



Disability Rights Promotion International

Monitoring the Human Rights of Persons with Disabilities:

Laws, Policies and Programs in the Philippines

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Printed in Canada.

Published by Disability Rights Promotion International (D.R.P.I.)

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Katipunan Ng Maykapansanan sa Pilipinas, Inc. (K.A.M.P.I.)

This Report has been financed by the Swedish International Development Cooperation Agency (Sida). Sida does not necessarily share the views expressed in this material. Responsibility for its contents rests entirely with the authors.

ACKNOWLEDGMENTS

This study was made possible through the generous and unselfish contribution and support of the following:

- Swedish International Development Cooperation Agency (Sida) – for financial support provided through the Disability Rights Promotion International (D.R.P.I.) project
- Disability Rights Promotion International (D.R.P.I.)– for technical support in conducting the study through its Co-Director, Dr. Marcia Rioux;
- Dr. Bengt Lindqvist – for his leadership and support as Co-Director of D.R.P.I.
- Ms. Venus M. Ilagan – for bringing D.R.P.I. to the Philippines;
- Danish International Development Assistance (D.A.N.I.D.A.) through Danish Society of Polio and Accident Victims (P.T.U.) - for giving financial support to KAMPI Secretariat;
- N.C.D.A. – for extending logistical and technical support through its Deputy Executive Director, Mr. Mateo Leo Jr. and its staff Mr. Dandy Victa;
- The Research Team headed by its Lead Monitor, Mr. Lauro Purcil Jr., and the devoted researchers.
- The K.A.M.P.I. Secretariat through its Executive Director, Ms. Sonia Rina Figueroa;
- The individual private sector who supported the team in its research in the person of Bing David and Josephine de Vera
- Various organizations of Persons with Disabilities and national government agencies for their cooperation and support to the survey; and
- Abner Manlapaz for giving information and data for the research

Our sincerest gratitude to all of you. Thank you very much!

MR. BRICCIO AGUILAR

KAMPI President

NATIONAL LAW ANG POLICY MONITORING IN THE PHILIPPINES

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List of Abbreviations and Acronyms

A.D.B.	Asian development Bank
A.D.A.P.	Association of Differently-abled Persons
A.K.A.P.	Alyansa ng May Kapansanan Party
C.A.L.L.	Center for Advocacy, Learning and Livelihood
C.A.T.	Convention Against Torture
C.B.M.	Christoffel Blinden Mission
C.B.R.	Community-based Rehabilitation
C.E.D.A.W.	Convention on the Elimination of All Forms of Racial Discrimination Against Women
C.E.D.A.W-O.P	The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women
C.E.R.D.	Convention on the Elimination of Racial Discrimination
C.H.E.D.	Commission on Higher Education
C.H.R.	Commission on Human Rights
C.M.W.	International Convention on the Protection of All Migrant Workers and Members of their Families
C.O.M.E.L.E.C.	Commission on Election
C.R.C.	Convention on the Rights of the Child
C.R.C.-O.P.-A.C.	The Optional Protocol to the Convention on the Rights of the Child in Armed Conflict
C.R.C.-O.P.-S.C.	The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children
D.A.I.S.Y.	Digital Accessible Information System
DepEd-	Department of Education
D.O.H.	Department of Health
D.O.J.	Department of Justice
D.O.L.E.	Department of Labor and Employment
D.O.S.T.	Department of Science and Technology
D.O.T.C.	Department of Transportation and Communication
D.P.W.H.	Department of Public Works and Highways
D.R.P.I.	Disability Rights Promotion International
D.S.W.D.	Department of Social Welfare and Development
E.T.M.	Express Teller Machines
E.O.	Executive Order
I.C.C.P.R.	International Covenant on Civil and Political Rights
I.C.C.P.R. - OP1	The Optional Protocol to the International Covenant on Civil and Political Rights
I.C.C.P.R.-OP2	The Optional Protocol to the International Covenant on Civil and Political Rights
I.C.E.R.D.	International Convention on the Abolition of All Forms of Racial Discrimination
I.C.E.S.C.R.	International Covenant on Economic, Social and Cultural Rights

I.C.T.	Information Communication Technology
I.E.C.	Information, Education and Communication
I.R.R.	Implementing Rules and Regulations
G.A.A.	General Appropriations Act
G.O.C.Cs	Government Owned and Controlled Corporations
G.F.I.s	Government Financial Institutions
G.S.I.S.	Government service Insurance System
G.U.I.D.E.	Government Union for the Integration of Differently-abled Employees
H.U.D.C.C.	Housing and Urban Development Coordinating Council
I.P.R.A.	Indigenous Peoples Rights Act
I.R.R.	Implementing Rules and Regulations
I.H.R.	Institute of Human Rights
K.A.M.P.I.	Katipunan ng Maykapansanan sa Pilipinas, Inc.
L.G.U.s	Local Government Units
L.T.O.	Land Transportation Office
M.A.P.B.	Movement for the Advancement of Philippine Blind
M.D.Gs	Millennium Development Goals
M.T.P.D.P.	Medium Term Philippine Development Plan
N.A.P.C.	National Anti Poverty Commission
N.C.C.-C.I.C.T.	National computer Center and the Commission on Information Technology
N.C.C.D.P.	National Commission Concerning Disabled Persons
N.C.D.A.	National Council on Disability Affairs
N.C.W.D.P.	National Council for the Welfare of Disabled Persons
N.D.P.R. Week	National Disability Prevention and Rehabilitation Week
N.E.D.A.	National Economic Development Authority
N.G.As	National Government Agencies
N.H.A.	National Housing Administration
N.R.P.	National Rehabilitation Plan
O.P.D.A.	Office of Persons with Disabilities Affairs
P.A.G.COR	Philippine Amusement and Gaming Corporation
P.B.U.	Philippine Blind Union
P.C.S.O.	Philippine Charity Sweepstakes Office
P.D.S.	Personal Data Sheet
P.E.S.F.A.	Private Education Student Financial Assistance
P.E.S.O.	Public Employment Service Offices
P.F.R.D.	Philippine Foundation for the Rehabilitation for Disabled Persons
P.N.S.B.	Philippine National School for the Blind
P.H.I.L.S.P.A.D.A.	Philippines Sports Association for the Differently-Abled
P.P.H.B.	Philippine Printing House for the Blind
P.S.D.	Philippine school for the Deaf
P.S.D.B.	Philippine School for the Deaf and Blind
P.S.L.I.N.K.	Public sector Labor Independent Confederation
R.A.	Republic Act

R.B.I.	Resources for the Blind
R.C.W.D.P.	Regional Council on the Welfare of Disabled Persons
R.S.W.	Rehabilitation Sheltered Workshop
S.P.E.D.	Special Education
S.O.L.I.R.	School of Labor and Industrial Relations
S.S.S.	Social Security System
T.E.S.D.A.	Technical Education and Skills Development Authority
T.W.H.	Tahanang Walang Hagdan
U.D.H.R.	Universal Declaration on Human Rights
U.N. C.R.P.D.	United Nation Convention on the Rights of Persons with Disabilities
U.P.	University of the Philippines
V.I.	Visual impaired
W.H.O.	World Health Organization

EXECUTIVE SUMMARY

The 1987 Philippine Constitution¹ is a result of a bloodless revolution against dictatorship. Primarily aimed to re-institute democratic principles in government and society, the document places emphasis on the Bill of Rights. In fact, human rights are the core and soul of the Constitution. For this reason, the Constitution explicitly declares full equality of all in the eyes of the law and in the benefits of liberty and freedom and the subsequent social and economic progress the new era will bring.

The Philippines historically is an accessible country to peoples from foreign lands. It is populated by hospitable citizens, consistently in love with freedom, peace and liberty. Owing to this nature, the country welcomes all friends and even reaches out to network and cooperate to ensure benefits on peace, and equality and progress to all peoples of the world. With this type of culture, one must not be surprised to find a provision in the Constitution that declares too that all international treaties entered into by government shall then be significant parts of the legal framework and principles of the nation. Among the Treaties embraced by the Philippines are the eight (8) United Nations core human rights covenants which now include the *Convention on the Rights of Persons with Disabilities* or C.R.P.D..

A careful observer of Philippine Law shall discover basic elements of respect for human rights, thus it can be expected the prior to the ratification of C.R.P.D., one could read relevant laws and policies that readily respond to C.R.P.D. mandates.

Republic Act 7277 of 1992², the Magna Carta for Disabled Persons is the chief policy document for Filipinos with Disabilities. It incorporate the earlier Batas Pambansa 344 of 1983³ or the Accessibility Law through a provision. In 2006, Republic Act 9442⁴ amended RA 7277, by adding social and economic provisions like the 20% discount on purchase of medicine and daily essentials including transportations and recreational services.

Areas like education, rehabilitation, health, employment, civil and political rights, reasonable accommodation, anti discrimination, anti poverty, accessibility, transportation, telecommunications and information communication technology (I.C.T.), social security,

¹ <http://www.chanrobles.com/philsupremelaw2.html>

² <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

³ <http://www.ncda.gov.ph/index.php?id1=46&id2=6&id3=1>

⁴ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=7>

economic independence and even international cooperation are well addressed in various legal documents and policy statements. Budget allocations to explicitly set funds for the "enhancement of services to the sector". Even the transitions from the medical views, to social context and rights based paradigms are pronounced in government documents. The problem is the enormous gaps between policy declarations and actual implementation.

The sector of persons with disabilities is not that wanting in terms of advocacy, vigilance and militancy. Perhaps, consistency of the effort is the issue. Nevertheless, efforts are continuing to correct what has been wrong in the paradigm and improve in those that have been done rightly in terms of advocacy.

Significantly, access to justice is a major issue that has to be promptly pursued. In a culture where laws are looked upon not as mandates but as mere suggestions that can be violated at will and with impunity, prosecuting violators may have a substantial impact on respect of the inherent dignity and full equality of Filipinos with disabilities. Education must be expanded as well modified to realize the goal of Education For All. The same has to be exerted in other fields of services already enumerated in the earlier paragraph 4.

International networking is far healthier today than a decade ago. With the proliferation of ICT and accessible assistive devices, advocates for the sector can instantly connect with the global community of persons with disabilities, both to contribute as well as to seek assistance.

Yes, there is much room for improvements, but, there are exciting reasons for optimism. Filipinos with disabilities, like their counterparts around the world, will not let go of the opportunity to liberate the sector from its historical second or third class citizenship status among the species of humans. Beyond representation, the principle of full participation shall be championed and translated into determined actions until the goal of full equality and enjoyment of human rights on an equal basis with the rest of our brothers and sisters on the planet is attained. In this noble endeavor, Filipinos with disabilities shall welcome the partnership of all, parents, families, friends, professionals, governments, non governmental organizations and others.

OBJECTIVES OF THE STUDY

In collaboration with partner organizations of persons with disabilities around the world, the Disability Rights Promotion International (D.R.P.I.) project⁵ developed the assessment tool used in this study. The tool is designed to monitor the human rights of persons with disabilities at the systemic level, that is, at the level of existing laws, policies and programmes, using the principles and rights established in the United Nations *Convention on the Rights of Persons with Disabilities* (C.R.P.D.) and other major international human rights treaties, as benchmarks.

