



PROCEEDINGS

REGIONAL MAPPING OF LEGAL REFERRAL MECHANISMS ON GENDER–BASED VIOLENCE CASES

*September 6, 2019
3rd Basement Conference Room
New Legislative Building of the Provincial Capitol
City of San Fernando, La Union*



Commission on Human Rights - Regional Office I

PARTICIPANTS

NAME	OFFICE
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Atty. Janet I. Agsaulio	Integrated Bar of the Phils.
John Andrew P. Flores	Office of the City Prosecutor
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Atty. Howard Y. Chan	PAO – SFCLU
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Jenny Mae Ladi	PLO
Atty. Anna Leah T. Romero	Atty. V – CHR RO I
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Kathleen Loresca	Documenter

PROGRAMME

Time	Activity
8:30 – 9:00 AM	Registration
9:00 – 9:30 AM	Preliminaries <ul style="list-style-type: none"> ● Invocation ● National Anthem ● Introduction of Participants
9:30 – 9:45 AM	Welcome Remarks Atty. Jessamine Lynn Dale C. Garcinez, Legal Office – Provincial Capitol
9:45 – 10:00 AM	Video Presentation / Background of the Activity
10:00 – 10:15 AM	Objectives of the Focus Group Discussion Atty. Mhelanie C. William, Atty. IV, CHR RO I

10:15 – 10:45 AM	Background of the Work of CHR as Gender Ombud Atty. Anna Leah T. Romero, Atty. V, CHR RO I
10:45 – 11:30 AM	Focus Group Discussion – Government Agencies Facilitator: Atty. Anna Leah T. Romero
11:30 – 11:45 AM	Reporting
11:45 – 12:00 PM	Closing / Ways forward
12:00 – 1:00 PM	Lunch

PRELIMINARIES

The focused group discussion (FGD) started at 9:00 am with a prayer followed by the singing of the National Anthem. After which, Ms Celia Quedado, Information Officer II of CHR Regional Office I, serving as emcee of the activity, called Atty. Mhelanie William to acknowledge the participants.

In her welcome message, Atty. Jessamine Dale Chua – Garcinez of the Provincial Legal Office of La Union stated that there is a need to address these issues on discrimination and violence specially because some cases are being sensationalized by the media. Atty. Chua – Garcinez also said that she looks forward to a fruitful and interactive dialogue between practitioners of the legal profession and representatives from government agencies dealing with gender-based violence cases.

A video presentation was shown after Atty. Chua-Garcinez’s speech. It highlighted issues on human rights violation including gender-based violence cases. Shortly after the video, Atty. William provided an overview of the FGD. According to her, the CHR has initiated the “Gender-Based Violence Observatory Project,” which aims to establish a repository of data on violence against women (VAW) cases. This project is in response to the Commission’s intensified role as Gender Ombud as mandated by the Magna Carta for Women (MCW). One of the major components of this project is the Regional Mapping of Legal Referral Mechanisms on Gender-Based Violence Cases through a focused group discussion among representatives from regional line agencies and civil society organizations. This activity is geared towards strengthening the capacity of CHR’s regional offices in monitoring functionality of established referral mechanisms. It also aims to provide recommendations and influence enhanced effectiveness, efficiency and responsiveness of local interagency mechanisms in responding to VAW cases. Additionally, it will seek to gather regional data on GBV, with an emphasis on the issues faced by marginalized and vulnerable women and their lived experience of GBV.

Specifically, this project will aim to:

1. Map GBV referral mechanisms in two cities/municipalities in the Region’s areas of responsibilities;
2. Look into the effectiveness of these mechanisms in terms of availability of facilities, kinds of services, and advocacy and partnership with women’s organization;

3. Identify the challenges and barriers as well as document the good practices in reporting and investigation, prosecution and legal assistance, and providing support services;
4. Derive recommendations and proposals to improve the services and facilities offered by mechanisms on the ground; and
5. Focus on the responses to and experiences of the most vulnerable and excluded.

