

## Submission by the United Nations High Commissioner for Refugees

### For the Office of the High Commissioner for Human Rights' Compilation Report

#### Universal Periodic Review: 3rd Cycle, 27th Session

## THE PHILIPPINES

### I. BACKGROUND INFORMATION

The Philippines is one of the few countries in the Asia-Pacific region to have acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) in 1981 and the first country in Southeast Asia to sign the *1954 Convention relating to the Status of Stateless Persons* in 2011. The Philippines, however, has not yet acceded to the *1961 Convention on the Reduction of Statelessness*.

While the Philippines has no specific legislation concerning the protection of asylum-seekers, refugees and stateless persons, the Department of Justice (DOJ), which is specifically tasked to provide protection, has issued the *Department Circular No. 58, series of 2012*,<sup>1</sup> providing for the current refugee and stateless status determination procedure. Under the provisions of the *Department Circular No. 58*, the Government adheres to such basic principles as preservation and promotion of family unity; non-detention on account of being stateless or refugee; non-deprivation of refugee or stateless status; non-discrimination in the application of the *Conventions*; *non-refoulement*; and non-punishment on account of illegal entry or presence in the country.

Several national laws, moreover, contain specific provisions on the protection of refugees and stateless persons. The *Philippine Immigration Act of 1940* pre-dates the *1951* and *1954 Conventions* and contains provisions on the admissibility and protection of refugees and stateless persons.<sup>2</sup> The *1987 Family Code*, Article 21, provides for the documentation to be submitted by refugees and stateless persons in order to contract marriage in the Philippines.<sup>3</sup> The *Philippine Passport Act of 1996*, Section 13(e), provides that a recognized refugees or stateless persons in the Philippines may be issued a travel document *in lieu of passport*.<sup>4</sup>

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<sup>1</sup> Issued on 18 October 2012.

<sup>2</sup> *Philippines: Act No. 613 of 1940, Philippine Immigration*, 26 August 1940, available at: <http://www.refworld.org/docid/3ae6b500f.html>. Section 13 sets forth the admission conditions for stateless persons, stating that “there may be admitted into the Philippines immigrants, termed “quota immigrants” not in excess of fifty (50) of any one nationality or without nationality for any one calendar year, except that the following immigrants, termed “non-quota immigrants”, may be admitted without regard to such numerical limitations.” Section 47(b) provides for the admissibility of refugees “For humanitarian reasons, and when not opposed to the public interest”.

<sup>3</sup> *The Family Code of the Philippines*, 6 July 1987, available at: <http://unstats.un.org/unsd/vitals/tatkb/KnowledgebaseArticle50640.aspx>.

<sup>4</sup> *Republic Act No. 8239, Philippine Passport Act of 1996*, 22 July 1996, Section 13(e), available at: <http://www.gov.ph/1996/11/22/republic-act-no-8239/>.

A favourable protection environment is also afforded to asylum-seekers, refugees and stateless persons in the Philippines. They have access to courts, are entitled to free legal assistance,<sup>5</sup> and those of them who have complied with the requirements provided by law<sup>6</sup> are also able to access judicial and administrative citizenship procedures. Furthermore, beginning 1 March 2016, the issuance of machine readable Convention Travel Document has been rolled out by the Government, in fulfilment to one of its pledges made during the Ministerial Intergovernmental Event on Refugees and Stateless Persons held in Geneva in December 2011.<sup>7</sup>

Cognizant that there remains a wide gap in terms of providing material assistance and social services to asylum-seekers, refugees and stateless persons who are mostly in urban areas, an Inter-agency Steering Committee has been organized among key governmental agencies to address practical gaps and institutionalize policy recommendations.

Concerning the Emergency Transit Mechanism in the country, the Philippine Government has continuously supported its implementation to ensure that at-risk refugees who are unable to remain in their country of first asylum are able to transit and provided with protection pending the processing of their onward resettlement to a third country. The mechanism has been in place since 2009 following the signing of a *Memorandum of Agreement* among the Government, UNHCR and the International Organization for Migration.

