

PHILIPPINES 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Philippines is a multiparty, constitutional republic. The 2010 national elections--which were generally free and fair but marked by incidents of violence and allegations of vote buying and electoral fraud--resulted in the election of President Benigno S. Aquino III, members of the bicameral legislature, and leaders of provincial and local governments. Security forces reported to civilian authorities, although there were isolated instances in which local officials, paramilitaries, and security force elements appeared to act independently of national-level authorities.

Leading human rights problems were the continued arbitrary, unlawful, and extrajudicial killings by national, provincial, and local government agents and by antigovernment insurgents; an underresourced and understaffed justice system that resulted in limited investigations, few prosecutions, and lengthy trials of human rights abuse cases; and widespread official corruption and abuse of power.

Other human rights problems included: continued allegations of prisoner/detainee torture and abuse by security forces; violence and harassment against leftist, labor, and human rights activists by local security forces; disappearances; warrantless arrests; lengthy pretrial detentions; overcrowded and inadequate prison conditions; killings and harassment of journalists; internally displaced persons (IDPs); violence against women; local government restrictions on the provision of birth-control supplies; abuse and sexual exploitation of children; trafficking in persons; limited access to facilities for persons with disabilities; lack of full integration of indigenous people; absence of law and policy to protect persons from discrimination based on sexual orientation and gender identity; suspected vigilante killings; child labor; and ineffective enforcement of worker rights.

The government continued to investigate and prosecute only a limited number of reported human rights abuses, and concerns about impunity persisted.

Long-running communist and separatist insurgencies continued to result in killings of soldiers and police in armed clashes. Terrorist organizations--Abu Sayyaf Group (ASG); Jemaah Islamiya (JI); and New People's Army (NPA), the military wing of the country's Communist Party--and rogue elements of the separatist Moro Islamic Liberation Front (MILF) continued to kill security forces, local government officials, and other civilians. These organizations also continued to be

linked with kidnappings for ransom, bombings that caused civilian casualties, reports of the use of child soldiers in combat or auxiliary roles, and unauthorized courts. An October 15 government-MILF framework peace agreement offered the long-term prospect of reducing conflict and internal displacement in central Mindanao and the Sulu Archipelago.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that security forces committed arbitrary and unlawful killings, including in connection with combat operations between government forces and Muslim rebels in parts of the Mindanao region (see section 1.g.). Killings of activists by security or paramilitary forces as well as killings of judicial officials and local government leaders by antigovernment insurgents continued to be serious problems.

The Commission on Human Rights (CHR), an independent government agency, investigated 30 new complaints of politically motivated killings involving 40 alleged victims during the year--a significant decrease compared with the revised total of 92 complaints investigated in 2011 involving 143 alleged victims. The CHR suspected that personnel from the Philippine National Police (PNP) were involved in seven of the complaints, the Armed Forces of the Philippines (AFP) in two, a civilian in one, members of the terrorist NPA in six, and unidentified persons in the remainder.

During the year the CHR concluded its investigation of the 2010 killing of Leonard Co and recommended filing criminal and administrative charges against eight members of the AFP 19th Infantry Battalion (Corporal Marlon Mores and Privates First Class Albert Belmonte, William Bulic, Elmer Forteza, Alex Apostal, Roger Fabillar, Michael Babon, and Gil Guimerey).

The PNP Task Force Usig (TFU)--responsible for investigating and monitoring killings of media members, militant/labor activists, and foreigners--received reports of 13 new cases during the year (using different criteria than the CHR's). The TFU determined that only one of the cases fell under its specific mandate; it was under investigation at year's end. Charges were filed either at a prosecutor's office or in court in eight cases, two cases remained under investigation by other PNP units, and two cases were filed with a prosecutor's office without an identified suspect. As of year's end, of the 166 cases monitored by the TFU since

2001, a total of 101 were filed in court and prosecutor offices, 63 remained under investigation, and two were closed due to death of suspects in armed encounters. One 2009 case of the killing of a media member was determined to be unrelated to work and thus no longer part of TFU's mandate. There were no new convictions of state actors during the year.

Reports by nongovernmental organizations (NGOs) on the number of alleged extrajudicial killings and torture cases during the year varied. During the year the NGO Karapatan (Alliance for the Advancement of People's Rights) revised 2011 data upward from 39 to 44 victims and recorded 52 new victims of extrajudicial killings by government forces during 2012. The NGO Task Force Detainees of the Philippines (TFDP) also reviewed allegations of summary executions by government security forces during the year. It was unable to investigate all allegations it received (one victim's family refused to be interviewed), but counted four such cases involving eight victims.

On October 18, members of the AFP 27th Infantry Battalion reportedly fired on the home of Daguil Capion, a B'laan tribal leader, in Sitio Fayahlob, Datal Aliong Village, Kiblawan municipality, Davao del Sur Province, Mindanao Island, and killed his pregnant wife, Juvy Capion, and two children and injured a third child. Daguil Capion--who opposed Sagittarius Mines, Inc.'s activities on tribal ancestral land and was also allegedly an NPA rebel suspected of ambushing three mine construction workers in March 2011--was not at home at the time of the attack. Authorities placed Battalion Commander Lieutenant Colonel Noel Alexis Bravo, who claimed the killings resulted from a firefight with the NPA, under investigation, and he subsequently resigned from his post. By year's end the AFP reported relieving the battalion's Bravo Company commander (First Lieutenant Dante Jimenez) from duty; constituting a general court-martial board at headquarters; and restricting Jimenez and 12 enlisted men to barracks pending pretrial investigation. The enlisted suspects were Sergeants Dennis Murillo and Rommel Ballenas; Corporals Robert Godio, Ayiha Namla, Brucekham Sahali, Bashir Said, Julah Majid, and Jemson Jadjuli; and Privates 1st Class Marlowe Gayamot, Joel Lopez, Darryl Tayamora, and Richard Julian. In addition, the PNP initiated another, criminal investigation into the incident that potentially would take precedence over the general court-martial, and the CHR also began an independent investigation that continued at year's end.

On November 22, the president signed Administrative Order 35 that created the Interagency Committee on Extralegal Killings, Enforced Disappearances, Torture, and Other Grave Violations of the Right to Life, Liberty, and Security of Persons.

The committee, chaired by the secretary of justice, was designed as the government's central coordination body for prioritizing unsolved human rights abuse cases for investigation and prosecution; developing operational guidelines to improve police-prosecutor coordination; and monitoring, investigating, and prosecuting individual cases as needed. The administrative order also tasked the committee--composed of the PNP, AFP, Department of Justice, and others, with the CHR and the Office of the Ombudsman as observers--to prepare an inventory of all such abuse cases within 30 days and submit an activity report to the president every six months. The body's technical working group standardized a common definition of extrajudicial killing, but as of year's end, it did not finish reviewing cases from member agencies for possible inclusion in the inventory list.

During the year there were no significant developments in the case of the February 2011 killing of Rodel Estrellado, which allegedly involved the AFP.

The CHR reported that suspects Rodolfo Ong, Jr., and Rex Binayug surrendered to authorities in April in connection with their alleged participation in the 2010 Darius Evangelista case. According to the NGO Amnesty International, as of October the primary suspect, Joselito Binayug, remained missing, and the Evangelista family awaited forensic analysis results.

On September 25, the Department of Justice revised murder charges against the 196 individuals accused in the 2009 Maguindanao massacre case to include a 58th victim whose body has not been found. Of the 196 individuals charged as of August, authorities detained and arraigned 78 suspects and detained an additional 20 individuals with arraignment pending, while 97 suspects remained at large, and one person died. The department also confirmed the killings of three witnesses (two in 2012) in the case as well as three relatives of other witnesses since the trial began in 2010.

Additionally, on April 24, three assailants shot and killed Kabankalan Regional Trial Court Judge Henry Arles in Manalad Village, Ilog municipality. In June the National Bureau of Investigation identified three suspected members of the Revolutionary Proletarian Army-Alex Boncayao Brigade (RPA-ABB) as the alleged assailants and arrested them for illegal possession of firearms. On July 27, the bureau filed charges against Ilog Mayor John Paul Alvarez, the alleged mastermind of the killing, and six others (government employee Emmanuel Mendez and RPA-ABB members Marvin Salve, Gerald Gallano, Jessie Gedacan Daguia, Alejandro Castillo Capunong, and Eddie Magno Fortunado), which included the three previously detained suspects. Arles's family contended that

Alvarez had the judge killed to stop an anticorruption investigation of the mayor. Authorities reportedly released Capunong and Daguia after they posted bail.

b. Disappearance

According to credible local human rights NGOs, government forces and antigovernment insurgents continued to be responsible for disappearances. During the year the CHR investigated seven new cases of forced disappearances, abductions, and kidnappings involving nine victims, compared with seven cases involving 30 victims in 2011. As of year's end the CHR reported that eight individuals remained missing and one was found detained in a police station. The CHR investigations implicated the PNP in one abduction case, the AFP in two, the NPA in two, and unidentified individuals in the remaining two.

During the year the NGO Families of Victims of Involuntary Disappearances monitored two reported disappearance cases involving four victims and unidentified perpetrators. All victims were missing as of year's end. The NGO Karapatan reported three disappearances during the year.

Family members of alleged victims of disappearances--or any persons whose rights to life, liberty, and security have been violated or threatened--may compel government agencies to provide statements in court about what they know of the circumstances surrounding a disappearance or extrajudicial killing and the victim's status. However, some victims' families asserted that courts and police continued to fail to address adequately their complaints concerning disappearances in which security force involvement was suspected. Evidence of a kidnapping or killing is required to file charges, and in many cases, evidence and documentation were unavailable or not collected. During the year a limited number of cases moved forward, and investigative and judicial inaction on disappearance cases resulted in low rates of prosecution and conviction.

On December 21, the president signed into law the Anti-Enforced or Involuntary Disappearance Act to define and criminalize forced disappearances. The law requires that detention facilities maintain accessible detainee registries and government agencies provide compensation, restitution, and rehabilitation of victims.

In the case of the 2007 disappearance of farmer-activist Jonas Burgos in Bulacan Province, pursuant to a 2011 Supreme Court decision, the Court of Appeals revived habeas corpus proceedings. One eyewitness identified Lieutenant Harry

Baliaga, Jr., as one of the seven abductors. As of year's end the arbitrary detention charges filed by Burgos's mother against Lieutenant Baliaga, Colonel Delquiades Feliciano, Colonel Eduardo Ano, and other members of the AFP 56th Infantry Battalion remained under preliminary investigation. On December 3, the AFP recommended Ano for promotion to brigadier general as head of the Intelligence Service, although on December 20, the Commission on Appointments deferred the promotion.

In the case of the 2006 abduction of two university student activists (Sherlyn Cadapan and Karen Empeno) in Bulacan Province, regional trial court proceedings began in December 2011 against Lieutenant Colonel Felipe Anotado, Jr., and Staff Sergeant Edgardo Osorio. As of year's end two Army retirees (major general Jovito Palparan, Jr., and master sergeant Rizal Hilario) who were charged with involvement in the disappearances remained at large, despite the government's offer of a two-million-peso (approximately \$47,000) reward.

