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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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## Philippines: torture and violence against children in child care institutions must end\*

1. The Asian Legal Resource Centre (ALRC) and Bahay Tuluyan, a local partner of the ALRC working on the issue of children in need of special protection, welcomes the annual report of the Special Representative on Violence against Children (A/HRC/25/47). We unequivocally support the imperatives pursuing the “ban on all forms of violence against children” to be acted on as a matter of urgency (para. 25).
2. In line with this, the ALRC and Bahay Tuluyan, an NGO providing child-care for 27 years in Manila, the Philippines, are deeply concerned by cases of torture, inhumane and degrading treatment, violence and assaults, threats and intimidation of children in custodial centres, that ought to be protecting and caring for children. In the SR’s report (A/HRC/25/47, para 21), it notes that for “millions of children, life is defined by one word: fear.” This holds true for children in Philippine public child-care institutions.
3. Among these institutions are the Reception and Action Centre (RAC) Manila, a custodial and rehabilitation centre, where children in conflict with the law, street children and orphans are kept in custody. The RAC is under the supervision and control of local Social Welfare and Development Office and the local government. This child-care institution is neither a detention nor interrogation centres; however, in practice children live in fear in this place. Here they are tortured to confess to crimes, inhumanely treated, assaulted and verbally abused, and neglected by their ‘house parents’.
4. In Manila City, the RAC is a place where children in conflict with the law, street children, orphans and abandoned children, fear to be taken and kept. The RAC is supposedly a temporary shelter for children; however, due to perpetual operations by village officials, social workers and policemen to clear the streets of homeless people or ‘vagrants’, street children end up repeatedly held and kept in this centre—regardless of whether they are abandoned, orphaned or children making a living on streets or children with parents.
5. In the past 27 years, Bahay Tuluyan has either observed or has had personal knowledge of children complaining about torturous, inhumane and degrading conditions, and poor management of its operations by RAC staff. In fact, the AHRC, sister organisation of the ALRC, and Bahay Tuluyan, have documented this pattern of violence against children, as follows:
6. **Torture, inhumane treatment & bullying:** Many children have complained about physical abuse, assault and torture by: a) staff or *de-facto* staff of the RAC; and b) civil servants, public officials and security forces who turn them over to the RAC for custody. This includes village (barangay) and police officials. Staff of the RAC use violence against children to impose control and punishment on them. The *de facto* staff (or adults performing the role of RAC staff) assault children with hard objects, slap them and verbally and emotionally abuse them.
7. Although the RAC requires a medico-legal certificate before admitting children into their custody it is a common practice that government officials bring children to the RAC secure these certificates first then afterwards torture and beat the children. Thus, even when medico-legal certificates are secured they are very superficial. Often, the examinations are done in the presence of the same civil servants or security officers who had beaten the child. Obviously this practice prevents the child from disclosing what actually happened to her/him.
8. **Use of violence by fellow children is condoned:** There exists within the RAC a system where older children are ‘ruling over’ younger children. These children frequently use violence and bully the young ones to impose control and ‘discipline’. It is understandable that shortage of the RAC staff contributes to this practice; however, by not taking adequate action to prevent this practice, the RAC staff have become not only perpetrators, but accomplices in committing violence against children. On many occasions, children have been severely beaten (*bugbug sarado*) by older children with the full knowledge of RAC staff. They staff chose not to intervene and did nothing to prevent this violence. Their failure to act, much less their outright tolerance of these practices, has caused massive stress and anxiety for children, with children frequently choosing to escape to escape the violence. The RAC has become a place where children live in fear.

9. **Lack of coordination with parents:** Many children held in the RAC report extreme levels of stress because they are taken into custody without the knowledge of their parents, and frequently little or no effort is made by RAC staff to inform their parents of their whereabouts even several days or weeks after they have been in custody. Some parents have to frantically search for their children only to discover that they children have been taken to RAC without their knowledge. Even once they have located their children, significant barriers are often in place to prevent the immediate reunification of the children with their parents, including the requirements to provide legal documents which are sometimes difficult to obtain. In one case a government official stated he would not release the required document unless the child's mother got on her knees and begged him for it.

10. **Is the RAC a place rehabilitation or detention?** It is clear that the RAC is neither a centre for detention nor interrogations however, the lack of clarity as to what types of children that the centre is supposed to take in has caused so much confusion as to who is supposed to be kept there.

