



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Fourth periodic reports of States parties**

**Philippines\*, \*\***

[12 September 2010]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the Secretariat.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–7	4
II. General.....	8–80	5
A. General information about the reporting State .....	8–15	5
B. Constitutional, legislative, judicial and administrative framework governing the implementation of the Convention .....	16–80	9
III. Information relating to articles 1 to 27 of the International Covenant on Civil and Political Rights (“Covenant”) .....	81–412	19
Article 1: Right to self-determination .....	82–84	19
Article 2: Non-discrimination .....	85–119	20
Article 3: Equal rights of men and women .....	120–149	33
Article 4: Non-derogation of rights.....	150	40
Article 5: Prohibition of limited interpretation of rights .....	151	40
Article 6: Right to life.....	152–166	40
Article 7: Prohibition of torture or cruel, inhuman or degrading treatment and punishment .....	167–198	43
Article 8: Prohibition of slavery and slavery-like practices .....	199–210	48
Article 9: Rights of the accused .....	211–220	50
Article 10: Right to liberty and inherent dignity .....	221–232	51
Article 11: Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation.....	233–235	53
Article 12: Right to liberty of movement and of abode .....	236–239	53
Article 13: Prohibition against arbitrary expulsion of aliens.....	240–256	54
Article 14: Rights of the accused .....	257–269	57
Article 15: Prohibition against ex post facto law .....	270–279	61
Article 16: Right to recognition as a person before the law .....	280	63
Article 17: Prohibition of arbitrary or unlawful interference with privacy, family, home or correspondence, honor and reputation .....	281	63
Article 18: Right to freedom of thought, conscience and religion .....	282–284	63
Article 19: Right to freedom of expression and opinion .....	285–292	64
Article 20: Prohibition of propaganda for war .....	293	65
Article 21: Right of peaceful assembly .....	294–302	65
Article 22: Right of association .....	303–317	66
Article 23: Protection of the family .....	318–357	69
Article 24: Rights of the child.....	358–387	75

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Article 25: Right of suffrage .....	388–402	84
Articles 26 and 27: Right to equal protection of the law and non-discrimination...	403–412	87

## I. Introduction

1. This regular report on the implementation of the International Covenant on Civil and Political Rights (ICCPR) was prepared in accordance with the consolidated guidelines for State reports under the International Covenant on Civil and Political Rights, which replace all earlier versions issued by the Human Rights Committee (CCPR/C/66/GUI/Rev.2).
2. The Philippines signed the Covenant on 19 December 1966, ratified the same on 28 February 1986 and submitted the Instrument of Ratification on 23 October 1986. The treaty entered into force on 23 January 1987, three months after the date of deposit of the Instrument of Ratification. The Philippines submitted its Initial Report to the Committee on 22 March 1988 (CCPR/C/50/Add.1/Rev.1), which was considered by the Committee on 31 March and 03 April 1989. The combined 2<sup>nd</sup> and 3<sup>rd</sup> report was submitted to the Committee on 26 August 2002.
3. This report consists of two parts with covering period from 2003 until June 2009. The first part provides information on the current situation in the Philippines. The second part provides specific information relating to the implementation of the provisions of the Covenant.
4. This report provides the background information on laws, policies, programmes and recent developments pertinent to the rights enumerated in the Covenant, the difficulties and problems arising from their implementation, and the prospects for the future.
5. The report was prepared by the Department of Justice (DOJ) as the lead agency in the preparation of the ICCPR report, in coordination with the Department of Foreign Affairs (DFA), as vice-chair of the Presidential Human Rights Committee (PHRC) pursuant to Administrative Order (A.O.) 163, s, 2006 (Strengthening of the Presidential Human Rights Committee).
6. The Report incorporated inputs and information received from the Philippine government agencies, particularly the Department of the Interior and Local Government (DILG) and its attached agencies, the Philippine National Police (PNP), the Department of National Defense (DND) and its attached agency, the Armed Forces of the Philippines (AFP), the National Anti-Poverty Commission (NAPC) and its attached agency, the National Commission on Indigenous Peoples (NCIP), the National Economic Development Authority (NEDA), the Department of Labor and Employment (DOLE), the Department of Social Welfare and Development (DSWD) and its attached agencies, Council for the Welfare of Children (CWC), the Commission on Human Rights of the Philippines (CHRP) and various non-governmental organizations (NGOs) and civil society organizations (CSOs).
7. The DOJ also conducted consultation meetings with the Commission on Human Rights of the Philippines (CHRP), non-government organizations and civil society organizations such as the Philippine Alliance of Human Rights Advocates (PAHRA), which is the umbrella organization for all civil and political groups; Human Rights for All Movement; Asian Federation Against Involuntary Disappearances. Other human rights organizations such as, Balay Rehabilitation Center, Task Force Detainees of the Philippines (TFDP), Families of Involuntary Disappearances (FIND), and Amnesty International were likewise invited.

## II. General

### A. General information about the reporting State

#### 1. Conditions for human development

8. Attaining the aspirational goal of social progress and better standards of life set by the Universal Declaration of Human Rights is a serious challenge in a developing country like the Philippines. The Philippines, in particular, is faced by two active armed insurgencies that impact negatively on development. Furthermore, the Philippines is prone to natural disasters and other calamities brought about by earthquakes, volcanic eruptions, typhoons and other weather extremes such as the El Nino/La Nina phenomena.

9. Natural disasters and calamities divert scarce resources that otherwise would go to economic development. They can cause a phenomenon called “transient poverty”. Based on the official data from the National Statistical Coordination Board (NSCB), the share of the population living below the national poverty line from 2000–2006 is 25.1 percent. In terms of human poverty measured by the United Nations Development Programme (UNDP) Human Poverty Index (HPI), the Philippines performs respectably, ranking 54 among the 144 developing countries.

10. Moreover, based on 2007 data, the latest that was used in the Human Development Report (HDR) 2009, the Philippines ranks 105 out of 182 countries covered by the UNDP-HDR.

#### Comparative table of Human Development Index (HDI)

Threshold to high human development	0.971
Philippine HDI	0.752
East Asia and Pacific (HDI average)	0.770
Developing countries (HDI average)	
High human development	0.883
Medium human development	0.686
Low human development	0.423
World (HDI average)	0.753
Lower range of medium human development	0.511

11. The Philippines also performs well in other indices covered by the UNDP-HDR as follows:

(a) In terms of inequity in income or expenditure, the Philippine Gini Index of 44.0 is respectable when compared to other countries within and outside the Southeast Asia region;

**Comparative table of inequality in income or expenditure index**  
(Gini Index where 0 = absolute inequality and 100 = absolute equality)

Philippines	44.0
Very high human development (average)	33.0
High human development (average)	41.0
Medium human development	44.0
Low human development	42.0

(b) In terms of life expectancy and child mortality, the Philippines have achieved respectable improvements in the life of its people, despite the annual ravages of nature that brings destruction and loss of life. Filipinos can expect a fuller life with higher life expectancy and lower child mortality;

**Comparative table of life expectancy and mortality**

*Life expectancy at birth*

East Asia and the Pacific	72.2 years
Philippines	71.6 years
Developing countries	
High human development	72.4 years
Medium human development	66.9 years
Low human development	51 years
World	67.5 years

(c) In terms of empowerment through education, the Philippines is a model for developing countries with an adult literacy rate of 93.4%, and a gross enrollment ratio of 79.6%. Education has empowered the people. Through education, people are better able to promote and protect their human rights;

**Comparative tables on adult literacy and gross enrollment**

*Adult literacy (1997–2007)*

Philippines	93.4%
East Asia and the Pacific	92.7%
Developing countries	
High human development	94.1%
Medium human development	80.0%
Low human development	47.7%
World	83.9%

**Combined gross enrollment ratio (2007)**

Philippines	79.6%
East Asia and the Pacific	69.3%
Developing countries	
High human development	82.4%
Medium human development	63.3%
Low human development	47.6%
World	67.5%

**Education-related indicators for school year 2008–2009**

<i>Indicators</i>	<i>Elementary</i>	<i>Secondary</i>
Net enrollment rate	85.1%	60.7%
Cohort survival rate	75.4%	79.7%
Completion rate	73.3%	75.2%

(d) In terms of health and sanitation, the 2007 APIS indicated that 88.4 percent of Filipino families have access to sanitary toilets. The APIS data are used as the official data in the Medium-Term Philippine Development Plan (MTPDP) and in the national reports on the Millennium Development Goals (MDGs);

(e) In terms of improved water source, the 2007 APIS indicated that 83% of families have access to safe drinking water;

(f) In terms of improved access to food, the Philippines has reduced the incidence of undernourishment among the population from 26% to 18% between the periods 1990/92 and 2002/04 despite the fact that the Philippines is a net importer of food. The present rate is comparable to the rate developing countries and the world although still below the rate for East Asia and the Pacific.

**Comparative table on population undernourished**

	<i>1990/92</i>	<i>2002/04</i>	<i>Decline</i>
Philippines	26	18	8%
East Asia and the Pacific	17	12	5%
Developing countries	21	17	4%
World	20	17	3%

**2. Gender and development**

12. An important indicator of conditions that guarantee the exercise of human rights under equal terms is the situation of women. There are two models for measuring gender equality, the UNDP model and the World Economic Forum (WEF) model.

13. Based on the Gender Development Index (GDI), the 2009 HDR indicates that Philippines ranks 86<sup>th</sup> among the 182 countries for which the GDI was computed. In terms

of Gender Empowerment Measures (GEM), the Philippines ranks 61<sup>st</sup> out of 179 countries, based on the UNDP Statistical Update 2008.

#### Comparative tables for gender-related development index

	<i>Life expectancy</i>	<i>Adult literacy</i>	<i>Gross enrollment ratio</i>	<i>Estimated earned income</i>
Females	73.3	93.6	83.0	PPP US\$ 3 883
Males	68.9	91.6	79.0	PPP US\$ 6 375

In terms of GEM, the Philippines ranks 45 out of 93 countries. Females enjoy a higher ratio of 0.61 than males in estimated earned income. There are more female professional and technical workers, 61% of total, than males. There are also more female legislators, senior officials and managers, 58% of total, than males.

#### Comparative table for gender empowerment measures

Ratio of estimated female to male earned income	0.61
Percent of female professional and technical workers	61%
Percent of female legislators, senior officials and managers	20.2%

14. The WEF uses a different model — the Gender Gap Index (GGI) — to measure gender inequality using four criteria: economic participation and opportunity; educational attainment; health and survival; and, political empowerment. The WEF Global Gender Gap Report 2007-2008 states that the GGI “points to possible role models by revealing countries that, regardless of the level of resources available, have divided these resources equitably between women and men”.

15. Under the GGI model, the Philippines come out as an unmistakable role model not only for developing countries but also for developed countries as well. Specifically, the Philippines ranked no. 6 out of 130 countries, the only Asian and developing country among the top ten countries, with Sri Lanka following behind at No.12. As stated in the WEF Global Gender Gap Report 2008, “the Philippines (6) and Sri Lanka (12) remain distinctive for being the only Asian countries among the top 20 for the third consecutive year. The Philippines is one of two countries in Asia to have closed the gender gap on both education and health and is one of only eleven in the world to have done so. However, the Philippines’s score relative to its performance in 2007 fell because of a drop in the perceived wage equality between women and men employed in similar positions and a decrease in the percentage of women ministers.”

#### Philippine ranking under the WEF GGI model

	<i>Rank</i>			<i>Score (0 = inequality; 1 = equality)</i>		
	<i>2007</i>	<i>2006</i>	<i>2008</i>	<i>2007</i>	<i>2006</i>	<i>2008</i>
Gender gap index	6	6	6	0.7629	0.7516	0.7568
Sub-indices						
Educational attainment	1	1	1	1.0000	1.0000	1.0000
Health and survival	1	1		0.9796	0.9796	0.9796
Economic participation and opportunity	2	4		0.7891	0.7573	
Political empowerment	14	16	22	0.2829	0.2695	0.2741

## **B. Constitutional, legislative, judicial and administrative framework governing the implementation of the Convention**

### **1. Legal framework for human rights protection**

16. The national normative framework for human rights protection consists of the Constitution, legislation, court decisions or jurisprudence, and customs and traditional practices.

17. The Constitution is the supreme and basic law of the country and provides the general framework and principles by which the State is run. It is the standard on which national legal instruments, government actions and decisions are based and evaluated. Important elements of the Constitution include the Bill of Rights, the articles on human rights and social justice, accountability of public officers, citizenship, suffrage, national economy and patrimony.

18. The Constitution provides for the establishment and separation of powers of the three major branches of government – the Executive, Judiciary, and a bi-cameral Legislature. It specifies the mandates and powers of the major institutions responsible for human rights promotion and protection.

19. The Constitution provides that, “The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good” (Article XIII, Section 1).

### **2. Specific Constitutional provisions on the promotion and protection of human rights**

20. The 1987 Philippine Constitution declared as a policy that the “State values the dignity of every human person and guarantees full respect for human rights” (art. 2, section 11). It is also the national policy to protect the right to health of the people (art. 2, section 15) as well as their right to a balanced and healthful ecology (art. 2, section 16). The State is mandated to protect the rights of workers and promote their welfare (art. 2, section 18) and to guarantee equal access to opportunities for public service (art. 2, section 26).

21. Everyone’s right to equality before the law in the enjoyment of civil, political and social rights is enshrined in the all-embracing Bill of Rights of the 1987 Constitution (art. 3). To strengthen the Governments concern for the protection and promotion of human rights and fundamental freedoms, the Constitution also mandates the Congress of the Philippines to give the “highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities and remove cultural inequities by equitably diffusing wealth and political power for the common good” (art. 13, section 1). The “promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance” (art. 13, section 2).

22. For the first time, the State declared as a national policy that it “recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development” (art. 2, section 22).

23. Subject to the provisions of the 1987 Constitution, the State is also mandated to “protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being” (art. 12, section 5). The same provision states that “Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain”. The State shall also “recognize, respect, and protect the rights of indigenous cultural

communities to preserve and develop their cultures, traditions, and institutions” and shall consider these rights in the formulation of national plans and policies” (art. 14, section 17).

24. Furthermore, the Constitution mandated the creation of “Autonomous Regions in Muslim Mindanao (ARMM) and in the Cordilleras (Cordillera Administrative Region) consisting of provinces, cities, municipalities and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines” (art. 10, section 15-21).

25. The Constitution emphasized that the special attention given to the indigenous cultural communities should not be taken as an indication that they are treated separately from the rest of the population. Rather it is intended to ensure that their cultural identity and interests are acknowledged and that as Filipinos, they are drawn within the protective mantle of the fundamental law of the land.

26. Finally, the Constitution provided for the creation of the Commission on Human Rights (art. 13, section 17). The Commission is an independent body which is mandated by the Constitution to investigate on its own or on complaint by any party, all forms of human rights violations, including those involving civil and political rights. The Commission is also responsible for the provision of appropriate legal measures for the protection of the human rights of all persons within the Philippines, as well as Filipinos living abroad, and for the provision of preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection.

27. The Office of the Ombudsman is an independent and fiscally-autonomous body created by the Constitution as the “people’s champion” responsible for the investigation and prosecution of graft and corruption cases against those holding public office, including men in uniform.

28. The Commission on Human Rights of the Philippines (CHRP) is a vigilant and vocal guardian of human rights including civil and political 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.

### **3. Legislative enactments to promote and protect human rights**

29. The Magna Carta of Women “An Act Providing for the Magna Carta of Women” was passed by both Houses of Congress on 19 and 20 May 2009. The Magna Carta of Women is a comprehensive women’s human rights law that seeks to eliminate discrimination against women by recognizing, respecting, protecting, fulfilling and promoting the rights of Filipino women, especially those in the marginalized sector. Among the provisions in the law that refer to women’s civil and political rights are:

(a) (Chapter IV “Rights and Empowerment”, Sec. 9 *Protection from Violence*, Item A) Within the next five (5) years, there shall be an incremental increase in the recruitment and training of women in the police force, forensics and medico-legal, legal services, and social work services availed of by women who are victims of gender-related offenses until fifty percent (50%) of the personnel thereof shall be women;

(b) (Chapter IV “Rights and Empowerment”, Sec. 11 *Participation and Representation*, Item A) Empowerment within the Civil Service. – Within the next five (5) years, the number of women in third (3<sup>rd</sup>) level positions in government shall be incrementally increased to achieve a fifty-fifty (50-50) gender balance;

(c) (Chapter IV “Rights and Empowerment”, Sec. 11 *Participation and Representation*, Item B) Development Councils and Planning Bodies. – To ensure the participation of women in all levels of development planning and program implementation, at least forty percent (40%) of membership of all development councils from the regional, provincial, city, municipal and *barangay* (village) levels shall be composed of women;

(d) (Chapter IV “Rights and Empowerment”, Sec. 11 *Participation and Representation*, Item C) Other Policy and Decision-Making Bodies. – Women’s groups shall also be represented in international, national, and local special and decision-making bodies;

(e) (Chapter IV “Rights and Empowerment”, Sec. 11 *Participation and Representation*, Item D) International Bodies. – The State shall take all appropriate measures to ensure the opportunity of women, on equal terms with men and without any discrimination, to represent their governments at the international level and to participate in the work of international organizations;

(f) (Chapter IV “Rights and Empowerment”, Sec. 11 *Participation and Representation*, Item E) Integration of Women in Political Parties. – The State shall provide incentives to political parties with women’s agenda. It shall likewise encourage the integration of women in their leadership hierarchy, internal policy-making structures, appointive, and electoral nominating processes;

(g) (Chapter IV “Rights and Empowerment”, Sec. 11 *Participation and Representation*, Item F) Private Sector. – The State shall take measures to encourage women leadership in the private sector in the form of incentives;

(h) (Chapter IV “Rights and Empowerment”, Sec. 12 *Equal Treatment Before the Law*) The State shall take steps to review and, when necessary, amend and/or repeal existing laws that are discriminatory to women within three (3) years from the taking effect of this Act;

(i) (Chapter IV “Rights and Empowerment”, Sec. 13 *Equal Access and Elimination of Discrimination in Education, Scholarships, and Training*, Item B) Enrollment of women in non-traditional skills training in vocational and tertiary levels shall be encouraged;

(j) (Chapter IV “Rights and Empowerment”, Sec. 14 *Women in Sports*) The State shall develop, establish, and strengthen programs for the participation of women and girl-children in competitive and non-competitive sports as a means to achieve excellence, promote physical and social well-being, eliminate gender-role stereotyping, and provide equal access to the full benefits of development for all persons regardless of sex, gender identity, and other similar factors;

(k) (Chapter IV “Rights and Empowerment”, Sec. 15 *Women in the Military*) The State shall pursue appropriate measures to eliminate discrimination of women in the military, police, and other similar services, including revising or abolishing policies and practices that restrict women from availing of both combat and non-combat training that are open to men, or from taking on functions other than administrative tasks, such as engaging in combat, security-related, or field operations. Women in the military shall be accorded the same promotional privileges and opportunities as men, including pay increases, additional remunerations and benefits, and awards based on their competency and quality of performance. Towards this end, the State shall ensure that the personal dignity of women shall always be respected. Women in the military, police, and other similar services shall be provided with the same right to employment as men on equal conditions. Equally, they shall be accorded the same capacity as men to act in and enter into contracts, including marriage;

(l) (Chapter V “Rights and Empowerment of Marginalized Sectors”, Sec. 25 *Right to Representation and Participation*) The State shall ensure women’s participation in policy-making or decision-making bodies in the regional, national, and international levels. It shall also ensure the participation of grassroots women leaders in decision- and policy-making bodies in their respective sectors including, but not limited to, the Presidential Agrarian Reform Council (PARC) and its local counterparts; community-based resource management bodies or mechanisms on forest management and stewardship; the National Fisheries and Aquatic Resources Management Council (NFARMC) and its local counterparts; the National Commission on Indigenous Peoples; the Presidential Commission for the Urban Poor; the National Anti-Poverty Commission; and, where applicable, the local housing boards;

(m) (Chapter V “Rights and Empowerment of Marginalized Sectors”, Sec. 29 *Peace and Development*, Item A) Increase the number of women participating in discussions and decision-making in the peace process, including membership in peace panels recognizing women’s role in conflict-prevention and peace-making and in indigenous system of conflict resolution;

(n) (Chapter V “Rights and Empowerment of Marginalized Sectors”, Sec. 29 *Peace and Development*, Item B) Ensure the development and inclusion of women’s welfare and concerns in the peace agenda in the overall peace strategy and women’s participation in the planning, implementation, monitoring, and evaluation of rehabilitation and rebuilding of conflict-affected areas;

(o) (Chapter V “Rights and Empowerment of Marginalized Sectors”, Sec. 29 *Peace and Development*, Item E) The recognition and support for women’s role in conflict-prevention, management, resolution and peace-making, and in indigenous systems of judicial conflict resolution.

#### **4. Five pillars of the criminal justice system**

30. The criminal justice system is built upon five pillars namely – law enforcement, prosecution, judiciary, correction and community. The criminal justice system has legal mechanisms for the protection of indigenous peoples, women, youth, and other vulnerable groups.

31. The *Katarungang Pambarangay* System (Village Justice System) was created under the *Local Government Code of 1991* (LGC) to assist in the settlement of disputes between those residing in the same *barangay* (village). It institutionalizes the use of alternative dispute resolution (ADR) systems and remains to be the most important mechanism for reaching amicable settlement.

32. The Commission of Human Rights of the Philippines (CHRP) instituted the *Barangay* (Village) Human Rights Action Centers (BHRACs) Program pursuant to Art. 2 Sec. 11 of the 1987 Constitution, designed to empower the ordinary citizen to take the lead in the promotion and protection of human rights at the grassroots level.

33. The diverse indigenous peoples’ justice systems and conflict resolution institutions, which are based on traditional practices and serve as alternative dispute mechanisms, are recognized in Republic Act (RA) 8371, otherwise known as the “Indigenous Peoples’ Rights Act (IPRA) of 1997”.

34. Presidential Decree 1083 provides for the codification of Muslim Personal Laws and the recognition of the Shari’a justice system based on Islamic religious law, thus acknowledging the perspective of Muslim Filipinos of what is just and lawful in civil relationships. Criminality continues to remain within the purview of the Revised Penal Code and other laws and not the Shari’a justice system. Muslim justice is based on religion.

35. The Philippines has a robust and vocal civil society composed of non-government organizations of diverse advocacies, trade unions, faith-based organizations, media, academe and the private sector. They play an increasingly active role in the domestic human rights system both as instruments of accountability and as partners in providing support services. The domestic climate presents many channels for them to report, express their opinions, and interact with their constituents, government, and the international community.

**5. Judicial, administrative and other authorities competent in matters relating to human rights**

36. The 1987 Constitution enumerates the basic human rights and the judiciary stands as the guardian and bulwark of such rights. The Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and other law enforcement agencies are constitutionally mandated to protect human rights and freedoms of citizens; and ensure the security of the State and its people.

37. The 1987 Constitution created the Commission on Human Rights of the Philippines (CHRP). It is an independent constitutional body mandated to investigate; adopt operational guidelines and rules of procedure and cite for contempt for violations thereof; provide legal measures; provide for preventive measures and legal aid services to the underprivileged victims; exercise visitorial powers over jails, prisons or detention facilities and request the assistance of any government agency in the performance of its functions; establish a continuing programme of research, education and information to enhance respect for the primacy of human rights; recommend to Congress effective measures to promote human rights; monitor Government's compliance with international treaty obligations on human rights; and grant immunity from prosecution to any person whose testimony, or whose possession of documents or other evidence, is necessary or convenient to determine the truth in any investigation conducted by it, or under its authority.

38. In support of the program, the DILG issued Memorandum Circular 94-194 enjoining all *barangays* to pass/adopt a resolution for the establishment of Human Rights Action Centers.

39. On October 27, 1994, Memorandum Circular No. 94-194 was issued by the DILG Enjoining all the *Barangays* to Pass/Adopt a Resolution for the Establishment of Human Rights Action Center in Local Government Units (LGUs).

40. On March 15, 2006, the CHRP in coordination with the Department of Interior and Local Government (DILG) passed Resolution CHR (III) No. A2006-024 to achieve the following: the speedy setting up of BHRAC's, reactivating idle BHRAC's, appropriating funds and their inclusion in the annual budgets, sponsorship of human rights activities, reproduction of information and education materials, review of human rights action plans; and the monitoring, processing, and documentation of human rights complaints and concerns.

41. On May 11, 2006, Memorandum Circular No. 2006-45 was issued by the DILG restating therein the responsibilities of the LGUs to the BHRAC specifically in capacitating the *Barangay* Human Rights Action Officers (BHRAOs) to be more effective in performing their functions.

42. To provide clear guidelines in the process of selection of BHRAOs, the CHRP and the DILG issued Joint Memorandum Circular No. 1, s, 2006 dated October 6, 2006 on the Guidelines in the Conduct of Election of the BHRAOs in every *barangay* nationwide.

43. Capability building seminar workshops for BHRAOs were conducted in areas where human rights violations are high, in order to capacitate the BHRAOs to be more effective in performing their functions and to deepen their understanding of human rights.

44. Continuous collaboration is maintained through various Memorandums of Agreement between and among cooperating agencies, namely the Commission of Human Rights of the Philippines (CHRP), the Department of Interior and Local Government (DILG), League of Provinces/Cities, League of Municipalities, Liga ng mga Barangay (League of Village Associations), as well as non-government organizations such as the Soroptimist International Philippines Region (SIPR), Promoting Initiative for Justice and Peace (PRODEM), Ateneo Human Rights Center, among other institutions.

45. The Office of the Ombudsman is another independent and fiscally-autonomous body created under the Constitution as the “people’s champion” responsible for the investigation and prosecution of graft and corruption cases against those holding public office, including men in uniform. The main function of this Office is to prevent abuse of power by government officials, which adversely affects private rights. The prosecution arm of the Department of Justice works closely with the Office of the Ombudsman and the Office of the Special Prosecutor.

46. A number of other administrative agencies facilitate the implementation and enforcement of human rights. They mainly implement policies in accordance with the laws and administrative issuances. Very often, they enforce and promote the positive rights of citizens which affect their daily lives. For instance, the Department of Labor and Employment (DOLE) sees to it that the rights of workers are protected and their welfare promoted. The Department of Agrarian Reform (DAR) implements the Comprehensive Agrarian Reform Law (CARL) to promote the economic rights of farmers. With respect to the rights of Filipino children, Filipino women and persons with disabilities (PWDs), the Council for the Welfare of Children (CWC), Philippine Commission on Women (PCW) and the National Council for Disability Affairs (NCDA), respectively, have been created to coordinate the implementation and enforcement by executive departments of all laws relative to the promotion of the welfare of their respective sectors.

47. The Office of the Judge Advocate General of the Armed Forces of the Philippines acts as the legal adviser for the Chief of Staff. The Provost Marshal has jurisdiction over complaints against all members of the AFP. However, under Republic Act (RA) No. 7055, “An Act Strengthening Civilian Supremacy Over the Military By Returning to the Civil Courts the Jurisdiction Over Certain Offenses Involving Members of the Armed Forces of the Philippines”, members of the AFP, other persons subject to military law, including members of the Citizens Armed Forces Geographical Units (CAFGU), who commit crimes or offences penalized under the Revised Penal Code, and other special penal laws, regardless of whether or not civilians are co-accused, victims or offended parties, shall now be tried by the proper civil courts.

48. On September 4, 2002, a DND Memorandum to the Chief of Staff-AFP was issued, entitled: “Establishment of IP Information to Deal and Unify Command” to serve as first level information machinery to ensure preparedness in countering and deterring propaganda that exploit indigenous communities on peculiar developmental situation. There is an allocation of at least 5% of regular enlistment quotas to indigenous people.

49. Republic Act No. 6975 specifies the administrative disciplinary machinery applicable to the members of the Philippine National Police (PNP). Complaints against any PNP member may be brought before any of the following: (a) chiefs of police, where the offense is punishable by the withholding of privileges, restrictions to specified limits, suspension or forfeiture of salary for a period not exceeding 15 days; (b) mayors of cities and municipalities, where the offense is similarly punishable for a period of not less than 16

days but not exceeding 30 days; (c) People's Law Enforcement Board or PLEB where the offense is similarly punishable for a period exceeding 30 days or by dismissal. Complaints may also be lodged before the National Police Commission (NAPOLCOM).

50. For those who cannot afford legal counsel, the Public Attorney's Office (PAO) under the DOJ provides free legal assistance and services including prosecution and defense. Prosecution is the responsibility of the prosecution pillar which comprises primarily of two national government agencies, namely, the National Prosecution Service, an organic unit of the DOJ, and the Office of the Ombudsman.