In its March 2 report, the UN Working Group on Enforced or Involuntary Disappearances reiterated its pending request for a country visit and reported that 621 cases it transmitted to the government in previous years remained outstanding as of November 2011.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits torture, and evidence obtained through its use is inadmissible in court. Members of the security forces and police, however, allegedly routinely abused and sometimes tortured suspects and detainees. According to the CHR and reliable human rights groups, the use of excessive force and torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation included electric shock, cigarette burns, and attempted suffocation.

During the year the CHR investigated 25 cases of alleged torture involving 46 victims, with police suspected in 17 cases; the AFP in three; the Philippine Drug Enforcement Agency in one; a jail warden in two; a coinmate in one; and unidentified persons in one--a marked decrease from 47 cases involving 56 victims in 2011. During the year the TFDP documented 16 cases of alleged torture involving 21 victims and claimed security forces were responsible, compared with 21 cases involving 27 victims in 2011.

Reports continued that prison guards physically abused inmates. The CHR and the TFDP reported that abuses by prison guards and other inmates were common, but prisoners, fearing retaliation, refused to lodge formal complaints. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Human rights activists believed suspected ASG and NPA members in captivity were also particular targets for abuse. Authorities sometimes punished police who committed assault or abuse. On September 6, provincial prosecutor Danilo Bumacod filed a charge that Senior Inspector Jessie Quesada, then Pugo police chief, raped an inmate in Pugo town, San Fernando, La Union Province, in May and June. Authorities removed Quesada from that position after the prosecutorial filing.

There were no developments during the year in the July 2011 case of Abdul Khan Ajid, a baker and suspected ASG member, who remained in Isabela City Provincial Jail. According to the TFDP, there were also no reported actions involving the three AFP personnel accused of abusing him.

Prison and Detention Center Conditions

Prison conditions continued to be rudimentary and sometimes harsh. Jails and prisons often were overcrowded, a situation exacerbated by the slow judicial process, lack of basic infrastructure, and inadequate nutrition and medical attention.

Physical Conditions: The Bureau of Corrections (BuCor), under the Justice Department, administered seven prisons and penal farms for individuals sentenced to prison terms exceeding three years. At year's end BuCor facilities with an official capacity of 17,719 held more than twice that figure, i.e., 37,251 prisoners, including 2,312 women.

The Bureau of Jail Management and Penology (BJMP), under the Department of Interior and Local Government (DILG), and the PNP controlled 1,051 city, district, municipal, and provincial jails that held pretrial detainees, persons awaiting final judgment, and convicts serving sentences of three years or less. The DILG reported that BJMP jails operated at an average of 323percent above designated capacity at year's end, and Manila City Jail, with an official capacity of slightly more than 1,000 inmates, held 4,470 as of August.

At year's end the BJMP and PNP jails held 71,054 prisoners, 96 percent of whom were pretrial detainees and 4 percent of whom had been convicted of various

crimes. Of the total number of prisoners and detainees, 6,429 were adult women and 467 were minors. During the year the BJMP released 456 inmate minors, usually in response to a court order following a petition by the Public Attorney's Office (PAO), by the inmate's private lawyer, or through NGO-led appeals.

Authorities did not uniformly enforce the BJMP regulations (applicable also to BuCor facilities) that require holding male and female inmates in separate facilities and, in national prisons, overseeing them with guards of the same sex. All BJMP- and PNP-staffed jails had separate cells for women and minors, but in provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children or place them in youth detention centers, they did not fully segregate child inmates from adults in some instances, and they sometimes held girls in the same cells as women. The BJMP reported insufficient custodial and escort personnel, especially in large jails.

There were reports that generally poor sanitation and ventilation and a lack of potable water were chronic problems in correctional facilities and continued to cause health problems. The BJMP noted that some local government units provided processed water to jails, but the majority of jails used water from taps or pumps. From January to August, BuCor and the BJMP reported 755 deaths in prison due to various illnesses, including cardiopulmonary arrest and pulmonary tuberculosis. Lack of adequate food and potable water for minors in jails and prisons was a particular concern (see section 6, Children).

Several credible NGOs observed that overcrowding was more severe in smaller cities--a condition that apparently triggered violence among inmates and promoted gang rivalries. Opportunities for prisoner recreation, learning, and self-improvement remained scarce.

Administration: The PAO worked with BuCor and the BJMP to address the status and circumstances of the confinement of juvenile offenders as well as to improve pretrial detention, bail, and recordkeeping procedures so that prisoners do not serve beyond the maximum sentence for the charged offense. In July the BJMP launched the National Inmates Monitoring System to computerize records and track inmate information effectively. BuCor continued to automate inmate prison records and install additional equipment to update records and seek to fast track the release of qualified inmates. Classification of inmates qualified for assignment to one of the five penal colonies continued during the year, and authorities transferred

938 inmates to less-congested BuCor facilities, compared with 1,335 transferees in 2011.

Prison authorities did not have the means to use alternative sentencing for nonviolent offenders.

Authorities generally allowed visitors to prisoners and detainees, but local NGOs reported that authorities periodically restricted family visitation for some political detainees. Prison officials noted that security concerns and space limitations at times restricted prisoner access to visitors. Muslim officials reported that while Muslim detainees were allowed to observe their religion, Roman Catholic masses were often broadcast by loudspeaker to prison populations made up of both Catholic and non-Catholic prisoners and detainees.

Prisoners and detainees may submit complaints to constitutionally established independent government agencies. For example, the CHR investigates complaints it receives by referring requests to the concerned agency. Since prisoners' letters are subject to censorship, inmates' families or lawyers often submitted complaints to courts, independent government agencies, the Department of Justice, the House of Representatives, or the Senate. One complaint against BuCor, facilitated by a BuCor legal assistant who took the inmate's written statement, was mailed to the Office of the Ombudsman during the year. During the year the BJMP officer-in-charge instituted a text-message reporting mechanism. The BJMP received three complaints in 2012 alleging inhumane conditions; follow-up reports were confidential and released only to concerned parties.

Monitoring: Authorities permitted international monitoring groups, including the International Committee of the Red Cross (ICRC), to have free access to jails and prisons.

Improvements: During the year the BJMP constructed 11 new jails, with six others under construction and seven up for bid at year's end.

The BJMP paralegal officers continued to monitor and help expedite court cases and secure needed documents from the courts for speedy disposition of inmates' cases. Through this program, authorities released 26,500 inmates from BJMP jails during the year. From January to August, the Supreme Court's enhanced mobile courts program ("Justice on Wheels") facilitated the release of 283 inmates, mediated 46 cases in 13 provinces and municipalities, and provided needed medical and dental assistance to prisoners.

The BJMP and BuCor's e-Dalaw (e-Visit) system--which allows inmates to connect with their families, locally or abroad, through supervised Internet video calls--was expanded during the year to include the Angeles and Cebu city jails. BuCor continued to partner with the Health Department, international organizations, and others to implement a tuberculosis control and prevention program in National Capital Region jails and prisons. During the year the government undertook initiatives to rehabilitate inmates by focusing on their health needs and those of their families. For example, BuCor collaborated with the Philippine Health Insurance Corporation (PhilHealth) to subsidize part of inmate premium contributions and seek to ensure PhilHealth accreditation of public health institutions under BuCor jurisdiction. In the Quezon City BJMP jail, an infirmary and isolation ward was built with ICRC financial and technical support.

d. Arbitrary Arrest or Detention

The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention. However, in a number of cases, police and the AFP continued to arrest and detain citizens arbitrarily. During the year the TFDP documented 68 cases of illegal arrest and detention involving 155 victims, compared with 71 cases involving 97 victims in 2011. The CHR tracked 105 cases of arbitrary arrest or illegal detention involving 114 victims, compared with 73 cases involving 129 victims in 2011.

Role of the Police and Security Apparatus

Civilian authorities generally maintained effective control over the PNP and AFP. The PNP, which the DILG directs, is responsible for maintaining internal peace and security in most of the country. However, the AFP, which the Department of National Defense directs, continued to direct security functions in regions with a high incidence of conflict, particularly certain areas of Mindanao, and shared responsibility for counterterrorism and counterinsurgency operations with the PNP. In the AFP's 2010 Internal Peace and Security Plan, the government recognized that achieving lasting peace, security, and economic development requires a "whole of nation" approach, including increasingly transitioning internal security functions to the PNP. The PNP continued to increase incrementally its capabilities to assume greater responsibility for internal security in conflict-affected areas.

The PNP is responsible for law enforcement and urban counterterrorism. Governors, mayors, and other local officials have considerable influence over local police units, including approval of top departmental and municipal officers and the provision of resources.

The 147,190-member PNP has deep-rooted institutional deficiencies and continued to suffer from a widely held and accurate public perception that corruption remained a problem. The PNP's Internal Affairs Service remained largely ineffective. Members of the PNP regularly were accused of torture, soliciting bribes, and other illegal acts. Efforts continued during the year to reform and professionalize the institution through improved training, expanded community outreach, and pay raises.

The government lacked sufficient mechanisms to investigate and punish abuse and corruption in the PNP and AFP, leading to a perception of continued impunity in the security forces.

The PNP Directorate for Investigation and Detective Management reported that authorities--in a marked increase from 2011--began proceedings against 3,053 PNP personnel during the year for various human rights violations and resolved 817 of those cases, as follows: cases against 513 persons were dropped and closed; 176 cases were dismissed/personnel exonerated; 48 individuals were suspended; 35 personnel were dismissed from service; eight personnel were demoted; four individuals forfeited pay; two cases were archived; and the remaining 31 personnel were admonished, reprimanded, or received warnings. A majority of the 35 dismissed PNP personnel were implicated in grave misconduct cases (murder, physical injury, torture). During the year the PNP also received 36 administrative cases filed against 64 PNP members, including administrative officials and officers, for various human rights violations. At year's end 34 of the filed administrative cases were resolved and two were undergoing summary proceedings. The PNP dismissed five individuals in connection with these cases, including two police officers for kidnapping.

The AFP Human Rights Office continued to monitor and review alleged human rights abuses involving members of the military. From January through November, the Human Rights Office identified and investigated 33 reported incidents of human rights violations involving 78 AFP personnel. Of these incidents, eight occurred during the year, while 25 occurred in 2011 or earlier. The breakdown by type of those 33 allegations was as follows: extrajudicial killing/murder (seven), enforced disappearance/kidnapping (four), torture/illegal

detention/illegal arrest (11), harassment/threats/abuses of authority (four), child-rights violation/school occupation (three), and other (four). At year's end six cases were under pretrial investigation, 17 cases were dropped and closed, and the remaining ones continued pending recommendation and resolution of the investigation.

