



IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)



List of issues to be taken up in connection with the consideration of the combined, second, third and fourth periodic reports of the Philippines concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/PHL/4)



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Executive Summary

42, 32, 2008

The three numbers above are significant to the Philippines. 42 represents the number of years that have passed since the country signed the International Covenant on Economic, Social and Cultural Rights. 32 represents the number of years that have passed since the country ratified the International Covenant on Economic, Social and Cultural Rights. 2008 represents this year, the year wherein the Philippine government's performance, in realizing economic, social and cultural rights during the period of 1995-2005, will be assessed.

When the Philippine government signed and ratified the Covenant, it affirmed its commitment to promote social progress and better standards of life for all Filipinos.

This report will assess how the Philippine government, during the period of 1995-2005, has stood by this commitment.

General Framework within which the Covenant is to be implemented

The Philippines has enacted numerous laws to comply with the obligations set forth by the Covenant. It has enacted laws for the protection of children, migrant workers, women, and indigenous peoples. But these enacted laws have fallen far short of their objectives of protecting the targeted sectors. Numbers of abused children, trafficked migrant workers, abused women and discriminated indigenous peoples are still high.

This can be attributed in part to the lack of effective information dissemination about the Covenant and the local laws that have been enacted in pursuant to the Covenant's provisions. The Covenant, for instance, has not been translated into any of the country's major languages or dialects. More importantly, It can also be attributed to mixed government policies and misplaced government resources. An example of an inconsistent government policy is the Japan-Philippines Partnership Economic Agreement (JPEPA). As the body of this report will show, the JPEPA will violate not only provisions of the Covenant but also the Constitution of the Philippines. Notwithstanding these violations, the Philippine government, through the Senate, still went through with the ratification of the agreement on 09 October 2008. An example of misplaced government resources is the budget allocation for

debt servicing vis-à-vis the budget allocation for education. The budget for debt servicing is more than the budget for education.

Right of Self-determination

The Philippine government has adopted a **mixed** stance as to its treatment of the right of self-determination of its indigenous peoples (IP). It has enacted a good law, the Indigenous Peoples Right Act (IPRA), for the protection of the IPs. But its implementation of this law, and its enactment of contrary laws and its execution of contrary policies, impair the effectiveness of the law. The National Commission on Indigenous Peoples (NCIP), the primary unit in charge of the implementation of IPRA, has issued a number of certificates of ancestral domain titles. But a number of mining tenements, within these titled ancestral domains, were also issued by the Department of Environmental and Natural Resources (DENR).

A contrary policy to the IPRA that this Government has adopted is its liberalization of the entry of foreign and local mining companies in the IP communities. The safeguard of indigenous peoples' free prior informed consent (FPIC) has been abused. The body of this report will show that the FPIC of IPs have been obtained fraudulently and manipulatively, being reduced to nil. It must be noted that the NCIP has supported efforts of the Philippine government to ratify ILO 169, which it has not done to date.

Non-discrimination

The Philippine government has adopted a number of measures with regard to this right but such measures have not been felt by those on the ground.

Most notable is the GAD (Gender and Development) budget, which mandated all government entities to allocate a minimum of five percent of their total budget for each year for gender responsive programs. It has also enacted laws (Anti-Sexual Harassment Act, Anti-Violence against Women and Children Act, Agriculture and Fisheries Modernization Act) in pursuance of this right.

Amidst these measures, the figures of unemployed women are on the rise. The figures of rural poverty incidence, especially in the areas where we have a large concentration of ethnic minorities and indigenous peoples, are also high. The Autonomous Region of Muslim Mindanao has consistently registered the poorest indicators of access to safe water and sanitation.

Equal rights of men and women

The Philippine government has a vibrant gender equality policy. It has enacted a Philippine Plan for Gender Responsive Development 1995-2025, 30-year perspective plan that outlines the policies, strategies, programs and projects that the government must adopt to enable women to participate in and benefit from national development. It has institutionalized in its budget gender and development.

With the gender equality policy pursued by the government, it must be worth noting that there are still discriminatory provisions in different laws. (Civil Code, Revised Penal Code, Persons and Family Relations Code) There are also a number of important bills (Magna Carta for Women Bill, Kasambahay Bill, Marital Infidelity Bill) lying dormant in the Congress. It must also be said that there is no data available as to the effect of the vibrant gender equality policy pursued by the government.

Right to Work

The numbers of unemployed and underemployed in the Philippines have steadily increased. The opportunities for both rural and urban employment are limited. The number of migrant workers have also increased.

The Philippine government, enacted such measures as Republic Act 6685. This law requires private contractors to hire at least 50% of the unskilled and at least 30% of the skilled labor requirements in the province, city or municipality in which the projects are to be undertaken. Promotion of Rural Employment through Self-Employed and Entrepreneurship Development (PRESEED) was implemented by the Department of Labor and Employment. PRESEED was designed to promote self-employment among rural workers and their families. A Migrant Workers' Act was passed to institute the policies of overseas employment and promotion of the welfare of the migrant workers. Notwithstanding these measures, the numbers are still rising.

The Philippine informal economy is getting bigger and it contributes to at least 60% of the country's gross domestic product (GDP) and yet, the almost twenty million informal economy workers lack social protection. At present the Philippine government has numerous laws for the informal sector and informal businesses. It is not wanting in laws that seek to empower the poor and address economic deprivation. The dilemma however lies in the fact that despite the legal interventions, the poor remain poor and the gap between the rich and poor continues to widen. On the one hand, a rights-based legal and regulatory

framework law protecting the rights of members of the informal economy still has to be passed.

The right to just and favorable conditions of work

The Philippine government has enacted a number of laws for the workers to enjoy their right to just and favorable conditions of work. But this right, as shown in the body of this report, has been violated incessantly.