51. As mentioned in the earlier part of this report, the Philippine criminal justice system is built upon five pillars. It is noteworthy to reiterate at this juncture that owing to the diversity in the indigenous peoples' justice systems and conflict resolution institutions, which are based on traditional practices and serve as alternative dispute mechanisms, the Philippines through IPRA and Presidential Decree 1083 has institutionalized the use of alternative dispute resolution systems as an important mechanism for reaching amicable settlement.

52. Presidential Decree 1083 accords recognition to the Shari'a justice system based on Islamic religious law on civil matters. Muslim tradition involves strong roles played by religious leaders in informally settling disputes. Justice is guaranteed to all regardless of any social and political biases. Among Muslim Filipinos, informal settlements particularly on cases involving family and property matters are preferred over the formal (court) processes. Shari'a court judges themselves have assumed the role of customary elders that citizens can seek help to resolve conflicts, an indication of the pervasive informal nature of Muslim dispute resolution traditions that are deeply imbedded in practice. Criminality continues to remain within the purview of the Revised Penal Code and other laws in consonance with the constitutionally guaranteed rights of all Filipinos.

## **6. Remedies available to individuals whose human rights had been violated**

53. Under the Philippine Rules of Court, a person who has been unlawfully detained or deprived in any other manner of his liberty may file before any Regional Trial Court (RTC) or the Court of Appeals (CA) or directly with the Supreme Court (SC), a petition for the issuance of a writ of habeas corpus to obtain his temporary release.

54. In 2008, the Supreme Court promulgated the Rule on the Writ of Amparo and the Rule on the Writ of Habeas Data.

55. The Rule on the Writ of Amparo is a remedial rule which places the constitutional right to life, liberty, and security above violation and threats of violation thus providing the victims of extralegal killings and enforced disappearances the protection they need and the promise of vindication for their rights. The rule also empowers the courts to issue reliefs that may be granted through judicial orders of protection, production, inspection, and other reliefs to safeguard a person's life and liberty. The writ shall hold public authorities, who took their oath to defend the Constitution and enforce laws, to a high standard of official conduct and hold them accountable to the people.

56. The Rule on the Writ of Habeas Data is both an independent remedy to enforce the right to informational privacy and the complementary "right to truth" as well as an additional remedy to protect the right to life, liberty, or security of a person. The writ makes available to any person whose right to privacy in life, liberty, or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting, or storing of data or information regarding the person, family, home, and correspondence of the aggrieved party. Reliefs include the deletion, destruction, or rectification of the erroneous data or information.

57. In view of putting in place effective legal/judicial remedies to victims of human rights violations, strengthen existing judicial mechanisms such as the exercise of the Writ of Amparo. Of late, it is viewed as a powerful legal remedy for victims of human rights violations.

58. An individual whose human rights were deemed violated may seek immediate assistance from the various government agencies concerned, such as but not limited to the following: CHRP; PNP; DSWD; National Bureau of Investigation (NBI); PAO; Prosecutor's Office (PO); Bureau of Immigration and Deportation (BID), Office of the Solicitor General (OSG); Office of the Ombudsman or *Tanodbayan*; Presidential Anti-Crime Commission (PACC); Bureau of Jail Management and Penology (BJMP) – for prisoners; PNP such as the creation of Woman and Children Protection Center to judiciously respond to women and children victims of crimes, and other similar agencies.

59. A Witness Protection Programme under the DOJ was instituted to give witnesses the necessary courage and confidence to serve the ends of justice. It involves securing the lives of the witnesses, victims and their immediate family members and protecting them from any form of harassment or threat.

60. The DOJ is one of the executive departments that plays a vital role in the enforcement and promotion of human rights through its various bureaus, offices and committees at the national and sub-national levels.

61. As mentioned in the previous Philippine implementation reports, equal protection of the law and due process are provided for in Section 1, Article 13 of the 1987 Constitution which states that “no person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws”.

62. The State would like to take this opportunity to provide elaborated information on the functions and accomplishments of the Commission on Human Rights of the Philippines and the Office of the Ombudsman, the 1987 Constitution provided for the establishment of a Commission on Human Rights. Section 17, Article XIII of the Constitution states, “There is hereby created an independent office called Commission on Human Rights.” Section 17 establishes the composition of the Commission, the qualifications of the members and the automatic and the regular release of its annual appropriations.

## **7. Commission of Human Rights of the Philippines**

63. By virtue of Executive Order No. 163 signed by former President Corazon C. Aquino on 05 May 1987, the Commission on Human Rights was formally established as an independent body mandated to investigate complaints of human rights violations as well as promote and protect human rights, including the civil, political, economic, cultural and social rights articulated in the international human rights instruments.

64. Section 18, Article XIII of the Constitution provides that the Commission on Human Rights has the following functions: (a) Investigate all forms of human rights violations including civil and political rights; (b) Adopt operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court; (c) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines as well as those Filipinos residing abroad; (d) Exercise visitorial powers over jails, prisons or detention facilities; (e) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights; (f) Recommend to the Congress effective measures to promote human rights and provide compensation to victims; (g) Monitor Philippine Government's compliance with international human rights treaties; (h) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;

(i) Requests the assistance of any department, bureau, office or agency in the performance of all its functions; (j) Appoint its officers and employees in accordance with law; and, (k) Perform such other duties and functions as may be provided by law.

65. In relation to the Government, the CHRP is an advisor and “prescriber” of human rights protection standards, and is an independent monitor and evaluator of government policies, actions, programs and performance.

66. The CHRP, as an advocate of human rights provides inputs on proposed legislative bills. In relation to civil society, CHRP has been a mobilizer of people and resources, coordinator of programs and activities, advisor on standards, trainer of trainers, and human rights educator of the general public, inter alia.

67. In relation to human rights victims, the CHRP is a protector against violators, a mobilizer for protection services, a counselor for legal and non-legal remedies, an educator, and provider of other direct assistance and services.

68. Under its Human Rights Protection Program, the CHRP was able to investigate cases of alleged extrajudicial killings. It issued clearances to police and military personnel, provided financial assistance to victims of human rights violations, conducted visitorial services, conducted workshops on torture prevention, advocated for the abolition of death penalty, inter alia.

69. On Human Rights Promotion, the CHRP was able to accomplish the integration of human rights education in schools, human rights education for the police and military, instituted *barangay* (village) human rights action centers, assisted in training and capability building of international human rights institutions in Asia, conducted regional human rights promotion, conducted women and children rights advocacy, participated in inter-agency activities, conducted trainings on human rights based approach in governance and development, actively participated during human rights week celebration, established partnership cooperation with foreign counterparts, and conducted human rights workshops for judges and lawyers.

70. On Human Rights Monitoring, the CHRP had issued human rights advisories, submitted position papers on legislative bills and other human rights policies, monitored the treaty reporting compliance by the Government, and supported the strengthening of the Presidential Human Rights Committee.

## 8. Office of the Ombudsman

71. The 1987 Constitution, in its Declaration of Principles and State Policies, mandated that the State shall maintain honesty and integrity in public service and take positive and effective measures against graft and corruption. It has likewise reiterated that public office is a public trust and that public officers and employees shall at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives. This led to the creation of the Office of the Ombudsman, as an “independent body” and “Protector of the People”. It has vested the said Office with broad and comprehensive powers in order to institute reforms in the bureaucracy and prosecute erring public officials.

72. Given the nature of the Office of the Ombudsman under the fundamental law, then President Corazon C. Aquino issued Executive Orders No. 243 and 244 on 24 July 1987 decreeing the formal organization of the Office of the Ombudsman, and transforming the former *Tanodbayan* into the Office of the Special Prosecutor and making it an organic part of the Office of the Ombudsman.

73. The said Executive Orders were superseded by Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, which was approved on 17 November 1989. R.A.

6770 provided the structure and functions of the said office. The same law reiterated the integration of the Office of the Special Prosecutor as the prosecutorial arm of the Office of the Ombudsman.

74. Under both the Constitution and R.A. 6770, the Ombudsman is principally tasked to investigate on its own or upon complaint by any person, in any form or manner, any act or omission of any public officer or employee, including those in government-owned or controlled corporations, which appears to be illegal, unjust, improper, or inefficient. The Ombudsman is further mandated to render public assistance, mobilize front line service providers in various government agencies through the Ombudsman coordinators to ensure swift responsive and quality service to the citizens, and to conduct graft prevention programs with the objective of proactively preventing the occurrence of corruption and attain a graft-intolerant society.

75. On 12 May 1988, the Office of the Ombudsman became operational upon the appointment of the Ombudsman and his Overall Deputy by the President. Shortly thereafter, the Deputy Ombudsmen for Luzon, Visayas, Mindanao and the military were likewise appointed by the same authority. It exercises oversight role by monitoring the general and specific performance of government officials and employees in order that the law may be administered and executed justly, fairly and equally for all. It also ensures that prompt, efficient and steady flow of service is accorded to the citizens.

76. It effectively enlist broad support of multi-sectoral stakeholders by establishing a continuing partnership with other government agencies, civil society, non-government organizations, business, academe, youth and other major sectors of society for a nationwide campaign for integrity in public service, the propagation of sound Filipino values of honesty, discipline, respect for elders and authority, as well as promotion of a transparent accountable and effective governance.

77. The Office of the Ombudsman initiates the conduct of review of the policies, systems, procedures and practices in the performance of the critical functions of government agencies and makes recommendations for a systematic operation of the government machinery free from bureaucratic inconveniences for the purpose of formulating strategies designed to address corruption vulnerabilities in the organization. It also extends assistance to citizens in obtaining basic public services from government. It may prevent or stop a public officer or a government agency from performing an act which might cause injury to the Government or to the people. Corruption prevention also embraces the study and adoption of ways and means to minimize, if not to eliminate, the opportunities for committing corruption, to awaken the people's awareness of its evils and solicit their cooperation in its eradication, as well as to maintain efficiency in government operations.

78. The Office of the Ombudsman exercises unique prerogatives. It conducts preliminary investigation on criminal cases which may be filed with the Office. It also has the authority to conduct the fact-finding investigation to validate anonymous complaints with sufficient leads or gather evidence for case build-up like the police and National Bureau of Investigation (NBI). This has resulted in the prosecution of cases which otherwise would have been set aside for insufficiency of evidence.

79. The Ombudsman, through the Office of the Special Prosecutor, prosecute cases filed against high ranking officials in the *Sandiganbayan* while those low ranking officials in the regular courts are handled by Ombudsman Graft Investigation and Prosecution in the Department Justice. It may suspend or dismiss erring public officers and employees, including Cabinet Secretaries and all other high-ranking officials, except the President and members of the judiciary and the congress. In all other criminal cases, however, all public

officials and employees, without any exemption, are under the Ombudsman's investigative jurisdiction.

#### **9. Acceptance of international human rights norms**

80. The Philippines is one of original members of the United Nations and subscribes to the United Nations Charter. The Philippines was also a member of the very first United Nations Human Rights Commission and a member of the select group of countries led by Eleanor Roosevelt that prepared the draft of the Universal Declaration of Human Rights. The Philippines is also one of the first States to have ratified eight of the core international human rights treaties currently in force and other human rights-related instruments. Commitment to these instruments and the Universal Declaration on Human Rights is enshrined in the 1987 Philippine Constitution, notably Art. XIII Sec. 17(1) creating an independent Commission on Human Rights, which is tasked, inter alia, to monitor government compliance with its human rights obligations under international treaties. The provisions on the nature, mandate and functions of the CHRP pre-date the 1991 Paris Principles. In fact, the CHRP was among those that drafted the 1991 Paris Principles.

### **III. Information relating to articles 1 to 27 of the International Covenant on Civil and Political Rights (“Covenant”)**

81. The Philippine Government supports and abides by the provisions of the Convention, and addresses the human rights of all Filipinos without restrictions, prohibitions, exclusions, or preferences.

#### **Article 1 Right to self-determination**

82. The Philippines reiterates the various information under this item, which had already been given in the previous reports. In particular, it has been pointed out that the Philippines' constitutional and legal system, its adherence to the democratic way of life and government and its commitment to the promotion and protection of human rights and fundamental freedoms provide the framework for the condemnation and prohibition of racial discrimination against persons, groups of persons or institutions by public authorities and institutions, both at the national and the local level.

83. In keeping with the constitutional mandate provided under Sections 11, Article II of the 1987 Philippine Constitution declaring that “the State values the dignity of every human person and guarantees full respect for human rights”, and in its efforts to comply with its international treaty obligations under the Convention, the Philippines reviewed its policies, laws and regulations to ensure the adequate development and protection of all its peoples.

84. It is the State's policy to promote social justice in all phases of national development (Art. II Section 10) and promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all. (Art. II, Sec. 9).

## Article 2

### Non-discrimination

85. The Philippines reiterates the various information under this item, which had already been given in the previous reports. In keeping with the Covenant, the Philippines has undertaken measures to ensure to all individuals within its territory and subject to its jurisdiction the rights enshrined therein, without distinction of any kind.

86. The Constitution is the supreme and basic law of the country and provides the general framework and principles by which the State is run. It is the standard on which national legal instruments, government actions and decisions are based and evaluated. Important elements of the Constitution include the Bill of Rights, the articles on human rights and social justice, accountability of public officers, citizenship, suffrage, national economy and patrimony.

87. The Bill of Rights in the Philippine Constitution contained in Art. III of the Constitution occupies a position of primacy in the fundamental law. The guarantees enumerated in the Bill of Rights include the due process and equal protection clause, the right against unwarranted searches and seizures, the right to free speech and the free exercise of religion, the right against self-incrimination, and the right to habeas corpus. The scope and limitations of these rights have been determined largely by the decisions of the Supreme Court, which also has exclusive rule-making jurisdiction, under Art. VIII Sec. 5(5) of the Constitution, to promulgate rules concerning the protection and enforcement of constitutional rights. Pursuant to its constitutional mandate, the Supreme Court promulgated the rules on the Writ of Amparo and the Writ of Habeas Data as well as the Rule on Custody of Minors and the Writ of Habeas Data of Minors.

88. Outside of the Bill of Rights, the Constitution also contains provisions on citizenship, right to suffrage, accountability of public officers, national economy and patrimony. Specific attention has been given in the Constitution to social justice, family, women, youth, labor, private sector, non-governmental, community-based and sectoral organizations, right to health, right to a balanced ecology, rural development and agrarian reform, indigenous cultural communities (ICC) and human rights, inter alia.

89. Constitutional provisions promote and protect the role of women in nation-building and ensure the fundamental equality before the law for all; the right to health and a balanced and healthful ecology, the rights and welfare of workers, the rights of women and children, the elderly, and indigenous cultural communities, among others. It pays particular attention to, inter alia, the family, non-governmental, community-based and sectoral organizations, rural development and agrarian reform, indigenous cultural communities and human rights.

90. Indigenous peoples (IPs) have rightful access to mainstream governance as well as in exercising their rights to self-governance. The Local Government Code of 1991 and the IPRA have provisions to address the governance situation of indigenous peoples aimed at upgrading their socio-economic development, the provision of adequate educational and health services, as well as guarantee their physical security and welfare.

91. There is nothing in Philippine laws and statutes which prevent anyone, including the ICCs/IPs from aspiring for and holding public office and to participate in national or local governance. It is expressly stated in the Local Government Code (R.A. 7160), viz:

“SEC. 39. Qualifications. – (a) An elective local official must be a citizen of the Philippines; a registered voter in the *barangay* (village), municipality, city, or province or, in the case of a member of the *sangguniang panlalawigan*, *sangguniang panlungsod*, or *sangguniang bayan*, the district where he intends to be elected; a

resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.”

92. Moreover, SEC. 41, states that: (b) The regular members of the *sangguniang panlalawigan* (provincial board), *sangguniang panlungsod* (city council), and *sangguniang bayan* (municipal council) shall be elected by district, as may be provided for by law. (c) In addition thereto, there shall be one (1) sectoral representative from the women, one (1) from the workers, and one (1) from any of the following sectors: the urban poor, indigenous cultural communities, disabled persons, or any other sector as may be determined by the *sanggunian* concerned within ninety (90) days prior to the holding of the next local elections, as may be provided for by law. The Comelec shall promulgate the rules and regulations to effectively provide for the election of such sectoral representatives.

93. Likewise, SEC. 386, *Requisites for Creation* – (a) A *barangay* (village) maybe created out of a contiguous territory which has a population of at least two thousand (2,000) inhabitants as certified by the National Statistics Office except in cities and municipalities within Metro Manila and other metropolitan political subdivisions or in highly urbanized cities where such territory shall have a certified population of at least five thousand (5,000) inhabitants. Provided that the creation thereof shall not reduce the population of the original *barangay* or *barangays* to less than the minimum requirement prescribed herein.

94. With respect to SEC. 399. *Lupong Tagapamayapa* (Local Adjudicators) – (f) In *barangays* (village) where majority of the inhabitants are members of indigenous cultural communities, local systems through their councils of *datus* or elders shall be recognized without prejudice to the applicable provisions of this Code.

95. Further, SEC. 412 (c). *Conciliation among members of indigenous cultural communities* – The customs and traditions of indigenous cultural communities shall be applied in settling disputes between members of the cultural communities.

96. With respect to gaining entry and becoming member of the uniformed services (police, jail, and fire personnel), the ICCs/IPs enjoy basically the same opportunities as any other qualified individual whether male or female.

97. The Philippine Public Safety College, the premier educational institution for the training, human resource development and continuing education of the police, fire and jail personnel, maintains nineteen (19) Regional Training Schools which cater to recruits living in the territories within particular region. Examples of such regional schools located in areas heavily populated by ICCs/IPs are: the Cordillera Administrative Region Training School (CARTS) at Teacher’s Camp, Baguio City; Regional Training School 2 (RTS2) at Cauayan, Isabela; Regional Training School 3 (RTS3) in Sto. Niño, Magalang, Pampanga; the Autonomous Region of Muslim Mindanao Training School (ARMMTS) at Camp Salipada K Pendatun, Parang, Maguindanao; and the Marawi Training School in Marawi City.

98. On the part of the Armed Forces of the Philippines (AFP), any applicant can gain entry into the different services, such as: Medical Corps, Nurse Corps, Dental Service, Chaplain Service, Judge Advocate General Service. Endorsements or backers are not necessary to gain appointments as cadet at the Philippine Military Academy.

99. There is nothing in the qualification and entry requirements of the above services that discriminate as to tribal or indigenous origin of persons applying.

100. There are quite a number of ICCs/IPs who are holding or have held various ranks and levels of responsibilities in the uniformed services in both the military and the police.

101. To enhance the delivery of basic services in the indigenous cultural communities, *barangays* may be created in such communities by an Act of Congress, notwithstanding the above requirement.

102. The Magna Carta of Women was passed by both houses of Congress on 19 and 20 May 2009.

103. The Magna Carta of Women is a comprehensive women's human rights law that seeks to eliminate discrimination against women by recognizing, protecting, fulfilling and promoting the rights of Filipino women, especially those in the marginalized sectors.

104. All rights in the Philippine Constitution and those rights recognized under international instruments duly signed and ratified by the Philippines, in consonance with Philippine laws shall be rights of women under the Magna Carta of Women. These rights shall be enjoyed without discrimination since the law prohibits discrimination against women, whether done by public and private entities or individuals.

105. Outside of the Bill of Rights, the Constitution also contains provisions on citizenship, right to suffrage, accountability of public officers, national economy and patrimony. Specific attention has been given in the Constitution to social justice, family, women, youth, labor, private sector, non-governmental, community-based and sectoral organizations, right to health, right to a balanced ecology, rural development and agrarian reform, indigenous cultural communities and human rights, *inter alia*.

106. The renewed commitment of the Government to human rights is also evident by the President's issuance of A.O. No. 163 issued on December 2006, expanding the membership and strengthens the role of the PHRC, which is tasked with the formulation of the National Human Rights Action Plan and the coordination of policies and actions of the Executive Branch on human rights.

107. Human Rights Offices have been established in the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) and the National Bureau of Investigation (NBI). Women and Children's Protection and Complaints Desks and Human Rights Desks in all police stations are now in place nationwide. There are also Indigenous People's Affairs Desk under the AFP in the General Headquarters down to the battalion level to address all IP's concerns.

108. Interagency councils dealing with various human rights concerns has also been set in place. These include the Inter-agency Council Against Trafficking (IACAT), Inter-agency Council on Violence Against Women and their Children (IAC-VAWC), Inter-agency Committee on Children Involved in Armed Conflict (IAC-CIAC) and the Juvenile Justice and Welfare Council (JJWC).

109. For complaints of human rights violations, effective remedies are available through judicial, administrative and legislative processes, including inquiries in aid of legislation, internal administrative disciplinary procedures in executive agencies, the police, and armed forces. Independent bodies such as the Ombudsman and CHRP also provide alternative procedures for complaints and redress.

110. There are growing initiatives in civil society to organize the community into a powerful and constructive force, both in demanding appropriate justice remedies and in contributing to the provision of justice remedies to strengthen human rights.

111. Civil society groups provide a variety of services affecting human rights, including community based legal services (through the Free Legal Assistance Group or FLAG, the Catholic Lawyers Guild, Integrated Bar of the Philippines, and St. Tomas Moore and Associates, among others); and community policing (through the Federation of PNP-Accredited NGOs or FAN under their community policing programs along specialized

areas of interest such as drugs, pornography, violence against women, etc). The role of an organized community is primarily that of providing assistance to demand justice remedies, restorative justice, community information and education, and community-based alternative dispute resolution.

112. The Constitution provides that, “The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good (Article XIII, Section 1).”

113. Consequently, the following statutes were enacted to bolster anti-discriminatory measures, viz:

(a) Republic Act 8425, otherwise known as the “Social Reform and Poverty Alleviation Act”;

(b) RA 9257 Expanded Senior Citizen’s Act of 2003 – For Senior citizens;

(c) RA 7877 Declaring Sexual Harassment Unlawful in the Employment, Education, or Training Environment and for Other Purposes (Anti-Sexual Harassment Act of 1995);

(d) RA 6725 An Act Strengthening the Prohibition on discrimination Against Women with Respect to Terms and Conditions of Employment, Amending for the Purpose Article One Hundred thirty-Five of the Labor Code, as Amended;

(e) RA 6955 An Act to Declare Unlawful the Practice of Matching for Marriage to Foreign Nationals on a Mail-Order Basis and for Other Similar Practices, Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefor;

(f) 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;

(g) RA 7322 An Act Increasing Maternity Benefits in Favor of Women Workers in the Private Sector, Amending for the Purpose Section 14-A of Republic Act 1161, as Amended, and for Other Purposes;

(h) 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;

(i) RA 9208 Anti-Trafficking in Persons Act of 2003 – For Women and children;

(j) RA 7277 An Act Providing for the Rehabilitation, Self-Development and Self- Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes (Magna Carta for Disabled Persons) – for persons with disabilities;

(k) RA 7279 An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establishing the Mechanism for its Implementation and for Other Purposes (Urban Development Housing Act of 1992) – for urban poor;

(l) RA 8042 An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of the Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes – for migrant workers;

(m) RA 9344, An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council under the Department

of Justice, Appropriating Funds Therefore and For Other Purposes, (Juvenile Justice and Welfare Act of 2006) – For children in conflict with the law;

(n) RA 9231 Elimination of the Worst Forms of Child Labor Act of 2003 – For children;

(o) RA 9255 An Act Allowing Illegitimate Children to Use the Surname of their Father – For children;

(p) RA 9262 Anti-Violence Against Women and their Children Act of 2004 – For women and children;

(q) Republic Act No. 7610, or “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”;

(r) RA 7309 An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes – For victims of unjust imprisonment/detention and victims of crimes;

(s) RA 7438 Defining Certain Rights of Persons, Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violations Thereof – For arrested persons/detainees;

(t) Republic Act No. 9500 – An Act to Strengthen the University of the Philippines as the National University. (The University of the Philippines Charter 2008) 29 April 2008;

(u) Republic Act No. 9502 – An Act Providing for Cheaper and Quality Medicines, Amending for the Purpose Republic Act No. 6675 or the Generics Act of 1988, and Republic Act No. 5921 or the Pharmacy Law, and for Other Purposes (Universally Accessible Cheaper and Quality Medicines Act of 2008) 06 June 2008;

(v) Republic Act No. 9504 – An Act Amending Sections 22, 24, 34, 35, 51 and 79 of Republic Act No. 8424, as Amended, Otherwise Known as the Internal Revenue Act of 1987;

(w) Republic 9512 – An Act to Promote Environmental Awareness through Environmental Education and for Other Purposes. (Environmental Awareness and Education Act of 2008) 12 December 2008;

(x) Republic Act No. 9521 – An Act Creating a National Book Development Trust Fund to Support Filipino Authorship. (National Book Development Trust Fund Act) 05 March 2009;

(y) Republic Act No. 9523 – An Act Requiring Certification of the Department of Social Welfare and Development (DSWD) to Declare a “Child Legally Available for Adoption” as a Prerequisite for Adoption Proceedings, Amending for this Purpose Certain Provisions of Republic Act No. 8043, Otherwise known as the Inter-country Adoption Code, Presidential Decree No. 603, and Youth Welfare Code, and for other Purposes, 12 March 2009;

(z) Republic Act No. 9647 – An Act Designating the Philippine Normal University as the Country’s National Center for Teacher Education, Appropriating Funds Therefor, and for other Purposes. (Philippine Normal University Modernization Act of 2009), 30 June 2009.

114. At the time of the preparation of this report, the Philippine Congress had passed the Magna Carta of Women (MCW) Act a comprehensive women’s human rights law that

seeks to eliminate discrimination against women by recognizing, respecting, protecting, fulfilling and promoting the rights of Filipino women, especially those in the marginalized sector. Chapter III of the said law identifies the State as the primary duty-bearer in its implementation. These duties shall extend to all state agencies, offices, and instrumentalities at all levels as well as government owned and controlled corporations. At the time of the preparation of this report, the Philippine congress was also in the final stages of enacting the following bills into law:

(a) Republic Act 9709 – An Act Establishing a Universal Newborn Hearing Screening Program for the Prevention, Early Diagnosis and Intervention of Hearing Loss. (Universal Newborn Hearing Screening and intervention Act of 2009) 12 August 2009;

(b) Republic Act no. 9745 – An Act Penalizing the Commission of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, Prescribing Penalties Therefor and for Other Purposes (Anti-Torture Act of 2009) 10 November 2009;

(c) Republic Act No. 9775 – An Act Defining the Crime of Child Pornography, Prescribing Penalties Therefor and for Other Purposes. (Anti-Child Pornography Act of 2009) 17 November 2009;

(d) Republic Act No. 9850 – An Act Declaring Arnis as the National Martial Art and Sport of the Philippines. 11 December 2009;

(e) Republic Act No. 9851 – An Act Defining and Penalizing Crimes Against International Humanitarian Law, Genocide and other Crimes Against Humanity, Organizing Jurisdiction, Designating Special Courts, and for Other Related Purposes. (Philippine Act on Crimes Against International Humanitarian law, Genocide and other Crimes Against Humanity). 11 December 2009;

(f) Republic Act 9858 – An Act Providing for the Legitimation of Children Born to Parents below Marrying Age, Amending for the Purpose the Family Code of the Philippines, as Amended (Legitimation of children born to minor/underage parents) 20 December 2009.

115. The establishment of a legal framework for the promotion of gender equality and women's rights is an imperative for the Philippines. The Women's Legislative Agenda occupies a position of primacy in the Philippine Congress. In keeping with this commitment, Senate Bill No. 2396 and House Bill No. 4273 providing for the Magna Carta of Women was finally consolidated and passed by the Philippine Senate and the House of Representatives on 19 May 2009 and 20 May 2009, respectively. The consolidated Magna Carta of Women (MCW) bill is a comprehensive women's human rights bill that seeks to eliminate discrimination against women by recognizing, respecting, protecting, fulfilling and promoting the rights of Filipino women, especially those in the marginalized sector. Chapter III of the said law identifies the State as the primary duty-bearer in its implementation. These duties shall extend to all state agencies, offices, and instrumentalities at all levels as well as government owned and controlled corporations.

116. The Philippine Government, through the Philippines Commission on Women (PCW) and other coordinate agencies and relevant stakeholders, is also working to develop and monitor indicators for the progressive realization of women's human rights.

117. In 2007, the PCW with support from the United Nations Population Fund (UNFPA) printed 1,500 copies each of the Violence Against Women (VAW) Performance Standards for local officials, police, social workers, health workers and prosecutors. These standards were developed (1) as a tool for direct service providers to respond effectively to cases of VAW, (2) as a means to gauge the level of compliance with national policies, (3) as basis for generating concrete data needed for program development and policy formulation, and (4) as advocacy tool for protecting women's human rights especially of VAW victims-

survivors. The standards specify what gender-responsive service to VAW victim entails using the following parameters: policy; physical facilities; personnel; services; monitoring; evaluation and research; information and advocacy; and resources.

