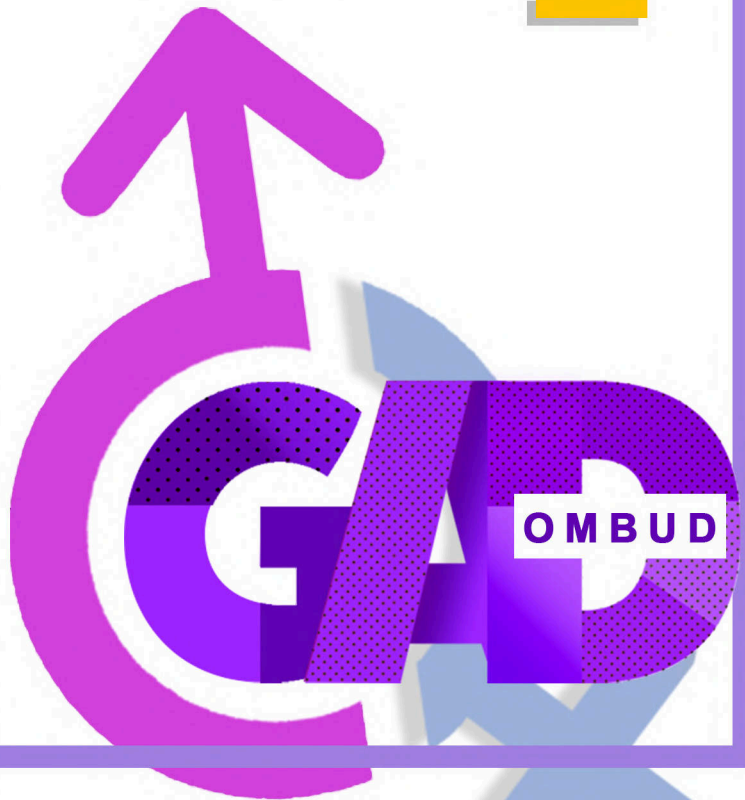




# GENDER & DEVELOPMENT OMBUD GUIDELINES





## *Assalama Alaikam*

Your dedication in protecting and empowering women is a beacon of strength and compassion. Your commitment creates ripples of positive change, fostering a world where every woman feels safe, valued, and heard. Thank you for being a guardian of equality and justice.









2024



THE GENDER AND  
DEVELOPMENT OMBUD  
GUIDELINES OF THE  
BANGSAMORO  
HUMAN RIGHTS COMMISSION





## ABOUT THESE GUIDELINES

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These Guidelines are primarily for the use of staff, management, and leadership of the Bangsamoro Human Rights Commission (BHRC) to make use of as they perform their mandate of protection of women's rights and promotion of gender equality in the Bangsamoro. It lays down the policy framework of the Commission in dealing with women's human rights issues and concerns.

These Guidelines shall also be followed by external parties engaged by the Commission either on an ad hoc, contractual, long-term, or retainer basis, whether compensated or voluntarily, such as deputized lawyers, translators, community monitors, and others.

However, these Guidelines are separate and distinct from the BHRC's Gender and Development Plan or any other Gender Mainstreaming Plans that may be undertaken by the Commission as mandated by the Magna Carta of Women and other related laws.

These Guidelines will also inform BHRC's partners and the general public about what to expect from the BHRC in terms of procedure.

## USING THESE GUIDELINES

These Guidelines may be used as a stand-alone document. However, to maximize the use of these Guidelines, investigators and staff of the BHRC are expected to be familiar with the *BHRC Rules of Procedure in the Conduct of Investigation and Guidelines in Monitoring Human Rights in the Bangsamoro* (2022), which were adopted by the Commission in December 2022.

This document will continue to evolve as the BHRC gains more experience in its work as the BARM's human rights institution and its Gender Ombud. Suggestions to make the Guidelines more responsive to the needs of women in the Bangsamoro are welcome, and they will be considered in future versions of the document.

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## THE NORMATIVE AND LEGAL FRAMEWORK FOR THE PROTECTION AND PROMOTION OF WOMEN'S HUMAN RIGHTS

### THE INTERNATIONAL NORMATIVE FRAMEWORK ON HUMAN RIGHTS

The Philippines is signatory to and has ratified most of the international treaties and conventions on the promotion and protection of human rights.

| <b><u>Treaty Description</u></b>                                                                                                          | <b><u>Treaty Name</u></b> | <b><u>Signature Date</u></b> | <b><u>Ratification, Accession(a), or Succession(d) Date</u></b> |
|-------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|------------------------------|-----------------------------------------------------------------|
| <b>International Convention on the Elimination of All Forms of Racial Discrimination</b>                                                  | ICERD                     | July 22, 1966                | September 15, 1967                                              |
| <b>International Covenant on Economic, Social and Cultural Rights</b>                                                                     | ICESCR                    | January 18, 1967             | June 7, 1974                                                    |
| <b>Convention on the Elimination of All Forms of Discrimination against Women</b>                                                         | CEDAW                     | July 15, 1980                | August 5, 1981                                                  |
| <b>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</b>                                           | CAT                       |                              | June 18, 1986                                                   |
| <b>International Covenant on Civil and Political Rights</b>                                                                               | ICCPR                     | January 18, 1967             | October 23, 1986                                                |
| <b>Convention on the Rights of the Child</b>                                                                                              | CRC                       | January 26, 1990             | August 21, 1990                                                 |
| <b>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</b>                      | ICRMW                     | November 15, 1993            | July 5, 1995                                                    |
| <b>Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography</b>   | CRC-OP-SC                 | September 8, 2000            | May 28, 2002                                                    |
| <b>Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict</b>                    | CRC-OP-AC                 | September 8, 2000            | August 26, 2003                                                 |
| <b>Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty</b> | CCPR-OP2-DP               | September 20, 2006           | November 20, 2007                                               |
| <b>Convention on the Rights of Persons with Disabilities</b>                                                                              | CRPD                      | September 25, 2007           | April 15, 2008                                                  |
| <b>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</b>                  | OPCAT                     |                              | April 17, 2012                                                  |

**International Convention for the Protection of All Persons from Enforced Disappearance**

ICPPED

Not yet ratified

In addition, the Philippines is a signatory to international treaties that are not considered among the core human rights treaties but impact the protection of persons from the most egregious human rights violations.

| <u>Treaty Description</u>                                                                                                                                                         | <u>Treaty Name</u>                      | <u>Signature Date</u> | <u>Ratification, Accession(a), or Succession(d) Date</u> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------|----------------------------------------------------------|
| United Nations Convention against Transnational Organized Crime                                                                                                                   | UNTOC                                   | December 14, 2000     | May 28, 2002                                             |
| Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime | Trafficking Protocol or UN TIP Protocol | December 14, 2000     | May 28, 2002                                             |

Protection and assistance for trafficked persons are spelled out in this Protocol, specifically the following: a) Protecting the privacy and identity of trafficked persons; b) Making legal proceedings confidential; c) Informing trafficked persons of relevant court and administrative proceedings; d) Enabling victims to present views and concerns; e) Implementing measures to provide for the physical, psychological, and social recovery of victims; f) Physical safety; and g) Providing measures for obtaining compensation for damages suffered.

***Beijing Declaration and Platform for Action (BPfA).*** The Beijing Declaration and Platform for Action, which was adopted at the United Nations Fourth World Conference on Women in Beijing in 1995, calls on all parties to implement affirmative action for the equal participation of women and men in decision-making to strengthen democracy and promote its proper functioning.

#### THE CEDAW

Out of the above core human rights treaties that address the human rights of all persons, the Convention on the Elimination of All Forms of Discrimination against Women is specifically aimed at equalizing the status of women to that of men in the area of human rights.

The CEDAW Convention is built on three foundational principles: Nondiscrimination, state obligation, and substantive equality.

- Nondiscrimination is integral to the concept of equality. The Convention seeks to eliminate discrimination against women in all fields and spheres, and it holds both state and non-state actors in the case of violation of rights.
- State obligation embodies the elements, that is, respect, protection, promotion, and fulfillment of human rights. It also upholds the concept of due diligence, which demands ensuring the prevention, investigation, and sanctioning of private acts of discrimination. The legislature, executive, and judicial organs of the government are responsible for the fulfillment of all state obligations.
- Substantive equality acknowledges as a product of negative female stereotypes, and consequently seeks to eliminate discrimination at the individual, institutional, and systemic levels through corrective and positive measures including enabling conditions and affirmative actions. It seeks to correct the imbalance and focuses on achieving “equality of outcomes” by ensuring equal opportunities, access, and benefits for women.



Together with the other core human rights treaties, inextricably linked to the broad mandate of an independent, human rights institution such as the Bangsamoro Human Rights Commission (BHRC).

#### PHILIPPINE DOMESTIC LEGAL AND POLICY FRAMEWORK

The Philippines is said to have a robust legislative and policy framework for the protection and promotion of women's human rights. At the national level, the following legislative measures have been enacted:

| RA No. and Short Title                                                      | Salient Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Republic Act No. 7192 - Women in Development and Nation Building Act</b> | <ul style="list-style-type: none"> <li>• Directs government agencies to set aside a substantial portion of funds received from foreign governments and multilateral agencies to support programs and activities for women.</li> <li>• Declares the right of women of legal age regardless of civil status to have the capacity to act and enter into contracts, which shall, in every respect, be equal to that of men under similar circumstances.</li> <li>• Assures women of equal rights with and the same conditions as men in borrowing and obtaining loans; accessing agricultural credit, incorporation, insurance contracts, application for passports, visas, and other travel documents; equal membership in clubs; admission to military schools; and voluntary Pag-IBIG, GSIS, and SSS coverage.</li> </ul>                                                                                                                                                                                                                                                                                                                             |
| <b>Republic Act No. 7600 - Rooming-In and Breastfeeding Act of 1992</b>     | <ul style="list-style-type: none"> <li>• Declares the right of the mother to breastfeed her child, and for the child the right to his/her mother's breastmilk.</li> <li>• Directs immediate rooming-in of newborn infants with their mothers to encourage breastfeeding, subject to exemptions due to illness, psychosis, or when mothers are taking medicines contraindicated for breastfeeding.</li> <li>• Directs health institutions to provide equipment, facilities, and supplies for breastmilk collection, storage, and utilization.</li> <li>• Provides incentives to private health institutions who incur expenses in complying with the Act by declaring such expenses as tax-deductible up to twice the amount incurred.</li> <li>• Empowers the Secretary of Health to impose sanctions for noncompliance with the Act.</li> </ul>                                                                                                                                                                                                                                                                                                     |
| <b>Republic Act No. 7877 - Anti-Sexual Harassment Act of 1995</b>           | <ul style="list-style-type: none"> <li>• Penalizes and defines sexual harassment in work, education, or training environments as "committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainer, or any person who, having authority, influence, or moral ascendancy over another in a work or training or education environment, demands, requests, or otherwise requires any sexual favor from the other, regardless of whether the demand, request, or requirement for submission is accepted or not by the object of the said act."</li> <li>• Imposes a duty on the employer or head of office or institution to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement, or prosecution of acts of sexual harassment through the following: Promulgating appropriate rules and regulations, prescribing the procedure for an investigation of sexual harassment cases and the administrative sanctions therefor, and creating a committee on decorum and investigation (CODI) of cases on sexual</li> </ul> |

|                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                  | <p>harassment, which shall also conduct meetings to prevent incidences of sexual harassment.</p> <ul style="list-style-type: none"> <li>• Declares the employer or head of office or institution to be solely liable for damages arising from acts of sexual harassment committed in such places IF the employer or head is informed of such acts by the offended party and no immediate action is taken thereon.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Republic Act No. 8353 - The Anti-Rape Law of 1997</b>                         | <ul style="list-style-type: none"> <li>• Expands the definition of rape to also include the insertion of the penis into another person's mouth or anal orifice, or the insertion of any instrument or object into the genitals or anal orifice of another person.</li> <li>• Reclassifies rape as a Crime Against Persons from being a Crime Against Chastity in the Revised Penal Code, declaring it a public offense and not merely a private crime. Anyone who knows about the crime may file the case on the victim's behalf, and the prosecution may continue even with the desistance of the survivor.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Republic Act No. 8505 - Rape Victim Assistance and Protection Act of 1998</b> | <ul style="list-style-type: none"> <li>• Establishes a standard and system of providing assistance and protection to victims of rape.</li> <li>• Directs the establishment of rape crisis centers in every province and city to be located in a government hospital or health clinic to provide psychological counseling to the victim and her family whenever necessary as well as medical and health services including a medico-legal examination, securing free legal assistance or service when necessary, assisting in the investigation to hasten the arrest of offenses, and ensuring the privacy and safety of rape victims.</li> <li>• Sets out the duties of the police officer in rape cases to do the following: Immediately refer the case to the prosecutor for an inquest/investigation, arrange for counseling and medical services for the offended party, and immediately make a report on the action taken.</li> <li>• Requires that the police officer and examining physician be of the same gender as the offended party and that only those authorized by the latter are allowed inside the room where the investigation or examination is being conducted.</li> <li>• Directs the establishment of a women's desk in every police precinct throughout the country.</li> <li>• Provides that female police investigators and female prosecutors be assigned to the investigation, inquest, or preliminary investigation of rape cases.</li> <li>• Recognizes the right to privacy of the offended party and grants due discretion to the police, the prosecutor, or the court to order a closed-door investigation, prosecution, or trial and that the name and personal circumstances of the offended party not be disclosed to the public.</li> <li>• Establishes the "rape shield rule" - evidence of complainant's past sexual conduct and opinion thereof or his/her reputation shall not be admitted unless, and only to the extent that the court finds, that such evidence is material and relevant to the case.</li> </ul> |
| <b>Republic Act No. 8972 - Solo Parents' Welfare Act of 2000</b>                 | <ul style="list-style-type: none"> <li>• Provides a comprehensive program of services for solo parents and their children as defined by the law.</li> <li>• Directs the DSWD together with other government agencies to provide a comprehensive package of support for solo parents whose income falls below the poverty threshold. This package</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |



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|------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                        | <p>includes livelihood development, counseling services, parent effectiveness services, critical incidence stress debriefing, special projects for individuals in need of protection (e.g., temporary shelter), medical assistance, and housing benefits.</p> <ul style="list-style-type: none"> <li>• Makes available the option of a flexible work schedule for solo parents, subject to a request for exemption by the employer in meritorious cases.</li> <li>• Prohibits discrimination by an employer against solo parents concerning the terms and conditions of employment on account of his/her status.</li> <li>• Grants a solo-parent leave of not more than seven (7) working days in addition to any existing leave privileges under existing laws provided that the solo parent has rendered service for at least one (1) year.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Republic Act No. 9208 - Anti-Trafficking in Persons Act of 2003</b> | <ul style="list-style-type: none"> <li>• Defines and penalizes two categories of offenses related to human trafficking: (1) Acts of Trafficking in Persons and (2) Acts that Promote Trafficking in Persons.</li> </ul> <p><u>(1) Acts of Trafficking in Persons</u></p> <ol style="list-style-type: none"> <li>a) To recruit, transport, transfer, harbor, provide, or receive a person by any means including those done under the pretext of domestic or overseas employment or training or apprenticeship or the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude, or debt bondage;</li> <li>b) To introduce or match for money, profit, or material, economic, or other consideration any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national for marriage to acquire, buy, offer, sell, or trade him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude, or debt bondage;</li> <li>c) To offer or contract marriage, whether real or simulated, to acquire, buy, offer, sell, or trade them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude, or debt bondage;</li> <li>d) To undertake or organize tours and travel plans consisting of tourism packages or activities to utilize and offer persons for prostitution, pornography, or sexual exploitation;</li> <li>e) To maintain or hire a person to engage in prostitution or pornography;</li> <li>f) To adopt or facilitate the adoption of persons for prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude, or debt bondage;</li> <li>g) To recruit, hire, adopt, transport, or abduct a person using a threat or the use of force, fraud, deceit, violence, coercion, or intimidation for the removal or sale of the organs of the said person; and</li> <li>h) To recruit, transport, or adopt a child to engage in armed activities in the Philippines or abroad.</li> </ol> <p><u>(2) Acts that Promote Trafficking in Persons</u></p> <ol style="list-style-type: none"> <li>a) To knowingly lease or sublease, use, or allow to be used any house, building, or establishment to promote trafficking in persons;</li> </ol> |