A concrete example of this is the minimum wage sufficiency of the workers. The minimum wage for a National Capital Region worker, in 2001, is \$5.60 (around 280 pesos), which does not provide a decent standard of living for a worker's family. At this pay level, at least two family members would have to work full-time to support a family of six. Under the law the minimum wage can also be dispensed with in a number of businesses, i.e. businesses with less than ten employees, export processing zone businesses.

Another concrete example of a violation of the right to just and favorable condition of work is the lack of inspections of work places in the country. The Convention concerning Labor Inspection in Industry and Commerce has also not been ratified.

Trade Union Rights

The Philippine government has seen the number of registered unions dwindle the last few years. It has also seen an absurd increase in the number of unions cancelled in the year 2006.

The Philippine government enacted RA 9481, an act which strengthened the worker's right to self-organization. This act has only been enforced last year, 25 May 2007.

The right to social security

The Philippine government has not given that much attention to social protection. Testament to this is the allocation of only 2.2% of the GDP to social protection.

The Social Security System (SSS) membership has grown steadily through the years. But this growth hides the sad reality that most of the covered employees are in the formal sector; that only 8 million out of the 27 million members continue to

pay. The Convention concerning Minimum Standards of Social Security has also not been ratified.

The Philippine Constitution and the Labor Code does not explicitly provide full social of members of the growing Philippine informal economy.

Protection of the Family, Mothers and Children

The Philippine government has enacted a number of laws and implemented a number of programs for the protection of the family, mothers and children. But such laws and programs have not prevented the rampant violations of the rights of the family, mothers and children.

One law that sought to protect the mothers and children was the Anti-Violence against Women and Their Children Act. But this law has been met by the ignorance of local officials implementing the said law. In the body of this report, these local officials still continue to facilitate the settlement of disputes between the victims of domestic violence and the offender, which is not allowed under the law.

What must be noted is the move on the part of the government to educate its officials on the subject of violence against women and children. The Commission on Human Rights must also be mentioned in its establishment of counseling and temporary shelter to domestic violence victims.

The number of prostituted women and children still continues to rise. The number of trafficked women and children also still continues to rise. The Philippine government tries to address the problem of prostitution and trafficking particularly with the passage of laws and implementation of policies to combat such problems. But such measures have been proven ineffective as shown by the data in the body of this report.

The right to an adequate standard of living

The Philippine government is currently implementing the 2004-2010 Medium Term Development Plan. This plan recognizes that poverty eradication remains the government's greatest challenge.

This plan, though commendable, is falling short of its targets and in fact, is not working as the poverty incidence has worsened from 30% in 2003 to 32.9% in 2006. This means that 27.6 million Filipinos are living below the poverty line.

The Right to Physical and Mental Health

The Philippine government has implemented a number of programs for the enjoyment of this right of the Filipinos. But such programs are still not enough for the full enjoyment of this right. The quality of health care remains wanting in many areas. Maternal mortality is still relatively high. |

Comment [A1]:

Right to Education

The Philippine government has provided a Madrasah program to Muslim public schoolchildren. It has also provided scholarships, through the National Commission on Indigenous Peoples, scholarships to a considerable number of students belonging to indigenous tribes.

While there efforts to formulate indigenous people's based curriculum in the primary and secondary education levels in certain areas, effective programs still have to be instituted. There measures adopted but still the Macapagal Administration was said to be characterized by declining enrollments, reduced completion rates and dramatic increases in the number of drop-outs and out of school children.

Right to take part in cultural life

The Philippine government, through the National Commission on Indigenous Peoples, has made efforts to promote the socio-economic development of indigenous peoples. With its limited resources, these projects benefit but a few indigenous cultural communities throughout the country. The efforts of the Philippine government, in the promotion of this right, must still be worked at. The failure of the Memorandum of Agreement on Ancestral Domain (MOA-AD) is a testament to this.

Concluding observation and recommendations

While we acknowledge that government has to some degree, fulfilled its obligations viz. the ESC rights of its people, much still have to be done and realized. ESCR-Asia's recommendations are found in the researches and endeavors we have so far undertaken: legal empowerment of the poor, right to adequate food, enforceability and justiciability of ESCRs, advocacy on the adoption and ratification of the OP-ICESCR and training modules on ESCRs.

General Recommendations:

1. Effective policy reforms as to review of current laws particularly: content, relationship to other laws (there are laws that conflict with each other – like that of the rights of indigenous peoples and the mining act), enactment of additional and remedial laws ;
2. An effective data-gathering as well as monitoring system needs to be in place in various government agencies for the various rights enshrined in the ICESCR;
3. A study of the Overseas Filipino Workers phenomenon viz. ESCRs has to be undertaken;
4. The Philippine government must pursue a policy of creating jobs in the country to stem the tide of migration and overseas Filipino workers diaspora and its grave impact of the family as the fundamental unit of society;
5. The institutionalization of rights-based policy, planning and processes of key government programs including appropriate budget allocations affecting the concerns of poverty reduction, education, family protection, work, shelter, food, culture, health and other ESC-related issues (note: exercising the principles of transparency, equality, support for vulnerable groups, non-discrimination, etc.)
6. The continued Indigenous Peoples-based Core curriculum and alternative learning systems
7. Undertake legal empowerment of the poor and enforcing effective localization at national, regional and municipal levels in four areas: access to justice and rule of law, labor rights, property rights and legal mechanisms to strengthen small businesses
8. Begin the process of the ratification by the Executive Branch and the Philippine Senate of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

Specific Recommendations:

1. On ICESCR education:
 - 1.1 An urgent, systematic and well-meaning education in 2009 of the provisions, articles, core and normative contents of the ICESCR by key government structures and agencies like the Cabinet, Executive, Legislative and Judiciary including regional, provincial and municipal counterparts including local government units.