118. Currently the Inter-Agency Committee on Gender Statistics composed of the Philippine Commission on Women, the country's statistical offices, statistical research and training center, education department, higher education commission, technical education and skills development authority, social welfare and development department, labor and employment department, trade and industry department, agriculture department, environment and natural resources department, interior and local government department, national police, foreign affairs department and the Women's Studies Association of the Philippines are developing statistics to monitor the progressive realization of women's human rights of women in the Philippines.

119. Both chambers of Congress have also included in their respective legislative agenda proposed laws designed to further address non-discrimination and are currently deliberating on the following proposed legislations, inter alia:

(a) House Bill (HB) 00162 entitled, "An Act granting the right of reply and providing penalties for violation thereof" – The bill guarantees the right of all persons to reply to all accusations and criticism aired or printed through the mass media;

(b) HB00253 entitled, "An Act authorizing organization and cooperatives of persons with disability duly registered with the Securities and Exchange Commission and the Department of Social Welfare and Development, to operate livelihood activities, booths or facilities in Government buildings and their premises for remunerative employment, and for other purposes" – The measure provides organizations and cooperatives of persons with disability the authority to operate livelihood facilities, activities, commercial booths and other related remunerative employment opportunities in government buildings and their premises;

(c) HB00326 entitled, "An Act defining and penalizing enforced or involuntary disappearance and for other purposes" – The salient features of the bill include the following, among others: (i) it adopts the United Nations definition of enforced or involuntary disappearance, (ii) it considers enforced or involuntary disappearance as a continuing offense, and (iii) it prescribes penal sanctions for enforced disappearance ranging from arresto mayor to reclusion perpetua;

(d) 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" – The bill defines and classifies torture into physical, mental or psychological torture. It also provides penalties for acts of torture;

(e) HB00921 entitled, "An Act providing compensation to victims of human rights violations during the Marcos regime, documentation of said violations, appropriating funds therefor, and for other purposes" – "Compensation Act to Victims of Human Rights Violations". The measure provides compensation to the victims of human rights violations and/or their families for the deaths, injuries, sufferings, deprivations and damages they suffered during the period from September 21, 1972 to February 25, 1986, and the continuing harm they have endured as a result of past abuses, including the economic dislocation or deprivation resulting more particularly from the extrajudicial killing or forced disappearance of the family breadwinner;

(f) HB00957 entitled, "An Act strengthening the Constitutional right of the people to free expression, peaceably assemble and petition the Government for redress of grievances" – "The Public Assembly Act of 2007". The bill provides that no other procedural or administrative requirement shall be imposed upon a person or persons

intending to organize and hold a public assembly in a public place except to give notice to the local chief executive having jurisdiction over the place. It clearly defines the role the police during rallies;

(g) HB00961 entitled, “An Act to strengthen Philippine commitment to human rights promotion and protection by establishing Human Rights Resource Centers throughout the country and for other purposes” – “Human Rights Resource Center Act of 2007”. The bill seeks to establish human rights resource centers that shall be tasked to integrate the promotion and protection of human rights in the implementation of the criminal justice system, in the conduct of local governance and in local law enforcement;

(h) HB00965 entitled, “An Act providing for reasonable compensation and benefits for the loss of lives, injuries and damages to property suffered by non-combatant individuals in the course of operations by the military, police and/or other law enforcement agencies and for other purposes” – The bill seeks to provide compensation to and rehabilitation of non-combatant individuals caught in the crossfire of operations by the military, police and/or other law enforcement agencies and their families and who suffered damage to property, physical injuries or death;

(i) HB00966 entitled, “An Act improving Philippine commitment to human rights promotion and protection by providing the necessary mechanisms for the prevention of the occurrence and protection from the adverse effects of internal displacement” – “Internal Displacement Act of 2007”. The bill seeks to recognize and respect the rights of citizens to be protected against enforced or involuntary displacement from his home or place of habitual residence, to receive humanitarian assistance, to be protected during displacement and to return to the safety of one’s home or to resettle;

(j) 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” – “Anti-Torture Act of 2007”. The bill seeks to declare torture as a criminal act. It defines the acts of physical torture, mental/psychological torture and pharmacological torture and provides penalties therefore;

(k) HB01128 entitled, “An Act requiring women’s and girls’ human rights awareness programs in media, providing incentives therefor and for other purposes” – “Women’s and Girls’ Human Rights Awareness Program in Media Act of 2003”. The measure requires all broadcasting networks to allot 15% of its daily total air time to the promotion, protection and advocacy of women’s and girls’ human rights, welfare, development and gender sensitivity and equality;

(l) HB01387 entitled, “An Act creating the Persons with Disabilities Affairs Office in every province, city and municipality, amending section 40 of Republic Act No. 7277, otherwise known as ‘An Act providing for the rehabilitation, self-development and self-reliance of disabled persons and their integration into the mainstream of society and for other purposes’” – To ensure that persons with disabilities enjoy the services provided under RA 7277, the bill mandates the establishment of a Persons with Disabilities Affairs Office in every province, city and municipality;

(m) HB02646 entitled, “An Act to ensure that older or disabled persons are protected from institutional, community and domestic violence and sexual assault and to improve outreach efforts and other services available to older or disabled persons victimized by such violence” – The bill directs the Department of Social Welfare and Development, in cooperation with non-governmental organizations, to formulate policies that develop, strengthen and implement programs for the prevention of abuses, including neglect and exploitation of older or disabled persons, and to provide related assistance to victims;

(n) HB04142 entitled, “An Act defining and penalizing enforced or involuntary disappearance and for other purposes” – Provides for penalties for the commission of enforced disappearance and for compensation and rehabilitation for the victims and their families;

(o) HB05183: “An Act providing a comprehensive program of support for victims of torture” – Seeks to provide victims of torture the following services, among others: (i) physical and psychological rehabilitation; and (ii) social and legal services;

(p) HB04779: “An Act granting free medical and hospitalization benefits to indigent Filipino women suffering from women’s diseases, illnesses and injuries due to violence inflicted on women, and for other purposes” – Requires all provincial and district hospitals to grant free medical and hospitalization benefits to indigent women suffering from women’s diseases as well as from illnesses and injuries due to violence and abuses;

(q) HB04749: “An Act amending section 40(d) of Republic Act No. 7160 also known as the Local Government Code of 1991, as amended” – Aims to clarify that the phrase “dual citizenship” refers to “dual allegiance”;

(r) HB04741: “An Act amending article 131 of Act No. 3815, also known as the Revised Penal Code, to uphold the right of residents to privacy from mass or concerted actions not directed to the public” – Prohibits the holding of a picket or petition before the residence or dwelling of a particular individual;

(s) HB04315: “An Act to prohibit and penalize the recording of private act or acts and other violations of the privacy of an individual, and for other purposes” – Aims to penalize the mere act of recording or any attempt of recording the private act/s, including but not limited to sexual act, and other violations of the privacy of an individual which would cause public ridicule, without the consent of the parties, and if there is consent in the recording, there is no assent to its sharing, showing or exhibition to other groups;

(t) HB04142: “An Act defining and penalizing enforced or involuntary disappearance and for other purposes” – Provides for penalties for the commission of enforced disappearance and for compensation and rehabilitation for the victims and their families;

(u) HB01420: “An Act strengthening the functional and structural organization of the Commission on Human Rights, appropriating funds therefor, and for other purposes.”;

(v) HB 1955: “An Act providing for a Magna Carta for workers in the informal economy, institutionalizing mechanisms for implementation thereof and for other purposes.”;

(w) HB01114: “An Act mandating compensation to victims of human rights violations during the entire period of martial law from September 21, 1972 to February 25, 1986 and appropriating funds therefor” – “Martial Law Victims Compensation Act of 2004”. The measure sets aside part of the recovered Marcos ill-gotten wealth for the victims of martial law. It provides for the compensation and manner of allocation of the compensation to the human rights violation victim. It creates the Commission for the Compensation and Recognition of Martial Law Victims and provides for the Commission’s powers and functions;

(x) HB01074: “An Act providing for the establishment of a Philippine Citizenship Identification System” – “Philippine Citizenship Identification System Act of 2001”. The bill requires all Filipino citizens, who have reached the age of majority, to secure a citizen’s ID from the Bureau of Immigration, which shall have the sole responsibility of issuing the ID;

(y) SB No. 22. An Act Protecting The Human Rights And Human Security Of The Filipino People, Strengthening The Organization And Expanding The Functions Of The Commission On Human Rights And Criminalizing Human Rights And Human Security Violations. This proposed Senate Bill is intended to strengthen the human rights mechanism in the Philippines; institutionalizes human security concepts as a principle for conflict and security management; seeks the eventual balancing of national security protection with human rights and human security concerns;

(z) SB No. 162. An Act To Provide Compensation, Reimbursement For Hospitalization Expenses, And Other Benefits, To Civilians Caught In The Crossfire Between Rebels And The Military, And For Other Purposes – Allocates funds which will be administered by the Commission of Human Rights to civilians who were caught in crossfire between military and rebels;

(aa) SB No. 264. An Act Penalizing Enforced Or Involuntary Disappearance And For Other Purposes – Defines the commission of the crime of enforced or involuntary disappearance and provides for its penalty and the liability; Provides for the restitution for victims of enforced or involuntary disappearance and rehabilitation for victims and his/her nearest kin;

(bb) SB No. 420. An Act Providing For Reasonable Compensation And Benefits For The Loss Of Lives, Injuries And Damages To Property Suffered By Non-Combatant Individuals In The Course Of Operations By The Military, Police And/Or Other Law Enforcement Agencies And For Other Purposes – Provides reasonable benefits to be given to non-combatant victims who suffered injury, loss of property and lives during military operations or enforcement agencies. Creates the Board of Compensation and Rehabilitation under the Commission on Human Rights;

(cc) SB No. 429. An Act Creating A Commission On Missing Persons – Creates a Commission on Missing Persons to conduct and solve cases of missing persons, to initiate policies and programs to prevent said incidence;

(dd) SB No. 514. The Public Assembly Act of 2007 – Includes efficient means in institutionalizing the creation of freedom parks in the entire archipelago. Rigid penalties will be implemented, such as, imprisonment ranging from 6 years and one day to 12 years or fine not less than 50,000 Pesos but would not be more than 100,000 Pesos or both at the discretion of the court. This will be applied to both private and public employee;

(ee) SB No. 524. An Act Imposing An Additional Penalty On All Persons Who Shall Thereafter Coerce, Inflict Injury Or Kill Any Bonafide Member Of The Media In The Course Of Or In The Performance Of His Or Her Duties – Imposes a penalty of 10 years imprisonment to be imposed upon a person who shall thereafter coerce, intimidate, inflict injury or kill any bonafide member of the media in the performance of its duties;

(ff) SB No. 538. An Act Qualifying The Killing Of Members Of Broadcast And Print Media On The Occasion Of The Exercise Of Their Functions As Such, As A Crime Of Murder Punishable Under Article 248 Of The Revised Penal Code, As Amended – Qualifies the killing of broadcast and print media members as murder and imposes the penalty under Article 248 of the same code;

(gg) SB No. 548. An Act Protecting The Rights Of Children Who Are Victims Of Crime And Establishing A Victim's Bill Of Rights For Children – Protects the rights and welfare of children by adopting certain guidelines for the protection of children who are victims of abuse and crime;

(hh) SB No. 583. An Act Defining And Penalizing Crimes Against International Humanitarian Law, Adopting Corresponding Principles Of Criminal Responsibility, Operationalizing Universal Jurisdiction, Designating Special Courts, And For Related

Purposes – Intended to adopt the option of specific criminalization of offenses laid down in the IHL treaties;

(ii) SB No. 601. An Act To Improve The Administration Of Justice By Decriminalizing Certain Felonies Under The Revised Penal Code And Providing For The Imposition Of Alternative Penalties Short Of Deprivation Of Liberty And For Certain Offenses – Intended to decriminalize several offenses such as (1) Simple disobedience to an agent of a person in authority, (2) alarms and scandals except those committed inside public buildings, churches and Schools, (3) vagrancy, (4) refusal of assistance, (5) refusal to discharge elective office and (6) premature marriages;

(jj) SB No. 728. An Act Prescribing Stricter Penalties On The Crime Of Delivering Prisoners From Jail And Infidelity In The Custody Of Prisoners, Amending For The Purpose Articles 156, 223 And 224 Of Republic Act No. 3815, As Amended, Otherwise Known As The Revised Penal Code, And For Other Purposes – Intended to impose stricter penalties for the transfer of prisoners without any court order, providing privileged treatment to certain prisoners and “unauthorized” employment of prisoners. It also provides corrective measures such as periodic and systematic inventory of all prisoners and the provision for prison labor only insofar as the judgment of conviction so specifies;

(kk) SB No. 738. An Act Prohibiting The Public Display Of Persons Arrested, Accused Or Under Custodial Investigation In A Degrading Manner, Amending For The Purpose Sections 2 And 4 Of Republic Act No 7438, Entitled An Act Defining Certain Rights Of Persons Arrested, Detained Or Under Custodial Investigation As Well As The Duties Of The Arresting, Detaining And Investigating Officers, And Providing Penalties For Violations Thereof – Provides that any arresting officer, employee, or any investigating officer who fails to inform an arrested, detained or under custodial investigation of his right to remain silent and to have a competent and independent counsel preferably of his own choice, shall suffer a fine of 6,000 pesos and imprisonment of not less than 8 years but not more than 10 years or both. Perpetual absolute disqualification shall also be imposed upon the investigating officer;

(ll) SB No. 928. An Act Qualifying The Killing Of Members Of Broadcast And Print Media In The Lawful Exercise Of Their Functions As Such, As A Crime Of Murder Punishable Under Article 248 Of The Revised Penal Code, As Amended – Qualifies the killing of members of broadcast and print media in the performance of their duties as a crime of murder to protect them on the occasion of the lawful exercise of their functions;

(mm) SB No. 949. An Act To Ensure The Fair And Equal Treatment Of Prisoners, Amending For That Purpose Articles 39, 94, 97, And 99 Of Act No. 3815, As Amended, The Revised Penal Code, And For Other Purposes – Grants good conduct time allowance to prisoners, adjustment to the subsidiary penalty of convicts with no property; Empowers city and provincial wardens to confer, if justified, good conduct time allowance to prisoners;

(nn) SB No. 1160. An Act To Strengthen Philippine Commitment To Human Rights Promotion And Protection By Establishing Human Rights Resource Centers Throughout The Country And For Other Purposes – Establishes Human Rights Resource Centers throughout the country to integrate the promotion and protection of human rights in the implementation of the criminal justice system, in the conduct of local governance and in local law enforcement;

(oo) SB No. 1244. An Act Amending Sections 4 And 9 Of Republic Act No. 7309, Entitled An Act Creating A Board Of Claims Under The Department Of Justice For Victims Of Unjust Imprisonment Or Detention And Victims Of Violent Crimes And For Other Purposes – Adjusts the award ceiling for victims of unjust imprisonment or detention to not more than P3,000. The Board may approve and award a maximum of not more than P20,000 for a claimant for expenses such as hospitalization, loss of wage, etc.;

(pp) SB No. 1248. An Act Providing For A Pre-Trial Release For The Accused, Creating For The Purpose The Pre-Trial Release Office (PTRO), Appropriating Funds Therefor, And For Other Purposes – Establishes a Pre-Trial Release (PTR) programs for all persons arrested and charged with a crime, except those charged with heinous crimes; Creates of a Pre-Trial Release Office under the DOJ, to be headed by an executive Director;

(qq) SB No. 1307. An Act Defining And Penalizing Enforced Or Involuntary Disappearance And For Other Purposes – Defines the commission of the crime of enforced or involuntary disappearance and provides for its penalty and the liability; Provides for the restitution for victims of enforced or involuntary disappearance and rehabilitation for victims and his/her nearest kin;

(rr) SB No. 1327. An Act To Combat The Crime Of International Trafficking And To Protect The Rights Of Victims – Establishes an Inter-Agency Task Force to Monitor and Combat Trafficking;

(ss) SB No. 1446. An Act Defining And Penalizing Crimes Against International Humanitarian Law And Other Serious International Crimes, Operationalizing Universal Jurisdiction, Designating Special Courts, And For Related Purposes – Identifies, defines and penalizes the most serious crimes of international concern such as war crimes, genocide and crimes against humanity; Provides for the protection for victims and witnesses; defines Jurisdiction of Philippine courts;

(tt) SB No. 1480. An Act Improving Philippine Commitment To Human Rights Promotion And Protection By Providing The Necessary Mechanisms For The Prevention Of The Occurrence And Protection From The Adverse Effects Of Internal Displacement And For Other Purposes – Establishes a guideline to localize the guiding principles of internal displacement set forth by the United Nations and mechanism to support victims of internal displacement in armed conflict;

(uu) SB No. 1489. An Act Defining And Penalizing The Crime Of Enforced Or Involuntary Disappearance – Defines and penalizes the crime of enforced or involuntary disappearance; Establishes of a mechanism for protection and deterrence of said crime;

(vv) SB No. 1542. An Act Defining And Penalizing Crimes Against International Humanitarian Law And Other Serious International Crimes, Operationalizing Universal Jurisdiction, Designating Special Courts, And For Other Purposes – Identifies, defines and penalizes the most serious crimes of international concern such as war crimes, genocide and crimes against humanity; Provides for the protection for victims and witnesses; Defines jurisdiction of Philippine courts;

(ww) SB No. 1589. An Act Prohibiting The Presentation To The Public Or Media Of Suspects Prior To The Filing Of Formal Charges Against Them – Provides that the presentation of suspects to the media before formal charges be held criminally and civilly liable with penalty of imprisonment from 1 to 5 years and/or a fine of P20,000;

(xx) SB No. 1599. An Act Prohibiting The Presentation To The Public Or Media Of Suspects Prior To The Filing Of Formal Charges Against Them – Provides that presentation of suspects to the media before formal charges to be held criminally and civilly liable with penalty of imprisonment from 1 to 5 years and/or a fine of P20,000;

(yy) SB No. 1709. An Act Creating The Missing Persons Council, Prescribing Its Powers, Functions And Duties And Providing Funds Therefore – Creates a Missing Persons Council which shall, among others, formulate and adopt plans, programs and measures to prevent and combat the cases of missing persons in the country and investigate such cases;

(zz) SB No. 1848. An Act Providing A Comprehensive Program Of Support For Victims Of Torture – Establishes of a comprehensive program of support for victims of

Torture which shall include prohibition on involuntary return of persons fearing subjection to torture and assistance for treatment of torture victims;

(aaa) SB No. 1900. An Act Defining The Liability Of Heads Of Departments Concerned For Gross Violations Of Human Rights Committed By Members Of The Philippine National Police Or Other Law Enforcement Agencies – Provides that the principle of command responsibility shall apply to human rights violations committed by members of the Philippine National Police (PNP) or other law enforcement agencies making the superiors of the offenders, extending to the level of the heads of department concerned jointly liable with the offending officers for purposes of criminal prosecution;

(bbb) SB No. 1999. An Act Amending Republic Act No. 6981 Otherwise Known As The “Witness Protection, Security And Benefit Act” And For Other Purposes – Amends RA 6981 by entitling witness admitted to the program of the following benefits: (1) hospitalization benefits while in the safehouse; (2) free public education to minor or dependent children;

(ccc) SB No. 2081. An Act Amending Republic Act No. 6981 Otherwise Known As An Act Providing For A Witness Protection, Security And Benefit Program And For Other Purposes. – Provides a witness protection and security and benefit program aid for witnesses and or resource persons who attend legislative investigations;

(ddd) SB No. 2107. An Act Defining And Penalizing Enforced Or Involuntary Disappearance – Defines and penalizes enforced or involuntary disappearances. This bill is a Senate counterpart bill to the one filed by Rep. Edcel C. Lagman of the House of Representatives;

(eee) SB No. 2124. An Act To Provide Uniform Requirements And/Or Procedure For Making Arrest And Other Purposes – Provides uniform requirements and procedure for making arrest; defines the parameters of a valid arrest, and prescribe a clear penalty for any violation of the provisions;

(fff) SB No. 2159. An Act Adopting The Doctrine Of “Superior Responsibility” To All Actions Involving Military Personnel, Members Of The Philippine National Police and Other Civilians Involved In Law Enforcement – Adopts the doctrine of “Superior Responsibility” to all actions involving military personnel, members of the Philippine National Police and other civilians involved in law enforcement;

(ggg) SB No. 2193. An Act Qualifying Salvaging Or Extrajudicial Killing By Any Public Officer, Person In Authority Or Agent Of A Person In Authority As A Heinous Crime, Imposing The Death Penalty Therefor And For Other Purposes – Qualifies salvaging or extrajudicial killing by any public officer, person in authority as a heinous crime, imposing the death penalty therefore;

(hhh) SB No. 2330. An Act Strengthening The Independence Of The Commission On Human Rights, Amending For The Purpose, Sections 1 And 5 of Executive Order No. 163 – Strengthens the Commission on Human Rights by the Constitution of a Nominations Committee that will screen applicants / aspirants to the Commission and submit a short list of nominees to the President; appointment of the Chairman and members of the Commission on a staggered basis and the grant of full fiscal autonomy to the Commission;

(iii) SB No. 2578. An Act Defining And Penalizing Enforced Or Involuntary Disappearance – Defines and penalizes enforced involuntary disappearance;

(jjj) SB No. 2589. An Act Defining And Penalizing Crimes Against International Humanitarian Law And Other Serious International Crimes, Operationalizing Universal Jurisdiction, Designating Special Courts, And For Other Purposes – Defines and penalizes crimes against International Humanitarian Law;

(kkk) SB No. 2605. An Act Improving Philippine Commitment To Human Rights Promotion And Protection By Providing The Necessary Mechanisms For The Prevention Of The Occurrence And Protection From The Adverse Effects Of Internal Displacement And For Other Purposes – Improves Philippine commitment to Human Rights Promotion and protection by providing the necessary mechanisms for the prevention of the occurrence and protection from the adverse effects of internal displacement.

### **Article 3**

#### **Equal rights of men and women**

120. The Philippines reiterates the various information under this item, which had already been given in the previous reports.

121. The Philippines has made progress in closing the gender gap as it ranked 6th among 128 countries in the 2007 Global Gender Gap Report published by the World Economic Forum (WEF). This index was developed measuring four categories – economic participation and opportunity, educational attainment, political participation, and health and survival.

122. Filipino women have higher voter turnout rate and are winning in elections.

123. In 2007 election, there were 4 women (10.8%) out of 37 senatorial candidates; only 1 entered the top 12 winning senators. In 2004, there were 10 (20.8%) out of 48 candidates of which 3 (25%) were elected senators.

124. In the House of Representatives (HOR), there were 51 women (21.25%) elected Representatives out of 240 seats in 2007. It is higher than the 37 (15.74%) elected women Representatives out of 235 seats in 2004 election.

125. Also in 2007, 21 Party-list Representatives were given seats; 6 (28.57%) were women representing women's organization. In 2004, there were 4 (17.39%) women out of 23 elected Party-list Representatives.

126. There were 18 (22.5%) elected Lady Governors and 13 (16%) Lady Vice Governors in 2007 election out of 81 provinces.

127. Elected Lady Board members in 2007 were 123 (16.2%) out of 758 Board members nationwide.

128. Out of 1,630 elected Mayors in 2007, 285 (17.5%) were women and out of 1,592 proclaimed Vice Mayors, 230 (14.4%) were also women.

129. Lady Councilors in 2007 were only 2,322 out of 13,098 proclaimed Councilors.

130. The Philippine judiciary has been continuously dominated by men over the years, although the percentage of Lady Judges in the 1<sup>st</sup> and 2<sup>nd</sup> level courts including the Shari'a courts have increased from 19.6% in 2001 to 26.4% in 2004.

131. In December 2007, there were five (5) women justices out of 15 justices in the Supreme Court. However, one of these women justices has retired and has already been replaced by a man. Two more justices are expected to retire by the end of 2009.

132. As of 2004, there were 162,925 (43.61%) women in the bureaucracy for the 1<sup>st</sup> level position; 603,312 (65.14%) for the 2<sup>nd</sup> level; 3,440 (36.67%) for the 3<sup>rd</sup> level; and 2,724 (39.04%) for the non-executive career positions.

133. The Philippines has a long tradition of women's participatory inclusion and empowerment, in both public and private sectors. Women are well represented in all three branches of government (two presidents have been women) and are also in the police and

armed services. Landmark legislation on women, include the Women in Development and Nation-building Act, Magna Carta for Women, laws promoting the greater participation of women in the economy, and laws addressing violence against women and children.

134. For 33 years, the Philippine Commission on Women (PCW) 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.

135. 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.

136. The PCW and the Office of the Presidential Advisers on Peace Process (OPAPP) have held joint workshops to forge cooperation among stakeholders in recognizing issues and promoting initiatives concerning gender and peace. The National Commission on the Role of Filipino Women (NCRFW) co-organized with civil society groups a workshop on United Nations Security Council resolution 1325 on women, peace and security geared towards the formulation of a national action plan to implement the resolution.

137. With the improved performance of women in formal education, greater attention is now being focused in expanding job options of women through technical-vocational training and non-formal education programs that are implemented by government agencies and NGOs. In the last decade, Filipino women have become increasingly active as men in realizing their economic rights, while being assisted with their childcare and other family responsibilities. They are in all kinds of employment in formal or informal work settings here and abroad. The last decade had seen an increase in the number of women in the labor force with 49% of all women working compared to 79% of men.

138. Filipino women almost equal men in numbers as workers overseas. There had also been a rising percentage of women in management and economic decision-making positions.

139. Credit programs have reached over a million women in urban and rural areas, including women operating small and medium enterprises. In March 2007, the President instructed concerned agencies to work with cooperatives and NGOs to provide wider access to micro-finance funds for women, and instructed the Philippine Credit and Finance Corporation (PCFC) to make micro-finance available to women in government.

140. The Self-Employment Assistance Kaunlaran (SEA-K), a capability-building program of DSWD is designed to improve the socio-economic skills of economically active poor to establish and self-manage a sustainable community-based credit organization for entrepreneurial development. Many beneficiaries of the program and members of SEA-K associations are women. From CY 2004 until 2008, 11,768, SEA-K associations were organized nationwide benefiting 116,044 families under SEA-K Level I whereas under SEA-K Level II, 136 Kabayans comprising of 6,681 families were provided with a higher level of entrepreneurial skills training and seed capital for micro enterprise; and repairs/construction of shelter units. For CY 2008, SEA-K projects were undertaken by 28,307 women beneficiaries.

141. Landmark laws to eliminate violence against women, such as sexual harassment, rape, trafficking in persons, and domestic violence have been passed. The delivery of government and NGO programs aimed at preventing violence against women has benefited a considerable number of VAW survivors. Performance standards for gender-responsive handling of VAW cases by local officials, police, social workers, health workers, and prosecutors have been developed.

142. The DSWD issued related administrative guidelines which include adoption and implementation of the assessment tool entitled “Standards in the Implementation of Psycho-Social Services to Women Victims-Survivors of Violence and Their Children in Center and Residential Facilities”. A manual on “Gender-Responsive VAWC Case Management” was also developed.

143. In stipulating social technologies for the elimination of VAW, the DSWD also developed the “Community-Based Rehabilitation Program for Perpetrators of Domestic Violence” as a rehabilitation project for male perpetrators of violence. It is a provision of treatment modalities in order to correct the perpetrator’s behavior and restore his social functioning. This include profiling of perpetrators; capacity building of implementers; organization of a men’s support group and; delivery of rehabilitation services such as counseling, sessions on psycho-therapy, and family healing.

144. 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.

145. The Inter-agency Council Against Trafficking (IACAT) monitors and oversees the full implementation of the anti-trafficking in persons law and coordinates the programs of various member agencies to effectively address the issues and problems attendant to trafficking in persons.

146. In 2008, the Anti-Human Trafficking Division (AHTRAD) of the NBI received 130 complaints; 112 are still pending investigation in their office, 7 cases were filed before the prosecutors’ office, and 11 cases were either terminated or closed. For the same period, the PNP received a total of 55 TIP cases; of the total, 37 cases were filed before the prosecutors’ office; and 18 were filed in court. From 2003 to 2008, the National Prosecution Service at the Department of Justice (DOJ) and its local offices received a total of 577 cases, broken down as follows:

Pending preliminary investigation (PI)	150
Dismissed on PI	70
Filed in court (RA 9208)	357

To date, there are a total of 16 convictions for violation of the Anti-Trafficking Law of 2003.