- b) To produce, print, and issue or distribute unissued, tampered, or fake counseling certificates, registration stickers, and certificates of any government agency, which issues these certificates and stickers as proof of compliance with government regulatory and pre-departure requirements to promote trafficking in persons;
- c) To advertise, publish, print, broadcast or distribute, or cause the advertisement, publication, printing, broadcasting, or distribution by any means, including the use of information technology and the Internet, of any brochure, flyer, or any propaganda material that promotes trafficking in persons;
- d) To assist in the conduct of misrepresentation or fraud to facilitate the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and services for departing persons to promote trafficking in persons;
- e) To facilitate, assist, or help in the exit and entry of persons from/to the country at international and local airports, territorial boundaries, and seaports who have unissued, tampered, or fraudulent travel documents to promote trafficking in persons;
- f) To confiscate, conceal, or destroy the passport, travel documents, or personal documents or belongings of trafficked persons in furtherance of trafficking or to prevent them from leaving the country or seeking redress from the government or appropriate agencies; and
- g) To knowingly benefit from, financial or otherwise, or make use of, the labor or services of a person held to a condition of involuntary servitude, forced labor, or slavery.
- Provides for heavier penalties for Qualified Trafficking wherein:
  - The trafficked person is a child;
  - The adoption is effected under the Inter-Country Adoption Act, and the said adoption is for prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude, or debt bondage;
  - The crime is committed by a syndicate or on a large scale;
  - The offender is an ascendant, parent, sibling, guardian, or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee;
  - The trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;
  - The offender is a member of the military or law enforcement agencies, and
  - The offended party, by reason or on the occasion of the act of trafficking in persons, dies, becomes insane, suffers mutilation, or is afflicted with HIV/AIDS.
- Recognizes the right to privacy of the trafficked person and the accused; law enforcement officers, prosecutors, and judges may order a closed-door investigation to prohibit the disclosure of the identities of the parties.
- Provides for the confiscation and forfeiture of the proceeds and instruments derived from trafficking in persons.



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|                                                                                           | <ul style="list-style-type: none"> <li>• Directs government agencies to make available services to trafficked persons such as an emergency shelter or appropriate housing, counseling, free legal services, medical or psychological services, livelihood and skills training, and educational assistance to the trafficked child.</li> <li>• Gives preferential entitlement to trafficked persons under the Witness Protection Program.</li> <li>• Assists trafficked persons who are foreign nationals and allows for their continued presence in the Philippines to effect the prosecution of offenders.</li> <li>• Establishes the interagency council against trafficking.</li> <li>• Mandates the DFA with the primary responsibility of repatriating trafficked persons regardless of their documentation status.</li> <li>• Directs the inclusion of the offense of trafficking as an extraditable offense.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Republic Act No. 9262 - Anti-Violence Against Women and Their Children Act of 2004</b> | <ul style="list-style-type: none"> <li>• Defines and penalizes the crime of Violence Against Women and their Children (VAWC) as "any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment, or arbitrary deprivation of liberty."</li> <li>• Further defines the various means that VAWC may be committed: <ul style="list-style-type: none"> <li><u>"Physical violence"</u> refers to acts that include bodily harm.</li> <li><u>"Sexual violence"</u> refers to an act that is sexual in nature that is committed against a woman or her child. It includes, but is not limited to, the following: <ol style="list-style-type: none"> <li>a) Rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and the mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;</li> <li>b) Acts causing or attempting to cause the victim to engage in any sexual activity by force, the threat of force, physical or other harm or threat of physical, or other harm or coercion, and</li> <li>c) Prostituting the woman or child.</li> </ol> </li> <li><u>"Psychological violence"</u> refers to acts or omissions causing or likely to cause mental or emotional suffering to the victim such as, but not limited to, intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse, and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual, or psychological abuse of a member of the family to which the victim belongs or pornography in any form or an abusive injury to pets or the unlawful or unwanted deprivation of the right to custody and/or visitation of common children.</li> </ul> </li> </ul> |

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|                                                         | <p><i>"Economic abuse"</i> refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to, the following:</p> <ol style="list-style-type: none"> <li>1. Withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business, or activity, except in cases wherein the other spouse/partner objects on valid, serious, and moral grounds as defined in Article 73 of the Family Code;</li> <li>2. Deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community, or property owned in common;</li> <li>3. Destroying household property, and</li> <li>4. Controlling the victims' money or properties or solely controlling the conjugal money or properties.</li> </ol> <ul style="list-style-type: none"> <li>• Provides for the issuance of Protection Orders at the barangay level and from the courts to prevent further acts of violence against women and their children. It safeguards the victim from further harm, minimizes any disruption in the victim's daily life, and facilitates the opportunity and ability of the victim to independently regain control over her life.</li> <li>• Establishes the "battered woman syndrome" as a defense - Notwithstanding the absence of any of the elements for justifying circumstances of self-defense under the Revised Penal Code, victim-survivors who are found by the courts to be suffering from battered woman syndrome do not incur any criminal and civil liability.</li> <li>• Provides that in the custody of children, the woman victim of violence shall be entitled to the custody and support of her child/children. Children below seven (7) years old but with mental or physical disabilities shall automatically be given to the mother, with a right to support, unless the court finds compelling reasons to order otherwise. A victim who is suffering from battered woman syndrome shall not be disqualified from having custody of her children. In no case shall the custody of minor children be given to the perpetrator of a woman who is suffering from battered woman syndrome.</li> <li>• Enumerates the duties of prosecutors, court personnel, barangay officials, and law enforcers in prosecuting and responding to VAWC cases.</li> <li>• Provides for a paid leave of up to ten (10) days for victims of VAWC.</li> <li>• Mandates the confidential nature of all records about VAWC including those at the barangay level.</li> <li>• Directs the training of persons involved in responding to VAWC cases.</li> <li>• Establishes the Inter-Agency Council on Violence Against Women and their Children (IACVAWC).</li> </ul> |
| <b>Republic Act No. 9710 - The Magna Carta of Women</b> | <ul style="list-style-type: none"> <li>• Considered as the domestic law version of the CEDAW, the Magna Carta of Women lays down state policies, regulations,</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |



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|                                                                                  | <p>programs, and measures to fulfill its obligations under the CEDAW to work toward gender equality in the Philippines.<sup>1</sup></p> <ul style="list-style-type: none"> <li>• Directs all government agencies to set aside 5% of their total budget for Gender and Development Activities.</li> <li>• Grants leave benefits for women who incur an absence following surgery due to gynecological conditions.</li> <li>• Assigns the role of the Gender Ombud to the Commission on Human Rights of the Philippines.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>Republic Act No. 9995 - Anti-Photo and Video Voyeurism Act of 2009</b></p> | <ul style="list-style-type: none"> <li>• Prohibits and declares it unlawful for any person to do the following: <ul style="list-style-type: none"> <li>a) To take a photo or video coverage of a person or group of persons performing a sexual act or any similar activity or to capture an image of the private area of a person/s such as the naked or undergarment-clad genitals, pubic area, buttocks, or female breast without the consent of the person/s involved and under circumstances in which the person/s has/have a reasonable expectation of privacy;</li> <li>b) To copy or reproduce, or to cause to be copied or reproduced, such photo or video or recording of a sexual act or any similar activity with or without consideration;</li> <li>c) To sell or distribute, or cause to be sold or distributed, such a photo or video or recording of a sexual act, whether it be the original copy or a reproduction thereof, or</li> <li>d) To publish or broadcast, or cause to be published or broadcasted, whether in print or broadcast media, or show or exhibit the photo or video coverage or recordings of such a sexual act or any similar activity through VCD/DVD, Internet, cellular phones, and other similar means or device.</li> </ul> <p>The prohibition under paragraphs (b), (c), and (d) applies notwithstanding that consent to record or take a photo or video coverage of the same was given by such person/s. Any person who violates this provision shall be liable for photo or video voyeurism as defined herein.</p> </li> <li>• Declares inadmissible in any judicial, quasi-judicial, legislative, or administrative hearing any record, photo, video, or copy thereof obtained in violation of the Act.</li> </ul> |
| <p><b>Republic Act No. 11313 - Safe Spaces Act</b></p>                           | <ul style="list-style-type: none"> <li>• Penalizes two types of gender-based, sexual harassment: (a) Those committed in public places as defined by the Act and (b) Those committed online.</li> <li>• Defines <u>public spaces</u> to refer to streets and alleys, public parks, schools, buildings, malls, bars, restaurants, transportation terminals, public markets, spaces used as evacuation centers, government offices, public utility vehicles as well as private vehicles covered by app-based, transport network services, and other recreational spaces such as, but not limited to, cinema halls, theaters, and spas.</li> <li>• Penalizes <u>gender-based, sexual harassment in public places</u> defined as any unwanted and uninvited sexual actions or remarks against any person regardless of the motive for</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

<sup>1</sup> A more extensive discussion on the Magna Carta of Women, as it relates to the monitoring function of the BHRC, can be found under Chapter 4: Monitoring the Bangsamoro's Compliance with the Magna Carta of Women (RA 9710) of these Guidelines.

committing such action or remarks committed in public spaces such as alleys, roads, sidewalks, and parks.

- It may include the following:
  - Cursing, wolf-whistling, catcalling, leering and intrusive gazing, taunting, pursing, unwanted invitations, misogynistic, transphobic, homophobic, and sexist slurs, persistent, unwanted comments on one's appearance, relentless requests for one's personal details such as name, contact, and social media details or destination, the use of words, gestures, or actions that ridicule based on sex, gender, or sexual orientation, identity and/or expression including sexist, homophobic, and transphobic statements and slurs, the persistent telling of sexual jokes, the use of sexual names, comments, and demands, and any statement that has made an invasion on a person's personal space or threatens the person's sense of personal safety, and
  - Making offensive body gestures at someone and exposing private parts for the sexual gratification of the perpetrator with the effect of demeaning, harassing, threatening, or intimidating the offended party including the flashing of private parts, public masturbation, groping, and similar lewd, sexual actions.
- Defines stalking as conduct directed at a person involving repeated visual or physical proximity, nonconsensual communication, or a combination thereof that causes or will likely cause a person to fear for one's safety or the safety of others or to suffer emotional distress.
- Penalizes **gender-based, online sexual harassment** defined as acts that use information and communications technology in terrorizing and intimidating victims through physical, psychological, and emotional threats, unwanted sexual misogynistic, transphobic, homophobic, and sexist remarks and comments online whether publicly or through direct and private messages, an invasion of the victim's privacy through cyberstalking and incessant messaging, uploading, and sharing without the consent of the victim, any form of media that contains photos, voice, or a video with sexual content, any unauthorized recording and sharing of any of the victim's photos, videos, or any information online, impersonating the identities of victims online or posting lies about victims to harm their reputation, or filing false abuse reports to online platforms to silence victims.
- Expands the definition of sexual harassment in the workplace and training or education settings to include the following:
  - a. An act or series of acts involving any unwelcome sexual advances, requests, or demands for sexual favors or any act of sexual nature, whether done verbally, physically, or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems that have or could have a detrimental effect on the conditions of an



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|                                                                | <p>individual's employment or education, job performance, or opportunities;</p> <p>b. A conduct of a sexual nature and other conduct based on sex affecting the dignity of a person, which is unwelcome, unreasonable, and offensive to the recipient whether done verbally, physically, or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems, and</p> <p>c. A conduct that is unwelcome and pervasive and creates an intimidating, hostile, or humiliating environment for the recipient: <i>Provided</i>, That the crime of gender-based, sexual harassment may also be committed between peers and those committed to a superior officer by a subordinate, or to a teacher by a student, or to a trainer by a trainee.</p> <ul style="list-style-type: none"> <li>• Requires schools to designate an officer-in-charge to receive complaints on gender-based, sexual harassment and adopt and publish a grievance procedure to facilitate the filing of complaints by students and faculty members.</li> <li>• Directs school authorities to create an independent, internal mechanism such as a Committee on Decorum and Investigation (CODI) of all educational institutions to address gender-based, sexual harassment and online sexual harassment including the investigation of complaints.</li> <li>• Authorizes schools to investigate even when an individual does not want to file a complaint or for the school to take immediate action to eliminate such acts, prevent their recurrence, and address their effects.</li> <li>• Authorizes schools to strip the perpetrator of his/her diploma or issue an expulsion order if he/she is found guilty pursuant to the school's procedure.</li> <li>• Imposes liabilities on school heads, principals, teachers, instructors, professors, coaches, trainers, or any older person who has authority, influence, or moral ascendancy over another in an educational or training institution for (a) Non-implementation of their duties under the Act or (b) Failure to act on reported acts of gender-based, sexual harassment committed in the educational institution.</li> <li>• Authorizes the courts to issue Restraining Orders even before rendering final decisions, directing the perpetrator to stay away from the offended person at a distance specified by the court, or to stay away from the residence, school, place of employment, or any specified place frequented by the offended person.</li> </ul> |
| <p><b>Republic Act No. 11596 – Anti-Child Marriage Law</b></p> | <ul style="list-style-type: none"> <li>• Defines child marriage as any marriage entered into where one or both parties are children (below 18 years old or persons at least 18 years old or over but who are unable to fully take care and protect oneself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition) and solemnized in civil or church proceedings or any recognized traditional, cultural, or customary manner. It includes an informal union or cohabitation outside of wedlock between an adult and a child or between children.</li> <li>• Declares unlawful the following acts related to child marriage below 18 years old:</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |



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|                                                                        | <p>delayed registration of birth and/or founding certificates for the purpose of misrepresenting the age of a child to facilitate child marriage or evade liability under this Act</p> <p>b) Solemnization of Child Marriage</p> <p>c) Cohabitation of an Adult with a Child Outside Wedlock.</p> <ul style="list-style-type: none"> <li>• Declares the above prohibited acts as public crimes that can be initiated by any concerned individual</li> <li>• Declares child marriages as void ab initio. Actions or defense for the declaration of absolute nullity of a child marriage shall not prescribe in accordance with Articles 35 and 39 of the Family Code of the Philippines. Articles 50 to 54 of the Family Code of the Philippines shall govern on matters of support, property relations, and custody of children after the termination of the child marriage.</li> </ul> |
| <b>Republic Act No. 11648: Raising the Age of Sexual Consent to 16</b> | <ul style="list-style-type: none"> <li>• Amends the provisions on the law on rape, as amended (RA 8353) to include carnal knowledge of another person (offended party) is under 16 years of age, except when the age difference between the parties is not more than three (3) years, and the sexual act in question is proven to be consensual, non-abusive, and non-exploitative. Provided this exception shall not apply when the victim is under thirteen (13) years of age.</li> <li>• Amends Articles 337 and 338 of the Revised Penal Code on the definition of Qualified Seduction and Simple Seduction</li> <li>• Amends RA 7610 on Child Prostitution and Other Abuse</li> </ul>                                                                                                                                                                                              |

### THE BANGSAMORO ORGANIC LAW

The Bangsamoro Organic Law ("BOL"; Republic Act No. 11054) is the law that governs the establishment, grant of powers, political and governance structures and mechanisms for the governance of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM).