1.2 All elected officials, from national to local levels, must be given basic orientation and education particularly on economic, social and cultural rights.

1.3 Immediate translation of the ICESCR into major Filipino languages/dialects – Tagalog, Cebuano-Visaya, lumad, Muslim and other indigenous languages.

2. (Article 6, Right to work)

2.1 On the Philippine informal economy:

The urgent crafting and passage of a rights-based legal and regulatory framework law of members of the Philippine informal economy which has undergone meaningful grassroots participation and or regional hearings and consultations e.g. Magna Carta

2.1.1 The review of a Supreme Court Ruling to allow the use of the sidewalks for the safe commerce and or conduct of regulated businesses of members of the informal economy including the interpretation of the Philippine National Road Law.

2.1.2 The revision and inclusion in the curriculum of all law schools and in the Philippine Judicial Academy (PhilJA) the topic on “human-ESC rights and the Philippine informal economy”.

2.1.3 The urgent reprimand, sanction and or review of the mandate of the Manila Metropolitan Development Authority (MMDA) by the Executive and Legislative branches in the violent and inhumane sidewalk clearing operations of informal sector businesses in the country. Specifically, the immediate removal of the power of MMDA to arrest small transport groups like tricycles and the speedy review of the possible dissolution of MMDA in relation to the duplication of functions of local government units (and if violent dispersal, inhumane treatment and arbitrary arrests of small transport drivers persists despite reprimand and or warnings).

2.1.4 Development and or enhancement of two-tiered social protection schemes at the national and local levels for members of the informal economy

- 2.1.5 Effective enforcement of the priority rights by Filipino marginalized fisherfolks of the 15-kilometer from local and foreign poachers and to institute recourse mechanisms including sanctions for violations.
 - 2.1.6 For the Philippine government to allocate budget to account and to measure the real contribution of informal sector groups in the Philippines at least in five basic subsectors: street vendors, small transport, non-corporate construction workers, homebased workers, marginalized fisherfolks, small farmers
- 2.2 On the Overseas Filipino Workers
- 2.2.1 Active pursuit of Bilateral Labor Agreements (including regional and protocols) on effective social Protection of Filipino migrant workers with host/receiving countries
 - 2.2.2 Availment/Access of qualified Filipino migrant workers of “portable” social security from host countries
 - 2.2.3 For the Philippine government to immediately review on the recent position of the European Union to send undocumented workers back to their respective country and to proposed measures and mechanism that will not derogate on the economic, social and legal rights of affected undocumented Filipino workers
3. (Article 11, Right to Adequate Standards of Living) On poverty reduction and the right to adequate food:
- 3.1 Urgently implement 5.3 of Guideline 5 of the 19 Right to Food guidelines initiated by UN FAO and for the Philippine Government to appoint a specific institution with overall responsibility for overseeing and coordinating the application of these guidelines. For transparency and accountability, the tasks and mandate of this institution should be well-defined and regularly assessed.
 - 3.2 Faithfully implement provision 5.4 of Guideline 5 by including into the Anti-Hunger Task Force of the current administration of Pres. Gloria Macapagal-Arroyo the increased participation of civil society groups (rights and development groups) including academe coming from national and regional levels for effective right to food policy and

planning; increase the number of participation of these said groups by half or one third.

- 3.3 Strengthen (to include increased budget allocation if necessary) the capabilities of the Bureau of Food and Drugs (BFAD) for the effective regulation and monitoring of safe food and others.

4. On Peace Talks and General Agreements Between and among Parties

- 4.1 The institutionalization of transparent and well-meaning processes:

- 4.1.1 Referendum/plebiscite or any meaningful, transparent processes and or popular consultations that would allow the participation of all stakeholders (Muslims, non-Muslim groups like the Lumads, indigenous peoples and other minority groups) existing in the allegedly claimed territories or ancestral domains. Media and other genuine observers are allowed to cover and witness the agreed processes. No peace agreement will be signed without conducting these clearly agreed multi-people's consultations.

- 4.1.2 Institutionalization and or increased participation of genuine third party monitors like well-meaning civil society groups and academe in the review and enhancement of legitimate peace agreements.

- 4.1.3 Any peace agreement entered between parties in the Philippines respect the provision on the "*right of all peoples to mutually and peacefully co-exist in one territory*"

- 4.2 If peace talks with the GRP-CPP-NDF will resume, review and institutionalize and increase participation of *genuine/independent third party monitors*, not individuals and groups whose salaries/honorariums are paid by either the Philippine government or by the CPP-NDF.

4. On Property Rights of the Poor

- 4.1 Simplification of property registration and titling processes and harmonization of multi-agency programs and procedures (largely to prevent the issuance of overlapping and conflicting claims over the same assets) by pushing for the adoption of the proposed bill to create a single land administration agency.

- 4.2 increased and assured funding for crucial programs such as agrarian reform

5. On right to culture and education

5.1 Wellmeaning and substantive appreciation of the Philippine culture, history and traditions, specifically of indigenous peoples groups by inculcating it in primary, secondary and tertiary curriculum ;

b.2 Vigorous implementation of the IP-based Core Curriculum and Alternative Learning System with the Department of Education and CHED;

b.3 To maintain the National Commission of the Indigenous People's Commission (NCIP) as a separate body and not under the Department of Environment and Natural Resources (DENR);

6. On the Commission on Human Rights (CHRP)

To pursue vigorously its mandate by effectively monitoring and investigating economic, social and cultural rights concerns and also to submit an independent report on the performance and compliance of the Philippine government to key Philippine agencies and UN bodies.

9. Transparent Budget Processes

7.1 Institution of visible community-based billboard systems of national, regional, provincial and municipal budget processes and allocations on economic, social and cultural rights specially at the local government levels.

7.2 Civil society participation in the budget processes including planning, monitoring and implementation of ESCR-related components in national and local development plans.

