



COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES:
“Significant Developments, Challenges and Prospects on Its 20th Year”

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On 5 May 2007, the Commission on Human Rights of the Philippines (CHRP) celebrated its 20th anniversary amidst challenging human rights issues, threats to its independence, and opportunities in view of significant developments at the international, regional and domestic levels.

I. National Issues and Responses

1) Spate of Extrajudicial Killings, Disappearances and Other HRVs

The Philippine human rights situation today is marked by pressing human rights issues, such as the spate of unexplained extrajudicial killings and disappearances, political violence and other civil and political rights violations. These are on top of the recurring issues on the right of suffrage at the onset and culmination of the national and local elections in May, as well as concerns on poverty, hunger and other economic and social issues.

The unabated killings have in fact merited the visit of the United Nations Special Rapporteur on Extra Judicial Killings, Mr. Philip Alston, to the Philippines in February 2007. After his 10 day fact-finding mission in the country, Mr. Alston provided several recommendations to the government, including that on strengthening the CHRP.

As one of government's responses, President Gloria Macapagal Arroyo granted CHRP a P25M Contingency Fund to support its nationwide investigatory efforts, monitoring of human rights violations and training programs.

2) Creation of Special Courts on ExtraJudicial Killings

The Supreme Court of the Philippines (SC) likewise responded by creating 99 Special Courts nationwide to fast-track the resolution of extrajudicial killing (EJK) cases. Necessarily, the Commission must provide the judges of these special courts essential human rights trainings. In June this year, CHRP and the Philippine Judicial Academy conducted a two-day “Seminar-Workshop for Judges on Extrajudicial Killings and Enforced Disappearances” to address the concerns on the procedure to identify and decide cases on EJK. Two more training batches are scheduled in the second semester of the year, which would also cover special prosecutors designated for EJK cases.

3) Summit on Extrajudicial Killings

The SC today is flexing its judicial activism. Last July 2007, the SC in cooperation with the CHRP held a Multi-Sectoral Summit on ExtraJudicial Killings. The Summit aimed 1) to arrive at holistic solutions and provide inputs to the SC in its objective of enhancing existing rules, or promulgating new ones, in the protection and enforcement of constitutional rights, including the protection of the witnesses; 2) to examine the concept of extrajudicial killings and enforced disappearances pursuant to the standards provided for by local and international laws, including United Nations instruments; and, 3) to revisit the rules of evidence and to explore more remedies for the aggrieved parties aside from the *writ of habeas corpus*.

The widely attended summit came out with several recommendations, including again calls for giving more powers to the CHRP, which according to the multi-sectoral participants, “*is more trustworthy than the justice department*”.

4) Human Security Act of 2007

The 13th Congress passed in April 2007 the Human Security Act of 2007 (R.A. 9372) or the anti-terrorism law that provides the Commission prosecutorial powers and more responsibilities. Section 55 defines the role of CHRP: “*The Commission on Human Rights of the Philippines shall give the highest priority to the investigation and prosecution of violations of civil and political rights of persons in relation to the implementation of this Act; and for this purpose, the Commission shall have the concurrent jurisdiction to prosecute public officials, law enforcers, and other persons who have violated the civil and political rights of persons suspected of, accused of, or detained for the crime of terrorism or conspiracy to commit terrorism.*” Moreover, Section 19 states, “*In the event of an actual or imminent terrorist attack, suspects may not be detained for more than three (3) days without the written approval of a municipal or regional official of a Human Rights Commission....*”

The implications of the Human Security Act on human rights pose a huge challenge to the Commission on many aspects. On one hand, it empowers the CHRP to give protection to suspected terrorists from human rights violations, and on the other hand, to grant authority for the longer detention of a suspect in the event of an actual or imminent terrorist attack.

5) Expansion and Strengthening of Presidential Human Rights Committee

An important domestic measure that CHRP worked out with its partners is the expansion and strengthening of the Presidential Human Rights Committee (PHRC). Last December 8, 2006, the President signed Administrative Order 163 “Strengthening, Increasing the Membership and Expanding Further the Functions of the Presidential Human Rights Committee”.

