

**INPUTS OF THE COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES FOR HUMAN RIGHTS COUNCIL RESOLUTON 37/22 CONCERNING THE RIGHTS OF PERSONS WITH DISABILITIES**

**22 July 2019**

1. The Commission on Human Rights of the Philippines (herewith the Commission) hereby submits to the Office of the High Commissioner on Human Rights (OHCHR) its contribution to the latter's study relative to article 8 of the Convention on the Rights of Persons with Disabilities (CRPD) pursuant to Human Rights Council resolution 37/22.
2. This submission took into consideration local and international reports from government, civil society, the media, and international non-government organizations. This submission also utilized the Commission’s own documentation of independent monitoring activities and statements on the rights of persons with disabilities which has undergone internal deliberations of the Commission En Banc.
3. The Commission's responses to the questionnaire of the OHCHR are as follows:

**1. (a). Does your country have laws, policies, plans, strategies or guidelines at any level of government relating to raising awareness about persons with disabilities, in particular initiatives to:**

* **foster respect for the rights and dignity of persons with disabilities;**
* **combat stereotypes, prejudices and harmful practices relating to persons with disabilities; or**
* **promote awareness of the contributions of persons with disabilities?**

1. The Philippines has, under the Charter of the National Council for Disability Affairs (NCDA), a sub-committee on advocacy chaired by the Philippine Information Agency (PIA) which was created with members representing both government organizations and non-government organizations. The sub-committee continuously promotes the salient provisions of local laws on disability rights and international mandates such as the CRPD[[1]](#footnote-1).
2. The Philippine government, through Proclamation No. 1870[[2]](#footnote-2), Proclamation No. 361[[3]](#footnote-3), and Administrative Order No. 35, s. 2002 observes the annual celebration of national disability prevention and rehabilitation (NDPR) week. The proclamations for the NDPR week directs all government agencies and instrumentalities to conduct activities to raise awareness on disability prevention and rehabilitation and public awareness on the role of every citizen, leading to effective societal integration of persons with disabilities. Aside from the NDPR, there are also other proclamations that mandates annual celebrations which aim to educate the general public of specific disabilities such as the following among others:

* Proclamation No. 711 (January 4, 1996) Declaring the Third week of January as Autism Consciousness Week
* Proclamation No. 157 (February 18, 2001) Declaring the month of February as “National Down Syndrome Consciousness Month”
* Proclamation No. 1385 (February 12, 1975) Designating the Period from February 14 to 20, 1975, and Every Year Thereafter, as “Retarded Children’s Week”
* Proclamation No. 467 (October 4, 1965) Declaring the Last Week of February of Every year as Leprosy Control Week
* Proclamation No. 744 (December 6, 2004) Declaring the Last Monday of March Every year as Women with Disabilities Day
* Presidential Proclamation No. 40 Celebrating the month of August Every year as Sight Saving Month[[4]](#footnote-4).

1. The NCDA also leads disability-specific awareness events and activities all year round in coordination with all national government agencies, local government agencies, non-government organizations and disabled people's organizations increase public understanding of the different types of disabilities and to reduce stigma and discrimination. In 2015, the NCDA served as the resource institution in the convention of trial court judges where it presented on barriers faced by persons with disabilities with respect to access to justice. The NCDA also spearheads the publication and distribution of information materials to increase awareness on the CRPD and other legislative mechanisms to protect and promote the rights of persons with disabilities[[5]](#footnote-5).
2. Aside from efforts from the NCDA, the government also conducts disability sensitivity trainings for various government agencies nationwide. A DOJ memorandum was also issued directing the inclusion of disability sensitivity trainings in the Human Resource Development Programs of the agency[[6]](#footnote-6). For the Philippine National police (PNP), disability awareness and sensitivity has already been included in their Regional Training Modules for Officers of Women and Children's Desk at the local level[[7]](#footnote-7).

