younger siblings to cry, interrupting adult conversations by what was perceived to be meaningless or disrespectful chatter, play-fighting with other children or siblings, making noises and disrupting order in the house. Almost a third (32.9%) of the children said that they “felt nothing” after being physically punished, while 25% were angry, 14.5% felt lonely or sad and 7.2% felt hatred.²

¹ UNICEF, Plan Philippines and the Council for the Welfare of Children. *Toward a Child-Friendly Education Environment: A Baseline Study on Violence Against Children in Public Schools*. 2009.

² Sanapo, M. & Nakamura, Y. “Gender and Physical Punishment: The Filipino Children’s Experience.” *Child Abuse Review*. 20 (1), 39-56, 2010.

The Department of Education (DepEd) has taken positive steps to address corporal punishment in public schools. It has recently met with several non-government organizations to solicit ideas for a department policy that will require the adoption of a child protection policy and code of conduct covering all school personnel, and the establishment of a mechanism for reporting, monitoring and responding to reported case of violence in schools, including corporal punishment.

However, the Anti-Corporal Punishment Bill remains pending in Congress. Bills were re filed at the House of Representatives and at the Senate when the Fifteenth Congress opened in 2010. The House of Representatives passed in July 2011 House Bill 4455, or the Positive and Non-Violent Discipline of Children Bill. The bill defines corporal punishment as “cruel and unusual punishment or act that subjects the child to indignities and other excessive chastisement that embarrasses or humiliates the child carried out to discipline, train or control, inflicted by an adult or by another child, who has been given or has assumed authority or responsibility for punishment or discipline” While this could have been a positive step, if enacted into law, this bill will actually undermine children’s protection against relatively milder and more common forms of corporal punishment such as spanking, hair pulling and ear twisting, and will only reaffirm existing laws that limit the forms of corporal punishment that can be prohibited to those that are “excessive” and “cruel.”

Likewise, the version of the Anti-Corporal Punishment Bill in the Senate (Senate Bill 873) has not moved in the Senate Committee on Youth, Women and Family Relations where it is filed because it has not been included among the Committee’s priorities.

Recommendations:

The Philippine NGO Coalition on the UNCRC therefore recommends that the State should prohibit by law all forms of corporal punishment in all settings in compliance with the recommendations of the Committee on the Rights of the Child, including through: adopting the definition of corporal punishment in CRC General Comment No.8 (2006) and enacting the Anti-Corporal Punishment Bill by the Fifteenth Congress in 2012; funding and implementing a comprehensive education and training program for parents, caregivers and service providers on the positive and non-violent forms of discipline and child rearing by the end of 2012; enforcing existing policies on the elimination of corporal punishment in schools; and establishing functional and well-resourced Local Child Protection Councils for raising awareness, prevention, monitoring and reporting cases of violence against children.

2. Administration of Justice, Including impunity and the Rule of Law: Juvenile Justice

2.1. Minimum Age of Criminal Responsibility

Another legislative gap identified in the 2005 Committee on the Rights of the Child Concluding Observations was the lack of a law that will establish a “Comprehensive Juvenile Justice System and Delinquency Prevention Programme and raise the minimum age of criminal responsibility to an internationally acceptable level.” In 2006, the Juvenile Justice and Welfare Act (JJWA), or Republic Act 9344, was enacted, resulting in the release of hundreds of children and youth from deprivation of liberty all over the country. However, the JJWA has not been effectively implemented. However, the passage of this law was also met with much criticism from media, some politicians and law enforcement officials.

Presently, several bills have been filed in both houses of Congress, proposing to lower the Minimum Age of Criminal Responsibility (MACR) from 15 to 12 years old. At the House of Representatives, the (consolidated) substitute bill on the amendments that includes a provision setting the MACR at 12 years old³ has been approved at the House Committee on Revision of Laws, and is pending at the House Committee on Appropriations. Child rights advocates, including the Philippine NGO Coalition, have strongly opposed this proposal. Decreasing the current MACR which is set at 15 years old to 12 years old is retrogression in the Philippines’ commitment to the UN Convention on the Rights of the Child.