In a new effort during the year to consolidate grave human rights violations data among all government agencies, the CHR forwarded 96 complaints to the AFP Human Rights Office concerning rights abuses it received between mid-2010 and July 31, 2012. Of those 96 complaints, 88 involved army personnel and eight involved others (marine corps (three), air force (two), AFP Central Command (one), and AFP Intelligence Service (two)). Of the 88 complaints involving such violations by army personnel, 42 were allegedly committed in the performance of duty; 71 of those complaints implicated regular soldiers. Others allegedly involved were as follows: Citizen Armed Force Geographical Unit (CAFGU) personnel (one), retired soldier (six), alleged informant (one), discharged soldier (one), soldier absent without leave (one), alleged perpetrator not found in army personnel database (six), and unknown (one). By year's end the army resolved, terminated, closed, or dropped 47 of the complaints involving its personnel, while investigations were ongoing for the other 41. Of those ongoing investigations, soldiers on duty allegedly committed 24 violations of the following types: extrajudicial killing (one), harassment/threat (12), encounter/firefight (three), torture/physical injury (two), and unlawful arrest/seizure (six).

Between January and November, individuals filed five protection writs against the AFP. Judicial proceedings were ongoing in four filings, while one was dismissed. Of the 38 such writs filed against the AFP since 2007, when the system was introduced, authorities granted four, sent three to court, archived one, and dismissed or terminated 24, while six were ongoing.

Police and the military routinely continued to provide human rights training to their members, augmented by training from the CHR. In September the AFP reviewed its Graduated Curricula on Human Rights/International Humanitarian Law for the Military to provide a uniform standard for all military services regarding topics, teaching hours, and mode of instruction in all preentry, basic, advanced, and senior courses. The AFP also continued to adhere to 2005 Presidential Memorandum Order Number 259, which requires incorporating subjects related to human rights and international humanitarian law in all AFP education and training courses undertaken by all officers and enlisted personnel.

Moreover, successful completion of these courses is required for recruitment, entry, promotion, reassignment, designation, and foreign schooling.

The Commission on Appointments determines whether senior military officers selected for promotion have a history of human rights violations and solicits input from the CHR and other agencies through background investigations. The commission may withhold a promotion indefinitely if it uncovers a record of abuses. Negative findings, however, do not preclude promotion. At year's end one recommended promotion was pending due to a human rights abuse allegation.

The PNP maintained a network of 1,744 human rights desk officers at the national, regional, provincial, and municipal levels. The CHR continued to note that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of detainee rights remained inadequate. Cooperation and coordination between police and prosecutors remained limited. Human rights groups and the CHR continued to note little progress in implementing and enforcing reforms aimed at improving the effectiveness of investigations and prosecutions of suspected human-rights violations. Potential witnesses were unable at times to obtain protection from the main government witness protection program managed by the Department of Justice due to inadequate funding or procedural delays. Moreover, the CHR received only 500,000 pesos (approximately \$12,200) for its separate witness protection program during the year.

Government-armed civilian militias supplemented the AFP and PNP; the AFP held operational control of CAFGUs, while the Civilian Volunteer Organizations (CVOs) fell under PNP command. These paramilitary units often received minimal training and were poorly monitored, tracked, and regulated. Some politicians and clan leaders, particularly in Mindanao, maintained private armies and at times coopted CVO and CAFGU members into those armies. Human rights NGOs continued to link state-backed militias and private armies with numerous human rights abuses, including the 2009 massacre of 58 civilians in Maguindanao Province. The prosecution of that case continued to proceed slowly due to case complexities and justice system inefficiencies (see section 1.a.). Such delays continued to reinforce the perception of impunity for national, provincial, and local government actors accused of human rights abuses.

Arrest Procedures and Treatment While in Detention

Authorities are required to apprehend citizens with warrants issued by a duly authorized official based on sufficient evidence, brought before an independent judiciary, and informed of charges against them. There were reports of arbitrary arrests, especially in conflict-affected areas. The law permits warrantless arrests and detention without charges for up to three days for allegedly committing or attempting to commit terrorist acts, but the government did not exercise this authority.

Detainees have the right to judicial review of the legality of their detention and, except for offenses punishable by a life sentence, the right to bail. The bail system functioned during the year. The law provides an accused or detained person the right to choose a lawyer and, if indigent, to have one provided by the state; however, indigent individuals had limited access to public defenders. Authorities are required to file charges within 12 to 36 hours for arrests made without warrants, with increased time to file charges based on the seriousness of the crime.

Arbitrary Arrest: There continued to be some reports during the year of citizens, including minor children, picked up by security forces without warrants and detained arbitrarily.

Pretrial Detention: Lengthy pretrial detention remained a problem, due largely to the under-resourced justice system, although jail decongestion programs continued to relieve some of the problem (see section 1.c.). Large jails employed paralegals to monitor inmates' cases, prevent detention beyond the maximum sentence, and assist decongestion efforts.

At year's end Ericson Acosta--whom AFP members arrested in February 2011 in Samar Province without a warrant and allegedly subjected to prolonged interrogation that resulted in an admission of NPA membership, and whom authorities claimed illegally possessed explosives--remained in Calbayog City Provincial Jail without trial.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence. Corruption through personal connections and sometimes bribery continued to result in impunity for some wealthy or influential offenders. Overall, the judicial system continued to suffer from a lack of sufficient personnel, inefficient processes, and long delays. These factors continued to

contribute to widespread skepticism that the judicial process could deliver due process and equal justice.

Trials took place in short, spread-out sessions as witnesses and court time became available, which continued to create lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high: Of the 2,212 trial-court judgeships, 571 were vacant at year's end. Courts in Mindanao and poorer provinces had higher vacancy rates than the national average. Sharia (Islamic law) court positions continued to be particularly difficult to fill because of the requirement that applicants be members of both the Sharia Bar and the Integrated Bar. All five Sharia district-court judgeships and 43 percent of circuit-court judgeships remained vacant. Sharia courts do not have criminal jurisdiction.

The Supreme Court continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. For example, the court disciplined the following judges for gross misconduct, incompetence, and/or ignorance of the law: Cotabato City Judge Cader Indar and Butuan City Judge James Go (dismissed and stripped of retirement benefits on April 10); and Judge Hilarion Clapis, Jr., of Regional Trial Court Branch 3 in Compostela Valley Province (dismissed on July 17). On September 4, the court approved guidelines, scheduled to take effect in 2013 and designed to accelerate case resolution, for cases in which the maximum penalty if convicted would not exceed six years in prison.

Trial Procedures

The law requires that all persons accused of crimes be informed of the charges against them, have the right to counsel, have adequate time to prepare defense, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, present evidence in their favor, review government evidence, appeal convictions, and not to be compelled to testify or confess guilt. The government generally implemented these legal requirements, except for the right to a speedy trial.

The law provides that cases should be resolved within the following set time limits once submitted for decision: 24 months for the Supreme Court, 12 months for a court of appeals, and three months for lower courts. However, these time limits were not mandatory and continued not to be respected. In effect trials had no time limits. Government officials estimated that it took an average of five to 10 years to

obtain a conviction and that the national conviction rate was 20 percent. The system relied heavily on witness testimony and gave relatively little weight to circumstantial and forensic evidence.

There is no jury system and no right to trial by jury. Authorities respected a defendant's right to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the PAO under the Department of Justice, but their workload was large and resources were scarce. The PAO provided legal representation for indigent litigants at trial; however, during arraignment, courts may appoint, at their option, any lawyer present in the courtroom to provide counsel to the accused.

Political Prisoners and Detainees

Various human rights NGOs maintained lists of incarcerated persons they considered political prisoners. Some NGOs asserted that authorities frequently made politically motivated arrests of persons for common crimes or on fabricated charges and continued to detain them after their sentences expired. The TFDP tracked 330 political prisoners and detainees as of year's end--a slight increase compared with 2011--and the majority were pretrial detainees. The BJMP and BuCor reported 228 political prisoners held in detention cells and prisons at year's end. The TFDP noted that, in the majority of cases, authorities mixed political prisoners with the general inmate population, except in the National Bilibid Prison, where they held the majority of political prisoners in the maximum-security area.

The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs. For example, the TFDP recorded 122 political prisoners released from prisons or detention centers as of year's end.

The government permitted access to alleged political prisoners by international humanitarian organizations on a regular basis.

Civil Judicial Procedures and Remedies

The judiciary is independent and impartial in civil matters. Complainants have access to local trial courts to seek civil damages for, or cessation of, human rights abuses. There are administrative as well as judicial remedies for civil complaints; however, cases often were dismissed.

Property Restitution

NGOs continued to contend that the AFP sometimes appropriated civilian facilities or private property without providing compensation to residents.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The government generally respected the privacy of its citizens, although leaders of communist and leftist organizations and rural-based NGOs continued to complain about alleged patterns of surveillance and harassment. Authorities used informer systems to obtain information leading to the capture of terrorist suspects. The government generally respected restrictions on search and seizure within private homes; however, searches without warrants continued to occur. Judges generally declared evidence obtained illegally to be inadmissible.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

For decades the Philippines has contended with a communist insurgency supported by a nationwide NPA presence; armed secessionist movements in southern areas heavily populated by persons self-identifying as Moros; and violence from smaller, transnational terrorist organizations (such as the ASG and the JI) as well as from criminal syndicates. During the year government forces killed a number of civilians during clashes with these groups. There were continued complaints that the AFP, in confronting the ASG and NPA, illegally detained citizens, destroyed houses, and displaced residents. Clashes between the AFP and separatist forces as well as incidents of interclan vendetti leading to violence continued in central Mindanao and resulted in civilian deaths and the displacement of thousands of individuals.

On October 15, senior government and MILF officials signed--and the president and the MILF chair witnessed--a framework peace agreement. The agreement called for the sides to complete the agreement's four related annexes by year's end, but the parties did not achieve that objective. Once effected, a final agreement would form a new, autonomous political entity named "Bangsamoro" in those predominantly Muslim areas of the southern part of the country whose citizens opt in after a plebiscite. The agreement has the long-term potential to increase peace and security in conflict-affected areas of central Mindanao and the Sulu Archipelago.

In addition, on December 20, the government and the Communist Party/NPA announced a nationwide truce.

Killings: Government forces continued to acknowledge civilian deaths in the course of their military operations against the NPA, MILF, and other insurgent groups. During the year AFP operations killed 13 suspected NPA members. The PNP reported killing 14 NPA insurgents and ASG members in various operations during the year.

Antigovernment groups continued to be responsible for killing AFP soldiers, police, and civilians. The AFP reported that 52 of its members were killed in action during encounters with NPA members during the year. The PNP reported the killings of six PNP members, four civilians, and 10 NPA members in 63 incidents during the year. The PNP also reported four casualties of southern separatist group members in four incidents during the year.

Communist insurgents, mainly from the NPA, continued to use roadside bombs, ambushes, and other means to kill political figures, military and police officers, and civilians--including persons suspected of being military and police informers. During two separate incidents on July 27, the NPA killed two tribal leaders who supported military operations against the NPA in Davao City and northern Cotabato Province. The NPA, breakaway groups from the MILF, and other criminal extortion groups, including the ASG and the JI, also harassed government offices and attacked or threatened businesses, farms, and private communication facilities to enforce the collection of payments or "revolutionary taxes." For example, on September 7, suspected ASG members ambushed and killed six rubber plantation workers in Sumisip municipality, Basilan Province, reportedly for refusing to pay extortion.

