

**COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES**

**SUBMISSION ON DEPRIVATION OF LIBERTY OF WOMEN AND GIRLS**

26 October 2018

1. The Commission on Human Rights of the Philippines (herewith the Commission)[[1]](#footnote-1) submits to the Office of the High Commissioner for Human Rights (OHCHR), its inputs relative to the issue of discrimination against women in law and in practice, specifically on the deprivation of liberty of women and girls in the Philippines.
2. This submission took into consideration local and international reports from government, civil society, the media, and international non-governmental organizations. This submission also utilized the Commission’s own documentation of independent monitoring activities and statements which were subjected to the internal deliberations of the Commission En Banc.

**Deprivation of liberty of women and girls in the Philippines**

**I. Justice System**

*a. What are the main causes for women coming into conflict with the law and facing the associated deprivation of liberty, including pre-trial detention? Which are the groups of women who are most vulnerable and why? Please list the types of offenses for which women, or any particular group of women, are typically charged with, including administrative offenses.*

1. The Philippines has a 21.6% poverty incidence rate[[2]](#footnote-2) which means that over 20 million Filipinos or about ⅕ of the total population is still below the poverty line. Unfortunately, crimes have always been mainly associated and rooted on the pervasive poverty incidence in the country.[[3]](#footnote-3) The sudden escalation in the population of women deprived of liberty started in July 2016 after the incumbent President, Rodrigo Duterte assumed office.
2. The effect of the administration’s campaign against illegal drugs include an increase in the death toll of people accused of violating the Comprehensive Dangerous Drugs Act of 2002 or Republic Act No. 9165. As many people feared to have the same fate as those of who were extra judicially killed in the course of the war on drugs and as drug-related cases surged, many surrendered themselves to the police authorities which therefore led to the significant increase in the number of women in detention adding more to the already overcrowded jails in the Philippines[[4]](#footnote-4).
3. The Correctional Institution for Women of the Bureau of Corrections of the Philippines claims that as of 2018, 58.78% of the prison population committed crimes relative to opium and prohibited drugs, while 26.45% of women deprived of liberty committed crimes against property, 11.48% committed crimes against persons/physical, 2.04% committed crimes against personal liberty, 0.10% committed crimes against national security, 0.61% crimes committed by public officer, 0.10% committed crimes against public order, and the remainder pertain to crimes against public moral, special law/s, and quasi offenses.[[5]](#footnote-5) Most vulnerable women groups include women ages 22-59, high school level in educational attainment, Roman Catholics in religion, usually housekeepers, laborers, businesswomen, sales agents, and jobless women.[[6]](#footnote-6)

*b. Please indicate if there are cases of women facing detention in relation to civil lawsuits and identify the particular groups of women mostly affected.*

1. The Commission does not record cases of women facing detention in relation to civil lawsuits in the Philippines as imprisonment for debt or non-payment of poll tax is prohibited by the 1987 Philippine Constitution under Section 20, Article 3 Bill of Rights.[[7]](#footnote-7) Moreover, civil cases are covered by the Civil Code of the Philippines and under such law, remedies for civil infractions are limited to payment of damages. However, under Philippine laws, if a person intentionally fails to comply with its civil obligations and such is accompanied by deceit, fraud, abuse of trust, misrepresentation and misappropriation thereby causing damage to another, the act or omission may fall under the criminal offense of Estafa which is punishable by imprisonment.[[8]](#footnote-8) According to the data from Bureau of Corrections-Correctional Institution for Women, as of September 2018, of the total women deprived of liberty, 26.45% committed crimes against property and 4.40% of that percentage are those who committed estafa / swindling.

*c. What are the main challenges for women’s access to justice, including, for example, the availability and quality of legal representation, the ability to pay for bail, and the existence of gender stereotyping and bias in judicial proceedings?*

**Women Deprived of Liberty[[9]](#footnote-9)**

1. In 2015, the Commission, in partnership with the National Capital Region (NCR) Police Office, with the support of the Spanish Agency for International Development Cooperation, conducted a study on the human rights situation in police lock-up cells in the national capital region (NCR). The data gathered were collated into a module published in 2015. Among the findings in the study relative to women are the following:

**Women and children’s desks**

1. The Human Rights Desk and Women and Children’s Desk (WCD) in all Police Stations were established precisely to ensure protection of the human rights of all persons deprived of liberty, under all circumstances, from the time of arrest to the temporary detention at the police lock-up cells, and in their handling and treatment; so that minors are afforded special protection measures in view of their vulnerability. However, based on the study conducted by the Commission in 2015, there is lack of personnel in the Police Stations WCD. Not all police officers and even WCD officers have undergone the necessary training on human rights and the handling and treatment of children in conflict with the law.

