

**Institutional Review
& Performance Assessment**
Commission on Human Rights

FINAL REPORT
January 2003



Komisyon ng Karapatang Pantao
(Commission on Human Rights)

*Institutional Review
Performance
Assessment*

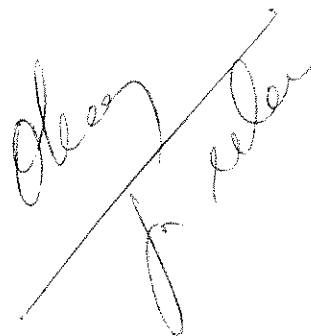
FINAL REPORT

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MS. ROSETTE LIBREA
Director, Planning and Management Office
Commission on Human Rights
Commonwealth Avenue, Diliman
Quezon City



Dear **Director Librea**:

Happy New Year!

We are pleased to submit for your consideration the attached Final Report on the **Institutional Review and Performance Assessment of the Commission on Human Rights**.

Thank you for the opportunity to be of service to the Commission.

Best Regards!

Very truly yours,


VIENNA A. DIUCO
Consultant

*Institutional Review
Performance
Assessment*

FINAL REPORT



the public sector
capacity building organization

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Chapter 1

GENERAL INTRODUCTION

1 BACKGROUND OF THE STUDY

1.1 Introduction

1.1.1 In September 2001, the Commission on Human Rights (CHR) requested the United Nations Development Programme (UNDP) for technical and financial assistance for the institutional review of the CHR. The UNDP together with the CHR reviewed technical proposals from three proposing consulting firms. The Center for Public Resource Management, Inc. (CPRM) was eventually awarded the engagement for the evaluation of the CHR.

1.1.2 The CPRM prepared and submitted to the Commission a preliminary report on the CHR evaluation on 04 March 2002, and presented it to the Commission *en banc* and the directors on 11 March 2002. A presentation of the report, together with some revisions, was made in detail during the strategic planning and validation workshop held on 18-20 March 2002 at the Philippine Judicial Academy Training Center, Tagaytay City. The workshop was participated in by central office division chiefs, central and regional directors and the Commission members.

1.1.3 This final report revises and completes the preliminary report, inputting the comments, suggestions, views, perspectives and specific reform ideas of the Commissioners, directors and staff of the CHR; comments of the international consultants; guidance of Ms. Amparo Tomas of UNDP; and the consultant's own final review and suggestions thereon.

1.2 Study Objectives

1.2.1 The CHR study is guided by the following objectives:

- a) To examine the Commission's performance in pursuing each of its Constitutional mandates, implementing its two main programs of human rights promotion and protection, and carrying out its flagship programs and special projects;
- b) To assess the Commission's formal structure, functions and powers, considering the essential elements of a well-functioning human rights entity, as identified internationally, which consist of independence, defined jurisdiction with associated adequate powers, accessibility, cooperation, operational efficiency and accountability;

- c) To assess CHR's institutional capacity in relation to its mandate, functions, programs and new challenges;
- d) To define the proper role of the Commission in promoting and protecting human rights in the Philippines within the context of the current socio-economic and political situation;
- e) To define the proper relationship of the CHR with other stakeholders (Executive, Branch, Legislature, Judiciary, private sector organizations, international community and civil society), given their roles in human rights promotion and protection; and
- f) To formulate the capacity building program for the CHR such that its internal capacity will match with defined challenges and objectives that it must address.

2 SCOPE AND DELIMITATION

2.1.1 The CHR institutional study reviews the compliance by the CHR with the Paris Principles which prescribe the status and organization of national human rights commissions, the assessment of CHR's programs and their focus, and the review of the Commission's internal capacities – internal functional configuration and structure, key operating systems and resources.

1.3.2 The assessment and the subsequent recommendations are guided by CHR mandate under the Philippine Constitution, the study focusing on examining the internal capacity of the CHR in relation to said stated mandate.

1.3.3 The study further reviews the factors that enable or inhibit the effective pursuit by the CHR of its legal mandate, and recommends institutional improvements that will better enable CHR to achieve its objectives.

3 EXPECTED OUTPUTS

3.1.1 The main output of the study is an evaluation report which contains the following components:

- An assessment and reform framework, which outlines the analytic framework for the study and the principles and parameters that guide the identification and design of institutional improvements;
- An organization and systems assessment, which contains the results of the evaluation of the programs, formal structural configuration, key operating systems (corporate planning and policy management systems, financial and administrative systems, service delivery systems and research and development systems) and resources;
- The proposed reform measures, which address the issues identified and defined during the assessment; and

- Implementation strategies, which outline and organize the various actions required in putting the reforms in place.

4 ORGANIZATION OF REPORT

This report is organized into the following chapters:

- CHAPTER 1 - provides a general introduction to the study outlining its context, scope, objectives, and expected outputs
- CHAPTER 2 - presents the assessment of the human development situation of the Philippines which provides the context for defining human rights issues, guiding the focus of the CHR programs, and evaluating the implications of the Commission's current institutional status and capacity
- CHAPTER 3 – covers a review of the performance of the CHR with respect to its various programs on human rights promotion and protection
- CHAPTER 4 - reviews the institutional framework of the Philippines human rights system and situates the CHR within it, focusing on compliance with the Paris Principles and identifying key reforms that will address the defined issues
- CHAPTER 5 – presents the internal capacity assessment of the CHR, examining the internal structural and functional configuration, key operating systems and processes and staffing of the Commission, and defining their reform implications
- CHAPTER 6 – contains the proposed reform program and implementation strategies

5 PERIOD COVERED BY THE STUDY

- 5.1.1 The study was conducted to cover the structure and operations prevailing as of April 2002. This period covered the tenure of the old Commission. Where parts of the study covered the tenure of the new Commission the new Commission is cited accordingly. While the study identified reform issues associated with the old Commission, several recommendations contained in this report benefited from the guidance of the new commission.

Chapter 2

CONTEXT OVERVIEW

1 INTRODUCTION

- 1.1.1 This chapter contains an overview of the Philippines and its human development situation. It is presented to provide the general context upon which certain understanding of the sources, causes and dynamics of disadvantage, and inequality may be achieved, and within which areas where important human rights issues are likely to occur may be identified.
- 1.1.2 Such identification of areas with potential human rights issues will provide some perspectives from which the review of the role and focus of the CHR and the performance of its programs, the formulation of recommendations thereon, and the definition of institutional capacity requirements can be anchored.

2 OVERVIEW OF PHILIPPINES

2.1 General History

- 2.1.1 Ethnic and cultural diversity and fragmented geography characterize the Philippines. Filipinos belong to a mixture of races, dominated by the Malay. Centuries of cultural and commercial relations with other Asian countries and almost four centuries of domination by Spain and the Americans created a Filipino character that is a peculiar blending of eastern and western ways of thinking and living, and of eastern and western values.
- 2.1.2 The influence of the east and west has created a unique mix of seemingly contradictory traits that epitomize the Filipino of today as described by historians. These include among others such traits as hospitality, patriotism, close family ties, respect for elders which is extended to respect for authority and power, loyalty, fatalism, lack of initiative, tendency to be indolent, sensitivity, childlike curiosity, cooperation and individualism, jealousy, "pakikisama" (which usually involves compromise in the spirit of camaraderie), "utang na loob" (debt of gratitude), and regionalism (Agoncillo, 1990).
- 2.1.3 These centuries of external political and economic domination produced the heroes that will forever serve as models of bravery, nationalism and national values. But it was also this long period which shaped the country's socio-economy characterized by the stark dichotomy between rich and poor and by distinct social classes. Further, this period paved the way for polarization particularly between those who held political power and those who felt disadvantaged.

- 2.1.4 Somewhere along the country's history are those that remained somehow untouched by the country's social, cultural, as well as political development and unbenefitted by the fruits of the consequent economic development that ensued. These peoples who are now named the indigenous peoples comprising about 10 million (or 13% of total population) and who reside for the most part in the less urbanized areas of the country have become disjointed members of the erstwhile modernized economy, as well as social and political culture.
- 2.1.5 Another group of peoples who has not been integrated into the fabric of westernization either during the Spanish colonization or American occupation is the Muslim population. Up to this day, the Muslims, most of who reside in Mindanao, observe their politics, system of justice, cultural norms, religious beliefs and traditions based on the Islamic law.
- 2.1.6 The political dynamics that operated within the country's history, particularly towards the later part of the American occupation where a democratic form of government was established by the Americans, would bring about the confrontation between the Filipino traditional ways and the new system. The Philippines copied the American form of government and created the three branches – executive, legislative and judiciary, without adopting federalism.
- 2.1.7 This new setup helped bring about the realignment of the people along the lines of a class consciousness that gave prime attention to the elite and encouraged the development of a new middle class of professionals. But soon the Americans noticed that only the form of democracy was visible and that the essence of democracy has yet to be developed among Filipinos. Ancient Filipino traditions continued to influence the actual operation of the new democratic government.
- 2.1.8 The elite did not abandon the traditional ways that maintained their socio-economic status. Soon the Americans discovered violations such as petty theft, non-observance of office hours and bribery. The rule of law, which the Americans exemplified, was considered by Filipinos as subordinate to the old traditions, based on kinship, compromise for the sake of camaraderie, debt of gratitude, and other values which they thought preserved societal harmony (Agoncillo, 1990).
- 2.1.9 The suspension of the writ of habeas corpus in 1971, its lifting on 7 January 1972 (Fernando, 1978) and the subsequent declaration of martial law on 21 September 1972 marked an important change in the political history of the country. During these years (1972-1986), there was no substantial separation of powers among branches of government and effective legislative, executive and, to a large extent, judicial powers resided in the dictator President. Martial rule which was ended by the famous EDSA revolution was marked among others by plunder, graft and corruption, over-centralization of governance, cronyism, and human rights violations and abuses through torture, disappearances, political oppression and murder.

- 2.1.10 Political fragmentation was already creeping into the Philippine society early in its modern history. Communism was well in operation during the Japanese occupation in 1942 – 1945 and remained to be a cohesive force even during the declaration of independence in 1946. The dissatisfaction by communist groups with the government and their stronghold on key agricultural areas and rural population made them a formidable force which the Marcos regime hoped to neutralize with the declaration of Martial Law in 1972 (Fernando, 1978).
- 2.1.11 But up to this day the communist organizations remain to be a strong political force. In Mindanao, the Muslims were never quite integrated into the national culture and politics, due to differences in their culture that pose obstacles to their integration into the mainstream of Philippine Society. The Moro Islamic Liberation Front (MILF) and the Mindanao National Liberation Front (MNLF) were already well organized as separatist movements (Fernando, 1978), and remain as key political problems that government is yet to effectively resolve.

2.2 Political and Socio-Economic Background

- 2.2.1 When democracy was restored in 1986 through the peaceful EDSA revolution, democratic institutions were re-established. The co-equal three branches of the government, legislative, judicial and executive, were restored and enshrined in the 1987 Constitution.
- 2.2.2 The newly installed democratic form of government provided the impetus for a series of socio-economic policy and governance reforms in the Philippines. Reforms in the liberalization and deregulation of the economy, privatization of public assets and enterprises, devolution of national governmental powers and functions, and efforts to streamline the core bureaucracy in the early 1990's firmly put in place the economic fundamentals and the principles of good governance which, together with a vibrant society, were key to the country's ability to weather the financial crisis in the late 1990's.
- 2.2.3 The Philippine economy is primarily agricultural with light industry emerging in light of rapidly growing urbanization. About 41.83% of employed labor force 1997 depended on agriculture but contributed only 22% of Gross Domestic Product. Rural poverty remains to be a significant part of the overall poverty problem.
- 2.2.4 Good economic performance in the early to mid 90's was not sustained for long. From 1999 to 2001 the pace of economic growth of the Philippines lagged behind that of its ASEAN neighbors and registered lowest in relation to Korea, Malaysia, Thailand and Indonesia in 2001 (Table 2.1). Declining economic growth creates tremendous complications in human rights as they affect quality of life, economic equity and equality, and access to opportunity and resources.

TABLE 2.1
GROSS DOMESTIC PRODUCT OF SELECTED ASEAN COUNTRIES, 1995-2001
(Annual Growth Rates in Percent)

COUNTRY	1995	1996	1997	1998	1999	2000	2001
Republic of Korea	8.9	6.8	5.0	(6.7)	10.7	7.5	6.0
Singapore	8.4	7.5	8.0	1.5	5.4	5.9	6.2
Philippines	4.7	5.8	5.2	(0.5)	3.2	3.8	4.3
Indonesia	8.2	7.8	4.7	(13.2)	0.2	4.0	5.0
Malaysia	9.8	10.0	7.5	(7.5)	5.4	6.0	6.1
Thailand	8.9	5.9	(1.8)	(10.4)	4.1	4.5	4.6

SOURCE: Asian Development Outlook, 2000 ADB in Philippine Statistical Yearbook, 2000

2.2.5 In 1999 the Philippines was second lowest in per capita GDP, Indonesia being the lowest. But the Philippines had the lowest GDP per capital growth rate registering at 0.9% while Indonesia's growth has been faster at 3.0% (Table 2.2)

TABLE 2.2
ECONOMIC PERFORMANCE OF SELECTED ASEAN COUNTRIES, 1999

INDICATOR/YEAR/ MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
GDP, 1999, IN PPP US\$ billions	282.6	82.1	7186.4	369.4	591.5	736.3
GDP per capita, ✓ 1999, in PPP US\$	3,805	20,767	8,209	6,132	2,857	15,712
GDP per capita annual growth rate, %, 1990-99	0.9	4.7	4.7	3.8	3.0	4.7

SOURCE: Human Development Report, 2001

2.2.6 The declining economic performance in the late 90's started to permeate the other sectors, indicated by an increasing poverty incidence as well as increasing unemployment and underemployment. In 1988 about 40% of Philippine households lived below the poverty threshold. By 1998, this declined to 31.8%. But by year 2000 poverty rose again registering at 34.2% (Table 2.3).

TABLE 2.3
POPULATION AND POVERTY, PHILIPPINES
Selected Years

INDICATORS	1988	1991	1994	1995	1996	1997	1998	1999	2000
Population (in millions) ¹		60.7	66.7	68.6	69.9	71.4	72.9	74.3	76.5
Poverty Incidence (% of population)	49.5	45.3	40.6	..	..	36.8	..	..	..
Poverty Incidence (% of households)	40.2	39.9	35.5	..	..	31.8	..	..	34.2

SOURCE: National Statistical Yearbook, 2000

2.2.7 The Philippines has a lower proportion of population in the labor force when compared to its ASEAN neighbors. In 1999 labor force population accounted for only 67.4% of total population aged 15-64 (Table 2.4), placing the Philippines higher only than Malaysia but lower than Thailand (85.7%), Indonesia (74.4%), and Republic of Korea (72.7%).

TABLE 2.4
POPULATION IN THE LABOR FORCE, 1999
Selected ASEAN Countries

COUNTRY	POPULATION AGES 15-64 (in millions)	POPULATION IN LABOR FORCE (in millions)	PERCENT OF LABOR FORCE TO TOTAL POPULATION
Republic of Korea	33	24	72.7
Singapore	2	2	100.0
Philippines	46	31	67.4
Indonesia	133	99	74.4
Malaysia	14	9	64.3
Thailand	42	36	85.7

SOURCE: 2001 World Development Indicators, World Bank

2.2.8 Notable in the labor force statistics in the Philippines is the slightly increasing unemployment rate starting 1998 and continuing through to 1999 when the full impact of the financial crisis was felt by the economy. Also notable is the large proportion of employed population who are underemployed which likewise experienced a significant annual increase starting 1997 through to 1999 (Table 2.5).

2.2.9 An increasingly larger proportion of underemployed population are found in the non-agricultural areas of work (Table 2.6) indicating the urbanization of the economy and the pressures that such urbanization process has created on the economic absorptive capacities of the country's cities.

2.2.10 The employment picture of the country which is characterized by relatively low participation rate and increasing unemployment as well as underemployment implies significant human rights dynamics at the workplace and within the economy as a whole that need to be monitored and provided appropriate interventions. This is particularly important because of the 32 million Filipinos employed in 1999 only 3.7 million representing 11.56% of total employed population are members of labor unions (Table 2.7).

TABLE 2.5
PROFILE OF LABOR FORCE AND EMPLOYMENT, PHILIPPINES
1990-1999

YEAR	HOUSEHOLD POPULATION 15 years old and above (in thousands)	PERCENT OF POPULATION IN LABOR FORCE	PERCENT OF LABOR FORCE EMPLOYED	PERCENT OF LABOR FORCE UNEMPLOYED	PERCENT OF EMPLOYED UNDER- EMPLOYED
1990	37,999	64.5	91.9	8.1	22.1
1991	39,114	64.5	91.0	9.0	22.1
1992	40,265	65.0	91.4	8.6	19.9
1993	41,453	64.7	91.1	8.9	21.4
1994	42,670	64.4	91.6	8.4	20.9
1995	42,770	65.6	91.6	8.4	19.8
1996	45,034	65.8	92.6	7.4	19.4
1997	46,214	65.5	92.1	7.9	22.8
1998	47,415	66.0	90.4	9.6	23.7
1999	48,637	65.8	90.6	9.4	22.1

SOURCE: Philippine Statistical Yearbook, 2000

TABLE 2.6
PROFILE OF UNDEREMPLOYMENT, PHILIPPINES
1990-1999

YEAR	IN PERCENT		
	VISIBLE UNDER-EMPLOYMENT % of total employed population	AGRICULTURE % of total under-employed population	NON-AGRICULTURE % of total under-employed population
1990	10.4	45.2	54.8
1991	10.7	45.3	54.7
1992	9.9	45.4	54.6
1993	11.1	45.8	54.2
1994	10.4	44.7	55.3
1995	9.8	44.1	55.9
1996	10.1	41.7	58.3
1997	10.5	40.4	36.8
1998	12.6	39.9	41.8
1999	11.4	39.1	60.9

SOURCE: Philippine Statistical Yearbook, 2000

TABLE 2.7
NUMBER AND MEMBERSHIP IN LOCAL INDEPENDENT UNIONS
AND PUBLIC SECTOR UNIONS, 1990-1999

YEAR	NO. OF UNIONS	NO. OF MEMBERS (in thousands)
1990	4,637	3,055
1991	5,236	3,113
1992	5,710	3,142
1993	6,340	3,197
1994	7,274	3,511
1995	7,882	3,587
1996	8,250	3,612
1997	8,822	3,635
1998	9,281	3,670
1999	9,849	3,731

SOURCE: Philippine Statistical Yearbook, 2000

2.3 Governance

- 2.3.1 The Philippines has made radical shifts in the form of government by establishing democratic institutions. It has undertaken bold reforms in the structure of government and in improving government accountability and integrity through the establishment of the legislative, judicial and executive branches; establishment of integrity bodies (Ombudsman, Sandiganbayan, Presidential Commission on Anti Graft and Corruption, Presidential Commission on Good Government); and strengthening of the existing ones (Commission on Audit, Civil Service Commission).
- 2.3.2 In spite of these efforts, the character of government has substantially remained the same. A World Bank Study on graft and corruption indicated that there is inequity in access to public services, cronyism and graft and corruption persists and pervades many levels of the bureaucracy, inefficient and deteriorating quality of public services have been noted.
- 2.3.3 It is commonly accepted that graft and corruption (GNC) is highly prevalent in the Philippines. The Office of the Ombudsman has reported that the Philippine government has lost about US\$ 48 billion to graft and corruption over the past 20 years. Relatedly the Commission on Audit indicated that corruption costs the government about PHP2 billion per year (World Bank, 2000).
- 2.3.4 Secretary Salvador M. Enriquez, Jr., while Secretary of the Department of Budget and Management (DBM), estimated that only about 60% of government funds go to real application in development projects and governmental activities. These estimates have serious implications on economic development, on poverty and on economic equity.
- 2.3.5 In its 2001 Corruption Perception Index, Transparency International has ranked the Philippines 65th (91st being the most corrupt) in terms of GNC. A survey by the Social Weather Station in 1999 showed that 62% of respondents and 70% of those who had direct experience with the courts are of the opinion that there is significant graft and corruption in the Judiciary (World Bank, 2000).
- 2.3.6 The World Competitiveness Report (IMD, 1998) has, on the other hand, ranked the Philippines 46th out of 49 countries in terms of effectiveness in addressing graft and corruption.
- 2.3.7 Every administration, from President Marcos to President Macapagal-Arroyo, has committed to eliminating graft and corruption as part of the major agenda of their administrations. However, the gap between the promise and the achievement remains very wide indeed.
- 2.3.8 While diagnostics and strategies abound, while the institutional framework for detection, apprehension and prosecution has been considerably strengthened, and while several programs have been implemented to improve governance and redefine government role, more effective strategies have yet to take off.
- 2.3.9 Reducing graft and corruption is an integral part of improving governance, and of enhancing trust and confidence in the government and its systems. The impact of graft and corruption on human rights may be subtle and indirect but substantial in that misuse

of public resources for private gains promotes poverty and inequality and reduces access to quality public services particularly by the poor. Increasing public awareness and involvement in anti-corruption efforts have been an encouraging development that will hopefully pave the way for long-term efforts.

2.3.10 Case congestion and delay characterize the courts. About 7 million cases, 80% of which were criminal, entered the courts from 1996 to 2000. Clearance rates (estimates of all cases adjudicated, archived and suspended during the year) averaged at 47%. Of this, archival of cases was significant which went up to 20% of clearance rates, indicating that the number of actual cases that reach judgment was even much lower. Courts are overloaded with cases, ill-equipped and with severely low budgets. The salary of judges is not competitive. The Supreme Court is having difficulties in filling vacancies so that about 30% of all judge positions has remained vacant in 2000.

2.3.11 The Judiciary has embarked on an ambitious and comprehensive judicial reform program that is aimed at improving the efficiency, integrity and public accountability of the judicial system. The reform program which is embodied in an Action Agenda for Judicial Reform (APJR) comprises of reforms in court management, court administration, quality of judges and justices, integrity enhancement, public education and improving access, and continuing improvement capacity of the judicial organization.

2.3.12 Graft and corruption is perceived to be rampant particularly among high-level government officials. However, aside from former President Estrada, no other "big fish" has ever been imprisoned or convicted.

2.3.13 Law enforcement is considered weak. The crime investigation and apprehension machinery is ill-equipped and under-funded. Many members of the police lack adequate training. For example, evidence on the crime scene could be destroyed if investigating officers do not have relevant and adequate training on evidence gathering and preservation. While the salaries and other compensation of police and military personnel have considerably been improved in relation to the rest of the bureaucracy, they remain low in relation to purchasing power. These institutional weaknesses have rendered the government's crime management agencies less effective in combating criminality these agencies have become prone to graft and corruption.

2.4 Philippines Human Development – Performance Overview

2.4.1 This section provides a summary review of human development in the Philippines, situating the country's accomplishment in relation to selected ASEAN neighbors.

2.4.2 The human development situation covers the quality of human well-being in the Philippines and reflects the collective effect of various social, economic and political factors on the well-being of the country's population. In particular, it embodies the composite impact of such country societal dynamics as socio-economic policy, public resource management efficiency and integrity, societal values, politics and culture, among others. This composite impact is measured by the capacity of the people to make choices, to have quality physical well-being, and to have access to a decent quality of life (UNDP, 2001).

- 2.4.3 A study made by the World Bank indicated that while the reforms achieved progress in key human development indicators on income, poverty, life expectancy and education, the pace of such progress is slower than that of other East Asian economies. In particular, the Philippines fared favorably than Singapore, Indonesia, Malaysia and Thailand in 1980, but have been overtaken by Singapore and Thailand by 1998 which had significantly higher and faster improvements in human development indicators (Table 2.8).

TABLE 2.8
HUMAN DEVELOPMENT INDEX OF SELECTED COUNTRIES

COUNTRY	1980	1985	1990	1995	1999
Republic of Korea	0.729	0.771	0.814	0.851	0.875
Singapore	0.753	0.779	0.816	0.855	0.876
Philippines	0.683	0.687	0.716	0.773	0.749
Indonesia	0.529	0.581	0.622	0.662	0.667
Malaysia	0.657	0.691	0.720	0.758	0.774
Thailand	0.645	0.675	0.713	0.749	0.757

NOTE: The Human Development Index is based on three indicators: longevity as measured by life expectancy at birth; educational attainment as measured by a combination of adult literacy (2/3 weight) and the combined first, second and third level gross enrolment ratio (1/3 weight); and standard of living as measured by real GDP per capita in US \$.

SOURCE: Human Development Report, 2001

- 2.4.4 The Philippines lags behind as second to the lowest, in relation to its ASEAN neighbors in several human development indicators (except education). In particular, the Philippines is lower than Singapore, South Korea, Malaysia and Thailand in life expectancy, gross domestic product per capita, and overall achievements in human development expressed as human development index (Table 2.9). Most notable is that the Philippines has the highest poverty incidence which registered at 36.7% in 1994-99. On the other hand, Malaysia and Indonesia registered lower poverty incidence rates registering at 15.5% and 13.1% for the same period (Table 2.10).

TABLE 2. 9
COMPARISONS OF SELECTED HUMAN DEVELOPMENT INDICATORS
Selected ASEAN Countries, 1999

INDICATOR/YEAR/MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Life expectancy at birth, 1999 (no of years)	69.0	77.4	72.2	69.9	65.8	74.7
Adult literacy rate, 1999, (% age 15 and above)	95.1	92.1	87.0	95.3	86.3	97.6
GDP per capita, 1999, (PPP US)	3,805	20,767	8,209	6,132	2,857	15,712
Life Expectancy Index, 1999	0.73	0.87	0.79	0.75	0.68	0.83
Education Index, 1999	0.91	0.87	0.80	0.84	0.79	0.95
GDP Index, 1999	0.61	0.89	0.74	0.69	0.56	0.84
Human Development Index (HDI), 1999	0.749	0.876	0.774	0.757	0.667	0.875

SOURCE: Human Development Report, 2001

TABLE 2. 10
POPULATION IN POVERTY
Selected ASEAN Countries, 1994-1999

INDICATOR/YEAR/MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Population below income poverty line, 1994-1999, in percent	36.8	-	15.5	13.1	27.1	-

SOURCE: Human Development Report, 2001

2.4.5 The population of the poor is highest in Mindanao, particularly in rural areas, and lowest in the National Capital Region (Table 2.11). The distribution of poverty reflects the geographical inequity of income and economic opportunity. Inequality is manifested not just geographically but also among population groups. The Philippines has the highest inequality among selected ASEAN countries. In particular, the richest 20% of its population has 63% to total country income and consumption while the poorest 20% has only 2.6% (Table 2.12).

TABLE 2.11
DISTRIBUTION OF POPULATION IN POVERTY *, PHILIPPINES
1994 and 1997

ISLAND GROUP/ REGION	TOTAL		URBAN		RURAL	
	1994	1997	1994	1997	1994	1997
Philippines	35.5	31.8	24.0	17.9	47.0	44.4
National Capital Region	8.0	6.4	8.0	6.4	-	-
Luzon	36.7	29.8	27.1	18.3	44.5	38.9
Visayas	38.2	38.3	28.5	23.6	44.2	46.7
Mindanao	47.6	44.6	38.1	32.0	54.0	51.3

* NOTE: Proportion of poor families to total number of families.
 SOURCE: Philippine Statistical Yearbook 2000, on Income Statistics

TABLE 2.12
INEQUALITY IN INCOME OR CONSUMPTION: COMPARISONS
OF SELECTED HUMAN DEVELOPMENT INDICATORS
Selected ASEAN Countries, 1999

INDICATOR/YEAR/ MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Richest 10% to poorest 10%	16.1	-	22.1	11.6	6.6	8.4
Richest 20% to poorest 20%	9.8	-	12.4	7.6	4.6	5.3
Share of income or consumption						
- poorest 10%	1.0	-	1.7	2.8	4.0	2.9
- poorest 20%	2.6	-	4.4	6.4	9.0	7.5
- richest 10%	46.7	-	38.4	32.4	26.7	39.3
- richest 20%	63.0	-	54.3	48.4	41.1	24.3

SOURCE: Human Development Report, 2001

2.4.6 Population growth rate is high at 2.4% from 1975-1999. This is higher than most of the Philippines' selected ASEAN neighbors, and is equal to Malaysia's. The Philippines has the highest proportion of young population with 37.9% comprising of people less than 15 years of age. This is enforced by a high fertility rate which registered at 3.6 per woman, the highest among the selected countries. This large vulnerable group creates tremendous pressure on the country's capacity to provide quality education and health

services, and to provide opportunities for adequate income to families with many dependents (Table 2.13).