The Concluding Observations of the Committee on the Rights of the Child (2009) lauds the adoption of the JJWA, “which raises the minimum age of criminal responsibility from nine (9) to fifteen (15) years and prohibits and criminalizes acts of torture and ill treatment against children in conflict with the law.” However, it also raises concern over “recent initiatives to lower the age of criminal responsibility of children.” It, thus, recommends that the State to take all necessary measures to ensure that the age of criminal responsibility is not lowered, and to consider the Committee on the Rights of the Child General Comment No. 10 (CRC/GC/10) to guide it in its implementation of Juvenile Justice.

General Comment No. 10 specifically states that, “States Parties are recommended to increase their low MACR to the age of 12 years as the absolute minimum age and to continue to increase it to a higher age level. At the same time, the Committee urges

³ Congress of the Republic of the Philippines House of Representatives. 1st Regular Session, 15th Congress. House Bill No. __ (In substitution of House Bills No. 467, 1495, 2611, 2894, 3077 and 3423). “An Act Amending Republic Act No. 9344 Otherwise Known as the ‘Juvenile Justice and Welfare Act of 2006’ Appropriating Funds Therefor and for Other Purposes. Sec. 5. 2011.

States Parties not to lower their MACR to the age of 12. A higher MACR, for instance, 14 or 16 years of age, contributes to a juvenile justice system which, in accordance with Article 40 (3)(b)CRC, deals with children in conflict with the law without resorting to judicial proceedings, providing that the child's human rights and legal safeguards are fully respected.

Moreover, scientific studies conducted by the Council for the Welfare of Children (CWC) and the Pamantasan ng Lungsod ng Maynila (PLM) in 1997 and the Philippine Action for Youth and Offenders (PAYO) in 2002, have shown that the age of discernment (i.e. the ability to tell right from wrong and the consequences of actions) of in-school children (CWC and PLM 1997) and out-of-school children (PAYO 2002) are 15 years old and 18 years old, respectively. Hence, the present MACR in RA 9344 was borne out of consideration for these two researches.

Recommendation:

The Philippine NGO Coalition on the UNCRC therefore recommends that the State should withdraw the bills proposing to lower the minimum age of criminal responsibility and comply with the recommendations of the Committee on the Rights of the Child in General Comment No.10 (2007) regarding minimum age.

2.2. Prevention, rehabilitation and reintegration of children in conflict with the law

In its 2009 Concluding Observation, the Committee on the Rights of the Child also expresses its concern at the slow pace of implementation of the law, the limited use of diversion, and the alleged widespread practice of pre-trial detention of children.

Since its enactment, many provisions of the JJWA have not been implemented. Local Government Units (LGUs), the agencies given one of the most important roles in executing the law, have not been extensively trained and have not implemented prevention and community-based diversion programs in their communities. Furthermore, while the law states that every municipality/province should have its own youth detention home for CICL, these facilities are wanting in many areas all over the country. Rehabilitation programs in the jails and reintegration programs for CICL are also inadequate. Moreover the Juvenile Justice and Welfare Council (JJWC), the agency mandated to oversee the implementation of the JJWA, needs to be further strengthened.

There is a low level of knowledge of and a lack of capacity to implement the law among local officials, law enforcers and service providers. While the mandated local

structures for implementation, the barangay⁴ (village) councils for the protection of children (BCPCs), have been established in 84% of barangays in the country, only 52% of these are assessed to be at ideal or mature status, which means that only these BCPCs have attained at least 51% of the requirements for a fully functional local CPC, which includes budget allocation, plans and programs and accomplishment reports. Only 15% are assessed to be at an ideal state, or which have attained almost all (at least 80%) of all requirements.⁵ The data imply that only 51% of BCPCs are likely to have significant programs. It cannot even be concluded that these programs include a comprehensive program on juvenile justice given the very broad mandate of the BCPC.

Non-government organizations working on the issue of Juvenile Justice have also reported cases of children caught offending who experienced torture or maltreatment in the hands of law enforcers, village guards or community volunteers. It was explained that these children are tortured because they cannot be charged with crimes or put into jail under the JJWA. Children in conflict with the law have also been the subject of summary execution by vigilante groups in Davao City.

