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

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**SECRETARIAT OF THE HUMAN RIGHTS
COUNCIL ADVISORY COMMITTEE
c/o MS. MEENA RAMKAUN**

Office of the United Nations High Commissioner for Human Rights
Palais Wilson, Roomn 4-060, United Nations Office
CH-1211 Geneva 10 ,

Dear Ms. Ramkaun:

This has reference to your **Questionnaire** to the Commission on Human Rights of the Philippines (CHRP) concerning *local government* and *human rights*. In response thereto, please find below our responses for Question nos. 1-9, to wit:

1. How is local government organized in your country? Please describe the existing legal framework for the organization, functioning, competences and financial resources of local government in your country?

Local governments in the Philippines are organized under Article 10 of the 1987 *Philippine Constitution* as the general law and under the **Local Government Code** (LGC) of 1992 as the enabling law. Title 1 Chapter II of the LGC (General Powers and Attributes of Local Government Units), provides for the existing legal framework for the organization, functioning, competences and financial resources of local government, to wit:

*“Section 6. **Authority to Create Local Government Units.** - A local government unit may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the sangguniang panlalawigan or sangguniang panlungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.*

*Section 7. **Creation and Conversion.** - As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators of viability and projected capacity to provide services, to wit:*

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(a) Income. - It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;

(b) Population. - It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and

(c) Land Area. - It must be contiguous, unless it comprises two or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Section 15. Political and Corporate Nature of Local Government Units. *Every local government unit created or recognized under this Code is a body politic and corporate endowed with powers to be exercised by it in conformity with law. As such, it shall exercise powers as a political subdivision of the national government and as a corporate entity representing the inhabitants of its territory.*

Section 16. General Welfare. - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Section 17. Basic Services and Facilities. - (a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provisions of the basic services and facilities enumerated herein.

Section 18. Power to Generate and Apply Resources. - Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenues and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and



which shall be retained by them; to have a just share in national taxes which shall be automatically and directly released to them without need of any further action; to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within

their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits; to acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes, in the exercise or furtherance of their governmental or proprietary powers and functions and thereby ensure their development into self-reliant communities and active participants in the attainment of national goals.

2. *Is local government in your country required by legislation to promote and protect human rights? Please describe how local government in your country is involved in the implementation of human rights obligations.*

Legislations

Local government in the Philippines is required by legislations to promote and protect human rights, to wit:

- Republic Act (RA) 7192 or the Women in Development and Nation Building Act in 1992 requires Local government units (LGUs) to set aside no less than five percent of their annual budgets to support programs and activities for women for purposes of institutionalizing gender mainstreaming and using these public funds to narrow down gender inequality in the country
- Local Government Code (Chapter III–Local Legislation) provides that Local legislative power in local government units shall include creation of standing committees which includes human rights
- Local government units are mandated by law (Sec. 17 of the Local Government Code) to deliver the basic services to its constituents.
- Republic Act No. 9262 or the Law on Violence Against Women and their Children – This law mandates Barangay officials to conduct hearings on applications for a protection order as well as the issuance thereof. Barangay Protection Orders (BPOs) refer to the protection order issued by the Punong Barangay ordering the perpetrator to desist from committing acts under Section 5 (a) and (b) of this Act. It also provides for the duties of Barangay Officials and Law Enforcers, among others, to respond immediately to a call for help or request for assistance or protection of the victim whether or not a protection order has been issued and ensure the safety of the victim/s. The law mandates Government Agencies and LGUs, among others, to establish programs such as, but not limited to, education and information campaign and seminars or symposia on the nature, causes, incidence and consequences of such violence particularly towards educating the public on its social impacts. It shall be the duty of the concerned government agencies and LGU's to ensure the sustained education and training of their officers and personnel on the prevention of violence against women and their children.