#### **Refugees:**

The Philippines hosts 343 refugees (30 nationalities) and 190 asylum-seekers (31 nationalities) as of June 2016. The top three nationalities for refugees are Iranians, Syrians and Palestinians while for asylum seekers are Syrians, Pakistanis and Somalis. Approximately 22.5 per cent of refugees and asylum-seekers are female, while 10 per cent are children under 18 years of age.

#### **Persons of Concern under the Statelessness Mandate :**

In 2012, the Governments of the Philippines and Indonesia with the support of UNHCR conducted a mapping and identified more than 6,000 persons of Indonesian Descent (PIDs) who were of undetermined citizenship in the Southern Philippines. Given their status, these persons' access to their rights is frequently challenged. As a result of the 6<sup>th</sup> Joint Commission for Bilateral Cooperation (JCBC) held in Jakarta, Indonesia, on 24 February 2014, both countries agreed on the importance of determining the legal status of the PIDs in the Southern Philippines with a view to providing better legal protection, and a process for the confirmation and registration of citizenship of PIDs was launched in 2014. After four phases of registration, the project has registered 8,745 PIDs. Out of this number, a first group

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<sup>5</sup> In 2013, a Memorandum of Understanding between UNHCR and the Public Attorney's Office was signed to provide free legal assistance to refugees, stateless persons and those seeking recognition of refugee and stateless status in all stages of the determination proceedings.

<sup>6</sup> Commonwealth Act No. 473, Act to Provide for the Acquisition of Philippine Citizenship by Naturalization, and to Repeal Acts Numbered Twenty-Nine Hundred Twenty-Seven and Thirty-Four Hundred and Forty-Eight (as amended), 17 June 1939, available at: <http://www.refworld.org/docid/3ae6b5007.html> [accessed 22 August 2016] and the Republic Act No. 9139, the Administrative Naturalization Law of 2000.

<sup>7</sup> UNHCR, *Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011*, October 2012, available at: <http://www.refworld.org/docid/50aca6112.html>.

of 664 people in Glan, Sarangani, Southern Philippines, had their citizenship confirmed in March 2016.

### **Internally Displaced Persons (IDPs):**

Natural disasters, armed conflict, clan feuds and some economic development projects lead to forced displacement, making it a recurrent phenomenon in the Philippines. Although most displacements do not last more than a few months, displacements as a result of armed conflict and clan feuds in Mindanao are mostly repetitive, affecting the same communities due to successive cycles of conflict with a negative impact on communities' livelihood, development and resilience. In addition, some of the displacements become protracted due to land-related, security or political issues. While the Government demonstrates its commitment to address this phenomenon, particularly on the conflict-induced displacements, a more durable approach on key protection concerns remains a challenge.

There are no comprehensive official figures on internal displacement produced by the local and national authorities, due particularly to the frequency and fluidity of conflict-induced forced displacement. Nonetheless, the Protection Cluster in Mindanao, which UNHCR co-leads with the Department of Social Welfare and Development (DSWD), has been monitoring displacements and collecting data for analysis and response since 2010. Based on this data, there were 5,000,363 IDPs in Mindanao from 2012 until mid-2016. Of these, 78 per cent were displaced as a result of natural disasters, 16 per cent due to armed conflict, and 6 per cent because of crime and violence, including clan feuds. By the end of June 2016, 4,883,227 IDPs had already returned to their places of origin, leaving 117,136 persons in Mindanao in need of durable solutions as of 1 July 2016.