The BOL the outcome of years of peace negotiations between the Government of the Philippines and the Moro Islamic Liberation Front (MILF) that culminated in the signing of the Comprehensive Agreement on the Bangsamoro. It supplants and repeals Republic Act 9054, thereby replacing the now-defunct Autonomous Region in Muslim Mindanao (ARMM).

Compared to its predecessor, the BARMM enjoys expanded powers under the BOL, listed under Article V, Section 2:

**Section 2. Powers of the Bangsamoro Government.** - Subject to Section 20, Article X of the Constitution and this Organic Law, the Bangsamoro Government shall exercise its authority over the following matters without prejudice to the general supervision of the President of the Republic of the Philippines:

- (a) Administration of justice;
- (b) Administrative organization;
- (c) Agriculture, livestock, and food security;
- (d) Ancestral domain and natural resources;
- (e) Barter trade and countertrade;
- (f) Budgeting;
- (g) Business name registration;
- (h) Cadastral land survey;

- (e) Barter trade and countertrade;
- (f) Budgeting;
- (g) Business name registration;
- (h) Cadastral land survey;
- (i) Civil service;
- (j) Classification of public lands;
- (k) Cooperatives and social entrepreneurship;
- (l) Creation, division, merger, and abolition or alteration of boundaries of municipalities and barangays;
- (m) Creation of government-owned or controlled corporations and pioneer firms;
- (n) Creation of sources of revenues;
- (o) Cultural exchange and economic and technical cooperation;
- (p) Culture and language;
- (q) Customary laws;
- (r) Development programs and laws for women, labor, the youth, the elderly, the differently-abled, and indigenous peoples;
- (s) Disaster risk reduction and management;
- (t) Ecological solid waste management and pollution control;
- (u) Economic zones, industrial centers, and free ports;
- (v) Education and skills training;
- (w) Eminent domain;
- (x) Environment, parks, forest management, wildlife, and nature reserves conservation;
- (y) Fishery, marine, and aquatic resources;
- (z) Grants and donations;
- (aa) Hajj and Umrah;
- (bb) Health;
- (cc) Housing and human settlements;
- (dd) Humanitarian service and institutions;
- (ee) Human rights; (emphasis supplied)**
- (ff) Indigenous peoples' rights;
- (gg) Inland waters;
- (hh) Inland waterways for navigation;
- (ii) Islamic banking and finance;
- (jj) Labor, employment, and occupation;
- (kk) Libraries and museums and historical, cultural, and archaeological sites;
- (ll) Loans, credits, and other forms of indebtedness;
- (mm) Mechanisms for consultations for women and marginalized sectors;
- (nn) People's organizations;
- (oo) Power sector investments;
- (pp) Public utilities' operations;
- (qq) Public works and infrastructure;
- (rr) Quarantine regulations;
- (ss) Registration of births, marriages, and deaths; copies to be furnished by the Philippine Statistics Authority;
- (tt) Regulation of the manufacture and distribution of food, drinks, drugs, and tobacco;
- (uu) Science and technology, research councils, and scholarship programs;

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- (vv) Social services, social welfare, and charities;
  - (ww) Sports and recreation;
  - (xx) Technical cooperation for human resources development;
  - (yy) Tourism development;
  - (zz) Trade and industry;
  - (aaa) Urban and rural planning development;
  - (bbb) Urban land reform and land use, and
  - (ccc) Water supply and services, flood control, and irrigation systems.

In addition, the Bangsamoro Government also exercises power under the “General Welfare” clause of the BOL:

**Section 3. General Welfare.** The Bangsamoro Government shall exercise the power expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance and those which are essential to the promotion of general welfare. Within its territorial jurisdiction, the Bangsamoro Government shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant, scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among its residents, maintain peace and order, and preserve the comfort and convenience of its inhabitants.

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#### A HUMAN RIGHTS INSTITUTION IN THE BANGSAMORO

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The provision for a human rights institution in the Bangsamoro is provided under Article IX - Basic Rights of the Bangsamoro Organic Law:

**Section 6. Human Rights.** - The Bangsamoro Government shall fully respect human rights.

**Section 7. Bangsamoro Human Rights Commission.** - There is hereby created a Bangsamoro Human Rights Commission. The Chairperson and two (2) Commissioners of the Commission shall be appointed by the President upon the recommendation of the Chief Minister. The composition of the Commission shall reflect the ethnic distribution of the population of the Bangsamoro Autonomous Region. The Chairperson shall be a member of the Philippine Bar and a resident of the Bangsamoro Autonomous Region. A Commissioner shall preferably be a member of the Philippine Bar or a holder of a bachelor's degree from colleges or universities recognized by the National Government and a resident of the Bangsamoro Autonomous Region.

The functions, duties, and responsibilities of the Commission shall be provided by law to be enacted by the Parliament. It shall cooperate and closely coordinate with the Commission on Human Rights.

The Parliament shall fix the salaries and perquisites of the Chairperson and the Commissioners of the Commission in consonance with Republic Act No. 6758, as amended.





This statutory provision is operationalized through the Bangsamoro Autonomy Act No. 4, entitled "the Bangsamoro Human Rights Act of 2019," also known as the Charter of the Bangsamoro Human Rights Commission:

**Section 9. Bangsamoro Human Rights Commission.** - The Bangsamoro Human Rights Commission, hereinafter referred to as the "Commission," created under Section 7, Article XI of Republic Act No. 11054, otherwise known as the Bangsamoro Organic Law of the Bangsamoro Autonomous Region in Muslim Mindanao, shall be the human rights institution of the Bangsamoro.

**Section 10. Mandate.** - As the human rights institution of the Bangsamoro, the Commission shall promote and protect human rights and, during armed conflict, uphold international humanitarian law.

**Section 11. Independence.** - The independence of the Commission is guaranteed. It shall not be subject to interference, directly or indirectly, from any government or private entity.

**Section 12. Fiscal Autonomy.** - The Commission shall have fiscal autonomy. It shall be provided with adequate funding, which shall be regularly and automatically released. The annual appropriation of funds to the Commission shall not be reduced from the amount it received in the preceding fiscal year. The compensation, emoluments, privileges, or any other benefits enjoyed by the Chairperson, Commissioners, and all its officials and employees under this Act shall not be decreased.

The BHRC enjoys a broad mandate for the protection and promotion of human rights in the region.

**Section 27. Powers and Functions.** - In the fulfillment of its mandate, the Commission shall exercise the following powers and functions:

- (a) Promote human rights through education and training, public awareness, and publications;
- (b) Protect human rights and uphold international humanitarian law through conducting investigations, monitoring, fact-finding missions, and public inquiries, reporting the results of the same and proceeding with prosecution when warranted;
- (c) Advise the government, at its instance or upon request, on the promotion and protection of human rights and international humanitarian law;
- (d) Protect human rights defenders;
- (e) Act as the transitional justice mechanism, and
- (f) Perform administrative functions, particularly the following:
  - 1. Implement its organizational structure and staffing pattern;
  - 2. Adopt the following:
    - i. An annual budget for the approval of the Parliament;
    - ii. Strategic plans taking into account the context in which it operates to set its priorities and for the proper allocation of its financial and human resources;
    - iii. Programs, activities, projects, services, and initiatives pursuant to its mandate, powers, and functions;
    - iv. Communications and information plans;
    - v. Monitoring and evaluation mechanisms;
    - vi. A manual of operations, and

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- vii. A seal and a logo.
  - 3. Approve core services in accordance with its mandate, powers, and functions;
  - 4. Conduct a performance audit of investigation personnel and administrative staff;
  - 5. Solicit and accept grants, aid, donations, and gifts, in cash or kind, or enter into agreements with any legitimate entity, local or foreign, consistent with its mandate, provided that it will not undermine its independence;
  - 6. Acquire, possess, and dispose of real and personal properties in furtherance of its mandate, and
  - 7. Perform such other powers and functions as may be provided by law, consistent with its mandate, independence, and fiscal autonomy.

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#### GENDER AND DEVELOPMENT OMBUD WORK IN THE BANGSAMORO

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The BHRC's mandates as Gender and Development Ombud in the BARMM can be found in **Sections 28 and 30** of BAA No. 4:

**Section 28. Gender and Development Ombud.** - Without prejudice to Republic Act No. 9710, otherwise known as the Magna Carta of Women, the Commission shall act as the Gender and Development Ombud for the Bangsamoro. It shall undertake measures relating to the promotion and protection of women's rights under the said law and international human rights instruments.

**Section 30. Powers of the Commission as Gender and Development Ombud and Children's Ombud.** - Pursuant to the foregoing two preceding sections, the Commission shall perform the following:

1. Monitor the Government in developing indicators and guidelines in compliance with their duties related to respecting, promoting, and fulfilling the human rights of women and children;
2. Investigate human rights violations relating to women and children;
3. Establish guidelines and mechanisms, among others, that will facilitate the access of women and children to legal remedies and related laws and enhance the protection and promotion of their rights, especially those who are marginalized;
4. Assist in the filing of cases against individuals, agencies, institutions, or establishments that violate the provision of the Magna Carta of Women and the Juvenile Justice and Welfare Act, and
5. Recommend to the disciplining authority or the Civil Service Commission any possible administrative action based on noncompliance or failure to implement the provision of the Magna Carta of Women or the Juvenile Justice and Welfare Act.

However, the work of upholding and promoting the human rights of women is not exclusively held by the BHRC. This work is shared with the Bangsamoro Women Commission (BWC), an attached agency to the Office of the Chief Minister.

The mandates of the BWC are laid down in Bangsamoro Autonomy Act No. 8, also known as the Bangsamoro Women Commission Act of 2020:



**Section 4. Mandate.** - The Commission shall promote, protect, and uphold women's rights as human rights, work for the elimination of all forms of discrimination against women, ensure that legal measures are taken to promote gender justice, women's rights and welfare, and promote gender and development including the meaningful participation of women in all levels of governance, policy, and decision-making.

In furtherance of the above-stated mandate, the Commission shall be the primary policy-making, coordinating, and monitoring body of women, gender, and development in the Bangsamoro Autonomous Region.

**Section 9. Functions of the Commission.** - The Commission shall have the following functions:

1. Policy Formulation and Technical Assistance:

- 1.1. Issue guidelines for the formulation of gender development plans of the Bangsamoro Government and the Local Government Units within the Bangsamoro Autonomous Region;
- 1.2. Prepare the Bangsamoro Gender and Development plan with relevant ministries, agencies, offices, and other stakeholders;
- 1.3. **Conduct research to support the development of policies for women designed to promote, uphold, and protect the welfare and rights of women;**
- 1.4. Pilot special programs for women that can be replicated in the Bangsamoro;
- 1.5. **Recommend policies and legislations to the Bangsamoro Parliament relating to women, in coordination with concerned ministries, offices, and agencies, and**
- 1.6. Provide technical assistance and capacity building to the Bangsamoro Government agencies, LGUs, and stakeholders.

2. Ensuring and Monitoring of Compliance:

- 2.1. Monitor, assess, and ensure compliance of Bangsamoro Government agencies with the issued guidelines and implementation of their GAD plans. For this purpose, the Commission may require all ministries, agencies, and offices of the Bangsamoro Government to submit their GAD plan and budget as well as regular reports on the status of implementation and utilization thereof;
- 2.2. Recommend policies to the Bangsamoro Government for measures for the successful implementation of GAD plans;
- 2.3. **Monitor and assess the compliance of the Bangsamoro Government on the CEDAW, UNSCR 1325, and all other international instruments to which the Philippines is a signatory, and**
- 2.4. **Participate in the reporting to international bodies tasked to monitor the implementation of the CEDAW and other instruments.**





3. Coordination with the Bangsamoro Government:

- 3.1. Closely work with and coordinate with the Bangsamoro Planning and Development Authority (BPDA) to generate sex-disaggregated data in furtherance of evidence-based policies for the welfare of women;**
- 3.2. Refer specific cases of women needing the assistance and intervention of Bangsamoro Government agencies, national government agencies, and other stakeholders;**
- 3.3. Work with law enforcement agencies, *Shari'ah* and regular courts, and other institutions and stakeholders to address gender-based violence and other women's issues, and (emphasis supplied)**
- 3.4. Convene an advisory council composed of representatives from Bangsamoro ministries and other offices including representatives from local government units in the BARMM and one female representative each from the following stakeholders: Youth, civil society organizations, traditional leaders, Bangsamoro communities outside the BARMM, and religious leaders. For this purpose, the Commission shall issue guidelines for the convening of the Council.

In addition, the Commission may perform any other acts that are incidental to the delivery of its mandate.

To prevent the duplication of work, and with respect for the mandates of both Commissions, the BHRC shall take on a complementary approach in support of the things already being done by the BWC especially in monitoring government compliance with the Magna Carta of Women and the CEDAW and in advocating for policies that promote and protect the human rights of women in the Bangsamoro.

For this purpose, the BHRC aims to enter into a Memorandum of Understanding with the BWC to establish points of convergence and areas of collaboration as well as clarify matters where each agency can work parallel and independent of each other when it comes to the protection and promotion of women's rights, all within the framework of each office's legal mandates.

## THE BANGSAMORO CONTEXT

The Bangsamoro region is recently emerging from a decades-old conflict between secessionist movements, first with the Moro National Liberation Front, culminating in the signing of the Final Peace Agreement in 1996 and the establishment of the Autonomous Region in Muslim Mindanao (ARMM) and with the Moro Islamic Liberation Front (MILF) of the Comprehensive Agreement on the Bangsamoro in 2014. Pursuant to this agreement, a law<sup>2</sup> establishing the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) was enacted, implementing the majority of the provisions of the Agreement. Compared to its predecessor, the BARMM enjoys expanded powers as well as increased autonomy in governing the affairs of the region, as exemplified by the receipt of a block grant subject to its appropriations law and auditing rules.

Almost four (4) years since the official grant of expanded autonomy in 2019, the region continues to reel from the legacy of the decades-old conflict in the Bangsamoro. While armed clashes between the MILF and government forces have ceased due to the peace agreement, pockets of armed confrontation between small groups, clans, and political rivals continue to endanger civilians including women and children, and continue to result in the forced displacement of residents of the affected areas. The fragile peace and order situation continues to hinder economic development in many areas of the region.

The Bangsamoro is often characterized by its “tri-people” demographic, pertaining to the Moro, Christian settler, and indigenous populations. This has given rise to a “hybrid” legal system of sorts, comprising of (a) National laws and a formal justice system, (b) *Shari’ah*, primarily through Presidential Decree No. 1083, and (c) Indigenous codes and justice systems. In practice, these systems are not mutually exclusive and render some overlaps, especially when the parties concerned come from different communities.

Within such systems, cases of gender-based violence are dealt with in varying degrees of gender-sensitivity. In some areas, the payment of “blood money” for heinous crimes, including gender-based violence, eradicates the liability of the accused under traditional legal systems. Some instances of *rido* or clan disputes, when occurring between large and influential families and are characterized by escalating armed confrontations, are settled through intermarriages. The “culture of silence” surrounding gender-related violence hinders survivors from coming forward and reporting such incidents. This is mainly due to the perception that sexual relations outside marriage, regardless of the absence of consent, is a stain on the family honor. The concept of honor borne by the women on behalf of the family, coupled with a low level of trust in the formal legal and justice systems, contributes to the low level of reporting on gender-based violence. Even when survivors initiate the filing of complaints, they usually withdraw or desist from pursuing the case later in the process.

