



**Submission to the Committee of the UN Convention against Torture and  
Other, Cruel, Inhuman and Degrading Treatment**

**Civil Society Follow-up Report to the Concluding Observations of the  
Committee against Torture on the Philippines' Third Periodic Report**

**Submitted by the Children's Legal Rights and Development Centre (CLRDC),  
the World Organisation Against Torture (OMCT) and the Philippine Alliance of  
Human Rights Advocates (PAHRA)**

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**The Children’s Legal Rights and Development Centre (CLRDC)** is a non-profit, non-stock non-government organization that is committed to advancing children’s rights, interest and welfare utilizing the human rights-based approach as a framework in delivering its programs and services, such as legal as well as psycho-social intervention, to children deprived of liberty and children who are sexually abused. Apart from these interventions, CLRDC is engaged in legislative advocacy for policy reform towards ensuring that legislators craft laws that address the human rights situation and needs of children victims of violence. CLRDC further provides capacity building and awareness-raising to local government units and community on child protection policies and influence them to be a partner in implementing policies that provides safe spaces for children.

**The World Organisation against Torture (OMCT)** is the catalyst of the SOS-Torture network, a coalition of more than 200 international and national non-governmental organisations fighting torture, summary execution, enforced disappearances and all other cruel, inhumane or degrading treatment and punishment. With offices in Geneva, Brussels and Tunis, OMCT runs programmes to favour State compliance with international law and national anti-torture legislation, provide urgent assistance to victims of torture and seek justice for them, advocate greater protection for children in detention, women, and human rights defenders worldwide.

**The Philippine Alliance of Human Rights Advocates (PAHRA)** is an alliance of individuals, institutions and organisations committed to the promotion, protection and realisation of human rights in the Philippines. PAHRA is a member of the OMCT SOS-Torture Network. It is an affiliate of the International Federation of Human Rights Leagues (FIDH), a member of the Asian Forum of Human Rights and Development (FORUM-ASIA), and the Asian Network for Free Elections (ANFREL).

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## **A. Introduction**

1. This alternative follow-up report will address the priority recommendations issued by the Committee against Torture in its third periodic review of the Philippines (CAT/C/PHL/CO/3), with a specific focus on children. The report will also address notable developments since the adoption of the Concluding Observations.
2. It must be noted that major changes have occurred in the Philippines since the latest review. Elections were held, and the new government has shown blatant disregard for human rights and compliance with international treaties. The current President of the Philippines, Rodrigo Duterte, has implemented policies that contravene international human rights standards, including the Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment, and affect in particular the most vulnerable groups in the society, including children.
3. This alternative follow-up report is submitted before the State of the Philippines' follow-up report to the Concluding Observations of the Committee against Torture's third periodic report, which was due 13 May 2017. This report encompasses information from CLRDC's, PAHRA's and OMCT's activities in the Philippines as well as information from two OMCT follow-up visits to the Philippines conducted between 5 – 9 June 2017 and 30 September – 7 October 2018.

## **B. Follow-up Recommendation 14: Pre-trial Detention and Overcrowding**

4. Overcrowdings in prisons have worsened since the introduction of Duterte's new policy of "War on Drugs", including for children. The number of arrests has increased significantly with police having "quotas" of imprisonment to fulfil and receiving direct incentive from the Government, not only to arrest but also to kill drug offenders. According to official figures from the Commission of Audit the overcrowding of prisons has reached over 600 %, which leads to deplorable detention conditions, the spread of infectious diseases<sup>1</sup> and inmates joining gangs for protection while in detention.<sup>2</sup> The worst figures have been recorded in Calabarzon (Region 4-A) with 975% congestion, followed by Central Luzon (Region 3) with 802 % and Davao (Region 11) with 789 %.<sup>3</sup>
5. In the context of pre-trial detention, due to the enormous increase in the number of arrests, extortion of families has also been documented, involving high payments for a person's release without charge. Despite the inhumane situation in detention, with windowless and overcrowded cells in most prisons in the Philippines, some of the detainees have reported feeling safer in prison while waiting for trial on drug use. The police and militia violence and extrajudicial killings have become common practice in many neighbourhoods and the suspicion of being a drug user outside of a prison is considered by many as a death sentence.