## **II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS**

### **Positive developments linked to 2<sup>nd</sup> cycle UPR recommendations**

**Linked to 2nd cycle UPR recommendation no. 129.9:** “Ensure free and effective birth registration for all children (Portugal).”<sup>8</sup>

In 2015, a *National Action Plan to End Statelessness* was developed by the Philippine Government and included the following action points, which were based on UNHCR's *Global Action Plan to End Statelessness*<sup>9</sup> (1) Resolve existing situations of statelessness; (2) No child is born stateless; (3) Remove gender discrimination from nationality laws; (3) Grant protection status to stateless migrants and facilitate their naturalization; (4) Ensure birth registration for the prevention of statelessness; (5) Accede to the UN Statelessness Conventions; and (6) Improve quantitative and qualitative data on stateless population.

A follow-up meeting was conducted in April 2016 to discuss ways on how to move forward on the *National Action Plan*. In order to ensure full implementation of the plan, technical working groups were identified covering each action point, which is led by a specific Government agency. In a separate but related initiative the Philippines Government declared

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<sup>8</sup> All recommendations made to Philippines during its 2nd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Philippines” (09 July 2012), A/HRC/21/12, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PHSession13.aspx>.

<sup>9</sup> UNHCR, *Global Action Plan to End Statelessness*, 4 November 2014, available at: <http://www.refworld.org/docid/545b47d64.html>.

the years 2015 to 2024 as the “Civil Registration and Vital Statistics (CRVS) Decade” in the Philippines. This was further to the historic results of the First Ministerial Conference on Civil Registration and Vital Statistics in Asia and the Pacific in November 2014, where the Philippines stated its commitment to universal civil registration<sup>10</sup> and joined with other States in the region endorsing the shared vision that this would be enjoyed by all peoples in the Asia Pacific by 2024.<sup>11</sup>

Concerning the free and effective birth registration for all children, local authorities have been cooperative in extending support for the birth registration of internally displaced children who face challenges in registration due to loss of documentation during displacement. Furthermore, recognizing the various impediment to access birth registration as a result of protracted conflicts, in 2012 the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao (ARMM) passed the *Muslim Mindanao Autonomy Act No. 293*,<sup>12</sup> which provides, among others, funding for its implementation to ensure late registration free of charge.

In working towards achieving durable solutions for the PIDs, a multi-sectoral approach is used as a strategy. At the national level, a *Memorandum of Agreement* was signed with the Philippine Statistics Authority (PSA) to facilitate an easier processing of the PIDs’ birth documents. At the same time, advocacy meetings are also conducted at the local level. On 21 July 2016, a *Resolution*<sup>13</sup> was signed by the local council of Glan, Sarangani in Mindanao, Southern Philippines, exempting the PIDs from fees for late birth registration and clerical correction of entries in their birth documents.

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### Challenges linked to outstanding 2<sup>nd</sup> cycle UPR recommendations

##### Issue 1: Eradication of statelessness and universal birth registration

Linked to 2<sup>nd</sup> cycle UPR recommendation no. 129.9: “Ensure free and effective birth registration for all children (Portugal).”

The full adoption and implementation of the *National Action Plan to End Statelessness*, as part of the measures to address the issue of statelessness in the Philippines, would facilitate the Government’s accession to the *1961 Convention*, in line with one of the pledges the Government made during the 2011 Ministerial Intergovernmental Event on Refugees and Stateless Persons.

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<sup>10</sup> See Philippines Statement to the Conference, 27/11/14 available at: [http://www.getinthepicture.org/sites/default/files/resources/Item6\\_Philippines\\_Eng\\_0.pdf](http://www.getinthepicture.org/sites/default/files/resources/Item6_Philippines_Eng_0.pdf)

<sup>11</sup> Available at: [http://www.getinthepicture.org/sites/default/files/resources/Ministerial.Declaration.English.final\\_0.pdf](http://www.getinthepicture.org/sites/default/files/resources/Ministerial.Declaration.English.final_0.pdf).

<sup>12</sup> *An Act Establishing Free Birth Registration in the Autonomous Region in Muslim Mindanao and Providing Funds Therefor, Muslim Mindanao Autonomy Act No. 293* [The Philippines], 14 May 2012, available at: [http://www.lawphil.net/statutes/mmaa/7a/pdf/mmaa\\_293\\_7a.pdf](http://www.lawphil.net/statutes/mmaa/7a/pdf/mmaa_293_7a.pdf).