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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I. Measures adopted with regard to street children, child labor, overseas Filipino workers, forced eviction and independent body responsible for the prevention of illegal forced eviction

The Philippines does not lack laws for the protection of street children, child labor, overseas Filipino workers, and forced evictions.

An example of a law for the protection of street children is Presidential Decree 603 (Child and Youth Welfare Code), which punishes parents who neglect their kids. Another law is RA 7610 (Special Protection of Children against Child Abuse, Exploitation and Discrimination Act), which was enacted to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation, discrimination and other conditions prejudicial to their development.¹

RA 8042 (Migrant Workers and Oversea Filipinos Act of 1995) is the primary law governing overseas Filipino workers. The law institutes the policies of overseas employment and establishes a higher standard of protection and promotion of the welfare of migrant workers, their families and of overseas Filipinos in distress.² The Philippines is also a signatory to the International Convention on the Protection of the Rights of All Migrants Workers Assembly through Resolution 45/158 on 18 December 1990. It entered into force in July 1, 2003. In 2005, President Gloria Macapagal Arroyo also issued Executive Order 325 creating the Presidential Anti-Illegal Recruitment Task Force with the mandate to conduct surveillance and entrapment operation of persons alleged to be engaged in illegal recruitment and to cause or direct the immediate investigation and prosecution of cases involving illegal recruitment (2008, Patricia Santo Tomas,*Protecting Migrant Workers; Global Forum on Migration and Development*).

The law which governs evictions is RA 7279 (Urban Development and Housing Act), which prescribes instances when eviction may be carried out. It also imposes certain requirements and procedures to follow before an eviction of homeless and underprivileged citizens become valid. The problem of forced eviction has not gone unnoticed by the Commission on Human Rights. It's Chairperson, Atty. Leila de Lima, issued an advisory³ on the conduct of forced evictions and illegal demolitions. The advisory was a reminder to all concerned

¹ <http://www.childprotection.org.ph/monthlyfeatures/july2k6b.pdf>

² http://www.workabroad.ph/philippine_laws_working_living_abroad.php

³ Advisory on the Conduct of Forced Evictions and Illegal Demolition, 06 May 2008.

agencies and local government units to abide with the provisions of the International Covenant on Economic, Social and Cultural Rights, General Comment on the right to adequate housing: forced evictions and with Republic Act 7279 (Urban Development and Housing Act of 1992.)

As of this year (2008), there is still no independent body responsible for the prevention of illegal forced eviction.

2. Covenant as a “generally accepted principle of law” in accordance with the Constitution

The following are considered as sources of international law: treaties; international conventions; customary international law; generally accepted principles of law; and writings of the most highly qualified publicists and judicial decisions. The Philippines, having signed and ratified the International Covenant on Economic and Socio-Cultural Rights, has become a State Party to the said Covenant and is bound to respect and comply with its provisions by virtue of the principle of *pact sent servant*.

The Supreme Court, the highest court in the Philippines, has cited the Covenant in a number of cases. For example, in the case of *International School Alliance of Educators*⁴, the Court used Article 7 of the Covenant to further bolster the principle of equal pay for equal work. This principle was highlighted to nullify the practice of the school of paying more its foreign hire teachers than its Filipino teachers.

The Philippine Commission on Human Rights

In the case of *Simon vs. Commission on Human Rights*, the Philippine Supreme Court decided that: 1) the Commission on Human Rights, as an independent constitutional body tasked to promote, protect and monitor human rights, only has investigative powers as per the Constitution and cannot issue injunctive orders; but 2) such investigative powers only pertain to violations of civil and political rights and do not extend to violations of economic & socio-cultural rights. However, the issue resolved by *Simon vs. CHR* is limited to the investigative power of the CHR. With respect to monitoring powers, the Constitution provides that the Commission on Human Rights has the power to

⁴ International School Alliance of Educators vs. Hon. Leonardo A. Quisumbing, in his capacity as Secretary of Labor and Employment; Hon. Cresencio B. Trajano, in his capacity as Acting Secretary of Labor and Employment; Dr. Brian Maccauley, in his capacity as superintendent of International School Manila-Incorporated; and International School Incorporated, G.R. No. 128845, 01 June 2000.

monitor government compliance with international covenants. Thus, the economic and socio-cultural rights programs being implemented by the Commission are within the ambit of its monitoring powers.⁵

Given its limited powers, the Commission on Human Rights has issued numerous advisories pertaining to the protection of economic and socio-cultural rights.

3. Covenant Awareness

Public School Education

The curriculum of the primary and secondary level public school students, specifically from 1st grade to 4th year high school, includes human rights education (which includes learning the different economic and socio-cultural rights). The Commission on Human Rights in collaboration with the Department of Education undertook teachers training on human rights education all over the Philippines. The trainings were held in the following places:

CHR-DepEd Activities re: Training of Trainers & Teachers on Human Rights Education

Region V	February 23-27, 2004	Albany Hotel, Leaps City
Region VII	March 1-5, 2004	Scotch, Cebu City
Region II &	March 15-19, 2004	AR Acting Thaana, Baguio City
Region IV-A	March 29 - April 2, 2004	octane Resort, Pampanga
Region VIII	April 12 -16, 2004	Leyte Park Hotel, Leyte
Region XI &	April 26 -30, 2004	CARAGA, Regency Hotel, Davao
Region XII	May 24 -28, 2004	Estefan Hotel, Cohabite City
Regions IX	June 21 -25, 2004	Astoria Hotel, Zamboanga City
Region VI City	July 5 -9, 2004	Royal AMREI Hotel, Bacolod
Regions I	July 19 - 23, 2004	Legend Hotel, Palawan City
NCR Olongapo	August 2 - 6, 2004	Legenda Hotel, SMBA,
Region III Olongapo	August 16 -20, 2004	Legenda Hotel, SMBA,

⁵ Sembrano, Gilbert. Mechanisms and Avenues for Judicial and Quasi-Judicial Implementation of ESCR: The Philippine Experience. He is a Professorial Lecturer teaching human rights and related courses at the Ateneo de Manila School of Law, Philippines. He is also the Director of the Ateneo Human Rights Center, a university-based NGO and with the Ateneo Legal Services Center and also Board Secretary of ESCR-Asia from 2003 and present. As ESCR-Asia representative, he participated in the last OEWG of the Draft Optional Protocol to the ICESCR and met with the Philippine Mission in Geneva, April 2008.

