

**The Philippines' Compliance with the Convention on the Elimination of All Forms of  
Discrimination Against Women  
Suggested List of Issues Relating to the Death Penalty**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

**84th Pre-Sessional Working Group of the Committee on the Elimination of Discrimination  
Against Women  
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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**Anti-Death Penalty Asia Network:** Founded in 2006, the Anti-Death Penalty Asia Network (ADPAN) is a regional network of organizations and individuals committed to working towards abolition of the death penalty in the Asia Pacific, with members from approximately 22 countries within the region. Our role is to create wider societal support for abolition of the death penalty in the Asia Pacific region through advocacy, education, and network building. ADPAN maintains that the death penalty violates the right to life; that it is the ultimate form of cruel, inhuman and degrading punishment; and that the death penalty should be entirely abolished internationally.

The **Capital Punishment Justice Project** (formerly Reprieve Australia) has been advocating for a world without the death penalty since 2001. It strives to be practical and effective by drawing upon networks of lawyers and experts in related disciplines to support local advocates who are working for change. Its projects began in the USA where it continues to assist lawyers in capital proceedings. In 2012, the scope of its work expanded to Asia in recognition of the persistence of the death penalty in that region. It is now an experienced participant in litigation, advocacy and professional development within Asia. It is committed to developing legal and policy solutions that will make a difference for people at risk of execution and create the conditions for abolition.

In 2018, Monash University joined forces with an Australian NGO, the Capital Punishment Justice Project, with a shared ambition to end the death penalty in Asia. Together, they formed **Eleos Justice**. Over the coming five years, Eleos Justice hopes to see a significant shift in the debate about the death penalty, and capital punishment policy. Our long-term vision is to become the region's leading institute for evidence-based research, policy, network-building, and clinical case-work devoted to restricting and abolishing the death penalty. Eleos Justice is based at the Faculty of Law, Monash University (Australia).

**Odhikar**, meaning “rights” in Bangla, is a human rights organisation based in Dhaka, Bangladesh, and was established on October 10, 1994, by a group of human rights defenders to monitor human rights violations and create wider awareness. It holds special consultative status with the ECOSOC of the United Nations.

**The Philippines fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women by taking insufficient steps to address the vulnerabilities of women overseas workers at risk of being sentenced to death**

1. The Government of the Philippines has taken commendable steps toward protecting and promoting the rights of women overseas Filipino workers (OFWs), but those workers remain vulnerable to exploitation and abuse, and when they come into conflict with the law in their host countries, their vulnerabilities are compounded by linguistic and legal barriers, as well as judicial systems which fail to account for the gendered context in which they allegedly committed criminal acts. The Government of the Philippines should do more to ensure protection of the rights of these women OFWs, particularly when they are at risk of being sentenced to death.
2. In its 2016 Concluding Observations and Recommendations, the Committee expressed concern that the Philippines “has a large proportion of its population working abroad as migrant workers, many of them women,” and recommended that the Philippines “further accelerate . . . the full realization of human rights for women, in particular by strengthening a gender-sensitive approach to . . . migration, . . . with special attention paid to women facing multiple and intersecting forms of discrimination.”<sup>1</sup>
3. The Committee also expressed concern about “the widespread exploitation and abuse of Filipina migrant workers working abroad, in particular as domestic workers,” and recommended that the Philippines:
  - “(a) Enhance its efforts to effectively protect the rights of Filipina migrant workers abroad, through bilateral agreements and memorandums of understanding with countries and regions to which Filipinas migrate in search of work;
  - “(b) Strengthen the regulation and inspection of recruitment agencies for migrant workers and the sanctions applicable in case of breaches of relevant regulations;
  - “(c) Continue its efforts to raise awareness among women migrant workers about their rights, the risks that they may face and the channels that they can use to seek remedies in case of violations of their rights, through pre departure briefings and public information campaigns;
  - “(d) Investigate, prosecute and punish perpetrators of exploitation and abuse of women migrant workers, in particular domestic workers, who are under its jurisdiction;
  - “(e) Provide gender-responsive support to returning women migrant workers for their reintegration.”<sup>2</sup>
4. The Philippines’ Ninth periodic report to the Committee responds to these recommendations as follows:

“110. The State implements measures to address vulnerabilities due to migration of unskilled migrants. The State championed the crafting and adoption of the [Global

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<sup>1</sup> Committee on the Elimination of Discrimination Against Women, *Concluding observations on the combined seventh and eighth periodic reports of the Philippines* (25 July 2016), U.N. Doc. CEDAW/C/PHL/CO/7-8, ¶¶ 8–9.