TABLE 2.13
COMPARISONS OF SELECTED HUMAN DEVELOPMENT INDICATORS
Selected ASEAN Countries, 1999

INDICATOR/YEAR/ MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Total population, 1999 (in millions)	74.2	3.9	21.8	62.0	209.3	46.4
Annual population growth rate, 1975- 99, in percent	2.4	2.3	2.4	1.7	1.8	1.1
Urban population, 1999, % of total	57.7	100.0	56.7	21.2	39.8	81.1
Population under age 15, % of total, 1999	37.9	22.0	34.5	27.0	31.3	21.2
Population aged 65 and above, % of total, 1999	3.5	7.0	4.1	5.1	4.7	6.8
Total fertility rate per woman 1995- 2000	3.6	1.6	3.3	2.1	2.6	1.5

SOURCE: Human Development Report, 2001

2.4.7 The position of the Philippines as second lowest among selected ASEAN neighbors in health and sanitation is for the most part consistent for other human development indicators. Among six countries, the Philippines ranks 4th in terms of people using adequate health facilities, and 5th in terms of people using improved water resources. It ranks highest with respect to number of physicians per 100,000 population, and comparatively higher than its neighbors in public health expenditures, but lowest in percent population with access to essential drugs. The Philippines has the second highest infant mortality rate and underweight children (Table 2.13). Seeming inconsistency in related sector statistics suggests corresponding inconsistencies in the policy framework and sector development programs of the government.

TABLE 2.13
COMPARISON OF SELECTED HUMAN DEVELOPMENT INDICATORS
Selected ASEAN Countries, 1999

INDICATOR/YEAR/ MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Population using adequate health facilities, percent, 1999	83	100	98	96	66	63
Population using improved water sources, percent, 1999	87	100	95	80	76	92
Population with access to essential drugs, percent, 1999	66	100	70	95	80	99
No. of physicians per 100,000 persons, 1990-98	123	163	66	24	16	136
Undernourished people, percent of total population, 1996/98	21	Na	Na	21	6	Na
Children underweight for age, % of under 5 years, 1995-2000	28	Na	18	19	34	Na
Infant mortality rate, per 1000 live births, 1999	31	4	8	26	38	5

SOURCE: Human Development Report, 2001

2.4.8 The Philippines has performed fairly in the area of education as compared to other countries in the ASEAN. In particular, it ranks third out of six ASEAN countries in terms of adult and youth literacy rate, and public education expenditures (Table 2.14). However, much remains to be done in improving the quality of education, as well as in focusing government budgetary priority to basic education (DepEd TEEP Study on Decentralization of Basic Education 2000).

2.4.9 The Philippines has comparatively lower debt service in relation to GDP than Thailand, Indonesia and Korea. However, problems in revenue collection efficiency, graft and corruption, as well as issues on the efficiency and prioritization of public expenditures (such as very huge salary budget and pork barrel funds) continue to undermine the quality with which public debt can effectively generate socio-economic returns and contribute substantially to enhancing overall human development.

TABLE 2.14
COMPARISONS OF SELECTED HUMAN DEVELOPMENT INDICATORS
Selected ASEAN Countries, 1999

INDICATOR/YEAR/MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Public education expenditures, % of GNP, 1995-97	3.4	3.0	4.9	4.8	1.4	3.7
Adult literacy rate, % age 15 years and above, 1999	95.1	92.1	87.0	95.3	86.3	97.6
Youth literacy rate, % age 15-24, 1999	98.5	99.7	97.3	98.8	97.5	99.8

SOURCE: Human Development Report, 2001

TABLE 2.15
COMPARISON OF SELECTED HUMAN DEVELOPMENT INDICATORS
Selected ASEAN Countries, 1999

INDICATOR/YEAR/MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Public Expenditure on Education, % of GNP, 1995-97	3.4	3.0	4.9	4.8	1.4	3.7
Public Expenditure on health, % of GDP, 1998	1.7	1.2	1.4	1.9	0.7	2.3
Military Expenditure, % of GDP, 1999	1.2	5.3	2.3	1.8	1.1	2.8
Total debt service, % of GDP, 1999	8.8	Na	5.9	13.2	12.5	10.6

SOURCE: Human Development Report, 2001

2.4.10 It is in the area of promoting gender equality that the Philippines has made significant strides in relation to its ASEAN neighbors. In particular, the proportion of literacy rate for both male and female adults is almost the same, 94.9% for females and 95.3% for males.

2.4.11 However, like other ASEAN women, Filipino women earned much lower than their male counterparts, although the Philippines registered the highest literacy ratio for women of 55% in 1999 vis-à-vis those of other ASEAN countries. This is a positive sign on the income capability and opportunity of Filipinas.

2.4.12 The Philippines is also leading in increasing women participation in parliament and in senior management positions. Females occupy 63% of technical and professional workers. Inasmuch as the average income of women is only 55% as compared to that of

the male, improvements in the recognition of the professional status of women must be pursued (Table 2.16).

TABLE 2.16
GENDER EQUALITY: COMPARISON OF SELECTED HUMAN DEVELOPMENT INDICATORS,
Selected ASEAN Countries, 1999

INDICATOR/YEAR/ MEASUREMENT	PHILIPPINES	SINGAPORE	MALAYSIA	THAILAND	INDONESIA	REPUBLIC OF KOREA
Adult literacy rate, % age 15 and above, 1999						
- female	94.9	88.0	82.8	93.5	81.3	96.2
- male	95.3	96.2	91.1	97.0	91.5	99.1
Adult literacy, female rate as % of male rate, 1999	100	92	91	96	89	99.8
Youth literary, female rate as % of male rate, 1999	100	100	100	99	99	100
Estimated earned income, PPP US\$, 1999						
- female	2,684	13,693	5,153	4,634	1,929	9,667
- male	4,910	27,739	11,183	7,660	3,780	21,676
Seats in parliament held by women, % of total, 2001	11.8	6.5	14.5	Na	8.0	5.9
Female legislators, senior officials and managers, % of total, 1990-99 latest year available	33	21	21	22	Na	5
Female professional and technical workers, % of total, 1990-99 latest year available	63	42	44	55	Na	31
Ratio of estimated female to male earned income, 1994-99 latest year available	0.55	0.49	0.46	Na	Na	0.45

SOURCE: Human Development Report, 2001

2.5 Human Rights Practices

2.5.1 The Philippines country report on human rights practices published in 1999 by the United States Department of State, the CHR performance reports, and the Philippine Human Rights Plan 1996-2000 summarized the human rights issues and conditions in the Philippines. The following are included among these issues.

- The government generally respects the human rights of citizens. However, there are reports on extra judicial killings, tortures, disappearances, arbitrary arrests and detentions and physical abuses of suspects and detainees. The CHR has reported

that the police and military are the top abusers of human rights, followed by the National Democratic Front, the military arm of the communist party. The police and military have been involved in crimes such as kidnappings, drugs, and illegal logging. They have been known to harass human rights activists.

- Government enforcement agencies, particularly the police and military, have remained weak and laden with corruption. They failed to provide basic human services. Inadequate funding for enforcement agencies and pay render the bureaucracy prone to ineffectiveness and corruption. Prisons are overcrowded, providing sub-human living conditions. Government has been generally ineffective in curbing police and military human rights abuse and criminality.
- The court system remains vulnerable to corruption. Courts are overloaded with cases and severely under-funded and ill-equipped. Judges are paid non-competitive salaries, resulting in the accumulation of vacant positions equivalent to almost 30% of the total authorized judge positions. These factors contribute to case congestion and delay, graft and corruption and vulnerability to miscarriage of justice.
- High-ranking officials in the government are involved in graft and corruption and even criminal acts; yet, there has been no conviction for such actions.
- About 5 to 6 million overseas Filipinos are disenfranchised because the absentee voting bill has not been passed.
- Cases of involuntary disappearances, torture, brutal killings and kidnappings are invariably reported particularly by kidnap for ransom syndicates, the communist groups, and elements in the Muslim separatist movements. Some police and military personnel and even politicians and government officials are suspects of being involved in these crimes. To date however, little has been effected in solving, much less reducing, these problems.
- In urban areas, squatting and the government's response to the issue through eviction have resulted in displacement, social conflict and perpetuated homelessness among urban poor people.
- Domestic violence against women, rape, and sexual harassment in work, prostitution and trafficking of women continue to be problems, particularly since many of these cases are unreported.
- The need to improve the legal framework for human rights is indicated in particular concerns like suffrage, women's rights, working youth, rights of students, children's rights, intellectual property rights, rights of Muslims, and other aspects that affect various sectors.

3 SYNTHESIS AND IMPLICATIONS FOR CHR

3.1 Relevance and Usefulness of the Context Overview

3.1.1 The context review presents a picture of the political and socio-economic and cultural profile of the Philippines within which areas of concern for human rights may be identified. By determining these areas of concern, the initial step towards a deeper probe into the matter and analysis of the actual/prevaling human rights issues will be made, which in turn will provide one of the bases for the review of CHR programs and performance, and the subsequent identification and definition of the appropriate reforms.

3.2 Implications of the Context Review

3.2.1 An analysis of the human development situations in the country under the context review is relevant in identifying actual and potential human rights issues. The implications of the context review on the CHR are many and profound. The review identifies several socio-economic and political problems, as well as problems in governance and justice. They are of such magnitude that they create situations which are extremely vulnerable to human rights violations. The context review addresses such questions as: "What role did CHR play to counter these situations?" and "What impact did the CHR programs have in combating practices that are violative of human rights?"

3.2.2 Table 2.17 indicates some examples of areas of concern with potential human rights issues and their implications to CHR's functional jurisdiction.

TABLE 2.17
EXAMPLES OF AREAS OF CONCERN, POTENTIAL HUMAN RIGHTS ISSUES
AND IMPLICATIONS TO CHR

EXAMPLES OF AREAS OF CONCERN	EXAMPLES OF AREAS WITH POTENTIAL HUMAN RIGHTS ISSUES	IMPLICATIONS TO CHR
1. GOVERNANCE AND ECONOMIC MANAGEMENT	1.1 geographical and demographic inequity in public resource allocation	1. CHR to assess/monitor/ independently report/publicly denounce or conduct public information/ education on human rights implications of and their comments on government economic and resource allocation policies, and on the human rights issues associated with graft and corruption
	1.2 impact of economic policies on equality of economic opportunity and distributive equity	
	1.3 lack of access to and poor quality of public services, weak enforcement of laws	
	1.4 graft and corruption, government and high ranking officials involved in criminal activities	
2. POVERTY	2.1 homelessness and squatting	1. CHR to analyze, monitor, independently report and educate the public on the poverty implications of government policies, on human rights implications of level of access to
	2.2 malnutrition, hunger, diseases	

EXAMPLES OF AREAS OF CONCERN	EXAMPLES OF AREAS WITH POTENTIAL HUMAN RIGHTS ISSUES	IMPLICATIONS TO CHR
	2.3 lack of choice	public services, and on lack of public education thereon
	2.4 vulnerability to economic and political abuse	2. CHR to publicly denounce government actions that are directly violative of human rights
	2.5 ignorance	3. CHR to strengthen collaboration with NGOs and other pertinent organizations
3. EMPLOYMENT	3.1 terms and conditions of work	1. CHR to analyse, monitor, independently report and educate the public and labor force on government enforcement of labor laws and its activities to protect and promote the rights of workers
	3.2 organization of workers	2. CHR to independently monitor and evaluate extent of human rights violations in the workplace
	3.3 child labor	3. CHR to continuously review human rights implications of existing labor and related laws
	3.4 gender/age bias	4. CHR to strengthen collaboration with labor groups and pertinent NGOs
4. POLITICAL STABILITY	4.1 political fragmentation	1. CHR to monitor, evaluate and independently publicly report on the extent of human rights violations by military, police and government officials and personnel; to investigate violations and publicly denounce them; and to investigate and report on or publicly denounce failure of government to protect the rights of people in conflict areas or provide appropriate assistance or protection to victims/displaced people
	4.2 human rights violations associated with political conflicts (torture, murder, involuntary disappearances, etc)	2. CHR to improve advocacy for passage of legislation on right to vote of overseas Filipinos
	4.3 displacement of people in conflict areas	3. CHR to improve public awareness and education of people in conflict areas of their rights and the services that are due them
	4.4 overseas Filipinos deprived of their right of suffrage	

EXAMPLES OF AREAS OF CONCERN	EXAMPLES OF AREAS WITH POTENTIAL HUMAN RIGHTS ISSUES	IMPLICATIONS TO CHR
5. SOCIAL AND CULTURAL CONDITIONS	5.1 integration of indigenous peoples in the mainstream economy	1. CHR to independently monitor, evaluate and publicly report on the human rights status of vulnerable populations, and on government performance in promoting and protecting their rights 2. CHR to conduct public education program for vulnerable groups to improve their awareness of their rights and how to assert these rights
	5.2 gender equality among indigenous peoples and Muslims	
	5.3 population growth management policies and practices	
	5.4 prostitution, crimes against women	
6. JUSTICE	6.1 case congestion and delay	1. CHR to monitor, evaluate and independently report on the various cases filed in court on human rights violations in terms of delay, appropriateness/integrity of judgment, and adequacy of legal support to the victim
	6.2 graft and corruption in the Judiciary	
	6.3 weaknesses in the apprehension and investigation machinery of government	

3.2.3 Human rights reporting in the Philippines has focused more on the issues of human rights violations. Human rights conditions are generally measured by the number of incidence of violations and achievements rated based on the eventual resolution of the cases. But human rights violations are the front-end, visible symptoms of real human rights issues. At the core of these human rights violations are the back-end economic, historical, political and social dynamics that create inequality, establish governmental institutions, which are weak and prone to corruption, and render the citizenry ill-informed or powerless to exercise and assert their rights.

3.2.4 The historical, social, economic and political context suggests that front-end human rights issues prevailing in the Philippines indicate the following as underlying causes, among others:

- Evolved societal values that have shaped our politics and societal power structure;
- Governmental institutions, policies and program implementation measures that have been ineffective in correcting economic inequality, poverty and problems on access to public services, lack of/limited opportunities and resources particularly by the poor who are prone to abuse of authority, and graft and corruption; and
- Government's inability to achieve social integration.

- 3.2.5 Human rights protection has traditionally been a reactive concept. Human rights protection as demonstrated in the programs of the CHR is invoked in the instance of a complaint filed, or cases broadcast in media where CHR takes on the case on a *motu proprio* basis. But the natures of human rights require a rethinking of the concepts of human rights violation and protection.
- 3.2.6 In particular, human rights protection should be seen not only as a transactional act (e.g., providing legal assistance to victims of torture, or sexual abuse), but more importantly it should be addressed at the point where human rights abuse is made possible or tolerated. Human rights protection also means examining the legislative, policy and program environments and their vulnerability or permissibility to transactional or consequential violations of human rights. Laws, policies and programs that permit or are vulnerable to individual commission of abuse of other people's rights (transactional), or will result in the undue disadvantage of individuals or groups of individuals (consequential) will be considered violative of human rights.
- 3.2.7 If protection is to start at the causative factors of transactional and consequential human rights violations, what then is the essence of human rights promotion? This report posits that human rights promotion is concerned with building awareness, understanding, and pro-active support and compliance to human rights standards. Human rights promotion is also concerned with preventing actions either by the government, organizations or individuals that are violative of human rights on the one hand, and with improving the capacities of individuals to assert such rights, on the other.
- 3.2.8 Human rights promotion therefore deals with pursuing the sustained and long-term achievement of an environment where individual human rights are respected in government policies and programs and where citizens understand and assert their rights.
- 3.2.9 Table 2.18 presents a framework that illustrates the dichotomy between promotion and protection at transactional and environment setting levels.
- 3.2.10 For purposes of this study transactional level means at the instance where an individual commits abuse of another individual's human rights at point of personal interaction. Environment setting level, on the other hand, means decisions and actions put in place by the government, institutions and individuals that create an environment conducive or permissive of transactional or consequential human rights violations.
- 3.2.11 Consequential human rights violation occurs when an individual's rights are effectively violated by implementation of a law, organizational policy or program. An example of consequential human rights violation is when a squatter is effectively rendered criminal by the anti-squatting law.
- 3.2.12 The framework provides a conceptual guide in defining the potential role and interventions of the CHR in promoting and protecting human rights, and in ensuring a proper review of government compliance with international human rights standards. Defining roles and interventions based on the framework will correspondingly provide the basis for a review of the institutional structures and internal capacity of the CHR, and for defining the reforms.

TABLE 2.18
HUMAN RIGHTS PROMOTION AND PROTECTION
(Conceptual Framework for CHR Role Definition)

LEVELS	FOCUS OF HUMAN RIGHTS PROTECTION EFFORTS (Examples)	FOCUS OF HUMAN RIGHTS PROMOTION EFFORTS (Examples)
TRANSACTIONAL LEVEL	<ol style="list-style-type: none"> 1. Investigation of handling by govt. of human rights violation cases 2. Referrals for direct provision of legal and financial assistance to victims 3. Mobilization of NGOs to provide legal and financial assistance to victims 4. Independent reporting to the public on performance of enforcement agencies and judiciary 	<ol style="list-style-type: none"> 1. Advocacy for inclusion of HR awareness and understanding in education curricula 2. Programs to build HR awareness among citizens in specific sectors such as rural workers, overseas workers, indigenous peoples, etc. 3. Advocacy and advisory to government agencies in the identification and development of approaches and methodologies that ensure application of HR principles in their policies and programs
ENVIRONMENT SETTING, CONSEQUENTIAL LEVEL	<ol style="list-style-type: none"> 1. Advocacy to correct existing legislation, policies and government programs that permit transactional and consequential violations of human rights 2. Research, evaluation and independent public reporting of laws, policies and government programs that permit transactional or consequential violations of human rights 3. Independent reporting of human rights violations of law enforcement personnel 4. Independent reporting of the HR implications of government graft and corruption, budget allocation inequity, etc. 5. Independent reporting of CHR assessment of government compliance with treaty obligations 	<ol style="list-style-type: none"> 4. Independent reporting of level of government efforts to build human rights awareness and education among law enforcement personnel 5. Design and implementation of programs to improve human rights education of legislators

- 3.2.13 The Philippines' human development profile has profound implications for focussing the role of the CHR. In particular, while the CHR is mandated to directly address individual human rights violations, within limited resources, CHR should focus on those roles that have wider, deeper and long-term impact on human rights conditions at the societal level. This means that the focus of CHR's role should be on promotion and on the consequential aspects of protection.
- 3.2.14 This shift in focus must not be mistaken to mean that CHR will terminate or put at a standstill its current investigative and legal assistance activities, or the interventions that address transactional human rights violations. There are transactional violations (like those on the Kuratong Baleleng case) which have profound impact on human rights awareness and education particularly by the general public and can serve as strong and effective instruments for human rights education and promotion, that must be pursued by the CHR.
- 3.2.15 The recommended shifts simply mean that promotion and consequential protection must be deepened, widened and given more attention than what it is currently getting inasmuch as this intervention has deeper and longer-term impact on human rights awareness, societal capacity to assert and protect individual rights, and capacity to seek redress under the law.

Chapter 3

REVIEW OF PROGRAMS

1 ASSESSMENT APPROACH

1.1.1 Assessing program performance of the Philippines CHR has been difficult. First, it has no single performance indicator – such as profit or market share in the case of private organizations, that can be used to compare across different types of organizations or products. There are no clear performance indicators that can help illustrate how well the CHR organization is doing in meeting its objectives or achieving desired outcomes in the area of improving the human rights situation in the Philippines. There are no clear and structured means of generating quantitative and qualitative information to help determine its success or to track progress and provide a basis to evaluate and improve performance. Second, the CHR is responsible for public goods with low contestability and measurability. In such circumstances it is generally impossible to find performance measures that satisfy the ideal qualities of consistency, comparability, clarity, controllability, comprehensiveness, boundedness, relevance and feasibility. When the performance of a national human rights institution is measured, the metrics are unique to it and are not comparable to other organizations.

1.1.2 The evaluation of the CHR program performance would therefore use available quantitative and qualitative indicators, limited they may be in relation to the standards of performance indicators, in order to find answers to the following evaluation questions:

- **Independence and credibility.** Has the CHR demonstrated consistency of policies, established that it is independent and free of political influence, and illustrated existence of formal rules and proper coordination among units?
- **Accountability.** Has the CHR demonstrated its adherence to the formal rules that allow actual behavior to be tested against mandated standards to the public?
- **Relevance and Responsiveness.** Are the CHR programs relevant and responsive to the prevailing human rights environment and issues?
- **Accessibility.** Has it made itself accessible to the most vulnerable sectors of society?

- **Pro-activeness.** Has CHR researched on undocumented human rights abuses in specific sectors (such as labor)? Has CHR researched or investigated HR violations reported in the media by human rights and other groups? What has CHR done to protect human rights victims and combat human rights abuse aside from investigation and legal assistance? Has it demonstrated the will and the pro-activeness required to combat human rights abuse particularly by the police and military?
- **Effectiveness.** Has it succeeded in gaining public, as opposed to formal legitimacy? How far does its effectiveness derive from the bridges it has been able to build with other institutions of society? What has CHR accomplished in developing a stronger human rights culture – where our people have learned both how to defend their rights, as well as respect those of others? How far as it informed the public of the Commission's work and its services to them and on human rights? Has it contributed to improving the capacity of ordinary citizens to assert and exercise the rights that they understand? Has it contributed to improving the commitment of employers and those in power to respect human rights?
- **Service quality.** Are CHR's services leveraged to reach the most number of constituencies within limited resources? Are human rights victims given the appropriate services that effectively provide redress of their grievances?

2 ASSESSMENT

2.1 Independence and Credibility

- 2.1.1 The programs of CHR have strong focus on transactional protection (Table 3.1), which basically involves investigation of human rights cases, provision of legal services and referrals to other agencies, provision of forensic services, jail monitoring and provision of medical and financial assistance. About 63.56% of the total CHR appropriations for year 2002 is allocated for transactional human rights protection, and only 8.3% is provided for research, information and other human rights promotion activities.
- 2.1.2 The translation of these programs into specific projects and activities, diminishes in some instances the independence of the CHR. In cases of investigation of human rights violations, the CHR officer evaluates two things: the violation itself, and the observance by the enforcement agency of the processes required to ensure the protection of the rights of the victim.
- 2.1.3 Joint investigations with enforcement agencies on human rights violations in the regions involve the CHR officers in the conduct of the same investigation as that undertaken by the enforcement agency. As such, the nature of the investigation process may focus on evaluating the human rights case itself rather than the appropriateness of the conduct by enforcement agencies of such investigation in relation to human rights standards.

**TABLE 3.1
PROGRAM PROFILE OF CHR**

PROGRAM	ACTIVITIES	OPERATIONALIZATION
Human Rights Protection	1. Investigation	1.1 Documentation of cases 1.2 Forensic investigation 1.3 Monitoring litigation 1.4 Witnessing in court
	2. Legal Services	2.1 Legal counseling and advice 2.2 Referral to concerned agencies 2.3 Dialogue, conciliation 2.4 Operation of barangay HR centers to process complaints
	3. Jail Visitations	3.1 Monitoring of government compliance with international standards for jail conditions and rights of prisoners 3.2 Legal assistance and advisory
	4. Assistance	4.1 Financial assistance and medical services to victims, survivors, beneficiaries and heirs
Human Rights Promotion	1. Education and Training	1.1 design of training programs 1.2 conduct of training, lectures 1.3 dissemination of information Materials, press releases, press Conferences, radio programs, barangay assemblies 1.4 Advocacy to specific government agencies, particularly in pushing for programs to promote human rights implementation by these agencies
	2. Human Rights Planning and Monitoring	2.1 Coordination work with government agencies, NGOs and other institutions for the development of a national human rights plan 2.2 Monitors country human rights situation through internal operational reports on incidents and cases of violations

- 2.1.4 Another example of a CHR intervention which is not consistent with its independence is the coordination of the formulation of the human rights plan. The plan sets out the commitments of national government agencies with respect to the protection and promotion of human rights over the medium-term. The CHR's role in directly getting involved in the formulation, coordination and production of the plan, effectively renders it an internal participant to a function, responsibility and accountability of the government. Its role should have been to provide advisory and independent review of the merits of the plan. The CHR has not made an independent critique of the government human rights plan either on the quality of the plan itself or its performance.
- 2.1.5 An area where the CHR has demonstrated significant performance and credibility would be in the conduct of training. The CHR has initiated the formulation of training programs and has conducted direct training particularly among the military and the police. It has also established some mechanisms with law enforcement agencies where promotions in the military and police will require clearance from the CHR of any human rights violations. CHR has reported that there were actual promotions that were disapproved as a result of CHR's non-issuance of clearance and information of a pending human rights violation case against the concerned officers.
- 2.1.6 But, considering severe limitations in CHR resources, it cannot possibly satisfy the training requirements until and unless it is able to make agencies finance the services. CHR must consider rethinking its intervention and shift it from direct training to providing curriculum standards; mobilizing training organizations such as the academe and NGOs; and monitoring, advocacy and public reporting, so that such capacity for human rights protection and promotion be acquired by law enforcement agencies and indeed by the whole government.
- 2.1.7 The responsibility and accountability for capacity building rests with the government, and the CHR should instead invest its resources, for example, on making government accountable through independent public reporting of government capacity deficiencies and the inaction of their leaders.
- 2.1.8 The independence and credibility of the CHR is to a large extent determined by the independent-mindedness of its officials and personnel and the consistency of their actions and decisions. However, Dr. Aurora Parong, citing a 1999 TFDP report, pointed out that in some instances CHR acted as an apologist of the government rather than a protection service provider to human rights victims. In particular, Dr Parong cited the following findings contained in the report:
- Denial by CHR officials in several occasions of the existence of political prisoners during the Aquino Administration.
 - Approval by CHR of government policies which are violative of human rights, such as eviction of squatters.
 - CHR released a statement in 1997 blaming the Higaonon farmers for the incident killing some of their members.
 - CHR refused to act on human rights cases implicating persons of authority. The cases specifically cited were the frustrated massacre in Gutad, Calintaan, Mindoro

Occidental; the shooting by a police officer of the Vinas brothers; and the unjust detention of the Darwin brothers in the Mamburao jail. It was also reported that CHR lawyers do not sustain their assistance to victims, citing the case of the Nagtima (indigenous people's organization) where the lawyer promised help but did not return.

- TFDP offices in Northern Mindanao and Southern Tagalog complained that the CHR offices in these regions focused more on issues rather than directly addressing and taking action on cases of militarization, harassment of people's organizations and NGOs, and military.