⁵ See the project website at www.yorku.ca/drpi

A major goal of the study is to identify and draw attention to the most critical gaps and deficiencies in legislative and policy frameworks at the national level in protecting and promoting the human rights of persons with disabilities and to make recommendations to change and improve the existing legislative and policy framework and to advance the human rights of persons with disabilities in countries around the world.

This study will be useful for many entities. It will serve as a guide in the research activities undertaken in the context of the D.R.P.I. project. It will also be of interest to organizations of persons with disabilities (D.P.O.s) working to promote the rights of persons with disabilities in a particular country. D.P.O.s can use the information to advocate for change. Similarly, donor organizations committed to improving the situation of persons with disabilities around the world will find monitoring results useful in deciding which countries are in greatest need of support. Finally, government agencies are an important target for the information collected since they are ultimately in the best position to make the changes to laws, policies and programs called for by the assessment tool.

SCOPE AND LIMITATION OF THE STUDY

The Monitoring Team was comprised of a Lead Monitor, an Assistant Monitor and three Technical Support Assistants/Researchers. All team members had the connections and skills to access the necessary data and significant exposure to human rights issues impacting persons with disabilities, with some members having personal experience of disability. In terms of research and monitoring experienced, the members of the team have the exposure to a wider scope of fields.

The project was completed over a period of one month. A regular system to report on progress of individual members was set. Activities involved considering data for incorporation; interviews with relevant government and non-government officials; formal and informal verifications; and further clarifications and updates of the movement particularly relative to laws and policies, in terms of further revision of the study.

Interpretations of various data were done via consultations among the members of the Team. On legal and Constitutional issues, the Team consulted with a lawyer who is also a mother of a member of a person with a disability. Telephone and personal consultations with relevant government and non-government groups were also conducted.

Actual experiences of persons with disabilities relative to the issues incorporated were taken from newspaper items, personal knowledge and involvement of the members of the team to the issues and cases being studied, and interviewed. Records of gathered data were also examined for verifications of the correctness of its content. Internet and email communications were utilized to minimize face to face meetings and maximize the use of research time.

A central point of communication was established to prevent confusion and duplication of instructions and efforts.

THE PHILIPPINE 1987 CONSTITUTION AND FILIPINOS WITH DISABILITIES

The 1987 Philippine Constitution⁶ categorically states that all international treaties, agreements and understandings entered into by government, its agents and legal entities become binding as parts of the Laws of the Land. Significantly, the Constitution also clearly acknowledges the sector of persons with disabilities. It has five provisions that explicitly refer to Filipinos with disabilities. The Section 13 of Article 13 foremost mandate is the creation of specific agency and policies for the sector. Being the heart and soul of the constitution, the Bill of Rights, also acknowledges that all human rights instruments ratified by the country benefit Filipinos with disabilities. It is understood that unless a clearly expressed limitation is stated, all rights in the Constitution apply to everyone, including Filipinos with disabilities.

The Constitutional provisions forbidding discrimination on the bases of belief, gender, physical conditions and others⁷ apply to persons with disabilities. Section 1 and Section 2 of Article 13 stated that “1.The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments; and 2.The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.” These provisions for persons with disabilities are looked at as allowances for affirmative discrimination aimed to level the playing fields for the sector. It comes short however to the explicit provision of the CRPD which mentions not only the enjoyment of the sector of all human rights but “Enjoyment on an equal basis with the rest” of the population.

The Social Justice Article XII⁸ provides the areas where affirmative actions on discrimination may be allowed. To date, there is no specific jurisprudence relative to issues on Constitutional guarantee on equality of persons with disabilities in the country. Only 57 complaints on disability-related cases have been filed with the Commission on Human Rights (C.H.R.). None of these cases have reached the Supreme Court. The C.H.R. is only a fact-finding body. It has authority to summon all involved individual and agencies. However, it can only recommend for the prosecution of cases that are filed with the probable cause and strong evidence.

⁶ <http://www.lawphil.net/consti/cons1987.html>

⁷ <http://www.lawphil.net/consti/cons1987.html>

⁸ <http://www.lawphil.net/consti/cons1987.html>

On access to justice, there remain policy barriers in realizing the objectives of Articles 12 and 13 of the CRPD. With certain persons with disabilities still tagged as “Legally Incompetent” by the justice system, substantial efforts are needed to attain equality before the law. The Civil and Family Codes⁹ are contributing to these barriers due to the identification of certain disability groups as not able to independently manage themselves and their properties and relations.

The University of the Philippines (U.P.) Institute of Human Rights (I.H.R.) Policy Review 2007¹⁰ document states: “when individuals lack the legal capacity to act, they are not only robbed of their rights to equal recognition before the law, they are robbed of their ability to defend and enjoy other rights. Guardians and tutors acting on behalf of persons with disabilities sometimes fail to act in the interest of the individual they are representing; worse, they sometime abuse their positions of authority, violating the rights of others.”

RA 7277 Section 4 stated that “Disabled persons are those suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being”.¹¹ The definition of “persons with disabilities” though encompassing and inclusive, yet the term “suffering from” in RA 7277 relates closely disability concerns to the medical model which is not in line to the Human Diversity principle of CRPD. It implies that persons with disabilities are constantly sick.

Findings from the U.P. I.H.R. Policy Review 2007 stated that “Despite efforts to equalize opportunities and improvement their lot, persons with disabilities in the country continue to suffer exclusion from social and economic opportunities due to systematic barriers to their participation, such as their exclusion from decision-making process, negative attitudes about disability that perpetuate marginalization and discriminatory legislative framework that have not only excluded the disabled but have also contributed to the creation of barriers to their participation”.

The Constitutional statement of equality of citizens before the law may be impaired significantly by the definitional statements of persons with disabilities in RA 7277.

Furthermore, the term “Independent Living” in RA 7277 is understood differently from the Independent Living concept in C.R.P.D.. The former is understood merely as the ability of persons with disabilities to perform activities on their own. However, the C.R.P.D. goes deeper than mere actual and physical performance. It points to the respect for the preference, autonomy and decision-making of a person with a disability. In the C.R.P.D., persons with severe disabilities are acknowledged to continually possess legal capacity both inherently and

⁹ <http://www.chanrobles.com/executiveorderno209.htm#EXECUTIVE%20ORDER%20NO.%20209>

¹⁰ Handout given by NCDA

¹¹ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

actually. Through the Independent Living Paradigm of the C.R.P.D., one's choices and decisions must be respected and practiced on an equal basis with the rest of society.

The 22 year-old Constitution is continually subjected to efforts for revisions. Possible future amendments include the issue of Legal Capacity focusing on the shift from the former substitute-decision making policy to the supported-decision making policy as enshrined in Article 12 of the C.R.P.D..

I. NATIONAL POLICY AND LEGISLATIVE FRAMEWORK

Republic Act 7277 the Magna Carta for Disabled Persons of 1992¹² is the chief national policy document for persons with disabilities in the Philippines. It incorporates all of the essential provisions of earlier national laws including that of the Batas Pambansa 344 of 1983 or the Accessibility law.¹³ The Reasonable Accommodation provisions are identified as improvements to Batas Pambansa 344 since they explicitly express the essence relative to accessibility to services and public building and offices. Following the Constitutional prohibition on formulating policies with ill effects to non compliance to new provisions of new laws, the requirements on access features are directed only to edifices built after its effectivity in 1983. However, one could casually roam around the Metro Manila and see that among the violators are government-built structures and offices. Recently, the Magna Carta was significantly amended by Republic Act 9442 of 2006¹⁴ which incorporates additional social, economic and human rights provisions. In addition to significant discounts on transportation fares and purchases of medicines and other basic daily essentials, RA 9442 strictly prohibits and penalizes any act that has an effect of vilifying persons with disabilities.

Although formulated before the C.R.P.D. came into force, there are clear indications that the human rights sentiments have been the Magna Carta's more salient character. The Declaration of Policies states that:

- a.) Disabled persons are part of the Philippine society, thus the State shall give full support to the improvement of the total well being of disabled persons and their integration into the mainstream of society. Toward this end, the State shall adopt policies ensuring the rehabilitation, self-development and self-reliance of disabled persons. It shall develop their skills and potentials to enable them to compete favorably for available opportunities.
- (b) Disabled persons have the same rights as other people to take their proper place in society. They should be able to live freely and as independently as possible. This must be the concern of everyone – the

¹² <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

¹³ <http://www.ncda.gov.ph/index.php?id1=46&id2=6&id3=1>

¹⁴ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=7>

family, community, and all government and nongovernment organizations. Disabled persons rights must never be perceived as welfare services by the Government.

(c) The rehabilitation of the disabled persons shall be the concern of the Government in order to foster their capacity to attain a more meaningful, productive and satisfying life. To reach out to a greater number of disabled persons, the rehabilitation services and benefits shall be expanded beyond the traditional urban-based centers to community based programs, that will ensure full participation of different sectors as supported by national and local government agencies.

(d) The State also recognizes the role of the private sector in promoting the welfare of disabled persons and shall encourage partnership in programs that address their needs and concerns.

(e) To facilitate integration of disabled persons into the mainstream of society; The State shall advocate for and encourage respect for disabled persons. The state shall exert all efforts to remove all social, cultural, economic, environmental and attitude barriers that are prejudicial to disabled persons.¹⁵

From the immediate period of effectivity of the Constitution, Executive Order 232¹⁶ was formulated creating the National Council on the Welfare of Disabled Persons (N.C.W.D.P.). As the national policy-making and coordinating agency, the N.C.W.D.P. is tasked to ensure the consideration and implementation of the Constitutional provisions. It is structured so that persons with disabilities can actively participate at the planning and formulation stages. Through its various Sub Committee structures specific concerns are examined by identified government agencies providing services to the sector alongside representatives of organizations of persons with disabilities. N.C.W.D.P. structures are designed even to reach out to the grass roots levels via the Regional Council on the Welfare of Disabled Persons (R.C.W.D.P.) established nearly in all regions of the country. Non-governmental Organizations of, for and by persons with disabilities are represented in the deliberations of proposed and implemented laws and policies for continuing analyses and reformulations as needed.

In 1997, five years after the effectivity of RA 7277, a formal review group was organized under N.C.W.D.P. management, involving mainly persons with disabilities resulting in significant proposed legislations aimed to improve and even remove certain provisions of this chief national law for the persons with disabilities, the RA 7277. Advocacy via partnership with government and non government sectors including, in many cases, private and international advocacy and funding groups, is a significant activity within the N.C.W.D.P. structure.