Atty. Anna Leah Romero then proceeded to discuss the role of CHR as Gender Ombud, its activities and programs, and provide an overview of the Gender Ombud Guidelines. She also presented the situation of women and LGBTQI persons in terms of human rights violations. She enumerated the following legal basis:

1. Universal Declaration of Human Rights which states that “all human beings are born free and equal in dignity and rights
2. Article II, 1987 Philippine Constitution – “the State values the dignity of every human person and guarantees full respect for human rights”
3. Yogyakarta Principle – “human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights”

She then went on to discuss the role of CHR as Gender Ombud, foremost of which is the advocacy for the promotion and protection of women’s human rights and strengthen human rights education. CHR also conducts investigations on violations including those committed by private institutions and private individuals. They also monitor compliance of agencies and private institutions with the provisions of the Magna Carta for Women and recommend appropriate measures for its effective implementation.

The CHR Gender Ombud Guidelines was adopted on April 21, 2015 which operationalized the role of CHR as Gender Ombud as follows:

1. Investigation of individual complaints and institutional violations of the provisions of MCW
2. Legal aid and other support services
3. Monitoring of MCW compliance
4. Gender Ombud advisories
5. Human Rights promotion and advocacy

Said Guidelines also includes the following protocols:

Protocol 1 – Handling of Women’s Cases

Protocol 2 – Handling Cases of Girl Children

Protocol 3 – Handling Cases involving Persons with Diverse Sexual Orientation and Gender Identity and Expression (SOGIE)

Atty. Romero then proceeded to discuss the idea behind SOGIE thru the so-called Genderbread Person as shown in the illustration below:

Sex – either male, female and intersex based on biological attributes at birth

Gender identity – pointed at the head/brain, this is how a person identifies him/herself whether male, female or transgender

Gender expression – pointed at the hand, this is how one expresses him/herself whether feminine or masculine in ways

Sexual orientation – pointed at the heart, this identifies who you are attracted with, thus a person's orientation can either be: heterosexual, homosexual (lesbian or gay), bisexual or asexual

Any person who has been a victim of violence and/or discrimination may seek the assistance of CHR. They may lodge their complaint at the Regional Office who has jurisdiction of where the incident was committed. They may file cases of violation of MCW, human rights violations or any acts of discrimination. The complaint shall include the following details:

1. Name and address of complainant
2. Name and address of perpetrator
3. Type of violation committed
4. Actions undertaken by complainant thru different government agencies or organizations prior to seeking assistance from CHR

In terms of monitoring compliance to MCW, CHR regional offices submits an annual report on Regional Women's Human Rights & LGBTQI Profile, results of case monitoring, Gender Ombud reports, inquiry reports on special issues such as the Reproductive Health Law.

CHR also issues advisories on certain current events issues such as President Rodrigo Duterte's rape joke.

Sample cases that have been investigated by regional offices:

1. Misuse of GAD fund
2. Violation of women's right to reproductive health
3. Discrimination perpetuated by a family court judge
4. Discrimination against women: dismissal due to pregnancy
5. Discrimination against women: sexual harassment
6. Violence against women and request for support

For people with diverse SOGIE:

1. Workplace discrimination
2. Discrimination in education setting (haircut and dress code, among others)
3. Investigation of hate crimes against LGBTQI persons
4. Psychological abuse or bullying on the basis of SOGIE

Atty. Romero also highlighted the accomplishments of CHR Regional Office I for the period January to June 2019 covering the provinces of Ilocos Norte, Ilocos Sur, La Union and Pangasinan. For the period covered, the CHR has assisted a total of 294 clients, 56% of which are females, while males comprised the remaining 46%. The Commission was also able to

resolve 30 cases. Twelve of these cases involved minors who filed rape cases, and all were given financial assistance by the Commission. Those whose cases were being investigated by the Commission and are currently filed in court are eligible to receive financial aid, subject to the recommendation of CHR regional offices. It was noted that there is no prescriptive period. The Regional Office 1 has also provided legal counseling to women who filed cases on violations of RA 9262 or the Violence Against Women and their Children Act. However, because of financial issues in the household, these complainants decided not to pursue in filing a case against their husbands/partners. The women were concerned about financial support of the father to their children. That is why CHR has been advocating to barangay officials for the provision of livelihood opportunities to women to empower them through financial independence. She also noted that there were no reported cases of discrimination against LGBTQI persons in the region for the period covered. Citing the Memorandum of Agreement between the Philippine National Police and CHR, a monthly submission of cases being reported by the PNP reveals that the Top Three gender-based violence cases reported are:

1. Violation of RA 9262 (VAWC)
2. Acts of lasciviousness
3. Rape, including those that involve minors

For the CHR's monitoring role, representatives from the office regularly conducts jail visits, and during this period, they have already visited 117 jail facilities and rendered assistance to 944 inmates. To further carry out their role as Gender Ombud, CHR RO1 has also visited 41 barangays and there were several instances where there was little awareness on the GAD fund and nonfunctional VAWC desks.