**Absence of pre-natal services**

1. While the provisions under the UN Standard Minimum Rules unequivocally require the provision of pre and post-natal services, the data showed that there is generally no provision for pre-natal care and services in the different Police Stations in NCR. A rundown of all the police districts in the NCR revealed that the practice of most police stations with respect to pre and post-natal services is the same with the manner it addresses the need for medical services --- the cases are referred to the nearest clinic or government hospital. This falls short with what the Standards and the Bangkok Rules require.

**Attendance of female police officers in stations**

1. Compliance with the Standards on the presence of female officers/jailers to handle female detainees is not fully complied with by police stations in NCR. Almost half of the police stations visited in the Northern Police District and in the Manila Police District lack the required female officers.
2. In sum, the services as currently being offered and available through the different police stations in NCR are insufficient. Compliance with the other requirements, as well as the Standard Minimum Rules and of the Bangkok Rules is not evident.

**Access to Justice**

**Women with Disabilities**

1. For women with disabilities, access to justice is even more challenging due to intersecting vulnerabilities. In 2017, the Commission, through its Gender Empowerment and Women's Rights Center (GEWHRC) held a forum entitled "Problematizing Access to Justice of Women with Disabilities."[[10]](#footnote-10) During the forum, it was revealed that there are a number of barriers preventing access to justice for persons with disabilities one of which is the lack of sign language interpreters in court. Since 2001, the Philippine Federation for the Deaf (PFD) have noted around 400 cases of sexual abuse against deaf women and girls who do not have access to justice. Their cases are not pursued for lack of interpreters due to budget constraint. Special Education (SPED) teachers who serve as interpreters are not equipped to handle victims of sexual abuse, particularly children wherein different level of interpretation is needed. The Philippine Federation of the Deaf[[11]](#footnote-11) has been doing visual assessment for interpreters to identify communication needs of victims, e.g. Filipino sign language or other forms of sign language. Sometimes there is a need to bring a deaf interpreter in court because the deaf victim does not know the formal sign language.
2. There are different groupings of deaf involved in the cases that PFD handles. Sometimes the courts do not provide access to such type of communication. The Federation is trying to put together a roster of sign language interpreters who can be recommended to courts to help women with disabilities in accessing justice.
3. According to the representative of the Nationwide Organization of Visually Impaired Empowered Ladies (NOVEL) Inc.,[[12]](#footnote-12) when it comes to government programs and services, the State does not comprehensively ensure the accessibility of information and communication (assistive technology, personal assistant, sign language interpreting, guide and reader), built-in environment such as rehabilitation and shelter for women victims of violence, and other facilities and services.
4. It was observed from the Commission’s resolved regional cases that majority involves sexual violence where many of the victims were deaf, or with mental disabilities. Often, the abuse happens over a prolonged period of time and resulting to pregnancy, and is coupled with other forms of abuse. There were complainants who signed or were convinced to execute affidavits of desistance. Cases were also filed with the prosecutor or with the courts but they remain pending for reasons that, either respondent is at large, proceedings prolonged, petitions for review with the Department of Justice (DOJ), or affidavits of desistance were executed.

**Rural Women**[[13]](#footnote-13)

1. Women and girls from rural communities and located in geographically isolated and disadvantaged areas face heightened risks to gender-based violence (GBV) and are faced with greater barriers in accessing justice. Invisibility and non-reporting of GBV is common, particularly in geographically inaccessible and disadvantaged areas.

**Migrant Women[[14]](#footnote-14)**

1. Migrant women are largely recognized as being exposed to greater risk of violence with very limited access to justice in the country of destination, as well as country of origin. The kinds and nature of employment, the country of destination and the status of the migrant contribute to the vulnerability and risks to violence for migrant workers. With respect to undocumented workers, there are also laws excluding undocumented immigrant women from accessing State shelters for domestic violence therefore exposing them to arrest and other violations.