<sup>13</sup> Resolution No. 20-737, Series of 2016, A Resolution Authorizing the Exemption of Persons of Indonesian Descent (PIDs) Residing within the Territorial Jurisdiction, this Municipality from Payment of Civil Registration Fees and Clerical Correction of Entries with the Office of the Municipal Civil Registrar of Glan, Sarangani Province.

Birth registration, in particular, is fundamental to the protection of children of concern to UNHCR and to the prevention of statelessness. Failure to document a person's legal existence can prevent the effective enjoyment of a range of human rights including the right to a nationality. The ARMM recognizes that certain obstacles impede the systematic implementation of free and effective birth registration, such as "(1) the lack of understanding within the communities of the value of birth certificates; (2) displaced communities and remote communities that face difficulties in establishing their identity; (3) the real and hidden financial costs to obtain birth certificates; (4) the administrative procedures that are difficult for some communities to fulfil or even appreciate, and (5) lack of appropriation support from some of the Local Government Units (LGUs)."<sup>14</sup> UNHCR encourages other LGUs to assess and eradicate similar impediments to an effective and free birth registration.

Furthermore, at present there is no express legislation on the citizenship of foundlings in the Philippines. While administrative practice allows issuance of a certificate of foundlings, which can be used to obtain Philippine passport, there are gaps in the citizenship framework, which does not recognize that foundlings automatically obtain Philippine citizenship. This has become more complex since the Supreme Court recently declared that foundlings discovered in the Philippines were presumed Filipino citizens<sup>15</sup>. Whilst this situation remains, foundlings are potentially at risk of statelessness. Another challenge is the gender discrimination on some provisions in relation to the administrative naturalization law, in which the wife is not permitted to transmit the effects of the granted citizenship to the husband.

With regard to groups at risk of statelessness, aside from the abovementioned PIDs, the Sama population, who are historically maritime nomads, are also at risk of statelessness and face documentation issues due to their nomadism.

### **Recommendations :**

UNHCR recommends that the Government of the Philippines :

- a) Accede to the *1961 Convention on the Reduction of Statelessness*;
- b) Fully adopt and implement the 2015 *National Action Plan to End Statelessness*;
- c) Take further measures to ensure the birth registration of the children of refugees, asylum-seekers and children at risk of statelessness;
- d) Ensure the effective implementation of the *Muslim Mindanao Autonomy Act No. 293* in ARMM with a view to reducing the number of unregistered children, especially in conflict-affected areas, and encourage other local Government units to similarly assess and eradicate impediments to an effective and free birth registration; and
- e) Undertake a review of the existing nationality-related legal and administrative framework with a view to ensuring the right of everyone to nationality without any discrimination, and protecting groups at risk of statelessness, including foundlings.

### **Additional protection challenges**

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<sup>14</sup> *An Act Establishing Free Birth Registration in the Autonomous Region in Muslim Mindanao and Providing Funds Therefor, Muslim Mindanao Autonomy Act No. 293* [The Philippines], 14 May 2012, Section 2, available at: [http://www.lawphil.net/statutes/mmaa/7a/pdf/mmaa\\_293\\_7a.pdf](http://www.lawphil.net/statutes/mmaa/7a/pdf/mmaa_293_7a.pdf).

<sup>15</sup> See *Mary Grace Natividad S. Poe-Llamanzares ss. Commission on Elections and Estrella C. Elamparo/Mary Grace Natividad S. Poe-Llamanzares Vs. Commission on Elections, et al.* G.R. Nos. 221697 & 221698-700. March 8, 2016 available at: <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/221697.pdf>.



