

NGO Group for the Convention on the Rights of the Child
**Database of NGO Reports presented to the UN Committee on
the Rights of the Child.**

Document Title:

**Remarks by OMCT/SOS-Torture concerning the Report of the
Government of the Philippines.**

Region:

South East Asia, Asia

Country:

Philippines

Issued by:

OMCT/SOS-Torture

Date of publication of NGO Report:

01/95

Date of presentation to preessional working group:

04/94

CRC Session

(at which related national state party report was submitted):

08th Session : Jan 95

Language:

English

Document Text

[Link to related state party report at UNHCHR](#)

Committee on the Rights of the Children Consideration of Reports Submitted by States

Under Article 44 of the Convention Remarks by OMCT/SOS-Torture concerning the Report of
the Government of the Philippines.

Geneva, January 1995

1. General Remarks

1. The Philippines government ratified the Convention on the Rights of the Child in 1 990. Thus
committing itself to undertake all the necessary measures to implement the provisions of the
Convention.

Several laws have been passed to complement the provisions in the Constitution and The Child
and Youth Welfare Code which became law 16 years before the ratification of the Convention.

Many laws have been passed to provide a legal base for the protection and promotion of children's welfare: The Family Code, The Barangay-Level Total Development and Protection of Children Act, The Rooming-In and Breastfeeding Act; The Act Establishing and Providing for a Free Secondary Education; and the Government Assistance to Students and Teachers in Private Education Act.

2. OMCT/SOS-Torture believes that a comprehensive legal base is firmly established in the Philippines, and is appreciative of the thorough and detailed report submitted by the government. Nevertheless we are particularly concerned about particular areas of divergence between the legislation in force and the implementation.

II. Children Victims of Torture:

3. Despite the many well documented cases reported by NGOs concerning children who have been subjected to cruel treatment and torture, whether by the police, paramilitary forces or the military particularly in zones of conflict, We feel that there is insufficient information concerning this issue in the report. OMCT/SOS-Torture believes it would be beneficial if the government provide more information on this question so as to assure the rights and assistance to the victims of such crimes and to ensure the pursuit and sanctioning of those responsible

4. Paragraph 259 of the report states: " only few areas remain where new legislation will need to be enacted". One of which is legislation designed to cover torture and deprivation of liberty.

5. Section 221 discusses implementation priorities to ensure the full protection of children in conflict with the law, including legislation to eliminate torture and other cruel, inhuman or degrading punishment of children.

6. This would seem to suggest that there is a lack of national legislation addressing cases of torture of children. OMCT/SOS-Torture is concerned by the lack of national legislation and urges the government to legislate to stop acts of torture against children.

III. Children in conflict with the law.

7. Article 37(c) of the Convention of the Rights of the Child. states that" Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances."

8. The International Covenant on Civil and Political Rights has also stipulated that juvenile offenders will be segregated from adults and be accorded treatment appropriate to their age and legal status".

9. The Child and Youth Welfare Code of the Philippines is in accordance with these provisions, declaring that: "Penal institutions shall provide youth offenders separate quarters and as far as practicable, group them according to appropriate age levels or other criteria that will ensure their speedy rehabilitation".

10. However following the abolishment of the Juvenile and Domestic Relations Court in 1983, cases of youth offenders have been handled by the regular courts already overloaded with litigation against adults.

11. Moreover, youth offenders are often found in jails with adult criminals. According to DCI

Philippines, in February 1994 there were sixty-three male youth offenders in February 1994 in Sampaguita Camp a medium security unit of the National Penitentiary in Muntinlupa.

According to the same source, at the same period there were 184 youths aged 16 to 20 in the Maximum Security Compound which is for those whose sentences are 20 years and above. It is not known whether those youth offenders are also serving sentences exceeding 20 years. Because of the lack of sufficient rehabilitation centres, these youth offenders are incarcerated with hardened criminals, with all the consequences which such cohabitation may entail.

12. The government identifies shortage of funds for its inability to comply with the existing laws on segregating children from adult criminals. Whilst OMCT/SOS-Torture, is aware that shortage of funding is a strong contributing factor in non compliance with the law. However the central weakness in Juvenile Justice System would appear to be a lack of political will to apply the existing laws.

13. We believe that the restoration of the Juvenile and Domestic Relations court, would be of great importance to the administration of Juvenile Justice in the Philippines. It would appear appropriate to ask why youth courts were abolished and to ask, how this measure foresaw its effects on children rights

14. OMCT/SOS-Torture believes that more effort should also be exerted to strictly comply with the letters of the Convention and national laws.

15. The case (cited in the NGOs coalition's report) of Elmer de Guzman (16) who was beaten to death by a policeman and co-detainees after being detained at a police station in Quezon City (Araneta, Cubao), in November 1993, and then transferred to the Molave Youth Home on November 24, 1993, adds to concern about children safety while in detention.

