

FOR PARTICIPANTS ONLY

SDD/EGM/CRPD/CS.4

3 June 2009

ENGLISH ONLY

ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC  
OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Expert Group Meeting on the Harmonization of National Legislations with the  
Convention on the Rights of Persons with Disabilities in Asia and the Pacific

8-10 June 2009

Bangkok

**COUNTRY STUDY: PHILIPPINES\***

---

\* This paper has been prepared by Mr. Mateo A. Lee, Jr. Deputy Executive Director, National Council on Disability Affairs, Quezon City, Philippines, and serves as the background paper for the Expert Group Meeting on the Harmonization of National Legislations with the Convention on the Rights of Persons with Disabilities in Asia and the Pacific, 8-10 June 2009, Bangkok. The paper has been reproduced as submitted. The views expressed are those of the author and do not necessarily reflect the views of the United Nations.

**ESCAP Expert Group Meeting on the Harmonization of National Legislations with the  
Convention on the Rights of Persons with Disabilities  
8-10 June 2009  
Bangkok, Thailand**

**Summary**

1. The Philippine Legal System is primarily influence by the Spanish and American Legal System. This historical perspective played a significant role in the development of legislations towards the protection of the rights of the Filipino people as a nation. The American Legal System is very much influential in the formulation of the Philippine Constitution so much so that the idea of equal protection of rights to all our people is enshrined in the Philippine Constitution. The 1987 Philippine Constitution has provisions protecting the rights of all the sectors of Philippine society to include persons with disabilities. In fact, there are five provisions in this Constitution where persons with disabilities are expressly mentioned to ensure that persons with disabilities should have equal participation in Philippine society. And these are:

- (1) Provisions guarantying that persons with disabilities can participate in national and local elections in the country;
- (2) Provisions to enable persons with disabilities to have a sectoral representatives in the House of the Representatives, Congress of the Philippines;
- (3) Provisions ensuring the participation of persons with disabilities to have access in training for civic and community development;
- (4) Provisions ensuring persons with disabilities to have access to health services; and
- (5) Provisions mandating the State to establish a special agency that will be responsible for the rehabilitation, self-development, self-reliance and the integration of persons with disabilities into the mainstream of society.

2. In addition, we have also Magna Carta for Persons with Disabilities and its amending law, Republic Act No. 7277 and Republic Act No. 9442 respectively. The Magna Carta for Persons with Disabilities was pattern after the American Disability Act. The Magna Carta grants rights and privileges for persons with disabilities in the area of employment, education, health services, auxiliary social services, telecommunications and mass media, a barrier free physical environment and political and civil rights. The Magna Carta also prohibits acts of discrimination in the area of employment, transportation services and use of public accommodations. On the other hand, Republic Act No. 9442 grants 20 percent discount privileges in the purchase of medicines and other basic services. Also, it penalizes acts of vilification against a person on account of disability as well as subjecting a person with disability to public ridicule resulting to loss of self-esteem. It also amends disabled person into person with disability. We have also Batas Pambansa Bilang 344 or the Accessibility Law ensuring persons with disabilities to enjoy a barrier free physical environment whenever feasible. Finally, we have Republic Act No. 6759, which is an awareness raising measure for the benefit of visually impaired persons. These three special laws are the major legislations pertaining to persons with disabilities that have been the basis of the Philippine government in addressing the needs of persons with disabilities in the country. But these three major laws are not fully operationalized to effectively meet the needs of persons with disabilities because

there are other national laws that are inconsistent. For example Presidential Decree No. 442 or the Labor Code of the Philippines categorized handicap workers as special workers and therefore they shall be paid at least 75 percent of the minimum wage. However, the Magna Carta states that disabled persons should have the same benefits as the abled employee receives.

3. In other words, there are domestic legislations that needs to be harmonize with the Magna Carta for Persons with Disabilities to be within the mandate of the Convention on the Rights of Persons with Disabilities so that we can ensure equality of women, men and children with disabilities and also for them to have equal recognition before the law, access to justice, free from any torture, violence and exploitation, enjoying the privilege of liberty, living independently in the community, respecting his/her rights to privacy of communication, the right to nationality and citizenship and enjoying the rights to education, health, rehabilitation and habilitation, having an adequate standard of living with full political and civil rights and able to participate in social, cultural and sports activities.

4. The government of the Philippines has a Commission on Human Rights (CHR) and the Presidential Human Rights Committee (PHRC) with the partnership of the National Council on Disability Affairs (NCDA) will served as the mechanism in the monitoring of implementation of the CRPD. And will see to it that domestic laws restricting the rights of persons with disabilities will be harmonized. And for the government to achieve harmonization of domestic laws with the CRPD there will be a National Human Rights Action Plan and Program Committee (NHRAPP) from 2009 to 2014 to be the basis of programs activities. It is recommended that a review of the Magna Carta for Persons with Disabilities and Batas Pambansa Bilang 344 or the Accessibility Law be undertaken immediately in order to harmonize it with the CRPD. Also, other national laws such as the Labor Code of the Philippines, the Civil Code of the Philippines, the Revised Penal Code of the Philippines and the Child and Youth Welfare Code should also be amended especially so in the language use pertaining to disability to conform with the CRPD.

### **Overview of the Existing domestic legislative framework on disability**

5. The Philippine Legal System is primarily influenced .by the Spanish Legal System and the American Legal System. This is so because the Philippines are under the Spanish Colonial Rule for more than 300 years. Thus, the Philippine private law at present such as the law on persons and family relations, obligations and contracts, and succession, among others are substantially patterned after the civil code of Spain. On the other hand, public law, notably constitutional law, administrative law, and the law on public officers, among others, are to a great extent based on American Law.

### **Civil Code of the Philippines**

6. The Civil Code of the Philippines is the product of the [codification](#) of law in the Philippines. It is the general law that governs family and [property relations](#) in the Philippines. It was enacted in 1950, and remains in force to date despite some significant [amendments](#).

### **The 1987 Philippine Constitution**

7. The 1987 Constitution contains provisions protecting the rights of persons with disabilities to vote as follows: Article Five, Section Two (a) “The Congress shall provide a system for securing the secrecy and sanctity of the ballot as well as a system for absentee voting by qualified Filipinos abroad. The Congress shall also design a procedure for the disabled and the illiterates to vote without the assistance of other persons. Until then, they

shall be allowed to vote under existing laws and such rules as the Commission on Elections may promulgate to protect the secrecy of the ballot.”

8. In Section 29 of the Magna Carta for Persons with Disabilities otherwise known as Republic Act No. 7277 provides that, “System of Voting – Disabled persons shall be allowed to be assisted by a person of his choice in voting in the national or local elections. The person thus chosen shall prepare the ballot for the disabled voter inside the voting booth. The person assisting shall bind himself in a formal document under oath to fill out the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot prepared by him. Violation of this provision shall constitute an election offense. Polling places should be made accessible to disabled persons during national or local elections.”