<sup>2</sup> Committee on the Elimination of Discrimination Against Women, *Concluding observations on the combined seventh and eighth periodic reports of the Philippines* (25 July 2016), U.N. Doc. CEDAW/C/PHL/CO/7-8, ¶¶ 37–38.

Compact for Safe, Orderly and Regular Migration (GCM)]. The implementation of the GCM provides a unique opportunity for States to ensure that the rights, needs and situations of vulnerability of migrant women and girls are addressed while promoting their empowerment, by putting in place gender-responsive migration policies, laws, programs, and services. In 2017, the State also steered the adoption of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. It also served as the volunteer country shepherd for the [Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)]. It also signed the Manila Declaration to Enhance International Cooperation in Combatting Human Trafficking.

“111. The State continues to intensify its campaign against individuals/groups that violate Philippine recruitment laws and regulations. It continuously conducts Pre-Employment Orientation Seminar (PEOS) and Pre-Deployment Orientation Seminar to departing migrant workers. It also provides assistance against anti-illegal recruitment or TIP. A considerable number of private recruitment agencies’ licenses have been cancelled due to these violations, and a number of illegal recruiters have been convicted. Efforts to promote and intensify anti-trafficking national prevention and educational campaigns are also being implemented.

“112. To address the vulnerability of overseas Filipino workers (OFW), particularly female domestic workers, the State has entered into bilateral labour agreements with destination countries and continues to conduct regular dialogue with them to ensure that the rights and welfare of OFWs are protected. Through the Philippine Overseas Labour Offices (POLO) in 40 countries, the State has also provided interventions in assisting the workers on their issues and concerns relative to their work conditions and well-being. The State has also established an OFW Command Center to ensure that OFWs and next-of-kin concerns/issues are acted upon promptly.”<sup>3</sup>

5. In September 2021, the Commission on Human Rights of the Philippines issued an *Advisory on the Increased Vulnerability of Women Migrant Workers on Death Row*.<sup>4</sup> This *Advisory*, attached as Appendix 1, provides important insights into the vulnerabilities of women Overseas Filipino Workers (OFWs) in the context of the death penalty. The remainder of this report summarizes information contained in the *Advisory*.
6. Approximately 25% of Filipinos on death row overseas are women, even though globally women constitute less than 5% of the population on death row.<sup>5</sup> Women OFWs live predominantly in Saudi Arabia, the United Arab Emirates, and Qatar—all countries that actively apply the death penalty.<sup>6</sup>
7. Several factors influence the disproportionate representation of Filipinas on death row in other countries. First, they are at a heightened risk of being trafficked, being used for drug

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<sup>3</sup> Committee on the Elimination of Discrimination Against Women, *Ninth periodic report submitted by the Philippines under article 18 of the Convention, due in 2020*, (4 Oct. 2021), U.N. Doc. CEDAW/C/PHL/9, ¶¶ 110-112 (footnotes omitted).

<sup>4</sup> Republic of the Philippines, Commission on Human Rights, *Advisory on the Increased Vulnerability of Women Migrant Workers on Death Row*, CHR (V) A2021-005, 10 Sept. 2021, available at <https://worldcoalition.org/wp-content/uploads/2021/12/CHRP-Advisory-on-Women-Migrant-Workers-on-Death-Row.pdf> [hereinafter *CHR 2021 Advisory*].

<sup>5</sup> *CHR 2021 Advisory* at 2.

<sup>6</sup> *CHR 2021 Advisory* at 2.

trafficking, and facing physical or sexual abuse.<sup>7</sup> Second, women OFWs experience language barriers and other barriers to effective legal representation in the criminal legal systems that place them at risk of being sentenced to death.<sup>8</sup>

