

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

COMMITTEE AGAINST TORTURE

Forty-second session

27 April – 15 May 2009

List of issues to be considered during the examination of the second periodic report of the Philippines

(CAT/C/PHL/2)

Article 1

- 1. Notwithstanding the statement in the report that the Revised Penal Code guarantees that all acts of torture are classified as criminal offences with corresponding penalties under Philippine laws, please inform the Committee of steps taken by the State party to amend its legislation and institute a crime of torture as defined by the Convention in its Penal Code. According to the report, the Committee on Justice has adopted House Bill No. 5846 which is a consolidation of three bills on torture, and in the Senate, two bills on torture have been filed and are pending consideration at the committee level. Please provide more information on these bills and clarify their content and interrelatedness. What is the status of these bills? (State party report, paras. 3 and 4)-**

House Bill No. 5846 entitled, “An Act Penalizing the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments, Prescribing Penalties Therefor And For Other Purposes,” was filed by Representatives Ocampo, Casiño, Magtubo, Tulagan, Rosales, Aguja, Virador, Beltran, Tañada, Maza, Mariano, Amin, Hizon, Lagman, Marcoleta, Hontiveros-Baraquel and Datumanong, per House of representatives Committee on Justice Report No. 1998 during the 13th Congress in keeping with the declared the policy of the State to:

(a) ensure that the rights of all persons, including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody of any person in authority shall be subjected to physical harm, force, violence, threat or intimidation or any act that impairs his/her free will; and

(b) to fully adhere to the principles and standards on the absolute condemnation and prohibition of torture set by the 1987 Philippine

Constitution and various international instruments, such as the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which the Philippines is a State party.

The proposed House Bill underscores that freedom from torture is a non-derogable right. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability, or any other public emergency, may be invoked as a justification for torture. Secret detention places, solitary, incommunicado or other similar forms of detention, where torture may be carried on with impunity, are hereby prohibited. Any confession, admission or statement obtained as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that said confession, admission or statement was made.

It specifically criminalizes torture as an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or within the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from inherent or incidental to lawful sanctions.

Torture as defined in Section 3 of proposed Bill provides that any person, who actually participated in the infliction of torture or who is present during the commission of said act shall be liable as principal. Any superior military, police or law enforcement officer or senior government official who issued an order to a lower ranking personnel to torture a victim for whatever purpose shall be held equally liable as principals. An order from a superior officer or from a superior in the office or public authority shall not be invoked as a justification of torture.

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The immediate commanding officer of the unit concerned of the Armed Forces of the Philippines (AFP) or the immediate senior public official of the Philippine National Police (PNP) and other law enforcement agencies shall be held liable as accessory to the crime for any act or omission or negligence on his part that may have led to the commission of torture by his/her subordinates.

The following penalties are provided in the proposed Bill:

- (a) Torture resulting in the loss of life of any person shall be considered as murder and shall be punishable by *reclusion perpetua*.
- (b) Torture with rape shall be punishable by *reclusion perpetua*.
- (c) Torture resulting in mutilation shall be punishable by *reclusion perpetua*.
- (d) Any person found guilty of any other form of torture shall suffer:
 - (1) The penalty of *reclusion perpetua*, if other forms of sexual abuse have also been committed and/or in consequence of torture, the victim shall become insane, imbecile, impotent, blind or maimed for life;
 - (2) The penalty of *reclusion perpetua*, if committed against children;
 - (3) The penalty of *prision mayor* in its medium and maximum periods, if in consequence of torture, the victim shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm or a leg or shall have lost the use of any such member, or shall have become permanently incapacitated for the work in which he/she was theretofore habitually engaged;
 - (4) The penalty of *prision mayor* in its minimum and medium periods, if in consequence of torture, the victim shall have become deformed or shall have lost any other part of his/her body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance of the work in which he/she was habitually engaged for a period of more than ninety (90) days;
 - (5) The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the consequence of torture shall have caused the illness or incapacity for labor of the victim for more than thirty (30) days; and

- (6) The penalty of *prision correccional* in its minimum period to *prision correccional* in its medium period, if the consequence of torture shall have caused the illness or incapacity for labor of the victim for thirty (30) days or less.
- (7) Mental/psychological torture resulting in death, complete or partial amnesia, fear of going crazy, insanity or suicidal tendencies of the victim due to guilt, worthlessness or shame shall be punishable with *reclusion temporal* or a fine of not less than Fifty thousand pesos (P50,000.00), or both, at the discretion of the court.

The above penalties shall be without prejudice to the prosecution of other crimes and other legal remedies available to the victim under other existing law/s.

The proposed legislative measure enumerates the following forms of torture and other cruel and degrading forms of punishment or treatment, such as but not limited to:

- (a) Physical torture, which shall be understood as referring to such cruel, inhuman or degrading treatment which causes pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:
 - (1) Systematic beatings, headbangings, punching, kicking, striking with truncheons, rifle butts and jumping on the stomach;
 - (2) Food deprivation or forcible feeding with spoiled food, animal or human excreta or other food not normally eaten;
 - (3) Electric shocks;
 - (4) Cigarette burning, burning by electrically heated rods, hot oil, acid;by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wounds;
 - (5) The submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;
 - (6) Being tied or forced to assume fixed and stressful bodily positions;
 - (7) Rape and sexual abuse, including the insertion of foreign bodies into the sex organs or rectum or electrical torture of the genitals;
 - (8) Other forms of sexual abuse;

- (9) Mutilation, such as amputation of the essential parts of the body such as the genitalia, ears, tongue, etc.;
- (10) Dental torture or the forced extraction of the teeth;
- (11) Harmful exposure to the elements such as sunlight and extreme cold;
- (12) The use of plastic bags and other materials placed over the head to the point of asphyxiation;
- (13) The use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:
 - (i) Administration of drugs to induce confession and/or reduce mental competency; or
 - (ii) The use of drugs to induce extreme pain or certain symptoms of disease; or
- (14) Other forms of aggravated and deliberate cruel, inhuman or degrading physical and/or pharmacological treatment or punishment; and Mental/psychological torture, which shall be understood as referring to such cruel, inhuman or degrading treatment calculated to affect or confuse the mind and/or undermine a person's dignity and morale, such as:
 - (1) Blindfolding;
 - (2) Threatening a person or such persons related or known to him/her with bodily harm, execution or other wrongful acts;
 - (3) Confinement in solitary cells put up in public places;
 - (4) Confinement in solitary cells against their will or without prejudice to their security;
 - (5) Prolonged interrogation so as to deny normal length of sleep and/or rest;
 - (6) Preparing a prisoner for a "show trial", public display or public humiliation, considerably defeating the political effectiveness of the prisoner;

- (7) Causing unscheduled transfer/s of a person from one place to another, creating the belief that he/she shall be summarily executed;
- (8) Maltreating a member of the person or person/s' family;
- (9) Causing the torture sessions to be witnessed by the person/s' family, relatives or any third party;
- (10) Inculcating generalized fear among certain sections of the population;
- (11) Denial of sleep/rest;
- (12) Shame infliction such as stripping the person/s naked, parading them in public places, shaving their heads or putting marks on their bodies against their will;
- (13) Confinement in jails and prisons under intolerable subhuman conditions; or
- (14) Other forms of deliberate and aggravated cruel, inhuman or degrading mental treatment or punishment.

The proposed legislation provides that any individual who alleges he/she has been subjected to torture shall have the right to complain to and to have his/her case promptly and impartially examined by any competent authorities. Steps shall be taken to ensure that the complainant is protected against all ill treatment or intimidation as a consequence of his/her complaint or any given evidence. Likewise, the State through its appropriate agencies shall ensure the safety of all other persons involved in the prosecution and investigation on cases of torture such as the legal counsel, witnesses and relatives of the victims of torture. They shall be protected from ill treatment and any act of intimidation or reprisal as a result of the complaint or investigation. Any person committing such acts shall be criminally liable.

The said House Bill stipulates that a party who suffered torture and other cruel, inhuman and degrading treatment or punishment, or any interested party on their behalf, may seek legal assistance in the proper handling and filing of the complaint from the regional offices of the Commission on Human Rights (CHR), the *Barangay* ("Village") Human Rights Action Center nearest them, as well as from human rights non-government organizations duly recognized by the government and that every person arrested, detained or under custodial investigation shall have the right to

be informed of his/her right to demand a physical and psychological examination by an independent and competent doctor of his/her own choice before and after interrogation, which shall be conducted outside the influence of the police or security forces. If such person cannot afford the services of his/her own doctor, he/she shall be provided by the State with a competent and independent doctor. If the person arrested is a female, she shall be provided with a female doctor. Furthermore, every person arrested, detained or under custodial investigation shall have the right to immediate access to quality medical treatment. The medical report shall include in detail the history and the findings of the physical and psychological examination and shall be attached to the custodial investigation report; otherwise, such investigation report shall be deemed null and void and of no effect whatsoever. Following applicable protocol agreed upon by agencies, medical reports shall, among others, include the following:

- (1) The name, age and address of the patient;
- (2) The name and address of the nearest kin of the patient;
- (3) The name and address of the person who brought the patient for physical and psychological examination;
- (4) The nature and probable cause of the patient's injuries and trauma;
- (5) The approximate time and date when the injury and/or trauma was sustained;
- (6) The place where the injury and/or trauma was sustained;
- (7) The time, date and nature of treatment necessary; and
- (8) The diagnosis, the prognosis and/or disposition of the patient.

Any person who does not wish to avail of the aforementioned rights may knowingly and voluntarily waive such rights in writing.

On *Non-Refouler*, the proposed Bill provides that no person shall be expelled, returned or extradited to another State where there are substantial grounds for believing that such person would be in danger of being subjected to torture. For the purpose of determining whether there are such grounds, the Secretary of Foreign Affairs and the Secretary of Justice, in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including, where applicable, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

Any person who has suffered torture shall have the right to claim for compensation as provided for under Republic Act No. 7309: *Provided*, That in no case shall compensation be any lower than Ten thousand pesos (P 10,000.00). Victims of torture shall also have the right to claim

for compensation from such other financial relief programs that may be available to him/her.

Formulation of a Rehabilitation Program - The formulation of a Rehabilitation Program within one (1) year from the effectivity of the proposed Bill is stipulated in the proposed Bill. For this purpose, the Department of Social Welfare and Development (DSWD), together with the Department of Justice (DOJ) and the Department of Health (DOH) and such other concerned government agencies, shall formulate a comprehensive rehabilitation program for victims of torture and their families. The DSWD, the DOJ and the DOH shall also call on human rights non-government organizations duly recognized by the government to actively participate in the formulation of a rehabilitation program that shall provide for the physical, mental, social, psychological and spiritual healing and development of victims of torture and their families.

Designation of Organizational Responsibility – The proposed Bill provides that the AFP, the PNP and other law enforcement and investigative agencies shall ensure that the function of overseeing the implementation of this Act shall be specifically assigned to a particular office or unit of the agency concerned.

Education and Information Campaign – The CHR, the DOJ, the Department of National Defense and such other concerned parties in both the public and private sectors shall ensure that education and information regarding the prohibition against torture shall be fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. The Department of Education and the Commission on Higher Education shall also ensure the integration of human rights education in the formal curricula of all primary, secondary and tertiary level academic institutions nationwide.

House Bill 5846 was approved on Third Reading on 20 December 2006 and was transmitted to the Senate on 24 January 2007. However, with the conclusion of the 13th Congress in May 2007, the Philippine Legislature was unable to enact the proposed law on torture.

On 07 January 2009, House Bill 5709 was reported out by the House Committee on Justice in substitution of five related bills on torture. The proposed measure is currently for plenary consideration. The said House Bill defines torture and other cruel, inhuman and degrading treatment or punishment to include but not limited to physical torture as well as mental/psychological torture enumerating therein specific forms/acts committed by a person in authority or agent of a person in authority.

The current 14th Philippine Congress is now deliberating on all the proposed Bills on Torture, which had been re-submitted for its consideration, as follows:

- HB00327 entitled, " An Act Penalizing the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, Prescribing Penalties Therefor and For Other Purposes", otherwise known as the "Anti-Torture Act of 2007";
- HB01053 entitled, "An Act Penalizing the Commission of Acts of Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishments, Prescribing Penalties Therefor and For Other Purposes", otherwise known as the "Anti-Torture Act of 2007;"
- HB05183 entitled, "An Act providing a Comprehensive Program of Support for Victims of Torture", otherwise known as the "Comprehensive Torture Victims Relief Act of 2008";
- Senate Bill No. (SBN) 1978 entitled, "An Act Penalizing Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, Prescribing Penalties Therefore and for Other Purposes", otherwise known as the "Anti-Torture Act of 2007";
- SBN 1848 entitled, "An Act Providing a Comprehensive Program of Support for Victims of Torture", otherwise known as the "Comprehensive Torture Victim Relief Act of 2007";
- SBN 1337: "An Act Penalizing the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments, and Providing for a Rehabilitation Program for Victim", otherwise known as "Anti-Torture Act of 2007";
- SBN 1306: "An Act Penalizing the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments, Prescribing Penalties Therefor and for Other Purposes", otherwise known as "Anti-Torture Act";
- SBN 39: "An Act Penalizing the Commission of Acts of Torture and for Other Purposes" , otherwise known as "Anti Torture Act"

Article 2

- 2. Please describe how the basic legal safeguards for detained persons, as provided for in Republic Act No. 7438 (including prompt access to**

defense counsel and medical examination and the right to inform a relative), are implemented in the State party from the outset of their detention. Please provide information on any restrictions that may be imposed on these rights and elaborate on the statement that “..the provisions of the above Section notwithstanding, any security officer with custodial responsibility over any detainee or prisoner may undertake such reasonable measures as may be necessary to secure his safety and prevent his escape” (State party report, para. 56). What steps are being taken by the State party to ensure that this is interpreted in a narrow manner? (State party report, para. 54) Please also provide information on the implementation of the penalty clause contained in section 4 of the same law. How often has this clause been invoked and how many public officials have been sanctioned in this respect?

It is the declared policy of the State to value the dignity of every human being and guarantee full respect for human rights. Pursuant to this Constitutional mandate, Republic Act No. 7438 was enacted to define certain rights of a person who has been arrested, detained or under custodial investigation and specify the duties of the arresting, detaining or investigating officer. Said law also provided penalties for the violation of its provisions. Republic Act No. 7438 is a special law imposing penalties and sanctions for breach of its provisions. Liability attaches upon the security officer upon a judicial finding of violation of the provisions of the law. It is, thus, necessary that a criminal, civil and/or administrative case be filed before the appropriate courts/body against a security officer or responsible authority for violation of the provisions of the law.

Thus, in accordance with Section 2 of Republic Act 7438 any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.

Any public officer or employee, or anyone acting under his order or in his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.

The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed, or before the person arrested affixes his thumb mark in case he/she does not know how to read and write, it shall be read and adequately explained to him/her by his/her counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to him/her.

Failure to comply with the aforementioned requirements shall render the investigation as null and void and of no effect whatsoever.

Moreover, any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his/her spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him/her; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his/her counsel; otherwise such waiver shall be null and void and of no effect.

Any person arrested or detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor of priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-government organization duly accredited by the Commission on Human Rights or by any international non-governmental organization duly accredited by the Office of the President. The person's "immediate family" shall include his or her spouse, fiancé or fiancée, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

Under the PNP Police Operational Procedures (POP), Rule 11 (On Arrest) Second Paragraph, mandates that; "Arrest is the actual restraint of the person to be arrested or by his submission to the custody of the person making the arrest. ***No violence or unnecessary force shall be used in making an arrest, and the person to be arrested shall not be subjected to any greater restraint than is necessary for his detention.***"

Sections 4, 5, and 6 of the above Rule provides that, every police officer when effecting an arrest, whether with warrant or without, is duty-bound to afford and appraise the arrested person of his Miranda rights, extends and observes all his rights under custodial investigation.

Section 7 of the same (Physical Examination of Arrested Suspect) orders that; ***"immediately after the arrest of a person ordered arrested by the court, or of a suspect under investigation, he should be subjected to a physical examination by a medico-legal officer or, in the absence of such a medico legal officer, by any government physician in the area. Prior to his release or any change of custody, the suspect shall also be physically examined."***

Section 8, thereof expressly prohibits that ***“No torture, force, violence, threat, intimidation, or any other means which violates the free will shall be used against a suspect. Secret detention places, solitary confinement (incommunicado) or other similar forms of detention shall be prohibited”***

Based on the foregoing, the Philippine National Police, through its Police Operational Procedure, strictly mandates the full observance and respect for the human rights of each arrested person, or those invited for questioning or under custodial investigation. Those found violating the aforementioned directives are immediately subjected to administrative proceedings without prejudice to criminal liability. The Philippine National Police does not condone nor tolerate such actions lest they are dealt with accordingly in strict compliance and deference to Republic Act 7438.

Moreover, a PNP Memorandum Circular was enacted by the PNP leadership prohibiting the presentation or parading of arrested suspects to the media and prevention of mulcting or maltreatment of the suspects by anyone. Stringent administrative penalties are herein provided against PNP personnel who fail to abide with this directive.

The program of instruction for Junior Officer recruits (JO1) of the Bureau of Jail Management and Penology (BJMP), in line with R.A. 7438, also specifically covers inmates' visitorial rights. The same is reiterated in the subsequent schooling of non officers and officers alike at the Jail National Training Institute (JNTI), Camp Vicente Lim, Calamba, Laguna City.

In line with the aforementioned law, inmates are accorded visitation privileges. As such, relatives, friends, lawyers, doctors and religious ministers, in line with existing regulations could visit inmates except during the inmates' wash day, i.e., once a week. Visiting hours usually start at 10h00 and ends at 17h00.

The so-called “Miranda doctrine,” enunciated by the US Supreme Court in the landmark case of *Miranda vs. Arizona*, is likewise observed by the Philippines and serves as a measure to ensure the narrow interpretation of the provisions of R.A. 7438. Said right is provided in Article III, Section 12 (1) of the Philippine Constitution.

Safety and custody are a dual concern of any security officer and constitute a primordial responsibility on his/her part.

There is an abundance of jurisprudence on Republic Act 7438 notable among which, is the case of Judge Lorinda B. Toledo-Mupas of the Municipal Trial Court of Dasmariñas, Cavite, docketed as Administrative Matter No. 03-1462-MTJ. The Supreme Court in a per curiam decision dated 19 April 2007 meted the supreme penalty of dismissal from the service, with all the accessory penalties

appurtenant thereto after finding Judge Mupas liable for gross ignorance of the law.

Evidently, Judge Mupas persisted on the anomalous practice of issuing "Detention Pending Investigation of the Case" orders in lieu of a written waiver signed by the accused with the assistance of counsel is, which in the words of the Supreme Court Justice constituted "a blatant manifestation of ignorance in the legal procedure." The Supreme Court assailed the subject individual's insistence that the document was an implied waiver of the rights of the accused under Article 125 of the Revised Penal Code. In the words of the Court, "Judge Mupas must be reminded that although judges have in their favor the presumption of regularity and good faith in the performance of their official functions, a blatant disregard of the clear and unmistakable terms of the law obviates this presumption and renders them susceptible to administrative sanctions."

In the said case, the Supreme Court had the occasion to rule that "being among the judicial front-liners who have direct contact with the litigants, a wanton display of utter lack of familiarity with the rules by the judge inevitably erodes the confidence of the public in the competence of our courts to render justice. It subjects the judiciary to embarrassment. Worse, it could raise the specter of corruption X X X" and that "(w)hen the gross inefficiency springs from a failure to consider so basic and elemental a rule, a law, or a principle in the discharge of his or her duties, a judge is either too incompetent and undeserving of the exalted position and title he or she holds, or the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority."

Inmates under the Bureau of Jail Management and Penology are allowed to receive visits from their relatives, friends, lawyers, doctors and religious ministers. One day per week is set aside as inmates' wash day and no visits allowed. Visiting hours usually start at 10H00 and ends at 17H00. On the other hand, Mondays and Tuesdays have been designated as "wash days¹" for inmates under the Bureau of Correction.

- 3. Please provide detailed information on the *de facto* practice of detention of suspects by the Philippine National Police (PNP) and the Philippine Armed Forces (AFP), including numbers and length of such detention. Please comment on reports that although authorities are required to file charges within 12 to 36 hours of arrests made without warrants, depending on the seriousness of the crime, lengthy pretrial detention remains a problem, due to the slow judicial process. Please also**

¹Days where the inmates could attend to their personal activities. During these days, no visitation is allowed. Visitation rights of relatives, lawyers, ministers, etc. may be exercised from Wednesdays to Sundays.

comment on reports that the use of arrests without warrants is extensive, that many of these arrests may be arbitrary and that criminal suspects are at risk of torture and ill-treatment during extended periods of “investigative” detention. Are persons detained by the PNP and the AFP systematically registered and is there a central registry of detainees in place?

The Philippine National Police (PNP), as part of its mandate to enforce the law, effect the service of warrants of arrest on fugitives of justice, detains the apprehended persons and registered in a logbook of detainees or arrested persons maintained and reposed in every police station, returns the warrant to the court, secures the necessary commitment order for their turnover to the appropriate detention facility.

Torture or ill treatment on suspects or detainees is not tolerated or condoned by the PNP. Erring PNP personnel are dealt with accordingly.

Arrested suspects or detainees are apprised of their rights, subjected to physical examination before, during their detention and in every change of custody up to their release. On the process their rights are afforded and respected.

Allegations of extensive **de facto** warrantless arrests by the PNP, however, are not accurate. In fact, under the Doctrine of Citizen's arrest, anyone can apprehend and effect arrest provided the requisites under Sec 5, Rule 113, Rules on Criminal Procedure. When the same are not present, the PNP personnel who made an arrest during this instance can be held liable for Unlawful Arrest (Article 269, Revised Penal Code), aside from being meted the appropriate administrative liabilities.

In keeping with the provisions of Republic Act 7438, the PNP promulgated its Rules of Procedure in relation with the Rules on Criminal Procedure, Revised Penal Code and existing jurisprudence.

Rule 11, Section 6 of the PNP Rules of Procedure provides that the arresting officer in case of an arrest without a warrant (hereinafter referred to as “warrantless arrests”) shall inform the subject or suspect, in the dialect or language known to him/her, why he/she is being arrested, and of his/her right to remain silent and to have a counsel of his/her own choice, to be informed of the authority and the cause of the arrest, unless the person to be arrested is then engaged in the commission of an offense or is pursued immediately after its commission or after and escapes; or flees or forcibly resists before the officer has opportunity to inform him/her, or when the giving of such information will imperil the arrest. The arrested person shall be delivered to the proper authorities without unnecessary delay and within in the time prescribed in Article 125² of the

² Article 125 of the Revised Penal Code provides that a public officer or employee, who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial

Revised Penal Code, as amended. The person arrested without a warrant shall be delivered to the nearest police station or jail, and shall be the subject of inquest proceedings under Section 7, Rule 112 of the Rules of Criminal Procedure. If the person arrested without warrant waives his/her right to remain silent under the provisions of Article 125 of the Revised Penal Code and opts to give a statement and present evidence for his defense, the arresting officer shall ensure that the waiver made by the person arrested shall be in writing and in the presence of his/her counsel of choice.

Based on its mandate to enforce the law, the Philippine National Police performs the following:

- effects the service of warrants of arrests on fugitives of justice;
- detains the apprehended persons;
- registers the particulars of the arrest/apprehension in a logbook for detainees or arrested persons maintained and reposed in every police station;
- returns the warrant to the court;
- secures the necessary commitment order for their turnover to the appropriate detention facility.

Suspects are apprised of their rights as enshrined in Article III of the Philippine Constitution (Bill of Rights) prior, during and after their arrest. They are subjected to physical examination before, during and after their detention. Incidentally, the detainee is likewise physically examined every time there is a change or transfer of custody. Their fundamental rights are afforded and respected throughout the entire process. Torture or ill treatment on suspects or detainees is not tolerated or condoned by the Philippine National Police (PNP) and erring PNP personnel are dealt with accordingly.

There is extensive jurisprudence on warrantless arrests conducted by the authorities or even ordinary citizens. Under the principle of "Citizen's Arrests", anyone can apprehend and effect an arrest provided the requisites under Sec.

authorities within the period of; twelve (12) hours, for crimes or offenses punishable by light penalties, or their equivalent; eighteen (18) hours, for crimes or offenses punishable by correctional penalties, or their equivalent and thirty-six (36) hours, for crimes, or offenses punishable by afflictive or capital penalties, or their equivalent, shall suffer the same penalty for Arbitrary Detention under Article 124 of the Revised Penal Code, i.e., (1.) the penalty of arresto mayor in its maximum period to prision correccional in its minimum period, if the detention has not exceeded three days; (2.) The penalty of prision correccional in its medium and maximum periods, if the detention has continued more than three but not more than fifteen days; (3.) The penalty of prision mayor, if the detention has continued for more than fifteen days but not more than six months; and (4.) That of reclusion temporal, if the detention shall have exceeded six months. The commission of a crime, or violent insanity or any other ailment requiring the compulsory confinement of the patient in a hospital, shall be considered legal grounds for the detention of any person.

5³, Rule 113 of the Rules on Criminal Procedure, as amended. When the requisites are not complied with, PNP personnel who made an arrest can be held liable for Unlawful Arrest under Article 269 of the Revised Penal Code aside from appropriate administrative and civil liabilities.

In the case of *People of the Philippines vs. Reynaldo Lozada y Salopesa, alias "Roy," Geraldine Belleza y Mayagma, alias "Mamay," Ronnie Sanchez (at large), Rey Andales (at large)*, appellants, docketed as G.R. No. 141121 dated 17 July, 2003, appellant Reynaldo Lozada would want the Supreme Court to hold that the trial court erred in not finding his warrantless arrest to be unlawful, in not declaring as unconstitutional the search conducted on his person and as being thus inadmissible in evidence the items seized from him, in allowing the use of his alleged extra-judicial confession against him, and in finding him guilty of the crime charged. Appellant Geraldine Belleza submitted the lone argument that the trial court had erred in convicting him on the mere basis of circumstantial evidence.

The Supreme Court ruled that while it was undisputed that there was no warrant issued for the arrest of the appellants, the arrests were lawful because they were based on probable cause and the police had to immediately act to prevent the likely flight of appellants. It was a valid warrantless arrest, according to the Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure, which provides that "a peace officer or a private person may, without a warrant, arrest a person: x x x (b) when an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it." "Personal knowledge," the Court explained, should be based on "probable cause" which means an actual belief or reasonable grounds of suspicion. The grounds of suspicion are reasonable when the suspicion on the probable guilt of the person to be arrested is based on facts or circumstances sufficiently strong in themselves to create a probable cause of guilt of the person to be arrested.

In the instant case, the police officers, on the basis of the facts gathered in the course of their investigation, including the disclosure made by Reynaldo Diaz on

³ Sec. 5. *Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person: (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another. In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

how the plan to commit the offense was hatched, also had sufficient and reasonable grounds of suspicion that appellants were probably guilty of the crime charged.

But even on the assumption that the police erred in not securing warrants for the capture of appellants, the Supreme Court ruled that the latter could no longer impugn the validity of their arrest. Any objection against an arrest or the procedure in the acquisition by the court of jurisdiction over the person of an accused should be made at or before the arraignment; otherwise the objection is deemed waived. Appellants entered their "plea of not guilty" to the crime of robbery with homicide and thereafter participated in the trial without questioning the legality of their arrest. The search conducted on appellant Lozada, being an incident to the arrest, should also be upheld. Belleza, on the other hand, waived his right against a warrantless search when he himself voluntarily disclosed where he hid the keys and the bag of Rosita Sy and where, true enough, the items were recovered.

The extra-judicial confessions made by appellants Lozada and Belleza, however, were held inadmissible in evidence. The supposed confessions have merely been recounted on the witness stand by the investigating officers. Republic Act No. 7438 requires an extra-judicial confession made by the person arrested, detained or under custodial investigation to be in writing and signed by such person; otherwise, it shall be inadmissible in evidence.

