On the Implementation of the Accessibility Law
An Advisory from the Commission on Human Rights

Introduction

The Commission on Human Rights (CHR), as the national human rights institution in the country and as mandated under the 1987 Constitution to "monitor government’s compliance with international human rights obligations," issues the following advisory in response to the letter of the National Anti-Poverty Commission, dated January 28, 2010, as well as its attached Resolution No. 29 series of 2009, dated November 26, 2009.

Said Letter and Resolution calls upon the Commission to look into the implementation of Batas Pambansa Blg. 344, otherwise known as "The Accessibility Law" in relation to Republic Act No. 7277 or the "Magna Carta for Persons with Disabilities," as amended by Republic Act No. 9442.

Accessibility to Transportation and Mobility of Persons with Disabilities

Batas Pambansa Blg. 344 and its Amended Implementing Rules and Regulations (IRR) specifically lay out the requirements for the mainstreaming of persons with disabilities in the country through the
recognition of their rights, acknowledgment of their special needs and elimination of discrimination against them in terms of accessibility to transportation, among others.

Building requirements and transport requirements are specifically laid out in the said law under Part IV of the Implementing Rules and Regulations.\(^6\)

While the Accessibility Law has been in existence for twenty-seven (27) years already, yet, implementation of this law remains inadequate if not manifestly scarce. It is not hard to see how buildings and the public transport system remain oblivious, if not utterly neglectful, to the special needs of persons with disabilities. Worse, this vulnerable sector of society remains discriminated against by the transport providers as well as the general riding public.

State Obligation to respect, promote and protect the rights of persons with disabilities

The Commission reminds the Government that implementation of the law should not be subject to expedience nor convenience but is an obligation that must be complied with.

Worthy to note is the fact that the Accessibility Law is a penal law, thus, appropriate penalties for its violation and/or non-implementation, for whatever reason, should be duly observed and applied. The Implementing Rules and Regulations of BP 344, as amended by RA 7277 is explicit as to the criminal liability of violators – both fine and imprisonment, including violations by corporations and deportation in case of violations by an alien or foreigner.\(^7\)

The Commission also reminds the Government that upon ratification by the Philippines of the International Convention on the Rights of Persons with Disabilities (CRPD), it has bound itself to implement the provisions of the Convention.

Among the General Principles the Convention enumerated is the principle of Accessibility\(^8\):

\(^\ast\) Respect for inherent dignity, individual autonomy, including the freedom to make one’s own choices and independence of persons;

\(^\ast\) Non-discrimination;

\(^6\) With title, "Requirements for Public Transportation

\(^7\) Part V: Administration and Enforcement, Part II: Criminal Liability

\(^8\) Article 3, CRPD
Full and effective participation and inclusion in society;

Respect for difference and acceptance of persons with disabilities as a part of human diversity and humanity;

Equality of opportunity;

Accessibility;

Equality between men and women; and

Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to reserve their identities.

The Convention further elaborated the principle of accessibility in Article 9:

"1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; and

b. Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

b. Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;"
c. Provide training for stakeholders on accessibility issues facing persons with disabilities;

d. Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

e. Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

f. Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

g. Promote access for persons with disabilities to new information and communications technologies and systems, including the internet; and

h. Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost."

We also underscore the obligation of the Government to ensure that 'Reasonable Accommodation' is provided to Persons with Disabilities, through necessary means and appropriate modifications if needed in certain cases without imposing disproportionate and undue burden to them, so that they can enjoy and exercise on equal basis with all others all human rights and fundamental freedoms.11

Report to the UN Committee on Persons with Disabilities

Finally, the Commission reminds Government that with its recent ratification of the CPRD on April 15, 2008, it is due to submit its initial report on the Convention on April 15, 2010 as to its compliance thereof. In doing so, the Government, through the National Council for Disability Affairs is called upon to immediately comply with its reportorial obligation to the Convention so that it may enable the tracking/monitoring implementation of human rights obligations prescribed by the Convention.

Recommendations

The Commission on Human Rights, as an independent monitor of Government's compliance with its international obligations on human rights, sets forth the following recommendations for the

11 Article 2.
greater respect, promotion and protection of the rights of Persons with Disabilities:

1. For the Secretary of the Department of Public Work and Highways (DPWH) and the Secretary of the Department of Transportation and Communication (DOTC) to ensure administration and enforcement of the Accessibility Law, as amended, and as mandated under the corresponding IRR thereof;

2. For the Department of Justice (DOJ) to ensure implementation of the Accessibility Law through the investigation and prosecution of violations thereof;

3. For the Department of Transportation and Communication (DOTC), Land Transportation Franchising and Regulatory Board (LTFRB), Maritime Industry Authority (Marina), Air Transportation Office (ATO), Civil Aeronautics Board (CAB), Manila International Airport Authority (MIAA), Land Transportation Office (LTO), Light Rail Transportation Authority (LRTA), Metro Rail Transportation Authority (MRTA), and Philippine National Railway (PNR) to strictly follow and implement the specifications as provided under the Accessibility Law, as amended;

4. For the DOTC and LTFRB to ensure compliance by the public transport providers of the requirements of the law and refuse renewal of its permit unless complied with;

5. For the DOTC to establish a system for the monitoring of the continuing compliance of public as well as private transport providers and all those involved in the transportation service system;

6. For the Department of Interior and Local Government (DILG) to ensure compliance by all local government units of the requirements of the law within their respective jurisdictions;

7. For the Presidential Human Rights Committee (PHRC) to enable NCDA to take the lead in preparing the implementation report on CRPD. This report was due for submission last April 2010 as provided for in the CRPD; and
8. For all Government Agencies to assess and ensure compliance of the Accessibility Law and the standards of CRPD within their own offices and departments.

Issued this 20th day of September 2010 at Quezon City, Philippines.

LORETTA ANN PARGAS ROSALES
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