

# PHILIPPINES 2013 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Philippines is a multi-party, constitutional republic with a bicameral legislature. President Benigno S. Aquino III, elected in 2010, began the fourth year of his constitutionally limited six-year term. The May 13 mid-term national elections and October 28 village council elections were generally free and fair, but independent observers noted that vote buying was widespread. Dynastic political families continued to monopolize elective offices at the national and local level. Authorities failed at times to maintain effective control over the security forces. Security forces committed human rights abuses.

The most significant human rights problems continued to be extrajudicial killings and enforced disappearances undertaken by security forces; a dysfunctional criminal justice system notable for poor cooperation between police and investigators, few prosecutions, and lengthy procedural delays; and widespread official corruption and abuse of power.

Other human rights problems included the following: allegations of prisoner/detainee torture and abuse by security forces; violence and harassment against 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; 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 Muslim separatist and communist insurgencies continued to result in the displacement of civilians and the killing of soldiers and police in armed clashes. Terrorist organizations such as the Abu Sayyaf Group (ASG), Jemaah Islamiya (JI), and the New People's Army (NPA), as well as elements associated with the separatist Moro Islamic Liberation Front (MILF), including the breakaway Bangsamoro Islamic Freedom Fighters (BIFF), continued to kill security forces, local government officials, and other civilians. The Moro National Islamic

Liberation Front (MNLF) also conducted military operations against government security forces and civilians. These organizations 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. The government and the MILF continued to negotiate over the specifics of a 2012 long-term peace framework agreement.

## **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, some in connection with combat operations between government forces and Muslim rebels in parts of the Mindanao region (see section 1.g.). Killings of activists, judicial officials, local government leaders, and journalists by antigovernment insurgents continued to be a serious problem.

The Commission on Human Rights (CHR), an independent government agency, investigated 26 new complaints of politically motivated killings involving 52 alleged victims as of October. The CHR suspected that personnel from the Philippine National Police (PNP) were involved in at least six of the complaints, the Armed Forces of the Philippines (AFP) in one, members of the terrorist NPA in three, civilians in two, and unidentified persons in the remainder.

PNP Task Force Usig (TFU), responsible for investigating and monitoring killings of media members, labor activists, and foreigners, received reports of 10 new cases during the year (using different criteria than the CHR's): two cases were filed in court, three were old cases not subject to recent investigation, and five cases remained under investigation at year's end. The TFU determined that four of the cases fell under its specific mandate. Of the 171 cases monitored by the TFU since 2001, a total of 102 were filed in court and prosecutor offices, 62 were cold cases, two were closed due to the death of suspects in armed encounters, and five were under investigation. Of those cases prosecuted there were six convictions, two of which occurred during the year. Rommel Lirazan was convicted for the 2006 killing of photojournalist Alberto Orsolino, and Marlon Recamata was convicted for the 2011 killing of broadcaster Gerardo Ortega. In a third case that did not fall under TFU jurisdiction, Clarito Arizobal was convicted for the 2004 killing of radio commentator Rowell Endrinal.

Reports by nongovernmental organizations (NGOs) varied on the number of alleged extrajudicial killings and torture cases during the year. According to the international NGO Institute of War and Peace Reporting, both government and NGO reporting entities use differing definitions of extrajudicial killings, thus creating a wide disparity in reported incidents. As of August the NGO Karapatan (Alliance for the Advancement of People's Rights) recorded 12 new victims of extrajudicial killings by government forces. The NGO Task Force Detainees of the Philippines (TFDP) also reviewed allegations of summary executions by government security forces during the year. It investigated six cases of extrajudicial killings involving seven victims as of August.

On July 16, unknown gunmen on motorcycles shot and killed Ricky Cadavero and Wilfredo Panolina, Jr., alleged members of the Ozamis criminal syndicate, while the two men were being transported from Cavite to Laguna following court proceedings. Results of the investigation led by the Department of Interior and Local Government (DILG) revealed that the killings were the result of a coordinated extrajudicial killing. Two police officers were charged with murder, and separate criminal complaints were filed against 14 others in connection with the case.

In October prosecutors dismissed a criminal complaint against First Lieutenant Dante Jimenez and other members of the 27th Infantry Battalion for the October 2012 killing of Juvy Capion, a B'laan woman, and her two children. On June 18, the CHR recommended filing an administrative complaint in the Office of the Ombudsman for the Military against the officers in parallel to the court-martial proceedings underway.

### **b. Disappearance**

According to credible local human rights NGOs, government forces and antigovernment insurgents continued to be responsible for disappearances. From January to October, the CHR investigated 10 new cases of forced disappearances, abductions, and kidnappings involving 15 victims. As of October the CHR reported that 13 individuals remained missing and two were found detained in a police station. The CHR investigations implicated the PNP in one abduction case, the NPA in four cases, and were unable to identify the suspects in the remaining five cases. On April 27, family members reported Estelita Tacalan, a community organizer of the Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines), missing after she left the headquarters of Makabayan in Cagayan de Oro City. On May 7, an ABS-CBN reporter informed Karapatan and Tacalan's

family that the PNP confirmed Tacalan was arrested on murder and arson charges and was being detained at the Zamboanga del Norte Provincial jail. As of August Tacalan was reportedly being held in the Dipolog City jail.

During the year the NGO Families of Victims of Involuntary Disappearances (FIND) monitored seven reported disappearance cases involving eight victims. FIND suspected that personnel from the PNP were involved in two cases, the Philippine Army in one, and unidentified persons in the remainder. Five of the victims were found alive and in police custody, while three were found dead.

According to the law, the family members of alleged victims of disappearances 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. Some victims' families asserted that courts and police continued to fail to address their complaints adequately. Evidence of a kidnapping or killing requires that charges be filed, and in many cases evidence and documentation were unavailable or not collected. Investigative and judicial inaction on disappearance cases remained the norm, since only a few cases were prosecuted.

The number of enforced disappearance cases monitored or investigated by authorities varied because different agencies employed varying criteria for defining and subsequently deciding to monitor disappearance cases. The Interagency Council on Extra-Legal Killings, Enforced Disappearances, Torture, and Other Grave Violations, for example, prioritized and monitored 24 cases of enforced disappearance involving 52 victims. The council requires the following elements to begin monitoring a disappearance case: progress in the investigation or prosecution; high media/NGO/public interest; possibility of a conviction; one of the parties is a public personality; the case involves multiple victims; and the case occurred during the present administration.

In the case of the 2007 disappearance of farmer-activist Jonas Burgos in Bulacan Province, the Department of Justice in its September 3 resolution found probable cause to charge Major Harry Baliaga, Jr., for arbitrary detention. At the same time, prosecutors dismissed charges against Colonel Melquiades Feliciano and Colonel Eduardo Ano due to insufficient evidence. The Justice Department also cleared former AFP Chief of Staff General Hermogenes Esperon, former Philippine Army commanding general Romeo Tolentino, Lieutenant General Alexander Yano, and former PNP chief Avelino Razon on charges of obstruction of justice in the Burgos case.