In *People vs. Tonog, Jr.*, the Supreme Court also upheld a warrantless arrest under Section 5(b), Rule 133, of the 1985 Rules of Criminal Procedure because the arresting officer, "in effecting the arrest of (the) accused x x x, had knowledge of facts gathered by him personally in the course of his investigation indicating that (the accused) was one of the perpetrators."

The Armed Forces of the Philippines (AFP) does not observe the de facto practice of detention of suspects. There has yet to be an adverse judicial decision in all Habeas Corpus cases filed against the AFP and its personnel relative to the legality of detention of suspects in its various custodial and management facilities. The Articles of War, particularly Article 70, provide the legal basis for military authorities to arrest, take custody, detain and/or restrict military personnel when investigated for violations under the military justice system. Arrest conducted against civilian suspects are usually executed with police authorities and limited to support law enforcement under pertinent Rules of Engagement. Custody of arrested suspects, who are not persons subject to military law is, however, retained if judicial authorities so order pursuant to a Commitment Order specifically issued for this purpose. The detained persons are kept and managed in accordance with existing internal regulations, i.e., Standard Operating Procedure (SOP) No. 12 dated 03 November 2006 entitled, "Handling and Disposition of Persons Apprehended, Arrested, Confined or Under Custodial Investigation Pursuant to Existing Laws, AFP Regulations and Article

of War 70” and SOP No. 0263-04 Re: Policy, Rules and Regulations Governing the Administration/Management of Intelligence Services of the AFP (ISAFP) Detention Center (IDC) and Security of Detainees.

Custody of persons arrested pursuant to the conduct of Internal Security Operations (ISO) are turned over to the nearest police station or jail and all military personnel are enjoined to strictly observe the reglementary period prescribed under Article 125 of the Revised Penal Code and the Human Security Act (Republic Act 9372) as far as tactically feasible. This is now the current thrust of the AFP, through the AFP Chief of Staff, in issuing a Command Guidance on the formulation of a Handbook on Arrest, Search and Seizure intended to be disseminated upon approval for common guidance.

- 4. Please comment on reports that Republic Act 9372 (Human Security Act of 2007), also known as the Anti-Terrorism Act, permits persons apprehended in the Philippines to be rendered to countries that routinely commit torture, as long as the receiving State provides assurances of fair treatment. Does the Act allow for suspects to be detained without warrant or charge for up to 72 hours? Please describe the steps taken by the State party to address the concerns expressed by the Special Rapporteur on the promotion and protection of human rights while countering terrorism in respect of the Human Security Act, including the broad definition of “terrorist crimes”, the strict application of a penalty of 40 years’ imprisonment, the competence of various bodies authorized to review the detention of an individual, and the restrictions on movement (A/HRC/6/17/Add.1, paras. 64-97).**

The Human Security Act (HSA) or anti-terrorism law has 62 provisions, 28 of which are committed to the purpose of protecting the rights of the accused, to wit:

Sections 8-16: Surveillance of Suspects and Interception and Recording of Communications, among others: states that only a law enforcement official duly authorized by the Council can apply for Judicial Authorization from the Court of Appeals (CA) to tap, record, listen, etc. communication or messages of any person suspected of the crime of terrorism. However, said request must first be substantiated with enough circumstances with evidence or personal knowledge of facts and that there is no other readily available means to acquire such evidence.

The law further dictates that the person being surveilled or whose communication is being intercepted or listened to should be informed of the act being done by the authorities in order for that person to be able to challenge, if the or she wants to, the legality of the interference.

The materials (evidences: tapes, discs, etc.) gathered shall not be opened, divulged, read, replayed, used, etc., unless authorized by the CA and with the proper written notice to the person/suspect. Any person, law enforcement official

or judicial authority who violates this rule shall suffer the penalty of six years and one day to eight years of imprisonment.

Any police or law enforcement who, not being authorized to tap, listen to, intercept and record in whatever manner or form of communication, message, conversation, discussion, or spoken or written word of a person charged with or suspected of the crime of terrorism or the crime to conspiracy to commit terrorism shall be guilty of an offence and shall suffer the penalty often (10) years and one day to twelve (12) years of imprisonment. Aside from imprisonment, said official shall also be disqualified from public office.

Section 17: Proscription of Terrorist Organizations, Association, or Group of Persons: In relation to the proscription of terrorist organization, association, or group of persons, they shall be given notice and the opportunity to be heard before a competent Court.

Section 18: Period of Detention Without Judicial warrant of Arrest: Any person taken into custody shall be presented to a judge at the latter's residence or office nearest the place where the arrest took place at any time of the day or night. It shall be the duty of the judge, among other things, to ascertain the identity of the police or law enforcement personnel and the person or persons they have arrested and presented before him or her, to inquire of them the reasons why they have arrested the person and determine by questioning and personal observation whether or not the suspect has been subjected to any physical, moral or psychological torture by whom and why. The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the police or law enforcement personnel who fails to notify the judge X X X.

Section 19: Period of Detention in the Event of an Actual or Imminent Terrorist Attack: In the event of an actual or terrorist imminent attack, suspects may not be detained for more than three days without the written approval of a municipal, city, provincial or regional official of a Human Rights Commission or judge or a Justice of the Court of Appeals X X X.

Section 20: Penalty for Failure to Deliver Suspect to the Proper Judicial Authority within Three Days: The penalty often (10) years and one day to twelve (12) years of imprisonment shall be imposed upon any police or law enforcement personnel who has apprehended or arrested, detained and taken into custody of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism and fails to deliver such charged or suspected person to the proper judicial authority within the period of three days.

Section 21: Rights of a Person under Custodial Detention: The moment a person charged with or suspected of the crime of terrorism or the conspiracy to commit terrorism is apprehended or arrested or detained, he shall forthwith be informed,

by the arresting police or law enforcement officers to whose custody the person concerned is brought X X X.

Section 22: Penalty/or Violation o/the Rights o/a Detainee: Any police or law enforcement personnel, or any personnel of the police or law enforcement custodial unit that violates any of the aforesaid rights of a person charged X X X shall be guilty of an offense and shall suffer the penalty often (10) years and one day to twelve (12) years imprisonment.

Section 23: Requirement for an Official Custodial Logbook and its Contents: The police or other law enforcement custodian] unit in whose care and control the person charged. ...has been placed under custodial arrest and detention shall keep a securely and orderly maintained logbook. ..to be made available]e for the inspection and scrutiny of the lawyer or]lawyers of the person under custody or any member of his or her family anytime of the day or night without any form of restriction X X X the police or other law enforcement custodial unit who fails to comply shall suffer the penalty of twelve (12) years of imprisonment.

Section 24: No Torture or Coercion in Investigation and Interrogation: No threat, intimidation, or coercion, and no act which will inflict any form of physical pain or torment, or mental, moral, or psychological pressure, on the detained person, which shall vitiate his free-will, shall be employed in his investigation and interrogation X X X otherwise, the evidence obtained from said detained person resulting from such X X X shall be in its entirety, absolutely not admissible and usable as evidence X X X.

Section 25: Penalty for Threat, Intimidation, Coercion, or Torture in the Investigation and Interrogation of a Detained Person: Any person or persons who use the aforementioned methods in Section 24 shall be guilty of an offence and shall suffer the penalty of twelve (12) years and one day to twenty (20) years of imprisonment.

Section 26: Restriction to Travel: In cases where evidence of guilt is not strong, and the person charged with the crime of terrorism is entitled to bail and is granted the same, the court shall X X X limit the right of travel of the accused. The restrictions shall be terminated upon the acquittal of the accused or of the dismissal of the case filed against him.

Section 28: Application to Examine Bank Deposits, Accounts, and Records: The written order from the Court of Appeals authorizing the examination of bank deposits, placements, trust accounts, and records of a person or group of persons, or member of any organization, association suspected of the crime of terrorism shall be granted only upon examination under oath or affirmation of the police or law enforcement officer and the witnesses he may produce to establish the facts that will justify the need and urgency of examining and freezing the

bank deposits, placements, trust accounts, assets, and records of the suspects/suspects X X X.

Section 29: Classification and Contents of the Court Order Authorizing the Examination of Bank Deposits, Accounts, and Records: The written order granted by the authorizing division of the Court of Appeals as well as its order, if any, to extend or renew the same. ..shall be deemed and are hereby declared as classified information; Provided, that the person whose bank deposits, placements, trust accounts, assets, and records have been examined, froze, sequestered and seized by law enforcement authorities has the right to be informed of the acts done by the law enforcement authorities in the premises or to challenge, if he or she intends to do so, the legality of the interference X X X.

Section 36: Penalty for Unauthorized or Malicious Examination of a Bank or a Financial Institution: Any person, police or law enforcement personnel who examines the deposits, placements, trust accounts, assets, or records in a bank or financial institution of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism; (2) a judicially declared and outlawed terrorist organization, association, or group of persons, without being authorized to do so by the Court of Appeals shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

X X X the penalty of ten (10) years and one day to twelve (12) years imprisonment shall be imposed upon any police or law enforcement personnel, who maliciously obtained an authority from the Court of Appeals to examine the deposits, placements, trust accounts, assets, or records in a bank or financial institution of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism; (2) a judicially declared and outlawed terrorist organization, association, or group of persons; (3) a member of such organization, association, or group of persons: the party aggrieved by such authorization shall upon motion duly filed be allowed access to the sealed envelope or sealed package and the contents thereof as evidence for the prosecution of any police or law enforcement personnel who maliciously procured said authorization.

Section 39: Seizure and Sequestration: the accused or person suspected of may withdraw such sums as may be reasonably needed by the monthly needs of his family including the services of his or her counsel and his or family's medical needs upon approval of the court. He or she may also use any of his property that is under seizure or sequestration or frozen because of his/her indictment as a terrorist upon permission of the court for any legitimate reason. Any person who unjustifiably refuses to follow the order of the proper division of the Court of Appeals to allow the person accused of the crime. ..as may be necessary for the regular sustenance of his/her family or to use any of his/her property that has been seized, sequestered or frozen for legitimate purposes while his/her case is

pending shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

Section 41: disposition of the Seized, Sequestered and Frozen Bank Deposits, Placements, trust Accounts, Assets and Record: If the person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism is found, after his investigation to be innocent by the investigating body, or is acquitted. the seizure, sequestration and freezing of his bank deposits, placements, trust accounts. ...shall be deemed released from such seizure, sequestration and freezing, and shall be restored to him without delay by the bank or financial institution concerned without any further action on his part. Upon his acquittal or the dismissal of the charges against him or her, the amount of five hundred thousand pesos (P 500,000.00) a day for the period in which his properties, assets or funds were seized shall be paid to him on the concept of liquidated damages. The amount shall be taken from the appropriations of the police or law enforcement agency that caused the filing of the enumerated charges against him/her.

Section 42: penalty for Unjustified refusal to Restore or Delay in Restoring Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and records: Any person who unjustifiably refuses to restore or delays the restoration of seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records of a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism after such suspected person has been found innocent by the investigating body or after he is acquitted by a competent court shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

Section 50: Damages for Unproven charge of Terrorism: Upon acquittal, any person who is accused of terrorism shall be entitled to the payment of damages in the amount of five hundred thousand pesos (P 500,000.00) for every day that he or she has been detained or deprived of liberty or arrested without a warrant as a result of such an accusation. The amount of damages shall be automatically charged against the appropriations of the police agency or the Anti- Terrorism Council that brought or sanctioned the filing of the charges against the accused. It shall also be released within fifteen (15) days from the date of the acquittal of the accused. The award of damages mentioned above shall be without prejudice to the right of the acquitted accused to file criminal charges against those responsible for charging him with the case of terrorism. Any officer, employee, personnel, or person who delays the release the amounts awarded to the individual acquitted of the crime of terrorism X X X shall suffer the penalty of six months of imprisonment.

Section 55: Role of the Commission on Human Rights: The Commission of Human Rights shall give the highest priority to the investigation and prosecution

of violations of civil and political rights of persons suspected of, accused of, or detained for the crime of terrorism or conspiracy to commit terrorism.

Section 56: Creation of a Grievance Committee: A Grievance Committee composed of the Ombudsman, as Chair, and the Solicitor General, and an undersecretary from the Department of Justice (DOJ), as members, to receive and evaluate complaints against the actuations of the police and law enforcement officials in the implementation of this Act.

In so far as safeguarding the rights of the accused is concerned, law enforcement agencies have been very careful in implementing the law. No complaint of abuse has been filed thus far.

5. Please inform the Committee whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the Convention, including sexual violence. Please also describe all, if any, effective measures taken to monitor the occurrence of and to prevent such acts, and please provide data, disaggregated by sex, age and ethnicity of the victims, and information on investigation, prosecution and punishment of perpetrators.

The Philippines has yet to enact a specific legislation on torture. But as previously mentioned, relevant Philippine laws had been enacted criminalizing acts that would constitute torture (supra). The Philippine Senate is also deliberating on a Bill, i.e., Senate Bill No. 1978, Section 11 of which provides that “(t)he penalty of reclusion perpetua shall be imposed if as a consequence of torture or in the Commission thereof of, the victim, (who) is a woman or minor, died was raped or sexually abused or became insane, an imbecile or impotent.”

The Philippine Legislature is also presently deliberating on the proposed Magna Carta of Women (i.e., House Bill 4273, under Committee report No. 636, which was approved on final reading by the House of Representatives on 10 December 2008 and Senate Bill No.2396 was also approved on third reading by the Senate on 02 February 2009), which seeks to address the rights of the female person, regardless of age, in all aspects of the family, community and society including protection from all forms of discrimination, abuse and exploitation.

The Supreme Court has, through the *Guidelines on the Selection and Designation of Executive Judges and Defining their Powers, Prerogatives and Duties*, added jail visitations among the tasks of the executive judges.

The Commission on Human Rights of the Philippines (CHRP) is a vigilant and vocal guardian of human rights, holding public hearings, conducting investigations and issuing advisories on specific cases and national issues such as the protection of human rights even during a state of national emergency. It

provides assistance to victims, recommends cases for prosecution, and monitors the progress of cases through the criminal justice system. The CHRP also conducts visitation of jails to inspect the conditions of detention and treatment of prisoners. Specific complaints are looked into including medical examinations by the CHRP and its reports are made available to the public.

6. Information before the Committee indicates that the State party continues to be seen as a source, transit and destination country for cross-border trafficking of women and children for sexual exploitation and forced labour. Please provide updated information on any new legislation and/or measures adopted to prevent and combat sexual trafficking as well as the relevant statistical data on this issue, especially the number of complaints, investigations, indictments, and convictions relating to trafficking. What measures have been taken to provide assistance to victims, including gender-sensitive training to sensitize law-enforcement officials in contact with these victims?

The foremost piece of legislation adopted by the Philippines to combat all forms of trafficking in persons is the Anti-Trafficking in Persons Act of 2003. Under this law, the trafficking in persons is defined as “referring to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction or fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs”.

Victims/survivors of trafficking in persons can avail of the following protection and services under R.A. 9208:

- Trafficked persons shall not be penalized for the commission of crimes directly related to the act of trafficking or of obeying orders of traffickers;
- When a trafficked person institutes a separate civil action for the recovery of civil damages, he/she shall be exempt from payment of filing fees;
- Respect for the right to privacy of the trafficked person. Any information that tends to establish the identity shall not be disclosed to the public;
- Trafficked persons shall be entitled to the benefits of the Witness Protection Program;
- Victims of cross-border trafficking are considered “Overseas Filipino in Distress” and may avail of the legal assistance created under the Migrant Worker’s Act; and Repatriation

Government agencies are mandated to provide the following services to victims of trafficking in person:

- Emergency shelter or appropriate housing
- Counseling
- Free legal services
- Medical or psychological service
- Livelihood and skills training
- Educational assistance

The Inter-Agency Council Against Trafficking (IACAT) is the body created by law to coordinate and monitor the implementation of Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003”. Its members are composed of the Secretaries and heads of government agencies and sectoral representatives, namely:

1. Secretary of Justice
2. Secretary of Social Welfare and Development
3. Secretary of Foreign Affairs
4. Secretary of Labor and Employment
5. Commissioner of the Bureau of Immigration
6. Director General of the Philippine National Police
7. Administrator of the Philippine Overseas Employment Agency
8. Chairperson of the National Commission on the Role of Filipino Women
9. Children’s Sector NGO Representative from End Child Prostitution, Pornography and Trafficking (ECPAT Philippines)
10. Women’s Sector NGO Representative from Coalition Against Trafficking in Persons – Asia-Pacific (CATW-AP)
11. OFW Sector Representative

The ex-officio members are:

1. Secretary of Interior and Local Government
2. Head of the Philippine Center for Transnational Crime
3. Director of the National Bureau of Investigation

IACAT conducts different projects geared towards the elimination of trafficking in persons in the Philippines, prevention of the occurrence of trafficking, the protection and rehabilitation of victims and the conviction of trafficking offenders. To date, IACAT has obtained the conviction of eleven (11) offenders of Republic Act 9208, to wit:

- Two (2) convictions in Batangas City, on 15 and 28 November 2005, respectively. Each of the accused was allowed to plead guilty to violation of Section 11 of RA 9208 (Use of Trafficked Persons). They were each sentenced to render six (6) months of community service.

- One (1) conviction in Zamboanga City on 29 November 2005. Three (3) persons sentenced to life imprisonment and PHP 2 Million Pesos in fines for violation of Sec. 4 in relation to Sec. 6 (c) and 10 (c) (Qualified Trafficking).
- Four (4) convictions, Quezon City on 08 December 2005, i.e., two (2) persons (spouses) were sentenced to 4 life imprisonment and pay Php 8M in fines for violation of Sec. 4 in relation to Sec 6 (a) and (c) (Qualified Trafficking)
- One (1) conviction, Zamboanga City, March 27, 2007, i.e., One (1) person sentenced to Life Imprisonment and to pay Php 6M in fines for violation of Sec. 4 in rel. to Sec. 6 (c) and 10 (c) (Qualified Trafficking);
- One (1) conviction, Cebu City, July 20, 2007, i.e., two (2) persons sentenced to Life Imprisonment and to pay PHP 3 Million Pesos in fines for violation of Sec. 6(a) (Qualified Trafficking)
- One (1) conviction, Davao City, July 27, 2007, i.e., one (1) person sentenced to Life Imprisonment and to pay the sum of Php 2M in fines for violation of Section 6(a), (c) and (d) in relation to Section 3, 4(a) and 10(c) of R.A. No. 9208. (Qualified Trafficking);
- One (1) conviction, Batangas City (March 10, 2008), i.e., one (1) person was sentenced to suffer the penalty of Life Imprisonment for violation of Sec. 4 (a) in relation to Sec. 6 (a) and Sec. 10 (c) (Qualified Trafficking);
- One (1) conviction, Parañaque City (November 27, 2008), i.e., two (2) persons were sentenced to suffer each the penalty of twenty (20) of imprisonment and to pay a fine of PHP 1 Million Pesos each.

As a signatory to the Protocol to Prevent, Suppress and Punish Trafficking in Persons (TIP), especially Women and Children (otherwise known as the Palermo Protocol), supplementing the United Nations Convention Against Trans-National Organized Crime, the IACAT contributes to the Global Trafficking in Persons Report (GTIP Report)released by the US Department of State. Annually, the United States Department of State comes out with a report on the global situation of trafficking in persons. Based on country reports submitted to the American Embassy, the State Department evaluates the country's performance in combating TIP. It measures the country's efforts in the three areas of the anti-trafficking campaign based on the standards in the 2000 Trafficking Victims Protection Act (TVPA). These are:

1. Prevention,
2. Protection, and
3. Recovery and Reintegration

Ninoy Aquino International Airport Task Force Against Trafficking (NAIA Task Force Against Trafficking)

The Ninoy Aquino International Airport Task Force Against Trafficking (NAIA Task Force Against Trafficking) was formed under the IACAT to investigate occurrences of trafficking at Philippine airports, intercept undocumented passengers, provide assistance to returning trafficking victims, and file cases against traffickers. It is composed of the airport police, NBI agents, and other law enforcers assigned at the NAIA.

As of October 2007, the Task Force intercepted a total of ninety one undocumented passengers and referred them to the proper authorities for appropriate action. It has also filed five complaints with the Department of Justice and the NAIA Resident Ombudsman. However, the Task Force encountered several difficulties in the course of its operations, i.e., funding/budgetary allocation, encountered legal problems where the suspected traffickers, against whom they filed complaints, filed countersuits for libel against them.

Regional Inter-Agency Committees Against Trafficking (RIACATs)

In accordance with the Implementing Rules and Regulations of RA 9208, Regional Inter-Agency Committees Against Trafficking (RIACATs) have been created. The DWSD Regional Offices act as chair while the DOJ Regional Offices act as co-chairs of the said committees. As of 2007, there are already 15 RIACATs, 15 Provincial IACATs, 17 City IACATs and 34 Municipal IACATs.

We are not for sale: Victims of Human Trafficking Speak Up Project

This project which was launched by the DOJ last November 2008, which aims to provide a venue for victims of human trafficking and government officials an opportunity to interact. This project is divided into three phases.

- Phase I is the Protection and Reintegration of the Victims. For this phase, the IACAT gives assistance to trafficked victims in filing cases against the perpetrator/s. In addition, through the assistance of other government agencies like the Department of Labor and Employment (DOLE), the trafficked victims will be given priority to work abroad. TESDA will likewise give trainings for the victims to enhance their knowledge in the field they are suited for. DOJ may also give protection through its Witness Protection Program (WPP) upon completion of the requirements of the victims.
- Phase II is Local Prosecution where IACAT will be the one to file a case against all those who are involved in the violation of RA 9208 regardless of position and whereabouts.

- The last phase, Phase III is Prosecution of Foreign Recruiter. Using the case of the victims of Alfred Lim, the IACAT through Assistant Chief State Prosecutor has personally assisted the two trafficked victims in filing a case against Lim in Malaysia. IACAT has sought the assistance of the Malaysian government to prosecute the offender.

Manual on the Law Enforcement and Prosecution of Trafficking in Persons Cases

The manual, which was funded by the USAID Rule of Law Effectiveness Project (USAID-ROLE) and the Asia Foundation (AF) is a step-by-step guide to surveillance, investigation and apprehension of suspected traffickers and prosecution of trafficking cases. It was put together by law enforcers and prosecutors with the help of a consultant.

Model Local Ordinance on Anti-Trafficking in Persons

In the latter part of the year 2007, with generous support from the Asia Foundation, the IACAT was able to engage the services of a consultant to undertake the project, which showcases the essential features of a good model ordinance against trafficking.

Proposed Philippine Guidelines for the Protection of Trafficked Children

The Proposed Philippine Guidelines for the Protection of Trafficked Children is a pioneering instrument designed to ensure the protection of the rights of children survivors of trafficking, by providing minimum standards to be observed

The IACAT, together with other government agencies, NGOs and other stakeholders, initiated the formulation of the Guidelines. After rigorous consultations with various stakeholders, the Guidelines are ready for adoption by the IACAT.

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Manual on Recovery and Reintegration of Victims Survivors of Trafficking

The Manual provides a practical guide to social workers in the protection of victims of trafficking and ensure their successful reintegration into their family. The manual likewise explains what goes on at the different levels of recovery and reintegration as well as providing thorough discussion on the use of various models as framework of intervention.

Women and Children Protection Center-Directorate for Investigation and Detective Management

From January 2008 to December 2008, the Women and Children Protection Center-Directorate for Investigation and Detective Management (WCPC-DIDM) of the Philippine National Police conducted six (6) Training on the Investigative Techniques of Trafficking in Person.

During the same period, the WCPC handled a total of 129 trafficking cases of children (124 females and 5 males) referred by the 17 Police Regional Offices (PROs) and the Criminal Investigation and Detection Group (CIDG). A total of 100 trafficking cases of women referred by 10 PROs and CIDG were also handled by the Office.

Moreover, the Department of Social Welfare and Development (DSWD) has implemented the following programs/projects/services with respect to the implementation of the Republic Act No. 9208, viz:

- 7. Could you please comment on reports that the number of cases of violence against women reported to the police increased six-fold from 1996 to 2005? Please provide information on legislative and other measures undertaken to prevent domestic violence and to classify acts of domestic violence as specific offences under the criminal law. Please provide statistical data on complaints, prosecutions and sentences in matters of domestic violence. Please indicate which measures have been adopted to sensitize and train law enforcement personnel and other relevant staff to recognize domestic violence and to ensure that they take preventive measures, as appropriate, and prosecute those responsible.**

Republic Act 9262, otherwise known as the “Anti-Violence Against Women and their Children Act,” was enacted in 2004 in affirmation of the declared policy of the State in upholding the dignity of women and children and guaranteeing the full respect for their human rights. This law was enacted in recognition of the need to protect the family and its members, particularly women and children, from violence and threats to their personal safety and security.

Other laws that had been enacted to ensure the promotion and protection of the rights of women and children are as follows:

- RA 7192 An Act Promoting the Integration of Women as Full and Equal Partners of Men in Development and Nation- Building and for Other Purposes;

- RA 8353 An Act Expanding the Definition of the Crime of Rape, Reclassifying the same as a Crime Against Persons, Amending for the Purpose Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code, and for Other Purposes;
- RA 9208 Anti-Trafficking in Persons Act of 2003 – For Women and children;
- Republic Act No. 7610, or “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”

Violence against women and their children (VAWC) occurring in domestic situations or in intimate partner relationships is a serious problem. It knows no boundaries of geography, ethnicity, or social class. The World Health Organization (WHO) reports that half of the women, who died from homicide were killed by their current or former husbands and partners. They succumbed to gunshot wounds, burns, hemorrhages and other physical injuries resulting from various forms of abuse.

In the Philippines, the extent of VAWC can be gleaned from the varying trends in the number of cases of violence against women (VAW) from different government agencies. The number of VAW cases reported to the police increased seven-fold from 1,100 in 1996 to 7,383 in 2004. The highest recorded number of VAW cases in the Philippine National Police (PNP) peaked in 2001 at 10,343. Physical injuries that includes wife battering, increased from 1996 to 2001 but decreased from 2002 to 2004. It accounted for 53.6% of the total 8,011 reported cases in 2003. The DSWD reported that it served 15,314 women in especially difficult circumstances (WEDC) cases in 2003, most of which were cases of physical abuse/ maltreatment and battering.

Republic Act No. 9262 makes it unlawful for any person to commit any form of violence, whether physical, sexual, psychological, or economic, against a woman who is his wife, former wife, or with whom he has or had a sexual or dating relationship or with whom he has a child. The Law also defines the functions of the different government agencies in responding to the problem and designates the Inter-Agency Council on Violence Against Women and Their Children (IACVAWC) to monitor the Implementation of the Law.

Two years after the passage of Republic Act (RA) No. 9262 or the Anti-Violence Against Women and Their Children Act (VAWC) of 2004, the number of women suffering from domestic violence and intimate partner abuse remains high.

A total of 5,758 VAW cases have been reported by the police in 2006. The police report also shows that physical injury is the most common type of reported VAW cases accounting for 1,892 or 38.86% of the cases while cases of RA 9262 ranks second accounting for 1,269 or 26.07% of VAW cases.

Similarly, in 2006, the National Bureau of Investigation (NBI) received 241 cases of violations of RA 9262, 104 cases of which have been recommended for prosecution, while 97 cases have been closed (either dismissed for lack of merit, lack of interest, or filed directly in court).

The Department of Social Welfare and Development (DSWD) served a total of 5,378 WEDC cases in 2006. Of these, 1,438 (26.74%) have been cases of physical abuse/maltreatment/battering. The DSWD has also served 642 disadvantaged women at the Haven: Substitute Home for Women. Finally, barangays (“villages”) all over the country, which are the first ones to receive complaints of domestic violence, received a total of 4,602 complaints of violation of RA 9262 and issued a total of 1,105 Barangay Protection Orders (BPOs).