16. OMCT/SOS-Torture demands that the Government of the Philippines brings before the Committee the results of the investigation carried out by the Police, and to bring to justice those responsible.

IV. Children exposed to Armed Conflicts:

17. Although the report of the government cites all the laws and legal provisions catering for children caught in areas of armed conflicts, no details were given of the number of children effected by military operations in areas of conflicts, nor the measures taken by the government to address the problem of displaced families in the war zones.

18. According to DCI-Philippines: (Report on fact-Finding Mission, 1994)" the military operations (intense bombings on Sept. 2,3,17 and 27, 1993) required the forced evacuation of 853 families belonging to the Matigsalog tribe. Among these families were 1,500 children".

19. The report outlines the circumstances that these children are forced to live :

"these families live in small makeshift grass-thatched dwellings and survive on relief goods provided by the DSWD and NGOs..... Food rations are few and far between..... As of Nov. 1993, 82 children had died at the evacuation centre due to diseases like measles, dysentery and severe diarrhoea. The children do not receive any form of assistance from the local government."

The report further details that:

"More than 350 children (15-17 years old)suffered from human rights violations committed by government forces. These violations involved illegal arrests and detention,threats and harassment, strafing, rape and killing". (TFDP,1991). In total, it is believed, about 4.5 million children are exposed to armed conflicts in the Philippines.

20. The World Organisation Against Torture, OMCT/SOS-Torture, is concerned by the plight of children in conflict zones, and aware that those children are often victims of discriminatory policy, based on ethnic and religious grounds, carried out by government troops in the war zones, demands that the committee urges the government of the Philippines to take the necessary and urgent measures to secure the safety of the children confronted by the armed conflicts.

21. Furthermore we feel obliged to highlight the urgent need to find a quick and just solution for the armed conflicts which are contributing to the misery of Philipino children.

v. Sexual exploitation:

22. Mr. Joseph Estrada Vice President of the Republic, said in speech at the 25th anniversary of the Department of Social Welfare and Development," that the number of child prostitutes in Metro Manila alone is at least 20,000." (20th May 1 993)

End Child Prostitution in Asian Tourism (ECPAT-Philippines) estimates the number to be 60,000 at the end of 1993, which according to a 1991 Department of Social Work and Development (DSWD) includes child prostitutes as young as six year old who are recruited by syndicates and sold mainly to foreign pedophiles for sex or as pornographic models.

23. Philipino children have been victims of sex tourism for a long time inspite of the laws which incriminate such practices.

24. According to the report of Philipino NGOs' Coalition presented to the CRC on 24 March 1994, there have been no pedophiles convicted in the courts of the Philippines upto that time.

25. Given that the laws exist to fight these abuses, it would seem pertinent to ask what the government feels is the reason behind this lack of prosecutions.

26. While OMCT/SOS-Torture is aware that child prostitution seems to be tied directly to the policies of promotion of tourism, in its efforts to develop.

It is imperative that the government develop coherent policies to prevent child prostitution and ensure the protection of those sectors of society particularly at risk and that those responsible for these crimes are caught and punished.

VI. Economic exploitation

Child labour:

Article 31 of the Convention states that:

27. "1. States parties recognise the rights of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

"2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provision of other international instruments, states Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article".

28. OMCT/SOS-Torture recognises that the Philippines does not lack the necessary legislation to tackle the issue of child labour; We are concerned however with the hazardous conditions under which the many street children work under and with the discriminatory manner with which they are treated, in terms of their wages when compared with adults doing the same work.

29. According to a Department of Labour statement (quoted by the daily journal (Today) of 4th April 1994) : " at least five million children work long hours with meagre pay in many commercial and industrial endeavors despite a government ban against their hiring".

30. Cases cited by the Manila Times of 9, June 1994 concerning 14-year Arlene Sumampan whose employer clipped her ears with clothespins for long periods of time and had her hands slapped until they bled, and of another group of girls who worked 21 hours a day without recompense.

It outlines the practices involved in "muro-ami fishing", in which children are required to dive in open seas running the risk of ruptured eardrums or attack by sharks. This leaves no room for the government's often reiterated excuses, that the lack of appropriate funds is the reason behind the tolerance of the government towards such practices.

31. Clearly there is a lack of government will to help those fishermen in modernising their industry with the minimum resources available, enabling them to increase their input without endangering the lives of their children which the Filipino constitution describes as the most valuable asset of the country.

32. The Executive Director of the institute for Labour Studies Mr Rey Conferid detailed the many types of jobs carried out by children under 16 Scavengers, carwashers, market helpers, drugrunners and prostitutes. Mr Rey Conferido added:" that those children fall prey to drunks, gang wars and sexual abuse. Work deprives them of education and recreation, and their confidence and self-respect are affected".