As of August the government had not responded to the March 2012 report by the UN Working Group on Enforced or Involuntary Disappearances, which reiterated its pending request for a country visit and reported that 621 disappearance cases remained outstanding.

### **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. Common forms of abuse during arrest and interrogation included electric shock, cigarette burns, and attempted suffocation.

As of October the CHR investigated 38 cases of alleged torture involving 46 victims, with police suspected in 28 cases, the AFP in three, jail guards in three, the Philippine Drug Enforcement Agency in two, and government officials in two. As of August the TFDP documented 15 cases of alleged torture involving 22 victims and claimed security forces were responsible.

### **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.

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 stated that 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 were also targeted for abuse.

Physical Conditions: The Bureau of Corrections (BuCor), under the Department of Justice, administered seven prisons and penal farms for individuals sentenced to prison terms exceeding three years. As of July BuCor facilities with an official capacity of 16,091 held more than twice that figure (38,003 prisoners) including 2,434 women.

The Bureau of Jail Management and Penology (BJMP) under the DILG, and the PNP controlled 1,130 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 260 percent above designated capacity at year's end, and the Manila City Jail, with an official capacity of slightly more than 1,000 inmates, held 3,148 individuals as of September.

As of September BJMP and PNP jails held 72,922 prisoners, 96 percent of whom were pretrial detainees and 4 percent of whom were convicted of various crimes. Of the total number of prisoners and detainees, 6,838 were adult women and 33 were juveniles. In contravention of the juvenile justice law, the BJMP held 459 juveniles in custody. During the same period, the BJMP released 492 juveniles, 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.

Prison authorities did not uniformly enforce 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. In some facilities authorities did not fully segregate juveniles from adults. The BJMP and BuCor reported insufficient custodial and escort personnel, especially in large jails. At year's end BuCor's custodial personnel-to-inmate ratio was 1 to 60 and BJMP's ratio was 1 to 36.

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 polluted water from taps or pumps. Lack of adequate food and potable water for incarcerated juveniles was a particular concern. From January to September, BuCor and the BJMP reported 571 inmate deaths. Illnesses, including cardiopulmonary arrest and pulmonary tuberculosis, caused most of the deaths.

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

Administration: The BJMP released at least 10 inmates who had been incarcerated in excess of the maximum sentencing guidelines for their alleged crimes. BuCor continued to automate inmate prison records and sought to expedite the release of qualified inmates. In June BuCor launched Oplan Carpeta, software designed to audit and gather inmate data, in an attempt to computerize its records fully. Classification of inmates qualified for assignment to one of the five penal colonies continued during the year.

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 applicable agency. The families and lawyers of inmates often submitted formal complaints to the CHR and Department of Justice charging that prison authorities were censoring communications. The BJMP, via a text message reporting system, received eight complaints alleging inhuman conditions as of August. Follow-up reports were confidential and released only to concerned parties.

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

Improvements: The BJMP 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 24,550 inmates from BJMP jails as of September. The BJMP reduced the overcrowding of the Manila City Jail by 150 percent. From January to September, the Supreme Court's enhanced mobile courts program ("Justice on Wheels") facilitated the release of 528 inmates, mediated 110 cases in 16 provinces and municipalities, and provided needed medical and dental assistance to prisoners.

The BJMP and BuCor expanded the e-Dalaw (e-Visit) system, which allows inmates to connect with their families, locally or abroad, through supervised internet video calls, to include the Pagadian City Jail. BuCor continued to collaborate with the health department, international organizations, and others to implement a tuberculosis control and prevention program in National Capital Region jails and prisons. In July, with the funding support of the ICRC, BuCor and the New Bilibid Prison in Muntinlupa City started upgrading the New Bilibid Prison Hospital Tuberculosis Treatment unit.

#### **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. In a number of cases, however, police and the AFP continued to arrest and detain citizens arbitrarily. The TFDP documented 45 cases of illegal arrest and detention involving 72 victims as of August. From January to November, the CHR tracked 66 cases of arbitrary arrest or illegal detention involving 95 victims.

On February 5, a Samar court ordered the release of activist Ericson Acosta, who had been arbitrarily detained by police, on charges of illegal possession of explosives. Police arrested Acosta without a warrant and subjected him to prolonged interrogation, which resulted in a forced admission of NPA membership. The Department of Justice dismissed Acosta's case in January due to lack of probable cause.

#### **Role of the Police and Security Apparatus**

The PNP, which reports to the DILG, maintains internal peace and security in most of the country. The AFP, which reports to the Department of National Defense, directs security functions in regions with a high incidence of conflict, particularly in certain areas of Mindanao. The two agencies shared responsibility for counterterrorism and counterinsurgency operations. The PNP continued to increase its capabilities to assume greater responsibility for internal security in conflict-affected areas in alignment with the AFP's 2010 Internal Peace and Security Plan and the 2012 framework peace agreement.

The PNP is responsible for law enforcement and urban counterterrorism operations. 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, an arrangement that often resulted in abuse and corruption.

The 147,190-member PNP has deep-rooted institutional deficiencies and continued to suffer from a widely held public perception that corruption was a problem. The PNP's Internal Affairs Service remained largely ineffective. Civilians and credible NGOs accused police personnel of torture, soliciting bribes, and other illegal acts. Efforts continued 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, which allowed impunity to persist within the security forces. From January to October, the Office of the Ombudsman, an independent agency responsible for investigating and prosecuting charges of public abuse and impropriety, received 306 cases involving military and law enforcement officers accused of committing human rights abuses. The cases included killings, injuries, unlawful arrest, and torture. Most were filed against low-ranking police and military officials. As of October, 302 cases were dismissed due to insufficiency of evidence, and eight were under investigation. No convictions against high-ranking police or military officials were recorded.

The PNP Directorate for Personnel and Records Management reported 28 administrative cases filed against 56 police personnel for human rights violation as of July. Criminal proceedings also began against 138 police personnel accused in 102 cases. Of the 102 total cases, 101 were referred to the Prosecutors' Office, and one case was filed in court. Officials dismissed at least 15 police personnel for various administrative and criminal offenses as of August.

The AFP Human Rights Office continued to monitor and review alleged human rights abuses involving members of the military. From January through August, the Human Rights Office identified and investigated 33 reported incidents of human rights violations involving at least 50 AFP personnel. The breakdown by type of those 33 allegations was as follows: extrajudicial killing/murder (four), torture/illegal detention/illegal arrest (two), enforced disappearance/kidnapping (one), harassment/threats/abuses of authority (26). At year's end all cases except one were pending recommendation and resolution of the investigation.