The year 2006 was a significant year in the implementation of the Anti-VAWC Law. The government stepped up its efforts to address the many cases of VAWC, especially in the areas of (1) policy development, (2) public information and advocacy, (3) capacity building, (4) service delivery, (5) monitoring and evaluation, and (6) networking. These efforts were undertaken collectively as a Council and separately by member agencies but toward a common goal.

The increased of reported cases of violence against women from 1996 – 2005 can be attributed to the enactment of the Anti-Violence against Women and Their Children Act of 2004 or the Republic Act 9262. This law has broken the silence of most VAW victims and made them decide to report their cases to the police. The enactment of this law and its massive awareness raising campaign made its way to the remote places where most victims of violence are located.

For 33 years, the Philippine Government, through the National Commission on the Role of Filipino Women (NCRFW) has ensured that policies, plans, structures and mechanisms to sustain gender mainstreaming in government were developed and strengthened. A Framework Plan for Women, a time-slice of the 30-year Philippine Plan for Gender-responsive Development (PPGD), 1995-2025, prioritizes women’s economic empowerment, women’s human rights, and gender-responsive governance. A Gender and Development (GAD) Budget Policy requires at least 5 percent of national and local government budgets are allocated for programs and services for women and gender equality.

At the local level, 63 local government units have enacted GAD Codes and 1,650 local women’s or GAD councils have been created. Implementation of programs that address gender issues such as violence against women and women’s health services have improved. Regional GAD Resource Centers have been set up in 8 regions to provide technical assistance.

The NCRFW and the Office of the Presidential Adviser for the Peace Process (OPAPP) have held joint workshops to forge cooperation among stakeholders in recognizing issues and promoting initiatives concerning gender and peace.

NCRFW co-organized with civil society groups a workshop on UN Security Resolution 1325 on Women, Peace and Security geared towards the formulation of a national action plan to implement the Resolution.

The delivery of government and NGO programs aimed at preventing violence against women has benefited a considerable number of Violence Against Women (VAW) survivors. Performance standards for gender-responsive handling of VAW cases by local officials, police, social workers, health workers, and prosecutors have been developed.

The Supreme Court has created a Committee on Gender-Responsiveness in the Judiciary. In support of the Violence against Women and Their Children (VAWC) Act, the Court issued the *Rule on Violence Against Women and their Children*, which seeks to protect the rights of the family and its members, particularly women and children, from violence and threats to their personal safety and security, and enables the courts to manage and monitor such cases.

To complement the foregoing, the Supreme Court has also promulgated rules focusing on children's rights, specifically the *Rule on the Examination of a Child Witness* (2000), *Rule on Juveniles in Conflict with the Law* (2002), and *Rule on Children Charged Under the Dangerous Drugs Act of 2002* (2007).

Violence against women and their children (VAWC) occurring in intimate partner relationships in domestic situations is a serious problem. Republic Act 9262 or the Anti-Violence Against Women and Their Children Act of 2004 has defined VAWC as various forms of violence and/or abuse that women, sometimes together with their children, suffer within the context of intimate partner relationships or in domestic situations. Domestic violence as a form of violence against women is punishable by the said law as this may include physical violence (i.e. wife battering), sexual violence (marital rape, as this is also punishable under Republic Act 8505 or the Anti-Rape Law of 1997) and other acts of violence.

To effectively implement RA 9262, the government stepped up its efforts to address the many cases of VAWC, especially in the areas of (1) policy development, (2) public information and advocacy, (3) capacity building, (4) service delivery, (5) monitoring and evaluation, and (6) networking. These efforts were spearheaded by the member agencies of the Inter-Agency Council on Violence Against Women and Their Children (IACVAWC) through the implementation of various programs and activities, either collectively as Council members, or separately as distinct agencies performing their own mandates.

The National Commission on the Role of Filipino Women (NCRFW) also facilitated the creation and launching of Men Opposed to VAW Everywhere (MOVE), a core group of men advocates against VAW. The involvement of men in curbing VAW is part of the national integrated approach against VAW.

Service delivery is at the core of responding to the problems related to VAWC because it directly addresses the needs of victim-survivors. In most instances, its effectiveness is measured by the appropriateness, timeliness, compassion, and gender-sensitivity by which service providers act on VAWC cases. To achieve maximum results, experience has demonstrated the importance of complementation among agencies while promoting an integrated approach in responding to the psycho-social and economic needs of victims, as well as in achieving justice and preventing further occurrence of VAWC.

The DILG monitored the issuance of Barangay Protection Order (BPO) nationwide. A total of 1,105 BPOs were issued.

In the area of providing free legal assistance to victims of VAWC, the Department of Justice Action Center, which was originally stationed in the DOJ Compound in Padre Faura, has been regionalized to allow access to all those seeking legal assistance from the provinces. This program is a coordinated effort of the Public Attorney's Office and the National Prosecution Service.

The National Bureau of Investigation-Violence Against Women and Children Division (NBI-VAWCD) received a total of 197 cases of violations of RA 9262, 93 cases of which are recommended for prosecution, while 84 cases were closed (this denote that the cases are either dismissed for lack of merit, lack of interest or filed directly in court). A total of 177 cases were terminated. It has also opened two new "Simple Woman and Child-Friendly Rooms" (simple interview rooms exclusively for women and children who are victims of all forms of abuse) in Tarlac City and Olongapo City.

At the end of December 2006, the National Prosecution Service (NPS) has monitored a total of 1,317 cases of violations of RA 9262 undergoing preliminary investigation and 2,063 undergoing trial in court. This statistics is part of a report on the annual inventory of pending cases conducted by the Planning and Statistics Division of this Department.

DSWD, with the 4, 482 cases that were provided psychosocial, financial and material assistance and referral for medical intervention, physically abused/maltreated women topped the list with 1, 465 followed by victims of rape with 221 cases, victims of trafficking with 1, 127 and 1, 122 neglected females.

The DILG and PNP monitored a total of 6,679 related cases as recorded in 2007 compared as compared to the 5, 889 cases recorded last year. The number of VAW cases reported to the police rose by 17 percent from the 2006 report. The increase caused an upward trend after a six-year downward trend from 2001 to 2006.

The trend, however, is not conclusive of a decreasing or increasing VAW incidence in the country because data are based only from what was reported to PNP. Physical injuries and/or wife battering remains to be the most prevalent case across the nine-year period, from 1999 – 2007, accounting for more than half (53.2%) of all reported VAW cases nationwide.

Reported incidence of physical injuries and/or wife battering has been decreasing in the latter years - from 3,291 in 1999 to 1,505 in 2007. Its peak was in 2001 at 5,668 reported cases. The decrease can be partly attributed to the enactment into law of RA 9262 or Anti-VAWC Act of 2004 which penalizes abusive husbands and live-in partners. Since 2004, wife battering cases have been categorized under 'Violation of RA 9262' that is, if the victim files a case under such law, otherwise it falls under wife battering/physical injuries category.

For the first semester of 2008, the Philippine National Police (PNP) documented a total of 3,228 VAW cases nationwide. Cases filed under RA 9262 are now the number one violation committed against women at 1,398 reported cases. It accounts for about 43.3 percent of all types of VAW cases recorded for the first two quarters of the current year. Physical injuries and/or wife battering registered next at 699 cases, accounting for 21.7 percent of the total VAW cases. 386 cases of rape were reported to PNP which is 12 percent of the total VAW cases reported from January to June 2008.

DSWD data show that there is a downward trend on the number of Women in Especially Difficult Circumstances (WEDC) served; from 7,763 cases in 1999 to 5,549 cases in 2007. "Uncategorized" and "Others" account for more than half (58.7%) of the total WEDC cases served by DSWD in 2007. "Uncategorized" cases include clients who were "stranded, abandoned, emotionally distressed, unwed mothers, sexually exploited, voluntary committed/surrendered, neglected, etc." while those in the "Others" category include "number of WEDC clients provided with crisis intervention services whose cases are not categorized". Aside from the "Uncategorized" and "Others" categories, physically abused/maltreated and rape cases top the list of WEDC cases served by DSWD in 2007. Physically abused and maltreated women accounted for 26.6 percent while rape cases.

The need to capacitate frontline service providers was seen as one important step towards the effective implementation of RA 9262. Capacity building refers to the process of continually upgrading knowledge, skills, attitude and capabilities of all entities (persons and institutions) through the provision of training programs, education, and on the job coaching to enable them to perform effectively, efficiently and sustainably.

The PNP immediately began its series of orientation seminars for their personnel and for barangay officials two days after the Law was passed. It also included a

major discussion of the provisions of RA 9262 in its 3rd National Summit on Women in Policing.

Furthermore, PNP conducted a series of seminars on RA 9262 to various national support units such as the Criminal Investigation and Detection Group (CIDG), Crime Laboratory, Intelligence Group, Aviation Security Group, Finance Service, Communications Electronics Service, Headquarters Police Service and five (5) police districts under the National Capital Region Police Office (NCRPO). This is to raise awareness of police personnel on the various issues of women's rights especially on the enforcement of the Anti-Violence against Women and Their Children Act. It also conducted the "4th National Biennial Summit on Women in Policing", for PNP to improve among others its efforts in initiating and establishing appropriate programs for the prevention of violence committed against policewomen.

The DILG heads the IACVAWC Sub-Committee on Capability Building and has hosted two meetings of the Committee. The Committee has developed the orientation module for RA 9262 and RA 9208 for use in the barangay local orientations. Prior to this, the DILG prepared modules and PowerPoint presentations on 'Gender and Development', 'Salient Features of RA 9262', and 'Barangay Protection Order' for use in its orientation seminars for barangay officials. It is currently printing the Primer on Barangay Protection Order for use in training barangay officials.

The DILG forged a Memorandum of Understanding (MOU) with the NCRFW to capacitate the barangay officials to address VAW in the barangay level. This is in support to the implementation and utilization of the "Benchmarks and Assessment Tools for Local Government Services for Victims of VAW" developed under the UNFPA 6th Country Program.

The DILG advocated for the inclusion of RA 9262 as a topic in the "Three-Cluster Island Training on Promoting Child-Friendly Local Governance Movement". It also distributed copies of BPO Primers to 79 provinces, 117 cities and 1,506 municipalities. Likewise, the DILG distributed 170 copies to Regional Offices (ROs) in the 17 Regions.

The DILG, in partnership with NCRFW funded by the UNFPA developed training module entitled "Training of Trainers on Gender-Sensitive Handling of VAWC Cases" for DILG field officers and conducted a "Training of Trainers the said module. It also came out with an Action Plan for the rollout training.

The DOJ completed "Enhancing Capacities of Prosecutors in Handling Child-related Cases" which RA 9262 is among those taken up in the program. This was designed for family court prosecutors conducted in Regions I, II and the National Capital Region for the year 2006 and succeeding workshops for this year in all other regions.

The NBI has conducted gender sensitivity trainings for its agents/investigators and medico legal officers. It also conducted trainings on child sensitive interviewing techniques for its interviewers and agents.

The DSWD conducted capability building activities on “Crisis Counseling for Victims of VAW” and “Telephone Crisis Counseling”. However, they did not limit their capability building activities to the victims as they also conducted trainers’ trainings and Training of Volunteers (Men’s Support Group) on the Rehabilitation of Perpetrators. The DSWD also presented and discussed RA 9262 to its National Development Management Conference which was echoed to the field offices by their respective directors.

DSWD also conducted two batches of trainers’ training on “Gender Responsive Case Management for VAWC” to fifty one (51) social workers from DSWD and LGU. It also conducted coaching sessions on “Gender-Responsive VAW Case Management” to seventy (70) local service providers to pursue locally initiated projects and establish referral systems, including the drafting of the Operations Manual for VAWC Crisis Centers. This was held in the six (6) pilot provinces of the UNFPA project: Mt. Province, Ifugao, Masbate, Eastern Samar.

The DOH collaborates with CPU-Net and Women’s Desk of the Philippine General Hospital to train health personnel in hospitals with WCPU as per MOA between DOH and CPU-Net. There were two health personnel trained for 2006.

The NCRFW conducted training on the Gender–Sensitive Handling of Crime Investigation on VAW cases for PNP, with funding from the UNFPA. This includes gender-sensitivity training (GST) for PNP officers to enable them to handle VAW cases in a gender-sensitive manner in accordance with the developed Performance Standards. The NCRFW staff likewise continued to serve as resource persons on VAWC upon invitations from government agencies and NGOs.

The CSC conducted for CSC Central employees a “Training on Self-Protection Techniques for Women”.

The CHR carried out capacity-building activities in some regions. In Region 6, CHR initiated efforts on the continuing education for the members of the Ugsad Gender Regional Resource Center members and Regional Sub-committee on the Welfare of Children. In Region 7, a Workshop on RA 9262 and Issuance of Protection Orders was held for punong barangays, sangguniang barangay members and Gender and Development (GAD) Focal Persons. Outputs of the activity were Accomplished Forms and Plan of Action. In Region 10, a Symposium on RA 9262 and City Ordinance 892-2003 on Domestic Violence was conducted. The activity was aimed at capacitating focal persons to effectively discuss and implement RA 9262 and its provisions.

In response to RA 9262 otherwise known as “Anti-Violence Against Women and their Children Act of 2004, the following programs/projects/services were implemented by the DSWD:

- **Community-based Rehabilitation Program for Perpetrators of Domestic Violence (CBRPPDV)**- provides assistance to perpetrators of domestic violence utilizing various therapy models. The project was implemented in nine regions, namely Regions III, IV-A and B, V, VIII, X, XI, NCR and CAR, benefiting 29 barangays. A total number of 99 perpetrators were served.
- **Comprehensive Pilot Intervention Plan Against Gender Violence in CARAGA**
- DSWD entered into a partnership with the Agencia Española de Cooperación Internacional para el Desarrollo during the Protocol of Aid Management Signing for the Comprehensive Pilot Intervention Plan against Gender Violence which is the Philippine and Spanish Government’s attempt towards addressing issues concerning gender violence.

This first phase of the project is focused on the prevention component of the project. A training needs analysis and research on the extent of VAWC in the region was conducted. The result provided a baseline for trainings and other interventions for the welfare of women and children survivors of violence.

- **Strengthening Government Mechanism for Mainstreaming Gender in Reproductive Health, Population and Anti-VAW Programs** - This joint project of the DSWD and the United Nations Fund for Population Activities (UNFPA) creates an enabling environment that promotes and protects the rights of women and girls. The project also advances gender equity and equality in 10 provinces, 30 municipalities and one city.

Forty four (44) social workers from the pilot regions and provinces attended the 3-day coaching sessions on Enhancing Case Managers Knowledge Skills and Attitude in Social Case Study Writing. In addition, a continuous advocacy activity for RA 9262 and 9208 in pilot regions is coordinated with the Inter-Agency Committees Against Trafficking and Anti Violence Against Women (IACAT).

The DSWD has a total number of 3,079 WEDC cases served (community-based and center-based) from January to December 2008 categorized as follows:

Case Category	Number of WEDC
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	cases served
Rape	174
Incest	60
Acts of Lasciviousness	20
Physically Abused/Maltreated	1,281
Victims of Illegal Recruitment	69
Involuntary Prostitution	108
Victims of Trafficking	201
Victims of Armed Conflict	3
Women in Detention	9
Emotionally Abused	661
Abandoned	111
Neglected	7
Others*	375
TOTAL	3,079

Source: DSWD-PDPB

Physically abused/maltreated women accounted to 1,281 cases served or 41.6 percent, the highest among all categories.

- 8. Please provide more information on the mandate and activities of the Presidential Human Rights Committee (PHRC), as well as the human and financial resources allocated to it. According to the report, the President has issued Administrative Order No. 163 on the strengthening and increase of membership of the PHRC as well as expansion of its functions, whereby the Department of Interior and Local Government (DILG) has been mandated to lead an inter-agency working group and to coordinate for compliance with and implementation of the Convention. Please elaborate on this issue and explain how the reconstitution and strengthening of the PHRC may ensure “a much fuller compliance and implementation of the provisions”. (State party report, para. 7 and 122)**

The Presidential Human Rights Committee (PHRC) is the primary advisory body to the President in effectively addressing all human rights concerns/issues in the country composed of agencies in the Executive Branch.

On 08 December 2006, President Gloria Macapagal Arroyo further strengthened and expanded the PHRC functions and membership through the issuance of Administrative Order No. 163, elevating its chairmanship to the Office of the President, i.e., the Executive Secretary, in recognition of the critical role that the Executive Branch plays in the protection and promotion of human rights. Its financial and human resource allocation come from the Office of the President, as well as funding for project-based initiatives from other funding institutions like the UNDP and Asia Foundation.

The main purpose of the Presidential Human Rights Committee is intended to keep the Executive Branch focused and coordinated on its human rights compliance responsibilities by monitoring all designated Lead Agencies in A.O. 163. Monitoring of the PHRC also include coordinating and facilitating the program and activities of the agencies. The designation of lead agencies by AO 163 ensures a mechanism for “a much fuller compliance and implementation of the provisions”.

Moreover, the PHRC has been designated to be the lead in the formulation of the National Human Rights Action Plan in accordance with international human rights treaty obligations and to adopt a “rights-based approach” in the formulation of the plan. The national action planning shall be an effective tool to continuously and progressively implement the government’s human rights obligations in collaboration with all sectors of Philippine society.

The Committee proper is composed of heads of critical agencies of the Executive Branch of government that are in the best position to ensure coordination and compliance with the human rights instruments to which the Philippines is a State Party as well as ensuring the periodic reporting to the appropriate treaty bodies. The DILG which has direct supervision over the PNP and the BJMP has been tasked to serve as lead agency for the inter-agency working group on CAT Convention. In that capacity and with logistical support from the PHRC Secretariat, it has maintained extensive collaboration with government instrumentalities and consulted closely with civil society representatives towards progressive compliance to the provisions of the Convention including its reportorial requirements.

Article 3

9. In respect of the provisions implementing article 3 of the Convention into domestic law, please clarify who are the competent authorities, what are the existing legal safeguards and the procedures for appeal, including whether these have suspensive effect, regarding the expulsion, return and extradition of persons to another State? Please provide detailed information on all decisions taken in this respect and other return cases relevant to article 3 of the Convention as well as on the criteria for such decisions, including the number of cases, the countries to which persons were returned, and whether there were any cases where return/extradition was refused because of a risk of torture, and if so, to which countries.

The Government, through the Department of Justice (DOJ) - Office of the Chief State Counsel, is the competent authority in the making of requests for extradition and represents treaty partners in court in extradition proceedings.

The DOJ and the Department of Foreign Affairs (DFA) negotiate extradition treaties.

The Philippines has twelve (12) bilateral extradition treaties of which, ten (10) are already in effect --- with Australia, Canada, People's Republic of China (PROC), Hong Kong Special Administrative Region (HKSAR), Indonesia, Republic of Korea, Micronesia, Switzerland, Thailand and the United States of America (USA). The India and Spain extradition treaties still need Senate concurrence for it to be effective.

After the competent Philippine authority makes an evaluation if a request for extradition complies with the provisions of the applicable extradition treaty, it files a petition for extradition with the Regional Trial Court (RTC) for determination of the existence of probable cause to warrant the grant of the petition for extradition.

Under Section 13 of Presidential Decree No. 1069 or the "*Philippine Extradition Law*," "(T)he provisions of the Rules of Court governing appeal in criminal cases in the Court of Appeals shall apply in appeal in extradition cases x x x." As such, the filing of an appeal in an extradition case suspends the execution of the judgment.

There has been no instance where a request for extradition under a bilateral extradition treaty indicated that the person to be extradited would be in danger of being subjected to torture in the requesting state.

10. Please provide detailed information on whether the State party has engaged or participated in any form in the so-called extraordinary renditions; include in your answer whether any investigation on this issue has taken place by branches of the Government or State agencies. Are there pending cases on this issue? If so, please provide details.

The Philippine Government, through the Department of Justice, has neither engaged nor participated in any form in effecting what has been referred to as "extraordinary renditions". In fact, Republic Act No. 9372, entitled, "*An Act to Secure the State and Protect Our People for Terrorism*", otherwise known as the "*Human Security Act of 2007*", expressly proscribes extraordinary renditions. The salient provisions of the Human Security Act are quoted hereunder for ease of reference:

"SEC. 57. Ban on Extraordinary Rendition. - No person suspected or convicted of the crime of terrorism shall be subjected to extraordinary rendition to any country unless his or her testimony is needed for terrorist related police investigations or judicial trials in the said country and unless his or her human rights, including the right against torture, and right to counsel, are officially assured by

the requesting country and transmitted accordingly and approved by the Department of Justice.”

- 11. Please explain what measures have been considered by the State Party to determine its non-refoulement obligations under article 3 of the Convention with regard to the existing bilateral extradition treaties signed by the Philippines? Under those treaties, has extradition ever been denied on grounds that a person would be in danger of being subjected to torture if extradited to the requesting State? If so, please provide details. What post-return monitoring mechanisms have been put in place? (State party report, paras. 43-47)**

Majority of the extradition treaties bilaterally concluded by the Philippines, particularly those with Australia, Canada, HKSAR, Korea and Micronesia, contains as one of the discretionary grounds for refusal of a request for extradition the fact that *“if the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, considers that, in the circumstances of the case, including the age, health or other personal circumstances of the person whose extradition is requested, the extradition of that person would be unjust, oppressive, incompatible with humanitarian considerations or too severe a punishment.”*

There has been no instance where a request for extradition under a bilateral extradition treaty indicated that the person to be extradited would be in danger of being subjected to torture in the requesting state.

Article 4

- 12. Please provide detailed information on current criminal provisions concerning offences such as attempted acts of torture, instigation or consent of torture or the order to commit torture by a person in authority and the exact penalties imposed for any of these offences. Please provide information on the number and the nature of the cases including geographical location of the offenses prosecuted, in which those legal provisions were applied as well as on the penalties imposed or the reasons for acquittal.**

Even in the absence of a specific law criminalizing torture, under the Revised Penal Code of the Philippines, acts that constitute torture may be penalized under the following provisions:

“Title Two

“CRIMES AGAINST THE FUNDAMENTAL LAWS OF THE STATE

“Chapter One

“ARBITRARY DETENTION OR EXPULSION, VIOLATION OF DWELLING, PROHIBITION, INTERRUPTION, AND DISSOLUTION OF PEACEFUL MEETINGS AND CRIMES AGAINST RELIGIOUS WORSHIP

“Section One. — Arbitrary detention and expulsion

”Art. 124. *Arbitrary detention.* — Any public officer or employee who, without legal grounds, detains a person, shall suffer:

“1. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if the detention has not exceeded three days;

“2. The penalty of *prision correccional* in its medium and maximum periods, if the detention has continued more than three but not more than fifteen days;

“3. The penalty of *prision mayor*, if the detention has continued for more than fifteen days but not more than six months; and

“4. That of *reclusion temporal*, if the detention shall have exceeded six months.

“The commission of a crime, or violent insanity or any other ailment requiring the compulsory confinement of the patient in a hospital, shall be considered legal grounds for the detention of any person.

“Art. 125. *Delay in the delivery of detained persons to the proper judicial authorities.* — The penalties provided in the next preceding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of; twelve (12) hours, for crimes or offenses punishable by light penalties, or their equivalent; eighteen (18) hours, for crimes or offenses punishable by correctional penalties, or their equivalent and thirty-six (36) hours, for crimes, or offenses punishable by afflictive or capital penalties, or their equivalent.

“In every case, the person detained shall be informed of the cause of his detention and shall be allowed upon his request, to communicate and confer at any time with his attorney or counsel.

“Art. 126. *Delaying release.* — The penalties provided for in Article 124 shall be imposed upon any public officer or employee who delays for the period of time specified therein the performance of any judicial or executive order for the release of a prisoner or detention prisoner, or unduly delays the service of the notice of such order to said prisoner or the proceedings upon any petition for the liberation of such person.

“Art. 127. *Expulsion.* — The penalty of prison correccional shall be imposed upon any public officer or employee who, not being thereunto authorized by law, shall expel any person from the Philippine Islands or shall compel such person to change his residence.

“Section Two. — Violation of domicile

“Art. 128. *Violation of domicile.* — The penalty of prison correccional in its minimum period shall be imposed upon any public officer or employee who, not being authorized by judicial order, shall enter any dwelling against the will of the owner thereof, search papers or other effects found therein without the previous consent of such owner, or having surreptitiously entered said dwelling, and being required to leave the premises, shall refuse to do so.

“If the offense be committed in the night-time, or if any papers or effects not constituting evidence of a crime be not returned immediately after the search made by the offender, the penalty shall be prison correccional in its medium and maximum periods.

“Art. 129. *Search warrants maliciously obtained and abuse in the service of those legally obtained.* — In addition to the liability attaching to the offender for the commission of any other offense, the penalty of arresto mayor in its maximum period to prison correccional in its minimum period and a fine not exceeding P1,000 pesos shall be imposed upon any public officer or employee who shall procure a search warrant without just cause, or, having legally procured the same, shall exceed his authority or use unnecessary severity in executing the same.

“Art. 130. *Searching domicile without witnesses.* — The penalty of arresto mayor in its medium and maximum periods shall be

imposed upon a public officer or employee who, in cases where a search is proper, shall search the domicile, papers or other belongings of any person, in the absence of the latter, any member of his family, or in their default, without the presence of two witnesses residing in the same locality. “

**“Section Three. — Prohibition, interruption
and dissolution of peaceful meetings**

”Art. 131. *Prohibition, interruption and dissolution of peaceful meetings.* — The penalty of *prision correccional* in its minimum period shall be imposed upon any public officer or employee who, without legal ground, shall prohibit or interrupt the holding of a peaceful meeting, or shall dissolve the same.

“The same penalty shall be imposed upon a public officer or employee who shall hinder any person from joining any lawful association or from attending any of its meetings.

“The same penalty shall be imposed upon any public officer or employee who shall prohibit or hinder any person from addressing, either alone or together with others, any petition to the authorities for the correction of abuses or redress of grievances.

**“CRIMES AGAINST PERSONS
“Chapter One
“DESTRUCTION OF LIFE**

“**Art. 252. *Physical injuries inflicted in a tumultuous affray.*** — When in a tumultuous affray as referred to in the preceding article, only serious physical injuries are inflicted upon the participants thereof and the person responsible thereof cannot be identified, all those who appear to have used violence upon the person of the offended party shall suffer the penalty next lower in degree than that provided for the physical injuries so inflicted.

“When the physical injuries inflicted are of a less serious nature and the person responsible therefor cannot be identified, all those who appear to have used any violence upon the person of the offended party shall be punished by *arresto mayor* from five to fifteen days.

“**Art. 254. *Discharge of firearms.*** — Any person who shall shoot at another with any firearm shall suffer the penalty of *prision correccional* in its minimum and medium periods, unless the facts of the case are such that the act can be held to constitute frustrated

or attempted parricide, murder, homicide or any other crime for which a higher penalty is prescribed by any of the articles of this Code.

“Chapter Two “PHYSICAL INJURIES

”**Art. 262. Mutilation.** — The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed upon any person who shall intentionally mutilate another by depriving him, either totally or partially, or some essential organ of reproduction.

“Any other intentional mutilation shall be punished by *prision mayor* in its medium and maximum periods.

”**Art. 263. Serious physical injuries.** — Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

“1. The penalty of *prision mayor*, if in consequence of the physical injuries inflicted, the injured person shall become insane, imbecile, impotent, or blind;

“2. The penalty of *prision correccional* in its medium and maximum periods, if in consequence of the physical injuries inflicted, the person injured shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm, or a leg or shall have lost the use of any such member, or shall have become incapacitated for the work in which he was therefor habitually engaged;

“3. The penalty of *prision correccional* in its minimum and medium periods, if in consequence of the physical injuries inflicted, the person injured shall have become deformed, or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance of the work in which he as habitually engaged for a period of more than ninety days;

“4. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if the physical injuries inflicted shall have caused the illness or incapacity for labor of the injured person for more than thirty days.