Human Rights Education Program for the Police, Military and Other Law Enforcers

Since 1989, the Commission on Human Rights, in cooperation with the Department of National Defense, Department of the Interior and Local Government, and the Department of Justice, took steps towards the integration of Human Rights Education Programs in all Education and Training institutions of the Police and the Military. To fully equip the men in uniform about the teachings on human rights, a graduated human rights education curricula was developed and produced. These curricula were eventually integrated in their respective education and training institutions.

Human Rights Education and the Judiciary

The Philippine Judicial Academy (PhilJA) and the Ateneo Human Rights Center, in partnership with the United Nations Development Program, was involved in providing international humanitarian law and human rights education, which included the economic and socio-cultural rights to 45 executive judges in 2001.

Translation of the Covenant in minority languages and dialects

As of this year (2008), information about the Covenant is still not available in minority languages and dialects. At most, a *Tagalog* primer on it was made by the non-governmental organization, Philippine Human Rights Information Center.

4. Resources allocated to LGUs to implement ESC rights

Government allocation to local government units is lumped in one development fund making it difficult to determine whether these funds are categorically earmarked for ESCRs. Considering that the usual projects are providing basic utilities, such as water, waste collection, GAD (5%), etc., we can safely assume that a certain amount is actually used for implementation of certain economic and socio-cultural rights.

5. Mandate and Resources allocated to NCIP

The National Commission on Indigenous Peoples (NCIP) was created by virtue of RA 8371, the Indigenous Peoples Rights Act of 1997. Its mandate is to protect and promote the interest and well-being of the Indigenous Cultural

Communities/Indigenous Peoples (ICCs/IPs) with due regard to their beliefs, customs, traditions and institutions.

As per the General Appropriations Act of 2008, 2007 and 2005, the NCIP is allotted a yearly budget, the breakdown of which is provided below:

Appropriation for NCIP as per General Appropriations Act	
2008	
General Administration, operations, including locally funded projects, Survey of Ancestral Lands/Domain & Appropriations for Programs and Specific Activities	
<ul style="list-style-type: none"> 1. Programs <ul style="list-style-type: none"> a. General Administration & Support Services b. Support to Operations <ul style="list-style-type: none"> i. Policy-formulation, planning & coordination of Socio-economic & Cultural Development Projects <ul style="list-style-type: none"> 1. Development & promotion of economic livelihood programs & projects 2. Promotion & development of culture, traditions & institutions 1. Coordination with the different tribal institutions c. Operations <ul style="list-style-type: none"> ii. Implementation of Socio-Economic & Cultural Development Projects <ul style="list-style-type: none"> 1. Implementation of socio-economic & cultural development projects 2. Scholarship of members of the cultural communities 3. Management/development of ancestral lands in support of social reform agenda 	P 46,254,000 9,764,000 463,296,000
<ul style="list-style-type: none"> 2. Projects <ul style="list-style-type: none"> a. Locally-funded Projects <ul style="list-style-type: none"> i. Assistance for continuation of the literacy & livelihood activities ii. Acquisition of Information Technology & Office Equipment iii. Construction of NCIP Building in Region 5 iv. Operational Support Fund for the Implementation of Socio-Economic, Cultural, Human Rights and Empowerment Programs & Projects of NCIP-Region 5 	42,245,000
Total	P 561,559,000
2007	

General Administration, Support to Operations & Operations , Survey of Ancestral Lands/Domain & Appropriations for Programs and Specific Activities		
1. General Administration & Support		P 40,504,000
2. Support to Operations		10,406,000
a. Policy-formulation, Planning & Coordination of Socio-Economic & Cultural Development Projects		
i. Development & promotion of economic livelihood programs & projects		
ii. Promotion & development of culture, traditions & institutions		
iii. Coordination with the different tribal institutions		
3. Operations		429,467,000
a. Implementation of Socio-Economic & Cultural Development Projects		
i. Implementation of socio-economic & cultural development projects		
ii. Scholarship of members of the cultural communities		
iii. Management/development of ancestral lands in support of social reform agenda		
Total of Programs and Activities		P480,377,000

2005		
General Administration, Support to Operations & Operations, Survey of Ancestral Lands/Domain & Appropriations for Programs and Specific Activities		
1. General Administration & Support		P 37,089,000
2. Support to Operations		9,177,000
a. Policy-formulation, Planning & Coordination of Socio-Economic & Cultural Development Projects		
i. Development & promotion of economic livelihood programs & projects		
ii. Promotion & development of culture, traditions & institutions		
iii. Coordination with the different tribal institutions		
3. Operations		359,172,000
a. Implementation of Socio-Economic & Cultural Development Projects		

	<ul style="list-style-type: none"> i. Implementation of socio-economic & cultural development projects ii. Scholarship of members of the cultural communities iii. Management/development of ancestral lands in support of social reform agenda 	
Total of Programs and Activities		P405,438,000

6. Impact of State’s bilateral and multilateral trade agreements and policies, (esp. JPEPA) on enjoyment of ESC rights

The Japan-Philippines Economic Partnership Agreement (JPEPA) is a bilateral preferential free trade treaty between Japan and the Philippines that seeks to remove barriers to investments and the trade of goods and services between the two countries. The agreement eases the restrictions in Japan’s labor market to accommodate more Filipino health care professionals, lowers tariffs on agricultural trade and liberalizing investment conditions in the Philippines for Japanese corporations.