Police and the military routinely continued to provide human rights training to their members, augmented by training from the CHR. The AFP operated from its

revised Graduated Curricula on Human Rights/International Humanitarian Law for the Military to provide a uniform standard of training across service branches. The AFP also continued to adhere to the 2005 Presidential Memorandum Order Number 259, which requires the incorporation of human rights and international humanitarian law into 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.

The PNP maintained a network of 1,845 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 often unable to obtain protection through the witness protection program managed by the Department of Justice due to inadequate funding or procedural delays. Moreover, the CHR received only 500,000 pesos (\$11,400) for its separate witness protection program during the year. In some witness protection cases, left-behind families experienced the burden of lost income due to the relocation of family members.

Government-armed civilian militias supplemented the AFP and PNP; the AFP held operational control of Civilian Armed Force Geographical Units (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 political families and clan leaders, particularly in Mindanao, maintained private armies and at times recruited 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 remained in a near dormant state due to a dysfunctional justice system and lack of

political will. 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 of Detainees**

Except in terrorism related cases, warrants issued by a duly authorized official based on sufficient evidence are required to apprehend an individual. 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. Government agents, however, did not make any warrantless arrests of terrorism-related suspects during the year.

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. 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, due to an underresourced PAO, 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: Security forces continued to detain arbitrarily individuals, including juveniles, without warrants.

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

### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence. Corruption through nepotism, personal connections, and sometimes bribery continued to result in impunity for wealthy or influential offenders. Overall, the judicial system continued to suffer from a lack of sufficient personnel, inefficient processes, and long procedural delays. These factors continued to contribute to widespread skepticism that the criminal justice system 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 2,214 trial-court judgeships, 557 were vacant as of August. 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, under new leadership after the 2012 impeachment of former chief justice Corona, continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. During the year the courts implemented new guidelines to accelerate the resolution of cases in which the maximum penalty, if there is a conviction, 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: two years for the Supreme Court, one year for the courts of appeals, and three months for lower courts. These time limits were not 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. The PAO, reporting to the Department of Justice, did not have the necessary resources to fulfill its

constitutional mandate. The PAO used limited resources to represent indigent defendants at trial rather than during arraignments or pretrial hearings. During the latter, courts may appoint 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 327 political prisoners and detainees as of August, the majority of whom were pretrial detainees. The BJMP and BuCor reported 840 political prisoners held in detention cells and prisons as of September. 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 44 political prisoners released from prisons or detention centers as of June.

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, overburdened local courts often dismissed these cases.

#### **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 of 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 country has contended with armed Muslim separatist movements supported by paramilitary organizations such as the MILF and the MNLF, a communist insurgency supported by a nationwide NPA presence, 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 violence continued in Mindanao and resulted in civilian deaths and the displacement of thousands of individuals.

On September 9, a standoff ensued when an estimated 180 to 400 members of the MNLF took at least 100 residents of Zamboanga City hostage and used them as human shields in the neighborhoods of Santa Catalina and Santa Barbara. Sporadic clashes between government troops and the insurgents left more than 137 persons (105 rebels, 18 soldiers, five police officers, and nine civilians) killed as of September 15.

The 2012 framework peace agreement between the government and the MILF called for both sides to complete the agreement's four related annexes within one year, but the parties had completed only two of the four annexes as of October. A final agreement would form a new, autonomous political entity named "Bangsamoro" (Moro Nation). Citizens would be required to opt in via a plebiscite in the Muslim majority areas of Mindanao.

Killings: Government forces continued to acknowledge civilian deaths in the course of their military operations against the MILF, MNLF, NPA, and other insurgent groups. From January to August, AFP operations killed 29 suspected ASG members. From January to October the PNP reported killing 298 MNLF, NPA, and ASG militants in the course of its operations.

Antigovernment groups continued to be responsible for killing AFP soldiers, police, and civilians. The AFP reported that 11 of its members were killed in action during encounters with ASG members during the year. The PNP reported that NPA militants killed 23 PNP personnel as of October.

Muslim separatists, including the NPA and elements of the MILF including the breakaway faction BIFF, 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. On March 2, the NPA admitted killing a village police officer who supported military operations in Davao City. On June 20, the NPA admitted killing five civilians, whom they abducted during a raid in a wood firm in Esperanza, Agusan del Sur, for their involvement in banditry and other human rights violations. On July 26, BIFF militants allegedly bombed a bar and restaurant which killed eight and wounded 46.

Elements of the MILF, the BIFF, and terrorist groups, including the NPA, the ASG, and JI, also harassed government offices and attacked or threatened businesses, farms, and private communication facilities to enforce the collection of extrajudicial protection payments or “revolutionary taxes.” For example, on September 7, suspected ASG members ambushed and killed six rubber plantation workers in Sumisip municipality, Basilan Province. The workers reportedly refused 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. According to media reports, from January to October, the ASG, the NPA, and other kidnap-for-ransom groups abducted 20 individuals (seven government workers and security personnel, four businessmen, two NGO workers, and seven civilians) in several areas of Mindanao (Sulu provinces, Basilan, Agusan del Sur, and the Zamboanga Peninsula). As of October, 15 were either rescued or released, and five remained missing or captive.

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.

Child Soldiers: On August 2, the president signed Executive Order No. 138, amending Executive Order No. 56 (S. 2001), which aims to further strengthen the government’s program for the protection of children against armed hostilities. E.O. 138 places the Inter-Agency Committee on Children in Armed Conflict (IAC-CIAC) under the direct supervision of the Council for the Welfare of Children, instead of the Office of the Presidential Adviser on the Peace Process. Under this directive the council is the lead agency in the implementation of the CIAC

Program Framework, which addresses the involvement of children in armed conflict. The order also formalized the establishment of a Monitoring, Reporting, and Response System for Grave Child Rights Violations in Situations in Armed Conflict to act as the monitoring arm within the CIAC program framework with the primary objective of protecting children in situations of armed conflict by preventing the occurrence of grave child rights violations.

The UN, through its local UN Children's Fund (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 May 15 report by the UN secretary-general to the UN Security Council noted a decrease in the number of cases of recruitment and use of children by armed groups between 2011 and 2012 (from 54 to 26 children). The Country Task Force on Monitoring and Reporting documented 11 incidents involving 23 boys and three girls in 2012, the most recent year for which information was available. Of those cases, 11 were reportedly recruited and used by the NPA, 11 by the ASG, two by the MILF, and two by the AFP. The report noted that despite the 2009 action plan signed between the MILF and the UN, the MILF base commands continued to provide training, weapons, and uniforms to children and used them as guides, messengers, and porters. For example, in July 2012 a 16-year-old boy and a 17-year-old girl were recruited by the 103rd base command in Lanao del Sur Province, provided with martial arts training, and assigned to weapons maintenance.