¹⁵ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

¹⁶ <http://www.ncda.gov.ph/index.php?id1=46&id2=4&id3=2>

Some of the more important activities N.C.W.D.P. coordinated were the several attempts to develop a registry and data bank of persons with disabilities. In the study conducted by Asian Development Bank, it stated that:

The first census to gather this information counted 637,000 people as having some type of disability in 1990. The 1995 census counted 919,292 PWD. In 1995, poor vision was the most common type of disability, representing 34.1% of all PWD. In the 2000 census, the number of PWD did not increase significantly despite a more broadly defined definition of disability: 942,000 people (1.2% of the total population) reported disabilities in 2000, evenly split between men and women. World Health Organization (W.H.O.) estimates that disabled people make up approximately 10% of any given population. In the Philippines, this would mean more than 8.5 million PWD in 2005. In 2004 the National Council for the Welfare of Disabled Persons (NCWDP) was in the process of establishing a data resource center on disability in the country, to include demographic data on persons with disabilities and social and economic dimensions of disability. As of October 2004 more than 300,000 PWD had registered. The expectation is to register 1 million PWD nationwide by the end of 2004.¹⁷

There is however one persistent criticism against the 1987 Executive Order 232¹⁸ which make the agency an attached body to D.S.W.D.. It is the perceived demotion of the status of the agency from the agency it replaced. Presidential Decree No. 1509 of 1978¹⁹ established the National Commission Concerning Disabled Persons (N.C.C.D.P.). The creation of this government agency under the Office of the President articulated the government responsibility for the fullest protection and assistance to persons with disabilities.

With all its favorable provisions certain members of the sector further point to several provisions where Magna Carta is wanting. Section 5 which reserves five percent of government items to qualified persons with disabilities is considered more restrictive than beneficial since the items identified are the emergency, casual, contractual, etc. which, in recent years, are being gradually phased out in the bureaucracy. Furthermore, efforts are being made to modify or remove Section 44 which requires “a pattern” of discriminatory acts and “public outrage” before commencing prosecution against violators.

The National Commission Concerning Disabled Persons (N.C.C.D.P.) was within the Office of the President, while N.C.W.D.P. became only an attached agency of a part of the bureaucracy perceived as lowly, that is, the Department of Social Welfare and Development (D.S.W.D.). It

¹⁷ Disabled People And Development Philippines Country Report –ADB 2005.

<http://www.adb.org/Documents/Reports/Disabled-People-Development/country-cases.asp>

¹⁸ <http://www.ncda.gov.ph/index.php?id1=46&id2=4&id3=2>

¹⁹ http://www.lawphil.net/statutes/presdecs/pd1978/pd_1509_1978.html

is perceived that this demotion of the former regime has been corrected to better comply to the C.R.P.D. Prior to the ratification of the C.R.P.D., Executive Order 709 of February 2008²⁰ transferred the former N.C.W.D.P. to the Office of the President and renamed the institution as the National Council on Disability Affairs. A person with disability was then appointed as its Executive Director.

II. PARTICIPATION IN CIVIL AND POLITICAL AFFAIRS

Relative to the enhancement of full participation of the sector in civil and political affairs, N.C.W.D.P. also worked on the enactment of the Party-list System Act or RA 794²¹ Identified as among the basic marginalized sectors, persons with disabilities entered the electoral contests in 1998, 2001, 2004, 2007. None of the efforts however succeeded in electing representatives with disabilities in the Congress. While in part the failure could be blamed to disunity within the sector, the main cause however is the departure of the Implementing Rules and Regulations from the original aim of RA 7941 which is to ensure the representation of the marginalized sectors in the House of Representatives.

Due to the manipulations of powerful political and economic sectors the Implementing Rules and Regulations of the Party-list System Act set the situations where the weaker and less populous sectors (like that of persons with disabilities, senior citizens, indigenous, etc.) were required to compete with the larger sectors (like that of the women, farmers, laborers etc.) The worst part was the entry of the business sectors and multi-sectoral Parties in the electoral struggles. The observation was expressed by one of the nominees of Alyansa ng May Kapansanan Party (A.K.A.P.) Oscar J. Taleon, a blind leader and President of Philippine Blind Union (P.B.U.). He further states that the given Party-list System Act requires the garnering of at least two percent of the total number of vote casts for the Party-list participants to qualify for one seat in Congress and that most persons with disabilities and their families are uneducated and non registrant voters, the chances to acquire the required two percents are extremely limited.

It should be noted that in the ADB study²² that one percent of the total population of the Philippines were categorized as persons with disabilities while the World Health Organization (W.H.O.) declares that at least 10 percent of every population are persons with disabilities. There are continuing attempts to amend these implementing the recent provisions by making sectoral parties compete against one other with those garnering the highest number of votes being entitled to represent the sector in Congress.

²⁰ <http://www.ncda.gov.ph/index.php?id1=46&id2=4&id3=7>

²¹ http://www.comelec.gov.ph/laws/republic_acts/ra_7941.html

²² <http://www.adb.org/Documents/Reports/Disabled-People-Development/Philippines.pdf>

The leaders and advocates of the sector acknowledge the imperative of solidarity to attain the objective of legislative representation. With this aim, the movement of unity persists. While, they (the leaders and advocates of persons with disabilities) respect the rights of each of the disability groupings to represent the group (that is the deaf represented by the deaf, the blind represented by the blind, etc.) however, they too recognized the need to work together as one solid sector of Filipinos with disabilities to accomplish common goals.

III. PARTICIPATION IN SOCIO-ECONOMIC AND HUMAN RIGHTS AFFAIRS

In 1998, incorporating the aim to ensure participation of persons with disabilities in social and economic reforms, the Republic Act 8425 (The Social Reform and Poverty Alleviation Act better known as the N.A.P.C. or National Anti Poverty Commission Law)²³ was enacted. In addition to the institutionalization of an anti poverty coordinating body of all government agencies, from the national, regional and local units, fourteen (14) identified marginalized sectors were provided with the authority to organize Sectoral Councils, including Persons with Disabilities. These Sectoral Councils could engage with both government and non government sectors in addressing socio-economic development goals.

In 1999, the first 25-member Sectoral Council of Persons with Disabilities was organized. Its structure ensures that all disability groups are represented at the national level. To ensure geographic representations, all 17 political divisions called regions are given the opportunity to elect their regional representatives in the Council.

The Implementing Rules and Regulations (I.R.R.)²⁴ provides a three-year term for the Council and its members which must be elected through regional assemblies conducted by the sector with the participation of both NAPC and N.C.W.D.P..

Each member of the Sectoral Council is tasked to focus on the development agenda, particularly the Medium Term Philippine Development Plan (M.T.P.D.P.) and the Millennium Development Goals (M.D.G.s). Administrative Order 33²⁵ also addresses working with relevant government agencies up to the cabinet levels in addressing certain issues and concerns. Furthermore, each of the Councils is provided full autonomy from political intervention in the formulation of structures, internal rules and policies, programs, projects and activities in the performance of its mandates.

The Sectoral Council of Persons with Disabilities was directly involved in the formulation of the Philippine positions in the United Nations Ad-Hoc Committee which brought forth the C.R.P.D.. Leaders of the Sectoral Council were designated to serve as Advisers to the Philippine

²³ <http://www.napc.gov.ph/RA8425.htm>

²⁴ <http://www.chanrobles.com/administrativeorders/administrativeorderno36%201998.html>

²⁵ <http://www.napc.gov.ph/>

Delegations that participated in the eight (8) International Conferences at the United Nations in New York.

In the national activities, members of the Council became representatives to various Councils, Committees and Bodies from the national to the regional, provincial and city local government units on anti poverty discussions and formulations of policies, ordinances etc. In the efforts to institutionalize full participation of persons with disabilities in all community affairs down to the grassroots levels, the Council members focused a large portion of its energy on the creation of an Office for Persons with Disabilities (O.P.D.A.) in every municipality, city and province. To date however, the efforts have only achieved modest success.

IV. WOMEN WITH DISABILITY CONCERNS

In terms of civil, political, social and economic, laws and policies of general application already incorporate significant provisions enhancing the principles of C.R.P.D., however, the University of the Philippines Institute of Human Rights National (U.P. I.H.R.) Policy Review declares that no explicit provisions acknowledging the multiple discriminatory conditions of women yet exists in any policy documents examined. In the U.P. I.H.R. Policy Review 2005²⁶, it stated that “The need to provide for gender sensitivity not only in legislation and policy formulation but also in the level of implementation, training and orientation of human rights workers assigned to persons with disabilities is reflected in the statistics drawn by the C.H.R. itself in a recent study. Complaints by persons with disabilities’ lodged were mostly of a sexual abuse nature with 36 out of 57 complaints.”²⁷

Recently, the Magna Carta for Women²⁸ was ratified by Congress and by Senate recently last February 2, 2009 . The Commission on Human Rights (C.H.R.) urged President Gloria Macapagal Arroyo to sign the newly-ratified Magna Carta for Women. The C.H.R. Chairman de Lima pointed out De Lima,” said other issues threatening the rights of women in the Philippines included domestic violence, sexual assault, extrajudicial killings, unequal job opportunities, internal displacement due to conflicts, health care (including reproductive health) education and proper treatment in the criminal justice system”²⁹

The Indigenous Peoples Rights Act 8371³⁰ or I.P.R.A. Law has provisions which mentions “indigenous women with disabilities”. The I.P.R.A. Law stated in Sec. 25. That, “ The

²⁶ Hand-out given by NAPC from their library documents

²⁷ Excerpts from KAMPI Documentation on Presentation of CHR Chairman Leila de Lima on Symposium on the Implementation of UN CRPD, Traders Hotel, August 5-6, 2008

²⁸ http://www.ncrfw.gov.ph/inside_pages/legislative_advocacy/magna_carta_women.html

²⁹ <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20090308-192941/Magna-Carta-was-gift-for-RP-women>

³⁰ <http://www.mgb.gov.ph/policies/Republic%20Acts/RA%208371.htm>

Indigenous People have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons, and Section 26 which states that indigenous people women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition.”

It is worth noting that in spite of the effort of the Sectoral Council of Persons with Disabilities of N.A.P.C. to persuade the Sectoral Council of Women to designate representation in their body, till this date no substantial positive actions are indicated. The same is true with National Commission on Women.

V. LAWS AND POLICIES ON EDUCATION AND REHABILITATION

Concerning services of government to Persons with Disabilities, one of the legacies of the American occupation (1898-1946) is the introduction and popularization of public education. As early as in 1907, the Insular School for the Deaf and Blind, a residential learning center was established in Manila. From this humble beginning, educational services gradually spread to other disability groups: those with orthopedic disabilities, those with mental and neurological conditions and those with learning disabilities.

Through the Commonwealth Period to the era of the Second Republic (1935-1960s), efforts to rehabilitate and educate person with disabilities involved partnerships between the government and private individuals and organizations.

In 1954, rehabilitation, vocational services and public participation were also institutionalized through a declaration of an annual national observance of the “Sight Saving Week.” Teachers’ and trainers education were given greater impetus late in the 1950s to the 60s. Leading higher educational institutions like the Philippine Normal College (now a university) and the University of the Philippines, offered Special Education (S.P.E.D.) courses for aspiring teachers for persons with disabilities.

From a mere teaching and learning activity, focused on a small center, the educational services for the persons with disabilities developed into an enlarged program needing an office that became an organic unit of the Bureau of Public School in 1957. Currently, S.P.E.D. is a Division, and efforts are ongoing to upgrade it into a bureau of the Department of Education.

To institutionalize these services, the government supported these programs with formally decreed policies and laws.

