



## **Persons Deprived of Liberties (PDLs): A Human Rights Situationer**

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### **PDL Defined:**

“PDL are detainees who are incarcerated pending trial and/or final judgment. It include all persons who are arrested, detained, imprisoned or otherwise under custody of government authorities. PDLs maybe held in jails, prisons, detention centers, “lock-ups”, hospitals, rehabilitation centers or elsewhere.

“ What should be the role of CHR in addressing the human rights situations of Persons Deprived of Liberties (PDL) , what are its actions and initiatives to address the concerns on PDL.”

### **Creation of CHR**

• **Section 17(1). Article XIII, 1987 Philippine Constitution**

– *There shall be an independent office called the Commission on Human Rights*

• **Executive Order No. 163 (5 May 1987)**

– *Declaring the effectivity of the creation of the Commission on Human Rights as provided for in the 1987 Constitution, providing guidelines for the operation thereof, and for other purposes*

## CHR Mandate

- 1.) **INVESTIGATE**, on its own or on complaint by any party, all forms of human rights violations involving **CIVIL AND POLITICAL RIGHTS**;
- 2) Adopt its operational **GUIDELINES** and **RULES** of procedures, and **CITE FOR CONTEMPT** for violations thereof in accordance with the Rules of Court;

- 3) Provide appropriate **LEGAL MEASURES** for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measure and legal aid services to the **UNDERPRIVILEGED** whose human rights have been violated or need protection
- 4) Exercise **VISITORIAL POWERS** over jails, prisons, or detention facilities;
- 5) Establish a continuing program of research, **EDUCATION**, and information to enhance respect for the primacy of human rights;

- 6) **RECOMMEND TO THE CONGRESS** effective measures to promote human rights and to provide for **COMPENSATION** to victims of violations of human rights, or their families;
- 7) **MONITOR** the Philippine Government's compliance with international treaty on human rights;

## Role of the Commission on PDL

- Investigate on its own or on complaint by any party all forms of human rights violations;
- Exercise **visitorial powers** over jails, prisons or detention facilities
- Monitor government's compliance with international treaty obligations on human rights

**RESPONSES AND INITIATIVES**

***being undertaken by the Commission on Human Rights in addressing the situation of Persons Deprived of Liberties***

***Continuing Advocacy for Zero Disenfranchisement***

- It must be recalled that in September 2008, the Commission on Human Rights has embarked on a Zero Disenfranchisement campaign of seven vulnerable sectors which included the PDL sector.



- The CHR represented by then Chairperson Leila M. de Lima, filed on November 3, 2009 a petition to bring attention to obligations arising from the International Covenant on Civil and Political Rights (ICCPR) and urged the COMELEC to enforce constitutional and statutory provisions on the right of suffrage of PDLs. The CHR petition prayed for the issuance of implementing rules and regulations for the setting up of special polling places and procedures for voting by PDLs in the May 2010 elections.

- Efforts have been sustained by the CHR together with civil society groups in realizing the right to vote by PDLs in the country. These efforts include a monitoring project with the Ateneo School of Government (ASOG) called "PDL Vote Watch" designed to further inform the Commission as it undertakes corresponding Human Rights Based Legislation to elaborate on the right to suffrage. This has been included in the CHR's Human Rights Legislative Agenda for the 15 th Congress.

"In past elections, however, PDL could not exercise this right because the law does not provide for a mechanism that would enable them to vote where they are detained or allow them to leave the prison temporarily to vote"

***Creating a Special Committee  
to look into the Plight of Prisoners:  
Resolution A-2009 152***

- Issued on November 23, 2009
- Headed by Commissioner Jose Manuel Mamauag, composed of lawyers from Legal Investigation Office, CHR
- March 2, 2010 – met with BPP to discuss the plight of the prisoners and the issues on release

Last September 2010, CHR has joined the civil society groups in discussing the situation of the prisoners through a forum entitled "Release of Prisoners" in an attempt to address some provisions in the BPP Rules and Guidelines to make it more responsive to the needs of the prisoners especially those who are qualified for release.