The UN continued to receive credible reports that the BIFF was actively training and providing weapons to children.

The NPA continued to claim that it did not recruit children as combatants but admitted that it recruited, trained, and used them for noncombat purposes. The country task force also verified two incidents of recruitment and use of children by the ASG in Sulu and Basilan, involving 11 boys between 13 and 16 years of age. In September 2012 a 13-year-old boy armed with a grenade launcher was killed during an armed encounter with the AFP in Sumisip municipality, Basilan Province.

According to the country task force report, the UN remained concerned over the use of children by the AFP as guides and informants during military operations. The task force verified a July 2012 case wherein the 57th Infantry Battalion forced two boys ages 12 and 13 to serve as guides to locate an NPA camp in North Cotabato Province. The CHR undertook an investigation, which found that the boys were returned to their homes after a few hours, and the Department of Social Welfare and Development (DSWD) provided social services to their families.

Although the UN secretary-general's special representative for children and armed conflict and the National Democratic Front, the political arm of the country's Communist Party, agreed in 2011 to develop an action plan, they did not finalize a framework as of August.

See also the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

Other Conflict-related Abuses: There were media reports that the NPA and separatist groups set fire to villages and used residents 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 house soldiers overnight during military operations in remote areas. In July the AFP developed new guidelines for sheltering in schools.

The NPA, the 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 Speech: Individuals are free to criticize the government publicly or privately or discuss matters of general public interest without reprisal; however, members of the media and other human rights NGOs believed that freedom of speech and expression were sometimes abridged by certain laws and regulations. For example, on August 12, a Manila court affirmed an earlier court ruling finding renowned tour guide and reproductive health advocate Carlos Celdran guilty of offending religious feelings.

Press Freedoms: The independent media remained active and expressed a wide variety of views without restriction, including criticizing the government. Media commentators criticized most media outlets 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, including politicians and other government authorities, 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.

The NGO Center for Media Freedom and Responsibility reported 14 journalists killed during the year and contended that 10 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 only two of these cases as a work-related killing.

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. On September 3, a local court in Digos City convicted Stella Estremera, editor in chief of *SunStar Davao*, and Antonio Ajero, the newspaper's former publisher, for libel. A court convicted Estremera and Ajero after a former city government employee complained that his name was included on a list of 32 suspected drug users and sellers who surrendered to the police. The court held the journalists guilty "for failing to get the side of [the] complainant," and imposed a fine of 6,000 pesos (\$137) with subsidiary

imprisonment in case of insolvency. The court also ordered the journalists to pay 200,000 pesos (\$4,570) in moral damages to the complainant.

Libel laws were often used in retaliation. On August 6 and 7, businesswoman Janet Napoles, after being allegedly implicated in a multibillion peso corruption scandal, filed four separate libel complaints against a blogger, two reporters, two editors, and a publisher.

### **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 appropriate legal authority. The internet was widely available and used.

In September 2012 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 permits enforcement actions conducted in the cyber realm, including the collection of subscriber, traffic, and other relevant data, providing a warrant has been issued by a duly authorized official based on sufficient evidence of criminal wrongdoing. The law also allows for the real-time interception of data and the seizure of computer or data storage mediums. Service providers are required to preserve transaction data and subscriber information for at least six months, with a possible six-month extension by court order.

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 the authority to order the restriction or blocking of access to computer data that it found *prima facie* to be in violation of the law. They also expressed concern that the law would allow police to collect traffic data (defined to exclude the “content” of any communications) in real time without a court order or warrant, infringe on the right to freedom of expression by extending libel law to include acts expressly committed through a computer, impose higher penalties for libel committed through electronic means than through other methods, and not adequately protect websites and portals that publish or host user comments. On February 5, the Supreme Court extended for an indefinite period the temporary restraining order it issued in October 2012 against the implementation of the cybercrime law.

### **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 generally exhibited professionalism and restraint in dealing with demonstrators. The TFDP reported, however, that on July 22, during President Aquino's State of the Nation address, police violently dispersed approximately 2,000 protesters during a protest action on Commonwealth Avenue, in Quezon City. Police injured 20 demonstrators, and arrested and released the next day one individual.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://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 employment travel ban to Uzbekistan, Liberia, Sierra Leone, Somalia, Rwanda, Burundi, and Syria. Only workers returning to previously held jobs could travel to Afghanistan and Lebanon. On February 27, the government lifted the ban on the deployment of overseas Filipino workers to Iraq, but the ban remained for household service workers. Domestic workers were prohibited from working in Palau.

### **Internally Displaced Persons (IDPs)**

The four-decade-long conflict between the government and Muslim separatist groups, sporadic interclan fighting, and natural disasters in Mindanao generated significant internal displacement from January to October. Counterinsurgency campaigns against the ASG, primarily in Sulu and Basilan provinces, and clashes with the NPA, concentrated in the most geographically remote provinces, 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 260,000 persons as of June, including 21,000 from armed conflict and interclan fighting and 238,000 from natural disasters. Other IDPs lived in informal settlements or with host communities in rural and urban areas. In addition to the DSWD estimate, the two-week armed encounter between government troops and MNLF insurgents in Zamboanga City in September displaced 105,705 persons or 20,810 families from 14 barangays (administrative units). Typhoon Yolanda (Haiyan), which hit the Eastern Visayas region in November, displaced four million persons or 869,971 families. As December 19, a total of 20,924 families or 101,527 persons were living inside 381 evacuation centers.

The government PAMANA (Peaceful and Resilient Communities) program, a peace and development effort, continued to operate in conflict areas. The government IDP Shelter Assistance Project constructed 2,815 shelters in 2012 and had completed an additional 56 shelters as of June.

Government agencies, often with support from UN agencies and other international donors, continued to provide food assistance and other consumable items (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. Impoverished IDPs were highly susceptible to human trafficking networks, according to a Brookings Institution report. The study also noted that despite a government policy of free public education, significant numbers of children in displaced families were unable to attend schools due to an inability to afford unofficial school fees and transportation expenses.

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 speculated that some IDPs remained in evacuation centers because they had better access to basic facilities and livelihood opportunities than in their home areas. The UN Office for Coordination of Humanitarian Affairs reported hundreds of thousands of IDPs continued to require humanitarian assistance years after returning to their home areas.

On May 29, President Aquino vetoed a bill seeking to protect the rights of persons internally displaced by armed conflict, violence, and natural disasters. Aquino objected to a provision allowing IDPs to claim financial assistance and compensation from the government. He also said the bill's provision on damages unlawfully differentiated between displacements caused by security agents of the state and those caused by nonstate entities. Aquino also raised concerns over the constitutionality of additional powers that the bill provides to the CHR. The president stated the power granted to the CHR to determine damages incurred against IDPs impinges on the judiciary's exclusive power to facilitate the award of such claims.