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<sup>1</sup> <https://news.mb.com.ph/2018/03/11/jail-congestion-at-600-spread-of-infectious-diseases-among-inmates-up-by-40-bjmp/> accessed 2018-10-17.

<sup>2</sup> <https://www.rappler.com/nation/206366-congestion-rate-jails-philippines-audit-report-2017> accessed 2018-10-17.

<sup>3</sup> <https://www.manilatimes.net/jail-congestion-up-600/415638/> accessed 2018-10-17.

**a. Children Deprived of Liberty and Juvenile Justice in the Philippines**

6. CLRDC, OMCT and PAHRA are following in particular the conditions of detention of children in three holding centers (labelled as Bahay Pag Asa “Houses of Hope”) in the Manila region; Bahay Pag Asa in Caloocan City (the former Yakap Bata Holding Center), Malabon Bahay Sandigan and Valenzuela Bahay Pag Asa. CLRDC is making regular periodic visits to Caloocan and Malabon holding centers since 2011 and to Valenzuela holding center since 2014, to monitor the conditions of detention and follow the cases of their clients, some of who are detained in the centers. OMCT also conducted visits to the holding centers in Caloocan City and Malabon during the OMCT missions in June 2017 and October 2018.
7. It should be mentioned that there are 37 “Bahay Pag Asas” in the Philippines and only six of them live up to the official requirements to be labelled as a “House of Hope”, including rehabilitation and diversion programs, human living conditions and the possibility for the children to freely come and go as they want.
8. As of October 2018, two of the three holding centers are overcrowded. There are 137 children in the holding center in Caloocan city while its capacity is to hold only 60 children. Valenzuela holding center has the capacity to hold 60 children while 95 children are detained in the centre. There is currently no overcrowding in Malabon holding center. We will expose some of the most flagrant issues discovered in the three holding centres in this report.
9. From January to June 2018 CLRDC registered 385 children in the above-mentioned holding centres:<sup>4</sup>
  - 18,9 % of the children had not been arrested but “rescued” from the street or abusive parents,
  - 28,8 % of the children were accused of minor offences,
  - 19,4 % of the children were accused of heinous crimes and of these 14,8 % were accused of drug-related crimes,
  - The youngest children registered within the centres were 8 years old.
10. The basic procedural safeguards of the children are often not guaranteed or observed. They are commonly treated as criminals regardless of the offence they are accused of or if they have been convicted. They are rarely notified of the status of their case and sometimes even prevented by the staff to attend hearings as a form of “punishment” for bad behaviour. The children need to be accompanied by staff to attend their hearings and this depends on the mood of the staff in question. Hearings are often postponed or delayed increasing the sense of arbitrariness for the children in detention, not knowing when they will be able to be released or even why they have been apprehended. CLRDC and OMCT have witnessed public attorneys advising children to plead guilty even without knowing the circumstances of each case.
11. We have documented several incidents of corporal punishment of children while being apprehended and during detention. In particular in the holding centre in Caloocan city, verbal and physical abuse of the children by the staff is common place. Solitary confinement is also practiced as punishment for “unruly behaviour”. The solitary confinement cell in the holding centre in Caloocan city is small, cemented without windows or ventilation. One incident was recorded of a child being put in solitary confinement because he had chickenpox.

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<sup>4</sup> See annex A for more information.

12. The children have no means of reaching out to their parents and guardians, they will only have contact with the outside world if relatives come to visit them. We have reported several incidents where the parents/guardians were not notified about the apprehension or the whereabouts of the children.
13. The conditions of detention in the three holding centres are deplorable, especially in the one in Caloocan city. This leads to some children resorting to violence due to the frustration with their situation, there have even been some suicidal attempts recorded. The dormitories are crowded, the sanitary installations are inadequate, recreational activities are scarce and children's medical needs ignored by staff, food portions are adapted to the capacity of the holding centre and not the actual number of children deprived of liberty. All these circumstances taken together, compared to the special needs and vulnerabilities of children, amount to cruel, inhuman and degrading treatment and in some instances even torture.
14. The detention conditions in the holding center in Caloocan city are particularly harsh. The centre has 3 dormitories that look like cages. The dormitories have no furniture, which means children sleep directly on the tile floor without mattresses. A half-blocked window provides the only sunlight and ventilation. Very scarcely, children leave the dormitories – there is no patio or other room with sunlight. Food is considered insufficient and of poor quality. According to authorities in charge of juvenile justice, there are plans to build a new Bahay Pag Asa in Caloocan city. To date, no centre has been built, or alternative measure to detention considered.
15. Given what has been stated above, we consider that the State of the Philippines has not implemented the follow-up recommendation on pre-trial detention and overcrowding. The “War on Drugs” has instead had an extremely negative effect increasing overcrowding and pre-trial detention criminalizing poor and marginalized populations including children. The State of the Philippines should therefore be assessed with an E.

