

**For consideration of the Committee on the Elimination of Discrimination against Women -  
General Discussion on "Access to Justice"**  
(Half-day general discussion on 18 February 2013)

*A submission from:  
Philippine Alliance of Human Rights Advocates /  
Philippine Coalition on the U.N. Convention on the Rights of Persons with Disabilities*

Article 2 (b) providing that States parties undertake to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

Article 2 (c) providing that States parties undertake to establish legal protection of the rights of women on an equal basis with men and ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination ...

Women with disabilities comprise a subsector of Filipino women rarely included or even acknowledged. They experience marginalization and discrimination at the intersecting planes of gender and disability. Thus, the societal barriers that isolate them operate through complex multidimensional relationships and social interactions with Filipino men: those of the majority, as well as Filipino men with disabilities.

Gender stereotyping of roles of Filipino women also affect women with disabilities, seriously restricting their opportunities to education, livelihood & employment, and overall self-development and dignity of personhood. Despite very limited state data, the most compelling of this discrimination is revealed in gender / disability – based violence. Frequently this also intersects with age, thus affecting many girls with disabilities.

The Philippine Deaf Resource Center, an NGO, reports that of 231 cases filed by deaf parties in trial courts from 2006-2012, 75% involve female complainants. Of 243 cases with known data on the nature of the case, charges of rape were ten times higher than any other charge. In 100 cases with known data filed by deaf minors, 84% of the complainants were female.<sup>1</sup>

Data gathering by the Philippine Coalition on the U.N. Convention on the Rights of Persons with Disabilities reveals that from 2008-2012, 25 rape cases of women with disabilities which have reached the Supreme Court almost all involve women with

---

<sup>1</sup> Access to Justice: Case Monitoring Report by the Philippine Deaf Resource Center (2006-2012)  
[http://www.phildeafres.org/pdf/PDRC\\_Case\\_Monitoring.pdf](http://www.phildeafres.org/pdf/PDRC_Case_Monitoring.pdf)

intellectual disabilities.<sup>2</sup> This reflects vulnerabilities of particular disability constituencies.

### **Accessibility & Reasonable Accommodation**

#### *Barriers*

It is hard enough for women victims of violence to come forward and speak of their ordeal. For women with disabilities, these barriers are even several times more complex, compounded further by factors of age, and poverty.

For women with disabilities, the pursuit of justice impinges on the *accessibility* of: (1) built environments which house the pillars of justice, and (2) information and communication throughout all legal proceedings. *Reasonable accommodation* is an important principle here wherein necessary, appropriate modifications and adjustments are made where needed in particular cases without imposing a disproportionate or undue burden. The provision of these procedural and age-appropriate accommodations enables women with disabilities to enjoy and exercise their human rights and fundamental freedoms, including access to justice on an equal basis as others. The denial of reasonable accommodation constitutes discrimination.<sup>3</sup>

Despite the existence of the Philippine Accessibility Law<sup>4</sup>, systematic audits of buildings housing trial courts and police stations are rarely done, if at all. In particular, trial courts throughout the country continue to be largely noncompliant buildings inaccessible to women who use wheelchairs.

For deaf women, and women with intellectual disabilities who are victims of violence, their access to information, and the use of language and communication are of paramount concern when they seek redress through the justice system.

The Philippine Deaf Resource Center reports<sup>5</sup> that:

- of 168 documented cases on gender-based violence of which 119+ cases have known data, 79 cases involve female deaf parties younger than 18 years of age;
- in 100 cases filed by deaf female complainants, only 31 have court-appointed interpreters;
- 16 cases of gender-based violence with known data filed by unschooled deaf female complainants, only a tenth have court appointed Deaf Relay

---

<sup>2</sup> Philippine Coalition on the U.N. Convention on the Rights of Persons with Disabilities. UNCRPD Parallel Report. (in progress).

<sup>3</sup> Article 2. U.N. Convention on the Rights of Persons with Disabilities.

<sup>4</sup> Batas Pambansa Blg. 344. [http://www.architectureboard.ph/uploads/1212969359-BP344%20\(1983\).pdf](http://www.architectureboard.ph/uploads/1212969359-BP344%20(1983).pdf)

<sup>5</sup> Access to Justice: Case Monitoring Report by the Philippine Deaf Resource Center (2006-2012) [http://www.phildeafres.org/pdf/PDRC\\_Case\\_Monitoring.pdf](http://www.phildeafres.org/pdf/PDRC_Case_Monitoring.pdf)

Interpreters. A quarter of these cases have volunteer Deaf Relay Interpreters, while the rest either have no interpreters, or have no data on the interpreting.