### **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 determines which asylum seekers qualify as refugees in accordance with an established, accessible system that appeared to provide basic due process. From January to August, the department received 46 asylum applications and reopened three. Of these, the department approved six and archived two. Five were voluntarily withdrawn, and 36 remained pending. As of August, there were 163 refugees residing in the country.

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 19 refugees during the year.

### **Stateless Persons**

As of October the UNHCR reported 165 stateless refugees in the country. In an effort to reduce the potential for statelessness, the government paid particular attention to persons of Indonesian descent in diaspora communities in Southern Mindanao.

Philippine citizenship is conferred by one's parents.

In November 2012 the Department of Justice defined the procedure for the determination of stateless status, in cooperation with the UNHCR.

The government estimated that 800,000 ethnic Filipinos, a large percentage of whom were de facto stateless, resided in Sabah under the sovereignty of Malaysia. Many were born in the Sulu provinces but had been working in Sabah for many years, in some cases decades. On March 2, approximately 250 armed Filipinos claiming allegiance to the historical Sultanate of Sulu invaded Sabah. The subsequent hostilities caused approximately 20,000 ethnic Filipinos to return to Sulu, Tawi Tawi, and other destinations across the Philippines. The three-month flow of evacuees far exceeded the average annual flow of deportees from Sabah. Government agencies, led by the DSWD, along with international humanitarian aid organizations, such as the ICRC, attempted to assist the returnees, although efforts were often difficult given security conditions at points of arrival. The Department of Foreign Affairs and DSWD, following a joint consular mission to Sabah, reported that a large percentage of the ethnic Filipinos had no passports or other identity documents.

Efforts to undertake a census of returnees were ineffective. DSWD field offices were not equipped with computer systems for data processing. Many of the returnees stayed with extended families in Sulu and Tawi Tawi and did not register with the DSWD. Those returnees that allowed themselves to be processed by DSWD social workers were given a small transportation and rice allowance as well as color-coded slips for later submission and possible benefits. In Sabah they had

primarily been employed in construction and on palm oil plantations, raising significant questions about their livelihood prospects in the Sulu provinces that lack similar opportunities. In addition the influx of evacuees caused further overcrowding in schools and raised concerns about medium-term peace and security implications should interclan violence be magnified or Muslim separatist groups seek to exploit the situation.

### **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: The country conducted two major nationwide elections during the year: the October 28 elections of members of village councils and the May 13 midterm elections for both houses of congress, provincial governors, and local government officials. International and national observers viewed the election as generally free and fair but reported that instances of vote buying were widespread and that dynastic political families continued to monopolize elective offices at the national and local level. Election-related violence persisted in both elections. While the PNP reported a significant decline in violent incidents from the 2010 midterm elections, it confirmed that the election violence statistics for the village council elections were higher than in the 2010 elections.

Participation of Women and Minorities: There are no restrictions in law or practice on participation by women and minorities in politics. Following the midterm elections, six women served in the 24-seat Senate and 79 women in the 289-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 17 of 80 provincial governors and 321 of 1,633 mayors.

Observers commented that some female politicians served as “placeholders” when male members of their dynastic political families had to leave office due to term limits. Media commentators also expressed concern that political dynasties limited the opportunities for female candidates who were not connected to political families to seek nominations.

There were no Muslim or indigenous cabinet members or senators, but there were 11 Muslim members of the House of Representatives, 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. They preferred the election of senators by region, which would require a constitutional amendment.

A party-list system, which was designed to ensure the representation of marginalized and underrepresented sectors of society, was used to elect 20 percent of the seats in the House of Representatives. In April the Supreme Court issued six parameters, which eliminated the requirement that party-list eligibility be restricted to marginalized and underrepresented sectors. The new parameters also allowed for the participation of national political parties. Some NGOs claimed that the ruling undermined the party-list system and would result in less representation for socially and economically disadvantaged groups.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law mandates criminal penalties for corruption by public officials. However, the government did not implement these laws effectively, and officials often engaged in corrupt practices with impunity.

Corruption: 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. The resources of all three entities were insufficient, but the Sandiganbayan and the audit commission actively collaborated with the public and civil society and appeared to operate effectively and independently. Despite government efforts to file charges and obtain convictions in a number of cases, officials continued to engage in corrupt practices with relative impunity.

In July the media published a series of stories claiming that five senators and 23 members of the House of Representatives were involved in a fraud involving the diversion of 10 billion pesos (\$228 million) in public funds over the past 10 years. The legislators allegedly allowed JLN Corporation (JLN), owned by Janet Lim-Napoles, to funnel Priority Development Assistance Funds to more than 20 fake NGOs. The NGOs, reportedly, would then execute projects on paper and forge the signature of the intended beneficiaries, subsequently dividing the funds between Napoles, the NGOs, and the corrupt legislators. President Aquino instructed the

secretary of justice to conduct an exhaustive, impartial, and fair investigation. The Office of the Ombudsman also created a special team to conduct a parallel probe on the case, and the Commissioner of the Bureau of Internal Revenue started examining the tax returns of JLN, the 20 shell organizations related to JLN, and Napoles' personal tax returns. On September 10, the Supreme Court issued a temporary restraining order and ordered the executive department to stop releasing lawmakers' Priority Development Assistance Funds. On September 16, the Department of Justice filed before the Office of the Ombudsman plunder and malversation charges against Napoles, three senators, and 34 others in connection with the case.

On October 3, the Department of Justice recommended the filing of plunder charges against former president Gloria Arroyo and 23 others, including former officials of her administration and businesswoman Janet Lim-Napoles, for their alleged involvement in the 900 million pesos (\$20.6 million) Malampaya fund swindle. The Malampaya fund comes from the proceeds of the Malampaya natural gas project off the coast of Palawan province. The funds were intended to assist areas affected by typhoons in 2009 but were allegedly channeled through fake NGOs formed by Napoles.

As of October the Office of the Ombudsman obtained convictions against at least 11 officials in 94 corruption cases, including the April 29 conviction of Makati City Judge and former Dapitan City mayor Cedrick Ruiz for graft and malversation of public funds. A court sentenced him to a maximum of 26 years in prison and a fine of 950,000 pesos (\$21,700), equivalent to the amount of confidential intelligence funds that he stole and failed to liquidate in 2001.

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.

Whistleblower Protection: No law provides protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality.