Abductions: Various armed criminal and terrorist groups, including the ASG in Mindanao and the Sulu Archipelago, continued to kidnap civilians. Authorities often ransomed or rescued victims, or they managed to escape. According to the PNP, during the year the ASG, NPA, and other kidnap-for-ransom groups abducted 15 individuals: eight individuals kidnapped in the Mindanao area and seven, by organized crime groups elsewhere in the country.

Physical Abuse, Punishment, and Torture: Leftist and human-rights activists continued to report harassment by local security forces, including rape and abuse of detainees by police and prison officials. One administrative case of rape against a PNP member was resolved during the year, and at year's end three PNP personnel were undergoing summary hearing procedures.

Child Soldiers: The UN, through its local UNICEF agency, monitored incidents of the recruitment and use of children in armed conflicts and worked to verify these incidents during the year. Mechanisms for government reporting on children associated with armed conflict continued to be inconsistent between agencies and regions, especially in conflict-affected areas, due to security concerns, which made it difficult to evaluate this problem's scope.

The April 26 report by the UN secretary general to the UN Security Council noted a substantial increase in the number of cases of recruitment and use of children by armed groups between 2010 and 2011 (from 24 to 54 children). The Country Task Force on Monitoring and Reporting documented 26 incidents involving 33 boys and 21 girls. Of that number, the task force verified two incidents of children forcibly recruited by the NPA that involved two boys and four girls, ages 14-17. Two verified incidents, involving seven boys who were armed and performing military functions, implicated the MILF. The task force attributed four incidents involving six boys, ages 13-17, to the ASG. The UN also received reports that the armed group Bangsamoro Islamic Freedom Movement had children within its ranks. However, according to the UN, the AFP and its associated CAFGUs also inaccurately or falsely labeled children as NPA combatants in a number of incidents, and the task force verified six cases of inaccurate labeling that involved 12 boys and seven girls, ages 10-17. Moreover, there were allegations that the AFP and its associated paramilitary units used children for military intelligence purposes and detained children as part of counterinsurgency operations.

The PNP Women and Children's Protection Center received one case referral involving a 16-year-old male NPA member. The center placed the youth in a boarding school operated by the Department of Social Welfare and Development (DSWD).

There were no apparent developments during the year concerning a 2011 UN-MILF agreement on child soldiers and a related action plan.

Although the UN secretary general's special representative for children and armed conflict (UN SRSG-CAC) and the National Democratic Front, the political arm of the country's Communist Party, agreed in April 2011 to develop an action plan, they did not conclude a framework by year's end.

The UN SRSG-CAC did not meet with the ASG during her April 2011 visit, due to security risks, and during the year the ASG continued to recruit teenagers to fight and participate in its activities.

The AFP reported one incident of a CAFGU recruiting a minor. The AFP resolved the situation in coordination with the Council for the Welfare of Children, the DSWD, and UNICEF.

The two versions of a bill to criminalize further the recruitment of children under age 18 and their use in hostilities--which the House of Representatives and the Senate passed in May and November 2011, respectively--remained pending at year's end.

See also the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Other Conflict-related Abuses: There were media reports that NPA and separatist groups set fire to villages and used villagers as human shields. The NPA and some separatist groups were responsible for a number of arbitrary detentions, including kidnappings and hostage taking for ransom.

The AFP sometimes used civilian facilities, such as schools, to quarter soldiers during military operations in remote areas, which interfered with normal civilian activities.

The NPA, ASG, and JI targeted mining and other extractive industries for extortion and were suspected of trafficking illegally obtained products, including timber.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people," often in absentia, and to justify some of its killings as executions of "defendants" who had been found guilty. The MILF also maintained its own "people's courts."

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights.

Freedom of Press: The independent media remained active and expressed a wide variety of views without restriction, including criticizing the government. Most media outlets were criticized for lacking rigorous journalistic standards and

reflecting the particular political or economic orientations of owners, publishers, or patrons--some of whom were close associates of present or past high-level officials. Observers suspected special interests of using bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Violence and Harassment: Journalists continued to face harassment and threats of violence from individuals critical of their reporting. Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists continued to accuse police and local elected officials of subjecting journalists to harassment and surveillance as well as failing to investigate killings of journalists.

From January to September, the NGO Center for Media Freedom and Responsibility reported eight journalists killed and contended that five of the killings occurred while the victims were carrying out journalistic tasks. The PNP's TFU, which investigates and tracks killings of media practitioners, classified none of these cases as work-related killings.

In March a second Department of Justice panel of prosecutors reversed a June 2011 dismissal and indicted former Palawan Province governor Joel T. Reyes; his brother, Coron town Mayor Mario Reyes; and three others (Romeo Seratubias, Arturo Regalado, and Percival Lecias) in connection with the January 2011 killing of a Radio Mindanao Network commentator and antimining advocate, Gerardo Ortega. Despite arrest warrants issued by a Palawan Regional Trial Court judge, the Reyes brothers reportedly fled the country on false passports and at year's end remained at large. In November the Court of Appeals invalidated the convening of the second Department of Justice panel on technical grounds but left the arrest warrants in effect.

Libel Laws/National Security: The law contains criminal sanctions for libel. Authorities used criminal defamation charges, with the possibility of imprisonment and fines, to harass and intimidate journalists. For example, during the year a General Santos City-based journalist faced two libel suits filed separately by a Sarangani Province representative and a former Philippine Antismuggling Group (PASG) official for allegedly maligning them in connection with a reported stolen-car racket. On June 29, the city's prosecution office dismissed the libel complaint filed by the former PASG official, and the other case was pending at year's end.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. The Internet was widely available and used.

On September 12, President Aquino signed the Cybercrime Prevention Act into law, significantly strengthening law enforcement capabilities against crimes by electronic means, but also raising concerns about possible curbs on freedom of expression. The law requires court warrants for most law enforcement actions, including compelling service providers to produce subscriber information, traffic data, and other “relevant data”; allowing communications content intercepts in real time; or seizing a computer or data storage medium. Service providers are required to preserve transaction data and subscriber information for at least six months, with a possible six-month extension. The drafting of specified penalties and implementing regulations remained pending at year’s end.

NGOs and prominent civil rights lawyers filed 15 petitions in the Supreme Court to challenge the new cybercrime law. The petitioners claimed that the new provisions would violate due process protections by granting the government authority to order the restriction or blocking of access to computer data that it found *prima facie* to be in violation. They also expressed concern that the law (a) would allow police to collect traffic data (defined to exclude the “content” of any communications) in real time without a court order or warrant; (b) would infringe on the right to freedom of expression by extending libel law to include acts expressly committed through a computer; (c) would impose higher penalties for libel committed through electronic means than through other methods; and (d) did not contain protections for Web sites and portals that publish or host user comments. On October 9, the court suspended the law and scheduled a hearing for January 2013 to determine the law’s constitutionality.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events, although student groups at some universities continued to accuse security forces of harassing student political groups.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights.

Freedom of Assembly

The police exhibited professionalism and restraint in dealing with demonstrators, with a few exceptions. For example, the TFDP reported that on February 14, police violently dispersed approximately 30 farmers in front of Malacanang Palace, Manila, who were demonstrating for immediate implementation of agrarian reform. There were no significant injuries. Authorities detained and charged the farmers with breaching the “no-protest” zone in front of the palace and violating the law and released them later that evening on their own recognizance.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign Travel: The government continued to limit foreign travel in several circumstances, such as when a citizen had a pending court case, and to discourage travel by vulnerable workers to areas in which they faced personal security risks, including trafficking or other exploitation. The Philippine Overseas Employment Administration (POEA) sought to regulate and control departures for work abroad and required citizens to register with government agencies and receive predeparture screening, training, and certification before traveling for employment overseas so that exploitation and trafficking of workers was less likely. The government retained its formal ban on travel to Iraq for the purposes of employment, but the Department of Foreign Affairs estimated that between 600 and 1,200 Filipinos worked there as of December. The employment travel ban also included Uzbekistan, Liberia, Sierra Leone, Somalia, Rwanda, Burundi, Sudan, and Syria. Only workers returning to previously held jobs could travel to

Afghanistan, Lebanon, and Yemen. Domestic workers were prohibited from working in Palau.

Internally Displaced Persons (IDPs)

The four-decade-long conflict between the government and Moro armed groups, sporadic interclan fighting, and natural disasters in Mindanao generated significant internal displacement from January to June. There were continuing counterinsurgency campaigns against the ASG, primarily in Sulu and Basilan provinces, plus clashes with the NPA in most provinces--mainly in remote areas of Negros Oriental, Surigao del Sur, Davao del Norte, and Compostella Valley provinces--that caused sporadic and small-scale displacement.

Continued clashes between rogue elements of the MILF and AFP as well as between rival armed groups caused the number of IDPs to fluctuate. The DSWD estimated the number of IDPs living inside evacuation centers at approximately 1.7 million persons as of December, including 53,500 from armed conflict and interclan fighting and 1.68 million from natural disasters. Other IDPs lived in informal settlements or with host communities in rural and urban areas.

In August 2011 the government launched the PAMANA (Peaceful and Resilient Communities) program, a peace and development effort to respond to conflict-generated community needs countrywide. PAMANA adopts a “whole of nation” strategy in which all government agencies as well as civil society organizations and donor groups pool efforts and resources to help empower families in conflict areas. The government-launched IDP Shelter Assistance Project, also begun in 2011, constructed 2,765 shelters (of the targeted 2,815) as of August and turned them over to IDP families in Maguindanao and North Cotabato provinces.

Government agencies, often with support from UN agencies and other international donors, continued to provide food assistance and other goods (although NGOs noted that food aid was sometimes delayed); construct shelters and public infrastructure; repair schools; build sanitation facilities; offer immunization, health, and social services; and provide cash assistance and skills training. The government permitted humanitarian organizations access to IDP sites. Security forces did not target IDPs, but they sometimes carried out military operations near IDP sites, which continued to risk casualties and damage and restrict freedom of movement. At times the government encouraged IDPs to return home, but they often were reluctant to do so due to insecurity and food scarcity. The NGO Internal Displacement Monitoring Center (IDMC) speculated that some also

remained because they had better access to basic facilities and livelihood opportunities than in their home areas.

According to the IDMC June 2012 report, large-scale natural disasters during 2011 displaced an estimated 670,000 persons in January-February flooding and 440,000 persons in a December tropical storm in the country. Twenty such events during 2011 displaced approximately 2.5 million individuals, more than 2.5 percent of the population. The DSWD estimated that natural disasters during the year affected 8.4 million individuals from 1.9 million families. Typhoon Bopha, which struck the southern region in December, left more than 1,000 dead and 54,000 families homeless.

Protection of Refugees

Access to Asylum: No comprehensive legislation provides for granting refugee status or asylum. The Department of Justice Refugee and Stateless Persons Protections Unit (RSPPU) determines which asylum seekers qualify as refugees in accordance with an established, accessible system that appeared to provide basic due process. From January to December, the department received 36 asylum applications and reopened one; of these, it approved 11, denied two, archived one, and kept 21 under review while two were either voluntarily withdrawn by the applicant or dismissed upon the applicant's return to his home country. At year's end there were 140 refugees residing in the country.