9. The Constitution, likewise, provides for sectoral representation in the House of the Representatives through a party list system either by selection or election from labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector. Under the “1987 Philippine Constitution Article Six Section Five” states that:

- (1) “The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organisations;
- (2) The party-list representatives shall constitute twenty *per centum* of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.”

10. During the time of President Aquino, the persons with disabilities were considered to be included in the “other sectors” mentioned by the law, and that the sector of persons with disabilities was represented in the House of Representatives.

11. Republic Act No. 7941 was enacted it provides that the party list in its declaration of policy states that “the State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.”

12. The Constitution (Article 13, Section 11) also mandates the State through the National Government to provide and adopt an integrated and comprehensive approach to health development, which shall endeavor to make essential goods, health and other social services

available to all the people at affordable cost. “There shall be priority for the needs of the under-privileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.”

13. In addition, Article 13, Section 13 of the Constitution states that the State shall establish a special agency for disabled person for their rehabilitation, self-development, and self-reliance, and their integration into the mainstream of society.

14. Furthermore, the Constitution emphasizes that all Filipino children shall have access to quality education. In fact, it compels all parents to send their children to elementary education it means that elementary education for all children is compulsory. And public elementary education is free from any tuition fees without sacrificing the quality of education offered by the public schools. And also children with disabilities shall be admitted by all educational institutions and refusal to admit them is a violation of Section 12 of Republic Act No. 7277 or the Magna Carta for Persons with Disabilities. The Constitution also provides adult citizens, the disabled, and out-of-school youth training in civics, vocational efficiency, and other skills.

### **Overview of Legislations in the Philippines on Disability**

15. Since 1981, when the United Nations declared the International Year of Disabled Persons, the Philippine Government has open up a wider range of negotiations of opportunities for disabled persons.

16. The National Commission Concerning Disabled Persons (NCCDP) newly established by former President Marcos under the Office of the President by virtue of Presidential Decree No.1509, provide directions and coordinate and integrate all programs of government including non-governmental activities to address effectively the needs of persons with disabilities.

(Section One) “*Declaration of Policy*” The Government of the Republic of the Philippines hereby declares its full acceptance and support for the United Nations Economic and Social Council Resolution on May 6, 1975, particularly the following portion:

"BELIEVING that the problem of disability is an appreciable component of the economic and social condition of every country and, consequently, that programs to prevent disability and to rehabilitate the disabled are an essential part of comprehensive plans for economic and social development, responsibility for which must be assumed by Governments working, as appropriate, with non-governmental organization."

(Section Two) "*Creation of the National Commission Concerning Disabled Person*" There is hereby created a National Commission, hereinafter referred to as the "Commission", which shall be under the supervision and control of the Office of the President of the Philippines.

(Section Four) "*Powers and Functions of the Commission*" (a) To monitor and evaluate all projects, programs and activities pertaining to the welfare of the handicapped and to take appropriate steps to insure that they comply with established priorities, standards and guidelines. (P.D. 1509)

17. The programs for persons with disabilities are under various government agencies, the Department of Social Welfare and Development (DSWD) is responsible for vocational

training, rehabilitation including counseling and other social services. The Department of Education (DepEd) is responsible for special education in the elementary and high school level, accessible transportation for the Department of Transportation and Communication (DOTC) and such other departments. The Department of Works and Public Highways (DPWH) together with the Building Officials in the Local Government Units (LGUs) nationwide is responsible in making roads, buildings, parks, and such other establishments for public use accessible. This is pursuant to *Batas Pambansa Bilang 344* or the Accessibility Law. The Commission on Higher Education (CHED) is responsible for the universities and colleges in ensuring that persons with disabilities would have access to higher education level, which includes scholarships, accessible facilities and such other reasonable accommodation. This is the mandate of Section 13 and 17 of Republic Act No. 7277 otherwise known as the Magna Carta for Persons with Disabilities. The Department of Labor and Employment (DOLE) is responsible for providing persons with disabilities vocational training and suitable employment. This is the mandate of Section Five of Republic Act No. 7277 states “that Equal Opportunity for Employment - No disable person shall be denied access to opportunities for suitable employment. A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as a qualified able-bodied person. Five percent (5%) of all casual emergency and contractual positions in the Departments of Social Welfare and Development; Health; Education, Culture and Sports; and other government agencies, offices or corporations engaged in social development shall be reserved for disabled persons.” In section nine of the same law states that “Vocational Rehabilitation - Consistent with the principle of equal opportunity for disabled workers and workers in general, the State shall take appropriate vocational rehabilitation measures that shall serve to develop the skills and potentials of disabled persons and enable them to compete favorably for available productive and remunerative employment opportunities in the labor market. The State shall also take measures to ensure the provision of vocational rehabilitation and livelihood services for disabled persons in the rural areas. In addition, it shall promote cooperation and coordination between the government and nongovernmental organizations and other private entities engaged in vocational rehabilitation activities.

18. The Department of Social Welfare and Development shall design and implement-training programs that will provide disabled persons with vocational skills to enable them to engage in livelihood activities or obtain gainful employment. The Department of Labor and Employment shall likewise design and conduct training programs geared towards providing disabled persons with skills for livelihood.” The National Council on Disability Affairs under Executive Order No. 709 is the focal agency that coordinates all this programs for persons with disabilities in the above-mentioned national government agencies. The purpose is to ensure maximization of existing limited resources and to avoid red tape and duplication of services. In other words, government is approaching the needs of the people on a sectoral basis. A person with disabilities is treated as one sector and that is evident in our existing legislations. For example, there are laws that protect women, laws protecting children, laws protecting the elderly, laws protecting the urban poor, laws protecting indigenous people, laws protecting the peasants farmers and the fisher folks and for this study I am presenting the laws that protects persons with disabilities as a sector or a distinct group of people in Philippine society.

19. The National Commission Concerning Disabled Persons, which became the National Council for the Welfare of Disabled Persons (NCWDP) under the Aquino administration and which is again rename as the National Council on Disability Affairs (NCDA) in the Arroyo administration last 2008, is the government arm to focus on policy plan formulation, research and data banking, advocacy, monitoring and evaluation of programs and services relating to persons with disabilities.

