

**Pregnant Inmates in Philippine Prisons: Securing
and Saving Them with Gender-Sensitive Policy Reforms**
(Excerpts from the Presentation with the same title)

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Greetings...

I am honored to have been given the chance to share with you my study on the plight of pregnant inmates in Philippine jails and prisons, and the need for gender-sensitive innovations and policy reforms to address their specific needs considering their susceptibility to harm and dangers during this particular moment in their lives.

Some pregnant women are apprehended by reason of criminal charges. Women, whether pregnant or not should be afforded with human rights in prisons and must be treated well considering their nature and vulnerabilities. More so, a pregnant woman requires special attention and care due to the unborn baby inside her womb to avoid any miscarriage or untimely maternal delivery. It is important to note that the unborn fetus growing inside the womb of the inmate does not have anything to do with any crime charged on the mother. The fetus is innocent of any wrongdoing and should be accorded all the rights of an innocent person. However, due to certain circumstances, the unborn human being carried by the female inmate is forced to suffer the same unfortunate fate of incarceration.

The more vulnerable members of the detained and incarcerated persons with their unborn or delivered babies have been allotted a significant space and attention in my Dissertation, *Examining Deaths Behind Bars: Toward Penal System Policy Reforms in the Context of Human Rights*.

May I share that I just finished my Doctor of Social Development degree from the College of Social Work and Community Development of the University of the Philippines on June 28, 2015. And with it, comes my deepening commitment to the ends of corrections which are rehabilitation and reintegration, as reflected in my choice of topic for my Dissertation.

One of the surveyed inmates for the said study was a female detainee who was seven (7) months pregnant when she was apprehended on March 27, 2014 (Ellao, 2015). She was subsequently detained,

but less than a year after her arrest she was released from jail. It transpired on September 7, 2015 (Manabat, 2015). The judge dropped the murder charges against her. Evidently, she was already free, but she was not happy. Aside from the fact that she maintained her innocence from the crime that was imputed to her since her arrest, she also lost someone dear to her while in captivity. It was no other than her dearest ... her most precious –newly-born baby.

The plight of pregnant inmates amidst the prevailing prison conditions

“Adalia” is the alias that I gave to this grieving woman. She belonged to the five hundred sixty-six (566) inmates who participated in the survey for my Dissertation. The said inmates were from the five (5) jails we visited: two (2) jails under the supervision of the Bureau of Corrections, and three (3) jails under the Bureau of Jail Management and Penology. They were dominantly males, fifty-nine percent (59%); followed by females, thirty-seven percent (37%). Three percent (3%) of the inmates were gays while one percent (1%) of them, lesbians.

From the surveyed inmates in the said correctional facilities, **98.31%** of them stated that pregnant women are *not* being provided with good and orderly sleeping quarter. Furthermore, **42.86 %** answered that there is no special care for the pregnant inmates.

As reflected in our survey, the pregnant inmates were not treated differently from the rest of the inmates. Hence, they too suffer most of the prevailing prison conditions in the Philippines, which include among others, the following:

- (1) Problems regarding food rations and water supply;
- (2) Deficient health care services;
- (3) Medical negligence;
- (3) Congestion and its harmful effects to inmates -
 - (a) Sleep deprivation, and
 - (b) Lack of mobility.

Some of the pertinent findings regarding the predicament of the surveyed inmates are the following:

1. Survey results show that although **69%** of the inmates receive enough food in prison, **31%** among them go hungry or are forced to find other ways to obtain food for survival. Several inmates confessed that the food made available to them extremely lacked variety and are not nutritious. *Pancit* or stir fried noodles is a common staple for them served with white rice. They revealed that the same type of food is being served to every inmate regardless of their medical conditions. Many inmates suffer from diabetes and an overdose of carbohydrates and salty food can aggravate their illness and could later be deleterious and fatal.
2. More than half of the inmates said that they are not properly serviced by an optician and a dentist. Roughly 28% are not satisfied with the medical officers in the prison and almost 30% are dissatisfied with the overall healthcare provided by the jail managers.
3. During the course of this study, prison observation revealed that although **78.67%** of inmates have their own bed space, **more than 20%** of the prisoners are left to sleep on the ground or elsewhere. Further, cell blocks are filled to the brim with prisoners who are mingled together without any systematic segregation. Sleeping by appointment or taking turns to rest is a common practice in most jails.
4. All surveyed jails are congested. The nationwide congestion rates of the Bureau of Jail Management and Penology and Bureau of Corrections are 293% and 139%, respectively.