The role of religious interpretation and cultural practice is deeply ingrained in the daily life of the constituents of the BARMM, and this has a profound impact on the protection of women’s rights in the region. Practices that are allowed by religious practice or by tradition, such as polygamy and early marriage, continue to have a deleterious effect on women, especially on their physical, economic, and psychosocial well-being.

According to the 2020 Census of Population and Housing, females comprise 50.6% of the population in the BARMM compared to 49.4% of males. Despite this, women comprise a small minority of the leadership in the Bangsamoro Government. In the Bangsamoro Transition Authority, 16 out of the 80 appointive seats are held by women. While women are found in

<sup>2</sup> Republic Act No. 11054, also known as the Bangsamoro Organic Law



technical and middle management positions in civil service, the presence of women in leadership positions (e.g., ministerial or deputy ministerial level) is still few and far between. Meanwhile, while women are highly visible in local elective positions, they are more than likely to be members of political families. Much work still needs to be done to ensure women's political participation at all levels.

This challenging context is the environment in which the Bangsamoro Human Rights Commission (BHRC) works in. It is hoped that with its appointment as the Gender Ombud in the BARMM, the BHRC will strive to be the voice of women in the Bangsamoro—advocating for their meaningful participation in politics and decision-making and pushing for increased protection from violence, all in the pursuit of gender equality and justice.



## DEFINITION OF TERMS

**Gender** refers to the socially constructed identities, attributes, and roles of persons about their sex and the social and cultural meanings attached to biological differences based on sex. The meaning of such socially constructed identities, attributes, and roles varies across societies, communities, and groups and over time. This often results in hierarchical relationships between women and men and an unequal distribution of power and rights, favoring men and disadvantaging women and affecting all members of society. The social positioning of women and men is affected by political, economic, cultural, social, religious, ideological, and environmental factors.

**Gender and development** is the development perspective and process that is participatory and empowering, equitable, sustainable, free from violence, respectful of human rights, and supportive of self-determination and the actualization of human potential.

**Gender-based violence (GBV)** is violence directed toward, or disproportionately affecting, someone because of their gender or sex. Such violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological, or economic harm or suffering, threats of such acts, harassment, coercion, and arbitrary deprivation of liberty. Examples include sexual violence, trafficking, domestic violence, battery, dowry-related violence, the coerced or forced use of contraceptives, violence against LGBTI persons, femicide, female infanticide, harmful practices and certain forms of slavery and servitude, and online violence.

**Gender-based discrimination** includes any distinction, exclusion, or restriction due to gender that impairs or nullifies the recognition, enjoyment, or exercise of human rights and fundamental freedoms.

**Direct discrimination** occurs when a difference in treatment relies directly on distinctions based exclusively on the characteristics of an individual related to their sex and gender, which cannot be justified on objective and reasonable grounds (e.g., laws excluding women from serving as judges).

**Indirect discrimination** occurs when a law, policy, program, or practice appears to be neutral but has a disproportionately negative effect on women or men when implemented (e.g., pension schemes that exclude, for instance, part-time workers, most of whom are women).

**De jure discrimination** includes any act or omission, including by law, policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges.

**De facto discrimination** is a measure or practice of general application that is discrimination against women if it fails to provide for mechanisms to offset or address sex or gender-based disadvantages or limitations of women, as a result of which women are denied or restricted in the recognition and protection of their rights and their access to and enjoyment of opportunities, benefits, or privileges; women, more than men, are shown to have suffered the greater adverse effects of those measures or practices.

**Sexual violence** is a form of gender-based violence. It encompasses acts of a sexual nature perpetrated against one or more persons or that cause such person or persons to engage in an act of a sexual nature by force or by a threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent. Forms of sexual violence include rape, attempted rape, sexual mutilation, forced sterilization, forced abortion, forced prostitution, trafficking for sexual exploitation, child pornography, child prostitution, sexual slavery, forced marriage, forced pregnancy, forced nudity, and forced virginity testing. The term "sexual and gender-based violence" (SGBV) is used to emphasize the element of sexual violence while acknowledging that it is also part of the broader term "gender-based violence" (GBV, see above).

**Intersectional discrimination or compounded discrimination** is discrimination that takes place based on several personal grounds or characteristics/identities, which operate and interact with each other at the same time in such a way as to be inseparable.

**Persons in authority** are (a) Any persons directly vested with jurisdiction, whether as an individual or as a member of some court or governmental corporation, board, or commission.

(b) A barrio captain and a barangay chairman shall also be deemed a person in authority.

(c) Any person who, by the direct provision of law or by election or appointment by a competent authority, is charged with the maintenance of public order and the protection and security of life and property, such as a barrio councilman, barrio policeman, and barangay leader, and any person who comes to the aid of persons in authority shall be deemed an agent of a person in authority.

(d) Teachers, professors, and persons charged with the supervision of public or duly-recognized private schools, colleges and universities, and lawyers in the actual performance of their professional duties or on the occasion of such performance shall be deemed persons in authority.<sup>3</sup>

**Armed conflict** (Non-international) is protracted, armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State [party to the Geneva Conventions]. The armed confrontation must reach a minimum level of intensity, and the parties involved in the conflict must show a minimum of organization.<sup>4</sup>

**Internal displacement** is a situation wherein persons or groups of persons were forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, or natural or human-made disasters and who have not crossed an internationally recognized border.<sup>5</sup>

**Death in custody** is the death of a person arrested, detained, or under custodial investigation including as a result of being issued an "invitation" in connection with an offense that he/she is suspected to have committed.<sup>6,7</sup>

<sup>3</sup> Batas Pambansa 873, amending Article 152 of the Revised Penal Code

<sup>4</sup> International Committee of the Red Cross (ICRC), Opinion Paper: How is the Term "Armed Conflict" Defined in International Humanitarian Law?, March 2008 <https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf>

<sup>5</sup> United Nations Guiding Principles on Internal Displacement

<sup>6</sup> Republic Act No. 7438 or "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as Well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof"

<sup>7</sup> See also separate definitions of "death" and "custody" in: International Committee of the Red Cross (ICRC), Guidelines for Investigating Deaths in Custody, 2013 <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4126.pdf>



## INVESTIGATION

### RULES ON INVESTIGATION OF GENDER-BASED, HUMAN RIGHTS VIOLATIONS

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#### RULE 1: GENERAL PROVISIONS

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##### **Section 1. Applicability of the Rule.**

These Rules shall apply to cases under investigation by the BHRC involving discrimination against women and gender-based violence committed against women and women with a diverse sexual orientation and gender identity.

##### **Section 2. Objectives.**

These Rules aim to provide a safe environment for women victims of discrimination and gender-based violence to give reliable and complete evidence, prevent re-traumatization, and encourage women to report and participate in investigation proceedings by the BHRC.

##### **Section 3. Construction of the Rule.**

These Rules shall be strictly construed in favor of the protection of women throughout the investigation process.

##### **Section 4. Suppletory Application of the BHRC Rules of Procedure.**

The provisions of the BHRC Rules of Procedure in the investigation of human rights violations shall be applied in a suppletory manner.

##### **Section 5. Support to Bangsamoro Women Outside the BARMM.**

While these Guidelines are primarily for the use of the BHRC for the protection and promotion of women's human rights in the BARMM, the BHRC shall continue to undertake investigations, case monitoring, and legal assistance of human rights cases involving women outside the BARMM, in coordination and cooperation with the Commission on Human Rights of the Philippines.

##### **Section 6. Periodic Review.**

These Rules shall be subject to a review every three (3) years or more often, subject to the discretion of the Commission. In such a case, the Commission shall consider the integration of these Rules with the BHRC Rules of Procedure.

#### RULE 2: QUICK RESPONSE TEAMS

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##### **Section 1. Quick Response to Urgent Reports.**

Reports received by the BHRC through its Quick Response Team (QRT) Operations and human rights hotlines shall be responded to immediately by the assigned QRT team member. In responding to reports of gender-based violence, the responding officer shall do the following:

1. Thank the sender for sharing the information provided and inform them that they have reached the QRT hotline of the BHRC;



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2. Ask them if it is all right to give them a call for the officer to ask for further details. The handling officer must refrain from calling if in his/her opinion, the safety and security of the caller will be put at risk;
  3. For non-anonymous messages, inform the sender that in communicating with the QRT hotline, the sender/caller consents to the processing of his/her information under the Data Privacy Act;
  4. The following information, in order of priority, shall be obtained from the sender/caller:
    - a. Name (if non-anonymous) and contact number of the informant
    - b. Name and location of the victim-survivor
    - c. Name (if known) of the perpetrator and his/her relationship to the survivor
    - d. Acts or omissions constituting gender-based violence complained of
    - e. The current domestic situation of the victim (to determine the urgency of the need for rescue), and
  5. Close the communication by informing the caller/sender that the BHRC will take the necessary action to address the incident. Advise the caller/sender to standby in case the BHRC needs to call him/her for other assistance.

## **Section 2. Immediate Assistance.**

The primary responsibility of the QRT in situations of gender-based violence shall be to provide immediate assistance to the victim-survivor to preserve their life, liberty, or property that is in grave threat or imminent danger.

## **Section 3. Coordination with the Police.**

Upon the receipt of information concerning urgent cases needing rescue, the BHRC shall coordinate with the VAW Desk of the local police force or the Barangay Peacekeeping Action Team (BPAT) in the location of the victim, as relayed by the informant, for verification and appropriate action.

Any refusal or inaction from the first responders shall be duly noted in the QRT Report.

## **Section 4. Urgent Referrals to Service Providers.**

The QRT shall ensure that the survivor is immediately referred to service providers for medico-legal, psychosocial, financial, livelihood, temporary shelter, and other forms of support through the BRMM GBV referral pathway mechanism.

The Investigating Officer may likewise recommend in the Initial Evaluation Report that legal assistance be provided by the BHRC or by partner legal aid institutions, when necessary.

## **Section 5. Monitoring.**

The case shall be subject to 24-hour monitoring to ensure the safety and security of the victim-survivor.

The Officer shall update the "Referral" portion of the Case Intake Form to reflect the referral or assistance requested from other agencies. The progress and updates on referred cases shall be duly monitored.

## **Section 6. PNP - BARMM Guidance Note.**

In responding to urgent reports of Gender-based violence, the QRT shall be guided by the PNP - Women and Children Protection Desk *Regional Guidance Note on Prevention and*

*Response to Gender-Based Violence in the BARMM* in so far as they are consistent with these Rules. Investigators of the BHRC shall likewise refer to the Guidance Note when determining whether the police response to specific GBV cases have been conducted according to its internal standards.

### RULE 3: INITIAL EVALUATION OF COMPLAINTS OR REPORTS OF GENDER-BASED VIOLENCE

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#### **Section 1. Initial Evaluation.**

The purpose of the initial evaluation stage is to determine whether a full-blown investigation is merited.

#### **Section 2. Reports from the QRT.**

The QRT shall forward its report to the investigating officer on duty, with recommendations and instructions on the next steps that shall be taken.

#### **Section 3. Walk-in Complaints.**

Complaints of gender-based, human rights violations shall be immediately assigned to the gender focal officer or female investigator in the particular provincial office having jurisdiction over the case. Cases from outside the BARMM shall be referred to the Regional Office Protection Division.

#### **Section 4. Referral to Service Providers.**

Referral of GBV cases shall be to seek other forms of assistance that may be provided to the survivor by other government agencies. Investigators shall refer to the BARMM GBV Referral Pathway to identify service providers in the region.

The Officer shall then update the Case Intake Form to reflect the referral or assistance requested from other agencies. The progress and updates on referred cases shall be duly monitored.

#### **Section 5. Action to Referrals from Other Agencies.**

In cases where a government agency refers a case of GBV to the Commission, the investigation of such case shall adhere to the protocols set out in the BHRC Rules of Procedure and these Rules. The Commission shall not be bound to update or report the referring agency on the findings of the case, except to update as to the status thereof.

#### **Section 6. *Motu Proprio* Investigation.**

Without prejudice to the power of the Commission to investigate cases *motu proprio*, the following cases shall merit a *motu proprio* investigation by the Commission and shall not be suspended by desistance from any complainant or witness, subject to the rules for suspension of investigation under Rule 5, Section 15 of the BHRC Rules of Procedure:

1. Extrajudicial killings, torture, and sexual assault against women and persons of diverse sexual orientations committed by state actors;
2. Gender-based violence committed in the context of armed conflict;
3. Gender-based violence committed in the context of displacement;
4. Death, torture, and gender-based violence committed while in custody against women deprived of liberty, and

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5. The killing of women human rights defenders or those with a diverse sexual orientation and gender identity.

### **Section 7. Contents of the Initial Evaluation Report for GBV Cases.**

Within twenty-four (24) hours from the verification of the complaint or interview of the Complainant, the Officer conducting the initial evaluation shall prepare an Initial Evaluation Report, which shall contain the following:

- a) Whether the case falls under the description of gender-based violence or gender-based discrimination, in which case the complaint shall be tagged as such;
- b) Provisional remedies and preventive measures that may be undertaken by the Commission in urgent cases including the issuance of mandatory or preventive orders and the filing of a Petition for Writ of Amparo, Habeas Data, Habeas Corpus, or Mandamus as provided in the BHRC Rules of Procedure;
- c) Other assistance needed, such as financial assistance, legal assistance, enrollment to the Witness Protection Program, and other forms of assistance, in which case, the Protection Division shall take the necessary steps to process the assistance;
- d) Referral to other BARMM agencies for urgent support (e.g., protective custody/shelter, emergency medical care, post-exposure prophylaxis (PEP), psychological first aid, etc.);
- e) Recommendation to the Provincial Director on whether to proceed with the investigation, and
- f) Other matters that the Officer may find relevant.

The Initial Evaluation Report shall be submitted to the Provincial Director for approval.

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## **RULE 4: INVESTIGATING GENDER-BASED VIOLENCE**

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### **Section 1. Assignment of a Docket Number.**

Upon approval by the Provincial Director of the recommendation to proceed to an investigation, the Investigating Officer shall assign a docket number to the case. Such docket number shall bear the notation **"-GBV"** at the end of the number to tag it as such, regardless of whether committed by state actors or private persons.

### **Section 2. Survivor-Centered Approach.**

Throughout the investigation process, the investigator shall place the rights, needs, and desires of women and girls as the focus of assistance. They shall ensure that the following rights of the victim are respected:

- a) To be treated with respect and dignity and, concomitantly, to be afforded privacy and confidentiality;
- b) To be entitled to support services from the MSSD, LGUs, and other services provided by the government;
- c) To be entitled to all legal remedies and support as provided for under the Family Code, the Code of Muslim Personal Laws, and other related laws;
- d) To be informed of their rights and the services available to them including the right to apply for protection orders;



- e) To be heard;
- f) To be protected;
- g) To decide how involved to be in the process, and
- h) To complain when these rights are not respected.

### **Section 3. Use of Aliases in Investigation Reports, Documents, and Case Conferences.**

Investigation reports, whether an initial evaluation report or a final investigation report, of human rights violations under investigation by the Commission shall not bear the real name of the survivor and instead contain their aliases. The provincial office shall maintain a separate record in a secure location of aliases used and their corresponding real names. References to such survivors or witnesses shall be made using the aliases assigned.

