



Téléfax: (41-22) 917 90 08
Téléphone: (41-22) 917 91.02
Internet www.ohchr.org
Email: jnataf@ohchr.org



Adresse:
Palais des Nations
CH-1211 GENEVE 10

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1 December 2011

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture (CAT), I refer to the examination of the second periodic report of the Philippines (CAT/C/PHL/2) by this Committee at its 868th and 871st meetings, held on 28 April 2009 and 29 April 2009 (CAT/C/SR.868 and 871). In paragraph 33 of the Committee's Concluding Observations (CAT/C/PHL/CO/2), the Committee asked your Government to provide, within a year, further information on the specific concerns listed in paragraphs 7, 15, 16, 18 and 19.

Thank you for your Government's response of 5 November 2010 (CAT/C/PHL/CO/2/Add.1). The information sent by Your Excellency's Government on those paragraphs has been reviewed with care. I am writing to seek clarification on the following matters, as sufficient information has not yet been provided to permit us to complete an analysis of the progress made on these topics.

Torture and ill-treatment and insufficient safeguards during police detention (Paragraph 7)

The Committee welcomes the information provided in your Government's response regarding the directives concerning the inspection of police station lock-up cells. With regard to the implementation of these directives, please indicate whether the Memorandum-Directive mentioned in paragraph 2 of the response is a law or a guideline, and how its implementation is ensured in practice. Also, please clarify which entity carries out the random inspections of police station lock-up cells mentioned in paragraph 2 of the response. Are detention facilities other than police lock-ups similarly monitored and do the individuals conducting the inspections meet with and speak privately with detained persons?

Additionally, what policy measures have been undertaken as a result of the inspections undertaken in 2009, mentioned in paragraph 2 of the response. Did any of these investigations result in a determination that fundamental safeguards were denied or that a person in detention was subjected to torture or ill-treatment, and if so, what action was taken in response? Please provide data on the frequency and location of the inspections, indicating how many police stations have been visited and where. Please also indicate the total number of police lock-ups in the country. Regarding the outcomes of prison visits undertaken by presiding and executive judges, described in paragraphs 29-33 of your Government's response, please provide the number of prison visits judges have conducted on an annual basis, disaggregated by location. Have any resulted in an investigation into alleged torture or ill-treatment, and if so, please provide details. Also, please provide information on what urgent matters, mentioned in paragraph 31, judges have taken action, and with what results.

.../...

H.E. Mr. Evan P. Garcia
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the Philippines
to the United Nations Office at Geneva
Fax: 022 716 19 32

Please provide the Committee with additional information regarding fundamental safeguards, particularly on the following: Would you please clarify the process by which detainees are able to contact a lawyer of their choice and a family member to inform them of their detention, and whether this is clearly outlined in any legislation; if it is, please clarify how does the State party ensure that these rights are respected in practice? In addition, are inmates able to request an examination by an independent doctor; if so, how are detainees made aware of this right? The Committee has received allegations that, in many cases, persons brought to police stations by Philippine National Police (PNP) officials are not formally arrested before they are brought in, and therefore are not afforded the protections provided by article 125 of the Penal Code. Please comment on these allegations and indicate what measures, other than inspections of police station lock-ups and prison visits by judges, ensure that detainees are not held longer than the period allowed by law. In connection with this follow-up procedure, the Committee received allegations concerning 43 individuals arrested by PNP and AFP forces in Morong, Rizal, on Feb. 6, 2010, who were reportedly not informed of the charges against them at the time of arrest, but were interrogated by AFP personnel for 36 hours after they were taken into custody but were not informed that they had a right to counsel, subjected to physical and psychological abuse during interrogation. Please indicate measures that the State party is taking or has already taken to investigate this claim.

The Committee appreciates the information provided in paragraph 28 of your Government's response indicating that the PNP and Armed Forces of the Philippines (AFP) are to make a list of all detention centres and the names and other information regarding all people detained therein available to the public at all times. Please indicate whether such a central register currently is in existence? If so, is it updated on at least a monthly basis, as provided for in RA 9475? Please provide additional information on the procedure that members of public must follow in order to access this register and indicate what measures are in place to ensure that the list in the central register is accurate. The Committee also appreciates the information provided in paragraph 34 regarding the mandatory police blotters maintained by all PNP units. Please indicate the procedure according to which members of the public may access information contained in the blotters and measures in place to ensure that the information recorded is accurate.