The Concluding Observations of the Committee on the Rights of the Child recommends that the State continue to implement training programs on relevant international standards and disseminate the provisions of the JJWA particularly to all professionals working with the juvenile justice system.

Recommendation:

The Philippine NGO Coalition recommends that the State should comply with the Committee on the Rights of the Child's recommendations regarding juvenile justice, including through: clear parameters for the allocation of funds for juvenile justice prevention programs in communities; assistance to local governments in the development of comprehensive juvenile justice program; establishment of effective reintegration and rehabilitation programs for children; strengthened Juvenile Justice and Welfare Council structures and the promotion of restorative justice.

⁴ Barangay refers to the basic political unit in the Philippines.

⁵ Department of Interior and Local Government -National Barangay Operations Office. LCPC Functionality Monitoring Report 2010.

The Status of Lesbian, Gay, Bisexual and Transgender Rights in the Philippines

Submission to the Human Rights Council
for Universal Periodic Review 13th Session

Introduction

This information is submitted by Rainbow Rights Project (R-Rights)¹ and Philippine LGBT Hate Crime Watch², human rights organizations from the Philippines, in the framework of the Universal Periodic Review for the Philippines, in order to draw attention of the Human Rights Council on lesbian, gay, bisexual and transgender (LGBT) rights in the Philippines. This report is largely based on unpublished interviews, grassroots research, media reports, the web, and records of the Philippine government and United Nations agencies.

Overview

Although the Philippines has signed and ratified most of the core human rights instruments, including the ICCPR, ICECSR, CEDAW, CRC, CRPD, CERD and other human rights treaties, Philippine society and culture maintain much prejudice towards the LGBT community, and lacks basic sensitivity and recognition of the LGBT rights. Although a number of laws mention sexual orientation or address same-sex relations, such as The Magna Carta on Women³, oftentimes the references have negative impact on the human rights of LGBTs.

- ¹ Rainbow Rights Project (R-Rights), Inc. is an LGBT (lesbian, gay, bisexual, and transgender) legal organization in the Philippines composed of a team of gay and lesbian lawyers and gender activists that provides legal and policy reform services to the LGBT community. (<http://www.rainbow-rightsproject.org/>).
- ² The Philippine LGBT Hate Crime Watch - A diverse, inclusive, and non-partisan community of individuals and organizations dedicated to ending anti-LGBT prejudice and the hate crimes born from it (<http://thephilippinelgbthatecrimewatch.blogspot.com/>)
- ³ http://www.nscb.gov.ph/ru8/GAD/Magna_Carta_of_Women.pdf Note: The Family Code also mentions homosexuality/lesbianism but in a negative light. The Anti-Rape Law of 1997 (sexual assault covers same-sex). RA 9262 (Anti-VAWC Act) punishes lesbian partners for domestic violence.

According to the Constitution⁴, the State guarantees full respect for human rights and every person has the right to equal protection of the laws, but sexual orientation and gender identity are not explicitly mentioned. The Revised Penal Code of the Philippines, as well as other criminal laws, does not have provisions punishing hate crimes.

The Philippines has no comprehensive antidiscrimination law. Only one city has a local ordinance limited to workplace discrimination based on sexual orientation and gender identity. There are specific anti-discrimination provisions in the PNP Code and the Magna Carta of Social Workers⁵. Draft bills that protect sexual orientation and gender identity have been filed in the Philippine Congress and are in different committees. A number of government agencies have administrative rules or policies that protect sexual orientation, and alternately, other agencies have expressed policies that are discriminatory to their employees or clients.

According to the Philippine LGBT Hate Crime Watch research⁶ on violence against the LGBT population in the Philippines, around 141 deaths of LGBTs with varying elements of motives of hate or bias, extrajudicial killing, and/or discrimination-related violence related to sexual orientation and gender identity have been documented in media mass media reports and oral testimonies since 1996.