**Girl Children in Conflict with Law (CICL)**

1. Reports on CICL coming from government records at national and regional levels are not all appropriately disaggregated in terms of age and sex, which makes it challenging to make generalizations that can inform programming and decision-making.[[15]](#footnote-15) According to the Juvenile Justice Welfare Council (JJWC), among all their regional branches, only the National Capital Region (NCR) and Region VII branches were able to fully segregate the CICL in detention by sex. Based on available data, female CICL make up 10% of the total CICL population in detention.[[16]](#footnote-16) JJWC further explained that there is no available information as to whether or not the girls have separate detention areas.
2. There are no existing government programs and interventions for drug surrenderees or users who are minors despite the government having data on minors involved in illegal drugs.
3. As of December 2016, the Department of Social Welfare and Development (DSWD) is managing 15 Regional Rehabilitation Centers for Youth (RRCY) to provide intervention to CICL whose sentences have been suspended but to date, there is only one (1) facility called ‘Marillac Hills’ catering to girl children in conflict with the law. The institution is also managed by DSWD.[[17]](#footnote-17)

*d. What have been the main drivers for the increasing or decreasing of the female prison population in your country in the past decade? To what extent are non-custodial measures used, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)?*

1. Jails in the Philippines have long been congested due to lack of facilities even prior to the implementation of the current administration’s ‘war on drugs,’ which now topped to 511% congestion or overcrowding rate.[[18]](#footnote-18) Although drug arrests mainly target men, their partners are also being detained thereby leaving motherless households, neglected children and congested jails. Since 2016, thousands of women have been arrested for alleged violations under Republic Act (RA) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002. As of December 2017, drug-related inmates accounted to 97,820, 13% or 12,716 of whom are women[[19]](#footnote-19). Due to the administration’s war on drugs, there results a higher incidence of overcrowding and congestion in detention facilities. This scenario leads to ineffective provision of facilities and services that cater to women such as prenatal services.
2. To date, the country’s compliance with the Bangkok Rules has not yet caught significant attention from the general public, the government, and the academe. However, a workbook entitled “*Women in detention: Putting the UN Bangkok Rules on women prisoners into practice”* published by Penal Reform International cited that two women prison facilities in the Philippines ensures prisoners have contact with the outside world pursuant to the Standard Minimum Rules (Rules 58(1) and 63), where women prisoners can speak with their relatives who live far from the prison using Skype.[[20]](#footnote-20) Moreover, the Commission conducted a study published in 2015 on the Human Rights Situation in the Police Lock-up Cells in the National Capital Region which highlighted the absence of pre and post natal services and medical attention to women PDL and the noncompliance of the police stations with the Standards on the presence of female officers/jailers to handle female detainees.[[21]](#footnote-21) The study concluded that compliance with other requirements, as well as the Standard Minimum Rules and of the Bangkok Rules is not evident.[[22]](#footnote-22)

**II. Other institutions**

1. Any good practices you may have identified in addressing the causes and extent of deprivation of liberty of women and girls
2. The main developments in law or practice in the past five years
3. The main challenges within your country or region in tackling the issue

*1. What other institutions outside the justice system exist in your country wherein woman and girls are institutionalized on grounds such as care, correction, protection and prevention against potential harms, etc.? Please list the groups of women and girls who are most concerned in each situation.*

1. There are various institutions in the Philippines that protect and assume their responsibility in promoting the rights of women and girls and further advocate the elimination of any forms of discrimination and deprivation on their part. Among these are government agencies, NGOs and other organizations operating for the benefit of women and girls:

**Government Institutions**

1. **The Philippine Commission on Women,** acts as the national machinery for gender equality and women's empowerment. They are responsible for instituting the gender responsiveness of national development plans and coordinate the preparation, assessment and updating of the National Plan for Women, ensure its implementation and monitor the performance of government agencies in the implementation of the Plan at all levels.[[23]](#footnote-23) One of the Commission’s focus is eliminating violence against women.
2. Furthermore, the **Commission on Human Rights of the Philippines**, designated as the Gender and Development Ombud under the Magna Carta of Women, pursuant to such role, advocates for the promotion, protection and fulfilment of women’s human rights and the rights of persons with diverse SOGIE.[[24]](#footnote-24) Together with the other institutions such as [Department of Social Welfare and Development (DSWD), Department of the Interior and Local Government (DILG) and 12 other agencies, they are currently pushing for Nominations for Non-Government Organization Representatives to the Inter-Agency Council on Violence Against Women and their Children.](https://www.dswd.gov.ph/)[[25]](#footnote-25)
3. In addition to this, the **Women and Children Protection Center of the Philippine National Police** conducts rescue operations of victims of violence against women and children (VAWC) as well as victims of trafficking in persons;​ Conduct relevant information-gathering activities, processing and analyses of gathered information for policy and strategy formulation.[[26]](#footnote-26)

