

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/PHL/CO/2)

PHILIPPINES

(...)

C. Principal subjects concerns and recommendations

(...)

Torture and ill-treatment and insufficient safeguards during police detention

7. Notwithstanding the assurances provided by the State party to the Committee that “torture or ill-treatment on suspects or detainees is not tolerated or condoned by the Philippine National Police (PNP) and that erring PNP personnel are dealt with accordingly”, the Committee is deeply concerned about the numerous, ongoing, credible and consistent allegations, corroborated by a number of Filipino and international sources, of routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings. Furthermore, despite the enactment of the Law on the Rights of Persons Arrested, Detained or under Custodial Investigation (RA 7438), there are insufficient legal safeguards for detainees in practice, including:

- a) Failure to bring detainees promptly before a judge, thus keeping them in prolonged police custody;
- b) Absence of systematic registration of all detainees, including minors, and failure to keep records of all periods of pretrial detention; and
- c) Restricted access to lawyers and independent doctors and failure to notify detainees of their rights at the time of detention, including their rights to contact family members (arts. 2, 10 and 11).

As a matter of urgency, the State party should take immediate steps to prevent acts of torture and ill-treatment throughout the country and to announce a policy of total elimination in respect of any ill-treatment or torture by State officials.

As part of this, the State party should implement effective measures promptly to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention. These include, in particular, the right to have access to a lawyer and an independent medical examination, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, as well as to appear before a judge within a time limit in

accordance with international standards. The State party should also ensure that all suspects under criminal investigation, including minors, are included in a central register which functions effectively.

The State party should also reinforce its training programmes for all law enforcement personnel, including all members of the judiciary and prosecutors, on the absolute prohibition of torture, as the State party is obliged to carry out such training under the Convention. Moreover, it should keep under systematic review interrogation rules, instructions, methods and practices with a view to preventing cases of torture.

(...)

Prompt, effective and impartial investigations

15. While noting that many agencies have a mandate to investigate complaints of torture and ill-treatment, the Committee is concerned at the high number of complaints of torture and ill-treatment by law enforcement officials, the limited number of investigations carried out by the State party in such cases, and the very limited number of convictions in those cases which are investigated. Additionally, these bodies lack independence to review individual complaints about police and military misconduct. (arts. 12 and 16)

The State party should strengthen its measures to ensure prompt, thorough, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. In particular, such investigations should not be undertaken by or under the authority of the police, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the alleged suspect should as a rule be subject to suspension or reassignment during the process of investigation, to avoid any risk that he or she might impede the investigation, or continue any reported impermissible actions in breach of the Convention.

The State party should prosecute the perpetrators and impose appropriate sentences on those convicted in order to ensure that the law enforcement personnel who are responsible for violations prohibited by the Convention are held accountable.

Effectiveness and independence of the Commission on Human Rights

16. The Committee is concerned that, in a number of instances, the Commission on Human Rights of the Philippines (CHRP) has been denied entry into jails and detention facilities mostly under the jurisdiction of the military. The Committee is also concerned that Section 19 of the 2007 Human Security Act grants the CHRP authority to prolong detention of suspects. In the view of the Committee, these measures compromise the capacity of the CHRP to monitor the State party's human rights compliance. (arts. 2, 11 and 12)

The State party should take the necessary steps to strengthen the mandate, including access to detention facilities, and independence of the CHRP,

including through adoption of the proposed CHRP Charter as well as allocation of sufficient resources for its effective implementation. The visitation mandate of the CHRP should include unhampered and unrestrained access to all detention facilities, including those under the jurisdiction of the military.

(...)

Sexual violence in detention

18. While noting the enactment of a number of relevant laws and that the State party has established a total of 31 female dormitories, the Committee expresses serious concern at numerous allegations of cases of rape, sexual abuse and torture committed against women detainees by the police, military and prison officials/personnel. In this respect, the Committee is concerned about reports that in many provincial jails, officials continue to place women together with male inmates, and that male corrections officers continue to guard female inmates in violation of agency regulations. (arts. 11 and 16)

The State party should take effective measures to prevent sexual violence in detention, including by reviewing current policies and procedures for the custody and treatment of detainees, ensuring separation of juvenile detainees from adults, and of female detainees from males, enforcing regulations calling for female inmates to be guarded by officers of the same gender, and monitoring and documenting incidents of sexual violence in detention, and provide the Committee with data thereon, disaggregated by relevant indicators.

The State party should also take effective measures to ensure that detainees who allegedly are sexually victimized are able to report the abuse without being subjected to punitive measures by staff, protect detainees who report sexual abuse from retaliation by the perpetrator(s), promptly, effectively and impartially investigate and prosecute all instances of sexual abuse in custody and provide access to confidential medical and mental health care for victims of sexual abuse in detention, as well as access to redress, including compensation and rehabilitation, as appropriate.

Furthermore, the Committee calls upon the State party to consider enacting the draft Prison Rape Elimination Act of 2008.

Children in detention

19. While appreciating the State party's clarification of measures undertaken to reduce the number of children in detention, including the enactment of the 2006 Juvenile Justice Welfare Act (RA 9344), a variety of social welfare services provided for children in conflict with the law and the release of 565 minors in 2008, the Committee is concerned that a significant number of children remain in detention and at reports of a *de facto* practice of not separating children from adults in detention facilities throughout the country, despite the requirement included in the Juvenile Justice Welfare Act demanding such separation. (arts. 11 and 16)

The State party should further reduce the number of children in detention and ensure that persons below 18 years of age are not detained with adults; that alternative measures to deprivation of liberty, such as probation, community service or suspended sentences are available; that professionals in the area of recovery and social reintegration of children are properly trained; and that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions.

(...)

33. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7, 15, 16, 18 and 19 above.

(...)