“If the offense shall have been committed against any of the persons enumerated in Article 246, or with attendance of any of the circumstances mentioned in Article 248, the case covered by

subdivision number 1 of this Article shall be punished by reclusion temporal in its medium and maximum periods; the case covered by subdivision number 2 by *prision correccional* in its maximum period to *prision mayor* in its minimum period; the case covered by subdivision number 3 by *prision correccional* in its medium and maximum periods; and the case covered by subdivision number 4 by *prision correccional* in its minimum and medium periods.

“The provisions of the preceding paragraph shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement.

“Art. 264. Administering injurious substances or beverages. — The penalties established by the next preceding article shall be applicable in the respective case to any person who, without intent to kill, shall inflict upon another any serious, physical injury, by knowingly administering to him any injurious substance or beverages or by taking advantage of his weakness of mind or credulity.

“Art. 265. Less serious physical injuries. — Any person who shall inflict upon another physical injuries not described in the preceding articles, but which shall incapacitate the offended party for labor for ten days or more, or shall require medical assistance for the same period, shall be guilty of less serious physical injuries and shall suffer the penalty of *arresto mayor*.

“Whenever less serious physical injuries shall have been inflicted with the manifest intent to kill or offend the injured person, or under circumstances adding ignominy to the offense in addition to the penalty of *arresto mayor*, a fine not exceeding 500 pesos shall be imposed.

“Any less serious physical injuries inflicted upon the offender's parents, ascendants, guardians, curators, teachers, or persons of rank, or persons in authority, shall be punished by *prision correccional* in its minimum and medium periods, provided that, in the case of persons in authority, the deed does not constitute the crime of assault upon such person.

“Art. 266. Slight physical injuries and maltreatment. — The crime of slight physical injuries shall be punished:

“1. By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor

from one to nine days, or shall require medical attendance during the same period.

“2. By *arresto menor* or a fine not exceeding 20 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance.

“3. By *arresto menor* in its minimum period or a fine not exceeding 50 pesos when the offender shall ill-treat another by deed without causing any injury.

“Title Nine

“CRIMES AGAINST PERSONAL LIBERTY AND SECURITY

“Chapter One

“CRIMES AGAINST LIBERTY

”**Art. 267. *Kidnapping and serious illegal detention.*** — Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua*:

“1. If the kidnapping or detention shall have lasted more than five days.

“2. If it shall have been committed simulating public authority.

“3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.

“4. If the person kidnapped or detained shall be a minor, female or a public officer.” X X X

”**Art. 268. *Slight illegal detention.*** — The penalty of *reclusion temporal* shall be imposed upon any private individual who shall commit the crimes described in the next preceding article without the attendance of any of circumstances enumerated therein.

“The same penalty shall be incurred by anyone who shall furnish the place for the perpetration of the crime.

“If the offender shall voluntarily release the person so kidnapped or detained within three days from the commencement of the detention, without having attained the purpose intended, and before the institution of criminal proceedings against him, the penalty shall be *prision mayor* in its minimum and medium periods and a fine not exceeding seven hundred pesos.

“**Art. 269. Unlawful arrest.** — The penalty of *arresto mayor* and a fine not exceeding 500 pesos shall be imposed upon any person who, in any case other than those authorized by law, or without reasonable ground therefor, shall arrest or detain another for the purpose of delivering him to the proper authorities.

“Section Two. — Kidnapping of minors

“**Art. 270. Kidnapping and failure to return a minor.** — The penalty of *reclusion perpetua* shall be imposed upon any person who, being entrusted with the custody of a minor person, shall deliberately fail to restore the latter to his parents or guardians.

“**Art. 271. Inducing a minor to abandon his home.** — The penalty of *prision correccional* and a fine not exceeding seven hundred pesos shall be imposed upon anyone who shall induce a minor to abandon the home of his parent or guardians or the persons entrusted with his custody.

“If the person committing any of the crimes covered by the two preceding articles shall be the father or the mother of the minor, the penalty shall be *arresto mayor* or a fine not exceeding three hundred pesos, or both.

“**Art. 272. Slavery.** — The penalty of *prision mayor* and a fine of not exceeding 10,000 pesos shall be imposed upon anyone who shall purchase, sell, kidnap or detain a human being for the purpose of enslaving him.

“If the crime be committed for the purpose of assigning the offended party to some immoral traffic, the penalty shall be imposed in its maximum period.

“**Art. 273. Exploitation of child labor.** — The penalty of *prision correccional* in its minimum and medium periods and a fine not exceeding 500 pesos shall be imposed upon anyone who, under the pretext of reimbursing himself of a debt incurred by an

ascendant, guardian or person entrusted with the custody of a minor, shall, against the latter's will, retain him in his service.

“Art. 274. Services rendered under compulsion in payment of debt. — The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon any person who, in order to require or enforce the payment of a debt, shall compel the debtor to work for him, against his will, as household servant or farm laborer.

Chapter Two CRIMES AGAINST SECURITY

Section One. — Abandonment of helpless persons and exploitation of minors.

“Art. 275. Abandonment of person in danger and abandonment of one's own victim. — The penalty of *arresto mayor* shall be imposed upon:

“1. Any one who shall fail to render assistance to any person whom he shall find in an uninhabited place wounded or in danger of dying, when he can render such assistance without detriment to himself, unless such omission shall constitute a more serious offense.

“2. Anyone who shall fail to help or render assistance to another whom he has accidentally wounded or injured.

“3. Anyone who, having found an abandoned child under seven years of age, shall fail to deliver said child to the authorities or to his family, or shall fail to take him to a safe place.

“Art. 276. Abandoning a minor. — The penalty of *arresto mayor* and a fine not exceeding 500 pesos shall be imposed upon any one who shall abandon a child under seven years of age, the custody of which is incumbent upon him.

“When the death of the minor shall result from such abandonment, the culprit shall be punished by *prision correccional* in its medium and maximum periods; but if the life of the minor shall have been in danger only, the penalty shall be *prision correccional* in its minimum and medium periods.

“The provisions contained in the two preceding paragraphs shall not prevent the imposition of the penalty provided for the act committed, when the same shall constitute a more serious offense.

“Art. 277. Abandonment of minor by person entrusted with his custody; indifference of parents. — The penalty of *arresto mayor* and a fine not exceeding 500 pesos shall be imposed upon anyone who, having charge of the rearing or education of a minor, shall deliver said minor to a public institution or other persons, without the consent of the one who entrusted such child to his care or in the absence of the latter, without the consent of the proper authorities.

“The same penalty shall be imposed upon the parents who shall neglect their children by not giving them the education which their station in life require and financial conditions permit.

“Art. 278. Exploitation of minors. — The penalty of *prision correccional* in its minimum and medium periods and a fine not exceeding 500 pesos shall be imposed upon:

“1. Any person who shall cause any boy or girl under sixteen years of age to perform any dangerous feat of balancing, physical strength, or contortion.

“2. Any person who, being an acrobat, gymnast, rope-walker, diver, wild-animal tamer or circus manager or engaged in a similar calling, shall employ in exhibitions of these kinds children under sixteen years of age who are not his children or descendants.

“3. Any person engaged in any of the callings enumerated in the next paragraph preceding who shall employ any descendant of his under twelve years of age in such dangerous exhibitions.

“4. Any ascendant, guardian, teacher or person entrusted in any capacity with the care of a child under sixteen years of age, who shall deliver such child gratuitously to any person following any of the callings enumerated in paragraph 2 hereof, or to any habitual vagrant or beggar.

If the delivery shall have been made in consideration of any price, compensation, or promise, the penalty shall in every case be imposed in its maximum period.

“In either case, the guardian or curator convicted shall also be removed from office as guardian or curator; and in the case of the parents of the child, they may be deprived, temporarily or perpetually, in the discretion of the court, of their parental authority.

“5. Any person who shall induce any child under sixteen years of age to abandon the home of its ascendants, guardians, curators, or teachers to follow any person engaged in any of the callings mentioned in paragraph 2 hereof, or to accompany any habitual vagrant or beggar.

“**Art. 279. Additional penalties for other offenses.** — The imposition of the penalties prescribed in the preceding articles, shall not prevent the imposition upon the same person of the penalty provided for any other felonies defined and punished by this Code.

“Section Two. — Trespass to dwelling

“**Art. 280. Qualified trespass to dwelling.** — Any private person who shall enter the dwelling of another against the latter's will shall be punished by *arresto mayor* and a fine not exceeding 1,000 pesos.

“If the offense be committed by means of violence or intimidation, the penalty shall be *prision correccional* in its medium and maximum periods and a fine not exceeding 1,000 pesos.

“The provisions of this article shall not be applicable to any person who shall enter another's dwelling for the purpose of preventing some serious harm to himself, the occupants of the dwelling or a third person, nor shall it be applicable to any person who shall enter a dwelling for the purpose of rendering some service to humanity or justice, nor to anyone who shall enter cafes, taverns, inn and other public houses, while the same are open.

“**Art. 281. Other forms of trespass.** — The penalty of *arresto menor* or a fine not exceeding 200 pesos, or both, shall be imposed upon any person who shall enter the closed premises or the fenced estate of another, while either or them are uninhabited, if the prohibition to enter be manifest and the trespasser has not secured the permission of the owner or the caretaker thereof.

“SECTION THREE

“Threats and Coercion

”**Art. 282. *Grave threats.*** — Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime, shall suffer:

“1. The penalty next lower in degree than that prescribed by law for the crime be threatened to commit, if the offender shall have made the threat demanding money or imposing any other condition, even though not unlawful, and said offender shall have attained his purpose. If the offender shall not have attained his purpose, the penalty lower by two degrees shall be imposed.

“If the threat be made in writing or through a middleman, the penalty shall be imposed in its maximum period.

“2. The penalty of *arresto mayor* and a fine not exceeding 500 pesos, if the threat shall not have been made subject to a condition.

”**Art. 283. *Light threats.*** — Any threat to commit a wrong not constituting a crime, made in the manner expressed in subdivision 1 of the next preceding article, shall be punished by *arresto mayor*.

”**Art. 284. *Bond for good behavior.*** — In all cases falling within the two next preceding articles, the person making the threats may also be required to give bail not to molest the person threatened, or if he shall fail to give such bail, he shall be sentenced to *destierro*.

”**Art. 285. *Other light threats.*** — The penalty of *arresto menor* in its minimum period or a fine not exceeding 200 pesos shall be imposed upon:

“1. Any person who, without being included in the provisions of the next preceding article, shall threaten another with a weapon or draw such weapon in a quarrel, unless it be in lawful self-defense.

“2. Any person who, in the heat of anger, shall orally threaten another with some harm not constituting a crime, and who by subsequent acts show that he did not persist in the idea involved in his threat, provided that the circumstances of the offense shall not bring it within the provisions of Article 282 of this Code.

“3. Any person who shall orally threaten to do another any harm not constituting a felony.

“Art. 286. Grave coercions. — The penalty of *arresto mayor* and a fine not exceeding 500 pesos shall be imposed upon any person who, without authority of law, shall, by means of violence, prevent another from doing something not prohibited by law, or compel him to do something against his will, whether it be right or wrong.

“If the coercion be committed for the purpose of compelling another to perform any religious act or to prevent him from so doing, the penalty next higher in degree shall be imposed.

“Art. 287. Light coercions. — Any person who, by means of violence, shall seize anything belonging to his debtor for the purpose of applying the same to the payment of the debt, shall suffer the penalty of *arresto mayor* in its minimum period and a fine equivalent to the value of the thing, but in no case less than 75 pesos.

“Any other coercions or unjust vexations shall be punished by *arresto menor* or a fine ranging from 5 pesos to 200 pesos, or both.”

The provisions of the Revised Penal Code on the crime of rape, which had been amended by the enactment of Republic Act 8353 entitled, “An Act Expanding The Definition Of The Crime Of Rape, Reclassifying The Same As A Crime Against Persons, Amending For The Purpose Act No. 3815, As Amended, Otherwise Known As The Revised Penal Code, And For Other Purposes, otherwise referred to as the “Anti-Rape Law of 1997,” provides the penalty ranging from reclusion temporal to reclusion perpetua in cases of aggravated rape, i.e., the crime was committed with any of the following aggravating/qualifying circumstances:

"1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

"2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution (Underscoring supplied);

"3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;

"4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;

"5) When the victim is a child below seven (7) years old;

"6) When the offender knows that he is afflicted with Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;

"7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime (Underscoring supplied);

"8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;

"9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and

"10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Moreover, under the Human Security Act of 2007, provision on torture is expressly provided, to quote:

“SEC. 24. No Torture or Coercion in Investigation and Interrogation. - No threat, intimidation, or coercion, and no act which will inflict any form of physical pain or torment, or mental, moral, or psychological pressure, on the detained person, which shall vitiate his free-will, shall be employed in his investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism; otherwise, the evidence obtained from said detained person resulting from such threat, intimidation, or coercion, or from such inflicted physical pain or torment, or mental, moral, or psychological pressure, shall be, in its entirety, absolutely not admissible and usable as evidence in any judicial,

quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

“SEC. 25. *Penalty for Threat, Intimidation, Coercion, or Torture in the Investigation and Interrogation of a Detained Person.* - Any person or persons who use threat, intimidation, or coercion, or who inflict physical pain or torment, or mental, moral, or psychological pressure, which shall vitiate the freewill of a charged or suspected person under investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of twelve (12) years and one day to twenty (20) years of imprisonment. When death or serious permanent disability of said detained person occurs as a consequence of the use of such threat, intimidation, or coercion, or as a consequence of the infliction on him of such physical pain or torment, or as a consequence of the infliction on him of such mental, moral, or psychological pressure, the penalty shall be twelve (12) years and one day to twenty (20) years of imprisonment.”

Section 5 of Republic Act 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006 (JJWA) provides that every Child In Conflict with the Law (CICL) shall have the following rights, including but not limited to:

- right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- right not to be imposed a sentence of capital punishment or life imprisonment, without the possibility of release;
- right not to be deprived, unlawfully or arbitrarily of his/her liberty;
- right to be treated with humanity and respect for the inherent dignity of the person, and in a manner which takes into account the needs of a person his/her age.

The JJWA also provides the following, to wit:

“Section 21. *Procedure for Taking the Child into Custody.* – From the moment a child is taken into custody, the law enforcement officer shall:

“(a) Explain to the child in simple language and in a dialect that he/she can understand why he/she is being placed under custody and the offense that he/she allegedly committed;

“(b) Inform the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect understood by him/her;

“(c) Properly identify himself/herself and present proper identification to the child;

“(d) Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child in conflict with the law;

“(e) Avoiding displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed;

“(f) Refrain from subjecting the child in conflict with the law to greater restraint than is necessary for his/her apprehension;

“(g) Avoid violence or unnecessary force

X X X

“Section 60. *Prohibition Against Labeling and Shaming.* – In the conduct of the proceedings beginning from the initial contact with the child, the competent authorities must refrain from branding or labeling children as young criminals, juvenile delinquents, prostitutes or attaching to them in any manner any other derogatory names. Likewise, no discriminatory remarks and practices shall be allowed particularly with respect to the child’s class or ethnic origin.

“Section 61. *Other Prohibited Acts.* – The following and any similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law and therefore, prohibited:

“(a) Employment of threats of whatever kind or nature;

“(b) Employment of abusive, coercive and punitive measures such as cursing, beating, stripping, and solitary confinement;

“(c) Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity;

“(d)Compelling the child to perform involuntary servitude in any and all forms under any and all instances.”

Articles 5, 7 and 8

- 13. Please indicate any legislative or other measures taken to implement each provision of article 5 of the Convention. Under the legislation in force, are acts of torture considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or victim? Please provide any relevant examples of any such prosecutions. Does the State party apply the Convention to persons under its jurisdiction in cases where the Philippine troops or police officers are stationed abroad? If so, please provide relevant details.**

Philippine Penal Laws are premised on the principle of territoriality. Section 3, Article II of the 1987 Constitution provides, however, that “*(t)he Philippines adopts the generally accepted principles of international law as part of the law of the land.*” In the Philippine setting, however, the principle of universal jurisdiction has not been judicially tested.

- 14. Please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging its own prosecution as a result. What is the status and outcome of such proceedings? Which sections of the Philippine Penal Code were violated in such cases?**

The Philippines has yet to receive any request by a third State for the extradition of an individual suspected of having committed an offence of torture.

In the event that a request is received, even in the absence of a domestic legislation criminalizing torture *per se*, offenses involving acts of torture can be extraditable offenses under the conduct-approach of dual criminality.

Article 10

15. **The report indicates that, with the close collaboration of the Commission on Human Rights of the Philippines (CHRP), human rights components are included in the training programs for all military and law enforcement units of the government. (State party report, paras. 49 and 50) Please provide further information on the instruction and training provided for law-enforcement officials and other public officials with respect to human rights, specifically the number and the content of training programmes on the treatment of detainees and vulnerable groups, and on the measures for the prevention of torture and cruel, inhuman or degrading treatment or punishment. Is gender-sensitive training conducted? Please specify who conducts and who undergoes the training, and if the Convention is made known in the course of such programmes. How and by whom are such training and instruction programmes monitored and evaluated?**

Guided by international and domestic instruments on human rights, the Philippine National Police has provided several operational policies to help make every police officer aware, conscious, and sensitive to upholding the human dignity and the highest principles of human rights.

The PNP has long adopted the inclusion of human rights as part of the mandatory career and specialized courses. Human Rights is also part of the Police Information and Continuing Education (PICE) program of the PNP. Further, the PNP established Human Rights Desks from the National Headquarters down to police stations which are manned by Human Rights Desk Officers. The HR Desk Officers serve as the focal points on all aspects of human rights relevant to the police within their respective jurisdictions. Thus, HR Desk serve as conduits on human rights matters of the PNP Human Rights Affairs Office (PNP HRAO) in the lowest levels of the organizations.

Significant policy guidelines implemented by the current PNP leadership include is stopping the practice of “firing squad” presentation of arrested suspects before the media, and stricter implementation of the policy on no body harm (slapping, boxing, kicking and the like) against suspects inside police stations. The firing of warning shot against a fleeing suspect has also been stopped by the PNP.

The PNP fully supports the full implementation of gender-sensitive laws such as RA 9262 (Violence Against Women and Children), RA 7877 (Anti-Sexual Harassment Law), and RA 7610 (Anti-Child Abuse Law). As part of their implementation, the PNP make sure at all times segregation of sexes and adult and minor segregation in all its detention facilities.

The PNP is firm in imposing appropriate sanctions against erring police personnel. The breach is considered serious neglect in the performance of duty, if not grave misconduct.

Below are some of the modules on human rights incorporated by the Philippine Public Safety College of the Department of Interior and Local Government (DILG)

1. PUBLIC SAFETY OFFICER ADVANCE COURSE

MODULE : General Subjects

SUBJECT : HUMAN RIGHTS

DURATION: Eight (8) Hours

SUBJECTDESCRIPTION: This subject deals on the review and updates on the study of human rights development and practices, HR issues and concerns, and the importance of the observance and protection of HR in the enforcement of laws and the preservation of public safety and internal security.

OBJECTIVES - At the end of lesson/instruction, the student-officers will be able to: (1) learn and understand the recent developments concerning human rights pursuant to the Philippine Constitution and the standards and guidelines of the UN Declaration of Human Rights; (2) learn and understand the relevance of human rights, its observance, promotion and protection in the performance of law enforcement and police duties; (3) Internalize the values of human rights in all facets of public safety and internal security

METHODS OF INSTRUCTION - Modified lecture/classroom Instruction and visual aids through (1) Case Presentation, Study and Analysis; (2) Group Dynamics; (3) Film Showing

SUBJECT REQUIREMENTS

1. Attendance
2. Conduct
3. Graded Essay Examination
4. Graded Practical Exercises/Report Paper

TOPIC OUTLINE

Subject Topic	Time Allocation
1. Updates and Review of the Constitutional Dimension of	1hr

Human Rights Basis	
2. Understanding of the Universal Declaration of Human Rights	1 hr
3. Human Rights Promotion Program of the CHR (Rights-based Approach Program, Barangay Human Rights Action Center/Office; HR Teaching Exemplars; Child Rights Center)	2 hr
4. Assessment of the Human Rights Situation in the Philippines	1 hr
5. Workshop/Group Dynamics/Discussion	2 hr
6. Synthesis	1 hr
Total hours	8 hrs

REFERENCE MATERIALS/SUGGESTED READINGS

1. The 1987 Philippine Constitution
2. Executive Order 163
3. Human Rights Laws, Policies, Resolutions
4. UN Declaration of Human Rights
5. CHR Teaching Exemplars
6. HR Education Facilitators Manual

2. PUBLIC SAFETY OFFICER SENIOR EXECUTIVE COURSE

MODULE : Law and Jurisprudence

SUBJECT : INTERNATIONAL HUMANITARIAN LAW

DURATION : Sixteen (16) Hours

SUBJECT DESCRIPTION: This subject covers the regulation of the rules and customs of war on land, sea and air, including the relevant legal instruments pertaining to the status and protection of prisoners of war, the protection of civilian populations, the use of certain weapons, the status of combatants and belligerents, the laws relating to neutrality and the investigation of the infractions of the laws of armed conflict.

OBJECTIVES: (1) To provide deep and systematic knowledge of the area of international humanitarian law; (2) To develop key legal concepts and themes with respect to understanding the sources of humanitarian law and their application; (3) To provide students with a thorough understanding of practice and law relating to key concepts, such as prisoners of war, combatants, protected persons,

neutrality and war crimes; (4) To consider a broad analysis of the problems facing the application of humanitarian law in contemporary armed conflicts.

LEARNING OUTCOMES - On successful completion of the module students will be able to: (1) demonstrate deep and systematic understanding of humanitarian law; (2) within the framework of international law and human rights; (3) apply humanitarian law to address the protection of combatants and non-combatants in situations of both internal and international armed conflicts; (4) critically analyze key concepts of humanitarian law, including prisoners of war, protected persons, war crimes, neutrality, belligerent occupation; (5) define and critically assess the role of the United Nations, individual States and non-governmental organizations, particularly the Red Cross, in the evolution and implementation of humanitarian norms; (6) critically assess the role and function of international criminal tribunals and domestic courts in applying and developing the relevant law; (7) demonstrate the acquisition of developed transferable skills.

METHODS OF INSTRUCTION: Modified lecture/classroom Instruction and visual aids through (1) Case Presentation, Study and Analysis; (2) Group Dynamics; (3) Film Showing

SUBJECT REQUIREMENTS

1. Attendance
2. Conduct
3. Graded Essay Examination
4. Graded Practical Exercises/Report Paper

TOPIC OUTLINE

Subject topic	Time Allocation
1. Sources of Humanitarian law: Treaty law from 1856 until today; the formation of humanitarian custom; the role of general principles; ascertaining the relevance of domestic military codes, declarations, General Assembly resolutions and regulations adopted by guerrilla movements.	2 hrs
2. Applicability of Humanitarian law: Commencement of armed conflicts; international and non-international armed conflicts; declarations of war; belligerent occupation; status of neutrals; protecting powers. Hague law (hostilities): conduct of hostilities on land,	2hrs

sea, air; forbidden weapons; status of nuclear weapons; combatants and non-combatants; irregular forces and mercenaries; targeting; military necessity; infractions of the laws of war.	
3. Geneva law (protection of persons): status of civilians; protected persons and hors de combat; permitted practices; reprisals; duties of occupying forces; prisoners of war; minimum humanitarian standards	2hrs
4. Assessment and Discussion of the Implementation of the International Humanitarian law and Human Rights Situation in the Philippines	2hrs
5. Film Showing(IHI Multi Media)	2 hrs
6. Film Critique	1 hr
7. Workshop/Group Dynamics	2 hrs
8. Plenary Presentation	2 hrs
9. Synthesis	1 hr
Total	16 hrs

On the part of the Armed Forces of the Philippines, the Office of the Judge Advocate General, as a course provider, conducted the first AFP Para-Legal Orientation Course in September 2008 pursuant to the Command Guidance of the Chief of Staff of the Armed Forces of the Philippines issued on 12 May 2008. The course catered to NCOs AFP-wide as participants and included in its approved Program of Instructions, pertinent subjects such as Arrests, Searches and Seizures, Constitutional Law, particularly the Bill of Rights of the Philippines, Rules of Engagement, and Rights of the Accused under Custodial Examination.

Apart from the activation of the AFP Human Rights Office on 12 January 2007, as a special staff of the AFP Chief of Staff, to address human rights and international humanitarian law concerns, the AFP has embarked on enhanced an advocacy drive in the strict observance of the rule of law through pertinent issuances and directives of the AFP Chief of Staff, including the formulation of a handbook on arrest, search and seizure, for the guidance of all military personnel.

Training on HR and IHL

As early as 1992, the AFP has been incorporating Human Rights (HR) and International Humanitarian Law (IHL) modules in the career courses of its personnel. Presidential Memorandum Order No. 259 dated 7 February 1995, mandated the inclusion of this module as an integral part of the continuing education and training program of military, law enforcement, police and prison personnel. The program also includes the various international treaties and conventions on human rights to which our country is a party. In addition, Joint AFP and International Committee of the Red Cross has also been conducting training for trainers in IHL.

The Officers attending the Master in National Security Administration (MNSA) also undergo lectures on Human Rights International Humanitarian Law during the conduct of the Module on Military Dimension of National Security of the MNSA curriculum. Practically, every member of the AFP has attended lectures and seminars on Human Rights and International Humanitarian Law.

Hereunder are the AFP career and CAFGU courses, and training exercises where Human Rights and International Humanitarian Law modules are integrated and the corresponding number of lectures hours for HR and IHL:

COURSES AND EXERCISES	NUMBER OF HOURS
Basic Career Course (Officers and EP)	24
Advance Career Course (Officers and EP)	24
Command and General Staff Course	24
Army/Navy/Air Force Candidate Soldier Course	12
Officer Preparatory Course	12
Officer Candidate Course	24
Naval Officer Candidate Course	24
CAFGU Basic Training	48
Back to Basic Course (Required for re-enlistment)	12
CAFGU Active Auxiliary Cadre Course	6
Staff Exercise	As necessary
Command Post Exercise	As necessary
Mission-essential Task Rehearsal	As necessary

Reforms Initiative and Sustainment

Aside from regular Troop Information and Education, and the regular career and skill courses provided by the AFP to personnel, Letters of Instructions, Rules of Engagements, and Command Guidance reiterating adherence to the laws are updated and issued. Personnel also attend seminars and workshops conducted locally and abroad. Among some of these reform initiatives and sustainment efforts are the following:

- The conduct of Law of Armed Conflict Training of Trainers (LOAC TOT) jointly by the AFP and the International Committee of the Red Cross (ICRC) is a continuing effort to train sufficient number of LOAC trainers in the AFP. For the year 2007, there are 16 officers from different units of the Philippine Army who completed the Law of Armed Conflict Training of Trainers (LOACTOT) on 22 - 26 January 2007.
- Education and Training Guidelines to LOI 05-07 Pagbabago "GOLF" mandates updating of current training programs through the revision of Program of Instruction (POIs)/Training management Packages (TMPs)/ Instructional Packages (IPs) of Basic Individual Training, Unit/Collective

Training. Individual Training would focus on enhancing soldiery, discipline, adherence to the Bill of Rights and developing essential military skills in Internal Security Operations.

- The Supreme Court of the Philippines, Philippine Judicial Academy, in partnership with the Commission on Human Rights conducted a Seminar-Workshop for Judges on Extrajudicial Killings and Enforce Disappearances (Batch 1) participated by members of National Capital Judicial Region, 1st and 2nd Judicial Region and the representative of the AFP as resource person, at the Manila Pavillion Hotel United Nations Avenue, Ermita, Manila.
- Chief, AFPHRO attended the 14th ASEAN ISIS Colloquium on Human Rights in EDSA Shangri-La Hotel, Philippines on 4-5 May 2007.
- Senior officers of the AFP attended the Law and Leadership on Operations Seminar conducted by the Armed Forces of the Philippines and the Australian Defense Force's Military Law Centre in Shangri-La Hotel, Manila on 29-30 August 2007.
- Chief, AFPHRO attended the Senior Workshop on International Rules Governing Military Operations on 06-17 Aug 2007 in Geneva, Switzerland.
- Three AFP Officers participated in the Human Rights Education for the PNP Workshop on 28-29 Sep 07 at the PNP Headquarters.
- MOA between NCRCOM, CHR and PNP on the joint conduct of Human Rights Seminar in the Barangays was signed at CHR main office on 03 September 2007.
- The Supreme Court Of the Philippines conducted a seminar on 11 October 2007 to senior officers of the AFP and PNP, on the implementation of the Writ of Amparo.