8. The *Advisory* commends several measures taken by the Government of the Philippines to recognize these vulnerabilities and to improve the situation of women OFWs.<sup>9</sup> The *Advisory* takes note, however, of this Committee’s 2016 concerns and recommendations with respect to the need for improved legal services for OFWs and for mechanisms to protect and monitor women OFWs who find employment through informal channels.<sup>10</sup>
9. Of particular concern is the use of “migration bans,” such as the 2018 ban on transit of domestic workers to Kuwait after an OFW woman was murdered in that country. As the *Advisory* points out, these bans “not only disproportionately target the women-dominated sector of domestic work, but also push vulnerable women OFWs into irregular migration channels. By discriminating against women and impeding their freedom of movement and right to work, government-issued migration bans arguably violate CEDAW and the ILO’s *Domestic Workers’ Convention*.”<sup>11</sup>
10. Working conditions in receiving countries are oppressive, and despite commendable efforts on the part of the Government of the Philippines, OFWs are at risk of financial, physical, sexual, and psychological abuse.<sup>12</sup> For example, OFWs commonly are forced to work 18-hour days with no provisions for overtime or days of rest.<sup>13</sup> Many OFWs employed in domestic work experience wage theft.<sup>14</sup> In addition, many receiving states use the *kafala* sponsorship system, which results in an OFW’s visa being dependent on her ties to a particular employer.<sup>15</sup> Under such a system, she cannot leave her job and cannot leave the country without permission from her employer.<sup>16</sup> Some OFWs at risk of being sentenced to death are victims of human trafficking.<sup>17</sup>
11. The *Advisory* praises efforts on the part of the Government of the Philippines to combat human trafficking, but expresses concern about a proposal in Congress to reintroduce the death penalty for persons who may be merely accessories to trafficking.<sup>18</sup> Such a proposal may be counter-productive and may undermine anti-trafficking efforts, “as victims may be more reluctant to seek help due to fear of prosecution for crimes they committed whilst trafficked.”<sup>19</sup>
12. In many receiving countries, employers enjoy impunity for such conduct.<sup>20</sup> At the same time, criminal legal systems in those countries subject OFWs to disproportionate punishment for

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<sup>7</sup> *CHR 2021 Advisory* at 2.

<sup>8</sup> *CHR 2021 Advisory* at 2.

<sup>9</sup> *CHR 2021 Advisory* at 3.

<sup>10</sup> *CHR 2021 Advisory* at 4.

<sup>11</sup> *CHR 2021 Advisory* at 4 (footnote omitted).

<sup>12</sup> *CHR 2021 Advisory* at 5.

<sup>13</sup> *CHR 2021 Advisory* at 5.

<sup>14</sup> *CHR 2021 Advisory* at 5.

<sup>15</sup> *CHR 2021 Advisory* at 5.

<sup>16</sup> *CHR 2021 Advisory* at 5.

<sup>17</sup> *CHR 2021 Advisory* at 8–9.

<sup>18</sup> *CHR 2021 Advisory* at 9.

<sup>19</sup> *CHR 2021 Advisory* at 9.

<sup>20</sup> *CHR 2021 Advisory* at 6.

crimes as well as for lodging complaints about their employers' conduct.<sup>21</sup> As the *Advisory* explains:

If they report employers' exploitative practices, OFWs may be dealt counter-accusations for capital offenses, including crimes of witchcraft, theft or adultery ('*zina*' under Islamic law), precluding redress of their complaint and fair legal proceedings. For example, two migrant domestic workers in Saudi Arabia were convicted of *zina* while pregnant, and their punishments varied according to their marital status—further evincing the unequal treatment of women in the Middle East, compounded by migrant worker status. The unmarried domestic workers was sentenced to 100 lashes, while the married worker was sentenced to death by stoning.<sup>22</sup>

13. The criminal legal systems in host countries often fail to take into account the context in which OFWs engage in criminal acts.<sup>23</sup> For example, women are often sentenced to death for murder, but courts often fail to account for gender-based violence and domestic abuse that may precipitate a woman's actions.<sup>24</sup> The *Advisory* recounts two cases of women OFWs who had been sentenced to death for allegedly killing their employers, when the facts showed that in both cases the employer had attempted to rape the OFW, with courts rejecting pleas of self-defense.<sup>25</sup>
14. In Southeast Asia, women OFWs are particularly vulnerable to being sentenced to death for drug-related offenses, crimes which do not rise to the level of "most serious" under international human rights standards and therefore should not be subject to the death penalty.<sup>26</sup> Human traffickers target women OFWs to transport drugs due to these women's "'layered vulnerabilities' of poverty and illiteracy."<sup>27</sup> The *Advisory* points out that "domestic workers are particularly vulnerable to being targeted by drug syndicates, as they are able to travel on a working visa, and are usually from conditions of poverty, potentially providing financial incentive to traffic drugs."<sup>28</sup>
15. Between 2016 and 2021, for example, Indonesia sentenced three foreign national women to death for non-violent drug-related offenses.<sup>29</sup> OFW Mary Jane Veloso was sentenced to death in 2010 for trafficking heroin into Indonesia, and as the *Advisory* emphasizes, "her status as a woman migrant worker not only made her susceptible to alleged human trafficking by her recruiters, but hindered her ability to meaningfully advocate for herself during proceedings, and was a factor which ultimately bore upon her sentence."<sup>30</sup>