Financial Disclosure: The Code of Conduct and Ethical Standards for Public Officials and Employees requires all public officials and employees to file under oath their statement of assets, liabilities, and net worth and to disclose their personal business interests and financial connections, as well as those of their

spouses and unmarried children living in their households. Nondisclosure is punishable with imprisonment not exceeding five years, or a fine not exceeding 5,000 pesos (\$115), or both, and, at the discretion of the court, disqualification from holding public office. The Civil Service Commission promulgates the rules and regulations, administration, and enforcement of this law. The commission forwards nondisclosure cases to the Office of the Ombudsman for prosecution. From January to August, the Office of Ombudsman convicted three public officials for violations.

Public Access to Information: 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 unavailable during the year. NGOs continued to press congress to pass a freedom of information law.

Illicit Trade in Natural Resources: In June the government destroyed five tons of seized ivory from elephant tusks worth 432 million pesos (\$9.9 million). In the past government officials were accused of pilfering the stockpile of the seized ivory. Wildlife conservation NGOs heralded the destruction as a positive step.

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

A number of domestic and 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: A number of UN special rapporteur/working group visit requests were pending with the government.

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 298 million pesos, or \$6.8 million, was 2 percent higher than in 2012.) 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 on all cases presented to its regional and subregional offices.

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, although administrative and institutional weaknesses remained.

The Presidential Human Rights Committee serves as a multiagency coordinating body on human rights problems. The committee's responsibilities were subsequently amended to include compiling the government's submission for the UN Universal Periodic Review. Many NGOs considered it independent but with limited ability to influence human rights policy.

In April the Regional Human Rights Commission, a constitutionally mandated body tasked with monitoring alleged violations in the Autonomous Region of Muslim Mindanao, received its first government funding and began hiring staff. After the loss of a capable director, prospects for the organization's viability remained unclear.

The House of Representatives and Senate committees on human rights and justice continued to pass bills protecting rights, but many bills remained pending as of August.

## **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 imprisonment for 12 to 40 years with an option for pardon or parole only after 30 years have been served. A conviction can also result in a lifetime bar from political office. Penalties for forcible sexual assault range from six to 12 years' imprisonment. As of August the PNP received 778 cases: 642 cases were filed in court, 88 were under investigation, 29 were settled, and 19 were referred to other agencies for further investigation. From January to September, the DSWD provided shelter, counseling, and health services to 94 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 7,972 prisoners convicted of rape, 273 of whom were admitted as of July. There continued to be reports of rape and sexual abuse of women in police or protective custody. Women from marginalized groups, such as suspected prostitutes, drug users, and indigent individuals arrested for minor crimes, were disproportionately affected.

In July the media reported on the sexual abuse of overseas Filipino workers by Philippine embassy and consulate personnel in the Middle East. The Department of Foreign Affairs and Department of Labor and Employment (DOLE) undertook an investigation of a so-called sex-for-flight arrangement that government officials imposed on distressed domestic workers who had sought shelter with embassies and consulates. The government recalled 12 ambassadors and principal officers for assistance with the investigation and to receive training on preventing future abuses overseas. On August 23, DOLE filed administrative charges against three overseas labor officials in connection with the case. DOLE charged Adam Musa for gross negligence, Mario Antonio for grave misconduct, and Antonio Villafuerte for negligence. The complaints of sexual harassment against Villafuerte were referred to the DOLE Committee on Decorum and Investigation.

Domestic violence against women remained a serious and widespread problem. The law criminalizes physical, sexual, and psychological harm or abuse to women and children committed by their spouses, partners, or parents. As of August the PNP reported 9,687 cases of domestic violence against women and children: 2,908 were filed in court, 781 were under investigation, 1,409 were settled, and 4,589 were referred to other agencies for further investigation. Statistics were unavailable on prosecutions, convictions, and punishments during the year for cases filed by the PNP.

The DSWD extended assistance to 521 victims of physical abuse and maltreatment as of September, 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, 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 1,909 desks throughout the country to deal with these matters, an increase compared with 2012.

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. The provision of health care services is the responsibility of local governments, and 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.

In December 2012 the president signed into law the national reproductive health bill, which provides for universal access to contraception, fertility control, sexual education, and maternity care. The law requires the Department of Health to procure and distribute family planning commodities, including a wide range of modern forms of contraception. Various individuals and religious groups filed 15 separate petitions questioning the constitutionality of the law in the Supreme Court. On July 16, the Supreme Court extended its March 19 status quo ante order stopping the law's implementation.

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. Midwives, sometimes with little formal training, performed essential services for families in geographically remote communities underserved by other medical professionals.

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. In Muslim and indigenous communities, however, 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. Women, like men, are subject to severe and systematic age discrimination, most notably in hiring practices. 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 38.7 percent of the three 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 costs and bureaucratic burdens 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 Philippine Commission on Women, 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.

## **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 (the most recent available) showed approximately six million out-of-school youth. In June 2012 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. From January to September, DSWD offices served 3,912 victims of child abuse, 67 percent of whom were girls. Approximately 39 percent of the girls were victims of sexual abuse as well. Several cities ran crisis centers for abused women and children.

Forced and Early 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 may marry when they reach puberty.

Sexual Exploitation of Children: The minimum age for consensual sex is 12 years. The statutory rape law criminalizes sex with minors under age 12 and sex with a child under age 18 involving force, threat, or intimidation. The maximum penalty for child rape is 40 years in prison plus a lifetime bar from political office. As of August the PNP reported 2,750 cases of child rape. The production, possession, and distribution of child pornography are illegal, and penalties range from one month to life in prison plus fines from 50,000 to five million pesos (\$1,140 to \$114,000), depending on the gravity of the offense.

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. Foreign and domestic pedophiles abused and exploited children, and the government continued its efforts to prosecute accused pedophiles and deport foreign ones. Of the 3,912 victims of child abuse to whom DSWD offices provided services as of September, 49 were victims of sexual exploitation, including victims of cyber pornography. The National Bureau of Investigation and the PNP worked closely with DOLE to target and close facilities suspected of prostituting minors.

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

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 September, the DSWD provided services to 1,977 street children nationwide, 200 of whom were indigenous children of the Bajau clan who were provided with educational assistance. 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. Displacement affected children in central Mindanao, but they generally had access to government services.

Institutionalized Children: The law and associated executive orders provide for the welfare and protection of institutionalized children. Police stations were assigned youth relations officers to ensure that authorities treat minor suspects appropriately, but procedural safeguards continued to be ignored, and facilities were not child friendly. Under the juvenile justice law, children age 15 and under at the time of the commission of the crime are exempt from criminal liability. The law mandates the DSWD to provide shelter, treatment, and rehabilitation services to these children. As of July the DSWD assisted 2,258 children in conflict with the law (i.e., alleged as, accused of, or adjudged as having committed an offense under the law) in its 14 rehabilitation centers nationwide. In addition several local government units established and managed youth center facilities that provided protection, care, training, and rehabilitation of these children and other at-risk youth. According to the BJMP, DSWD youth centers were lacking in some

regions, requiring the BJMP to take custody of approximately 460 such children in its facilities. 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.