5. In this study, there is a statistical finding between crude death rate and congestion rate. The spearman's rho value of 0.8667 indicates that *there is a very strong direct relationship between crude death rate and congestion rate*. In other words, *as congestion rate increases, crude death rate also increases. Therefore, the increase in death rate is highly correlated with the high congestion rate*.
6. For both the correctional institutions under the Bureau of Corrections and Bureau of Jail Management and Penology, from 2011 to 2013, the consistent top three causes of deaths are *pulmonary tuberculosis, myocardial infarction and cardiac/cardio respiratory arrest*. In 2013, according to an official at the Bureau of Corrections, five hundred ten (510) inmates died while in custody.
7. The top four (4) leading causes of death in state penitentiaries under the Bureau of Corrections from year 2005 to 2010 per gender are: *Pulmonary tuberculosis, cardio respiratory arrest, myocardial infarction; and, sepsis*.
8. On the other hand, according to the Bureau of Jail Management and Penology warden that we interviewed, these were the causes of deaths in 2012, per gender in jails under the *Bureau of Jail and Management Penology: Cardiovascular diseases, cervical cancer, tuberculosis, and cardiac arrest*.

The reported incidents of ovarian cancer and sepsis indicate that women inmates are more prone than male inmates to gender-specific disease. "Sepsis is an illness that can develop in some pregnant women, as well as in women who have recently delivered a baby or babies" (Sepsis Alliance, n.d.). The occurrence of sepsis at the Bureau of Corrections-managed prisons depicts how vulnerable are the women inmates and their babies to this illness which is aggravated by the prevailing prison conditions.

Adalia: Face of the long suffering pregnant inmates

Going back to Adalia... Adalia gave a face to the long suffering pregnant inmates in Philippine prisons.

Adalia said that there was an unwarranted delay before she was brought to the hospital. She believed that this and the severe hardships that she suffered while pregnant contributed to the tragic end of her child who lived only for two (2) days and succumbed to "persistent pulmonary hypertension".

Adalia agonized but did not hide her anger when she said:

" I experienced severe hardship before and while I was giving birth. That's why the baby was affected. That's the reason why the baby died. I blame (name of jail) and the one who put me in jail for what happened to my baby."

And here are some of her recollections on her days as a pregnant detainee:

"I slept on the concrete floor. I slept beside a fellow inmate on the floor but when I came back from the hospital, that was the time when they gave us bunk beds.

"Inmates do not feel the concern from jail personnel, there is not even a doctor present. Even for ordinary illnesses, they don't have medicines. They don't even have equipment for taking blood pressure, thermometers, etc. They would borrow from the inmates. Nurses do not have enough knowledge about the types of sickness that are prevalent among the inmates, that is why they can't give out sound medical advice."

Uproar on the case of Adalia: From whence sprung gender-sensitive actions

The plight of Adalia as a pregnant inmate then, and the subsequent death of her child created a stir in the Philippines, especially among human rights advocates, and legislators.

The International Coalition for Human Rights in the Philippines attended the 26th Session of the United Nations Human Rights Council last year to report on the human rights violations being endured by Filipino women detainees. The case of Adalia was highlighted there. (Karapatan, 2014)

Member of the House Representatives Lani Mercado-Revilla filed House Resolution No. 1161, to inquire on Adalia's condition in jail and the subsequent death of her newborn child (Sabillo, 2014). On the other hand, at the Senate, Senator Nancy Binay said: "We must review whether the existing policies and protocols of the BJMP regarding women detainees, especially their access to medical care and facilities, are still relevant with the times" (Tupaz, 2014). Similarly, Senator Pia Cayetano called for an investigation which the government must conduct to know "whether or not detention facilities for women are equipped to deal with a mother's maternal health" (Macaraig, 2014).