- Republic Act 9745 or the Anti-Torture Act of 2009 Department of the Interior and Local Government (DILG) and such other concerned parties in both the public and private sectors shall ensure that education and information regarding prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
- Republic Act 9710 or the Magna Carta of Women Act of 2009 - requires all local government units to establish a Violence Against Women's Desk in every barangay to ensure that violence against women cases are fully addressed in a gender-responsive manner. Local government units are also mandated to deliver the necessary services and interventions to "Women in Especially Difficult Circumstances" (WEDC) under their respective jurisdictions. WEDC shall refer to victims and survivors of sexual and physical abuse, illegal recruitment, prostitution, and trafficking, armed conflict, women in detention, victims and survivors of rape and incest, and such other related circumstances which have incapacitated them functionally. Local government units and other government instrumentalities shall adopt gender mainstreaming as a strategy to promote women's human rights and eliminate gender discrimination in their systems, structures, policies, programs, processes, and procedures. Local government units are also encouraged to develop and pass a GAD Code based on the gender issues and concerns in their respective localities based on consultation with their women constituents and the women's empowerment and gender equality agenda of the government. The GAD Code shall also serve as basis for identifying programs, activities, and projects on GAD.
- Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006 - Local Councils for the Protection of Children (LCPC) shall be established in all levels of local government, and where they have already been established, they shall be strengthened. The local council shall serve as the primary agency to coordinate with and assist the LGU concerned for the adoption of a comprehensive plan on delinquency prevention, and to oversee its proper implementation. One percent (1%) of the internal revenue allotment of barangays, municipalities and cities shall be allocated for the strengthening and implementation of the programs of the LCPC. Whenever detention is necessary, a child will always be detained in youth detention homes established by local governments, pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides.

Other Programs

BARANGAY HUMAN RIGHTS ACTION CENTER (BHRAC)¹ - Institutionalization of Human Rights in Local Government

The Barangay Human Rights Action Center Program (BHRAC) is a nationwide mobilization program for human rights protection and advocacy at the Barangay (village/community) level. It has been conceived so that the CHRP will be within the reach of the people, especially in the far flung areas. The Commission on Human Rights Regional Officers/sub-regional offices are based mainly in the regional centers and capitals of provinces.

The Commission on Human Rights of the Philippines (CHRP), in pursuance of its Constitutional mandate of enhancing the primacy of respect for human rights through a continuing program of education, information and research has conceptualized the Human Rights Education and Training Program (HRETP). The HRETP is designed to be the mother program of all human rights education plan for different sectors of the society. The HRETP is

¹ http://www.chr.gov.ph/MAIN%20PAGES/services/link_dev1b_gco.htm

also designed to create a human rights link with the other sectors of the society in terms of assisting the Commission in organizing HR training programs. Its implementation with the police and the military sector was certainly a success. Later, it was realized that the Local Government Units (LGUs) sector is a vast, untapped partner in human rights promotion and protection. But plans for the LGUs were certainly much bigger and better because the Commission believes that the barangays can achieve much more themselves in the field of human rights. Institutionalizing human rights at the grassroots level is a better way of promoting human rights but that they should be empowered first.

In order to institutionalize human rights in this sector, formal coordination efforts were made with the Department of the Interior and Local Government (DILG). In 1994, the CHRP conceptualized a program that will empower the people in the grassroots in promoting and protecting human rights and at the same time bring the services of the Commission closer to the people thus the Barangay Human Rights Action Center (BRHAC) program, a mechanism which will institutionalize HR in the LGUs. The DILG through the CHR issued Memorandum Circular No. 94-194 dated October 27, 1994 enjoining all local government units through a Memorandum of Agreement (MOA) in December, 1996. Series of MOA followed and the latest was the MOA between and among the CHR and various Leagues signed last December 10, 2001.

In the establishment of BHRACs, the Local Government Operations Office (LGOO), Planning and Development Coordinators (PDCs), the DILG and the CHRP team shall orient the Local Executives on the BHRAC Program and urge them to establish and support the BHRAC in their areas of jurisdiction. The BHRAC is established through a barangay resolution.

The BHRAC shall be manned by a Barangay Human Rights Action Officer (BHRAO) who shall oversee the center's operations. The BHRAO shall be chosen through *viva voce voting* by a majority of those present in the barangay assembly meeting called solely for the purpose of nominating and electing candidates. The BHRAO must not be an elective/appointive official of the government and must not engage in partisan political activities. The BHRAO is also required to undergo capability building/training for BHRAOs.