According to the Magkaisa Junk JPEPA Coalition⁶, the Agreement violates the Filipino-only policy in the utilization of marine resources. In Annex 7 of the Agreement, the Philippine Government made a distinction between small-scale utilization of marine resources and Deep-sea fishing. While no foreign participation is allowed for Small-scale Utilization activities, the Agreement allows corporations, associations or partnerships with a maximum of 40% foreign equity to enter into co-production, joint venture or production sharing agreement with the Philippine Government for Deep-Sea fishing activities.

However, the Philippine Constitution provides, in part:

Section 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing

⁶ Magkaisa Junk JPEPA Coalition is a multisectoral group of NGOs and Civil Society seeking to defeat the Japan-Philippines Economic Partnership Agreement for allegedly being an unfair and environmentally unjust bilateral trade agreement

agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and **reserve its use and enjoyment exclusively to Filipino citizens.**

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fish- workers in rivers, lakes, bays, and lagoons.

Interpreting the said provision, leading Constitutionalist, Joaquin Bernas S.J. in his commentary⁷ explains:

A stricter rule is imposed regarding the use and enjoyment of the nation's "marine wealth in its archipelagic waters, territorial seas, and exclusive economic zone." These are reserved for the exclusive use and enjoyment of "Filipino citizens," that is, Filipino natural persons. Thus, aliens would not be allowed even if they paid rent or fees for fishing rights.

The Constitutional grant of exclusive rights over marine resources in favor of Filipino citizens is unqualified. In fact, it must be stressed that nothing in the Constitutional provision mentions the possibility of allowing foreign corporations, associations or partnerships holding any percentage of foreign equity to engage in exploration, development and utilization of marine resources. The JPEPA would therefore work towards the violation of Filipino economic rights in use of its marine resources.

7. Indicate Civil Society Organizations participation in the preparation of the Philippine Report

Attempts were made by the government, through the United Nations and Other International Organizations (UNIO) of the Department of Foreign Affairs

⁷ Bernas, Joaquin, S.J. The 1987 Constitution of the Republic of the Philippines, A Commentary. Rex Publishing: Manila (2003)

(DFA) in 2006, to involve NGOs and civil society in the preparation of the report. Atty. Noel Servigon and Atty. Sharmaine Cern, then Director and Legal Staff of UNIO asked ESCR-Asia for list of NGOs whom they can approach for data. Also in an ESCR-Asia initiated forum on "ESCR Enforceability and Justiciability" held at the University of the Philippines –Asian Center last August 2006, Atty. Servigon urged to CSO's present to support in the drafting of the Philippine report. ESCR-Asia since then has not been updated of the actual participation of civil society in the report drafting.

Most Philippine NGOs and members of civil society also take the position of maintaining independent stance or prefer to formulate alternative, parallel or shadow reports to government reports.

8. Position of State Party on the Draft Optional Protocol to the ICESCR

The Philippines did not attend the drafting of the protocol and did not attend the last session of the open-ended working group (OEWG) on the protocol last March –April 2008 in Geneva. As of the present, the Country has not started the process of ratifying the optional protocol.

In April of 2008, the Economic & Socio-Cultural Rights - Asia met with the Philippine mission in Geneva and reiterated that economic and socio-cultural rights are justiciable and enforceable.

ARTICLE 1: RIGHT TO SELF-DETERMINATION

9. Information on the IPRA 1997 and the progress made, difficulties encountered in its implementation and conflicts with other laws

The IPRA was signed into law on October 29, 1997 by then President Ramos. Hailed as landmark legislation, the IPRA underwent many years of legislative study and deliberation before it became a law.

In general, the IPRA seeks to recognize, promote and protect the rights of the IPs. These include the Right to Ancestral Domain and Lands; Right to Self-Governance and Empowerment; Social Justice and Human Rights; and the Right to Cultural Integrity. The law makes it mandatory for the Indigenous People to give their Free, Prior, and Informed Consent before any project can be implemented in their ancestral domain/land. The law finally codifies the concept of Native Title, defined as the "pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private

ownership by ICCs/IPs, have never been public lands and are indisputably presumed to have been held that way since before the Spanish Conquest”⁸ and gives the process by which these lands may be returned to them by acquisition of a Certificate of Ancestral Domain/Land Title (CADT/CALT).

However, the CADTs and CALTs awarded to IPs/ICCs are of a different type of ownership. Far from the Civil Code concept of ownership, the ownership given to ICCs/IPs of their ancestral domains and lands are *sui generis*.⁹ Ancestral domains are private but communally owned and are not susceptible to sale, encumbrance or any form of disposition.¹⁰ Regarding ancestral land, while IPs are given the option secure a Certificate of Title over the same,¹¹ this land can only be sold to members of the same community.¹² Furthermore, the ownership is not absolute, as the Constitution provides that ownership as well as the prerogative to undertake exploration, development and utilization of natural resources found in the land is still vested with the State, and that IP/ICCs are only given “priority rights” in the exploration, development and utilization of the resources.¹³ This is in consonance with the Doctrine of Eminent Domain, a power which is lodged in the State as a sovereign entity.

A provision under the very same law actually negates the concept of native title, and shows that the law was clearly a political compromise. The Vested Property Rights Provision or Section 56 of IPRA provides that, “Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.”¹⁴ As consequence of this provision, existing property rights, such as ownership via Certificate of Title, homestead patents, sale patents, reservations by the Government, and by virtue of judicial legislation even financial and technical agreements are considered as property rights to be respected if vested before enactment of IPRA in November 1997. This provision is a limitation and negation of the full exercise of ICCs/IPs of their right over their ancestral domains and lands.