### **C. Follow-up Recommendation 16: Torture and Ill-Treatment**

#### **a. Torture and Extrajudicial Killings in the Name of the “War on Drugs”**

16. Since Duterte took office in June 2016, several thousands, including children, have been killed in the poorest neighbourhoods of Manila, as part of police crackdowns and investigations in the fight against crime, corruption and insecurity – all of which are being attributed to drug dealers and users. A “reward system” has been put in place to incite policemen, to kill drug-related offenders. It is difficult to assess the death toll of the “War on Drugs”, estimates range from 12,000 to 20,322, while the Philippine National Police state that 4,521 have been killed between 1 July 2016 and 30 April 2018.<sup>5</sup>
17. In the first 18 months of Duterte's term (1 July 2016 and 31 December 2017), there have been at least 74 cases of documented child executions in the Philippines related to the war on drugs.<sup>6</sup> Some bore marks of torture when their bodies were found. Public outrage emerged in the case of Kian de los Santos, a 17-year old schoolboy who was tortured before he was killed

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<sup>5</sup> <https://newsinfo.inquirer.net/988352/pnp-admits-4251-killed-in-war-on-drugs> accessed 2018-10-17.

<sup>6</sup> <https://newsinfo.inquirer.net/980513/group-finds-74-minors-in-drug-war-body-count> accessed 2018-10-17, see also <https://www.pressreader.com/philippines/philippine-daily-inquirer/20171229/281698320121742> accessed 2018-10-17, and <https://newsinfo.inquirer.net/857871/hunt-for-drug-suspect-leaves-7-dead> accessed 2018-10-17.

in August 2017. There were CCTV footage of policemen dragging Kian along the street, clearly contradicting the testimonies of the policemen accused of killing Kian.<sup>7</sup> This case is emblematic, showing patterns of abuse beyond the particular case of Kian. Children have also been subjected to extrajudicial killings after being released from the holding centers. CLRDC registered four cases in 2016, three in 2017 and two so far during the year of 2018.

18. In his 2018 State of the Nation Address (SONA) last 23 July 2018, President Duterte warned that: ***“the war against illegal drugs is far from over, it will be as relentless and chilling, as on the day it began.”*** A statement that breeds the culture of impunity indicating that there will be no let-up in the killings, regardless of age.
19. Civil society organisations are experiencing trouble in documenting extrajudicial killings because they are rarely authorized to see the bodies of the deceased. Police will only release bodies in return for payment. Civil society organisations thus mostly rely on the testimonies of the victims’ relatives who also have a hard time receiving the bodies of their loved ones since bodies are only released after payment. According to testimonies of relatives, many victims have also been subjected to torture.
20. New forms of torture have also been reported: in order to escape charges, drug users are paraded in their neighbourhoods; in Mindanao, drug dealers/users were stripped naked and exposed to the sun; torture and ill-treatment has allegedly been perpetrated by local authorities. Also, if the person the authorities are looking for in the context of the “War on Drugs” is nowhere to be found, allegedly they arrest a family member and if the suspect does not turn him/herself in, the relative is killed.
21. A bill foreseeing the imposition of the death penalty by means of hanging, lethal injection, shooting (House Bill No. 2) for drug-related offenses has been approved by the House of Representatives. The bill is currently pending approval in the Senate. We particularly fear that children could be included in the bill.