2.1.9 There are several recent national human rights issues that have significant public concern, particularly those involving the treatment by the military of the detained Abu Sayaf members, as well as their treatment of community members in their search for Abu Sayaf vigilante groups. In fact, an international mission visited the areas in Mindanao in the midst of avid criticisms by the government and local politicians of the procedural lapses by this group. Local politicians asserted that the mission did not even ask for their concurrence to go into the areas. Despite these criticisms the mission went ahead and publicly enunciated their observations of human rights violations committed by military elements in the conflict areas.

2.1.10 However, in spite of the news repeatedly shown in television, carrying complaints both of the Abu Sayaf members and civilians on human rights violations, the CHR has yet to address widely and publicly express its intent to carry out an independent investigation and assessment of the existence and extent of such human rights violations.

2.1.11 Jail visitation is one of the main functions of the CHR. The CHR visits and reviews the country's jails with respect to the living conditions of prisoners, and to see whether they are provided with the appropriate legal and other service requirements that ensure the proper protection of their rights. There is however a need for appropriate indicators to determine the outcomes of this CHR activity, or a means of knowing if it has impact on the improvement of the condition of jails and prisoners/detainees throughout the country. However, if one would consider television programs which are replete with clips of the inhuman living conditions of prisoners (overcrowding, poor sanitation, prevalence of skin diseases, physical abuse of prisoners by police or co-inmates, etc), there is much to be desired on the performance of agencies concerned in this matter, including the CHR.

2.1.12 An irony of the situation is indicated where CHR employees themselves are victims of human rights violations. Results of the consultants' interviews with CHR staff in the regions included stories pointing to some CHR investigators and lawyers having been banned from bringing cameras in their jail visits. Some were threatened to be sent out of the jail premises if negative reports would come out. So far, there has been no visible public reporting or expressed opinion by the CHR not only on the conditions of the country's jails, but on such "harassment" by jail personnel on visiting human rights officers.

2.2 Accountability

- 2.2.1 The CHR is accountable to the public. The system that will ensure the public accountability of the CHR includes the preparation of its annual report of accomplishment. However, this report is not published for general public scrutiny. Moreover, the measures that will enable a sound evaluation of the CHR performance against its mandate, as well as the use of its resources against the results of their application, are not yet clearly in place. Specifically, there have been no efforts to effectively measure public awareness of the Commission and its services. There were no attempts to determine the government obligations on human rights, and even on the idea of human rights in general. There have been no assessments made on the level of satisfaction of human rights victims who filed cases in the CHR, or on the quality of services rendered by human rights personnel.
- 2.2.2 CHR self-initiated mechanisms that will make its operations, procedures, service standards, and ethical/professional standards transparent and accountable to the public must thus be established. Such mechanisms must be founded on well-informed citizenry who are in the best position to assess the performance of the CHR. This must however be matched by a sound system of public reporting on the CHR performance.

2.3 Relevance, Responsiveness and Pro-activeness

- 2.3.1 Chapter 2 of this report shows that the Philippine human development conditions are characterized by economic inequity and inequality, severe underemployment, limited access to public services, and gender inequality, among others. The dire picture of the HR situation and issues in various sectors therefore calls for aggressive efforts by the CHR in exploring, monitoring, evaluating and addressing them.
- 2.3.2 For example, there must be systematic and concrete efforts to monitor such areas as working conditions and terms of work. There must be specific measures to be adopted by the Commission to pressure the government to do something about the increasing incidence of death of overseas Filipinos, or about the recurring reports on the abuse by the police and military personnel.
- 2.3.3 CHR has not demonstrated forcefulness in publicly denouncing human rights abuses, and in creating pressure to the President and government agency heads concerned regarding such abuses.
- 2.3.4 Although CHR has reported several interventions in the aspect of legislation, it needs to demonstrate impact particularly in important policy areas, such as the right to suffrage of overseas Filipinos, and the right to strike by government employees, or expanding their memberships in organized labor unions.
- 2.3.5 Over the past years, it would seem that the CHR has been reactive rather than pro-active in most of its actions. In particular, its investigation work covered mostly complaints that had been filed. Interviews with the regional offices revealed that there were very rare occasions where the CHR had on its own conducted investigations based on news reports.

- 2.3.6 The CHR accomplishment reports indicated a very low level of workload in the areas of investigation and legal assistance, the regional offices reporting only three (3) cases per month, at the average, for 2000-2001. In view however of the prevailing significant human rights issues in political conflicts, in labor force, among battered women, and where forced child labor is present, the CHR must considerably intensify its monitoring and motu proprio investigations rather than merely wait for complaints to be filed.
- 2.3.7 The unfortunate conditions of public jails and the blatant neglect of the government to address the situation is a public knowledge. Relatedly, the CHR on its part is considerably lacking in stimulating public pressure for improvement of the country's jails. While visits to jails as mentioned above are among the key functions of the CHR, its central office and the three ROs covered by the study (CAR, RO VIII and RO XI), undertake such function only when complaints are received. Regular and periodic inspections and visits of jails and detention centers, and provision of counseling services to vulnerable members of the society must be done by the CHR, with or without receipt of complaints.

2.4 Accessibility

- 2.4.1 Accessibility is determined by several factors. At the core of an accessible CHR is a public that is well informed of CHR services and those of other stakeholders like the NGOs. Geographical accessibility is also important. Where human rights victims have no proximate access to needed services, they are effectively deprived of their right to avail of such services. But accessibility to human rights services does not necessarily mean that the CHR will directly provide these services. CHR should be able to mobilize other service providers so that geographical access to appropriate services can be improved.
- 2.4.2 There have been no surveys or structured assessments on the degree of public education on the CHR and on human rights services. However, the very low number of cases filed in the CHR against the potential human rights cases brought about by problems in human development conditions indicates lack of/limited information on and geographical access to human rights services, as well as credibility issues on CHR.
- 2.4.3 The creation of the Barangay Human Rights Action Centers (BHRACs) and the training and deployment of barangay human rights action officers (BHRAOs) in various barangays have been one of the most notable accomplishments of the CHR. The BHRACs provide the most proximate venue to seek assistance and redress. Table 3.2 shows the performance of this special project on BHRACs.
- 2.4.4 However, it would be too early to make a judgment on the performance of the BHRACs. The potential of these barangay-based human rights action units in promoting human rights education, as well as in providing assistance and initial investigative services, should be explored as one of the potentially most effective means of building public awareness and education and contact point with the community. The issues that the CHR should address on the matter would be related to the resources required for training/operational expenses and for institutional sustainability.

TABLE 3.2
SPECIAL PROJECT BARANGAY HUMAN RIGHTS ACTION CENTERS

Program	Activity	Delivery System	Target Audience	Performance				
				Indicators	1997	1998	1999	2000
Human Rights Protection	1 Investigation	Establishment of BHRACs	Community at Barangay level	Established BHRACs	5,262	1,315	667	159
				New BHRAOs	4,300	-	667	159
				TOTAL	9,562	1,315	1,334	318
		Received Complaints		134	-	97	-	
		- referred to concerned agencies		21	-	15	-	
		- referred to CHR Central Office		52	-	-	-	
		- solved at BHRAC level		22	-	-	-	
Human Rights Promotion	2 Education and Training	Training/ seminars/ talks/ lectures	Community at Barangay level	No. of Training/ seminars orientations/ lectures	43	-	166	-
				No. of participants	29,645	-	9 communities	-
				Other coordinated activities (symposia, dialogues, meetings, radio interviews/ guestings, etc.)	281	-	-	-

SOURCES: CHR Annual Performance Report 1997, 1998, 1999, 2000

2.5 Service Quality and Effectiveness

2.5.1 There were 12,829 cases filed with the Commission from 1987 to 1996. These involve a total of 19,754 perpetrators. While human rights violation cases involving the National People's Army (NPAs) were indicated for periods prior to 1986, those from 1987 to 1996 were primarily attributable to the police as the top-ranking perpetrators of human rights violations.

2.5.2 Of the total number of cases filed, the CHR reported that only 41% (5,226) was filed in courts/agencies for prosecution or administrative sanction, while 59% was either closed/terminated (37%) or archived (22%). Of the total number of cases filed in the courts, about 76% was dismissed. Therefore, of the total number of actual human rights cases filed with the Commission, only 9.79% was rendered judgment by the courts (Table 3.3).

TABLE 3.3
HUMAN RIGHTS PROTECTION AND INVESTIGATION PERFORMANCE

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
1. Documentation of cases	General public, internal monitoring	No. of Complaints	-	2046	1,647	2,076
		Investigated	-	-	-	1118
		Docketed Cases	-	1023 (3 rd qtr)	557	41% or 458
		Filed in courts/ quasi-judicial bodies	-	380	6,913	-
		Closed/ terminated cases	-	497	748	49% or 548
		Archived	-	92	120	-
		In resolution	-	54	-	-
2. Forensic investigation	victims, beneficiaries/ heirs	Fact Finding and Autopsy/ exhumation/ skeletal analysis	8	19	19	7
		Medico- genital examination	19	9	17	3
		Medico – legal / medico – physical tests	53	2	66	160
		Photo - documentation and procedures on sexual abuse and physical injuries	-	74	-	53
3. Monitoring Litigation	Public sector	Cases decided by courts	-	-	255	85
		Dismissed	-	-	65.09% or 166	45
		Convicted	-	-	26.67% or 68	8
		Terminated	-	-	-	25
4. Witnessing in Court	Victims, beneficiaries/ heirs	Interpretation and clarification of forensic cases	-	27	6	-

SOURCES: CHR Annual Performance Reports 1997, 1998, 1999, 2000

2.5.3 There are no available statistics on whether the 9.79% decided cases were appealed to the higher courts. There are also no statistical data on how many of the victims won their cases or how long it took a case to be decided; how much resources the victims had to spend for a case; and how much help they received from CHR, the government, or NGOs. Certainly, where out of ten human rights victims who seek redress from the Commission, only less than one finds his case finally rendered judgment by the court, this does not speak well of the human rights system. Much remains to be done yet by the CHR in pursuing and effectively achieving justice for the human rights victims.

2.5.4 The investigative monitoring function of the CHR must be strengthened, especially in the aspect of creating the enabling environment and in the aspect of consequential human rights violations. The CHR must give priority to its review of the government's human rights policies to determine weaknesses and assume a more assertive posture in

advocating measures to the government. It must vigorously pursue the monitoring of the government's compliance of the country's human rights laws, rules, regulations and standards, as well as international standards and commitments.

2.5.5 CHR must moreover actively take the necessary steps so that measures on human rights protection and promotion will be initiated and pursued in Congress. This may include the ratification by the Senate of certain treaties and the enactment of laws.

2.5.6 The basic and international laws on human rights recognize the right of everyone to education. The International Covenant on Economic, Social and Cultural Rights provides that "...education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for maintenance of peace." The Vienna Declaration and Programme of Action, World Conference on Human Rights (Vienna, 14-25 June 1993) further provides that "...education on human rights and the dissemination of proper information, both theoretical and practical, play an important role in the promotion and respect of human rights with regard to all individuals without distinction of any kind such as race, sex, language or religion, and this should be integrated in the education policies at the national as well as international levels.

2.5.7 Certain Presidential issuances have further emphasized the importance of education on human rights concerns. These issuances include the following:

- Executive Order No. 27 (1986) which mandates the DECS to include the study and understanding of human rights in the curricula of all levels of education and training in all schools in the country. It moreover directs the Civil Service Commission to include in the qualifying examinations for government service basic knowledge on human rights. Related to this the CHR, in cooperation with other government agencies and other partners, develops sectoral curricula, modules and training designs on human rights. It produces educational and instructional materials as guides to human rights advocates, educators, trainers and students. As part of the program, CHR likewise provides theses-writing grants to deserving masteral and doctoral students whose theses/dissertations are on human rights.
- Presidential Memorandum Order No. 20 (1986) directs the DND, the Armed Forces of the Philippines and the PNP to include as an integral and indispensable part of the education and training of all police, military and other arresting and investigating personnel, especially those in charge of detention and convicted personnel, the study on human rights.

- Presidential Memorandum No. 259 (1995) requires the DILG, DOJ and DND to include, as an integral part of the continuing education and training of their personnel, the study of human rights as conducted by the CHR. It further directs these agencies that successful completion of the appropriate human rights education and training courses shall be required for recruitment/promotion and transfer/reassignment of their personnel, with priority given to personnel directly involved in arresting, investigating and detaining functions.

2.5.8 In pursuit of these objectives, the CHR organizes inter-agency collaborative programs among NGAs, NGOs, POs, the academe, and local and international institutions on human rights education and training for the police, military and paramilitary personnel, employees of the local governments, urban poor, youth, children, peasants and indigenous peoples, among others.

2.5.9 The CHR has specifically forged cooperation among the NGOs in the field of human rights education along the following areas: community-based action centers, academic curricula, national human rights enhancement proposals, national human rights education and protecting children in situations of armed conflict. Table 3.4 shows the delivery of Education and Training of CHR to various sectors.

TABLE 3.4
PROFILE OF PERFORMANCE- EDUCATION AND TRAINING

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
1. Design of training programs, seminars, lectures and education plan	Prisoners, jail guards/ wardens, police, military, children, women, trainers, educators, other NGOs and HR advocates, and government offices and agencies	Philippine Human Rights Education Plan for 1998-2007	1	-	-	-
		Exemplars design activity	-	1 (nationwide)	-	-
		Workshops	-	-	-	2
2. Conduct of training/ lectures/ seminars	prisoners, jail guards/ wardens, police, military, children, women, trainors, educators, other NGOs and HR advocates, and government offices and agencies	No. of training/ seminars/ talks/ lectures	839	330	962	465
		No of participants	-	40, 248 (regional level only)	921	-

TABLE 3.4
PROFILE OF PERFORMANCE- EDUCATION AND TRAINING (continued)

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
3. Dissemination of information						
- materials, press releases, press	General public	No. of info. Materials disseminated	250, 286	-	25,433	2,027 (to media)
		No. of dissemination activities	636, 137	-	-	-
		New HR Books released	"A Resource Book on the Rights of Filipino Women Migrant Workers and Other Empowerment Tools"	Handbook for PHRP Plan, the Compendium of Laws, Treaties and Decision on HR and the rights of Prisoners Handbook	-	-
- materials, press releases, press	General Public	New Journals released, monthly news letters, flyers	-	Tagalog translation of CHR flyer, release of 1 Human Rights Journal out of 2 issues combined.	FOCUS, 2 Human Rights Journal, revised Flyer on Women's Rights, IRRRA Law Pamphlet (Tagalog and Cebuano version), Rights of Prisoners	-
		Video/ tri-media materials released	-	Camera-ready dummy of Cebuano IRRRA, 2 video materials were completed - human rights in general and an institutional video.	tri-media activities	-

TABLE 3.4
PROFILE OF PERFORMANCE- EDUCATION AND TRAINING (continued)

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
		Press releases	197 press/ news releases	-	-	37 press releases to radio programs, television programs
- conferences, radio programs, network in the web	General public	No. of radio programs established	284	-	-	"Karapatang Pantao sa Himpapawid"
		Website launch	-	-	-	"Human Rights Network on the Web"
1.4 Advocacy to specific government agencies, particularly in pushing for programs to promote human rights implementation by these agencies	GOs, NGOs and other HR advocates	No. of training/ talks/ seminars/ lectures	-	20	921	-
5. Human Rights Curriculum Development	elementary and secondary level students, tertiary level	Modules developed	101	-	-	-
	Educators, trainers, NGOs	Workshops for curriculum development	1	-	-	-
	General Public	Other HR educational activities	-	review of textbooks to include HR contents prescribed by DECS	-	-

SOURCES: CHR Annual Performance Report 1997, 1998, 1999, 2000

- 2.5.10 As mentioned previously, there were no surveys that indicate the level of public education on human rights. Lack of public education is indicated by low incidence of complaints in the context of human development conditions that are extremely vulnerable to human rights violations.
- 2.5.11 According to a human rights lawyer, activist and author of the constitutional provision on human rights, there is a need to bring human rights concepts into the daily lives of people, and that the CHR should find creative ways of bringing this about – such as including human rights in the scripts of popular television soapies, comedy or game shows, or in the malls, or in potential box office movies. The key to internalizing human rights would be to create and sustain interest. The current public awareness programs of the CHR can be considerably improved from the point of view of stimulating public interest and promoting internalization.

3 SYNTHESIS AND IMPLICATIONS OF THE REVIEW

- 3.1.1 Chapter 2 posits that there are tremendous human rights issues inherent in the human development situation in the Philippines. Human rights practices as characterized by violations where the military, police and the NPAs predominate as perpetrators, have also been reported by the CHR itself. The CHR also reported that a significant proportion of human rights victims were civilians. The next significant proportion of victims as indicated by cases filed with the CHR was the workers.
- 3.1.2 Within its existing mandate, the CHR has wide functions and authority to protect and promote human rights. The CHR has made significant strides towards building capacities for good human rights practices particularly through training and collaborative mechanisms with the military and the police force.
- 3.1.3 It has established Barangay Action Centers and a network of barangay action officers that have very strong potential for high impact and sustained human rights education and protection services at the grassroots level. It has effectively established collaborative mechanisms with government agencies for the inclusion of human rights in the education curricula. The integration of human rights into the mainstream of formal education provides the strong foundation for building a culture of human rights on a long-term and continuing basis.
- 3.1.4 However, CHR has somehow fallen short of fulfilling its mandate in many of its functions as demonstrated in the following:
- It has not made an independent review of the government performance on human rights.
 - It has not created effective pressure on the government to improve respect by its officers of human rights of persons particularly those in conflict areas.
 - It has not publicly denounced many blatant violations of human rights particularly those committed by the military, police and people in power.

- It has not been effective in promoting a culture of respect for human rights due to weaknesses in its public education programs, which have not been able to integrate human rights into the daily lives of people.

3.1.5 These performance weaknesses can be traced to institutional factors and individual related factors that affect the independence, courage, and overall capacity to be assertive and systematically address specific cases and issues, and to bring to the national arena and public fora individual cases that have nationwide lessons and significance. The assessment of these is contained in the subsequent chapters of this report.

Chapter 4

REVIEW OF INSTITUTIONAL FRAMEWORK

1 INTRODUCTION

- 1.1.1 Chapter 2 provided an overview of the Philippines human development situation while Chapter 3 contained a review of the CHR program performance. The implications of the human rights issues and concerns, and the manner in which these were addressed have profound implications on defining and focusing the role of the CHR and on reforming its institutional framework and operating capacity.

First, the context review suggested that human rights violations are manifestations of deeper human rights issues rooted in inequality, discrimination and abuse of the powerful.

Second, government and its policies have played a key role in creating these conditions over which it has been largely ineffective in correcting. Government's contributing role can be found among others in discriminatory laws, policies and regulations, in inequitable allocation and inefficient utilization of resources, in the deteriorating quality of public services, in graft and corruption and abuse of authority. These render the government unable to effectively perform its responsibility under the Declaration of Human Rights, and establish the conditions conducive to human development and respect of human rights.

Third, given the causes and sources of human rights problems, CHR will need to re-examine its institutional framework that defines its status and its institutional relationships as well as its role in addressing collective and long-term issues on human rights protection and promotion.

- 1.1.2 This chapter contains the methodology for the assessment of the institutional framework and programs on human rights, focusing on the CHR, the key findings and analysis and their reform implications.

2 ASSESSMENT APPROACH

2.1 Assessment of Institutional Status

- 2.1.1 The Philippines Commission on Human Rights was reviewed mainly on the basis of the standards on the status, role and functioning of a national human rights institution as

provided for in the Paris Principles. In particular the Paris Principles provides the following criteria for national human rights institutions:

- Independence guaranteed by statute or constitution
- Autonomy from government
- Pluralism, including in membership
- A broad mandate based on universal human rights standards
- Adequate powers of investigation
- Sufficient resources

2.1.2 The Paris Principles stipulates the specific principles to be observed on the status of national human rights institutions, as follows:

a) Competence

- The institution should be vested with competence to protect human rights.
- The institution should be given a broad mandate to be clearly set forth in the constitution or provided for by law, which will specify its composition and its sphere of competence.

b) Responsibilities

- "To submit to the government, parliament and any other body, on an advisory basis, either upon request or through the exercise of the commission's powers, opinions, recommendations, proposals and reports on matters concerning the promotion and protection of human rights, and to publish these.
- To promote and ensure the harmonization of national legislation, regulation and practices with international human rights instruments which the State is a party, and their effective implementation.
- To encourage ratification of the instruments, accession to them, and to ensure their implementation.
- To contribute to the reports which states are required to submit to United Nations bodies and committees and to regional institutions pursuant to their treaty obligations and, where necessary, to express opinion on the subject, with due respect for their independence.
- To cooperate with the United Nations and any other organization of the United Nations System, the regional institutions and the national institutions of other countries that are competent in the areas of promotion and protection of human rights.
- To assist in the formulation of programs for the teaching and research into, human rights and to take part in their execution in schools, universities, and professional circles.

- To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing awareness, especially through information and education and by making all press organs.”

c) Composition and guarantees of independence and pluralism

The Paris Principles provides that the composition of the commission shall guarantee the pluralist representation of the social forces involved in the protection and promotion of human rights that will enable effective coordination.

The composition is to include the following: non-governmental organizations engaged in human rights efforts, trends in philosophical or religious thought, universities and qualified experts, parliament, and government departments (if included, should only be in an advisory capacity)

The commission is to have an adequate organizational infrastructure, adequate resources and free from financial control of government to ensure its independence.

To ensure independence the appointment of members is to be effected by an official act which establishes the specific duration of the mandate.

d) Methods of operation

The Commission shall consider any question falling within its competence; hear any person and obtain any information and document for assessing situations within its competence; directly address public opinion and publicize its opinions and recommendations; Meet on a regular basis and whenever necessary; establish working groups from among its members as necessary and set up local or regional sections to assist in discharging its duties; maintain consultation with other bodies, responsible for promoting and protecting human rights; and develop relations with NGOs devoted to promoting and protecting human rights.

Where the national institution is authorized to hear and consider cases and petitions concerning individual situations, the powers of the commission may be based on the following principles:

- To seek an amicable settlement through conciliation
- To inform the party who filed of his rights and the remedies available to him and promote his access
- To hear any complaints or petitions or transmit them to other competent authorities
- Make recommendations to the competent authorities including proposing reforms in legislation, regulation or administrative procedures if they have created difficulties for persons in asserting their rights

3 POLICY AND INSTITUTIONAL FRAMEWORK

3.1 Human Rights Definition

- 3.1.1 The United Nations define human rights as those rights, which are inherent in our nature and without which we cannot live as human beings. It is said, "human rights and fundamental freedoms allow individuals to develop and use human qualities, intelligence, talents and conscience to satisfy spiritual and other needs, and are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being receive respect and protection." (CHR 2001)
- 3.1.2 All human rights derive from the dignity and worth inherent in the human person, and the human person is the central subject of human rights and fundamental freedoms, and consequently should be the principal beneficiary and should participate actively in the realization of these rights and freedoms (Vienna Declaration and Program of Action, 1993). Human rights are classified into: civil, economic, political, cultural and social rights.

3.2 Human Rights Standards

- 3.2.1 Human rights standards are proclaimed in the Universal Declaration of Human Rights, a document adopted on 10 December 1948. These international human rights standards are based on the premise that "all human beings are born free and equal in dignity and rights" (Article 1), and are to be adopted by all member-states and everyone shall be entitled to all the rights stipulated under the Declaration "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." (Article 2).
- 3.2.2 Article 29 of the Declaration provides the limitations in the exercise of the above-stated rights by stating that in the exercise of one's freedoms and rights, one is subject only to the limitations provided by law enacted for the purpose of securing due recognition of the corresponding rights and freedoms of others and of meeting the "just requirements of morality, public order and the general welfare of a democratic society."

3.3 Responsibility for the Promotion and Protection of Human Rights

- 3.3.1 It is the responsibility of the states to develop and encourage respect for human rights and fundamental freedoms for all, without distinction to race, sex, language or religion. The states shall be responsible for establishing the conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom. (Vienna Declaration and Program of Action, 1993).

3.4 International Human Rights System

- 3.4.1 At the core of the international human rights system is the United Nations and its charter which was signed on 26 June 1945. The charter provides provisions that set the

foundation for the international human rights system. In particular, under Article 55 of the charter member-nations commit to promote "universal respect for and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." Article 56 of the charter provides that all members commit to take joint and separate actions in cooperation with the UN to ensure the achievement of the provisions of Article 55.

- 3.4.2 The Philippines is signatory to twenty-three (23) human rights treaties and protocols. Thus, the government is bound to comply with and ensure the implementation or observance of the provisions of these treaties and protocols.

3.5 Philippines Human Rights System

Legal Framework

- 3.5.1 The Philippines Human Rights System is founded on international standards and principles of human rights as provided for in the UN Charter, the Universal Declaration of Human Rights, the Paris Principles and the various international treaties and instruments to which the Philippines is signatory, as ratified by Congress or acceded to by the government.
- 3.5.2 The national system has for its legal basis the Philippine Constitution of 1987 which contains several human rights provisions, in jurisprudence, in laws creating institutions with specific human rights related mandates and functions, in executive orders, and in rules and regulations governing the protection and promotion of human rights.

Institutional Framework

- 3.5.3 The institutional framework for human rights consists of various players performing equally various roles and responsibilities. These comprise the following:

THE GOVERNMENT

- 3.5.4 The government has the primary responsibility for the implementation of the Philippines commitment under the various international treaties on human rights. The government creates the greatest influence on the quality of human development and human rights situations through its powers and functions to formulate policies, implement programs, enforce rules and regulations, and allocate public resources among competing priorities. Government instrumentalities play various roles with respect to human rights promotion and protection:

- *Legislature*

The Philippines Congress is composed of the House of Representatives and the Senate. The House of Representatives are composed of congressmen elected by geographically defined congressional districts and qualified interest groups called party list representatives. There are 240 seats in the lower house. A proposed legislation originates in the lower house and after 3 congressional hearings held en banc the bill is forwarded to the Senate. The Senate adopts the same system of hearing and deliberations and makes its own voted recommendations on the bill.

Where conflicts between the lower House and the Senate versions occur, a conference committee meeting is called to resolve the issues. The conference committee is composed of members of pertinent committees in both houses. Once an agreement on provisions of the bill is arrived at, it is passed by the Senate and forwarded to the President. The President has veto power which is defined under the law. Items to be vetoed have to be specified. The President cannot veto a phrase in a sentence without vetoing the entire sentence.

The President either signs the bill into law or returns it to the lower house with his/her specific objections. If the lower house does not accept the Presidential veto the bill is archived and is effectively disapproved.

One strong feature in the legislative process is the tripartite participation of the Executive Branch, interest groups, the academe and other pertinent individuals and organizations in committee-level deliberations. Individuals and organizations concerned are called upon to act as resource persons or advocates of a specific position relative to the bill. The committee usually requests for position papers which are inputted into the deliberation process. This arrangement is being adopted through the system of committees is being adopted by both houses of Congress.

Both the House of Representatives and the Senate have their respective committees which are concerned with human rights. Currently, however, there is no formal system and adequate technical capacity in either house that systematically reviews the human rights implications of all bills being deliberated on.

The conduct of Congressional investigations in aid of legislation is another scheme which contributes to the improvement of public awareness and participation in human rights issues, especially when these are being covered by print and broadcast media.

Collaborative mechanisms between the CHR and Congress with respect to addressing human rights issues and human rights legislations have been more on an ad hoc basis rather than having been clearly established.