The judiciary has made several favorable and unfavorable precedents in the legal treatment of LGBTs and intersexed persons. The Supreme Court ruled against a ministerial decision of the Commission on Elections that denied accreditation of Ladlad, an LGBT party list, to run as a political party. The Supreme Court also rendered a decision⁷ that denied the rights of transgenders to self-determination and legal changes of identity.

The Philippine permanent representatives at the United Nations did not support both the June 2011 Joint Statement at the UN Human Rights Council urging states to end violence, criminal sanctions and related human rights violations based on sexual orientation and gender identity; and the Joint Statement and the December 2010 United Nations General Assembly resolution which included protection for lesbian, gay, bisexual and transgender (LGBT) people from extrajudicial executions (EJE) and other unlawful killings based on sexual orientation.

The Commission on Human Rights (CHR) has signed memorandums in 2010 with civil society organizations that would start projects that will educate and strengthen protection programs for human rights based on sexual orientation and gender identity.

⁴ Article 2, Section 11 and Article 3, Section 1, Philippine Constitution

⁵ Section 17, <http://laws.chanrobles.com/ph/ra/republicactno9433.html> & <http://www.dswd.gov.ph/phocadownload/irr/irra9433final.pdf>

⁶ For the research, download the file at <http://www.thephilippinelgbthatecrimewatch.blogspot.com/>

⁷ Silverio vs. Republic of the Philippines, http://www.lawphil.net/judjuris/juri2007/oct2007/gr_174689_2007.html

Promotion and protection of LGBT rights on the ground - implementation of the international human rights obligations

1. Right to security of the person (Article 3. Universal Declaration of Human Rights, Article 20. ICCPR, Principle 5. Yogyakarta Principles)

LGBT persons are targeted with physical and verbal assaults that affect their economic, cultural, social, health, and other wellbeing. There are no coordinated and comprehensive state or even non-state mechanisms that monitor the instances of discrimination, bias, prejudice, and violence that LGBT Filipinos face due to homophobia, transphobia, and machismo. Circumstantial information indicate that attackers are most probably sex workers, strangers, groups of hostile neighbors, family members, and intimate partners, and very few have been positively identified, and even fewer are arrested and made to face the law. Murders and attempted murders were accomplished by such acts as stabbing, arson, mutilation, strangling, shooting, and battery.

Evidence points to hate or bias related to the victims' real or perceived sexual orientation and gender identity, as defined by international hate crime definitions and indicators. Government authorities treat these as ordinary crimes, discount the possibility of sexual orientation as a factor, or alternately, blame the victim for bringing the violence on themselves. Part of the reason is the lack of local investigation methodologies that enable government security forces to identify bias, prejudice, or hate as whole or partial motives in committing a crime. As such, no government agency has ever declared that hate crimes do happen in the Philippines and that the victims are LGBT people.

LGBT human rights defenders in the Philippines particularly in Muslim areas are under pressure from community authorities to conduct their activities less openly because of increasing religious radicalization. Religious leaders and lay members affiliated to organized Christian faiths are increasingly becoming aggressive in accosting LGBTs in public spaces. During the Manila Pride parades in December 2008, 2009, and 2010, street preachers targeted participants with hostile messages of death, disease, and suffering on blaring sound systems and large character posters.

In a period between 2007 and 2010, the police repeatedly conducted raids of gay saunas, old cinemas, and parks in Metro Manila on different charges of vagrancy, indecency, pornography, prostitution, sex trafficking, operating without license and other flimsy reasons. Clients, bar staff, bystanders were arrested by groups and detained for more than 12 hours. The arrested persons are usually threatened by the arresting officers with exposure to media or to their families.

Recommendations:

- Hate crime should be legislated in Philippine Congress as particular criminal offense;

- The State should compel the police and the Department of Justice to work with the Commission on Human Rights, and LGBT experts and groups to define hate crime and implement procedures in the investigation of incidents, assisting survivors in accessing justice mechanisms, and the serious prosecution of accused parties;
- State should work with Civil Society to establish mechanisms that would monitor the instances of discrimination, bias, prejudice and violence that LGBT Filipinos face.