20. In 1983, the NCCDP was responsible for the passage of B.P. 344 or the Accessibility Law, mandating all government and non-government establishment for public use to provide accessibility facilities to enhance the mobility of Filipinos with disabilities towards a barrier free physical environment. (Batas Pambansa Bilang 344 or the Accessibility Law, a law mandating a barrier free physical environment)

21. In 1989, the NCWDP push for the passage of Republic Act No. 6759, a law declaring August 1 of each year as the “White Cane Safety Day”. This is an awareness raising measure to provide the public on understanding on the proper way of assisting the visually impaired individuals in their day-to-day mobility using the white cane. (An Act Declaring August One of each year as “White Cane Safety Day in the Philippines” and for other purposes, September 18, 1989)

22. In 1992, the NCWDP advocated for the passage of a rights-based legislation and an anti-discrimination measure known as the “Magna Carta for Persons with Disabilities or Republic Act No. 7277” (Republic Ac No. 7277–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, March 24, 1992) This law grants persons with disabilities to have access to:

- (1) suitable employment training and livelihood including vocational counseling and rehabilitation;
- (2) quality education from the elementary, secondary, tertiary and post graduate education with the provision for financial assistance to deserving students;
- (3) access to comprehensive health services to include training of medical and paramedical personnel in providing for the health needs of persons with disabilities such as provisions and manufacturing of orthotic and prosthetic appliances and other mobility aides or assistive devices;
- (4) access to provisions of auxiliary social services which include substitute family care for abandoned and neglected persons with disabilities, family counseling and acquisition of assistive devices through the local government units;
- (5) provisions requiring all television media to provide inset and subtitling features in public affairs program covering significant events of public importance;
- (6) provisions requiring a barrier free physical environment and allowing persons with disabilities to drive motor vehicles customize to their needs, this supplement Batas Pambansa Bilang 344 or the Accessibility Law;
- (7) provisions protecting the right of disabled persons to vote by requiring government to provide accessible polling precincts and authorizing nearest of keen of their choice to assist them in their voting process.

23. Also, the rights of persons with disabilities to organise and to form associations not contrary to law as well as the right to peaceably assemble and to petition government for redress of grievances are likewise protected under this law. The rest of the provisions are anti-discrimination in the area of employment, medical examination, transportation and public accommodation for the availment of goods and services. The Magna Carta for Persons with

Disabilities also mandates government to ensure that housing and recreational facilities are accessible and available to persons with disabilities.

24. On April 30, 2007, Republic Act No. 9442 an act amending Republic Act No. 7277 was signed into law by President Gloria Macapagal-Arroyo, this law provides persons with disabilities the privileges of 20% discount on all purchases of basic services which include medicine and also 5% discount on the purchase of basic necessities and commodities. This law also amends disabled persons into persons with disabilities and providing for penalty in vilifying and subjecting a person to public ridicule on account of disability. (Section Four)-The title of Republic Act No. 7277 is hereby amended to read as the "Magna Carta for Persons with Disability", and all references on the said law to "disabled persons" shall likewise be amended to read as "persons with disability". (Section 40)-"No individual, group or community shall execute any of these acts of ridicule against persons with disability in any time and place which could intimidate or result in loss of self-esteem of the latter." (Section 42)-"Any individual, group or community is hereby prohibited from vilifying any person with disability which could result into loss of self-esteem of the latter."

25. The above-enumerated legislations were the government response in approaching the needs of persons with disabilities as a group. Now that the government has ratified the Convention on the Rights of Persons with Disabilities (CRPD), the above laws with high regard to the Philippine constitution will be the fundamental foundation of our government's initiatives to harmonize the convention implementation vis-à-vis are domestic laws. We see a brighter road map for change because of the guarantee enunciated in our constitution and related laws on disability.

#### **Assessment of the domestic legislative framework on disability in light of the harmonization with the CRPD**

26. Definitions (Article Two-CRPD) The Magna Carta for Persons with Disabilities or Republic Act No.7277 defines Disabled Persons as "those suffering from restriction or different abilities as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being" and Disability shall mean:

- (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual;
- (2) a record of such an impairment; or
- (3) being regarded as having such an impairment.

27. Clearly in this definition includes mental and intellectual disability other than physical and sensory disability because the restrictions suffered by the individual in his activities can be the result of mental or physical impairment. For example, a person with an impaired mental functioning whether biologically drawn disorders or due to accident may result in some form of intellectual disability. Thus, it could result to slow learning process or it may affect the individual capacity to interact with his environment freely. However, the definition does not include the relationship of the individual ability to perform an activity and its interaction in the environment. If I have to analyze the definition, the limitation in the performance of an activity by person with disability is merely confined to a limitation as a result of an impairment, which is medical in nature and does not include physical and attitudinal barriers. In other words, our legislations although intends to have a social model definition of the concepts of disability as expressed in its declaration of policy, Section Two paragraph (e) of Republic Act No. 7277, "to facilitate integration of disabled persons into the mainstream of society, the State shall advocate for and encourage respect for disabled

persons. The State shall exert all efforts to remove all social, cultural, economic, environmental and attitudinal barriers that are prejudicial to disabled persons”, yet this policy objective is not reflected in the definition.

28. The Philippine Laws on disability uses interchangeably the English words “handicap” and “disabled person”. For example, in our Labor Code of the Philippines Book Two Article 78, “Handicapped workers are defined as those whose earning capacity is impaired by age or physical or mental deficiency or injury (Presidential Decree No. 442, The Labor Code of the Philippines, May 1, 1974)”. On the other hand, disability is defined by Republic Act No. 8291, the law that governs the welfare benefits of government workers as follows “Any loss or impairment of the normal functions of the physical and/or mental faculty of a member which reduced or eliminates his/her capacity with his/her current gainful occupation or engage in any other gainful occupation”. This means that handicap and disability under our legislations is the results of impairment that reduces the individual capacity to earn or to engage in gainful employment. Therefore, there is no conflict in our definition of disability in the Magna Carta for Persons with Disabilities and other legislations only that it is also referred to as handicap. It means the definition of “persons with disabilities” under Article One of the Convention on the Rights of Persons with Disabilities which includes “those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”, “Is consistent with the definition of persons with disabilities or handicap persons referred to in our domestic legislations.” In the above example Republic Act No. 8291 known as the GSIS Law and Presidential Decree No. 442 known as the Labor Code of the Philippines using disability and handicap to describe a person who has a reduce earning capacity due to impairments whether physical, mental, intellectual or sensory in nature is the same meaning of persons with disabilities as defined by the Convention.

### **Equality and Non-Discrimination (Article Five-CRPD)**

29. The Magna Carta for Persons with Disabilities explicitly prohibits discrimination on the grounds of disability in the following areas:

- (1) Section 32, Discrimination on Employment;
- (2) Section 34, Discrimination on Transportation; and
- (3) Section 36, Discrimination on the Use of Public Accommodations and Services.

30. Although discrimination on account of disability is expressly prohibited in the foregoing areas, the legal remedy in violation of these provisions is not well defined. Thus, we have only one case since 1992 that reaches the Supreme Court that deals with the violations of this law but not pertaining to discrimination on employment but rather on illegal dismissal and payment of appropriate minimum wage. (Marites Bernardo, ET AL. vs. National Labor Relations Commission and Far East Bank and Trust Company-G.R. No. 122917, July 12, 1999)

31. Meanwhile, with reference to specific measures to achieve de facto equality, Republic Act No. 9442 grants 20 percent discount to persons with disabilities in the purchase of goods and services such as:

- (a) hotel accommodation;
- (b) food and beverages served by restaurants and other foods center;
- (c) recreation and amusement such as theatres, entertainment houses, and other similar establishments;
- (d) dental and medical services; and

(e) land, sea and air transportation fares

32. In addition, there is also a discount on the purchase of medicines whether branded or generic as well as five percent discount on basic foods and commodities sold in various groceries stores nationwide.

