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Совет по правам человека

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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

Письменное представление Филиппин: Комиссия по правам человека*

Записка секретариата

Секретариат Совета по правам человека настоящим препровождает сообщение, представленное Филиппинами: Комиссия по правам человека** и воспроизводимое ниже в соответствии с правилом 7 b) правил процедуры, содержащихся в приложении к резолюции 5/1 Совета, согласно которому участие национальных правозащитных учреждений основывается на процедурах и практике, согласованных Комиссией по правам человека, включая резолюцию 2005/74.

* Национальное правозащитное учреждение с аккредитационным статусом категории «А», присвоенным Глобальным альянсом национальных учреждений, занимающихся поощрением и защитой прав человека.

** Воспроизводится в полученном виде только на том языке, на котором оно было представлено.



Annex

Written Statement of the Philippines: Commission on Human Rights on the Interactive Dialogue on the Report of the Independent Expert on the Enjoyment of all Human Rights by Older Persons regarding Older Persons Deprived of Liberty

The Commission on Human Rights of the Philippines¹ (herewith the ‘Commission’) welcomes the report of the Independent Expert on the enjoyment of all human rights by older persons, Ms. Claudia Mahler. The Commission agrees with the findings and recommendations as they guide governments in taking action that respect the rights of older persons deprived of liberty. The following information provides additional input for the consideration of the Independent Expert and the Human Rights Council.

In the Philippines, the duty to provide care for older persons involves both the family and the State. Under the 1987 Philippine Constitution, the family has the primary duty to care for its elderly members.² The State partakes in this duty through national government agencies, particularly the Department of Social Welfare and Development and the Department of Health, and “local government units”³. The government implements statutory and specialized programs and services for older persons such as residential care services, specialized hospitals, and day care facilities. Non-government organizations and the private sector also play an important role in the provision of care by setting up and providing care facilities, among others.

The monitoring of the situation of older persons deprived of liberty in care support and family settings is not specifically delegated to any institution or government agency. However, this can be looked into by the National Commission of Senior Citizens (NCSC), and should have a primary role in looking at the situation of OP in all settings. The Commission, as the country’s national human rights institution, with a broad mandate to protect and promote human rights may take on this role. However, the Commission’s work in this regard may be subject to existing statutory mandate with limited application.

Systematic collection of information to include age-disaggregated data remains a challenge in the country, because data on older persons deprived of liberty are not available in various central authorities of the government. The NCSC, basically a new agency by virtue of Republic Act 11350, should address this gap, given that it is one of their functions to “institute a reliable, scientific and comprehensive database for information, identification and statistics of Filipino senior citizens and thereupon formulate programs and policies according to their needs”.⁴ The Commission is monitoring the progress of the implementation of RA 11350 and coordinating with the NCSC to advise them on initiatives such as data collection.

The Commission in its monitoring and visitation activities over jails, prisons, and detention facilities, collaborates with government agencies to have an updated data on persons deprived

¹ As a National Human Rights Institution (NHRI), the Commission on Human Rights of the Philippines (CHRP) has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The CHRP is accredited “A” status by the Global Alliance of National Human Rights Institutions (GANHRI).

² PHIL. CONST. art. XV. § 4.

³ Local government units (LGUs), refers to provinces, cities, municipalities, barangays, and other political subdivisions as may be created by law, and, to the extent herein provided, to officials, offices, or agencies of the national government, Republic Act 7160, “Local Government Code of 1991”, § 4 (1991).

⁴ Implementing Rules and Regulations of Republic Act No. 11350, otherwise known as the National Commission of Senior Citizens Act”, Republic Act No. 11350, §1, (2021).

of liberty, including older persons. There are instances that information available are not updated, and are most often difficult to access because of the different office protocols.⁵

The Bureau of Jail Management and Penology (BJMP)⁶ reported that there are no special facilities or policies that mandate the special treatment of older persons inside the country's jail institutions. "Special treatment" to older person detainees is given by jail staff and other detainees because of the Filipino culture of respecting older persons.