In terms of promotion and awareness campaigns, CHR RO 1 regularly participates with inter-agency activities. The Commission also serves as the Regional Gender and Development chairperson which is a support committee of the Regional Development Council. Representatives of the Commission also conducts regular lectures and sponsors the Women's Forum. On the other hand, the jail visitations with the Population Commission focused on the rights of women detainees. They also undergo regular capacity building workshops and provide technical assistance during training of trainers (TOT) activities. Lastly, CHR also holds a legal caravan to ensure that its programs and activities reach the grassroots level.

PROCESS OF THE FGD

Atty. Romero served as facilitator for the FGD round among representatives of regional line agencies. She gave a brief briefing to all participants, which emphasized on each participant's input on the questions that will be asked. She also asked the consent of everyone that the dialogue will be recorded and documented. Each participant should state their name first and their agency before answering for proper recording.

Results of the FGD among RLA representatives

The City of San Fernando was one of the two chosen cities in Region I from which CHR will conduct the FGD activity. According to the 2018 PNP report, CSF is ranked second in terms of the number of recorded GBV-related cases in La Union, most specifically violations under RA 9262.

Data availability on basic demographics on gender disaggregated data based on per capita income, life expectancy, labor force participation, literacy

City Legal Office – The City of San Fernando has readily available data based from the results of the Community Based Monitoring System covering about 80% of the whole city population.

DILG – Data sharing coordination between the GAD Focal Person, GAD Technical Working Group and City Planning and Development Office to establish and make the Gender Database of the City more comprehensive and responsive thru the CBMS. The database can be accessed with proper letter request but these are limited to sex-disaggregated data.

PAO – PAO utilizes intake sheets but the LGBTQI are not captured in the “gender” section. With the rolling out of the Computerized Management System, data can be accessed readily by the public. The office has a gender-related database, where each lawyer is required to report monthly all cases involving women and children. CHR can request for access for this database through either the district or regional offices. We suggest that cases filed in court

Office of the City Prosecutor – all complainants are required to provide their details on the Investigation Data Form, however the Central Office does not require us to provide reports on VAWC cases.

IBP – Requires their clients to fill up the intake form which tries to gather their basic sociodemographic information

Local policies

City Legal Office – In terms of policy initiatives, the City has adopted the Provincial GAD Code thru City Resolution No. 17-300. It is also currently working on the Gender Equality and Social Inclusion (GESI) Code which will serve as an amendment to the GAD Code. This has already passed the public hearing meeting and will be discussed during the Committee Hearing. In addition to this, the City also passed the following ordinances:

1. Ordinance No. 2018-03, an ordinance prohibiting and penalizing any act or acts of discrimination on the basis on age, sexual orientation, disability, health, social class, physical features, religion and ethnicity
2. Ordinance No. 2018-04 providing for comprehensive gender fairness policy for people with diverse SOGIE
3. Ordinance No. 2018-08 prohibiting harassment and other similar acts in the City of San Fernando
4. Executive Order No. 33-19 institutionalizing the VAWC desk in all barangays

DILG – All 59 barangays in the City has already issued their respective Executive Orders establishing their Barangay VAW Desk and designating their VAW Desk Officers. The Barangay VAW Desk Officers of CSF are aware that women can file a barangay protection order to ensure that the perpetrator will not commit further injury to them. These Barangay VAW Desk Officers are being capacitated thru trainings to better equip them in handling VAW cases in their barangays. According to DSWD, CSF is also the first in Region 1 to federate these Barangay VAW Desk Officers.