33. This law is an attempt to assure persons with disabilities to have access to basic services at affordable cost. Further, under this law, educational assistance to persons with disabilities are likewise part of the program, in addition to other scholarship programs established by other laws that includes persons with disabilities in the pursuit of tertiary and post graduate education.

34. Various circulars were also issued by different government agencies to ensure compliance of the accessibility law by providing the minimum requirements for accessible facilities. In the case of Tertiary Education, our Commission on Higher Education (CHED) issued a circular directing all higher education institutions to modify their facilities to accommodate the needs of their students with disabilities. In compliance with the Administrative Order No. 101 dated November 29, 1999 of President Joseph Ejercito Estrada, directing (Section One) *“Provision of Architectural Facilities and Structural Features for Disabled Persons-The Department of Public Works and Highways, in coordination with the Department of Education, Culture and Sports and the Commission on Higher Education, is hereby directed to set up the necessary architectural facilities and/or structural features to promote accessibility and mobility for disabled persons in state colleges and universities, public schools, and other public buildings. These architectural facilities and/or structural features include, but are not limited to access ramps, handrails, parking spaces, and toilet and restroom facilities. This is also the case of the Department of Interior and Local Government (DILG) when it requires all local Chief Executives to make their Cities/Municipal Buildings accessible. This manifestation of support to the cause of persons with disabilities somehow reflects an intention of the National Government for a de facto equality.*

35. The Magna Carta for Persons with Disabilities also introduced in 1992 the concept of reasonable accommodation to enhance participation and integration of persons with disabilities into the mainstream of our society. It defines “Reasonable Accommodation” as:

- (1) Improvement of existing facilities used by employees in order to render these readily accessible to and usable by disabled persons; and
- (2) Modification of work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or company policies, rules and regulations, the provision of auxiliary aids and services, and other similar accommodations for disabled persons (Section Four, paragraph h of the Magna Carta for Persons with Disabilities of the Republic Act No. 7277).

36. However, this concept of reasonable accommodation has not been imbedded as an underlying principle in the implementation of the law concerning discrimination on account of disability. In fact, the law did not include denial of a reasonable accommodation as part of discrimination on disability.

37. Furthermore, “disproportionate burden” as a concept is not well defined in the law and so there is no realization in the implementation to the point that reasonable accommodation has never been understood by even government people engage in the programs and services to persons with disabilities.

**Women with Disabilities (Article Six–CRPD)**  
**Equality of Women with Men in our Society**

38. There is a declared policy under Article Two Section 14 of the Philippine Constitution, it recognizes the role of women in nation building and it ensures the fundamental equality before the law of women and men. But this declared policy remains a principle that is yet to be felt by women with disabilities in our country especially those in rural areas. Women with disabilities still do not have the freedom of choice to decide for themselves. For example, girls with disabilities in the barrios would have less opportunity to go to school for elementary education than boys with disabilities because of over protectiveness of parents, mobility problems and the community's attitude towards women and girls in general. Filipino families in the rural areas has the tradition of protecting women from outside abuses resulting to their confinement at home. This tradition in most cases especially to women with disabilities work more as a disadvantage rather than benefit them. This is because they cannot go to school or to other places on their own, especially so if financial resources is a problem of the family then she can not be provided a companion and as a result she has no choice but to stay at home. This marginalizes women with disabilities than men with disabilities.

39. In order to address women with disabilities in difficult situations, the government has engaged in various programs and several advocacy measures. The Department of Education (DepEd) has a non-formal and distance education program they identify children with disabilities through personal visits of their itinerant teachers in the barrio to be part of the program. (Alternative Learning System and Accreditation and Equivalency Test, Batas Pambansa Bilang 232 is the law that creates the Bureau of Alternative Learning System under the DepEd)

40. The National Council on Disability Affairs (NCDA) is advocating for a Community-Based Rehabilitation (CBR) to be adopted as a nationwide strategy of local government units in order to facilitate inclusion of women with disabilities into the mainstream of society and the removal of all types of barriers that hinders full participation of persons with disabilities. (Executive Order 437 issued last June 21, 2005, Encouraging the Implementation of Community-Based Rehabilitation (CBR) for Persons with Disabilities in the Philippines)

**Children with Disabilities (Article Seven-CRPD)**

41. “The Child is one of the most important assets of the nation. Every effort should be exerted to promote his welfare and enhance his opportunities for a useful and happy life. The child is not a mere creature of the State. Hence, his individual traits and aptitudes should be cultivated to the utmost insofar as they do not conflict with the general welfare. The molding of the character of the child start at the home. Consequently, every member of the family should strive to make the home a wholesome and harmonious place as its atmosphere and conditions will greatly influence the child's development. The natural right and duty of parents in the rearing of the child for civic efficiency should receive the aid and support of the government. Other institutions, like the school, the church, the guild, and the community in general, should assist the home and the State in the endeavor to prepare the child for the responsibilities of adulthood.”

42. This law also mandates that “All children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors,” this include disability as one of the factors. This law has a chapter for children with disability, although it needs an amendment especially in the definition and classification of disability. In other words, the law needs to be amended in

terms of the definition of disability as well as even in the classification of the different types of disability including the language that is being used to describe the persons with disabilities. The language used in this law is no longer consistent with the evolving concept on disability. The rights of the child enumerated under Article 3 of this Code such as the right to be born, the right to education, the right to protection against exploitation and the right to have a loving family that will take care all of his basic needs and a community that will provide him an atmosphere of peace and freedom and a government that is honest and efficient that will deepen his faith in democracy and inspire him with the morality of the constituted authorities both in their public and private lives are consistent with the principles of the Convention on the Rights of Persons with Disabilities (CRPD). However, with respect to programs and services for children with disabilities under this law is still in the concept of segregation and institutionalization and not inclusion. This means that the law still mandates special classes for persons with disabilities separate from able children especially in the public schools. Further, most children with disabilities in rural areas in the Philippines were brought to an institutions rather than let them live in the community because the law encourage building institutions. Presidential Decree No. 603 or The Child and Youth Welfare Code under Article 74 *Special Classes* “Where needs warrant, there shall be at least special classes in every province, and, if possible, special schools for the physically handicapped, the mentally retarded, the emotionally disturbed, and the specially gifted. The private sector shall be given all the necessary inducement and encouragement to establish such classes or schools.” (Issued December 10, 1974)

#### **Accessibility (Article Nine-CRPD)**

43. The Accessibility Law states in Section One that “In order to promote the realization of the rights of disabled persons to participate fully in the social life and the development of the societies in which they live and enjoyment of the opportunities available to other citizens, no license or permit for the construction, repair or renovation of public and private buildings for public use, educational institutions, airports, sports and recreation centers and complexes, shopping centers or establishments, public parking places, work-places, public utilities, shall be granted or issued unless the owner or operator thereof shall install and incorporate in such building, establishment, institution or public utility, such architectural facilities or structural features as shall reasonably enhance the mobility of disabled persons such as sidewalks, ramps, railings and the like. If feasible, all such existing buildings, institutions, establishments, or public utilities may be renovated or altered to enable the disabled persons to have access to them: *Provided, further,* That buildings, institutions, establishments, or public utilities to be constructed or established for which licenses or permits had already been issued may comply with the requirements of this law: *Provided, further,* That in the case of government buildings, street and highways, the Ministry of Public Works and Highways shall see to it that the same shall be provided with architectural facilities or structural features for disabled persons. In the case of the parking place of any of the above institutions, buildings, or establishment, or public utilities, the owner or operator shall reserve sufficient and suitable space for the use of disabled persons.”