The BHRAC has four functions/Services namely:

- Complaints Processing - the BHRAO is primarily (at the very least) tasked to receive complaints of "alleged" human rights violations and refer the same to the nearest CHRP regional or sub-office for investigation.
- Coordination and Referral - in the event the case received by the BHRAO is not a case of human rights violation, the BHRAO refers the case to the proper government or non-governmental agencies or organizations for action and monitors the progress of the same.
- Mobilization - he/she mobilizes the community to take effective social action for the protection and promotion of their rights. He/she is tasked to mobilize community for the mobile education and develop human rights advocates within the Barangay.
- Information and Education - The BHRAO is tasked to coordinate with the CHRP Regional offices in conducting for a, seminars, training, symposia and other human rights information and education activities.

3. Is there any cooperation between local government and the central government in your country regarding the implementation of human rights at local level? If yes, please describe the existing cooperation framework.

Yes, there is cooperation between local government and the central government regarding the implementation of human rights at the local level. With regard to BHRAC, the central government thru the Department of Interior and Local Government (DILG) gives

technical assistance to the BHRAOs through the Regional/Provincial/City/Municipal Local Government Operations Officers. It also provides source funds for the furtherance and institutionalization of the BHRACs. The Provincial/City/ Municipal LGOOs also assist in mobilizing BHRAC activities. Other partners include the Local Government Units (LGU) through their local chief executives and Councils, C/M Planning Development Coordinators and various leagues (Liga ng Barangay, League of Municipalities, League of Cities and League of Provinces) and various non-government organizations.

The CHRP, the Department of Interior and Local Government (DILG) and the Local Government represented by the different leagues shall jointly implement a continuing National Human Rights Advocacy Program.

4. Do you have human rights protection mechanisms at the local level in your country (e.g. ombudspersons, human rights commissions, mediators, etc.)?

Yes, there are human rights protection mechanisms at the local level in the Philippines, to wit:

- Office of the Ombudsman for Luzon, Visayas and Mindanao (three major island groups)
- CHRP Regional Offices and sub-offices
- Katarungan Pambarangay (LGU in villages),
- Regular Courts, in every Cities/Municipalities
- Human rights desks created for the protection of the citizens
- Barangay Human Rights Action Center (BHRAC)

5. What initiatives have been taken to include human rights mainstreaming in local administration and public services?

A. Barangay Human Rights Action Center (BHRAC)

The CHRP initiated the creation and implementation of Barangay Human Rights Action Center (BHRAC). The latter has been the flagship program of the CHRP since 1995. BHRAC's ultimate goal is to empower and mobilize community based human rights advocates to take up the cudgels for human rights promotion and protection by themselves, at the same time to bring the services of CHR to the grassroots level. Its two main function are: 1) to receive complaints of alleged HRVs and refer the same to the nearest CHR regional or sub-office for investigation 2) awareness raising on Human Rights within the community or barangay. BHRAC is CHRP's national grassroots human rights advocacy program that fast tracks the building up of a culture of human rights in the Philippines. Through BHRAC, CHRP brings its services closer to the people at the grassroots level

Legal Bases of BHRAC

- Memorandum Circular No. 94-194 – Enjoining all Barangays to Pass / Adopt a Resolution for the Establishment of HR Action Centers in LGUs (27 Oct 1994)
- Memorandum of Agreement (MOA) dated 16 November 1994 - Joint Formulation and Implementation of National HR Advocacy Program for LGUs, specifically for Punong Barangays



- MOA dated June 20, 1996 – Joint Implementation of a Continuing National HR Advocacy Program as well as Institutionalization of the BHRACs
- MOA dated December 10, 1996 - CHR-DILG, Leagues, Provinces, Cities, Municipalities and Liga ng mga Barangay
- MOA dated 19 Mar 1997 – CHRP and Soroptomist Philippines to Conduct of HR Education & Information Dissemination Programs for Women and Girl Sectors
- MOA dated December 11, 2001 – Implementation of a Continuing HR Advocacy, Regional and National Trainor’s Training Programs and Conduct Capability Building Programs and Connections for the BHRAOs and other BHRAC Implementors
- MC 2006-45 dated May 11, 2006 – Revitalization and Strengthening of the BHRAC Program
- Joint MC 1, S.2006 dated October 6, 2006 - Guidelines in the Conduct of Election of the BHRAC in every Barangay Nationwide