Under the current arrangement, Congress is represented in the sectoral working groups on the formulation of the Human Rights Plan and the Inter-agency Committees which are also organized by sectors. These committees discuss legislative matters where the CHR presents and advocates its position on existing laws with human rights implications or on proposed laws. Unfortunately there has been no formally established consultative mechanism within Congress that ensures the inputting of human rights perspectives in bills that have significant economic, social or cultural rights implications.

Also, instead of consulting with CHR, Congress has on several occasions conducted its own motu proprio investigation of human rights violation cases that have risen to national significance.

- **Judiciary**

The Philippines Judiciary has a four-tiered court system. At the apex is the Supreme Court which is the highest court of the country. At the second highest level is the Court of Appeals which is considered appellate courts. At the third level are the 950 Regional Trial Courts and 5 Shari'a District Courts and at the lowest level are the 82 Metropolitan Trial Courts, 425 Municipal Trial Courts, 476 Municipal Trial Courts in Cities and 51 Shari'a Circuit Courts. The Sandiganbayan is a special court whose jurisdiction is to hear cases involving graft and corruption of government officials.

At present the Judiciary is embarking on a comprehensive reform program aimed at enhancing its independence, integrity, accountability and efficiency. The ambitious 6-year reform program intends to introduce improved case management technology, streamline administrative structures, staffing and operating systems, improve capacity to provide public education on the courts, improve the salaries of judges and justices, enhance competence through a reengineered judicial training program, and generally improve the efficiency of administrative operations. It is hoped that the reform program will achieve the goals of providing speedy and impartial justice and improving access to justice particularly by the poor.

Human rights issues that are relevant to the Judiciary include among others the following:

- ❑ Case congestion and delay
- ❑ Issues associated with the cost of judicial services particularly to the poor. This involves specific problems such as lack of capacity to provide legal and financial assistance to indigent litigants as there are limited number of public attorneys deployed nationwide, lack of geographical access particularly by the poor in rural areas where there are no lawyers, and where courts are far, and economic cost to innocent suspects in jail due to prolonged litigation.
- ❑ The present performance monitoring system of the Judiciary is weak and does not provide adequate and accurate information that will allow tracking of cases involving human rights violations. The on-going administrative reform project funded under the ADB-TA is expected to design an appropriate performance system that will include among others a comprehensive system of indicators and data generation and evaluation methodologies that will allow tracking of various cases in the courts, including human rights cases.
- ❑ Many judges lack specialized training. Training in the handling of human rights cases remains to be a major factor in improving judicial competence.

Human rights issues that arise with respect to the judicial system include the absence of indicators and system that will allow CHR personnel to monitor the speed and status of human rights cases in the courts. For example, the Judiciary cannot provide information on the number of cases involving human rights, or cases involving the poor which are delayed due to lack of legal assistance.

- **Executive Branch**

The executive branch has the main responsibility for ensuring that the government complies with the prescribed international human rights standards contained in the Universal Declaration of Human Rights and the various treaties and instruments to which the Philippines is signatory.

Human rights concerned are addressed or implemented by the Executive Branch through its various departments, agencies and instrumentalities:

- The executive branch operates the peace and order policy making and law enforcement agencies – the Philippine National Police, Department of Defense, the National Security Council which defines the national security policy and agenda. The transactional aspects of human rights violations and protection are the responsibilities of these agencies
- The various sectoral departments formulate and implement policies, regulations and interventions that concern with achieving social and economic goals. The functions that these agencies perform have profound human rights implications that are yet to be addressed by the CHR, in the sense that the interventions of these agencies have deep and long-term implications on equity and social justice.
- Oversight agencies which comprise of the National Economic Development Authority (Socio-Economic Planning), Department of Finance and Department of Budget and Management (Public Resource Management) also perform functions that have profound human rights implications or side-effects.
 - The focus of sectoral plans and macro economic policies and the quality and prioritization of public expenditures will influence the establishment or non-achievement of equality in economic opportunity, access to information and public services, improvement of poverty conditions, and enhancement of the general physical and economic living conditions particularly by vulnerable population groups. And yet, notable in the planning and budgeting system is the absence of formal mechanisms and methodologies that directly addresses the human rights implications of the economic development plan and the national budget.
- The executive branch operates agencies which are mandated to address the problems and concerns of specific vulnerable population groups. These agencies include:
 - a) Council for the Welfare of Children and Youth, Department of Social Welfare and Development (DSWD)
 - b) National Council for Disabled Persons, (DSWD)
 - c) National Anti-Poverty Commission
 - d) National Commission on Indigenous Peoples
 - e) National Commission on the Role of Filipino Women
 - f) National Youth Commission
 - g) Office for Northern Cultural Communities

- h) Office for Southern Cultural Communities
- i) Office on Muslim Affairs

These agencies perform policy and program formulation and coordination functions with some direct assistance services to its constituents.

- The Department of Foreign Affairs is tasked with the responsibility for the coordinated preparation of the country report on compliance to international human rights standards and in representing the country in international activities.

It is with the Executive Branch of the government and its instrumentalities that the CHR has several working relationships. The CHR conducts training programs on human rights for the military and the police and issues human rights clearances to members of the military and police force and condition for approval of promotion. The CHR in collaboration with the sectoral and oversight departments and agencies have established working groups for the formulation of the Human Rights Development Plan and for providing a tripartite forum for the discussion of human rights issues and legislation. These mechanisms implemented through technical working groups have been considered useful in arriving at consensus on the programs to be carried out by each department, and the bills to be pushed in Congress.

CHR also carries out partnerships with other departments such as the Department of Education for the inclusion of human rights in the school curriculum, with the Department of Social Welfare the Development with whom collaboration is established in the provision of social services to victims, and with the Department of Justice where partnerships in the provision of legal assistance to human rights victims have been made. The legal assistance partnership, however, was not sustained due to lack of lawyers in the Public Attorney's Office of the Department of Justice.

Another form of collaboration between the CHR and the Executive Branch is in the area of investigation. Here the issue of CHR independence has been put to question particularly in the absence of clear definition of CHR role in the investigation of cases being undertaken by law enforcement agencies. This is discussed in more detail in the subsequent parts of this chapter.

Constitutional Bodies

The Constitution established constitutional bodies which are independent. These include the Office of the Ombudsman, an investigative body for graft and corruption in the government, the Commission on Audit, and the Civil Service Commission which performs the oversight personnel management functions of the government.

Among the issues pertaining to these agencies are their actual lack of autonomy and their politization.

Recently the credibility and independence of the Office of the Ombudsman has been questioned particularly for its inability to prosecute cases involving high ranking government officials, and because of its extremely low prosecution rate. Its

prosecution of the former President Estrada has however been seen by the general public as a sign of improvement in its independence and credibility.

The Civil Service Commission needs to address mounting issues on legislating the right to strike by government employees and on the need to improve workplace quality standards in the government. Again, collaborative mechanisms with the Civil Service Commission is via inter-agency committees and efforts. The need to intensify joint advocacy on the rights of public sector employees and on the issues of graft and corruption is still not met.

Local Governments

Local governments play a significant role in enforcing and promoting human rights since they are the point of contact with the public. The Barangay Justice System which is required under law to be established in each of the more than 41,000 barangays in the country comprises the existing mechanisms for human rights promotion and protection. The system consists of a council composed of the barangay chairman and twenty members selected from the community.

The Supreme Court requires that all disputes are subject to barangay level conciliation prior to their filing of complaint in the lower courts. The system has been assessed to be effective in dispute resolution. Between 1980-1998, out of a total of 2.8 million cases filed, 87% was settled and only 6.7% was forwarded to the courts (CPRM-SC-WB 2000). A study of the system indicated that users were generally satisfied with the conciliation methods.

The CHR's relationship with local governments has been concretized through the CHR-initiated Barangay Human Rights Action Centers (BHRAOs), which are manned by designated and CHR-trained officers. However, much needs to be done in gaining support for the local centers, particularly in institutionalization and professionalization of the action officers, and in sustaining their services through adequate and stable amount of resources.

NON-GOVERNMENTAL ORGANIZATIONS

- 3.5.5 Non-governmental organizations play an important role in the promotion and protection of human rights, by providing direct assistance to victims; assisting in the investigation process and gathering of evidence; implementing programs on awareness and education, training; and contributing to the improvement of the body of knowledge on human rights through investigative and development researches.
- 3.5.6 There is no existing mechanism for generating comprehensive information on the presence, extent of geographical operations and constituencies, and programs of NGOs. This would be useful in the design by CHR of collaborative efforts with these agencies particularly in the regions.
- 3.5.7 Interviews in the regions indicated the lack of solid collaborative mechanisms for mobilizing the NGOs to contribute substantially to the cause of human rights protection and promotion. NGOs were particularly dismayed by the CHR position on important national human rights issues such as the Commission's issuance of clearance to the Marcoses that they had no human rights cases filed in the Commission. To the NGOs

CHR must not be legalistic but should go beyond the limits of legal interpretation of law, preserving the moral rectitude of its decisions and advocacy.

ACADEME

- 3.5.8 The academe provides a potentially effective avenue for human rights promotion. A linkage with the academe towards improving student awareness and education on human rights however remains a potential that needs to be explored more fully.

THE HUMAN RIGHTS SECTORS

- 3.5.9 The CHR has organized human rights sectors into groups of population with homogenous vulnerabilities and human rights concerns. Issues pertaining to each sector are comprehensively laid out in the CHR Philippine Human Rights Plan, 1996-2000, as follows:

- a) Women Sector (50% of population)

ISSUES: economic inequality vis-a-vis men, violence, rape, sexual harassment at work, prostitution, abuses to overseas women contract workers, role of women in nation building, iodine deficiency and susceptibility to malnutrition of young women, high material mortality, reproductive rights, legal discrimination and fundamental and universal rights of muslim women

- b) Children Sector (0-18 years of age comprising 27.7% of population)

ISSUES: rights of youth offenders, working children, children in situations of armed conflict, street children, children tapped for sexual exploitation, children of victims of abuse and natural disasters, disabled children, children of indigenous cultural communities, children of migrant workers, victims of drug addiction, transnational children, victims of discrimination

- c) Youth Sector (15-24 years of age comprising 20.5% of population)

ISSUES: out-of-school youth, working youth, youth with special needs, affordability of education

- d) Indigenous Cultural Communities Sector (comprising about 10 million people)

ISSUES: economic disadvantage due to location, lack of socio-political integration, illiteracy, insufficiency of basic services, access, economic marginalization, non-recognition of ancestral claims, protection against exploitation of property rights, right to maintain religious beliefs and cultural traditions and systems.

- e) Muslim Sector

ISSUES: difficulty in adopting a workable concept of muslim human rights due to lack of understanding of the muslim culture and lack of resources with which to acquire that knowledge, police brutality, intrusion into the ancestral domain, militarization of areas of conflict, discrimination of muslims, lack of muslim representation in law and policy making and implementation

f) Elderly Sector

ISSUES: access to health services, right to choice of living environment, lack of facilities for elderly, lack of mechanisms to promote elderly rights to participate, to care, to independence, self-fulfillment and dignity

g) Persons with Disabilities Sector

ISSUES: lack of access to services, employment and education, exercise of civil and political rights

h) Mentally Disabled Persons Sector

ISSUES: stigma of mentally disabled persons, lack of awareness and low priority given to mentally disabled persons, substandard facilities and services, arbitrary detention, physical and sexual abuse, treatment procedures without consent, lack of equal opportunity for employment, lack of education

i) Prisoners/Detainees Sector

ISSUES: sub-human living and health conditions, insufficient food rations, lack of visitation facilities, lack of separate cells for women and young offenders, physical and moral abuse by guards, exploitation of inmates by other inmates, existence of repressive laws curtailing rights of political prisoners

j) Internally Displaced Persons Sector (displacement due to natural and man-made calamities)

ISSUES: insufficient facilities and services, lack of social and economic stability lack of access to education

k) Migrant Workers Sector

ISSUES: rights of illegal workers, feminization of overseas workers and its human rights implications, separation from families, stress, trauma, and danger of marital breakdown, sexual harassment, underpayment, maltreatment, poor working conditions, discrimination, etc.

l) Public Sector Labor

ISSUES: No right to strike and bargaining rights, management interference on union matters, problems with job evaluation/qualification standards, management prerogative, application of civil service rules on personnel benefits

m) Private Sector Labor

ISSUES: small proportion of employed population unionized, working conditions, sexual harassment, delayed disposition of labor cases, child labor exploitation, job security

THE MEDIA

- 3.5.10 The media in the Philippines is quite extensive. There are more than ten domestic television stations and access to international media through cable and other technologies have reached the masses. Rural areas are serviced primarily by radio but television is starting to permeate the rural households.
- 3.5.11 Tabloids remain to be strong instruments of communication with the masses, but are circulated mostly in highly urbanized areas.
- 3.5.12 The media remains to be a potent force for the promotion and protection of human rights. There is potential for CHR and media partnership for improved collaboration in various human rights programs and in more intensive use of the media by CHR in the implementation of its reporting and public education programs.

PHILIPPINES HUMAN RIGHTS COMMISSION

Legal Basis

- 3.5.13 The Commission on Human Rights was created under Section 17, Article XIII of the 1987 Constitution and organized under Executive Order No. 163 dated 5 May 1987, with a mandate to promote the protection of, respect for, and enhancement of the people's civil, political, social and economic rights. In particular, the Constitution provides that the Commission shall be composed of a Chairman and four members, majority of whom shall be members of the bar and that their terms of office is to be prescribed by law.

Composition

- 3.5.14 Executive Order No. 163 declares the formal creation of the CHR and provided for the following:
- a) The commission members shall be fulltime.
 - b) The commission members shall be appointed by the President for a term of seven years without reappointment.
 - c) Appointment to any vacancy shall only be for the unexpired term of the predecessor.
 - d) The salaries of the chairman and members shall be the same as the salaries of the chairmen and members of constitutional commissions.

Powers and Functions

- 3.5.15 The functions for the Commission as stipulated in the Constitution and reiterated in EO 163 are the following:
- a) Investigate human rights violations involving civil and political rights;
 - b) Adopt its guidelines and rules of procedure and cite for contempt for violations thereof in accordance with the Rules of Court;

- c) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal services to the underprivileged whose human rights have been violated or need protection;
- d) Exercise visitorial powers over jails, prisons, or detention facilities;
- e) Establish a continuing program of research, education and information to enhance respect for the primary of human rights;
- f) Recommend to Congress effective measures to promote human rights and to provide or compensation to victims of violations of human rights or their families;
- g) Monitor the Philippine Government's compliance with International treaty obligations on human rights;
- h) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- i) Request the assistance of any department, bureau, office or agency in the performance of its functions' appoint its officers and employees in accordance with law; and
- j) Perform such other duties and functions as may be provided by law.

3.5.16 The current organization structure of the Commission provides for an Executive Director who serves as the executive officer, nine (9) major subdivisions in the central office, fifteen (15) regional offices and five (5) sub-regional offices.

Key Programs

3.5.17 The CHR operates under two key programs: human rights protection and human rights promotion. Protection programs are undertaken through investigation, provision of free legal aid and counseling to the poor and underprivileged, assistance in the filing of cases for prosecution in the courts, and provision of medical and financial assistance to victims of human rights violations and their families. Also part of the protection program is the monitoring of the conditions of prisoners and detainees. Promotion programs are undertaken through the conduct of legal studies and researches, review of laws and bills affecting human rights, conduct of training, and information campaigns.

4 ASSESSMENT OF CHR INSTITUTIONAL STATUS

4.1 Independence and Autonomy

Independence and Autonomy Concepts

- 4.1.1 For purposes of this study, independence means freedom from pressure and inappropriate influence in the decision making of the Commission and its personnel. Following the conditions set forth under the Paris Principles, to achieve such independence, the Commission must be autonomous of the government. Autonomy is defined in this report as freedom to make operational decisions – to plan, allocate, have direct control of, and utilize physical, manpower, financial and technological resources to support the operations of the Commission.
- 4.1.2 Independence is considered in this study to be at individual and institutional levels. Individual independence means that CHR commissioners and human rights officers are not influenced, because of threat, harassment, political pressure, blackmail or bribery, in taking actions that promote and protect human rights where such actions will jeopardize the interest of the victims. The capacity of CHR commissioners and human rights officers to be effectively independent in their decisions and actions is a result of convergence of several factors.
- 4.1.3 These factors include the following:
- Lack of bias or prejudice and a personal sense of and commitment to independence.
 - Level of competence. A competent officer is more likely to be intellectually independent than one who does not possess the base knowledge and the required tools to make correct judgment/appropriate decision.
 - Personal security and security of family and loved ones. A person who feels secure would be likely less afraid to make bold decisions than one who is not.
 - Personal values. In the end, the ultimate determinant of action or non-action by an officer, or of ethical behavior will be his personal values of right and wrong.
- 4.1.4 Institutional independence, on the other hand, means the ability of a commission to freely make collective decisions and positions on human rights cases and issues without fear of backlash from the perpetrators, and to decide on financial and administrative matters without requiring approval, or without being subject to veto, by a higher authority.

Legal Basis for CHR Independence and Autonomy

- 4.1.5 Independence and autonomy of the CHR is enshrined in the Constitution. However, it is in the operationalisation of these concepts that actual independence and autonomy is undermined and limited. Item 1, Section 17 of Article XIII of the Philippines Constitution states that "There is hereby created an independent office called the Commission on Human Rights." Item 4 of the same Section further states that the "approved annual appropriations of the Commission shall be automatically and regularly released.

- 4.1.6 The administrative independence of the Commission was challenged, but later upheld by the Court of Appeals specifically in Case No. CA-G.R. SP NO. 59678, between the Commission on Human Rights Employees Association (CHREA) and the CHR. The case stemmed from the issuance by CSC of corresponding attestations to appointments to certain upgraded/re-titled/reclassified positions in the CHR, as previously acted upon by the Commission. This is tantamount to CSC's upholding of such staffing action of the CHR, which the CHREA on the other hand considered as violative of the Salary Standardization Law.
- 4.1.7 The decision of the Court of Appeals was based on Special Provision of the General Appropriations Act, authorizing constitutional commissions and agencies (including CHR) which enjoy fiscal autonomy by virtue of the Constitution, to formulate and implement organizational structures and to fix and determine salaries and other benefits of their personnel and make adjustments to their staffing patterns, including among others, transfer and creation of positions.

Assessment of Existing Conditions

- 4.1.8 The CHR has gone a long way in the quest for independence and autonomy. As mentioned above, the Annual General Appropriations Act has a special provision, authorizing the CHR to make changes in its organization and staffing. However, the actual operationalisation of the concept is far from satisfactory. Independence is undermined in the lack of adequate administrative management autonomy in the Commission as illustrated by the following:
- ***The Commissioners are appointed by the President. The President is at the helm of government accountability for compliance with international human rights treaties, which the CHR is supposed to independently monitor.***
- 4.1.9 With the Filipino culture of "utang na loob" (debt of gratitude) aren't presidential appointees somehow indebted to the President for their appointment? While discussion on the issue of presidential appointments and debts of gratitude and the selection by the President based on loyalty abound over coffee breaks, there has been no formal study that establishes the fact. The nearest that could be attributed to a demonstration of that part of Filipino culture was the press releases on President Estrada invoking debt of gratitude on one of the justices of the courts who decided against his favor.
- 4.1.10 The selection process for the CHR Commissioners follows the same processing procedure as that of the other government officials. The normal procedure calls for the Presidential Management Staff in the Office of the President to first undertake a review of preliminary candidates. It will then develop a short list of recommendees for the President to consider, although this does not preclude the President from considering candidates outside of the standard selection process. Also, the application of the pluralistic representation in the Commission is not clear. The selection process lacks public transparency.
- 4.1.11 To a large extent, the assumption by the President of the power of appointment renders the Commission dependent on the President. The setup theoretically makes the process vulnerable to appointment of commissioners who are loyal to the appointing authority, adversely affecting the CHR's independence. This is an unfortunate situation

particularly at this time when public scrutiny over the human rights performance of law enforcement agencies is becoming more intense.

- ***The proposed annual budget of the CHR is subject to detailed scrutiny and modification by the Department of Budget and Management in annual national budget preparation process. In practice, Congress has always adopted the DBM-recommended budget levels and internal allocations for independent commissions.***

4.1.12 The Philippine Constitution mandates the President to submit to Congress within 30 days from the opening of its regular session the proposed national government budget for the succeeding fiscal year (1987 Philippine Constitution, Art. VII, Sec.22). The Executive Branch formulates a Medium-Term Expenditure Framework (MTEF) which provides a three year estimation of public expenditures. Even if the MTEF is a three-year rolling budget, the budget for a given year is still enacted on an annual basis.

4.1.13 The Executive Branch prepares the annual budget proposal for the entire national government. This involves the preparation of the budget for all national government agencies including government owned and controlled corporations and local government units.

Baseline Budgeting Approach

4.1.14 The DBM uses the Baseline Budgeting Approach in the determination of agency budgets even within the MTEF context. The baseline budget refers to the minimum level of expenditures at which the agency will continue to operate at the current year's level and be able to perform its basic mandate and functions. Under National Budget Memorandum (NBM) No. 91, the baseline budget covers the requirements for current operating expenditures, including retirement gratuity and terminal leave, of ongoing programs and projects, both locally funded and foreign-assisted, and maintenance for programs and projects which will be completed within the MTEF period (three-years).

4.1.15 The current composition of the baseline budget is an improvement over the past years', which did not include maintenance requirements of completed projects that have been institutionalized, a problem which the MTEF is currently addressing.

4.1.16 In addition, budgetary requirements for programs and projects are now adjusted for inflation rate and foreign exchange rate, for items which are foreign-currency denominated, and for target efficiency improvement rate (TEIR)¹. Hence, if there would be no changes in the economic assumptions in the following year, the forward estimates will serve as the budget for the budget year.

Above-the-Baseline Budgets (ABPs)

4.1.17 In allocating resources to claims over and above the baseline budget or the above-the-baseline proposals (ABPs), a major consideration is the linkage of the program or project to the sector/societal outcomes embodied in the MTPDP and the outcomes of the organization.

¹ TEIR for 2001 is computed as follows: 0.4 (which is a factor) multiplied by 1 less actual obligations Net MOOE for 1997 and 1998 programs and activities (where Net MOOE is MOOE net of retirement gratuity and other one-off items divided by allotments for 1997 and 1998 including 1996 unused allotments for Net MOOE of programs and activities).

- 4.1.18 The implication of the above budget preparation process is that its implementation procedures are applied to all government agencies, including independent commissions. In particular, the CHR's budget contains a base-line budget which is reviewed by the DBM as to its detailed prioritization. The CHR also submits an over-the-baseline budget, which is reduced or modified by DBM in the course of inter-agency prioritization. It is the DBM which decides which particular individual items are to be included as priority and which are not.
- 4.1.19 To date, there is no clear cut and sustainable policy that operationalizes the Executive Branch's respect for the independence and autonomy of independent commissions. The wider administrative authority provided to the CHR under a special provision in the annual GAA, is prone to reversal and substantial change, depending on the policies of government administrations.
- ***While the Constitution provides for the automatic and regular release of the CHR budget, actual releases of the Commission's obligation and cash budgets are not automatic.***
- 4.1.20 Obligation releases for personal services and regular MOOE items are made comprehensively to agencies, including the CHR. The DBM issues a Budget Execution Circular upon enactment of the national budget, specifying the budget items which are included in the comprehensive release. However, certain items in the agency budgets are subject to individual requests from agencies and special releases.
- 4.1.21 Cash releases are now made monthly and are computed based on the agency's reporting of the cash utilization and balance upon which a replenishment formula is applied. The CHR cash budget is not insulated from cash shortfalls. Also cash releases for special obligation release items have to be requested by the CHR and evaluated, approved or disapproved by the DBM.
- 4.1.22 The use of confidential funds under the CHR budget requires prior Presidential approval, even if the fund is minimal (P125,000 for 2002).
- 4.1.23 The General Appropriations Act reflects the budget of the CHR in a program, line item and expense class format. General provisions in the GAA impose restrictions in the realignment of funds from one expense class to another and from one program to another. This rule is currently being applied even to the CHR.
- ***While the CHR should work within available resources of the government and its overall budget must be within the priorities of the government, its independence and autonomy should be respected and preserved by instituting mechanisms that will render the Commission a self-governing and administering institution.***
- 4.1.24 Administrative and fiscal autonomy can be operationalized through the following potential measures:
- a) Submission of proposal and inclusion in the CHR bill of the following:

- a.1 An objective budget level derivation formula for the estimation of the annual budget level of the CHR, and for the CHR budget to be approved by Congress as a one-line budget . The budget for a given year should not be below the level of the preceding year.
- a.2 Full and automatic budget provision and release, based on an obligation and cash program of the CHR budget, in accordance with the budget authorized under the General Appropriations Act and other appropriations laws as may be enacted for the CHR. The CHR obligation budget should be released in full and will not be classified into those that are comprehensively releasable and those that are subject to special release orders of DBM. CHR's cash budget program must be based on a comprehensive obligation program and should be automatically replenished in compliance with the replenishment formula of DBM.
- a.3 Full administrative management autonomy, subject only to Civil Service rules and regulations on tenure and employee rights. This means that the Commission will have full and final authority to reorganize, modify its staffing pattern and remuneration policy, and adopt personnel policies in accordance with the standards and requirements of the Commission.
- b) Grant of independence and autonomy anchored on a sense of responsibility and accountability guaranteed by the independent commission. The improvement of agency accountability in the areas of efficiency, use of resources, integrity, and institutional performance must be established to minimum required standards. In operational terms, this means that the CHR must be able to establish a complete accountability mechanism that will cover among others the following key components:
 - b.1 Financial accountability, which is operationalized through a system for measuring and reporting of answerability over the planning, allocation and use of financial and other resources;
 - b.2 Administrative accountability, which is operationalized through a system for measuring and reporting answerability over the planning, organization and administration of personnel, technology, physical resources, manpower and processes;
 - b.3 Accountability for operations, which is operationalized through a system for measuring and reporting answerability over the production of agency outputs, including its quantity, quality, production speed, timeliness and input utilization efficiency; and
 - b.4 Public accountability, which is operationalized through a system for measuring and reporting answerability over the fulfillment of the Commission's mandate and mission including the short, medium and long term impacts of its operations on defined stakeholders and beneficiaries.

- ***Effective independence can also be undermined by CHR human rights operations and operational relationships with government that may diminish perception of its independence and blurs distinction of their respective separate accountabilities.***

4.1.25 For the Commission to be truly independent, it must assert and protect such independence. Such assertion must be expressed in the nature of its operational relationships with the government. In particular, independence is undermined under the following examples:

- a) If the CHR conducts investigation under joint arrangements with government investigative agencies and personnel, and if it duplicates or replicates the same process of investigation done by these agencies;
- b) If the CHR assumes the responsibility for the coordination of the formulation of Human Rights Plans which should be an independent responsibility of the government over which CHR should independently monitor and comment on; and
- c) Where the CHR involves itself in directly improving capacities of the government on HR matters, where there is danger that it will be blamed for inadequate services leading to non-performance by government instrumentalities concerned. The point here is that CHR becomes accountable for government performance if it directly assists government in complying with requirements under the treaties and existing laws.