44. In Section Two of this law transportation conveyances are required “In the case of public conveyance, devices such as the prominent display of posters or stickers shall be used to generate public awareness of the rights of the disabled and foster understanding of their special needs. Special bus stops shall be designed for disabled persons. Discriminating against disabled persons in the carriage or transportation of passengers is hereby declared unlawful.”

45. In this Accessibility Law known as B.P. 344, it provides facilities for disabled persons on a wheelchair, disabled persons using crutches, hearing impaired individuals and visually impaired persons. There are no facilities specifically addressing the needs of intellectually

disabled persons except those facilities generally provided for all types of disabilities such as ramps, signage's, designated parking area, accessible toilet and non-skid floorings of walkways and comfort rooms as the minimum requirements for buildings and private establishments for public use. The implementing rules and regulations of this law specified the type of requirements of accessibility for the hearing impaired and the visually impaired persons. For example, emergency signal light should be provided for the hearing impaired individuals while an audio system or an alarm in case of emergency is a requirement for the safety of the hearing impaired and visually impaired people. Non-compliance are penalized either by imprisonment or payment of fines or both and some administrative penalties are also imposed such as revocations of license in the case of architects and engineers, or cancellation of business permit in the case of business establishments. Meanwhile, the Philippine Constitution gives importance to information and technology. It is a declared policy under Article Two Section 24, "The State recognizes the vital role of communication and information in nation-building." This provision of the Constitution is the basis for persons with disabilities to demand from government and business establishments to provide assistive technology, to enhance information dissemination to benefit persons with disabilities. For example, in our train system particularly the Light Rail Transit (LRT) and the Metro Rail Transit (MRT), which is in the upper ground level, people with visual impairment are demanding for audio system and large screen monitors so that they can easily identify the stations.

### **Right to life (Article 10–CRPD)**

46. The Philippine Constitution does not distinguish group or class of people where the individual belongs in society with regards to protection of life, liberty and property. Our fundamental law provides protection to the right to life of all citizens regardless of class distinctions. The State values the dignity of every human person and guarantees full respect for human rights (Article Two Section 11 of Philippine Constitution). Further, Section 12 of the same Article provides that the State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. In addition, Article Three Section One provides that "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." This provision ensures all Filipino citizens protection of his right to life whether he/she is a disabled or not. Thus, under Philippine Laws abortion is a criminal offense.

### **Recognition before the law, legal capacity and decision-making (Article 12 – Convention on the Rights of Persons With Disabilities)**

47. Under our Civil Code, not all types of persons with disabilities exercise capacity to act on an equal basis with others. For example, under Article 38 and 39 of the Civil Code, persons with "insanity" and with "imbecility" and in the state of being "deaf-mute" are restricted from exercising full capacity to act although they are not exempted from civil liability as when the latter arise from his acts or from property relations, such as easements. Even in the case of exercising of the right of suffrage, people with intellectual disability cannot vote and cannot really participate in any local or national elections Voters are required by law to be of "sound mind". But most disabled voters cannot participate in any election even if he/she is of "sound mind" because of physical and attitudinal environmental barriers.

48. However, with respect to financial transactions and property rights, our laws allow appointment of a guardian to ensure that the best interest of the disabled ward is protected. Article 24 of the Civil Code provides that "In all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance,

indigence, *mental weakness*, tender age or other *handicap*, the courts must be vigilant for his protection.” In Article 1327 of the Civil Code of the Philippines, it provides that “the following cannot give consent to a contract: (1) Unemancipated minors (2) Insane or demented persons, and deaf-mutes who do not know how to write. And in Article 1048 of the same Code, it provides that “Deaf-mutes who can read and write may accept or repudiate the inheritance personally or through an agent. Should they not be able to read and write, the inheritance shall be accepted by their guardians. These guardians may repudiate the same with judicial approval.” This means that the Articles of the Civil Code of the Philippines quoted above uses a language to describe disability such as insane, mental weakness, *demented persons*, *deaf-mutes* are description of the types of disabilities which are not consistent with the Convention on the Rights of Persons with Disabilities. Also, the Civil Code distinguishes between a person with disability who knows how to read and write and those who does not know how to read and write. For example, the Civil Code provides that those “deaf-mutes” or hearing impaired individual who knows how to read and write has the right to enter into a contract or give his/her consent to a contract as against a “deaf –mutes” who does not know how to read and write who can only act through an agent as describe in Article 1048 of the Civil Code. In other words, legal capacity under this Philippine Civil Code for persons with disabilities is determine whether the individual has a level or degree of education. It does not consider the individuals capacity to understand documents if explained to him/her by somebody else. There is no opportunity for persons with disabilities who does not know how to read and write to enjoy the same rights as other persons with disabilities enjoys due to the absence of the possibility of provision of live assistance to gain equal recognition before the law. Therefore, under this context there is a need that the civil Code of the Philippines be amended to harmonized with the intent of Article 12 of the Convention on the Rights of Persons with Disabilities.

#### **Access to Justice (Article 13-CRPD)**

49. Persons with disabilities in our judicial system are also given equal rights with others under our existing legislations. However, what hinders them to avail of justice in a speedy disposition is the limited support mechanism in our judicial system to pauper litigants. Persons with Disabilities mostly are considered pauper litigants. This is so because large percentage of persons with disabilities are poor and could hardly meet their daily subsistence especially those living in rural areas. They find it difficult to go to courts because of transportation barriers and they do not have financial resources to spend for their fares and for their food and accommodation since most courts are situated in urban areas. In addition, most of our courts have no accessible facilities to assist our disabled individuals seeking justice despite the issuance of Philippine Supreme Court Circular No. 46-95 dated September 18, 1995 requiring “Judges should take the proper measures to fully realize the policy set forth in the Accessibility Law or the B.P. 344 with the view of providing disabled persons convenient access to courtrooms holding sessions, if absolutely necessary, on the ground floor or court houses.” All disabled persons in our country are allowed to participate in all the phases of our judicial process.

50. However, there are certain roles, which certain types of disability are prohibited by our legislation for them to do. For example a blind and a deaf person can execute a will for as long as they are of sound mind but he/she cannot be a witness to the execution of a will. Also, an intellectually disabled person cannot make a will this is clear in Article 820 of Civil Code, “Any person of sound mind and of the age of eighteen years or more, and not blind, deaf or dumb, and able to read and write, may be a witness to the execution of a will mentioned in Article 805 of this Code.” Article 798 states that, “In order to make a will, it is essential that the testator be of sound mind at the time of its execution.”

