



PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS, GENEVA

NV-EPG-107-2022

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights – Special Procedures Branch and, with reference to the email dated 11 January 2022 on the request for inputs from Mr. Morris Tidball-Binz, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, has the honor to convey the enclosed contribution of the government of the Philippines on the state of knowledge and implementation of the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (or the Minnesota Protocol).

The contribution was provided by the Philippine National Police (PNP) with key points, as follow:

- In order to comprehensively comment on the state of medico-legal death investigation in PH, an online survey among medico-legal officers (MELO) was conducted nationwide in coordination with the PNP Forensic Group Medico-Legal Division.
- The survey was answered by thirty-two (32) of the fifty-seven (57) MELOs in the Philippines. Of this, only thirty-seven percent (37%) were aware of the Minnesota Protocol. Those who were aware showed little to no knowledge of its content. Only PNP personnel who were deployed at UN missions were aware of the Protocol.
- While discussion on the Minnesota Protocol was limited in MELO curriculum, protocols on handling investigations were tackled during the training sessions.
- The PNP also cited the EU-PH Justice Support (EPJUST) Programme, wherein manuals that serve as guidance for the investigation of killings were crafted with the assistance of experts from the EU. A Special Investigation Task Group (SITG) was also created to conduct case reviews, which was a practice introduced by EU experts during the EPJUST to help PNP in building airtight cases.
- The “Inter-agency Committee on Extra-legal Killings, Enforced Disappearances, Torture and other Grave Violations of the Right to Life, Liberty and Security of Persons” was created under Administrative Order No. 35 (AO 35) to serve as the government’s institutional machinery dedicated to the resolution of such unsolved cases.
- PH already has an existing law governing the deprivation of right to life, liberty, and security. These laws protect such rights and impose the corresponding penalties for the violation thereof.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights – Special Procedures Branch the assurances of its highest consideration.

Geneva, 08 March 2022



OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Attention: The Special Procedures Branch

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**CONTRIBUTION FROM THE REPUBLIC OF THE PHILIPPINES
TO THE THEMATIC REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL,
SUMMARY OR ARBITRARY EXECUTIONS ON THE STATE OF KNOWLEDGE AND
IMPLEMENTATION OF THE MINNESOTA PROTOCOL
(Pursuant to HRC Resolution 44/5)**

In response to the email dated 11 January 2022¹ from the mandate of Mr. Morris Tidball-Binz, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, requesting for inputs on the state of knowledge and implementation of the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (or the Minnesota Protocol), the government of the Philippines conveys the contribution from the Philippine National Police (PNP), as follows:

To comprehensively comment on the state of medico-legal death investigation in the Philippines with special reference to the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Execution (the Minnesota Protocol), this office has coordinated with the PNP Forensic Group Medico-Legal Division and conducted an online survey among all its Medico-Legal Officers (MELOs) nationwide. Specifically, said survey examined the following:

- The awareness of the MELOs on the Minnesota Protocol and the MELOs' subjective level of familiarity with it;
- The provision of any teaching of the Minnesota Protocol in MELO training;
- The challenges in their current practice to a better awareness of the Minnesota Protocol;
- The relevance of the Minnesota Protocol in their current practice;
- The level of implementation of Minnesota Protocol in their current practice; and
- The impact of Minnesota Protocol in the PNP MELO practice.

Of the fifty-seven (57) PNP MELOs in the Philippines, thirty-two (32) or 56% responded to the online survey. The following section presents the results of the analysis of the survey data.

Summary of Key Findings

1. ***PNP MELOs possess little awareness of the Minnesota Protocol.*** When asked regarding their awareness of the Minnesota Protocol, only 37.5% (12) of the respondents are aware of the Minnesota Protocol. The majority or 62.5% (20/32) of the MELOs said that they are not aware of it;
2. ***Of those aware of the Minnesota Protocol, familiarity is low.*** 67% (8/12) of MELOs that claimed awareness of the Minnesota Protocol shows little or no familiarity with the protocol and its contents. The rest of the MELOs said that they are fairly familiar with it. This result reveals that the "awareness" of the Minnesota Protocol does not equate to a high level of familiarity;
3. ***There is limited provision of the teaching of the Minnesota Protocol in the training curricula.*** Knowledge regarding the provision of the teaching of the Minnesota Protocol in MELO training is inconsistent among those who claim awareness of it. Only 33% (4/12) of the MELOs said that teaching of the Minnesota Protocol is provided in their training [specifically in the Public Safety Officers Basic Course (PSOBC; 1 response) , Public Safety Officers Senior Executive Course; 1 response) . Medico-Legal Officers Basic Course (MELOBC ; 1 response) , and Medico-Legal Officers Advance Course (MELOAC; 1 response);

¹ In reference to the 23 December 2021 letter from Ms. Beatriz Balbin, Chief of the OHCHR-Special Procedures Branch