147. The programs of the IACAT can be categorized into three groups: (1) prevention, (2) protection, and (3) recovery and reintegration programs.

(a) Measures to enhance prevention of TIP:

(i) **Case Tracking** – The IACAT, with the support of UNICEF, has commenced the development of a comprehensive database that will unify all the data maintained by different government agencies. A standard reporting format was developed using the forms currently used by the DSWD, Philippine National Police (PNP), National

Bureau of Investigation (NBI) and the Department of Justice (DOJ). The database for law enforcers (PNP & NBI) and prosecution (DOJ) is designed to be linked to the existing database of the DSWD on Recovery and Reintegration of Victims of TIP.

(ii) **Model Local Ordinance Against Trafficking in Persons** – Existing Anti-Trafficking Ordinances from all over the country were gathered and analyzed in order to *come* up with a model that showcases the essential features of a good anti-trafficking ordinance. The model ordinance supplements the anti-trafficking law. For instance, it penalizes acts, which are within the city and municipality’s power to regulate, not otherwise penalize in the anti-trafficking law. The ordinance was distributed to the city and municipal mayors during the 2008 Annual Conference League of Mayors. The model local ordinance project was supported by the Asia Foundation.

(iii) **Training of Prosecutors, Law Enforcers and Members of Task Forces in Airports** – The IACAT, in partnership with NGOs conducts trainings of prosecutors on R.A. No. 9208 all over the country. The prosecutors were trained on the Local and Global Dimensions of Trafficking in Persons, the salient provisions of the law, the national situation of trafficking, gender- and child-friendly handling of trafficking cases, and preparing information. For the year 2009 and later part of 2008, training of Prosecutors was conducted in the CARAGA Region, Region X and the NCR.

(iv) **Information Dissemination and Preventing the Incidence of Trafficking** – Information drives and community awareness campaigns remain to be the most effective tool in the prevention of trafficking. By educating potential victims on the law and the various modus operandi and informing them on the dangers of trafficking we hope to stop traffickers dead on their tracks.

a. **“We are not for sale” Campaign** – The campaign was initiated by the IACAT due to the alarming increasing reports of collusion between traffickers and immigration officers. Two dialogues were held in NAIA and Clark, Pampanga. It is a dialogue between immigration officers and victims of trafficking. The victims narrated how they were able to by-pass the rigorous inspection in the international airports, through the “assistance” of unscrupulous immigration officers upon the instruction of their “recruiters”. By reason of the said campaign some of the victim-speakers were able to identify two (2) immigration officers who they claim worked with their “recruiters”. These immigration officers are now facing administrative and criminal charges.

b. **Conferences on Anti-Trafficking in Persons** – The 1<sup>st</sup> National Conference Against Trafficking in Persons was held on September 2006, while a Series of Sub-National Conferences on Anti-Trafficking in Persons were held in the three major island groups of the Philippines, namely: Luzon: December 11–12, 2007, in Manila, and in Cebu City for Visayas; and in Davao City Mindanao both last November 2007.

c. **Filipino Initiative Against Trafficking (FIAT)** – FIAT is a series of activities aimed to raise public awareness about trafficking in persons. It is conducted in selected areas nationwide. Activities include, Roadshows, training of prosecutors, law enforcers and social workers, press Conferences, coordination meetings with the local government units and creation of Local Inter-Agency Committee Against Trafficking.

d. **Organization of Regional and Local Inter-Agency Committee on Trafficking in Person and Violence Against Women and their Children (RIACAT-VAWC);**

DSWD organized the following committees:

- e. 17 RIACAT-VAWC;
- f. 25 Provincial Inter-Agency Committees on Anti-Trafficking and Violence Against Women and Children (PIACAT-VAWC);
- g. 19 City Inter-Agency Committees on Anti-Trafficking and Violence Against Women (CIACAT-VAWC);
- h. 63 Municipal Inter-Agency Committees on Anti-Trafficking and Violence Against Women and Children (MIACAT-VAWC).

(v) **18-Day Campaign to Stop Violence Against Women** – December 12 has been recognized worldwide as the Annual Commemoration of the International Day Against Child Trafficking. The Philippines officially joined the whole world in commemorating the annual event through a series of awareness campaign throughout the country, which runs now from November 24 to December 12 of each year.

(vi) Reproduction and distribution of Information, Education and Communication (IEC) Materials have been a continuing activities of IACAT, though the support of our partners. Copies of RA 9208, the Manual on the Law Enforcement and Prosecution of Trafficking in Persons Cases, Policy Handbook on TIP and the Philippine Guidelines for the Protection of the Rights of Trafficked Children are being disseminated by the IACAT throughout the country.

(b) Measures to enhance protection of trafficking in persons (TIP) victims:

(i) **Preferential entitlement to the witness Protection Program** – Section 18 of Anti-Trafficking in Persons Act of 2003 grants trafficked persons preferential entitlement under the Witness Protection, Security and Benefit Program established under R. A. 6981. Benefits include security protection, immunity from prosecution, financial assistance, housing facility, travelling expenses, subsistence allowance, medical treatment, assistance in obtaining livelihood, security from removal or demotion in work due to absences caused by being witnesses and in case of the death, burial benefits and free education to minor children.

(ii) **DOJ National Task Force and NAIA Task Force Against Trafficking** – The DOJ National Task Force on Anti-TIP are composed of more than 80 prosecutors of the DOJ who were specially trained to handle TIP cases. Most of them have undergone first and second level training in the investigation and prosecution of TIP cases.

(iii) **Manual on the Law Enforcement and Prosecution of Trafficking in Persons Cases** – The Manual 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. Following its adoption by the IACAT members and some updates, the Manual is being disseminated and currently used in the trainings of prosecutors and law enforcers.

(iv) **Implementing Rules and Regulation for Organ Trafficking** – Due to alarming reports of abuse and exploitation of organ “donors”, most of them are poor and unemployed, the IRR on Organ Trafficking was created by the Department of

Justice (DOJ) and DSWD, both members of the IACAT, and the Department of Health (DOH), with the assistance of medical associations and practitioners in the Philippines.

The IRR set out the standards to ensure that organ donors do not become victims of trafficking and at the same time protect legitimate organ donation. The IRR was published last June 6, 2009 and took effect on June 21, 2009 or 15 days after its publication.

(v) **Ninoy Aquino International Airport Task Force Against Trafficking** – On August 5, 2008, a joint rescue operation was conducted by the Ninoy Aquino International Airport (NAIA) Task Force Against Trafficking in Persons, and the Office of the Vice-President, in coordination with the PNP-AVSEG Group, PNP-CIDG, PNP R-2-NCRPO, NBI-NAIA, NBI-ATHRAD, PIID-APD, IJM and VFFI, resulting to the successful rescue of thirty six (36) persons, twenty (20) of whom are minors, from the holding center of the recruitment agency located at Maharlika Village, Taguig, Metro Manila, all of whom are females and allegedly being trafficked as overseas workers in Saudi Arabia. The NAIA Task Force assisted a total of 37 trafficked victims coming from Malaysia, Kuwait, Nigeria, Jeddah, Saudi Arabia and Syria. Twenty four (24) of the said victims filed a complaint with the PNP and NBI.

(vi) **Standard Operating Procedures for Task Forces Against Trafficking in Persons in International Airports.** International airports are seen as the last staging area for trafficking at source and transit areas prior to final destination. Reports indicate that airports are still the preferred exit point for trafficking in persons. The rise of budget airlines and promo fares also contribute to the thriving of international trafficking in persons. The manual focuses on the detection and investigation of trafficking in persons cases at airports. It contains specific guidelines to aid the Task Force Against Trafficking in its anti-trafficking operations, such as intelligence, surveillance and monitoring; arrest of traffickers; interception of trafficked persons; investigation and filing of cases; victim protection and assistance; information exchange; among others.

(vii) **The Philippine Guidelines for the Protection of the Rights of Trafficked Children** – was conceptualized to improve the manner by which cases of trafficked children are handled. It provides the minimum standards for service providers in the treatment of trafficked children, specifically in interviewing child-victim of trafficking. Training and distribution of the guidelines is on-going. With ECPAT Philippines as the lead organization.

The National Commission on the Role of the Filipino Women (NCRFW) is spearheading the drafting of a similar set of Guidelines to promote the human rights of trafficked women and ensure that institutional mechanisms and processes are established for their protection.

(viii) **Performance Standards in Handling Violence Against Women (VAW) Cases** – In coordination with selected agencies, the NCRFW developed the Performance Standards in Handling VAW cases, as a benchmark and assessment tool. The Standards aim to strengthen the implementation of existing national laws on VAW, particularly the Anti-Trafficking in Persons Act and the Anti- Violence Against Women and Their Children Act. The standards guide service providers in the effective and gender-responsive delivery of VAW-related services for victim-survivors of VAW.

(c) Recovery and reintegration measures – With the Department of Social Welfare and development (DSWD) at the helm, the recovery and reintegration of victims-survivors of trafficking are addressed through the following measures and programs:

(i) **Residential care and protective services to trafficked women and children** – There are 44 residential care units and temporary shelters currently maintained by the DSWD.

(ii) **Recovery and Reintegration Program for Victims-Survivors of Trafficking** – This focuses on the healing, recovery and reintegration of victims-survivors of trafficking through psychosocial interventions and protective services.

(iii) **Systems, Tools and Capacity Development for Economic and Social Empowerment of Returned Victims of Trafficking in the Philippines** – This allowed the development of indicators on recovery and reintegration; the establishment of a referral system and; the installation of data management system on the recovery and reintegration of trafficked persons.

(iv) **International Social Welfare Services for Filipino Nationals** – In coordination with the **Department** of Foreign Affairs (DFA), Department of Labor and Employment (DOLE), other member agencies of the “one-country team” and International NGOs, this institutionalizes a system of providing social welfare services to Filipinos in a foreign country.

Since CY 2002, DSWD has been deploying social welfare attachés to Malaysia. Social welfare attachés provide psychosocial interventions and comprehensive social welfare services for the protection and recovery of the Overseas Filipino Workers (OFWs) and other Filipino nationals in crisis situation. There have also been social workers deployed to Japan and Hong Kong for internship to the International Social Service (ISS). This is part of an international cooperation of DSWD with ISS Japan and Hong Kong to provide assistance in the management of cases of OFWs and adoption at the same time develop necessary skills of the social workers on case management and networking. However, starting in CY 2003, the Department only sent social workers to ISS-Japan.

For CY 2008, 15,130 deportees from Malaysia were assisted among others, 177 of which were victims of human trafficking and distressed OFWs. Meanwhile, 175 cases of repatriation, report of birth adoption and others were served in Japan. In Hong Kong, 1,596 were served in CY 2006. Other cases served were violation of immigration law, and illegal fishing to name a few. Clients were provided with social integration, counseling, critical incident stress debriefing (CISD), focused group discussion, regular conduct of Jail/Deportation Center visit, issuance of travel document for immediate deportation/repatriation, networking, transportation, food and shelter, and medical assistance.

The Department will expand its undertakings through the deployment of social welfare attachés to Riyadh, Saudi Arabia and Amman, Jordan in CY 2009.

148. The PCW 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 Security Council resolution 1325 on women, peace and security geared towards the formulation of a national action plan to implement the resolution.

149. Just recently, the PCW facilitated the creation of Men Opposed to Violence Against Women Everywhere or MOVE. MOVE seeks to: (a) speak out against Violence Against Women (VAW); (b) examine, propose and formulate total male involvement and actions in

the elimination of VAW; (c) form partnerships and linkages with similar groups working on VAW, locally and internationally; (d) organize and conduct researches, studies and fora in recognition of the social effects of VAW for policy and program development; and e) establish resource network on VAW.

#### **Article 4**

##### **Non-derogation of rights**

150. The Philippine Government wishes to reiterate the information provided in the previous Reports.

#### **Article 5**

##### **Prohibition of limited interpretation of rights**

151. The Philippine Government wishes to reiterate the information provided in the previous reports.

#### **Article 6**

##### **Right to life**

152. The Philippines, in testimony of its firm commitment to the value and sanctity of human life, and in the belief that the defense of life is strengthened by eliminating the exercise of judicial authorization to take life, abolished the death penalty and actively campaigned towards its abolition worldwide.

153. On 7 June 2006, President Gloria Macapagal-Arroyo signed Republic Act No. 9346 entitled, "An Act Prohibiting the Imposition of the Death Penalty."

154. On 22 September 2006, the Philippines signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death Penalty ("Second Optional Protocol"). The President signed the instrument of ratification of the Second Optional Protocol, which was deposited with the United Nations in line with the provisions of the Protocol.

155. With the signing of the Second Optional Protocol, the Philippine Government reemphasized its unrelenting commitment to strengthen the protection of human rights by co-sponsoring and co-authoring the United Nations resolution on the Global Moratorium on Executions and/or Abolition of the Death Penalty during the 62<sup>nd</sup> and 63<sup>rd</sup> General Assembly.

156. The Philippine government has taken firm measures to address the problem of unexplained killings and enforced disappearances. Addressing this most urgent concern, by bringing their perpetrators to justice and preventing such killings in future, remains a priority of Government.

157. Due to a coordinated, multi-agency approach both by the Government and civil society there has been 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 for both 2007 and 2008.

158. In 2006, the President of the Philippines established the independent Melo Commission to investigate activist and media killings. The recommendations of the Melo Commission and other measures, were adopted and operationalized by the Executive Branch as well as the Legislature and the Judiciary, notably:

(a) On May 13, 2006, Task Force *Usig* (Task Force Prosecution) was formed under the PNP to immediately investigate unexplained killings. As of October 2009, the PNP has already filed 94 cases against suspects in the killings of 155 political activists and journalists;

(b) On March 27, 2007, Task Force of Prosecutors on Human Rights and Extrajudicial Killings was created to handle the inquest, preliminary investigation and prosecution of cases of alleged political killings under Department of Justice Order No. 257;

(c) Issuance of Administrative Order No. 181 on 03 July 2007 by President Gloria Macapagal-Arroyo 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;

(d) In October 2007, the President ordered the PNP and the AFP to take active steps to prevent human rights violations by men in uniform. This includes instructions and training designed to reiterate to all PNP and AFP personnel that human rights abuses will not be tolerated;

(e) In November 2007, the President issued A.O. 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.

(i) Among the major accomplishments of TF 211 are the following:

a. Convictions of:

i. Joel Flores (killer of Bayan Muna Secretary General Jose Doton);

ii. Rafael Cardeno (principal in the murder of Young Officer Union speaker Baron Cervantes); and

iii. Joy "Tungol" Anticamara (killer of broadcaster Armando Pace).

(ii) Speedy resolution of four (4) cases of media killing (accomplished in an average of less than two (2) weeks or an average of nine and a half (1/2) working days).

TF 211 was instrumental in the early and successful resolution of the following media killings in 2008:

a. Bert Sison;

b. Dennis Cuesta;

c. Martin Roxas; and

d. Arecio Padrigao.

(iii) Facilitated the prompt resolution of case under preliminary investigation pending with different prosecution offices nationwide; it continuously monitors more than 200 cases of extralegal killings;

(iv) Reevaluation of cold cases;

(v) Paved the way for the surrender of a local chief executive (Mayor Alfredo Arcenio of Lezo Aklan), who is the primary suspect in the killing of DYIN station manager and commentator Herson "Bombo Boy" Hinolan;

(vi) Filed charges and cause the issuance of arrest warrants in the Marlene Esperat case.

159. In strengthening the witness protection program and creating a team of prosecutors to handle such cases, President Arroyo has certified as urgent before Congress legislation to strengthen the Witness Protection Program. Other legislation that the President has certified as urgent includes the imposition of harsher penalties on persons who commit political killings, and imposing the harshest penalties on persons in uniform who commit such killings.

160. As part of the peace process, OPAPP convened the Inter-Agency Technical Working Group on alleged Extrajudicial Killings to review the different lists of incidents drawn up by groups in and out of the country. This working group is composed of representatives chosen by the Government and those chosen by the Communist Party of the Philippines/National Democratic Front/National Peoples Army (CPP/NPA/NDF). OPAPP also provides immediate humanitarian support to victims and families of human rights violations such as extrajudicial killings.

161. In February 2007, the Philippines invited United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Professor Philip Alston, who presented his final report in June 2008 during the 8<sup>th</sup> Session of the Human Rights Council. Attached are copies of the Philippine Government's consolidated reply to the Alston Report and statements delivered at the Human Rights Council during the consideration of the said report (Annexes I and II, respectively).

162. The judiciary complemented the unwavering commitment of the Executive Branch of government to address this concern. The Supreme Court has instructed all courts to prioritize such cases now pending in Philippine courts. It also convened the National Consultative Summit on EKJ and Enforced Disappearances (Summit), and the recommendations generated during the Summit resulted in proposed legislation in congress and the promulgation of the *Rule on the Writ of Amparo*, and the *Rule on the Writ of Habeas Data*.

163. The Supreme Court likewise created 99 special courts to handle cases involving extrajudicial killings and enforced disappearances. At present, all regional trial courts are designated to hear EJK cases.

164. In the case of Eddie Gumanoy and Eden Marcellana, members of KARAPATAN-Southern Tagalog, and killed by unidentified armed malefactors in Brgy. Barcenaga, Naujan, Mindoro Oriental on April 21, 2003, hereunder are the following antecedent facts and circumstances:

(a) On December 13, 2004, the DOJ dismissed the instant case after it conducted Preliminary Investigation for failure of the complainants/witnesses to identify the suspects. Subsequently, a Petition for Review of the Resolution dismissing the complaint against M/Sgt. Donald B. Caigas, Aniano "Ka Silver" Flores and Richard "Waway" Falla and five (5) John Does for Arbitrary Detention, and Robbery was filed before the Office of the Secretary of Justice, but was, however, dismissed as the DOJ found no such error that would justify the reversal of the assailed resolution in accordance with the evidence and law on the matter;

(b) A Motion for Reconsideration on the resolution dated November 20, 2006 dismissing the complaint against M/Sgt Donald B Caigas, Aniano Flores, Richard Falla and five (5) John Does for Arbitrary Detention, Murder and Robbery was again filed before the Office of the Secretary of Justice. The DOJ reviewed anew the records taking into account the arguments raised in the motion. Considering that the DOJ has found no compelling

ground to reconsider the previous resolution, the motion for reconsideration was denied with finality;

(c) The Philippines, through the Department of Justice (DOJ), replied to the communication filed by Amaryliss Hilao-Enriquez, on behalf of Orly Marcellana (spouse of Ms. Eden Marcellana) challenging the admissibility of the case and moved for the dismissal of the case in view of the non-exhaustion of available domestic remedies.

165. Both chambers of Congress have also included in their respective legislative agenda proposed laws designed to further improve the procedure in addressing complaints against public officials including those suspected of committing acts which may constitute torture or cruel, inhuman or degrading punishment and extrajudicial killings.

166. At the time of the preparation of this report, the Philippine Congress was at the final stages of enacting the proposed “Anti-Torture Law” and “International Humanitarian Law Act”. The latter aims to criminalize violations of international humanitarian law, genocide, and other crimes against humanity. It also covers violations against enforced disappearance and criminal responsibility.

## **Article 7**

### **Prohibition of torture or cruel, inhuman or degrading treatment and punishment**

167. The Constitution of the Philippines prohibits the use of torture and cruel, inhuman or degrading punishment. The following Constitutional provisions are hereby reiterated:

*“Section 12, Article III – Bill of Rights*

(2) No torture, force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him [person under investigation for the commission of an offense]. Secret detention places, solitary, *incommunicado* or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families.

*Section 19, Article 12 Bill of Rights*

(1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted.

(2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.”

168. The Revised Penal Code criminalizes all acts of torture with corresponding penalties. Laws have also been passed to prevent acts which could be considered as torture, or cruel, inhuman and degrading treatment or punishment notably, Juvenile Justice and Welfare Act, the Anti-Sexual Harassment, and the Anti-Hazing Law.

169. On 22 April 2008, the President of the Philippines signed the instrument of ratification for the Optional Protocol to the Convention Against Torture (OPCAT) in line with the domestic ratification procedure of the Constitution said instrument has been transmitted to the Senate for its concurrence.

170. Pursuant to A.O. 163, s. 2006 (Strengthening of the Presidential Human Rights Committee), the Department of the Interior and Local Government (DILG), was designated as the lead agency for the Philippines' treaty compliance to the CAT and it has activated an interagency working group on CAT implementation and monitoring.

171. As mandated under the OPCAT, a National Preventive Mechanism (NPM) has to be established and in preparation of its establishment a Philippine OPCAT Working Group (POWG), consisting of relevant government agencies and civil society, was created with the following functions, to wit:

- (a) Ascertain the level of improvements, modernization, and acceptability of the country's detention facilities;
- (b) Explore the appropriate forms and approaches by which the NPM would be able to effectively operate in accordance with the dictates and provisions of the OPCAT;
- (c) Formulate the organization and operational mechanisms and guidelines, and should be able to draw on the knowledge, expertise and resources from all sectors of society.

172. Several new laws have been passed which contributed to the prevention of acts of torture and other cruel, inhuman or degrading treatment or punishment, such as hazing, harsh treatment of children in conflict with the law and sexual harassment, such as:

- (a) RA 8049 (Anti-Hazing);
- (b) RA 9208 (Anti-Human Trafficking);
- (c) RA 9262 (Anti-Violence against Women and Their Children);
- (d) RA 9344 (Juvenile Justice and Welfare);
- (e) RA 8353 (Anti-Rape);
- (f) RA 8505 (Rape Victim Assistance and Protection);
- (g) RA 7438 (Rights of Person Arrested); and
- (h) RA 6981 (Witness Protection Program).

173. Government agencies responsible for the custody of persons have issued administrative regulations reiterating the prohibition against the use of torture.

174. The following are de facto preventive and protective mechanisms already in place to prevent acts of torture, to wit:

- (a) The DOJ and the DILG carried out inspections of jails;
- (b) The Supreme Court under the Rules of Court requires the conduct of regular judicial inspections to be carried out by judges and court officials;
- (c) The BJMP's Operations Manual provided for the guidelines on the commitment and classification of inmates and reception procedures, as well as the institution of classification and disciplinary boards.

175. The BJMP allows and supervise the International Committee of the Red Cross (ICRC) jail visitation in city and municipal jails.

176. In 2008, the PNP regularize the inspection procedure of some 1,648 lock-up cells all over the country and to reinforce implementation of RA 7438 five thousand (5,000) posters on rights of persons arrested, detained, and under investigation were distributed to all police stations.

177. On June 23, 2009, the PNP entered into a Memorandum of Undertaking with CHRP upholding the latter's visitorial powers over all police lock-up cells and jails.

178. On the issue of impunity, statistics relative to disciplinary actions of PNP personnel reflect that:

(a) From January 1 to May 31, 2009, a total of 1, 239 cases had been resolved involving Police Commissioned Officers (PCOs), Non-commissioned Officers (NCOs) and Non-Uniformed Personnel (NUP);

(b) Of the 1,239 cases, 526 cases resulted in penalties including dismissal from the service, demotion, suspension, salary forfeiture, reprimand, restriction, and forced resignation however, *not all* of these cases involve acts of torture or ill-treatment;

(c) As of May 2009, there are at least seven (7) pending cases under summary hearing procedures involving nine (9) PNP personnel who were charged for arbitrary, detention, grave misconduct and abuse of authority;

(d) Through the PNP Human Rights Development Program and other projects under the more holistic PNP Integrated Transformation Program, the PNP is now implementing various reforms in Police Doctrines, Policies, Systems, Procedures, Education and Training, and other vital Areas of Policing to ensure that respect for human rights becomes a core value and daily practice among PNP personnel.

179. The 2002 Operational Procedures of the Philippine National Police prohibits the use of torture, force, violence, threat, intimidation or any other means which violates the free will. It also prohibits secret detention places, solitary confinement (*incommunicado*) or other similar forms of detention (2002 Operational Procedures of the Philippine National Police, Rule 11 – Arrest, Section 8).

180. With the institutionalization of the PNP Human Rights Development Program, the PNP stopped the practice of presentation of arrested suspects before the media, and stricter implementation of the policy on no body harm against suspects inside police stations.

181. The 1996 Operations Manual of the Bureau of Jail Management and Penology (BJMP) prohibits the imposition of disciplinary penalties to detainees which are cruel, inhuman or degrading. It also prohibits the employment of physical punishment as a correctional measure, and the use of corporal punishment, confinement in dark ill-ventilated cells and any form of cruel, unusual, inhuman or degrading punishment. (BJMP Operations Manual – 1996 Edition, Rule I, Section 3-j).

182. The Operations Manual also provides for guidelines on the commitment and classification of inmates and reception procedures, as well as the institution of classification and disciplinary boards. The manual had been duly issued and disseminated to the various field units.

183. In 2003, the BJMP has issued Administrative Disciplinary Machinery to penalize employees for “maltreatment and abuse of any prisoner under one's custody” as well as for efforts to harass, intimidate, coerce, or unduly influence a complainant or any of his/her vital witnesses into withdrawing his/her complaint or retracting his/her sworn statement.

184. The BJMP custodial personnel are likewise liable under the Revised Penal Code, viz:

**“RPC Art 235. Maltreatment of Prisoners** – The penalty of **arresto mayor in its medium period to prison correctional in its minimum period**, in addition to his liability for the physical injuries or damage caused, shall be imposed upon any public officer or employee who shall overdo himself in the correction or handling of a prisoner or detention prisoner under his charge, by the imposition of punishment

not authorized by the regulations, or by inflicting such punishment in a cruel and humiliating manner.”

185. The 2000 Operating Manual of the Bureau of Correction also provides for the protection of inmates against the following:

- (a) The imposition of any cruel, unusual or degrading act as a form of disciplinary punishment;
- (b) Corporal punishment;
- (c) The use of physical force by correctional officers, except in cases where the latter act in self-defense, to protect another person from imminent physical attack, or to prevent a riot or escape;
- (d) Deprivation of clothing, bed and bedding, light, ventilation, exercise, food or hygienic facilities; and
- (e) Forced labor.

*(Bureau of Corrections Operating Manual – Part IV, Chapter 2, Section 3)*

186. The 2005 Operational Guidelines for the Bureau of Immigration Detention Center provides for the following principles relating to acts constituting torture:

“2.5 No Detention Center personnel shall use unnecessary force on detainees, except for legitimate self-defense or in cases of attempted active and/or passive physical resistance by them to a lawful order.

2.6 Penalties imposed upon any detainee for violation of rules/regulations shall not be cruel, inhuman or degrading.

2.7 No physical punishment shall be employed as a corrective measure.”

*(Bureau of Immigration Office Memorandum Order No. AFFJR-2005-002 dated 18 February 2005)*

187. The Philippine Drug Enforcement Agency, in its Memorandum Circular No. 2006-002 dated 13 November 2006, entitled “Guidelines on the Handling of Detainees and Supervision of Custodial Detention Facility”, reiterates the prohibition in item III.A.9, as follows: “No cruel, inhuman, degrading or physical punishment shall be imposed upon any detainee for violation of rules or regulations”.

188. RA 7438 (Law on Custodial Investigation) allows visits by certain accredited civil society organizations, such as the Balay Rehabilitation Center, the Medical Action Group, and other NGO members within the Philippine Network Against Torture (PNAT).

189. The Rule on Arrest of Rules of Court on Criminal Procedure, revised in 2000 by the Supreme Court, provides that “No violence or unnecessary force shall be used in making an arrest. The person arrested shall not be subject to a greater restraint than is necessary for his detention.”(Rules of Court, Rule 113, Section 2).

190. The Articles of War and the Manual for Courts-Martial of the Armed Forces of the Philippines provides for the prohibition of cruel and unusual punishments of every kind with respect to persons subject to military law. (AFP Manual for Courts-Martial-Executive Order No. 178, Section 102).

191. The Rules and Regulation on Children in Situations of Armed Conflict issued by the Department of Justice and the Department of Social Welfare and Development, pursuant to Republic Act No. 7610, provides the following:

“Section 15. Rights of the Child under the Custody of Government Forces.

A child who is taken into custody by government forces in an area of armed conflict shall be informed of his constitutional rights and treated humanely. He shall not be subjected to torture or to cruel, inhuman or degrading treatment, or used in a military operation in any capacity.”

192. There exists no law or regulation that allows the derogation of this prohibition during exceptional circumstances such as a state of war, threat of war, internal political instability or any other public emergency.