In November the Department of Justice defined the procedure for the determination of stateless status, in cooperation with the UNHCR. During the year the RSPPU entertained three inquiries for the grant of stateless status, and at year's end the UNHCR reported three stateless refugees in the country. In an effort to reduce the potential for statelessness, the department paid particular attention to persons of Indonesian descent in diaspora communities in Southern Mindanao.

Safe Country of Origin/Transit: The government cooperated with the UNHCR and other humanitarian organizations in assisting refugee transit through the country. A Department of Foreign Affairs-UNHCR memorandum of agreement permits the emergency transit of refugees through the country for onward resettlement in a third country, and the UNHCR recorded the transit of 33 refugees during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In 2010 the country conducted nationwide elections for president, both houses of congress, provincial governors, and local government officials. International and national observers viewed the election--the country's first automated one--as generally free and fair, but there were numerous incidents of violence, polling delays, and allegations of fraud. The PNP recorded 180 election-related violent incidents that resulted in the deaths of 55 individuals in the first half of 2010. The Commission on Elections (COMELEC) recorded 96 election-protest cases filed due to allegations of vote buying, anomalies, and irregularities. As of August, 74 of those cases were resolved, and the remaining ones were pending investigation or a motion for reconsideration.

On July 25, court authorities released Congresswoman and former president Gloria Macapagal-Arroyo from detention after she posted one million pesos (approximately \$24,400) bail, despite pending charges of electoral sabotage regarding alleged rigging of the 2007 senatorial elections in Maguindanao, normally a nonbailable offense. On August 17, a court released former COMELEC chair Benjamin Abalos, Sr., after he posted the same amount of bail in the same case. The decisions followed a judge's determination that prosecutorial evidence was not strong enough to merit denying bail. Later in the year authorities arrested Macapagal-Arroyo on a separate charge (see section 4), while Abalos remained free on bail.

Approximately 300,000 poll-station workers, mostly teachers, were denied the right to vote in 2010 when COMELEC failed to create procedures allowing them to vote at their assigned polls, which generally were outside their designated precincts. In preparation for the 2013 elections, COMELEC designated early absentee voting days and planned to permit a 20-minute voting break if the poll-station worker's precinct is near the assigned poll station.

Participation of Women and Minorities: There are no restrictions in law or practice on participation by women and minorities in politics. At year's end three women served in the 24-seat Senate and 64 women in the 285-seat House of Representatives. There were six women in the 32-member cabinet, and three of 15

Supreme Court justices--including the chief justice--were women, as were 16 of 80 province governors and 298 of 1,621 mayors.

There were no Muslim or indigenous cabinet members or senators, but there were 11 Muslim members, mostly elected from Muslim-majority provinces, and one member of indigenous descent in the House of Representatives. Muslims, indigenous groups, and other citizens maintained that the practice of electing senators from a nationwide list would continue to favor established political figures from the Manila area and therefore, they preferred the election of senators by region, which would require a constitutional amendment.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, but corruption remained a very serious problem. Despite government efforts to file charges and obtain convictions in a number of cases, officials continued to engage in corrupt practices with relative impunity. To combat corruption, the constitution established the independent Office of the Ombudsman, the Sandiganbayan (an anticorruption court at the appellate level), and the Commission on Audit (COA). Their resources generally were insufficient. The Sandiganbayan and the COA actively collaborated with the public and civil society and operated effectively and independently.

In July 2011 the president appointed a new ombudsman, Conchita Carpio Morales, in an effort to correct years of cronyism and lack of will in the office. In the ensuing year and a half, she established an environment of strict standards and strong leadership, instituted ameliorative training programs, and addressed the inherited backlog of thousands of cases. Civil society organizations stated that the new ombudsman consulted them.

On September 28, the COA issued its 2011 Audit Performance Summary Report, which estimated that the government lost 102 billion pesos (approximately \$2.5 billion) to graft and corruption during that year. The most common causes of loss included unauthorized/irregular/unnecessary expenses, unliquidated cash advances, violations of procurement law, underassessment/undercollection of taxes and fees, unutilized/ineffective projects, and lack of legislative appropriation.

On June 7, the Office of the Ombudsman filed graft and corruption charges against Jose Miguel Arroyo, spouse of former president Gloria Macapagal-Arroyo; former PNP director Jesus Verzosa; and Hilario de Vera, president of Manila Aerospace

Products Trading Corporation, in connection with the PNP's 2009-10 purchase of second-hand helicopters. Also charged were the following PNP officers and personnel: former logistics director Luizo Ticman; former research division head Ronald Roderos; former comptroller Romeo Hilomen; former deputy chief for operations Jefferson Soriano; Director Leocadio Santiago, Jr.; Chief Superintendent Herold Ubalde; Superintendents Ermilando Villafuerte, Roman Loreto, and Claudio Gaspar, Jr.; Director George Piano; Senior Superintendents Luis Saligumba, Job Antonio, Edgar Paatan, Mansue Lukban, and Larry Balmaceda; Chief Inspector Maria Josefina Recometa; Senior Petty Officer 3 Ma; Linda Padojinog; Petty Officer 3 Avensuel Dy; and Ruben Gongona, Directorate for Research and Development.

On October 4, a court issued an arrest warrant for former president Gloria Macapagal-Arroyo for plunder, based on her alleged diversion for personal gain of 366 million pesos (approximately \$8.9 million) from the Philippines Charity Sweepstakes Office during 2008-10, the last three years of her tenure. Authorities arrested her that same day at the Veterans Memorial Medical Center, where she remained at year's end. On October 24, she filed a motion with the Supreme Court that requested a temporary restraining order and a writ of preliminary injunction to block a trial at the Sandiganbayan, and she refused to enter a plea at trial until the Supreme Court ruled on her motion. On October 29, the court entered a not guilty plea on her behalf at trial. Both the plunder case at the Sandiganbayan and the motion before the Supreme Court remained pending at year's end.

During their April arraignment on graft charges related to the \$329-million National Broadband Network project with China's ZTE Corporation, signed in 2007, former president Macapagal-Arroyo and her spouse, Jose Miguel Arroyo, pleaded not guilty. After posting bail, Miguel Arroyo filed a motion in September in the Sandiganbayan to quash the indictment on the grounds of lack of jurisdiction and contract cancellation; the motion was pending at year's end. Former transportation and communications secretary Leandro Mendoza and former COMELEC chair Benjamin Abalos, Sr., also pleaded not guilty in the same case and were free on bail as of year's end.

During the year the government obtained convictions against 33 officials in 145 corruption cases, including (a) a case against the presidential adviser on environmental protection, Nereus Acosta, who was suspended on February 1 for 90 days for misusing funds during his term as a congressman in 2000-01; and (b) a case against former Rodriguez town mayor Pedro Cuerpo, former Rizal Province municipal engineer Fernando Rono, and former village chairman Salvador

Simbulan. A court sentenced those last three individuals on February 1 to six-nine years' imprisonment and temporary special disqualification from public office for slightly more than 10 years for causing injury by unlawfully demolishing shanties and displacing approximately 93 families in 2002-03. Another coaccused, Renato Evasco, reportedly remained at large.

There continued to be reports of widespread corruption among prison guards and some prison officials, accusations that PNP members solicited bribes and conducted illegal acts, and complaints of judicial workers accepting bribes or being threatened to delay or derail cases. For example, on September 7, the secretary of justice ordered the filing of administrative charges against, and the suspension of, a senior deputy state prosecutor (Severino Gana, Jr.) and a Department of Justice employee (Louie Garcia) for robbery-extortion for allegedly requesting payment for favorable resolution of a case during a National Bureau of Investigation undercover operation in August.

The constitution requires all public officials and employees, whether regular or under temporary status, to submit a Statement of Assets, Liabilities, and Net Worth (SALN). On May 29, the Senate impeached and immediately removed from office Chief Justice Renato C. Corona for deliberately concealing and not reporting properties and cash deposits in his SALN dating from his appointment as a magistrate in 2002.

The law provides for the right to information on matters of public concern, but there are no definitions of procedures, fees, and deadlines for such access; no exceptions for denial of access; no appeal processes; and no penalties for officials who fail to disclose lawfully available data. Denial of such information occurred during the year, especially when related to an irregularity in government transactions. Several government departments posted contracts and bid documents online for public viewing, but overall, government information remained essentially unavailable during the year.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Local human rights activists continued to encounter occasional harassment,

mainly from security forces or local officials from areas in which incidents under investigation took place.

UN and Other International Bodies: At least one UN special rapporteur visited the country, and a number of UN special rapporteur/working group visit requests were pending with the government (see also section 1.b.). On July 9, the UN special rapporteurs on human rights and extrajudicial executions reiterated calls on the government to adopt immediate measures to protect human rights defenders working on problems connected with land and environment due to the high risk of harm they continued to face, including killings, assaults, ill treatment, and threats.

Government Human Rights Bodies: The CHR continued to fulfill its constitutional mandate to protect and promote human rights; investigate all human rights violations, including those requested by NGOs; and monitor government compliance with international human rights treaty obligations. Nonetheless, according to the CHR, its monitoring and investigation of alleged violations continued to face difficulties due to insufficient resources. (Its nationwide budget of approximately 273 million pesos (\$6.7 million) was 2 percent higher than in 2011.) Approximately three-quarters of the country's 42,000 villages have human rights action centers that coordinated with CHR regional offices. Nevertheless, the CHR continued to believe that it lacked sufficient funding and staff to investigate and follow up all cases presented to its regional and subregional offices. On October 30, the UN Human Rights Committee noted that CHR financial and human resources were not adequate.

The Office of the Ombudsman is an independent agency with jurisdiction to handle complaints regarding all public officials and employees. Many human rights NGOs believed there was progress in pursuing cases during the year, although administrative and institutional weaknesses remained.

The Presidential Human Rights Committee was created in 1986 to serve as a multiagency coordinating body on human rights problems and assist in compiling the government's submission for the UN Universal Periodic Review. Many NGOs considered it independent but with limited ability to impact human rights policy.

The House of Representatives and Senate committees on human rights and justice continued to pass bills protecting rights during the year, but many bills remained pending at year's end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, disability, language, or minority status, but not discrimination based on sexual orientation or gender identity. Moreover, vague regulations and budgetary constraints continued to hinder implementation of specified protections.

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal, with penalties ranging from 12 years' imprisonment to a 40-year sentence with no option for pardon or parole until 30 years have been served, plus a lifetime bar from political office. Penalties for forcible sexual assault range from six to 12 years' imprisonment. During the year the PNP received 1,047 rape cases--a slight decrease, compared with 1,069 cases in 2011: 825 cases were filed in court, 65 were under investigation, 116 were settled, and 41 were referred to other agencies for further investigation. From January to December, the DSWD provided shelter, counseling, and health services to 126 female victims of rape. Nationwide statistics continued to be unavailable on prosecutions, convictions, and punishments during the year for cases filed by the PNP, although BuCor reported that its prisons and penal farms held 7,299 prisoners convicted of rape, 447 of whom were admitted during the year. There continued to be reports of rape and sexual abuse of women in police or protective custody--often women from marginalized groups, such as suspected prostitutes, drug users, and lower-income individuals arrested for minor crimes--including allegations of rape perpetrated by police and military officials.