Although the law recognizes their pre-conquest rights over a particular delineated land as part of their ancestral domain/land, their claim over the same has to respect vested property rights which have already existed before the passage of the IP law. This political compromise has brought about insecurities

⁸ The Indigenous People’s Rights Act of 1997, R.A. 7381, Section 3

⁹ Sedfrey Candelaria, IPRA Commentary, at 114

¹⁰ The Indigenous People’s Rights Act of 1997, R.A. 7381, Section 5

¹¹ The Indigenous People’s Rights Act of 1997, R.A. 7381, Section 12

¹² The Indigenous People’s Rights Act of 1997, R.A. 7381, Section 8

¹³ Philippine Constitution of 1987

¹⁴ Section 56, IPRA 1997.

in the recognition and exercise of rights over ancestral domains and lands by the IPs/ICCS.

In 2005, the NCIP has worked on the following policies and programs¹⁵:

1. Creation of the Medium Term Philippine Development Plan for Indigenous Peoples (MTPDP-IP)
2. IP empowerment through Consultative Bodies, first of which was convened on December 5-9, 2002 in San Fernando City, Pampanga, attended by 110 tribal leaders and elders from the different ethnolinguistic groups all over the country.
3. Legal Assistance, Documentation of Indigenous Peoples-Children Involved in Armed Conflict
4. Coordination of Disarmament, Demobilization, Rehabilitation & Reintegration
5. Documentation of Customary Laws and Indigenous Knowledge Systems and Practices
6. Socio-economic and cultural development of IPs, specifically: delivery of sustainable, culture and gender sensitive basic services; implementation of livelihood and entrepreneurship program; health services including enrollment to insurance program; indigenous peoples education indigenization and curriculum and education assistance program
7. Strengthening its linkage and network with different government agencies, NGOs, and other donor communities in order to implement the (IPRA)

In its 2006 Executive Summary, the Commission boasts of the following accomplishments:

1. Issuance of 18 Certificates of Ancestral Domain Titles (CADTs) consisting of approximately 268,870,851.85 hectares, benefiting 50,847 indigenous peoples from the different tribes all over the country.
2. Issuance of 109 Certificate of Ancestral Land Titles (CALTs) to 1,682 beneficiaries.
3. Facilitation of the formulation of Nine (9) Ancestral Domain Sustainable Development and Protection Plans (ADSDPP) and working for the completion of another 32, which has the goal of delivering culture and gender-sensitive basic services and programs and promotion and protection of IP rights.

Information from the ground as well as numerous IP groups and NGOs reveal incongruities with the government efforts to promote and protect IP rights. As per the records from the Department of Environment and Natural Resources (DENR) in the year 2007, a total of 240 Mining Tenements have already been issued in Mindanao, 60% of which are within IP ancestral domains.

¹⁵ 2005 Executive Summary, National Commission on Indigenous Peoples

The Indigenous Peoples Rights-Monitor (IPR-Monitor), TEBTEBBA Foundation and the Philippine Indigenous Peoples Link (PIPLINKS), in its Indigenous Peoples Situationer¹⁶ write that:

The widespread implementation of extractive industries and other development projects in indigenous territories without their consent is outrightly violating their collective rights and is worsening their marginalized situation. This includes corporate mining, large dams and other energy projects, massive agri-business, eco-tourism, among others, which are also seriously undermining the peace, security and development of indigenous communities. Their adverse impact include the destruction of livelihoods, the environment, land, resources and properties and has also caused conflicts, divisions and the erosion of indigenous socio-political systems. Despite the widespread opposition of indigenous communities to corporate mining, the Philippine government opened more than five million hectares of ancestral land for mineral exploitation by local and multinational mining companies under the Mining Act of 1995. Of the twenty-three (23) mining projects given priority status by the Arroyo administration in 2006, eighteen (18) fall within indigenous lands.

Furthermore, seven (7) "priority" large dams are to be built in locations that will directly affect indigenous communities. The development of extractive industries such as dams, geothermal plants and large mines typically leads to militarization of the surrounding areas by both military and paramilitary groups to secure "development sites" and neutralize opposition of affected communities. In Talaingod, Davao del Norte, in Mindanao, soldiers deployed near a dam construction site forced fifty families to evacuate and then occupied their homes in November 2005. Likewise, the conversion of ancestral land to agri-business such as palm oil, abaca, coffee, temperate vegetables and other crops is now directly threatening the food security of indigenous peoples, and is weakening indigenous systems of resource management and conservation. Compounding this problem is the conversion of several ancestral lands into eco-tourism projects, managed by non-indigenous business interest groups or by profiteers.

Given the drive for resource extraction and exploitation, the government and private corporations have failed miserably to adequately implement and follow the provisions of the **Free, Prior, and Informed Consent (FPIC)** in development and resource extraction projects and in military activities in IP territories. Fraudulent FPIC certificates have been presented by mining corporations which was accepted by the National

¹⁶ Indigenous Peoples Rights-Monitor et al. The Human Rights Situation of Indigenous Peoples in the Philippines. (2008)

Commission of Indigenous Peoples (NCIP) such as in the case of the TVI-Pacific in Zamboanga del Norte, among others.

In exchange for land concessions to extractive industries, indigenous peoples are often promised jobs and basic social services. Such efforts exploit their impoverished state, effectively asking indigenous peoples to trade off their land and resources in order to be provided basic services enjoyed by other citizens. This act is not only discriminatory but also underscores the government's neglect, if not denial, of basic social services to indigenous communities while at the same time violating the collective rights of indigenous peoples over their land and resources.