193. R.A. No. 9344 or the Juvenile Justice and Welfare Act of 2006, addressed the Committee’s concern about reported cases of torture and other cruel, inhuman or degrading treatment or punishment of children, particularly children in detention. To reiterate, the relevant provisions of R.A. 9344 prohibiting torture are found in Section 5 and Section 61. Section 5 enumerates the rights of the child in conflict with the law, which includes, among others:

(a) The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;

(b) The right not to be imposed a sentence of capital punishment or life imprisonment without the possibility of release;

(c) The right not to be deprived, unlawfully or arbitrarily, of his/her liberty; detention or imprisonment being a disposition of last resort, and which shall be for the shortest appropriate period of time;

(d) The 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 of his/her age. In particular, a child deprived of liberty shall be separated from adult offenders at all times.

194. Moreover, Section 61 of the same law provides that 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 and 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 in the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity; and

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

195. The Juvenile Justice and Welfare Council (JJWC) has been conducting orientation and training seminars for the pillars of the justice system towards the effective implementation of the law. Thus far, 300 out of 2,195 prosecutors nationwide have been oriented and trained on the law and its implementing rules and regulations. Based on the inventory of JJWC, as of June 2007, the number of children in conflict with the law (CICL) nationwide decreased to 1,392 from 5,297 in December 2006. The cases of the rest of the CICLs are currently under review by the JJWC for proper disposition.

196. The Republic Act 9372 (Human Security Act of 2007), also known as the Anti-Terrorism Act does not derogate the right against torture of persons suspected of committing acts of terrorism. On Section 2, Declaration of Policy, it is stated:

“Nothing in this Act shall 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 branch of government shall not prejudice respect for human rights which shall be absolute and protected at all times.”

197. There is also no law or regulation that allows a subordinate officer to invoke an order from a superior officer or a public authority as a justification for committing torture.

198. The following Senate Bills are designed to counter acts of terrorism:

(a) SB No. 3268 – an act to prevent the proliferation of weapons of mass destruction by regulating the transfer of strategic items/goods which are being used to carry out acts of terrorism, and for other purpose;

(b) SB No. 2268 – an act establishing a rewards for information concerning terrorism program; and

(c) SB No. 2244 – an act defining and penalizing the crime of agri-bioterrorism.

## **Article 8**

### **Prohibition of slavery and slavery-like practices**

199. The Philippine Government wishes to reiterate the information given in the previous Reports that under Article III, Section 18(2) the 1987 Constitution “No involuntary servitude in any form shall exist except as a punishment for a crime whereof a party shall have been duly convicted.”

200. Moreover, special protection measures were provided by the government led by the Department of Labor and Employment (DOLE), such as the continuous implementation of the (1) National Program Against Child Labor (NPCL); (2) Philippine Time-Bound Program (PTBP) on eliminating the worst forms of child labor; (3) *Sagip Batang Manggagawa* (Save the Child Worker)-Quick Action Team operational in 16 regions. The conduct of 601 rescue operations from 1998 to 2006 led to the rescue of 2,161 child laborers, 1,100 of who were girls in prostitution.

201. The National Program Against Child Labor, 2000–2004 is the program of the Philippine Government to implement focused, community-based, and integrated interventions to reduce the incidence of the worst forms of child labor particularly in hazardous occupations and abject conditions of work. To continue these efforts, a new Philippine Program Against Child Labor for the period 2007–2015 was proposed. Under the new proposed strategic framework for 2007–2015, a national monitoring system against child labor will be installed, with all regions maintaining a regular and reliable database on child labor estimated to affect some four million Filipino children, 2.4 million of them in its worst or most hazardous forms. Among other goals, the initiative also seeks to assist the greater involvement of teachers, social workers, health care providers, law enforcers, prosecutors, parents, families, and other duty bearers in the fight to protect children from the worst forms of child labor and uphold their rights. At the same time, the measure aims to boost the capacity of law enforcers to effectively enforce anti-child labor laws, as well as intensify the organization of *Barangay* Councils for the Protection of Children hand-in-hand with the DOLE-led “*Sagip Batang Manggagawa*” (Save the Child Worker) Quick Action Teams.

202. Strategic policies were also developed to give further emphasis on the protection of the welfare of the vulnerable groups, specifically working children.

203. R.A. No. 7610, otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act” prohibits the employment of children below 18 years old under conditions hazardous to life and safety, which unduly interferes with the normal development of children.

204. R.A. No. 9231, otherwise known as the “Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child”, which was enacted in July 2003 amending R.A. 7610. R.A. 9231 strictly prohibits the employment of children especially in the worst forms of child labor such as slavery, sale and trafficking of children, forced labor including the recruitment of children for use in armed conflict; the use of children for prostitution, pornography, and illegal activities; and work which is hazardous and harmful to the health, safety, and morals of children. Exceptions to R.A. 9231 may be applied only when the children particularly those below 15 years old work under the sole responsibility of their parents or guardians. The DOLE spearheaded the formulation of the law’s implementing rules and regulations issued through Department Order No. 65-04 Series 2004.

205. As of April 2007, more than 40,000 children had been prevented and withdrawn from the six (6) worst forms of child labour through the provision of various services such as education, both through the formal system and through the alternative learning system (ALS), psychosocial counseling, rehabilitation assistance, basic health care, legal assistance, and livelihood alternatives for their families. The core activities implemented under the PTBP on the Elimination of the Worst Forms of Child Labour include: (a) development of advocacy and IEC materials such as video series on child labour in DVD form and TV and radio plugs addressing the six (6) worst forms of child labour; (b) provision of opportunities for education, both through the formal system and through alternative learning systems (ALS), and vocational skills training; (c) livelihood generation using appropriate technology and micro-enterprise development for families of child labourers; (d) training on basic life skills for children and promoting occupational health and safety; (e) capacity building and training on child labour monitoring; (f) strengthening and sustaining the *Sagip-Batang Manggagawa* (SBM, literally means rescue the child laborer) mechanism to rescue children from the worst forms of child labour; and (g) expansion of the labor force survey to include data on working children and inclusion of child labour concerns in DOLE’s labour standards enforcement framework; (h) master-listing of 23,922 children in the worst forms of child labour, 3,243 siblings of child labourers, and 21,924 children at risk; and (i) institutionalization of child monitoring systems.

206. The *Sagip-Batang Manggagawa* (SBM) rescue mechanism has been operational in 16 regions around the country. As of 2006, there are thirty-three (33) SBM Quick Action Teams (QATs) in seven (7) provinces and eight (8) cities. From 1998 to 2006, a total of 601 rescue operations were conducted with a total of 2,161 child labourers rescued. Of the 2,161 rescued child labourers, 1,100 were girl children rescued from various worst forms of child labour including prostitution. As of November 2006, DOLE had closed down four (4) establishments pursuant to R.A. 9231 for employing minors in lewd or obscene shows.

207. On the preventive side, the Regional Office No. 1 of the DOLE, as part of its Eliminating Child Labour in the Tobacco Industry Project provided educational assistance to over 100 child labourers for the period 2003–2005.

208. The Government, in partnership with various non-governmental organizations provided educational assistance & conducted community advocacy, notably the following: (1) Educational Research and Development Assistance (ERDA); (2) World Vision Development Foundation (WVDF); (3) Visayan Forum Foundation (VFF); (4) Trade Union Congress of the Philippines (TUCP); (5) Federation of Free Workers (FFW), reaching over 80,000 children from 2003 to 2006.

209. Likewise, the Philippine Children's Ministry Network (PCMN) of the Philippine Council of Evangelical Churches (PCEC) had also been conducting community-based and church-based training on how to prevent and control child trafficking and commercial sexual exploitation.

210. On 31 August 2007, DOLE adopted the new Philippine Programme against Child Labour Framework for the period 2007–2015 based on a performance assessment of the NPACL for the period 2001–2006.

## **Article 9**

### **Rights of the accused**

211. The PNP strictly observes the Miranda doctrine by producing and distributing Miranda Doctrine cards to all police personnel.

212. To place greater emphasis on human rights training, education and information, Memorandum Order No. 258 was issued to institutionalize human rights education and training of law enforcement, police, and military and prison personnel.

213. The PNP administered written examination on human rights and general police knowledge to determine the level of human rights consciousness among police personnel and made as basis in updating training curriculum.

214. Although the Philippine ratification process on Protocol I of the 1949 Geneva Conventions is still ongoing, measures to implement its provisions are already included in AFP manuals and directives particularly those pertaining to the Standing Rules of Engagement and Civil Military Operations.

215. The Human Rights Offices of the AFP and PNP, apart from their pursuit of continuing education programs and planning for human rights, are likewise tasked among others, to receive formal complaints on alleged violations of human rights and international humanitarian law, and to undertake the appropriate investigation. The human rights desk of the NBI is also tasked mainly to monitor cases of human rights violations, receive complaints of the violations, receive intelligence reports of human rights violations, and coordinate with the CHRP.

216. All military and law enforcement units of the government human rights components are included in the training programs, in close collaboration with the CHRP. The prohibition of torture is in fact included in the PNP's training courses.

217. The Office of the Ombudsman is also initiating its own teaching and community awareness programs on corruption.

218. The overall National Military Strategy, which includes counter-insurgency measures, also considerably involves the use of soft approaches that includes the institutionalization of the AFP National Development Support Command to pursue grassroots upliftment in the interest of expanding the AFP's solidarity with the people in conflict areas. The AFP has endeavored to foster confidence building measures grounded on strong interfaith dialogue and cultural awareness as well as economic and basic infrastructure developments, inter alia, as initiatives to maintain the peace in the country particularly in the Southern part of the Philippines. In this regard, The AFP has engaged faith-based groups and has sponsored an ongoing program known as the AFP-PNP-Bishop Ulama Conference Forum for Peace, which is regularly held. This forum brings together the highest religious leaders of the Christian Faith and Islam and AFP-PNP Commanders a means to foster peace in the country, particularly in Mindanao. The AFP also sponsored the 1<sup>st</sup> AFP-PNP-Church Summit with the theme, "Promoting a Culture of Peace and Respect

for Human Rights”. In March 2010, the Philippines will be hosting the Special Non-Aligned Movement (NAM) Meeting on Inter-Faith Initiatives.

219. On the right to security of persons, it is noteworthy to point out that Section 22 of IPRA provides that “ICCs/IPs have the right to special protection and security in periods of armed conflict. The State shall observe international standards, in particular, the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not recruit members of the ICCs/IPs against their will into the armed forces, and in particular, for use against other ICCs/IPs; nor recruit children of ICCs/IPs into the armed forces under any circumstance; 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 condition.

220. The Human Rights Offices of the AFP and PNP, apart from their pursuit of continuing education programs and planning for human rights, are likewise tasked among others, to receive formal complaints on alleged violations of human rights and international humanitarian law, and to undertake the appropriate investigation. The human rights desk of the NBI is also tasked mainly to monitor cases of human rights violations, receive complaints of the violations, receive intelligence reports of human rights violations, and coordinate with the CHRP.

## **Article 10**

### **Right to liberty and inherent dignity**

221. The Philippine criminal justice system has legal mechanisms for the protection of women, migrant workers, youth, indigenous peoples, and other vulnerable groups. At least 15 laws have been passed during the last decade on the protection of their rights. The PNP and NBI have established mechanisms for dealing with women, youth and children. The PNP operates Women and Children Protection Desks in police stations staffed by trained policemen/policewomen. As mentioned earlier, the DSWD and civil society also maintain institutions to address needs of women and children in conflict with the law or victims of crimes.

222. The Supreme Court has 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), *Rule on Violence Against Women and their Children* (2004), and *Rule on Children Charged Under the Dangerous Drugs Act of 2002* (2007).

223. The passage on 23 April 2006 of R.A. 9344 or the Juvenile Justice and Welfare Act of 2006 has been a great leap forward in improving the legal and judicial protection of children. The number of children detained with adults has already decreased.

224. As of 2007, significant number of children in conflict with the law below 15 years of age have been relocated to more appropriate facilities. The challenge remains to establish more youth homes and rehabilitation centers at the local level.

225. On July 16, 2007, E.O. 633 mandated the immediate release of CICL who are 15 years old and below. However, for CICL who cannot be released to their families or mainstreamed in their communities are referred to centers managed by the DSWD, non-government organizations, and local government units for temporary shelter and/or further rehabilitation.

226. Based on records of the Philippine National Police, crimes committed by CICL are mostly property-related. More than 70 percent of the crimes committed by children are non-serious crimes that could be best handled through non-judicial measures. As of September

2006, there were 1,102 CICL detained in jails managed by the BJMP. Efforts have been made to provide for completely separate detention facilities for these children.

227. Records of the Juvenile Justice and Welfare Council, created under R.A. 9344 showed that the number of CICL has decreased from 5,297 in December 2006 to 1,392 in June 2007. This indicates that the relevant government agencies including the Department of Justice and the Public Attorney's Office have acted on the situation of CICL pursuant to R.A. 9344 and its IRR and Executive Order No. 633 providing for the immediate release of detained CICL as declared under R.A. 9344. The table below shows the breakdown of CICL by region and institutions as of December 2006 and June 2007.

**Inventory of CICL by region as per records of JJWC, 2006 and 2007**

<i>Region/institution</i>	<i>No. of CICL as of Dec 2006</i>	<i>No. of CICL as of June 2007</i>
Region 1	276	70
Region 2	123	6
Region 3	257	6
Region 4-A	418	60
Region 4-B	251	9
Region 5	89	30
Region 6	416	8
Region 7	456	83
Region 8	174	8
Region 9	412	58
Region 10	158	63
Region 11	478	11
Region 12	518	11
CARAGA	102	33
CAR	102	24
ARMM	23	6
NCR	155	80
BuCor	355	428
CRADLE	179	171
MOLAVE	103	91
MYRC	80	113
Pasay Youth Home	10	23
BJMP Nat'l	162	
<b>Total</b>	<b>5 279</b>	<b>1 329</b>

228. A national juvenile intervention programme has already been developed by the JJWC in consultation with relevant government agencies, NGOs and youth organizations. Given the number of provinces (81), municipalities (1,496), cities (132) and *barangays* (41,994), this will take considerable period of time. Section 15 of the juvenile justice law provides for the creation and strengthening of the local councils for the welfare of children which will serve as the primary agency to coordinate the formulation and implementation of the juvenile intervention programme at the LGU level. As stated in earlier sections of

this report, the number of functional LCPCs nationwide remains low. Only 58 percent of provinces, 49 percent of cities, 34 percent of municipalities, and 17 percent of *barangays* have functional LCPCs. Given this scenario, the JJWC needs unrelenting support and cooperation of all concerned agencies and sectors.

229. Based on reports of the Department of Social Welfare and Development (DSWD), there are approximately 10,000 CICL who are provided services by the department annually. More than 1,200 CICL are being served in the eleven (11) regional rehabilitation centers for youth (RRCY) and about 9,000 are provided community-based interventions by local social welfare and development offices. Ninety (90) percent of children in conflict with the law are male. The majority of these children are 14–17 years of age; they come from poverty-stricken families, and have minimal education.

230. The Center for Restorative Activities and Development Learning Experiences (CRADLE), a detention house exclusively for minor detainees in Metro Manila jointly staffed by the BJMP and the 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 R.A. 9344 in 28 April 2006.

231. In 2007 a building was erected, which now houses 154 Children in Conflict with the Law (CICL). Three facilities were built in the national capital region as well as Region IV-A and Region 7.

232. As of December 2007, significant number of CICLs who are 15 years old and below has been released from jails and detention homes. Some 10.2 million pesos had been allotted to repair city, district, and municipal jail facilities nationwide. The adoption of the ‘Restorative Justice’ approach has also been an effective means for inmates’ reformation, rehabilitation, and integration into the mainstream of society.

## **Article 11**

### **Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation**

233. Imprisonment on the ground of inability to pay a debt is proscribed under Philippine laws. Article 3, Section 20 of the 1987 Philippine Constitution provides that: “No person shall be imprisoned for debt or non-payment of a poll tax.”

234. It should be noted that the Anti-Bouncing Checks Law (B.P. 22) punishes the act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment and not the non-payment of an obligation as it is not also intended or designed to coerce a debtor to pay his debt.

235. In other words, the thrust of the law is to prohibit, under pain of penal sanctions, the making of worthless checks and putting them in circulation. The law punishes the act not as an offense against property, but an offense against public order since it compromises the integrity of the banking/fiscal system.

## **Article 12**

### **Right to liberty of movement and of abode**

236. The Philippine Government wishes to reiterate the information provided in its previous reports.

237. Moreover, the Philippines enacted Republic Act No. 8239, otherwise known as the Passport Act of 1996 to ensure that the people's constitutional right to travel remains inviolable. Accordingly, the government has the duty to issue passport or any travel document to any citizen of the Philippines or individual who complies with the requirement of the law.

238. It has been noted that even articles 12(2) and 12(3) of the ICCPR *do not exist in a vacuum* as may be gleaned from the general comments and communications of the Human Rights Committee. Specifically, the Human Rights Committee's general comment No. 27 provided detailed principles to guide states in their implementation of the freedom of movement. Accordingly, the Committee noted that the issuance of a passport to facilitate the crossing of international borders is required as a matter of course to facilitate, in practical terms, the freedom of movement.

239. Thus, R.A. 8239 provides that right to travel may be impaired only when national security, public safety, or public health requires. To enhance and protect the unimpaired exercise of this right, only minimum requirements for the application and issuance of passports and other travel documents were prescribed.

### **Article 13**

#### **Prohibition against arbitrary expulsion of aliens**

240. No person, foreigners, may be arrested without any reason. A person may only be arrested when there is a warrant duly issued by a competent court for his/her arrest or in cases of valid warrantless arrests under Rule 113 of the Revised Rules on Criminal Procedure and reiterated in Rule 11 of the PNP Operational Procedures.

241. In addition, it is the duty of the person effecting the arrest to inform the suspect/accused in a language known to him of his rights under the law. This would obligate the arresting/investigating officer to get the services of interpreters in case the arrested person is a foreigner. As such, coordination with the appropriate government agencies and embassies is undertaken. (Section 2 of RA7438).

242. Information from the Bureau of Immigration revealed that as of 26 January 2009, there are sixty-two (62) foreigners detained at the Bureau of Immigration Detention Center, Camp Bagong Diwa, Bicutan, Taguig City. There are 125 foreign inmates detained in city and municipal jails all over the Philippines as of 31 December 2008. 156 foreigners are presently detained at the National Penitentiary for various criminal offenses.

243. As a standard operating procedure, all detained foreigners are notified of their right for consular visitation by accredited consular officers of their respective embassies/consulates in line with the Vienna Convention on Consular Relations.

244. In the case of *Lao Alfonso vs. Vivo*, 16 SCRA 10, the Supreme Court ruled that Section 37(a) of the Philippine Immigration Act of 1940 speaks of two warrants – one for the arrest and the other for the deportation of the alien. The warrant of arrest is issued by the Commissioner of Immigration, or any officer authorized by him, whereas the warrant of deportation is issued by the Commissioner of Immigration “upon determination by the Board of Commissioner of the existence of the ground for deportation as charged against the alien.”

245. Moreover, in the case of *Neria vs. Vivo*, 29 SCRA 701, it was held that no warrant of arrest can be issued by immigration authorities before a final order of deportation is made. *For until it is established that an alien lawfully admitted gained entry into the country through illegal means and his expulsion is finally decreed, his arrest cannot be ordered.* (emphasis supplied)

### Limitations on warrants of arrest by the Commissioner of Immigration in deportation cases

246. In the cases of *Po Siok Pin vs. Vivo* (62 SCRA 363) and *Ang Ngo Chiong vs. Galang* (67 SCRA 338), the Supreme Court consistently ruled that the Immigration Commissioner may order the arrest of an alien upon a final determination of deportability by the Board of Commissioners. However, no warrant of arrest for deportation may be issued by immigration authorities before a final order of deportation is made or before the charges have been fully substantiated [Cf: *Tiu vs. Vivo* (47 SCRA 23); *Santos vs. Commissioner of Immigration* (74 SCRA 96)]. In fact, the Supreme Court ruled in the Santos case that it is not indispensable that the alien be arrested during the investigation.

247. In the cases of *Dalamal vs. Deportation Board* (9 SCRA 382), *Morano vs. Vivo* (20 SCRA 562), *Contemprate vs. Acting Commissioner of Immigration* (35 SCRA 624) and *Sy vs. Commissioner Domingo* (G.R. Nos. 97152 and G.G. No. 97159 dated 20 March 1991), the Supreme Court had the occasion to rule that the issuance of arrests warrants by the Immigration Commissioner solely for the purposes of investigation and before a final order of deportation is issued, is contrary to the right of a person to due process, whether he/she be a citizen or an alien.

248. Likewise, the Immigration Commissioner cannot be allowed to circumvent the law by the mere expediency of re-naming the order of arrest as a simple “mission order” for the purpose of bringing a subject foreigner to the immigration authorities for preliminary investigation. It had also been consistently ruled by the Supreme Court, i.e., Court of Appeals, that a mission order under the guise of a warrant of arrest issued by the Immigration Commissioner only for purposes of investigation is null and void for being unconstitutional [Cf: *Rossi et al. vs. Board of Commissioners* (G.R. No.27853, 28 May 1992), *Qua Chee Gan vs. Deportation Board* (9 SCRA 27) *Ng Hua To vs. Galang* (10 SCRA 411), *Board of Commissioners vs. De la Rosa* (197 SCRA 853)].

249. The power to deport aliens is an attribute of sovereignty. Such power is based on the accepted maxim of international law, that every sovereign nation has the inherent power essential to self-preservation, to forbid entrance of foreigners within its dominions (*Morano vs. Vivo*, 20 SCRA 63).

250. Since a deportation proceeding does not constitute a criminal action (Cf: *Lao Tang Bun vs. Fabre* 81 Phil. 682; *Bengzon vs. Ocampo et al.* 84 Phil. 611; *Harvey et al. vs. Commissioner Santiago et al*), and an order of deportation is not a punishment for a crime (Cf: *US vs. Gosiaco* 12 Phil. 490), the right to bail guaranteed under the Constitution may not be invoked by an alien. Neither the Constitution nor the Administrative Code guarantees the right of aliens facing deportation to provisional liberty on bail (Cf: *Tiu Chun Hai et al. vs. Deportation Board*, 104 Phil. 949).

251. Release on bail in deportation proceedings is not a matter of right to the foreigner, but a matter of discretion on the part of the Immigration Commissioner. Thus, in the case of *Ong See Hang vs. Commissioner of Immigration*, 4 SCRA 442, the granting of bail in deportation proceedings was elucidated, to quote:

“Section 39 of the Philippine Immigration Act of 1940 (Comm. Act No. 613, as amended) confers upon the Commissioner of Immigration, to the exclusion of courts of justice, the power and discretion to grant bail and to impose the conditions thereof, in deportation proceedings, but does not grant aliens the right to be released on bail. The power of the Commissioner of Immigration to grant bail in deportation proceedings should be exercised while the alien is still under investigation, and not after the order of deportation has been issued by the Board of Immigration. Since deportation proceedings do not constitute criminal actions (*Lau tang Bun vs. Fabre*, 81 Phil. 682; *US ex. Rel Zapp vs. District Director of Immigration and*

*Naturalization*, 120 F 2d762), and an order of deportation is not a punishment for a crime (*U.S. vs. Go-Siaco*, 12 Phil. 490; *Mahler vs. Eby*, 264 U.S. 32), the right to bail guaranteed by the Constitution may not be invoked by an alien in said proceedings.”

252. Hereunder is the governing rules on deportation as provided under Memorandum Order No. 04-92: “Rules of Procedure to Govern Deportation Proceedings)” to quote:

**“Rule VII – Bail**

“SECTION 1. Bail Not a Matter of Right — Aliens, in deportation proceedings, have no inherent right to bail. The release on bail of arrested aliens shall be discretionary with the Commissioner of Immigration who shall have the power to exact cash bonds in such amounts and under such conditions as he may prescribe to insure the appearance of aliens released from custody during the course of the deportation proceedings. No bail shall be allowed if there is already a deportation order by the Board of Commissioners, or when the evidence of guilt is strong and the probability of the alien jumping bail is high.

“SECTION 2. Application for Bail — After the filing of a charge sheet, an application for release on bail may be filed by the alien personally with the Special Prosecutor assigned to the case. The Special Prosecutor shall evaluate the application in accordance with the immediately preceding section and submit his recommendation to the Commissioner of Immigration who shall either approve or deny the application.

“SECTION 3. Conditions of Bail — All kinds of bail are subject to the following conditions:

- a. *the undertaking shall be in force at all stages of the proceedings until its final determination;*
- b. *the alien shall appear before the Board of Commissioners whenever so required;*
- c. *the failure of the alien to appear at any hearing without justification shall be deemed an express waiver of his right to be present and the hearing shall proceed in absentia;*
- d. *the alien shall surrender himself for execution of the final order of deportation;*
- e. *the bond shall answer for all expenses incident to the arrest and apprehension of the alien should the latter fail to appear before the immigration authorities, and for all other expenses incurred in connection with the deportation, exclusion and departure of the alien.*

SECTION 4. Forfeiture of Bail and Re-arrest of Alien — In case of failure to comply with the conditions of the bail, the same shall be forfeited and the cash deposits shall be turned over to the National Treasury.

The alien released on bail who fails to comply with the conditions of the bail or attempts to escape justice may be re-arrested without the necessity of a warrant for his arrest.

SECTION 5. Cancellation of Bail — The bail shall be cancelled when its conditions are fulfilled, or upon the death of the alien, or upon the departure of the alien pursuant to an order of deportation, or his acquittal in the deportation case.”

Protective measures to ensure that deportation cases are given due course without delay.

253. Republic Act No. 4906 entitled “An Act Requiring Judges of Courts to Speedily Try Criminal Cases Wherein the Offended Party is a Person about to Depart from the Philippines with No Definitive Date of Return” provides the following, to wit:

“The trial of criminal cases wherein the offended party is a person who is about to depart from the Philippines without a definite date of return, shall take precedence over all other cases before our courts, except election and habeas corpus cases. The trial in these cases shall commence within three (3) days from the date the accused is arraigned and no postponement of the initial hearing shall be granted except on the ground of illness on the part of the accused, or other grounds beyond the control of the accused.”

254. On Rule on Expulsion, Section 69 of the Revised Administrative Code provides that:

“A subject of the foreign power residing in the Philippine Islands *shall not be deported, expelled or excluded* from said Islands or repatriated to his own country by the President of the Philippines except upon prior investigation, conducted by said Executive or his authorized agent, of the ground upon which said action is contemplated. In such case the person concerned shall be informed of the charge or charges against him and he shall be allowed not less than three (3) days for the preparation of his defense. He shall also have the right to be heard by himself or counsel, to produce witnesses in his own behalf, and to cross examine his opposing witness” (emphasis supplied).

255. The right to hearing and information may be exercised under A.O. No. 1 (Immigration Rules and Regulations of January 1, 1941).

256. It may be noted, however, that a petition for rehearing a deportation on the basis of newly discovered evidence *shall have the effect of staying the order of deportation*. For good cause shown, the Commissioner of Immigration may suspend any order of exclusion or deportation upon deposit by the interested party of an amount to be determined by the Commissioner to defray expenses which may be incurred in connection therewith (*Commissioner of Immigration vs. Fernandez, No. L-22696, May 29, 1964*).

## **Article 14**

### **Rights of the accused**

257. In the case of People of the Philippines, *petitioner, vs. SPO4 Emiliano Anonas, respondent*, G.R. No. 156847 dated 31 January 2007, the Supreme Court cited the earliest rulings of the Court on speedy trial, i.e., *Conde v. Judge of First Instance, Conde v. Rivera, et al.*, (45 Phil. 650) and *People v. Castañeda* (165 SCRA 627). These cases held that accused persons are guaranteed a speedy trial by the Bill of Rights and that such right is denied when an accused person, through the vacillation and procrastination of prosecuting officers, is forced to wait many months for trial. Specifically in *Castañeda*, the Court called on courts to be the last to set an example of delay and oppression in the administration of justice and it is the moral and legal obligation of the courts to see to it that the criminal proceedings against the accused come to an end and that they be immediately discharged from the custody of the law.

258. In *Angcangco, Jr. v. Ombudsman*, G.R. 122728, March 21, 1997, the Court found the delay of six years by the Ombudsman in resolving the criminal complaints to be violative of the constitutionally guaranteed right to a speedy disposition of cases. Similarly, in *Roque v. Office of the Ombudsman*, G.R. No. 129978 dated May 12, 1999, the Court ruled that the delay of almost six years disregarded the Ombudsman’s duty to act promptly

on complaints before him. In *Cervantes v. Sandiganbayan*, G.R. No. 108595 dated May 18, 1999, it was held that the Sandiganbayan gravely abused its discretion in not quashing the Information filed six years after the initiatory complaint, thereby depriving petitioner of his right to a speedy disposition of the case.