PGLU – Only CSF has a comprehensive anti-discrimination bill in La Union. Additionally, the Provincial Legal Office also functions as the Provincial Human Rights Action Center, responding to violation of human rights cases. These include appearing in court for their legal aid.

PAO – A PAO Circular was also released to immediately assist victims of VAWC whether or not they are indigent individuals.

Budget

City Legal Office – In terms of budget allocation, 5% of the total budget for the City of San Fernando is automatically allocated for GAD fund.

PAO – The office also allocates part of its centralized budget to GAD activities.

City Prosecutors Office – There is no budget being allocated specifically for GAD, however DOJ has several trainings on handling VAWC cases including cybercrime and bullying.

Common forms of GBV cases received by the service provider

Office of the City Prosecutor -- violations of RA 9262 and RA 7610 almost every week, they also receive rape complaints at least once a month. Economic abuse under RA 9262 when respondents gives no financial support especially to the children. It was observed that women become very persistent in filing cases if it involves their children. However, there is a significant number of complainants who later on withdraw the cases especially if the perpetrator is the husband/partner. One reason maybe is that the perpetrator is the lone economic provider of the family and putting him in jail would mean no income for the whole family.

PGLU – complaints on the situation of inmates in jail facilities. They also observed that male victims lack protection from the law, as compared to women who can file abuse cases citing RA 9262. There have been instances where women used this law to their advantage to extort money from their estranged partners.

IBP – Common cases that they encountered were violations of RA 9262 and RA 7610. Their clients are mostly the respondents seeking legal assistance

PAO – VAWC, more particularly on economic abuse.

Which groups of women are most affected by GBV

Office of the City Prosecutor – urban poor women, especially violations on RA 9262

Observed trends on GBV cases

OCP – The culture of silence and close family ties sometimes prevent the complainant from filing charges against immediate family members. Some families are more concerned with protecting their reputation than opening to the public their domestic problems including violence against women and children. Because of this, violence is repeatedly committed and tolerated as the victim and perpetrator continue to live together.

PAO – they have observed that some women who file cases of abuse against their husbands are unaware of the more severe forms of abuse such as psychological/emotional abuse. They are mostly concerned about demanding for support which is characteristic of the instant gratification syndrome.

What does the service provider consider as difficult cases?

Office of the City Prosecutor – As earlier mentioned, a significant number of VAWC cases fail to get conviction because the complainant will file for Affidavit of Desistance. One of the reasons is that while there is a pending preliminary investigation, the respondent will do something to influence and intimidate the complainant to withdraw the case especially if they live together.

PAO – cases become difficult to pursue when one of the parties involved is abroad or away from the locality

Challenges and barriers

CSWD -- some cases recorded in the barangay level do not push through because complainant decided to withdraw the case.

PGLU – some women are unaware of their rights, including the barangay protection order which they can file. There have also been instances when high profile cases involving perpetrators who belong to influential families do not push through because the barangay captain has been intimidated.

IBP – some barangay captains are not aware of the BPO and how it will be accomplished

PAO – some clients are not aware of their rights so additional violations are included in the case after a thorough interview with them. It was also observed that barangay officials are not aware in accomplishing the BPO. In terms of handling cases, the PAO does not have in-house psychologists/psychiatrists who can assist in cases where psychological abuse is present.

CSWD – change of leadership in the barangay council may mean that the Barangay VAWC Desk Officer will change too. So the continuity and stability in carrying out their roles is compromised. Another challenge is when the perpetrators are the barangay officials themselves.

Best practices

PAO – they conduct regular seminars and lectures to barangay officials to capacitate them particularly on preparing and executing barangay protection orders

Flow of case management/available services offered

IBP – agencies should treat these VAWC cases as serious and important cases, hence, government should intensify its drive in preventing violence from happening in the family. We believe that gender abuses are psychological in nature, where power struggles are present between two partners.

CSWD – they will be conducting a gender sensitivity training (GST) and VAWC caravans on all barangays in CSF this September. Prior to this, we conducted a training of trainers who will facilitate these trainings to the barangay officials and Lupon ng Tagapamayapa/ Barangay Tanods. The City also offers financial assistance to indigent victims, we also assist them in filing cases in court and refer to the provincial government and DSWD if needed. We also provide free psychological assessments to clients who filed cases of psychological abuse against their husbands or partners.

