



REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS

April 4, 2023

SUBCOMMITTEE ON PREVENTION OF TORTURE

Office of the United Nations High
Commissioner for Human Rights (OHCHR)
Palais des Nations
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Subject: Inputs on the draft general comment of the SPT on the article 4 of the OPCAT

Dear **Subcommittee on Prevention of Torture**,

Greetings from the Commission on Human Rights of the Philippines (CHRP)!

In response to the *Call for comments on the draft general comment of the Subcommittee on Prevention of Torture (SPT) on the article 4 of the OPCAT (optional protocol to the convention against torture)*, the Commission on Human Rights of the Philippines (CHRP) would like to submit the following comments.

PREVAILING COMMENT

CHRP is in full agreement with the interpretation of the Subcommittee on Prevention on Torture and Other Cruel, Inhuman, or Degrading Treatment on Article 4 of the OPCAT.

In the same manner as in other jurisdictions cited, defining and identifying “places of deprivation of liberty” has been particularly challenging in light of the legal and administrative nomenclatures existing in the Philippine context; in particular, how such are still classified according to function such as police custodial facilities for those undergoing preliminary investigation, jails for those undergoing trial, and prisons for those convicted of a crime or offense.

The CHRP, in the exercise of its visitorial mandate, has adopted the definition of places of deprivation of liberty in the Optional Protocol. The different agencies of the Philippine government have also taken steps to integrate the same definition in their respective operational processes.

The broadening of this definition of a place of deprivation of liberty not only emphasizes the faithfulness of its interpretation to the original purpose by which the Optional Protocol was ratified, but also, and more importantly, refocuses the onus on State parties to ensure that torture and cruel, inhuman, or degrading

CHR ng lahat: Naglilingkod maging sino ka man

treatment or punishment is prevented in all instances. This is particularly important for State parties that may argue that their obligations under the Convention Against Torture and its Optional Protocol are limited to those recognized and managed by the State.

This General Comment also gives much needed space for the Subcommittee, national preventive mechanisms, and other stakeholders, such as the CHRP, to act on and address former “gray areas” that were not previously covered by the definition. By emphasizing on critical elements - public or private space custodial settings, exercise of State jurisdiction or control, suspected places where persons deprived of liberty are held, and not being permitted to leave at will - the Subcommittee provides ample criteria by which different configurations of custodial settings may then be classified as a place of deprivation of liberty and thus, place such under the ambit of the Optional Protocol.

The CHRP also appreciates how the Subcommittee veers away from providing a restrictive list of such places of deprivation of liberty, and wholly agrees that while such can be left to the discretion of the State parties, what should be prevalent and must ultimately be considered is the identification of the elements above mentioned for a setting to be identified as a place for deprivation of liberty.

Therefore, **CHRP supports the adoption of the first public draft of general comment (no. 1) on places of deprivation of liberty (article 4), in its entirety, subject to ensuing comments and/or reservations based on further revisions that the Subcommittee may have as to substance.** We are looking forward to participate in the public general discussion on the draft in June 2023.

Very truly yours,

RICHARD P. PALPAL-LATOC

Chairperson

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