2. Right to equality and non-discrimination (Article 26 ICCPR, Article 7 ICESCR, Principle 2 Yogyakarta Principles)

The State guarantees full respect for human rights and every person has the right to equal protection of the laws, but sexual orientation and gender identity are not explicitly mentioned. The Philippines still lacks an anti-discrimination Law. There are pending bills in Congress that defines discrimination as a crime and recommends penalties⁸.

The Labor Code of the Philippines⁹ has no prohibition of both direct and indirect discrimination except as to gender discrimination against women, and neither sexual orientation nor gender identity is mentioned. The Commission on Civil Service has rules that include sexual orientation as a status that can be factored in sexual harassment cases. The Bureau of Jail Management and Penology has a standing policy barring its lesbian and gay employees from making body searches of jail visitors of the same genital sex.¹⁰ A local court dismissed a workplace discrimination case filed by a gay employee against a school¹¹, while a labor quasi-judicial body awarded damages to a lesbian couple who sued their corporate employer¹².

In January 2010 Ladlad filed an appeal to the Supreme Court contesting the majority decision of the Commission on Election (COMELEC) that rejected its application for Party List accreditation. The COMELEC based its decision to deny accreditation on the need to protect morality. Ladlad cited the IC-CPR and the Yogyakarta Principles on the right to participate in the political process. In April 2010, the Supreme Court ordered the COMELEC to accredit Ladlad as a qualified Party List sectoral organization, arguing that morality and religious quotes cannot be used as bases for determining ineligibility under the Party List law.

⁸ <http://www.congress.gov.ph/press/details.php?pressid=4694>

⁹ <http://www.bcphilippineslawyers.com/the-labor-code-of-the-philippines-book-3/>

¹⁰ <http://www.starobserver.com.au/news/2011/07/25/philippines-gay-prison-guards-cant-search/57623>

¹¹ <http://www.gmanews.tv/story/10074>

¹² <http://ca.judiciary.gov.ph/cardis/SP107821.pdf>

Recommendations:

- Discrimination based on sexual orientation and gender identity should be prohibited in a specific anti-discrimination law, and other laws and local ordinances;
- The State should direct executive agencies to draft memorandums, circulars and programs that would explicitly protect human rights based on sexual orientation and gender identity.

3. Right to the Highest Attainable Standard of Health and Protection from Medical Abuses (Article 12. ICESC, Principles 17 & 18. Yogyakarta Principles)

Everyone is entitled to basic healthcare and services according to the Constitution, but this is not really the case with LGBTs. Health-care related laws deal mostly with professional and institutional regulations, delivery of services, certain diseases, and rights of health workers. The Philippines HIV/AIDS Control Law of 1998 (RA 8504) provides inadequate protection of health care access rights and health information privacy rights. While it has good penal provisions such as against¹³ disclosure of HIV status, many health care settings do not have adequate safeguards for confidentiality and counseling.

Medical personnel also occasionally exhibit judgmental and erroneous behaviors during diagnosis and treatment of LGBTs, which discourage beneficial health-seeking practices among LGBTs. In 2008, a hospital operating team operated on a gay patient to remove a foreign object from the rectum, and the footage of health workers making fun of the patient was uploaded on a video-sharing site¹⁴. In addition, police personnel use punitive measures such as planting condoms as evidence during bar raids to make it appear that sexual behaviors and the use of condoms are criminalized. The assigned sex of intersexed infants is subject to the arbitrary judgment of birth attendants, resulting in many social and legal complications later in life. Most endocrinologists refuse to provide counseling and sex-reassignment treatments to transgenders. The former head of a private physicians' group, the Philippine Ob-Gyn Society, commented that lesbians are not women, and therefore gynecologists cannot provide services to lesbians.

Recommendations:

- The State should redraft and strengthen the Philippine HIV/AIDS Control Law to provide sensitivity in the protection of MSMs and transgender youth;
- The State should focus on the Philippine National Police to institutionalize public health goals in police work and end the practice of harassing the LGBT community;

¹³ Philippines HIV/AIDS Law of 1998, <http://www.chanrobles.com/republicactno8504rules.htm>

¹⁴ <http://onlinemindanao.com/health/news/surgery-scandal.html>

- The State should develop educational programs for health workers regarding sexual orientation and gender identity, and the specific health needs, diagnostics, and treatment regimens of LGBTs and intersexed persons.