Domestic violence against women remained a serious problem. The law criminalizes physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. During the year the PNP reported 11,243 cases of domestic violence against women and children, a marked increase from 8,332 cases in 2011: 4,147 were filed in court, 1,045 were under investigation, 1,732 were settled, and 4,319 were referred to other agencies for further investigation. The PNP attributed the more than 20-percent increase in such cases to better NGO outreach, better access to crisis centers, and the increased number of women and children's desks at local police stations. Statistics continued to be unavailable on prosecutions, convictions, and punishments during the year for cases filed by the PNP.

The DSWD extended assistance to 739 victims of physical abuse and maltreatment during the year--a statistic that likely significantly underreported the level of

violence against women. A local women's support group noted that, in smaller localities, perpetrators of abuse sometimes used personal relationships with local authorities to avoid prosecution. On other occasions, women who sought to file complaints through the police were told to pay special fees before their complaints could be registered. The PNP and DSWD both maintained help desks to assist victims of violence against women and encourage the reporting of crimes. With the assistance of NGOs, the CHR, and the Philippine Commission on Women (PCW)--a government agency--officers continued to receive gender-sensitivity training to deal with victims of sexual crimes and domestic violence. The PNP maintained a central women and children's unit with 1,913 desks throughout the country to deal with these matters--an increase compared with 2011.

Sexual Harassment: The law prohibits sexual harassment, but it remained widespread and underreported in the workplace due to victims' fear of losing their jobs. Women in the retail industry worked on three- to six-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed.

Reproductive Rights: The constitution upholds the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. However, the provision of health care services is the responsibility of local governments, and although men and women generally were treated equally, restrictions on the provision of birth-control supplies by government-run health facilities in some localities reduced the availability of family-planning resources for impoverished women. While individuals could purchase modern forms of contraception on the open market in most areas, they remained unaffordable for many of the country's poorest residents.

On December 17, both houses passed--and on December 21, the president signed into law--a controversial national reproductive health bill (Republic Act 10354) that provides for universal access to contraception, fertility control, sexual education, and maternity care. The new law requires the Department of Health to procure and distribute family planning commodities, including a wide range of modern forms of contraception, and renders illegal the city ordinances that inhibited access to contraception, such as those enacted by Manila City in 2000 and Ayala Alabang City in 2011. Implementation was pending at year's end.

Social hygiene clinics in urban areas served everyone who sought consultation and treatment. The Health Department trained rural health physicians in diagnosis and treatment, but local health offices continued to face resource constraints.

Discrimination: By law but not always in practice, women continued to have most of the rights and protections accorded to men. Women are accorded the same rights as men regarding the ownership, acquisition, management, administration, enjoyment, and disposition of property and assets. Married women generally have property ownership rights equal to married men. However, in Muslim and indigenous communities, property ownership law or tradition grants married males more property ownership rights than married females.

No law mandates nondiscrimination based on gender in hiring practices, and women in the labor force reportedly earned 37 to 47 percent less than men. Some labor unions claimed female employees suffered punitive action when they became pregnant as well as age discrimination. Although women faced workplace discrimination, they continued to occupy positions at all levels of the workforce. In a July labor-force survey, 58 percent of government officials, corporate executives, managers, and supervisors were women. The survey also revealed that 37.9 percent of the 2.8 million unemployed persons were women.

The law does not provide for divorce, although courts generally recognized the legality of divorces obtained in other countries if one of the parties was a foreign national. A legal annulment may terminate a marriage, but its cost precluded it as an option for many families. Many lower-income couples simply separated informally without severing their legal marital ties. The law provides that in child-custody cases resulting from annulment, illegitimacy, or divorce in another country, children under age seven are to be placed in the care of the mother unless there is a court order to the contrary. Children age seven and older normally are also to remain with the mother, although the father may dispute custody through the courts.

The PCW, composed of 10 government officials and 11 NGO leaders appointed by the president, is the primary policy-making and coordinating body on matters of women and gender equity. During the year the PCW continued to advocate for passage of the reproductive health, expanded antitrafficking in persons, and domestic helper's bills, all of which Congress passed. It also stepped up its antiviolence against women campaign and reported establishing "Violence Against Women" village resource desks in approximately 70 percent of the country by year's end.

Children

Birth Registration: Citizenship is derived from one's parents and, in certain circumstances, by birth within the country's territory to alien parents. The government continued to promote birth registration; authorities immediately registered health facility-based births, while those occurring outside facilities were less likely to be registered immediately, if at all. Credible NGOs confirmed their previous estimates that there were more than two million unregistered children in the country, primarily among Muslim and indigenous groups, although in 2010 the National Statistics Office estimated there were 600,000 unregistered children age nine and below countrywide. Authorities could deprive children of education if they lacked required documents, such as birth certificates. The DSWD continued working closely with local governments to address this deficiency, and the National Statistics Office continued operating mobile birth-registration units to reach rural areas.

Education: Elementary and secondary education is free and compulsory through age 11, but the quality of education remained poor, and access was not universal in all rural areas. The Education Department's 2011 sector assessment showed approximately six million out-of-school youth. In June the department started implementing revised K-12 curricula to replace the prior 10-year basic education system, address quality and attendance concerns, and align with international standards.

Child Abuse: Child abuse remained a problem. During the year DSWD offices served 5,494 victims of child abuse, 65 percent of whom were girls. Approximately 37 percent of the girls were victims of sexual abuse. Several cities ran crisis centers for abused women and children. Foreign and domestic pedophiles abused and exploited children, and the government continued its efforts to prosecute accused pedophiles and deport foreign ones.

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Child Marriage: The legal minimum age for marriage for both sexes is 18 years; however, anyone below age 21 requires parental consent. Under Muslim personal law, Muslim boys may marry at age 15 and girls, when they reach puberty, which resulted in reports of Muslim girls marrying as young as ages 9 or 10.

Sexual Exploitation of Children: The minimum age for consensual sex is 12 years. The statutory rape law criminalizes sex with minors under the age of 12 and sex with a child under age 18 involving force, threat, or intimidation. The maximum penalty for child rape is reclusion perpetua plus a lifetime bar from political office. During the year the PNP reported 3,041 cases of child rape, as follows: 2,589 were filed in court, 282 cases were under investigation, 69 were settled, and 101 were referred to other agencies. Child pornography is illegal, and penalties range from one month to life in prison plus fines from 50,000 to five million pesos (approximately \$1,150 to \$115,000), depending on the gravity of the offense.

On October 3, the 2012 Cybercrime Prevention Act went into effect; it imposed penalties on persons convicted of cybersex crimes of six to 12 years' imprisonment or a fine of at least 200,000 pesos (approximately \$4,900) and raised the punishment for acts of child pornography using a computer system. Despite these penalties, law enforcement agencies and NGOs reported that minors continued to be used unlawfully in the production of pornography and in cybersex activities.

Child prostitution continued to be a serious problem, and the country remained a destination for child sex tourism by clients from domestic sources, the United States, the Middle East, Europe, Australia, and other East Asian countries. Of the 5,494 victims of child abuse to whom DSWD offices provided services during the year, 82 were victims of sexual exploitation, including victims of cyber pornography. The National Bureau of Investigation and the PNP worked closely with the Department of Labor and Employment (DOLE) to target and close facilities suspected of prostituting minors. As of August DOLE closed one establishment that had recruited two minors.

Displaced Children: UNICEF estimated in 2009 that there were 250,000 street children, many of whom appeared abandoned and engaged in scavenging or begging. From January to December, the DSWD provided services to 811 street children nationwide. NGOs alleged that vigilantes with ties to government authorities were responsible for killing street children engaged in petty crime in Davao and other major cities (see section 6, Other Societal Violence). Displacement affected children in central Mindanao, but they generally had access to government services (see section 2.d.).

Institutionalized Children: The law and executive orders provide for the welfare and protection of institutionalized children. Police stations have child- and youth-relations officers to attempt to ensure that authorities treat child suspects appropriately, but procedural safeguards often continued to be ignored in practice

and facilities were not child-friendly. According to the BJMP at year's end, it held 467 minors in "preventive detention" while their trials were underway. Authorities detained many child suspects for extended periods without access to social workers and lawyers as well as without separation from adult criminals, despite the existence of three DSWD-maintained child detention centers in Manila. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other mistreatment. In addition, the BJMP reported the release of 456 children "in conflict with the law" (i.e., alleged as, accused of, or adjudged as having committed an offense under the law) during the year. The DSWD reported receiving 3,093 children in conflict with the law during the year.

International Child Abductions: The Philippines is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For further information see the Department of State's country-specific information at http://travel.state.gov/abduction/country/country_5855.html.

Anti-Semitism

An estimated 400 to 1,000 persons, mostly foreign nationals, of Jewish heritage lived in the country. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, and other social services. The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments, but many barriers remained.

The National Council for the Welfare of Disabled Persons formulated policies and coordinated the activities of all government agencies for the rehabilitation, self-development, and self-reliance of persons with disabilities and their integration into the mainstream of society. DOLE's Bureau of Local Employment maintained registers of persons with disabilities that indicate their skills and abilities,

monitored private and public places of employment for violations of labor standards regarding persons with disabilities, and promoted the establishment of cooperatives and self-employment projects for persons with disabilities. One reliable NGO reported that the government continued to have limited means to assist persons with disabilities in finding employment, and such persons had limited recourse when prospective employers violated their rights, because of the financial barriers to filing a lawsuit. One university noted that a company granted a job interview to a graduate with a hearing disability but, in a subsequent telephone call to set a time, rescinded the offer. That university reported that only one of its 14 graduates in 2012 with hearing disabilities was able to secure full-time employment.

The DSWD operated two assisted-living centers in Metro Manila and five community-based vocational centers for persons with disabilities nationwide. From January to December, the DSWD provided services to 2,972 persons with disabilities.

Advocates for persons with disabilities contended that equal-access laws were ineffective due to continued weak implementing regulations, insufficient funding, and inadequately focused integrative government programs. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Children with disabilities attended primary, secondary, and higher-education schools.

Government efforts to improve access to transportation for persons with disabilities were limited. Two of Manila's three light-rail lines were wheelchair accessible, but many stops continued to have unrepaired, out-of-service elevators. Buses lacked wheelchair lifts, and one NGO claimed that private transportation providers, such as taxis, often overcharged persons with disabilities or refused them service. A small number of sidewalks had wheelchair ramps that were often blocked, crumbling, or too steep; the situation was worse in many smaller cities and towns.

The constitution provides for the right of persons with physical disabilities to vote, with the assistance of other persons if necessary. COMELEC determines the capacity of persons with mental disabilities to vote during the registration process, and exclusions and inclusions may be appealed to the courts.