The Philippine Deaf Resource Center also reports that in 108 rape cases with known data, 88 of these cases (or 81%) involve a hearing male perpetrator. This means that in court proceedings, male respondents do not face the communication disadvantage that deaf female complainants have to struggle with. Male respondents would even have at their disposal, over 2,000 fulltime court interpreters for spoken languages available nationwide in the trial courts.

This dire situation was the impetus for the individual communication sent by the University of the Philippines Dept. of Women and Development Studies with the Philippine Deaf Resource Center to the CEDAW Committee under the Optional Protocol concerning the rape case of a deaf minor in 2010.<sup>6</sup>

### *Lack of awareness*

It is a fact that there is a lack of awareness in the Philippine legal and judicial systems on handling cases of persons with disabilities in general. This has a much more pronounced effect on the many cases of gender-based violence. Experiences by disabled peoples' organizations such as the Filipino Deaf Women's Health and Crisis Center have revealed a lack of sensitivity and appropriate behavior toward female complainants. These range from the reporting of cases in police stations, to medico-legal examination of rape victims, the various stages of investigation, and throughout examination of the female complainant during court proceedings.

The Philippine Deaf Resource Center has observed in communicating with courts (on a one on one basis for the past 6 years) that prosecutors, lawyers and judges are generally not aware of the existence of the two Supreme Court policies which require lower courts to provide and spend for sign language interpreting for deaf parties in a case<sup>7</sup>. They are frequently at a loss as well on how to make court hearings accessible for deaf parties – the arrangement for interpreting services, and the actual conduct of sign language / voice interpreting.

A dire need for orientation on disability, and the provision of accessibility and reasonable accomodation has also been noted in the village justice system of the country (*Katarungang Pambarangay*). This awareness-raising is critical for the administering of justice at the local government level for the many cases which are unable to reach the

---

<sup>6</sup> Women claiming rights with the United Nations: Accessing the Optional Protocol of the CEDAW and the ICCPR. <http://sexandsensibilities.com/2011/05/22/women-claiming-rights-with-the-united-nations-accessing-the-optional-protocol-of-the-cedaw-and-the-iccpr/>

<sup>7</sup> Memorandum Order 59-2004. <http://www.ncda.gov.ph/disability-laws/memorandum-order-no-59-2004/>. Office of the Court Administrator Circular 104-2007. <http://www.ncda.gov.ph/disability-laws/oca-circular-no-104-2007/>

court system. Documentation of such cases at the local level involving persons with disabilities are very rare, except for some data involving deaf women by the Philippine Deaf Resource Center.<sup>8</sup>

### *Policy and legislation*

A policy regarding *reasonable accommodation* for deaf women and all other women with disabilities does not exist in the Department of Justice and its agencies (which includes the Philippine National Police and the Public Attorney's Office). Even the Women and Children's Protection units of police stations do not have sign language interpretation at hand or other provisions for accessibility. Clearly, there has been no state-initiated training to raise awareness about the needs of women and girls with disabilities within the Department of Justice or the Judiciary.

Recent efforts to reach Public Prosecutors of the Department of Justice through awareness raising seminars were at the initiative of civil society organizations: the Philippine Federation of the Deaf, the Philippine National Association of Sign Language Interpreters for the Deaf, and the Philippine Deaf Resource Center<sup>9</sup>.

Proposed House Bill 4631<sup>10</sup> which aims to institutionalize court sign language interpreting has not received any attention from the Congress Committee on Justice which has not initiated deliberations since the proposed legislation was filed. It should be noted also that among the targets in the National Plan of Action was the establishment of a system for sign language interpreting by 2007. To date, no significant progress has been made toward this goal.

### **Documentation and monitoring**

Discrimination and injustice toward women with disabilities is perpetuated by an invisibility rooted in a very serious lack of data. There are no systematic national mechanisms for gathering disaggregated information on cases involving women with disabilities in all of the following: Department of Justice, Judiciary, Philippine Commission on Women, National Council for Disability Affairs, Department of Social Welfare and Development, Council on the Welfare of Children, and also the Commission on Human Rights.

Even frontlining law enforcement agencies do not document reported cases thus, there is a glaring absence of nationwide statistics on women and girls with disabilities. This same inadequacy is found in all the trial courts of the country, consequently resulting in weakly organized jurisprudence.

---

<sup>8</sup> Access to Justice: Case Monitoring Report by the Philippine Deaf Resource Center (2006-2012) [http://www.phildeafres.org/pdf/PDRC\\_Case\\_Monitoring.pdf](http://www.phildeafres.org/pdf/PDRC_Case_Monitoring.pdf)

<sup>9</sup> DOJ training of Prosecutors – NCR. <http://vimeo.com/31335636>.