33. Children are often found forced into a situation of bonded labour because of the miserable conditions into which they are driven. Some are abandoned in the street and have to struggle alone to make their living, others are forced into employment to supplement their family income, while a great number are seduced by gangs to work in the lucrative business of child prostitution.

34. While OMCT/SOS-Torture is conscious that the government is aware of this situation, and the problems faced in the implementation of measures to protect and assist working children, we are nevertheless concerned by the justifications given by the government:

" deficiencies in data needed in the formulation of legislation and other protective measures for working children; inadequate enforcement of laws, policies and standards; inadequate information and understanding of child labour issues, even among parents and employers"

35. We are furthermore concerned about the lack of depth that this issue received in the report, and would seem to suggest unwillingness to deal with the issue at the ground level.

36. The persistent and continuous flourishing of child labour inspite of the legislative arsenal in place to protect the children of the Philippines, requires special attention from the government to put into force the provisions of the law and to strengthen the machinery for its enforcement and to remedy the loopholes which render the laws inapplicable.

37. The laws serve only as preventive measures and they do not deal with central issue, poverty drives children, by economic necessity to bonded labour.

VII. CONCLUSION:

38. The World Organization Against Torture, OMCT/SOS-Torture, welcomes the report of the government and considers the information given as a good base for further improvements. and enables scrutiny of government policy in the field of the right of the children. We are encouraged by the government endeavour to implement the provisions of the Convention of the Rights of the Child.

39. However, legislation alone will not be an effective arm in the struggle for respect of rights and dignity of children of the Philippines; a real reconciliation between law and practice is what is required to safeguard the rights of children.

40. If a Philipino law bans, on paper, the employment of children, and the same law allows children up to 15 years old to work as long as a government permit is given, then that law defeats its own ends.

41. Although the report goes into various details of the means employed by the Government to put into effect the provisions of the Convention, there remains a gap in the information concerning the effectiveness of such measures and, of the government's achievements in protecting and promoting the rights and welfare of children in the Philippines.

42. The World Organisation Against Torture (OMCT/SOS-Torture) is concerned about the monitoring mechanism of the implantation of the Convention and by the lacuna which exists in the laws relative to bringing to justice the perpetrators of acts of torture from within the Government officials or from the military and paramilitary forces in the armed conflicts zones.

43. The measures taken by the Government to punish the officials indulging in acts of torture against children, should be brought before the committee, and the same is demanded for the means and methods used to rehabilitate the victims of torture.

44. It would seem pertinent that the government provide the committee with details regarding the recourse available to child victims of torture OMCT/SOS-Torture is concerned about the age stipulated by the Philipino laws for criminal liability. 9 years as the minimum age of criminal responsibility is would appear to be below the normal standards of such responsibility.

45. Priority should be given to immediate judicial assistance to children in conflict with law, because it is the only guarantee against their abuse or subjection to torture in the first critical moments of their detention.

46. Could the government make clear as to where there Convention stands vis a vis National laws.

Additional Information :

Case No 1

On 13 September 1990 (7 days before the entry into force of the Convention) at Barangay Nagbubtak, Palapag, in Northern Samar, Mrs. Miguela Laoreno y Ronato and her son Allan **LAORENO y RONATO**, aged 11, reportedly arrested for alleged possession of subversive documents by combined elements of the 19th Infantry Battalion army soldiers and members of

the Citizens Armed Force Geographical Unit (CAFGU). They were illegally detained for few days.

Case No 2

At 7,30 pm, on 27 January 1991, **Julia-An de la VEGA**, 14 year old, from Malibcong, Abra, was gang-raped by three soldiers from the Cordillera Regional Special Action force near their camp in Malibcong. She has identified their perpetrators as C2C Elmer Mayo (SN777153), C2C Noel Marzan (sn776839) and C2C Arnel Maligsa.

Case No 3

On 15 June 1991, **Corazon BATTAYONG**, aged 15, from Pantikian, Balbalan Kalinga-Apayao, was raped by a man identified as Akiho, a member of the Philippine National Police assigned to Salegseg. The suspected perpetrator was transferred to Dagupan City after the incident but no further action appears to have been taken.

On 25 June 1991, staff from the Women's Education and Resource Center, a Gabriela affiliate in Baguio City, went to gather further information on this case but were arrested by soldiers in Salegseg. They were illegally detained for two days.

Case No 4

On 9 August 1991, **Rosalia BANTASAN**, aged 14, from Barangay E. Duran, Bobon, Northern Samar, was arrested without a warrant by members of the 20th Infantry Battalion of the Philippine Army in Barangay Acerida, Bobon. During her detention she was raped by a certain Lt. Solima from the same battalion. She was among the Bobon refugees who were evacuated from Barangay Duran during the attacks carried out by Philippine Army during the last quarter of 1990. No charges were filed against her and she was released at the end of August.