4. Rights to Recognition before the Law (Article 16. and 17. ICCPR, Principle 3. Yogyakarta Principles)

There is no law to address the procedure of changing one's sex in legal documents. The courts have partially addressed the rights of intersexed persons to choose one's sex and to correct legal documents¹⁵. However, conflicting decisions regarding legal cases filed by transgenders have made it very difficult for them to assume their preferred identity, gravely affecting their everyday lives. The effects include compromised access to public services and difficulties with family issues, travel, immigration, health care, livelihood, and the right to marry¹⁶. Transgenders trying to access legal processes to reconcile their birth records and access legal marriage have been denied by the Supreme Court. The denial hinged on the absence of a law to address their specific need for change in legal documents. Complainants have filed with the UN in 2010 complaints of violations to the Optional Protocol of the ICCPR regarding these matters¹⁷.

Recommendations:

- The State should legislate the legal recognition of the rights of transgender and intersexed persons and legally arrange a procedure to change a person's sex in their legal documents, as well as the other rights accessed through the new legal personhood;
- The justice system under the Supreme Court should review its jurisprudence, render a report, and build capacity in recognizing the equal rights of LGBTs before the law;
- The Department of Health should provide adequate information and support to transgender persons regarding surgery, health care costs, and mental health care management in relation to transitioning to the preferred sex.

5. Rights to family (Article 23 and 24. ICCPR, Principle 24. The Yogyakarta Principles)

The Philippines governs family relationships under the Family Code, which states that marriage is between a man and a woman. Lawmakers have repeatedly tried to file bills that would also define man and woman according to their genetic and/or birth

¹⁵ <http://www.chanrobles.com/scdecisions/jurisprudence2008/september2008/166676.php>

¹⁶ Page 183 , [http://www.icj.org/dwn/database/Sexual%20Orientation,%20Gender%20Identity%20and%20Justice-%20A%20Comparative%20Law%20Casebook\[1\].pdf](http://www.icj.org/dwn/database/Sexual%20Orientation,%20Gender%20Identity%20and%20Justice-%20A%20Comparative%20Law%20Casebook[1].pdf)

¹⁷ <http://ilga.org/ilga/en/article/mZK6cN316j>

sex, and also bills that would ban same-sex marriages¹⁸. The City Council of Baguio City and Christian-affiliated faith groups reacted to private ceremonial same-sex weddings in June 2011 with proposals to ban this private practice of the Metropolitan Community Church, and file criminal charges against the officiating pastors¹⁹. The courts allow annulment of marriages on the grounds of homosexuality, and usual custodial rulings award the children of such unions to the non-homosexual parent²⁰.

The head of state President Benigno Aquino III in September 2011 said he was neutral to having same-sex partnerships legalized but opposed adoption of children by same-sex couples in the Philippines. The agency overseeing adoptions, the Department of Social Welfare and Development, allows adoption by single LGBTs but not for two persons of the same sex who identify as a domestic couple²¹.

There are no clear rights for either spouse in same-sex and transgender-heterosexual partnerships regarding hospital and prison visitations, making medical and burial decisions, transfer of joint properties, custody of children, insurance benefits, and other privileges accorded to married and unmarried opposite-sex couples. Government-managed social security and health insurance are not awarded to the surviving spouse of a deceased same-sex partner.

Recommendations:

- The State should provide mechanisms to protect the right of same-sex spouses to enter into legal partnerships, via legislation in Congress or local governing councils;
- Congress should remove homosexuality as basis for legal separation and the courts and judges be advised to grant custodial rulings on fair assessment of parental abilities rather than on sexual orientation and gender identity;
- The Department of Social Welfare and Development should rewrite rules to equalize adoption rights for same sex couples;
- The Social Security System, Government Service Insurance System, Philippine Health Insurance Corporation and other benefits-related state agencies should restructure their benefits system to accommodate same-sex partnerships and family dependents that ensue from such partnerships.