- ***Effective institutional independence can be achieved and sustained if the CHR gains the respect of the public and the government, and is able to project itself as a competent and credible organization imbued with integrity and appropriate professional values.***

4.1.26 The CHR must enhance its institutional prestige. It should develop and institute manpower development mechanisms and institutional processes that will promote the competence, credibility, integrity and respectability of its officials and personnel. The CHR must create the organizational environment conducive to professional development and desired ethical behavior, among others, through the following:

- a) Improving the perception of employees on the credibility, integrity and capabilities of management
- b) Creating a more cohesive organizational culture imbued with teamwork, sharing, and mutual reinforcement while at the same time maintaining high compliance with work ethical standards
- c) Improving the stature of the Commissioners and senior officials which will be demonstrated by their knowledge, proficiency, competence and integrity
- d) For management to strengthen itself as role models of team work, professionalism, competence and other organizational values that should stream down to the entire organization

- ***Effective independence can be enhanced by upgrading the status and competence of the Commission; by ensuring the quality of personnel selection and appointment process through the hiring of people who are devoid of bias or prejudice, have personal sense of commitment to independence, and with the required integrity and work ethic; and by providing an organizational environment where employees are motivated, where there is continuing learning and where personnel are paid with competitive salaries.***

4.1.27 This will require the institutionalization of a holistic human resources development approach, to be sustained on a long-term, continuing improvement basis. Such approach will involve improvements in recruitment, career development, remuneration policy, incentives and rewards, continuing training, organizational code of ethics, and performance management.

- ***Effective independence can be enhanced also by strengthening the personal security of the human rights officers and their families.***

4.1.28 At present, there are no protection mechanisms for human rights officers and their families. Human rights officers who assert their views and publicly denounce human rights violations create considerable risks or danger to their personal safety and that of their families. The CHR must provide a program of protecting its officers against the backlash of perpetrators. The program may consider optional packages such as insurance, provision of safe housing, provision of security guards, and other forms of protection.

4.2 Pluralism

4.2.5 Pluralism, as defined under the Paris Principles, means the representation in the Commission of the social forces that are involved in the promotion and protection of human rights. The Principles provides further that where government is involved it will be in an advisory capacity.

- ***The Commission's current setup does not comply with the plurality requirements for representation, participation and coordination.***

4.2.6 At present, there are no formal mechanisms for coordinating with other participants in human rights promotion and protection – the academe, NGO's, the church, Congress and other relevant organizations. Coordination requires that CHR establishes an updated data bank of these social forces and their programs. It also necessitates that cooperative mechanisms be put in place, the CHR playing a lead role in delineating and synchronizing specific roles in various human rights work, and pursuing/achieving mutual learning and inter-change of information in the pursuit of deeper knowledge and understanding of human rights issues and their solutions at national and regional levels.

4.2.7 Pluralism does not necessary mean that the number of commissioners should be representative. The existing number of commissioners who are serving full time is considered to be a desirable number which can provide a good mix of representation and competencies. A huge membership may result in policy discord, lack of focus and difficulty in achieving consensus and unity.

4.2.8 But pluralism can be achieved through the creation of committees representing the various sectors. Such committees may meet regularly, perhaps on a monthly basis, their roles to include the following:

- a) Harmonization of human rights promotion and protection priorities and activities for the sector;
- b) Formulation of positions and recommendations on individual human rights cases that have national significance;
- c) Development of strategies that will pool resources for beneficiaries; Provision of advice to the Commission on its role in specific human rights issues and in relation to the government; and
- d) Conduct of other related functions.

4.3 Broadness of Mandate and Adequacy of Powers of Investigation

4.3.5 The 1987 Constitution provides for a broad mandate for the CHR consistent with the requirements of the Paris Principles. In particular, the CHR's mandates cover the following areas:

- a) Investigation of human rights cases and provision of legal services, information and referrals
- b) Functions to recommend legislation or modifications thereof and to provide preventive measures for human rights protection
- c) Functions for continuing program of research, education and information
- d) Monitoring of Philippine Government's compliance with international treaty obligations on human rights

4.3.6 The CHR is accorded by the Constitution investigative powers on human rights violations. It is also empowered to grant immunity from prosecution to persons whose testimony or whose possession of evidence is necessary in determining the truth in investigations conducted under its authority.

4.3.7 However, the CHR has not been given specific mandates on economic, social and cultural rights. According to the author of the Constitutional provision on human rights, during the course of deliberations on the human rights portion of the Constitution, those provisions on economic, social and cultural rights were removed, but the reasons for such removal had not been clarified.

4.3.8 The Constitution specifically provides that the investigative powers of the CHR are limited to cases involving civil and political rights. It speaks on human rights in general with respect to its other functions of protection and promotion. This therefore allows the Commission to be pro-active with respect to public information, training and advocacy, investigative monitoring and other forms of interventions in the areas of economic, social and cultural rights.

4.4 Sufficiency of Resources

- 4.4.5 It is difficult to measure adequacy of resources in the absence of a costing mechanism for CHR targets and outputs against which efficiency measures can be applied and budgetary levels derived. But resource deficiencies are indicated in the various operations of the CHR particularly in the following:
- a) Low per capita financial assistance to human rights victims
 - b) Inadequate organizational infrastructure particularly in the regions which have severely undermined public information and access
 - c) Under-investment in information technology and performance management capacity required in the monitoring of human development conditions, human rights cases and government compliance to international treaties
 - d) Lack of budgetary provision of human resource development (training programs for human rights officers are lacking due to lack of funds)
 - e) Under-investment in public information, education and advocacy, which is nationwide in scope and which requires expensive media for dissemination
- 4.4.6 If every Filipino is to be considered the target constituency of the CHR then the CHR is spending about PhP2.92 or US\$0.06 in per capita expenditure for human rights promotion and protection. Of course, this figure does not include human rights promotion and protection activities of other government agencies and NGOs. Per capital expenditure for basic education for example was P4,812.8 in 1999.
- 4.4.7 A review of the budget and expenditures of CHR indicates that while the overall budget is generally insufficient, spending has been inefficient as indicated by significant amounts of unused appropriations particularly in 1998 and 1999 which registered at P31.7 million and P13.1 million, respectively. There are no processed data available to pinpoint where the spending inefficiencies have occurred (Table 3.2). During the validation workshops, it was mentioned that such unused appropriations were actually carried over as continuing appropriations for the ensuing year and some amounts were withheld by the DBM because of cash shortfalls.
- 4.4.8 Actual obligations to CHR actually declined consistently from 1999 to 2001. Developmental activities for which budgets were proposed under the locally funded projects were radically reduced by the DBM, also consistently from 2000 to 2002, resulting in considerable disparity between the budgetary level requested by the CHR and the amount eventually recommended to Congress by the DBM (Table 3.1).

TABLE 4.1
EXPENDITURES, CHR TOTAL OBLIGATIONS IN THOUSAND
PHP, 1998-2002

PARTICULARS	1998 (actual)	1999 (actual)	2000 (actual)	2001 (adjusted)	2002 (authorised)
Total Available Appropriations	209,658	209,549	201,638	180,480	209,676
Less: Unused Appropriations	31,689	13,135	4,926	1,412	-
Actual Obligations	177,696	196,414	196,712	179,068	209,676
ANNUAL BUDGET:					
PROPOSED BY CHR			425,986	322,766	283,464
DBM RECOMMENDATION TO CONGRESS			186,021	219,169	209,676

SOURCE: National Expenditure Program, 1999-2002

- 4.4.9 Inefficiency in CHR expenditures is noted in the significant proportion of its annual budget for general administration (comprising of the operational and capital outlay expenses of the central offices which perform financial and administrative support functions), accounting for 25.48% and 22.06% of the total authorized new appropriations in 2001 and 2002, respectively, as compared to an average of only 10%-15% at the national government level.
- 4.4.10 On the other hand, expenditures for developmental concerns (indicated under locally funded projects) have been severely low, registering at 1.18% and 0.93% in 2001 and 2002, respectively. This suggests that reforms in CHR will be difficult to pursue if the level and configuration of the CHR budget will not considerably improve.
- 4.4.11 The high proportion of overhead expenditures to the total CHR budget thus indicates that a significant portion of resources is used in administrative support functions, particularly in operational expenses of the budgeting, accounting, general services and other support offices, rather than in mission-critical functions relative to human rights protection and promotion. CHR must examine in detail the possibility of streamlining support operations and realigning trainable manpower to the Commission's line functions.

TABLE 4.2
PROGRAM DISTRIBUTION OF THE CHR NEW APPROPRIATIONS
In Thousand Pesos, 2001 and 2002

PROGRAM/PROJECT	2001	% OF TOTAL	2002	% OF TOTAL
GENERAL ADMINISTRATION	52,787	25.48	43,293	22.06
PLANNING	11,086	5.35	9,897	5.04
OPERATIONS	140,857	67.98	141,417	72.07
- Investigation	17,456		47,322	
- Legal Services	87,420		90,996	
- Research, Education and Information	15,463		16,689	
- Assistance to Victims	20,518		16,410	
Sub-total Regular Operations	204,730	98.81	194,410	99.07
LOCALLY FUNDED PROJECTS	2,449	1.18	1,817	0.93
TOTAL NEW APPROPRIATIONS	207,179	100	196,227	100

SOURCE: National Expenditure Program, 1999-2002

5 CONCLUSION

5.1.1 From the context review, the review of program performance, and the above assessment of the institutional framework, it is concluded that in the reform of the CHR, the following issues must be addressed:

- a) The independence of the CHR is undermined or diminished by oversight agency controls over the management of the Commission's financial and administrative operations, including its resources. The arrangement whereby the President appoints the CHR Commissioners makes the integrity and credibility of the appointment process dependent on the character and probity of the incumbent President, defeating the objective of ensuring a transparent and objective selection and appointment process.
- b) Independence may also be diminished by human resources development issues pertaining to the competencies, character, security, and motivation or satisfaction of the CHR manpower, such that they may be vulnerable to political pressures, bribery, threats, and other forces that may unduly influence their thinking and decision making.
- c) The CHR has not adequately complied with the standards on pluralism as specified in the Paris Principles, in view of limited participation and coordination with the social forces that are involved in human rights promotion and protection. CHR needs to build a system of alliances, partnerships and resource mobilization strategies to ensure complementation of efforts, improve use of collective resources, and unify

program foci between CHR and other organizations involved in human right protection and promotion.

- d) CHR has not satisfactorily fulfilled its mandate as the watchdog for human rights, as it fails to be pro-active in exploring the potential human rights violations that are inherent in severe human development conditions. This has been demonstrated in various situations covered in the previous chapter. For one, the CHR's investigation program has been attending to filed cases than those carried out on a motu proprio basis. Further, the public information program may have not brought in the level of awareness and interest in human rights issues and the Commission's services into the daily lives of the Filipinos, so that despite the prevalent human development conditions the number of actual cases filed was much lower than one would expect, registering at an average of only about three cases per month in each regional office. CHR must therefore exert much efforts and courage to be pro-active in its investigation work.
- e) CHR must build a case for a higher budget to finance and sustain its reform efforts. To do this, there is need for the CHR to strengthen its capacity to be an accountable organization. This means that the CHR must design and install the appropriate financial and administrative operating systems and the associated performance management systems that will enable it to systematically monitor and evaluate performance in many dimensions, and thereby establish its financial and administrative accountability to Congress and the oversight agencies, as well as its public accountability.
- f) CHR must leverage its limited resources to program interventions that address wider and long-term concerns. These concerns include monitoring consequential human rights violations (discriminatory laws, rules, regulations and decisions) affecting vulnerable groups, and human rights promotion which will focus on programs that will enhance awareness, understanding and active support of citizens, rather than in building competencies of the national government.

Chapter 5

ASSESSMENT OF CAPACITY

1 INTRODUCTION

1.1.1 This chapter presents an assessment of the internal organizational framework, operating systems and high level staffing of CHR and identifies their reform implications. It is aimed at determining the capacity requirements of the Commission and the changes that must be put in place, to enable it to face new challenges, client needs and requirements for linkages, among others. In particular, the assessment will address the following:

- *What should be the role of CHR in human rights promotion and protection?*
- *Given the recommended institutional framework, program focus, and defined role, what internal capacities within the present CHR should be built in order to make the short and long – term transformation?*

2 ASSESSMENT APPROACH

2.1.1 In the study of the CHR's organizational set-up and operational arrangements and in the design of the institutional reform proposals, the consultants were guided by the following principles, parameters and guidelines, as stipulated in its inception report.

GOVERNANCE PRINCIPLES

Institutional Independence

2.1.2 Institutional independence means the right to self-governance. Self-governance means the autonomy to plan and manage resources and make decisions and actions without undue formal or informal interference by way of control, sanction, approval/disapproval, and modification or repeal of decision from external organizations and individuals. However, institutional independence also means that the CHR will not perform functions over which it has no direct administrative or technical control.

Context Fitness

- 2.1.2 Context fitness means the relevance of the organization's response (policies, institutions, programs, services) in relation to the defined human rights system issues, problems, needs and opportunities.

ORGANIZATIONAL DESIGN PRINCIPLES AND PARAMETERS

Public Access and Education

- 2.1.3 Access means the convenience with which the public avails of the services of the CHR. It consists of several dimensions – geographical access, adequacy and speed of services and results, degree of public knowledge and understanding on human rights, and degree of public knowledge of CHR services and the procedures in availing such services.

Speed and Timeliness

- 2.1.4 Speed means the nominal length of time for the service to be provided by the CHR from the time a request/application is logged by the Commission to the expected time that the requesting party obtains results. Speed also means the length of time it takes the CHR to react to human rights issues, either consequential or promotional, by way of public reporting or through the media, and the time it takes to produce and submit reports vis-à-vis submission schedule.
- 2.1.6 Timeliness means the completion/provision of appropriate CHR services at the time they are needed by clientele, or the CHR's response to particular issues in terms of time.

Decentralization with Stronger Overall System Control

- 2.1.7 Decentralization means the transfer of decision-making authority, operations, and resources to lower level units. Decentralization does not weaken the central office. On the contrary, decentralization results in stronger capacity to control. It is a matter of clearly defining the role between central and field units, the former to be focused on formulating policies and evaluating performance, while the latter to be implementing the organization's policies, rules and procedures. It concerns delegating responsibility and authority from the central office to the field units.

Horizontal and Vertical Compartmentalization

- 2.1.8 Horizontal compartmentalization means the proper delineation of functions among equally positioned or related units or agencies (e.g., among primary units of CHR, or among departments/agencies in the Executive Branch).
- 2.1.9 Vertical compartmentalization means the proper delineation of functions among units that are vertically sequentially related in terms of functional levels (e.g., between central and local governments, or between central and regional offices).

Information-based Planning and Decision-making

2.1.10 This means the level and quality of use of systematically processed information in planning, decision-making, and performance assessment.

Seamless Integration of Operating Systems

2.1.11 Operating systems are related with one another. The output of one system may be the input of another or vice-versa. The effectiveness of the mechanisms by which systems are linked with one another is key in determining the organization's capacity to plan, formulate budgets, formulate relevant policies and programs, link plans and programs with resources, evaluate performance in relation to capacity issues, and formulate plans with inputs on performance and capacities.

Continuing Learning Capacity

2.1.12 Organizations must operate on a continuing basis and within a changing environment. It must have capacity to anticipate and analyze these changes and properly position itself to efficiently and effectively address changing priorities. Changes in environment may result in issues and problems that require changes in program focus, roles and specific interventions. These may require corresponding improvements in resources and technologies, and competencies. Continuing learning capacity means the internal capability of the organization to detect and assess changes in its environment, and to gear up its capacity to respond to the new challenges that such changes present.

RELATED INFORMATION AS CONSIDERATION

2.1.13 The study considers the results of the performance review of the CHR and the opinion survey with selected human rights experts undertaken by the CHR as inputs to its planning workshop for 2000-2001. These pointed to the following weaknesses in the Commission's organization and operation:

- ♦ The exercise by the CHR of its investigative powers has been most visible. However, CHR has been mostly reactive rather than pro-active in its investigation work.
- ♦ CHR has become an apologist of government rather than active protector of the victims of human rights violations. This was illustrated in the program review by the incident where the CHR officer blamed the victim rather than the perpetrators in the government.
- ♦ The CHR has no effective mechanism to monitor the progress of a case. The interviews and visual surveys of the operations in the central and regional offices validated the absence of such required and effective system of case monitoring.
- ♦ The CHR has failed to comply with its functions of monitoring governmental compliance with international human rights obligations. This is evidenced by the absence of an independent report by CHR on its evaluation of government performance.

- ♦ There are impressions that the CHR has negated its Constitutional grant of independence as a human rights watchdog. CHR was most often silent on/not reacting to human rights violations where the military or high ranking government officials are involved.
- ♦ CHR has not been effective in recommending to Congress appropriate measures to promote human rights. A day-to-day working relationship with Congressional representatives or their staff is lacking. Similarly, a strong collaborative relationships with other stakeholders for effective advocacy of CHR's positions on legislative issues is not in place.
- ♦ Many of the CHR personnel are idle. Considering that the day-to-day operations in the regions is primarily those on investigation, and inasmuch as the number of cases per month filed in the regional offices is very low, it indicates that there are many CHR staff in the regions who do not have much work to do.
- ♦ There is no clear democratic process by which the CHR Commissioners are selected. The appointment process lacks transparency. The procedures for selection and the application of such procedures are at the discretion of the President, and thus are not based on established democratic procedures.

2.1.14 The above findings further provided the groundwork for a deeper analysis of the institutional strengths and weaknesses of the Commission.

2.2 Conceptual Approach and Assessment Procedure

2.2.1 The CPRM conceptual framework for institutional and capacity assessment and reform formulation presented in the inception report was used in the capacity assessment.

2.2.2 The assessment of the internal formal structure of the CHR is specifically guided by certain parameters such as completeness of organization units and operating systems, clarity of functional delineation among units, and clarity of coordinative mechanisms. The completeness of the organization structure and functions of the CHR are assessed based on the presence or absence of the following:

- **Conscience units and functions** – those involved in the formulation of plans, policies, and programs; monitoring and evaluation of organizational performance; research and development; and other units related to strategic planning, policy formulation, design of agency products and services, self-evaluation, and ensuring the establishment of capacity for continuing learning and improvement.
- **Housekeeping units and functions** – those involved in the administrative and financial operations, including budgeting and accounting, procurement and physical assets management, human resource management, and other logistical support units and functions.
- **Mission-critical units and functions** – those that directly deal with production and delivery of the products and services for which the agency is mandated by law to do. The review and recommendations seek to address issues on access, efficiency,

relevance, capacity to meet present and future demands, and other relevant considerations.

2.2.3 The assessment was conducted using data generated primarily through reviews of relevant past and recent studies, laws, policies, rules and regulations and review of literature. Conferences, executive meetings, focus group discussions, and key informant interviews with people both within and outside of CHR, including those in identified regions (Baguio City, Tacloban City and Cagayan de Oro City) were undertaken. Selected observations on the Commission's operations both at the central office and the selected regional offices were conducted.

2.3 Limitation of the Study

2.3.1 The CHR capacity assessment and organizational reform recommendations will not address transaction and task design issues such as design of procedures for investigation of rape cases, or cases involving victims of torture and disappearances. These are the concerns of operationalisation but they should be addressed immediately as soon as the reforms are approved.

2.3.2 The assessment and design of internal capacity reforms cover the definition of CHR role in human rights promotion and protection, definition of the core formal structures, internal functions and administrative authority, definition of the key operating systems and technologies.

3 REVIEW OF OPERATIONS

3.1 Key Programs, Services and Processes

3.1.1 The CHR has translated its vision into the mission of promoting the protection and promotion of human rights, which have the following key elements:

- Timely and impartial investigation of human rights violations and appropriate actions thereon;
- Assistance to victims of human rights violations and/or their families;
- Continuing advocacy program on human rights;
- Establishment of local-level support system;
- Cooperation of other government agencies, non-government organizations, people's organizations and international institutions in enhancing respect for the primacy of human rights; and
- Monitoring of government compliance to international treaty commitments.

3.1.2 In pursuit of its mission and mandate, the CHR undertakes two major programs: protection of human rights and promotion of human rights. The human rights protection

program is being carried out through investigation and hearing of complaints; provision of legal aid and counseling; research; assistance to human rights victims; "visitorial" services; and involvement in special prosecutors system on child abuse cases.

- 3.1.3 Human rights promotion programs are primarily in the form of public information and education services and researches on human rights-related matters. Public information services provided by the CHR include human rights information assistance; public relations; conduct of special projects and events; development, production and dissemination of information materials; and conduct of child rights information campaigns.

Investigation of Human Rights Cases

- 3.1.4 The investigation work of the CHR involves the conduct of fact-finding activities in the field, prison visits, trial observations and forensic missions. These activities are aimed at providing support to legal actions; providing bases for the grant of relief and rehabilitation assistance to victims, (including medical/financial assistance and aid to families who are displaced/dislocated as a result of military operation in an area and conduct of immediate search for the victim in military camps, police or detention centers to ascertain his safety); and monitoring of government's compliance with human rights treaty obligations.

- 3.1.5 The CHR differentiates investigation undertaken for purposes of prosecution from "investigative monitoring". Investigation for purposes of prosecution covers violations of civil and political rights, including the following:

- Violation of the rights of prisoners and/or detainees
- Torture, force, violence, threats, intimidation
- Violation of the rights of a fair and public trial
- Summary execution and/or extra-judicial execution
- Transgression of the liberty of abode
- Unreasonable searches and seizures
- Violation of the rights of persons arrested, detained or under custodial investigation
- Violations of the right to peaceful assembly
- Involuntary servitude
- Violation of freedom of religion

- 3.1.6 CHR investigation work involves the analysis of evidence on human rights violations and monitoring of the activities and actions of institutions and organizations concerned with human rights. It establishes *prima facie* evidence on cases of human rights violations; recommends the filing of cases in courts or appropriate agencies; and monitors the status of such cases. The systematic documentation of the results of its investigation is an inherent activity in the investigative work of the CHR.

- 3.1.6 The CHR uses basic investigation techniques in attending to complaints on human rights violations. These techniques are: surveillance, including undercover investigation; inspection of records and files; scientific examination of real evidence (e.g. crime scene search, laboratory examination of objects and substances located at the crime scene

etc.); and interview and interrogation as a means of gathering information from witnesses and informants.

3.1.7 The investigation of cases may be done *motu proprio* in response to radio or television broadcasts, newspaper articles and phone-in reports of incidents. Generally, an investigation is undertaken when the victims, their relatives and friends or any parties concerned file complaints. The CHR Investigator looks at the processes and the institutions involved; implements human rights standards by determining which of the particular treaty obligations has been violated and how; conducts a comprehensive review of laws, policies, rules and regulations, procedures practices and jurisprudence; analyzes information generated in relation to the case on hand; identifies the factors that have contributed to the violations; and prepares recommendations.

3.1.8 On the basis of the investigation previously undertaken, the CHR determines if there are human rights violations under the case being studied and recommends appropriate measures on the disposition of such case. Conciliation/mediation may be resorted to for certain complaints involving violations of civil, political and economic, social and cultural rights. Cases involving heinous crimes or criminal-related complaints punishable by imprisonment of more than one year or a fine exceeding P5,000, as provided under the Revised Penal Code and/or special laws, are pursued /filed in courts or appropriate administrative agencies.

3.1.9 The CHR had about 2,076 cases in 2001, only 1118 (54%) of which were investigated. Out of the cases investigated, only 458 cases (41%) were actually filed and docketed in courts. Of these, only 85 cases were eventually rendered decisions on. These statistics show several things:

- The average workload of each regional office in 2001 was about 6.22 cases per month. Since there is an average of 7 investigators in each regional office the average workload of each investigator is less than one case each month. And, since less than 50% of cases filed actually enter the court system, the workload of the investigation officer would even much lower one case per month. Of course there would be disparities in case incidence among regions. The regions where the team visited had an average of 3 cases per month, indicating that several of the investigation officers in other regions had practically no case to handle each month.
- There has been a significantly low rate of cases reaching the investigation stage. There are no adequate data available on the reasons for the low proportion (53.9%) of cases reaching the investigation stage. But during interviews in the three selected regions, the interviewees said that human rights officers try to the extent possible to use mediation to arrive at an early settlement of the case and prevent it from reaching the court.
- Further, of the number of cases investigated, only 41% were actually filed in courts. This was found by the consultants to be alarming since a large proportion of the cases filed involved criminal acts. Another reason cited was the non-availability or disappearance of the suspect or perpetrator. Since a large portion of the cases filed also involved perpetrators coming from the police and the military, it is possible that cases were not pursued in fear of reprisal. But unfortunately, there are no clear answers and ready data to support this inference.

- The other issue is that a very low proportion of cases filed in courts were decided. For example, in 2000 only 85 out of the 458 cases were decided by the courts, of which only 8 involved convictions. There are several possible reasons for these. One could be the quality of the legal services provided to the complaining party especially if he was poor. The other is the lack of resources of the victim to produce the necessary witnesses and evidences. Still another is, if the military and police are involved, and where the evidence gathering and witness producing agency is the police itself, the case would be extremely vulnerable to poor evidence and lack of witnesses.

3.1.10 This situation severely undermines the rights of the victims to seek justice. This also indicates the equally severe limitations and weaknesses on the part of the CHR to effectively pursue and achieve justice for the victims.

**TABLE 5.1
CHR PERFORMANCE IN INVESTIGATION**

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
1.1 Documentation of cases	General public, internal monitoring	No. of Complaints	-	2046	1,647	2,076
		Investigated	-	-	-	1118
		Docketed Cases	-	1023 (third quarter)	557	41% of 458
		Filed in courts/ quasi-judicial bodies	-	380	6,913	-
		Closed/ terminated cases	-	497	748	49% of 548
		Archived	-	92	120	-
		In resolution	-	54	-	-
1.2 Monitoring Litigation	Public sector	Cases decided by courts	-	-	255	85
		Dismissed	-	-	65.09% or 166	45
		Convicted	-	-	26.67% or 68	8
		Terminated	-	-	-	25

SOURCES: CHR Annual Performance Report 1997, 1998, 1999, 2000

3.1.11 Another issue pertaining to investigation is the seeming different approaches and procedures being applied by human rights officers. These vary across regions. In one occasion the regional human rights officer already spoke to the public about the case being investigated without having informed the Commission of such case. Such that when the media also interviewed the Chair, she had to say she still has to get to know the case. Several other procedural weaknesses were identified during the data gathering phase including lack of accountability over process. It was cited that human rights officers could just stop investigating a case without clear reporting requirements, procedural sanctions or scrutiny of such action.

3.1.12 There is therefore a need to considerably improve procedures, accountability standards, reporting systems, and ethical standards on case investigation, and update the manual on the conduct of investigation accordingly. The current manual of procedures for investigation needs to be revised considerably. This requires development of procedures that are unique to each case type. Issues on procedures that are not clear include among others the following:

- When does the human rights officer forward investigated cases for the decision of Commissioners?
- Under what conditions will the human rights officer initiate his own investigation, and when does he rely on the investigation data of law enforcement agencies?
- Under what conditions will medical and forensic examinations be undertaken directly by the CHR despite the availability of data from law enforcement agencies?
- Under what conditions will the cases being investigated be considered to involve conflict of interest on the part of law enforcers? What investigation procedures and action alternatives guide the human rights officers?
- Who will decide on what to say to the media about the case being investigated, and who will act as spokesperson of the Commission, whether the case is in the regions or in Manila?
- What are the accountabilities of human rights officers with respect to their compliance with procedures, their decisions and actions on the case, and their reporting thereon?

3.1.13 The CHR is only one of the agencies and organizations which undertake investigations on human rights violations. The following are some of these agencies/ organizations which are similarly mandated to carry out investigative tasks to meet their respective purposes.

- The PNP conducts investigation of a case/crime as part of its police and intelligence operations and refers its findings to the local prosecutor for filing of charges with the appropriate court.
- The DOJ, as the primary government agency responsible for the administration of the criminal justice system, investigates crimes, prosecutes offenders, and administers a correctional and probation system through the National Bureau of

Investigation, Public Attorney's Office, Bureau of Corrections and the Board of Pardons and Paroles.

