



REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS

**ADVISORY ON THE UNITED NATIONS HUMAN RIGHTS COUNCIL
RESOLUTION OFFERING TECHNICAL ASSISTANCE AND
CAPACITY-BUILDING TO THE PHILIPPINE GOVERNMENT
(A/HRC/45/L.33)**

CHR (V) A2020-021

The Commission on Human Rights (“CHR”) issues this advisory on the recently passed United Nations Human Rights Council resolution offering technical assistance and capacity-building to the Philippine government. The CHR welcomes the commitment of the Philippine government to cooperate with the UN system and human rights mechanisms to improve the human rights situation in the country.

Background

The United Nations Human Rights Council is an inter-governmental body within the UN system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them. The Council is made up of 47 UN member states which are elected by the UN General Assembly.¹

On 11 July 2019, during the Council’s 41st session, member states adopted a resolution² led by Iceland requesting the Office of the High Commissioner for Human Rights (“OHCHR”) to prepare a comprehensive written report on the situation of human rights in the Philippines, to be presented to the Council at its 44th session in June 2020.³ The resolution, under Item 2 of the HRC agenda,⁴ was

¹ United Nations Human Rights Council, About HRC, *available at* <https://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx> (Last accessed: 21 October 2020).

² 18 votes in favor, 14 against, while 15 voted to abstain.

³ See the full text of A/HRC/41/L.20 here: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/41/L.20&Lang=E>

⁴ Agenda item 2 covers the Annual Report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General; See: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/41/L.20&Lang=E>; Item 2 is also used to deal with country-specific situations outside of Items 4 and 10. However, according to Human Rights Watch, “many States hold the pen under Item 10 on resolutions concerning their own country situations, leading to one-sided texts that fail to reflect realities on the ground. In an effort to avoid the Item 4 vs Item 10 dichotomy, an increasing number of resolutions are brought under Item 2 (reports of the High Commissioner for Human Rights), displacing responsibility to the OHCHR, without a commensurate increase in resources;” See: John Fisher, “Potential unfulfilled: Strengthening the Council’s approach to country situations,” Human Rights Watch,

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adopted with 18 votes in favor and 14 against, while there were 15 member states who abstained. The resolution called on the Philippine government to cooperate with the OHCHR and the mechanisms of the Council by facilitating country visits and preventing and refraining from all acts of intimidation or retaliation.⁵

Pursuant to the resolution, the OHCHR invited UN member states, national human rights institutions, civil society, UN agencies, and the public to submit information on the human rights situation in the Philippines.⁶ In response to the OHCHR's call for submissions, the Philippine government, through the Department of Foreign Affairs ("DFA"), submitted its Philippine Human Rights Situationer report.⁷

The High Commissioner's report⁸ was published in June 2020 and presented during the Council's 44th session. The findings from the report revealed how a "heavy-handed focus on countering national security threats and illegal drugs has resulted in serious human rights violations in the Philippines, including killings and arbitrary detentions, as well as the vilification of dissent."⁹ The report emphasized how years of the lack of accountability for human rights violations has created a culture of "persistent impunity" in the country. The report also described the "widespread and systematic killing of thousands of alleged drug suspects,"¹⁰ reinforced by "harmful rhetoric from high-level officials."¹¹

International Service for Human Rights, 30 May 2016, *available at* <https://www.ishr.ch/news/potential-unfulfilled-strengthening-councils-approach-country-situations> (Last accessed: 29 October 2020).

For reference, the Council's Agenda Items are as follows:

Item 1: Organisational and procedural matters

Item 2 : Annual report of the United Nations High Commissioner for Human Rights (HC) and reports of the Office of the High Commissioner for Human Rights (OHCHR) and the Secretary-General (SG)

Item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Item 4: Human rights situations that require the Council's attention

Item 5: Human rights bodies and mechanisms

Item 6: Universal Periodic Review (UPR)

Item 7: Human rights situation in Palestine and other occupied Arab territories

Item 8: Follow-up and implementation of the Vienna Declaration and Programme of Action (VDPA)

Item 9: Racism, racial discrimination, xenophobia and related forms of intolerance – follow up and implementation of the Durban Declaration and Programme of Action (DDPA)

Item 10: Technical assistance and capacity building

⁵ Mike Navallo, "UN welcoming reports detailing status of human rights in PH," ABS-CBN News, 4 January 2020, *available at* <https://news.abs-cbn.com/news/01/04/20/un-welcoming-reports-detailing-status-of-human-rights-in-ph> (Last accessed: 21 October 2020).