### **Section 4. Confidentiality of Records and Proceedings.**

All cases of alleged human rights violations involving women shall be treated with the same level, if not a higher level of confidentiality, as with all other cases under investigation by the Commission. (Section 2)

Records of cases of gender-based violence shall be filed and stored separately from the main case docket of the BHRC. File folders for women shall be color-coded to distinguish them from the other cases under investigation. Access to records of cases at the investigation stage shall be limited to the investigating officer and his/her supervisor only. It shall not be open to persons, whether BHRC staff or otherwise, who do not have a direct role in the investigation, review, or resolution of the case.

### **Section 5. Clarificatory Conferences for GBV Cases.**

Clarificatory conferences for gender-based violence cases where the survivor and the perpetrator are required to meet face-to-face shall be discouraged.

When clarificatory conferences are warranted, the investigating officer shall refrain from pursuing or encouraging conciliation or an “amicable settlement” between the survivor and the perpetrator. The investigating officer shall remind the parties that cases of violence against women are excluded from mediation or efforts toward an amicable settlement at the Katarungang Pambarangay level.<sup>8</sup>

### **Section 6. Effect of an “Amicable Settlement” or Reconciliation to GBV Cases Under Investigation.**

If, in the course of the investigation, the Commission is informed that the survivor and the perpetrator have “reconciled” or have reached an amicable settlement, the investigator shall inform the survivor of her options to still pursue the case and seek assistance notwithstanding the reconciliation. The investigator shall likewise clarify with the complainant the latter’s interest in pursuing an investigation of the case. If the answer is in the negative, the complainant shall be asked to execute an Affidavit of Desistance.

The immediately preceding paragraph shall not apply to GBV cases committed by public officers against persons under their authority such as those listed under Rule 3, Section 4 of these Rules.

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<sup>8</sup> BARMM Local Governance Code, Section 463(k)

## **Section 7. Effect of the Execution of Affidavits of Desistance to Cases Under Investigation.<sup>9</sup>**

If, in the course of the investigation, the complainant files an Affidavit of Desistance, thereby manifesting her withdrawal of the complaint, the Investigator shall ensure that the complainant has not done so because of force, intimidation, or duress. If the Investigator is satisfied that the withdrawal of the complaint is done with unvitiated consent and understanding of the consequences of such action, the Investigator shall receive such Affidavit and suspend the investigation of the case. Such shall be noted in the final investigation report and be made part of the record of the case.

The immediately preceding paragraph shall not apply to GBV cases committed by public officers against persons under their authority such as those listed under Rule 3, Section 4 of these Rules.

## **Section 8. Ensuring Support to the Survivor in the Course of the Investigation.**

In the course of the investigation, the Investigating Officer shall refer the case to service providers through the BARMM GBV referral pathway. Notwithstanding the suspension and/or archival of GBV cases in accordance with this Rule, the Commission shall continue to monitor any assistance provided through Case Monitoring.

## **Section 9. Archival and Dismissal of Cases.**

Cases suspended due to the withdrawal of complaint by the victim or survivor shall be archived for 5 years. Thereafter, it shall be dismissed for lack of interest on the part of the complainant.

# **RULE 5: INTERVIEWING SURVIVORS OF GENDER-BASED VIOLENCE**

## **Section 1. Preventing Re-Traumatization Through Repeated Interviews.**

The Investigating Officer shall verify whether a comprehensive interview has been previously conducted by a police investigator or a social worker from the Ministry of Social Welfare and Development. In instances where the Investigator can obtain a copy of the Judicial Affidavit signed by the Complainant, the Investigator shall ask the Complainant to affirm the contents of the Judicial Affidavit. When no such document is available, the Investigator shall proceed with the interview, taking care that such is conducted promptly and in a professional and nonjudgmental manner.

## **Section 2. Recording, Note-Taking, and Photo/Videography.**

Permission shall be obtained before recording (including taking notes) or taking photos or videos of the interview.

The Investigator shall ensure that the victim, survivor, or witness is not coerced or pressured into giving their consent. Interviewers must exercise care so that the photo or video documentation is not perceived to be a requirement for accessing legal or financial assistance from the Commission or any other agency.

<sup>9</sup> See Rule 5, Section 15 of the BHRC Rules of Procedure for Effect of Manifestation by Complainant to Withdraw Complaint or by Witness to Desist

### **Section 3. Limitation to the Number of Interviewers.**

Interviews in cases of alleged GBV shall be conducted by no more than three (3) persons, including the translator or photographer, if any. Staff shall take care to be as unobtrusive as possible when taking photos or videos, subject to the immediately preceding Section.

### **Section 4. Location of the Interview.**

Interviews for GBV cases shall be conducted in a private area within the premises of the provincial office. In case of interviews conducted during field missions, the Investigator shall ensure that the interview location is such that the conversation will not be overheard by third persons.

### **Section 5. Gender of the Interviewer.**

In cases of sex and gender-based violence or human trafficking, the interviewer shall be of the same sex as the survivor or witness unless the initial information gathered by the investigator suggests that the perpetrators are the same sex as the survivor.

### **Section 6. Closing the Interview.**

At the end of each interview, the interviewer shall summarize the points shared by the survivor or witness, and verify whether they faithfully reflect the statement of the survivor, taking care to minimize re-traumatization to the survivor.

## **RULE 6: INVESTIGATING GENDER-BASED DISCRIMINATION**

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### **Section 1. Scope of the Investigation.**

All complaints for gender-based discrimination, whether direct or indirect, de jure or de facto, shall be covered by the BHRC's investigative powers, subject to the results of the initial evaluation of the investigating officer.

When the acts complained of refer to de jure or de facto discrimination due to the implementation of a law, the investigating officer shall include a recommendation for the repeal or amendment of such law or policy measure.

### **Section 2. Examples of Gender-Based Discrimination.**

- a. Discrimination and non-recognition of the right to equal treatment before the law;
- b. Discrimination on the right to access equal opportunities and assistance, and
- c. Discrimination and/or harassment in the workplace, training, or educational environment against women and/or on account of their sexual orientation, gender identity, and expression.

### **Section 3. Investigating Employment - Training or Education-Related Discrimination Complaints.**

In the process of investigating gender-based discrimination complaints, the investigating officer shall aim to answer the following questions:

- a. Are there mechanisms in place to address issues, concerns, or complaints about discrimination in the institution or workplace such as Tribunals, a Grievance Committee, Ethics Committee, or any other similar bodies?



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- b. Is the complainant aware of these remedies, or has she been informed of these mechanisms?
  - c. Has the complainant been assisted in making use of such remedies or mechanisms?
  - d. In the case of affirmative answers to the above questions, did the individuals constituting such mechanisms or bodies proceed in an impartial, independent, and nondiscriminatory manner?
  - e. Are there members of such mechanisms or bodies who are trained in handling gender-related complaints?
  - f. Did the institution, whether through the above mechanisms or outside of it, make available any form of support to the complainant, especially those that will protect her from retaliation or further harassment?
  - g. Does the institution ensure that all staff members have undergone gender-sensitivity orientation training and awareness sessions?

#### **Section 4. Site Visits Pursuant to the Investigation.**

The Commission may conduct fact-finding missions or site visits in connection with the investigation of gender-based discrimination cases.

#### **Section 5. Protection from Retaliation.**

The provincial office having jurisdiction over the complaint may recommend to the Commission to issue such provisional remedies or preventive measures to protect the complainant from retaliation or further harassment.

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### **RULE 7: DEPUTIZATION OF LAWYERS**

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#### **Section 1. Assignment of Cases of Gender-Based Human Rights Violations.**

In the deputation of lawyers to handle cases concerning women, the Commission shall ensure that the lawyers assigned to GBV cases have the necessary training on women-related laws and jurisprudence. For this purpose, it shall actively include in its pool of lawyers such practitioners with a background in handling cases involving women.

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### **RULE 8: EFFECTIVITY**

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#### **Section 1. Effectivity.**

This Rule shall take effect two (2) weeks following its publication in the Bangsamoro Gazette.

## MONITORING

### GUIDELINES IN MONITORING WOMEN'S HUMAN RIGHTS IN THE BANGSAMORO

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#### CHAPTER 1: CASE MONITORING

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##### **Section 1. Monitoring of Cases.**

Cases under monitoring, whether referred to other agencies for assistance, assigned to deputized lawyers, or subject to post-resolution cases, shall be maintained in one database per provincial office. Cases of GBV shall be tagged as such.

##### **Section 2. Updating of Entries.**

Regular updates on the status of cases monitored shall be made at least every month or every after a case conference as may be applicable.

##### **Section 3. Classification of Responses Received to Referrals and Follow-Ups.**

Officers and units of the Commission conducting case monitoring of referred cases may also use the following to classify the responses (or lack thereof) received:

1. **Largely satisfactory response:** A reply that is responsive to the matters being requested or sought and that substantially clarifies the status of action on the matter. It does not, however, imply that the action taken necessarily complies with international human rights law;
2. **Cooperative but incomplete response:** A reply that provides some clarification of the status or action taken on the case but that contains limited substantiation or that fails to address some issues;
3. **Denial of responsibility but without adequate substantiation:** A reply denying responsibility on the matter but which is not supported by documentation or analysis that can be considered satisfactory under the circumstances;
4. **Receipt acknowledged:** A reply acknowledging that the communication was received but without providing any substantive information, and
5. **No response.**

## CHAPTER 2: FACILITY MONITORING: MONITORING THE CONDITIONS OF WOMEN DEPRIVED OF LIBERTY

### Section 1. Coverage.

The following guidelines shall cover facility monitoring of jails, prisons, detention facilities (including those inside military camps), police lock-up cells, youth homes, and any detention, rehabilitation, confinement, and other similar facilities, in so far as women deprived of liberty are concerned.

### Section 2. The Bangkok Rules.

Officers of the Commission conducting facility monitoring in the premises mentioned above shall, in addition to the *Standard Minimum Rules for the Treatment of Prisoners* (also known as the Mandela Rules)<sup>10</sup>, be guided by the *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders*, also known as the Bangkok Rules.

### Section 3. Conditions to Evaluate.

In addition to the general conditions to evaluate as listed in Section 3(A) of the *Guidelines in the Conduct of Human Rights Monitoring in the Bangsamoro*<sup>11</sup>, the monitoring officer shall assess the extent by which the following conditions are met as well as measures taken by the management toward their fulfillment:

1. Living Space
  - Current number of detainees vis-à-vis declared capacity
  - Bed space, floor space, ventilation, proper bedding, and sanitary facilities
  - Other facilities available (e.g., prayer area, library, etc.)
2. Food
  - Whether the food is adequate to meet nutritional needs, of sufficient variety, and provided in usual hours
  - Whether the food is responsive to the varying health needs and religious considerations
  - Whether there have been reports of suboptimal-quality (spoiled) food and/or resulting health issues from ingesting such food
3. Water and Sanitation
  - Ready access to sanitary and washing facilities, safe disposal arrangements for blood-stained articles, and provision of hygiene items such as sanitary pads
  - Provision of garbage disposal, sewage, and septic facilities
  - Privacy of bathing areas
4. Women in Especially Vulnerable Circumstances
  - Issues faced by vulnerable women such as women with disabilities, the elderly, and indigenous women

<sup>10</sup> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, Accessed December 2023

<https://documents.un.org/doc/undoc/gen/n10/526/28/pdf/n1052628.pdf?token=ws5IRoUWD3FjOvrMcN&fe=true>

<sup>11</sup> See Title II of the BHRC Rules of Procedure



#### 5. Health

- Provision of medical examination and health screening on entry and measures taken to ensure medical confidentiality for detainees
- Physical and medical examinations are conducted by women physicians or nurses
- In cases of physical examinations made by a male medical practitioner, a woman staff member is present.

#### 6. Security

- Measures to ensure that women are informed of rules and regulations including the process of filing complaints
- Searches are carried out by women staff with appropriate training
- Deprivation of family contact is not imposed as a sanction.

#### 7. Families of Women Detainees

- Measures taken upon admission to allow women to contact their families
- Provision for child-friendly visitation areas and breastfeeding areas for lactating mothers
- Provision for conjugal visits for married detainees (i.e., when allowed by the woman)

#### 8. Access to Justice

- Access to information about their cases including the availability of legal assistance
- Eligibility and status under the Good Conduct Time Allowance (GCTA)
- Information about the rules and regulations of the facility including complaint mechanisms
- Protection for women who report abuse

#### 9. Whether staff have undergone at least Gender Sensitivity Training programs and an orientation on the Bangkok Rules.

### **Section 4. Conduct of Interviews and/or FGDs.**

In all interviews and FGDs, the monitoring officer shall ensure that such interviews are conducted in privacy or at least beyond the hearing range of detention officers.

### **Section 5. Reports and Human Rights Bulletins Arising Out of Facility Monitoring.**

The Monitoring Unit of the Protection Division, with the guidance and support of the Policy Research and Advisory Division, shall, when so warranted, draft Human Rights Bulletins and/or advisories related to the situations of women deprived of liberty, the issues faced, and recommendations to the Bangsamoro Government to address these issues. (See Chapter on Advising Government.)

## CHAPTER 3: MONITORING OF THE RIGHTS OF WOMEN IN SITUATIONS OF ARMED CONFLICT, DISPLACEMENT, AND OTHER HUMANITARIAN SETTINGS

### Section 1. Normative Standards in Monitoring the Rights of Women in Armed Conflict, Displacement, and Humanitarian Settings.

In monitoring the rights of women in situations of armed conflict and/or humanitarian settings, the BHRC shall be guided by UN Security Council Resolutions 1325, 1820, 1888, 1960, and 2122, the UN Guiding Principles on Internal Displacement, and Republic Act No. 9851 or the "Philippine Act on Crimes Against International Humanitarian Law, Genocide, and other Crimes Against Humanity."

### Section 2. Human Rights Violations against Women in Humanitarian Settings.

The IHL monitoring activities to be conducted by the Commission shall ascertain the existence of the following human rights violations committed against women in humanitarian settings:

1. Marginalization from participating in peace efforts, transitional justice mechanisms, and reconstruction processes;
2. In contexts of displacement, exclusion from participating in or leading decision-making processes in a camp setting;
3. Statelessness due to the inability to prove one's nationality or the lack of legal identity because the identity documents are not issued in women's names, are lost or destroyed, or because birth registration is not accessible, has failed, or is discriminatory;
4. Child and forced marriages as a result of poverty and/or the desire or pressure supposedly intended "to protect the girl's honor";
5. Destitution following the death of a male family member;
6. Loss of home and income following the death or disappearance of a spouse, parents, or parental guardians as a result of the human rights situation or conflict; difficulties in taking on the role of "head of the household";
7. Increased risk of exploitation and GBV, particularly in forced marriages, prostitution, and trafficking (exacerbated by displacement);
8. Further restrictions to freedom of movement based on additional movement restrictions or regulations imposed concerning clothing and modesty norms including when supposedly intended to "better protect women and girls from violence";
9. Limitations on women's access to health care, education, and employment/income-generating activities;
10. Reprisals against certain groups of women, such as women's human rights defenders, political activists and journalists, or their female partners (with further implications for other rights such as freedom of expression, assembly, and association), exacerbated by the dynamics of the conflict or the human rights situation;
11. Attacks or threats against girls and/or their teachers; dropping out of school due to insecurity or due to girls' increased household responsibilities;
12. The destruction or breakdown of health facilities and the consequent health implications for women due to a shortage of medical and human resources and greater exposure to sexually transmitted diseases (STDs) and the human immunodeficiency virus (HIV)-related disease;
13. Deprioritizing women's reproductive health in times of conflict, resulting in increased rates of delivery-related complications and preventable maternal mortality and morbidity, and

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- 14. Lack of services for women victims and survivors of sexual violence including emergency contraception and termination of pregnancy, HIV prevention, and psychological support including in humanitarian settings.