- The DSWD assesses a case and determines possible services that can be accorded to the victims under any of its programs and projects that are aimed at alleviating poverty and improving social protection and promotion of the rights and welfare of the poor and disadvantaged, including the establishment and maintenance of facilities and rehabilitation centers.
- The local government units (LGUs) concerned ascertain the facts of a case.
- The NGOs and POs undertake their own fact-finding activities, interview victims and witnesses and document their findings, these being integral to their regular programs on human rights protection.

3.1.14 The situation has resulted in having the victims, witnesses and other persons involved in a case subjected to a tedious, duplicative and repetitive processes of interviews/interrogations by the above agencies and institutions, including the CHR. The CHR should refrain from getting itself involved in direct case investigation – gathering of information; identifying, tracing and locating the perpetrator(s) that would lead to arrest; and collection and provision of evidence of guilt for the prosecution of the offender(s) in court or an appropriate administrative body, except in cases where law enforcement agencies, government officials and personnel or their families and friends are implicated or directly involved as perpetrators, or in cases where CHR has reason to believe that law enforcement agencies or their personnel have a bias, prejudice or conflict of interest in the case.

3.1.15 Instead, the CHR should see to it that an effective mechanism for investigation of human rights violations is in place, and that the implementing agencies properly do their responsibilities. It should monitor the activities and actions of agencies and institutions concerned, document its findings, report such findings to the agencies concerned, to Congress and to the public, and generate/ensure compliance of applicable rules, regulations and standards.

3.1.16 The CHR has no power to prosecute violations of human rights. It can only recommend the prosecution of violators to the DOJ. But on a case-to-case basis the DOJ gives the CHR special authority to prosecute cases on human rights violations of national and regional scales. For instance, the DOJ has deputized CHR lawyers to act as special prosecutors for child abuse cases. They assist all state, provincial, and city prosecutors nationwide in the prosecution of offenders involving all forms of child abuse and violations of the child protection laws.

3.1.17 The prosecution of cases on human rights violations is not within the current capability of the CHR. The CHR must instead focus on mobilizing resources to support human rights victims once their cases are filed, in the form of producing and preparing evidence and witnesses, providing quality legal assistance and providing financial assistance during the period of litigation if necessary. The CHR must moreover monitor the litigation of cases in courts and independently evaluate whether the rights of the party concerned have been respected, and whether the handling of the case by the courts has been speedy and impartial.

Investigative Monitoring

- 3.1.18 Investigative monitoring covers incidents and/or conditions obtaining in the country, which are violations of not only civil and political rights, but also of economic, social and cultural rights. This is a broader aspect of the investigation function since this includes tracking, documentation and reporting of human rights situations at the collective (societal or specific demographic groups) rather than at the individual level.
- 3.1.19 Some of the violations of economic, social and cultural rights have been identified during the study to include the following:
- Forced eviction conducted or tolerated by the government, including demolition
 - Failure of the government to comply with and enforce the mandatory requirements in the execution and eviction or demolition orders involving underprivileged and homeless citizens
 - Failure of the government to enforce or implement the provisions of law on relocation of those affected by demolition in danger areas
 - Displacements due to conflicts, insurgency or counterinsurgency operations; logging and land grabbing operations; and implementation by the government of massive infrastructure projects
- 3.1.20 The CHR compiles incidents of human rights violations to serve as bases in the assessment of the government's current performance in meeting human rights obligations. Multi-year analyses are done to gauge the trends of human rights situations. Comprehensive and in depth reviews of national laws, policies, rules, regulations, guidelines, administrative procedures and practices, including jurisprudence, national strategies and plans that have impact on civil, political, economic, social and cultural rights are made.
- 3.1.21 Economic, social and cultural rights however, are much broader than the current notion of direct violations (transactional) of these rights. These rights encompasses the broader responsibility of the government to ensure that economic, social and cultural rights are promoted and protected at the societal level through policies that ensure equity, equal opportunity, provision of resources, and prevents discrimination.
- 3.1.22 It is in the area of investigative monitoring that the CHR has been weakest. In particular, the CHR has not exerted significant efforts to explore and assess the human rights issues that emerge in relation to prevailing human development situations in various sectors. This is particularly important inasmuch as statistical data which established severe underemployment, income inequality, gender disparity, economic inequity, graft and corruption and discriminatory public policies, among others, imply the consequent prevalence of human rights issues in affected sectors.
- 3.1.23 CHR has neither undertaken a comprehensive and independent review of the government's performance in the promotion and protection of human rights. For example, a review of the human rights implications of graft and corruption in the

government, an assessment of the impacts of poor public services on human rights, and determination of the discriminatory side-effects of economic policies have not been effectively undertaken, but these are part and parcel of government accountability to ensure that its policies and programs are not violative of human rights, or are promotive of the development of a favorable human rights conditions.

3.1.24 Currently, CHR merely reviews the country report prepared by the DFA and enhances it instead of preparing its own report. The lack of demonstrated will on the part of the previous CHR management to perform this daunting function has its roots in the lack of individual and institutional independence and the dysfunctional appointment process, as discussed in the previous chapter of this report.

3.1.25 The investigative monitoring function of the CHR, especially at the consequential level, must be strengthened. Right now, the function is recognized but there are no formally installed institutional mechanisms that compel the CHR to undertake such function on a regular basis and be held accountable for it.

3.1.26 The CHR must establish a formal system of review of government's human rights policies to determine weaknesses, and suggest/recommend measures to improve them. Such a system must be institutionalized in the form of a formally assigned unit and personnel, a formal assessment procedure, report submission, publication and media projection processes, and preparation of schedule and budget. With the new set of commissioners having been installed, there is hope that such institutionalized arrangement can be put in place and appropriate functions accordingly performed.

Provision of Assistance to Victims and Visitorial Services

3.1.26 The CHR provides free legal assistance to victims of human rights violations, specifically to those who cannot avail of the services of legal counsels. Accordingly, it conducts legal researches and studies for the advancement of human rights principles, standards, rules and regulations and agreements. Visits to jails and provision of legal and financial assistance to human rights victims and their families are CHR's major program interventions.

3.1.27 CHR provides financial assistance to victims of human rights violations or their families for their basic needs and subsistence for a specified period, to include their requirements for medical and funeral expenses resulting from said violations. In the evaluation of the need for the provision of such financial assistance, the CHR considers the gravity of the human rights violation committed; economic status of the victim and his family; expenses incurred as a result of the human rights violation committed; and social history of the victim and his family. The following benefits may be granted:

- Survivor's benefit – P15,000 per victim
- Medical assistance – not to exceed P 7,500 per victim
- Incidental emergency expenses – for urgent needs of victims such as transportation expenses, meals, medicines ands similar expenses - P8,000 per region per month

- Community assistance – for communities/groups of families who were uprooted from their place of abode as a result of human rights violations – P3,000 per family per month
- Special assistance – for victims who are not covered by existing guidelines and no other agencies can provide immediate assistance – P5,000 per claimant/victim
- Rehabilitation assistance – for unjust imprisonment/detention- not to exceed P1,000 per month, not to exceed P10,000

3.1.28 The claim should accompany certain documents such as death certificate, autopsy report; medical report; birth certificate (if claimant is parent/heir); marriage certificate (if claimant is spouse/heir); sworn statement of witnesses, if same has not been made available by the RO concerned; photographs to show the extent of injury inflicted and/or gravity of the offense committed; and investigation report of law enforcement agencies, if any.

3.1.29 There is a diminishing budget for financial assistance, in spite of the increase in the number of claimants (Table 5.2). CHR must find other sources of assistance funds by mobilizing non-governmental sources and alternative services.

**TABLE 5.2
PROGRAM DELIVERY TABLE
FINANCIAL ASSISTANCE**

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
Financial assistance and medical services	to victims, survivors, beneficiaries and heirs	No. of recipients of financial assistance	506	243 (third quarter)	189	62
		Amount released	P5,634,300.00	P2,702,150.00	P2,118,150.00	P 628,390.00
		No. of recipients of medical assistance	78	423		7
		Amount of medical assistance	P470,500.00	-	-	P43,500
		No. of pending claims		-	-	890
		Amount released for incidental expenses (transpo., meals, other subsistence items)	P6,200.00	-	-	-

SOURCES: CHR Annual Performance Report 1997, 1998, 1999, 2000

3.1.30 Through the CHR fact-finding function which includes prison visits the Commission determines the necessary assistance that could be extended to individuals/groups concerned. Such assistance includes compensation to victims and their families. CHR determines the legality of imprisonment and detention of any person and monitors the condition of prisoners and detainees, ensuring that their basic rights are protected and seeing to it that they are treated in a humane manner, in accordance with internationally

accepted norms. However, public reporting of jail conditions, as a way to compel the government to improve services therein, has not been effectively undertaken by the CHR.

- 3.1.31 In the CHR central office and in the three ROs covered by the study (CAR, RO VIII and RO XI) prison visits are generally undertaken only where there are complaints. Regular and periodic inspections and visits to jails/detention centers and provision of counseling services to vulnerable members of the society ought to be effected in CHR, with or without receipt of complaints. Jail visits ought to be organized regularly and simultaneously to provide the basis for the CHR to develop and publish an overall report and critique on the conditions of the country's jail system.
- 3.1.32 There is intent to expand the coverage of the program and include the provision of witness protection services - temporary safekeeping and security services. This is another implementing function that must appropriately be left to the line departments/agencies like the DOJ, PNP and AFP.
- 3.1.33 There is a need to study further and rationalize the system of providing benefits, such financial/monetary assistance to victims of human rights by all government agencies concerned including the DOJ, DSWD and the National Commission on Indigenous Peoples (NCIP). A more integrated and simplified system whereby only one agency may be mandated to supervise and undertake the grant of such assistance should be considered to improve efficiency and avoid duplication.

Public Information, Education, Communication and Related Advocacy Services

- 3.1.34 The International Covenant on Economic, Social and Cultural Rights and the Vienna Declaration and Programme of Action, World Conference on Human Rights (Vienna, 14-25 June 1993) are international issuances and declarations which specifically recognize the right of everyone to education. These declarations provide that education "...shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for maintenance of peace." Moreover, education plays "... an important role in the promotion and respect of human rights with regard to all individuals without distinction of any kind such as race, sex, language or religion, and this should be integrated in the education policies at the national as well as international levels."
- 3.1.35 Executive Order 27 (1986) mandates the Department of Education (DepEd) to include the study and understanding of human rights in the curricula of all levels of education and training in all schools in the country.
- 3.1.36 It also directs the Civil Service Commission to include in the qualifying examinations for government service basic knowledge on human rights. This directive however is difficult to implement since the Civil Service Commission has no control over the recruitment procedures of agencies and of their qualification standards.
- 3.1.37 Relatedly, the CHR, in cooperation with government agencies concerned and other partners, develops sectoral curricula, modules and training designs on human rights. It produces educational and instructional materials as guides to human rights advocates,

educators, trainers and students. As part of the program, CHR likewise provides theses-writing grants to deserving masteral and doctoral students whose theses/dissertations are on human rights.

- 3.1.38 Presidential Memorandum Order 20 (1986) directs the DND, the Armed Forces of the Philippines and the PNP to include as an integral and indispensable part of the education and training of all police, military and other arresting and investigating personnel, especially those in charge of detention and convicted personnel, the study on human rights.
- 3.1.39 Presidential Memorandum 259 (1995) requires the DILG, DOJ and DND to include, as an integral part of the continuing education and training of their personnel, the study of human rights as conducted by the CHR. It further directs these agencies that successful completion of the appropriate human rights education and training courses shall be required for recruitment/promotion and transfer/reassignment of their personnel, with priority given to personnel directly involved in arresting, investigating and detaining functions.
- 3.1.40 In pursuit of the above purposes, the CHR organizes inter-agency collaborative programs among NGAs, NGOs, POs, the academe, and local and international institutions on human rights education and training for the police, military and paramilitary personnel, employees of local governments, the urban poor, youth, children, peasants and indigenous peoples, among others.
- 3.1.41 The CHR has forged cooperation with NGOs in the field of human rights education along the following areas: community-based action centers, academic curricula, national human rights enhancement proposals, national human rights education and protecting children in situations of armed conflict. The CHR is either taking the lead or participating in the following special undertakings:

- *Barangay Human Rights Action Center (BHRAC) Program*

The BHRAC Program is aimed at bringing the services of the CHR closer to the grassroots. The program is manned by Human Rights Action Officers (BHRAOs) fielded in *barangays* throughout the country.

The BHRAOs, in coordination with the City, Municipal and Provincial Human Rights Action Officers, receive and monitor complaints on human rights violations, conciliate between conflicting parties and refer the same to the nearest CHR field office, undertake education and information campaigns, and carry out coordination, referrals and community mobilization. They hold office in any area assigned by the Chairman of the Barangay Council. The *Barangay Council* is likewise encouraged to provide the BHRAOs with allowances/honoraria, facilities, and supplies for the conduct of their functions.

The DILG, *Pambansang Liga ng mga Barangay*, PNP, DND, DECS, DOJ, the Leagues of Provinces, Cities and Municipalities, the Sosoptimist International-Philippine Region (SIPR), Promoting Initiative for Democracy and Justice (PRODEM) and other NGOs and POs cooperate with the CHR in the implementation of the BHRAC Program.

- *Philippine Human Rights Plan*

Presidential Memorandum No. 258 issued by then President Fidel V. Ramos created an Inter-Agency Task Force for Strategic Planning and Research for Human Rights Protection to formulate a long-term human rights plan in consultation both at the national and regional levels with multi-sectoral organizations.

The Task Force formulated the Philippine Human Rights Plan (PHRP) which defines the legislative and administrative program measures to protect and promote the rights of the vulnerable and disadvantaged sectors of the society. The Plan primarily covers education programs and projects for human rights promotion.

- *Philippine Human Rights Education Decade Plan*

The program was the result of massive consultative work between government agencies concerned and the NGOs nationwide. It assesses the existing human rights education programs and projects in the country, and sets the vision, mission and a ten-year plan of action for human rights education.

The Plan is aimed at increasing the level of knowledge and awareness of all Filipinos of their basic civil, political, economic, social, cultural and environmental rights. Under the plan, law enforcers, prosecutors, judges, jail officers, the military and government authorities are taught of the rights of those who may be affected by their official actions.

- *Children in Situation of Armed Conflict*

The CHR provides an active support to the program of the UNICEF- protection of children in situations of armed conflict- as the core of its education program for the military and police.

3.1.42 The CHR is one of the lead participants of the National Inter-Agency Chamber of Human Rights (NIACHR). Together with the DILG, DOJ and DND, the CHR mobilizes the five pillars of justice to effectively and efficiently implement priority programs on the protection and promotion of human rights. The NIACHR is specifically mandated to ensure unity, understanding, continuity and realization of human rights concerns affecting education and training, in addition to investigation and prosecution/ speedy disposition of cases of human rights violations, among others.

3.1.43 The key result areas of the collaborative efforts of these agencies under the NIACHR are curriculum development, faculty development, plans and policy formulation, evaluation and monitoring, human rights education and clearance.

3.1.44 The CHR public advocacy efforts are in the form of public information to raise the people's level of awareness on human rights and to make the CHR more accessible to the public by providing different venues for their concerns and through continuing dissemination of human rights information and materials to the public.

- 3.1.45 The question that must be answered in relation to CHR's program of public information and education is: What has been the impact of CHR in promoting a culture of respect for human rights? This may be impossible to measure, although one could gain advice from human rights expert Atty. Rene Sarmiento, who stressed the need for CHR to rethink its public information program towards finding and implementing creative approaches to enhancing interest in human rights on a broad scale. He mentioned how effective new game shows in bringing down concepts and integrating them into the daily lives of ordinary people. He suggested potential ways of integrating human rights into matinee shows and other popular television programs that attract the masses.
- 3.1.46 At present the public education campaign of the CHR has been focused on preparing information instruments to reach various population groups and the general public. These come in the form of flyers, radio programs and interviews, seminars, publication of books, and issuance of press releases. Press releases may be useful in communicating CHR positions on human rights issues of significant national interest and high profile human rights cases that are already of intense public interest. These instances provide great opportunity to the CHR to communicate human rights through its denouncement or opinion on the case involved.
- 3.1.47 To be effective in gaining public attention and interest, human rights public information efforts must be able to compete with other communication programs that capture public interest. Flyers, books, public gatherings and lectures, and radio programs may not be able to compete with popular entertainment programs for the interest of the masses. As indicated above, perhaps the adoption of "competition" strategies that integrate human rights education in matinee programs in primetime television series and popular game shows provide potential instruments for effectively imbibing human rights concepts and values among the masses.

TABLE 5.3
PROGRAM DELIVERY TABLE
HUMAN RIGHTS PROMOTION: EDUCATION AND TRAINING

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
1.1 Design of training programs, seminars, lectures and education plan	prisoners, jail guards/ wardens, police, military, children, women, trainers, educators, other NGOs and HR advocates, and government offices and agencies	Philippine Human Rights Education Plan for 1998-2007	1			
		Exemplars design activity		1 (nationwide)		
		Workshops				2
1.2 Conduct of training/ lectures/ seminars	prisoners, jail guards/ wardens, police, military, children, women, trainers, educators, other NGOs and HR advocates, and government offices and agencies	No. of training/ seminars/ talks/ lectures	839	330	962	465
		No. of participants		40, 248 (regional level only)	621	

**TABLE 5.3
PROGRAM DELIVERY TABLE
HUMAN RIGHTS PROMOTION: EDUCATION AND TRAINING (CONT.)**

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
1.3 Dissemination of information	General public	No. of info. Material disseminated	250, 286		25,433	2,027 (to media)
materials, press releases, press		No. of dissemination activities	636, 137			
		New HR Books released	"A Resource Book on the Rights of Filipino Women Migrant Workers and Other Empowerment Tools"	Handbook for PHRP Plan, the Compendium of Laws, Treaties and Decision on HR and the rights of Prisoners Handbook		
materials, press releases, press	General Public	New Journals released, monthly news letters, flyers		tagalog translation of CHR flyer, release of 1 Human Rights Journal out of 2 issues combined.	FOCUS, 2 Human Rights Journal, revised Flyer on Women's Rights, IRRA Law Pamphlet (Tagalog and Cebuano version), Rights of Prisoners	
		Video/ tri-media materials released		camera-ready dummy of Cebuano IRRA, 2 video materials were completed - human rights in general and an institutional video.	tri-media activities	
		Press releases	197 press/ news releases			37 press releases to radio programs, television programs
conferences, radio programs, network in the web	General public	No. of radio programs established	284			"Karapatang Pantao sa Himpapawid"
		Website launch				"Human Rights Network on the Web"
1.4 Advocacy to specific government agencies, particularly in pushing for programs to promote human rights implementation by these agencies	GOs, NGOs and other HR advocates	No. of training/ talks/ seminars/ lectures		20	921	

TABLE 5.3
PROGRAM DELIVERY TABLE
HUMAN RIGHTS PROMOTION: EDUCATION AND TRAINING (CONT.)

DELIVERY SYSTEM	TARGET AUDIENCE	PERFORMANCE				
		Indicators	1997	1998	1999	2000
1.5 Human Rights Curriculum Development	elementary and secondary level students, tertiary level	Modules developed	101			
	Educators, trainers, NGOs	Workshops for curriculum development	1			
	General Public	Other HR educational activities		review of textbooks to include HR contents prescribed by DECS		

SOURCES: CHR Annual Performance Report 1997, 1998, 1999, 2000

3.1.48 In the area of training there is need for CHR to leverage limited resources for training in selecting high-leverage, steering operations rather than on direct service delivery where its resources and institutional capacities are severely limited. In particular, CHR can focus on mobilization and advisory efforts, development of training prototypes/curricula, formulation of training delivery standards and conduct trainer training programs, instead of involving itself in direct delivery of training services.

3.1.49 The NGOs are first and foremost and continuously active in human rights education, training and promotion. They have better collective capability in terms of resources, organization, networking mechanisms to effectively pursue advocacy efforts on human rights promotion and protection. Human rights education and training may be best done with more extensive participation of the NGOs in program delivery.

3.1.50 Thus, under this arrangement the CHR can play a complementary role of providing training prototypes, standards and trainers training, and of doing selected actual public advocacy on issues that have general public and nation-wide implications or impact, and of providing public information for purposes of improving access to human rights services by government and private sector service providers.

Implications for Program Reform

3.1.51 The implications of the above assessment for program reforms are as follows:

- At the core of effective pursuit of the CHR mandate are commissioners and human rights officers who are independent minded and who are not bound by debt of gratitude to appointing authorities or influenced by the power of government officials, the military or oversight administrative controls of the national government, and who have the courage to denounce human rights violations regardless of who has committed them.

- But, to be independent requires not just independent-minded commissioners, but also a system that is devoid of vulnerability to undue political influence. This includes financial and administrative independence from oversight agencies, the adoption of insurance and security measures for CHR commissioners and officers and their families, and appropriate remuneration benefits that will render the organization and its personnel less vulnerable to bribery.
- CHR needs to rethink and reengineer its entire public information program towards creating interest among the masses and the general public by effectively competing for such interest with prevailing popular media programs that capture a large audience. The key strategy is to integrate human rights awareness and education into the daily lives of ordinary Filipinos.
- CHR needs to strengthen its investigative monitoring and independent reporting functions particularly in relation to government performance in the promotion and protection of human rights. This requires not just independent commissioners but the installation of formal institutional setup together with the appropriate systems and procedures that will systematically ensure that the daily tasks involved are undertaken.
- It was agreed during the validation workshop that as public awareness and education builds up more vigilance and litigiousness can be expected. The CHR must therefore make institutional preparations in improving existing capacities for case investigation and legal assistance.

3.2 Formal Administrative Structure and Key Operating Systems

- 3.2.1 The formal administrative structure of the CHR consists of the management structure and the operating structure. The management structure comprises the policy making body and the office of the administrative head of the organization. The operating structure comprises the primary subdivisions and the secondary divisions performing housekeeping, conscience and mission-critical functions and responsibilities.
- 3.2.2 The policy management structure of the CHR has been provided in the Commission's enabling act to consist of a chairman and four commissioners. The appointment and term of office of the commissioners are fixed by law and are non-renewable.
- 3.2.3 Its operating structure is not indicated in the enabling laws. The DBM approved the initial operating structure of the CHR in 1987 as depicted in Figure 5.1. The current organization structure, as shown in Figure 5.1 is an expanded version, which has been approved by the Commission in 1995. The table below compares the initial organization structure of the Commission with the actual set-up.

**TABLE 5.4
INITIAL AND CURRENT ORGANIZATION STRUCTURES OF CHR**

OLD STRUCTURE (1987)	CURRENT STRUCTURE (1995)
Office of the Chairman	OFFICE OF THE CHAIRMAN • Child Rights Center
Office of the Executive Director	Office of the Executive Director
General Administrative and Support Services	GENERAL ADM. AND SUPPORT SERVICES • Human Resources Dev. Division • General Services Division • Security Division
OLD STRUCTURE (1987)	CURRENT STRUCTURE (1995)
	FINANCE OFFICE • Accounting Division • Budget Division • Cash Division
Planning and Management Services	PLANNING AND MANAGEMENT SERVICES • Mgt. Information Services Division • Plans and Programs Division
Public Information and Education Division	Public Information Office
	EDUCATION, RESEARCH AND TRAINING OFFICE • Research & Documentation Div. • Development & Production Div. • Education and Training Division
Investigation Office	Investigation Office
Legal Office	LEGAL OFFICE • Law Division • Legislative & Special Studies Div. • Human Rights Instruments Monitoring Division
Assistance and Visitorial Office	ASSISTANCE AND VISITORIAL OFFICE • Visitorial & Witness Assistance Division • Assistance Program Division
	FORENSIC OFFICE • Medico Legal Division • Forensic Laboratory Division
Field Operations Office • Regional Field Units (I – XII)	REGIONAL OFFICES • CAR, NCR, I to XII

3.2.4 The review of the formal administrative structure and key operating systems applies the methodology discussed in Chapter I. In particular, the review addresses the following issues, among others:

- Does the required function/unit/system exist?
- Does the existing system contain and execute a complete set of processes and workflows to perform the required function or execute the tasks? Are the vertical structures reflective of the levels of decision making hierarchy and level of authority? Do the vertical and horizontal relationships clearly defined and roles/responsibilities delineated?

- Do the responsibilities match with assigned authority and possession as well as control over resources?
- Do the existing formal structural arrangements provide for stability and continuity?

3.2.5 The operating structure consists of the primary organizational units of the CHR as reflected in the organization chart and indicated above. The specific functions of these organizational units of the Commission under its current structure are as follows:

Units Performing Mission-critical and Conscience Functions

- The **Investigation Office (IO)** undertakes program development, monitoring, capability building and standard setting on investigation. It carries out consultation activities and researches in relation to its formulation of training course modules for the CHR Investigators in the field.

The IO is responsible for the development and production of handbooks for CHR investigators. These are the “Fundamentals in Human Rights Investigation Work in the Philippines” and the “Legal Bases of Human Rights Work in the Philippines”. These manuals serve as guides for the investigators in the conduct of their work.

The IO lacks adequate and sufficiently trained manpower to perform the functions that must be in place. After several years of existence there are no comprehensive procedures, ethical standards, accountability mechanisms, performance standards, and reporting processes in place to guide regional human rights officers in the proper and ethical conduct of investigation work covering a wide variety and variation of human rights cases.

- The **Legal Office (LO)** conducts relevant studies and prepares/recommends legislative and administrative measures to promote human rights principles and standards in the country. It provides legal services, including legal advice and opinions on queries or issues related to human rights.

The LO prepares pleadings and petitions filed before the proper forum; assists the Commission in en-banc hearings; issues clearances to AFP/PNP personnel for promotion purposes; and designs and implements systems, procedures and schemes to monitor the Philippine Government’s compliance with international treaty obligations on human rights.

The LO has inadequate technical capability to monitor and conduct a comprehensive and independent evaluation of the government’s performance on human rights, or in the review of legislations pertaining to economic and social policy and general and sectoral governance that have human rights implications.

These activities will require various expertise that can be derived from an appropriate skills mixing of positions in the office’s staffing pattern. However, the LO is currently manned by lawyers, and there are no policy and sectoral specialists, specialists on governance, social scientists and other specialists that will enable the proper assessment of the various sectors of the government.

The LO also acts as legal counsel to the Commission. This function should form part of the administrative support functions of the Commission, and not with the mission-critical operation of investigative monitoring and legal assistance provision.

The function of the LO must be focused on what it can do best: the provision of policies and procedures on legal assistance, monitoring human rights cases, mobilizing external resources for legal assistance at the system level, and monitoring/evaluating legal assistance resources and services for purposes of improving the efficiency and effectiveness of the program.

- The **Public Information Office (PIO)** is tasked to increase awareness and knowledge about the Commission as an independent body. For this purpose, it disseminates information regarding the Commission's programs and services among school children by coordinating with the school principals for an orientation program on CHR and through video presentation and dissemination of information materials like flyers, posters, newsletters and other information kits. Other target audiences for its promotional activities include government and non-government organizations, the media and the general public.

The effectiveness of the CHR's public awareness program has not been evaluated. No impact assessment surveys have been conducted so far. But, as mentioned in other portions of this study, the effectiveness of the CHR's public information program can be indicated by the relationship between the human rights conditions that result from severe human development situations, and the extent of availment by the public of the services of the Commission. The number of cases filed across the country would seem to indicate that public awareness of human rights and of the services of the Commission is below expectations.