Considering the statistical findings about pregnant inmates, and the experiences of pregnant inmates as exemplified by Adalia, the following rights of pregnant inmates were clearly violated –

Under the *UN Standard Minimum Rules for the Treatment of Prisoners*:

- Special accommodation for all necessary pre-natal and post-natal care and treatment (Part 1, 23[1]).
- Arrangements shall be made whenever practicable for children to be born in a hospital outside the institution.
- Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers (United Nations, 1955).

Under the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*:

- Pregnant or breastfeeding women prisoners shall receive advice on their health and diet under a programme to be drawn up and monitored by qualified health practitioner. Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers (Rule 48.1 supplementing Rule 23 of the *Standard Minimum Rules for the Treatment of Prisoners*) (United Nations, 2010)

Under the *1987 Philippine Constitution*, which provides: "The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law." Article III, Section 19 [2]

Under the *Anti-Torture Law* which considers denial of sleep/rest as mental/psychological torture (Section 4, b, 9). This kind of torture is being suffered by sleep-deprived inmates (including pregnant inmates) in overcrowded jails.

Recommendations for pregnant inmates and for all inmates across genders

1. Continuous creation of PAO plantilla positions for public attorneys and support staff pursuant to Republic Act (R. A.) No. 9406 of 2007 or the PAO Law, in order to implement speedy resolution of all criminal cases

Pursuant to R. A. No. 9406 (An Act Reorganizing And Strengthening The Public Attorney's Office (PAO), Amending For The Purpose Pertinent Provisions Of Executive Order No.292, Otherwise

Known As The “Administrative Code Of 1987”, As Amended, Granting Special Allowance To PAO Officials And Lawyers, And Providing Funds Therefor) provides that:

“SEC. 7. Ratio of Public Attorney’s Position to an Organized Sala. - There shall be a corresponding number of public attorney’s positions at the ratio of one public attorney to an organized sala and the corresponding administrative support staff thereto.”

After the enactment of the PAO Law on March 23, 2007, from around 1,048 public attorneys, the authorized lawyer positions were increased up to 1, 556. The 1,556 public attorneys are attending to more or less 3,000 courts nationwide. Thus, a ratio of 1: 2 or 3 public attorneys to a court still exists despite the presence of the law requiring 1:1 ratio. Hence, there must be a continuous creation of PAO plantilla positions for public attorneys and support staff to comply with the language, intent and spirit of R. A. No. 9406 of 2007. The PAO, although not recognized as one of the pillars of the justice system, must be fully strengthened so that it could be a more effective instrument in extending free legal assistance and representation towards declogging the dockets of the criminal courts and be of help to the inmates suffering from poverty, and especially to the underprivileged innocent ones who are wrongfully charged and detained due to political motivations.

Despite the increases in the salaries of public attorneys, there is an existing fast turn-over and transfer of lawyers to the prosecution, judiciary and other government or private corporate entities as they seek for more convenient working hours and lighter volume of assignments in as much as they suffer heavy workload as public attorneys. At any rate, still the PAO has proven its noble advocacy as a helping hand to the innocent inmates as shown in the following table:

Acquittals and Other Favorable Dispositions Criminal Cases 2007 to 2014			
YEAR	Acquittals	Other Favorable Dispositions	Total Number of Acquittals and Other Favorable Dispositions
2007	13,265	73,328	86,593
2008	9,859	72,107	81,966
2009	10,906	107,713	118,619
2010	12,562	135,905	148,467
2011	18,064	155,508	173,572
2012	10,687	100,372	111,059
2013	11,659	140,793	152,452
2014	12,199	137,615	149,814
TOTAL (2007-2014)	99,201	923,341	1,022,542

PAO Acquittals and Other Favorable Dispositions

This table simply shows that thousands of inmates were released from incarceration due to effective legal assistance. However, there are still thousands of inmates who remain in congested jail premises due to delay in their trial or appellate proceedings. Some are still confined thereat due to the

fact that they are serving the penalties imposed upon them without the benefit of parole, Good Conduct Time Allowance (GCTA) or executive clemency.