PAO – they provide free legal and mediation services to GBV clients. In terms of intervention, we conduct outreach activities including information dissemination on VAWC.

At which point in the process of GBV intervention do women often exit the formal system of the service provider?

CSWD – they offer continuous support to the victims up to the extent of offering them livelihood opportunities. Constant monitoring of cases is also being done by the office with the help of the barangay councils.

PAO – the case will end if settlement is reached for our mediation services. For legal assistance, it ends when the case is already filed in court. However, the PAO doesn't have mechanisms in place yet for follow ups as the lawyers are handling too many cases already, or any personnel who will handle this task.

Recommendations

Office of the City Prosecutor – PNP should have more women investigators in the WCPD to properly handle VAWC cases

PAO – based from the experience of PAO in handling GBV-related cases, it is strongly recommended that there should be free psychological assessment for cases involving psychological abuse

IBP – an online platform should be created or established in reporting cases for it to be more accessible to all. The group also urged police offices to prioritize and expedite GBV-related cases considering that there is a high probability that the perpetrator or family members will influence the complainant to withdraw the case

Legal Office, PGLU – intensified training on women desk officers on the proper handling of GBV-related cases especially involving children/minors

The group also proposed the creation of a localized inter-agency council for VAWC which can cater to the specific needs of a certain locality.

Results of the FGD among CSO Representatives

PRELIMINARIES

The afternoon session started promptly at 1:30 pm with an opening prayer followed by the acknowledgement of participants by Atty. Mhelanie C. William.

PROGRAMME

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Atty. Chua-Garcinez delivered the welcome message on behalf of La Union Gov. Francisco Emmanuel “Pacoy” R. Ortega III. Since she participated during the morning session of the FGD, she also gave a brief background of the activity. She informed the participants that the dialogue will focus on gender-based violence particularly violations on RA 9262 and RA 7610, expecting a fruitful and meaningful discussion.

Moving further, Atty. William discussed the purpose of the activity, which seeks to explore the legal referral mechanisms on GBV-cases. This is in response to the role of CHR as gender ombud, where one of their functions is to establish a repository of data concerning GBV-related cases. The FGD also seeks to answer issues being faced by the respective organizations in handling GBV-related cases. The specific objectives were also discussed, which was already documented in the early part of this report.

Awareness on any gender equality or GBV-related policies in the City of San Fernando, La Union

NAPC – the City has not yet crafted their own GAD Code, they just adopted the GAD Code that was developed by the province of La Union.

Are the barangay VAW desks functional?

NAPC – No. The NAPC validated the presence of VAW desks in barangays but found out that in the City of San Fernando, a significant number of barangays do not have a functional VAW desk including the officers.

Respondent A – Based from personal experience while conducting orientation seminars regarding Magna Carta of Women, rural women in Region 1 are not yet aware of their rights, hence the VAW desks are not yet functional. Feedback from these women reveal that even the desk officers are also not aware of the rights of women.

Respondent B – in our own barangay, there is no functional VAW desk. It was also observed that in government and private offices, there is still no GAD Code in place. In DMMMSU, there is a plan to eventually establish the GAD Code following the benchmarking of the University of the Philippines' GAD Code.

What are the common forms of gender-based violence that you have observed?

Respondent B – most common cases involve violations of RA 9262. It should be noted that we might not be capturing data on unreported rape/violence against women and children cases. In the experience of DMMMSU, we have not yet encountered any student or faculty who reported such incidents. Being the chairperson of the Committee on Decorum and Investigation, we settle the sexual harassment-related cases in the University in-house and no referral is being made to other agencies. On a more personal level, one of my friends who has a long time partner has continued to suffer from physical and emotional abuse yet choose to live with him. With the continued, sustained domestic abuse, this woman has developed a learned helplessness which causes her to continue to stay in the abusive relationship.

Atty. William suggested that should there be future cases of like manner, the CODI may refer the case to the PNP for criminal action/initiation of criminal complaint.

LUVWI – most of the cases being referred to us involve infidelity, where legal consultations also include the presence of PAO lawyers.