Monitoring staff shall use an IHL Monitoring Form that reflects the required information to be gathered.

### **Section 3. IHL Monitoring Report.**

Within forty-eight (48) hours from the return of the team from the field mission, the focal Special Investigator shall draft an IHL Monitoring Report on Women in Situations of Armed Conflict. The Report, shall, in addition to the findings on the matters enumerated in the immediately preceding section, shall contain the following:

- Background information on the conflict;
- Areas affected (e.g., sitio/barangay level);
- Number of displaced families/individuals if any, and the number of women and children disaggregated by sex who are affected;<sup>12</sup>
- Responses made by duty-bearers in response to such issues/needs, if any;
- Recommendations on how these issues could be resolved including referral to other agencies or programs within the BHRC;
- Reports of gender-based violence or risks thereof such as those mentioned in Section 3 herein, if any;
- Photos of the situation (taking care to obtain consent from persons to be photographed and to blur the faces of minors and other vulnerable persons), and
- Whether or not a human rights investigation will be opened for specific GBV cases that surfaced during the monitoring mission.

### **Section 4. Investigation of Allegations of Human Rights Violations That Surfaced During Monitoring.**

When there is a finding in the IHL monitoring that violations of human rights of women or international humanitarian law may have occurred, the Investigator leading the monitoring mission shall initiate an investigation *motu proprio*. Such an investigation shall be in accordance with the applicable rules of the BHRC Rules of Procedure as well as the herein Rules of Procedure of the Bangsamoro Human Rights Commission in the Investigation of Human Rights Violations Against Women.

### **Section 5. Gender Mainstreaming in Displacement Contexts.**

In addition to information to be obtained for new incidences of displacement under Chapter 3, Sections 3 and 11 of the BHRC Monitoring Guidelines, the Monitoring Officer shall likewise assess and include in the Internal Displacement Protection Assessment Report (IDPAR) measures undertaken by authorities to ensure the following<sup>13</sup>:

#### **A. IMMEDIATE RESPONSE - HUMANITARIAN RELIEF**

- Identify the specific needs of women.

<sup>12</sup> If the armed conflict results in displacement, refer to Chapter 4 of the BHRC Guidelines on Monitoring.

<sup>13</sup> Asia-Pacific Economic Cooperation, "Gender Integration in Disaster Management: Philippines" in "Women in Times of Disaster": The Integration of Gender Issues and Gender Perspectives in Disaster Management, February 26, 2009 [https://www.apec.org/docs/default-source/publications/2009/2/report-of-the-study-women-in-times-of-disaster-gender-integration-in-disaster-management-philippine/09\\_gfpn\\_genderintegrtn\\_phlprt.pdf?sfvrsn=9001be80\\_1](https://www.apec.org/docs/default-source/publications/2009/2/report-of-the-study-women-in-times-of-disaster-gender-integration-in-disaster-management-philippine/09_gfpn_genderintegrtn_phlprt.pdf?sfvrsn=9001be80_1)



- Ensure that emergency relief supplies include women's specific requirements such as hygiene kits, underwear, etc.
- Ensure women's access to sufficient adequate food.
- Ensure that food distribution is equitable, transparent, and respects human dignity.
- Ensure that aid distribution for women is handled by women.
- Ensure that women's menstrual needs are met.
- Ensure that all disaster-affected people have access to adequate shelters.
- Ensure women's access to toilet and bathing facilities (well-lit, with locks and ensures privacy).
- Ensure women's access to free healthcare services.
- Ensure the security and safety of women and children (e.g., regular security patrols, preferably by female officers, and the prohibition of alcohol, drugs, and gambling).
- Protect women and children from violence and abuse.
- Ensure women's access to psychosocial counseling.
- Ensure women's access to medicines and medical workers, when needed.
- Ensure that reports on casualties are disaggregated by sex and age.
- Ensure the active involvement of women in the various camp committees organized for food and water distribution, nutrition, sanitation and hygiene, shelter, health, education, protection, security, and safety, especially in the decision-making processes.

#### B. MIDTERM RESPONSES - RECOVERY PHASE

- Ensure women's participation in the management of camps and temporary shelters.
- Ensure women's equal access to compensation payments and rehabilitation measures.
- Ensure women's access to information on relief and rehabilitation measures.
- Ensure children's access to education.

#### C. LONG-TERM RESPONSES - RECONSTRUCTION/REHABILITATION PHASE

- Ensure women's and women organization's participation in the planning and decision-making process for rehabilitation and reconstruction.
- Ensure that women can reestablish social relationships and organizations.
- Use of sex- and age-disaggregated data as the basis for planning and programming, monitoring, and evaluation.
- Ensure that the reconstruction of houses meets women's and families' needs.
- Ensure women's equal ownership rights to land, house, and property.
- Ensure women's equal access to livelihood opportunities including alternative livelihood opportunities.
- Ensure women's equal access to land and water resources.
- Ensure that land and water resources are conserved and managed properly.
- Raise women's awareness of their human rights (list human and women's rights).
- Mobilize and empower women to advocate for their human and women's rights.
- Ensure that training and capacity-building materials are simple, culturally acceptable, and family-friendly.
- Protect vulnerable and marginalized groups.
- Protect migrant workers.
- Reach out to widows and women-headed households.

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- Reach out to the disabled and the elderly.
  - Reach out to low-income/marginalized people.
  - Ensure displaced people's access to relief support.
  - Protect women victims of disasters and armed conflict situations.
  - Ensure that women participate in monitoring and evaluating programs and projects.

#### **Section 6. Composition of the Monitoring Team.**

To maximize the resources and time spent on field monitoring, monitoring teams that are conducting field monitoring missions shall have members assigned as focal officers for children's rights as well as gender-related issues in displacement.

#### **Section 7. Public Inquiry.**

The Commission may, at its discretion, authorize the conduct of Public Inquiries into situations affecting the human rights of women in situations of armed conflict, which shall be covered by Rule 8 of the BHRC Rules of Procedure and these Guidelines.

## CHAPTER 4: MONITORING THE BANGSAMORO'S COMPLIANCE WITH THE MAGNA CARTA OF WOMEN (RA 9710)

### **Section 1. Monitoring Compliance by the Bangsamoro Government with the Magna Carta of Women.**

In monitoring the compliance of obligations under the Magna Carta of Women, the BHRC shall coordinate and collaborate with the Bangsamoro Women Commission. However, it shall produce its findings and reports independently from the latter.

### **Section 2. Policy Declarations in the Magna Carta of Women.**

In conducting monitoring activities on compliance with the Magna Carta of Women, the Commission shall assess and monitor the implementation by the Bangsamoro Government of the policies set out in the Magna Carta of Women to promote the empowerment of women and pursue equal opportunities for women and men, and ensure equal access to resources and development resource and outcomes in the Bangsamoro, specifically the following:

- Measures undertaken to abolish unequal structures and practices that perpetuate discrimination and equality; measures to develop plans, policies, programs, measures, and mechanisms to address discrimination and inequality in the economic, political, social, and cultural life of women and men;
- Measures undertaken to condemn discrimination in all forms and pursue the policy of discrimination against women;
- Measures to affirm women's rights as human rights through intensified efforts to fulfill duties under international and domestic laws to respect, protect, fulfill, and promote human rights and the fundamental freedom of women especially marginalized women in the economic, social, political, cultural, and other fields without distinction on account of class, age, sex, gender, language, ethnicity, religion, ideology, disability, education, and status;
- Measures to ensure the full integration of women's concerns in the mainstream of development, provision of ample opportunities to enhance and develop their skills, acquire productive employment, and contribute to their families and communities to the fullest of their capabilities, and
- Measures to reaffirm the right of women in all sectors to participate in policy formulation, planning, organization, implementation, management, monitoring, and evaluation of all programs, projects, and services.

### **Section 3. Areas to be Monitored.**

The BHRC, together with the Bangsamoro Women Commission and the relevant Bangsamoro Ministry, office, or agency, shall collaborate in the design indicators that will measure the extent that the particular agency has undertaken its obligations to attain the objectives of the Magna Carta of Women on the protection of women's rights and the promotion of their welfare and the ensuing impacts of such measures.

The BHRC shall seek to obtain data and/or information from the relevant ministry on the measures taken to meet the following, to the extent applicable and relevant to each particular Ministry, office, or agency:

*A. Extent to which the Bangsamoro Government adopted measures to ensure that women are protected from violence:*



- Increase to 50% of the workforce the women complement in the police force, forensics and medico-legal, legal services, and social work services through training and recruitment;
- The protection of women from all forms of gender-based violence, particularly rape and other forms of sexual abuse and all forms of violence in situations of emergency and armed conflict; (See also subsection B below.)
- A mandatory training on human rights and gender for all government personnel in the Bangsamoro involved in the protection and defense of women against gender-based violence, and
- The establishment of a Violence Against Women (VAW) Desk in every barangay, and the extent to which these VAW Desks address VAW cases in a gender-responsive manner.

*B. Measures undertaken to ensure the protection and security of women in times of disasters, calamities, and other crises*

- Addressing the particular needs of women from a gender perspective to ensure protection from sexual exploitation;
- The inclusion of services such as psychosocial support, livelihood support, education, psychological health, and comprehensive health services including protection during pregnancy in disaster and emergency response, and
- Gender mainstreaming measures that were enumerated in Chapter 3: *Monitoring of the Rights of Women in Situations of Armed Conflict, Displacement, and Other Humanitarian Settings*, Section 6.

*C. Extent to which temporary, special measures have been or are being undertaken to accelerate the participation and equitable representation of women in all spheres of society, particularly decision-making and policy-making, such as the following:*

- Increase the number of women in the third (3<sup>rd</sup>) level position in the Bangsamoro Government to achieve a 50-50 gender balance;
- Increase the number of women in all levels of development planning and program implementation to at least 40% of the membership of all development councils from the regional, provincial, city, municipal, and barangay councils to be women;
- Inclusion of women's groups in international, national, and local, special development bodies;
- Integration of women into regional, political parties such as the provision of incentives to regional parties with women's agenda. Measures to encourage the integration of women in the leadership hierarchy, internal, policy-making structures, and appointive and electoral nominating processes, and
- Encouragement of women leadership in the private sector through incentives.

*D. Measures undertaken to eliminate discrimination against women in sports*

- The creation of guidelines that will establish and integrate affirmative action as a strategy and gender equality as a framework in planning and implementing policies, budgets, programs, and activities relating to the participation of women and girls in sports;
- The provision of material and non-material incentives to local government units, media organizations, and the private sector for promoting, training, and preparing women and girls for participation in competitive and non-competitive sports, especially in local and international events;

- The prohibition of offering or awarding different sports prizes concerning their amount or value to women and men winners in the same sports category when the sports event or tournament is divided into male and female divisions;
- The provision of comprehensive health and medical insurance coverage as well as integrated medical, nutritional, and healthcare services for women and girls participating in sports, and
- Measures to ensure that sports scholarships granted by schools, colleges, universities, or any learning institutions take into account the total women student population in granting athletic scholarships and that such scholarships are enjoyed by women athletes on a prorated basis based on the percentage of women in the whole student population.

*E. Measures taken to ensure equal opportunities for women in the police and security forces under BARMM jurisdiction*

- Availability of leave benefits for women in the police force and other similar services as provided by existing laws, and
- Provision for women officers of equipment, facilities, and personal protective equipment that take into account the physical dimensions of the female body.

*F. Measures undertaken to ensure the nondiscriminatory and non-derogatory portrayal of women in media and film*

- Calling out or condemnation by media authorities of discriminatory and derogatory portrayal of women in media and film;
- Measures taken to allocate space, airtime, resources, programming, production, and image-making that appropriately present women's needs, issues, and concerns in all forms of media, communication, information dissemination, and advertising, and
- Integration of training on gender equality into the human resource development programs of schools, colleges in the Bangsamoro offering journalism and related courses, as well as regional chapters of media federations and associations.

*G. Measures undertaken to ensure women's access to health including reproductive health*

- Maternal care to include pre- and post-natal services to address pregnancy and infant health and nutrition;
- Promotion of breastfeeding;
- Responsible, ethical, legal, safe, and effective methods of family planning;
- Family and state collaboration in youth sexuality education and health services without prejudice to the primary right of parents to educate their children;
- Prevention and management of reproductive tract cancers like breast and cervical cancer and other gynecological conditions and disorders;
- Prevention of abortion and the management of pregnancy-related complications;
- In cases of violence against women and children, women and children victims and survivors shall be provided with comprehensive health services that include psychosocial, therapeutic, medical, and legal interventions and assistance toward healing, recovery, and empowerment;
- Prevention and management of infertility and sexual dysfunction pursuant to ethical norms and medical standards;
- Care of elderly women beyond their childbearing years, and
- Management, treatment, and intervention of mental health problems of women and girls.



#### *H. Special leave benefits for women*

- Measures and mechanisms in place to allow women to avail of the special leave caused by gynecological disorders as provided for in Section 18 of the MCW, and
- The extent to which these leave benefits are availed of by women and factors contributing to non-availment, if any.

#### *I. Measures taken to eliminate discrimination against women in all matters relating to marriage and family relations*

- Same rights to enter into and leave marriages without prejudice to personal or religious beliefs;
- Same rights to freely choose a spouse and to enter into marriage only with their free and full consent;
- Joint decision on the number and spacing of children, and to have access to the information, education, and means to enable them to exercise these rights;
- The same personal rights between spouses including the right to choose freely a profession or occupation;
- The same rights for both spouses concerning the ownership, acquisition, management, administration, enjoyment, and disposition of property, and
- The same rights to properties and resources, whether titled or not, and inheritance, whether formal or customary.

### **Section 4. Women in Vulnerable and Marginalized Sectors.**

The Commission, in addition to monitoring the compliance of the Bangsamoro of the human rights of women, may opt to conduct monitoring activities that focus on the protection from discrimination and violence and the fulfillment of the rights of specific sectors or groups of women highlighted in the Magna Carta of Women such as the following:

- a. Girl-children
- b. Senior citizens
- c. Indigenous women
- d. Moro women
- e. Women with disabilities
- f. Women in the military and security sectors
- g. Small farmers and rural workers
- h. Fisherfolk
- i. Urban poor
- j. Workers in the formal economy
- k. Workers in the informal economy
- l. Migrant workers
- m. Solo parents
- n. Women in sports
- o. Women in film and media
- p. Women of diverse sexual orientation and gender identity/expression.

### **Section 5. Phases of Monitoring.**

- a. Development of Terms of Reference
  - i. Consultation (together with the BWC) with BARMM Agencies on the refinement of GEWE indicators and the setting of deadlines
  - ii. Design of templates and forms to be used
  - iii. Timeline and work plan



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- iv. Preparatory activities such as sending out letters to BARMM offices
  - b. Desk Review
    - i. Review of the latest Concluding Observations by the relevant Committee, taking into consideration specific observations and recommendations applicable to the Bangsamoro context
    - ii. Gender statistics and other data
    - iii. Study of existing institutional mechanisms
  - c. Consultations and Information-Gathering Activities
    - i. Mapping of offices/organizations and services provided
    - ii. Collation of reports from BARMM Ministries, Agencies, and Offices
    - iii. Consultations with civil society groups
    - iv. Conversations with women
  - d. Drafting of the Report
  - e. Publication of the Report

## **Section 6. Use and Contextualization of PCW Indicators.**

In defining the impact indicators for the obligations listed in the immediately preceding section, the Commission shall utilize the *Compendium of Gender Equality and Women Empowerment (GEWE) Indicators* for monitoring developed by the Philippine Commission on Women<sup>14</sup> as a guide. This set of indicators shall be refined to fit the Bangsamoro context in coordination with the BWC.