## **Issue 2: Practice of profession is restricted by national law**

While the *1987 Constitution of the Republic of the Philippines* provides that “the practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law”,<sup>16</sup> the liberal practice of profession in the Philippines by non-nationals, may be allowed, except for some professions, and is subject to reciprocity and documentary requirements. There is an existing gap, however, with respect to the situation of refugees and stateless persons. Refugees and stateless persons who completed their education in the Philippines are not allowed to take licensure examination under the current legal framework. Hence, they are unable to practice their profession in the Philippines.

### **Recommendations:**

UNHCR recommends that the Government of the Philippines:

- a) Amend the national law relating to practice of profession and introduce alternative ways of assessing qualifications of refugees and stateless persons *in lieu* of the licensure examination.

## **Issue 3: National legislation on IDPs**

While national laws, regulations and institutions are in place to address some issues relating to internal displacement, the draft *IDP Bill*<sup>17</sup> specifically regulating the protection of the rights of IDPs is yet to be approved.

The approval of the *IDP Bill*, whose draft version in its current form incorporates the IDP description contained in UNHCR’s *Guiding Principles on Internal Displacement*,<sup>18</sup> would contribute greatly in the creation of a binding national legal framework that would reinforce the Government’s efforts to address forced displacement in the Philippines. In particular, it would assist in the removal of administrative gaps to achieve effective protection; contribute to the establishment of a system to register IDPs, including those with specific needs, in order to streamline response and assistance; assign a State body to ensure the protection of IDPs’ rights in accordance with national law; and establish a framework for penalization of rights violations by State and non-State actors, including criminal responsibility for forced or arbitrary displacement.

### **Recommendations:**

UNHCR recommends that the Government of the Philippines:

- a) Strengthen its efforts to address forced displacement and ensure that IDPs are offered adequate protection in the Philippines by adopting the draft *IDP Bill*.

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
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<sup>16</sup> *Constitution of the Republic of the Philippines*, 2 February 1987, Article 12, Section 14, available at: <http://www.refworld.org/docid/3ae6b5470.html>.

<sup>17</sup> The first bill was filed on 23 November 2004. On 24 May 2013, the bill approved by the Congress was vetoed by the President. A new IDP bill was filed on 19 August 2014.

<sup>18</sup> *Guiding Principles on Internal Displacement*, 22 July 1998, ADM 1.1, PRL 12.1, PR00/98/109, available at: <http://www.refworld.org/docid/3c3da07f7.html>.

## ANNEX

### Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

#### PHIIPPINES

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Philippines.

#### I. Universal Periodic Review (Second Cycle – 2012)

Recommendation <sup>19</sup>	Recommending State/s	Position <sup>20</sup>
<b>Statelessness</b>		
129.9. Ensure free and effective birth registration for all children;	Portugal	Supported
<b>Trafficking</b>		
129.22. Recognize victims of trafficking, often young people, as such and provide them with protection and assistance;	Norway	Supported
129.23. Ensure the effective enforcement of domestic legislation and further strive to eradicate human trafficking through cooperation with the international community, including by accepting a visit by the Special Rapporteur;	Japan	Supported
130.3. Fight against human trafficking, especially in women and children; Continue stepping up efforts in the area of combating trafficking in human beings, including continuing the practice of implementing national plans of actions and other strategies in this area; Continue in the successful policy of combating the trafficking of persons at the national level and participate in such efforts at the international level; Keep up the fight against human trafficking, illegal recruitment and labour exploitation, including the exploitation of domestic workers, especially of women; Prosecute and punish traffickers and those who exploit the prostitution of women; and also protect victims of trafficking; Further strengthen the measures to combat human trafficking and provide the necessary assistance to the victims of trafficking;	Spain, Belarus, Holy See, Netherlands, Uruguay, Latvia	Supported

<sup>19</sup> All recommendations made to Philippines during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Philippines" (09 July 2012), A/HRC/21/12, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PHSession13.aspx>.

<sup>20</sup> Philippines's views and replies can be found in: *Addendum* (19 September 2012), A/HRC/21/12/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PHSession13.aspx>.