16. Please provide detailed information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological *sequelae* of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the Istanbul Protocol?

The Department of Health (DOH) conducts psychosocial first aid, e.g. Armed Conflict in Mindanao, and has adopted the UN IASC Guidelines on Mental Health and Psychosocial Services on Emergency Settings. It also organizes/conducts stress debriefing seminars for Government agencies and private organizations.

The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, otherwise known as the Istanbul Protocol is not part of the training modules of the Philippine Judicial Academy (PHILJA).

The University of the Philippines College of Medicine-Social Medicine Unit has conducted a training on 19-22 January 2008 on recognition, documentation, and reporting of cases of torture. Representatives from the Department of Health, Department of Justice, Supreme Court and civil society organizations attended the forum.

The Commission on Human Rights of the Philippines (CHRP), as the independent national human rights institution of the Philippines, conducted a national seminar on recognition, documentation and reporting of torture cases incorporating modules on the Istanbul Protocol in 2002-2003, which was attended by government and non-government representatives. As a result of the national seminar, regional seminars were subsequently conducted by the CHRP in 2004-2005. The CHRP came up with a Manual on Torture incorporating essential elements of the Istanbul Protocol, while modifying the same to conform to the Philippine setting. Presently, the CHRP is drafting Guidelines on Torture for the signature of government agencies and non-government organizations.

Article 11

- 17. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any new rules, instructions, methods and practices or arrangements for custody that may have been introduced. Please also indicate the frequency with which these are reviewed. Do any rules exist that would prohibit investigations, visits by international bodies or mechanisms, or other forms of human rights scrutiny?**

Chapter 9, Section 1-9, Part III of the 2000 Bureau of Corrections Manual covers visiting rights of inmates. Inmates shall have the right to be visited by his family and reputable friends at regular intervals. They could also be visited by their legal counsel of record at reasonable hours of the day or night.

After a series of consultative meetings, strategic planning workshop and ocular inspections, the Bureau of Corrections unanimously proposed to adopt a new vision and mission to keep the organization abreast with the challenges of the times, making it responsive to its new paradigm – restorative justice, contrary to the previous punitive character of its mandate.

The Bureau of Corrections' (BuCorr) Vision and Mission are hereby presented, as follows, viz:

Current Vision/ Prior to the Reengineering Process	Proposed Vision/ After the Reengineering Process
A modern corrective service that is humane, productive and restorative	A world-class correctional organization that provides an opportunity to develop professional, disciplined, spiritually guided environment for BuCorr stakeholders and for inmates to become productive, responsible and law abiding citizen.
Effective safekeeping and rehabilitation of national prisoners.	To maximize the assets of the BuCorr to effectively pursue its responsibility in safely securing and transforming national prisoners through responsive rehabilitation programs managed by professional correctional officers.

The BJMP's Operations Manual provides the guidelines on the commitment and classification of inmates and reception procedures, and classification and disciplinary boards, which had been duly issued and disseminated to the various field units.

The BJMP welcomes visits by international bodies, notably representatives of the International Committee of the Red Cross, who are frequent visitors in some of the city and municipal jails.

While there are no rules prohibiting visits by international bodies of inmates and jail facilities, requests for country visits by Special Procedures mandate holders, for instance, are assessed by the Government taking into account the need for a long-term and holistic approach that will allow better coordination among concerned government agencies that will afford them sufficient latitude to adequately arrange such visits in terms of substantive preparations as well as the allocation of appropriate funding and logistical support attendant to such undertakings.

18. Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rates for the detention facilities for the period 2000-2008.

The Philippines would like to take this opportunity to provide the Committee the following information:

1. Those who are serving sentence of more than 3 years are incarcerated in prison facilities falling within the jurisdiction of the

Bureau of Corrections (BuCORR), an attached agency of the Department of Justice. BuCORR operates the New Bilibid Prison (Muntinlupa), five (5) penal farms, and the Correctional Institute for Women (Mandaluyong).

2. Sentenced persons or those who have been accused of crimes punishable with the penalty of imprisonment ranging from 6 months and 1 day to 3 years in provinces where the crime was committed are jailed in the appropriate Provincial Jail, which fall under the jurisdiction of Provincial Governors. There are currently 76 provincial jails and 27 sub-provincial jails.
3. Those persons sentenced or accused of crimes punishable with penalties ranging from 1 day to 3 years are incarcerated/detained in the District or City Jails, falling within the jurisdiction of the Bureau of Jail Management and Penology (BJMP), an attached agency of the Department of Interior and Local Government. There are presently 150 District Jails and 100 City Jails nationwide.
4. Those persons sentenced or accused of crimes punishable with penalties ranging from 1 day to 6 months are incarcerated/detained in Municipal Jails, which also fall under the jurisdiction of the BJMP. There are currently 823 Municipal Jails nationwide.

Yearly average Jail Population for the years 2000 to 2008 according to the Bureau of Jail Management and Penology are shown in the following table:

YEAR	2000	2001	2002	2003	2004	2005	2006	2007	2008	% ave.
Male			38,299	44,933	50,730	55,561	54,925	54,053	54,889	91%
Female			2,604	3,974	5,189	5,770	5,807	6,152	6,478	9%
TOTAL	34,998	37,158	40,903	48,907	55,919	61,331	60,732	60,205	61,367	
Autonomous Regions										
CAR	521	594	588	737	901	946	1,012	1,010	1,009	1.6%
ARMM	306	333	320	319	339	316	311	343	364	0.6%

Of the total number of inmates, the average percentage of males for the 7-year period 2002 to 2008 was 91% as against 9% of females. The average number of inmates, both male and female for the autonomous regions Cordillera Autonomous Region (CAR) and the Autonomous Region of Muslim Mindanao (ARRM) were 1.6% and 0.6%, respectively.

Below is a matrix of the inmate population in facilities administered by the BuCORR:

Year	Population	
	Male	Female
2000	22,690	818
2001	23,095	870

2002	24,051	951
2003	25,737	1,055
2004	27,357	1,173
2005	27,512	1,306
2006	29,397	1,401
2007	30,752	1,562
2008	32,785	1,762

As of 31 December 2008, the Bureau of Corrections (BuCorr) has exceeded the ideal occupancy rate of its facilities. The BuCorr maintains in its custody 34,547 inmates, which is 10% higher than the previous year with a congestion rate in all prison facilities increasing from 54% to 70%. The New Bilibid Prison (National Penitentiary) is the most crowded facility with a 136% overcrowding rate.

The 5,496 admissions at the Reception and Diagnostic Center continue to rise beyond the number of releases, i.e., 3,241, classified into 1st offenders (4,587) and recidivist (909). The rate of recidivism is 16% of admissions.

For the said period, a total of 3,023 inmates' carpetas (i.e., dossier) were processed and forwarded to the Board of Pardons and Parole. The released inmates totaling 3,241 comprised 9% of the entire inmate population.

19. Could you please comment on reports of ill-treatment in detention centres, including severe overcrowding, sub-standard facilities and lack of basic facilities? Please provide specific examples. According to the report, the Government, through the Budget and Management Secretary, has vowed to pour more funds into the Bureau of Jail Management and Penology to ensure a more just and restorative prison system. (State party report, para. 93) Please inform the Committee of measures taken by the State party to improve these material conditions and of any concrete legislative plans and budget allocations relevant to addressing this problem in the future.

Pursuant to Memorandum Order No. 155 dated 17 November 2004 and Executive Order No. 155 dated 17 July 2007 issued by H.E. President Gloria Macapagal-Arroyo, inmates who are 70 years old and above may be released from prison not only to decongest prisons, but more importantly, for humanitarian considerations . Consequently, the Justice Department reported that 377 prisoners, who are 70 years old and above, had already been released from 2004 to 2007.

In keeping with the provisions of the Juvenile Justice and Welfare Act of 2006, 67 inmates, who were 15 years old and below during the commission of the

offence had already been referred to the Department of Social Welfare and Development from May to September 2007.

Despite the many constraints ranging from lack of manpower/personnel to lack of budgetary allocations, the Philippines has endeavored to undertake the following initiatives:

- **Ray of Hope Village** -The first of its kind in the Philippine Jail setting, Ray of Hope Village is a jail facility for female detainees in Davao City with a village-type concept. Twenty brightly painted cottages dotted the landscape instead of prison cells. The cottages are patterned to Gawad-Kalinga designs for community housing projects, with decorative grills instead of parallel lined bars, typical of prison cells. This award-winning facility is the result of strong partnership between the BJMP, the local government and the civic communities. Ray of Hope Village was inaugurated last 03 March 2008 and has become the best showcase of BJMP ingenuity, hope and perseverance.
- **On Gender And Development**

On March 2008, the Bureau participated in the celebration of 2008 Women's Month through various activities. Joined in the national assembly which was held at Batangas City, distributed of hygienic materials to female inmates, conducted free OB-Gyne examination and haircut for female personnel.

The Gender Sensitivity Training for Mindanao Chapter was conducted last 20-22 August 2008 at Royale Mandaya Hotel participated by 40 personnel from BJMPRO-X, XI, XII and XIII. The Davao seminar introduces a First of its kind because of the attendance of male participants which comprised half of the audience.

One of the efforts of the BJMP GAD's Focal Point resulted to the implementation of a policy on Light Duty Status for Pregnant Personnel which was signed by the Chief, BJMP last 23 September 2008, directing all Regional Directors to detail pregnant personnel within their area of responsibility (AOR) on a light duty status or assign them to perform administrative functions during the course of their pregnancy. The Regional Morale and Welfare Division were tasked to monitor the implementation of this policy.

The GAD Focal Point attended the 18-Day/Campaign to End Violence Against Women (VAW) last 25 November 2008.

Five (5) male personnel from the Bureau attended the 1st National Men Opposed to Violence against Women Everywhere (MOVE) Congress with

the theme: Kilos Mga Kalalakihan! Sugpuin ang Karahasan Laban sa Kababihan (“Stand-Up and Fight Against Violence Against Women”) last 05 December 2008.

Gift-giving was conducted last December 9, 2008 to female inmates in Metro Manila District Jail-Female Dormitory, Taguig Municipal Jail, Bacoor Municipal Jail and in Cainta Municipal Jail which was spearhead by J/Senior Superintendent Emilie P Aranas, Chairperson, GAD Focal Point. As part of GAD program other regions also conducted gift-giving to female inmates in their AOR.

- **Program Management**

The BJMP created a new office to specifically manage special programs of the bureau outside its streamlined programs. This office was created out of necessity to assign an office purely to establish sponsorship support, formulate repeatable processes, archive lessons learned, project and post-project reviews. This office also serves as coordinating center for community engagement services wherein it facilitates bringing community services into the bureau.

Through the efforts and initiative of the Program Management Office (PMO), the Bureau was able to receive serviceable properties donated by the Bangko Sentral ng Pilipinas (BSP). To date, eleven (11) jails and thirteen (13) BJMP offices already benefited from these properties.

In addition, the PMO has already finished its evaluation of the needs of inmates and personnel at Caloocan City Jail – Female Dorm. This was presented to the Gawad Kalinga Executive Director for approval. With its coordination with the GK architect, a proposed structure of the Caloocan Female Dorm was made.

On 06 November 2008, the DOH, DOJ, BuCorr, DILG-BLGD, BJMP and the Philippine Tuberculosis Society, Inc. in cooperation with the International Committee on the Red Cross (ICRC) and World Health Organization (WHO) signed a Memorandum of Understanding on the Management of Tuberculosis in BJMP Jails/Prisons at New Bilibid Prison, Muntinlupa. The MOU defined the respective functions and responsibilities of the different partner agencies in managing TB in jails/prisons. Jail visits were already conducted in the pilot jails of Luzon (MMDJ, MCJ, Antipolo City Jail) and Visayas (Cebu City Jail).

- **BJMP Mobile Clinic** - which endeavors to provide the following services:

medical and dental care, minor surgical procedures, psychiatric care, ophthalmologic/optometric services, x-ray and other laboratory services, not just to inmates but to personnel as well. The mobile clinic is intended to improve the health outcomes and quality of life for inmates and personnel through direct health care services; health promotion and disease prevention activities; and social support and case management services. At the present, the Directorate for Program Development (DPD), in coordination with Program Management Office (PMO), is making representation with various agencies like Philippine Charity Sweepstake Office (PCSO) for support to realize this project.

- The Jail Bureau developed a policy on livelihood projects, **BJMP SOP NO. 2008-04**, which prescribes the standards and procedures in the selection, disbursement, accounting, disposal of funds gained, evaluation and review of livelihood projects by applying the doctrines of transparency and accountability and the principles of internal auditing and management. As of 31 December 2008, the Bureau has released P575,590.08 to Twenty Eight (28) livelihood projects of jails nationwide. Of these livelihood projects, the “**Hito**” (“Catfish”) **Raising of General Santos City Jail-FD-BJMPRO-XII, Mushroom Production and Marketing of Tuguegarao City District Jail-BJMPRO-II and the Broiler Production of Dasmariñas Municipal Jail-BJMPRO-IVA** are expected to earn handsome profits in 2009. Some of the livelihood products of the jails are posted in the website of BJMP under the e-market program.

To help jumpstart the marketing of products produced by inmates as part of their rehabilitation and future reintegration to society, the BJMP uses the internet for online advertisement saves. Livelihood products of inmates can be browsed through the internet at the following web address at <http://www.bjmp.gov.ph>.

- **Continuing Take-over of Jail Facilities**

The turn-over of Provincial Jails to the management of the BJMP through execution of MOAs, notably the Bohol Provincial Jail on 26 September 2008, the Siquijor Provincial Jail on 26 November 2008 and the forthcoming signing of the MOA for the turn-over of the Romblon Provincial Jail would professionalize their operations and provide better conditions for the inmates.

- ***Oplan Decongestion***

For 2008, the BJMP safeguarded an average of sixty one thousand three hundred seventy (61,370) inmates. The PNP still maintains custody of

nine hundred seventy four (974) inmates or (1.59%) of the total population. In its efforts at decongestion, the Bureau has likewise been aided by operation of certain statutes and jail management procedures that address overcrowding in some of its facilities, resulting in a total of 3,677 inmates having been released in 2008. (See Table below.)

Inmates released thru applicable laws as of December 2008

REG.	RA6036	RA6127	PD968	RA9344	BP85	released on bail	case dismissed/ acquitted	served sentence	GCTA	TOTAL
NCR	14	1	40	8	39	240	853	250	5	1450
R1	7	0	0	0	0	62	54	8	0	131
R2	2	0	0	0	0	13	16	0	0	31
R3	17	0	1	1	0	153	133	15	0	320
R4A	4	4	6	0	2	158	237	39	0	450
R4B	1	0	0	0	0	19	6	1	0	27
R5	6	0	1	0	0	48	26	15	0	96
R6	8	0	1	1	0	96	80	15	0	201
R7	10	0	12	14	0	101	88	128	0	353
R8	3	0	0	0	0	10	16	9	0	38
R9	1	0	6	1	0	25	45	4	0	82
R10	17	0	3	2	0	41	90	24	0	177
R11	1	0	12	0	0	7	32	7	3	62
R12	1	0	8	0	0	11	28	0	0	48
R13	5	0	0	0	0	4	16	2	0	27
CAR	1	0	2	0	0	63	109	1	0	176
ARMM	0	0	0	0	0	0	5	3	0	8
TOTAL	98	5	92	27	41	1051	1834	521	8	3677

RA 6036 Released on recognizance
 RA 6127 Full Time Credit
 PD 968 Parole & Probation

RA 9344 Juvenile Justice Welfare Act
 BP 85 Preventive Imprisonment
 GCTA Good Conduct and Time Allowance

In addition, paralegal officers and volunteers are actively facilitating the release of inmates by helping them avail of applicable legal modes of early releases, thus, preventing unnecessary detention. An average of thirteen thousand one hundred seventy three (13,173) inmates benefited from these services including the release of almost two hundred (200) inmates nationwide thru the Supreme Court’s mobile court referred to as the “**Justice on Wheels,**” which was re-launched on 09 July 2008 by Chief Justice Reynato S. Puno and Manila Mayor Alfredo S Lim. This program aims to relieve the worsening problem of overcrowding in Philippine Jails and to improve access of poor to justice. (See Table below.)

REGION	PARALEGAL ASSISTANCE SERVICES	
	No. of Projects	Inmates Benefitted
NCR	36	2,921
R1	7	845
R2	2	1,129
R3	8	1,095
R4A	27	539
R4B	4	674
R5	13	519
R6	15	1,097
R7	17	1,923
R8	4	384
R9	11	746
R10	6	108
R11	3	168
R12	7	809
R13	3	30
CAR	1	171
ARMM	2	15
TOTAL	166	13,173
Directorate for Operations, CY 2008		

- ***Religious and Guidance Counseling Services***

Inmates are free to exercise their freedom of religion. As such, they are even encouraged to join the spiritual programs sponsored by the different religious denominations designed to help them cope with the difficulties of incarceration and help them in their behavioral reformation. Collectively, two hundred twenty eight (228) religious and guidance counseling activities had been carried out in the BJMP-manned jails nationwide to the advantage of one hundred twenty seven thousand four hundred twenty seven (127,427) inmates, of which most have been released or transferred.

At present, the BJMP Chaplaincy Service has ten (10) **Catholic priests** distributed nationwide to ensure that spiritual-moral-pastoral care are

made available to the inmates and even to the personnel.

- ***Education & Vocational Skills Training***

The Bureau has implemented an average of Seventy Three (73) formal/vocational educational trainings and benefited Five Thousand Nine (5,009) inmates. These are aimed at helping the inmate to prepare for future employment with the help of their newly acquired vocational/technical skills.

The various trainings included automotive, electronics, mechanics, tailoring, computer literacy and other useful craft.

The program was reinvigorated when a Japanese firm, **TRIGGER Philippines Company, Incorporated** signed a MOA to train and provide work and income for female inmates of Lapu-lapu City Jail.

- ***Alternative Learning System***

Through its Accreditation and Equivalency Test, many BJMP inmates are now able to pursue higher degree of education upon release.

- ***Livelihood & Income Generating Services***

An average of three hundred fifteen (315) skills and livelihood trainings were conducted for 2008 involving twelve thousand seven hundred eighty (12,780) inmates.

- ***Sports and Recreational Services***

A total of two hundred sixty three (263) sports and recreational activities were made available to the inmates to ease the boredom of incarceration. LGU's and other concerned organizations donated some of the athletic equipment.

Entertainment activities were also initiated to provide the inmates the opportunity to showcase their talents and skills, as well as develop camaraderie among them.

- ***Therapeutic Community Modality Program***

The Therapeutic Community Modality Program, a self-help treatment approach, has already been adopted by sixty one (61) BJMP jails and has benefited sixteen thousand three hundred six (16,306) inmates.

- ***Medical/Dental & Optical Services***

A total of twenty thousand six hundred thirteen (20,613) inmates benefited from one hundred thirty six programs medical, dental and optical programs provided by the BJMP last year.

- ***Adopt-A-Jail Program***

To date, a total of two hundred ninety two (292) concerned sectors of society are supporting this program to benefit one hundred fifty six(156) BJMP manned jails. Twenty two thousand seven hundred fifty (22,750) inmates benefited from this program.

- **IMPROVEMENT AND MAINTENANCE OF JAIL FACILITIES & EQUIPMENT**

Construction and maintenance of Jail Facilities

The BJMP's logistical concern is focused on the construction, maintenance and improvement of jail facilities. One Thousand One Hundred Fifty Six (1,156) jail facilities and eighteen (18) regional offices, to include the national office, have been maintained for the year 2008. Three hundred fourteen (314) jail facilities and forty one (41) offices were repaired, and out of these ninety one (91) facilities were funded by Local Government Units thru the effort of Regional Directors and wardens in the field. The ratio of jail facilities repaired versus actual jail facilities maintained is 314:1,156. For the year the following construction were completed under 2007 and 2008 fund appropriations: two (2) regional offices, six (6) new jail buildings, twenty three (23) perimeter fence, thirty three(33) additional cells for male, female and minor inmates and three (3) water system facilities, administrative Office, and a guard house. Construction of thirty one (31) facilities were funded by Local Government Units. At present, the BJMP has eighty four (84) jails recorded as dilapidated and without perimeter fences.

A Memorandum of Agreement for a new P50 Million flood-resistant Malabon City Jail was signed last 26 August 2008 between the **Malabon City Mayor** and the BJMP and is now in the pre-engineering stage after the Department of Budget and Management (DBM) had released the fund. President Arroyo earmarked the said amount purposely to improve the living condition of inmates of this city, which will soon find its new home in Barangay Catmon. The new city jail will rise closer to the city's Hall of Justice to minimize costs and security concerns of transporting inmates to attend hearings. Another project was the **upgrading of the facility of**

Taguig City Jail in which P35 Million was appropriated by the BJMP and another P15 Million was allocated from the fund of the Local Government of Taguig which was released early in the fourth quarter of 2008 by the DBM.

The Jail Bureau was given fund appropriation of Thirty Six Million Nine Hundred Thousand (36,900,000) for construction for 2008 which will be implemented this year. Nevertheless, construction, repair and improvements of jails within its jurisdiction were augmented through solicitation and support of Local Government Units and NGOs. The speedy delivery of these projects has brought positive results in alleviating operational and management-related concerns of these facilities. However, despite efforts and considerable help from the local government, the number of facilities constructed is still insufficient to accommodate the continuously increasing jail population.

Cognizant of the need to construct additional infrastructures to address the housing needs of inmates as the long-term solution to the perennial problem of congestion and overcrowding, the Philippine Legislature is presently deliberating on the budgetary appropriations therefor.

House Bill No. 00665, entitled: *An Act Providing for the Modernization of the Bureau of Jail Management and Penology (BJMP) Jails Providing the Funds Thereof and for Other Purposes*, now pending on the House Committee on Public Order and Safety, was filed on July 30, 2007. Also known as the *BJMP Modernization Act of 2007*, it seeks to upgrade the physical facilities of jails and detention centers.

The BJMP proposed budget of P4.16 billion for 2009 is 12% higher than its 2008 appropriations of 3.71 billion. Of the amount of P4.16 billion, P1.74 billion will be for maintenance and other operating expenses (MOOE); P2.21 billion for personal services; and P201.62 million for capital outlay. On top of the proposed hike in the subsistence allowance of BJMP prisoners, the department is also asking Congress to approve the proposal to increase the medical allowance of each inmate by P2 a day. The proposed increase hikes from P50 to P60 a day the subsistence allowance of the inmates under the supervision of the BJMP in the country's district, municipal and city jails nationwide, and the medical allowance from P3 to P5 a day. The proposed hike in the subsistence and medical allowances of inmates takes into account adjustments due to inflation and plans to improve living conditions inside BJMP-supervised jails.

Under the proposed budget of the BJMP for 2009, P63.59 million will be allocated to hire 500 new jail officers and another P201.62 million will be used to improve the bureau's security capabilities and decongest overcrowded facilities for inmates.

- 20. Please provide statistics on the number of children in detention, disaggregated by sex, age and ethnicity. Please provide information on the measures taken by the State party to address the serious concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.259, paras. 89-91) about the high number of persons below 18 years of age in detention, the persistent violations of the rights of children in conflict with the law, the alleged cases of torture, abuse, including sexual abuse and other forms of degrading treatment of persons below 18 years of age in detention, and the overall deficiencies in the administration of the Philippine juvenile justice system. According to para. 87 of the report, the President has recently signed Executive Order No. 633 providing for the immediate release of detained children in conflict with the law as declared under R.A. 9344, the "Juvenile Justice and Welfare Act of 2006". Please provide information on the implementation of this Order, including the number of children released. Please indicate what the situation is at present with regard to the strict separation from adults of persons below 18 years of age in places of detention.**

The Center for Restorative Activities, Development Learning Experiences (CRADLE), a detention house exclusively for minor detainees in Metro Manila jointly manned by BJMP and DSWD was established inside Camp Bagong Diwa, Bicutan, Taguig City in February 2006. It now houses 50 minor detainees from an original population of about 136. These were the minor detainees who were charged in court prior to the enactment of RA 9344 in 28 April 2006.

A total of 231 and 325 Children in Conflict with the Law (CICL) were released in relation to R.A. 9344 and E.O 633 in 2007 and 2008.

In support of the implementation of RA 9344, otherwise known as Juvenile Justice and Welfare Act of 2006, the DSWD continuously provides social welfare services for CICL through its twelve (12) residential care facilities which include Regional Rehabilitation Center for the Youth (RRCY), NTSB, and Home for Boys. From January to December 2008, the DSWD reported a total of 1,058 CICL served categorized as follows:

DSWD Centers/Institutions	Number of CICL		
	Both Sexes	Male	Female

1. RRCY	976	976	-
2. Other DSWD Centers who served relative number of CICL Clients	82	2	80
TOTAL	1,058	978	80

There were 976 CICL served by the RRCY accounting for 92.2 percent of all CICL served by the Department.

In addition, about 633 social workers (of whom 560 are LGU based; 55 are DSWD Field Office representatives; and, 18 are from various attached government agencies) attended the sixteen regional batches of nationwide training of social workers on case management of CICL. The implementation of this training highlighted the utilization of tool in assessing discernment of the CICL. The training aimed to capacitate LGU social workers, DSWD technical staff and other attached social welfare agencies in handling court related cases focusing on CICL in relation with the provisions of RA 9344.

As of 10 July 2008, however, there are 290 sentenced children in conflict with the law (CICLs) in prisons and penal farms nationwide. Their continued detention is on account of the fact that they fall outside of the purview of the Juvenile Justice and Welfare Act (JJWA) of 2006 since at the time of the commission of the offense they were above 15 years old but below 18 years of age. Presently, their average age ranges from 27 to 30 years old. Most of the crimes committed by these individuals are heinous crimes. With the enactment of the JJWA of 2006, BuCORR is in the process of referring their cases to the Public Attorney's Office (PAO).

There are presently 307 children in conflict with the law housed in BJMP facilities nationwide on account of the fact that not all local government units have youth homes to accommodate them. These CICLs have separate accommodations from adults. Male CICLs are also separated from females. On the basis of a Court Order for their commitment, these minors are temporarily housed in these facilities. Philippine authorities, however, are exerting their best efforts in finding appropriate placement homes for these individuals.

21. What is the situation at present with regard to the separation of female and male detainees? What steps have the State party taken to ensure that women prisoners are guarded exclusively by female prison staff?

The separation of female and male wards for inmates had been operationalized by the Bureau of Corrections (BuCORR). As a matter of fact, the BuCORR is operating a correctional institute for women in the Davao Penal Colony, which

houses more than 100 female offenders. Another correctional facility for women is being operated by the BuCORR in Mandaluyong City, Metro Manila.

The BJMP also issued a Memorandum directing the creation of separate jails facilities for women in March 2005. Although manned mostly by female staff, some male personnel are still assigned in these facilities for security purposes especially when escorting female inmates to courts, hospitals and other authorized places.

Articles 12 and 13

- 22. According to the report, various authorities have the power to investigate complaints of human rights violations committed by public officials, including reports of torture, i.e. the Office of the Ombudsman, the Internal Affairs Service of the Philippine National Police (IAS), the CHRP, the Human Rights Offices of PNP and AFP and the human rights desk of the National Bureau of Investigation. (State party report, paras. 61-65 and 76-77) Please elaborate on the respective mandates of these mechanisms and describe how they coordinate their activities to avoid overlaps and how their mandates are clarified vis-à-vis complainants.**

The Office of the Ombudsman and Commission on Human Rights are independent constitutional bodies, while the PNP and AFP are part of the Executive Branch of the Government under the Department of Interior and Local Government (DILG) and Department of National Defense (DND), respectively.