51. Deaf persons under present resolution of the Philippine Supreme Court are now given sign language interpreter to assist them in their cases. (Memorandum Order No. 59-2004 dated September 10, 2004, “Authorizing the Court Administrator to Act on and Approve Requests of Lower Courts for the Hiring of Sign Language Interpreters.”) Unfortunately, however there is no national standardized sign language in the Philippines in order to avoid issues in understanding the testimony of deaf individuals. In other words, sign language interpretation is always a subject of disagreement between opposing parties in our court whenever deaf persons are involved in the case.

52. With respect to visually impaired individuals who are mostly assisted by live assistance such as readers, there is no Supreme Court Circular that would require courts to provide live assistance or other sources of information in alternative formats to help visually impaired individuals in their court cases. Although the Magna Carta for Persons with Disabilities provides under Section 45 that “The court may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this Act:

- (a) granting temporary, preliminary or permanent relief;
- (b) providing an auxiliary aid or service, modification of policy, practice or procedure, or alternative method; and
- (c) making facilities readily accessible to and usable by individuals with disabilities.”

53. However, despite the foregoing mandate especially letter (b) and (c) referring to auxiliary aids and services as well as making facilities readily accessible to and usable, this services are not readily available in our judicial system. Hence, there is a need to amend Section 45, letter (b) and (c) of the Magna Carta for Persons with Disabilities or the Republic Act No. 7277 to ensure access to justice of persons with disabilities within the meaning of the CRPD.

#### **Liberty and security of the person (Article 14-CRPD)**

54. Meanwhile, our domestic law primarily our Constitution under the Bill of Rights ensures protection to all citizens from the deprivation of liberty without due process of law. This protection also applies to all our disabled citizens. Article Three Section One of the Philippine Constitution provides that “No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.” There is no law in our country that would warrant the deprivation of liberty of a person on account of disability. It is also a declared policy that no person should be confined in a hospital or in an asylum or subject the person to medical examination without his/her consent. In fact, there is a need for a court order to subject any litigant of a case for physical and mental examination. Rule 28, Section Two of the Rules of Court of the Philippines provide that “Section Two Order for examination. The order for examination may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties, and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made.” Deprivation of liberty or confinement in a hospital or asylum is allowable only when there is danger or threat to public order or upon lawful order of the court whether it is a person with disabilities or not.

#### **Freedom from torture or cruel, inhuman or degrading treatment or punishment (Article 15–CRPD); Freedom from exploitation, violence and abuse (Article 16–CRPD); Protecting the Integrity of the Person (Article 17-CRPD)**

55. Our laws does not allow torture, in our Constitution in Article Three (section 12 paragraph two) provides that “No torture, force, violence, threat, intimidation, or any other

means which vitiate the free will shall be used against him. Secret detention places, solitary, *incommunicado*, or other similar forms of detention are prohibited.” However, we have no monitoring mechanism of facilities and programs designed to serve the needs of people with disabilities who are in jail, mental hospitals or asylums and other similar institutions.

### **Liberty of movement and nationality (Article 18-CRPD)**

56. Our Constitution provides in Article Three Section Six that “The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.” In addition, there is no law in our country prohibiting people with disability to acquire nationality or taking up residency in our country for as long as the person applying meets all the qualification requirements.

### **Living independently and being included in the community (Article 19 – CRPD)**

57. B.P. 344 or the Accessibility Law was enacted by our Congress to make physical the environment accessible in order to enable person with disabilities to live freely and independently as much as possible in the community. Further, Republic Act No. 7277 or the Magna Carta for Persons with Disabilities declares as policy in Section Two:

- (a) Disabled persons are part of Philippine society, thus the State shall give full support to the improvement of the total well being of disabled persons and their integration into the mainstream of society. Toward this end, that State shall adopt policies ensuring the rehabilitation, self-development and self-reliance of disabled persons. It shall develop their skills and potentials to enable them to compete favorably for available opportunities.
- (b) Disabled persons shall have the same rights as other people to take their proper place in society. They should be able to live freely and as independently as possible. This must be the concern of everyone – the family, community, and all government and non-government organizations. Disabled person’s rights must never be perceived as welfare services by the government.

### **Personal mobility (Article 20 – CRPD)**

58. With respect to CRPD Article on Personal Mobility, our Magna Carta for Persons with Disabilities under Section 21 provides that “The State shall ensure that marginalized persons are provided with the necessary auxiliary services that will restore their social functioning and participation in community affairs. Toward this end, the Department of Social Welfare and Development shall develop and implement programs on auxiliary social services that respond to the needs of marginalized disabled persons.”

### **Freedom of expression and opinion, and access to information (Article 21 – CRPD)**

59. Our Constitution with respect to Freedom of Expression stipulates under Article Three Section Four “No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.” Unfortunately, disabled people could hardly access information because there is no law requiring all public services to adopt an alternative and accessible format of information such as sign language, Braille, tactile communication, written and audio form communication. We have not adopted a national sign language in all our school system

for the deaf. There is no available information in accessible format in our country that is free. The Magna Carta for Persons with Disabilities under Section 22 provides that “Television stations shall be encouraged to provide a sign language inset or subtitles in at least one newscast program a day and special programs covering events of national significance.”

Respect for privacy (Article 22 – CRPD) Meanwhile, privacy of communication is also enjoyed by our people with disabilities equally with other even those living in rehabilitation institutions. This guarantee is enshrined in our Bill of Rights of the Philippine Constitution for all the citizens of the country, Article Three, Section Three provides that:

- (1) “The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law;
- (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.”

60. The difficulty, however, is that, the absence of available accessible alternative format of communication makes it a problem area to enjoy full privacy. Most people with disability still need the assistance of others for their communication requirements. Medical health records are treated confidential especially so with respect to disability only the court can require person to be subjected to medical examination. And when the people with disability apply for a job, employers are required to keep the medical records of their applicants confidentially unless upon order of the court that presentation of medical records would be necessary.

61. With reference to Articles on the Right to Health, Education, Habilitation and Rehabilitation, Employment as well as Adequate Standard of Living and Social Protection of the Convention on the Rights of Persons With Disabilities, all of these are being address by our existing legislations particularly Republic Act No. 7277 or the Magna Carta for Persons with Disabilities and has been presented in the above discussions. The only gap in the program is the prioritization of the government agencies in the budget allocation. Thus, there are still plenty of disabled people who do not have the privilege to avail these services for the enjoyment of these rights. Income security is only available to people with disability who have retired from work and who are members of the Social Security System (SSS) and the Government Service Insurance System (GSIS). These constitute only a small percentage of the disabled persons population.

