

The Commission on Human Rights of the Philippines¹, established in 1987 as the national human rights institution of the Philippines with “A” status accreditation, presents this Submission, in relation to the third Universal Periodic Review (UPR) cycle of the Philippines.

Methodology

1. The Commission submits this Report, which took into consideration national and local consultations with relevant stakeholders. The Commission also used local and international reports, documenting human rights-related investigations, and reports submitted by agencies in charge of the implementation of human rights treaties.² This report utilized the Commission’s own documentation of independent monitoring activities and statements on relevant matters which were subjected to the internal deliberations of the Commission *En Banc*.³
2. Earnest efforts were built for constituency around the objectives of the UPR through the Tripartite Monitoring Mechanism⁴. The Technical Monitoring Body was successful in developing a tracking tool for the progress of the implementation of the UPR, as well as Treaty Body recommendations. The TMB strived to submit a mid-term report, however, the executive fell short of submitting in 2014/2015.

B. Institutional and Legal Framework for Human Rights

3. The Commission expresses grave concern about the lack of a specific agenda on human rights by the current government. Whilst the Commission acknowledges the avowed expression of commitment by the executive to honor international binding treaties, it regrets that there is no agenda to deepen and broaden government’s commitment to human rights. Much less is there a roadmap to realize human rights commitments and obligations through a National Plan of Action on Human Rights. There is an opportunity in ongoing efforts to draft the next Philippine Medium Term Development Plan (PDP). The CHR is working towards reinstitutionalization of a rights-based approach in the PDP drafting process. The Commission, *infra.*, discusses the other statements of the executive on the perceived role of human rights in society, which we see as sources of grave concern for the cause of human rights and adherence to the rule of law.
4. The Commission has repeatedly declared its unwavering support for the current administration in its objectives to achieve law and order particularly in its anti-drug campaign. However, a source of concern

are statements by President Rodrigo Duterte, seconded by the Chief of the Philippine National Police that may have emboldened some members of the security sector and vigilantes to kill with impunity.

5. The Commission illustrates this point by reference to the statements of the President:
 - a. From his inaugural speech,⁵ he sent a warning against those who “oppose” his “methods of fighting criminality.” He called out “the Congress, the Commission on Human Rights, and others similarly situated,” to allow “a level of governance consistent with their mandate.”
 - b. During his 1st State of the Nation Address, he manifested that “human rights” may be used as a “shield or an excuse to destroy the country.”⁶
 - c. In his press briefings on July 27⁷ and August 6, 2016⁸, he publicly announced police and other officials in government who are allegedly involved in the illegal drug trade, without filing any corresponding charges against them.
6. From the statements above, the Commission is concerned that the right to due process and the presumption of innocence of those implicated may be violated. The right to life may be severely compromised in the course of the government’s war against drugs.
7. The Philippine government passed various human rights laws related to the second cycle of UPR recommendations. These include:
 - a. An Act Defining and Penalizing Enforced or Involuntary Disappearance; ⁹
 - b. An Act Instituting Policies for the Protection and Welfare of Domestic Workers; ¹⁰
 - c. An Act Providing for Reparation and Recognition of Victims of Human Rights Violations during the Marcos Regime, Documentation of said Violations, Appropriating Funds therefor and for Other Purposes;¹¹ and
 - d. An Act Expanding the Positions Reserved for Persons with Disability, Amending for the Purpose Republic Act No. 7277, as amended, otherwise known as the Magna Carta for Persons with Disability.¹²
8. Other significant human rights legislations have yet to be enacted, including bills on the Protection of the Rights of the Internally Displaced Persons, Comprehensive Anti-Discrimination Law, Penalization of Extrajudicial Killing, Freedom of Information,

National Preventive Mechanism (OPCAT), Prohibiting Corporal Punishment, Providing a Mechanism for Voting of Persons Deprived of Liberty, and Filipino Sign Language Act, Elderly Abuse Act and the establishment of a National Council on Older Persons which the Commission has recommended in its issuance of its human rights legislative agenda for the 15th and 16th Congress.¹³