Respondent C – the cases that are being referred to us involve physical violence against women. It was observed that most of the cases end up being settled amicably after sometime because the perpetrator and complainant continue to live together after the incident. Respondent C also lamented that most VAWC cases do not get conviction because most women choose to withdraw the cases especially if the women are financially dependent on the perpetrator

What is the referral mechanism being used by your organization including documentation?

Respondent B – of it involves physical injury, I personally refer the victims to a doctor for proper medico-legal examination, after which I tell them to report the case to the PNP. We maintain our own documentation as part of CODI functions

Respondent C – we refer victims of physical violence to the PNP to arrest the perpetrator/s. Otherwise, we refer them to the local DSWD office.

Recommendations

Respondent B – there should be a law and counseling expert in all organizations that cater to women’s and children’s rights

Respondent A – it is highly recommended that there should be a standardized gender handbook which all organizations can use and implement

Respondent C – we suggest that awareness campaigns should be intensified to reach more women. It is also recommended that student body organization be tapped to mobilize and organize activities to increase awareness campaigns in schools and universities

KEY TAKEAWAYS

Based from the responses for this FGD round, some key takeaways that should be noted are the following:

1. A *gender database* is currently being established by the GAD technical working group in coordination with the Planning and Development Office in the City of San Fernando, La Union. The data were culled from the Community-Based Monitoring System which aimed to gather essential information from all households living in CSF. Other regional line agencies including the Public Attorney’s Office and the City Prosecutor also have their own intake forms and maintain their respective databases. The Integrated Bar of the Philippines also has their own database management system.
2. In terms of local policies, a GAD Code is already in place for the Province of La Union. The City of San Fernando, for its part, has adopted this and is currently working on a Gender Equality and Social Inclusion (GESI) Code which will serve as an amendment to the GAD Code. Other local ordinances have also been enacted to protect women, children and LGBTQI persons from all forms of discrimination and its corresponding penalties.
3. Based from the cases being handled by the participants, it was observed that most of these were involving violations of RA 9262 or the “Anti-Violence Against Women and Their Children Act of 2004” and RA 7610 or the “Anti Child Abuse Law”

4. Aside from physical injury, notable violations were economic abuses by husbands who fail to provide financial support to the family. This mostly happens to single-income households, where complainants are urban poor women.
5. Lawyers and the prosecution department has lamented that a number of complainants choose to withdraw their cases, especially in single-income households where they are economically dependent on the respondent. Most wives fear of compromising the well-being of their children when the breadwinner of the family gets incarcerated. Another factor is the Filipino trait of keeping the family's honor in their community, with family members influencing the women to withdraw the case and not cause shame to the family. Another observed factor is the lack of awareness of GBV victims on their rights and on the more severe forms of abuse including psychological/emotional abuse.
6. In terms of implementing the law, some of the challenges encountered were the lack of knowledge among barangay officials in executing barangay protection orders. The seeming lack of presence of barangay VAW desk was also noted
7. The participants recommended that the PNP may consider assigning additional women police officers to handle GBV-related cases. This was supported by the Provincial Legal Office, also emphasizing that more trainings be given on the proper handling of cases involving women, children and LGBTQI persons. The Integrated Bar of the Philippines also suggested to the PNP to expedite case management for GBV abuses considering that complainants have a tendency to withdraw their cases due to family influence. They also proposed for the establishment of an online messaging tool where GBV cases can be reported in real time. Lastly, the participants proposed for the creation of a localized inter-agency council for VAWC.
8. In terms of legal referral mechanisms, GBV cases which involve physical injury are directly referred to either a doctor first then through the PNP for proper handling of the case. In schools and universities, a CODI body will manage GBV cases. It was noted by most participants that barangay VAW desks are not functional most of the time, which might be due to several factors:
 - a. Lack of continuity of VAW desk officers due to change in leadership
 - b. Lack of training for VAW desk officers on proper management of GBV cases

This being said, it can be concluded that a lot of work still needs to be done especially in the barangays where most GBV cases are first reported. There is a need to strengthen the referral mechanisms in the local level to support and protect women's and child's rights. In terms of available database, several government agencies and CSOs have disclosed the presence of

their own database, which CHR can tap in the creation of their own database specifically for GBV-related cases.