A. Education and Rehabilitation Policies and Laws For the Sector

The provision of rehabilitation, education, health and employment services to persons with disabilities is anchored on the principle that every individual is valuable in his/her own right and should be offered equal opportunity to develop his/her potential. The government enacted complementary laws to promote these rights. The efforts to institutionalize the services for the persons with disabilities are fully expressed by these legislations.

In 1954, Republic Act 1179 An Act Creating the Rehabilitation and Vocational Program for the Blind and other Physically Handicapped³¹ was approved. In 1962, Republic Act 3562³² was enacted to declare permanent government commitment to the training of S.P.E.D. teachers for the blind, the institutionalization of the residential school program and the establishment of the Philippine Printing House for the Blind (P.P.H.B.). Republic Act 5250³³ specified the 10 year training program for these teachers. In 1970, the Philippine School for the Deaf and Blind (P.S.D.B.) were separated into two institutions, the Philippine National School for the Blind (P.N.S.B.) and the Philippine school for the Deaf (P.S.D.).

Even in the period of the dictatorship, Presidential Decree No. 603 of 1974, also known as the Child and Youth Welfare Code³⁴ abounds with specific provisions for the welfare of children with disabilities. It entitles them to the right to education as a means of providing them with proper treatment and competent care required by their particular situations. Article 74 provides for the creation of special classes, where needs so warrant. There shall be at least a special class in every province. The private sector was given the necessary inducement and encouragement to participate.

Presidential Decree No. 1509 of 1978³⁵ established the National Commission Concerning Disabled Persons (N.C.C.D.P.). The creation of this government agency under the Office of the President articulated the government responsibility for the fullest protection and assistance to persons with disabilities. The Presidential Proclamation No. 1780³⁶ mandating the annual highlighting of persons with disabilities concerns, through the observation of the National Disability Prevention and Rehabilitation (N.D.P.R.) week was promulgated in 1979.

³¹ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=16>

³² <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=14>

³³ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=12>

³⁴ <http://www.chanrobles.com/childandyouthwelfarecodeofthephilippines.htm>

³⁵ http://www.lawphil.net/statutes/presdecs/pd1978/pd_1509_1978.html

³⁶ http://www.unescap.org/esid/meetings/ICT/PT_Philippines.pdf

The Education Act of 1982³⁷ declares that “the state shall promote the right of every individual to relevant Quality education, regardless of sex, age, creed, socio- economic status, physical and Mental condition, racial or ethnic origin, political or other affiliation. The state shall grant them the benefits of education enjoyed by all its citizens.”

Batas Pambansa Bilang 344 or the Accessibility Law of 1983³⁸ was enacted to enumerate measures on making public buildings, transportation and communication services accessible to persons with disabilities.

The 1987 Philippine Constitution³⁹ permanently carved these commitments. Section 1, Article XIV: Education provides that “the state shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.”

Today, the Education program and trainings are handled by three government agencies. The Department of Education (DepEd), Commission on Higher Education (C.H.E.D.) and the Technical Education and Skills Development Authority (T.E.S.D.A.) continue providing access to education to Visually-Impaired (V.Is) through an integrated system of learning. C.H.E.D. is in charge of seeing to it that V.Is are accommodated in colleges and universities, while T.E.S.D.A., on the other hand, provides technical and vocational training. The Magna Carta⁴⁰ mandates the reservation of at least five (5) percent of the Philippine Education Scholarship Fund Allocation (P.E.S.F.A.) to the poor but deserving.

To further enhance educational services to the sector, the government adopted the mainstreaming objective of the Salamanca Declaration of 1994. The Department of Education however did not abandon a residential system, instead it provided services and programs that are responsive to the particular needs and distinct conditions of the learners which is enshrined in CRPD Article 24. In the March 2009 conference of the Sectoral Council of Persons with Disabilities, the joint national Committee on the U.N. Conventions and Education officially defined inclusive education as the capacity of the entire general educational system and service structure to adequately respond to the learning needs of all types of learners. These National Committees list the components of inclusive education as follows: quality, availability, accessibility, affordability, and flexibility.⁴¹

In the report of Asian Development Bank (A.D.B.) in 2005, it pointed out that,

³⁷ http://www.deped.gov.ph/about_deped/history.asp

³⁸ <http://www.ncda.gov.ph/index.php?id1=46&id2=6&id3=1>

³⁹ <http://www.chanrobles.com/philsupremelaw2.html>

⁴⁰ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=7>

⁴¹ Excerpt from the Conference of Sectoral Council of Persosn with Disability held in Davao City, March 15-19, 2009

“the concept of inclusion in education has become increasingly accepted over the years. The acknowledgement that persons with disabilities, especially children and youth, have the right to be included in both formal and non-formal education programs, presents an opportunity for government authorities and all other stakeholders to make education effective and responsive to learners with diverse needs. This is an important step toward realizing the goal of education for all. It is noted, however, that despite increased awareness, the inclusion of disabled children in education continues to be an uphill battle, with just 3–5% of children with disabilities of school age currently accessing educational opportunities.”⁴²

With all of the laws and policies, there remains much to work on. Merely two to three percent of children with disabilities can access basic education due to economic situations, distance of residences from schools, absence of accessibility features of school buildings and inadequate assistive learning devices. The supply of well-trained Special Education teachers is also wanting. Most of these teachers are overly tasked and not compensated in relation to their qualifications and workload. In addition, the quality of services is severely strained resulting in the dropping out or withdrawal of pupils with disabilities.

Statistics show that students without disabilities experience a drop out record of up to fifty percent before reaching post secondary levels. It is therefore assumed that students with disabilities suffer even greater drop out or push out rates.

RA 7277⁴³ provides support via the Private Education Scholarship Fund Allocation (P.E.S.F.A.). However the greater logistical requirements of college students in tackling their learning tasks which require assistive devices (screen reader, playback machine and hearing aid), personal assistance (guide and sign language interpreter) and advance technology (digital accessible information system) makes such financial assistance inadequate.

To deaf students the need for skilled sign language interpreters makes access to quality education more difficult and expensive.

VI. PARTICIPATION OF PWDS IN SERVICE PROVIDING TO THE SECTOR

In the comprehensive efforts to improve the lives of the persons with disabilities and in the experiences derived from service delivery processes, greater insights were gradually acquired resulting in three paradigm shifts: the expansion of service delivery from Institution or Center based to Community Based Rehabilitation (C.B.R.), transformation from the “Disability Focused” services to the “Ability/Potential Focused” services and finally the transformation in the manner of dealing with persons with disabilities, from mere “Clients” to “Active Partners” in

⁴² <http://www.adb.org/Documents/Reports/Disabled-People-Development/Philippines.pdf>

⁴³ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

the movement to uplift the lots of the sector. These developments relate closely to the transitions from the medical views of disability to the social model and finally to the rights based approach of rendering services to the sector. Within these maturing attitudinal frameworks, partnerships among the various sectors: notably, the government, non government organizations (N.G.O.s), private enterprises (e.g. business, church, etc) and the sector of persons with disabilities continue. This is also the character in the international relations relative to issues and concerns of and for persons with disabilities. Participation of particular members of disability groupings (deaf represented by the deaf, blind by the blind, etc.) is moving towards the direction of sectoral representation and partnership, including sharing of resources and skills.

VII. SOCIAL AND ECONOMIC SECURITY REALITIES

In the aspect of the Social Welfare and Economic Assistance System, the Philippines has to modify the services based on its economic and financial capabilities. In wealthy countries, welfare means the grant of regular pensions, subsidized housing, health and medical insurances, transportation and other benefits. Filipinos with disabilities may tarry yet for years to receive the same. At present however, they can already access primary rehabilitation, vocational and basic education services for free and at times with minimal financial and material assistance. It is not uncommon due to limited resources that benefits are provided according to the economic standings of the families of the beneficiaries.

In 2006, RA 9442⁴⁴ was enacted resulting in the grant of substantial discounts on purchases of goods and availments of services similar to those provided to senior citizens since the 1990s. The widespread respect and compliance of the benefit providers will chiefly depend on whether government creates an effective mechanism for government to share in the burden via tax credit.

In RA 7277 a provision for tax incentive is incorporated relative to the employment of persons with disabilities and expenses for providing access and assistive devices⁴⁵. However, organizations of persons with disabilities note serious disregard by employers of persons with disabilities' right to employment due to the failure of designated agencies to set such tax credit system. This is in addition to the absence of any sanction against non-compliance. A Nova Foundation residence, Manuel Agcaoile (wheelchair user) noted that there is no specific agency within the Department of Health that examine and issue certificate of disability to applicants with disability. He further noted the absence of a particular Section in the Bureau of Internal Revenue (B.I.R.) that attend to the application for exemption of employer of persons with disabilities.⁴⁶

⁴⁴ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=7>

⁴⁵ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

⁴⁶ Personal interview of Mr. Lauro Purcil on September 2008

Nevertheless, RA 9442 maintains more tax holiday provision for business entities and investors aiming to establish service providing homes and support to the sector.⁴⁷ Personal assistants and caregivers are also granted certain incentives by the law through extra social benefits. In 2008, families with persons with disability as members were granted additional tax exemptions in the income tax structure. However, due to the political pressures of other sectors claiming to be as burdened by the economic realities, the same benefits were eventually granted to all income tax filers.

In RA 7277, “auxiliary services such as (1) Qualified interpreters or other effective methods of delivering materials to individuals with hearing impairment; (2) Qualified readers, taped tests, or other effective methods of delivering materials to individual with visual impairments;(3) Acquisition or modification of equipment or devices; and (4) Other similar services and actions or all types of aids and services that facilitate the learning process of people with mental disability are provided to persons with disabilities identified as indigents or marginalized.”⁴⁸ A marginalized person with a disability is defined as someone who cannot access rehabilitation services on his or her own or their family’s expense. One must find him or herself within the poverty threshold according to the National Economic Development Authority (N.E.D.A.) measurements. In its study last 2005, N.E.D.A. stated that, “Economic participation remains out of reach for most persons with disabilities. More than 100,000 employable persons with disabilities are registered with the Department of Labor and Employment (D.O.L.E.) but less than 10% of them are in wage employment. The Magna Carta provides that 5% of the contractual personnel of the national government engaged in social development should be reserved for qualified persons with disabilities.”⁴⁹

On employees acquiring disabilities, the Government Service Insurance System (G.S.I.S.) for government and the Social Security System (S.S.S.) for the private sector and self employed provide disability related benefits which may include pensions depending on the length of employment and amount of premiums contributed. Severity and prognosis (possibility to be remedied or cured) of disability acquired are factors also considered.

