



Republika ng Pilipinas
Komisyon ng Karapatang Pantao ng Pilipinas
(Commission on Human Rights of the Philippines)

31 October 2013

MS. DINA ROSSBACHER

Human Rights Council Advisory Committee
Office of the United Nations High Commissioner for Human Rights
Palais Wilson, Room 4-065, United Nations Office
CH-1211, Geneva 10, Switzerland

Dear Ms. Rossbacher,

This pertains to the Committee's request for the Commission of Human Rights of the Philippines (CHRP) to submit its answer to the Human Rights Council Advisory Committee's questionnaire regarding *the Negative Impact of Corruption on the Enjoyment of Human Rights*, pursuant to Human Rights Council Resolution 23/9.

In response thereto, please find below our answers to the questionnaire attached to your letter:

1. From your experience, what are the human rights that are most affected by corruption?

From CHRP's experience, the human rights that are most affected by corruption are the following:

• **Economic, Social and Cultural Rights**

Corruption hampers the government from fulfilling its mandate in providing the basic services to its people. Public funds are being siphoned and pocketed by unscrupulous politicians for their personal gains. A corrupt system in the government jeopardizes the lives of the people particularly the vulnerable sectors, whose survival and development greatly depends on the social services provided by the government. These services from the government are indispensable in fulfilling the people's economic, social and cultural rights.

Recently, the Philippines was confronted by successive protest from various groups/organizations calling for the abolition of the Priority Development Assistance Fund (PDAF), also known as the Congressional Pork Barrel¹, due to alleged misappropriation of the said fund by some members of the

¹ a lump-sum discretionary fund granted to each member of Congress for spending on priority development projects of the Philippine government, to be implemented on the respective areas or constituencies of the Congressmen

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Congress, particularly the Senate, and some government officials, resulting to an estimated loss by the Philippine government amounting to P10 Billion pesos.

- **Civil rights**

Corruption violates the equal protection clause, hence beget discrimination/inequality. This is particularly true in the judicial system where access to justice is undermined / denied, as well as in other government agencies wherein the wealthy and moneyed are more favored and given more opportunity than those who cannot afford to bribe.

- **Political rights**

Corruption affects the right of the people to suffrage/vote. The freedom of the people to vote is unquestionably compromised when corruption sets in, affecting not only the right of the voter but the opposing candidate/s as well, who opted to navigate the right tract. Ultimately, corruption affects/influences the result of the election, not reflecting the true will of the electorate, thereby placing the iniquitous and undeserving candidate in public office. In almost every election being conducted in the Philippines, to include the very recent Barangay (Village) Election held on October 2013, vote buying (e.g. giving of sample ballots and pamphlets with money) persist to top among the election violations.

Q. What specific negative impact can corruption have on the enjoyment of human rights by vulnerable groups such as women, children, elderly, and person with disabilities, indigenous people and others?

The negative impact of corruption on the enjoyment of human rights is the deprivation of the people, particularly the vulnerable groups and underprivileged to rights provided under the Convention on Economic, Social and Cultural Rights, otherwise known as the basic public services that should have been aptly provided by the government. These include, among others, services on health, education and right to ancestral land. Corruption negatively affects the right to health of almost all the vulnerable sectors, such as women, children, elderly, persons with disabilities, indigenous peoples and internally displaced persons. According to a study² corruption's effect on the health reduces the immunization rates, delays the vaccination of newborns, discourages the use of public health clinics, reduces satisfaction of households with public health services, and increases waiting time at health clinics.³ On education, corruption greatly affects the quality of education as manifested in reduced test scores, low national ranking of schools, raised variation of test scores across schools and reduced satisfaction ratings.⁴ With regard to indigenous peoples, their right to ancestral domain/land is mostly affected in

² Does Corruption Affect Health and Education Outcomes in the Philippines? Omar Azfar *Institutional Reform and Informal Sector, University of Maryland at College Park, College Park, MD 20742; Tugrul Gurgur, Department of Economics, University of Maryland at College Park, College Park, MD 20742

³ Ibid.

⁴ Ibid.

situations where corrupt government officials lean towards favoring mining companies from exploiting the lands claimed by indigenous peoples as part of their ancestral domain. And as for the internally displaced, delivery of immediate assistance, such as the provision of relief goods and materials for the temporary shelter of IDPs are often fettered.

2. Do you have any experience regarding the ways on how best to deal with corruption while at the same time promoting and protecting human rights?

Yes, the CHRP observes the anti-corruption law of the Philippines (Republic Act No. 9485)⁵, also known as Anti-Red Tape Act of 2007. In compliance with the Anit-Red Tape Act, the Commission set up its service standards to be known as the Citizen's Charter in the form of information billboards, posted at the main entrance of the office, that detail the following:

- (a) The procedure to obtain a particular service;
- (b) The person/s responsible for each step;
- (c) The maximum time to conclude the process;
- (d) The document/s to be presented by the customer, if necessary;
- (e) The amount of fees, if necessary; and
- (f) The procedure for filing complaints.

The CHR also observes the rules of the Civil Service Commission⁶ and the Department of Budget and Management, with regard to accountability and transparency.