The Bureau of Corrections (BuCor)⁷, in their report to the Commission, indicated that congestion will continue to be a serious challenge in the Philippines. The rate of congestion is 304% based on the January 2022 data. Under these conditions, older people were highly at risk. The Philippines tops the World Prison Brief list of countries with overloaded prisons and jails.⁸ Based on the records of BuCor, it showed that for the past ten years, except in 2017 and 2018, there had been increases in the number of convicted older persons. In 2021, there were 5,129 persons deprived of liberty who were 60 years old and above, or 10.57% of the total population of persons deprived of liberty under the custody of BuCor. During the decade, the average annual increase in the number of older persons deprived of liberty is 12.03%.⁹

Given the threats of COVID-19 to places of detention, a group of civil society organizations¹⁰ called for the release of political prisoners, sickly, older persons and low-level offenders especially those who are not violent and with bailable offenses. Many of the PDLs have long been in jails.¹¹

The administration of justice system in the Philippines to respond to the disposition of cases involving older persons deprived of liberty, was dealt in a reactive manner, as a result of the controversial issue on the early release of some heinous crimes convicts under the Good Conduct Time Allowance (GCTA).¹² The Department of Justice facilitated the fast-tracking of the cases of those who are ill and old.

On 17 April 2020, the Supreme Court conducted its historic first virtual en banc session to tackle the petition for temporary release. The Supreme Court ordered the government, through the Office of the Solicitor General, to file its comment until 24 April 2020, and the respondents to take all preventive measures necessary to address COVID-19 and to submit verified reports within the same period. As of September 2020, the petitioners were only informed through a press release about the rendered decision. "The decision is to not rule on the holistic petition and would rather have trial courts assess the prisoners' eligibility for bail.

On September 13, 2022, there were 371 PDLs released, as a result of the Department of Justice and Bureau of Corrections' (BuCor) computation (of time served) with the help of Public Attorney's Office (PAO) lawyers. The 240 majority of the PDLs released already

⁵ Jail visitation report, CHRP-Assistance and Visitorial Office (on file with the author).

⁶ The Bureau of Jail Management and Penology (BJMP) is an attached agency of the Department of the Interior and Local Government mandated to direct, supervise and control the administration and operation of all district, city and municipal jails in the Philippines.

⁷ The Bureau of Corrections (BuCor) is an agency of the Department of Justice which is charged with the custody and rehabilitation of national offenders, who have been sentenced to three years of imprisonment or more.

⁸ Commission on Human Rights of the Philippines, Rights during a Pandemic: The 2020 Annual Report on the Human Rights Situation in the Philippines.

⁹ Letter from Jail Chief Superintendent/ Deputy Chief for Operations of the Jail Bureau, Dennis U. Rocamora, CESE, to Atty. Brenda E. Canapi (Mar. 15, 2022) (on file with the author).

¹⁰ Group of CSOs include Kapatid, Prisoner's Enhancement and Support Organization (PRESO), Human Rights Watch, Justice Reform Initiative, SELDA, Karapatan and Makabayan Bloc.

¹¹ Good Conduct Time Allowance, the good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the following deductions from the period of his sentence, An Act Amending Articles 29, 94, 97, 98, and 99 of Act No. 3815, As Amended, Otherwise Known as the Revised Penal Code, RA 10592, §3 Art. 97, (2012).

¹² Commission on Human Rights of the Philippines, Human Rights Advisory on Protecting the Rights of Persons Deprived of Liberty (PDLs) during the COVID-19 Crisis and Early Release of Older Persons, Low Risk Inmates and Persons with Chronic Medical Conditions or Bailable Offenses, CHR (V) A2020-001, (2020).

served their maximum sentence, 98 qualified for parole, while 31 were acquitted and two qualified for probation.¹³ Forty-five including four women were senior citizens.¹⁴ This is the highest number of releases of PDLs to address congestion in Philippine jails.

The Commission issued [advisory](#)¹⁵ to recommend measures to protect the rights of all Persons Deprived of Liberty (PDLs) during the Coronavirus Disease 2019 (COVID-19) pandemic and enhanced community quarantine; and called on all related and concerned government authorities to seriously look into the early release of older persons, low risk inmates and persons with chronic medical condition or with bailable offenses.

¹³ Benjamin Pulta, Philippine News Agency, DOJ releases 371 PDLs ahead of prison decongestion agenda, available at <https://www.pna.gov.ph/articles/1183555>, (last accessed Sept. 14, 2022).

¹⁴ Id.

¹⁵ Commission on Human Rights of the Philippines, Human Rights Advisory on Protecting Persons Deprived of Liberty (PDLs) during the COVID-19 Crisis and Early Release of Older Persons, Low Risk Inmates and Persons with Chronic Medical Condition or Bailable Offenses, CHR (V) A2020-011.