**1. (b). What are the challenges to implementing the above?**

1. According to the report of the Philippine Coalition on the UNCRPD[[8]](#footnote-8), although there has been some increase in visibility of partnerships among stakeholders in government and non-government organizations (NGOs) particularly disability rights groups, initiatives, programs, activities and operations of government agencies fail to meet the objective of awareness raising. According to the coalition, awareness raising should not be merely about passing on information or distributing materials about persons with disability. Such does not achieve the desired objectives if it does not result in changed attitudes and perspectives regarding disability.
2. It has also been observed by disability rights groups that activities initiated by the government are often sporadic in nature. Accordingly, they recommend that there be specific programs with budget allocation to ensure continuity of activities which intend to reach all civil servants.
3. As regards access to justice, the Commission on Human Rights noted from the conduct of consultations and workshops that parents and their children are not aware of other agencies or organizations that can provide free legal services to children with disabilities. It has also been difficult for families of children with disabilities to find lawyers with suitable training and experience in handling cases of children with disabilities[[9]](#footnote-9). Moreover, public awareness is not robust enough to prevent abuse and violence against children with disabilities. Laws such as RA 9775 (Anti-Child Pornography) and RA 7610 (Special Protection of Children against Child Abuse, Exploitation and Discrimination) exist to protection children from exploitation. However, civil society organizations have recorded cases of pornography of young girls who are deaf or with physical disabilities and the perpetrators are not prosecuted or sanctioned[[10]](#footnote-10).

**2(a). What legislative and policy measures are taken to address hate crimes, hate speech and harmful practices against persons with disabilities?**

1. The primary policy measure enacted to address discrimination and harmful practices against persons with disabilities is Republic Act No. 7277[[11]](#footnote-11) or the Magna Carta for Disabled Persons. Section 2 (e) of the Magna Carta provides that the State shall advocate for and encourage respect for persons with disabilities. It shall also exert all efforts to remove the social, cultural, economic, environmental, and attitudinal barriers that are prejudicial to persons with disabilities. The law also provides for non-discrimination of persons with disabilities in employment, education, health, auxiliary social services, telecommunications, accessibility, and political and civil rights. Moreover, Title III of the Magna Carta covers discrimination against disabled persons and its subsequent sections sets out discriminatory acts prohibited by law and its penalties.
2. RA No. 7277 was later amended by RA. No. 9442 under which public ridicule is penalized. Under the law, public ridicule[[12]](#footnote-12) is defined as an act of making fun or contemptuous imitating or making mockery of persons with disability whether in writing, or in words, or in action due to their impairment/s. The law also penalizes vilification which is defined by law as:

*"(a) The utterance of slanderous and abusive statements against a person with disability; and/or*

*(b) An activity in public which incites hatred towards, serious contempt for, or severe ridicule of persons with disability.[[13]](#footnote-13)”*

1. Section 46 of RA No. 9442 sets forth the following penalties for violation of the provisions of the Magna Carta:

*"(1) For the first violation, a fine of not less than Fifty Thousand pesos (P50,000.00) but not exceeding One hundred thousand pesos (P100,000.00) or imprisonment of not less than six months but not more than two years, or both at the discretion of the court; and*

*(2) For any subsequent violation, a fine of not less than One hundred thousand pesos (P100,000.00) but not exceeding Two hundred thousand pesos (P200,000.00) or imprisonment for not less than two years but not more than six years, or both at the discretion of the court.*

*(b) Any person who abuses the privileges granted herein shall be punished with imprisonment of not less than six months or a fine of not less than Five thousand pesos (P5,000.00), but not more than Fifty thousand pesos (P50,000.00), or both, at the discretion of the court.*

*(c) If the violator is a corporation, organization or any similar entity, the officials thereof directly involved shall be liable therefore.*

*(d) If the violator is an alien or a foreigner, he shall be deported immediately after service of sentence without further deportation proceedings.*

*Upon filing of an appropriate complaint, and after due notice and hearing, the proper authorities may also cause the cancellation or revocation of the business permit, permit to operate, franchise and other similar privileges granted to any business entity that fails to abide by the provisions of this Act.”*

1. There is currently a pending bill in congress entitled "Comprehensive Anti-Discrimination Bill[[14]](#footnote-14)" which covers and prohibits discriminatory acts against persons with disabilities. The penalty for acts of discrimination, under the pending bill ranges from imprisonment of one (1) to six (6) years of imprisonment or a fine of not more thank P500,000, or both, at the discretion of the court. Section 9 of the pending bill likewise provides that criminal complaints brought under the Act shall be filed with the proper court or with the Commission on Human Rights (CHR) and the latter may investigate *motu proprio* or upon receipt of a complaint.