*2. (a) Any good practices you may have identified in addressing the causes and extent of deprivation of liberty of women and girls.*

1. Government efforts have led to substantial developments for the greater protection of women’s rights in the country, such as recognition of women’s movements; increased numbers of educated women; increased number of women in politics; and more laws on enhanced protection of women in the workplace, domestic violence, sexual harassment and human trafficking, among others. These efforts, thus, led to the Philippines being recognized as having the smallest rates of gender disparity in the world, where the country ranked seventh out of 145 countries for gender equality in the 2015 Global Gender Gap Index.[[27]](#footnote-27)
2. As cited in the Study of Human Rights Situation in police Lock-up Cells in the National Capital Region, good practices in some of the police lock-up cells in the country include the following situations: (a) In the absence of medical officers, Philippine National Police (PNP) Stations have standing arrangements with government hospitals near the area to accommodate and extend services to the detainees in need of medical treatment; on-call medical officers. (b) In other stations, there are monitoring boards (white boards) in order to keep detainees and police officers informed of the schedule of hearings as well as the status of cases. (c ) There is also subsistence offered by the local government unit of Paranaque police station for the first 50 detainees.[[28]](#footnote-28)
3. In addition to this is the proposition of **House Bill 2319 or An Act Enhancing Protection for Women Inmates Held in Jails and Correctional Facilities** which aims to post women prison guards or female staff performing custodial work in jails and correctional facilities for women inmates, and to put these facilities under the authority, control and supervision of women prison officers.[[29]](#footnote-29) The said purpose is to prevent and protect women inmates from the escalating case of being sexually, physically abused inside the jail by male prison guards or officials that may result into more crimes against women and more harm done including unwanted pregnancy, abortion and even sexually transmitted disease inside the penal institution. Another good practice, as being reiterated, is evident in two women’s prisons in the Philippines, prisoners can speak with their relatives who live far from the prison using Skype. This is a low-cost way of ensuring contact on a regular basis.[[30]](#footnote-30)
4. Also, former President Benigno Aquino III signed [**Republic Act 10575**](http://www.gov.ph/2013/05/24/republic-act-no-10575/)in 2013, which modernizes the BuCor by *"upgrading its facilities, increasing the number of its personnel, upgrading the level of qualifications of their personnel and standardizing their base pay, retirement and other benefits." This law aims to improve, among others, the 1:144 guard-to-inmate ratio in The Correctional Institution for Women* (CIW).[[31]](#footnote-31)

