

# 2009 ANNUAL REPORT

(As of November 2009)

## I. INVESTIGATION OF HUMAN RIGHTS VIOLATIONS

### a. Documentation of New Complaints

Under the new leadership of the Fourth Commission, the Commission on Human Rights of the Philippines affirmed its commitment to be the “prime mover that champions everyone’s human rights.”

In 2009, the Commission was again at the forefront in addressing the various complaints of abuses affecting individual rights as it noted a rising incidence of human rights violations particularly summary killings. Through its investigation, legal and allied services and public inquiries, the Commission responded to 499 complaints it had received nationwide or on motu proprio, involving 602 victims and 770 perpetrators. The regional distribution is shown in the table below.

### Number of Complaints Received, Number of Perpetrators and Number of Victims By Region

January - July 2009

REGION	Number of Complaints Received	Number of Victims	Number of Perpetrators
NCR	64	75	121
I	14	14	20
II	29	29	32
III	64	65	68
IV	26	36	47
V	43	57	65
VI	35	49	92
VII	17	26	42
VIII	28	28	30
IX	73	90	104
X	13	14	23
XI	50	72	75
XII	24	25	26
CARAGA	13	15	19
CAR	6	7	6
<b>TOTAL</b>	<b>499</b>	<b>602</b>	<b>770</b>

This number includes the high profile cases such as the alleged shoot-out between suspected carnappers and PNP elements in Quezon City, vigilante killings in Metro

Manila and Davao City, killing of an NPA daughter Rebelyn Pitao, and hazing in Naga City.

*b. Investigation of Complaints*

Through the Commission's relentless efforts in solving these human rights violation cases, the Commission resolved a total of seven hundred fourteen (714) cases for the period January to December 2009, including cases from previous years.

Out of the 714 cases resolved, 149 were filed in court, prosecutor's office and other appropriate administrative agencies/quasi-judicial bodies, 391 cases were dismissed/closed/ terminated and 174 cases had been archived.

**Number of Resolved Cases  
By Region  
January - December 2009**

REGION	Resolved for			Total
	Filing and Monitoring	Closure/Termination	Archiving	
NCR	20	17	1	38
I		8		8
II	26	3	3	32
III		31		31
IV		20	1	21
V	10	46		56
VI	15	34	5	54
VII	10	19	2	31
VIII	28	109	146	283
IX	26	32	16	74
X		18		18
XI	14	44		58
XII		5		5
CAR		5		5
<b>TOTAL</b>	<b>149</b>	<b>391</b>	<b>174</b>	<b>714</b>

In aid of investigation, the Commission conducted several public inquiries on cases of national interest. The broad purpose of the inquiry is to discover the truth about the events leading to the suspicious death of a victim, such as:

- Extralegal or Summary Killings in Davao City Attributed or Attributable to the So-Called Death Squad

A high level investigation team led by the Chairperson conducted public hearing/ inquiry from March 30 to April 1, 2009 to look into the vigilante-style killings allegedly perpetrated by the so-called "Davao-Death Squad".

The objectives of the consultation/ public inquiry were:

- a) to ascertain the actual extent of human rights violations, specifically, cases of extralegal killings, or summary executions in the city and their implications on the peace and order situation in the area;
  - b) to examine the causes of and reasons for the killings and explore alternative measures to address the violations and its causes;
  - c) to organize and/ or seek the support of government agencies at the local level and civil society organizations in order to expedite investigation of the complaints for human rights violations by reason of extralegal or summary killings; and
  - d) to consolidate facts and figures pertaining to incidents of extralegal or summary killings for purpose of assessing the human rights situation/ condition in the city.
- The Extralegal Killings in the Island of Samar where a full-blown public inquiry is being pursued to look into the root causes of prevailing climate of lawlessness, culture of impunity, actions taken by government bodies particularly the Philippine National Police and prod further possible perpetrators;
  - The Maguindanao Massacre where 57 men and women composed of journalists, lawyers, political supporters of Mangundadatu were brutally killed and buried on a mass grave – an appalling incident of election-related violence in the region, if not, in the country. CHR has already dispatched a team to investigate on this looming case of violence and clear human rights violations to the victims. The institution has also commissioned the skill of forensic expert to facilitate in expediting the investigation in the area.
  - Abduction and Killing of Rebelyn Pitao

CHR Regional Office XI conducted a motu proprio investigation on the reported abduction and killing of Rebelyn Pitao, daughter of Leoncio Pitao, a New People's Army (NPA) Commander operating in the hinterlands of Paquibato District, Davao City.

Unidentified gunmen in Davao City abducted Rebelyn, a young teacher last March 4, 2009. Her lifeless body was found the following day floating in a river with several stab wounds on the chest. There was also a rope mark on her neck indicating that she was choked and her face was struck with a blunt hard object causing eye area to swell up.

Leoncio Pitao or Kumander Parago in his statement released to media that it is the personnel from the Military Intelligence Group who are responsible in the abduction and murder of his daughter. However, Mayor Rodrigo Duterte stated during the regular meeting of the City Peace and Order Council and after efforts were made to

locate Rebelyn in the custody of all law enforcement and military units that he is 70% sure that the perpetrators do not belong to the military.

CHR XI continues to look into the case and is still gathering facts regarding the case. A communication was already sent to the mentioned military personnel for them to submit their comments/ answers to the accusations leveled against them.

- Alleged Shoot-out in Parañaque City

The CHR-NCR Office conducted a motu proprio investigation on the shooting incident that happened on December 5, 2008 in Parañaque City. Combined elements of PNP Highway Patrol Group and PNP Special Action Force engaged in a gun battle with the suspected armed robbery group on board two (2) Toyota Revo. Both parties suffered casualties, either seriously wounded or killed including eight (8) civilians, namely: Arnel Macalowan, Bernard Tungcab, Alfredo De Vera and daughter Lia Alyana De Vera (7 year old), Jesiry Vicemayor, Ronald Eusebio and two (2) other unidentified persons.

During the interviews with the witnesses, it was disclosed that Alfredo De Vera and his daughter Lia Alyana were on board their vehicle to fetch his wife, unfortunately, his car was pumped with bullets by policemen that resulted to the instantaneous death of the minor Lia Alyana De Vera.

The case is now a subject of Public Inquiry until the actual perpetrators accountable for the shooting of innocent civilians are identified and prosecuted.

- Death of Three (3) Alleged Carnappers at NIA Road Quezon City

Three suspected car thieves were killed in an encounter with members of the Quezon City Police District (QCPD) Anti-Carnapping Group at the corner of EDSA and the National Irrigation Administration (NIA) Road in Quezon City.

Quezon City Police District (QCPD) head Chief Superintendent Magtanggol Gatdula said that the encounter started when the suspects, on board a Honda Civic and a Toyota Revo, fired at police operatives during a car chase that started in Mandaluyong City. The chase ended at the corner of EDSA and the NIA Road.

Concerns were raised, however, when a video footage of the operation showed one of the policemen still firing at a suspect who was already sprawled on the pavement.

The Commission on Human Rights (CHR), however, said the clash may have been a "rubout" because the police continued to fire upon the suspected car thieves who already appeared unable to return fire.

Chairperson Leila M. De Lima, after viewing the video of the encounter could not help but express frustration. She added that the CHR had been conducting human

rights training on security enforcers but "when they are on the field, on the ground, they seem to ignore what they have learned."

The PNP and the CHR are conducting separate investigations on the issue. The involved policemen, meanwhile, were ordered disarmed and restricted to quarters.

The CHR is still waiting for the submission of the counter-affidavits from the respondents (ANCAR and HPG operatives).

- Arbitrary Arrest - "Failon Case"

This pertains to the arbitrary arrest on the househelpers, driver of Mr. Ted Failon as well as Pamela Arteche-Trinchera and Maximo Arteche on April 16, 2009. The police said they violated Presidential Decree 1829 on "obstruction of justice" because they allegedly prevented the police from investigating the death of Failon's wife, Trinidad Arteche Etong, who died due to a gunshot wound to the head. The family said she committed suicide, but the police have not discounted foul play. Ted Failon, his family members and household staff have been subject of inhumane, inconsiderate, insensitive manhandling by the Quezon City Police Force, which caused irreversible mental, psychological and emotional pain and suffering to the family of the deceased.

The public witnessed how the Quezon City Police District (QCPD) hastily and brusquely arrested the family's two maids, their driver and utility man, without any arrest warrant and without any basis whatsoever for such warrantless arrest, without regard for their fundamental human rights.

With the exception of Mr. Arteche, all the abovementioned parties submitted their complaint-affidavit. Thereafter, subpoenas were sent to the possible respondents who are due to submit their counter-affidavits on May 18, 2009.

Atty. Christine Tiangco and Maximo Arteche were required to submit their respective affidavits on the investigation being conducted by the CHR-NCR.

*c. Assistance to Human Rights Violations Victims/ Complainants*

As part of the Commission's broad mandate, it also extended legal assistance of varying types like taking of affidavit, rendering legal advice, referral of complaints to other agencies/institutions and filing of appropriate charges against the violators of human rights. Also the Commission through its lawyers represented a number of clients/complainants in administrative cases at the People's Law Enforcement Board (PLEB), criminal cases at the Municipal and Prosecutor's Office and Ombudsman for Military and Other Law Enforcement agencies. From January to December 2009, it extended legal assistance to one thousand One hundred twenty-nine (1,129) clients and referred one hundred (100) to other administrative agencies.

Also, the CHR coordinated with the Bureau of Immigration and Deportation (BID) and the Department of Labor and Employment (DOLE) on the issue of Total Ban Policy of the Philippines to travel to Nigeria. A classic example was the case of Janette Alican of Pusong Pinoy Association, a holder of a residence permit of Nigeria, who was able to travel back to said country because of the CHR's intervention.

*d. Certification/Clearance Issued*

For 2009, the Commission issued a total of two thousand two hundred thirty-eight (2,238) clearance/certification of pending and no pending human rights violation complaints to the police, military and civilians.

*e. Jail Visitation Conducted*

The Commission regularly conducts visitations to various jails/detentions centers all over the country. In the course of its visits, the Commission provides legal and medical assistance to prisoners/detainees. Legal interventions provided were in the form of representation/ referral of their cases with other concerned agencies, request for commutation of sentence, provision of lawyers, follow-up of cases with the Department of Justice for speedy trial and resolution of cases, and appeal for executive clemency from the President.

For this period, the Commission recommended 26 prisoners for release on parole and forty-one(41) for commutation of sentence.

Also, the Commission covered 602 jail visitations and provided legal and medical assistance to prisoners/detainees.

**Summary of Jail Visitation and Number of Prisoners Assisted  
By Region  
January - December 2009**

<b>REGION</b>	<b>No. of Jail Visitations</b>	<b>No. of Prisoners Assisted</b>
<b>CTRL</b>	<b>17</b>	
<b>NCR</b>	<b>6</b>	<b>57</b>
<b>I</b>	<b>106</b>	<b>1,457</b>
<b>II</b>	<b>6</b>	
<b>IV</b>	<b>6</b>	<b>7</b>
<b>V</b>	<b>32</b>	<b>1,155</b>
<b>VII</b>	<b>32</b>	<b>1,298</b>
<b>VIII</b>	<b>113</b>	<b>1,579</b>
<b>X</b>	<b>141</b>	<b>3,678</b>
<b>XI</b>	<b>93</b>	<b>1,833</b>
<b>XII</b>	<b>5</b>	<b>138</b>
<b>Caraga</b>	<b>20</b>	
<b>CAR</b>	<b>25</b>	<b>731</b>
<b>TOTAL</b>	<b>602</b>	<b>11,933</b>

Moreover, in coordination with the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP), the office assisted and escorted the eight (8) year old boy who is a witness to the RCBC Bank robbery and killing, during hearings of the case in Laguna.