**2(b). In particular, are there legal remedies available for persons with disabilities seeking compensation and reparation? Are there legal provisions to sanction perpetrators, including through criminal law? Please provide information on their application in practice (e.g. cases of persons condemned for hate crimes against persons with disabilities).**

1. A complainant may seek redress by filing a complaint in the appropriate court invoking the Magna Carta for Persons with Disabilities as mentioned in the previous paragraphs. A complaint may also be filed before the Commission on Human Rights in accordance with its mandate. Once a complaint is filed, the Commission will proceed with its independent investigation to determine whether there is indeed a violation. Upon a positive finding, the Commission shall immediately endorse the case to the competent agencies or bodies for appropriate administrative or criminal investigation against the respondents[[15]](#footnote-15).
2. In 2018, a complaint was lodged before the Ombudsman and the Commission on Human Rights by the Philippine Federation of the Deaf against Palace Communications Assistant Secretary Margaux "Mocha" Uson for her involvement in a video that made fun of sign language. The complainant invoked Section 39 of the Magna Carta for Disabled Persons which penalizes public ridicule.
3. The Commission on Human Rights’ Region IX office (Zamboanga Region) recently provided assistance to a victim of discrimination by a jail officer. According to the complaint, the perpetrator made fun of the victim; maliciously calling the latter names in reference to his deformity. The victim reported the incident to the local persons with disability association which later referred the incident to the Commission. The Commission then filed the necessary case against the suspect in the proper court which eventually prospered resulting in the conviction of the jail officer. The jail officer was found guilty of vilification – an offense punishable under RA. 9442[[16]](#footnote-16).

**3(a). What steps have been taken to establish standards and/or good practices on the representation and portrayal of persons with disabilities in broadcast media, including codes, guidelines and other measures (legal, co-regulatory or self-regulatory)?**

1. During a dialogue between media practitioners, advocates and persons with disabilities in 2015, the NCDA mentioned that one of the problems faced by persons with disabilities is media discrimination. This is so because in mainstream media, stereotypes are often the basis of portrayal of persons with disabilities. NCDA also critiqued that some local television shows misrepresent persons with disabilities and it is observed that the latter are always represented as villains or as hopeless victims. This misrepresentation only portrays persons with disabilities as object of fear or pity.
2. Disability rights advocates have raised the need for government to issue guidelines on and monitor sensitivity and appropriate handling in media releases, broadcasts and other public programs on documentaries, features or other involvement of persons with disabilities in media[[17]](#footnote-17).
3. As regards codes and guidelines, the Broadcast Code of the Philippines of 2007 (as amended 2011)[[18]](#footnote-18) contains the following provisions concerning persons with disabilities in media:

* Article 3 (Coverage Involving Children)[[19]](#footnote-19) – "There should be a conscious effort to avoid sensationalizing, stereotyping, prejudging or exploiting children with disabilities or children belonging to minority or indigenous groups."
* Article 17 (Quiz shows, contests, public participation and promotions)[[20]](#footnote-20) – "Programs in general should avoid sensationalizing, stereotyping, prejudging or exploiting children with disabilities or children belonging to minority or indigenous groups."
* Article 22 (Discrimination)[[21]](#footnote-21) - "a person's race, religion, color, ethnicity, gender and physical or mental disability, shall not be used in a way that would embarrass, denigrate or ridicule him"[[22]](#footnote-22).
* Article 23 (Mentally and Physically Challenged Persons)[[23]](#footnote-23) - that "mentally and physically challenged persons shall be treated with respect and shall not be humiliated or embarrassed due to their disability".

1. The Movie and Television Review and Classification Board (MTRCB) likewise contains the following provisions in its operations manual under the section on MTRCB Mandate and Functions:

*“Consistent with the constitutional and/or legal mandate to protect the family, the youth,* ***the disabled****, and other vulnerable sectors of the society requiring special attention in the realm of media and entertainment, the Board strongly desires to empower the Filipino family and each and every one of its members, including the “kasambahay”, to evaluate and intelligently choose media content…*

*Thus, there will be programs, initiatives, processes, activities, and institutional adjustments that shall create a sensitive media and entertainment environment for the family, vulnerable or otherwise, children, gender,****the disabled****, the elderly, the indigenous people, and other sectors of Philippine society.”[[24]](#footnote-24)*

**3(b). In addition, what legal framework, measures or good practices exist to regulate social media in accordance with Article 8 and human rights standards on freedom of expression?**

1. There is currently no existing legislation that regulates social media. However, the Philippine Constitution itself guarantees the right to freedom of expression[[25]](#footnote-25). The Philippines also has a law known as the "Anti-Bullying Act of 2013"[[26]](#footnote-26) which aims to protect citizens from any act of bullying whether online or offline.
2. Social media is also often used as a platform, especially by government organizations and civil society organizations to increase awareness and provide information on disability.