The Ombudsman and his deputies are mandated to protect people and act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people (Section 13, R.A. No. 6770; see also Section 12 Article XI of the 1987 Constitution). The Ombudsman shall give priority to complaints filed against high ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties (Sec. 15, R.A. No. 6770).

The CHR on the other hand, is mandated to investigate and monitor government compliance with human rights standards.

The PNP Human Rights Desk, in faithful compliance with the Philippine commitment to the universal principles of human rights, and in furtherance of existing human rights standards and practices issued the following policies and guidelines:

- Human Rights is supreme, inalienable, and indivisible.
- The entire members of the Philippine National Police shall embrace the highest principles of the Universal Declaration of Human Rights which proclaims the personal, civil, political, economic, social, and cultural rights of individuals, which are limited only by the recognition of the rights and freedoms of others and the requirements of morality, public order, and general welfare.
- All police officers must internalize and put into practice Sec 11, Art II. in relation to Sec 2, Art II of the 1987 Philippine Constitution that *“the State values the dignity or every human person and guarantees **MI** respect for human rights”*.
- Respect for human rights and human dignity shall apply to everyone, including members of the police service, regardless of education, gender, religion, and political beliefs.
- All police officers shall adopt the paradigm of human rights-based policing by being “champions” and “catalysts”, individually and collectively, to strengthen the faith and trust of the citizenry in their police officers as protectors of human rights.
- Efforts by the police to protect human rights shall come to terms with the peace-building program of the government;
- Programs of Instruction for police personnel shall be regularly reviewed, as may be fitting and proper, to include issues of police ethics and human rights, especially in the investigative process, as well as alternatives to the use of force and firearms. Such alternatives may include but are not limited to the peaceful settlement of conflicts, the understanding of crowd behavior, and the methods of persuasion, negotiation and mediation, and other appropriate means, with the end in view of limiting the use of force and firearms.
- All police officers shall undergo appropriate knowledge, skills and attitude enhancement and other human resource development programs that will cut across the recruitment, assignment, and promotion process.
- Under no circumstance shall any police officer inflict, instigate, or tolerate extrajudicial killing, enforced disappearance, "salvaging", arbitrary arrest, torture or other cruel, inhuman or degrading treatment or punishment, against any person.
- Failure on the part of any police officer, in any capacity, to take appropriate action to prevent and/or report the commission of any human rights violation by a fellow PNP personnel with his knowledge or in his presence shall make him liable.
- Violation of human rights shall be dealt with drastically through the existing administrative disciplinary machinery of the PNP.

- In case of conflicting scenarios, the supremacy of respect for human rights remains inviolable over the performance of police duties and functions unless it is proven that the exercise of such rights runs counter to the requirements of morality, public order, and general welfare.
- Any human rights violation committed by police officers shall be subject to appropriate sanctions under the existing internal administrative disciplinary system.

On human rights, the PNP aims to implement a comprehensive human rights development program that will address four (4) major components: institutional policy development; capability building on human rights protection; prevention and control measures against violation of human rights; and strengthening of partnership and cooperation with multi-sectoral organizations for human rights compliance.

Particularly, the PNP-Human Rights Affairs Office (HRAO), in furtherance of its mandate, serves as the focal point on the formulation, implementation and monitoring of the PNP human rights development program.

To enhance the capacities of police officers as human rights protectors, the PNP Human Rights Desks, created pursuant to PNP Implementing Rules on Human Rights dated 14 February 1995 were strengthened to serve as conduits to the HRAO on various efforts involving human rights. Said PNP Human Rights Desks are adjunct units in the offices of the regional directors, provincial/city police office directors, district directors, and city/municipal chiefs of police as well as directors of concerned national support units.

Accordingly, there is no overlap in the respective mandates of the Internal Affairs Service (IAS) and the Human Rights Affairs Office (HRAO). The primordial concern of the HRAO is advocacy and policy making, while the IAS is the investigative and adjudicative body of administrative cases.

The HRAO, which is under the Office of the Chief-PNP, serves as a management facility that oversees the implementation of the PNP guidelines and policies on human rights. With the evolving issues on human rights, highlighted by the passage of Human Security Act (RA 9372), the HRAO has become an instrument of the PNP to ensure the agency's manifest adherence in pursuit of the protection of human rights.

In line with the Chief-PNP's Order dated 30 September 2008, the HRAO closely coordinates in the referral and monitoring of cases on alleged human rights violations and liaises with the IAS for the investigation of complaints. In the same order, the IAS has been directed to handle the investigation of all human rights-related cases involving PNP personnel and monitor the state of discipline and morale of PNP units. The disciplinary mechanisms as provided for under

Republic Act No. 8551, or “The New Police Act of 1998”, that addresses administrative cases depending on gravity are still in place.

The AFP, on the other hand, is mandated to protect the people, secure the sovereignty of the State and the integrity of national territory. Investigation conducted by the concerned investigative body of the AFP is confined only to the involvement of military personnel for purposes of enforcement of military discipline under the military justice system. For other cases, the investigation is referred to the appropriate civilian authorities pursuant to Republic Act 7055, without prejudice to a parallel investigation by the AFP with respect to acts constituting purely military offenses and punishable under the Articles of War.

Finally, the main objective of the National Bureau of Investigation is the establishment and maintenance of a modern, effective and efficient investigative service and research agency for the purpose of implementing fully principal functions provided under Republic Act No. 157, as amended, to wit: investigate crimes and other offenses against the laws of the Philippines, both on its own initiative and as public interest may require; assist, when officially requested in the investigation or detection of crimes and other offenses; act as national clearing house of criminal records and other information for use of all prosecuting and law enforcement entities in the Philippines, of identification records of identifying marks, characteristics and ownership or possession of all firearms and test bullets fired therefrom; give technical help to all prosecuting and law enforcement offices, agencies of the government, and courts which may ask for its services; extend its services in the investigation of cases of administrative or civil in nature in which the government is interested; establish and maintain an up-to-date scientific crime laboratory and conduct researches in furtherance of scientific knowledge in criminal investigation; coordinate with other national or local agencies in the maintenance of peace and order; undertake the instruction and training of a representative number of city and municipal peace officers at the request of their respective superiors along effective methods of crime investigation and detection in order to insure greater efficiency in the discharge of their duties.

23. Please describe the procedure to be followed in cases of complaints against police and military misconduct. In particular, please describe the steps taken by the State party to ensure that the investigation of complaints is independent, prompt and effective. Does the State party consider establishing an independent police complaints and accountability body? Please provide information, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, both at the penal and disciplinary levels, and the outcomes of them. This information should be disaggregated by sex, age and ethnicity of the individual bringing the complaint and indicate which authority undertook the investigation.

RA 8551 has laid out the processes and procedures by which citizens' complaints against police misconduct can be heard and acted upon appropriately. Significant components of such remedial processes consist of:

1. The National Police Commission

As an attached agency, the NAPOLCOM draws from the DILG policy and program coordination. Chaired by the DILG Secretary, it exercises administrative control and operational supervision over the Philippine National Police (PNP), and performs, among other critical functions, the following:

- a. Monitor and investigate police anomalies and irregularities
 - b. Affirm, reverse, or modify the National Appellate Boards' personnel disciplinary actions
 - c. Exercise appellate jurisdiction over administrative cases involving policemen
2. Participation of local government executives in the operational supervision and control of the PNP. As deputized agents of the NAPOLCOM, they can inspect police forces and units and are empowered to direct, superintend, and oversee the day-to-day functions/activities of the police; and have a hand in directing the employment/ deployment of PNP units/elements in order to ensure public safety and maintenance of peace and order.
3. Disciplinary mechanisms:
- a. Internal Affairs Service (IAS) - The IAS of the PNP pro-actively conducts inspections and audits of PNP personnel and units, investigates complaints and gathers corresponding evidence, conduct summary hearings on PNP elements facing administrative charges and file criminal charges as evidence warrants, provide assistance to the Ombudsman in cases involving PNP personnel.

Likewise, *motu proprio*, IAS conducts automatic investigation of human rights violations committed in the conduct of police operations, where a suspect is seriously injured while in custody, and where rules of engagement have been violated, etc.

- b. Forums for Citizens' Complaints - Any complaint by a natural or juridical person against any member of the PNP can be brought before the following: chief of police, mayors, Women's Desks in all police stations, the People's Law Enforcement Boards (PLEB's). (As a footnote to the PLEB's, the DILG Secretary, on June 9, 2006, has issued Memorandum Circular No. 2006-059 calling all local

officials to establish, reorganize and activate the People's Law Enforcement Boards and to appropriate funds for its maintenance and operation.)

c. Hotlines for First Responders - Any calls for assistance and/or complaints may be easily brought to the attention of the PNP or any of the emergency responders via PATROL 117 and PNP Text 2920.

Noteworthy to mention at this juncture is the People's Law Enforcement Board (PLEB) which was created in 1991 to serve as an external disciplining mechanism of policemen. Its board members, who have the power to conduct summary hearings of cases of administrative complaints against policemen, are all civilians. The board's composition was deliberately devised to empower civilians to become involved in disciplining members of the police in their community. The board can demote a police officer or even dismiss them from the police force.

24. Could you please provide information on the measures taken to address the concerns expressed by the Human Rights Committee about the reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials (CCPR/CO/79/PHL, para. 12)?

While the Philippines has taken due consideration of the views of the Human Rights Committee, it would like to take this opportunity to assure the Committee Against Torture that the Government has not and will not sanction the commission of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials. Appropriate charges are filed against officials, who commit acts constituting torture.

NAPOLCOM

The **National Police Commission (NAPOLCOM)** through its Inspection, Monitoring and Investigation Service (IMIS), focuses on determining the state of effectiveness of all levels and units of the Philippine National Police as well as ensures the highest degree of compliance with established policies and standards of the police service.

In this vein, the National Police Commission (NAPOLCOM) has and continues to exert utmost effort to address human rights violations committed by some abusive police officers. It has relentlessly conducted monitoring activities, through its Inspection, Monitoring and Investigation Service, on police anomalies and alleged human rights violations committed by PNP personnel against civilians.

The NAPOLCOM had filed charges against police officers for human rights violations. NAPOLCOM also approved through Resolution No. 2007- 247, dated 19 June 2007, the activation of the PNP Human Rights Office which shall serve as a management facility to oversee the implementation of PNP guidelines and policies on human rights laws. Its functions, among others include the monitoring the conduct of investigations, legal and judicial process of addressing human rights violations of PNP personnel, and establishing and maintaining linkages with concerned agencies handling human rights violation cases against PNP personnel.

AFP

The **Armed Forces of the Philippines (AFP)** does not condone any violation of human rights. The AFP Chief of Staff, in emphasizing the principle on Command Responsibility, issued an updated directive, improved its Rules of Engagement (ROE), and issued Command Directives reiterating observance of Human Rights and International Humanitarian Law in the conduct of military operations, directing the AFP to be champions of Human Rights advocacy and for all units to assist the authorities in identifying and bringing to justice Human Rights violators including suspects in EJKs. In the training guidelines, emphasis is placed on Human Rights and the Bill of Rights. On enforced disappearances, the AFP organized a committee on the *writ of amparo* in support of judicial processes.

The AFP participates in TF 211 (Presidential Task Force against Political Violence), TF Usig, and the Inter-Agency Committee on Children Involved in Armed Conflict.

The AFP has incorporated human rights subjects as a module in all its entry, career and skill courses. The Master in National Security Administration, a post graduate degree course at the National Defense College of the Philippines, likewise includes these subjects in its module on Military Dimension of National Security.

The Armed Forces of the Philippines Human Rights Office (AFPHRO) was organized and activated on 1 February 2007 as the advisory body of the Chief of Staff, Armed forces of the Philippines (CSAFP) to effectively address all human rights concerns and issues that involve the AFP. It functions as a Special Staff of the CSAFP and shall be under the functional supervision of the Deputy Chief of Staff, Armed Forces of the Philippines (TDCSAFP). Likewise, it maintains coordinative relationships with the different Staffs, Major Services, AFP Wide Support Units (AFPWSSUs) and Unified Commands (UCs).

The general function of the AFP Human Rights Office is to assist the Chief of Staff, AFP on matters related to Human Rights (HR) and International Humanitarian Law (IHL).

The Specific Functions of the Office are the following:

- Plan, implement, and supervise programs, measures, and mechanism to uphold, protect, and promote respect for HR or adherence to the IHL and other international HR instruments.
- Develop information system and advocacy packages and pursue continuous education and information dissemination programs.
- Integrate or synthesize all AFP policies or regulations and data gathered that have bearing on HR and the IHL.
- Received formal complaints on alleged violations of HR and IHL and cause investigations.
- Monitor or assess incidents of alleged violations as reported in open sources and conduct immediate inquiry for further action.
- Monitor the litigation of cases against the AFP.
- Monitor violation of HR and the IHL by threat groups and cause the immediate filing of cases or complaints and assist the victims or families.
- Liaise with the Commission on Human Rights (CHR), the Human Rights Committee, and other agencies, nongovernmental organizations (NGOs), and people's organizations (POs) for the protection of HR and adherence to the IHL.
- Submit semi-annual reports on issues, concerns, and assessment of the HR situation.
- Perform such other functions, duties and tasks as maybe directed by the CSAFP.

The AFP HRO is headed by a Chief, AFP HRO, and has three (3) branches: the Administrative and Budget Branch; the Human Rights/International Humanitarian Law Advocacy and the Research Branch.

The AFP is governed by a military justice system (embodied in the Articles of War and the Manual for Courts-Martial), the AFP Code of Ethics (with provisions on the proper use of armed force and on Human Rights), and the latest directive on command responsibility. As a part of the military justice system, under the supervision of the Office of the Judge Advocate General, the AFP has investigative staffs and offices namely: The Provost Marshal General, AFP and subordinate provost offices; and the Investigation Division under the Office of the

Inspector General, AFP. In addition, the Philippine National Police also covers criminal investigations of offenses where the military is involved.

Within the AFP Human Rights Program a significant strategic direction is the formation of an inter-agency collaboration among the AFP, PNP, other agencies including the Philippine Commission on Human Rights.

The AFP and PNP have been tasked to continually undertake the policing of their ranks on human rights violations.

The Internal Security Operation series of 2007 further provides explicitly that all units shall strictly adhere to the Standing rules of Engagement and shall ensure under all circumstances, the protection of human rights and adherence to IHL. Commanders at all levels are held accountable for actions or inactions relative to this policy.

Taking cognizance of the recommendations of the Melo Commission Report, the AFP instituted the following actions intended to improve the existing mechanisms in protecting human rights: Creation of Human Rights Office as a special staff office at GHQ, the issuance of enhanced directive on Command Responsibility, and the imposition of punishment under the Articles of War for personnel charged in court for killings not classified as service connected as defined under RA 7055.

Essentially, the CSAFP directive on Command Responsibility emphasized that the doctrine of command responsibility be strictly adhered to by all commanders over all units and personnel under their authority. It further reminds commanders of the provisions of Executive Order Number 226 promulgated in 1995 and the ruling in the case of *People versus Lucero, et a.*, 31 May 1991, which enunciated the Supreme Court doctrine that Command Responsibility refers to the “accountability, responsibility, or answerability of the commander of a Military force or unit for the act of his men, inclusive of the authority to order, to direct, or control the acts of his men”.

The directive further reminds of other provisions of EO 226 on Presumption of knowledge, arrest and confinement, investigation and imposition of administrative discharge/reversion/ESB or a case punishable as a violation of Article of War (AW) 96 - Conduct Unbecoming of an Officer and a Gentleman, for failing to exercise the standard set under the AFP policy on Command Responsibility.

IAS

The **Internal Affairs Service (IAS)** although a part of the PNP has the attribute of an independent and autonomous unit which empowers it to act on matters within its jurisdiction without having to wait for instructions from the Chief, PNP. Pursuant to Section 39, Republic Act 8551, such powers are:

1. Pro-actively (of its own accord; motu-proprio/automatically) conduct inspection and audit of PNP personnel and units;
2. Investigate complaints and gather evidence in support of an open investigation;
3. Conduct summary hearings on PNP members facing administrative charges;
4. Submit a periodic report on the assessment, analysis and evaluation of the character and behavior of PNP personnel and units to the Chief, PNP and the Commission;
5. File appropriate criminal cases against PNP members before the court as evidence warrants and assist in the prosecution of the case;
6. Provide assistance to the Office of the Ombudsman in cases involving the personnel of the PNP.

The IAS also conducts motu-proprio or automatic investigation of the following cases:

1. Incidents where a police personnel discharges a firearm;
2. Incidents where death, serious physical injury or any violation of human rights occurred in the conduct of police operation;
3. Incidents where evidence was compromised, tampered with, obliterated or lost while in the custody of police personnel;
4. Incidents where a suspect in the custody of the police was seriously injured; and
5. Incidents where the established rules of engagement have been violated.

Finally, the **IAS** has the power to make recommendations as to the promotion in rank of the members of the PNP or the assignment of PNP personnel to any key position.

Section 2 of Executive Order 101 dated May 7, 1999 provides that “the interim IAS shall be the lead agency for the PNP organization, in its campaign against all forms of misconduct in the police service. It shall be accorded the status of an independent, impartial and objective investigative and adjudicatory agency within the PNP.”

This status is well clarified by decisions made in *FIANZA vs. PLEB etc. al.* (G.R. No. 109638 March 31, 1995); *REODICA vs. PNP etc. al.* (CA – G.R. SP No. 36140, July 31, 1996); *SAYO vs. LASTIMOSO*, (CC 99-92656, August 27, 1999); and, *SPO1 JAIME ALBAO & PO3 VICTOR DE LEON vs. MENDOZA, IAS & BARIA* (CA-G.R. SP. No. 58225, January 15, 2001).

In its capacity and authority to conduct inspection and audit of PNP personnel and units principally for the purpose of determining the state of behavioral discipline of personnel and operational preparedness of PNP units, the IAS, under RA 8551, has been endowed its own distinct features as opposed to the

Napolcom, viz: separate manning and staffing pattern (Sec. 40), promotion system (Sec. 44), seniority lineal list (Sec. 41); and career development system.

- 25. According to information before the Committee, Raymond and Reynaldo Manalo (brothers) were forcibly taken from their residence by unidentified armed men in 2006, and held in various military detention camps for 18 months during which they allege they were tortured by military officials, at the acquiescence of a high ranking military official. Please provide the Committee with information on the investigations, prosecutions and convictions, if any, into the alleged torture of Raymond and Reynaldo Manalo by members of the Armed Forces of the Philippines.**

The case of the Manalo brothers is the first decision on the application of the Rule of the Writ of Amparo promulgated by the Supreme Court in October 2007.

While initially it was a Petition for Prohibition, Injunction, and Temporary Restraining Order (TRO) that was filed by families of victims⁴ to prevent the concerned military officers and agents from depriving the victims of their right to liberty and other basic rights including ancillary remedies such as Protective Custody Orders, Appointment of Commissioner, Inspection and Access Orders, and all other legal and equitable reliefs under Article VIII, Section 5(5) of the 1987 Constitution and Rule 135, Section 6 of the Rules of Court, the Supreme Court resolved to treat the case as a Petition for the Issuance of a Writ of Amparo with the effectivity of the rules governing the same on 24 October 2007.

Thus, on 25 October 2007, the Court issued the following resolution:

“WHEREFORE, let a WRIT OF AMPARO be issued to respondents requiring them to file with the CA (Court of Appeals) a verified written return within five (5) working days from service of the writ. We REMAND the petition to the CA and designate the Division of Associate Justice Lucas P. Bersamin to conduct the summary hearing on the petition on November 8, 2007 at 2:00 p.m. and decide the petition in accordance with the Rule on the Writ of Amparo.”

On 26 December 2007, the Court of Appeals rendered a decision in favor of the petitioners, the dispositive portion of which reads, viz:

⁴ 23 August 2007

“ACCORDINGLY, the PRIVILEGE OF THE WRIT OF AMPARO is GRANTED.

“The respondents SECRETARY OF NATIONAL DEFENSE and AFP CHIEF OF STAFF are hereby REQUIRED:

- “1. To furnish to the petitioners and to this Court within five days from notice of this decision all official and unofficial reports of the investigation undertaken in connection with their case, except those already on file herein;
- “2. To confirm in writing the present places of official assignment of M/Sgt Hilario aka Rollie Castillo and Donald Caigas within five days from notice of this decision;
- “3. To cause to be produced to this Court all medical reports, records and charts, reports of any treatment given or recommended and medicines prescribed, if any, to the petitioners, to include a list of medical and (sic) personnel (military and civilian) who attended to them from February 14, 2006 until August 12, 2007 within five days from notice of this decision.

“The compliance with this decision shall be made under the signature and oath of respondent AFP Chief of Staff or his duly authorized deputy, the latter’s authority to be express and made apparent on the face of the sworn compliance with this directive.

SO ORDERED.”

An appeal was filed by the Secretary of National Defense and the Chief of Staff seeking the reversal of the afore-quoted decision of the Court of Appeals. The Supreme Court affirmed the decision of the Court of Appeals.

The Philippines wishes to inform the Committee, however, that the quantum of evidence required in a Petition for the Issuance of a **Writ of Amparo** is only **substantial evidence unlike** in a **criminal case** which requires **proof beyond reasonable doubt**. To date, **no criminal case** has been filed by the petitioners against the respondent Government officials. Thus, the culpability of the Government respondents has **not been judicially established beyond reasonable doubt**.

26. **According to the report, Republic Act No. 6981 provides for a Witness Protection Security and Benefit Program. (State party report, paras. 6(b) and 73) In this respect, please comment on reports of systematic intimidation and harassment of witnesses and that the Witness Protection Program is underused and not sufficiently implemented. Information before the Committee also refers to long court delays and notes that the protection is withdrawn if the case is unsuccessful, despite continuing threats. Please provide detailed information on steps taken by the State party to strengthen the Witness Protection Program and ensure its effective implementation.**

The Witness Protection Program (WPP), which was created under Republic Act No. 6981, is currently implementing the following efforts and reforms aimed at addressing the needs of prospective witnesses in media and political killings, human rights violations, among others.

Although prudence requires the WPP to comply with the statutory restriction on witness information dissemination it must be stressed that a majority of participants have effectively taken advantage of the benefits provided for by law under the Program. Without WPP intervention a number of wealthy and influential individuals, who were perceived to be untouchables, would have not been penalized to the full extent of the law. Among the affluent individuals sentenced as a result of the testimony of witnesses under the WPP are the son of a former Supreme Court Chief Justice, the son of a senator, a mayor, a member of the House of Representatives, Juan Larannaga, et. al.(for the killing of the Chiong sisters in Cebu), Judge Elias Lelima, the killers of Evelio Javier, Mayor Joven de Grano, Stephen Weisenhunt, and all the accused in terrorist bombings kidnappings like Hector Janjalani, et. al., Ghalib Andang, and recently the Light Rail Train bombers Moklis Yunos and company, to name a few.

At present WPP had covered witnesses in 35 cases involving state agents (law enforcers, armed forces personnel, local government officials and elective government officials) as accused. All have been indicted and detained for capital offenses as a result of WPP covered witnesses testimony against them.

Proactive Implementation

- Since President Gloria Macapagal Arroyo directed the proactive implementation of the Program last year WPP resources have been devoted to proactively pursue case buildup investigations of killings of activists, judges, court personnel and prosecutors as well. This compelled the Program to depart from its traditional role as a detached evaluator of witness applications to an active searcher of bona fide witnesses in cases involving political killings, media murders, and human rights violations.

- At the end of 2007 the Program has under its coverage close to 600 witnesses nationwide. At an average family size of 4 this translates to some 2,400 individuals, who rely on the Program for various services. The Program likewise provides judges, prosecutors their personnel security protection, transportation and allied services in high risk cases upon request.
- Although application for admission for witness protection coverage necessarily requires strict compliance with statutory requirements, stringent vetting procedures and the identification and evaluation of threats, program personnel have been directed to liberalize admission requirements, particularly when threat level on *bona fide* witnesses in media and political killings is high.
- While economic constraints hinder expansion of Program operations to an ideal level, the Government is committed to finding the means to do so despite tight budgets.

Enhancement of Witness Benefits

- Witnesses often decline to testify for the prosecution, not only because of fear of physical harm, but more often because of a drastic change in their way of life upon admission into the Program.
- Psychological counseling, which is presently undertaken in coordination with the Department of Health and the Department of Social Services and Development, shall be extended logistical support with approval of the increased budget that has been requested from Congress.

Witness-Client Skills Training and Education

- To prepare witnesses to re-join mainstream society after their discharge from the Program as protected witnesses, and to lessen their dependence on the Program consistent with security requirements, a wide ranging vocational orientation-training program shall be undertaken to prepare them for suitable employment.

Conversion of Certain Areas of Penal Farms (Bureau of Corrections) for Use as Witness Relocation Sites

- To encourage former witnesses to continue to be productive and to make good use of the idle land of penal farms under the Bureau of Corrections, the possibility of establishing interim Witness Protection Program relocation sites therein is being closely studied.

Institutionalization of Coordination with Judiciary and Other Pillars of Criminal Justice System

- The effectiveness of any witness protection scheme is interdependent on the strength of other pillars of the criminal justice system consisting of the law enforcement, prosecution and judiciary, correction system and the community. Thus, the notion that the dismissal of a case is because of the lack of witnesses, who refused to come forward because they do not trust the Witness Protection Program is a fallacy.
- The speedy disposition of cases is a key feature in the maintenance of a reliable and credible Witness Protection Program. Prolonged pendency of cases, particularly before the high courts, can lead to apathy and indifference of witnesses, which will affect the prospects for success. Loss of opportunity, isolation and boredom associated with extended confinement in relocation sites and safe houses, away from native community and relatives, also dampens the resolve of witnesses to testify. A team of prosecutors was organized to monitor and coordinate and, if circumstances so warrant, take over cases where protected witnesses are inhibited by such difficulties.
- The Secretary of Justice has authorized Regional State Prosecutors to provisionally extend coverage to witnesses under threat so that they could be given benefits even if all the required documents for application have not yet been completed.
- The Program likewise intends to increase witness financial assistance. In this regard, there are currently several proposed legislations both in the House of Representatives and the Philippine Senate to amend Republic Act 6981.
- It bears emphasis that the Witness Protection Program in the Philippines has been made possible principally because of the Justice Department's existing organization and facilities for its administrative functions. Establishing a separate Witness Protection commission entails the formation of an entirely new bureaucracy and the allocation of separate funds for the attendant nationwide infrastructures, *inter alia*. This drastic change requires an equally large financial outlay, which entails careful consideration and budgetary re-alignment.
- The Witness Protection law of the Philippines provides that "any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, may be admitted into the program, provided that X X X he/she or any member of

his/her family within the second civil degree of consanguinity or affinity is subjected to threats to his life or bodily injury or there is a likelihood that he/she will be killed, forced, intimidated, harassed, or corrupted to prevent him/her from testifying, to testify falsely or evasively, because or on account of his/her testimony.”

- In line with the provisions of the law, the Program is often compelled to relocate not only an endangered witness, but often his/her entire family as well.
- Witness protection in the Philippines, as in most, if not all, developing countries, is closely associated with providing the witness basic social services while providing physical security and protection. The Program is not designed to provide a witness with economic benefits as a means of persuading or encouraging him/her to give evidence. This principle is premised mainly on the need to ensure that the constitutional rights of the accused are not violated.
- It bears emphasis that admission to the program is a purely voluntary act on the part of the witness. The necessity of vetting and screening procedures for the admission of an applicant is essential to protect the integrity of the Program.
- It is the standing policy of the Program to continue coverage to endangered witnesses even in the event that the case is stalled. The level of threat on the witness is the principal factor that determines the form and kind of assistance, support or protection accorded to witnesses. Consequently, a number of witnesses have been under the Program for ten (10) years, although the average stay of witnesses is three (3) years.
- Although far from being opulent, the Program strives to provide the witnesses under its care and supervision with safe refuge. Shelters and safehouses have, as standard facilities, the following: cable televisions, electric fans, video/CD players, refrigerators, telephones, and in some cases, physical fitness and recreation equipment. Water and electricity are on the account of the program. Moreover, safehouses for high risk witnesses are located in gated communities with round-the-clock security apart from program protective personnel. Stand-by vehicles are also a standard feature of these security arrangements.
- The imposition of stringent regulations in safehouses are essential to uphold the integrity of the Program. It is only through the strict observance of these regulations that witnesses and their families could be properly protected. Relocating high risk witnesses and their families from the danger area to another part of the country and the subsequent need to find secure housing, schools for children and other facilities required by a

witness not only requires much cost, but also entails enormous covert operations.