130.4. Further strengthen bilateral cooperation, regional and international cooperation with countries of origin, transit and destination in order to more effectively address trafficking in women; and establish rehabilitation programs for social integration and economic autonomy for women victims of sexual exploitation and trafficking; Step up its collaborative efforts at the regional and international level, including in the ASEAN-Senior Officials Meeting on Transnational Crimes (SOMTC) Working Group on Trafficking in Persons; Share its experiences and best practices in strengthening efforts to combat the problem of trafficking in persons at the national and international levels;	Uruguay, Indonesia, Brunei Darussalam	Supported
<b>Migrants</b>		
130.7. Continue its efforts to promote the rights of migrants; Continue to play a leading role in the promotion and protection of the rights of migrant workers; Step up efforts to meet the basic needs of society's exposed groups, in particular the millions of migrants and seafarers;	Bangladesh, Myanmar, Holy See	Supported
<b>Rights of the Child</b>		
131.28. With reference to the situation of children in detention, follow-up the recommendations in chapter VI of the Human Rights Council resolution on the Rights of the Child adopted in March 2012;	Hungary	Supported
<b>Discrimination</b>		
131.30. Consider establishing a comprehensive legislation to combat discrimination faced by LGBT people.	Argentina	Noted <sup>21</sup>

## II. Treaty Bodies

### Committee on the Rights of the Child

Concluding Observations (26 June 2013), [CCPR/C/OPSC/PHL/CO/1](#)

#### **Rights of the Child**

11. While welcoming the adoption of the 2011-2016 National Plan of Action for Children, the Committee expresses concern about the lack of adequate resources allocated to support interventions and activities under the Plan and the absence of a regular monitoring mechanism at the local level to assess its implementation and impact.

12. **The Committee urges the State party to conduct a comprehensive assessment of budget needs and to establish clear budgetary allocations to support activities for the implementation of the National Plan of Action for Children. The Committee also recommends that the State party establish a regular monitoring and evaluation**

<sup>21</sup> *Addendum*: "An Anti-Discrimination Bill that includes specific provisions that address discrimination faced by LGBTs is currently pending in the Philippine Congress."



**mechanism, including at the local and community levels to assess progress and challenges in its implementation.**

### **Human Rights Committee**

Concluding Observations, (13 November 2012), [CCPR/C/PHL/CO/4](#)

#### **Human Trafficking**

18. The Committee is concerned at reports of continued cases of trafficking in persons, which mainly affect women and children (arts. 3, 8 and 24).

**The State party should take all necessary measures to ensure that victims of trafficking in persons are provided with medical, psychological, social and legal assistance. Protection should be provided to all witnesses and victims of trafficking so that they may have a place of refuge and an opportunity to give evidence against those held responsible. The State party should also continue to reinforce international cooperation as well as existing measures to combat trafficking in persons and the demand for trafficking. It should also devote sufficient resources to investigations of cases of trafficking in persons by identifying those responsible, prosecuting them and imposing penalties that are commensurate with the seriousness of the acts committed.**

#### **Rights of the Child**

11. The Committee is concerned that the Muslim Personal laws codified by Presidential decree No. 1083 discriminate on the basis of religion regarding the minimum age for marriage for girls and also permits polygamy amongst Muslims, which undermine the principle of non-discrimination as provided under the Covenant (arts. 2, 23, 24 and 26).

**The State party should revise the Code of Muslim Personal laws to prohibit polygamous marriages and repeal the provisions that discriminate on the basis of religion regarding the minimum age for marriage for girls.**

#### **Non-Discrimination**

10. While welcoming the decision of the Supreme Court in the *Ang Ladlad* case and the statement of the delegation that it will take up a leadership role to promote lesbian, gay, bisexual, and transgender (LGBT) rights, the Committee is concerned that LGBT persons are subjected to arrest and prosecution by means of the “grave scandal” provision provided under article 200 of the Revised Penal Code. The Committee is also concerned that the comprehensive anti-discrimination bill that prohibits discrimination on grounds of sexual orientation and gender identity has not been passed into law. Furthermore, the Committee is concerned at the prevalence of stereotypes and prejudices against LGBT persons in the military, police and the society at large (arts. 2 and 26).