## On PDL Situation

### As to the treatment of PDL:

- , to date, the CHR continues to receive complaints on the inhumane situation of prisoners, the most recent one was the “Bataan City Jail” incident where tortures and other human rights violations were allegedly committed by some BJMP personnel.

### As to the conditions of facilities:

- Prisons and jails in the country are generally in subhuman conditions: they have lost their functionality, utility and habitability.
- The national penitentiaries and most of the municipal, city and provincial jails are simply outdated and dilapidated.

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Metro Manila:  
.89sqm /inmate

**CONGESTION RATE**  
National Average  
292%

533%  
CALABARZON:  
58 sqm / inmate

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Related to the issue of overcrowding is the lack of adequate bedding. . . not provided with beds . . . not provided with mattresses or blankets . . . inmates use pieces of carton to serve as barriers between their bodies and the cold cell floor.

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**Old and Sick Inmates.**

Because of the delay in the disposal of their cases, PDLs have already died inside the detention facilities. Others become sick inside the correctional facilities.



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**Prior to detention:**

- Many of the PDLs are subjected to arbitrary arrest. No less than PNP Director General Bacalzo admitted that about 90% of all arrest and seizure operations of the police may have been visited with human rights violations.
- The period immediately following the arrest is one of the most critical for the PDL because it is during this time that he or she is most vulnerable to torture and other cruel, inhumane and degrading treatment or punishment.



The Tondo Torture Case is but a symptom of the long-standing culture of violence and impunity within the security sector.

**What does the International Human Rights Instruments say**

### Minimum Standard on the Treatment of Prisoners under International laws

- The prisoner is a person
- There are no circumstances in which torture and ill treatment can be permitted
- There must be decent and humane procedures when prisoners first enter prison
- Proper living conditions
- Adequate clothing for prisoners
- Bedding
- Toilet and washing facilities which are sanitary
- Adequate food and drink
- Daily exercise in the open air
- The right to observe one's religion

### Recommendations of the UN Committee Against Torture

- . . . continue its efforts to alleviate the overcrowding of penitentiary institutions, including through the application of alternative measures to imprisonment and the increase of budgetary allocations to develop and renovate the infrastructure of prisons and other detention facilities;
- Adopt the BJMP Modernization Act . . . that seeks to upgrade the physical facilities of jails and detention centres; Take effective measures to further improve living conditions in the detention facilities.

• . . . the Committee expresses serious concern at numerous allegations of cases of rape, sexual abuse and torture committed against women detainees by the police, military and prison officials/personnel. In this respect, the Committee is concerned about reports that in many provincial jails, officials continue to place women together with male inmates, and that male corrections officers continue to guard female inmates in violation of agency regulations. (arts. 11 and 16)

• . . . the Committee is concerned that a significant number of children remain in detention and at reports of a *de facto* practice of not separating children from adults in detention facilities throughout the country, despite the requirement included in the Juvenile Justice Welfare Act demanding such separation.

- . . . should further reduce the number of children in detention and ensure that persons below 18 years of age are not detained with adults; that alternative measures to deprivation of liberty, such as probation, community service or suspended sentences are available; that professionals in the area of recovery and social reintegration of children are properly trained; and that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions.

## Much Work to be Done

- To fully realize the rights of detainees. Different mechanisms must be undertaken.
- we continue to work towards fulfilling the obligation to enable all vulnerable groups such as persons deprived of their liberty to enjoy their human rights

## CHRP Charter

- A bill expanding the power of CHR. The proposed bill currently being lobbied in Congress proved to be a prospect to strengthen the development of the CHRP as a national human rights institution (NHRI) in the country. The Commission is valued as an essential partner in the task of protecting and promoting human rights of the Filipino people who reside within its boundaries.

THANK YOU FOR LISTENING!