Steps taken by the State Party to strengthen the Witness Protection Program and ensure its effective implementation

- Direct supervision and control of a number of WPP Regional Offices have been placed under the main office to insulate it from external pressure which is among the main causes for failure of prosecution.
- Facilities in regional offices are being upgraded to ensure confidentiality, reliability and efficiency of protective operations.
- To be able to respond to requests for emergency coverage/assistance, implementers, particularly in the regions, are given discretion to secure and extend provisional coverage to witnesses under threat pending completion of their documentary requirements to forestall a miscarriage of justice.
- Venue of trial of high risk cases have been transferred away from danger areas.
- One welcome development is the Supreme Court's issuance of Memorandum Order No. 42-2007 providing for an interim security protocol for trial courts among which is the directive that all detention prisoners shall always be handcuffed while in the court's premises. This is intended mainly to protect judges and court personnel.
- The following Measures have been recommended to be undertaken by the Supreme Court pursuant to its rule making power, thus, obviating arduous legislative process:
 1. Perpetuation of testimony of witnesses under threat while awaiting resolution of proceedings in higher courts or while accused is at large;
 2. Allowing testimonies of threatened witnesses via video link;
 3. Establishment of separate holding areas for witnesses in courts;
 4. Institutionalization of protection orders for threatened witnesses;
 5. Expeditious action on request for change of venue and discharge of state witnesses under WPP

Article 14

27. According to the report, Republic Act No. 7309 provides for the granting by a Board of Claims of compensation to victims of violent crimes and a total of 22,469 applications for compensation have been granted by the

Board from 1992 to June 2006. (State party report, para. 78) Please elaborate on the composition of the Board of Claims and explain how the Board members are appointed or elected. Please explain if national courts can also order redress and compensation measures and provide further information on redress and compensation measures ordered by the courts and/or the Board of Claims and provided to victims of torture, or their families, since the examination of the last periodic report in 1989. This information should include the number of requests made, the number granted, and the amounts ordered and actually provided in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice?

The Board of Claims was created under the Department of Justice composed of one (1) chairman and two (2) members who are appointed by the Secretary of Justice. In 2007, the Board of Claims received 2,927 new applications from January to December, plus the 336 applications that were not acted upon in December 2006. Out of 3,263 total applications, 2,414 were granted and 306 were denied. The total number of applications acted upon/processed is 2,720 and the total amount of approved claims amounts to PhP 23,651,251.00, Philippine currency.

Last year 2008, the Board received 2,835 new applications from January to December, plus the applications that were not acted upon in 2007. Out of these applications, 2,623 were granted and 306 were denied. The total number of applications acted upon/processed is 2,929 and the total amount of approved claims amounted to PhP 24,104,200.00, Philippine currency.

Upon application, the Board of Claims grants compensation to all victims or families of victims of violent crimes regardless of whether the perpetrators are known or unknown. However, only those cases with known perpetrators and witnesses proceed with the investigation and prosecution. Unfortunately, due to lack of evidence and witness(es), cases with unknown perpetrators are not investigated, nevertheless, they still receive compensation amounting to P10,000.00.

28. The report indicates that non-governmental organizations, such as the Balay Rehabilitation Center, conduct rehabilitation programmes for victims of torture. (State party report, para. 80) Please provide further information on these programmes, including whether the Government is providing financial and/or other support for their effective functioning. Please also provide information on additional steps taken by the State party to ensure medical and psychosocial rehabilitation of the victims.

BALAY is undertaking psychosocial development through the following initiatives/activities:

- Building therapeutic relationship with the torture survivors and their family;
- Psychosocial first aid and processing including critical incident stress debriefing for newly identified torture survivors;
- Documentation of torture squeals among the newly identified torture survivors;
- Conduct of counseling and other psychosocial intervention based on evaluation and needs of the survivors and their families;
- Welfare/relief assistance such as food, clothes, medical, relocation or sanctuary, transportation and other relevant welfare and financial assistance for victims and their families;
- Facilitation of income generating activities for survivors of torture not only as a means of additional income but as therapeutic activity of the survivors;
- Capacity building and other human development activity for survivors and their family to be able to enhance their capacity in building coping skills, resiliency and in facing daily challenges in life and realities;
- Family Support to be able to cope with the present condition including educational assistance for children and siblings of torture survivors;
- Building of network and partnerships with government agencies and non government organizations and facilitation of services of survivors with government and civil society organizations to expedite welfare assistance.

There are forty-two (42) residential care facilities maintained by the DSWD for the Victims-Survivors of Trafficking in Persons that are accessible in different regions of the country. These facilities provide protective and rehabilitative services to victims, which include medical, psychosocial services, educational and other interventions. From January to December 2008, the DSWD served a total of 3,888 clients broken down as follows:

Sector	Residential Care Facility	Total No. of Facilities	No. of Clients Served
Children	Reception and Study Center for Children	11	914
	Haven for Children, Lingap Center, Nayon ng Kabataan	5	583
	Home for Girls, Marillac Hills	14	1,080
Women	Regional Haven for Women	12	1,311
TOTAL		42	3,888

Article 15

- 29. According to para. 15 of the report, Article III, section 12 (3) of the Philippine Constitution provides that “...Any confession or admission obtained in violation of this or the preceding section shall be inadmissible in evidence against him [person under investigation for the commission of an offense]. Please provide examples of any cases where allegations of confessions extracted under torture have existed and inform the Committee of any measures taken by the State party to ensure that the burden of proof rests with the prosecution.**

There are a number of cases where allegations of confessions extracted under torture that had been ruled upon by the Supreme Court. Notable among these cases is the case of People of the Philippines vs. Julio Manliguez, Shirley Ignacio y Agatia and Lucia Guiral (G.R. No. 91745, 04 March 1992, the salient portions of which are quoted hereunder:

“xxx xxx xxx

“The police conducted a thorough investigation, but the police investigators comported themselves in a manner beyond the constitutional prohibition.

xxx xxx xxx

“The Court sympathizes with the appellant, Julio Manliguez and his co-accused, Shirley Ignacio y Agatia and Lucia Guiral, who suffered horrible torture in the hands of some members of the Talomo Police Force on account of false accusations levelled against them by the child's mother, Priscilla Ali, and sister, Lori Jean Ali. We cannot conclude this decision without recommending to the Commission on Human Rights and the Philippine National Police that they undertake a thorough and speedy investigation of, and impose proper disciplinary sanctions on, Police Lieutenant Obrero and Patrolmen Plaza and Miranda members of the Police Force of Talomo, Davao City in April 1988, for the alleged torture of the three (3) accused, Julio Manliguez, Shirley Ignacio and Lucia Guiral, to extort confessions from them during the investigation of the alleged kidnapping of the child, Mary Grace Ali. Inhuman physical torture is the easiest means of obtaining ‘evidence’ from helpless civilians when police investigators are neither sufficiently trained for detective work, nor adequately equipped, with the scientific tools of criminal investigation.” xxx xxx xxx

Article 16

- 30. Please provide information on steps taken by the State party to address the concerns expressed by the Special Rapporteur on extrajudicial, summary or arbitrary executions in respect of continued extrajudicial killings by government institutions, particularly the military (A/HRC/4/20/Add.3), as well as the concerns expressed by the Human Rights Committee regarding reported cases of extrajudicial killings, arbitrary detention, harassment, intimidation and abuse, including of detainees, many of whom are women and children, that**

have neither been investigated nor prosecuted (CCPR/CO/79/PHL, para. 11).

ON THE ALSTON FINAL REPORT

The Philippines, as a founding member of the United Nations and a member of the Human Rights Council, is deeply committed to actively support, protect and promote human rights as enshrined in the Universal Declaration of Human Rights, the core human rights treaties and other international instruments to which it is a state party.

It is in this light that the Government welcomed the visit of Prof. Philip Alston, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, to the Philippines from 10 to 21 February 2007. As he acknowledged in his report, the visit benefited greatly from the openness of the Philippine government and civil society.

It has been noted that while the recommendations of the Special Rapporteur were attempts to contribute in the shared mission to protect and promote human rights in the Philippines, a number of important sections and statements contained in his Report were unfounded, unbalanced, incomplete, or at best, premature. It presented an inaccurate depiction of what is happening in the Philippines.

Contrary to the assertion of Professor Alston in his Final Report, which was considered by the Human Rights Council during its 8th Session in June 2008, that the Philippines only took decisive action to address extrajudicial killings as a direct result of his findings and recommendations, it could not be disputed that the Philippine Government, on its own initiative, has taken and continues to take resolute and concrete steps to address extrajudicial killings. These measures were voluntarily undertaken by the Government under the principle of State responsibility, and not as an attendant consequence of Alston's findings and recommendations.

The Philippines noted the attempts of the Special Rapporteur to achieve balance in his Report by specifically noting that insurgency groups are culpable for some of the incidents.

In this respect, the Philippines would like to stress that even the independent Melo Commission categorically stated that *“(it) is not ignorant or unmindful of the crimes committed by insurgents, nor of the benefits of having a decent military to defend our freedom and our way of life. To be sure, those slain by rebels and insurgents far outnumber the killings attributed by the leftist to the government.”*

The measures to end political killings implemented by the Philippine Government conform fully with the rule of law. RP underscored the fact that it will not force

quick convictions simply for the sake of announcing achievements. These killings are being addressed within this framework, which accords primacy to the fundamental rights of the accused, witnesses, and complainants, as enshrined in the Philippine Constitution, statutory laws and jurisprudence.

Continuous improvements are being undertaken by the Government to enhance the human rights infrastructure of the Philippines.

These include: the establishment of the Melo Commission and the implementation of its recommendations to improve human rights protection; stronger interagency efforts, including the establishment of the Judiciary, Executive and Legislative Advisory and Consultative Council on 13 May 2008 through a Memorandum of Agreement among the three (3) branches of government as a firm manifestation of the collective will of the Republic of the Philippines to undertake measures to safeguard the primacy of the rule of law as the bedrock of the State's stability and economic progress, not to mention the establishment of Task Force Usig ("Task Force Prosecution") and Task Force 211, to stem political violence; and the consolidation of a national human rights data base to effectively monitor and respond to reports of human rights violations.

In addition, the Philippines has instituted a comprehensive human rights education and training for the military and police; enacted new legislation to enhance and improve human rights; and promulgated judicial innovations, such as the Writ of Amparo and the Writ of Habeas Data, to complement the Writ of Habeas Corpus to further safeguard a person's right to life and liberty. These were instituted by the Government, not only to affirm, but, moreso, to operationalize its commitment to human rights protection and promotion.

Regionally, in Southeast Asia, the Philippines has been the lead advocate in the establishment of an ASEAN Human Rights body.

The Government would like to underscore the following additional initiatives undertaken to address the killings, viz:

- **Strengthening of the Presidential Human Rights Committee** - Last 08 December 2006, President Gloria Macapagal-Arroyo signed Administrative Order No. 163, entitled, "*Strengthening and Increasing the Membership of the Presidential Human Rights Committee, and Expanding further the Functions of Said Committee.*"

The strengthening of the PHRC, the primary advisory body to the President in addressing human rights issues, is a manifestation of the Government's firm commitment to human rights. Essentially, A.O. 163 directly placed the Committee under the Office of the President.

Chairmanship of the PHRC was transferred from the Department of Justice to the Executive Secretary.

- **Creation of Technical Working Group (TWG) to validate lists of killings** - The Philippine Government Panel for the Peace Talks formed a TWG to validate data contained in various lists of non-government organizations, such as “*KARAPATAN*” (“Rights”), of alleged killings. The TWG was able to verify, *inter alia*, that at least six (6) persons⁵ allegedly killed by state agents and included in the *KARAPATAN* list turned out to be alive.
- **Establishment of the AFP Human Rights Office** – On 12 January 2007, the AFP established the Human Rights Office as a special staff office of the AFP Chief of Staff to further strengthen existing internal mechanisms on human rights and international humanitarian law concerns. The AFP HRO is engaged in advocacy and training, investigation and research, monitoring and linking with the CHRP and other concerned agencies. The said office also integrates all policies and regulations related to human rights and international humanitarian law.
- **Issuance of Administrative Order No. 181** - On 03 July 2007, President Gloria Macapagal-Arroyo issued Administrative Order No. 181 directing the coordination between the National Prosecution Service and other concerned agencies of the Government for the successful investigation and prosecution of political and media killings.
- **Presidential instructions to the AFP and PNP** - The President has instructed the PNP and AFP, in no uncertain terms to investigate internal cases of killings, cooperate with the criminal justice system to bring rogue elements through the system, apply internal disciplinary mechanisms when appropriate, and to take active steps to prevent any such human rights violations by men in uniform. This includes the instruction to ensure through specific orders, instructions and trainings that all men and women in uniform should be aware and understand that these killings are not and will never form part of the State’s policy and that human rights violations will on no account be tolerated.
- **Strengthened monitoring** - Upon the instructions of the President, the Presidential Human Rights Committee (PHRC) has created and maintains a consolidated database of cases, with information from the

⁵ Six alleged victims, who were later verified to be alive are Edwin Mascariñas from Mindoro, Renato Bugtong from Batangas, Hilario Paraon and Danilo Flores from San Miguel, Bulacan, Maritess dela Cruz from Isabela and Wilbert G Antaran from Sariaya, Quezon.

Philippine National Police (PNP), Department of Justice (DOJ), and the Judiciary.

This is a tool for the Administration to monitor the progress of individual cases as well as systemic functions. While the Executive branch is obligated to respect the independence of the Judiciary and constitutional bodies such as the Commission on Human Rights and the Office of the Ombudsman, it takes the lead in coordinating country-wide efforts.

Thus, the Executive Secretary has communicated with the Chief Justice on the pace of progress of hearings in criminal cases. Six persons have already been convicted. (More in following sections)

- **Leadership in key agencies-** The Secretary of National Defense Gilberto C. Teodoro, Jr., PNP Chief Director General Jesus Verzosa, Secretary of Justice Raul M. Gonzales and the AFP Chief of Staff General Alexander Yano have taken on their mandates with vigor and a keen understanding of their vital roles in resolving this problem.

The Secretary of National Defense is a civilian, a former congressman and a member of the Philippine Bar with a master's degree in defense strategy.

The PNP Chief fully understands the policy priority placed on this issue as well as the operating procedures required to accomplish this mission.

The Secretary of Justice has also made the prosecution of these cases a top priority.

The AFP Chief of Staff in his valedictory address during the Change of Command ceremony on 12 May 2008 has been very emphatic in foreseeing the Armed Forces of the Philippines not only as the guardian of state security, but, more importantly, as a pillar of the rule of law. Recently, AFP Chief Yano committed to extend full cooperation to the Commission on Human Rights of the Philippines (CHRP) in the investigation of human rights violations, particularly those committed by men in uniform. In this respect, he committed to turn-over all military personnel involved in human rights violations to the CHRP for proper investigation.

- **Strengthened coordination** - The President has instructed the creation of a special working group to coordinate policies and actions towards the resolution of cases of Alleged/Suspected Extrajudicial Killings, Enforced Disappearances and Torture, including accurate

data on cases, effective and timely investigation and prosecution, training and other capability building, relationship management among stakeholders, and any procedural, systemic or institutional that may be deemed necessary.

This working group collaborates with the Presidential Human Rights Committee. Members of the group include the Department of Justice (DOJ), Department of Interior and Local Government (DILG), Department of National Defense (DND), Armed Forces of the Philippines (AFP), Philippine National Police (PNP), and the National Bureau of Investigation (NBI). Organizations such as the Judiciary, Commission on Human Rights of the Philippines (CHRP), Ombudsman, and the Integrated Bar of the Philippines as well as civil society organizations participate as observers.

This group continues the work on the strategic plan drafted by the inter-agency committee and sets into motion the President's directives based on inter-agency cooperation and coordination. It is organized according to 6 thematic areas: investigation, witness protection, prosecution, judicial process, capacity-building, and monitoring.

- **Legislative measures** - The House of Representatives and the Senate are currently considering key human rights legislation. The President has also urged Congress to pass bills to impose the highest penalty on rogue elements in the military that commit killings of activists and media and to strengthen the witness protection program.
- **Humanitarian assistance to families of victims** - A multi-agency task force on humanitarian assistance to victim's families has been created, led by the Presidential Adviser on the Peace Process. Immediate assistance such as medical and funeral costs is extended, as well as longer-term assistance such as scholarships for children.

The Government's efforts have started to bear fruit with convictions in the following cases:

- On 19 January 2006, Judge Ireneo Gako Jr. of RTC Br. 5, Cebu City found **Mr. Edgar Belandres** guilty of murder for killing Mr. Allan Dizon, a photojournalist for the publication *The Freeman*, who was killed on 27 November 2004.
- On 6 October 2006, the Regional Trial Court of Tacurong City convicted the accused **Estanislao Bismanos, Jerry Cabayag** and **Randy Grecia** of murder for killing Ms. Marlene Esperat, an employee of the Department of Agriculture and a columnist for the local

publication *Mid-Land Review*, who was killed inside her home on 24 March 2005.

- On 29 November 2005, **Police Officer 1 Guillermo Wapile** was found guilty of the crime of murder for killing Mr. Edgar Damalerio, a radio commentator at DXKP, who was killed on 13 May 2002. PO1 Wapile was sentenced to suffer the penalty of *reclusion perpetua* by Br. 19 Regional Trial Court, Cebu City.
- For the killing of Frank Palma, a reporter of *Bombo Radyo*, **Gerardo Tocana** was sentenced to suffer the penalty of imprisonment by Br. 50, Regional Trial Court of Bacolod City.
- On **30 May 2008**, **Joel Flores** was **convicted** by the **Regional Trial Court of Tayug, Pangasinan** for the killing of **Jose Doton, Secretary General of Bayan Muna**.

STATUS OF EXTRAJUDICIAL KILLINGS

Due to a coordinated, multi-agency approach both by the government and civil society have indicated a significant drop in incidents for the past year. The PNP reported that the incidence of killings of activists and media **dramatically declined** from 2006 to 2008 by **85%** from 41 cases in 2006 to 6 cases in 2007 and 6 cases in 2008.

TF USIG

On 13 May 2006, the Department of Interior and Local Government created Task Force USIG to investigate alleged **killings of media personalities and political activists**.

Based on its mandate, TF USIG handled a total of 146 cases (115 militant party list members and 31 media practitioners), wherein 90 cases were filed, 2 cases are under investigation, 53 were considered cold cases and 1 was dropped and closed.

PARTY LIST / MILITANT MEMBERS

There are 115 valid cases of slain militant party list members / leftist activists since 2001. Out of the 115 cases, 64 (56.6%) were filed, 2 (1.7%) are under investigation, 48 (41.7%) were considered cold cases as there had been no development or progress on the investigation for more than a year, and one case (0.9%) was dropped and closed.

Out of the 56 cases filed, 23 were perpetrated by the Communist Party of the Philippines/ New People's Army (CPP/NPA), wherein two (2) suspects were

arrested. Seven (7) cases involved military and paramilitary elements as suspects, involving six (6) military personnel, one (1) military asset and one (1) member of the paramilitary unit known as the Citizen Armed Forces Geographical Unit (CAFGU), and two (2) of them are in jail. Four (4) cases involved civilians allegedly linked to the military, wherein one (1) suspect is detained. One (1) case involved a police personnel as suspect, which was filed in court and the suspect arrested. 21 cases were perpetrated by civilians, wherein 9 suspects are in jail.

Out of the 185 suspects in the 64 cases filed, 13 were arrested with 1 conviction, 7 were killed, 3 surrendered and 164 are still at large. Out of the 162 suspects still at large 26 suspects have warrants of arrest.

In summary, 13 cases involved military / paramilitary elements as suspects — five (5) of these cases however involved civilians who allegedly have links to the military and one (1) case is still under investigation – while 28 cases involved members of the CPP/NPA.

Regions 3 (Central Luzon), 4B (MIMAROPA), 4A (CALABARZON) and Region 5 (Bicol) registered high number of incidents as compared with the other regions. Particularly Regions 7, 9, 12 and ARMM each recorded zero incidents each.

MEDIA PRACTITIONERS

Since 2001, a total of 31 media practitioners were slain due to work-related circumstances or were killed as a consequence of an attack on press freedom, of which 26 cases were filed and 5 were considered cold cases. The cold cases refer to those cases that have no development or progress on the investigation for more than a year. Cold cases were endorsed to the PNP Criminal Investigation and Detection Group (CIDG) for lateral investigation. Furthermore, 1 incident was perpetrated by the CPP / NPA.

Out of the 26 cases filed, one (1) was perpetrated by the CPP/NPA; two (2) cases involved two (2) military elements (one arrested and one surrendered) with two (2) civilians (one arrested and one surrendered) as suspects; four (4) incidents involved three police personnel (all detained) with one civilian who voluntarily surrendered; two (2) cases involved two government officials who voluntarily surrendered with one civilians (one arrested); and seventeen (17) cases involved only civilians as suspects, wherein 12 arrested and 7 surrendered.

Years 2003 and 2004 registered the most number of slain media practitioners, with six (6) incidents each.

Of the 26 cases, 24 are already filed in court, 18 of which are ongoing trial, 2 were resolved with the suspects' conviction and 4 were dismissed. There are 2 cases under preliminary investigation pending at prosecutor's office.

Out of the 84 suspects in the 26 cases filed, 16 were arrested, 10 surrendered, 4 were convicted, 51 are still at large, 2 died due to legitimate armed encounters and 1 died of natural causes.

While the Government has taken note of the attempts of some NGOs to contribute in the shared mission to protect and promote human rights in the Philippines, a considerable number of their allegations were unfounded, unbalanced, or at best incomplete.

As of May 2007, the NGO **KARAPATAN** claimed a running total of 836 slain militant party list members/leftist activists and media practitioners. Out of this total, 121 were subject to the investigation of TF USIG and 669 were investigated by local PNP units concerned because they do not fall under TF USIG's mandate. The remaining 46 cases are still undergoing verification.

The 669 cases under local PNP unit investigation are broken down, to wit:

- 41 false reports;
- 35 non-existing persons as certified by the respective barangays and local civil registrars;
- 6 alleged victims who turned out to be alive;
- 108 cases of legitimate armed encounters;
- 23 Abu Sayyaf terrorists in the foiled Bicutan jailbreak;
- 16 agrarian disputes;
- 22 caused by personal motives;
- 4 suicide cases;
- 8 labor disputes;
- 1 victim killed by an insane uncle;
- 2 victims died of natural cause/illness; and
- 403 other cases, which include, 300 cases of victims with no known affiliations, 25 civilians killed by the CPP/NPA, 8 killed by the MILF-Lost Command, 2 by Vigilante Groups and other cases with private motives such as illegal drugs, illegal gambling, squatting, illegal logging, mistaken identity, robbery with homicide, rape with homicide, tribal wars and business rivalries. They were properly investigated by the local police unit concerned since the majority of these cases do not fall within the context of "**Extrajudicial killing**" based on its special political context and definition.

Note that members of the local communist movement – the Communist Party of the Philippines and New People's Army – were held liable in 26 cases. Military,

paramilitary and police elements, on the other hand, were found to be involved in only 13 cases. Civilian government officials were involved in only 2 cases; and 48 civilians were suspects in the remaining cases.

All cases that have been filed in court are being closely monitored by the Office of the Court Administrator under the Supreme Court. The rest of the cases, deemed as “cold cases”, i.e., those that have not progressed due to lack of evidence or witnesses, were endorsed to the PNP Criminal Investigation and Detection Group, or CIDG, for further investigation.

While many of the cases are in various stages of resolution, the low conviction rate had been misconstrued as a slack in the country’s justice system. To this misconception, the Government wishes to assure the Committee that the measures to end political killings implemented by the Philippine Government conform fully with the rule of law. The Government will not force quick convictions simply for the sake of announcing achievements. These killings are being addressed within this framework, which accords primacy to the fundamental rights of the accused, witnesses, and complainants, as enshrined in the Philippine Constitution, statutory laws and jurisprudence.

The age-old dictum that an upright judge would rather unknowingly set free 99 guilty persons than wrongfully convict one innocent individual remains true to this very day. But for the Philippines, even a single unexplained killing is one too many.

From 2006, which recorded the highest unexplained killing level within the 2001-2008 timeline at 41 cases, there was an 85 percent decrease in 2007, and a 90 percent decrease in 2008, which registered only 6 and 5 cases, respectively. Even the aforementioned NGO’s figures, bloated as they were, acknowledged and reported, albeit grudgingly, the same drastic decrease.

TASK FORCE “211”

In November 2007, President Gloria Macapagal Arroyo issued Administrative Order No. 211 creating a multi-agency Task Force against Political Violence, “*Task Force 211*,” to increase coordination between the Department of Justice, the Department of National Defense, the Presidential Human Rights Committee, investigative and national security agencies, and civil society for speedier solutions to such violence.

As of 02 December 2008, Task Force 211 reported a total of 236 cases of extrajudicial killings, 16 of which are under preliminary investigation; 11 are undergoing police investigation; 37 are on trial; 70 had been archived; 50 were considered cold cases; 65 cases had been dismissed. 14 cases had been terminated, i.e., trial on the merits.

The seriousness with which the Government has acted on these unexplained killings is evident in the manner the cases were dealt with by Task Force 211. Although just a little over a year old, this Task Force has made significant strides in its crusade against political violence. Its major accomplishments, thus far, include the following:

- Conviction of Joel Torres, suspect in the killing of Bayan Muna Secretary General Jose Doton, who was killed on 16 May 2006. Torres was meted the penalty of reclusion perpetua in a decision dated 30 May 2008 and promulgated on 10 June 2008 by Judge Ulysses Butuyan of Branch 51, RTC Tayug, Pangasinan. Doton was reported to have been an active advocate of peasant-related issues, notably the construction of the San Roque Dam in Pangasinan.
- Speedy resolution of 4 cases of media killings. Note that the cases of mediamen Bert Sison, Dennis Cuesta, Martin Roxas, and were resolved by TF 211 in an average of 9 ½ days.

Bert Sison was a reporter of “Top News”, who was gunned down on 30 June 2008 in Brgy. Lucutan, Malabag, Sariaya, Quezon. The victim’s daughters, who survived the ambush, have been placed under the DOJ’s Witness Protection Program. To speed up the resolution of the case, the preliminary investigation was transferred from the Quezon Provincial Prosecutor’s Office to the DOJ main office in Manila.

Dennis Cuesta was an anchorman and program director of Radio Mindanao Network (RMN), who was attacked on 04 August 2008 by unidentified assailants in Brgy. Lagao, General Santos City. The victim died on 09 August 2008. On 18 August 2008, a case for preliminary investigation was filed by the NBI at the DOJ in Manila indicting 2 respondents, one of whom is a high-ranking police officer of PNP General Santos City. A case for murder was filed on 03 February 2009 in General Santos Regional Trial Court and a warrant of arrest was issued on the same day.

Martin Roxas, a radio announcer of RMN Radyo Agong, was killed on 07 August 2008. Due to a coordinated approach by TF Usig and TF 211, the perpetrators were arrested and a case was filed before the Office of the City Prosecutor of Roxas City on 11 August 2008. A special panel of prosecutors was created to ensure the judicious and expeditious resolution of the case. On 14 August 2008, a murder case was filed before the RTC of Roxas City against the suspects.