**The State party should ensure that LGBT persons are neither arrested nor prosecuted on the basis of their sexual orientation or gender identity including for violating the “grave scandal” provision under the Revised Penal Code. The State party should adopt a comprehensive anti-discrimination law that prohibits discrimination on the basis of sexual**

**orientation and gender identity and take steps, including awareness-raising campaigns, to put an end to the social stigmatization of and violence against homosexuals.**

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

17. The Committee is concerned at continued allegations of torture and the lack of data on the incidence of torture, particularly on the number of investigations, prosecutions, convictions and sanctions imposed on perpetrators of torture in the State party (art. 7).

**The State party should take appropriate measures to improve the conduct of investigations of alleged torture and ill-treatment by law enforcement personnel. The State party should ensure that allegations of torture and ill-treatment are effectively.**

### **III. Special Procedures**

#### **Report of the Special Rapporteur on trafficking in persons, especially women and children**

Mission to Philippines (19 April 2013) [A/HRC/23/48/Add.3](#)

#### **Conclusions and recommendations**

77. The Philippines has shown a high level of commitment to combating trafficking, through its comprehensive domestic legal framework, the establishment of IACAT, the multidisciplinary approach adopted by key Government agencies, and its active participation in the region. Despite these improvements at the national level, the Special Rapporteur remains concerned about the layered and differentiated levels of implementation of the policy and legal frameworks in different regions, mainly due to local Governments' varying political will and economic capacity. Further, lack of earmarked funding for specific anti-trafficking programming in the various member agencies of IACAT, coupled with consistent shifts in power among high-level Government officials and lack of uniformity in laws and ordinances, and in accountability structures at all levels of Government, have led to varying levels of prioritization of anti-trafficking activities in the different agencies and at different levels of Government.

78. There is also a lack of standardized and accurate data on the forms and manifestations of trafficking and a corresponding lack of understanding among judges, prosecutors, social service workers and law enforcement officials, resulting in the low number of victims trafficked for organ removal or for labour exploitation being identified. Labour inspectors also do not have the capacity necessary for effective oversight. Additionally, trafficking is still viewed primarily as a problem concerning women and children and programmes and policies on internal trafficking are focused on sexual exploitation, while confusing and conflicting data were received from one agency to the other.

79. Furthermore, corruption in law enforcement has affected the efficacy of Government policies and programmes to combat trafficking. The Special Rapporteur recognizes the Government's continuing efforts to reduce corruption and commends it for having investigated and initiated administrative procedures against several officers of the

BI and POEA through the Office of the Ombudsman. However, she received no information on any criminal sanction having been instituted against officials facilitating the activities of traffickers.

80. The prosecution rate remains very low, perpetuating the impunity of traffickers and obstructing victims' access to justice. Delays in investigation and prosecution, together with inadequate witness protection programmes, threats from traffickers and distance of courts from victims' residences, contribute to their unwillingness to cooperate with law enforcement officers. Rescue operations are not sufficiently victim-oriented, may adversely impact trafficked persons' human rights and are mainly focused on children victims.

81. Shelters for trafficked persons lack capacity and funding to provide victims with comprehensive support in their recovery process. There is also lack of dedicated shelter facilities for trafficking victims in general and in particular for adult male victims. A large number of victims are reintegrated in their families or communities without proper assessment, with little or no follow-up, placing them at an increased risk of being re-trafficked. Furthermore, trafficked persons are often not given enough reflection time in addition to not being systematically informed about their right to compensation.

82. While the Government has actively engaged in awareness-raising campaigns against trafficking, the root causes of trafficking, particularly poverty and demands for cheap and exploitative labour and for sexual services, need to be effectively addressed. Community-based education programmes, although carried out in a number of areas, have not been done on a large scale, while programmes building the livelihood capacity of families sustainably as well other means of economic assistance to them remain insufficient.

