



Sexual Abuse in Philippine Detention Emerging as a Human Rights Crisis

CASES OF RAPE, sexual abuse and torture committed against women detainees by the police, military and prison officials/personnel in the [Philippines] have been brought to the attention of the Commission on Human Rights.

— Commission on Human Rights of the Philippines ¹

Sexual abuse is a largely hidden reality in detention facilities in the Philippines, in violation of domestic law and international human rights treaties to which the Philippines is a state party.² Although there is little official data on the incidence of rape behind bars in the Philippines, the country's prisons and jails suffer from the conditions that lead to sexual abuse, including severe overcrowding, lack of adequate supervision, failure to separate the most vulnerable inmates from likely predators, widespread homophobia, and a culture of silence that results in impunity for corrupt officials.³

In one of the few official studies conducted on prisoner rape in the Philippines, four percent of 552 female jail inmates surveyed reported that they had experienced sexual abuse while detained.⁴ Seven of the women had been raped, while others were subjected to abusive conduct including sexual touching, kissing, corrections officials exposing their genitalia, and attempted rape.⁵ A more recent study found that ten percent of women detainees had been sexually abused by jail officials prior to their transfer to the Correctional Institution for Women (CIW).⁶

In 2001, in response to these and other reports of sexual abuse of detained women by police, military, and prison officials, the Commission on Human Rights of the Philippines released a human rights advisory, which noted that women known to have engaged in prostitution, who have committed minor crimes, or are alleged to have violated the Philippines' anti-vagrancy law

are among those most likely to be subjected to sexual violence in custody.⁷ Such abuses have continued unabated despite government efforts to address sexual violence against detainees – including a 2001 pronouncement by the Bureau of Jail Management and Penology (BJMP) that it had adopted a zero-tolerance policy toward staff sexual misconduct and plans for the formation of a government task force on sexual violence against women in detention.⁸

Juveniles are also frequently the targets of sexual abuse in Philippine detention facilities. Such abuse is often linked to the widespread failure to separate youth from adults in jails throughout the country, in violation of domestic and international law.⁹ Despite the passage of the Comprehensive Juvenile Justice System and Welfare Act of 2006,¹⁰ which requires that children in police custody be held separately from adult detainees and from detainees of the opposite sex, detained children continue to be placed deliberately in harm's way.¹¹ Moreover, it is not clear what steps, if any, have been taken to implement a key provision in the law that prohibits law enforcement officials from sexually harassing or making sexual advances toward juveniles in their custody.¹²

Documentation of sexual violence in Philippine detention facilities has focused primarily on women detainees, juveniles, and political prisoners. However, there is growing evidence that sexual abuse is rampant throughout the country's detention facilities.¹³ Gangs hold tremendous sway behind bars, and corrections officials often cede power to so-called "mayores" (gang leaders) in an effort to preserve

institutional order. Detainees who are vulnerable to abuse and extortion regularly seek protection from the gangs, often providing money or sex in return.

The Anti-Rape Law of 1997¹⁴ and the Rape Victim and Assistance Act of 1998¹⁵ are among the laws already in place that help to address sexual violence in detention. Notably, in 2008, lawmakers also introduced to the Philippine Congress the Prison Rape Elimination Act,¹⁶ legislation modeled after a United States law passed in 2003.¹⁷ The law calls for: the establishment of a zero-tolerance standard for sexual abuse in detention; collection of national data on the incidence

of prisoner rape along with an examination of the best and worst performing detention facilities; and the provision of grants and technical assistance to support efforts to address the problem. Other pending legislation calls for the separation of male and female detainees and for the alleviation of overcrowding.¹⁸

In 2009, the Philippines' compliance with the Convention Against Torture will be reviewed by the U.N. Committee Against Torture. The Committee has identified a number of issues to be considered as part of this review that are directly linked to the government's failure in preventing and addressing sexual abuse behind bars.¹⁹