A Four-in-One Jail Visitations of the National Penitentiaries was conducted by the Assistance Visitorial Office (AVO) and NCR in cooperation with the Medical Action Group (MAG). The team visited the following national penitentiaries: Correctional Institute for Women, Mandaluyong City last January, National Bilibid Prison, Muntlupa City in March, San Ramon Penal Farms, Zamboanga City in May and Sablayan Penal Colony, Mindoro in June. The assessment of the physical condition, medical condition of the prisoners are the main objectives of the visitations. Also, legal aide and counseling, human rights lectures for jail officers and personnel and for persons deprived with liberty were being undertaken during the visitations.

The CHRP continues to lobby for the ratification of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), International Convention for the Protection of All Persons Against Enforced Disappearance (ICAED) and the Rome Statute of the International Criminal Court (ICC). Moreover, the Commission prepared draft bill entitled, "An Act Establishing the National Committee for the Prevention of Torture and for other Purposes". This is a preventive mechanism bill that is consistent with the Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). It creates an independent office

called the National Committee for the Prevention of Torture that will be under the CHR.

Further, the office continuously monitors the implementation of the Republic Act No. 9344 otherwise known as “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”.

The Assistance and Visitorial Office (AVO), conducts jail visitations to Children In Conflict with the Law (CICL) with representatives of the Juvenile Justice and Welfare Council (JJWC) or upon their request. In Paranaque City Jail, eleven (11) male CICL were detained together with adult detainees.

Upon submission of required documents, some CICL were released, but others encountered difficulties with their medical records. And it causes the delay of transfer of custody of the CICL to the appropriate authorities.

In Manila City Jail, there are thirteen (13) CICL transferred from Manila Youth Center (MYRC) to Manila City Jail (MCJ) because they had already reached the age of majority. The transfer of CICL proves the gap in the implementation of RA 9344, instead of imprisoning them in jail, they must be sheltered in a “halfway house”, a facility distinct from youth detention home for children.

Another concern of some CICL is the long period of trial. Presently, three (3) CICLs were detained in Manila City Jail.

In Tondo Manila, two (2) boys are also detained with adult detainees. But the children have no birth certificate and their cases have not undergone inquest. The Commission coordinated and transferred the custody of two (2) boys with Educational Research and Development Assistance (ERDA) Foundation. This non-government organization takes care children in difficult circumstances. ERDA runs several programs and projects in education, child assistance, advocacy and child protection.

Thus, the AVO, together with the Juvenile Justice and Welfare Council (JJWC) ask the Commission pursue the following recommendations:

- Urge the Supreme Court to look at the legality of issuance and Commitment Orders by the trial courts that authorize the transfer of CICLs to jail;
- Urge the Supreme Court to come up with the Revised Rules on Juveniles in Conflict with the Law that must contain a provision prohibiting the commitment of CICLs in jail;
- Urge the local government of Parañaque to establish a youth home, as mandated under Section 49 of Republic Act No. 9322;

- Urge local government of Parañaque to institute a comprehensive Juvenile Justice intervention program for children at risk (CAR) and children in conflict with the law, as mandated under Section 18 of Republic Act No. 9344;
- Urge the local government to establish a “halfway house” that will attend to the needs of the CICL who reach the age of majority;
- Urge the Supreme Court to promulgate Revised Rules on Juvenile in Conflict with the Law. The revised Rules must contain specific provisions on the treatment by the court of CICL who reach the age of majority. The provisions must prohibit the issuance of order transferring the CICL to jail, in consonance with Section 35 & 36 of RA 9344;
- Request the Supreme Court for the speedy trial of the cases of the CICLs through its Justice on Wheels Program;
- Continuously conduct unannounced visits at detention centers throughout the country;
- Conduct meeting with the Mayor of the City of Manila, to improve the delivery of services for children in conflict with the law; and
- Call the attention of the Philippine National Police regarding the continuous detention of children in police precincts.

*f. Financial Assistance Granted*

From January to October of 2009, the Commission through its central and regional offices has granted a total of P2,034,000.00 financial assistance to human rights victims and their families. The amount was given to 190 claimants who were either the individual victims themselves or their families.

**Financial Assistance to Victims & Their Families  
By Region  
January - December 2009**

<b>REGION</b>	<b>Number of Beneficiaries</b>	<b>Amount</b>
NCR	22	165,500.00
I	1	10,000.00
II	3	110,000.00
III	24	195,000.00
IV	30	420,000.00
V	47	562,500.00
VII	5	95,000.00
VIII	23	336,000.00
IX	3	30,000.00
XI	12	55,000.00
XII	7	10,000.00
CAR	13	167,500.00
<b>Total</b>	<b>190</b>	<b>2,156,500.00</b>

### *g. Forensic Services*

In aid of investigation of complaints of human rights violations, the CHR forensic office conducted eight (8) exhumations/autopsies: two (2) exhumations/autopsies in Baggao, Cagayan, and rendered re-autopsy on two (2) remains of the EDSA-NIA shooting incident. A total of forty-four (44) medico-physical examinations were also conducted involving twenty-nine (29) physical injuries cases and fifteen (15) torture cases.

To further enhance the skills and capabilities of CHR investigators, the AVO in cooperation with The Asia Foundation conducted Forensic Training for CHR investigators. The training covered the three island groups, for Luzon in two (2) trainings in Clark, for Mindanao in Cagayan De Oro City and for Visayas in Cebu City.

### *h. Advisories, Position Papers and Resolutions*

To emphasize human rights perspective in the recent issues and concerns with the Government and to guide them on the implementation of government policies, programs and administrative measures, the Commission issued the following advisories, position papers and resolutions:

- **Advisory on the Implementation of the Random Drug Testing of Secondary and Tertiary Students**

The contentious issue of random drug testing of students who are minors has invited people and institutions to engage in a lively debate balancing the interests of the State and that of the individual child.

In the advisory, the CHR called for the deferment of the random drug testing program and strongly recommended the inclusion of the following elements in the Guidelines for the random drug testing program to be reflected in all student handbooks, in addition to the prerequisites imposed by the Dangerous Drugs Act and other pertinent protective legal measures in place that are favorable to the child:

1. The identity of the student sampled, who tested positive, who tested negative and who refused the random drug test, must be confidential and protected at all cost. Necessarily, disciplinary measures are to be imposed for violations without prejudice to filing of a suit or a case by the aggrieved child or his/her family against the erring individual or institution.
2. A clear provision that there is a commitment (and therefore parallel accountability) on the part of the schools, testing centers and pertinent

government agencies, that the samples for the random test will only be used for drug testing and for no other purpose.

3. A provision which prohibits the school or any agencies to impose any sanctions, criminal or administrative, against the child found to be a user or a dependent.
4. A provision which prohibits the school or any agencies to impose any sanctions, criminal or administrative, on a child that refuses to undergo the random-drug test. '
5. A provision which prohibits the school or any agencies to impose any sanctions, criminal or administrative, on a child or his parent/s, whose parent/s refuses for the child to undergo the random-drug test.

The CHR encouraged the Government to organize an anti-drug youth summit that should be designed to elicit recommendations from the youth on how to prevent and address the drug problems. These recommendations will thereafter be endorsed to pertinent branches of government for consideration. This will indubitably showcase the willingness of this government to include the children in governance.

The CHR further encouraged the stakeholders (i.e. DDB, DepEd, CHED, TESDA) to engage the cooperation of the parents and dialogue with the concerned sectors and representation of the youth/student sector. Students generally are not adults and thus parental consent is an imperative to any activity that infringes on the child's right to privacy.

The Commission is hopeful that the Government continues to aspire to prioritize the issues of children especially in the context of the reprehensible danger brought on by the use, sale, production and distribution of illegal drugs in the country. The Commission encourages the Government to put more efforts in enhancing its education drive in schools and local communities against the drug menace. Infuse more funding and resources to local communities locked in on promoting more child-friendly spaces (i.e. libraries, sports facilities) and child-friendly programs (i.e. youth in governance).

The Government must enhance avenues of assistance for the youth that have fallen into the cracks by giving funding and technical support to the rehabilitation and social welfare systems, particularly in the local communities. The interventions provided for by the Government must not only administer to children in school but must also provide help to the out-of-school youths that are most vulnerable to the traps of the drug menace.

It needs to be reiterated that in a policy viewpoint, the unit of analysis in dressing the endemic drug problem should be focused on the institutional roots of the problem NOT on the potential and most vulnerable victim of the drug menace: the Filipino child.

The Commission further urges the Dangerous Drugs Boards, as the policy arm of the executive government in dealing with the drug menace, to convene and to come up with amended guidelines in compliance with the principles and provisions of the United Nations Convention on the Rights of the Child.

The Commission reminds the Filipinos, children and adults alike, that the equal rights of children are an inalienable, integral and indivisible part of all human rights and fundamental freedoms. As such, the child has every right to expect the full protection of the law against any interference or attack. All stakeholders must work together in providing protection and affording opportunities to the children of this country. Finally, all government measures must be designed and guided with the best interests of the child so that the child will have the access and opportunity to life lived with dignity and humanity.

- **Advisory on the Passage of the Anti-Child Pornography Law**

The Commission gives high priority in the call for action against child pornography and consequently applauds the legislators for crafting a law that affords special protection for children against the exploitative and horrific effects of child pornography.

The passage of the proposed anti-child pornography law is a clear compliance with the government's obligations as State Party to the UN Convention on the Rights of the Child (UNCRC) and the Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography.

The CHR proposed a number of recommendations based on the opinions and recommendations of experts in the United Nations, for consideration of the legislators:

1. To declare the possession of pornographic materials as illegal, as well as the use of children in the deviant act of pornography.
2. To remind congress that it is obligated to handle and treat these children, not as criminals, but as victims (this is in congruence with our obligation to provide the highest level of protection to our children as per our status as a State party to the UNCRC).
3. To formulate special protective measures in a holistic and consultative manner such that the House will be guided by the voices and expertise of child advocates. The ideal law should encompass promotive, preventive and protective environments available to children and their families. The response continuum should provide the victim and his/her family access to services that can heal the wound of the exploitation and the mechanisms for redress of grievances should be rights-based, accessible, and available with all actors accountable and working in a transparent, participative manner.