Many persons with disabilities did not vote because of the physical barriers described above. A December 2011 survey, released in July by social-research NGO Social Weather Stations, indicated the participation of persons with disabilities in elections decreased from 60 percent in 2007 to 54 percent in 2010. On June 29, COMELEC approved a resolution requiring that difficulties experienced by persons with disabilities in casting ballots be addressed in time for scheduled 2013 national elections. Requirements set forth included provisions for precincts to be on the ground floor, have space to accommodate wheelchair use, and allow family/household-member assistance inside the polling place. Furthermore, authorities conducted special voter registration drives for persons with disabilities in August throughout the country, although in some cases persons with disabilities reportedly were not provided the supplemental form needed to indicate their disability. An estimated 3,500 persons with disabilities registered nationwide on a single day, according to the International Foundation for Electoral Systems (IFES). IFES also reported successful partnerships with COMELEC, the Department of Education, the National Council for Disability Affairs, and others to seek to ensure accessible Web sites and voting sites in preparation for the 2013 elections.

Indigenous People

Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children often suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth left or never attended school because of discrimination they experienced. According to the NGO Alliance of Indigenous Peoples' Organizations in the Philippines, only a few of the country's government units complied with the long-standing legal requirement for the mandatory representation of indigenous persons in policy-making bodies and local legislative councils.

Indigenous persons continued to suffer disproportionately from armed conflict, including displacement from their homes, because they often inhabited mountainous areas favored by guerrillas. Their lands were often sites of armed encounters, and various parties to the fighting actively recruited them. The Task Force for Indigenous Peoples' Rights continued to lobby for an appropriate mechanism through which indigenous people could be recognized as an official party and represented in peace talks between the government and the MILF. As of year's end the NGO Cordillera Peoples Alliance reported five cases of killings of indigenous persons opposed to mining interests and lobbied against encroachment

by mining companies on indigenous land. NGOs also alleged that security forces identified some indigenous persons as insurgents, often with little or no justification.

From January to August, the National Commission on Indigenous People (NCIP) reported two tribal leaders killed due to land-conflict disputes: Jimmy Liguyon on March 5 in Dao, San Fernando town, Bukidnon Province; and Ariston Mameng on July 20 in Oriental Mindoro Province. The NCIP referred these cases to the CHR, PNP, and Office of the Presidential Adviser on the Peace Process; both were under investigation as of August. NGOs reported the use of security forces to protect mining and other private interests in indigenous areas, and there were also reports of harassment, intimidation, and displacement of indigenous people by security forces.

The NCIP, staffed by tribal members, continued to implement constitutional provisions to protect indigenous people, including the awarding of Certificates of Ancestral Land and Ancestral Domain Titles covering more than 26,000 acres of land claimed by indigenous people in the provinces of Rizal and Bukidnon from January to August. It awarded such “ancestral domain lands” based on communal ownership, stopping sales of the lands by tribal leaders. In addition, the NCIP considers “ancestral sea” claims, since some indigenous groups--such as the Sama-Bajau, which customarily resided in fishing areas of western Mindanao, Malaysia, and Indonesia--traditionally practiced migratory fishing. Approvals remained limited, and continuing conflict, poverty, and lack of access to ancestral seas have displaced a large number of the Sama-Bajau from western Mindanao.

On May 17, COMELEC promulgated a resolution that prescribed new rules and regulations for the registration of members of indigenous cultural communities and indigenous persons to improve their access to voting.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

No national laws criminalize consensual same-sex sexual conduct or prohibit discrimination based on sexual orientation and gender identity. During the year the legislature considered a national antidiscrimination bill, initially proposed in 2011, that would include the aspects of sexual orientation and gender identity, but final action on it remained pending at year’s end.

Two municipalities (Cebu and Davao cities) passed antidiscrimination laws during the year. The October 18 Cebu City ordinance prohibits discrimination in any form against persons because of sexual orientation, among other aspects, and sets a fine ranging from 1,000 to 5,000 pesos (approximately \$24 to \$121) and imprisonment ranging from 60 days up to one year. The December 14 Davao City ordinance requires equal treatment regardless of sex, gender identity, or sexual orientation, among other aspects; establishes the same fine as in Cebu City; and imposes imprisonment for up to 15 days. A third city's ordinance prohibiting discrimination on the basis of sexual orientation and gender identity (Quezon City, 2004) focuses on employment and is not as comprehensive as those in the above two municipalities.

NGOs seeking to protect lesbian, gay, bisexual, and transgender (LGBT) individuals from discrimination and abuse continued to criticize the government for the absence of applicable law and policy. During the year various NGOs reported incidents of discrimination and abuse, including in employment, education, health care, housing, and social services. Moreover, the NGO Rainbow Rights Project claimed that LGBT human rights defenders, particularly in Muslim areas, experienced pressure from community authorities to conduct their activities less openly because of increasing religious radicalization.

On October 30, the UN Human Rights Committee expressed concern both at the continued use of the "grave scandal" provisions of defamation law to arrest and prosecute LGBT persons and at continued social stigmatization and violence directed against such persons.

From January to May, the NGO Philippine LGBT Hate Crime Watch recorded 17 killings of LGBT individuals, linked the killings to prejudice or hate crimes, and referred them to the CHR and PNP for investigation. All were pending as of August.

During the year the CHR and the Judicial Academy, which the Supreme Court created and supported, engaged LGBT NGOs in helping develop programs to integrate sexual orientation, gender identity, and HIV/AIDS topics into the work of both institutions.

Other Societal Violence or Discrimination

During the year vigilante groups, including some with suspected ties to state actors, continued to be suspected of summary killings of alleged adult criminals

and minors involved in petty crime in the six major cities of Metro Manila, Cebu, Cagayan de Oro, Tagum, Davao, and General Santos. For example, the NGO Coalition Against Summary Execution recorded 31 cases of suspected vigilante killings in Davao City from January through April.

In March the Office of the Ombudsman ordered each of 21 Davao City police to pay a fine equivalent to a month's salary for neglect of duty that resulted in numerous killings allegedly carried out by the "Davao Death Squad" from 2005 to 2008. On August 15, the CHR recommended the Office of the Ombudsman investigate the possible administrative and criminal liabilities of former mayor Rodrigo Duterte for his inaction regarding suspected vigilante killings in Davao City. The CHR also recommended the same day that the National Bureau of Investigation or an independent task force impartially investigate the deaths attributed to the "Davao Death Squad" with a view to prosecution.

The law prohibits discrimination against persons with HIV/AIDS and provides for basic health and social services for them. However, there continued to be some anecdotal evidence of discrimination against HIV/AIDS patients in the government's provision of health care, housing, and insurance services.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, protects the right of Filipino workers, with the exception of the military and police, to form and join trade unions, conduct legal strikes, and bargain collectively. Laws also prohibit organizing by short-term contract and foreign-national workers, unless a reciprocity agreement exists between the countries. Labor laws apply uniformly throughout the country, including in the Special Economic Zones (SEZ).

Strikes in the private sector are legal, although unions are procedurally required to provide strike notice, respect mandatory cooling-off periods, and obtain majority-member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The law provides that employers may dismiss union officers who knowingly participate in an illegal strike and, if convicted, courts may imprison them for up to three years, although there has never been such a conviction.

The law prohibits government workers from joining strikes, under the threat of automatic dismissal. Instead, government workers may file complaints with the Civil Service Commission, which handles administrative cases and arbitrates disputes between workers and their employers. They also may assemble and express their grievances within work premises on their off time.

Law and regulations provide for the right to organize and bargain collectively in both the private sector and corporations owned or controlled by the government. Similar rights are afforded to most government workers. Use of short-term contractual labor, particularly by large private sector employers, continued to be prevalent. Some employers choose to employ such workers, who may not organize with long-term, “regular” workers, as a means of minimizing unionization and avoiding other rights accorded to “regular” workers. The NGO Center for Trade Union and Human Rights (CTUHR) contended that this practice led to a decline in the number of unions and of workers covered by collective bargaining agreements.

By law antiunion discrimination, especially in hiring, constitutes an unfair labor practice and may carry criminal or civil penalties. Civil penalties were predominately imposed rather than criminal penalties. If there is a prima facie finding that termination may cause a serious labor dispute or mass lay-off, the DOLE secretary may suspend the effects of termination/restore the status quo ante pending case resolution. Orders or writs of execution for reinstatement by the labor arbiter or the National Labor Relations Commission (NLRC) are immediately executing, and employers are required to report compliance; otherwise, payroll reinstatement is mandatory.

DOLE has general authority to enforce laws on freedom of association and collective bargaining. Allegations of intimidation and discrimination in connection with union activities are grounds for review by the quasi-judicial NLRC as possible unfair labor practices. Before disputes reach the NLRC, DOLE provided mediation services through a board, which settled most of the unfair labor practice disputes. Through the mediation board, DOLE also worked to improve the functioning of labor-management councils in companies that already had unions.

Parties to a dispute must attempt mediation before giving notice to strike. They may request preventative mediation, but if that fails, the union may issue a strike notice. Parties may bring any dispute for mediation, but strike/lockout is reserved for an act of unfair labor practice, a gross violation of collective bargaining law, or a collective bargaining deadlock. During the year 69 preventative mediation cases

concerning a refusal to bargain were filed before the National Conciliation and Mediation Board (NCMB). Of those cases, involving 11,052 workers, disputants settled 39, five were pending, three evolved into a notice of strike, and 22 were either withdrawn by the complainant or submitted for voluntary arbitration. On the other hand, parties filed 51 notices of strike/lockout on refusal-to-bargain grounds. Of those noticed cases, involving 8,016 workers, parties settled 27, eight remained pending before the NCMB, 15 were either withdrawn or submitted for compulsory/voluntary arbitration, and one materialized into an actual strike.

The DOLE secretary--and in some special cases, the president--may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if either official determines that the strike-affected company is vital to the national interest. Vital sectors include semiconductors and electronics; business-process outsourcing; tourism, agriculture, and fisheries development; and general infrastructure. Labor rights advocates criticized the government for intervening in labor disputes in sectors that they contended were not vital to the national economy.

During the year DOLE reported one strike, involving 20 workers in the nonvital media sector, that was settled through what is termed “conciliation mediation.”

Collective bargaining was practiced, but occasionally employers obstructed the negotiations, and union leaders were subject to reprisal. During the year the CTUHR monitored nine work places where 3,373 workers did not enjoy the benefits of their collective bargaining agreements because employers refused to implement them. Eleven companies also refused to bargain, resulting in deadlock (seven cases) or delay in the collective bargaining process (four cases). Union leaders filed unfair labor practice cases with the NLRC against their employers in several of these cases.

In the public sector, collective bargaining was limited to a list of terms and conditions of employment that were negotiable between management and public employees. Items requiring appropriation of funds, including healthcare and retirement benefits, and those that involved the exercise of management prerogatives, including appointment, promotion, compensation, and disciplinary action, were nonnegotiable.