259. The inordinate delay in terminating the preliminary investigation of an accused violates his constitutional right to due process. Thus, in *Roque v. Sandiganbayan*, the Court, restating the pronouncement in *Tatad v. Sandiganbayan*, G.R. No. L- 72335-39 dated March 21, 1988, held that: “We find the long delay in the termination of the preliminary investigation by the Tanodbayan in the instant case to be violative of the constitutional right of the accused to due process. Substantial adherence to the requirements of the law governing the conduct of preliminary investigation, including substantial compliance with the time limitation prescribed by the law for the resolution of the case by the prosecutor, is part of the procedural due process constitutionally guaranteed by the fundamental law. Not only under the broad umbrella of due process clause, but under the constitutional guaranty of “speedy disposition” of cases as embodied in Section 16 of the Bill of Rights (both in the 1973 and 1987 Constitutions), the inordinate delay is violative of the petitioner’s constitutional rights. A delay of close to three (3) years cannot be deemed reasonable or justifiable in the light of the circumstances obtaining in the case at bar. We are not impressed by the attempt of the Sandiganbayan to sanitize the long delay by indulging in the speculative assumption that “delay may be due to a painstaking and grueling scrutiny by the Tanodbayan as to whether the evidence presented during the preliminary investigation merited prosecution of a former high-ranking government official.” In the first place, such a statement suggests a double standard of treatment, which must be emphatically rejected. Secondly, three out of the five charges against the petitioner were for his alleged failure to file his sworn statement of assets and liabilities required by Republic Act 3019, which certainly did not involve complicated legal and factual issues necessitating such “painstaking and grueling scrutiny” as would justify a delay of almost three years in terminating the preliminary investigation. The other two charges relating to alleged bribery and alleged giving [of] unwarranted benefits to a relative, while presenting more substantial legal and factual issues, certainly do not warrant or justify the period of three years, which it took the Tanodbayan to resolve the case.

260. In the case of Jaime M. De Guzman, petitioner, vs. People of the Philippines, respondent, G.R. No. 167492 dated 22 March 2007, the Court set aside technicalities in the Rules of Court in order to give way to justice and equity. The Court can overlook the short delay in the filing of pleading if strict compliance with the Rules would mean sacrificing justice to technicality. The imminence of a person being deprived unjustly of his liberty due to a procedural lapse of counsel is a strong and compelling reason to warrant suspension of the Rules. A healthy respect for petitioner’s rights should caution courts against *motu proprio* dismissals of appeals, especially in criminal cases where the liberty of the accused is at stake. The rules allowing *motu proprio* dismissals of appeals merely confer a power and do not impose a duty; and the same are not mandatory but merely directory which thus require a great deal of circumspection, considering all the attendant circumstances. Courts are not exactly impotent to enforce their orders, including those requiring the filing of appellant’s brief. This is precisely the *raison d’être* for the courts’ inherent contempt power. *Motu proprio* dismissals of appeals are thus not always called for. Although the right to appeal is a statutory, not a natural, right, it is an essential part of the judicial system and courts should proceed with caution so as not to deprive a party of this prerogative, but instead, afford every party-litigant the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities. More so must this be in criminal cases where, as here, the appellant is an indigent who could ill-afford the services of a counsel de officio.

261. In the case of *People of the Philippines, appellee, vs. Jerry Rapeza y Francisco, appellant* [G.R. No. 169431. 04 April 4, 2007, formerly docketed as G.R. Nos. 149891-92] the Supreme Court ruled that it is settled that a confession is presumed voluntary until the contrary is proved and the confessant bears the burden of proving the contrary. The trial court found that appellant's bare denials failed to overcome this presumption. However, several factors constrain us to hold that the confession was not given under conditions that conduce to its admissibility. First, the confession contains facts and details which appear to have been supplied by the investigators themselves. The voluntariness of a confession may be inferred from its language such that if, upon its face, the confession exhibits no suspicious circumstances tending to cast doubt upon its integrity, it being replete with details — which could only be supplied by the accused — reflecting spontaneity and coherence, it may be considered voluntary. The trial court applied this rule but without basis. On closer examination of the evidence, the key details in the alleged confession were provided not by appellant but by the police officers themselves. To reiterate, the purpose of providing counsel to a person under custodial investigation is to curb the police-state practice of extracting a confession that leads appellant to make self-incriminating statements.<sup>67</sup> And in the event the accused desires to give a confession, it is the duty of his counsel to ensure that the accused understands the legal import of his act and that it is a product of his own free choice.

262. It bears repeating that appellant was held in the police station overnight before he was allegedly taken to the house of Atty. Reyes. He was not informed of his rights and there is no evidence that he was assisted by counsel. Thus, the possibility of appellant having been subjected to trickery and intimidation at the hands of the police authorities, as he claims, cannot be entirely discounted.

263. On the issue of a confession that was not sufficiently corroborated, Philippine Courts are slow to accept extrajudicial confessions when they are subsequently disputed unless they are corroborated. There must be such corroboration so that when considered in connection with the confession, it will show the guilt of accused beyond a reasonable doubt.

264. As a general rule, a confession must be corroborated by those to whom the witness who testified thereto refers as having been present at the time the confession was made or by any other evidence. The inconsistencies in the testimonies of the police officers as well as any lingering doubt as to the credibility of appellant's statement could have been laid to rest by the testimonies of Atty. Reyes, of Abad, and of those allegedly present during the custodial investigation. However, they were not presented in court.

265. In the case of *Romeo T. Aquino, petitioner, vs. Jennifer Ng, respondent*. [G.R. No. 155631. July 27, 2007.] – The records do not bear any indication that petitioner was afforded an opportunity to rebut the charges against him when he was first charged by respondent with contempt. While petitioner was able to oppose respondent's motion, inasmuch as an indirect contempt charge partakes of the nature of a criminal charge, conviction cannot be had merely on the basis of written pleadings. There is no question that petitioner's disobedience to the RTC's lawful order constitutes indirect contempt of court. This, however, was not a license for the RTC to disregard petitioner's rights. It should have held a hearing in order to provide petitioner with the opportunity to state his defense and explain his side. A hearing affords the condemners the opportunity to adduce before the court documentary or testimonial evidence in his behalf. The hearing will also allow the court a more thorough evaluation of the defense of the condemners, including the chance to observe the accused present his side in open court and subject his defense to interrogation from the complainants or the court itself.

266. In G.R. No. 172500 dated 21 September 2007 entitled: *Lilibeth Aricheta, petitioner, vs. People of the Philippines, respondent*. Citing *Andaya vs. People of the Philippines* (196

SCRA 660, 664-665 [1991]), the Supreme Court said: It is fundamental that every element constituting the offense must be alleged in the information. The main purpose of requiring the various elements of a crime to be set out in the information is to enable the accused to suitably prepare his defense because he is presumed to have no independent knowledge of the facts that constitute the offense. The allegations of facts constituting the offense charged are substantial matters and an accused person's right to question his conviction based on facts not alleged in the information cannot be waived. No matter how conclusive and convincing the evidence of guilt may be, an accused cannot be convicted of any offense unless it is charged in the information on which he is tried or is necessarily included therein. To convict him of a ground not alleged while he is concentrating his defense against the ground alleged would plainly be unfair and underhanded. The rule is that a variance between the allegation in the information and proof adduced during trial shall be fatal to the criminal case if it is material and prejudicial to the accused so much so that it affects his substantial rights.

267. In G.R. No. 176159 dated 11 September 2008 entitled, *People of the Philippines, plaintiff-appellee, vs. Lee Rodrigo, John Doe @ BUNSO, and Peter Doe @ LYN-LYN, accused*, the Supreme Court ruled that the greatest care should be taken in considering the identification of the accused especially, when this identification is made by a sole witness and the judgment in the case totally depends on the reliability of the identification. This level of care and circumspection applies with greater vigor when, as in the present case, the issue goes beyond pure credibility into constitutional dimensions arising from the due process rights of the accused. The initial photographic identification in this case carries serious constitutional law implications in terms of the possible violation of the due process rights of the accused as it may deny him his rights to a fair trial to the extent that his in-court identification proceeded from and was influenced by impermissible suggestions in the earlier photographic identification. In the context of this case, the investigators might not have been fair to Rodrigo if they themselves, purposely or unwittingly, fixed in the mind of Rosita, or at least actively prepared her mind to, the thought that Rodrigo was one of the robbers. Effectively, this act is no different from coercing a witness in identifying an accused, varying only with respect to the means used. Either way, the police investigators are the real actors in the identification of the accused; evidence of identification is effectively created when none really exists.

268. While under Section 13 of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019, as amended), a public officer convicted by final judgment "shall lose all retirement or gratuity benefits under any law", the execution of the sentence in case the accused is placed under probation, is suspended (Sec. 4, P.D. No. 968), and upon his final discharge from probation, all his civil rights lost or suspended as a result of his conviction shall be restored (Sec. 16, *id.*).

269. This position finds further support from the rulings of the Supreme Court laying down certain guidelines in the grant of probation, namely (a) that the conditions imposed should be realistic, purposive and general towards helping the probationer develop into a law-abiding and self-respecting citizen (*Baclayon vs. Mutia*, G.R. No. L-59217. April 30, 1984); (b) that the terms imposed should not jeopardize the constitutional rights of the probationer (*Baclayon vs. Mutia*); and (c) that the discretionary power to grant a probation must be exercised primarily for the benefit of organized society and only incidentally for the benefit of the accused, (*Tolentino vs. Alconcel*, 121, SCRA 92). A denial of a probationer's voting privilege would not be consistent with these guidelines. In this connection, it bears stress that under the constitution, it is both a right and a duty of a citizen to register and cast his vote (Sec. 4, Art. V, 1973 Constitution- Freedom Constitution).

## Article 15

### Prohibition against ex post facto law

270. The Philippine Government wishes to reiterate the information provided in its previous Reports (See Annex C).

271. The Supreme Court in the case of *Orlando L. Salvador vs. Placido L. Mapa, Jr.*, docketed as G.R. No. 135080 dated 28 November 2007 defined an ex post facto law as one — (a) which makes an action done before the passing of the law and which was innocent when done criminal, and punishes such action; or (b) which aggravates a crime or makes it greater than it was when committed; or (c) which changes the punishment and inflicts a greater punishment than the law annexed to the crime when it was committed; or (d) which alters the legal rules of evidence and receives less or different testimony than the law required at the time of the commission of the offense in order to convict the defendant. This Court added two (2) more to the list, namely: (e) that which assumes to regulate civil rights and remedies only but in effect imposes a penalty or deprivation of a right which when done was lawful; or (f) that which deprives a person accused of a crime of some lawful protection to which he has become entitled, such as the protection of a former conviction or acquittal, or a proclamation of amnesty.

272. The Court stressed in its ruling that the constitutional doctrine that outlaws an ex post facto law generally prohibits the retrospectivity of penal laws. Penal laws are those acts of the legislature which prohibit certain acts and establish penalties for their violations; or those that define crimes, treat of their nature, and provide for their punishment. The subject administrative and memorandum orders clearly do not come within the shadow of this definition. Administrative Order No. 13 creates the Presidential Ad Hoc Fact-Finding Committee on Behest Loans, and provides for its composition and functions. It does not mete out penalty for the act of granting behest loans. Memorandum Order No. 61 merely provides a frame of reference for determining behest loans. Not being penal laws, Administrative Order No. 13 and Memorandum Order No. 61 cannot be characterized as ex post facto laws. There is, therefore, no basis for the Ombudsman to rule that the subject administrative and memorandum orders are ex post facto.

273. In the case of *Rosario Nasi-Villar vs. People of the Philippines*, docketed as G.R. No. 176169 dated 14 November 2008, the Supreme Court ruled that the basic rule is that a criminal act is punishable under the law in force at the time of its commission. Thus, petitioner can only be charged and found guilty under the Labor Code which was in force in 1993 when the acts attributed to her were committed. Petitioner was charged in 1998 under an Information that erroneously designated the offense as covered by R.A. No. 8042, but alleged in its body acts which are punishable under the Labor Code. As it was proven that petitioner had committed the acts she was charged with, she was properly convicted under the Labor Code, and not under R.A. No. 8042.

274. The Court averred that there is no violation of the prohibition against ex post facto law nor a retroactive application of R.A. No. 8042, as alleged by petitioner. An ex post facto law is one which, among others, aggravates a crime or makes it greater than it was when committed or changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed. Penal laws and laws which, while not penal in nature, nonetheless have provisions defining offenses and prescribing penalties for their violation operate prospectively. Penal laws cannot be given retroactive effect, except when they are favorable to the accused.

275. R.A. No. 8042 amended pertinent provisions of the Labor Code and gave a new definition of the crime of illegal recruitment and provided for its higher penalty. There is no indication in R.A. No. 8042 that said law, including the penalties provided therein, would

take effect retroactively. A law can never be considered ex post facto as long as it operates prospectively since its strictures would cover only offenses committed after and not before its enactment. Neither did the trial court nor the appellate court give R.A. No. 8042 a retroactive application since both courts passed upon petitioner's case only under the aegis of the Labor Code. The proceedings before the trial court and the appellate court did not violate the prohibition against ex post facto law nor involved a retroactive application of R.A. No. 8042 in any way.

276. In the case of *Republic of the Philippines, et al. vs. Rosemoor Mining and Development Corporation, et al.* G.R. No. 149927 dated 30 March 2004, the Supreme Court reiterated that it is well settled that an ex post facto law is limited in its scope only to matters criminal in nature. Proclamation 84, which merely restored the area excluded from the Biak-na-Bato national park by canceling respondents' license, is clearly not penal in character.

277. No ex post facto law may be enacted, and no law may be construed in such fashion as to permit a criminal prosecution offensive to the ex post facto clause. As applied to the AMLA, it is plain that no person may be prosecuted under the penal provisions of the AMLA for acts committed prior to the enactment of the law on 17 October 2001. As much was understood by the lawmakers since they deliberated upon the AMLA, and indeed there is no serious dispute on that point.

278. Does the proscription against ex post facto laws apply to the interpretation of Section 11, a provision which does not provide for a penal sanction but which merely authorizes the inspection of suspect accounts and deposits? The answer is in the affirmative. In this jurisdiction, we have defined an ex post facto law as one which either:

- (1) Makes criminal an act done before the passage of the law and which was innocent when done, and punishes such an act;
- (2) Aggravates a crime, or makes it greater than it was, when committed;
- (3) Changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed;
- (4) Alters the legal rules of evidence, and authorizes conviction upon less or different testimony than the law required at the time of the commission of the offense;
- (5) Assuming to regulate civil rights and remedies only, in effect imposes penalty or deprivation of a right for something which when done was lawful; and
- (6) *Deprives a person accused of a crime of some lawful protection to which he has become entitled, such as the protection of a former conviction or acquittal, or a proclamation of amnesty.* (Emphasis supplied)

279. In the case of Republic of the Philippines represented by the *Anti Money Laundering Council vs. Hon. Antonio M. Eugenio*, G.R. No. 174629 dated 14 February 2008, the Supreme Court ruled that prior to the enactment of the AMLA, the fact that bank accounts or deposits were involved in activities later on enumerated in Section 3 of the law did not, by itself, remove such accounts from the shelter of absolute confidentiality. Prior to the AMLA, in order that bank accounts could be examined, there was need to secure either the written permission of the depositor or a court order authorizing such examination, assuming that they were involved in cases of bribery or dereliction of duty of public officials, or in a case where the money deposited or invested was itself the subject matter of the litigation. The passage of the AMLA stripped another layer off the rule on absolute confidentiality that provided a measure of lawful protection to the account holder. For that reason, the application of the bank inquiry order as a means of inquiring into records of transactions entered into prior to the passage of the AMLA would be constitutionally

infirm, offensive as it is to the ex post facto clause. Still, the Court noted that the position submitted by Lilia Cheng is much broader than what we are willing to affirm. She argues that the proscription against ex post facto laws goes as far as to prohibit any inquiry into deposits or investments included in bank accounts opened prior to the effectiveness of the AMLA even if the suspect transactions were entered into when the law had already taken effect. The Court recognizes that if this argument were to be affirmed, it would create a horrible loophole in the AMLA that would in turn supply the means to fearlessly engage in money laundering in the Philippines; all that the criminal has to do is to make sure that the money laundering activity is facilitated through a bank account opened prior to 2001. Lilia Cheng admits that “actual money launderers could utilize the ex post facto provision of the Constitution as a shield” but that the remedy lay with Congress to amend the law. We can hardly presume that Congress intended to enact a self-defeating law in the first place, and the courts are inhibited from such a construction by the cardinal rule that “a law should be interpreted with a view to upholding rather than destroying it.

### **Article 16**

#### **Right to recognition as a person before the law**

280. The Philippine Government wishes to reiterate the information provided in its previous reports.

### **Article 17**

#### **Prohibition of arbitrary or unlawful interference with privacy, family, home or correspondence, honor and reputation**

281. The Philippine Government wishes to reiterate the information provided in its previous reports.

### **Article 18**

#### **Right to freedom of thought, conscience and religion**

282. The Philippine Government wishes to reiterate the information provided in its previous Reports.

283. On 29 April 2008, the Philippine Legislature enacted Republic Act No. 9500 entitled, “An Act to Strengthen the University of the Philippines as the National University.” Section 9 of the said Act, i.e., on democratic access, provides that the national university shall take affirmative steps which may take the form of an alternative and equitable admissions process to enhance the access of disadvantaged students, such as indigenous peoples, poor and deserving students, including but not limited to valedictorians and salutatorians of public high schools, and students from depressed areas, to its programs and services. No student shall be denied admission to the national university by reason solely of age, gender, nationality, religious belief, economic status, ethnicity, physical disability, or political opinion or affiliation. The national university recognizes the separation of Church and State. It shall guarantee religious freedom and shall not discriminate on the basis of religion.

284. In the meantime, the Department of Agriculture Administrative Order No. 25-07 promulgated the Rules and Regulations in the implementation of Section 6 (1) of R.A. 8485 regarding the use of animals during rituals of an established religion or sect or by tribal or ethnic customs of indigenous cultural communities on 24 August 2007.

## **Article 19**

### **Right to freedom of expression and opinion**

285. The right to freedom of expression includes the freedom to speak, receive and impart information and ideas through any media of choice. Section 7 of the same article provides “(t)he right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.”

286. 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 perception that political discourse has been narrowed in any way in the Philippines.

287. All political processes remain open and free. In fact, leftist activists have remained vocal and even militantly strident in their advocacy. Non-governmental organizations 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 are free to run for public office and many have been elected into office as Sectoral/Party List Representatives in the Philippine Congress.

288. The Philippines has a robust and vocal civil society composed of non-government organizations of diverse advocacies, trade unions, faith-based organizations, media, academe and the private sector. They play an increasingly active role in the domestic human rights system both as instruments of accountability and as partners in providing support services. The domestic climate presents many channels for them to report, express their opinions, and interact with their constituents, government, and the international community.

289. To further buttress the right to freedom of expression, the Supreme Court issued a directive that in libel cases, trial courts are encouraged to impose fines rather than imprisonment.

290. On 24 October 2007, the Supreme Court promulgated the Rule on Writ of Habeas Data, which took effect on 02 February 2008. The Rule on the Writ of Habeas Data is intended to complement the Writ of Amparo and the Writ of Habeas Corpus.

291. The Rule on the Writ of Habeas Data is both an independent remedy to enforce the right to informational privacy and the complementary “right to truth” as well as an additional remedy to protect the right to life, liberty, or security of a person. The writ makes available to any person whose right to privacy in life, liberty, or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting, or storing of data or information regarding the person, family, home, and correspondence of the aggrieved party.” Reliefs include the deletion, destruction, or rectification of the erroneous data or information.

292. On 24 January 2008, the National Archives of the Philippines passed the Implementing Rules and Regulations of Republic Act No. 9470, otherwise known as the National Archives of The Philippines Act of 2007, Article 74 of which provides that the National Archives of the Philippines shall protect and uphold the right of individuals, groups and/or organizations to privacy, including records, protocols and policies against indiscriminate usage.

## Article 20

### Prohibition of propaganda for war

293. The Philippine Government wishes to reiterate the information provided in its previous Reports.

## Article 21

### Right of peaceful assembly

294. The Philippine Government wishes to reiterate the information provided in its previous Reports.

295. The Constitution guarantees the right of free expression. The Supreme Court has repeatedly upheld them in landmark cases in relation to Articles 19, 21, and 22 of the ICCPR.

296. The Philippines has one of the freest presses in the world. The country has a proliferation of numerous publications, broadcast programs and internet news sites.

297. Remedies and complaints mechanisms are available to the media to ensure their freedom and independence. While Congress deliberates a bill to possibly decriminalize libel, the Chief Justice of the Supreme Court recently encouraged all courts to impose fines instead of imprisonment, as allowed by law, for those convicted of libel.

298. There are growing initiatives in civil society to organize the community into a powerful and constructive force, both in demanding appropriate justice remedies and in contributing to the provision of justice remedies to strengthen human rights.

299. Philippine Courts have consistently upheld the exercise of these cognate rights, notably, in the following cases: *Bayan vs. Ermita* (G.R. No. 169838/169848, September 25, 2006); *Jacinto vs. Court of Appeals*; *U.S. vs. Apurado* (7 Phil. 422); *Primicias vs. Fugoso* (G.R. No. L-539, January 27, 1948); *Reyes vs. Bagatsing* (G.R. No. L-58011 & L-58012, November 9, 1983).

300. The Supreme Court in the case of *Bayan vs. Ermita* had the occasion to state that the right to peaceably assemble and petition for redress of grievances is, together with the freedom of speech, of expression, and of the press, a right that enjoys primacy in the realm of constitutional protection. These rights constitute the very basis of a functional democratic policy, without which all the other rights would be meaningless and unprotected. In the said case, the Supreme Court had the occasion to sustain the constitutionality of *Batas Pambansa* (State Law) No. 880, requiring a permit to peaceably assemble and nullified the use of Calibrated Preemptive Response (CPR) in lieu of maximum tolerance. In the event of public rallies and demonstrations, the police are now required to exercise “maximum tolerance” pursuant to *Batas Pambansa* 880.

301. However, the exercise of these rights is *not absolute*. The Supreme Court in the aforementioned case upheld the constitutionality of *Batas Pambansa* 880, otherwise known as the “Public Assembly Act of 1985.” The Court ruled that B.P. No. 880 is not an absolute ban of public assemblies but a restriction that simply regulates the time, place and manner of the assemblies. Said law was referred to as a “content-neutral” regulation of the time, place, and manner of holding public assemblies. The Court in the same case also ruled that the denial of a permit by concerned authorities can only be circumscribed on the ground of clear and present danger to public order, public safety, public convenience, public morals or public health. This is a recognized exception to the exercise of the right even under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

302. Members of the media have successfully filed petitions for restraining orders against the PNP and AFP against harassment when covering national security threats. When charged with libel, they are accorded all the rights of the accused including the right to bail, counsel, and humane treatment. More significantly, members routinely use the power of the free press to bring public attention to any perception of mistreatment sustained.

## **Article 22**

### **Right of association**

303. The Philippine Government recognizes and respects the fundamental right of association accorded to workers and employees, including migrant workers. Said right is constitutionally and statutorily guaranteed to wit:

#### **A. Constitution – The 1987 Philippine Constitution**

(1) *Section 8, Article III* under which the State affirms the right of the people including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged;

This provision specifies that the right to form associations belongs to the people. The right may not be impaired without due process of law. It is thus deemed an aspect of the general right of liberty. The degree of protection an association enjoys depends on the position which the association's objective or activity occupies in the constitutional hierarchy of values. The standards of allowable restrictions are similar to those applied to the freedom of speech and expression.

(2) *Section 18, Article II* under which the State affirms labor as a primary social economic force and undertakes to protect the rights of workers and promote their welfare;

(3) *Section 3, Article XIII* (Social Justice and Human Rights) which mandates the State to (a) provide full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all; (b) guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful and concerted activities including the right to strike in accordance with law; (d) ensure workers' rights and benefits; (e) promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes; and (f) recognize the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns of investments, and to expansion and growth.

(4) *Section 15, Article XIII* under which the State shall respect the role of independent people's organizations to enable the people to protect and pursue, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means, People's organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership and structure;

(5) *Section 16* under which the State recognizes the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

## B. Legislation

*The Labor Code of the Philippines employing the constitutional mandates, specifically provides legal protection to workers in the exercise of the right to self-organization, through the following provisions:*

- (1) *Article 269 of the Labor Code, as amended, provides that all aliens, natural or juridical, as well as foreign organizations are strictly prohibited from engaging directly or indirectly in all forms of trade union activities without prejudice to normal contacts between Philippine labor unions and recognized international labor centers: Provided, however, That aliens working in the country with valid permits issued by the Department of Labor and Employment, may exercise the right to self-organization and join or assist labor organization of their own choosing for purposes of collective bargaining: provided, further, That said aliens are nationals of a country which grants the same or similar rights to Filipino workers.*
- (2) *Article 243 (Coverage and Employee's Right to Self-Organization), of the Labor Code, as amended, provides that the right to self-organization may be exercised by all employees in commercial, industrial and agricultural enterprises and in religious, charitable, medical or educational institutions, whether they are operating for profit or not. The coverage includes ambulant, intermittent and itinerant workers, self-employed, rural workers and those without definite employers.*
- (3) *Republic Act No. 9481 or "An Act Strengthening the Workers' Right to Self-Organization, Amending for the Purpose Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines," was signed on 25 May 2007 and became effective on 14 June 2007. This law expands the capacity of legitimate federations and national unions to organize and help their local chapters acquire representation status for purposes of collective bargaining. Any legitimate federation or national union can directly create a local chapter and vest it with a legal personality for purposes of filing a petition for certification election even without the statutory twenty percent (20%) minimum membership requirement (although this requirement still applies to independent unions).*

## C. Administrative issuances

- (1) *DOLE Department Order No. 40, series of 2003 sets up the mechanism for alternative modes of organizing for industry unions and mutual aid associations. For this purpose, the rules clarify the distinction between organizations for collective bargaining (trade union) and organizations for purposes other than collective bargaining (workers associations including those in the informal sector).*
- (2) *DOLE Department Order No. 40-C, series of 2005 sets forth who may join labor unions and workers' associations. The rules specifically include foreign nationals with valid working permits as among those entitled to exercise the right to self-organization.*

Anent the rationale behind Article 272 of Presidential Decree No. 442 otherwise known as the Labor Code of the Philippines, said provision was enacted to insure the stability of labor-management relations and to protect the economic interest of this country and its citizens. It is noteworthy that the stability of labor-management relations and of industrial peace is essential to our national security as an independent State and to the purposeful pursuit of economic development and social justice for all the Filipino people. Thus, to ensure such stability, it is necessary to regulate the activities of certain persons, organizations and entities, whether foreign or national, which includes imposition of reasonable and adequate administrative

controls over the activities of migrant workers and foreign organizations in the labor field, including the friends of our country whose concern for the welfare of the Filipino worker is deeply appreciated.

In keeping with the Constitution, the Philippine Labor Code expressly mandates the protection of all peaceful concerted activities, including strikes that are conducted in accordance with law. While the exercise of labor rights has been accorded primacy in the Philippines, the law, in consonance with international standards, draws the line between the valid exercise of such rights as against the patent violation of laws.

304. Every effort is being made at all levels to establish the legislative and institutional framework for the exercise by workers of their right to organize.

305. Republic Act 9481 was enacted to strengthen the right to self-organization of workers. The said law amended Articles 234, 238, 239, 242 of the Labor Code (i.e., Presidential Decree No. 442, as amended) by expanding the capacity of legitimate federations and national unions to organize and help their local chapters acquire representation status for purposes of collective bargaining.

306. The Philippines is a leader in the promotion of the Decent Work Agenda in the region. It was also a country that had seen 480 strikes in 1986, falling to 12 in 2006, down to 6 cases in 2007, only 5 cases in 2008 and reduced to 4 cases as of September 15, 2009.

307. This was achieved, not by curtailing trade union rights, but through advocacy, social dialogue, labor education that targeted both labor and management, and through conciliation and mediation, which had proven to be successful because of the increasing labor relations maturity of the workplace parties.

308. The Supreme Court sustained a provision in the Old Industrial Peace Act allowing laborers to dissociate from or not join a labor union despite its closed-shop agreement with management if they were “members of any religious sect which prohibits affiliation of their members in any such labor organization”. It was held here that the right to association included the right not to associate and that this particular exemption was intended for the benefit of laborers who were inhibited from joining labor unions because of their religious beliefs. The Court further pointed out that the free exercise of religious profession or belief is superior to contract rights. In case of conflict, the latter must, thereto, yield to the former. (*Victoriano vs. Elizalde Rope Workers Union*, 59 SCRA 54, 72 [1974]).