**4(a). Please provide information on the existence and implementation of the programmes and activities, including successful examples of campaigns, related to raising awareness about persons with disabilities and their rights, and combating negative attitudes including through initiatives of:**

* **training, including human rights education;  research, including studies on perception and attitudes;**
* **surveys and data collection.**

**4(b). Please indicate their objective, scope, target audience, impact (including available data), partners and participants, particularly the participation of, and role of persons with disabilities and their representative organisations, and any key factors of success.**

1. Aside from those mentioned in paragraphs 4-7 of this submission, other programmes include those conducted by the Commission on Human Rights of the Philippines such as the following:
   * Following the 2016 Reproductive Health Inquiry of the Commission on Human Rights, the Commission found that there remains a gap in terms of access to reproductive justice of persons with disabilities. As such, since 2017, the Commission has conducted various awareness raising activities and community-based dialogues to address existing gaps and challenges. Such initiative includes the development of a module for service providers focusing on women with disabilities.
   * The Commission conducted several focus group discussions with women with disabilities wherein information shared would form part of the Commission's National Inquiry on Reproductive Health and Rights of Women with Disability".
   * The Commission conducts awareness seminars internally for office staff to ensure proper delivery of services to clients who are persons with disabilities.
   * This year 2019, the Commission implemented CRPD Concluding Observations localization activities in five (5) regions in the Philippines. The main objective of the activity is to disseminate the concluding observations and to receive recommendations from the disability sector as to their implementation.
   * The Commission frequently releases social media cards to raise awareness as to government initiatives for persons with disabilities. For instance, last July 2018, the Commission released a step-by-step guide on how to avail a PWD identification card.

**5. Please provide information on the role of persons with disabilities and their representative organisations, including children with disabilities, in the design, implementation, monitoring and evaluation of all measures relating to awareness raising. Please provide detail on concrete mechanisms and activities undertaken for consultation and active involvement (e.g. regular meetings, online consultations, etc.).**

1. The NCDA regularly conducts meetings participated by representatives of the disability sector and government agencies. During these meetings, participants actively discuss awareness raising activities. It is however noted that barriers still exist which hinders the participation of persons with disabilities in consultation processes, one of which is the failure of duty-bearers to effectively inform and provide access to persons with disabilities to participate in such consultations. Persons with disabilities in the country are often underrepresented or otherwise represented by a limited number of people from civil society organizations (CSOs). This problem limits the inclusivity of multi-sectoral participation among persons with disabilities in consultations and in the decision-making process.