Prompt, effective and impartial investigations (Paragraph 15)

The Committee welcomes the information provided in your Government's response regarding the various institutions developed to ensure that prompt, thorough, impartial and effective investigations are conducted into allegations of torture and ill-treatment committed by law enforcement officials. Please clarify the mandate of the PNP Rights-Based Policing Committee mentioned in paragraph 43 of the response, particularly as to whether it conducts investigations into allegations of torture and ill-treatment. Please also provide further information regarding the Task Force Organization mentioned in paragraph 44; specifically, please describe the composition of this body and how its independence is ensured; and indicate if any police personnel have been removed from service since 2008 as a result of its investigations, and, if so, the number of personnel involved and the violations committed.

Regarding the Internal Affairs Service of the Philippine National Police (PNP-IAS), please indicate any measures other than those outlined in paragraph 48 of your Government's response that ensure its independence and impartiality. Please clarify whether any police officials play a role in hiring or dismissing members of the PNP-IAS and whether any mechanism provides oversight of the PNP-IAS. Please also indicate whether victims may submit complaints of torture or ill-treatment to the PNP-IAS and, if so, how many such complaints alleged torture or ill-treatment annually. Similarly, we would be grateful if you would provide information on the number of investigations conducted by the PNP-IAS annually, disaggregated by geographic location and the nature of the alleged violation. If any such investigations into alleged torture or ill-treatment by the PNP-IAS resulted in prosecutions of police personnel, please inform the Committee of the number of cases and the outcome of relevant trials. Please also clarify the information provided in paragraph 50 of your Government's response indicating that 1,844 police personnel are the subject of pending administrative cases lodged in 2008 and 2009, by indicating the misconduct in which these police personnel are alleged to have committed. Please also clarify what misconduct is at issue in the 163 criminal cases alleging human rights violations brought against police personnel by the end of 2009 and whether these cases are being investigated by the PNP-IAS. Please also provide the Committee with statistical information on the outcomes of such cases, both criminal and administrative, including how many led to convictions, what punishment was meted out, and what remedy or redress was awarded to the victims.

Please also clarify how many police personnel were dismissed from service by the PNP-IAS from January 2008 to January 2009, disaggregated by geographic location, rank, and the misconduct they were alleged to have committed; and how many police personnel have been suspended by the courts since 2008, also disaggregated by geographic location, rank, and the alleged misconduct. The Committee has received information claiming that in some cases, police personnel accused of torture have not been suspended from duty pending investigations. Please clarify whether this is accurate and what steps the State party is taking to address these concerns; specifically, please comment on the case of John Paul Nerio, 17, who alleged that he was tortured by PNP Special Weapons and Tactics (SWAT) personnel in December 2010 and subsequently claimed that the alleged perpetrators were not suspended from duty during the investigation into his allegations and that they subjected him and his family to intimidation. Please indicate whether any programs are in place to protect victims and witnesses, and if so, the nature of protection provided, and the number of alleged victims and witnesses that have received such protection.

With regard to the information on the Human Rights Desks provided in paragraph 47, please clarify whether they are staffed by members of the PNP and whether individuals at these desks directly investigate complaints of torture or forward them to other bodies? Please provide information on the number of complaints received by the Human Rights Desks each year since 2008, disaggregated by age, gender, location, and alleged human rights violation, as well as information on the outcomes of these complaints.

Please also comment on steps the State party is taking to conduct prompt, effective, and impartial investigations into allegations of torture committed by military personnel. The Committee has received information that the alleged perpetrators in the case of Abdul-Khan Balinting Ajid have been subjected to internal disciplinary charges by the military but not to criminal charges. Mr. Ajid has alleged that members of the Special Operation Task Force Basilan (SOTF-B) of the 39th Scout Rangers tortured him following his arrest in July 2011. Please provide other information as to whether criminal charges have been brought against soldiers and military officers named for the enforced disappearances of Sherlyn Cadapan, Karen Empeño, Manuel Merino, and Jonas Burgos following the publication of a report by the Commission on Human Rights and decisions of the Supreme Court suggesting that military personnel were responsible for the disappearances in 2006-7.