## **b. Impunity**

22. The aforementioned killings and/or acts of torture committed against drug dealers and users are generally considered to have been perpetrated in self-defence. They thus remain unpunished, resulting in a worrying erosion of the Rule of Law in the Philippines.
23. Moreover, there is no efficient independent monitoring mechanism to investigate the extrajudicial killings or torture. The Oversight Committee of the Anti-torture Act has only met once since Duterte came into office and has agreed on guidelines for monitoring. However, these are not followed since the Oversight Committee does not meet regularly to conduct their work. As for now, there are very few cases filed in court and only one conviction.
24. Prosecution continues to be jeopardised by lengthy and costly proceedings; the lack of prosecutors and lawyers; the harassment of victims and their relatives; difficulties encountered in identifying perpetrators and witnesses not appearing in court.
25. The State of the Philippines has not implemented follow-up recommendation number 16 on torture and ill-treatment. There are even increased reports of torture and extrajudicial killings

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<sup>7</sup> <https://www.theguardian.com/world/2017/aug/23/please-stop-brutal-killing-of-a-student-in-philippines-drug-war-sparks-nationwide-anger> accessed 2018-10-17.

allegedly committed in the name of the “War on Drugs” and impunity is still rampant. The State of the Philippines should therefore be assessed with an **E**.

#### **D. Follow-up Recommendation 22: Secret Places of Detention**

26. No governmental policy has been created, or efforts made aiming at closing secret places of detention. OMCT and CLRDC have however documented efforts from the Commission on Human Rights of the Philippines (CHR) in investigating some allegations. In the police headquarters in Manila, adults were held in a secret cell, which was to be found behind a bookshelf. After a visit from the CHR the place was closed, and the case was filed to the Ombudsman where the case is still pending. There is only one witness left, others have withdrawn out of fear.
27. Since the last CAT review there has not been a single investigation into Malabon secret detention centre, uncovered by CLRDC and OMCT in 2014. Already in June 2017, CHR made a commitment to conduct a visit to the Malabon detention centre, until today this did not happen.
28. OMCT met with State authorities during the mission in October 2018 to discuss torture related issues and reporting to the CAT. During the meetings with State representatives, they denied the existence of any secret places of detention in the Philippines, claiming that various premises, apart from the police stations, have been used by the Philippines National Police due to overcrowding.
29. Follow-up recommendation 22 on secret places of detention cannot be considered implemented, and should therefore be assessed with a **C**.

#### **E. Noteworthy developments since the adoption of the Concluding Observations**

##### **a. Bill on Decreasing the Minimum Age of Criminal Responsibility**

30. Yet again, there is a pending bill on decreasing the Minimum Age of Criminal Responsibility (Bill No. 2026) from 15 to 12 years old at the House of Representatives. OMCT, CLRDC and PAHRA are extremely concerned about this bill prioritizing deprivation of liberty of children that is likely to create more family separation and unnecessary institutionalization.
31. Presenting bills to decrease the minimum age of criminal responsibility is a recurring fact in the Philippines (ref. for instance bill number 922 proposing to reduce the age for criminal responsibility from 15 to 9 years old). We are concerned by this punitive reaction to social problems, also mirrored in the “War on Drugs” policy.

##### **b. Enforced Disappearances**

32. The Philippines has refrained from becoming party to the International Convention against Enforced Disappearances. The Government claims that its domestic legislation offers sufficient

local remedies. Although the Anti-Enforced or Involuntary Disappearance Act of 2012 does indeed offer guarantees against enforced disappearances, its *ratione temporis* does not extend to enforced disappearances having occurred before the passing of the law, notwithstanding the fact that these violations are on-going violations. Since Duterte took office June 30, 2016 until October 22, 2018, there have been 52 reported cases of enforced disappearances according to reliable sources. OMCT, CLRDC and PAHRA are concerned by the increasing reports of enforced disappearances in 2018.

### **c. National Preventive Mechanism**

40. The creation of a national preventive mechanism (NPM) based on a legislative act has been delayed by debates on whether the CHR should serve as an NPM. Meanwhile, the CHR has created an interim-NPM and elected seven commissioners. The interim-NPM's first meeting was scheduled to the 25<sup>th</sup> of October 2018. It will be instrumental that the interim-NPM clearly is dissociated from the other parts of the CHR's work which takes on a more investigative approach. CLRDC, OMCT and PAHRA are also worried that there is a risk that the child rights dimension will be forgotten.