International Child Abductions: The country 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](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](http://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, but the government did not effectively enforce these provisions. 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 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.

The DSWD operated two assisted-living centers in the Manila area and five community-based vocational centers for persons with disabilities nationwide. From January to September, the DSWD provided services to 1,898 persons with disabilities. Persons with disabilities frequently solicited donations in the streets, an indicator of the limited options available for livelihood.

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.

Some children with disabilities attended primary, secondary, and higher-education schools in mainstream or inclusive education settings. However, children living in poverty with a disability were unlikely to have access to education. The Philippine Coalition on the UN Convention on the Rights of Persons with Disabilities reported that the Education Department's 400 special education centers were inaccessible or too expensive for the average family, and a majority of these special education programs and schools were located in urban areas, further limiting access for rural students with disabilities.

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. The Commission on Elections (COMELEC) determines the capacity of persons with mental disabilities to vote during the registration process, and exclusions and inclusions may be appealed in court. A federal act authorizes COMELEC to establish accessible voting centers exclusively for persons with disabilities and senior citizens. Many persons with disabilities did not vote in the mid-term elections, however, because of the lack of

accessible voting facilities. The NGO Legal Network for Truthful Elections (Lente) reported that only 82,000 of 365,000 registered persons with disabilities were able to vote during the May elections, a turnout far below that of the general population. Media reports confirmed the turnout of some persons with disabilities and the elderly in regular precincts, noting that their participation was facilitated by the implementation of express lanes and the provision of poll assistance. During the October village council elections, COMELEC designated pilot polling precincts in four malls in Luzon, Visayas, Mindanao, and the national capital region for the elderly and persons with disabilities. COMELEC reported high voting turnout in these special voting centers.

### **Indigenous People**

Although no specific laws discriminate against indigenous people, the geographical 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. 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 insurgents and other militants. Their lands were often sites of armed encounters often related to resource extraction and tribal claims. Armed groups frequently recruited from indigenous populations. The Task Force for Indigenous Peoples' Rights continued to lobby for the government to introduce an appropriate mechanism through which indigenous people would be recognized as an official party to peace talks between the government and the MILF. NGOs also alleged that security forces identified some indigenous persons as insurgents, often with little or no justification.

The National Commission on Indigenous People, staffed by tribal members, continued to implement constitutional provisions to protect indigenous people. Through August the commission awarded Certificates of Ancestral Land and Ancestral Domain Titles covering more than 26,000 acres claimed by indigenous peoples in the provinces of Rizal and Bukidnon. It awarded such "ancestral domain lands" based on communal ownership, thereby stopping sales of the lands

by tribal leaders. In addition the commission 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 continued conflict, poverty, and lack of access to ancestral seas displaced a large number of the Sama-Bajau from western Mindanao.

In May 2012 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. NGOs commended the COMELEC resolution.

### **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.

Transgender individuals are prohibited from self-reporting their gender on passport applications. The sex assigned at birth, as reported on the certificate of birth, is printed in the individual’s passport.

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. Credible NGOs reported incidents of discrimination and abuse, including in employment, education, health care, housing, and social services. The NGO Rainbow Rights Project continued to claim 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.

In August the CHR announced that it would intensify its documentation of discrimination cases against members of the LGBT community. The CHR continued to investigate 13 cases of abuse against LGBT community members covering mostly the period of 2010 to September 2. During the year the CHR continued to collaborate with the NGO TLF SHARE in developing programs to integrate sensitivity for sexual orientation, gender identity, HIV, and AIDS.

### **Other Societal Violence or Discrimination**

During the year vigilante groups, including some with suspected ties to state actors, were suspected of summary killings of alleged criminals, both adults and juveniles, 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 38 cases of suspected vigilante killings in Davao City from January through August.

The law prohibits discrimination against persons with HIV/AIDS and provides for basic health and social services for them. Nevertheless, there continued to be anecdotal evidence of discrimination against HIV/AIDS patients in the government's provision of health care, housing, and insurance services. A credible NGO received reports of LGBT individuals who were denied insurance or required to take an HIV test before approval of their insurance applications.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law, including related regulations and statutory instruments, protects the rights 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 (SEZs).

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 convicted union officers may be imprisoned 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. Government workers may file complaints with the Civil Service Commission, which handles administrative cases and arbitrates disputes between civil service workers and their employers. Government workers may also assemble and express their grievances on the work premises during nonworking hours.

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 chose to employ such workers, who were not permitted to organize, 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. Employers often abused contractual labor provisions by rehiring employees shortly after expiration of the previous contract.

By law antiunion discrimination, especially in hiring, constitutes an unfair labor practice and may carry criminal or civil penalties (although civil penalties were favored over criminal penalties in practice). If there is a *prima facie* finding that termination may cause a serious labor dispute or mass layoff, the DOLE secretary may suspend the termination and restore the status quo ante pending resolution of the case. The National Labor Relations Commission (NLRC) labor arbiter may also issue orders or writs of execution for reinstatement that go into effect immediately, requiring employers to reinstate payroll and report compliance to the NLRC.

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 provides mediation services through a board, which settles most of the unfair labor practice disputes. Through the mediation board, DOLE also works to improve the functioning of labor-management councils in companies that already have unions. In April the president signed the Strengthening of Conciliation-Mediation Law that formalizes the Single Entry Approach of DOLE and orders that all issues affecting labor and employment be subjected to a mandatory conciliation-mediation for one month. Various union leaders criticized the law for adding another layer of bureaucracy and delaying the delivery of justice to workers.

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 strikes or lockouts are reserved for acts of unfair labor practice, a gross violation of collective bargaining laws, or a collective bargaining deadlock. From January to August, 28 preventative

mediation cases concerning a refusal to bargain were filed before the National Conciliation and Mediation Board. Of these cases, involving 3,424 workers, 14 were settled, seven were pending, one evolved into a notice of strike, and eight were withdrawn by the complainant, submitted for voluntary arbitration, referred to compulsory arbitration, or remanded to the labor management committee. During the same period, parties filed an additional 15 notices of strike/lockout on refusal-to-bargain grounds. Of these cases involving 3,743 workers, six were settled, seven remain pending before the conciliation and mediation board, and two were either withdrawn or submitted for compulsory/voluntary arbitration.