2. Retrospective application of Republic Act No. 10592 (GCTA) to inspire inmates to reform and change for the better, and to decongest jails and other detention facilities faster;
3. Enact a law which would protect both the pregnant accused and the child she carries. The bill should state among others, that a pregnant accused should not be detained in jail until she finishes breastfeeding her newborn child;
4. Full implementation of Republic Act No. 10575 (The Bureau of Corrections Modernization Act of 2013);
5. The efforts in establishing an Integrated Jail Facility must be revived and supported;
6. Continuous increase in the Bureau of Corrections and Bureau of Jail Management and Penology annual budget to fit with the basic human rights and needs of the inmates pursuant to UN standards;
7. Separate allocation for hospitalization in tertiary hospital of inmates suffering from serious illnesses and expenses for the burial of casualties inside the jails;
8. Compliance with the protocol in cases of inmates' morbidity or illness applying the principle of non-discriminatory rights of inmates;
9. Relocation and construction of additional buildings for safe and sound shelter of inmates based on *a maximum of four inmates per cell policy*;
10. Strict observance and application of the principles of accountability, empowerment, transparency, and good governance among key officials, support staff, warden, and jail guards of the Bureau of Corrections and Bureau of Jail Management and Penology;
11. Institutionalization of the principles of restorative justice which includes rehabilitation and livelihood programs for inmates that may bring about additional income to themselves and their families;
12. Adoption of security measures to mitigate and avoid sudden, suspicious, homicidal, suicidal, and illnesses without proper and timely medication intervention as well as the occurrence of other unnatural deaths;
13. Strict application of the Commission on Audit (COA) auditing rules, and regulations with proper validation and inspection regarding fund disbursements for food, supplies, medicines, water, electricity, clothing, facilities, equipment, immediate hospitalization and other basic needs of the inmates that are necessary and incidental for the promotion and protection of their social, psychological, mental and physical well-being;
14. Strict full implementation of Anti-Torture Act of 2009 (Republic Act No. 9745) and all existing laws relating to penal and prison improvements to realize an effective jail decongestion;
15. Enactment into law of existing bills pending in both houses of Congress that promote social development within penal system towards the promotion of the human rights of the inmates that would ensure the fulfillment of their gender-rights, upholding of restorative justice and human development of both inmates and jail personnel and officers; and,
16. Human rights education (with focus on international standards of treatment of prisoners and of domestic laws) and gender orientation trainings for all officers and personnel involved in prisons.

Silver linings in Philippine prisons

There is a Philippine jail which lives up to its name, the Ray of Hope Village. It currently houses 282 women inmates. Its 12 cottages are a home away from home, as well as hubs of learning which give them free schooling (where everyone is inspired to finish high school), livelihood training and other similar programs. (PCW, 2015)

It's a jail with no cells, but with windows which freely welcomes the warm sunbeams into the veranda. The women inmates are seen in friendly chats, or watering the plants nearby, or sewing under the shade of a tree. (Santos, 2010)

Ninety-three percent (93%) of the detainees are mothers; hence, there is a breastfeeding room that functions also as a child visitation area. The detainees' children from age zero to 15 years old can stay overnight with their mothers. (Santos, 2010)

"The visits are scheduled, but this allows the detainees to be mothers even while in detention," says Grace Taculin, chief inspector of the Davao City Female Jail. (Santos, 2010)

"Allowing the detainees to be mothers even while in detention" is such a beautiful phrase. It has also inspired the filing in the House of Representatives, House Bill No. 1397 entitled, *An Act Establishing a Correctional Nursery Program in All Correctional Institutions for Women, Appropriating Funds Therefor and for Other Purposes*. (Abayon, 2013)

Once approved, this bill turned into law shall bring in the rays of hope to every jail and prison, and shall prove that even in detention, mother and child bonding can thrive and that piece of humanity of the whole prison population can be kept alive. (**Note:** The complete details about the in-text citations are in the list of the author's references at the end of her Presentation that was submitted to the International Corrections and Prisons Association.)

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