- On 17 November 2008, Areclo Jandag, a radio commentator from Gingoog, Misamis Oriental, was gunned down by unidentified gunmen

in the presence of his daughter. TF 211 immediately mobilized its enforcement components and sent a team of investigators and prosecutors to Gingoog to oversee and expedite the investigation of the case. On 28 November 2008, a case for preliminary investigation has been filed.

- Re-evaluation of “cold cases” or cases that have not progressed under police investigations due to the alleged reluctance of witnesses and/or lack of sufficient evidence were thoroughly re-evaluated. TF 211, through its AFP and PNP components, exerted pressure to effect the arrest of Mayor Alfredo Arcenio (Lezo, Aklan), the accused in the killing of his staunch critic DYIN station manager and radio commentator Herson “Bombo Boy” Hinolan. This resulted in the Mayor’s voluntary surrender on 05 March 2008.
- TF 211 filed charges and caused the issuance of arrest warrant in the celebrated Marlene Esperat case. Marlene Esperat, a columnist of Midland Review, was gunned down in front of her children on 24 March 2005.
- TF 211 located the whereabouts of Private First Class (PFC) De la Cruz, suspect in the killing of Ricardo Ramos of Hacienda Luisita. AFP surrendered PFC De la Cruz to the NBI after TF 211 brought to the AFP’s attention the standing warrant of arrest against the accused.
- Continuous monitoring of all other cases of these unexplained killings and facilitation of the prompt resolution of cases under preliminary investigation pending with different prosecution offices nationwide.

The Philippines would like to assure the Committee that the Government will thoroughly investigate and seriously prosecute all offenders, whether they are members of the military, security forces or civilians as may be gleaned from the successful conviction of Army Corporal Rodrigo Billones.

A Regional Trial Court Judge in Agusan Del Sur has sentenced an Army soldier to life. Judge Dante Luz Viacrucis of RTC Branch 6, in his **18 July 2008** decision, found **Army Corporal Rodrigo Billones** guilty of kidnapping and serious illegal detention of civilians Artemio Ayala Jr., Joseph Belar, Arnold Dangquiasan, Jovencio Lagare, Diosdado Oliver and Romualdo Orcullo. Billones was meted a sentence of **life imprisonment**.

The ruling came after a protracted eight-year trial owing to the lack of or fear of witnesses to testify. Through the tenacity of the prosecution and relatives of the victims, they were able to present an Army sergeant who testified against Billones. Judge Viacrucis said the testimony of Army Sgt. Exequias Duyogan

bolstered the case against Billones after he was identified as the leader of a group of soldiers belonging to the Army's 62 Infantry Battalion (IB) that snatched the victims who were then attending a party in Trento town on 14 October 2000.

Philippine democratic processes remain strong and free

The latest outcry by some militant/labor groups on the arrest of Atty. Remegio Saladero, as supposedly an attempt, or probable 'scheme', of the Philippine government to stymie labor organizations, is a serious distortion of facts. His arrest was by virtue of a valid arrest warrant issued by the Regional Trial Court of Oriental Mindoro, Branch 40, in the case entitled "*People of the Philippines vs. Rustom Simbulan a.k.a. Ka Bobby/Ka Bayani/Ka Silang/Ka Arthur, et.al.*", for multiple murder and multiple frustrated murder, docketed as Criminal Case No. CR-06-8525, as one of the named accused.

The issuance of a warrant of arrest by a court subsequent to the filing of criminal charges against a person, is a matter of judicial procedure as was in the case of Atty. Saladero.

On 05 February 2009, the charges against Atty. Saladero were **summarily dismissed** for failure to observe Section 13, Rule 110 of the Rules of Court mandating that "*a complaint or information must charge only one (1) offense.*" Atty. Saladero, on the basis of the Court Order, has been released. It is noteworthy at this juncture to mention that the summary dismissal of the charges against Atty. Saladero for what was essentially a mere technicality indisputably shows that in the Philippine jurisdiction, any person accused of an offense is entitled to a fair, just and impartial trial in strict accordance with the person's individual and fundamental human rights.

Even a cursory review of the Philippine media, print and broadcast, and those with even a passing acquaintance with the workings of Philippine civil society, can easily disprove any suggestion that political discourse has been narrowed in any way in the Philippines. All political processes remain open and free. In fact, leftist activists have remained vocal and even militantly strident in their advocacy. Human Rights defenders are routinely consulted in government decision-making, proposed legislation and programs, including training for the military, police and the judiciary. Political activists of all shades of opinion, as well as human rights defenders and other rights advocates, are free to run for public office and many have been elected into office as Sectoral/Party List Representatives in the Philippine Congress. In no part of the Philippines are leftists or other individuals "hunted down by interrogating and torturing those who may know their whereabouts." Such a sweeping accusation against the authorities does not aid in the search for the truth.

31. Please comment on the findings in 2007 of the investigating commission established by the President under the guidance of

former Supreme Court Justice Jose Melo (the Melo Commission) that “[T]he victims, of which this Commission is concerned, were all non-combatants. They were not killed in armed clashes or engagements with the military”, that the “killings of activists and media personnel is pursuant to an orchestrated plan by a group or sector with an interest in eliminating the victims, invariably activists and media personnel” and that “there is certainly evidence pointing the finger of suspicion at some elements and personalities in the armed forces, in particular General Palparan, as responsible for an undetermined number of killings, by allowing, tolerating, and even encouraging the killings.”

In 2006, the independent Commission to Address Media and Activist Killings or the MELO COMMISSION was created pursuant to Administrative Order No. 157.

The Melo Commission took into consideration figures covering incidents of extrajudicial killings from 2001 to 2006 as claimed by various human rights groups. KARAPATAN counted at least 724 killings while Amnesty International recorded 244, among others.

In May of 2006, Task Force USIG, an intra Philippine National Police (PNP) investigative body involving the collaborative efforts of various within the PNP tasked with Investigation, Intelligence, Operations, Police Community Relations, Crime Laboratory, PNP Human Rights Affairs Office (HRAO) and Legal Service, was created. Task Force USIG focused its investigation on media and activist killings reckoned from 2001, as claimed by various human rights advocates, with the highest figure of 836 cases as asserted by KARAPATAN as of May 2007. KARAPATAN attributed all 836 cases to the military or the police, thus the term “Extrajudicial Killings (EJKs).” Since the term “EJK” is relatively a novel term in our jurisdiction, and in the absence of legislation on the matter, TF USIG considered the same as murder or slaying of militants/activists or media practitioners to be exclusively within its mandate. TF USIG has crafted guidelines or parameters in classifying a case to be falling within its purview, to wit:

- PERPETRATOR/S, i.e., whether state or non-state actors;
- METHOD or MANNER OF ATTACK;
- AFFILIATION OF THE VICTIM; and
- POLITICAL MOTIVE (militants) or WORK RELATED CIRCUMSTANCES/ATTACK ON PRESS FREEDOM (media practitioners)

The four elements must concur, with the last criterion playing a pivotal role in the categorization of a case, i.e., whether it falls under the mandate of TF USIG or the local PNP.

When a certain case is determined to fall outside the purview of TF USIG's mandate, the case is treated as a common crime of murder or homicide as the case may be, and not EJK as claimed by some quarters.

TF USIG verified the KARAPATAN running claim of 836 slain militant party list members/leftist activists and media practitioners (as of May 2007). Out of this total, 121 are under the focused investigation of TF USIG and 669 are being investigated by local PNP units because they do not fall under TF USIG's mandate, while the remaining 46 cases are still undergoing verification.

The 669 cases under local PNP unit are broken down, to wit: 41 false reports, 35 non-existing persons as certified by the respective barangays and local civil registrars, 6 alleged victims turned out to be alive, 108 cases of legitimate armed encounter, 23 Abu Sayyaf terrorists in the foiled Bicutan jailbreak, 16 agrarian disputes, 22 personal motives, 4 suicide cases, 8 labor disputes, 1 victim killed by a deranged uncle, 2 victims died of natural causes and 403 other cases, which include, 300 cases of victims with no known affiliations, 25 civilians killed by the CPP/NPA, 8 killed by the MILF-Lost Command, 2 by Vigilante Group and remaining cases with private motives such as illegal drugs, illegal gambling, squatting, illegal logging, mistaken identity, robbery with homicide, rape with homicide, tribal war and business rivalries. They were properly investigated by the local police. These were being investigated by local PNP unit since the majority of them do not fall within the context of "Extrajudicial killing" based on its given special political context and definition.

KARAPATAN's allegations of 836 victims killed in EJK are blown up and misleading. In fact, many of the alleged victims were killed in legitimate military encounters, 23 of them are members of the Abu Sayyaf Group, listed as a terrorist organization, who were killed in a foiled jailbreak, and six of them were found out to be alive.

It was also established that not all of the killings were politically motivated. Likewise, the claim that all of the killings were perpetrated by the military and police is preposterous, as records would show that members of the CPP/NPA are suspects in 29 cases.

Quoting the Melo Commission Report, Introduction, paragraph 3, first sentence thereof, to wit: "This may be well so, but it should be carefully noted that the victims, of which this Commission is concerned, were all noncombatants. They were not killed in armed clashes or killings with the military". While it may be true that a number of the victims were non-combatants, it may appear inconclusive that ALL WERE NON-COMBATANTS considering that there were 108 documented cases of victims during legitimate armed encounters between government security forces and the insurgents out of the cases claimed by KARAPATAN to be EJKs. During armed conflicts, deaths on the occasion thereof are justified under International Humanitarian Law (IHL).

Interestingly, the Melo Commission, stated in its conclusion, inter alia, that: “This Commission is not ignorant or unmindful of the crimes committed by insurgents, nor the benefits of having a decent military to defend our freedom and our way of life. To be sure those slain by rebels and insurgents far outnumber the killings attributed by the leftist to the government.” The Melo Commission also noted that “(t)he military and police authorities are laudable and necessary institutions, whose smooth operation according to the Constitution is absolutely essential to the country’s security. The military should not be allowed to descend to the level of the insurgents and the rebels themselves with their lawless, treacherous methodologies.”

From the evidence gathered, and after an extensive study of the same, the Commission came to the conclusion that there was no direct evidence, but only circumstantial evidence, linking some elements in the military to the killings. THERE IS NO OFFICIAL OR SANCTIONED POLICY ON THE PART OF THE MILITARY OR ITS CIVILIAN SUPERIORS TO RESORT TO WHAT OTHER COUNTRIES EUPHEMISTICALLY CALL ‘ALTERNATIVE PROCEDURES’ – MEANING ILLEGAL LIQUIDATIONS.”

PROCEDURAL MECHANISMS ON INVESTIGATION ON COMPLAINTS AGAINST POLICE MISCONDUCT - Citizen’s Complaints against erring PNP personnel punishable with dismissal from the service can be instituted before various disciplinary authorities within the PNP such as the Regional Directors and Equivalent Supervisors, the Chief PNP, Internal Affairs Service (IAS), Directorate for Investigation and Detective Management Pre-Charge Investigation Division (DIDM-PCID). Procedural requirements are mandated by NAPOLCOM Memorandum Circular 2007-001 (Uniform Rules of Procedure Before the Disciplinary Authorities and the Internal Affairs Service of the Philippine National Police). Other offenses punishable with lighter penalties can be filed before the Chief of Police or even the Mayor who exercises control of the local PNP as mandated by the Local Government Code. Complaints for human rights violations can be filed before the PNP Human Rights Affairs Office (HRAO) who exercises special jurisdiction on the matter.

Complaints may be filed either Written (formal) or thru Short Messaging Service (SMS) at the PNP Textline 2920 under the Office of the Chief PNP Complaints and Action Referral Center (CRAC). Subject complaints received via SMS will ne referred to the appropriate offices for appropriate actions.

Outside the PNP, citizens complaint may likewise be filed before the NAPOLCOM, Ombudsman and People’s Law Enforcement Board (PLEB).

As a Rule, whoever first acquires jurisdiction over a case excludes all others in line with the principle of Non-Forum Shopping.

32. **Please comment on reports that human rights defenders, including indigenous rights defenders such as Lumads of Mindanao and Igorots of the Cordillera, are among the most targeted groups and that trade union and peasant activists, journalists and reporters are often also victims of serious human rights violations. In this respect, please explain how Administrative Order No. 181 recently issued by the President, directing the cooperation and coordination between the national prosecution service and other concerned agencies of government for the successful investigation and prosecution of political and media killings, would contribute to the enhancement of the investigation and prosecution of torture cases. (State party report, para. 66)**

To ensure proper coordination and cooperation between the prosecutors and the police, President Gloria Macapagal-Arroyo issued Administrative Order No. 181, series of 2007, which provides, in part,

“Sec. 1. Cooperation and Coordination

- a. In order to ensure prompt, efficient and successful investigation and prosecution of cases involving political and media killings, the National Prosecution Service of the Department of Justice is hereby directed to work closely with the Philippine National Police and the National Bureau of Investigation from the beginning of a criminal investigation until the termination of cases in court.
- b. The Philippine National Police and the National Bureau of Investigation are hereby directed to cooperate with the National Prosecution Service of the Department of Justice by, among other things, consulting with public prosecutors at all stages of the criminal investigation.
- c. They are further directed to cooperate with the National Prosecution Service of the Department of Justice at all stages of the investigation and prosecution by ensuring among other things, that their personnel are available to testify, gather or submit additional evidence when required by the public prosecutor.

“Sec. 2. Continuity

- a. The National Prosecution of the Department of Justice shall assign, to the fullest extent possible, a public prosecutor at the start of a criminal investigation who shall assist or handle a case involving a

political or media killing throughout the criminal proceeding, except in the conduct of preliminary investigation thereof.

The preliminary investigation shall be conducted by a separate and different prosecutor from the prosecutor who, pursuant to the proceeding paragraph, is assigned to assist or handle the case through most of the criminal proceedings.”

Trade union activities and the free exercise of labor rights remain vibrant and amply protected in the Philippine jurisdiction. Workers can air their legitimate claims and grievances through peaceful means such as strikes, picketing, slowdown and other methods allowed by law. In the exercise thereof, the Philippine National Police are on the side to avert unnecessary violence that may arise in the area. Workers rights are highly respected and given due regard.

TF USIG validated 36 alleged killings of workers and trade union leaders. This number was claimed in a petition filed before the International Labor Organization (ILO). These 36 cases were also included by Karapatan in their claim list, for they claimed labor related killings as militant killings. 14 are under TF USIG, 8 under local PNP, 12 under verification and 2 labor cases.

Journalists and reporters enjoy freedom of the press and expression. No prior restraint or censorship is imposed so as to diminish their right. Since 2001 to date, there were 31 media killings of which 26 cases were filed with 2 cases resulting to conviction and 5 cold cases or those with no progress of investigation due to lack of witnesses.

In most instances, slayings of media personalities were impelled by personal grudges of local personalities, who were subject of criticisms or tirades. These incidents are not and should not be taken as a repression of the freedom of the press.

33. According to reports before the Committee, indigenous peoples are among the most marginalized groups in the Philippines and are often victims of various forms of abuse, violence and exploitation. Sources also claim that, due to their poor living conditions and social exclusion, indigenous children are at risk of becoming involved in armed conflict and being recruited into armed groups and that armed conflict also renders indigenous women and girls more vulnerable to physical and sexual violence. Please describe the measures taken by the State party to protect civilians in areas affected by armed conflict and to address the issue of violence against indigenous peoples, including women and children. This should, *inter alia*, include information about investigations into allegations of offences pursuant to articles 1 and 16 of the Convention.

Republic Act 8371, otherwise known as “The Indigenous Peoples Right Act” (IPRA), provides several measures to protect the rights of indigenous peoples in armed conflict. Section 22 of IPRA provides that indigenous peoples have the right to special protection and security in periods of armed conflict. It stipulates that the State shall observe international standards, in particular, the Fourth Geneva Convention of 1949, for the protection of civilian populations in case of emergency and armed conflict, and shall not recruit members of the ICC/IP’s against their will into the armed forces, nor recruit children of ICC/IP’s into the armed forces under any circumstances; nor force indigenous individuals to abandon their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory conditions.

Paragraph b, Section 6, Part II Administrative Order No.01, series of 2006 of the National Commission on Indigenous Peoples (NCIP) provides the guidelines for the Free and Prior Informed Consent (FPIC). It states that the following shall be governed by the FPIC process: “Occupation of military or organizing paramilitary forces, establishment of temporary or permanent military facilities, or military exercises within ancestral domain shall be requested in written by concerned elders or leaders. Military operations or hot pursuit operations, securing vital govt. installations shall not require of FPIC. NCIP has been closely coordinating Department of National Defense and the Armed Forces of the Philippines with the latter establishing Indigenous Peoples Desks within its Civil Military Offices (CMO), or J-7 at their major commands. Other program of NCIP is to improve the Indigenous Peoples-Children Involved in Armed Conflict (IP- CIAC) which seeks to advocate the non recruitment of IP CIAC victims and refer them to appropriate agencies of govt. for appropriate rehabilitation and reintegration to their respective communities

The NCIP is also assiduously pushing for the implementation of the Indigenous Peoples mandatory representation in Local Legislative councils and other policy making bodies as provided in sections 446,457, and 467 of Republic Act 7160, or the Local Govt. Code, as well as section 16 of IPRA.

Other

- 34. Please provide information on the legislative, administrative and other measures undertaken by the State party to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. In this respect, the Committee would like to recall Security Council Resolutions 1456 (2003), 1535 (2004), 1566 (2004), and 1624 (2005) all of which reiterate that States must “ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law.” Please describe the relevant training given to law enforcement**

officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of these complaints.

As a member state of the United Nations, the Philippine government reaffirmed its commitment to combat terrorism in compliance with UN Security Council Resolutions 1456, 1535, 1566 and 1624, all of which pledge to enact measures to prevent or put a stop to acts of terrorism in accordance with international law, in particular international human rights law. Among the measures taken by the Philippine government to combat terrorism was the signing into law in 2007 of the Human Security Act (HSA), otherwise known as the Anti- Terrorism Law, to respond to threats and prevent acts of terrorism from being committed. With the implementation of the HSA, the source of the monetary support to these groups can now be traced and frozen; thus, serving as a deterrent to the solicitation of funds for terrorist purposes, the laundering of these funds, and the emergence of terrorist leaders.

As provided for under the HSA, the government formed the Anti- Terrorism Council (ATC), which is tasked to undertake the following, to wit:

1. Formulate and adopt plans, programs and counter-measures against terrorists and acts of terrorism in the country;
2. Coordinate all national efforts to suppress and eradicate acts of terrorism in the country and mobilize the entire nation against terrorism proscribed in this Act;
3. Direct the speedy investigation and prosecution of all persons accused or detained for the crime of terrorism or conspiracy to commit terrorism and other offenses punishable under this Act, and monitor the progress of their cases;
4. Establish and maintain comprehensive data-base information systems on terrorism, terrorist activities, and counter-terrorism operations;
5. Freeze the funds property, bank deposits, placements, trust accounts assets and records belonging to a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism pursuant to RA 9160 Anti Money Laundering Act of 2001 as amended;
6. Grant monetary rewards and other incentives to informers who give vital information leading to the apprehension, arrest, detention, prosecution, and conviction of person or persons who are liable for the crime of terrorism or conspiracy to commit terrorism;
7. Establish and maintain coordination with and the cooperation and assistance of other nations in the struggle against international terrorism.

Prior to the implementation of the Human Security Act, lectures were given to law enforcement authorities, human rights organizations and other government

agencies on the provisions of the law. The massive information campaign was undertaken by the Council for the purpose of educating the general public and erasing the general perception prevailing at that time that the Anti-Terror Law was meant to curtail the rights of those opposing the government.

Several terrorists are currently facing charges for murder, multiple murder, homicide and piracy under the Revised Penal Code (RPC) of the Philippines. The most recent conviction secured against terrorists was the 23 January 2009 decision from a Regional Trial Court in Manila. Convicted were three members of Jemaah Islamiyah (II), who were involved in the 30 December 2000 Light Railway Transit (LRT) bombing that killed more than a hundred and injured countless others.

Under the Human Security Act (HSA), one case against two terrorists involved in the destruction by means of an explosion of an Improvised Explosive Device (IED) resulting in the injury of seven (7) people, had already been filed.

At present, there are more than two hundred (200) cases filed against suspected terrorists all over the country. A total of 46 terrorists were already convicted and serving their respective sentences.

Another powerful deterrent to terrorism is Republic Act (RA) 9516, amending Presidential Decree 1866, which prohibits the possession, manufacture, and distribution of explosives and other incendiary devices and imposes stiff penalties and fines for violators.

RA 9516 imposes the penalty of reclusion perpetua upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any explosive or incendiary device, with knowledge of its existence and its explosive character, where the explosive or incendiary device is capable of producing destructive effect on contiguous objects or causing injury or death to any person including but not limited to, hand grenade(s), rifle grenade(s), "pillbox", Molotov cocktail bomb, "fire bomb", and other similar explosive and incendiary devices.

The crime of illegal possession of firearms and explosives is committed by a person who possesses firearms and explosives without authority to do so coupled with the intent to possess the same.

However, any person found guilty of planting evidence in the person, house, effects or immediate vicinity of an innocent individual for the purpose of implicating, incriminating or imputing the commission of any violation of Republic Act 9516 shall suffer the penalty of reclusion perpetua and a fine ranging from one hundred thousand pesos (P 100,000.00) to one million pesos (P 1,000,000.00).

The law stated that it is the declared policy of the State to protect life, liberty, and property from acts of terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against the law of nations. In the implementing this policy, the State shall uphold the basic rights and fundamental liberties of the people as enshrined in the constitution.

The State recognizes that the fight against terrorism requires a comprehensive approach, comprising political, economic, diplomatic, military, and legal means, taking into account the root causes of terrorism without acknowledging these as justifications for terrorist and/or criminal activities. Such measures shall include conflict management and post conflict peace-building, addressing the roots of conflict by building state capacity and promoting equitable economic development.

The Law shall not be interpreted as a curtailment, restriction or diminution of constitutionally recognized powers of the Executive branch of the government. It is to be understood, however that the exercise of the constitutionally recognized powers of the executive department of the government shall not prejudice respect for human rights which shall be absolute and protected at all times. (Sec 2, RA-9372)

Sec. 53 of RA 9372-provides for the creation of Anti-Terrorism Council (ATC), which shall implement RA 9372 and assume the responsibility for the proper and effective implementation of the anti-terrorism policy of the country. The ATC is chaired by the Executive Secretary with Secretary of Justice as vice chairman and five others as members to wit: Secretary of Foreign Affairs, Secretary of National Defense, Secretary of Interior and Local Government, Secretary of Finance and the National Security Adviser. Under the same section, the National Intelligence Coordinating Agency (NICA) serves as the Secretariat of the Council in the pursuit of its mandate to implement RA 9372 (HAS), with the National Bureau of Investigation, Bureau of Immigration, Office of the Civil Defense, Intelligence Service of the Armed Forces of the Philippines, Anti-Money Laundering Council, Philippine Center on Transnational Crime and the Intelligence and Investigative elements of the Philippine National Police as support agencies.

Sec. 54 of RA 9372- provides the eight (8) functions of the Council, all of which are to be implemented with due regard for the constitutional and other legal rights of the people. There are four (4) activities authorized under RA 9372 that can be utilized by law enforcers to support their investigation as far as terrorism is concerned, the exercise of which are subject to strict limitations and restrictions as provided for in the law. These activities are:

- Surveillance of Suspects and Interception and Recoding of Communications (Electronic Surveillance) (Sec. 7);
- Examination of bank deposits, placement, trust accounts, assets and records (Sec. 27);
- Freezing, seizure and sequestration of bank deposits, placements, trust accounts, assets and other properties of whatever form (Sec.39); and
- Arrest without warrant (Sec. 18)

Since the effectivity of RA 9372, none of the aforementioned tools were used by law enforcement personnel. Most of the cases handled by the police did not require electronics surveillance. Law enforcers chose to be more prudent with regard to this matter rather than have to pay an extraordinarily steep fine of Php 500,000.00 per day of detention in the event that they commit an error. Likewise, there had been no full inquiry on bank deposits of persons suspected to have links with terrorists on account of the very strict procedural requirements that law enforcers are obliged to observe under Section 27 of RA 9372. There was also no arrest without warrant pursuant to RA 9372 because this type of arrest must result from surveillance and examination of bank accounts.

To date, no reported conviction under such legislation and further there is/are no reported complaints of non-observance of international standards, and or violations committed by law enforcers under the Human Security Act of 2001.

Corresponding sanctions and penalties are meted on members of law enforcement agencies for violation of the law.

ANTI-MONEY LAUNDERING COUNCIL (AMLC) OF THE PHILIPPINES

The Asia Pacific Group on Money Laundering in coordination with World Bank conducted a mutual assessment of the Philippine government's anti-money laundering/combating the financing of terrorism regime in 2008. The Anti-Money Laundering Council (AMLC) is currently pursuing its recommendation to amend existing banking laws to be able to better respond to the growing threat of terrorism.

TRAININGS GIVEN TO LAW ENFORCEMENT OFFICERS

The Anti- Terrorism Council has been the recipient of training programs for counter-terrorism sponsored by the United States of America (USA), United Kingdom (UK) and Australia, among others.

Through the Anti-Terrorism Council, the Philippine Government remains fully committed to international conventions and initiatives against terrorism and participates in endeavors designed to strengthen

international cooperation to reduce the vulnerability of individuals and properties to terrorist acts and to prevent, deter and respond to terrorism in accordance with the UN Charter and International law, with full respect for human rights. Over the past several years, there have been sustained efforts to build-up counter-terrorism capacity, particularly for police and military personnel. These training courses were on general and specialized CT-related skills and knowledge. An inventory of CT-related training since 2000 showed that 50 in-country training courses, seminars and workshops have been conducted while 82 were conducted in training centers in Indonesia, Malaysia, Thailand, Australia, United States and United Kingdom. The ATC, Secretariat, likewise participated in briefings, lectures and dialogues nationwide regarding RA 9372 and the government's counter-terrorism programs.

35. The report provides that the State party is on the verge of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Please provide updated information on the process and indicate whether there is a timeline for the ratification of the OPCAT. Does the State party plan to establish or designate a national mechanism that would conduct periodic visits to places of deprivation of liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment? (State party report, para. 29)

On 22 April 2008, H.E. President Gloria Macapagal-Arroyo signed the Philippine Instrument of Ratification to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

In the Philippine setting, the President, as the Chief Executive, is vested with the built-in power to negotiate treaties and other international instruments. In the negotiation phase of treaty-making, the Executive Branch may completely exclude the Legislative Branch. However, pursuant to Article VII, Section 20 of the Philippine Constitution, no treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds (2/3) of all the members of the Philippine Senate.

Pursuant to the domestic ratification procedure of the Philippines as set forth in Executive Order No. 459, Series of 1997, the Philippine Instrument of Ratification of the OPCAT was transmitted to the Philippine Senate for purposes of concurrence.

In line with the separation of powers among the three (3) branches of the government, the Executive Branch could not encroach on the prerogatives of the Senate in concurring in the ratification of an international agreement.

In order to ensure harmonization, compatibility and enforceability of Philippine laws and regulations as well as establish the structural coordination among the concerned government agencies, vis-à-vis the State's commitments under the Optional Protocol upon its entry into force for the Philippines, the execution of a Declaration pursuant to Article 24 of the Optional Protocol is being considered.

36. Is the State party considering making the declaration under articles 21 and 22, recognizing the competence of the Committee to receive and consider communications?

The propriety of executing a declaration under Articles 21 and 22 of the Convention will be the subject of a thorough consultation among concerned Philippine government agencies and other stakeholders.

37. Does the Philippines envisage ratifying the Rome Statute of the International Criminal Court?

The Philippines signed the Rome Statute on 28 December 2000 along with 123 other countries. In compliance with the guidelines for the negotiation and ratification of treaties (Executive Order 459, series of 1997), the matter regarding Philippine ratification of the Rome Statute was referred to the Cabinet Oversight Committee on Internal Security (COCIS) for study. Following the dissolution of COCIS, the Rome Statute is now being carefully studied by the Presidential Human Rights Committee.

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