## **Section 7. Legislative and Policy Monitoring<sup>15</sup>**

Through its Policy Research and Advisory Division, the Commission shall keep abreast of the latest developments in legislative and policy discourses related to gender and development and the rights enumerated in the Magna Carta of Women in the preceding section.

For this purpose, it shall regularly monitor bills filed with the national and regional legislature for bills related to human rights and gender and development. In such cases, it shall bring to the attention of the Chairperson any bills, laws, or policy pronouncements that may warrant the issuance of public bulletins or position papers.

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<sup>14</sup> Philippine Commission on Women, *The Compendium of Gender Equality and Women Empowerment (GEWE) Indicators Vols I & II*, March 2019 <https://pcw.gov.ph/compendium-of-gewe-indicators/>

<sup>15</sup> See also Part IV of these Guidelines on *Advising the Government*

## CHAPTER 5: MONITORING THE BANGSAMORO'S COMPLIANCE WITH THE PHILIPPINES' TREATY OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

### Section 1. Monitoring CEDAW Compliance by the Bangsamoro Government.

In monitoring compliance with the obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the BHRC shall take on a complementary role to the Bangsamoro Women Commission, which has the primary mandate to "monitor and assess the compliance of the Bangsamoro Government on the CEDAW, UNSCR 1325, and all other international instruments to which the Philippines is a signatory."<sup>16</sup>

However, in view of the broad mandate of the BHRC in the protection and promotion of human rights in the Bangsamoro including its advisory function, nothing herein shall prevent the BHRC from pursuing its mandate of assessing the compliance of the Bangsamoro Government of all human rights international instruments to which the Philippines is a signatory.

### Section 2. Construction of Treaty Provisions in Relation to State Parties.

When an international human rights instrument refers to "state parties" or "state obligations," the word state shall be interpreted in the Bangsamoro context to mean "the Bangsamoro Government" including all its instrumentalities.

### Section 3. Treaty Compliance Monitoring When Conducted.

The monitoring of the Bangsamoro's compliance with the CEDAW, shall, as much as practicable, be aligned with the scheduled reporting period of the Philippines to the CEDAW Committee.

### Section 4. Core Document.

The BHRC, through its policy unit, shall draft a baseline document (also known as a common core document) that will serve as an overall background of the Bangsamoro human rights protection framework.

It shall contain general information on the Bangsamoro, for example, on land and political structure; the general framework for the protection and promotion of human rights; and nondiscrimination and equality issues including effective remedies.

The suggested structure for a baseline document is outlined below.

1. General information on the Bangsamoro
  - Demographic, economic, social, and cultural characteristics
  - Constitutional, political, and legal structure
2. General framework for the protection and promotion of human rights
  - Acceptance of international human rights norms
  - Legal framework for the protection of human rights at the national level
  - Framework within which human rights are promoted at the regional (Bangsamoro) level
    - Regional parliaments and assemblies
    - Human rights institutions at the regional level
    - Dissemination of human rights instruments

<sup>16</sup> BAA No. 8, Section 9(2.3)

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- Raising human rights awareness among public officials and other professionals
  - Promotion of human rights awareness through educational programs and government-sponsored, public information
  - Role of civil society including nongovernmental organizations
  - Budget allocations and trends
  - Development cooperation and assistance
  - Reporting process at the regional level
    - Follow-up to the concluding observations of human rights treaties
  - Other related human rights information - Follow-up to international conferences
  - Information on nondiscrimination and equality and effective remedies

### **Section 5. Requiring the Assistance and Cooperation of Government Entities in the Bangsamoro.**

The Commission, through its Chairperson, shall issue the necessary letter requests to other Bangsamoro government agencies, offices, and ministries to obtain the information necessary to complete its report.

### **Section 6. Coordination with the CHR.**

The Commission shall actively and regularly engage with the Commission on Human Rights for the sharing of information on the status of compliance with the human rights obligations and commitments.<sup>17</sup>

The Policy Unit shall coordinate with the CHR on reporting the process, formatting, deadlines, and other matters for the BHRC's contribution to its report or alternative reports to Treaty Monitoring bodies. It shall maintain a calendar of deadlines for national reporting.

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<sup>17</sup> See BAA No. 4, Section 46



# PROMOTION OF WOMEN'S HUMAN RIGHTS

Article V of the BAA No. 4 provides for the following categories of activities under human rights promotion:

**Section 31. Education and Training.** - The Commission shall conduct regular education and training for the promotion of human rights to inform all people of their rights including the redress mechanisms in case of violation and abuse and inculcate upon them the human rights of others and their corresponding responsibilities in the promotion and protection thereof.

**Section 32. Public Awareness.** - The Commission shall undertake human rights public awareness campaigns, events, seminars, workshops, fora, and summits; engage the mass media, issue press statements, and conduct press conferences and interviews; utilize social media and the Internet; and employ other means of communication in promoting human rights in public spaces.

**Section 33. Publication.** - The Commission shall publish, in print or online, newsletters, information, education, and communication materials, training materials, and such other publications necessary for the promotion of human rights.

## PROMOTING WOMEN'S HUMAN RIGHTS

### BUILDING CAPACITIES TO RESPOND TO CASES OF VIOLATIONS OF WOMEN'S HUMAN RIGHTS

#### BHRC Personnel

When planning for staff training and capacity development programs, the Education and Training Section, in coordination with the Human Resources Section of the BHRC and the relevant personnel's immediate supervisor, shall ensure that:

- a. All new employees of the Commission, including deputized lawyers, grassroots monitors, and volunteers, shall, as part of their onboarding process, undergo a Gender Sensitivity Training Seminar.
- b. All newly hired investigators and lawyers of the Commission shall, as part of their onboarding process, undergo training on the following:
  - Training on investigating gender-based violence cases for investigators within 6 months after being hired as part of the onboarding process, and
  - A trauma-informed approach to investigations and/or interviewing victims of sex and gender-based violence.
- c. The education and training section, in coordination with the Human Resources Section, shall integrate gender and development in the continuing education program for all employees of the Commission.
- d. At the regional and provincial level, the Division Heads and Provincial Directors shall ensure that all staff under his/her authority are provided with the following:

- A thorough briefing on protocols related to gender-related HRVs and promotion of gender and development;
  - Guidance in managing the BHRC helpline and a specialized interview room;
  - Regular reminders issued to staff on the importance of adhering to protocols, with an emphasis on the detrimental impact that could happen if these protocols are not followed, and
  - Regular discussions on how the Gender Ombud Guidelines can be integrated into the daily operations of the unit or office.
- e. In the conduct of any periodic assessment (e.g., annual, midterm) or evaluation activities, tools for such assessments shall include an indicator of the extent to which an intervention has been conducted in a gender-responsive and gender-sensitive manner.
  - f. Gender and development capacity-building shall be included in the learning and development plan of the commission.
  - g. The Human Resource Section shall closely monitor and record all employees who have undergone training/seminars/orientations on gender and development.

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#### Duty-Bearers in the BARMM

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- a. The BHRC will continue to advocate for the inclusion of human rights and basic gender-sensitivity training for all BARMM personnel.
- b. In conducting training activities for duty-bearers in the BARMM, the BHRC shall focus on human rights standards and principles, normative frameworks, remedies and mechanisms, gender sensitivity, and similar topics.
- c. Modules on skills training shall be conducted with due consideration and respect to the expertise of other agencies (e.g., GAD mainstreaming and GAD planning to be undertaken by the BWC; forensic investigations to be done by the police or the NBI; and gender-sensitive disaster management to be carried out by READi/OCD).

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#### Development of Gender-Related Training Modules

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- a. The Education and Training Section of the Promotion Division shall coordinate with the BWC for the development of training modules on gender mainstreaming and human rights-based approaches.
- b. The Education and Training Section of the Promotion Division shall ensure that training materials on women's human rights are standardized, updated, and easily accessible by all concerned staff of the Commission.
- c. The training modules shall use current tools and techniques that will give due consideration of the requirements to adult pedagogy.

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#### Separate Gender Mainstreaming Plan

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The Commission, in consultation with the provincial offices and key divisions in the Regional Office, shall formulate a separate Gender Mainstreaming Policy in alignment with its Gender and Development (GAD) Plan.



## RAISING AWARENESS OF WOMEN'S HUMAN RIGHTS

Raising awareness of the human rights of women is one of the pillars of the Commission's promotion work, and it is an indispensable element in preventing human rights violations against women. As the BARMM's Gender Ombud, the Commission will carry this out through educational programs to address the underlying societal attitudes that contribute to gender-based violence.

### Ensuring Women's Participation: Gender Mainstreaming in Training Workshops and Other Activities

The foremost clientele of the BHRC as the BARMM's Gender Ombud is the rights-holder of women's human rights: women. Thus, in designing training, workshops, and consultations at all levels, BHRC teams must ensure the participation of women. At the planning stage of every activity, measures to ensure and promote women's participation must be observed.

**Annex A** contains *A Quick Guide to Promoting Women's Participation*, which was developed by the international NGO Oxfam. It can be used as a guide in the conduct of gender-inclusive, community-based consultations.

### Awareness-Raising Among the General Public

In addressing various perceptions and beliefs that hinder the attainment of gender equality, it is just as important to conduct awareness-raising activities among those who are not traditionally engaged when it comes to activities that promote women's rights—religious and traditional leaders, men, and the general public.

Thus, in addition to any existing Human Rights Education (HRE) programs being conducted, the BHRC shall include in its Strategic Communications Plan the following:

- Development and dissemination of education and information materials related to women's human rights with an emphasis on GBV and a focus on gender sensitivity, consent, and ramifications of rape and sexual assault and mechanisms for reporting;
- Development of messages for key audiences including men;
- Regular issuances of Gender Bulletins as well as responsive bulletins for notable issues of the day, including laws, policies, or programs that are worthy of commendation (see also: **Advising the Bangsamoro Government**), through its social media page;
- Publication and dissemination of reports including results of public inquiries, sectoral monitoring, or treaty monitoring activities;
- Community engagement;
- Promoting cultural awareness and sensitivity in policies to address traditional practices that may impede women's rights while respecting and preserving the cultural heritage of the Bangsamoro People;
- Utilizing media channels to disseminate information about women's rights;
- Publication of a directory of service providers for women survivors of gender-based violence, and
- A microsite within the BHRC website dedicated to its mandates as a Gender and Development Ombud in the BARMM including an online form for reporting.





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### Working with the Bangsamoro Darul-Ifta and Traditional Tribal Leaders in Communities

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The BHRC, through its Promotion Division, shall continue working with the Bangsamoro *Darul-Ifta* (BDI) in raising awareness of women's human rights in Bangsamoro (Muslim) communities. This can be done through Islamic symposia, the integration of the topic of women's rights at the secondary level for Islamic Studies and Arabic Language (ISAL) teachers, and the development of a standardized *khutba* that tackles women's rights.

In indigenous communities, the BHRC must work together with traditional tribal leaders to draw out indigenous concepts relating to human rights and dignity and relate them with the common issues being faced by women.

The BHRC shall ensure that the materials utilized for such purposes are aligned with human rights norms and standards.

### **Section 1. Power to Advise the Government.**

Pursuant to its mandate under Section 47 of the BAA No. 4, the BHRC has the power to do the following:

- a) Advise the government, in the form of findings, reports, and/or recommendations, advisories, or bulletins, on the manner of the implementation and compliance with its human rights obligations;
- b) Summon the government to explain the measures undertaken by its agency on human rights standards;
- c) Recommend international human rights treaties for signature, ratification, or accession by the government, and
- d) Submit its Annual Report to the Office of the President, Office of the Chief Minister, and the Parliament.

### **Section 2. To Whom Directed.**

Advice is primarily directed toward the Bangsamoro Government<sup>19</sup> and all its instrumentalities, ministries, agencies, and offices including state colleges and universities and government-owned and controlled corporations operating under charter legislated by the Bangsamoro Parliament including officials and personnel thereof.

However, nothing shall prevent the BHRC from providing advice or bulletins or taking a position for or against an action or non-action by any public agency or private entity when such actions or inactions adversely affect human rights.

Advice can be directed to any political, social, or economic actor and relate to any issue or area that affects the full enjoyment of all human rights and fundamental freedoms.

### **Section 3. Kind of Advice.**

The Paris Principles refer specifically to several areas in which advice can be offered. They could include the following:

- The repeal of an existing legislation;
- The amendment of existing or proposed legislation;
- The enactment of a proposed or possible legislation;
- The harmonization of laws, regulations, and practices with international human rights law;
- The repeal, amendment, or adoption of administrative processes;
- The repeal, amendment, or adoption of administrative orders and measures;
- The withdrawal, amendment, or adoption of policies;
- The termination, amendment, or development of programs and activities;
- The ratification of international human rights treaties and the adoption of international human rights instruments;
- Reports to international and regional human rights monitoring mechanisms;
- International cooperation for the promotion and protection of human rights;
- Human rights research, education, and awareness-raising, and

<sup>18</sup> Asia Pacific Forum (APF), Global Alliance of National Human Rights Institutions (GANHRI), Manual on National Human Rights Institutions. <https://www.asiapacificforum.net/resources/manual-on-nhris/>

<sup>19</sup> "Government" includes individual ministers as well as the Government collectively, and it should also include ministries, departments, and government agencies, including the police, prison authorities, and the armed forces unless the legislation exempts any of them from the jurisdiction of the BHRC. "Parliament" includes parliamentary committees, parliamentary officers, and other parts of the parliamentary structure. It should also include individual members of parliament and the parliamentary leaders of political parties.

- Remedies for victims by way of restitution, rehabilitation, compensation, and means of prevention.

The advice can also deal with any issue that relates to the enjoyment of human rights including employment, health, education, due process in courts and tribunals, conditions in detention, freedoms of speech, belief, movement, and assembly, and so on. Finally, it can deal with remedies for victims of human rights violations including recognition, restitution, rehabilitation, compensation, and prevention.<sup>22</sup>

#### **Section 4. Initiating Advice.**

The BHRC can initiate the process of advice:

- a) At the request of or by a referral from another authority or institution, for example, the Parliament or a parliamentary committee (such as public consultations or calls for position papers on a particular bill or proposed measure) or the government or a minister;
- b) On the basis of a complaint of an actual or threatened violation of human rights or a pattern or system of violations;
- c) As a result of monitoring activities conducted pursuant to Chapter II of these Guidelines or the BHRC Guidelines on Monitoring;
- d) As a result of public inquiries or consultation workshops conducted in the communities, and
- e) On its initiative.

Nothing in this section shall be interpreted to limit the advisory functions of the BHRC, nor shall the approval of any government agency be a requirement for the BHRC to commence an inquiry and provide advice.