4. To enhance and institutionalize the role of child participation to validate these protection mechanisms to be prescribed by the law.
5. To allocate resources that will strengthen not only government institutions that will capture, prosecute and bring to justice these criminals but ensure that these resources be funneled to schools, communities and families so that these important social venues of children are equipped to deal with the menace of child pornography.
6. To permeate all services, from monitoring and reporting of cases, to legal services, to counseling, rehabilitation and reintegration, be in a child perspective which is in consonance with the ideals and aspirations of the UN CRC. CHR is also hopeful to encourage the government to adopt a more centralized and harmonized National Child Policy.
7. To closely examine and assessed the parents that are primarily responsible to their children and therefore criminal liability should be in the proposed law.
8. To complement the aspired holistic treatment of the problem of child pornography, the ideal law should also strengthen national, regional and international cooperation to eradicate child pornography.
9. Finally, to come about with a permanent mechanism to be appended with the Department of Social Welfare and Development (DSWD) that will oversee the implementation of the proposed law and to support the expansive work of the inter-agency body. The DSWD is the most appropriate agency to chair the inter-agency mechanism. The inter-agency mechanism should ideally be composed of government agencies and non-government institutions dealing with children-victims within the definition of child pornography. A permanent secretariat should be institutionalized and that its functions are to be defined by the Anti-Child Pornography Law.

In conclusion, the CHR is aware that existing factors such as access to the internet, the cross-border sex tourism and the prevalent prostitution industry compounded by the social ills of poverty, moral depravity, poor education and lack luster governance make child pornography a very real problem. Therefore, the immediate passage of the proposed Anti-pornography law is urged to be a priority in the legislative agenda of the Government.

- **Advisory on the Attempt of the Military to Gather Information on, and the Legal Offensive taken against, members of Gabriela, Karapatan, Bayan, KMU and Other Organizations**

There have reports of persons being detained and interrogated without being allowed to exercise their basic rights such as to contact counsel or family and be informed of the charges against them at the time of their detention. There are also reports about persons being arrested without the benefit of prior preliminary investigation, or due notice.

The Commission is alarmed by and condemns the method of conduct of this new offensive tactics using the judicial system, as this violates some of the fundamental freedoms, such as: (1) The right of the people to be secure in their persons; (2) the right of any persons not to be subject to arbitrary arrest, except on such grounds and in accordance with such procedure as are established by law; (3) right to be informed of the accusation against him; (4) to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice; and (5) the right to form associations for purposes not contrary to law. All these rights are guaranteed under the 1987 Constitution, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights to which the Philippines is a state party.

The Commission reminds the Department of Justice (DOJ), the Judiciary, the Philippine National Police (PNP), the Department of National Defense (DND), the Armed Forces of the Philippines, and the Inter-Agency Legal Action Group to protect human rights vigilantly as they pursue their mandates to protect peace, order and national security. Practices and policies that infringe upon these rights must be revised.

The CHR, after holding dialogues with the National Alliance of Women's Organizations in the Philippines (GABRIELA), the Alliance for the Advancement of People's Rights (KARAPATAN), and the Kilusang Mayo Uno (KMU), whose members are affected by this new trend, finds that the apparent aim of these actions is mainly to intimidate or silence left-leaning or militant personalities, or those perceived to be threats to national security.

Lastly, CHR recalls the pronouncement of Supreme Court in the landmark case of *Allado vs. Diokno*: "The State has every right to prosecute and punish violators of the law. This is essential for its self-preservation, nay its very existence. But this does not confer a license for pointless assaults on its citizens. The right of the State to prosecute is not a carte blanche for government agents to defy and disregard the rights of its citizens under the Constitution..." Certainly, in the hierarchy of rights, the Bill of Rights takes precedence over the right of the State to prosecute, and when weighed against each other, the scales of justice tilt towards the former."

- **Advisory on the Objections to the Lowering of the Age of Criminal Liability**

The proposal to lower the age of Criminal liability back to ten (10) years (i.e. House Bill No. 3370) or even lower, at nine (9) years of age (i.e. House Bill No. 3867) is completely retrogressive and contrary to the best interests of the child.

Under the UN Convention on the Rights of the Child (UNCRC), a State Party is urged to treat the child in conflict with the law in a manner consistent with the promotion of the child's age and the desirability of promoting the child's reintegration and his or her assumption of a constructive role in society. (Article 40)

The Commission is advocating for the improvement of the legislative framework affording special protection to a child. The adoption of a child-oriented system in the juvenile justice through Republic Act 9344 known as the Juvenile Justice and Welfare Act is a victory for child advocates and lobbyists due to the passage of the increase in the age of criminal liability from nine (9) years to fifteen (15) years of age.

The CHR reminds that when the age of criminal liability was pegged at nine (9) years of age under the previous Philippine criminal law framework, the UN Committee on the Rights of the Child, in its Concluding Observations on the second periodic report of the Philippines, recommended for Government to "adopt, as a matter of urgency, a proposed bill on Comprehensive Juvenile Justice System and Delinquency Prevention Programme and raise the minimum age of criminal responsibility to an internationally acceptable level." Thus, to amend the current law fixing criminal liability at fifteen years, after the law has been lauded and celebrated as a positive step in the administration of juvenile justice, will unduly put the Government under critical light. Particularly so because the lowering of the age of criminal liability will necessarily and consequently increase the number of children in detention, a phenomenon that has given much unfavorable international publicity to the Government.

The CHR urges the proponents of the amendment to revisit the essence and principle of restorative justice, the framework in which the Juvenile Justice and Welfare Act rests. To lower the age of criminal liability is punitive and not in sync with the ideals of restorative justice.

The CHR has regularly engaged with children in conflict with the law and the latter resoundingly expressed comfort in the protective stance of the JJWA. In the conduct of legislative review, therefore, it is prudent also for the proponents of the amendment to consult meaningfully with children on the matter. The voices of children must find a platform to influence the direction of governance.

Lastly, the CHR proposed that the Juvenile Justice and Welfare Act should be thoroughly examined. However, lowering the age of criminal liability is not the solution imagined. As State Actors and instrumentalities, much is expected from the different branches of government to promote, protect and fulfill the human rights of everyone including children. A deep institutional introspection guided by the principle of the best interest of the child will

undoubtedly fortify the position that maintaining the age of criminal liability at fifteen (15) years of age is more in consonance with the Constitutional directive that the "State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development." (Sec.3, Art. XV, Constitution)

In view of the foregoing, the Commission strongly opposes any measure that will decrease the age of criminal liability contrary to what is provided for under the Juvenile Justice and Welfare Act.

- **Advisory Questioning Executive Order 778**

According to Executive Order 778, Council for the Welfare of Children (CWC) is to be transformed into the ECCD Council which focuses only on the needs of young children from 0-6 years of age. Other functions and Staff members of the CWC who are dealing with children aged above 6 to 18 below, will now be transferred to the Department of Social Welfare and Development (DSWD). EO 778 further directs the Department of Budget and Management (DBM) to provide necessary funding support of more or less One Hundred Million Pesos (Php 100, 000,000.00) for the purpose of ECCD.

The CHR lauds the executive focus of ECCD in supporting the implementation of the full range of health, nutrition, early education and social services programs to provide for the basic holistic needs of young children from birth to six (6) years of age, and to promote their optimum growth and development. This recognition of the Government on the critical stage of early childhood is contributory to the full actualization of an individual as an adult manifests an institutional receptiveness towards its duty to the children in this country and its obligations, particularly, as a signatory to the UN Convention on the Rights of the Child.

However, CHR notes that the analysis of the effects of EO 778 must not only focus on the benefits and positive aspect of the issuance. Among the issues of the CHR against the Executive Order are as follows:

1. The presidential directive as crafted lacks adequate consideration for and legislative respect to an existing law or the Presidential Decree 603, otherwise known as the Child and Youth Welfare Code. PD 603 remains a valid law and one of its milestones was the creation of the Council for the Welfare of Children.
2. CWC was devised to coordinate the implementation and enforcement of all laws relative to, the promotion of child and youth welfare. Therefore, the study, oversight and assessment of the proper implementation of child-sensitive laws previously tasked to CWC will

now be undertaken separately by the ECCD Council and DSWD. This is not strategic since the presidential directive will compartmentalize the different stages of childhood; when what should be aspired for is an appreciation of how these stages are inter-linked, integrated and indivisible, and how programmes that might be specific to each childhood stage will inextricably reinforce each other.

3. The dismemberment of the CWC into two (2) agencies, one with a more specific mandate (i.e. ECCD Council) and one with a general platform (i.e. DSWD) means that there will be a sector of children (above 6 years old and below 18) that will indubitably be left behind in terms of programmes, funding and agency focus.
4. The body of child experts seated at the UN Committee on the Rights of the Child acknowledges and recognizes the important role of CWC in the compliance of the Philippine Government of its treaty commitments and obligations. In the dissolution of CWC, the Government is backtracking on institutional progress already achieved.
5. CHR recognizes that the ECCD Program was effectively implemented and monitored by CWC. It was also noted by the Commission that the implementation of the ECCD Program under RA 8980 was not unsatisfactorily implemented that can perhaps justify the avowed “transformation” of CWC into an ECCD Council.
6. Despite invoking the administrative Code providing for the continuing authority of the President to reorganize the Office of the President, EO 778 in effect will be amending both PD 603 and RA 8990, erroneously annexing the legislative powers of congress.
7. Rights -based governance dictates that, at the first instance, the staff members and leadership of both the CWC and the DSWD, the two offices to be affected by EO 778, were consulted in a participative and democratic manner before the issuance of the Executive Order.
8. Lastly, it is incumbent for the subject executive issuance to have ensured the participation of children in this process of “transformation” as children are not mere beneficiaries of governance but are rights holders themselves.

In view of the foregoing, the Commission on Human Rights respectfully implores the Executive Department to re-think the design of the ECCD Council; provide a forum for democratic consultations in the name of rights-based governance; and hold in abeyance the effectivity of EO 778, and therefore the needless division of ECCD functions, until a more rationalized

and child-friendly strategy be devised to implement and harmonized existing and valid child-oriented legislations.

- **Advisory in the Deployment Ban to Nigeria**

Among the constitutional mandate of the commission is to provide appropriate legal measures for the protection of all persons within the Philippines, as well as Filipinos residing abroad. In this regard, the Commission seeks the intervention of the members of the House Committee on Overseas Workers Affairs, to examine the impact of the travel/deployment ban to Nigeria on OFWs who have active work contracts and residency permits.

The travel/ deployment ban is in effect in all parts of Nigeria. However, OFWs in Nigeria contend that not all of Nigeria is affected by kidnappings, and other lawless violence that is seen in the Niger Delta, the venue of unfortunate events befalling Filipino Seamen.

In their various communications to the Commission, they (the OFWs) have been negatively impacted by the ban has prevented them from exercising their right to work and to reunite with their families in the Philippines. The ban has exposed them as targets for extortion. They have become vulnerable by pandering to corruption in their efforts to assert their right to leave the country and work abroad.

In this connection, the Commission suggests the following recommendations:

1. For the Legislature to establish and institutionalize through appropriate laws specific criteria and guidelines for the imposition, implementation and termination of travel bans enjoining meaningful participation by all stakeholders;
2. For Legislature and the Executive to review existing rules and procedure on travel bans with the aim of ensuring proper coordination between and among line agencies tasked to promote and protect the rights of migrant workers and their families;
3. For the Executive to review the existing travel ban to Nigeria and reconsider its total application given the substantial distinctions in geographical and social milieu of Filipino migrants working there; and
4. For the Executive to review all existing travel bans, whether partial or total, with the object of evaluating their propriety and respect for human rights.