B. Human Rights Action Center and Rule of Law (HRAC & ROL)

There is a CHRP pilot project on human rights-based governance at the city level. It plans to initially develop the project in the City of Manila where the Commission will utilize the “Human Rights Action Center and Rule of Law”, dubbed as HRAC & RoL, as a strategy, in mainstreaming human rights in major aspects of city governance. HRAC & RoL shall serve as a mechanism in organizing for integrated HR advocacy, such that advocacies for sectoral and thematic concerns are consolidated and complemented, thereby creating synergy and convergence of strategic efforts. HRAC & RoL also serves as the monitor for purposes of enhancing human rights and democratic governance in the city.

C. Human Rights Based Approach (HRBA)

The Rights Based Approach (RBA for short) is a mainstreaming process to link human rights to development. As an approach to development, it essentially integrates the norms, standards and principles of the international human rights system into plans, policies and processes of development. The RBA is founded on the UN Declaration on the Right to Development and on the various international human rights instruments to which the Philippines is a state party. The CHRP shall be responsible for the orientation of the local councils, LGUs, leagues of local officials, government agencies, non-government organizations and other members of the Civil Society on the RBA, providing advisory functions on the RBA at the local level and monitoring and evaluation of the progress of the RBA implementation at the local level. ²

6. *What is the role of civil society in the planning and implementation of activities for the protection and promotion of human rights at the local level in your country?*

Civil society usually engaged in many aspects in the protection and promotion of HR in the Barangay. Civil society acts as a support group or human rights advisory group. The Barangay Human Rights Action Officer can mobilize creation cause oriented individuals, groups,

² http://www.chr.gov.ph/MAIN%20PAGES/about%20hr/advisories/pdf_files/abthr036.pdf

sectors, and/ or organizations to constitute the human rights advisory group such as the church/church based organization, school/school based organization, Barangay based sectoral organizations (women, framers/fishermen, youth, labor, others), Barangay-based NGOs, local media.

7. *What is the role and programme of your organization for promotion and protection of human rights at local level or in enhancing local governance for human rights?*

The CHRP's role is provide technical assistance in the establishment and operations of BHRAC; to provide its services and technical assistance to the BHRAC's complementary services and functions; build a nationwide cadre trainors on human rights and give technical assistance to the Barangay Human Rights Officers thru the conduct of BHRAC orientation, seminars and capacity building programs; develop responsive and relevant human rights modules for the BHRAO's capability upgrading, the necessary training and instructional materials; provide prototype human rights materials; investigate referred cases of human rights violations, monitor the BHRAC program and recommend policies to the national government for the furtherance of the institutionalization of the program. CHRP also formed partnership with other government agencies, particularly the Department of Interior and Local Government, the local government units through their local chief executives and councils, C/M Planning Development Coordinators and various leagues (of Barangay, Municipalities, Cities or Provinces) and various non-government organizations.

8. *What are the main challenges faced by local government in your country in the promotion and protection of human rights?*

- Non implementation of human rights policies due to insufficient funds
- Lack of interest on the part of government stakeholders, and
- Proliferation of graft and corrupt practices of government officials to include the law enforcement and security sectors.
- Lack of particular legislation?