11. There is a mixture of children kept in the RAC: first, children who appear to have been taken into protective custody as a result of neglect, abuse or exploitation; second, children who have been accused, but often not charged, with a criminal offence. In many cases, children taken in and kept in the RAC have no idea why they are there. Moreover they do not know for what purpose they are being kept or when they will be released. This is especially problematic for abandoned and orphaned children.

12. The most relevant law regulating the detention and rehabilitation of children: The Juvenile Justice and Welfare Act of 2006 (R.A. 9344), regulates procedures on detention of children in conflict with the law. In October 2013 RA 9344 was amended to deal with the issue of 'children at risk' and children below the age of criminal responsibility who commit offences. The amended provisions expand the power of government authorities to take children into custody in places like RAC. Children aged between 12 and 15 years of age who commit certain serious offences, despite having no criminal responsibility, are required to be mandatorily detained for at least one year in a center such as the RAC. This detention is implementable without the benefit of a trial or any of the most basic safeguards of natural justice and as such in contravention of the Philippine Constitution and the UN Convention on the Rights of the Child.

13. The Special Protection of Children against Abuse, Exploitation and Discrimination Act (R.A. 7610), regulates protection for children that requiring shelter and protective custody. This law, while in line with the normative framework on protection of children fails to be realized in practice. The experience of children in public child-care institutions contradict the observations of a "promising process of change" (A/HRC/25/47, para 19) resulting from ratification of treaties on children protection from violence. In the Philippines, many international and domestic laws protecting children have not been effectively implemented.

14. In practice at the RAC, and some other public child-care institutions, there is no distinction between a child offender and a child in need of protection. In the RAC, there is no segregation of children who are in need of protective and child-care, and those who are alleged to be in conflict with the law. Thus, children in need of protection are perceived criminal offenders; while those in need of rehabilitation are not given adequate service.

15. **Overcrowding, lack of supervision and services:** Children are kept in the RAC beyond the capacity of the facilities and ability of its staff to provide adequate services. The standard required by the Department of Social Welfare and Development for centre facilities for street children requires a maximum of 5 beds for youth in a 24sqm room; however, in the room for males at RAC, size of about 24 – 30sqm, there are more than 80 children. None of these children have beds.

16. The children taken into the RAC, whether for protective custody or for coming into conflict with the law, have great need for effective and comprehensive services to cater to their medical, emotional, psycho-social and educational needs. However, the RAC is providing very few, if any, of these services. Thus, the RAC miserably fails in providing needed services for severely traumatised children, and as a result the trauma that they suffer certainly has long-term effects.

17. The ALRC and Bahay Tuluyan notes the SR's report (A/HRC/25/47, para. 51) on the importance of addressing the trauma of children deprived of their liberty, and the severe consequences and lasting effects of these on children if not adequately addressed. The ALRC supports the initiatives of the SR on "preventing and eliminating violence against

children in the justice system” (A/HRC/25/47, para. 50). It is clear that, after speaking to children and the RAC staff, many of the staff do not even know which children are in their care at any point in time. Some children report being taken in for a week without being seen by a social worker.

18. The facilities at the RAC are seriously deficient. The children do not have beds and often do not even have mats on which to sleep. They are extremely crowded and do not have regular access to sanitary facilities. Normally they are left with only a bucket in which to urinate. Far from being a child-friendly environment, the children are detained in what are essentially cells with house parents acting more like jail wardens. Many of the children report being woken at 3 or 4am to shower and then being forced to wait downstairs until around 10am to be given breakfast.

19. In light of above, we urge the government of the Philippines to:

- a. Require institutions sheltering children, especially the RAC, to comply with minimum national and international standards for shelter facilities for children and require that monitoring be done on an ongoing and regular basis;
- b. Repeal the amendments to RA 9344 that contradict principles of natural justice and allow for the mandatory detention of children without the benefit of a trial;
- c. Establish an independent complaints mechanism for children who are taken into custody by government officials for any reason and ensure that this mechanism is child-friendly and accessible, and;
- d. Bring to justice any person, whether a government official or not, who is alleged to have inflicted violence on children within government run shelters.

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\*Bahay Tuluyan, Manila, Philippines, NGO(s) without consultative status, also share the views expressed in this statement.