As cited and discussed in the other parts of this report, human rights advocacy must be such that it becomes interesting and captures the minds of the masses. It must compete with other media programs and messages that are competitive of the time and interest of the general public. The ability of the CHR public information program to generate public interest is a pre-condition for a deeper, sustained awareness and understanding of human rights, and better application of human rights in the lives of the general public.

To this end, the PIO needs to re-think its approaches to public information and education. Its staff must be trained on media promotion and on new learning and technologies on information marketing, and not just on instruments production, to enable it to create new ways of information dissemination and public education that are more effective.

- The **Forensic Office (FO)** conducts examination of physical evidence as necessary in accordance with the generally accepted professional standards, and provides the courts of the results of such examination.

Specifically, it performs medico-legal autopsy and exhumation/skeletal analysis to show proof, cause, mode and manner of death, and help establish the identity of the deceased if unknown. Moreover, it performs medical, physical and general examination of victims for torture, physical assault and maltreatment, and sexual

crimes. It testifies as a medico-legal expert witness in any court of justice (civil or military), prosecutor's office or any administrative body.

Among the offices studied, it is the FO which has been considered to be a costly investment for CHR. Forensic services require acquisition of sophisticated equipment that cannot be easily funded by the budget. This has resulted in situation where the CHR lacks capacity to do more sophisticated forensic examinations particularly in complex murder cases. It would be more cost effective for CHR to contract out forensic services to existing independent service providers such as the University of the Philippines and re-channel present recurrent expenditures to strengthening CHR's mission-critical programs.

- The **Planning and Management Office (PMO)** conducts planning and monitoring functions; provides policy direction to programs; and monitors program implementation. It formulates CHR programs of assistance for human rights victims; and provides secretariat services on the development and updating of the PHRP.

The PMO furthermore develops management information systems and procedures and internal control measures. It conducts periodic review and management audit of the Commission.

The systems survey undertaken under the study indicated that the PMO is the multi-functional office of the CHR. It performs a plethora of tasks that are seemingly unrelated to one another. It maintains the information technology facilities of the Commission, but has limited personnel and technical expertise to design and implement a meaningful human rights information system that can support the proper execution of CHR programs and activities. While government has already invested millions for software acquisition, there is no meaningful information system in the Commission as computers and operating software are primarily used in data entry and for word processing purposes.

The other side of this scenario is that the PMO has a lot of potential for managing the conscience functions which are currently absent in the CHR's operational setup. In particular, the PMO can potentially be the strategic planning and performance management and investigative monitoring office of the CHR. There are at present patches of these functions which are being done by the PMO such as the development of human rights indicators, inter-agency coordination work in the preparation of the human rights plan, and the inter-agency coordination work pertaining to legislative advocacy and government human rights programs and activities.

These tasks must be refocused in order to strengthen the CHR's roles for independent reporting of government performance, continuing monitoring of human rights conditions, investigative monitoring of the various sectors, and development and management of a human rights monitoring and performance system that will generate and provide analytic data supportive of the investigative monitoring, independent reporting, strategic planning and performance management functions.

- The **Assistance and Visitorial Office (AVO)** undertakes regular visits to national penitentiaries for purposes of assisting prisoners/detainees in the form of referrals or representations to agencies concerned, requesting commutation of sentences,

provision of lawyers and following-up necessary actions with the Department of Justice for speedy trial and resolution of cases, and appeals for executive clemency from the President. The AVO likewise recommends the grant of financial assistance to victims of human rights violations or their families.

The functions of the AVO are an integral part of the entire assistance system of the CHR, the bulk of which is on administering the centrally managed assistance funds. However, the AVO functions overlap those of the LO's particularly in the aspect of assistance. The integration of assistance functions should be considered in order to improve efficiency and functional focus. The actual delivery of services should be decentralized to the regional offices which are the contact points with the public and the human rights victims.

- The **Education, Research and Training Office (ERTO)** develops, produces and distributes human rights educational and instructional materials for the use of human rights advocates, educators, trainers and students. It also conducts seminars, training programs, lectures and briefings on human rights.

The ERTO has been known to have done remarkably well in the conduct of training programs. It has even made inroads in the international arena in the development and delivery of human rights training. But its direct delivery of training programs creates severe limitations due to fund constraints and limited resources. The ERTO must consider instead formulating training standards, designing curriculum prototypes, and training of trainers as potential means of improving its capacity to reach a wider audience.

- The **Child Rights Center (CRC)**, created under Memorandum Order No. 257 issued by then President Fidel V. Ramos, spearheads the investigation and initiates legal actions in behalf of child victims of human rights violations. It also monitors government's compliance with specific provisions of the convention on the rights of the child. It facilitates and expedites the national implementation of the Philippine plan of actions for children.

The current child rights center is practically non-operational, manned by one director and one or two staff members. Investigations are done by the regional offices, and therefore, there is little left for the central-office-based center to perform in terms of daily activities.

But the true functions of the CRC have not been performed. The CRC ought to conduct continuing research on child rights, and develop on the continuing basis, programs and interventions that will improve awareness of child rights, and establish the mechanisms that will promote the protection of the rights of children. It is proposed that the CRC functions be fully developed and its internal operating structure, staffing and resources established.

- The **Regional Offices (ROs)** enforce the orders, rulings and decisions of the Commissioners in their respective geographical coverage, and implement the different programs, projects and activities of the CHR in the field. The present activities of the regional offices focus on the conduct of investigation and provision of legal assistance, processing of proposals for financial assistance by the AVO, and limited local advocacy work.

As the implementing arms of the CHR, the regional offices must be responsible for the operational planning and implementation of more intensive advocacy program, for the mobilization of local resources for investigation and assistance, and for the monitoring, evaluation and independent reporting of the human rights conditions and government performance in the regions.

At present there are no formal institutional mechanisms, policies, systems and procedures or internal capacities to undertake these tasks in the regions. The regional offices are not fully organized. The staff are not adequately trained and there are no formal procedures that ensure standardization of processes or provide guidance for tasks and outputs. Training in the CHR are few and far between and are said to have been focused, in the past commission, on management personnel as consistent direct beneficiaries, rather than based on capacity building criteria.

There are vertical compartmentalization issues that also affect the clarity and scope of the functions, authority and accountability of the regional offices. There are no established procedures for clarifying when an activity in the regions will require commission approval or prior clearance. There are no clear policies and procedures, and no ethical/performance standards emanating from the central office to guide regional operations and the behavior and accountability of regional officers.

There is a need for a set of cohesive policies that will integrate related systems and procedures, and clarify the steps to be followed and the alternatives to be considered in order to guide judgment and actions/decisions. These procedures must also be part of the public communication program of the CHR, ensuring that the public understands the role and services that the CHR can and should provide, and empowering them to hold the CHR more accountable for its performance.

The details of such vertical functional and decision compartmentalization and the systems and procedures are beyond the current scope of the study but this must form part of the medium-term institutional reform program of the CHR.

Units Performing Housekeeping Functions

- The **General Administration and Support Office (GASO)** provides administration services like personnel management/human resource development and general services.
- The **Finance Office (FO)** administers the provision of financial services like budgeting, accounting and cash management.
- The housekeeping functions of the CHR are highly centralized. All decisions with respect to financial management, budgeting, expenditures, personnel, procurement and even payroll are done at the central office. Within the central office itself, financial management and administrative decision making are done by the Chairperson. During interviews, there were several complaints about the lack of observance to standard operating procedures, absence of rational criteria for administrative decision making, and lack of analytic reporting on how resources have been spent in relation to what has been achieved.

This situation has brought deep demoralization among the middle management and rank and file of the CHR. They claim that scholarships are given only to favorites, that budgets are released based on the Chairman's personal discretion rather than on objective consideration of requirements, that offices and regions are powerless in performing their functions as they have no idea how much resources will be provided, that regional offices are not in control of what resources they will get, and that supplies for the regional offices are insufficient and release of funds for operations is delayed.

Regional directors must be given authority and responsibility over their budgets if they are mandated to implement the CHR's programs in the regions. There is a need to match delegated responsibility with corresponding decision making authority over resources.

3.2.6 In the overall, the institutional issues that the CHR must address include the following:

- The CHR must decentralize its operations. This requires that regional offices must be given the core capacity to undertake wider responsibilities in human rights protection and promotion. This will require that appropriate procedures on the various aspects of protection and promotion as well as the appropriate behavioral and ethical standards should be formulated and put in place. Decentralization requires that regional offices be given the core capacity for administrative and financial management, as well as wide control and possession of resources needed in their operations.

It is expected that with decentralization, installation of basic technical and administrative management capacities and human resource development, the regions will be to achieve better their objective towards effective public education, active collaboration and resource mobilization, independent monitoring and reporting and quality investigation and legal assistance services. With an effective public education program, it will be expected that inflow of human rights cases will increase and therefore the regional offices must be prepared for this.

- Decentralization calls for the appropriate vertical compartmentalization of functions and decision making between the central office units and the regional offices. Public education programs, for example, must have rational vertical compartmentalization. Programs with nationwide coverage and impact can be better done by the central office, while those of local impact and target audience must be done by the regional offices. The vertical compartmentalization process must be designed for all functions, including investigation, assistance, investigative monitoring and others.
- With the decentralization of operational functions in the regions, there is a need to redefine the role of the central offices. As the result of assigning transactions and location-specific activities to the regions, the role of the central offices can be better focused on the following:
 - functions that are of national significance and impact
 - functions that are geared towards system-wide monitoring, evaluation and improvement
 - policy making, standards formulation and system performance management

4 OTHER ISSUES, IMPLICATIONS FOR REFORM

4.1 Mandate and Vision

4.1.1 The mandate statement of the CHR is based on the provisions of the Constitution. It states as follows: "To promote the protection of, respect for, and enhancement of the people's civil and political rights." The mandate statement is recommended to explicitly include protection and promotion of social, economic and cultural rights. This expansion in the mandate will require legislation.

4.1.2 CHR must revisit its vision and ensure the following:

- The vision must depict a clear picture of the desired situation to be achieved over the a determined timeframe.
- The vision should be understood and shared by all personnel.
- The vision must be translated into defined targets and milestones and into definition of programs and actions, as well as resources to be distributed among organizational units within the context of clearly defined responsibilities, accountability and inter-office linkages.
- The definition of programs and actions must be founded on an agreed program focus, clear definitions of the role of the CHR, and the methodology by which role definitions are applied in the identification of programs and formulation of action plans.
- The vision and the program and action plan must be supported by defined measures of performance.

4.1.3 The strategic planning workshop which defines the six-year vision, program priorities and action plan within the context of a reforming CHR provided this opportunity. The strategic plan formulated by the CHR articulates the vision of the CHR in clearer and more measurable terms.

4.2 The Role of CHR in Human Rights Promotion and Protection

ISSUES

4.2.2 The philosophical basis for defining the role, and the actual definition of the role, of the CHR in human rights promotion and protection has been assumed rather than clearly and formally articulated. Thus, a common and shared understanding of the role of CHR and the basis for such role has not been clearly achieved.

This lack of shared understanding was evident during the strategic planning workshop where many participants appeared to find novelty in the notion of relating program prioritization with prevalent human development conditions and their implications on human rights conditions.

4.2.3 A clearly defined, shared and commonly understood institutional role is important in providing the basis upon which transactional roles are correspondingly defined, and upon which the processes that will generate the actual outputs or deliver the services will be designed. The individual transactions will establish the effective relationship between the CHR and its stakeholders and their respective accountabilities. Together and as a whole, the transactions will define the effective role of the CHR that can be measured against the principles that govern the organization status of a human rights commission.

4.2.4 The absence of such formally defined role and the values that underlie its definition creates several vulnerabilities. In particular, it renders CHR prone to:

- Proliferation of transactions and services that have may have little collective focus and impact

This is illustrated by human rights officers rendering legal services to complainants even if the complaint filed does not actually involve human rights; by the uncertain view of some CHR personnel about the propriety of the CHR reviewing and improving upon the country report made by the DFA instead of preparing an independent report; and by the proliferation of small services supporting a main service that creates inefficiency in resource utilization.

The latter situation is illustrated by the provision of forensic and medical services to support investigation, requiring investments in equipment that may become underutilized.

- Creating and implementing programs, activities and relationships that may weaken independence and autonomy enshrined in the Constitution and prescribed under the Paris Principles

The joint formulation of the human rights development plan and joint investigation activities with law enforcers is examples of such programs that reduce the independence of the CHR.

- Uneven interpretation and application of the standard processes in conducting human rights protection and promotion activities as well as disparate perspectives and decisions among human rights officers and among similar transactions

This is illustrated by disparities among regional offices in the procedural handling of similar cases. For example, some offices use forceful methods or threats to compel witnesses to testify, while other regional offices may not do this.

- Difficulty in defining appropriate behavior for handling constituencies

The situation where a human rights officer did not fulfill a promise of legal assistance to a human rights victim, as cited in the report on the planning workshop in 2000-

2001, indicates lack of standard and enforceable rules on ethical behavior among human rights officers.

IMPLICATIONS FOR REFORM

4.2.5 In defining the role of CHR in human rights promotion and protection the following mutually inclusive principles and criteria (i.e., one cannot be applied without the other) are proposed:

- **Independence.** The role of the CHR in human rights promotion and protection should ensure the preservation of its independence and autonomy both at individual and institutional levels.
- **Accountability.** The role of CHR in human rights promotion and protection should ensure clear delineation of accountability between the Commission and the government.
- **Complementarity, Mutual Reinforcement and Efficiency.** The role of CHR in human rights promotion and protection should ensure complementation, mutual reinforcement, and efficiency in the use of resources.

4.2.6 Applying the above principles and criteria what then would be the appropriate role of the CHR in human rights promotion and protection? The CHR affirms its role as an "...advocate of principles, standards and practices, molder of public consciousness, convenor and adviser of other organizations and interest groups and direct service purveyor on human rights" (Commission Flyer). More specifically, the nature of the overall role of the CHR is recommended to be one of a watchdog and independent monitor, one who holds the government accountable through independent evaluation and public reporting, a "mobilizer" of and collaborator with the social forces engaged in the protection and promotion of human rights, an external advisor of government and provider of standards, and a builder of public awareness and understanding of human rights and associated public services.

4.2.7 This is premised on the following grounds:

- Since a majority of reported human rights violations involve people in government, CHR should ensure its independence in its relationship with the government.
- CHR's resources is severely limited in relation to the magnitude of programs and activities it must undertake to build public awareness, to provide training, to improve investigation of cases, and to intensify monitoring of cases filed in court, among others. Therefore the CHR should leverage its limited resources by acting as mobilizer of the resources of others rather than direct service provider, except in investigation functions.
- The most important goal of the CHR is to build public awareness to ensure that a culture of respect for human rights is established. Much remains to be done in improving the level of public awareness and education on human rights.

4.2.8 The following specific roles of CHR are suggested:

□ **ROLE IN HUMAN RIGHTS PROTECTION**

In Relation to Government

- a) External advisor and “prescriber” of human rights and protection standards
- b) Independent monitor, evaluator and public reporter of government human rights protection policies, planning, implementation and performance
- c) Independent evaluator and position advocate on the human rights implications of existing laws, government socio-economic policies and programs, public services access and distribution mechanisms, government regulation, and government program implementation

In Relation to Social Forces (NGO's, Academe, and other HR Organizations)

- a) “Mobilizer”, coordinator and or contributor of resources for research and implementation programs on human rights promotion and protection
- b) Synchronizer of the programs of CHR and those of the social forces to enhance complementation, sharing, and mutual reinforcement
- c) Collaborator/partner in the program design and implementation
- d) Advisor and provider of human rights and promotion as well as protection standards

In Relation to Human Rights Victims

- a) “Mobilizer” of civil society protection services providers
- b) Provider of protection standards and guidelines
- c) Provider of technical assistance to civil society service providers in improving their capacity to deliver protection services such as legal services, investigation, financial assistance
- d) Provider of financial assistance (when able) to civil society groups in their transactional protection activities
- e) Provider of public information on human rights services and service providers to improve access particularly by vulnerable groups
- f) Provider of very selective direct assistance to human rights victims, to be limited to those that implicate any of the branches of the government

In Relation to the General Public and Vulnerable Groups

- a) Reporter on human rights violations, or educator of the general public or vulnerable groups on how their human rights are adversely affected or consequentially violated by government laws, policies, programs and actions

□ ROLE IN HUMAN RIGHTS PROMOTION

In Relation to Government

- a) External advisor and “prescriber” of human rights and promotion standards
- b) Independent monitor, evaluator and public reporter of government human rights promotion policies, planning, implementation and performance
- c) External advisor and “prescriber” of standards on human rights protection and promotion competencies of government personnel, and independent reviewer and reporter thereof

In Relation to Social Forces (NGO’s, Academe, and other HR Organizations)

- a) “Mobilizer”, coordinator and/or contributor of resources for research and implementation programs on human rights promotion and protection
- b) Synchronizer of the programs of CHR and those of the social forces to enhance complementation, sharing, and mutual reinforcement
- c) Lead planner and strategist, collaborator and partner in the design and implementation of independent human rights promotion programs
- d) Advisor and provider of human rights promotion and protection standards.
- e) Provider of human rights promotion training to human rights promoters through trainers training and capacity building assistance
- f) Provider/stimulator of ideas, advocacy and technical inputs in improving human rights awareness and understanding through formal education

In Relation to the General Public and Vulnerable Groups

- a) Implementer of nation-wide and region-wide advocacy and information programs for improving knowledge and understanding of the general public on human rights in general or prevailing specific human rights issues
- b) Generator, monitor and evaluator of public awareness and education, human rights practices, and public sentiments on human rights issues that are important in CHR’s function of monitoring implementers of human rights standards and commitments

4.3 Management Structure

Collegiality of the Commissioners

ISSUES

- 4.3.1 Under the Administrative Code, a commission is a collegial body. A collegial body is composed of members of equal authority, such that in ensuring that collective decision making the rule of majority vote is applied. However, the essence of collegiality is not just in equal voting. It finds its actual application in the formal organizational status of its members. In Canada, for example, collegiality of members in multi-headed bodies is ensured by the sameness of their positions, their salaries and their benefits. The chair is accorded only non-significant increment in basic salary in order to recognize his/her role as the moderator of co-equal members.
- 4.3.2 In the Philippines government, however, collegiality of commissions and multi-headed bodies are undermined by disparities and vertical relationships between the position level of the chairperson and those of the members. Such is true in constitutional commissions, including the CHR, where the chairperson's position is equivalent to a cabinet secretary and those of the members are equivalent to undersecretary. This position structure destroys the essence of collegiality and renders the commissioners as subordinates to the chair.

PROPOSED REFORM

- 4.3.3 The CHR must trail blaze in ensuring its collegiality. The chair and the commissioners must be accorded the same position level, the chair to be accorded an incremental salary (higher salary step within the same salary grade) only in recognition of her chairmanship role. This is fitting and consistent with the idea of collegial decision-making.*

Operations Management Structure

ISSUES

- 4.3.4 The management structure consists of two levels: the policy-making structure, which is responsible for decision making, and the operational management structure, which is responsible for the execution of policies and policy implementation feedback.
- 4.3.5 The policy making structure of the CHR is the Commission *En Banc* as provided for under the Constitution and EO 63. The Commission, as a collegial body, determines the policies, plans and programs and sets directions for the Commission.
- 4.3.6 In the formal organization chart of the Commission, the executive director is the operating head. In theory, the executive director is the operational decision making authority in the implementation of all policies, programs, rules, regulations and decisions made en banc with respect to specific human rights cases.
- 4.3.7 However, considering that the Commission is a working board and in view of the hands-on management style of the commissioners, the situation render the executive

director ineffective and unused in relation to his/her mandate. The chairman and the commissioners supervise the day-to-day operations of the Commission along their respective functional coverages. As such, they wear two different hats: one as members of the board for making policies, the other as managers carrying out the policies. For such full time assignments, the chairman and commissioners receive full compensation.

- 4.3.8 Executive Order No. 292 (Administrative Code of) defines the role of the chairman in an inter-agency body in the government. Section 29, Chapter 6, Book IV of the Code clarifies that the chairman is the head of such body. It further provides that the head of "... bureau or office shall be its chief executive officer. He shall exercise overall authority in matters within the jurisdiction of the bureau, office or agency, including those relating to its operations, and enforce all laws and regulations pertaining to it." These responsibilities described in the Code are both those of the Chief Executive Officer (CEO) and the Chief Operating Officer (COO).
- 4.3.9 In theory and general practice, the roles of the chairman and the CEO are best assigned to two different persons. In the case of a full-time chairman, the chairman may serve as the CEO, while the executive director, as the COO. However, considering the above provision of the Administrative Code, the chairman may automatically assume the role of both the CEO and COO, whether there is an executive director or none in the organization. The chairman ensures that the policies, programs and activities as laid down by the policy making board are effectively undertaken. The chairman, at the operating level, moreover ensures the financial soundness of the organization as a whole, with all component units appropriately providing their respective service-inputs. The executive director assumes tasks as delegated to him/her by the chairman.
- 4.3.10 The working arrangement under the old CHR Commission was such that the chairman fully exercised her authority both as CEO/COO. All Directors reported directly to her. The executive director was actually limited to receiving accomplishment reports from the different operating units, practically rendering her position inutile.
- 4.3.11 The informal system in the Office of the Chairman under the previous Commission allowed an executive assistant assigned in the immediate staff of the Chairman functional jurisdiction to refer/farm out assignments to operating units. This had further eroded the role of the executive director, as initial screening and review of and decision on requests, queries and other matters that could immediately be acted upon by her had instead been assigned to a lower-level staff.
- 4.3.12 Demoralization with the management style of the old Commission emerged in several units as forwarded during the focus group discussions. Personnel thought that traditional and established administrative processes for decision making became personal rather than based on objective criteria. It was also felt that there were no formally established decision making flows, such that when one commissioner disapproved a request, say a scholarship grant, another could be approached for approval. This informal set-up bred discontent and perceptions of favoritism and biased decision making.
- 4.3.13 Since the Commission does not have adjudicatory or rule making functions which would normally be the operating functions of a full-time collegial entity, what then are the appropriate day-to-day functions of a full-time commission?

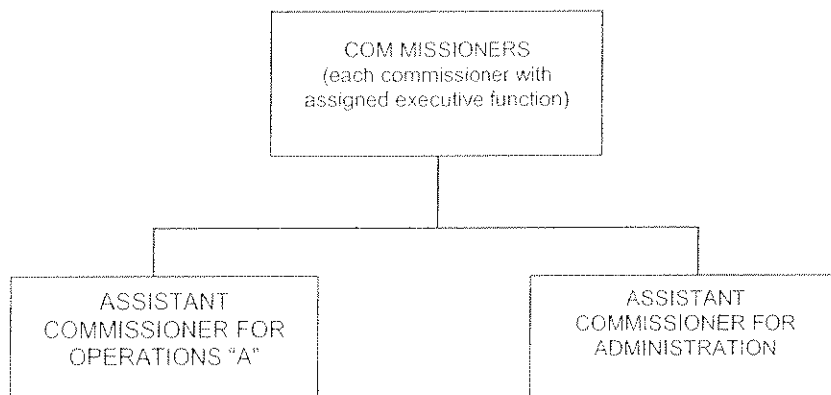
The assumption to duty of the new commissioners brought in innovations in the operating role of the commissioners. Commissioners are now assigned specific regional offices and defined functional areas to supervise. This setup allows each commissioner to perform an executive role and at the same time specialize in that role, such that individual specializations can enrich the body of expertise, experience and wisdom, in collectively making policy decisions as a commission en banc. Under this arrangement, each commissioner performs both executive and policy/rule making functions.

IMPLICATIONS FOR REFORM

Management of Overall Operations

- 4.3.14 There are no hard and fast rules in designing the best operations management structure. But there are principles that should be observed to ensure unity of command, clarity of vertical processes for final decision making and for implementation. It appears that the current Commission is comfortable with assuming executive functions, and they have taken good care that delineation of assignments are clear. Such delineation of decision making authority should be observed by the Commissioners.
- 4.3.15 Under this setup, one possible alternative is to assign the functions of the COO to area Assistant Commissioners who will in effect assist the Executive Commissioners in performing day-to-day supervision of activities.

Figure 5.1



- 4.3.16 During the validation workshop and subsequent meetings with the CHR officials, there was indecision on whether to adopt or not the idea of creating assistant commissioner positions to assist the executive commissioners. Three or four assistant commissioners are proposed, each corresponding to an intended grouping of the key functional areas of the Commission (Figure 5.1). The idea of creating the assistant commissioner position arose from the observation that there is need to achieve functional integration by putting in a decision level that will ensure the management of the integration process.

- 4.3.17 For example, administrative and financial management functions need to be integrated to achieve coherence and coordination of plan, and human resource development programs must be incorporated in the annual and medium-term budgets.
- 4.3.18 Further, while the need for functional integration has been recognized with the assignment of commissioners with executive functions (regional, functional), the executive commissioners must be supported by a senior officers who will be responsible for the supervision of the transactional aspects of the operations, the executive commissioners thus focusing on the operational decision making aspects. This setup will enable the commissioners to have time for both executive and policy making functions when they deliberate and make decisions en banc. This is seen by the new commissioners as a way of improving policy decision making by exposing the commissioners to what is really going on at the operational level.
- 4.3.19 The dilemma of the new commissioners was perceived to be one which concerns the issue on who will eventually be promoted to the assistant commissioner positions, rather than one which lies on the technical merits of the proposal. Understandably, the sensitivity to the human aspect of this issue is considered most important in light of the sensitive human relations issues prevailing in the organization at present, where there is demoralization and distrust in management.
- 4.3.20 The recommendation of the consultants on the issue of assistant commissioners stands, its implementation may be postponed in consideration of prevailing organizational issues.
- 4.3.21 Meanwhile, the new Commission has agreed/decided on the adoption of a Commissioner-In-Charge (CIC) System where the chairman shares with or delegates his/her executive and supervisory functions to the commissioners. Under the CIC system, the chairman continues to provide the overall supervision and control of he programs, projects and activities of the Commission. The CICs advise and assist the Commission in the formulation and implementation of the programs, projects and activities along key results areas which are: human rights protection, human rights promotion, linkages development, human rights planning and information system, and general administration and financial services.
- 4.3.22 The CICs likewise oversee and coordinate the plans, programs, projects and activities of their respective functional areas of concern, both at the central and regional offices. This system allows for efficient up-down operations considering that the CICs, who will have full knowledge of the operations of the Commission both at the macro and micro levels, can immediately attend to and act on issues.
- 4.3.23 The executive director will assist and provide support services to the chairman and the CICs in all their executive and supervisory functions.

Participation of Social Forces

- 4.3.24 The Commission should create the appropriate organizational arrangement that will allow the participation of social forces in setting the policy and program directions of the CHR.
- 4.3.25 The proper role of the social forces will be to participate in policy debates and discussions, and submit or present their collective recommendations thereon to the Commission which will in turn consider such inputs in its deliberation of policy or program issues. The social forces should be allowed to participate in the definition of CHR's medium term vision, program priorities, targets and action plan. This can be done through the creation of sectoral committees which will regularly meet (once a month) to deliberate and make recommendations on policy and program issues presented.

Linkages with the Government

- 4.3.26 The Commission should be independent in all aspects and levels of its decision making from the government. However, it is necessary for the Commission to establish consultative mechanisms with the government on matters pertaining to government responsibilities, compliance and performance in promoting and protecting human rights. Regular and thematic consultations must be undertaken to include human rights planning by government, discussion of legislative issues on human rights, government policy and program initiatives to reduce poverty where the Commission submitted a critical or advisory report. The role of the Commission in consultations with the government will be to provide advisory services, present and explain standards and inform government on how they will be monitored and evaluated.