- **Advisory on the Commission on Human Rights Supports Early Voting**

As an institution, the Commission recognizes that one of the important steps to ensure good governance is to increase the base of participation of people in influencing government. Indeed, it is a working democracy if it allows for the political will of the people to be fully expressed. This political expression is none more palpable than the absolute and unimpeded exercise of a citizen's right to suffrage.

Therefore, the Commission on Human Rights strongly supports any measures that will ensure the broadest participation in the selection of this nation's leaders. Indeed, the law allowing for early voting is an important initiative that requires the support of both rights holders and stakeholders. The sanctity of every voice spoken through the ballot deserves recognition by the Government and should be treated as a priority in its legislative agenda and translated in both Government policy and practice. The Commission hopes that the Government is acutely aware of what is required of it in order for genuine democracy and rights-based governance to prevail. Early voting, as an electoral mechanism, will mitigate the detrimental effects of disenfranchisement and will contribute in the respect, protection and fulfillment of the right to vote of every qualified citizen in the country.

- **Advisory on Calling on Congress to Open its Doors to Farmers for Genuine Agrarian Reform**

Sec. 4, Article XIII Social Justice and Human Rights, of the 1987 Constitution provides that "the state shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farm workers, who are landless, to own directly or collectively the lands they till or in the case of other farm workers, to receive a just share of fruits thereof. To this end, the State shall encourage and undertake the just limits as the Congress may prescribe, taking into account ecological development, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing".

While Sec. 5 of the same article states that "The State shall recognize the right of farmers, farm workers, and landowners, as well as cooperatives, and other independent farmers' organizations to participate in the planning, organization, and management of the program, and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services".

The Commission in its Human Rights Legislative Agenda for the 14<sup>th</sup> Congress, give emphasis on the importance of the passage of bills that ensures greater enjoyment of human rights in the country. This measure on agrarian reform is viewed as a state obligation arising from the Philippines'

commitments to the United Nations Covenant on Economic, Social and Cultural Rights.

With the impending expiration of the law on Agrarian Reform on June 30 and Congress set to adjourn on June 5, the Farmers are afraid that time is running out and the utmost urgency for a legislative response on the issue is not being undertaken and worse, is overshadowed by untimely political calls on charter change.

The Commission calls on the leadership of the House of Representatives to demonstrate the guarantees of the Constitution for the respect for the role and rights of people's organizations, their peaceful assembly at Congress is an exercise of their right to pursue and protect their legitimate and collective interests and aspirations. The CHR also condemn the violence that characterized the dispersal, and the show of indifference, or worse, a lack of intestinal fortitude, by the leadership of the House of Representatives towards the desperation and indignation of the farmers whose toil feeds our Congressmen and the rest of the Filipino people.

In view of this, the Commission urges Speaker Prospero Nograles to lead by example and call on all the rest of the House membership to be true Representatives of the Filipino People and open the doors of Congress and let the Farmers' voices be heard. They only have until June 5 to lay their claims. Provide them space to lobby and seek the support of each and every Congressman for a genuine agrarian reform that will help achieve food security for the country and attain social justice for the Filipino farmer.

Lastly, the Commission urges the Legislature to deliver and pass the measure extending the Comprehensive Agrarian Reform with genuine reform.

- **Advisory on Radio Frequency Identification (RFID)**

There are efforts to use RFID technology widely in the Philippines, through vehicle registration process which are currently being proposed by the land

Transportation Office. This technology aims to revolutionize and speed up vehicle registration in the country by tagging the vehicles with microchips. According to LTO, the use of this technology will also allow LTO and other law enforcement agencies to access vehicle information to aid in traffic management, law enforcement and crime prevention.

The Commission on Human Rights earlier opposed the administrative Order issued by then President Ramos calling for a national ID System basically for the reason that there were no clear safeguards set forth therein. Much was left to the unbridled discretion of the Inter-Agency Coordinating Committee (IACC) to promulgate the corresponding implementing guidelines. There is

thus danger of the far-reaching consequences that can tell on all individuals, their liberty and privacy.

However. Probably taking cue on the grounds for the unconstitutionality of AO No. 308, EO No. 420 laid down specific safeguards for the implementation of the same. In addition, Section 3 of the said Executive Order made specific enumeration of the information or data required from the individual for the unified ID System. This sets the limits as to which kind of information is necessary to be provided by the individual which nevertheless are the basic and usual data being furnished when availing of government services. This is important because it provides for complementary protection against possible use or misuse of information.

The Commission admits that technology is a fact of life to which we must adjust as long as its application, and seeming intrusion, into the domain of privacy is reasonable.

Indeed, the Supreme Court concedes that “the right to privacy does not bar all incursions into individual privacy. {only that such} incursions into the right must be accompanied by proper safeguards and well-defined standards to prevent unconstitutional invasions.”

In the instant case, however, we have yet to see the law, and its corresponding rules and regulations that adopt the use of RFID technology in vehicle registration and identification.

To date, we are all at a loss as to the application of this technology, Neither laws nor rules have yet been publicly presented. These laws are very important benchmarks for consideration as either violative or non-violative of human rights standards provided under international law, the Philippine Constitution and other national laws.

In the end, the Commission puts forth the following recommendations:

1. For the Land Transportation Office to conduct the necessary board-based public consultations and dialogues on RFID technology, its applications, benefits as well as challenges and encourage its deeper understanding with all possible stakeholders;
2. For the Land Transportation Office, in close coordination with all stakeholders-both government and non-government, craft the necessary guidelines for the application of the RFID technology taking into consideration all human rights standards under international and national laws and ensure its widest dissemination possible; and
3. For Congress, to look into the possibility of enacting a law elaborating on the right to privacy and the proper handling of personal information by responsible government agencies.

- **Advisory on the Human Rights to be Safe from Natural Disasters**

The Commission enjoins all duty holders to focus on a human rights-based approach to disaster preparedness, response and recovery. Following its general comment on Human Rights and Disasters which prescribes human rights principles and standards as guideposts on humanitarian action in emergencies, including situations of natural disaster, in armed conflict, internal displacement and refugee situations, we reiterate that even before persons have a right to humanitarian assistance, each one has a right to be safe from disasters.

Utilizing the United Nations International Strategy for Disaster Reduction's (UNISDR) four objectives as tools towards reaching disaster reduction for all, the Commission offers its consideration for action:

1. Increase public awareness to understand risks, vulnerabilities and disaster reduction;
2. Obtain commitment from public authorities to implement disaster reduction policies, plans and action;
3. Stimulate interdisciplinary and inter-sectoral partnerships, including the expansion of risk reduction networks; and
4. Improve scientific knowledge about disaster reduction.

Lastly, the Commission on Human Rights is one with the nation in its desire to be vigilant and remain conscious of our duty to ensure that the Philippine Government must be constantly guided to comply with human rights principles and standards in situations of natural disasters, before, during and after they occur.

- **In the Light of the Privatization of the Angat Hydro-Electric Power Plant Advisory on the Right to Water in**

The right to adequate food and the right to water are human rights. The significance of water in our everyday lives cannot be over emphasized. It is an essential component of our diet. It also serves us in many different ways, including non-household purposes, for example, sanitation, transport, irrigation and food production, environmental hygiene and work.

The concept of privatization, while laudable in assisting developing countries like the Philippines attain maximum and efficient use of their resources, has a resultant effect of increasing the cost in obtaining such benefits. It is also undeniable that the primary objective of most of the private enterprises is to generate profit. Revenues in this kind of investment are almost guaranteed considering the importance of water being an essential element of our diet and the guaranteed market availability- both domestically and industrially. Thus, it cannot be set aside that once the Angat HEPP will be privatized, there

will be less-accessible water supply, particularly those living in Metropolitan Manila and the Province of Bulacan and nearby areas which are currently benefited by the Angat HEPP.

In view thereof, the Commission on Human Rights, as an independent national human rights institution mandated to, among others, monitor the Philippines Government's compliance with international human rights treaty obligations, strongly calls on the Philippine Government to revisit and reassess its policy with regard to the provision of its water resources vis-à-vis its concurrent obligations under the International Covenant on Economic, Social and Cultural Rights to ensure adequate standard of living to the Filipino people, which necessarily include the bounden duty to provide, ensure and sustain safe, sufficient, affordable and convenient access to drinking water.

The Commission maintains that the right to water is more fundamental and primary over the need for power. Hence, all actions that necessarily affects, directly or indirectly, this right must be construed strictly in its favor.

The Commission is of the position that the management of Angat HEPP is better left to the MWSS being a government body and considering the amount of "public interest" involved. However, should the decision to privatize the same become inevitable, the Commission strongly calls for specific and concrete safeguards to ensure the right to water of all.

Specifically, attention must be given to vulnerable groups through definite and concrete safeguards against the negative impact of the commodification" of water. The recognition of the "right to water" provides an ethical and legal framework for prioritizing the use of water focusing attention to vulnerable sectors of society and ensuring the participation of all stakeholders, especially rights-bearers, in the decision whether to privatize or transfer management of the Angat HEPP to the MWSS.

Further, and taking public notice of climate change, it is imperative for Government and other dutyholders concerned to immediately revisit and reassess its policy to privatize the Angat Hydro Electric Plant vis-à-vis the consequential effects of privatization on the lives and sources of livelihood of people in Metro Manila, Bulacan and nearby areas, in consultation with them and / or their duly elected public officials.

Finally, the Commission advises Government to always consider paramount the most basic resources necessary and indispensable for human survival, which includes water. And, in all its courses of action, the life and dignity of every human person in the country should always be central and of highest priority.

- **Advisory on the Human Rights Based Approach to Justice in Maguindanao**

In response to the unjustified and illegal killings of 57 persons in barangay Saniag, Ampatuan town on 23 November 2009, and to the actions that have been taken by various actors in response to the incident including the fact that the President of the Philippines has declared “a state of emergency in the provinces of maguidanao, Sultan Kudarat and the City of Cotabato for the purpose of preventing and suppressing lawless violence in the aforesaid areas; and “a state of martial law in the province of maguindanao except for the identified areas of the Moro Islamic Liberation front as referred to in the implementing operational guidelines of the GRP-MILF agreement on the General Cessation of Hostilities “as well as the accompanying suspension of the privilege of the writ of habeas,” as well as the accompanying suspension of the privilege of the writ of habeas corpus in Maguindanao for the duration of the state of martial law.

The Commission on Human Rights unequivocally condemns the killings of 57 persons including women and children in the incident now known around the world as the “Maguindanao Massacres” as violations of the rights to life and to security of person for every individual that was killed.

The Commission urges all relevant government bodies and branches to vigorously perform their mandates in the Constitution and in law to bring the perpetrators to justice as soon as possible, with due process of law and respect for the human rights of victims, suspects, witnesses, the families of victims, and possible informants.

The human rights-based approach to justice takes into account the necessity of punishing crimes while also giving restitution and assistance to the victims and their families. It protects and respects the rights of all parties, even those suspected of crimes or persons who might have information about crimes or suspects, with conscious efforts to protect and respect the rights of vulnerable groups, such as women, children and indigenous persons.

The Commission also reminds all that the zeal to resolve these cases should not give way to practices that in themselves violate fundamental freedoms, such as:

1. The taking into custody without following the legal requirements of suspects or persons who might have materials information, including families of victims, possible accomplices or co-members of organizations that might be involved in the crimes/ violations being investigated;
2. The collection of information or intelligence through means prohibited by law and human rights standards including wire tapping, warrantless searches and seizures; and

3. The physical, mental or emotional maltreatment of persons in custody or in detention for the purpose of obtaining information or confessions or for coercion.