**Correctional Facilities/Rehabilitation Centers for Women and Girls Deprived of Liberty**

1. Globally, more than half a million women and girls are in prison serving a sentence following conviction, or awaiting trial[[32]](#footnote-32) and women detainees together with juvenile female offenders belong to one of the vulnerable groups that have specific needs[[33]](#footnote-33) and also have the right to achieve fair and equitable situation as with the male inmates. In realizing this, the construction of **The Correctional Institution for Women (CIW)** located in Mandaluyong City, is the country's first and only penal institution dedicated to women offenders. It is one of the 7 operating units under the Bureau of Corrections (BuCor).[[34]](#footnote-34) Furthermore, the urgency to establish the said institution was evident when it was created by Administrative Order No. 287 by the President of the Philippines. It was noted that “before a separate building was constructed especially for women prisoners, all female convicts were confined at the Old Bilibid Prison on Azcarraga St., Manila. The male prisoners were confined in dormitories near the women’s quarters.[[35]](#footnote-35)
2. Moreover, the Department of Social Welfare and Development (DSWD) is managing a center for women called the **Haven for Women** which provides temporary shelter and protective custody to women 18-59 years old who are victims of various forms of abuse. Through the different programs and services, the women-residents are helped to cope with their trauma and eventually lead dignified lives.[[36]](#footnote-36)
3. Programs and services of the said institution include home life services, counseling, socio-cultural and recreational program, spiritual enhancement, leadership and skills training, medical and dental services, vocational training and livelihood productivity program. Social workers from the center also escort women during court hearings in the absence of social workers from the local government units (LGUs).[[37]](#footnote-37)
4. Along with this is the Department of Health’s (DOH) **Treatment and Rehabilitation Center** for both female and male.[[38]](#footnote-38) **Bahay Pangarap Women’s Center** in the diocese of Malolos is a registered, licensed and accredited center by the Department of Social Welfare and Development. It is a 24-hour residential facility which provides shelter, care and protection for women and girls 10-45 years of age who are in crisis.[[39]](#footnote-39)
5. Aside from the aforementioned institutions, there is also the **Marikina Boys Town (MBT),** situated in Parang, Marikina. The MBT was established in 1947 as a residential care center for Manila's for boys aged 8 to 16. The MBT also includes a Girls Home for those aged 3 to 16.[[40]](#footnote-40)
6. According to a research conducted by**HLAF Humanitarian Legal Assistance Foundation**Philippines, in cases regarding Children in Conflict with Law (CICL) and Children at Risk (CAR), one of the first steps is reaching out to these kids while still establishing a position of authority. The Barangay Council for the Protection of Children (BCPC) starts an interview with the child by making them feel that they aren’t there to judge and also, they are there to protect the interest of the child, giving them a free space to tell the truth and be open.[[41]](#footnote-41)
7. In addition to this, the team of the social workers in Longos, Malabon has taken the idea of the **Children’s Notebook** wherein a child in conflict with law or child at risk where they enumerate all daily activities from the time they wake up to the time they turn in.[[42]](#footnote-42) By this, the child will be able to reflect upon the things he/she did. The rule is that if they weren’t able to fulfill their duty in writing truthfully, there has to be sanction nothing too heavy but something they will feel like community service.[[43]](#footnote-43)

*3. Please explain the decision-making process for the institutionalization of women and girls in each situation, including the role of women and girls themselves in the decision on institutionalization. Please highlight any good practices in terms of enabling women to exercise agency within institutional systems, with due respect to their rights?*

**Admission to Penal Institutions of Women and Girls**

1. According to Former BuCor officer-in-charge Celso Bravo’s report, the Reception and Diagnostic Center, the receiving arm of BuCor, admits inmates and classifies them based on their security status (maximum, medium, minimum) for 60 days. Inmates undergo psychiatric, psychological, medical, and other examinations during this period.[[44]](#footnote-44)
2. Upon arrival at the Correctional Institution for Women (CIW), inmates are brought to the Receiving Office, where they will go through an inspection. Items like money will be taken and put in their prison record, while drugs and medicines will be given to a medical officer for dispensation.
3. Then they will be photographed for identification purposes, given a haircut, and issued prison uniforms and equipment. They will then be taken into quarantine for 5 days.[[45]](#footnote-45)
4. [In a news report](http://www.abs-cbnnews.com/video/nation/04/15/15/tingnan-ang-bagong-kulungan-ni-napoles), it has been said that the 60 days under the Reception and Diagnostic Center will serve as the inmate's reformation. After this period, the inmate will then be allowed to mingle with the other inmates[[46]](#footnote-46).
5. According to the Ombudsman report on 2006, the good practices that the (CIW) offer are as follows:
6. CIW inmates were found to be engaged in handicraft, swine, poultry, and small-scale vegetable production[[47]](#footnote-47).
7. CIW inmates get a P100-compensation for various works in its agro-industrial projects," while those "involved in making religious articles and handicrafts are paid per piece by CIW’s private contracting partner.[[48]](#footnote-48)
8. CIW has more or less 20 NGOs that extend various assistance to its inmates in different areas such as livelihood, religion, and education, among others. There is a gallery located near the control gate where the listing of NGOs is displayed.
9. **Child in Conflict with the Law (CICL) and Child at Risk (CAR)** refers to children who are vulnerable to and at risk of behaving in a way that can harm themselves or others, or vulnerable and at risk of being pushed and exploited to come into conflict with the law because of personal, family and social circumstances.[[49]](#footnote-49)
10. Depending on the nature of the case, the composition of the rescue team shall vary. The composite team shall, however, properly observe role delineation with the police as lead agency in rescuing the child and apprehending alleged adult perpetrators, if any.[[50]](#footnote-50) Moreover, the rescuing of CAR who violate ordinance or commit decriminalized acts may receive sanctions depending on the gravity and severity of the act the child committed. In view of this, in cases wherein the child is charged with light offense, he/she would not be directly released but warning, along with the Barangay Council for the Protection of Children (BCPC) or social workers’ reproach is given before releasing them to their parents.
11. For children in conflict with law, or a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws,[[51]](#footnote-51) Initial contact with the child refers to the apprehension or taking into custody of a child in conflict with the law by police officers or private citizens. It includes apprehension with or without a warrant.[[52]](#footnote-52)
12. The CICL shall enjoy the rights laid down in R.A. No. 9344 as amended and its Implementing Rules and Regulations, and shall enjoy the protection of other laws, whenever applicable from the first time that the child comes in contact with the Juvenile Justice and Welfare System.[[53]](#footnote-53)
13. In all cases, the processing of the CICL shall be conducted by the WCPD. The processing of the child shall include the following procedures: a. Notifying the parents/guardians of the CICL within eight hours from initial contact; b. Notifying the Local Social Welfare and Development Office and the PAO within eight hours from initial contact; c. Recording the personal circumstances of the child and filling out the intake form in Annex C or D; d. Determining the age of the child; e. Gathering evidence if the child is dependent, abandoned, neglected and/ or abused; and f. Taking the fingerprint and the photograph of the child.[[54]](#footnote-54)
14. Appropriate measures are taken into procedure if the child is willing to make statement
15. As reported by UNICEF-Philippines, the availability of appropriate services for children at the local level is an imperative to address child offending issues. The need to prepare the community and society in general should be a crucial and timely undertaking, as well.[[55]](#footnote-55)
16. The provision of rehabilitation programs at the RRCYs and BPAs is not enough and will have insufficient impact, if they fail to respond to the individual needs of the CICL or to the demands of the outside world. Innovation should be constantly introduced, especially at the local level. The introduction of new methods, techniques, models, systems, and processes in answering the needs of CICL must be practiced.[[56]](#footnote-56)