Since most persons with disabilities in the Philippines are never employed, only a meager percentage of the sector could avail of these social security grants. There are no official records on the unemployment rate among persons with disabilities, According to D.O.L.E. Officer Evelyn Dacumos,⁵⁰ “since 1994, DOLE has registered 135,317 employable PWDs, and has placed or provided employment to 25,682. It has conducted 7 industry dialogues in 7

⁴⁷ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=7>

⁴⁸ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

⁴⁹ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=7>

⁵⁰ Excerpt from the presentation of Ms. Evelyn Dacumos on the symposium on the UN CRPD Implementation and Monitoring held in Traders Hotel, August 6-7, 2008

regions, and has accredited 3 N.G.O.s as P.E.S.Os. D.O.L.E. has also issued Department Order 222 in 1999, wherein companies employing PWDs can get a certification from the D.O.L.E Regional Director, and present this certification to BIR to claim the tax incentives available to

them under the law. D.O.L.E. also provides I.D. cards to PWDs who voluntarily register in their field offices and network of P.E.S.Os nationwide. Ms. Dacumos presented statistics about the hiring of PWDs. Data gathered from the Civil Service Commission showed that there are a total of 4,086 PWDs employed by the government all over the Philippines. For its part, D.O.L.E. has employed 48 PWDs.” Considering that a mere 2 to 3 percent of school aged children with disabilities are able to access the most basic of education⁵¹, one can assume that it is extremely difficult for persons with disabilities to gain employment and even to acquire functional skills in livelihood.

It was only in 2005 Executive Order 417(E.O. 417)⁵² when agencies providing technical and skills training were coordinated into a Committee. There are still no reports on how the Committee performed its task of designing relevant programs that will provide universally designed livelihood training for the blind, the deaf and persons with other types of disabilities. During the meeting with the Coordinating Committee, the absence of accessibility features of the training venues as well as the needed assistive devices were highlighted.

The said Executive Order 417 of 2005 is yet in the final stages of its Implementing Rules and Regulations. It aims to give flesh to the earlier described Coordinating Committee of Technical and Livelihood skills training agencies of government via the incorporation of schemes for grants and capital availability to self-help organizations of persons with disabilities. It identifies target markets and sources of materials and capital and designates concerned government agencies according to their respective mandates. Led by the sector of persons with disabilities, the entire operationalization of E.O. 417’s systems and mechanisms for the full participation of the members of the sector shall persist until the attainment of the objectives. E.O. 417 shall be monitored through the Oversight Committee of its initiator, the Sectoral Council of Persons with Disability of the National Anti Poverty Commission chaired by the President of the Philippines.

A Magna Carta for Small Enterprise was just enacted into law (February 2009)⁵³ however, aside from its provisions of general application no portion of the law refers to the distinct situations of the cooperatives and other self help organizations of persons with disabilities. This is one of the many examples of legislation that fails to incorporate the distinct concerns of the most marginalized groups in the cooperative community.

⁵¹ <http://www.adb.org/Documents/Reports/Disabled-People-Development/Philippines.pdf>

⁵² <http://www.ncda.gov.ph/index.php?id1=46&id2=4&id3=6>

⁵³ <http://www.chanrobles.com/republicactno8289.htm>

In 2002, the General Appropriations Act⁵⁴ mandated that 10 percent of funds for purchasing school desks be reserved for the sector's cooperatives. The provision was then institutionalized. Till this date, the National Federation of Persons with Disabilities Cooperatives declares membership only up to 11 persons with disabilities cooperatives spread all over the country. Over 900 skilled persons with disabilities, mostly orthopedically impaired, are benefiting from the employment the law provides. There are a number of non member cooperatives that have been identified and qualified by the Bids and Awards Committee of the Department of Education. In 2008, Congress allocated PHP500 million for the purchase of school desks. Ten percent of this budget is allocated to the sector's cooperatives.

Under the Department of Social Welfare and Development (D.S.W.D.), there are four National and Area Vocational Rehabilitation Centers located in four regional centers around the country. They provide skills and technical training to persons with disabilities receiving rehabilitation services. However, it has been noted that most of the crafts and skills targeted by the training programs cannot result in gainful employment nor livelihood activities that can acquire adequate income to support even the minimum living standards of an individual. Doormat making, carpentry, dressmaking, steel and iron crafts and basic computer literacy comprise the list of training curricula. Massage could be a very good source of income generation for the blind and visually impaired persons; however, such is only true in urban areas, depending on the economic situations. Due to this reality, a good number of the trainees end up in the city streets as beggars.

Even with the enactment of the P.D. No. 1563⁵⁵, otherwise known as the Anti-Mendicancy Act of 1978, where begging in public places is prohibited, persons with disabilities coming from these centers still rely on this means of livelihood. While the Anti Mendicancy Law provides sanctions against the beggars and the syndicates that may be controlling them, it likewise mandates local government units where these beggars reside to create livelihood and sheltered workshops to apprehended mendicants. This provision however is ignored by most of the concerned officials due to scarcity of public funds and the absence of experts on the type of skills needed to ensure that after being provided and acquired, trainees with disabilities could gain living wages or income to forsake the more lucrative livelihood called begging.

The C.R.P.D. provision on Employment (Article 26) declares certain principles against the common practice in sheltered workshops in the Philippines. While laboring in sheltered workshops, workers with disabilities are perennially considered as clients, objects of continuing rehabilitation and therefore not provided with equal compensation and work benefits to the other laborers. While it is true that sheltered work centers are designed to provide work to persons with disabilities who are most likely not able to be accepted in the mainstream labor market, it is however contrary to the principles of dignity and equality to maintain the practice.

In an interview with a social worker of the Rehabilitation Sheltered Workshop (R.S.W.), Mr.

⁵⁴ http://www.dbm.gov.ph/dbm_publications/gaa_2002/d1/gaa2002.htm

⁵⁵ http://www.lawphil.net/statutes/presdecs/pd1978/pd_1563_1978.html

Ernesto Lucio revealed that a sort of a retirement plan is being readied to aged sheltered clients.⁵⁶ It includes an amount intended to serve as a fund for a small or micro businesses and to those who are not equipped, welfare assistance to provide temporary support till a family comes in to adopt the elderly. There are limited Homes for the Aged under the agency and others are referred to homes managed by non government organizations, funded mostly by benefactors from other countries. There are no permanent social welfare benefits granted to persons with disabilities who never experienced regular employment that will qualify them to the pension plans of Government Service Insurance System G.S.I.S. and Social Security System (S.S.S.).

Aside from the efforts of providing health and medical care insurance cards where Local Government Units (L.G.U.s) are paying part of the premium, there are still few efforts to grant regular pensions and other financial benefits to persons with disabilities in the country.

VIII. HOUSING AND DWELLING IN AND WITH THE COMMUNITY

In the Declaration of Policies of RA 7277⁵⁷, the right to live in the community as equals with the rest of the citizens is explicit. Housing for persons with disabilities is not categorically stated in any Philippine Law except with reference to low cost housing programs for the indigent and the marginalized. In the Social Justice provisions of the 1987 Constitution it states that “The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost, decent housing and basic services to under-privileged and homeless citizens in urban centers and resettlement areas.”⁵⁸ Shelter is one of the entitlements of every citizen, and it includes persons with disabilities. The laws and policies on housing and urban development also apply to the sector.

Prior to the enactment of RA 7277, in 1983, 1987 and 1988, three major housing projects were provided to persons with vision impairments and their families. Initiated by the Movement for the Advancement of the Philippine Blind (M.A.P.B.), whose members were “clients” of the Rehabilitation Sheltered Workshop (R.S.W.), the 1983 Escopa, Project 4 Munting Pamayanan Housing was completed via the partnership of the Department of Social Welfare and Development (D.S.W.D.), the National Housing Administration (N.H.A.) and an international non-government organization called the Christoffel Blinden Mission(C.B.M.), that provided the funds. In 1987, D.S.W.D., N.H.A. and C.B.M., erected the Karangalan Village Shelters in the City of Pasig. In 1988, D.S.W.D., N.H.A. and the Epitah Foundation built the Padilla Housing Village in Antipolo City.

⁵⁶ Personal interview of Mr. Lauro Purcil March 2009

⁵⁷ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=9>

⁵⁸ <http://www.chanrobles.com/philsupremelaw2.html>

These three housing projects were considered exclusive housing villages of the blind and their immediate families. The houses were of bungalow and duplex types and were sold to the beneficiaries at PHP16 to PHP30 pesos monthly. Records show that the payment was aimed to serve as revolving funds so as to create more housing projects in the future. Since then, no other exclusive housing for persons with disabilities has been constructed.

In addition to a civil case that went on for years [insert cite in footnote] relative to the refusal of a faction of the beneficiaries to honor the payment scheme on the ground that the funds utilized thereat were meant to be grants (quote from Paquito Talo et al versus SUKOB Foundation to follow), donors and observers like the National Committee on the UN CRPD on the Sectoral Council of Persons with Disabilities concluded that exclusive housing for the blind may not be the best way of responding to such basic need.

Observers identified the following as the reasons for not proceeding with the “Exclusive” housing scheme:

1. “Sanitation and hygiene is difficult to maintain.”
2. “Eventually the non blind or sighted relatives and friends take over ownership.”
3. “The need for integrating persons with disabilities with the rest of the population.”

Economic activities have not been successful in the exclusive setting due to unstable sources of income of the beneficiaries. Other than rendering massage services and musical entertainment other sources of income include mendicancy and other illegitimate income generating activities.

In 2000, a housing project for persons with mobility disabilities was started in Davao City. Most of the intended beneficiaries were persons with disabilities employed in the Local Government of the city and the Association of Differently-abled Persons (A.D.A.P.) of the same area. Others were employed in the school desk project of the Department of Education as stated in the General Appropriations Act which provides ten (10) percent of the budget for school desk production to cooperatives of persons with disabilities. At present the site which is 30-minute drive from the city is already being occupied by 75 families. Due to the seasonal nature of the employment of beneficiaries, the need to restructure the payment scheme has been forwarded. Other housing projects for the sector are found in Leganes, Iloilo and the Albay proving in the Visayas and Southeastern Luzon.

Initiated by organizations of Persons with Disabilities, these latter housing projects were partnered by the Sectoral Council of Persons with Disabilities of the National Anti Poverty Commission, the National Housing Authority, the Housing and Urban Development Coordinating Council hudcc, the PAG-IBIG Housing Fund and the respective Local Government Units and the Department of Interior and Local Government (D.I.L.G.).

At present, gradually the exclusive character of the two housing projects is fading. Other housing schemes for persons with disabilities are still in the proposal stages. These schemes include allocating a certain percentage of the housing units to persons with disabilities who can

demonstrate capability to sustain agreed payment schemes. The Gawad Kalinga program in partnership with Habitat International has started bringing a good number of capable persons with disability beneficiaries into its community and housing projects. The sector is positively responding to the scheme due to its inclusive and holistic nature.

IX. HEALTH SERVICES SITUATIONS

Article 13 of the Constitution, identifies the Department of Health (D.O.H.) as the Lead agency in servicing the sector of persons with disabilities. In compliance with this provision, in the structure of the National Anti Poverty Commission of Republic Act 8425⁵⁹, D.O.H. is called the Champion of the Sectoral Council of Persons with Disabilities. This may be a result of the old and rejected medical views of disabilities, which considers persons with disabilities as incessantly sick and diseased citizens.

The progressive dominance of the social model and the rights-based approach does not in any manner diminished the entitlements of persons with disabilities to adequate and quality health services. There is no question on the expertise of medical and other health professionals relative to the individuals' and public health programs. The C.R.P.D. however is explicit in the principle of informed consent prior to any interventions that would be done to patients including patients with disabilities. Furthermore, while certain impairments may need maintenance treatments either to arrest or delay the progress of further disabilities, the same degree of respect for informed consent prior to any interventions must be strictly and consistently observed.