9. The issuance of the Executive Branch of an Executive Order on Freedom of Information is encouraging.
10. The Commission's Charter has been languishing in the legislative mill since the 12th Congress (17th Congress currently)¹⁴, the bill recognizes the Commission's need to be strengthened to fully perform its constitutional task of protecting and promoting the human rights of all Filipinos as an independent watchdog.
11. The lack of a Charter puts into question the commitment of the government to nurture the Commission's independence and fiscal autonomy under the Constitution. The budget of the Commission is maintained at the minimum, comprising only of 0.015% of the total budget of government. For next year, the proposed budget by the executive's Department of Budget and Management for the Commission is only PHP496,136,000.00 (about USD10,600,000.00) from this year's PH460,026,000.00. The Commission at present needs to be strengthened through its budgetary allocation as it faces heightened challenges in human rights promotion and protection work.
12. There were occasions when the Supreme Court upheld the constitutionality of laws promoting human rights, such as its decision on the citizenship and rights of foundlings (in which the Commission submitted an amicus curiae), and the Reproductive Health Law¹⁵. But it must be noted that the latter law was only upheld to be partially constitutional.¹⁶ The Commission conducted a National Inquiry¹⁷ on Reproductive Health from March to May of 2016, in which it found that the reproductive health law is not being implemented uniformly, and there are policies and practices that negatively impact women, especially the marginalized. The Commission is particularly alarmed that the City of Sorsogon proclaimed itself to be "pro-life", resulting in the withdrawal of contraceptives in city and community health offices. In response to this action by the City of Sorsogon, the Department of Health has announced the filing of a case against the city mayor.¹⁸

C. Human Rights Protection and Promotion

Extrajudicial Killings¹⁹

13. While Extrajudicial killings (EJKs) and enforced disappearances (ED) have been a persistent problem in the Philippines, the situation has exacerbated recently from July 1, 2016 to August 22, 2016, the Philippine National Police (PNP) recorded 712 deaths of suspected drug users and peddlers from legitimate police operations and 1,067 killings committed by unknown assailants or vigilantes.²⁰
14. There are different statistics on the number of recent deaths. The unofficial count has reached 3,526 since July 1, 2016; of which 1,491 deaths happened during anti-drugs police operations and 2,035 deaths resulting from killing by vigilantes or unidentified hit men.²¹ The PNP however, has officially pegged it at 2,927, of which 1,033 deaths occurred during “police operations” and 1,894 incidents of “unexplained deaths.”
15. The Commission is investigating 251 drug-related killings²² and is tracing information on all reported incidents of death under the war on drugs, whilst at the same time, monitoring and investigating the killings being reported on a daily basis. It also constituted a Task Force on EJKs²³ to document, monitor and investigate the current killings.
16. Resources to house witnesses is meager as demonstrated by the budget provided for the Witness Protection Program of the Commission compared to the Department of Justice (DOJ): PHP500,000.00 (approximately USD10,000.00) per witness for a year for the DOJ against PHP500,000.00 for the Commission’s whole program annually.
17. The Commission calls on the State to collect reliable information on the matter, to stop the killings and address the past and current EJK cases with impartial, prompt and thorough investigations in order to hold to account those responsible including security forces and civilians.
18. The government’s adoption of a narrow definition of EJKs in administrative issuances by the Executive and Judiciary created confusion in the public and amongst government authorities. The definition of EJK adopted by Administrative Order 35 is a case in

point. This resulted in the public's misappreciation of the concept that devalues the dignity of all human beings especially in the current Anti-Drug Campaign of the government.²⁴ AO 35 excluded from the definition of EJK, for purposes of its operation, the killings victimizing suspected criminals and those summary executions allegedly committed by the police. Further, the status of the activities of the task force is not widely known. The creation of the inter-agency body under AO 35 showed the previous government's efforts to investigate and prevent EJKs. There is a need to reexamine the operational definition to ensure that the inter-agency can help address the recent sharp increase in EJKs.

19. The PNP, through its Internal Affairs Service, is mandated by Republic Act No. 8551 to “also conduct, motu proprio, automatic investigation” of “incidents where police personnel discharges a firearm,” and “incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation,”²⁵ amongst others. In the Senate hearings on EJKs, representatives of the Internal Affairs Service admitted that they are overwhelmed by the number of killings during police operations. Some supporters of the anti-drug campaign have emphasized the need to prioritize vigilante killings over killings in police operations citing presumption of regularity in the performance of functions.
20. The Commission notes that the duty to investigate the killings belong to the PNP as the entity of the State. The Commission, however, perceives that investigatory mechanisms need to be re-examined in order to ensure fairness and promptness of action.
21. The government is defiant of the possible visit of the UN Special Rapporteur, even calling the same as “unwelcome meddling” of the country's internal affairs.²⁶ The Commission has issued an advisory in 2012 which recommended the issuance of a standing invitation to the Special Procedures mandate holders.²⁷

Resources for the National Monitoring Mechanism (NMM)

22. The Commission remains concerned over the absence of an independent budget for the NMM which is incorporated in the respective regular appropriations of its member agencies.²⁸

Torture

Fully prohibit torture and eliminate ill-treatment

23. There is no change in the state of law with regard to torture and other forms of ill-treatment. However, jail conditions continue to deteriorate with congestion rates as high as 279% in national penitentiaries and worse in detention facilities.²⁹
24. Although the Commission, together with partners, has continued to provide training programs in this regard, we have yet to see if concrete preventive actions have been taken by police officers.