These practices, among others, are prohibited by the International Covenant on Civil and Political Rights, Article III of the 1987 Constitution also known as the Bill of Rights, and various Philippine Statutes.

The Commission urges the Office of the President and Congress to seriously reconsider the declaration of martial law in Maguindanao because this is not necessarily the most effective way to resolve the killings, maintain or restore peace and order, and prevent further violence. The police, the judiciary, the CHR, the Department of Justice and others have already taken action to respond to the killings and prevent violence that could result from the massacre. They continue to do so with effect and thus the legal basis for declaring martial law is very weak.

The CHR takes issue with the legality of the declaration of martial law and its continued application.

Under the 1987 Constitution, martial law can only be declared "in case of invasion or rebellion, when public safety demands it". Rebellion requires that there is at least a taking up of arms publicly directed against an existing government. "Imminent", "threatened" or "possible" taking up of arms, as cited by representatives of the Office of the President, fail to meet the stringent requirements of the Constitution. The law requires actual invasion or rebellion. Overt taking up of arms, not an amassing of arms.

The President having submitted a report to Congress on her martial Law declaration, the Constitution demands a discussion of this grave and serious issue by the elected representatives of the people, as a check and balance to the executive branch.

The CHR hopes that the President and/ or Congress will take heed of this Advisory and revoke both the proclamation of martial law and the suspension of the privilege of the writ of habeas corpus.

Pending the hoped-for revocation, the Commission reminds all of the limitations to martial law imposed by the Constitution:

1. The Constitution remains in operation;
2. Civil courts and legislative assemblies continue their functions and are not supplanted;
3. Since civil courts are obviously able to function even in Maguindanao, military courts and agencies do not have jurisdiction over civilians;

4. The suspension of the privilege of the writ of shall apply only to persons charged for rebellion or offenses inherent in or directly connected with invasion;
5. During the suspension, any person thus arrested or detained (i.e. for rebellion or invasion) shall be judicially charged within three days otherwise he shall be released; and
6. The proclamation of martial law and the suspension of the privilege of the writ shall last only 60 days, unless extended by Congress.

Lastly, the Commission will continue to exercise its investigative, monitoring, assistance, visitorial, advisory and other functions in all areas of the Philippines, whether under martial law or not.

- **Advisory on the Human Rights Protections During the Evacuation of the Area Threatened by Impending Mayon Volcano Eruption**

In view of the Constitutional mandate of the Commission this advisory is issued to urge a human-rights based approach to the disaster response and humanitarian assistance work in the province of Albay during the dangerous volcanic activity of mayon Volcano.

The CHR takes note of the measures already taken by the National Disaster Coordinating Council, the provincial government of Albay, and other government bodies, including the evacuation of households within a specified zone and the establishment of evacuation centers.

The current situation raises certain questions about human rights and humanitarian assistance such as:

- Government obligations to protect human life balanced with the right of persons to choose to stay in their homes
- Government human right obligations balanced with police power
- Individual freedoms balanced with responsibilities of persons towards others

The Government has the duty to respect, uphold and protect the human rights of all persons, including the right to life and security of person.

In the fulfillment of this duty, the Government is allowed, under international treaty to which the Philippines is party, certain measures for public order and public safety so long as they are based on valid law issued by the competent authority and carried out by the relevant and competent authorities.

The declaration of a state of calamity gives legal basis to the government to assume additional police powers in the area.

Considering the humanitarian objective of the forced evacuation measures that are being considered by the NDCC and the PDCC, the Commission on Human Rights sees no legal or human rights basis to object to such emergency measures so long as they are carried out in a manner that is

humane, respectful of the dignity of the persons, not using disproportionate force, without discrimination and with conscious attention to the needs of vulnerable sectors such as children, women, the elderly and persons with disabilities, the CHR also recommends the following:

1. That all measures are taken to inform the evacuees, in a manner and language that they can understand, of the need for the evacuation, that there is no other alternative for their safety, the place where they will be taken and for how long;
2. A dialogue between the evacuees and an interagency team comprised of the NDCC, the DSWD and the CHR (and others if deemed necessary) to discuss the concerns of the reluctant residents and identify any alternative measures to answer these concerns such as the security of their property, the tending of their crops and domestic animals;
3. Continuing maintenance of decent and dignified living conditions at the evacuation centers and provision for the needs of vulnerable sectors, e.g. schooling for children, privacy for women, basic necessities accessible to persons with disabilities;
4. Any arrests and detentions of “disaster tourists” and other persons violating the designated no entry danger zones should be done by the police rather than by the military; all arrests should be done with only proportional force, with full respect for the rights of suspects, within the bounds of law.

The Commission also reminds all persons in Albay that they have responsibilities to respect and protect the human rights of others, refusal to evacuate also raises the risk that they will need to be rescued when the volcanic eruptions become major or when the earthquakes do major damage to their homes. Rescuers are also people with human rights, by putting yourselves in the path of danger; you are also putting those who will rescue you in the path of danger. This is not respectful of their human rights or the rights of their families who love them and depend on them.

The Commission on Human Rights, particularly the CHR Region V Office, is on the ground coordinating with various government agencies responding to this natural disaster and to attend to certain human rights matters arising from the said concern.

- **Position Paper on the Senate Bill Amending Republic Act 9344 or “The Juvenile Justice and Welfare Act”**

In line with the Constitutional mandate of the Commission to monitor government measures and its compliance with the international human rights treaties, the CHR advocates for the following amendments in the legislative

efforts to enhance special protection for Filipino children in contact or conflict with the law (CICL), below are the salient portions:

1. Re-alignment of the Juvenile Justice and Welfare Council (JJWC) from the Department of Justice (DOJ) to the Department of Social Welfare and Development (DSWD).
2. Clarification of the meaning of “fifteen years of age” on the phrase “A child is deemed to be fifteen (15) years of age on the day of fifteenth anniversary of his or her birth date”
3. Local Consultations. The JJWC should engage and consult with local officials as they are ultimately the front-line service providers to the CICL and his or her family and can be relied on for assistance and support.
4. Periodic study on age of discernment (should be conducted every three (3) years). The results of this study should affect the future treatment of the age of discernment and the administration of juvenile justice and influence the legislators to address the necessity to amend.
5. Treatment of children criminally exempt. In the explanatory note it was discussed that the justification for the amendment is that attention must be given to those who are “repeat offenders” and those who have committed specific violent offenses, i.e. heinous crimes”. The CHR finds it necessary for the law to clarify where to bring these minors with pending final resolution of their case and those individuals who are already at least eighteen (18) years of age.
6. Maximum penalty for exploiters. The inclusion of the provision from RA 9165 or the Dangerous Drugs Act allowing for the maximum penalty to be meted out to those who exploit children is earnestly supported by Commission and the lobbyists should also look into the treatment of parents as the offenders who took advantage of their own offsprings’ minority and criminal exemption.
7. Assistance to victims. This is in pursuance to the principles of restorative justice which necessitates taking into account the welfare of the victim and his or her family.
8. Tool to measure discernment. The standardization of the assessment of discernment is needed and by elevating the process into a scientific level ensures the objectivity and validity, and therefore the credibility, of the findings and recommendation of the social workers.
9. Requirement that discernment be alleged in the information. The CHR supports the inclusion as the express requirement will facilitate the legal processes the CICL will undergo as well as provide a guidepost for lawyers of victims in order for the case to be properly prosecuted.
10. Clarification on curfews. The standardization of treatment of children picked up for breaking the curfew ordinance. Thus, the CHR proposed amendment could be worded: “Curfew ordinances enacted by local governments shall be for the protection of children, no penalty shall be imposed on children for curfew violations. Instead, the child shall be brought to his or her residence or to the Barangay Hall to be fetched by his

or her parents or the child's legal guardian. If the child is proven to be without any legal guardian, He/ She shall be endorsed to the local Social Welfare Officer or the Department of Social Welfare and Development. The authorities who shall rescue the child is conscripted from endorsing the child to a youth rehabilitation center within the meaning of this law.

11. A point of clarification sought by CHR is how the proponents of the amendments came up with the age of twelve (12) as the minimum age of children to be allowed commitment in youth rehabilitation centers. The silence on where children below twelve (12) are to be brought in lieu of youth rehabilitation homes is cause for concern. The CHR proposes that a provision be inserted by the proponents of the amendments on how criminally-exempt children below twelve are to be handled and treated and how they can avail of intervention and restorative measures.

In conclusion, the CHR supports all efforts to provide an improved legal framework for children and commit to harness its institutional influence and authority to assist in the achievement of this end.

Moreover, the Commission prepared draft bill entitled, "An Act Establishing the National Committee for the Prevention of Torture and for other Purposes" - This is a preventive mechanism bill that is consistent with the Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). It creates an independent office called the National Committee for the Prevention of Torture that will be under the CHR.

Furthermore, the Commission submitted its comments on Senate Bill No. 2333 and House Bill No. 3793, both seeking to amend the Overseas Absentee Voting Act. The Commission expressed its full support to proposed measures to improve and amend said act.

It also declared its support to the initiative of an instant substitute bill seeking to establish "Resource Development and Crisis Assistance for Women and Children," as an amendment to Republic Act 8505. Such centers that do not only aim to care and rehabilitate women and children but more essentially to equip and empower them, are highly commended and accepted as developments to answer the needs of these vulnerable sectors; and for the passage of Senate Bill No. 2112 on the payment of survivorship benefits to the legal spouse of certain officers of the government and other constitutional bodies.

With the recent devastation of typhoons "Ondoy" and "Pepeng" in Metro Manila and large parts of Luzon, CHR issued a General Comment cum Advisory on the *Human Right to be Safe from Natural Disasters* highlighting disaster management to ensure that the human rights based approach is upheld for the common goal of realizing the right of everyone to be safe from natural disasters. CHR, as an expression of commiseration to the victims as well as full recognition of the right of

every person to be safe from natural tragedies, took on the step of reaching out to its own aggrieved employees by extending donations.

In order to promote the right to suffrage of persons deprived of liberty and further address the looming impossibility of getting 23,000 detainee-voters to their voting precincts, the CHR Commission En Banc issued on October 28, 2009 a Resolution to petition the COMELEC to “establish guidelines and formulate rules and regulations on how the right to vote of persons deprived with liberty...can be exercised inside or near their places of detention through the establishment of special polling places.”<sup>1</sup> The petition was filed by Chairperson Leila M. De Lima before the Commission on Elections last November 3, 2009.

The Commission also expressed its support to the gay party list, *Ang Ladlad* in its bid to join the 2010 Elections, vowed to issue a motion for intervention to the COMELEC to reverse its decision of barring the said organization from a chance of representation in the Congress in May 2010.