Relating in particular to persons with psycho social disabilities, during lucid intervals, an agreement or prior consent must be forged on how he or she would be dealt with if a professional or group of professionals should comply with the letter and spirit of Article 12 of C.R.P.D.. The inherent legal capacity is extended to actual performance of one's inherent and autonomous right on decision making. In the provision in Article 12, it states that "States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life; and Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property."

On the issue of full inclusion, since the 1990s, D.OH. had intensified its program on the prevention of diseases and conditions that may cause disabilities. Immunization drives against measles, polio, and other diseases identified as causing blindness and orthopedic impairments must be equally serviced to those with congenital blindness and mobility impairments. Access to all types of medical, health and interventions must be granted to persons with disabilities on an equal basis with the rest of the population. This includes the provision of accessibility

⁵⁹ <http://www.napc.gov.ph/RA8425.htm>

features in hospital and clinic buildings and the adequate training of professionals and health staffs in dealing with patients with disabilities. Staff with a basic understanding of sign language must be readily available when deaf and hard of hearing patients visit for consultations.

RA 7277 as well as Batas Pambansa 344⁶⁰ explicitly declare the imperative of integrating the concerns of persons with disabilities in all types of public services, including health and medical. But, the blatant disregard of these mandates have caused the marginalization and even the deprivation of the sector of these basic rights based services.

A survey in 2002 revealed that a large percentage of citizens residing in non urban areas do not experience any medical care at all,⁶¹ thus, the need to strengthen barangay or community health centers has been on the priority list in health care advocacy. In study of 2006 revealed that “the sector also looks on the realization of these goals as imperative due to the fact that that over 70 percent of persons with disabilities reside in rural communities.⁶² Instead of bringing persons with disabilities to the urban centers, health and medical care services should rather be brought to them. Availability and affordability of needed medicines and curative cares are recently being acted on through the recently enacted Cheaper Medicine Law or RA 9502⁶³. The Generics Law or RA No. 6675⁶⁴ was enacted in 2000 with the intent of making available indigenous herbal based medicines to the populations. In response to the dwindling supply of medical practitioners, Philippine Association of Human Rights Advocate (P.A.H.R.A.) medical workers have been recognized through legislative actions.

On the issue of participation in activities directly affecting the sector, from the start of the formulation of the National Health Plan of Actions for Persons with Disabilities, D.O.H. has consistently involved representatives of the identified seven (7) disability groups -ortho/moving disabilities, communication deficits, visual/seeing disabilities, learning (cognitive or intellectual) disabilities, chronic illnesses with disability, mental disabilities, and psychosocial and behavioral. It is the understanding of the Sectoral Council of Persons with Disabilities that the sector’s representatives should be also consulted and allowed to participate and benefit in various consultations and formulations of programs and projects of general application. For example, the aggressive campaigns on proper nutrition like the Vitamin - A campaign and the delivery of primary nutrition and health care services using the community-based rehabilitation or C.B.R. approach should also practice participation of members of the sector. The project of D.O.H. on early detection and intervention against signs of visual impairments, which is being conducted in schools, in coordination with the Department of Education, must also benefit

⁶⁰ <http://www.ncda.gov.ph/index.php?id1=46&id2=6&id3=1>

⁶¹ <http://www.doh.gov.ph/programs>

⁶² http://www.doh.gov.ph/programs/person_disabilities

⁶³ http://www.doh.gov.ph/ra/cheaper_drugs

⁶⁴ http://www.doh.gov.ph/ra/cheaper_drugs

pupils with low vision and other types of impairments. In the “Munting Doktor” (Little Doctors) program, where children are taught to teach their elders how to examine their vision, pupils with disabilities should also participate. Parents of children with disabilities in schools have reported that their children are often left out of these activities.

Unlike other tribes, the sector of persons with disabilities would not like their tribe to increase. Organizations of the blind and visually impaired persons are fully supportive of the Visions 2020 which is an aggressive campaign on cataract surgery with the aim of eliminating avoidable blindness. The sector commends the government on the report of the Institute of Ophthalmology that since 1995 to 2002, due to greater awareness of the citizenry, a 17 percent decrease in the incidence of blindness occurred as a result of the programs⁶⁵. On the other hand, the blind and vision impaired sector laments the fact that there are other causes of blindness that are hardly remediable and are creeping up the ladder of the 10 common causes of blindness, The sector is willing to join all efforts to ensure that the remediable causes like cataract, corneal opacities and refractive errors are wiped out as a public health problem in the next 10 years, or even earlier. Organizations of blind people would like to be counted among the stakeholders of the projects under Vision 2020 Philippines. The principle of full participation mandates that persons with disabilities be among the supporters and implementers, on an equal basis as all other stakeholders.

The Philippines with its pro-life and strict anti-abortion policies does not show any records of going counter to the right to life of persons with disabilities, though, it may violate the right of women including women with disabilities to autonomy in deciding to abort pregnancies at their will. To a certain extent, medical practitioners have allowed abortion when the health and safety of mothers are endangered. In the website of pro-life Philippines, it argued that, “. for the cases of ectopic pregnancies and cancerous uterus, even if it has been ascertained that either the mother or the fetus will die, the doctor should maintain the principle of saving both lives. One life may be lost in the process, but only per accident, that is, without intending it.”⁶⁶

Forced detention in institutions providing psychiatric care to persons with psycho-social disabilities is still prevalent. The use of electric shock, in many reported cases against the will of the individual is still a part of psychiatric interventions. In spite of having been identified as a violation of the provisions of the United Nations Convention Against Torture⁶⁷ it the period when such blatant violation of inherent dignity and autonomy of individuals be a thing of the past may be yet a subject of greater aggressive struggles. The current Mental Health proposed legislation pending in both House of Congress and Senate have explicit provisions fully contrary to the Article 12, 25 and other provisions of C.R.P.D.. In the proposed Mental Health Act of 2008 (D.O.H. Brochure) of Section 6: Fundamental Rights, provision started that:

⁶⁵ Excerpt from the Country Report of Capt. Oscar J. Taleon presented in Belgium 2007.

⁶⁶ <http://prolife.org.ph/home/index.php/anti-life-issues/abortion/abortion-in-woman-s-dilemma>

⁶⁷ <http://www.humanrights.gov.ph/docs/cat.pdf>

G. The State shall ensure that informed consent is obtained freely, without threats or improper inducements, pertinent disclosure to the patient of adequate and understandable information in a form or language that is understood by the patient, except under the following conditions:

- 1) When the patient, at the relevant time, is held as an involuntary patient;
- 2). An independent authority designated by the court deems that the patients lacks the capacity to give or withhold informed consent.
- 3) The independent authority is satisfied that the proposed plan of treatment is in the best interest of the patient's health needs.

H. A major medical or surgical procedure may be done on a person with mental illness only where it is considered that it would best serve the interest of the patient's health needs and where the patients gives informed consent, except that, when the patient is unable to give consent the procedure shall be authorized only after an independent review.”

X. REHABILITATION, SHELTERED WORKSHOP AND EMPLOYMENT

The Department of Social Welfare and Development (D.S.W.D.), through its rehabilitation and vocational programs, has also provided continuing capability-building for individuals as well as self-help groups of persons with disabilities. Rehabilitation services for the sector have three major components: social preparation, functional literacy and job placement. The main objective of this program is to develop self-reliance and socio economic independence. Together with the Tulong Alalay (T.U.L.A.Y.) or “Support and Maintenance” Program of the Department of Labor and Employment (D.O.L.E.), employment and livelihood trainings are provided. Grants for initial business capitals given or loaned to deserving trainees are included in the package. The expenses on training on chosen skills and management are provided as grants while capital outlays and operational supports are loaned with soft terms and conditions.

Since its initiation in 2000, the TULAY program resulted to the establishments of stable livelihood projects which eventually became successful business endeavors that are owned, managed, operated by and employed with persons with disabilities. From the data provided by Ms. Evelyn Dacumos of D.O.L.E., as of November 2008, Tulay 2000 program recorded a total of 345 wage employment to persons with disabilities, 1,371 self-employment for persons with disabilities and had trained 1,005 persons with disabilities.

These complimenting programs of D.S.W.D. and D.O.L.E. can boast successful real stories. At least four massage groups: the Balikatan Multi Purpose and Transport Cooperatives, the Center for Advocacy, Learning and Livelihood or (C.A.L.L.) Foundation Inc. Massage Clinics, the New Vision Massage Center and the Visually Impaired Brotherhood for Excellent Services (V.I.B.E.S.) Massage Franchising groups have been cited by government and non government recognition bodies for their outstanding entrepreneurial achievements. The self help organizations succeeded in demonstrating that persons with vision impairments in particular and persons with disabilities in general can develop projects that are worth emulating if provided with adequate training and capital support. Combined, these enterprises have

employed hundreds of blind and vision impaired masseurs in clinics that could be reached in various public places: malls, airports, parks, entertainment venues etc. It should be noted that most of these workers are less schooled, though well trained in their particular professions. They too are licensed masseurs and have qualified from written and practical examinations given by the Department of Health.

As mentioned previously, in the orthopedic sector, the school desk manufacturing projects operated mostly by member cooperatives of the National Federation of Persons with Disabilities Cooperatives can also be partly credited to the T.U.L.A.Y. Program. This program has already been institutionalized through the mandate of the General Appropriations Act (G.A.A.) which allocated ten (10) percent of the Department of Education budget for production and purchase of school desks be awarded to cooperatives owned, managed and operated by persons with disabilities. This annual G.A.A. program is further complimented by Presidential Proclamation 240 of August 2002⁶⁸ which in particular mandates that all agencies under the Executive Department from the national, regional, provincial, including Local Government Units (L.G.U.s) and Government Owned and Controlled Corporations (G.O.C.C.s) and Government Financial Institutions (G.F.I.s) must allocate at least one (1) percent of their gross national budget “to enhance services” to and for the sector. The Tahanang Walang Hagdan (T.W.H.) wheelchair production program is partly financed by funds annually provided by the Philippine Charity Sweepstakes Office (P.C.S.O.), a government finance institution. For the deaf sector, the encoding jobs of N.O.V.A. Foundation receives financial supports in its training components from the Philippine Amusement and Gaming Corporation (P.A.G.C.O.R.).

In the micro-finance business, groups of persons with disabilities are also showing capabilities in providing livelihood and employment. Most members of the Federation of Persons with Disability Cooperatives (F.P.W.D.-COOP) are also credit providing groups for the sector. Other than the TULAY Program of the Department of Labor and Employment (D.O.L.E.), the Philippine Credit and Finance Corporation P.C.F.C. of N.A.P.C. provided most of the seed capitals. These self help organizations (S.H.O.s) persons with disabilities are scattered in the various regions of the country.