83. Based on the conclusions, the Special Rapporteur recommends that the Philippines:

- (a) Develop a standardized system for the collection of statistical information, disaggregated by age and gender, in collaboration with independent research institutions and CSOs to determine the prevalence rate, forms, trends and manifestation of trafficking, and build capacity for such systematic data collection;
- (b) Ensure that its national policy on combating trafficking has specific targets, performance indicators and timelines for implementation as well as mechanisms that are able to review and evaluate implementation, and with meaningful participation of trafficked persons in the designing, monitoring and evaluation of policies, measures and activities aimed at combating trafficking and protecting their human rights;
- (c) Allocate sufficient financial and human resources to allow IACAT and its member agencies to perform their respective functions. Alternatively, streamline the existing multi-disciplinary bodies so as to reduce the demands for coordinating such bodies;
- (d) Intensify large-scale capacity-building for all relevant public officials including law enforcement officers, immigration officials, judges, prosecutors and labour inspectors, with special focus on increasing the knowledge and skills of front line officials to identify, protect and assist trafficked persons, and increase engagement with CSOs in this regard;

- (e) Reinforce the capacity of PNP and NBI to undertake high-quality, ethical and effective investigations;
- (f) Effectively address the current policy regarding tenure of office and promotion prospects of officers and ensure continuation of expertise and experience within the task forces;
- (g) Strengthen the capacity of prosecutors to effectively prosecute trafficking cases with due attention to the rights of accused persons to a fair trial and the rights of victims-witnesses to protection and support, and consider introducing a system, including specialized courts, to fast-track trafficking-related prosecutions;
- (h) Continue strengthening cooperation with other countries with a view to improving the identification and protection of victims and the apprehension of suspects;
- (i) Intensify the policy of zero tolerance in respect of trafficking-related corruption and complicity by public officials by intensifying efforts to investigate, prosecute and adequately punishing offenders;
- (j) Strengthen the role of labour inspectors in identifying trafficked persons in workplaces and preventing exploitative working conditions and ensure that they are fully involved in the detection of trafficking cases;
- (k) Ensure that the DSWD national referral mechanism is properly understood by all stakeholders, including law enforcement officers and CSOs involved in anti-trafficking initiatives;
- (l) Ensure that raids and rescue operations are victim-centred and do not cause any discriminatory impact on victims and those who are not victims of trafficking, and provide rescued victims with comprehensive information about their rights and ensure that they are not criminalized for any offence directly resulting from their situations as trafficked persons;
- (m) Ensure that shelters provide safe space for trafficked persons' recovery and reintegration as well as comprehensive and individually tailored assistance to all, including male victims, in addition to ensuring access to independent legal advice and social workers and psychologists trained to work with trafficked persons;
- (n) Make available alternative care arrangements for child victims of trafficking, such as staying with foster parents;
- (o) Ensure that trafficked persons are provided with necessary support and assistance to seek remedies;
- (p) Ensure recovery of trafficked persons, particularly when they are reintegrated in local communities, by having specific targets, performance indicators and timelines, to monitor implementation by LGUs and other service providers;
- (q) Intensify efforts to raise awareness about trafficking among journalists and train them in accurate reporting and respecting the privacy of victims;
- (r) Appropriately target specific groups at higher risk of being trafficked, victims' parents as well as employers and brokers in awareness-raising activities, and ensure that victims are also consulted in preliminary analysis, design, monitoring or evaluation of these campaigns;
- (s) Intensify efforts to address the root causes of trafficking, strengthen safe migration options for citizens, and reduce their vulnerabilities to all forms of trafficking;

- (t) Strengthen cooperation with neighbouring countries in preventing and eliminating clandestine movements that contribute to trafficking of migrant workers, while at the same time ensuring options for safe migration; and**
- (u) Ensure effective implementation of bilateral and regional MoUs which provide proper protection for migrants.**