309. The Philippines is a State party to ILO Conventions No. 87 (Freedom of Association and the Right to Organize) and No. 98 (Right to Organize and Collective Bargaining) and, in this respect, has endeavored to assiduously comply with its obligations under the conventions.

310. On the issue of the alleged suppression of trade union rights and the Hacienda Luisita case in 2004, it has been noted that seven union members had been shot and killed during the strike by the workers of the Hacienda Luisita, while a composite team of police and military had been enforcing the assumption of jurisdiction order by the Secretary of Labor. Congressional hearings had been held on the incident and the Congressional Committees on Human Rights, Labor and Employment and Agriculture had concluded in part that human rights violations had been committed against the striking workers. However, this was not a pure case of police action against strikers. The dispersal of the strike had occurred several days after the strike, not immediately after its commencement.

311. There were clear indications of provocation by the strikers, which had compelled the police and military forces to use force to give effect to the order by the Department of Labor and Employment. Of course, the strikers could have actually contributed to the peaceful resolution of the dispute had they complied with the legal order issued by the lawfully constituted authority. She emphasized that the exercise of the right to strike carried

with it the correlative obligation to observe the limitations imposed by law, especially those essential to the maintenance of peace and order in the community. Under Filipino law, a strike should not result in the obstruction of entry to and exit from the enterprise. When this statutory limitation was violated by the strikers, it might be necessary to enforce the law. In the context of the Hacienda Luisita strike, the excesses committed by the strikers had dictated the intervention of law enforcement officers.

312. In relation to the alleged suppression of trade union rights in export processing zones, it should be stressed that the Labor Code also applies to these zones. Labor unions organized in these zones were increasing. Based on Bureau of Labor Relations data, the number of unions in special economic zones had grown from 251 in 2000 to 341 as of September 2005. The workers covered had increased from 23,000 in 2000 to nearly 34,000 in 2005.

313. This development ensued following efforts to educate both the locators and the local officials on the country's labor laws and disproved the alleged harassment and intimidation of trade unionists in the zones.

314. Trade Union Activities and the free exercise of labor rights are alive and amply protected in our jurisdiction. Workers can air their legitimate claims and grievances thru peaceful means such as strike, picketing, slowdown and other methods allowed by law. And in every 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.

315. The PNP is now investigating a total of 66 alleged violations of trade union rights which are broken down into 39 cases of alleged killings, 11 alleged abductions and 16 alleged harassment of trade union leaders/members. This number was filed by *Kilusang Mayo Uno* (May First Movement), a local labor groups in the Philippines to the International Labor Organization. Out of these 66 alleged cases, 16 were filed, 20 are under investigation, 6 cases wherein the victims migrated to undisclosed placed, 1 case of alleged killing that appear to be an incident of abduction, 1 case was considered closed due to the death of the suspect, 4 cases are legitimate police operations, 8 cases wherein the victims are no longer interested to pursue the case, 4 cases wherein no complaint were filed, 2 cases wherein the incident were not reported, 1 case wherein the victim organization does not exist and 3 cases wherein no harassment were committed.

316. 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 36 media killings of which 30 cases were filed with 3 cases resulting to conviction and 6 cases still under investigation due to lack of witnesses.

317. The PNP is currently looking into the alleged 66 cases alleged violations of trade union rights as indorsed by the International Labor Organization during their visit to the Philippines from Sept 21 to Oct 2, 2009.

## **Article 23**

### **Protection of the family**

318. The Philippine Government wishes to reiterate the information contained in its previous reports.

319. Article XV, Section 1 of the 1987 Constitution recognizes the Filipino family as the foundation of the nation. The right of men and women of marriageable age to marry with their free and full consent and to found a family in accordance with their religious convictions and the demand of responsive parenthood are also recognized and protected.

The Philippine Government has also taken the necessary steps to ensure equality of rights and responsibilities of spouses during marriage.

320. Article II, Section 12 of the Philippine Constitution, the State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. This State policy is emphasized in R.A. 8369, which mandates family courts to try to preserve the solidarity of the family, provide procedures for the reconciliation of spouses and the amicable settlement of family controversy. Further, the State shall provide a system of adjudication for youthful offenders that would take into account their peculiar circumstances.

321. The Government has initiated the institutionalization of protecting the family through Executive Order No. (E.O.) 238 or the powers and functions and membership of the National Steering Committee of the Family Week, which has then been amended to E.O. 234 or the formation of the National Committee on the Filipino Family (NCOFF).

322. The NCOFF chaired by the DSWD, in collaboration with the various agencies and instrumentalities, LGUs, and government-owned or controlled corporations, private sectors/civil society, developed the National Decade Plan for the Filipino Family (NDPFF) 2005–2010.

323. The NDPFF is the Philippines's blueprint for the Filipino family in the new millennium which provides a clear vision for the next ten years. It consists of 4 strategies and 10 goals achievable in 10 years. It advocates not only for a more focused targeting for the families but also for a specific aspects of service to the Filipino Family, specializing on: strengthening of family relationships; empowering families for nation-building; addressing the needs of poor families and families with special needs; developing family-friendly communities; fostering a family-friendly environment; strengthening coordination among various organizations; strengthening the policy and research foundations of service to the Filipino family; formulating plans, programs, and projects, and for increasing awareness of the importance of the family.

324. To strengthen the family, the DSWD also initiated the *Pantawid Pamilyang Pilipino* Program (4Ps) – an innovative social development approach that aims to break the inter-generational poverty cycle by investing in human capital by providing cash assistance to extremely poor households for their health, nutrition and education, particularly their children aged 0–14 provided that they comply with the program's conditionalities allowing the family to meet important human development goals. The conditionalities include sending their children to school and bringing them to health centers on a regular basis and providing pre and post natal care and delivery by a skilled birth attendant to pregnant women. In CY 2008, 4Ps has served 341,374 household beneficiaries.

325. Pursuant to the provisions of the Family Code of the Philippines, marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation, except that marriage settlements may fix the property relations during the marriage within the limits provided by this Code. No marriage shall be valid, unless these essential requisites are present:

- (1) Legal capacity of the contracting parties who must be a male and a female; and
- (2) Consent freely given in the presence of the solemnizing officer.

326. Article 5, Chapter 1, Title I of the Family Code also provides that any male or female of the age of eighteen years or upwards, who do not have any legal impediment to contract marriage as mentioned in Articles 37 and 38 of the Code, may contract marriage.

327. Title III of the Family Code provides for the rights and obligations between the spouses. Specifically, Article 68, Title III of the Family Code provides that the husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

328. The husband and wife shall jointly establish the family domicile and that in case of disagreement, the court shall decide the same. The court may also exempt one spouse from living with the other if the latter should live abroad or there are other valid and compelling reasons for the exemption. However, such exemption shall not apply if the same is not compatible with the solidarity of the family.

329. The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from the separate properties.

330. The management of the household shall be the right and the duty of both spouses. The expenses for such management shall be paid in accordance with the provisions of Article 70 of the Family Code.

331. When one of the spouses neglects his or her duties to the conjugal union or commits acts which tend to bring danger, dishonor or injury to the other or to the family, the aggrieved party may apply to the court for relief.

332. Either spouse may exercise any legitimate profession, occupation, business or activity without the consent of the other. The latter may object only on valid, serious, and moral grounds. In case of disagreement, the court shall decide whether or not:

(1) The objection is proper; and

(2) Benefit has occurred to the family prior to the objection or thereafter. If the benefit accrued prior to the objection, the resulting obligation shall be enforced against the separate property of the spouse who has not obtained consent.

333. Title V of the same code provides for the family as an institution. The family, being the foundation of the nation, is a basic social institution which public policy cherishes and protects. Consequently, family relations are governed by law and no custom, practice or agreement destructive of the family shall be recognized or given effect.

334. Family relations include those:

(1) Between husband and wife;

(2) Between parents and children;

(3) Among brothers and sisters, whether of the full or half-blood (217a).

335. Chapter 2, Title V of the Family Code provides that the family home constituted jointly by the husband and the wife or by an unmarried head of a family, is the dwelling house where they and their family reside, and the land on which it is situated. The family home is deemed constituted on a house and lot from the time it is occupied as a family residence. From the time of its constitution and so long as any of its beneficiaries actually resides therein, the family home continues to be such and is exempt from execution, forced sale or attachment except as may hereinafter be provided and to the extent of the value allowed by law.

336. The beneficiaries of a family home are:

(1) The husband and wife, or an unmarried person who is the head of a family;

and

(2) Their parents, ascendants, descendants, brothers and sisters, whether the relationship be legitimate or illegitimate, who are living in the family home and who depend upon the head of the family for legal support.

337. The family home shall continue despite the death of one or both spouses or of the unmarried head of the family for a period of ten years or for as long as there is a minor beneficiary, and the heirs cannot partition the same unless the court finds compelling reasons therefore. This rule shall apply regardless of whoever owns the property or constituted the family home.

338. Title VIII of the Family Code provides that support comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family. The education of the person entitled, to be supported, shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority. Transportation shall include expenses in going to and from school, or to and from place of work.

339. The following are obliged to support each other to the whole extent set forth in the Code:

- (1) The spouses;
- (2) Legitimate ascendants and descendants;
- (3) Parents and their legitimate children and the legitimate and illegitimate children of the latter;
- (4) Parents and their illegitimate children and the legitimate and illegitimate children of the latter; and
- (5) Legitimate brothers and sisters, whether of full or half-blood.

340. Brothers and sisters not legitimately related, whether of the full or half-blood, are likewise bound to support each other to the full extent set forth in Article 194 of the Code, except only when the need for support of the brother or sister, being of age, is due to a cause imputable to the claimant's fault or negligence.

341. In case of legitimate ascendants; descendants, whether legitimate or illegitimate; and brothers and sisters, whether legitimately or illegitimately related, only the separate property of the person obliged to give support shall be answerable provided that in case the obligor has no separate property, the absolute community or the conjugal partnership, if financially capable, shall advance the support, which shall be deducted from the share of the spouse obliged upon the liquidation of the absolute community or of the conjugal partnership.

342. During the proceedings for legal separation or for annulment of marriage, and for declaration of nullity of marriage, the spouses and their children shall be supported from the properties of the absolute community or the conjugal partnership. After the final judgment granting the petition, the obligation of mutual support between the spouses ceases. However, in case of legal separation, the court may order that the guilty spouse shall give support to the innocent one, specifying the terms of such order.

343. Article 199 of the Family Code provides that whenever two or more persons are obliged to give support, the liability shall devolve upon the following persons in the following order:

- (1) The spouse;
- (2) The descendants in the nearest degree;
- (3) The ascendants in the nearest degree; and

(4) The brothers and sisters.

344. When the obligation to give support falls upon two or more persons, the payment of the same shall be divided between them in proportion to the resources of each.

345. However, in case of urgent need and by special circumstances, the judge may order only one of them to furnish the support provisionally, without prejudice to his right to claim from the other obligors the share due from them.

346. When two or more recipients at the same time claim support from one and the same person legally obliged to give it, should the latter not have sufficient means to satisfy all claims, the order established in the preceding article shall be followed, unless the concurrent obligees should be the spouse and a child subject to parental authority, in which case the child shall be preferred.

347. The amount of support shall be in proportion to the resources or means of the giver and to the necessities of the recipient.

348. The obligation to give support shall be demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date of judicial or extra-judicial demand.

349. Moreover, *support pendente lite* may be claimed in accordance with the Rules of Court to ensure the viability of the family while the dissolution of the marriage bonds is pending determination by the Court.

350. The person obliged to give support shall have the option to fulfill the obligation either by paying the allowance fixed, or by receiving and maintaining in the family dwelling the person who has a right to receive support. The latter alternative cannot be availed of in case there is a moral or legal obstacle thereto.

351. When the person obliged to support another unjustly refuses or fails to give support when urgently needed by the latter, any third person may furnish support to the needy individual, with right of reimbursement from the person obliged to give support. This Article shall particularly apply when the father or mother of a child under the age of majority unjustly refuses to support or fails to give support to the child when urgently needed.

352. Article 239 of the Family Code provides that when a husband and wife are separated in fact, or one has abandoned the other and one of them seeks judicial authorization for a transaction where the consent of the other spouse is required by law but such consent is withheld or cannot be obtained, a verified petition may be filed in court alleging the foregoing facts.

353. The petition shall attach the proposed deed, if any, embodying the transaction, and, if none, shall describe in detail the said transaction and state the reason why the required consent thereto cannot be secured. In any case, the final deed duly executed by the parties shall be submitted to and approved by the court. Jurisdiction over the petition shall, upon proof of notice to the other spouse, be exercised by the Family Court where either of the spouses resides.

354. A.M. No. 02-11-12-SC, Re: Proposed Rule on Provisional Orders was adopted by the Supreme Court providing the rules covering spousal support, child support, child custody, and visitation among others after or during the annulment proceedings of the case.

355. In the case of *Albino Josef vs. Otelio Santos*, G.R. No. 165060, November 27, 2008, the Supreme Court held that “The family home is the dwelling place of a person and his family, a sacred symbol of family love and repository of cherished memories that last during one’s lifetime. It is the sanctuary of that union which the law declares and protects

as a sacred institution; and likewise a shelter for the fruits of that union. It is where both can seek refuge and strengthen the tie that binds them together and which ultimately forms the moral fabric of our nation. The protection of the family home is just as necessary in the preservation of the family as a basic social institution, and since no custom, practice or agreement destructive of the family shall be recognized or given effect,[24] the trial court's failure to observe the proper procedures to determine the veracity of petitioner's allegations, is unjustified."

356. In another case, i.e., *Ong Eng Kiam a.k.a. William Ong vs. Lucita G. Ong*, G.R. No. 153206, the Supreme Court bolstered that the Philippine Constitution is committed to the policy of strengthening the family as a basic social institution. The Constitution itself however does not establish the parameters of state protection to marriage and the family, as it remains the province of the legislature to define all legal aspects of marriage and prescribe the strategy and the modalities to protect it and put into operation the constitutional provisions that protect the same.[42] With the enactment of the Family Code, this has been accomplished as it defines marriage and the family, spells out the corresponding legal effects, imposes the limitations that affect married and family life, as well as prescribes the grounds for declaration of nullity and those for legal separation.[43] As Lucita has adequately proven the presence of a ground for legal separation, the Court has no reason but to affirm the findings of the RTC and the CA, and grant her the relief she is entitled to under the law.

357. The following laws were enacted to further strengthen the Filipino family:

- (a) RA 9257 Expanded Senior Citizen's Act of 2003 – For Senior citizens;
- (b) 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;
- (c) RA 7322 An Act Increasing Maternity Benefits in Favor of Women Workers in the Private Sector, Amending for the Purpose Section 14-A of Republic Act 1161, as Amended, and for Other Purposes;
- (d) 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;
- (e) RA 9208 Anti-Trafficking in Persons Act of 2003 – For Women and children;
- (f) RA 7277 An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes (Magna Carta for Disabled Persons) – for persons with disabilities;
- (g) RA 8042 An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of the Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes – for migrant workers;
- (h) RA 9344, An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council under the Department of Justice, Appropriating Funds Therefore and For Other Purposes, (Juvenile Justice and Welfare Act of 2006) – For children in conflict with the law;
- (i) RA 9231 Elimination of the Worst Forms of Child Labor Act of 2003 – For children;
- (j) RA 9255 An Act Allowing Illegitimate Children to Use the Surname of their Father – For children;

- (k) RA 9262 Anti-Violence Against Women and their Children Act of 2004 – For women and children;
- (l) Republic Act No. 7610, or “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”;
- (m) The Solo Parents Welfare Act (RA 8972);
- (n) RA 9523, or the “Act of Requiring the Certification of the DSWD to declare a Child Legally Available for Adoption”;
- (o) RA 9710 An Act Providing for the Magna Carta of Women.

## **Article 24**

### **Rights of the child**

358. The Philippine National Strategic Framework for Plan Development for Children, otherwise known as “Child 21” was adopted by the Council for the Welfare of Children (CWC) for the period 2000–2025. It aims to build a “child-sensitive and child-friendly society” as the country’s promise to Filipino children in the 21st century. It is a road map and guide to make plans and programs for children that are more focused and that follow the provisions, principles and standards of the CRC. The current medium term plan for Child 21 called National Plan of Action for Children (NPAC) for 2005–2010 adopts the relevant Millennium Development Goals (MDG) and the World Fit for Children (WFFC) Goals. A Comprehensive Programme on Child Protection (CPCP), an elaboration of the child protection component of NPAC, was launched on 18 June 2007. Institutional and technical capacity functionality of “Child 21” and its medium term plan the National Plan of Action for Children should be sustained. The network and the mechanism through which Child 21 will be implemented, requires functional certainty both at the national and local levels. This mechanism includes the strengthening of the local protection mechanism for children.

359. In accordance with guidelines developed by Department of Interior and Local Government (DILG), local councils for the protection of children (LCPC) at provincial, municipal, city and *barangay* levels have been organized, activated and strengthened to serve as institutional mechanisms for coordinating and monitoring implementation of the Convention on the Rights of the Child (CRC). As of September 2009: 80.71% LCPC were organized; 11.93% BCPCs are functional; 40.54% or 30 out of 74 provinces/ PCPC are ideal/functional; 33.33% or 40 out of 120 cities are ideal cities; 18.61% or 260 out of 1,397 municipalities are ideal municipalities; 11.93% or 4,718 out of 39,535 *barangays* are ideal BCPCs. Data of ARMM LGUs were not included in this report.

360. The Government protects children from involvement in armed conflict which has been given specific attention by the Inter-Agency Committee on Children Involved in Armed Conflict Program co-chaired by the Office of the Presidential Adviser on the Peace Process (OPAPP) and CWC.

361. Based on reports from combined sources (DSWD, DND, AFP and NGOs), there were 186 children involved in armed conflict (CIAC) for the period 2001–2006. Of this number, 174 children have been demobilized and reunited with their families and brought back to school. The Department of Labour and Employment (DOLE) also implemented the Community Sala’am (Peace) Corp Project wherein 300 children between the ages of nine (9) and seventeen (17) years old were given education, skills training, employment and livelihood assistance for the period 2005–2006.

362. The Philippine government continues to pursue a comprehensive peace process to address armed conflict with rebel groups. This presently involves the implementation of a National Peace Plan, which is chapter 14 of the Medium-Term Philippine Development Plan. Among the efforts being undertaken with significant contribution to preventing and stopping the recruitment of children in armed hostilities are as follows:

(a) The peace process with the Moro Islamic Liberation Front (MILF), which includes security through cessation of hostilities, rehabilitation and development of conflict-affected areas, and negotiations on the issue of ancestral domain;

(b) Implementation of the interim peace agreements with two (2) local communist movements (the RPMP-RPA-ABB and the RPMM), particularly in terms of rehabilitation of conflict-affected communities, cessation of hostilities, reintegration, and protection of civil and political rights particularly of the alleged political offenders and political prisoners;

(c) Continuous monitoring and advocacy on the implementation of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) between the Philippine government and the Community Party of the Philippines-New Peoples Army-National Democratic Front (CPP-NPA-NDF);

(d) Complementary measures to reduce the level of violence on the ground such as support to local and indigenous peacemaking and peacekeeping mechanisms including peace zones, and support to the implementation and civilian monitoring of ceasefire agreements;

(e) Efforts to complete the implementation of existing final peace agreements with the Moro National Liberation Front (MNLF) and the Cordillera Peoples Liberation Army (CPLA);

(f) Efforts to mainstream former rebels through reintegration and rehabilitation programmes, including the President's issuance in March 2007 of Administrative Order No. 172, creating the National Committee on Social Integration under the Office of the Presidential Adviser on the Peace Process (OPAPP). The Social Integration Programme includes the process of arms management, forces management, and the transition of former rebels to civilian life;

(g) Rehabilitation, development and healing of conflict-affected areas through various local and ODA-funded programmes and projects.

363. The peace process at the regional level has been strengthened through the issuance of Executive Order No. 569 on 26 September 2006, mandating the Regional KALAHI Convergence Groups (RKCG) and Presidential Assistants as peace process mechanisms and Regional Peace Advisors respectively. Their tasks include, among others, activating a quick response mechanism to help prevent the outbreak and escalation of armed conflicts, and to address the humanitarian needs and other urgent concerns arising from ongoing hostility.

364. More specifically, the Government has pushed further the implementation of a Comprehensive Programme for Children Involved in Armed Conflict (CP-CIAC) which was launched through Executive Order No. 56 on 26 November 2001. Led by OPAPP and the Council for the Welfare of Children (CWC), the programme seeks to prevent the recruitment of children in armed hostilities, as well as rehabilitate and reintegrate those who have surfaced or been recovered. The programme is implemented by 18 government agencies. Among the efforts undertaken under the programme are: policy development and coordination; database development; case monitoring; provision of services to CIAC; development and implementation of training modules; and development and use of advocacy and IEC materials. Also integral to the programme is strengthening the peace

constituency and promoting a culture of peace through peace education, promotion of interfaith dialogues, peace forum, and media-based information and education campaign.

365. Through the CP-CIAC, the Department of Social Welfare and Development (DSWD) provides a package of social services and interventions designed to protect and rehabilitate children affected directly or indirectly by armed conflict. It includes provisions for the special needs of girl child soldiers.

366. The DSWD issued in 2002 Administrative Order No. 84, "Procedures in the Handling and Treatment of Children Involved in Armed Conflict" to provide guidance to various agencies and levels of government participating in the CP-CIAC. The procedures apply to children involved in armed conflict either as courier, guide, spy, combatant, or any similar capacity. On the other hand, OPAPP monitors compliance of concerned agencies, including the Armed Forces of the Philippines, to existing guidelines on the handling and treatment of rescued and recovered CIAC.

367. Pursuant to R.A. 7610, also known as "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act", a memorandum of agreement dated March 21, 2000 in the Handling and Treatment of Children involved in Armed Conflict was entered by and among the Department of Social Welfare and Development, the Department of National Defense, Armed Forces of the Philippines, Department of the Interior and Local Government, Philippine National Police, the Department of Health, the Commission on Human Rights of the Philippines, the Office of the Presidential Adviser on the Peace Process, and the National Program for Unification and Development Council. This provides procedures needed from the time of rescue or surrender of the child, up to the time of his or her placement with DSWD. It also prohibits their presentation to the media for propaganda purposes.

368. The Emergency Operation Philippines-Assistance to Conflict-Affected Mindanao (EMOP-ACAM) joint initiative of DSWD and the World Food Programme also supports the peace process in Mindanao by addressing the food security needs of its vulnerable population living in conflict-affected communities. The project benefits families in five provinces, namely, Lanao del Norte (Region 10), North Cotabato and Sultan Kudarat (Region 12), Lanao del Sur and Maguindanao in ARMM. As of July 2007, the project scaled up implementation as follows:

(a) Food for Education. This component reaches 306,594 school children for take-home ration and 19,226 children for on-site feeding;

(b) Mother and Child Nutrition. Food baskets have been provided to 43,448 pregnant and lactating women and 37,709 children below two years old;

(c) Food for Work (FFW) and Food for Training (FFT) activities reached 15,174 and 23,052 beneficiaries respectively;

(d) Food for Internally Displaced Persons (IDP). This covered 34,182 affected families in North Cotabato and 68,130 displaced families in Maguindanao;

(e) Sulu Emergency Operation for IDPs. More than 276,500 affected families were provided with food assistance.

369. Regarding displaced children as a result of armed conflict, various programmes and projects are being implemented to ensure that these children are protected and have access to basic services, including Days of Peace (DoP) campaign. The agreement with the MILF to conduct the Days of Peace campaign has been a result of continuing CRC education and awareness-raising with partners on the ground involving LGUs, NGOs and FBOs. With support from UNICEF and with the involvement of OPAPP, DOH, DILG and DepEd, the DoP campaign launched in April 2007 aims at creating a corridor of peace and reaching out

to around 250,000 under-five children, 50,000 children less than one year old, and 60,000 mothers in 70 conflict-affected *barangays* in Mindanao. The services provided include immunization, micronutrient supplementation, de-worming, breastfeeding counseling, birth registration and distribution of basic school supplies. As a rolling campaign, it shall expand its areas of coverage in other peace agreement areas and the UNICEF-assisted Country Programme for Children 6 (CPC6) areas in Luzon and Visayas.

370. Also under the GOP-UNICEF 6th Country Programme for Children 2005–2009, special protection measures and basic social services to boys and girls affected by armed conflict have been provided and supported. As of mid-2007, more than 20,000 children in 64 conflict-affected *barangays* (45 in Mindanao, 15 in Visayas and 4 in Luzon) had been provided basic services such as health and nutrition, early childhood care, basic education, and technical-vocational education and training. Other measures undertaken were youth organizing, rights advocacy, community-based peace education, and disaster management. Moreover, in the conflict-ridden regions of Sulu, Samar, Surigao del Sur, Quezon, North Cotabato and Maguindanao over 10,000 families who were displaced because of escalating hostilities between government forces and non-state actors were given emergency relief and psychosocial support services (e.g. art therapy); 3,000 pupils received school packs; and around 60,000 internally displaced persons (IDP) were provided with medicines and water purifiers. The provision of these services were facilitated through NGO partners involved in community organizing (CO) in rural, remote and hard-to-reach areas. A sustained CO strategy helps empower disadvantaged families and build community resilience and capacity to cope with emergency situations. To enable children and their families to cope with disasters and emergency situations, WVDF has introduced the concept of a child-friendly space (CFS). A CFS provides a protective environment for children ensuring their safety and continuous healthy physical, psychosocial, moral and spiritual development despite adverse circumstances.

371. The Philippines recently agreed to join the Monitoring and Reporting Mechanism (MRM) initiative following the Security Council resolution 1612. Resolution 1612 asks for the establishment of MRM on six grave violations of children's rights in situations of armed conflict in countries where recruitment of children is still being reported. With support from UNICEF, the Sub-Committee on Children Affected by Armed Conflict and Displacement (SC-CAACD) of the Council for the Welfare of Children has pushed for the establishment of MRM on children involved in armed conflict.

372. In addition to the Child and Youth Welfare Code (Presidential Decree 603), the Family Code and RA 7610 or the Child Protection Act of 1992, several laws had been passed to address discrimination and violence against children, to wit:

- (a) Anti-Trafficking in Persons Act of 2003;
- (b) Elimination of the Worst Forms of Child Labour Act of 2003; and
- (c) Anti-Domestic Violence Act of 2004.

373. In May 2003, RA 9208 or the Anti-Trafficking in Persons Act was signed into law. This is a comprehensive legislation that institutes policies and programmes to eliminate trafficking in persons, especially women and children. It identifies and criminalizes acts of trafficking and also institutionalizes mechanisms for the protection and support of trafficked persons.

374. As of January 2005, there were 24 cases filed in court for violations of RA 9208 while 31 cases were at the preliminary investigation stage. There have been at least eight (8) convictions of trafficking cases since the passage of the law. The law includes provisions on victim compensation, recognition of the right to privacy of trafficking victims, and witness protection, among others. As provided for under the law, the Inter-

Agency Council against Trafficking (IACAT) has been created and has been tasked to monitor and coordinate implementation of the law. The IACAT is chaired by the Secretary of the Department of Justice and co-chaired by the Secretary of the Department of Social Welfare and Development.

375. A National Strategic Action Plan against Trafficking in Persons 2004–2010 has been adopted by IACAT and covers the key components of prevention, protection, recovery and reintegration. The strategic actions that will be employed are advocacy and social mobilization, capacity building, data collection and management, provision of essential services, alliance building and networking, research and documentation, and strengthening institutional mechanisms. An earlier but closely related programme document that had been in place but needs updating and revision is the National Framework of Action Against Commercial Sexual Exploitation of Children 2001–2005 (FA-SACSEC) which was developed following the Declaration and Agenda for Action and the Global Commitment at the World Congress against Commercial Sexual Exploitation of Children. The FA-SACSEC served as a guide for local government units and other stakeholders in the formulation, implementation, and monitoring of policies and programmes relevant to child trafficking, pornography and prostitution. As in the Anti-Trafficking Strategic Action Plan, the FA-SACSEC had key components on prevention, protection, recovery and reintegration and a fifth component on child participation.