In recent years, due to the globalization of trade policy, a number of S.S.H.Os expressed serious concerns relative to technological issues. In particular, the wheelchair production program of the Tahanang Walang Hagdan (T.W.H.) has been harping for further support relative to research and development on improving its technology. (This issue will be tackled further in the Section on R.N.D.). The T.W.H. wheelchair and other livelihood projects are mostly categorized as sheltered workshops for persons with disabilities.

A. The Sheltered Workshop Scene

There is an assumption based on fact that with the training and funds provided there are persons with disabilities who just cannot qualify for employment both in public and private companies. They are also perceived to be unable to manage funds for investments in business

⁶⁸ <http://www.ncda.gov.ph/index.php?id1=46&id2=7&id3=20>

and entrepreneurial endeavors. This is the main justification for the maintenance of sheltered workshops both in government and the private sector.

At present, at least four regional areas in the country, four sheltered workshops (or what are now called work centers) are managed by the D.S.W.D.. They are housed at the compounds of the National Vocational and Rehabilitation Center in Metro Manila and three Area Vocational and Rehabilitation Centers in Luzon, Visayas and Mindanao.

While it is true that the general labor market is still uncomfortable with and even hostile to the idea of accepting applicants with disabilities, advocates of the sector can identify long-time “clients” of these sheltered workshops who are significantly skilled. To deal with skilled and productive workers with disabilities as mere “clients” means that they will never qualify to receive the “Equal pay for Equal work” mandate of existing labor Laws including RA 7277, the Magna Carta for Persons with Disabilities⁶⁹ and is a flagrant violation of these workers’ human rights well enshrined in the C.R.P.D..

As already noted in other sections of this narrative, these types of dealings are the chief cause of the proliferation of mendicants with disabilities in the streets of Metro Manila and other urban areas. The advocates of the sector are currently reviewing the Anti Mendicancy Law, a Presidential Decree 1563⁷⁰ enacted during the martial law era to see what could be done to ensure that none of its provisions violates the C.R.P.D. and more importantly enhance the rights of persons with disabilities for decent work and employment consistent with their inherent dignity.

The Philippine government bureaucracy has been employing qualified persons with disabilities even prior the enactment of RA 7277⁷¹. In the presentation of Ms. Evelyn Dacumos⁷² she said that, “statistics about the hiring of PWDs. Data gathered from the Civil Service Commission showed that there are a total of 4,086 PWDs employed by the government all over the Philippines. For its part, D.O.L.E. has employed 48 PWDs”. Several agencies at the national level employ civil servants with disabilities including: the National Council for the Welfare of Disabled Persons, the Department of Social Welfare and Development, National Vocational Rehabilitation Center and the Rehabilitation Sheltered Workshops, the Bureau of Disabled Welfare (now dissolved), the Department of Education, Philippine National School for the Blind, Philippine Printing House for the Blind, National School for Crippled Children, the Philippine School for the Deaf and others; the Department of National Defense, (soldiers with disabilities worked in certain programs and project for injured comrades), Public Information Agency, Department of Health and the National Library.

⁶⁹ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

⁷⁰ http://www.lawphil.net/statutes/presdecs/pd1978/pd_1563_1978.html

⁷¹ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

⁷² Presentation of Ms. Evelyn Dacumos of DOLE during the UN CRPD Monitoring and Implementation Traders Hotel, August 5-7, 2008.

The bureaucracy allows the formation of employees' unions through Executive Order 180⁷³. Unions of various agencies like the Department of Social Welfare and Development, the Department of Education and several Local Government Units have employees with disabilities as members.

Recently, it is worth noting that the Department of Foreign Affairs (D.F.A.) hired as regular employees sixteen people who are deaf including their interpreters. There are now in the encoding section of the Passport division of D.F.A. The Supreme Court too, through the Chief Justice hired a deaf clerk in March 2009.⁷⁴

In 2001, a group of employees with disabilities, in cooperation with the public sector Labor Independent Confederation (P.S.L.I.N.K.) ,organized the Government Union for the Integration of Differently-abled Employees or G.U.I.D.E.. Initially, G.U.I.D.E. and P.S.L.I.N.K. appealed to the Civil Service Commission to incorporate in the annual Personal Data Sheet (P.D.S.) an item that would identify the number of employees with disabilities in the entire bureaucracy of nearly 1.5 million workers. In 2003, this item was incorporated. G.U.I.D.E., in partnership with P.S.L.I.N.K. and other national confederations, participates in various consultative councils which successfully incorporated several concerns of the sector relative to work environments, benefits and privileges and additional compensations. The noteworthy items were the proposed "Work at Home" scheme which is to allow employees with disabilities to work could be accomplished in their residences.⁷⁵ The aim is to minimize transportation expenses and to enhance productivity. One of the identified items is the item on the proofreading of textbooks in Braille and items utilizing I.C.T. mechanism.

There is now an effort to review Executive Order 180⁷⁶ to ensure that concerns of employees with disabilities in the bureaucracy are well addressed. G.U.I.D.E. representatives are now actively represented in the Sectoral Council of Persons with Disabilities, the National Committee on the U.N. Convention, the Steering Committee for Persons with Disabilities in various funding agencies and the national federations of unions in the country. In the formulation of the Philippine Delegation's contributions to the Ad Hoc Committee that drafted the C.R.P.D., G.U.I.D.E. representatives were also active and even were appointed as persons with disabilities Adviser to the U.N. Philippine Delegation to the International Conferences in New York.

In the private sector, there is both good and bad news. A study conducted in 2004 at the School of Labor and Industrial Relations (S.O.L.I.R.) of the University of the Philippines noted

⁷³ http://www.lawphil.net/executive/execord/eo1987/eo_180_1987.html

⁷⁴ <http://www.witnews.org>

⁷⁵ Civil Service Commission website

⁷⁶ http://www.lawphil.net/executive/execord/eo1987/eo_180_1987.html

that private corporations are happy in hiring employees with disabilities.⁷⁷ On the other hand however, the study also noted several factors that are discouraging corporations from considering the mandate. One of the significant factors is the need to instill in the attitude of many persons with disabilities certain values to survive and be productive in corporate environments.

XI. ACCESSIBILITY: PHYSICAL AND INFORMATION, COMMUNICATION AND COOMUNICATION (I.C.T.)

The Department of Public Works and Highways (D.P.W.H.) and the Department of Transportation and Communication (D.O.T.C.) are responsible for the implementation of the Accessibility Law or Batas Pambansa Blg. 344⁷⁸. D.P.W.H. has the responsibility to ensure the provision of accessibility features in roads and buildings not only for the orthopedically-handicapped but also for those who are deaf, have vision impairments, and other types of disabilities. The Commission on Information and Communication Technology and the National Computer Center have just been recently enlisted as among the government agencies to ensure accessibility features in terms of access to internet the websites.

However, if one walks around Metro Manila one will see that the 26-year old Batas Pambansa is glaringly ignored and violated. The foot bridges, overpasses, underpasses, sidewalks and thoroughfares are barriers and obstacle courses instead of being accessible to persons with mobility impairments and the public as a whole. Government buildings, schools, recreation, entertainment and sports venues are hardly accessible to persons who use wheelchairs and crutches. Though one report of the D.P.W.H. says that curb cut-outs have been made in about 90% of all the major thoroughfares in Metro Manila and Cebu City⁷⁹, there are still cases of blinds falling into manholes. Many times, blind travelers are force to walk on the streets due to the proliferation of sidewalk vendors, street fences and other newly built road structures including street signs. Elevators in buildings for public use are mostly without Braille signs or talking guides for the blind clients. It appears that in terms of Article 9 of CRPD as well as the provisions of Batas Pambansa 344, as commonly express by Filipino persons with disabilities referring to unenforced law, "You name the violations and you will promptly discover them."

Government authorities to a great extent is competent in formulating laws, policies, Executive Orders, rules and regulations among others in addressing issues on accessibility. Government can also be credited in the formulation of these mandates and instructions. Representatives of organizations of persons with disabilities, advocates, professionals and experts of the fields of access to physical, transportation and the Information Communication Technology(ICT) are

⁷⁷ Santos, Carina. A Thesis Presented to the SOLIR in partial fulfillment requirements for the Degree of Master of Industrial Relation; March 9, 2006

⁷⁸ <http://www.ncda.gov.ph/index.php?id1=46&id2=6&id3=1>

⁷⁹ Purcil, Lauro. Country Report presented to Japan International Cooperation Agency, 2004

among the most active participants and lobbyists. The National Council on the Welfare of Disabled Persons (N.C.W.D.P.) of D.S.W.D. now upgraded to the National Council on Disability Affairs (N.C.D.A.), under the Office of the President (O.P.), has for years included in its operational structure the Sub Committee on Accessibility on transportation telecommunication, and in recent years even the Sub Committee on I.C.C.T. There were periods when these consultative bodies were chaired by persons with disabilities consistent with the principle of full participation. Even the Sectoral Council of Persons with Disabilities of the National Anti-Poverty Commission of RA 8425 in the Social Reform and Poverty Alleviation Act⁸⁰ was an active participant in these bodies. There are non-government organizations led and manned by persons with disabilities like the Accessibility Monitoring Committees or (A.M.C.), the P.A.S.A.K.A.Y., a coalition of access in transportation and many more groups of persons without disabilities. The Philippines is a signatory to various international understandings like the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and the Biwako Declaration; the problem is attitudinal and cultural.

One highly placed government official who is well known as strict implementer of laws, expressed his opinion in public and national television that the sector should stop dreaming that their laws (referring to BP 344) would be adequately enforced. Instead, he proposed a solution that persons with disabilities should just stay in their residences and limit their “proliferations.” In a nut shell, he declared that the problem is not the non implementation of laws but the mobility of persons with disabilities. This statement was done in front of Atty. Jessica Siquijor, a lawyer on wheelchair employed at the Office of Solicitor General, Department of Justice. She was accompanied by the national television journalist, Jay Taruc.⁸¹ After the airing of that footage, a group of about 200 persons with disabilities marched in protest from the EDSA Shrine in Ortigas to the Office of Metro Manila Development Authority (M.M.D.A). The protest march was held in July 19, 2007 right at the middle in of the celebration of National Disability Prevention and Rehabilitation (N.D.P.R.) Week.

Another well-known public issue on accessibility is the decision of the former N.C.W.D.P. management to locate its new office building in an exiled lot. To reach the new site, an ordinary commuting person with a disability must first traverse a well known “Killer Highway” and then climb up a steep footbridge built in total violation of BP 344 and then after succeeding that obstacle course take a tricycle ride which extract substantial amount to pay his fare. Finally, he shall find a newly built edifice that is being renovated due to the absence of accessibility features. All these violations were done even while the chief agency tasked to look after the sector has structures that regularly consult the sector. But, the good news is that all of these were done before the entry into force of the C.R.P.D..

Certainly, there is enormous gap between laws and policies and implementation. This results from a flaw in the government culture where laws are looked upon not as mandates but as mere suggestions which may be violated at will and with impunity.

⁸⁰ <http://www.napc.gov.ph/RA8425.htm>

⁸¹ Personal Interview with Atty. Jessica Siquijor by Lauro Purcil. March 2007.