Establish and operationalize without delay the NPM on torture

25. There is still no designated National Preventive Mechanism for torture³⁰ as the bill creating the NPM is still pending before Congress.³¹ The Commission internally created an Interim NPM to commence the work necessary to conduct preventive monitoring visits.

Effectively implement the Anti-Torture Act

26. In April 2016, the Philippines scored a victory against torture when the first conviction under the law was handed down by a regional court.³² However, the Commission laments that this is the first and only conviction since the measure had become law. Also, based on reports and records of the Commission, forms of torture are still being perpetrated by police officers. Most torture cases involve police officers.³³ With the opening of the 17th Congress last July 2016, the Oversight Committee for the Anti-Torture Act resolved to meet in the last quarter of 2016 to draw out the difficulties in implementation and address these possible amendments to the law.

Economic, Social and Cultural Rights

Continue efforts in fighting poverty

27. The government continues programs and projects aimed to fight poverty and promote inclusive growth, including the cash transfer program. However, the effects of such programs have yet to be fully established.

Protect and preserve the environment

28. On 21 July 2016, a petition was filed before the Commission against the top fossil fuel-producing companies of the world. The petition alleged that the respondent “carbon majors” were primarily responsible for bringing about climate change. The Commission considers this as among its priority cases, recognizing its significance as the first ever petition to be filed before an NHRI, framing, as it does, Climate Change as a Human Rights issue. The Commission is keenly aware of the interest that this case has generated amongst other NHRIs, the OHCHR (especially in relation to the SDGs, and climate justice advocates.
29. While there has been no official policy issued, the Commission notes with concern the apparent reversal of position by the present government on the ratification of the Paris Agreement.³⁴

D. Other Important Human Rights Issues

Resurrection of the Death Penalty

30. The President and the Speaker of the House of Representatives announced that they intend to include in their legislative agenda the restoration of death penalty not because of its deterrence to the commission of crime, but for retribution,³⁵ contrary to declared obligation of the Philippines as a State Party the Second Optional Protocol of the ICCPR.

Children’s Rights

31. Another legislative priority is the lowering of minimum age of criminal responsibility. Although there was no mention of a specific age, lawmakers are said to be eyeing a return to the previous minimum age of 12 years old.³⁶

Reparation and Accountability

32. The plan to bury former dictator Ferdinand Marcos in the “Libingan ng mga Bayani (National Heroes Cemetery)” by the government has caused concern from advocates and human rights victims who still await the results of the adjudication and awarding of monetary and non-monetary reparations under Republic Act 10368³⁷, and in the position of the Commission that the burial runs contrary to the objectives and purpose of the law on reparations, among others. There

is fear among human rights victims with regard to the message that the government is sending to the current and future generations - that those who violate human rights can be given a hero's burial.

Non-ratification of Important Human Rights Treaties

33. The Philippines has yet to ratify the Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol on the Convention on the Rights of Persons with Disabilities, Optional Protocol on the International Convention on Economic, Social and Cultural Rights, Third Optional Protocol for the Convention on the Rights of the Child, and the ILO Convention 169 on the Indigenous and Tribal People's Convention. The Philippines has yet to ratify the ASEAN Convention Against Trafficking in Persons, Especially Women and Children.³⁸

Women's Rights and Reproductive Health

34. The implementation and support for the RH law from various local government units (LGUs) remain uneven, ranging from full support to outright refusal. This is linked to the decentralization and autonomy of these LGUs, and the limits set on the mandate of the Department of Health in the delivery of reproductive health information and services. It became apparent also that there was lack or inadequate government response, with respect to reproductive health, in intersectional vulnerabilities of women from marginalized sectors and in specific vulnerable situations. Private and government health service providers face challenges in the form of unsustainable human resource policies, lack of support from the LGUs, religious and cultural resistance and absence health seeking behaviors among clients. In a recent Supreme Court decision, the RH Law implementation was again partly put on hold after giving due consideration to a petition that the Food and Drugs Authority clear the abortive effects of the implants before their procurement and distribution as stated in Supreme Court guidelines on the implementation of the same.³⁹
35. The Commission issued a resolution finding that then City Mayor, now President Rodrigo Roa Duterte violated the Magna Carta of Women. The Commission has asked the Civil Service Commission and the Department of Interior and Local Government to consider taking appropriate measures for the violation of the Magna Carta by Mayor

Duterte. A Motion for Reconsideration on the Resolution is still pending before the Commission.