The National Tripartite Industrial Peace Council (NTIPC), created in 2010, serves as the main consultative and advisory mechanism concerning labor and employment. It functions primarily as a forum for tripartite advice and

consultation among organized labor, employers, and government in the formulation and implementation of labor and employment policies. It also acts as the central entity to monitor recommendations and ratifications of International Labor Organization (ILO) conventions. DOLE, through the NTIPC, is responsible for coordinating the investigation, prosecution, and resolution of cases pending before the ILO concerning allegations of violence and harassment directed at labor leaders and trade union activists.

Unions have the right to form or join federations or other labor groups, and many join national and international confederations. Trade unions were independent of the government. According to union leaders, however, some managers threatened union members with dismissal and sometimes illegally dismissed union organizers during the year. For example, on March 30, the management of the Hong Kong-Shanghai Banking Corporation dismissed its employees' union president, Raymund Acena, for his alleged use of the company e-mail system for union purposes. In response, Acena filed a case of illegal dismissal and unfair labor practice that remained pending at the NLRC as of year's end.

Killings and harassment of labor leaders and advocates continued to be a problem. During the year the CTUHR documented six killings and two abductions of labor leaders.

The investigation of the March 2011 killing of Cielito Baccay, a union officer and founder of the Maeno-Giken Workers Organization in Dasmarinas, Cavite Province, stopped after workers were unwilling to testify, reportedly due to fear of retaliation by the suspected assailant(s). The union president resigned and left his job.

On March 28, a local court sentenced three security guards (Herminio Seduco, Nonie Gabrillos, and Jomar Galin) and a plant manager (Filipina Mandap) in connection with the 2005 killing of union leader Teotimo Dante.

In addition, the CTUHR also documented eight cases (naming a total of 73 workers and labor advocates) in which employers filed legal cases in order to threaten, harass, or intimidate. It also documented 10 incidents of threats, harassment, and intimidation outside the workplace that affected 102 trade unionists and supporters plus six cases of violent dispersal of a protest. For example, on February 24, authorities detained Renato Ojascastro, an employee of Glomar Herbal Philippines Corporation (GHPC), on charges of swindling but freed him after he posted bail three days later. The company owner lodged these charges

months after Ojascastro and two other workers filed an NLRC case alleging illegal dismissal, underpayment of wages, and other violations of labor standards. The case against GHPC remained pending at year's end.

In the dispute between Philippine Airlines (PAL) and its employee association over company outsourcing plans, salaries, benefits, and workforce reductions that dated from 2010, employee representatives and new company management stated to the media in September that they intended to hold talks. The PAL president also told reporters then that PAL would consider dropping criminal charges stemming from the September 2011 strike, but the dispute and the cases pending in court remained unresolved.

Unions continued to claim that local political leaders and officials who governed the SEZs explicitly attempted to frustrate union organizing efforts further by maintaining union-free or strike-free policies. Unions also claimed that the government stationed security forces near industrial areas or SEZs to intimidate workers attempting to organize and alleged that companies in SEZs used frivolous lawsuits to harass union leaders. In practice local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by the legislature. Hiring often was controlled tightly through SEZ labor centers. For these reasons, and in part due to organizers' restricted access to the closely guarded zones and the propensity among zone establishments to adopt fixed-term, casual, temporary, or seasonal employment contracts, unions had little success organizing in the SEZs.

Labor rights groups reported that some firms continued to use bankruptcy as a reason for closing and dismissing workers attempting to organize. By law bankruptcy is an acceptable reason for closing a firm, unless there is a pattern in which a firm falsified bankruptcy and used it to deny worker rights.

On May 7, the government signed a document to guide the conduct of DOLE plus the DILG, AFP, PNP, and the departments of national defense and justice concerning the exercise of worker rights and activities. The guidelines clarify the roles of each entity and commit them to protect worker rights; aim for peace, order, and security during labor disputes; and respect the exercise of worker and trade union rights free from violence, pressure, fear, or duress.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, but there were reports that forced labor of adults and children (see section 7.c.) continued to occur, mainly in fishing, maritime industries, small-scale factories, domestic service, agriculture, and other areas of the informal sector.

Trade unions reported continued poor compliance with the law, due in part to the prevalence of forced labor in the informal sector and the inability of the government to inspect labor practices in that sector.

NGOs continued reporting incidents of forced labor in domestic service in the country, although most cases focused on Filipino workers abroad.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under age 15, except under the direct and sole responsibility of parents or guardians, and sets the maximum number of working hours for them at four hours per day and no more than 20 hours per week. Children ages 15-17 are limited to eight working hours per day, up to a maximum of 40 hours per week. The law forbids the employment of persons under age 18 in hazardous work.

Child labor remained a common problem, and cases reported to DOLE centered in the service and agricultural sectors, notably in the fishing and sugar-plantation industries. Child workers were often exposed to hazardous working environments in those sectors and in industries such as mining; manufacturing, including pyrotechnic production; domestic service; and garbage scavenging. NGOs and government officials continued to report cases in which family members sold children to employers for domestic labor or sexual exploitation. Preliminary findings from the joint National Statistics Office-ILO 2011 *Survey on Children* revealed approximately 5.5 million of the country's 29 million children aged 5-17 were working, and three million worked in hazardous jobs. The survey also found the highest incidence of child labor (60 percent) in the agricultural sector. By comparison, a 2010 labor-force survey estimated that more than 2.4 million children ages 15-17 were working.

Most child labor occurred in the informal economy, often in family settings. The government, in coordination with domestic NGOs and international organizations,

continued to implement programs to develop safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government devoted additional resources to programs that sought to prevent, monitor, and respond to child labor during the year, resources remained inadequate.

The government imposed fines and instituted criminal prosecutions for law violations in the formal sector, such as in manufacturing. DOLE continued its efforts to remove child workers from hazardous situations. From January to November, DOLE inspections nationwide found 56 minors employed in six regions (41 in Western Mindanao), a noticeable decrease from the comparable 2011 statistic of 163. Authorities removed all 56 from their workplaces and assisted them, and they closed four establishments employing 27 minors. At year's end criminal proceedings were pending.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

Tripartite regional wage boards of the National Wage and Productivity Commission increased the daily minimum wage rates for agricultural and nonagricultural workers in nine of 17 regions during the year. Minimum wages in the nonagricultural sector were highest in the National Capital Region, where the minimum daily wage rate was 456 pesos (approximately \$11.10). The lowest minimum wage rates were in the Southern Tagalog Region, where the daily nonplantation agricultural wage was 199 pesos (\$4.85). Self-rated surveys conducted in 2011 by the NGO Social Weather Stations showed that with inflation, the legal wage rates were not adequate to keep families out of poverty. NGOs continued to press for higher wages. The government estimate from 2009, released in 2011, claimed that a family of five needed a daily income of 231 pesos (\$5.60) to avoid poverty. In December 2011, the National Statistical Coordination Board reported 3.9 million families lived below the poverty line.

The November 26-27 passage by Congress of a domestic worker bill of rights and ratification of ILO Convention 189 on domestic workers established a minimum wage of 2,500 pesos (\$61) per month for such workers and required their employers to contribute to social security, PhilHealth, and the national housing scheme.

By law the standard workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an eight-hour-per-day limit. The government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. There is no legal limit on the number of overtime hours that an employer may require.

The law provides for a comprehensive set of occupational safety and health standards.

Most labor laws apply to foreign workers, who must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens, as foreigners were generally employed in the formal economy and were recruited for high-paying, specialized positions.

DOLE's Bureau of Working Conditions monitors and inspects compliance with labor law in all sectors, including workers in the formal sector, nontraditional laborers, and informal workers, and inspects SEZs and businesses located there. During the year the department employed 224 labor inspectors nationwide to monitor and enforce the law, including by inspecting compliance with core labor and occupational safety standards and minimum wages. DOLE also has responsibility for policy formulation and review of standards for working conditions, and it continued a campaign to promote safer work environments in small enterprises.

There were gaps and uneven applications of law. For example, regional wage board orders covered all private sector workers, but the new law on domestic workers sets a separate minimum wage for domestic servants, depending on location. Wage boards also exempted some newly established companies and other employers from the rules because of factors such as business size, industry sector, export intensity, financial distress, and capitalization level. Because of these exemptions, the law did not cover a substantial number of workers. During the year 152 establishments applied for minimum-wage exemptions, which last for a one-year period. Boards granted exemptions to 114 establishments (a very small percentage of the estimated 700,000 establishments nationwide), which drew union complaints. Nearly all (107) of the establishments that received exemptions were in the National Capital Region. Exempted establishments must comply with the minimum wage on expiration of the exemption.

DOLE acknowledged that insufficient inspection funds continued to impede its ability to investigate labor law violations effectively, especially in the informal sector and in the approximately 65,000 companies with 10 to 199 workers. These midsized companies, unionized establishments, and those with collective bargaining agreements were permitted to file voluntary self-certifications to verify law compliance. During the year DOLE offered training and advisory services for the approximately 700,000 enterprises with fewer than 10 workers to help them with compliance; more than 2,800 establishments covering approximately 16,000 workers participated in the 136 training and advisory sessions conducted. DOLE allowed the approximately 3,000 establishments with more than 200 workers to undertake voluntary self-assessments of compliance; approximately 580 establishments submitted self-assessments, reporting a 78-percent compliance rate.

DOLE also acknowledged that a shortage of inspectors made law enforcement difficult. As a result, local authorities often must accomplish enforcement. Penalties for noncompliance with increases or adjustments in the wage rates as prescribed by law are a fine not exceeding 25,000 pesos (approximately \$609) and/or imprisonment for not less than one year nor more than two years. In addition to fines, the government used administrative procedures and moral suasion to encourage employers to rectify violations voluntarily. DOLE conducted only sporadic inspections to enforce limits on workweek hours.

Violations of minimum wage standards were common, as was the use of contract employees to avoid the payment of required benefits, including in government-designated SEZs. From January to November, the Bureau of Working Conditions inspected 25,348 firms and found that 10,240 violated core labor standards, with 5,387 not complying with minimum wage rates. Many firms hired employees for less than minimum apprentice rates, even if there was no approved training in their production-line work. Complaints about payment under the minimum wage and nonpayment of social security contributions and bonuses were particularly common regarding companies in the SEZs.

From January to August, DOLE's Occupational Safety and Health Center provided training and information dissemination to 5,161 participants involving 2,326 companies to reduce accidents and illnesses at work. The Bureau of Working Conditions recorded 54 work-related deaths and 69 work-related injuries from January to August. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported.

The government and several NGOs worked to protect the rights of the country's overseas citizens, most of whom were contract or temporary workers. Although the POEA successfully registered and supervised domestic recruiter practices, authorities often lacked sufficient resources to provide worker protection overseas. The government continued to place financial sanctions on, and bring criminal charges against, domestic recruiting agencies found guilty of unfair labor practices. For example, from January to May, the POEA canceled the licenses of 21 recruitment agencies for numerous violations of recruitment and migrant worker laws. It also filed illegal recruitment cases against nine individuals and 12 agencies that recruited Filipino workers for jobs in Syria regardless of the government ban.