In the accessibility of the websites, there is hardly a government site that honors the right to access the internet highway. The growing popularity of text messaging, Express Teller Machines (E.T.M.) in banks and other information-communication gadgets is creating new demands from the vision impaired sector. The desire for independence in accessing texted messages and in conducting business with banks demands the inclusion of audio synthesizing components to these technical innovations. There is more work to be done to make the Philippine's cyberspace environment friendly to persons with disabilities.

XII. RESEARCH AND DEVELOPMENT ISSUES

Republic Act 7277 **Section 17** mandates State Colleges and Universities to conduct research activities to improve educational services to persons with disabilities⁸². These include access features and assistive devices that would enhance the learning performance of students. Article 9 of C.R.P.D. further expands this by explicitly stating "affordability and availability" issues.

In particular, the vision impaired community is working on popularizing Digital Accessible Information System (D.A.I.S.Y.) to ensure not only the enjoyment of those with print disabilities in accessing information and learning materials but to enjoy that right on an equal bases with the rest in the education, recreation and entertainment fields. Through a non government organization and government agency partnership, the Philippine D.A.I.S.Y. Network, is working to develop a Filipino voice engine. The Filipino voice engine is a program that would enable screen readers and recorders to read Filipino texts in Filipino accent and pronunciation. PDN is currently connecting with the National Council on Disability Affairs, the National computer Center and the Commission on Information Technology (N.C.C-C.I.C.T.) towards this end. The Department of Science and Technology (D.O.S.T.) is also being invited to participate.

In September 2008, the N.C.D.A. Board of Governors has by consensus formulated Resolution 11 of 2008 recognizing D.A.I.S.Y. as a standard in the production of accessibility format for public documents and instructional materials including school textbooks and teaching manuals.⁸³

The National Committee on the U.N. Convention of the Sectoral Council of Persons with Disabilities of the National Anti Poverty Commission is working on international networking to enhance research and development activities related to technology.

XIII. INTERNATIONAL COOPERATION

⁸² <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

⁸³ NCDA Resolution

Since the creation of the United Nations the Philippines has consistently networked with the members of the world community. From the League of Nations to the U.N. and then to the regional alliances of nations in southeast Asia, the Philippines has served as initiators and/or cooperators.

In the human rights movement, the Philippines was among the initiators and signatories of the Universal Declaration on Human Rights (U.D.H.R.). This consistency is further demonstrated as the Philippines' Permanent Mission to the United Nations readily partnered with Mexico in the promulgation in December 2001 of the United Nations resolution 56/168, which created the Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities.⁸⁴

Reporting Obligations of Government Agencies with Respect to the Implementation of the Seven (7) Core Human Rights Treaties

Acronym for Human Rights Instruments	Full Name of Human Rights Instrument	Lead Agency	Assisting agency
I.C.C.P.R.	International Covenant on Civil and Political Rights	D.O.J.	D.F.A.
C.A.T.	Convention Against Torture	D.I.L.G.	D.F.A.
C.E.R.D.	Convention on the Elimination of Racial Discrimination	N.C.I.P.	D.F.A.
I.C.E.S.C.R.	International Covenant on Economic, Social and Cultural Rights	N.E.D.A.	D.F.A.
C.M.W.	Convention on the Rights of Migrant Workers	D.O.L.E.	P.O.E.A.
C.E.D.A.W.	Convention on the Elimination of Discrimination Against	N.C.R.F.W.	D.F.A.

⁸⁴ <http://www.humanrights.gov.ph/index.php?categoryid=11>

	Women		
C.R.C.	Convention on the Rights of the Child	D.S.W.D.	D.F.A.

Table from the website of Presidential Human Rights Committee⁸⁵

The Philippines served as the Vice Chairman of the International Conference in the earlier stages of the Ad-Hoc Committee that eventually adopted the current Convention on the Rights of Persons with Disabilities (C.R.P.D.). On April 15, 2008, the Philippines became the 23rd ratifying country of the C.R.P.D.. As the 8th major United Nations human rights instrument, the C.R.P.D. like the other core treaties adopted previously shall become a significant part of the laws of the land, in compliance to the 1987 Philippine Constitution.

With this consistency in supporting human rights, it is expected that the C.R.P.D. will eventually be translated into enabling national policies to secure the enjoyment of Filipinos with disabilities of all human rights on an “equal basis” with everyone else in the country.

Status of Philippine ratification of international human rights instruments

Human Rights Instrument	Date of Adoption	Date of Signature	Date of Ratification	Entry into Force for RP
I.C.E.S.R.	1966 Dec 16	1966 Dec 19	1974 May 17	1976 Jan 03
I.C.C.P.R.	1966 Dec 16	1966 Dec 19	1986 Feb 28	1987 Jan 23
I.C.C.P.R.-OP1	1966 Dec 16	1966 Dec 19	1989 Aug 22(a)	1989 Nov 22
I.C.C.P.R.-OP2-DP	1989 Dec 15	2006 Sep 21		
C.E.R.D	1965 Dec 21	1966 Mar 07	1967 Aug 15	1969 Jan 04
C.E.D.A.W.	1979 Dec 18	1981 Jul 15	1981 Jul 19	1981 Sep 04
C.E.D.A.W.-OP	1999 Oct 06	2000 Mar 21	2003 Nov 12	2004 Feb 12
C.A.T.	1984 Dec 10		1986 Jun 18(a)	1987 Jun 26
C.A.T.-OP	2002 Dec 18			

⁸⁵ <http://www.humanrights.gov.ph/index.php?categoryid=11>

C.R.C.	1989 Nov 20	1989 Jan 26	1990 Jul 26	1990 Sep 20
C.R.C.-OP-AS	2000 May 25	2000 Sep 08	2003 Aug 26	2003 Sep 26
C.R.C.-OP-SC	2000 May 25	2000 Sep 08	2002 May 28	2002 Jun 28
C.M.W.	1990 Dec 18	1993 Nov 15	1995 Jul 1995	2003 Jul 01

Table from the website of Presidential Human Rights Committee⁸⁶

XIV. ACCESS TO JUSTICE

The monitoring team did not find documents that could serve as sources of jurisprudence in the Court Decision files. It is observed that most persons with disabilities who are victims of crimes and violations of their rights prefer to keep silent.

To date, only two cases are noted to have reached the Supreme Court sala: The Paquito Talo et al versus the S.U.K.O.B. Foundation [insert cite in footnote] which resulted a decision in favor of the latter and the cases of deaf employees against the Far East Bank [insert cite in footnote] which ruled in favor of the rights of the deaf.

In the Commission on Human Rights data, in its existence of more than a decade, only 56 complaints were submitted. No records of their outcomes are found. Statistics on human rights violations complaints involving PWDs retrieved from the C.H.R. databank show the following:

- From 1987-2006, only 57 complaints were logged, or an average of 4 per year; basing on the total average number of complaints logged for the past five years, complaints received from PWDs account for only .31%
- PWD complaints lodged were mostly of a sexual abuse nature (64%); others involved the right to life (murder/ frustrated murder) at 11%; physical abuse (7%) arbitrary detention and unlawful arrest (3.5%) and 1 complaint each (1.8%) involving discrimination and complaints on case handling by law enforcement, and grave slander by deed.
- Of the 57 PWD alleged victims of human rights violations who sought the assistance of the Commission, a great proportion of victims are female (70%) while male PWD victims accounted for 27.5%; 8 cases were specified as child victims, while 4 complaints can be said to involve children with disabilities since the complaint 20 involved a case of child abuse. Most PWD victims who sought the Commission's assistance, have indicated mental and/or development disabilities.⁸⁷

⁸⁶ <http://www.humanrights.gov.ph/index.php?categoryid=11>

The Philippine Federation of the Deaf reported that at present about 50 reports on abuses has reached the organization however only two are in the court and several have been dismissed due to the severe lack of interpreters.⁸⁸ In fact, to date no licensing mechanism is available to provide legitimacy to skilled interpreters so as to acquire credibility in court proceedings. This has resulted in inaction in cases involving deaf women who are vulnerable to abuse.

In December 2007, a group of 10 deaf (four from other countries and 6 from the Philippines) were forcibly disembarked from an airline just prior to take off. The airline staff declared that the group could not fly due to the absence of hearing interpreters. Later the airline explained that such is an internal airline policy. After receiving furious reactions from the sector and allies, the airline agreed to negotiate which ended in an agreement that the funds paid for the tickets would be refunded. An apology was released to the deaf community. However, instead of returning the entire amount paid for the tickets, a penalty was extracted. Advocates of the sector prompted the victims to file formal cases of discrimination. However due to Section 44 of RA 7277 and the common experiences of prolonged legal battle, none of the victims decided to go to the justice system.⁸⁹

Advocates continue to exert pressure on the airline to correct its internal policy that discriminates against the sector. Executive Director Geraldine P. Ruiz of N.C.D.A. who before her appointment was the Chairperson of P.A.S.A.K.A.Y. (an N.G.O. coalition comprising transport stakeholders from the government, non government and transport groups) is currently organizing a summit conference of all transport stakeholders to develop joint policy statements to avoid similar cases. It should be noted that certain factions of the sector have decided to boycott the airline until the matter is fully addressed.

Advocates of the sector also consider that an item in the Rules of Court that declares certain persons with types of disabilities as "Legally Incompetent"⁹⁰ should be seriously examined. Section 44 of RA 7277⁹¹ is also identified as a significant barrier to access the justice mechanism of the Philippines. Section 44 states that:

Enforcement by the Secretary of Justice. – (a) Denial of Right(1) Duty to Investigate – the Secretary of Justice shall investigate alleged violation of this Act, shall undertake periodic reviews of compliance of covered entities under

⁸⁷ Excerpts from KAMPI Documentation on Presentation of CHR Chairman Leila de Lima on Symposium on the Implementation of UN CRPD, Traders Hotel, August 5-6, 2008

⁸⁸ Personal Interview with Officers of PFD of Lauro Purcil, March 15, 2009.

⁸⁹ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

⁹⁰ THERE IS NOT FOOTNOTE HERE!

⁹¹ <http://www.ncda.gov.ph/index.php?id1=46&id2=1&id3=8>

this Act.(b) Potential Violations – If the Secretary of Justice has reasonable cause to believe that –(1) Any person or group of persons in engaged in a pattern or practice of discrimination under this Act; or(2) Any person or group of persons has been discriminated against under this Act and such discrimination raises an issue of general public importance, the Secretary of Justice may commence a legal action in any appropriate court.

The prohibitive requirements for a pattern and certain level of public attention is also pointed out as discouraging victims of discrimination from filing cases. The requirement imposed on the victim of discrimination that the accused has done the same repeatedly. The other requirement imposes to the victim to call the attention of media in order to acquire public concerns.

The blatant violation of government and private sectors of the provisions of the Batas Pambansa 344 or the Accessibility⁹² could be due to severely disadvantaged situations of the sector in terms of legal instruments and communication and physical barriers. At present however, several daring souls continue to struggle to acquire justice. In the C.H.R. record, two persons who use wheelchairs who were discriminated against by an airline relative to rights to transportation have filed cases with the assistance of the Commission on Human Rights and organizations of persons with disabilities.

⁹² <http://www.ncda.gov.ph/index.php?id1=46&id2=6&id3=1>