⁶ *Id.*

⁷ A copy of the Philippine government's Human Rights Situationer report may be downloaded from: <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200609-PH-Human-Rights-Situationer.pdf>

⁸ See the full text of the High Commissioner's report on the human rights situation in the Philippines here: <https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>

⁹ Office of the High Commissioner for Human Rights, "Philippines: UN report details widespread human rights violations and persistent immunity," *available at* <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25924> (Last accessed: 21 October 2020).

¹⁰ *Id.*

¹¹ See the full text of the High Commissioner's report on the human rights situation in the Philippines here: <https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>

The OHCHR expressed their readiness to continue positive engagement with the Philippines, including through enhanced provision of technical assistance and capacity-building, particularly for the implementation of the recommendations contained in the report, and through continued monitoring and reporting on progress on human rights.¹²

During the presentation of the High Commissioner's report at the Council's 44th session, the Philippine government, through Secretary of Justice Menardo Guevarra, announced the creation of an inter-agency panel that would review 5,565 police operations in the context of the anti-illegal drugs campaign.¹³ Since then, the Philippine government has maintained at the international level a cooperative stance in relation to UN mechanisms and fellow member states, including Iceland.

UN Human Rights Council's resolution on technical assistance and capacity-building

After a series of consultations, the Council, in its 45th session, passed a resolution¹⁴ that called for "technical assistance and capacity-building" for the Philippines' domestic efforts on human rights. Notably, the resolution, sponsored by Iceland, the Philippines, and six (6) other nations, was adopted by consensus, or without a vote under Item 10 of the HRC agenda¹⁵. It urged the OHCHR to "provide support for the (Philippines) in its continued fulfillment of its international human rights obligations and commitments."¹⁶ The resolution also urged member states and relevant UN agencies to "encourage and support technical cooperation between the Philippine government and OHCHR."¹⁷

The resolution grants authority to the UN, through the OHCHR, to assist the Philippine government in addressing existing human rights violations and concerns in the country that were highlighted in the High Commissioner's report through joint capacity building and technical cooperation initiatives. While we

¹² See the full text of the High Commissioner's report on the human rights situation in the Philippines here: <https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>; See par. 86.

¹³ Patricia Denise M. Chiu, "DOJ chief tells UN rights body new panel to probe 5,000 deaths in police anti-drug operations," *Inquirer*, 30 June 2020, available at <https://newsinfo.inquirer.net/1299804/doj-chief-tells-un-rights-body-new-panel-to-probe-5000-deaths-in-police-anti-drug-operations> (Last accessed: 24 July 2020).

¹⁴ A/HRC/45/L.33, Agenda item 10 on Technical assistance and capacity-building; See the full text here: <https://undocs.org/en/A/HRC/RES/45/33>

¹⁵ Country-specific resolutions under Agenda Item 10 are negotiated and finalized with the agreement of the states concerned. The resolutions are generally adopted by consensus. However, according to Human Rights Watch, "many States continue to resist scrutiny of country situations under the Council's agenda item 4 (human rights situations that require the Council's attention), instead preferring to address even serious violations under item 10 (technical assistance and capacity-building). Technical assistance is certainly warranted where a State acknowledges its human rights challenges and seeks international support to address them, but is hardly appropriate when a State refuses to acknowledge responsibility, and is seeking to deflect scrutiny. At the Council's 30th session in September 2015, several key States failed to embrace a Dutch proposal for an 'international, independent, and impartial mechanism' on abuses and violations in Yemen. As a result, the Council instead adopted an item 10 resolution presented by Saudi Arabia on behalf of the Arab Group supporting a national investigation process with technical support from OHCHR. Unsurprisingly, avoidable civilian casualties and deaths have continued and accountability remains elusive;" See: John Fisher, "Potential unfulfilled: Strengthening the Council's approach to country situations," Human Rights Watch, International Service for Human Rights, 30 May 2016, available at <https://www.ishr.ch/news/potential-unfulfilled-strengthening-councils-approach-country-situations> (Last accessed: 29 October 2020).

¹⁶ Krixia Subingsubing, "UNHRC resolution: No drug war probe but support, cooperation for PH efforts on human rights," *Inquirer*, 7 October 2020, available at <https://globalnation.inquirer.net/191417/unhrc-resolution-no-drug-war-probe-but-support-cooperation-for-ph-efforts-on-human-rights> (Last accessed: 22 October 2020).

¹⁷ *Id.*

note that the resolution failed to heed the call from civil society and human rights defenders to launch an international, independent, and impartial investigation, the CHR remains hopeful that the findings and recommendations embodied in the High Commissioner's report would be accepted and implemented in light of the Philippine government's willingness to enter into a technical cooperation agreement with the UN.