#### **Section 5. Developing Advice.**

- a) Advise on a proposed legislative or policy measure
  - i. Selecting the laws, policies, and practices that are to be reviewed and examining where responsibilities for them rest;
  - ii. Identifying national and international human rights standards;
  - iii. Assessing the degree to which the laws, policies, and practices ensure that the rights at issue are being enjoyed;
  - iv. Identifying how the law, policy, or practice might be improved and who has the responsibility for this;
  - v. Identifying the general public's expectations of the proposed changes and indicators of success (to assist in subsequent reviews);
  - vi. Preparing a report with recommendations;
  - vii. Issuing the report;
  - viii. Lobbying to ensure that the report is reviewed and the recommendations are adopted, and
  - ix. Reporting publicly on the degree to which the recommendations have been adopted.
- b) Advise pursuant to the conduct of an investigation on inquiry
  - i. Selecting the human rights situation or issue to be investigated and examining where responsibilities lie;
  - ii. Identifying relevant national and international human rights standards;
  - iii. Finding the facts about the situation or issue;
  - iv. Assessing the facts of the situation or issue by the standards of national and international human rights law;



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- v. Identifying how the human rights situation or issue can be addressed through the law, policy, practice, and other measures;
  - vi. Determining what remedies victims should receive to enable restitution, rehabilitation, compensation, and prevention of future violations;
  - vii. Determining who has the responsibility for each proposed action;
  - viii. Identifying indicators of success (to assist in subsequent reviews);
  - ix. Preparing a report with recommendations;
  - x. Issuing the report;
  - xi. Advocating to ensure that the report is reviewed and the recommendations are adopted, and
  - xii. Reporting publicly on the degree to which the recommendations have been adopted.

In drafting the advisory document, it is important to maintain the use of gender-sensitive language. [Annex B-2](#) provides Guidelines and a checklist to ensure that women are not erased in reports and advisory documents to be released by the BHRC.

## **Section 6. Managing Responses to Advice.**

BHRC staff must always bear in mind that the Commission is an investigative, monitoring, and recommendatory body. It does not have the power to enforce its recommendations. However, BAA No. 4 imposes an obligation to respond on the part of the government to advice provided by the Commission:

**Section 48. Obligation to Respond.** - The government shall have the duty to respond to the advice of the Commission within a reasonable time. If the advice is addressed to the Parliament, it shall be calendared for a parliamentary debate.

While it is in their best interests to give due consideration to BHRC's advice, the recipients of the advice can accept the advice, a part of it, or none at all. Nonetheless, they should respond formally and give reasons for their decisions on the recommendations, as provided in Section 48, quoted above. Otherwise, the BHRC may exercise its power to "summon the government to explain the measures undertaken by its agency on human rights standards" under Section B or Article 47 of the BAA No. 4, quoted in Section 1 herein.

In cases where original advice was released publicly, any responses by the concerned agency shall also be released publicly, after considering the contents thereof, if necessary.

## **Section 7. Following Up on Advice.**

- a. **Monitoring** – The BHRC shall monitor the responses of government agencies to whom advice is directed. For this purpose, the Policy Unit shall maintain a database of recommendations and the status of implementation thereof, including measures taken or not taken by such authorities, a summary of which shall be included in its Annual Report.
- b. **Public advocacy** can involve the media, conferences, and meetings, with BHRC officials presenting their findings and recommendations. Public advocacy can also include appearances before parliamentary committees to give evidence and make submissions based on their advice. Submissions of written advice and recommendations such as position papers shall be considered public advocacy.

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- c. **Private advocacy** includes meetings with government and parliamentary leaders and others to whom advice is addressed to explain and urge the acceptance of the report. Commissioners and staff should also identify those who can influence others to accept the advice and brief them and assist them in their supporting advocacy. Advocacy for implementation is a strategic approach that builds broader community support for the report.

#### **Section 8. Internal Protocols on Advisory Documents.**

- a) All requests for written advice shall be forwarded to the Regional Office through the Policy Unit.
- b) The Policy Unit, together with the provincial office concerned, shall discuss the main points to develop the advice, the main elements of which are set forth under Sections 5 and 6 hereof.
- c) For human rights concerns of a local or provincial nature, the Provincial Office shall take the lead in drafting the document, subject to the guidance and review of the Policy Unit.
- d) For human rights concerns of regional (Bangsamoro) or national remit, the Policy Unit, in consultation with the Protection and Promotion Divisions, shall take the lead in drafting the advice document.
- e) All recommendations and advice shall be made in the name of the Commission and not of individual staff members or Commissioners.



## APPROACHES AND GUIDING PRINCIPLES

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As a creation of a law that is a product of decades of armed struggle and years of peace negotiations, the BHRC is mindful of its role in protecting and promoting the rights of the Bangsamoro, among them the right to self-determination.

In advising the Bangsamoro Government toward taking measures for the increased protection and fulfillment of children's human rights, the BHRC shall endeavor to maintain a balance between international, normative frameworks, domestic, legal, and policy mandates, and local, normative principles shaped by the people's faith and morals.

The leadership of the BHRC believes that there is no conflict between the *core principles* that underpin religious or moral values on one hand and human rights principles on the other. The Commission will not cease to find common grounds between faith and the law. However, the BHRC will exercise due care not to be drawn into extended religious debates, of what is proper and not proper as defined by the different religious teachings. That is not the work of a human rights institution. Instead, where there are differences in interpretations, or where law and faith find themselves diverging on different paths, the BHRC will bring back the discourse on one basic concept: *Human dignity*. To cut through, it will answer such basic questions as the following: Did the acts complained of result in harm? Did the acts constitute an affront to the human dignity of the person?

The Commission shall continue to highlight specific issues of women and other marginalized groups in the Bangsamoro given the region's history and current position in the national, legal, and political landscape. Thus, it shall always seek to amplify voices that are not usually heard in the national human rights discourse—that of the people of the Bangsamoro.

The BHRC recognizes the contributions of all actors in the protection and promotion of women's human rights, and it acknowledges the mandates of each, especially among the Bangsamoro government agencies. Thus, the BHRC adopts a cooperative and complementary approach to its work by working closely with other agencies in the BARMM such as the PNP, the BWC, and the *Darul-Ifta*, among others. This it will do without sacrificing its independence.





### ANNEX A: A QUICK GUIDE TO PROMOTING WOMEN'S PARTICIPATION<sup>20</sup>

#### Why is women's participation important?

Gender mainstreaming is one of the strategies we use to promote gender equality. It is a process of ensuring that all of our work, and the way we do it, contributes to gender equality by transforming the balance of power between women and men. This means ensuring that both women and men are consulted and that their different needs and perspectives are considered at all stages of the program cycle—design, implementation, monitoring, and evaluation—to be sure that our programs benefit women and men equally, do not harm or exclude women, and help to redress existing gender imbalances.

However, women are often prevented from contributing to decision-making in both the private and public spheres. In many communities, men dominate over women, women's opinions are not heard or valued, and decision-making structures exclude women. We need to take concrete steps to ensure that women are included and actively participate in community-level meetings and decision-making bodies such as those relating to disaster risk management, peacebuilding, water management, grain banks, microcredit schemes, and school management. We need to be sure that:

- **We understand the issues that poor women face.** Decisions and actions need to be based on the knowledge of different needs and experiences, which can only be done by talking to both men and women.
- **We do not miss out on the knowledge, skills, and experience that women have to offer,** and which have the potential to benefit the whole community.
- **We do not reinforce inequality.** If women's voices are not heard, their issues will remain invisible and we may not meet their basic needs. Our program interventions may even further disadvantage women, for example, by having a negative impact on their workload or security or by reinforcing men's power.

#### What does participation involve?

Firstly, you need to take practical steps to make sure that women can attend meetings and get involved in committees, for example:

- Think about the time of the meeting and how this fits with women's work and domestic responsibilities. Talk to women to find a time that is most suitable for them (e.g., avoiding mealtimes).
- Many women have childcare responsibilities. Think about providing a crèche or making other childcare arrangements.
- Think about women's mobility and security and the accessibility of the venue. Consider providing transport and/or covering transport costs.
- Choose a venue that women will be comfortable with (e.g., Somewhere they would normally congregate or where women and men are used to coming together, not a venue that is traditionally male-dominated).

<sup>20</sup> Oxfam GB, Quick Guide to Promoting Women's Participation, January 2014.  
<https://oxfamlibrary.openrepository.com/bitstream/handle/10546/312423/ml-quick-guide-to-women's-participation-300114-en.pdf>

- Make sure women know about the meeting and that they are specifically invited to attend by an appropriate person (e.g., a village elder).
- If the meeting is likely to interfere with women's income-generating opportunities, consider whether paying them for their time would be appropriate.
- Bear in mind any cultural considerations such as restrictions on women and men mixing, and think about how to alleviate these (e.g., through seating arrangements). If men and women really cannot sit in the same room, hold separate meetings and ensure that women's views are clearly communicated.
- Consider whether the focus of the meeting is likely to influence who attends. For example, men may be more likely to attend meetings about construction and less likely to attend those about health issues if they consider this to be women's responsibility.

However, participation is about more than women being present. You must also take steps to ensure that women's involvement is meaningful—that their voices are heard and that their viewpoints are taken into consideration during meetings:

- Meet with women to explain that their participation is important and that their views do matter; build their confidence so that they feel that they have the right to get involved in matters that affect their lives. Many women, such as a certain coffee farmer in the Dominican Republic, do not believe that they have the capacity: "It's difficult for women to take part in meetings because we have to do all the housework and look after the children. Many of us are illiterate, and we get bored in the meetings. But there are some who can, who know how to write and how to be leaders just as well as the men."
- Similarly, meet with men to break down their resistance to women's participation and gain their support. Understand that they may feel threatened and explain how women's involvement can be beneficial to the whole community.
- Ensure that you have a full understanding of the dynamics, structures, attitudes, beliefs, and power in the community to anticipate possible barriers. Consider how BHRC staff or partner presence will affect dynamics (e.g., the presence of female staff may make it easier to involve women). Make sure that the meeting is conducted in a language that everybody will understand.
- Find ways to give women the confidence to voice their opinions. For example, (a) Invite women to sit together for mutual support; (b) Actively invite them to speak; or (c) Work in small groups, which may be less threatening.
- Encourage a full debate of different viewpoints before decisions are taken; reinforce that there is no "right" opinion.



## ANNEX B-1: INTEGRATING GENDER IN HUMAN RIGHTS REPORTS

The following is an excerpt from the UN OHCHR Publication "Integrating a Gender Perspective into Human Rights Investigations: Guidance and Practice"<sup>21</sup> that BHRC personnel may find useful in drafting human rights reports:

While each investigation mandate is different, and structure and emphasis will vary, gender-specific concerns should be addressed both in standalone sections and throughout the report. The responsibility of integrating a gender perspective falls on the whole team. When Gender Advisers are part of the team, they have the primary responsibility to provide advice and inputs on all sections of the report to ensure the consistent integration of a gender perspective. Addressing women's concerns in each section, including the background/context, methodology, legal analysis, findings, and recommendations, allows for the proper representation of the experiences of the entire population. As stressed above, disaggregated data is particularly important in this regard, but it is only one element that allows a gender analysis to be undertaken.

The report should address any possible gaps in information and/or challenges to obtaining information due to gender dynamics and gender-based discrimination to not present a distorted image of reality.<sup>61</sup>

The inclusion of background information and the contextualization of the situation of women, men, and others can support arguments related to violations of women's rights and the gendered consequences of violations.

Several team members are usually involved in the drafting of the report. The team should make sure that the gender analysis is coherent throughout the different sections of the report, avoiding inconsistencies and contradictions. For example, if information related to violations of women's human rights is presented in the background information section, it must also be addressed in the findings section. The legal analysis should include findings on the specific provisions of international law that have been breached, considering the entire applicable legal framework relevant for the investigation, including the relevant international human rights and humanitarian legal framework and international criminal law, if pertinent to the mandate. In doing so, gender equality standards should not be overlooked.<sup>62</sup>

<sup>21</sup> UN Office of the High Commissioner for Human Rights (OHCHR). Integrating a Gender Perspective into Human Rights Investigations: Guidance and Practice, 2018.  
[https://www.ohchr.org/sites/default/files/Documents/Publications/IntegratingGenderPerspective\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/IntegratingGenderPerspective_EN.pdf)

## ANNEX B-2: GENDER-SENSITIVE LANGUAGE<sup>22</sup> IN WRITING REPORTS

Using gender-sensitive language and disaggregated data is an important step toward achieving gender equality. It helps to avoid a style of writing that “erases” women and omits phrases that reaffirm and perpetuate harmful gender stereotypes.<sup>63</sup> Reports should avoid language that subsumes women to homogenous categories as “a group,” when in fact they represent half of the world’s population, or that include women and children in the same group. Stereotyping attributes are also common; for example, reports should avoid portraying only men as leaders and women as followers, or men as active and women as passive and “vulnerable.” Women and girls are not intrinsically vulnerable or victims by nature. This stereotypical language denies women and girls’ agency, depicting them as weak and passive bystanders of conflict and agentless victims, and builds a distorted, male-dominated narrative that contributes to women and girls’ exclusion from decision-making, transitional justice, peacebuilding, and reconciliation efforts.

For example:

- Always use available disaggregated data on age and sex (e.g., Instead of saying “five journalists were arbitrarily detained,” use “three female and two male journalists were arbitrarily detained”; instead of saying “twenty-four persons including two women and two children,” use “twenty men, two women, one boy, and one girl”).
- It is particularly important to avoid referring specifically to women when speaking only about certain violations (e.g., sexual violence), while using gender-neutral nouns when reporting on others (e.g., killings, torture, and disappearances).
- Instead of using masculine pronouns in situations where the gender of the subject(s) is unclear or variable, use the plural, “he/she” or, when possible, rephrase and omit the pronoun.
- Avoid using gendered nouns, such as “mankind,” and replace them for example, with “people” or “men and women.”
- Women and men are often associated with certain professions and other stereotyped roles. Words such as “housewife” and “policeman” should be replaced with “homemaker” and “police officer.”
- Avoid terms that are derogatory toward women or reinforce harmful stereotypes.

### CHECKLIST FOR REPORT WRITING

- Integrate gender throughout the chapters of the report; gender analysis should not be an occasional add-on or the subject of an occasional paragraph, but rather, a core part of the report.
- Ensure that gender-sensitive language is applied consistently throughout the report.
- Use age and sex gender-disaggregated data and avoid gender-neutral terms that could hide the experiences/roles of women.
- Use the checklist provided in Chapter 15 of the *Manual on Human Rights Monitoring* to integrate gender into reports.

<sup>22</sup> UN Economic and Social Commission for Western Asia (UNESCWA). Gender-Sensitive Language: Guidelines. [https://archive.unescwa.org/sites/www.unescwa.org/files/page\\_attachments/1400199\\_0.pdf](https://archive.unescwa.org/sites/www.unescwa.org/files/page_attachments/1400199_0.pdf)

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- Acknowledge that “gender” implies more than women’s issues and sexual violence.
  - Prioritize issues to be included in the report while keeping in mind the most serious gender-based violations/impacts.
  - Include background information in the report and contextualize the situations of women and men.
  - Include a gender perspective when analyzing a pattern of human rights violations such as multiple or intersectional and/or compounded discrimination.
  - Ensure that the international human rights legal framework is used along with international humanitarian and international criminal law, when applicable, in the legal analysis of the report, fully reflecting the gender-specific impacts and human rights violations that occurred during the situation under investigation.
  - Pay attention to consistency between the findings and the recommendations, making sure that relevant gender-specific findings and conclusions on gendered violations are accompanied by tailored recommendations.
  - Ensure that the report includes relevant recommendations that will contribute to ensuring respect for women’s human rights and the enhancement of women’s status and security.

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