Endnotes

- 1 Commission on Human Rights of the Philippines (hereinafter "CHR"), *On the Sexual Abuse and Torture of Women in Custody* 1 (Oct. 2001).
- 2 The applicable treaties include the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Convention Against Torture"), G.A. Res.39/46, 39 U.N. GAOR, 39th Sess., Supp. No. 51, at 197, U.N. Doc. A/39/51 (1984) (entered into force June 26, 1987 and ratified by the Philippines Oct. 14, 1994); and, the International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976 and ratified by the Philippines Oct. 23, 1986). See also, Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("OPCAT"), G.A. Res. 57/199, U.N. Doc. A/RES/57/199 (Dec. 18, 2002). Philippine President Gloria Arroyo signed the OPCAT on April 22, 2008; it has not yet been ratified by the Philippine Senate. For more information, see Just Detention International, Fact Sheet: Prisoner Rape is Torture Under International Law (2009).
- 3 See STOP PRISONER RAPE, IN THE SHADOWS: SEXUAL VIOLENCE IN U.S. DETENTION FACILITIES 8-17 (2006); see also, Luz Rimban & Chit Balmaceda-Gutierrez, Philippine Center for Investigative Journalism, *No Justice for Women Raped in Jail* 1 (1998).
- 4 AMNESTY INTERNATIONAL, PHILIPPINES: FEAR, SHAME AND IMPUNITY: RAPE AND SEXUAL ABUSE OF WOMEN IN CUSTODY 18 (1998).
- 5 *Id.*
- 6 Nymia Simbulan et al., *High-Risk Behaviors and the Prevalence of Sexually Transmitted Diseases Among Women Prisoners at the Women State Penitentiary in Metro Manila*, 52 Soc. Sci. & Med. 599, 604 (2001). Because of the authority that corrections staff have over inmates, all sexual contact between staff and inmates is inherently abusive.
- 7 CHR, *supra* note 1, at 1.
- 8 See AMNESTY INTERNATIONAL, (PHILIPPINES) TORTURE PERSISTS: APPEARANCE AND REALITY WITHIN THE CRIMINAL JUSTICE SYSTEM 38-39 (2003).
- 9 PEOPLE'S RECOVERY, EMPOWERMENT DEVELOPMENT ASSISTANCE FOUNDATION (hereinafter "PREDA"), REPORT ON THE DETENTION OF CHILDREN AND LAPSES IN THE IMPLEMENTATION OF THE COMPREHENSIVE JUVENILE JUSTICE SYSTEM AND WELFARE ACT OF 2006 10-12, 49 (2008).
- 10 Republic Act No. 9344 (2006).
- 11 CHR, ASSISTANCE AND VISITORIAL OFFICE, JAIL VISITATION REPORT: PRISON AND JAIL CONDITIONS (JANUARY-DECEMBER 2007) 6 (2008).
- 12 Republic Act No. 9344 § 21(d).
- 13 Rimban & Balmaceda-Gutierrez, *supra* note 3, at 3 (quoting Romeo Pena, then director of the Philippine National Police Directorate for Investigation, as stating that "there are cases of men getting raped [in prison]," even while denying that sexual violence against female detainees is common).
- 14 Republic Act No. 8353 (1997).
- 15 Republic Act No. 8505 (1998).
- 16 *Prison Rape Elimination Act of 2008*, S.B. 2033, 14th Cong. (2008).
- 17 *The Prison Rape Elimination Act of 2003*, 42 U.S.C. § 15601 *et seq.* For more information about PREA in the U.S., see Just Detention International, Fact Sheet, *The Prison Rape Elimination Act* (2009).
- 18 *An Act Providing for a Secured and Separate Prison Cell for Female Prisoners in Every... Jail, Amending for the Purpose Section 63 of the Republic Act No. 6975, H.B. 1137*, 14th Cong. (2007); *An Act Amending the 1st Paragraph of Article 39 of Act No. 3815...*, S.B. 3031, 14th Cong. (2009).
- 19 Committee Against Torture (hereinafter "Committee"), 42nd Session, List of Issues to be Considered During the Examination of the Second Periodic Report of the Philippines (CAT/C/PHL/Q/2) (2009). The concerns about sexual violence raised by the Committee are detailed further in a joint civil society report to which JDI contributed, and in JDI's own "shadow report" to the Committee. See PHILIPPINE HUMAN RIGHTS INFORMATION CENTER (PHILRIGHTS), et al., JOINT CIVIL SOCIETY REPORT ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN THE PHILIPPINES (2009); and, JUST DETENTION INTERNATIONAL, AN EMERGING HUMAN RIGHTS CRISIS: SEXUAL VIOLENCE IN PHILIPPINE DETENTION FACILITIES (2009).

About Just Detention International (JDI)

Just Detention International (JDI) is a human rights organization that seeks to end sexual abuse in all forms of detention.

All of JDI's work takes place within the framework of international human rights laws and norms. The sexual assault of detainees, whether committed by corrections staff or by inmates, is a crime and is recognized internationally as a form of torture.

JDI has three core goals for its work: to ensure government accountability for prisoner rape; to transform ill-informed public attitudes about sexual violence in detention; and to promote access to resources for those who have survived this form of abuse.

JDI is concerned about the safety and well-being of all detainees, including those held in adult prisons and jails, juvenile facilities, immigration detention centers, and police lock-ups, whether run by government agencies or by private corporations on behalf of the government.

When the government takes away someone's freedom, it incurs a responsibility to protect that person's safety. All inmates have the right to be treated with dignity. No matter what crime someone has committed, sexual violence must never be part of the penalty.

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