The CHR notes that the resolution condemned, based on the High Commissioner's report, "all acts of intimidation and reprisal, both online and offline, by State and non-State actors against individuals and groups working to promote and protect human rights."¹⁸ The resolution also encouraged the Philippine government to address the issues raised in the High Commissioner's report,¹⁹ including the widespread and systematic killings and other human rights violations arising from the conduct of the anti-illegal drugs campaign,²⁰ and noted the government's announcement of the creation of a review panel that would re-evaluate cases where deaths occurred during operations under the anti-illegal drugs campaign.²¹

The resolution further affirmed some of the recommendations from the High Commissioner's report, the UN's support for domestic investigative and accountability measures, data gathering on alleged police violations, engagement with civil society and the CHR, a national mechanism for reporting and follow-up, counter-terrorism legislation, and human rights-based approaches to drug control, and extended the OHCHR's mandate to continue monitoring the situation on the ground and to report their findings to the Council.²² It underscored the importance for the Philippine government to ensure accountability for the violations and abuses, to conduct "independent, full, and transparent" investigations, and to prosecute the perpetrators responsible for human rights abuses.²³ As such, the resolution is a sign that the international community remains committed to closely monitoring the human rights situation in the country.

We remain hopeful that the statements made by the Philippine government before the international community would translate to actual cooperation and information-sharing with accountability mechanisms, particularly the CHR, the civil society groups and organizations, and human rights defenders who are working on the ground.

As the country's National Human Rights Institution, the CHR remains steadfast in its commitment to protect and promote the human rights of all. In line with our constitutional mandate and with the Council's resolution, we continue to condemn all acts of violence and intimidation by both State and non-State actors against individuals and groups that are working to promote and protect human rights.

Recommendations

¹⁸ See: <https://undocs.org/en/A/HRC/RES/45/33>

¹⁹ See: <https://undocs.org/en/A/HRC/RES/45/33>

²⁰ See the full text of the High Commissioner's report here: <https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>

²¹ See: <https://undocs.org/en/A/HRC/RES/45/33>

²² *Id.*

²³ *Id.*

We recommend the following actions to the Philippine government:

- 1) Provide to the CHR detailed status of the investigation and prosecution of all cases involving deaths that occurred during police operations and the number of deaths under investigation in the course of the campaign against illegal drugs;
- 2) Furnish the CHR, and other concerned parties, with copies of spot reports, police reports, and official documents and records related to the investigation of deaths and arrests of drug suspects in the context of the campaign against illegal drugs;
- 3) Continue to address the findings and seriously consider the recommendations from the report of the High Commissioner, in line with the Council's Resolution (A/HRC/45/L.33);
- 4) Coordinate with independent inquiries including the CHR, the OHCHR and UN human rights mechanisms, and civil society to establish facts and identify civil and political rights that are affected and violated in the campaign, and allow visits of Special Rapporteurs with pending requests for invitations to assist the government in assessing the human rights conditions in the country;
- 5) Closely collaborate with the CHR through the inter-agency panel that aims to review 5,565 police operations, consider reviewing all cases of deaths related to the campaign against illegal drugs, and implement this measure within the framework offered by the OHCHR;
- 6) Ensure that high-level officials refrain from "red-tagging" and uttering harmful rhetoric against human rights defenders, the CHR, as well as institutions and organizations that seek to protect and promote the rights of human rights defenders, as stated in the resolution,

*"Condemning all acts of intimidation and reprisal, both online and offline, by State and non-State actors against individuals and groups working to promote and protect human rights and those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights"*²⁴

Strive towards ending reprisals and red-tagging of human rights defenders and organizations, and discern their work as the monitors of the Philippine government in the fulfillment of its obligations under international human rights norms and domestic laws; and

- 7) Expedite the passing into law of the Human Rights Defenders bill²⁵ to ensure the protection and promotion of the rights of human rights defenders and the prosecution of perpetrators of violations against them.

²⁴ See: <https://undocs.org/en/A/HRC/RES/45/33>

²⁵ HB00015, HB00161, HB00240, "An Act defining the rights and fundamental freedoms of human rights defenders, declaring state responsibilities, and instituting effective mechanisms for the protection and promotion of these rights


ISSUED this 23rd day of November 2020, Quezon City, Philippines.



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and freedoms”; See: http://congress.gov.ph/legisdocs/first_17/CR01323.pdf; Senate Bill No. 179, “Human Rights Defenders Protection Act,” filed on 2 July 2019 by Senators Leila M. De Lima and Risa Hontiveros; See: <http://legacy.senate.gov.ph/lisdata/3045627297!.pdf>