¹⁸ <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/partners/142.html>

¹⁹ <http://ph.news.yahoo.com/baguio-mayor-backs-ordinance-vs-same-sex-wedding-152709551.html>

²⁰ Article 46 Family Code, <http://www.chanrobles.com/executiveorderno209.htm>

²¹ <http://www.abs-cbnnews.com/lifestyle/09/22/11/gays-ask-pnoy-push-anti-discrimination-bill>

List of organizations that participated in the PAHRA-led UPR report for the 2nd Cycle Review of the Philippines

ORGANIZATION

1. Alliance of Tri_People for the Advancement and Human Rights (ALTHAR)
2. Alyansa ng Mamamayang Naghihirap (Almana)
3. Amnesty International – Pilipinas
4. Aniban ng Manggagawa sa Agrikultura (AMA)
5. Asia Against Child Trafficking (ASIA ACTS)
6. Asian Federation Against Involuntary Disappearance (AFAD)
7. Bagong Kamalayan Collective Inc.
8. Balay Rehabilitation Center
9. Bukluran ng Manggagawang Pilipino (BMP)
10. Center for Migrant Advocacy (CMA)
11. Center on Housing Rights and Evictions (COHRE)
12. Children’s Legal Rights and Development Center (CLRD)
13. Child Rights Coalition – Asia
14. Coalition Against Trafficking – Asia Pacific (CATWAP)
15. Economic, Social, and Cultural Rights –Asia (ESCR-Asia)
16. Families of Victims of Involuntary Disappearance (FIND)
17. Focus on Global South
18. Foodfirst Information and Action Network (FIAN) – Philippines
19. Freedom from Debt Coalition (FDC)
20. FTI
21. GALANG
22. Global Call to Action Against Poverty (GCAP- Philippines)
23. Human Rights Defenders (HRD)-Pilipinas
24. Initiatives for International Dialogue (IID)
25. International Gay and Lesbian Human Rights Commission (IGLHRC)
26. Kaisampalad, Inc
27. Katarungan – Urban Poor
28. Katipunan ng mga Maykapansanan sa Pilipinas (KAMPI)
29. Kilusan para sa Pambansang Demokrasya
30. Kongreso ng Pagkakaisa ng mga Maralita ng Lungsod (KPML)
31. Labor Education and Research Network (LEARN)

32. Legal Rights and Natural Resources Center (LRC)
33. Libertas
34. Management and Organizational Development for Empowerment (MODE)
35. Medical Action Group (MAG)
36. Negros Oriental Center for People Empowerment and Development, Inc., NOCPED, Inc
37. Partnership for Agrarian Reform and Rural Development Services, Inc.(PARRDS)
38. Partido Lakas ng Masa (PLM)
39. Partido ng Manggagawa (PM)
40. Philippine Alliance of Human Rights Advocates (PAHRA)
41. Philippine Coalition on the ICC
42. Philippine Coalition on UN Convention on the Rights of Persons with Disabilities
43. Philippine Deaf Resource Center
44. Philippine Human Rights Information Center (PhilRights)
45. Philippine NGO Coalition on CRC
46. Philippine NGO-PO Network on ESC Rights
47. Philippine Rural Reconstruction Movement (PRRM)
48. Project Development Institute (PDI)
49. Rainbow Rights / PLHOW
50. SALIGAN
51. Sarilaya
52. Save the Children in the Philippines
53. Sulong CARHRIHL
54. Task Force Detainees of the Philippines (TFDP)
55. ULAN
56. UNCSAC / Pilipina
57. Urban Poor Associates (UPA)
58. Visayan Forum
59. Woman Health Philippines
60. Women Education, Development, Productivity Research Organization (WEDPRO)
61. Women's Legal and Human Rights Bureau (WLHRB)
62. World Vision - Philippines
63. Zone One Tondo Organization (ZOTO)

Photos during workshops conducted in 2011 to draft the joint civil society UPR report