Internal Displacement

36. The Commission expresses concern about the plight of internally displaced persons in the Philippines especially the resettlement of victims of Haiyan and the Zamboanga siege. With this concern, the Commission issued advisories⁴⁰ which urged local government units, housing authorities, the police and other government agencies to adopt rights-based approaches to development and permanent resettlement, while attending to the needs of internally displaced persons based on international human rights standards.

Migration and Trafficking

37. Shelters in Philippine embassies have become notorious places where domestic workers in distress have experienced abuse.⁴¹ A number of diplomatic officials have been found violating the rights of Filipino domestic workers.⁴²
38. The Commission is monitoring the case against Isidro Rodriguez, who trafficked hundreds of Filipino teachers to the United States.

Endnotes

- ¹ Created under Article XIII, Section 17(1) of the 1987 Philippine Constitution, whose mandate, *inter alia*, includes investigating human rights violations, monitoring government compliance with international human rights obligations, and providing human rights education and training.
- ² During an official event in December of 2015, co-organized by the Presidential Human Rights Committee Secretariat (PHRC), entitled “Ugnayang Bayan,” the 2015 Philippine Human Rights Report. The PHRC is a multi-agency coordinating body on human rights, created by virtue of Administrative Order 163 as the primary advisory body to the President in effectively addressing all human rights concerns/issues in the country. A copy of “Ugnayang Bayan” is attached hereto as **Annex A**.
- ³ Matrix of responses to the second cycle recommendations is annexed to this report as **ANNEX B**
- ⁴ Composed of the Executive, represented by the Presidential Human Rights Committee and civil society partners led by the Philippine Alliance of Human Rights Advocates.
- ⁵ Copy of the inaugural speech of President Duterte may be found in this site <http://newsinfo.inquirer.net/793344/full-text-president-rodrigo-duterte-inauguration-speech>, accessed on September 15, 2016
- ⁶ 1st SONA of President Rodrigo R. Duterte, may be found in this site <http://www.prcboard.com/2016/07/SONA-2016-Speech-Full-Text-Video-President-Rodrigo-Duterte.html>, accessed on September 15, 2016
- ⁷ Please see <https://www.youtube.com/watch?v=Gt5paXLYFew> accessed September 15, 2016
- ⁸ Please see <https://www.youtube.com/watch?v=qwqOaJow9JY> accessed September 15, 2016
- ⁹ R.A. 10353, Signed into law December 21, 2012, pertaining to
- ¹⁰ R.A. 10361, signed into law January 18, 2013
- ¹¹ R.A. 10368, signed into law February 25, 2013
- ¹² R.A. 10524, signed into law April 23, 2013
- ¹³ The Commission will soon issue its human rights legislative agenda for the 17th Congress.
- ¹⁴ Despite UPR second cycle Recommendation Nos. 129.1 (A/HRC/21/12 - Para. 129), and 131.13 (A/HRC/21/12 - Para. 131 & A/HRC/21/12/Add.1 - Para. 3(d) - Para. 620 (advance unedited versions)
- ¹⁵ Responsible Parenthood and Reproductive Health Act of 2012
- ¹⁶ “Philippine Supreme Court Upholds Historic Reproductive Health Law,” <http://www.reproductiverights.org/press-room/Philippine-Supreme-Court-Upholds-Historic-Reproductive-Health-Law%20>, accessed on 15 September 2016
- ¹⁷ Please see the Commission’s report of the national inquiry on reproductive health as **ANNEX C**
- ¹⁸ “DOH readies case vs Sorsogon mayor for ‘gross violation’ of RH law,” <http://www.rappler.com/nation/137269-doh-case-sorsogon-city-mayor-violation-rh-law>, accessed on 15 September 2016
- ¹⁹ Recommendation No. 129.12 from Republic of Korea, Singapore, and the Holy See, during the UPR second cycle (A/HRC/21/12 - Para. 129).
- ²⁰ Report on the Senate Hearing dated August 22-23, 2016 is attached as **ANNEX D and E** respectively
- ²¹ “In numbers: The Philippines’ ‘war on drugs’” <http://www.rappler.com/newsbreak/iq/145814-numbers-statistics-philippines-war-drugs>, accessed September 15, 2016
- ²² Copy of the partial report from the CHR Task Force EJK created to monitor the investigations on the incidents of EJK is attached as **ANNEX F**
- ²³ Copy of the CHR Resolution No. (AM) 2016-092 is attached as **ANNEX G**
- ²⁴ Under AO 35, there was an inter-agency body created during the previous Aquino administration to investigate and prosecute cases of EJKs, ED, torture and other grave human rights violations
- ²⁵ Republic Act No. 8551, Philippine National Police Reform and Reorganization Act of 1998, Sec. 39.
- ²⁶ Please see <http://globalnation.inquirer.net/143063/no-one-invited-palace-tells-un-official>, accessed on September 15, 2016
- ²⁷ CHR IV-A2012-003, Invitation of the Special Procedures Mechanism, 24 September 2012.
- ²⁸ Administrative Order No. 35, s. 2012, Sec. 5.
- ²⁹ Based on a forthcoming CHRP study.
- ³⁰ “Philippine NPM Designation,” http://www.apr.ch/en/opcat_pages/npm-designation-55/, accessed September 16, 2016
- ³¹ “Philippines: positive step to addressing police torture,” <http://www.amnesty.org.au/news/comments/38614/>, accessed September 15, 2016