Under AO 163, PHRC has graduated from a mere advisory body to the President. Now, it serves as the President’s arm to coordinate implementation of the various human rights treaties by the concerned government agencies. Thus, CHRP now has one strategic partner in the government through the PHRC.

AO 163 strengthened PHRC by: (1) increasing the number of member agencies with the inclusion of five critical government agencies namely, Office of the Executive Secretary, Department of Budget and Management, Office of the Press Secretary, National Economic Development Authority and National Anti-Poverty Commission; (2) elevating the representation of the agencies to the level of Secretary thereby making decision and policy making at the highest level possible; (3) transferring the chairmanship of the committee to the Executive Secretary thereby putting human rights in the executive agenda encompassing all human rights concerns; and, (4) clearly defining its functions in relation to human rights treaty implementation.

II. International Developments and Cooperation Programs

1) Philippine Membership in the Human Rights Council

The Commission looks at the reelection of the Philippines as a member of the Human Rights Council as an opportunity for both the government and the Commission to further improve the human rights situation in the country. When the Government of the Republic of the Philippines decided to present its candidature to the Human Rights Council at elections held by the UN General Assembly on 9 May 2006, it was necessary to make known its commitments to get support from other countries. CHRP supported the Philippine Mission and provided technical assistance in the formulation of the Philippine pledges. It is now monitoring the implementation of the Philippine pledges, one of which is the strengthening of the PHRC.

2) CHRP-UNDP Partnership on the Implementation of a Human Rights-Based Governance Programme

During the first quarter of 2007, the Government of the Philippines (GOP) and the United Nations Development Programme (UNDP) decided to shift to a human rights-based governance programme specifically addressing pressing human rights issues, strengthening human rights institutions, building constituencies for the advancement as well as mainstreaming of human rights and gender rights in the GOP-UNDP programme. Given this shift in focus and the mandate of a National Human Rights Institution, the CHRP was considered the most appropriate institution to be the new Implementing Partner for the remaining period of the Fostering Governance Programme.

The CHRP has accepted the invitation to act as Implementing Partner (IP) for what will be called “Fostering a Human Rights-Based Governance Programme”, under the GOP-UNDP Country Programme Action Plan (CPAP) for the period 2007-2009.

As the new IP, CHRP has been conducting a series of consultative meetings with its partners in the formulation of the refocused governance portfolios. The CHRP also conducted brainstorming meetings with Professor Clarence Dias of the UNDP Regional Center Bangkok Mission on Human Rights in Governance Reform who came for a mission to assess the mainstreaming of human rights in governance and assist in the formulation of the Governance Annual Work Plan for 2007 as well as prioritization of initiatives for 2008-2009.

3) Cooperation of ASEAN 4 National Human Rights Institutions

The Commission signed a cooperation program with the three other national human rights commissions in South East Asia: Indonesia, Malaysia and Thailand. Under a Declaration of Cooperation signed in Bali, Indonesia, the four commissions agreed to assist in the development of an ASEAN Human Rights Mechanism and to work on programs and activities to address five areas of concerns, namely: (a) suppression of terrorism while respecting human rights; (b) human rights aspects of trafficking in persons, (c) protection of the human rights of migrants and migrant workers, (d) implementation of economic, social and cultural rights and right to development, and (e) enhancement of human rights education.

In addition, they agreed to “*advise their respective governments to take necessary steps to establish an appropriate ASEAN human rights mechanism and/or any organ in the ASEAN Charter.*”

The CHRP has taken over the chairmanship of the next Consultation Meeting scheduled in February 2008.

4) European Commission Assisted Project

In December 2006, the CHRP forged a Memorandum of Agreement with the European Commission (EC) for a project entitled “*Enhancing the Role of National Human Rights Institutions in the Development of an ASEAN Human Rights Mechanism*”. Launched in May this year, this project is intended to help pave the way for the development of an ASEAN Human Rights Mechanism. CHRP is implementing this project with other partners, primarily the three (3) other NHRIs in South East Asia.