As internal displacement escalates, Chairperson Leila M. De Lima, along with a team of CHR lawyers and investigators visited Bgy. Didipio in Nueva Vizcaya last October to inquire on the series of reports received on illegal demolition and harassment of settlers happening in the said area. CHR responded to the residents' request for assistance relayed through NGOs ATM, PhilRights and TFDP, with a promise of a more assertive intercession by the Commission. The CHR had recently intervened in a successful return to their community of displaced indigenous peoples (the Manobos) in Surigao del Sur at the end of August of this year.<sup>2</sup>

## II. PROMOTION AND ADVOCACY SERVICES

### a) Seminars/Trainings/Lectures/Talks Undertaken

From January to June 2009, CHRP continues to undertake seminars/trainings and lectures talks, radio programs, press/news releases/articles, press conferences and other activities for priority sectors such as students, teachers, men in uniform, public officials/government employees, barangay and municipal officials, women's group, inmates/prisoners, and NGOs. A total of 407 information and education activities were conducted for the said sectors covering 174 seminars/trainings, 145 lectures/talks and 88 other information activities.

The topics lectured were: International Humanitarian Law, Comprehensive Agreement for the Respect of Human Rights and International Humanitarian Law

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<sup>1</sup> Press Release: COMMISSION ON HUMAN RIGHTS PETITIONS COMMISSION ON ELECTIONS: SET UP SPECIAL POLLING PLACES FOR DETAINEES INSIDE OR NEAR THEIR PLACES OF DETENTION. November 3, 2009.

<sup>2</sup> CHR CHAIRPERSON ON ILLEGAL DEMOLITIONS IN BGY. DIDIPIO, KASIBU, NUEVA VIZCAYA: “IT'S TIME TO PUT AN END TO THIS.” October 16, 2009.

(CARHRIHL), Convention on the Rights of the Child and related laws on child rights protection such as RA 7610 (Child Abuse Law), RA 9344 (Juvenile Justice System Act), RA 9231 (Worst Forms of Child Labor), Convention Against Torture (CAT), Rights of Persons with Disability and Internally Displaced persons and Writ of Amparo..

As to the extent of participation in these activities, a total of 20,352 participants were covered by the Commission through its public information activities. The figures include 11,757 participants for seminars/trainings, 8,438 for lectures/talks and 157 for other information activities. Police and military topped all other sectors with a total of 8,966 participants followed by Public Officials/Employees with 3,948 participants and General Public with 1,467 participants.

Furthermore, a total of 10,877 information materials were distributed to the public in general and to participants of HR advocacy courses. These materials consist of human rights posters (7), human rights flyers ( 3,327 ),human rights primers (234), handbooks/briefer on HR (228) and other information materials (7,071 ).

On the other hand, the Commission conducted a total of 360 inter-agency meetings, dialogues to national and local government agencies, as well as government organizations covering different sectoral activities and concerns. It reached out to a total of 16,698 participants for the various activities conducted.

In addition, CHRP provided technical and administrative assistance such as: as resource person/speaker, provision of reading materials, in some human rights education activities organized by the sectors.

Public Information Activities Conducted  
January - December 2009

REGION	SEMINARS/ TRAININGS	LECTURES/ TALKS	OTHERS	TOTAL
NCR	9	5	-	14
I	22	19	6	47
II	13	27	20	60
III	4	26	13	43
IV	20	23	-	43
V	56	10	76	142
VII	24	-	-	24
VIII	12	33	32	77
IX	124	4	-	128
X	6	46	3	55
XI	22	42	51	115
XII	25	5	-	30
CARAGA	8	6	12	26
CAR	46	18	4	68
<b>TOTAL</b>	<b>391</b>	<b>264</b>	<b>217</b>	<b>872</b>

At the regional level, Region V had the highest number of human rights information and education activities with a total of 59. Region XI came in second with 58 and Region IX ranked third with 46. The region that ranked the least is NCR with 8. The conduct of information activities generally depends on the initiative of the regions. There were still several regions, which have yet to submit other data for inclusion in this report.

The CHR and COMELEC, along with the Department of Local and Interior Government and the Bureau of Jail Management and Penology and other special interest groups like the Catholic Bishop Conference of the Philippines, have recently convened the Technical Working Group on the Right to Suffrage of Detainees. The TWG is in the process of crafting the proposed COMELEC Resolution affording the detainees access to register and vote for the 2010 elections.

The British Embassy has also manifested an interest to fund the roll-out to selected regions and provinces of the country replicating the same methodology as the one used in the September 17 Forum. This is highly promising given that one of the limitations of the September 17<sup>th</sup> Forum was it could not provide the means and access to other stakeholders who are not located at the National Capital Region. This is particularly true for the internally displaced persons that are concentrated in specific areas like Central Mindanao and Southern Luzon.

#### *b. Child Rights Advocacy*

The CRC and the Information Systems Management Office of the CHR are working together for the establishment of the Child Rights Violations Informations Systems Module (CRVIS) that will be an integral part of the Martus Databanking System. The United Nations Children's Fund or UNICEF is funding the same.

The systems analyst is finalizing the proposed system which was designed in close coordination with CRC and the ISMO. The CRC has also contributed in the writing of the User's Manual for the CRVIS Module of the Martus. The CRVIS Module will be piloted with selected CHR Regions in the second half of 2009 to coincide with the celebration of Children's Month in October.

The CRVIS Module Funding actually emanated from the UNICEF interest in monitoring and reporting of grave child rights violations affecting children in situations of armed conflict (CSAC). The funding was only expanded to include other thematic violations now standardized in the CHR Complaint Form 10. UNICEF, in one of its commissioned studies, cited as a positive initiative the inclusion of CSAC entries in the CHR Complaint Form for children. Form 10, however, while approved during the term of the Third Commission, is still to be adopted by the regional offices. The roll-out on the use of the CRVIS Module is deemed to be the most opportune time to also capacitate the CHR regional lawyers

and investigators on the use of Form 10 vis-a-vis the child rights module of the Martus System.

The CHR is a member of the Country Task Force on Monitoring and Reporting (CTFMR) of GCRV and has submitted its report to the UNICEF on the six (6) grave child rights violations (i.e. killing, maiming, abduction, recruitment, sexual violence and denial of humanitarian access) in situations of armed conflict. The CTFMR of the Philippines will submit a horizontal report to United Nations Security Council. Notably, in the first Country Report of the CTFMR, a number of cases cited therein was reported by the CHR.

Furthermore, a project on the formulation of a Handbook on the Handling and Treatment of CSAC for the Armed Forces of the Philippines is underway. UNICEF was enthused about the Handbook as it runs parallel to their efforts in the Monitoring and Reporting of GCRV.

Facilitated by the Field Operations Office, the CRC was able to distribute to the regional offices, sub-offices and desks copies of the books "*Ensuring the Right to Electoral Participation*" (around 5 copies each) and "*Children Belong*" (50-100 copies each) as well as the *2009 CHRP Calendar*.

The CHR has already developed its own "branding" and is now being used and adopted in the latest CHR publications.

*c. Barangay Human Rights Action Center (BHRAC)*

For the year 2009, the Barangay Human Rights Action Center (BHRAC) program was able to accomplished the following Trainings/Capacity building activities/projects:

- a. Trainings/Capacity Building of Barangay Human Rights Action Offices dubbed as Island Convergence of BHRAOs. The Island Convergences of BHRAOs were conducted on a per island basis particularly in regions with conflict areas. The activity aimed to strengthen the grassroots mechanisms for human rights protection and promotion of Women and Children in Situations of Armed Conflict, through further capacitating the BHRAOs into multi faceted role as facilitator, monitor and protector of children and women's rights.
- b. Trainer's Training on Ensuring the Right of Electoral Participation of the Six Selected Vulnerable Sectors . The Commission on Human Rights of the Philippines, in fulfillment of its obligations to represent the most marginalized sectors endeavors to bring to public attention the plight of these six (6) sectors, with the ultimate goal of coming with legislative and policy recommendations which will help these sectors exercise their right of suffrage to the fullest.
- c. The first Basic Training of BHRAOs in El Nido, Palawan. The two-day activity enlightened the participants on the significant role of the BHRAC in the promotion and protection of human rights in their respective villages. This also provided the BHRAOs the direction and the specific functions that they should perform. The training was considered a dream come true since it has been 2 years that the Liga ng mga Barangay of

El Nido, Palawan have been planning and programming the said activity. This was attended by 54 participants composed of 18 BHRAOs, 18 Punong Barangays and 18 Barangay Secretaries.

Issuances, agreements and commitments to strengthen the BHRAC program were also articulated through MOA, between and among the institutional partners of the Commission such as the DILG, LGUs, Vice Mayors LEAGUE OF THE Philippine and the Philippine Councilors League, and the formulation by the DILG of the Human Rights Program for the Local Government Units.

#### *d. Women's Rights Advocacy*

This year, advocates for women's rights coming from government and civil society reached another historical milestone in the realm of legislation when the Magna Carta of Women finally has passed into law. This new law serves as a major compliance to the General Recommendation cited by the Committee on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) to the Philippines. It provides comprehensive provisions on non-discrimination, equal access to resources and opportunities of men and women before the law and human rights of women both in the public and private spheres. As an institutional mechanism, the Act officially delegates CHR as the Gender and Development Ombud through our Women's Human Rights Center tasked to (a) Monitor with the Philippine Commission on Women and other state agencies, among others, in developing indicators and guidelines to comply with their duties related to the human rights of women, including their right to nondiscrimination guaranteed under this Act; (b) Designate one (1) commissioner and/or its Women's Human Rights Center to be primarily responsible for formulating and implementing programs and activities related to the promotion and protection of the human rights of women, including the investigations and complaints of discrimination and violations of their rights brought under this Act and related laws and regulations; (c) Establish guidelines and mechanisms, among others, that will facilitate access of women to legal remedies under this Act and related laws, and enhance the protection and promotion of the rights of women, especially marginalized women; (d) Assist in the filing of cases against individuals, agencies, institutions, or establishments that violate the provisions of this Act; and (e) Recommend to the President of the Philippines or the Civil Service Commission any possible administrative action based on noncompliance or failure to implement the provisions of this Act.

#### *e. Publications*

The CRC endorsed for printing the book entitled, "*The UN Convention on the Rights of the Child and its Optional Protocols*" under the SIDA-Barnombudsmannen-CHR Cooperation Agreement. The Barnombudsmannen or the Children's Ombudsman of Sweden, with whom the CRC has a very close institutional relationship, lobbied very strongly for the popularization of the UNCRC, thus the book carries the texts of the UNCRC and its two Optional

Protocols on the Involvement of Children in Armed Conflict and the other on the Sale of Children, Child Prostitution and Child Pornography.

The CRC, however, wrote the early chapters of the book and provided a summation of the Convention and the Optional Protocols. There is also a brief discussion on the *Child Perspective*, one of the strategic and important learnings that emanated from the cooperation with Sweden, and the role of the Commission vis-a-vis children's rights.

Last February, the book "Ensuring the Right to Electoral Participation" was formally endorsed by the CHR to COMELEC. The leadership of the two constitutional commissions were in complete attendance in the ceremonial exercise of endorsing the outputs and recommendations that were identified at the September 17, 2008 Forum which had the same title. Such recommendations were devised to counter the dangers of disenfranchising the 6 vulnerable sectors (i.e. persons with disability, the elderly, the internally displaced, the detained, the first time voters) who participated actively at the Forum.