#### 16. Suggested questions:

- How many woman OFWs are currently under sentence of death? For each, please provide the country where the woman was sentenced to death, the crime(s) of conviction, her profession and employment status at the time of the crime, the

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<sup>21</sup> *CHR 2021 Advisory* at 6.

<sup>22</sup> *CHR 2021 Advisory* at 6 (footnotes omitted).

<sup>23</sup> *CHR 2021 Advisory* at 7.

<sup>24</sup> *CHR 2021 Advisory* at 7.

<sup>25</sup> *CHR 2021 Advisory* at 7.

<sup>26</sup> *CHR 2021 Advisory* at 7–8.

<sup>27</sup> *CHR 2021 Advisory* at 7.

<sup>28</sup> *CHR 2021 Advisory* at 8.

<sup>29</sup> *CHR 2021 Advisory* at 8.

<sup>30</sup> *CHR 2021 Advisory* at 8.

relationship between the offender and any alleged victim, the date of conviction, the status of any appeals, and the nature of any consular support provided to the woman OFW.

- Further, in terms of collection of data in relation to OFWs currently under the sentence of death, in accordance with the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families recommendations, what measures has the Government of the Philippines taken to “ensure that the Shared Government Information System on Migration receives adequate human and financial resources, should enhance collaboration with the country’s embassies and consulates to compile data and, among other measures, should endeavour to systematically evaluate the situation of irregular migrants”?<sup>31</sup>
- What measures has the Philippines taken to advocate for gender-sensitive sentencing guidelines in countries receiving OFWs to ensure that courts understand the gender-based challenges that migrant women face and properly consider mitigating factors such as domestic and gender-based violence?
- What efforts has the Philippines undertaken to provide judicial officials with training on gender-based violence and discrimination and the influence of coercive control in trials involving female defendants? Has the Philippines undertaken any collaborations with foreign jurisdictions to promote such training for judicial officials in countries that host women OFWs?
- Please describe the consular support, legal representation, and other advocacy the Government of the Philippines has engaged in to protect the rights of women OFWs at risk of being sentenced to death and who have been sentenced to death. How has such support acknowledged and addressed the entrenched gender norms that prejudice capital proceedings involving women OFWs?
- What efforts has the Government of the Philippines undertaken to support OFW Mary Jane Veloso’s application to give evidence remotely in Indonesia in accordance with the ruling in *People of the Philippines V Maria Sergio P. Sergio and Lacanilao L. Lacanilao* (Philippines Supreme Court Third Division, G.R. No. 240053, 9 October 2019)?
- To what extent does the Government of the Philippines assist with identifying and providing expert defense witnesses in capital proceedings against women OFWs, particularly expert testimony to elucidate the gender specificities of the effect of personal circumstances on the commission of the alleged crime?
- What efforts has the Philippines taken to codify gender-sensitive defenses in its criminal law and to promulgate model legal provisions for use in the region, particularly in countries that host women OFWs?
- How does the Philippines collaborate with countries that receive OFWs to ensure that victims of human trafficking receive services and support, rather than facing criminal proceedings and punishment, particularly in the context of drug-related offenses?
- During the reporting period, what efforts has the Philippines made to improve the quality of pre-departure educational programs for women OFWs about their rights

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<sup>31</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *Concluding observations on the second periodic report of the Philippines*, (May 2, 2014), U.N. Doc. CMW/C/PHL/CO/2, ¶ 19.

as migrant workers and the support the Philippines provides to them while they reside overseas?

- What efforts have been undertaken to cease the efforts to reintroduce death penalty in the country?
- What efforts have been implemented to strengthen the Commission on Human Rights' mandate to protect Filipinos abroad (along with Overseas Filipino Workers), in particular? There is a pending bill in Congress on the further elaboration of this constitutional mandate, what support has the government undertaken to pass this legislative proposal?