9. *Please provide any best practices with regard to the above-mentioned issues.*

- Partnership/cooperation of CHRP with Lady Municipal Mayors Association of the Philippines (LMMAP) in promoting human rights, on localizing the human rights based approach to governance, in accordance with their respective organizational mandates and based on Philippine and Human Rights Laws. The CHRP And LMMAP cooperation consists of the following:
 - *Cooperation on formulating its Declaration of Commitment to Human Rights ora HR Charter for the LMMAP;*
 - *Cooperation on advocacy for HR policies and establishment of Barangay Human Rights Action Center;l*



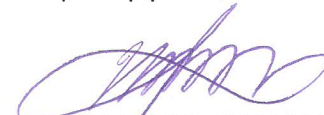
- *Cooperation on transforming LMMAP municipalities as learning hubs on mainstreaming the HRBA and its recognition with a seal of HR performance from the CHRP;*
 - *Cooperation on developing project proposals on HRBA for lady Mayors and their Municipalities.*
- In Region VII, the creation of a Human Rights Committee in each of the 70 Barangay councils in Legazpi City by the Legazpi City Legislative Council is a most welcome measure to strengthen the local human rights infrastructure. The measure shall protect villagers from any human rights violation, ensure respect, and adhere to the primacy of human rights. This is in consonance with the HRAC & ROL (Human Rights Action Centers and Rule of Law) of the CHRP where the HRACs shall be automatically manned by the Chair of the Human Rights Committee at the community level or barangays. The purpose of the presence of HRACs at all barangay level is to connect grassroots human rights programs to local governments and regional officers of the CHR. The goal is to strengthen the CHRP as the NHRI that will champion the cultivation of a culture of human rights.
- There are also regional networks on the protection of vulnerable groups. The Regional Inter-Agency Council Against Trafficking and Violence Against Women (RIACAT-VAWC) in Region VII has prepared a resolution encouraging the creation of local committees on trafficking and violence against women (LCAT-VAWC) at the provincial/city/municipal levels. Focus shall be given to areas with high incidence of trafficking, i.e., Masbate and Camarines Sur.
- The establishment of Inter-Agency Committee Against Trafficking in Region XI (IACAT-ONSE Network) headed by the Department of Justice (DOJ) led to the creation of Law Enforcement and Prosecution Cluster; Advocacy Cluster headed by DILG-XI; and, units (LGUs) in the barangay, municipal, city, and up to the provincial levels.
- Integration of human rights-based policies in local development plans. Policies, and decision-making process resulted in the passage of CALABARZON Regional Development Council (RDC) Resolution No. IV-A-09-2013 that enjoins regional line agencies, LGUs, and state universities and colleges to integrate HRBA.
- Issuance of CHRP policy in the implementation and multi-sectoral partnership on the BHRAC program including the Muslims
- Forging of Memorandum of Agreement with the Philippine Center for Muslim and Democracy (PCID) to empower the Alleemat, Muslim Women and their Communities as Human Rights Defenders.
- Crafting of a human rights training modules specially designed for the Muslim Women, to develop the capability of the Aleemat, Muslim Women, Civil Society and the community leaders for human rights advocacy, monitoring and reporting of human rights violations.
- Formation of community-based HR organizations that spearhead in the conduct of HR information activities



- Integration of Rights-based policies and programs in the local government units
- Issuance of CHR policy in the implementation and multi-sectoral partnership on the grassroots mechanism for HR promotion and protection through the Barangay Human Rights Action Center (BHRAC) program
- Issuance of Memorandum Circular by institutional partner like the Department of the Interior and Local Government (DILG) of the guidelines in the establishment of Barangay Human Rights Action Centers (BRHACs) and the election of Barangay Human Rights Action Officers (BHRAOs), capacity building of BHRAOs, reproduction of IEC materials and the adoption of measures for the promotion and protection of human rights at all levels in the Local Government Units (LGUs).
- Forging of Memorandum of Agreement with institutional partners like the DILG and the various Leagues of the LGUs for the establishment of BHRACs, implementation of national human rights advocacy program for LGUs specially the Punong Barangays (Village Chief Executives)
- Preparation of Action Plans
- Conduct of National and Regional Conventions of BHRAOs to assess the accomplishments of the program
- Awarding of best practices of the BHRACs and BHRAOs.

We hope that the information herein provided would be of help in the preparation of your report on the role of local government in the promotion and protection of human rights, pursuant to Council Resolution 24/2.

Very truly yours,



JOSE MANUEL MAMAUAG
Commissioner
Officer-in-Charge of the Commission