4. ***The Minnesota Protocol is viewed as very relevant but it faces a low level of implementation and the MELOs do not see it as having a great impact.*** 75% (9/12) of the MELOs aware of the Minnesota Protocol opines that it is very relevant in their current practice. However, only 33% (4/12) believe that it is properly implemented. Also, only 42% (5/12) of the respondents said that it had an impact on the quality of MLDI in the Philippines. Its impact was described in terms of "(serving as a) reference on the conduct of investigation on death and recovery of human remains", "respect for human rights", and "aid in the administration of justice in the country". 16% (2/12) of the respondents revealed that the protocol had no impact, while the remaining 42% offered no opinion;
5. ***Successful implementation of the Minnesota Protocol based on MELOs current practice is currently problematic.*** The majority of the respondents who are aware of the protocol cannot provide concrete examples of its successful implementation in their practice. and
6. ***To achieve better awareness of the Minnesota Protocol, the lack of promotion/information dissemination and its non-inclusion in training courses must be addressed.*** 50% (6/12) of the MELOs aware of the protocol said that the main challenge that hinders better awareness of the Minnesota Protocol in the availability is its "non-inclusion" in their training courses. One of the MELOs on the other hand believes that the protocol may not be considered relevant, while the rest of the respondents (42% or 5 out of 12) said that there is a lack of promotion of the protocol among stakeholders.

The survey indicates that a large number of medico-legal officers currently in practice in the PNP Forensic Group lacks awareness of the Minnesota Protocol and that the greatest barrier of this lack of awareness is its non-inclusion in training courses and a lack of promotion. The lack of awareness of the protocol effectively translates to a low level of perceived relevance and impact, and thus a low level of implementation.

Awareness with the Minnesota Protocol. Most of the investigators in the PNP are not familiar with the Minnesota Protocol. Those who are familiar with the same includes PNP personnel who were deployed in various U.N. missions.

Observance of principles and provisions of the Minnesota Protocol in relation to the existing PNP manuals and relevant issuances. While most of PNP investigators are not familiar with the Minnesota Protocol, it does not mean that the principles and provisions thereof are not being observed or practiced in the PNP considering that we have set of manuals and relevant issuances which more or less cover the contents of the Minnesota Protocol.

During the European Union (EU)-Philippines Justice Support (EPJUST) Programme, several manuals which serves as a guide for the investigation of deaths or killings regardless of the perpetrator were crafted with the assistance and guidance from Police Key Experts provided by the EU such as Field Manual of Crimes of Violence and Other Crimes, Investigation manual for Murder/Homicide Cases, Forensic Photography Examiner's Manual, Firearms Examiner's Manual, Medico-Legal Examiner's Manual, Question Document Examiner's manual, Fingerprint Examiner's Manual (Revised), Revised Crime Laboratory Scene of the Crime Operations Manual, Polygraph Examiner's Manual (Revised), and Forensic Chemistry Examiner's Manual (Revised).

Employment of existing mechanisms and best practices. To ensure prompt, effective, thorough, independent, impartial, and transparent investigation, mechanisms and best practices such as the creation of Special Investigation Task Group (SITG) and conduct of case review are being employed by the PNP. The PNP has also benefited from and has

continually been employing the conduct of case review which was introduced by experts from the EU thru the EPJUST Programme to help the PNP in building an airtight case.

While the Minnesota Protocol may not be included in the curriculum or Program of Instruction of trainings relative to investigation, those subject matters are continuously being tackled in investigation trainings.

This office also wanted to share the following relevant information, the Philippines has the so-called Administrative Order No. 35 (AO No. 35) known as "*Creating the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons*". The Inter-Agency Committee (IAC) is chaired by the Secretary of the Department of Justice and the Chief, Philippine National Police is one of the members of the said Inter-Agency Committee. The IAC was created under AO No. 35 to serve as the government's institutional machinery dedicated to the resolution of unsolved cases of political violence in the form of extra-legal killings (ELK), enforced disappearances (ED), torture and other grave violations of the right to life, liberty and security of persons.

The Philippines has already an existing law governing the deprivation of right to life, liberty and security. No less Article III of the 1987 Philippine Constitution known as the Bill of Rights specifically states the protection over the said rights. The Revised Penal Code of the Philippines defines the crimes committed against the right to life, liberty and security and prescribes the corresponding penalties for the commission thereof. There are also special laws that protects such rights and imposes the corresponding penalties for violation thereof such as, but not limited to like the Republic Act No. 10353 otherwise known as the Anti-Enforce Disappearance Act, Republic Act No. 9745 or the Anti-Torture Act of 2009 and other laws related thereto. There is also a remedy available to any person whose life, liberty and security is violated or threatened with violation by unlawful act or omission of a public official or employee, or of a private individual or entity such as the Writ of Amparo. A Writ of Habeas Corpus is also available as remedy to all cases of illegal confinement or detention.

As mentioned above, the Philippines has the Inter-Agency Committee On Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons (IAC) which was created under Administrative Order No. 35 (series of 2012) to serve as the government's institutional machinery dedicated to the resolution of unsolved cases of political violence in the form of extra-legal killings (ELK), enforced disappearances (ED), torture and other grave violations of the right to life, liberty and security of persons.

The PNP is always open to innovations and learnings that will improve its services and its capacity to effectively and efficiently investigate cases of deaths or killings. Thus, any assistance that can be provided to the PNP which will help in making investigators well-verse of the Minnesota Protocol will be very much appreciated.

The government of the Philippines hopes that the above contribution would be useful in the preparation of the SR's upcoming thematic report to be presented at the 50th Regular Session of the Human Rights Council in June 2022 (pursuant to HRC resolution 44/5). ###

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