1. Initial Report on the Implementation on the rights of Persons with Disabilities in the Philippines [CRPD/C/PHL/1] (2010) *available at* <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fPHL%2f1&Lang=en> (last accessed 17 July 2019). [↑](#footnote-ref-1)
2. Declaring the third week of July every year as the national disability prevention and rehabilitation week [Proclamation No. 1870] (1979), *available at* <https://www.ncda.gov.ph/disability-laws/proclamations/proclamation-1870/> (last accessed 17 July 2019). [↑](#footnote-ref-2)
3. Declaring the third week of July as the National Disability Prevention and Rehabilitation week which shall culminate on the birthdate of the sublime paralytic: Apolinario Mabini on July 23 each year [Proclamation No. 361] (2000), *available at* <https://www.ncda.gov.ph/disability-laws/proclamations/proclamation-no-361/> (last accessed 17 July 2019). [↑](#footnote-ref-3)
4. Id. [↑](#footnote-ref-4)
5. List of issues in relation to the initial report of the Philippines\* Replies of the Philippines [CRPD/C/PHL/Q/1/Add.1] (2018), *available at* <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fPHL%2fQ%2f1%2fAdd.1&Lang=en>, (last accessed 17 July 2019). [↑](#footnote-ref-5)
6. Id. [↑](#footnote-ref-6)
7. Id. [↑](#footnote-ref-7)
8. Philippine Coalition on the United Nations Convention on the Rights of Persons with Disabilities, *Parallel Report 2013: United Nations Convention on the Rights of Persons with Disabilities (2013), available at* <https://www.slideshare.net/akkapppasig/2013-uncrpd-parallel-report-of-the-philippine-coalition> (last accessed 15 July 2019). [↑](#footnote-ref-8)
9. Commission on Human Rights of the Philippines, *NHRI report for the list of issues to be adopted at the 9th pre-sessional working group – convention on the rights of persons with disabilities* (January 31, 2018), *available at* [*https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/PHL/INT\_CRPD\_IFL\_PHL\_30094\_E.docx*](https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/PHL/INT_CRPD_IFL_PHL_30094_E.docx)(last accessed 22 July 2019). [↑](#footnote-ref-9)
10. Id. [↑](#footnote-ref-10)
11. An act providing for the rehabilitation, self-development and self-reliance of disabled persons and their integration into the mainstream of society and for other purposes [Magna Carta for Disabled Persons], Republic Act No. 7277 (1992) *available at* <http://hrlibrary.umn.edu/research/Philippines/RA%207277%20-%20Magna%20Carta%20of%20Disabled%20Persons.pdf> (last accessed 16 July 2019). [↑](#footnote-ref-11)
12. MAGNA CARTA FOR DISABLED PERSONS, § 39 [↑](#footnote-ref-12)
13. MAGNA CARTA FOR DISABLED PERSONS, § 40 [↑](#footnote-ref-13)
14. An act prohibiting discrimination on the basis of age, racial or ethnic origin, religious belief or activity, political inclination or conviction, social class, sex, gender, sexual orientation, gender identity and expressions, marital or relationship status, disability, HIV status, health status or medical history, language, physical features and other state, and providing penalties therefor [comprehensive anti-discrimination bill], Senate Bill No. 948 (filed August 1, 2016), *available at* <http://senate.gov.ph/lisdata/2450621092!.pdf> (last accessed 17 July 2019). [↑](#footnote-ref-14)
15. Commission on Human Rights, *Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses, and the Provision of CHR Assistance* (2012), § 21, *available at* <https://pinoyfilecabinet.files.wordpress.com/2014/07/chr-procedures-final_approved_8-31-2012.pdf> (last accessed 17 July 2019). [↑](#footnote-ref-15)
16. Commission on Human Rights, *Zambo court convicts jail officer for teasing PWD* (July 2019), *available at* <https://www.facebook.com/pg/chrgovph/posts/?ref=page_internal> (last accessed 22 July 2019). [↑](#footnote-ref-16)
17. Vera files Inc., *Getting it rights: Reporting on Disability in the Philippines (2015), available at* <https://asiafoundation.org/wp-content/uploads/2018/03/Getting-It-Right.-Reporing-on-Disability-in-the-Philippines.pdf> (last accessed 18 July 2019). [↑](#footnote-ref-17)
18. Broadcast Code of the Philippines of 2007 (as amended 2011), *available at* <https://www.kbp.org.ph/wp-content/uploads/2008/04/KBP_Broadcast_Code_2011.pdf> (last accessed 18 July 2019). [↑](#footnote-ref-18)
19. Id. § 3. [↑](#footnote-ref-19)
20. Id. § 5. [↑](#footnote-ref-20)
21. Id. [↑](#footnote-ref-21)
22. [↑](#footnote-ref-22)
23. Id. [↑](#footnote-ref-23)
24. Movie and Television Review and Classification Board, Operations Manual (2015), *available at* <https://www.mtrcb.gov.ph/wp-content/uploads/2013/04/OPERATIONS-MANUAL.pdf>(last accessed 22 July 2019). [↑](#footnote-ref-24)
25. 1987 Philippine Constitution. Article III § 5 – *"No law shall be passed abridging the freedom of speech, of expression, or of the press XXX"* [↑](#footnote-ref-25)
26. An act requiring all elementary and secondary schools to adopt policies to prevent and address the act of bullying in their institutions [anti-bullying act of 2013], Republic Act No. 10687, *available at* <http://www.officialgazette.gov.ph/2013/09/12/republic-act-no-10627/> (last accessed 18 July 2019). [↑](#footnote-ref-26)