The following are the main good practices identified by the UNICEF evaluation team:

1. A good inter-agency and multi-sectoral network has been identified as a facilitating factor in all the regions visited. In some Local Government Units (LGUs), the Barangay Council for Protection of Children (BCPC) play an active role or takes the lead in mobilizing other agencies.[[57]](#footnote-57)
2. The programs under evaluation can promote internal evaluation and feedback mechanisms to engage the participation of CICL in the design, delivery, and monitoring of their activities. Case conferences prior to the discharge of CICL can help build a smooth transition to the after-care program.[[58]](#footnote-58)

**III. Forced Confinement in private contexts**

*What forms of forced confinement of women and girls exist in a private or social context sanctioned by family, community or group of individuals such as abduction, servitude, guardianship, “honor” practices, trafficking, home detention, “witch camps”, widowhood rites, etc.?*

1. Although it is not generally viewed as a form of “forced confinement”, early marriage is still being practiced in some parts of Mindanao which in some cases serve as a coping mechanism to address economic vulnerability. Upon consultation with UNHCR Philippines, both the Commission and UNHCR do not have any data on the number of girls below 18 who are married and attention from humanitarian agencies is more focused on the analysis of its impact on adolescent development, access to education, etc., as grounded in the particular cultural and religious context of Muslim Filipinos in Mindanao.[[59]](#footnote-59)
2. According to the Global Slavery Index as of 2018, there are about 784,000 Filipinos living in modern day slavery.[[60]](#footnote-60) Modern day slavery, as defined by the U.S. Department of State and Anti-Slavery International, is an umbrella term for sex trafficking and compelled labour which is comprised of sex trafficking, child sex trafficking, forced labor, debt bondage, domestic servitude, forced child labour, unlawful recruitment and use of child soldiers,[[61]](#footnote-61) and forced and early marriage[[62]](#footnote-62). Apparently, there are no publicly available data on the forms of slavery concerned in the statistics in the Philippines given by Global Slavery Index.