Commission on Human Rights (Paragraph 16)

Regarding the Commission on Human Rights, please provide updated information on the status of Senate Bills No. 106 and 297, mentioned in paragraphs 54 and 55 of your response and indicate whether they have been adopted. Please clarify for the Committee the investigatory function of the CHR and the conditions under which it is the primary jurisdiction to investigate alleged human rights violations. The Committee would be grateful to receive further information on the process by which a victim of torture or ill-treatment may bring a complaint to the CHR, and how their right to do so is made known to the public. Please provide the Committee with further information on the number of cases of torture or ill-treatment, and their outcomes, that the CHR has investigated and prosecuted since 2008, including information on the number of convictions and associated punishments, and the number of victims who obtained redress and in what forms and amounts. The Committee has received information that the Asian Human Rights Commission (AHRC) submitted a complaint to the CHR in February 2010 alleging that military personnel of the 730th Combat Group, in Palico, Batangas, had tortured three community organizers, Charity Diño, Billy Batrina, and Sonny Rogelio, in November 2009, and complaining that the CHR has not opened an investigation into these allegations. Please provide updated information on the status of any investigation into this complaint.

Sexual violence in detention. (Paragraph 18)

The Committee is grateful for the information provided in paragraphs 56-64 on the measures adopted to protect female detainees from abuse, including sexual violence. With regard to ensuring effective, prompt and impartial investigations and prosecuting all instances of sexual abuse in custody, as requested by the Committee in its concluding observations, please provide the Committee with data on the number of investigations and prosecutions of instances of sexual abuse in custody that have occurred, indicating the title of any official prosecuted, whether any prosecution resulted in a conviction, and the sentence, as well as any redress provided to the victims of such abuse. Please comment in particular on the allegation received by the Committee that on December 31, 2010, a Manila police officer raped a woman inside the Manila Police District headquarters, and indicate whether any investigation was undertaken into this allegation and if so, the outcome. Please also

provide the Committee with updated information regarding the current status of the Prison Rape Elimination Act as requested in its concluding observations.

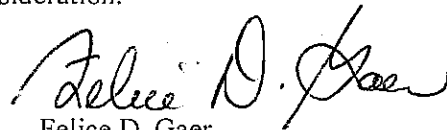
The Committee welcomes the information provided on the increase in the number of female-only dormitories in detention facilities. The Committee is pleased to learn that Women's and Children's Protection Desks have been established in police stations nationwide, and would appreciate additional information on the number of police stations where such desks exist, the measures taken to inform the public, and particularly women and children, of their function. Are there any plans to expand the number of WCPDs as well as to increase the number of police officers assigned to them? Please indicate whether WCPD personnel are permitted to receive and investigate complaints of abuse, and if so, provide the number of claims of abuse received, disaggregated by geographic location and nature of abuse.

Children in detention (Paragraph 19)

The Committee welcomes the enactment of the regulation requiring that all children arrested be handed over to the custody of the Local Social Welfare Development Office within 8 hours of apprehension, but is concerned that this regulation may not be adhered to in practice. Please provide the Committee with information on the oversight mechanisms in place to ensure that this regulation is enforced in all cases. Please also indicate where children are held while in police custody. The Committee is concerned over reports that despite the protections called for in RA 9344, children continue to be held with adult inmates in police lock-up cells. Please clarify what oversight mechanisms are in place, in addition to the inspections of lock up cells, to ensure that children are separated from adult inmates during all stages of their detention. Please provide the Committee with data on the total number of child detainees, disaggregated by age, gender, sentence, and type of detention facility in which they are held.

Upon receipt of this information, the Committee will assess whether further information is required. The Committee looks forward to pursuing the constructive dialogue it has started with the Philippines on the implementation of the Convention, and to receiving clarification on these questions.

Accept, Excellency, the assurances of my highest consideration.



Felice D. Gaer

Rapporteur for Follow-Up on Concluding Observations
Committee against Torture