<sup>10</sup> <http://housebills4deaf.webs.com/hb4631.htm>; see also <http://housebills4deaf.webs.com/hb6079.htm>

The recently created Sub Committee on Access to Justice and Non-Discrimination by the National Council for Disability Affairs is of the opinion that ensuring accessibility through sign language interpreting for deaf parties in the courts is not within its scope of work<sup>11</sup>.

The serious inadequacy of the State and even the independent national human rights institution in documenting and monitoring violations of the rights of women and girls with disabilities in access to justice has shifted this responsibility to human rights defenders, many of whom are women with disabilities themselves. This amplifies the need to capacitate and protect women with disabilities who are both the victims of violence and discrimination as well as the champions for the protection of their own human rights.

#### **PROPOSED RECOMMENDATIONS TO STATES:**

- 1. Consider and include disability in the creation and implementation of all laws, policies and programs for women in general, and specifically with respect to access to justice, appropriating funds at both the national and local levels.**
- 2. Ensure and monitor the full accessibility of built environments, and the information and communication aspects of proceedings of all state agencies involved in the administration of justice, including making information available in accessible formats and signed language on one's legal rights, and particularly regarding victims of violence.**
- 3. Provide reasonable accommodation including procedural accommodations through professional sign language interpreting, and the use of alternative modes and formats of communication so that women and girls with disabilities can participate in legal and judicial proceedings on an equal basis with others.**
- 4. Document, monitor and analyze cases of violence against women and girls with disabilities, and create accessible programs that shall protect them, and enable them to pursue justice while facilitating their healing and recovery.**
- 5. Conduct regular institutional training to increase awareness and sensitivity on the needs and concerns of women and girls with disabilities among personnel involved in the administration of justice.**

---

<sup>11</sup> Meeting notes. Sub-Committee on Access to Justice and Anti-Discrimination. National Council for Disability Affairs. 19 October 2012, Quezon City.

- 6. Closely consult with, and actively involve women with disabilities, including girls with disabilities, through their respective organizations, in all aspects of planning and implementation of legislation, policies and programs relating to access to justice.**
- 7. Recognize and include women with disabilities as human rights defenders at all levels of governance to ensure their full protection and participation on an equal basis with others.**

#### About the submitting organizations

The *Philippine Coalition on the U.N. Convention on the Rights of Persons with Disabilities* was initially organized in 2010 and formally constituted in February 2011. The core group is currently comprised of eighteen disabled people's organizations (DPOs) and nongovernment organizations (NGOs), covering nine disability constituencies, and several national federations. The Coalition as a whole represents over 65,000 Filipinos with disabilities.

For further information, contact:

Liza B. Martinez, Ph.D.

[philcoalitioncrpd@gmail.com](mailto:philcoalitioncrpd@gmail.com)

#### *PHILIPPINE COALITION ON THE U.N. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES*

Alyansa ng may Kapansanang Pinoy ▪ Autism Society Philippines ▪ Government Union for the integration of differently-abled Employees ▪ Katipunan ng mga Maykapansanan sa Pilipinas ▪ Las Piñas Federation of Persons with Disabilities ▪ Leonard Cheshire Disability Philippines ▪ Life Haven ▪ New Vois Association ▪ Nova Foundation ▪ Parents Association of Visually impaired Children ▪ Philippine Association for Children With Developmental and Learning Disabilities ▪ Philippine chamber for Massage Industry for Visually Impaired ▪ Philippine Deaf Resource Center ▪ Philippine Federation of the Deaf ▪ Punalaka ▪ Quezon City Federation of Persons With Disabilities ▪ Tahanang Walang Hagdanan ▪ Women with Disabilities Leap To Social and Economic Progress

The *Philippine Alliance of Human Rights Advocates (PAHRA)* is a network of forty human rights and sectoral civil society organizations nationwide and a member of the International Federation of Human Rights Leagues (FIDH) as well as an affiliate network of the World Organization Against Torture (OMCT). It is also a member of regional organization Asian Forum of Human Rights and Development (FORUM-ASIA). The Philippine Coalition on the U.N. Convention on the Rights of Persons with Disabilities collaborates with the PAHRA on various human rights advocacies, including the writing of joint submissions to the U.N. such as the Universal Periodic Review.

For further information, contact:

Max de Mesa / Rose Trajano

Philippine Alliance of Human Rights Advocates

[pahra@philippinehumanrights.org](mailto:pahra@philippinehumanrights.org)