62. But disabled people whether rich or poor, enjoy the benefit of having their own family life. They can marry and raise their own children in an atmosphere of fairness and equality with others under our laws, however intellectually disabled people have less opportunity for the exercise of this right due to attitudinal and environmental barriers. The hindrance in achieving full equality is the presence of so many barriers in the community. Although, our law provides for this equality yet the economic, social and cultural barriers are still difficult to deal with under present conditions. Forced labor is prohibited under Article Three (Section 18 paragraph Two of Philippine Constitution to read as follows “No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.” People with disabilities have also access to sports and cultural activities under our legislations. But because of the barriers economic, environmental and attitudinal they cannot totally participate in all our government programs especially those in rural areas. We have inadequate cultural materials that are readily available in accessible formats. Sports activities and facilities are limited only in the urban areas. In other words, Philippine laws are in most respect consisted with the principles of the Convention on the Rights of Persons with Disabilities nonetheless what is lacking is an effective government program that will truly

address the problem areas in the lives of people with disabilities in his pursuit for a genuine equality and an inclusive society for all.

**Issues and obstacles in harmonizing the CRPD with the domestic legislative measures, including the requirements under Articles Four (a) and Four (b) of the Convention on the Rights of Persons With Disabilities (CRPD)**

63. Philippine legislations in general are supportive of the rights of persons with disabilities in the country. However, the legislations are in most cases too general in application, this means that the laws do not have specific details in its provisions to bridge the gap of what is intended by the spirit of the law to effective implementations of programs planned by government. Even in the formulation of implementing rules and regulations of a particular law on disability, the specific details to carry out an effective implementation is not properly lay down. For example, issues like hiring a person with disability by employers, the Magna Carta for Persons with Disabilities did not mentioned that reasonable accommodation should be first provided by the employers before the determination of whether the disabled person is qualified or not to do the job applied for. Further, the law defines qualified person with disabilities are those who can do the job with or without reasonable accommodation. Thus, the discretion is left on the employer with wide latitude of whether hiring a person with disability because he/she has the privilege to choose person with disabilities who can do the job without reasonable accommodation. The Magna Carta for Persons with Disabilities define in Section 4 paragraph L, a qualified persons with disabilities as follows: “*Qualified Individual with a Disability* shall mean an individual with a disability who, with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires. However, consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.” And worst, the law provides that employer has the sole judgment as to whether hiring a person with disability would impede his/her business operations. And so if in the judgment of the employer employing a person with disability will affect his/her business operation, then denying a person with disability is not a form of discrimination.

64. Also, issues like there is a need for a specific law to be enacted to require affirmative action from the private sector. For example, the need for the Automated Teller Machines (ATM’s) with audio devices to make it accessible to visually impaired persons in their bank transactions is necessary to require banking institutions to provide such facilities. We have already a proposed Senate Bill No. 2664 entitled “An Act Making Automated Teller Machine (ATM’s) Accessible to the Visually Impaired”. The bill explains as follows “As technology increases, more and more people rely on Automated Teller Machines (ATM’s) as a method for doing daily banking tasks. While many ATM’s currently have Braille labels indicating the functions of some buttons, most machines do not have any non-visual method for reading or relaying the sequence of messages that appear on the screen. A law addressing this concern is not only prudent, but also necessary, to ensure that all individuals have an equal opportunity to access these machines. This bill provides the standards for our ATM’s to make them more accessible to our visually impaired citizens.”

65. We have also difficulty in convincing our legislators to support for the enactment of laws that will promote the full equality of persons with disabilities in the society and to have priority in the budget allocation because of the inadequacy of statistical data on disability. In addition, persons with disabilities do not have a strong lobby group due to inadequate support services for their empowerment.

**To summarize national actions or planned actions to harmonize  
the CRPD with the domestic measures**

66. Under Administrative Order No. 163 dated December 8, 2006, President Gloria Macapagal Arroyo strengthened the Presidential Human Rights Committee (PHRC). The PHRC was established under Administrative Order No. 29 on January 27, 2002. In addition to expanding its membership, its functions and duties are further elaborated to include among others:

- (a) to formulate the National Human Rights Action Plan in accordance with international human rights treaty obligations and to adopt a “rights-based approach” in the formulation of such plan; and
- (b) to coordinate compliance with international human rights obligations to which the Philippines is a state party. Basing on this mandate, the national action planning shall be an effective tool to continuously and progressively implement the government’s human rights obligations in collaboration with all other sectors of the Philippine society.

67. The Philippines is a State party to eight (8) core international Human Rights Treaties to include the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture (CAT), Convention on the Rights of the Child (CRC), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on the Rights of Migrant Workers (CMW), Convention Against Racial Discrimination (CERD) and the Convention on the Rights of Persons with Disabilities (CRPD).

68. The recently concluded Universal Periodic Review (UPR) on the Philippine Human Rights Situation called by the UN Human Rights Council has brought to fore the various issues and concerns that government must respond to, as a State party, to various international human rights obligations, which it does on its own, and in every way possible in consultation with and cooperation of civil society. This was done through the UPR process, which is an international mechanism to help member-states of the United Nations to respond more effectively with their human rights obligations on human rights. The mechanism works within the context of recent domestic and global developments that point to a changing environment that affect the level of enjoyment of both the civil and political rights and economic, social and cultural rights of the people especially the poor, marginalized and the disadvantaged including persons with disabilities.

69. As a next step to the UPR, the Presidential Human Rights Committee (PHRC) has prioritized the formulation of the National Human Rights Action Plan and Program (NHRAPP), which is one of the major mandates of the Committee pursuant to AO 163. In the context of the International Human Rights System, national action planning and implementation is a state mechanism that can help, both government and civil society including organisations of persons with disabilities, to resolve human rights problems in a continuing process, which involves more than identifying alleged wrong doers and exhorting governments to improve their performance, but also, to capacitate them altogether in bringing about genuine improvements in the domestic scene, that requires resources and long term effort in the areas of education, institutional strengthening and institution-building. The envisioned national action planning shall cover the period 2009 - 2014. This is a sequel to the first Philippine Human Rights Plan: 1996-2000. As can be noted, there was no updating of the plan for a period of eight years.

70. So there is a need to formulate a new National Human Rights Action Plan and Program (NHRAPP) and its accompanying plans at the regional level referred to as the Regional Human Rights Action Plan and Program (RHRAPP). Supplemental guidelines shall be issued by the National Economic Development Authority (NEDA) to the Regional Development Council on the formulation of the RHRAPP and the Department of Interior and Local Government (DILG) on the subsequent guidelines to be followed by the Local Government Units (LGUs) for the conduct of local consultations at the barangay, municipal, city and provincial level.

### **The Participation of Persons With Disabilities in the Harmonization of the CRPD and the Domestic Legislation**

71. The National Human Rights Action Plan and Program (NHRAPP) engages wide range of government agencies and the broadest range of participation, involvement and contribution of all members of civil society inclusive of the various vulnerable and disadvantaged sectors of society to include persons with disabilities. As envisioned the NHRAPP shall be thematic, referring to the eight (8) core international human rights treaties and sectoral, referring to the vulnerable and disadvantaged sectors that have stake in the implementation of international human rights standards that will help improve their human rights conditions.