4.4 Operating Structure

ISSUES, IMPLICATIONS FOR REFORM

The CHR currently operates under a highly centralized administrative structure. It must decentralize administrative authority and build administrative management capacities of the regional offices to improve the speed, responsiveness and overall efficiency of operational decision making and operations.

- 4.4.1 There is a need to strengthen the regional offices through decentralization and installation of a complete regional office organization structure. Under such decentralization process, the vertical compartmentalization of functions and decision making authority between the central office and the regional offices must be clearly designed.
- The major organizational units in the CHR's central office will primarily be responsible for staff functions. This includes formulating policies, monitoring of the performance of the regional operations, designing continuing learning programs for the functional area, formulating standards and operating procedures, and providing technical assistance to the regional offices.

- The determination as to which operations, decisions making authority and resources will be assigned to the central offices and the regional offices will be guided by certain parameters, to include the following:
 - Decentralize to the regions functions which have region-specific benefits and cost.
 - Assign to the central office units functions which have nation-wide impact and implications.
 - Provide the office to which a specific function is to be assigned, applying the above criteria, the corresponding responsibility, authority, actual control and possession of resources, and full accountability for performance accountable for performance.

4.4.2 The CHR's field units have recently been elevated into full-fledged regional offices, primarily through the upgrading of their heads into Regional Directors. There is need therefore to further decentralize financial and administrative management responsibility, authority, accountability and actual control and possession of budgetary and other resources. The following administrative and financial management functions must be considered for decentralization to the regional offices:

- **Regional strategic planning, and budget preparation.** Under the decentralized set-up, the central office will develop the parameters for determining the regional budget ceiling for each regional office, and provide the guidelines for the preparation of the regional budgets. The central office will review the individual regional office budget and will approve the budget based on its compliance with regional priorities and budgeting rules and procedures. The central office will not by itself reconfigure the program and line item distribution of the regional office budget, but will require the regional offices to reconfigure them to pass central office criteria.
- **Staffing and personnel administration.** The regional directors will be given authority to hire, promote, reclassify, deploy, abolish positions, send to career development programs, discipline all regional office positions and personnel within his regional office, subject to staffing criteria and personnel management policies and procedures prescribed by the central office.
- **Performance management.** The central office will formulate a system, organizational and personnel performance evaluation system that will prescribe the indicators, data generation, evaluation methodology, and reporting of individual, program/activity and institutional performance at the regional level. The regional offices will be fully accountable for the performance of the regional office including among others the following areas: inputs, processes, outputs, linkages, internal operating efficiency, and overall impact, institutional integrity, and organizational culture.

4.4.3 Under the decentralized setup, the functions of the central offices must be focused on the following:

- Formulation of enterprise wide policies
- Development of enterprise strategic plan integrating the regional strategic plan
- Provision of guiding operating procedures and standards and improvement thereon on a continuing basis
- Conduct of continuing development research
- Establishment of international linkages and collaborative mechanisms
- Provision of direct services or line operations where such services and operations have nation-wide benefits and costs
- Provision of technical assistance to the regional offices in the proper implementation of their programs and activities
- Monitoring and evaluation of the overall performance of the system, the CHR institutions, and programs

There is need to strengthen the planning and performance management system and capacity of CHR at central and regional levels.

4.4.4 The strategic planning undertaken in March of this year signals the seriousness of the Commission in pursuing its reform efforts. More to this, a strategic planning system must be institutionalized in the Commission. Institutionalization involves the development of policies and procedures and corresponding capacity within the organization to assess its operations and performance, and decide on the programs the organization will take; approximate amount of resources for each program; and measures and timeframe for accomplishment of defined targets.

4.4.5 At present, there is no formal planning and performance management system in the CHR. There are however aspects of planning and performance management found in the following:

- in the intermittent strategic planning exercise
- in the annual budget preparation
- in the intermittent meetings and conferences that lead to the formulation of new programs and activities
- in the gathering of system indicators from the operations to formulate the CHR annual performance report

- 4.4.6 The consequences of lack of planning and performance management within the CHR are many and complex which permeate in several if not all aspects of its operations. For example in the absence of a strategic planning process, there are no established organizational goals and objectives for the Investigation Office or the regional offices. Further, in the absence of a formal performance management system, the assessment of performance in relation to set goals at office or enterprise levels would be difficult.
- 4.4.7 There is a need to improve the performance management system and capacity of the CHR. Information technology plays a big role in operating a sound performance management system. But the acquisition of information technology resources and development of application systems should be preceded by an appropriate reengineering of the information management process; formulation of indicators that monitor and evaluate performance; development of data generation procedures and identification of data sources; formulation of performance evaluation methodology for each type of performance to be evaluated; and establishment of mechanisms linking performance information to strategic planning, budgeting, human resources management, and mission-critical operations improvements. Training of existing personnel will also be required.

CHR should strengthen its capacity for human rights research and development and for formulating and managing a continuing research agenda that will feed into policy formulation and determination of program focus and interventions.

- 4.4.8 The research function of the CHR must be strengthened. It must pursue improved understanding not only on human rights education, training and other promotion activities, and those concerning human rights protection and legal matters, but also on the dynamics that create human rights issues in order that such understanding may give light to workable and effective solutions. Further, research must provide the analytic and experiential inputs for continuing improvement in the role, programs and interventions of the CHR and in its linkages.

Organizational Structure/Functional Statements

- 4.4.9 The organization structure of the CHR, as approved in principle by the new Commission, is presented in an organization chart in Annex C. The organization structure will provide for the required institutional mechanism for the above recommended reforms in the programs and operations of the Commission, as well as reflects all changes and inputs by CHR officials in several discussion meetings undertaken by the consultants for the purpose. The functional statements of each of the organizational units in the organization structure are on the other hand indicated in Annex D.

Chapter 6

PROPOSED REFORMS

1 INTRODUCTION

- 1.1.1 The previous chapters primarily cover the review of the institutional framework and programs on human rights promotion and protection with focus on CHR, and identify reforms that will address the indicated issues. The study further examines the internal structure and functions of the Commission, its key operating processes and high-level staffing based on reform principles and approaches which also guided the formulation of the reforms recommended herein.
- 1.1.2 This chapter defines the reform challenges and the reform proposal for capacity building of the CHR, based on the findings, analysis and reform directions contained in the previous chapters.

2 KEY REFORM CHALLENGES

- 2.1.1 In the previous chapters on the context review, institutional assessment and capacity study of the CHR, the following were identified as the major issues and challenges which the reform program should address:
- The programs of the CHR have strong focus on transactional protection with small impact concerns, rather than on program interventions with wide and long-term impacts on improving general human rights conditions. However, it was seen that as the CHR becomes more effective in public education and in exploring and providing programs in the various vulnerable sectors, it should also be prepared to tackle the expected increases in the number of cases that will ensue as consequence.
 - The independence of the CHR is undermined by oversight agencies' controls over the management by the CHR of its financial and administrative operations and resources.
 - The CHR independence is furthermore diminished by human resources development issues like competencies, character, security and motivation/satisfaction of CHR employees that may have bearing on their vulnerability to political pressure, bribery or threat.

- The CHR has not fully complied with the principle of pluralism, considering its limited participation and coordination with the social forces involved in human rights promotion and protection.
 - CHR operation is highly centralized, in spite of the conversion of its 15 Regional Offices into full-fledged regional offices (that is, they are each headed by a Director IV position). There is a need to decentralize operations to the regional office, define the proper vertical compartmentalization of functions, and re-define the role of the central offices. Key to this reengineering are reforms in the various systems and procedures that will guide regional operations in human rights promotion and protection and in internal administrative management of the regional offices.
 - The CHR's capacity for accounting performance is weak, if not lacking. There is a need to strengthen core capacity for performance management at all levels through the installation of the appropriate institutional framework and the design as well as adoption of systems and procedures together with training of personnel concerned.
- 2.1.2 The above primary challenges are the results of the interplay of cultural, political, and economic factors, as well as the CHR's management structure and leadership styles of the Commissioners.

3 REFORM PRINCIPLES AND PARAMETERS

- 3.1.1 The design of the recommended reform strategies for the CHR is guided by a set of reform principles and parameters presented in the previous chapters.
- 3.1.2 The reform proposals for the CHR will be undertaken not only with the above-indicated guidelines and principles in mind, but also using a holistic, synchronized and programmed approach.

4 PROPOSED REFORMS

4.1 Reengineering of the CHR's Program Priorities

Objectives

- 4.1.1 The reform has the following objectives:
- To evolve an effective, efficient and focused Philippine commission on human rights, a precondition to its gaining credibility and integrity with the general public;
 - To set the strategic and transformational shifts of the administrative structure/mechanisms for the protection and promotion of human rights, consistent with the current governance policies and thrusts; and

- To match the role of the CHR with capacity by prioritizing resources from programs with small impact concerns to high-priority interventions with wide and long-term impact on improving general human rights conditions.

General Description

4.1.2 During the medium-term, the following recommended changes in the program focus of the CHR must therefore be implemented:

- Shift from transactional protection activities (investigation of human rights cases, provision of legal services and referrals to other agencies, forensic services, jail monitoring, and financial assistance) to independent investigation and case monitoring;
- Conduct of monitoring of the consequential aspects of human rights violations;
- Strengthening of research functions to provide analytic and experiential inputs for continuing improvement in the role, programs and interventions of the CHR and its linkages; and
- Reengineering of the human rights promotion program towards strengthening public education and broad-based advocacy.

4.1.3 The reform involves defining the program priorities and focus of the CHR over the short, medium and long-terms, designing the management of the multi-year transformation process and defining in detail the specific role of the CHR and its relationship with stakeholders at the transactional level, translating the high-level role definitions recommended in this study.

4.1.4 In particular the proposed reform covers the following:

- Identification of the specific shifts in the roles of the CHR under each of the key programs based on the review of the institutional framework and programs on human rights, the key findings and analysis and the reform recommendations;
- Determination of the specific interventions, activities and tasks of the CHR along its refocused roles and in specific areas indicated hereunder.
- Inventory and definition of individual transactions and program activities for each functional area including among others the following:
 - investigation
 - assistance to victims and their families
 - public denunciations/announcement with respect to specific cases
 - investigative monitoring
 - independent reporting on government performance
 - human rights education (in the formal education system)
 - human rights education (in government and industry)
 - public awareness and education
 - CHR – NGO partnerships in human rights protection and promotion

- Human rights system monitoring
- CHR system performance management
- Research and development
- Jail visitation and public reporting
- Procedures with government agencies
- Procedures with Congress
- Procedures with the Judiciary
- Procedures with the local governments
- Procedures with industry
- Procedures with the international organizations

4.2 Reengineering of the CHR's Formal Organization Structure and Staffing

Objectives

4.2.1 The objectives of the reform are:

- To achieve administrative management independence of the CHR;
- To meet the administrative and organization structure requirements of the refocused programs, projects and activities of CHR; and
- To set a more dynamic and adaptive organizational mechanism capable of achieving the vision, mission and goals of the Commission.
- To establish a streamlined and clearly compartmentalized functions and operations with decentralization and functional integration.
- To institute a stronger culture of professionalism and integrity in the Commission.

General Description

4.2.2 The CHR is a collegial body, consisting of a Chairman and four Commissioners who sit en banc in determining policies, plans, and programs and in setting directions for the agency. Its operating/secretariat structure, headed by an Executive Director, is responsible for the execution of policies and policy implementation feedback.

4.2.3 The CHR currently operates under a highly centralized administrative structure, in spite of the elevation of its 15 field units into full-fledged regional offices. It has 680 permanent positions, 601 of which are filled, while 79 are vacant. More than half (55%) of the total manpower force comprises the technical personnel: Lawyers, Attorneys, Investigators, Planning Officers, Training Specialists and Public Information Officers, who are

deployed in the different organizational units of the Commission, both in the central and regional offices.

- 4.2.4 These current organization and staffing situations in the agency were inputted and considered in the design of the CHR's organization structure suitable to its refocused role and interventions on the protection and promotion of human rights, delineating the mission critical-units and functions from those of the housekeeping and conscience.
- 4.2.5 The recommended organizational set-up will address issues on access, efficiency, relevance, capacity to meet present and future demands, among other relevant considerations.

Contents of Reform

4.2.6 The reform will involve the following:

- Elimination of duplication, proliferation and splitting of functions and redefinition and delineation of functions, authority, responsibility and accountability.
- Definition/clarification of the leadership structure and fine-tuning of the vertical compartmentalization of functions and authority between the CHR Commissioners and the Regional Directors, the decentralization principles given a primary consideration in the process; determination/clarification inter-agency linkages and relationships, and installation.
- Design of new staffing pattern/reengineering of the existing staffing structure under the adjusted organizational set-up of the Commission, identifying the necessary skills mix and staffing level requirements based on the work content and expected core volume of work for each formal organizational unit concerned and defining of the competency requirements and remuneration structure applicable to the staffing pattern and individual positions therein.
- Identification of the work content of each of the key line positions.
- Formulation of a conversion plan from the old to the new staffing structure, including the determination of appropriate staffing actions - creation, conversion, reclassification, consolidation, abolition, transfer/deployment of positions, where necessary.
- Preparation of appropriate implementation instruments for the above reforms on organization and staffing structures.

4.3 Reengineering of Administrative and Financial Management Systems

Objectives

4.3.1 The objectives of the reform include the following:

- To establish a stronger overall system control in the Commission;
- To achieve financial management independence of the CHR;
- To reduce delay in the conduct of activities; and streamline and reduce cost of operations; and
- To institute information-based planning, performance management, operations and decision making systems and improve overall system of performance management.
- To install capacity for continuing improvement capacity.

General Description

- 4.3.2 Aside from the lack of administrative independence, the CHR also lacks fiscal autonomy, in spite of the provision of the Constitution on the matter. The proposed annual budget of the Commission is subject to detailed scrutiny and modification by the DBM. Congress normally adopts the budget levels and internal allocations recommended by the DBM. The Executive Branch has no clear-cut and sustainable policy with respect to the fiscal autonomy of independent commissions like the CHR.
- 4.3.3 There is a need for the CHR to build a case for a higher budget provision to finance and sustain its reform efforts. This will however require the strengthening of its capacity as an accountable organization. The appropriate financial and administrative operating systems and the associated performance management systems must therefore be designed and installed in CHR to enable it monitor and evaluate performance systematically and comprehensively, thereby establishing its financial and administrative accountability to Congress and the oversight agencies, as well as its public accountability.
- 4.3.4 Lack of formal planning and performance system within the CHR affects several if not all aspects of its operations. In the absence of a strategic planning process, there are no established organizational goals and objectives for individual organizational units of the Commission. The assessment of performance in relation to set goals at the level of the individual organizational units will be difficult in the absence of a formal performance management system.
- 4.3.5 After the reengineering of the information management process, the acquisition of information technology resources and the development of application systems would be necessary. The information management process will include the development of performance indicators, data generation procedures and data sources, performance evaluation methodology, and linkages of performance information in strategic planning, budgeting, human resource management, and mission-critical operations improvements.

Contents of the Reform

Financial Management System

- Definition of the scope and nature of financial management autonomy
- Formulation of an effective budget formula to be applied by the CHR, DBM and Congress in the determination of the budgetary level for the CHR, and incorporated in the National Expenditure Program and the General Appropriations Act
- Formulation of the budget execution and accountability framework for the CHR that will guide the DBM in the execution and accounting of the CHR budget within the context of an implemented financial management autonomy
- Formulation of financial reporting framework for the CHR within the context of implemented financial management autonomy
- Development of CHR independence advocacy that will promote support from Congress and the Executive Branch
- Formulation of a three-year detailed budget program, reflecting detailed breakdown of expenditures, and a six-year expenditure program, detailing annual levels of key expenditure items and funding for functions and activities
- Design of the cash programming and management system and the obligation programming management system, including a review of financial/cash status, development and administration of the annual cash/obligation program, monitoring and performance assessment and updating of the obligation/cash program
- Sensitivity analysis of the budget, and application and testing of the objective CHR budget derivation formula for the validation of the 6-year expenditure program levels
- Development of internal advocacy program to orient all CHR personnel on the 6-year budget and their roles in its execution and accountability
- Design of system-wide procedures for the entire budget and financial accounting process.
- Preparation of implementation instruments, including inputs to the financial autonomy strategy
- Inventory of existing revenue sources, rates, collection systems and procedures, institutional arrangements and resources, and accounting and monitoring procedures and performance, as well as identification of new sources of revenues

Administrative Service Management System

- Development of physical assets management framework to cover the physical assets management cycle – planning, procurement, maintenance, disposal and replacement

- Design of physical assets inventory monitoring system, conduct of physical assets inventory, and formulation of the inventory report
- Upgrading of the personnel administration system, including recruitment, selection, employee performance evaluation, deployment, maintenance of plantilla, leave administration, payroll administration, wage and salary administration, personnel discipline, and grievance relief facility
- Review, streamlining and modification of personnel administration policies and implementation processes.
- Development of change management strategy and implementation schedule
- Reengineering of the records management system, including the methodology for the conduct of records inventory, classification of all records, and design of records classification system, disposal schedule, maintenance procedures, archival system, and current records libraries
- Improvement of the business system, including the formulation of internal communication policies and procedures and the development of human capacities of employees, reporting flows and procedures, report document specifications and other relevant communications aspects
- Information systems capacity improvement, including IT application design for Commission-wide automation of mission-critical and administrative operations

Human Resource Development System

- Definition of the skills requirements for functions, drawing up of the staffing structure and manpower level for each formal organizational unit, formulation of class specifications systems, and definition of job descriptions and competencies
- Development of an independent remuneration policy and the reengineering of the remuneration system of the CHR that will define the compensation package and its procedure for application
- Development of a position classification system for the CHR, indicating position/job description for items under the new staffing pattern
- Formulation of recruitment and deployment policies and procedures for the selection and assignment of incumbents to positions in the new staffing pattern
- Identification of training requirements and formulation of appropriate staff training programs
- Formulation of a career development program for the staff

- Improvement of the human communications system , the means through which the CHR can communicate effectively with the general public, promoting the competence, credibility, integrity and respectability of its officials and employees; improving the perception of employees on the credibility, integrity and capability of the management; and creating a more cohesive culture imbued with teamwork, sharing and mutual reinforcement and maintenance of high compliance with work ethical standards

Corporate/Strategic Planning System

- Formulation of corporate planning philosophy and conceptual approach
- Design of the corporate planning process, scheduling methodology, outputs specifications requirements and links with the key operating systems (performance management, financial management, physical assets management, etc)
- Determination of the institutional resource support requirements to operate the corporate planning system
- Preparation of implementation/institutionalization instruments
- Formulation of a 6-year corporate plan for the CHR
- Change management, consensus building and advocacy

Performance Management System

- Review and reengineering of the performance management system of the Commission for the following purposes:
 - Evaluation system for manpower performance: individuals, organization unit heads, and agency heads;
 - Evaluation system for organizational performance: organizational unit, level of organization, Commission-wide; and
 - Evaluation system for program/project/activity performance
- Design of performance indicators system, data generation procedure and internal and external reporting system
- Design of specific applications of performance assessment results in decision-making, including definition of links to other systems
- Preparation of implementation instruments
- Formulation of change management strategy and consensus building

Reform Concepts/Desired Results

- 4.3.6 The strengthening of the overall control of the operations of the CHR will be achieved through the efficient use of human, physical, financial, technological and institutional resources; installation of simplified, streamlined and user-friendly business processes; and institution of information-based planning, performance management, operations and decision making.
- 4.3.7 The proposed reform measures thus include those on the improvement of the existing systems administrative, financial and other housekeeping operating systems and procedures, including the development of well-compensated, well-performing and well-motivated workforce.
- 4.3.8 During the medium-term, the following reform measures in the administrative, financial and other housekeeping systems of the CHR must be implemented:
- Full administrative management autonomy;
 - Full administration of financial management independence under an approved agreement with the oversight agencies concerned, including financial monitoring and reporting requirements and implementation of a revenue generation and collection system;
 - Implementation of a capability building program for the CHR staff
 - Performance management system in place;
 - Strategic/corporate planning exercise on a continuing basis;
 - Sufficient financial, physical and technological resources fully in place; and
 - Improvements in operational output performance.

4.4 Reengineering of the Mission-Critical Systems and Processes

Objectives

- 4.4.1 The reform has the following objectives:
- To reengineer the CHR's substantive operations, including investigation and case monitoring; review and monitoring of the consequential aspects of human rights violations; and strengthening of HR researches, broad-based advocacy and public promotion functions
 - To improve pluralism through improved collaboration with human rights promoters and protectors through the establishment of sectoral committees

General Description

4.4.2 The reform will design the detailed reengineered operating systems and transactional procedures, performance standards, and ethical standards for the refocused and strengthened mission-critical functions of the Commission intended to achieve put in place the above recommended shifts and purposes. This will include among others the following:

a) Investigation, Legal Services and Technical Assistance

- Investigation of government's handling of human rights violation cases
- Direct investigation of human rights cases
- Referrals for direct provision of legal and financial assistance to victims
- Mobilization of NGOs to provide legal assistance to victims
- Provision of technical assistance, including legal services, financial assistance and visits to jails

b) Investigative Monitoring

- Independent reporting to the public on performance of enforcement agencies and judiciary
- Independent reporting of the HR implications of government graft and corruption, budget allocation inequity, social and economic policies and programs, and administrative policies.
- Independent reporting of human rights violations of law enforcement personnel.
- Independent reporting of CHR assessment of government compliance with treaty obligations.
- Advocacy to correct existing legislations, policies and government programs that permit transactional and consequential violations of human rights.
- Jail monitoring and independent reporting of the performance of government with respect of jail management.

c) Human Rights Information and Public Advocacy

- Formulation/implementation of programs to build HR awareness among citizens in specific sectors such as rural workers, overseas workers, indigenous peoples, etc.
- Independent reporting of level of government efforts to build human rights awareness and education among law enforcement personnel

d) Human Rights Education

- Advocacy for inclusion of HR awareness and understanding in education curricula.
- Design and implementation of programs to improve human rights education of legislators.
- Design of training concepts and programs

e) Human Rights Research and Development

- Research, evaluation and independent public reporting of laws, policies and government programs that permit transactional or consequential violations of human rights
- Advocacy and advisory to government agencies in the identification and development of approaches and methodologies that ensure application of HR principles in their policies and programs

Reform Concept/Desired Results

- 4.4.3 The recommended reform measures will address the current dysfunctions in the operations of the CHR, which has been focusing on transactional protection, basically involving the investigation and provision of human right cases, provision of legal services and referrals to other agencies, provision of forensic services, jail monitoring and provision of medical and financial assistance. These dysfunctions are further indicated in terms of budget allocation wherein almost 64% of the budget of the Commission for 2002 is earmarked for transactional human rights protection, and only about 8% is allocated for research, information and other human rights promotion activities.
- 4.4.4 The reformed operating systems for the mission-critical functions of the Commission are intended to make CHR an effective Philippine human rights commission. During the medium-term, the above-indicated reforms on the operating systems for mission-critical functions of the Commission must be implemented.

5 PROGRAM IMPLEMENTATION

- 5.1.1 Many of the reforms can be done in house with a few requiring external funding and technical assistance. Reform implementation can be managed by a project management committee of inter-office in nature and headed by a designated commissioner.
- 5.1.2 Reform design and implementation timetable is estimated to be for three years assuming that all resources required are provided and activities start within 3 months upon approval of the reform program.

- 5.1.3 The appropriate sequencing of reform design and implementation should be developed to avoid backtracking of reform design and implementation procedures. The following sequencing and timetable is recommended:

TABLE 6.1
TIMETABLE FOR REFORM DESIGN AND IMPLEMENTATION

REFORM	DURATION OF DESIGN AND INSTALLATION STABILIZATION (IN MONTHS)	START TO FINISH (MONTH A TO N)
1. Program reengineering	3	1-3
2. Administrative structure and staffing	2	2-4
3. Administrative Systems and Procedures	6	1-6
- budgeting system		
- personnel systems		
- physical assets management		
- financial accounting		
- revenue management		
- strategic planning system		
4. Mission-critical systems and procedures	18	1-18
- investigation systems		
- assistance systems		
- human rights training systems		
- public advocacy systems		
- investigative monitoring systems		
- performance systems		
- country performance reporting systems		
- research and development systems		
- jails visitation and evaluation systems		

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Institutional Review
Performance
Assessment

ANNEXES



the public sector
capacity building organization

CAPACITY ASSESSMENT FRAMEWORK

EXTERNAL CONTEXT

National Government Financial and Administrative Policies, Rules and Procedures

Clientele

Other Agencies Involved in the Promotion and protection of Human Rights

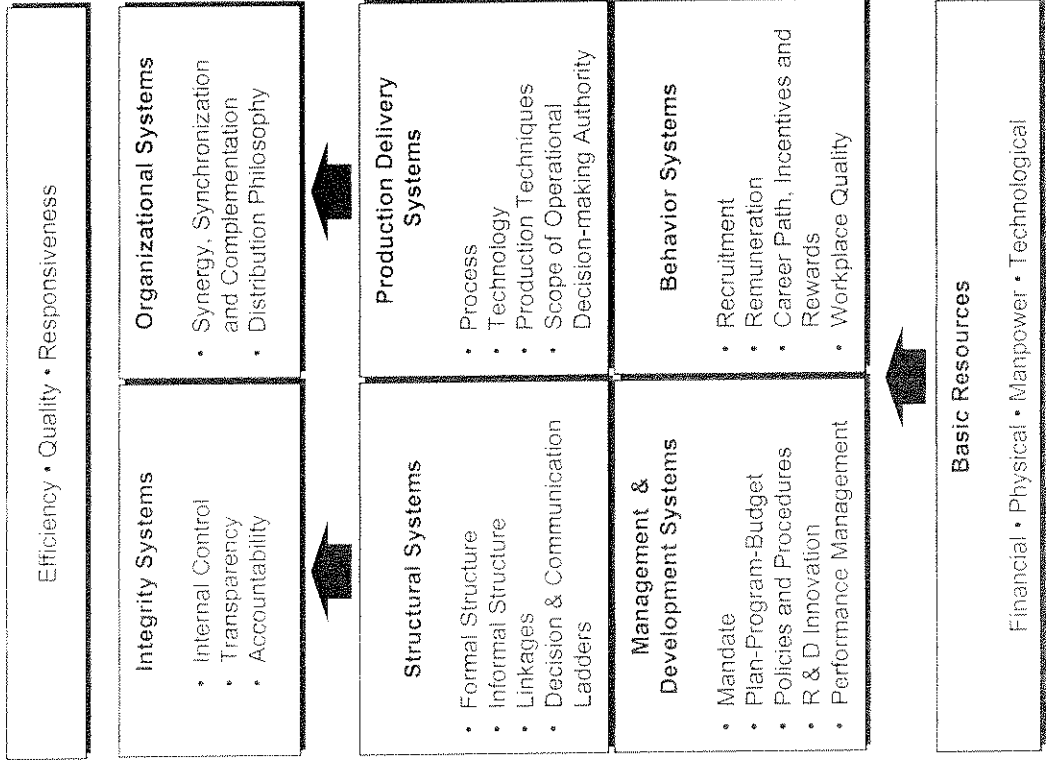
Private Sector HR Institutions

International Organizations and Agreements

INFLUENCE/IMPACT

INTERNAL CONTEXT

DIMENSIONS OF ORGANIZATIONAL PERFORMANCE



DIMENSION OF ADMINISTRATIVE OPERATIONS

EFFECT ON

Achievement of Human Rights Vision, Goals and Objectives



Achievement of Commission's Mandate



Accomplishment of Commission's Operating Targets



Improved Operational Efficiency

Commission on Human Rights (Existing Organization Chart)