In line with the mandate of the CHRP under the Philippine Constitution⁷, as a monitor, advocate, adviser and educator, the CHRP, among others, has issued advisories and position papers reminding government institutions of their respective obligations under the human rights treaty obligations it had signed, and recommending appropriate actions to be undertaken by the said institutions relating to human rights and accountability. It likewise conducted trainings/workshops to several government institutions with the end goal of mainstreaming human rights standards in development and governance.

The CHRP, in providing legal services to its clients through investigation and legal assistance, had also referred cases of corruption to the Office of the Ombudsman⁸, for its appropriate action, and other government agencies, to address our clients' concern relative to corruption issues.

⁵ An Act to Improve Efficiency in the Delivery of Government Service to the Public by Reducing Bureaucratic Red Tape, Preventing Graft and Corruption, and Providing Penalties Therefor.

⁶ Commission is constitutionally mandated to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the Civil Service. (<http://excell.csc.gov.ph/cscweb/mandate.html>)

⁷ CHRP's mandate under Article XIII of the 1987 Constitution, among others: provide legal assistance, monitor government's compliance to international treaty obligations on human rights, recommend to Congress effective measures to promote human rights, and request the assistance of any department, bureau, office, or agency in the performance of its functions.

⁸ The Office of the Ombudsman has the power to investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient.

Q. What are the best practices and what are the challenges in this respect?

One of the best practices would be CHRP's popularization and promotion of the *rights based approach to development and governance* in various government institutions and agencies to include local government units. The cooperation and coordination (referral of cases) of the CHRP with other government agencies and institutions, having jurisdiction on corruption cases, is also a good practice.

Q. Are there any specific problems in your work in cases when corruption has a negative impact on the enjoyment of human rights?

In some cases taken cognizance by our office, there were certain instances wherein complainants as well as witnesses withdraw their cases or retract their statements that cause the closure/termination of the case. One of the alleged grounds for such withdrawal is that the withdrawing/desisting party had been bribed by the respondent in the case. However, in such cases (of withdrawal or desistance), considering the possibility that the complainant/witness has been bribed, the Commission does not automatically dismiss the case and shall proceed with the investigation thereof if further evidence (other than the testimony of complainant or witness) warrants continuation thereof.

3. Is there cooperation between anti-corruption agencies and national human rights institutions in tackling corruption?

No, there is no existing cooperation between CHRP and anti-corruption agencies (such as the Office the Ombudsman). Albeit, the CHRP and other constitutionally created institutions, such as the Office of the Ombudsman and Civil Service Commission, are members of a group called *Constitutional and Fiscal Autonomy Group (CFAG)*, there has been no formal and permanent cooperation yet between CHRP and the Office of the Ombudsman (anti-corruption agency) in dealing with corruption and at the same time promoting human rights. However, the Office of the Ombudsman, when conducting summits/workshop/forum on integrity, accountability and transparency in government service, never ceases to involve the CHRP as a participant thereto, as it recognizes the latter's importance/contribution and impact in combatting anti-corruption practices prevailing in our country.

Q. What measures can be taken by the Human Rights Council and its subsidiary bodies or States to combat corruption with specific consideration regarding the negative impact of corruption on the enjoyment of human rights?

Measures that may be undertaken by the Human Rights Council and its subsidiary bodies or states to combat corruption and its negative impact on the enjoyment of human rights would be the following:

- For the Human Rights Council to provide and share the best practices of other countries in effectively combatting corruption to countries where corruption is rampant, widespread and customary.
- For the Human Rights Council or for the State to provide special funding for the conduct of summits/workshops re: anti-corruption.
- For the Human Rights Council or the State to provide technical assistance in the conduct of study and analysis on the extent of corruption and impact on the human rights of people.
- For the State to issue advisories on anti-corruption issues and to support programs for anti-corruption drive.

4. How can the United Nations human rights mechanisms be utilized for anti-corruption efforts?

- For the UN to establish/ appoint a UN Special Rapporteur on Corruption and Human Rights; or if there is one, for the UN to send the Special Rapporteur on Corruption and Human Rights to countries where corruption is rampant.
- To recommend appropriate actions/measures to states where corruption is rampant through the mechanism of Universal Periodic Review and thru other various committees of the UN Office of the High Commissioner for Human Rights (OHCHR).

Q. What other institutional mechanisms could be used to integrate human rights based approach in combating corruption or vice-versa at both the international and national level?

At the International level, to craft Rights Based Approach (RBA) best practices that will serve as a model to various states confronted with corruption issues and human rights violations arising from the corrupt practices.

At the National level, one institutional mechanism to integrate human rights based approach in combatting corruption would be the issuance of advisories addressed to all duty holders - various agencies of the government and local government units, reminding and advising them to conscientiously apply RBA in development planning, programming, budgeting and policy formulation or review their respective agencies or offices, in accordance with the RBA framework and tools.

The conduct of National Inquiry on anti-corruption and its negative impact on human rights is also a mechanism which may be adapted by NHRIs in investigating and monitoring government's compliance under various international human rights treaties, particularly the ESCR.

5. **Q. Are there any other observation or suggestions you wish to provide regarding the topic?**

The questions provided herein are sufficient to capture a research based report on the issue of the negative impact of corruption on the enjoyment of human rights.

We hope that the responses herein provided would be of help in the preparation of your report.

Very truly yours,


LORETTA ANN P. ROSALES
Chairperson