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- ³² “Pampanga cop gets 2 years for torture,” <http://www.philstar.com/nation/2016/04/03/1568750/pampanga-cop-gets-2-years-torture>, accessed September 15, 2016
- ³³ “Most Torture Cases in the Philippines Perpetuated by the Police Officers – Report,” <http://www.gmanetwork.com/news/story/391056/news/nation/most-torture-cases-in-phl-perpetrated-by-police-officers-report>, September 15, 2016
- ³⁴ “Duterte says he won't honor the pact to cut carbon emissions,” <http://news.abs-cbn.com/new/07/18/16/duterte-says-he-wont-honor-pact-to-cut-carbon-emissions>; and “Rody: Philippines will honor Paris Treaty if...,” <http://www.philstar.com/headlines/2016/07/28/1607454/rody-philippines-will-honor-paris-treaty-if...>, accessed September 16, 2016
- ³⁵ “President Duterte Talks About the Death Penalty,” <https://www.youtube.com/watch?v=BlixhMaBvY0>, Accessed on September 16, 2015
- ³⁶ “Editorial—Age of Criminality,” <http://www.philstar.com/opinion/2016/06/11/1591726/editorial-age-criminal-liability>, accessed September 15, 2016
- ³⁷ Human Rights Victims Reparation and Recognition Act of 2013
- ³⁸ Despite relevant recommendations from the second UPR cycle, and numerous recommendations by the Commission
- ³⁹ “SC puts gov't-procured contraceptive implants on hold,” <http://newsinfo.inquirer.net/815108/sc-puts-govt-procured-contraceptive-implants-on-hold#ixzz4KNbRMiJk>, accessed September 15, 2016
- ⁴⁰ “On the Human Rights Standards on Housing, Land, and Property Rights of the Philippines Affected by Typhoon Yolanda (CHR 2014–001),” and “On the Human Rights Standards on Internally Displaced Persons (IDPs) in the Zamboanga Crisis (CHR 2014–004).” The Commission through these advisories
- ⁴¹ In 2013, the then Chair of the Committee on Overseas Workers Affairs (COWA), Congressman Walden Bello, published a report on the sex-for-flight issue, based on his fact-finding mission in the Middle East, *“Sexual abuse on our womenfolk perpetrated by their hosts in a foreign country is an awful crime. But there is something more awful, and that is their exploitation by their own compatriots in that strange land. And it is triply terrible when they are exploited sexually by government officials that are supposed to protect them. In this last press conference that the COWA is holding during the 15th Congress, we are unmasking some of the sexual predators that our investigation has revealed. We would like to thank those of you in the media that called our attention to allegations of what was called ‘sex-for-flight’ transactions promoted by people in Philippine Embassies in the Middle East.”* As a result of this probe, a year later, in 2014, then Foreign Secretary met with Chair Bello and recalled heads of posts in Jordan, Kuwait, and Saudi Arabia, initiated an internal investigation on the allegations and filed cases against embassy staff involved in the scam. However, progress on these cases have stalled since then.
- ⁴² As per the cases handled by migrant support groups Center for Migrant Advocacy and Kanlungan Center.