*1. Please identify the groups of women and girls who are most affected by these situations.*

1. The Commission and other institutions do not have specific data on this matter.

*2. What is the role of law and policy (including customary law and authorities) in your country concerning these types of confinement?*

1. In contrast with the legal age of majority here in the Philippines which is 18, the Code of Muslim Personal Laws (Presidential Decree No. 1083) allows Muslim females from the age of puberty upwards to enter into marriage. A female is presumed to have attained puberty upon reaching the age of 15 and is therefore believed to have legal capacity to contract marriage under Islamic rites.[[63]](#footnote-63)
2. **Migration and crisis situations**
3. *What are the specific risks of detentions and confinement encountered by women on the move in the context of asylum seeking, internal displacement and migratory processes?*
4. Generally, refugees and asylum seekers are more vulnerable to exploitation and trafficking prior to their arrival in the country of asylum. Many women are unaware that their situations and experiences in their country of origin could even qualify them for asylum. In the Philippines, the Government undertakes the assessment of asylum applications and individuals may either apply once inside the country or while at the airport. Those who apply for asylum at the airports following their exclusion by the Philippine immigration authorities are usually held at the airport lounge area while their application is being assessed by the Government.
5. According to UNHCR Philippines, the absence of designated space at the airport poses a safety and security concern on the well-being of female asylum seeker. Limited access to water, hygiene and sanitation facilities is also a concern to asylum seekers in general. While asylum seekers have access to basic medical care, specific medical intervention for pregnant asylum seekers are only available outside of the airports and subject to clearances from authorities.[[64]](#footnote-64)
6. The Government has been institutionalizing refugee and asylum system in the Philippines with the establishment of Refugee and Stateless Persons Protection Unit (RSPPU)[[65]](#footnote-65) and other initiatives. However, the lack of clarity on which agency is responsible for providing food and basic needs of asylum seekers at the airport is yet a concern that the Government has to address with concerned airlines.[[66]](#footnote-66) UNHCR Philippines reaffirmed its commitment to advocate with the Philippine Government the provision of gender-sensitive material reception conditions at the airport.[[67]](#footnote-67)
7. The Philippine Government allows UNHCR and civil society to access asylum seekers at the Bureau of Immigration warden facility. During its last visit, UNHCR noted that there is a separate facility for women but the number of female warden officers at the facility is low thus specific needs of women may not be appropriate addressed on this account which as observed, female hygiene kits are not provided in the facility as well as access to drinking water.[[68]](#footnote-68) Female asylum seekers are more susceptible to abuse and exploitation in exchange of obtaining their basic needs within the facility and unlike nationals in detention, most refugees and asylum seekers find themselves without financial support from relatives. Moreover, health has always been a significant concern to detainees as they lack access to free potable drinking water.
8. As the current major focus of UNHCR Philippines is on the internally displaced persons in Mindanao area due to the Marawi Conflict which just ended a year ago, it has recognized that internally displaced women may face risks of detention/confinement linked to the specific vulnerabilities of IDPs particularly in armed conflict situations such as lack of identity documents, arrest on suspicion of being members of armed groups, hostage-taking during conflict or risk of trafficking due to economic vulnerability during displacement.[[69]](#footnote-69)

*2. What is the policy relating to the administrative detention of women migrants including pregnant women and women with children?*

1. Generally, the Philippines adopts the principle of non-detention on account of being a refugee or asylum seeker regardless of the sexual orientation by virtue of Section 3, para b, Circular No. 58 of the Department of Justice[[70]](#footnote-70). UNHCR has observed that an individual will only usually declare intentions to seek asylum after being detained.[[71]](#footnote-71)
2. There was a legislative attempt to further clarify and institutionalize systems and regulations on administrative detention through the proposition of ‘Philippine Immigration Act of 2009’ in the Congress but to date, there are no updates on this matter. The only legislated document stating a policy on detention of aliens is the ‘Philippine Immigration Act of 1940’[[72]](#footnote-72) which states the following:

*Sec. 25. For the purpose of determining whether aliens arriving in the Philippines belong to any of the classes excluded by the immigration laws, the Period examining immigration officers may order such aliens detained on board the vessel bringing them or in such other place as the officers may designate, such detention to be for a sufficient length of time to enable the officers to determine whether they belong to an excluded class and their removal to such other place to be at the expense of the vessel bringing them.*

1. The enacted immigration law above clearly needs to be reviewed as it has been over 70 years since it was legislated and there have been significant changes in the society to be considered, new set of problems and concerns to be addressed, and international standards that the Philippines has to comply with today.
1. As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The Commission has “A”-status accreditation from the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI). [↑](#footnote-ref-1)
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8. The crime of estafa has two elements:: (1) there is an element of deceit or fraud used by the offender against the victim; and (2) as a result of the deceit, the victim suffered some form of damage or injury. Estafa is a punishable crime under Article 315 of the Revised Penal Code of the Philippines. [↑](#footnote-ref-8)
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