The DOLE secretary, and in certain cases the president, may intervene in labor disputes by assuming jurisdiction and mandating a settlement if either official determines that the strike-affected company is vital to the national interest. On October 21, DOLE amended its rules concerning disputes by specifying industries vital to national interest. Vital sectors include the hospital sector, electric power industry, water supply services excluding small bottle suppliers, air traffic control, and other activities or industries as recommended by the National Tripartite Industrial Peace Council (NTIPC). Labor rights advocates criticized the government for maintaining definitions of jurisdiction in the national interest that were broader than international standards.

From January to August, DOLE reported one strike, involving 1,000 workers of Filipinas Palm Oil Plantations, Inc. (FPPI) in Agusan del Sur Province. Members of the of the NAFLU-Pilipinas Oil Plantations, Inc. Workers Union went on strike after 293 of its members were dismissed in October 2012. This prompted the union to launch a strike from November 2012 to January. The strike ended after the secretary of labor assumed jurisdiction over the case on January 18. The 293 dismissed workers were reinstated on September 2 following an August 30 meeting between FPPI management and the union.

Collective bargaining was practiced, but occasionally employers obstructed negotiations, and union leaders were subjected to reprisal. During the year the CTUHR reported the nonimplementation of the collective bargaining agreement for 64 faculty members and employees of Brokenshire College in Davao City. On March 8, the CTUHR claimed Brokenshire College's management dismissed 11 union members for alleged redundancy in reprisal. The CTUHR also monitored five companies that refused to bargain, resulting in the delay in the collective bargaining process.

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 health-care and retirement benefits, and those that involved the exercise of management prerogatives, including appointment, promotion, compensation, and disciplinary action, were nonnegotiable.

The 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.

Killings and harassment of labor leaders and advocates continued to be a problem. The CTUHR documented the July 2 killing of Antonio Petalcorin, Sr., a leader of the transport workers group Network of Transport Organization in Davao City. Petalcorin's killing was linked to his anticorruption campaign against an official of the Land Transportation Franchising Regulatory Board.

In addition the CTUHR also documented 17 cases in which employers filed legal cases to threaten, harass, or intimidate their employees. It also documented five incidents of violent dispersal of protesters during the year. For example, on April 15, the police arrested six among the 129 dismissed workers of the Pentagon Steel Corporation during a violent dispersal of picket protesters in Quezon City. The workers were detained and charged with grave coercion, resistance of arrest, and disobedience but were released the following day.

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. Local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by the legislature. Employers controlled hiring through special 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 businesses and dismissing workers attempting to organize. During the year the CTUHR reported that more than 186 regular workers and members of MAPAPI workers union of Agusan Plantation Inc. (API), in Agusan del Sur province, lost their jobs and their union collapsed after the company decided to close the plantation operation two months after the API management and MAPAPI signed a collective bargaining agreement in March. Deprived of any means of income and livelihood, the workers were enticed to accept their separation pay. By August the company resumed operations, with the entire workforce hired as contractors and therefore not able to unionize. 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.

In May 2012 the government signed a document to guide the conduct of DOLE plus the DILG, AFP, PNP, and 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. During the year DOLE conducted an information dissemination drive on the implementation of the new guidelines.

### **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 government's lack of capacity 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](http://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.

Despite positive advancement in combating the worst forms of child labor, child labor remained a common problem, and cases reported to DOLE centered in the service and agricultural sectors, notably in the fishing and sugar 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. Findings from the joint National Statistics Office-ILO 2011 *Survey on Children* revealed approximately 5.5 million of the country's 29 million children ages 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.

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. In May 2012 the government launched the H.E.L.P. M.E. (Health, Education, Livelihood, and Prevention, Protection, and Prosecution, Monitoring

and Evaluation) Convergence Program that aims to transform identified villages nationwide into child labor-free communities through partnerships with local government units and convergence of services with various national government agencies. In partnership with the Department of Education, DOLE provided educational assistance to 1,802 child laborers and children at risk of becoming child laborers during the year. It also provided livelihood assistance and training to 514 parent-beneficiaries whose children were at risk of going back to child labor.

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 June, DOLE through its Sagip Batang Manggagawa program (Rescue Child Laborers) rescued 27 minors (20 in the national capital region) employed mostly in hazardous and exploitative working conditions. Authorities removed all 27 from their workplaces and referred them to the DSWD. In addition DOLE's Bureau of Working Conditions referred 14 minors employed in nonhazardous establishments. As of September four establishments were closed in violation of the antichild labor laws.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://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 four of 17 regions as of August. Minimum wages in the nonagricultural sector were highest in the national capital region, where the minimum daily wage rate was 466 pesos (\$10.60). The lowest minimum wage rates were in the Ilocos Region, where the daily nonplantation agricultural wage was 205 pesos (\$4.68). Self-rated surveys conducted in June 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 (\$5.27) to avoid poverty. In its April 2012 report, the National Statistical Coordination Board claimed that nearly 28 percent of the country's 97 million people lived below the poverty line.

The November 2012 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 (\$57.10) per month for such workers and required their employers to contribute to social security, PhilHealth, and the national housing scheme. Various media entities reported complexities in the implementation and enforcement of the domestic workers law, including the tedious process of registration of the domestic worker, additional financial burden on the employers, and the difficulty in monitoring employer compliance. There were no reports of any case filed under the domestic worker's law as of year's end.

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. As of September the department employed 202 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. The regional wage boards approved nine of 20 applications for wage exemption as of October.

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 73,500 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 735,275 enterprises with fewer than 10 workers to help them with compliance; more than 6,600 establishments covering approximately 39,800 workers participated in the 413 training and advisory sessions conducted. DOLE allowed the approximately 3,496 establishments with more than 200 workers to undertake voluntary self-assessments of compliance; approximately 870 establishments submitted self-assessments, reporting an 85 percent compliance rate.

During the year the president granted an additional 372 positions to augment the number of labor inspectors, and as of October, 196 new personnel had been hired and were undergoing training. Despite the additional personnel, enforcement of labor laws remained difficult. As a result local authorities were often required to conduct enforcement. Penalties for noncompliance with increases or adjustments in the wage rates as prescribed by law are a fine not exceeding 25,000 pesos (\$571), imprisonment for not less than one year nor more than two years, or both. 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 September, the Bureau of Working Conditions inspected 26,748 firms and found that 9,101 violated core labor standards, with 3,319 not complying with minimum wage rates. Many firms hired employees for less than minimum wage 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 October, DOLE's Occupational Safety and Health Center provided training and information dissemination to 12,196 participants involving 4,993 companies to reduce accidents and illnesses at work. The Bureau of Working Conditions recorded 74 work-related deaths and 84 work-related injuries from January to September, an increase from last year (68 deaths and 76 injuries). Statistics on 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 October, the POEA suspended 114 recruitment agencies and canceled the licenses of 41 recruitment agencies for numerous violations of recruitment and migrant worker laws. It also issued closure orders against six agencies engaged in illegal recruitment.