376. Significant specific core activities addressing sexual exploitation, child pornography and trafficking include, among others, the following:

(a) The Department of Tourism (DOT), in partnership with Child Wise Tourism Australia, has adopted the Child Wise Tourism Campaign in the Philippines and continues to enjoin hotels, resorts, tour operators, and other actors of the private tourism industry to report suspected cases of child sex tourism. DOT's launching of the Child Wise Tourism in the Philippines has received support from the embassies of Australia and New Zealand as well as from travel agencies and tour operators. DOT has also established partnership with Sea Air and Globe for this purpose. Maximizing its existing partnerships, DOT trains the private sector on how to detect cases and where to report them;

(b) The Philippine Center on Transnational Crime (PCTC) created under Executive Order No. 62 is in charge of formulating and implementing a concerted programme of action for all law enforcement agencies, intelligence agencies and other relevant bodies for the prevention and control of trafficking in women and children. Through improved coordination, the PCTC is likewise directed to undertake research and maintain a data bank on trafficking;

(c) With support from UNICEF, the Department of Justice has trained a pool of 30 state prosecutors to handle trafficking cases involving women and children, including focus on gender-sensitive and child-friendly investigation procedures and effective gathering and handling of evidences against alleged perpetrators. The Philippine National Police (PNP) has likewise trained 230 police investigators on the investigation of child trafficking, pornography and prostitution;

(d) A total of 1,570 Women and Children's Desks (WCDs) set up in 98 percent of all major police stations around the country are manned usually by women police officers who have been trained on child-sensitive and child-friendly investigation procedures. More than 60 percent of police officers assigned to WCDs in CPC 6 areas were trained on the proper investigation of crimes involving women and children, and on investigation procedures for cases of child trafficking and on-line child pornography. The Violence against Women and Children Division (VAWCD) and the Anti-Human Trafficking Division (AHTRAD) within the National Bureau of Investigation (NBI) are also tasked to investigate cases involving women and children including trafficking,

prostitution and pornography. The NBI has fourteen (14) “one-stop-shop” woman and child-friendly investigation studios in selected cities and regions in the country. NGOs like the International Justice Mission (IJM), the Child Justice League (CJL) and Women LEAD help in the prosecution of trafficking cases;

(e) The Department of Social Welfare and Development (DSWD) implements the following projects on child trafficking: (i) *Support for Victims/Witnesses of Trafficking in Human Beings* (in partnership with UNODC) which aims to provide rehabilitation, counseling, temporary shelter as well as vocational training for victims and witnesses of trafficking and is being implemented in Regions 3, 8 and 9 reaching 1,556 cases as of June 2007; and (ii) *Developing Systems, Tools and Capacities to Improve Delivery of Recovery and Reintegration Services to Victims of Trafficking* (in partnership with ILO) which aims to improve the delivery of recovery and reintegration services to rescued trafficking victims as well as build capacities of service providers through skills training and development of database system on recovery and reintegration of trafficked victims. This project, which started in 2007, will be implemented for the next eighteen months in Regions 1, 3, 4-A, and NCR;

(f) The Filipino Initiative against Trafficking (FIAT) is an advocacy activity against trafficking in persons through partnership with NGOs. The project has three components: road show; orientation and training for law enforcers and prosecutors; and training and capacity building of social workers, medical officers, psychologists and other service providers from government and NGOs;

(g) Asia ACTS (Asia against Child Trafficking) has led the regional campaign against trafficking in Southeast Asia including the Philippines. Asia ACTS has been conducting community-based education sessions on trafficking in selected *barangays*, along with ECPAT Philippines (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) and the network of agencies under PACT (Philippines Against Child Trafficking). About 800 village communities all over the country have been reached by Asia ACTS through almost 1,000 community-based education sessions that it has conducted so far;

(h) The Philippine Children’s Ministry Network (PCMN) of the Philippine Council of Evangelical Churches (PCEC) has also been conducting community-based and church-based training on how to prevent and control child trafficking and commercial sexual exploitation. PCMN has particularly targeted pastors, deaconesses and church workers for their preventive, community-based education programmes. Childhope Asia-Philippines (CHAP), on the other hand — in partnership with other NGOs such as Pangarap Shelter, Sun for All Children, FCED, and city social welfare offices — has focused on community-based advocacy, mobilization and networking against child prostitution in Pasay, Manila, Caloocan, Quezon City and other parts of Metropolitan Manila;

(i) The Visayan Forum Foundation (VF), in collaboration with the Philippine Ports Authority and with support from UNICEF, opened a half-way house at the Manila South Harbor, Sorsogon, Davao, and Batangas ports to assist and protect women and children stranded at the port and thus prevent the possibility of trafficking. The half-way home provides information to disembarking migrants about travel, employment, and tracing support networks; 24-hour hotline assistance and reporting desk for stranded children; and temporary shelter, food, and recreation activities. The programme already assisted a total of 14,618 victims and potential victims of trafficking for the period July 2001 to March 2007. Of this number, 147 trafficking victims filed criminal cases against the recruiters, traffickers and/or employers. Psychosocial recovery and social reintegration services, especially for girls involved in sexual slavery, are likewise provided. The Visayan Forum Foundation has also been engaged in mobilization and capacity building of partners through

the Anti-Trafficking Task Force at the Port with assistance from UNICEF. To prevent trafficking, VF has advocated in source communities and transit routes by disseminating information through tri-media and lobbying for local ordinances. VF also implements the Stop Trafficking and Exploitation of People through the Unlimited Potential (STEP-UP) project in partnership with Microsoft by providing IT skills training to current and potential victims of trafficking and helping them to find better access to employment opportunities. This is facilitated in three VF centers and is coursed through the Community Technology Learning Centers (CTLC) run by twelve (12) local NGO partners nationwide. During the period June 2006 to May 2007, the project had 3,109 enrollees where 2,313 of them already graduated from computer training with 1,183 already employed;

(j) Plan Philippines, together with Visayan Forum and the Philippine Ports Authority has also established the operation and management of a half-way house in Matnog, Sorsogon which is a transit point for trafficking women and girls from the Visayas to Metro Manila and the rest of Luzon. An integral component of the RBA-PORT (Rights Based Approach in Protecting Victims and Organizing Responsive Task Forces against Trafficking) project, the half-way house was established in 2005 and since then has been catering to the needs of intercepted trafficked victims. As of 2006, a total of 2,043 trafficked children, mostly girls, had been served by the half-way house and the RBA-PORT project;

(k) The Center for the Prevention and Treatment of Child Sexual Abuse (CPTCSA), in partnership with the Department of Education (DepEd), had piloted the Personal Safety Lessons (PSL) project in twelve schools in seven (7) provinces during the period 2001–2004. The PSL, which is a strategy for primary prevention, is designed to protect children from abuse, specifically sexual abuse. The PSL aims to empower children to take part in their own protection by giving them information, skills, and self-esteem. The basic components of PSL include (a) age-appropriate information, (b) skills to handle the information, and (c) build self-esteem for the courage to practice the skills based on the information. The pilot project reached an average of 6,000 students annually through 154 trained teachers and seven (7) organized support teams. The successful pilot implementation of the PSL (e.g., as shown in more children and students gaining more knowledge, skills and capacities to distinguish between safe and unsafe adult touches) has encouraged both DepEd and CPTCSA to expand to twenty four (24) schools in 2006;

(l) Stairway Foundation Inc. has developed an animation tool kit for the prevention of child sexual abuse in cooperation with CPTCSA, DSWD, and Childhope Asia-Philippines, among other organizations. The first animation film entitled “Daughter” is a story of incest developed in 2003. The second animation film produced in 2005 is a story of pedophilia entitled “A Good Boy”. These animation films come with printed booklets on how to use the animation and how to deal with disclosures from child victims. A third animation film currently being produced is on child trafficking and child pornography. The animation tool kit has been found useful as an advocacy material aimed at breaking silence on the issue of child sexual abuse. Stairway Foundation is currently exploring partnership with the Philippine Inter-Faith Network for Children (PHILINC) to extend its advocacy for the prevention of child sexual abuse to the network of church communities and faith-based organizations. Stairway Foundation also conducts workshops for children and caregivers combining children’s rights and prevention of child sexual abuse.

377. With UNICEF support, the CWC Sub-Committee on Sexual Abuse and Commercial Sexual Exploitation (SC-SACSEC), in partnership with IACAT and other interagency networks for children, has paved the way for an organized and systematic approach to the issue of child pornography through the conduct of regional conferences and multi-sectoral dialogues. A new partnership between UNICEF and Netopia, one of the largest internet

café services in the Philippines with over 200 shops all over the country, on internet safety and anti-child pornography campaign augurs well for an expanded network for the prevention and control of child pornography and sexual exploitation on cyberspace. Partnerships and alliances with faith-based organizations, under the umbrella of the Philippine Inter-Faith Network for Children (PHILINC) has likewise widened the reach of anti-pornography and trafficking initiatives, particularly community-based education and prevention programmes.

378. USAID has also supported a number of trafficking in persons initiatives in the Philippines over the last two to three years. These initiatives focus on: (a) prevention through awareness raising and educational campaigns; (b) protection through provision of direct services to victims and potential victims; and (c) prosecution through support for the effective implementation of the anti-trafficking law. In support of these initiatives, USAID allocated the amount of US \$ 605,000. These projects include the following:

(a) A one-year grant to the National Office of Mass Media (NOMM) and a local non-government organization for the project “Trafficked! The Selling of Our Women”. The project is conducting a media and public information campaign on trafficking in persons. The project’s activities include daily radio drama, radio and television spots, TV documentaries, press articles, texting services, and website development;

(b) A three-year grant to the Coalition against Trafficking in Women – Asia Pacific (CATW-AP) for the project “Campaigning against Trafficking in the Philippines”. The project focuses on the following activities: (a) conduct of preventive education seminars in communities most vulnerable to trafficking, (b) conduct of consultations with appropriate government agencies to promote cooperation on trafficking cases, (c) conduct of a vigorous campaign for the implementation of the Anti-Trafficking Law, (d) promotion of sustained and systematic documentation of trafficking cases, (e) conduct of an educational campaign targeting young men in selected areas, and (f) sharing of best practices in combating trafficking and sexual exploitation;

(c) A three-year grant to End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes (ECPAT-Philippines) for the project “Continuing Community Empowerment against Sexual Exploitation of Children”. The project aims to raise community awareness on trafficking of children in selected high-risk communities and seeks to empower children and youth through development workshops. It also documents the exploitation of children in tourism, child trafficking, and child pornography;

(d) An eight-month grant to the Visayan Forum Foundation (VFF), a local NGO for the project “Protecting Victims and Potential Victims of Trafficking in Persons towards Effective Investigation and Prosecution of Traffickers”. The project focuses on internal trafficking and provides direct services to victims and potential victims of trafficking through the operation of halfway houses. As already indicated earlier, the halfway houses directly provide temporary shelter, repatriation, referral, and counseling to intercepted victims of trafficking at the Manila, Davao, Batangas, and Sorsogon ports. Other activities include: (a) development of anti-trafficking information, education and communication materials, and dissemination in all ports covered by the project; and (b) conduct of training on anti-trafficking for law enforcement agencies and selected family and regional trial courts.

379. It should be noted, however, that the Philippines has been upgraded in the annual US Department of State Trafficking in Persons (TIP) report from tier three watch list in 2004 and 2005 to tier two in 2006. Tier two includes countries whose governments do not fully comply with the minimum standards of Trafficking Victims Protection Act but are making

significant efforts to bring themselves into compliance with these standards. As of 2007, the Philippines remains in tier two of the TIP watch list.

380. During the period 2004–2009, some other laws were passed such as: a) Republic Act 9255, An Act Allowing Illegitimate Children to Use the Surname of their Father; b) Republic Act 9262 or Anti-Violence Against Women and their Children Act of 2004, An Act protecting women and their children from physical, emotional, sexual, psychological and economic abuses; and c) Republic Act 9288 or the Newborn Screening Act of 2004, promulgating a comprehensive policy and a national system for ensuring newborn screening.

381. On children born out of wedlock, both the CWC and the Presidential Human Rights Committee (PHRC), particularly its sub-committee on CRC Monitoring, in partnership with the PLCPD will strengthen their advocacy and awareness-raising efforts to remove their classification as illegitimate children under the Family Code and R.A. 9255.

382. On unregistered children, there are 2.6 million unregistered children in the country at present. Majority are Muslim and IP children. The regions with the highest numbers of unregistered children are ARMM, Eastern Visayas, Central Mindanao, Western Mindanao, and Southern Mindanao. Seventy (70) percent of unregistered children are found in these five regions.

383. To address the issue of unregistered children, particularly Muslim and IP children, the Unregistered Children Project (UCP) was jointly implemented by Plan Philippines and the National Statistics Office during the period 2000–2004. The UCP then covered 32 municipalities and two (2) cities where many unregistered Muslim and IP children and children in need of special protection (CNSP) were found. Building on the lessons learned from the UCP, a second phase called Birth Registration Project (BRP) has been implemented jointly by NSO and Plan for the period 2004–2007. The BRP has expanded to 127 municipalities in all the 17 regions of the country and has the goal of achieving 100 percent birth registration. The specific objectives of the BRP include: (a) institutionalization of the Barangay Civil Registration System (BCRS) in order to make the civil registration system more accessible to the people, (b) using IEC strategies and tools, achieve nationwide awareness-raising on the right of children to name and nationality, (c) advocate for relevant laws, policies and procedures on birth registration, and (d) train civil registrars and civil registration agents to make them more equipped, responsive and committed to the goal of 100 percent birth registration. As in the UCP, the geographic areas covered by the BRP are municipalities and cities where many Muslim and IP children and CNSP are located. UNICEF, through the 6th Country Programme for Children, augments the efforts of NSO and Plan under the BRP through its support to LGU training programmes for frontline health workers integrating modules on birth registration. The following gains have already been achieved through the UCP and the BRP:

(a) One hundred twenty (127) municipalities now have computerized birth registration systems;

(b) As of 2006, there were 1,987 *barangay* chairmen; 2,405 *barangay* secretaries; and 5,508 *barangay* civil registration agents trained on the civil registration law and procedures of mobile birth registration;

(c) 1,863,232 unregistered children have been registered broken down as follows: 970,304 boys and 892,928 girls as of 2006;

(d) February 23, 2005 and every year thereafter has been proclaimed by the President as National Birth Registration Day;

(e) Passage of Republic Act 9048, an act authorizing the city/municipal civil registrar or consul general to correct a clerical or typographical error in an entry and/or change of first name or nickname in the civil register without the need for a judicial order;

(f) Issuance of Administrative Order No. 3 Series 2004, on the rules and regulations governing registration of acts and events concerning civil status of indigenous peoples;

(g) Issuance of Memorandum Circular 2004-01 concerning birth registration for children in need of special protection; and

(h) Establishment of Barangay Civil Registration System (BCRS) as a grassroots mechanism to facilitate and sustain 100 percent registration at all times.

384. Pursuant to the provisions of R.A. 8042 or the Migrant Workers and Overseas Filipinos Act, the key actions taken to address the situation of unregistered and undocumented children born abroad include the following:

(a) Overseas parents have been advised through the Philippines embassy or consulate in the country where they work to register their children born abroad; and

(b) As part of their functions, lawyers and social workers assigned to the different Migrant Workers and Other Overseas Filipinos Resource Centers (MWOFRCs) conduct awareness-raising sessions with parents on the need and value of birth registration.

385. There are more than 20 MWOFRCs in countries with large concentration of Filipino overseas workers including Saudi Arabia, United Arab Emirates, Hong Kong, Kuwait, Qatar, Taiwan, Singapore, Italy, United Kingdom, and South Korea, among others. In addition, the DSWD has strengthened its social welfare services in the above-named countries by assigning professional social workers who have been oriented and trained on the various issues and challenges in protection of children's and women's rights, including the right of a child to a name, identity and nationality.

386. A report from the National Statistics Office (NSO) in 2003 showed a total number of 1,669,442 registered live births which included the number of births of mothers residing abroad, but the report did not indicate the exact figures for children born abroad. Thus, the number of Filipino children born abroad whose births are properly registered and documented is not yet exactly clear, although the DSWD reported some 46 undocumented and overstaying Filipino children in Japan who were registered by Filipino social workers based at ISS-Japan.

387. To address this issue, the Center for Japanese Filipino Children's Assistance (CJFCA) which is composed of lawyers, Japanese and Philippine government agencies and NGOs such as the Development Action for Women Network (DAWN) has an ongoing birth registration programme.

## **Article 25**

### **Right of suffrage**

388. The right of suffrage of the Filipino people has been broadened to include the Overseas Filipino Workers (OFWs) and other Filipino nationals abroad, allowing them to participate in elections under R.A. No. 9189, the "Overseas Absentee Voting (OAV) Act of 2003". To complement the OAV Act, the Dual Citizenship Law was subsequently passed by the Philippine Legislature.

389. The Department of Foreign Affairs, through its Foreign Service Posts, as deputized Election Registrars by the Commission on Elections, was able to register additional

144,828 overseas Filipinos during the 2006 registration. Adding the 2003 figure of registrants which is 359,296 and the new registrants in 2006, a total of 504,124 registered overseas absentee voters were eligible to vote in the May 2007 elections.

390. Participation of Voters – Out of the 504,124 registered overseas voters in 2007, only 81,916 actually voted, resulting to 16% voter's turnout, compared to a 65% turnout during the 2004 National Elections.

391. Reasons for the low turnout of voters: (i) The first major reason for the low turn-out of voters was the non-presidential nature of the mid-term 2007 elections. In Foreign Service Posts (FSPs) that used the same mode of voting as that used in 2004 elections, which is personal voting, the turn-out was also low, which was an indication that despite the fact that there was no change in the mode of voting, there was a general lack of interest on Overseas Absentee Voters to participate in the mid-term elections. (ii) The second major reason cited was the mobility of the Filipino workforce abroad. In most instances, contract workers had fixed-term contracts, their status highly volatile and their addresses changeable. After the 2004 elections, most of them have either gone back to the Philippines or relocated to other countries or addresses. Unfortunately, communicating their change in addresses to the Commission on Elections (COMELEC) or OAVS was farthest from their minds. Thus, despite the adoption of voting by mail to enfranchise as many as overseas voters as possible, the change of addresses was a major set back in the overall efficiency of this particular mode of voting.

392. Measures taken/proposed to facilitate participation – (i) In facilitating the implementation of the Overseas Absentee Voters Act, the Commission on Elections (COMELEC) and the Overseas Absentee Voting Secretariat (OAVS) introduced "Voting by Mail" to 57 posts in 2007, in order to provide a more convenient way to cast votes; (ii) Posts also conducted field voting and drop box/pick up point voting in places with large numbers of voters; (iii) COMELEC and OAVS embarked on a massive campaign to purge the Certified List of Overseas Absentee Voters (CLOAV) of errors, particularly the data on voters' addresses; (iv) Last 20 July 2007, the OAVS in coordination with COMELEC conducted a non-binding test on Internet Voting in Singapore. The project lasted for 20 days (20 July–8 August 2007) and simulated the recently concluded mid-term elections in May 2007.

393. The Philippine Embassy in Singapore supervised the pilot-study and reported that 311 voters took part in the exercise. It took the Singapore Embassy only 2 hours and 30 minutes to count the votes and finally announce the winners. The test was declared a success by COMELEC. A final report on the result of the pilot-test will be submitted by COMELEC to the Joint Congressional Oversight Committee in due time, for its consideration and approval.

394. Mobile registration forms part of the Posts' regular consular outreach services. During the 2009 OAV registration, FSPs and the other offices conducted mobile registration in 293 different sites. Throughout the activity, the total number registered through mobile registration alone is 36,960 Filipinos.

395. FSPs and other offices have likewise conducted numerous field registration activities to reach out to Filipinos who are in distant areas from the Embassy/Consulate who have jurisdiction of their area of residence. Posts like Honolulu registered 739 in their field registration activity. That is 63% of their total registered voters for 2009. The Philippine Embassy in Caracas conducted field registration in their neighboring countries like Aruba, and Trinidad and Tobago to register 581 new overseas absentee voters. That is 95% of their total registered voters for 2009. Another Post which gathered most of its registrants from its field registration activities is Canberra. 91% of its total registered voters

of 656 were registered from the field registration in Adelaide, Brisbane, Queensland, Darwin, Melbourne and Perth.

396. Prior to the resumption of the registration period for 2009, the COMELEC together with DFA/OAVS organized a workshop on the “Revision of the General Instructions” in March 2008. The COMELEC–COAV and the DFA-OAVS sent training teams to five (5) venues abroad to conduct On-site Instruction to the Embassy/Consulate’s and MECO’s OAV focal person. Participants were provided with skills on the use and operation of the Data Capturing Machines (DCMs) and were also introduced to the new provisions of the OAV General Instructions promulgated by the COMELEC. The OAV Training team also trained the participants on the proper appreciation of various OAV forms and was provided with rules and regulations to efficiently handle various situations presented by OAV registrants during the registration period. In line with these thrusts, the DFA-OAVS has also disseminated flowcharts with detailed procedures and mechanics of the election.

397. The 2009 OAV registration was conducted in 87 Embassies and Consulates, 1 Philippine Overseas Labor Office (POLO) and 3 Manila Economic Cultural Office in Taiwan. From the 87 FSPs, six (6) are newly opened Posts: Chongqing PCG, Macau PCG, Damascus PE, Barcelona PCG, Frankfurt PCG, Dublin PE. Four (4) registration facilities were also established at the following venues:

- (a) Ninoy Aquino International Airport (NAIA) opened on February 11, 2009;
- (b) Philippine Overseas Employment Administration (POEA) opened on February 12, 2009;
- (c) Commission on Filipino Overseas (CFO) opened on June 4, 2009;
- (d) Overseas Workers Welfare Administration (OWWA) opened on July 2, 2009.

398. The FSPs and other offices were able to enlist 187,300 Filipinos during the seven (7) months registration period. The registration hubs established at 4 different sites were able to register a total of 47,822 new OAV registrants. The total number of new overseas absentee voters gathered in 2009 OAV registration is 235,122 Filipinos. Adding the 2003 and 2005–2006 registration minus the deleted names which account for 132,820 for failure to vote for two (2) consecutive elections, the total number of registered voters for the upcoming 2010 national election would be 606,426.

399. Affidavit of Intent to Return – Section 5(d) of RA 9189 provides that, “An immigrant or a permanent resident who is recognized as such in the host country, unless he/she executes, upon registration, an affidavit prepared for the purpose by the Commission declaring that he/she shall resume actual physical permanent residence in the Philippines not later than three (3) years from approval of his/her registration under this Act. Such affidavit shall also state that he/she has not applied for citizenship in another country. Failure to return shall be cause for the removal of the name of the immigrant or permanent resident from the National registry of Absentee Voters and his/her permanent disqualification to vote in absentia.”

400. Furthermore under Section 24 (9) it is also provided that, “Immigrants and permanent residents who do not resume residence in the Philippines as stipulated in their affidavits under Section 5 (d) within three (3) years after approval of his/her registration under this Act and yet vote in the next elections contrary to the said section, shall be penalized by imprisonment of not less than one (1) year, and shall be deemed disqualified as provided in Section 5© of this Act. His/her passport shall be stamped “not allowed to vote”.

401. Proposed amendments to the Law on Overseas Absentee Voting Proposals had been submitted to the Philippine Congress to amend RA 9189 for the purpose of deleting the requirement for the execution of an “Affidavit of Intent to Return” for immigrants/permanent residents abroad and in case of approval of internet voting, to delete the requirement of personal delivery of “Certificates of Canvass” (COCs) by the Special Board of Canvassers (SBOC) Chairpersons to COMELEC in Manila.

402. The Philippine government is optimistic to have a fully automated election by year 2010 in view of the approval by the House of Representatives in its third and final reading the P11.3 billion supplemental budget for the automation of the 2010 election.

## **Articles 26 and 27**

### **Right to equal protection of the law and non-discrimination**

403. The National Commission on Indigenous Peoples (NCIP) administers programs for the Indigenous Peoples/Indigenous Cultural Communities (IPs/ICCs) in the country. It has ensured IP land security tenure by issuing 57 Certificates of Ancestral Domain Titles (CADTs) covering 1,116,260 hectares of land, representing 20% of the projected 6 million hectares of Ancestral Domain nationwide. It has also issued 172 Certificates of Ancestral Land Titles (CALTs) covering an area of 4,838 hectares, assisted in the formulation of 21 Ancestral Domains Sustainable Development and Protection Plans (ADSDPP) with 73 ADSDPPs ongoing formulation. NCIP, in partnership with civil society constituted 66 Provincial Consultative Bodies. It also assisted 86,340 Educational Assistance grantees, and provided legal services and various socio-economic and cultural projects.

404. The ADSDPP adheres to the rights-based approach (RBA) in governance and development with the Indigenous Peoples being fully responsible in formulating their ADSDPPs in accordance with their customary laws, practices, traditions and institutions. On the other hand, the Indigenous Peoples Consultative Body (IPCB), a multi-level and independent council of IP leaders serves as the collective voice of Indigenous Peoples in advocating their concerns and aspirations at all levels.

405. Challenges confronting Indigenous Peoples/Indigenous Cultural Communities are handled by the NCIP through the application of relevant provisions of the IPRA, the “Rules and Pleadings, Practice and Procedure before the NCIP”, the NCIP “Guidelines on Free, Prior and Informed Consent” (FPIC), and the regular existing legal instruments.

406. Indigenous Peoples have rightful access to mainstream governance as well as in exercising their rights to self-governance. The Local Government Code of 1991 and the IPRA have provisions to address the governance situation of Indigenous Peoples aimed at upgrading their socioeconomic development, the provision of adequate educational and health services, as well as guarantee their physical security and welfare.

407. Respecting the rights of Indigenous Peoples/Indigenous Cultural Communities during armed conflict is specifically provided in Section 22 of IPRA. Tapping authentic and recognized IP leaders and respecting existing leadership structures and peace building mechanisms in peace efforts before, during and after armed conflict as well as the active involvement of Indigenous Peoples in the Comprehensive Peace Agreement with the Government have minimized the impact of armed conflict on Indigenous Peoples/Indigenous Cultural Communities.

408. The major challenges faced by the Indigenous Peoples and other stakeholders are associated with their institutional capacities and sustainability of traditional institutions, domains, and cultural well-being in the face of modernization brought about by economic development.

409. To overcome these challenges, key interventions are required, notably, the integration of Indigenous Knowledge, Systems and Practices (IKSPs) into the local and national development framework; utilization of existing IKSPs and Indigenous People leadership structures in 12 government interventions; enhancement of cultural sensitivity and responsive interventions based from IP perspectives and worldview; and, heightened information, education and advocacy on the collective and individual rights.

410. The population of indigenous peoples (IPs) in the Philippines comprises between 10 to 15 percent of the total population or about 12 million representing 110 ethno linguistic groups who can be found in more than 50 of the country's 81 provinces. The National Commission on Indigenous Peoples (NCIP) estimates that sixty one (61) percent of the indigenous peoples live in Mindanao, while one third reside in Luzon. The remaining six (6) percent are scattered among the Visayan Islands. Of the total 12 million population of IPs, approximately 5.1 million are 18 years old and below.

411. Although the exact figures are not readily available, mortality rates (infant mortality rate, child mortality rate and maternal mortality rate) among IPs are higher than among the majority population. Birth registration is considerably lower since the bulk of the 20 to 30 percent of unregistered children come from the IPs. Availability and access to health, nutrition, water and sanitation services among IP children and their families remain inadequate. Likewise, IP children's access to education has remained a major issue despite an ongoing educational assistance programme being implemented by NCIP. Records of NCIP showed that during school year 2003–2004, a total of 11, 222 IPs were provided educational assistance; of this number, 5,252 were 18 years old and below. This is less than one (1) percent of the estimated IP child population, which means that millions of IP children are not in school.

412. Based on 2005 NCIP report, the following activities had been conducted to address the education needs of IPs:

(a) A generic and culture-sensitive curriculum for IPs was developed in 2005 in partnership with DepEd's Bureau of Alternative Learning System (BALS) and pilot-tested during school year 2005–2006;

(b) The Institute for Indigenous Peoples' Education (IIFE) was formed in response to clamor of IPs for holistic and culturally relevant IP education in Mindanao with Region 11 as pilot area. The initiative was meant to increase access and improve quality of education for the IPs. The participating agencies include NCIP, Philippines-Australia BEAM, MEDCo, MindanaWon, MINCODE, LumadsDev, and Assisi Development Foundation.

(c) Holding of a series of national forum on indigenous education called SIKAT (Schools for Indigenous Knowledge and Traditions) sponsored by the Asian Council for Peoples' Culture (ACPC) and the NCIP. The forum provided venues for dialogue with DepEd and other relevant partners towards the development of framework and guidelines for indigenous education in the context of ancestral domain sustainable development and protection plan (ADSDPP). The forum is in keeping with the United Nations declaration of the period 1 January 2005 to 31 December 2014 as the Decade of Education for Sustainable Development which recognizes the importance of indigenous education in concretizing goals of sustainable development.