72. As a process, the NHRAPP is a result of massive participative consultation that brings forth broader understanding, acceptance, popular commitment, ownership, credibility and responsiveness of the plan to the protection of human rights and the identification of human rights problems. Thus, local consultation shall be undertaken from the barangay, municipal, city, provincial up to the regional level.

### **The intended OUTCOMES of the NHRAPP are:**

- (a) A stronger policy and legal framework for development and governance, applying international human rights standards in national and local policy formulation, enhanced independence of the judiciary and more effective rule of law;
- (b) A stronger culture of human rights and improved national harmony, characterized by more accountable national and local governments (duty-bearers) adopting lasting improvements in the implementation of the international human rights standards in both development and governance of the country and the broadest range of substantive participation of civil society (claimholders such as persons with disabilities) for the improvement of human rights situation affecting all vulnerable and disadvantaged sectors of the country.

### **VISION FOR THE NHRAPP**

73. The NHRAPP envisions more lasting improvements in the human rights situation of the Philippine society that is founded on harnessed political will at various levels of governance in the country, to put in place all the much needed public policies, programs and resources that have wide ranging and incremental effects in progressively achieving better quality of life of the Filipino people especially the vulnerable, marginalized and disadvantaged and persons with disabilities in larger freedom and enjoyment of human rights.

### **APPROACH TO THE NHRAPP FORMULATION**

74. As prescribed under AO 163, the PHRC shall adopt the Human Rights-Based Approach (HRBA) in the formulation of the NHRAPP. It is an approach that shall facilitate

implementation of various human rights standards under the eight (8) core International Human Rights Treaties on the ground. Also, it is a process that shall link human rights and development, which under the 1986 UN Declaration on the Right to Development, states that Right to Development is an inalienable human rights whereby every human person and all peoples are:

- (a) entitled to participate in, contribute to and enjoy economic, political social, cultural development; and
- (b) fulfill state obligations to provide the enabling environment to take steps through appropriate means to the maximum level of its resources. The HRBA operates through a deliberate mainstreaming of human rights principles, norms, standards, practices into the development programming processes of all governance actors.

75. Therefore, in principle and in practice, the HRBA shall engage all sectors of Philippine society in a bottom-top and top-bottom consultative governance process of:

- (a) shifting paradigm from needs to rights;
- (b) the use of international human rights standards and its harmonization with domestic laws;
- (c) operationalization of the human rights principles, accompanying obligations and entitlements of the government and the people respectively, in planning and programming of development, and
- (d) capacitating both duty-bearers (government) and civil society (claimholders) on human rights norms, standards and practices in the course of mainstreaming them to both the development and governance processes.

76. In real terms, the HRBA shall:

- (a) Redirect the development thinking of the government and its development agencies along international human rights obligations; That the objective of development and aid are defined in terms of particular human rights, legally, enforceable rights with express links to international, regional and national human rights instruments;
- (b) Enable government to recognize its obligation to respond to the inalienable rights of individual Filipinos not simply in terms of development needs & requirements; That it is based on norms and standards contained in a number of international treaties and declarations; That benefit is based on moral consensus and legal obligations;
- (c) Enable policy makers to evaluate their initiative's impact in terms of enhanced human dignity of people in order to ascertain that benefits are fairly distributed and have express linkage to rights, non-discrimination, attention to vulnerable groups, participation, empowerment and accountability;
- (d) Empower people to demand justice as a right, not as charity; and to give communities a moral basis for which to claim international assistance; and also upholds: permanent sovereignty over natural resources; self-determination; popular participation; equality of opportunity; and the advancement of adequate conditions for the enjoyment of rights.

77. Focus on issues of accessibility as people are inherently identified as rights holders. RBA asks who is entitled to benefit and who owes the duty; and thus enable government and people to identify root causes of development problems that input into law and policies.

78. Meanwhile, a joint declaration entered into by the Chairperson of the Commission on Human Rights (CHR), the Commissioner of the Commission on Elections (COMELEC) and the Co-Chairperson of the Task Force 2010 (TF2010), a civil society organization was adopted and read as follows:

“We, the CHR, COMELEC and TF2010, undertake to sustain a significant and purposeful partnership in ensuring access of the vulnerable sectors in the exercise of their right to electoral participation. In the implementation of this commitment, we hereby organise six regional consultations in Bicol, Baguio, Pampanga, Samar, Davao and Zamboanga guided by the following objectives:

- (1) To conduct consultations-workshops, within a human rights-based framework, that will provide a comprehensive picture of the challenges in the participation of vulnerable sectors to the electoral process both as registrants and voters;
- (2) To formulate plans of action delineating the tasks, roles and action points that members of vulnerable sectors and pertinent stakeholders, particularly, the COMELEC, can work and collaborate on in achieving maximum participation come 2010.

79. To consolidate and forward possible policy reforms and recommendations to ensure our electoral policies and mechanism will guarantee that the marginalized sectors of our society are given equal opportunity to exercise their right of suffrage. We are confident that this regional engagement will enhance the institutionalization of local and national electoral mechanisms of ensuring access for vulnerable sectors. May we call on everyone to join this advocacy and contribute in their respective sphere of influence to cause the establishment of a genuine, free, periodic and fair elections in 2010 and beyond.”

#### **Recommendation for Actions for the Harmonization of the National Legislation with the CRPD**

80. Human Rights Agenda for the NHRAPP to incorporate the Convention on the Rights of Persons with Disabilities

CRPD: Convention on the Rights of Persons with Disabilities

- (a) Government shall make sure that the agenda on the rights of persons with disabilities will always be incorporated in all the human rights agenda of thematic areas of the other seven core treaties such as the Convention Against Torture (CAT), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention on Migrants Worker’s Rights (CMW), Convention on the Rights of the Child (CRC), and the Convention on the Elimination against Racial Discrimination (CERD)
- (b) There is a need for specific legislations, specifically addressing the gap in the provision of services as well as the facilities available in the society that shall be supported by national and local government agencies. For example, establishment of a national sign language as a standard communication for the deaf and a law providing for an alternative accessible information format including assistive devices and live assistance as support services at affordable cost or free of charge shall be enacted. Recently, there is a proposed legislation, House Bill No. 4217 filed before the House

of the Representatives seeking to amend Section 185 of Republic Act No. 8293 known as the “Intellectual Property Code of the Philippines, to grant exemption in the translation of printed materials into formats accessible to the visually impaired and for other purposes.” This kind of legislation should be supported by government for harmonization with the CRPD.

- (c) A review of the Accessibility Law and the Magna Carta for Persons with Disabilities is urgently recommended to respond for the growing demand for equality of persons with disabilities into the mainstream of society and to guarantee inclusive development of programs are appropriately funded.

Submitted by:

**Mateo A. Lee, Jr.**  
Deputy Executive Director III  
CESO III