In line with this, the CHR co-sponsored the Second Regional Consultation-Workshop on "Ensuring the Right to Electoral Participation - Giving Access to Vulnerable Sectors in 2010 together with Task Force 2010 and funded by the International Foundation on Electoral Systems (IFES) held at Ateneo de Davao on 26-27 June 2009. Guided by the rights-based framework to electoral exercise, the forum convened representatives from various government agencies, non-governmental organizations, and select vulnerable sectors, namely: persons with disabilities, first-time voters or the youth, internally displaced persons, elderly, indigenous peoples, persons deprived of their liberties or the detainees, and migrant workers. The various sectors that participated in the forum identified barriers and challenges in their exercise of the right to suffrage and at the same time formed recommendations to address the same.

#### f. Press Releases

The Commission regularly informs the public thru print, radio or TV broadcast human rights issues and its position/stand on emerging issues as well as high profile cases of alleged human rights violations.

For the year, the CHR has circulated forty-one (41) press releases to major dailies, television and radio programs regarding pressing human rights issues like the summary killings in Davao City, the implementation of random drug testing of secondary and tertiary students, the lowering of the age of criminal liability, ensuring the right to electoral participation and the alleged abduction/torture of Melissa Roxas.

Likewise, the chairperson appeared on various television and radio programs responding to queries about CHR's reaction/stand to pressing human rights issues such as Hayden Kho/Katrina Halili sex video scandal, torture violations, etc.

### **III. Capacity-Building**

As part of capability development, the CHRP has been working to enhance and enrich the capacities of officers and personnel. CHRP staff took part in trainings on legal techniques to address extrajudicial killings and enforced disappearances, particularly those held in partnership with the Philippine Judicial Academy. From April 26 to May 11, this year, CHRP investigators, lawyers and regional directors underwent training in forensic investigation conducted with experts who have worked in countries with similar resource challenges such as the former Yugoslavia, Rwanda and Peru. An extensive training on the use of alternative dispute resolution (ADR) mechanisms by CHRP managers and investigators was also conducted. Last October, the Information Systems Management Office (ISMO) spearheaded a Trainors Training on the Jail Visitation Module of the MARTUS-Based Executive Information System to participants from CHR Regional Offices.

### **IV. Technical Assistance to the Government**

The Commission submitted its comments on the views of the new statute of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

The Commission cited that civil society organizations may be well placed to evaluate the compliance of national human rights institutions (NHRIs) with the Paris Principles. Moreover, charter and treaty-based bodies may also participate in the evaluation of a NHRI's independence based on its engagement with said groups as it considers state reports on treaties, responses to individual communications or undertaking official country visits.

#### **75<sup>th</sup> Session of Committee on the Elimination of All Forms of Discrimination**

Commissioner Quisumbing presented CHR's comments to the Philippine Government's Periodic Report. The CHRP delegates noted the Committee's comments about the report in general, comments concerning the Indigenous Peoples, Free Prior and Informed Consent, IPRA, Statement as to the Non-Existence of Discrimination, Muslims, Human Development Index, Enforced Disappearance and Extra-Judicial Killings, IPs Displacement, NCIP, Subanon Issues and issues on CHR and Ombudsman.

It is recommended that the Philippine government and CHRP needs to work harder in the protection and promotion of human rights under the Convention on the Elimination of All Forms of Discrimination due to the following: 1. there is no holistic paradigm in the institutionalization of measures and mechanism as there is no specific law on discrimination. Although the IPRA has been lauded a piece legislation of noble intention, much is of another law that it deals solely to

protect the Filipinos in general against discrimination; 2. the specific law on discrimination may even prevent the passage of other laws or consideration of the bills, or setting up of mechanisms, which are suspected to be discriminatory like profiling and the like which zeroes in on a specific minority; 3. the enactment of IPRA is recognized as a good step that the Philippine has a domestic law measure to protect the rights of the IPs; 4. there is a seeming imbalance in the treatment of discrimination as a violation per se and the prosecution of the criminal aspect of the same. The jurisdiction puts more emphasis on the criminal violation, instead of dealing with the same on equal footing; and 5. there is very little in the network

### **10<sup>th</sup> Session of the UN Committee on Migrant Workers**

The Philippine delegation composed of representatives from lead government agencies and CHRP represented by Atty. Flora C. Atilano and Atty. Jessica Gambol-Schuck attended the 10<sup>th</sup> Session on UNCMW.

The CHRP presented recommendations on the following issues and concerns: On Labor Deployment Policy, On the Coordination of Agencies Dealing with Migrant Workers, specifically on the imposition and withdrawal of deployment bans, On Bilateral Agreements and Accession to the Convention, and On the Rights to Suffrage.

Other issues and concerns were raised by the Committee members like on the existing laws and policies, position of the convention, multiple mechanisms, bilateral agreements and others. As part of their recommendations, a copy of the Advanced Unedited Concluding Observations has been posted in the UN Website. Also mapping of responsible government agencies is recommended to be made as well dissemination of the same. Moreover, some issues for possible CHRP's intervention and implementation were also raised.

The CHRP delegates also acted as observers in the Ugnayan Bayan Assembly, an organization in Geneva from various sectoral Filipino groups. For 2010 Philippine election, the group is pushing for 100% voter's participation. An open networking with this group is being recommended for a possible partner in addressing human rights issues in Geneva and nearby areas.

## **V. INTERNATIONAL COOPERATION and SPECIAL PROJECTS**

### **a. International Representations**

The CHRP strengthened and increased its independent participation within the UN System. Apart from the submission of the Commission's comments, the Chairperson was given the opportunity to deliver CHRP's oral statement on the Follow-up Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on the implementation of the recommendations during the 11<sup>th</sup> Session of the UN Human

Rights Council. On the same session, CHRP submitted its comments, through the ICC, on the government implementation of the outcome of the Universal Periodic Review.

The Commission in its continuous effort to further and to re-affirm its role as the prime advocate of human rights, have engaged in various International Cooperation in the form of conferences, workshops, trainings and various activities cited below:

Diplomacy Training Program entitled "*Indigenous Peoples, Human Rights and Advocacy*", Expert Dialogue with Civil Society and National Human Rights Institutions (NHRIs) on Experiences with Regional Human Rights Mechanisms in Africa, the Americas and Europe, Expert Consultation on Human Rights Indicators, Regional workshop entitled, "*Establishment of National Human Rights Mechanisms*", for the Pacific Region, 42<sup>nd</sup> Session of the Committee Against Torture, Tenth Session of the Committee on the Protection of all Migrant Workers and Members of their Families, Annual Meeting of the International Coordinating Committee (ICC) of National Human Rights Institutions, Pre-Consultation Meeting of the ASEAN NHRI Forum and Consultation Meeting of the High Level Panel (HLP) for the Terms of Reference (TOR) for the ASEAN Human Rights Body (AHRB), Regional Follow-Up Workshop on the Implementation of Treaty Body Recommendations, Tenth Session of the Human Rights Council, Regional Consultation on Capacity Development Assessment for National Human Rights Institutions, 53<sup>rd</sup> Session of the Commission on the Status of Women, Asia Pacific Forum Member Institutions Preparatory Meeting, Draft Guiding Principles on Extreme Poverty and Human Rights: The Rights of the Poor, and 5<sup>th</sup> Consultative Meeting of the ASEAN National Human Rights Institutions Forum; 5<sup>th</sup> Roundtable Discussion on Human Rights in ASEAN- Towards an ASEAN Human Rights System: Role of Institutions and Related Activities, Asia-Pacific Regional Workshop on the Follow-Up of the Universal Periodic Review, Regional Consultation on advancing Women's Human Rights in Asia, Meetings on Torture Prevention (Pacific Sub-Regional and National), Regional Training Workshop in Human Rights for Representatives from national Human Rights Institutions in the Asia Pacific, Regional Briefing on the Universal Periodic Review, 6<sup>th</sup> Consultative Meeting of the ASEAN NHRI Forum, RWI's Regional Asia Review and Planning Seminar, Annual Partnership Program, Study Visit to New Zealand Human Rights Commission, UNDP Regional Bureau of Asia and the Pacific (BAP) Cluster Meeting, Equal Status and Human Rights of Women in South East Asia, Public Seminar and Parliamentary Meeting of the Asia Pacific Forum, 12<sup>th</sup> Session of the United Nations Human Rights Council, Regional Meeting on the ASEAN NHRI Forum (ANF) Joint Project on Migrant Workers, entitled: "*Research on Migrant Workers to Cover Issues and Problems of Sending and Receiving Countries: Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of the Migrant Workers*", 52<sup>nd</sup> Session of the Committee on the Rights of the Child, Workshop on National Human Rights Institutions (NHRIs) Library & Resource Center Management, Human Rights and Migrant Workers Training Program, High Level Panel Meeting on the Terms of Reference of ASEAN Human Rights Body, Workshop on the Development of the ASEAN NHRI Forum

Protocol Against Trafficking of Women and Children, Professional Visit and Workshop on Economic, Social and Cultural Rights - Right to Development (ESCR-RTD) entitled "The Best Practices of NHRIs in applying Human Rights -Based Approached in the Realization of the ESCRs in the ASEAN Region", 75<sup>th</sup> Session of the Committee on the Elimination of Racial Discrimination, Visit at the Palestinian Territories, 14<sup>th</sup> Annual Meeting and Conference of the Asia Pacific Forum of National Human Rights Institutions, Meeting of the Regional Working Group and 8<sup>th</sup> Workshop on the ASEAN Human Rights Mechanism, Diplomacy Training Program entitled "*Indigenous Peoples, Human Rights and Advocacy*", Expert Dialogue with Civil Society and National Human Rights Institutions (NHRIs) on Experiences with Regional Human Rights Mechanisms in Africa, the Americas and Europe, Expert Consultation on Human Rights Indicators, Regional workshop entitled, "*Establishment of National Human Rights Mechanisms*", for the Pacific Region, 42<sup>nd</sup> Session of the Committee Against Torture, Tenth Session of the Committee on the Protection of all Migrant Workers and Members of their Families, Annual Meeting of the International Coordinating Committee (ICC) of National Human Rights Institutions, Pre-Consultation Meeting of the ASEAN NHRI Forum and Consultation Meeting of the High Level Panel (HLP) for the Terms of Reference (TOR) for the ASEAN Human Rights Body (AHRB), Regional Follow-Up Workshop on the Implementation of Treaty Body Recommendations, Tenth Session of the Human Rights Council, Regional Consultation on Capacity Development Assessment for National Human Rights Institutions, 53<sup>rd</sup> Session of the Commission on the Status of Women, Asia Pacific Forum Member Institutions Preparatory Meeting, Draft Guiding Principles on Extreme Poverty and Human Rights: The Rights of the Poor, and 5<sup>th</sup> Consultative Meeting of the ASEAN National Human Rights Institutions Forum.

#### b. ASEAN NHRI Forum

The ASEAN NHRI Forum (ANF) is now recognized as a looming sub-regional body by the Asia Pacific Forum, the Office of the High Commissioner for Human Rights, and civil society organizations. The ASEAN NHRI Forum took further steps to cooperate more closely with civil society and agreed to work with their respective National Working Groups for an ASEAN Human Rights Mechanism, such as on the popularization of the ASEAN Charter and the creation of an ASEAN Human Rights Body.

The members of the ANF conducted its Fifth Annual Consultative Meeting in Bangkok, Thailand last 20-22 January 2009 to discuss the progress of implementing the five joint projects on thematic concerns. Further, the ANF discussed its position and support to the highly anticipated creation of the ASEAN Human Rights Body (AHRB).