The EC has granted 900,000 EUR, which is 75% of the total project funds, with the remaining 25% borne by CHRP. The project is expected to improve the human rights situation in South East Asia focusing on human rights issues of common concern to the ASEAN region. The project has funded the Philippine participation in the ASEAN NHRIs meetings as well as in the Regional Working Group Workshop on ASEAN National Human Rights Institutions held in Manila recently. It will also assist efforts in the establishment of National Human Rights Institution in other member countries of ASEAN, such as Cambodia which now is in the process of establishing its Human Rights Commission.

5) Projects with Other International Partners

The CHRP continues to receive offers for technical assistance for short and long term projects from international partners. For 2006-2007, the funding partners and projects include the following:

- (a) Asia Pacific Forum (APF) for the Investigation Capacity Building and Forums on Internally Displaced Persons (IDPs)
- (b) Swedish International Development Assistance (SIDA) for the Strengthening of the Child Rights Center
- (c) International Centre for Human Rights Education (EQUITAS) for the “National Human Rights Institutions at Work: Asia Pacific Regional Workshop on Women’s Economic, Social and Cultural Rights”
- (d) The Asia Foundation for the Martus Project on Development of National Human Rights Information System
- (e) Australian Agency for International Development (AusAID) for the Trainors’ Training Workshop on Enforced Involuntary Disappearance

6) Training Assistance to Provedore for Human Rights and Justice (East Timor)

The CHRP has been tapped to assist in the training of the Provedore for Human Rights and Justice. A human rights trainer from the CHRP conducted two-week training on Human Rights Education for the key staff and training staff of Provedore in July 23 – August 3, 2007. CHRP developed the training module and reference materials. The participants also included some NGOs and the Ministry of Education.

III. Organizational Issues and Opportunities

As dynamic as human rights, CHRP’s organization has evolved to adapt to new developments and opportunities with two new specialty centers. In the aftermath of the Philip Alston visit and the EJK Summit, CHRP pushed to elevate the current Forensics and Medical Division to an independent Forensic Center.

From the outset, a forensics and medical unit was considered necessary in order to give the Commission a high degree of independence from existing police, military and government investigators. This is because members of the Armed Forces of the Philippines and the Philippine National Police are the often-named respondents in complaints of human rights violations.

The CHRP recognizes the important role that forensics play in the investigation and documentation of human rights abuses in other countries, and has sought to obtain and provide a similar source of expertise in this country.

The other new specialty center is the Women's Human Rights Center, which operationalized in 2007 to cater to the needs of women who are violated of their rights. This compliments the Child Rights Center, which specializes on child friendly investigative procedures, child rights monitoring and data banking, assistance to child-victims and child rights advocacy.

While the CHRP now enjoys unprecedented prestige, it is currently facing a major setback in its operations. Early in the year, the Supreme Court (SC) gave its final ruling that the Commission enjoys only "**limited fiscal autonomy**" and has practically reduced all its 15 Regional Directors to Division Chiefs. This "limited fiscal autonomy" strikes at the core of an important element of independence accorded to national human rights institutions based on the Paris Principles. Nevertheless, CHRP has taken steps to correct the situation. The steps are both short term and long term solutions.

The long term solution is the enactment of the CHRP Charter. With the current interest on human rights issues, CHRP must seize the opportunity open in the New Congress. In fact, a new Senator has recently filed a bill granting CHRP prosecutorial powers. The proposed bills currently being lobbied in Congress prove to be a prospect to strengthen the development of the CHRP as a national human rights institution (NHRI) in the country. The Commission is valued as an essential partner in the task of protecting and promoting human rights of the Filipino people and those who reside within its boundaries.

IV. Conclusion: APF support to NHRIs to strengthen their independence

In Asian context, NHRIs even in democratic states are continually faced with threats to their independence. APF may as well look at other areas of supporting NHRIs. It must go beyond its advisory services and capacity building projects. It must be proactive in looking at factors that affect the effective and efficient functioning of NHRIs. For the CHRP, an APF-assisted policy research activity towards institutional building through the CHRP Charter would be most welcome.