Case No 5

On 9 July 1991, **Marie MANALAC**, aged 15, **Carol MANALAG**, aged 10, and **Darwin MAGCALAS**, aged 10, were illegally arrested during a military operation in sitio Mamatad, Dila-dila, Sta. Rita, Pampanga, by combined elements of the Sta. Rita National police (PNP), the Guagua PNP and RECOM III, based in Camp Olivias, San Fernando, Pampanga. They were released a few days later.

Case No 6

On 12 September 1993, **Manilyn MAGPATOC**, aged 10, **Abelardo MAGPATOC**, aged 6, and their aunt Nenita Magpatoc, were arrested at their home in Barangay Bitan-Agan, Butuan City, by a dozen armed men under the pretext that they were carrying out orders received from their superiors.

Nenita,s mother Gloria Magpatoc disclosed that at around 2:30 am of that day, about 14 armed men arrived at their house in Brgy. Bitan-agan. They forcibly entered the residence and grabbed her daughter and two slumbering grand children, all the while keeping the rest of the family at bay. When Mrs. Magpatoc pleaded on behalf of the victims, the abductors told her that they were simply following orders from their "head".

The three bewildered and terrified Magpatoc, along with Gloria, were then hustled along until they came to waiting cars a kilometre away from the barangay. To Gloria's chagrin she was left behind by the abductors.

Afterwards relatives of the three sought the help of the 30th Infantry Battalion phil. Army detachment in their area. However a certain Lt.Viviano Coz there denied any knowledge or responsibility for the incident, and even claimed that all of his men were conducting an operation in a nearby area when the abduction occurred.

Despite the officers statements, the Magpatocs still strongly suspect the AFP's hand.

The former said that the parents of the two children have been active members of the National Democratic Front since the 1970's, and have left their broad under the care of their grandmother. They were released on 4 October 1993, some weeks after the incident.

Case No 7 On 4 July 1993, **Emily A.** 13 year old, was sexually abused by Joseph Prado and another unidentified man, members of the Citizens Armed Forces Geographical Unit.

Emily, accompanied by her mother, narrated that at around 1:00 am. July 4, 1993, Joseph Prado of Limliun, Rizal town and another unidentified man came to their house at So. Mindigurin, Brgy. Malwaan, Rizal looking for her father whom the two alleged as a member of N.P.A. unit operating in the area. Emily and her two sisters and seven year old brother were alone at the time. The two who were identified as CAFGU elements connected with the 268th PNP Mobile Force, took Emily and her sisters and brother towards Brgy. Magsikap after ransacking their house and stealing valuables and cash amounting to P.3,000.

Prado, however, took Emily aside and raped her. After Prado, his companion took over and Emily was again sexually abused. The children were afterwards threatened by the two men of being killed if they inform anyone of the incident.

Case 8.

As reported by HR Currents, members of the Regional Special Action Force (RSAF), strafed the house of a peasant in Sitio Balu-ila, Madao, Uson hitting his 4 year old child. At about 4.30 PM September 7, 1994 the RSAF troopers guided by a certain Daybay Sanchez swooped down on the unsuspecting village and immediately fired their long arms at the Perigrind family residence.

Alan, the head of the family and accused by the military as a New People's Army member, scurried away for safety. However, his son Roland sustained two gunshot wound on the right leg. The soldiers later brought Roland to the St. Vincent Medical Clinic in Uson town for treatment.

Case 9.

Armed men believed to be members of the CAFGU and "Bantay Bayan" strafed a house in Siayan, Zamboanga del Norte last October 1, killing 7 Subanens and wounding 6 others. Killed on the spot were Evelyn Gumisid; a 24-year old housewife; her children Mario GUMISID, 11; Marvin GUMISID, 9; Marissa GUMISID, 6; Marivic GUMISID, 4; Maricel GUMISID, 3-months old; and her brother Gario MARICOL, 17.

According to Ernesto Gumisid husband of Evelyn, at 3:00 am that day the Gumisid family were asleep when they were awakened by a prolonged bursts of gunfire.

In fright, Ernesto and several others managed to jump outside and to safety, although they sustained gunshot injuries. When the strafers had gone and he was able to return to the house, Ernesto found the lifeless bodies of his wife, children and brother-in-law. It was later learned by the TFDP in the area that Maricol and his peers were suspected by the military to be members of the revolutionary New People's Army.

[Home](#)

The NGO Reports Database on Children's Rights includes all existing and public reports submitted to the Committee on the Convention of the Rights of the Child by NGOs and NGO Coalitions. The copyright of the reports are retained by the authors and use thereof must be duly acknowledged.

The database is the property of the Liaison Unit of the NGO Group for the Convention on the Rights of the Child and

is managed by that unit. For further information or other enquiries please contact the Liaison Unit at dc-ngo.group@pingnet.ch.