The ANF currently advocates for its catalytic role in ensuring the creation of an independent, credible, and accessible AHRB through its various engagements with

the High Level Panel (HLP) on the drafting of the Terms of Reference (TOR) for the AHRB. As such, the ANF participated during the Consultation Meeting of the HLP in Kuala Lumpur, Malaysia on 19 March 2009. The ANF is currently coordinating with civil society, Regional Working Group for an ASEAN Human Rights Mechanism, Solidarity for Asian People's Advocacy (SAPA), and other networks. With the established working relationship with these bodies as well as with the HLP, the ANF has put forward the significant role of the national human rights institutions (NHRIs) towards an increased acceptance among countries without NHRIs.

To further enhance the popularity of the ANF, the Body has officially launched its website during the Fifth Meeting in Bangkok and has done the same in the Philippines for better appreciation and recognition last 16 March 2009. The website highlights the sharing of best practices on human rights education as well as publications concerning the joint projects under the Framework of Cooperation. The common website can be viewed with its universal resource locator as [www.aseannhriforum.org](http://www.aseannhriforum.org).

Moreover, a consultation workshop among the technical staff of the ANF convened last 6-7 March 2009 at the Conference Room of CHR to discuss the logical framework and action plan of the body for its present joint projects under the Framework of Cooperation on thematic concerns as well as other activities related with the popularization of the soon to be established AHRB. It is also in this light that the ANF held its Third Technical Working Group (TWG) Meeting in Jakarta, Indonesia on 16-17 June 2009. During the TWG, the body provided updates on the implementation of the joint projects as well as developments of the AHRB.

c. Joint Undertakings of the ASEAN NHRI Forum Under the Framework of Cooperation

The ASEAN NHRI Forum (ANF) agreed to jointly undertake projects on thematic concerns under the Framework of Cooperation as well as a collaborative effort in developing and sustaining a system of communication exchange. The joint projects are as follows with corresponding lead NHRI, to wit: (1) exchange of information on measures taken at the national level, including legislation and/or measures to combat terrorism while respecting human rights (lead NHRI - Human Rights Commission of Indonesia or Komnas HAM); (2) best practices on economic, social and cultural rights: the international human rights learning and professional visit programs on rights to development and related topics (lead NHRI - National Human Rights Commission of Thailand or NHRCT); (3) research on migrant workers to cover issues and problems of sending and receiving countries: advocacy for review of national legislation on migrant workers (lead NHRI - Human Rights Commission of Malaysia or SUHAKAM); (4) ASEAN NHRI protocol against trafficking of women and children (lead NHRI - CHR); and, (5) HR-IHL education curriculum development for security forces (lead NHRI - CHR).

*Project on Terrorism* – The Commission has organized a project team to implement this undertaking with the objectives (1) to identify measures to combat terrorism as adopted and implemented by the Philippine government; (2) to formulate common guidelines of the ANF to ensure respect and protection of human rights at the national level and within Southeast Asia; (3) to formulate the ANF draft declaration ensuring respect for and the protection of human rights at all times, including the implementation of measures by the State to combat terrorism; and, (4) to develop and implement NHRI promotion and protection measures to ensure that the government shall respect and uphold human rights, particularly in the implementation of State policies to combat terrorism in the country.

*Project on ESCR-PEER* – The Commission has recently conducted a consultation workshop among selected regional officers representing the three island groups in the country last 13-14 May 2009 to discuss and respond to the questionnaire provided by the NHRCT. The CHR project team identified best practices on ESCR as well as proposed activities to be undertaken for the next six (6) months of project implementation, to wit: (a) capacity building on best practices agenda and conceptualization; (b) documentation and capacity building of best practices cum writeshop; (c) development of manual on best practices; (d) exposure tour on best practices/consultative visits; (e) popularization (road show to share best practices); (f) staff exchange/internship and monitoring; and, (g) resource generation for pilot project leading to best practices.

*Project on Migrant Workers* – The CHR project team recently sought the assistance of an external researcher, Migrante International, for this project. Furthermore, the Commission is active in participating in various activities/meetings regarding migrant workers. Following the lead of SUHAKAM, CHR continues to coordinate and cooperate with the directives of the lead NHRI for this project. By early 2010, a regional workshop is expected to be conducted in Malaysia to present the consolidated efforts of the ANF.

*Project on Anti-Trafficking* – As lead NHRI for this project, the Commission has conducted a focused group discussion (FGD) last 7 May 2009 among representatives from government agencies that are directly involved in the protection of women and children against trafficking as well as other non-government organizations (NGOs) and cause-oriented groups. The FGD was a leveling of experiences and expertise in developing a protocol of ANF against trafficking of women and children. The outputs shall serve as guidelines in the development of a protocol that is expected to be formulated during the national workshops conducted by each NHRI. The CHR has scheduled the national workshop by the end of July 2009 and the other NHRIs are expected to schedule their respective event soon.

*Project on HR Education* – The Commission has conducted an initial workshop on human rights education last 18-24 May 2009 in the Philippines wherein representatives from each NHRI were invited to participate in a curriculum review among security forces in the country. This workshop aimed to develop an education

curriculum in human rights and international humanitarian law (HR-IHL) as well as to come up with a prototype of lesson plans for the teaching of HR and IHL for/to the Southeast Asian security forces (military, police, and allied forces).

*ANF Website as System of Communication Exchange* – As the lead NHRI assigned to develop and maintain the ANF website, the Commission is currently active in updating the web contents as well as the features. The forum section has recently been opened to the public where they could post their concerns and messages on the thematic concerns of the ANF. An instant messaging feature was also added as a feature of the website together with a web-based mailing system in order to facilitate online communication among members. Further, the website has a feature that translates the contents from the original language, which is English, to either in Bahasa Indonesia, Bahasa Melayu or Thai language for the non-English speaking public to appreciate the contents and features. In this light, a workshop among web administrators of each NHRI was conducted during a parallel session at the Third TWG Meeting of the ASEAN NHRI Forum in Jakarta, Indonesia last 16 June 2009 for them to gain knowledge in administration and management of the ANF website as this is a joint undertaking among the four NHRIs.

#### d. ASEAN Human Rights Body

Various kinds of human rights violations take place in Southeast Asia and a regional human rights mechanism can help address these problems. When domestic remedies have been exhausted to no avail, regional mechanisms remain as an option. These violations will be scrutinized thoroughly ensuring protection and promotion of human rights of all the people in Southeast Asia, thus, the advocacy to establish a regional mechanism, the ASEAN Human Rights Body (AHRB).

The Commission submitted its position to the High Level Panel (HLP) on the first draft of the Terms of Reference for the AHRB and lauded the efforts of the members specially the Philippine Panel Member for voicing out the sentiments of civil society in shaping the said body. In said statement, CHR stressed the need for further elaboration of the mandate and functions of the AHRB as well as relationships with other human rights bodies.

#### e. EC Project: Providing Support for the Development of an ASEAN Human Rights Mechanism

The European Commission (EC) has extended its financial support for the development of an ASEAN Human Rights Mechanism through enhancing the roles of national human rights institutions (NHRIs) in ASEAN. Thus, a Grant Contract was awarded to the Commission in 2007. Now, the Action is in its second year of implementation and it has greatly contributed towards raising the awareness among ASEAN governments and the public of the importance of creating a human rights mechanism through the imminent establishment of the ASEAN Human Rights Body.

The Action has achieved its purpose of concretizing the collaborative mechanism of existing ASEAN NHRIs. The network of the four Human Rights Commissions of Indonesia, Malaysia, Philippines, and Thailand has formalized a sub-regional organization with an official name, "ASEAN NHRI Forum".

As of reporting period, there have been three (3) annual consultative meetings, three (3) technical working group meetings, four (4) preparatory meetings, and one (1) technical staff consultation meeting.

There were three (3) regional workshops, which were co-organized with the Regional Working Group. Workshops/Forums/Roundtable Discussions on the AHRB were also undertaken at the national levels. In the Philippines, CHRP worked with the Philippine Working Group in the series of Civil Society Consultation on the ASEAN Charter and Human Rights Body in 2008 as well as the 1<sup>st</sup> Experts' Focus Group Discussion on the Proposed ASEAN Human Rights Body.

On capacity building, a training workshop entitled, "*Sub-regional Training Workshop on National Human Rights Institutions and the International Human Rights System*" was organized in cooperation with the Asia Pacific Forum of National Human Rights Institutions (APF).

#### f. Strengthening the Human Rights Infrastructure in the Philippines

The project on Strengthening the Human Rights Infrastructure in the Philippines is part of the overall thrust of the Country Programme Action Plan (CPAP) 2005-2011 of the GOP, represented by NEDA and UNDP. The programme on Fostering Democratic Governance (FDG) gave focus on setting the initial stages of dynamic human rights infrastructure in the country.

As a continuing project of the Commission, the CHRP is expected to achieve the following: increasing the level of accessibility and participation by the poor and disadvantaged groups and communities to services and mechanisms in governance; enhance the capacities of justice and human rights institutions to respect, protect and fulfill human rights and gender rights; and localize programs and services on access to justice and human rights in key provinces and cities.

As the Implementing Partner (IP), the CHRP is directed to: strengthen the CHRP to enable it to effectively perform its constitutional mandate; build commitment and capacities of civil servants and government institutions to respect, protect and fulfill human rights obligations and responsibilities, including support for the Presidential Human Rights Committee; and empower disadvantaged sectors to demand exercise and enjoy their human rights.

Under the approved AWP, the following activities are the activities to be undertaken: formulation of the National Human Rights Action Plan (NHRAP) and

mainstreaming of Human Rights-Based Approach (HRBA); establishment of HR promotion and protection at the grassroots; and establishment of a civil society index to measure CSO values, engagement, organization and impact.

The CHP selected GOs and NGOs were selected as responsible parties to assist in achieving activities and expected outputs.

As a responsible party (RP) in the National Human Rights Action (NHRAP) formulated and Human Rights-Based Approach (HRBA) mainstreamed , the Commission through the Government Linkages offices, conducted the following activities: Review current and proposed legislation to ensure GOP policies and actions are harmonized with international HR instruments; Monitor status of compliance and harmonized of UN treaties and participate and engage in ICC special procedure mechanisms and treaty reporting processes, to include GOs/NGOs participation in treaty reporting.

As a continuing activity from the previous annual period, the CHRP has been exerting all efforts to legislate the strengthening of the Commission through CHRP Charter. To date, the CHRP Charter has already passed the third reading and now for a bicameral conference on the measure.

The CHRP recognizes the need to adopt alternative dispute resolution mechanisms to enhance the services to the public. A classroom training, internship program and meetings on ADR were conducted and participated by CHRP officers and employees.

Under the consultations and information on electoral reform and rights, the project teams had conducted meetings, focus group discussions and workshop on citizen-voter education module.

For the Presidential Human Rights Committee, Stakeholder's Consultation for the National Human Rights Action Plan Formulation, the NHRAP formulation will be pursued through the eight (8) thematic working groups of the PHRC and the national level and the regional development councils of the 16 regions across the country.

The CHRP through the BHRAC secretariat conducted human rights promotion in consultation with Department of Interior and Local Government (DILG).

The project aims to address the basic capacities of the BHRAOs to carry on their functions and the lack of awareness of LGUs on their obligations on human rights