Aside from the violation of IPs rights to their land and resources as well as lack of IP's Free, Prior and Informed Consent (FPIC), the Situationer¹⁷ also reveals that numerous extrajudicial killings have occurred all over the country:

Since the Arroyo administration took power in 2001, Indigenous Peoples Rights Monitor (IPR Monitor) has documented 120 extra-judicial killings of indigenous peoples. These killings have occurred in several regions of the country, with the Lumads of Mindanao and the Igorots of the Cordillera being the most targeted groups. While the victims represent many different professions, NGO workers, local government officials, church workers, and members of indigenous leadership structures have been especially targeted because of their political beliefs or their defense of their collective rights against government projects and policies. The 120 victims include 13 women, four of whom were pregnant, and 16 minors.

The systematic extra judicial killings of indigenous peoples and the continuing threats to indigenous leaders have additional adverse social impacts. These incidents have resulted in more conflicts, fear and mistrust among indigenous communities, which is weakening indigenous systems of cooperation and solidarity. Because of the chilling effect of the killings, it also weakened the indigenous people's movement for the respect and recognition of their collective rights.¹⁸

¹⁷ Indigenous Peoples Rights-Monitor et al. *The Human Rights Situation of Indigenous Peoples in the Philippines*. (2008)

¹⁸ More information on this in the *Philippine Report of the UN Special Rapporteur on extrajudicial killings*, Professor Philip Alston who was on official Mission to the Philippines in February 2006

There is also an escalating militarization of IP territories. The Situationer shows that:

IPs in the Philippines also suffer from militarization of their territories, resulting to the violation of their individual and collective rights. Militarization of indigenous communities includes the permanent physical basing of the Philippine military within ancestral territories; regular conduct of military operations, including unwarranted searches of houses; imposition of food blockades, curfews and other restrictions; interrogation and harassment of suspected rebels; and the forced recruitment of IPs into para-military forces. Even with the provision for the Free, Informed and Prior Consent of IPs for any military operation and sustained activities in IP territories, this is blatantly ignored and violated by the military.

The largest military base on indigenous territory is Camp Peralta, a 33,310 hectare base that has been constructed on Tumanduk ancestral lands in Panay, Western Visayas. Despite the presence of 14,000 indigenous residents, the military uses the base to conduct war games and weapons testing.

Internal armed conflict and the increasing number of large-scale development projects have led the government to station troops in indigenous territories. Indigenous peoples frequently suffer from harassment because of suspected association with the New People's Army, a communist rebel group. Because of the rugged terrain and poor infrastructure of many indigenous territories, rebel groups are often active in these areas. Consequently, the military often incorrectly associates rebel activity with indigenous peoples. The military often accuses groups of men engaged in indigenous hunting practices of involvement in rebel activities because they carry weapons. Four hunters have been killed by the military from 2003-2006 in separate incidents in the Cordillera Region because they were suspected to be rebel soldiers.

Further exacerbating the problems of militarization within indigenous areas has been the government's establishment of paramilitary groups, known as Civilian Armed Forces Geographical Units (CAFGUs). In some areas, the military has established recruitment quotas, such as in Kalinga Province, which has led to the forced recruitment of indigenous peoples into paramilitary groups. The military has also exploited the lack of jobs and tribal land disputes and other conflicts to draw recruits into the paramilitary force. This has become an effective strategy for divide and rule, further weakening the unity, cohesion and cooperation of indigenous communities. It has also led to the creation of government-supported vigilante groups such as in San Luis, Agusan Del Sur, Bukidnon and North Cotabato in Mindanao.

The Situationer concludes that:

Based on the Philippine Reports of the Official Missions of the UN Special Rapporteurs Prof. Rodolfo Stavenhagen and Prof. Philip Alston, there is reluctance on the part of the Philippine government to fully acknowledge the extent and seriousness of the human rights situation of the country. In spite of the recommendations made by the UN Special Rapporteurs to abate the worsening human rights situation, there are no clear mechanisms on how the government will decisively implement these recommendations to arrest the escalating cases of human rights violations across the country.

Even with the implementation of the Indigenous Peoples Rights Act (IPRA), the collective rights of indigenous peoples especially to their ancestral land rights continue to be violated with the situation even worsening. One major reason is the conflicting laws and policies pertaining to ownership, control, management and development of land and resources. Another is the lack of political will on the part of the government to protect and respect the rights of indigenous peoples over the vested interest of corporations, big business, landlords and politicians. There is also an absence of accountability mechanisms for the officials and staff of the NCIP and other government agencies who are proven to be involved in the manipulation of FPIC, accepting bribes or being negligent in their sworn duties and obligations in upholding the rights and interest of indigenous peoples.

In the recent Indigenous Peoples Congress held in celebration of the International Day of the World's Indigenous Peoples on August 7-10, 2008, a total of 140 participants representing IP communities, organizations, NGOs, government agencies, UN bodies, agencies and programs in the Philippines attended. They expressed their serious concerns over the following issues:

1. The Peace Agreement and the Memorandum of Agreement on Ancestral Domain, which is to be signed in the near future between the Philippine Government and the Moro Islamic Liberation Front (MILF). The Lumads (terms used to refer to IPs in Mindanao) have not been included in the negotiations nor made aware of the contents of this Agreement.
2. The aggressive expansion of biofuel plantations, hybrid and GMO crops which is contributing to the food crisis and which leads to the violation of IP rights to land, territories and resources.
3. Climate change and the proposed solutions to the same (i.e. biofuel production, large-scale hydroelectric dams, etc.) which are causing adverse impacts on IPs.

4. Entry of foreign and local mining companies into IP territories and the manipulative and devious ways used to obtain IP's free, prior and informed consent.
5. Lack of technical and financial resources for the implementation of our self-determined development including the implementation of ancestral domain sustainable development plans and programs.
6. Continuing militarization of IP communities leading to gross violations of IP's civil, political rights.

The IP Congress considers the following as urgent actions which the government ought to implement as soon as possible:

1. Organization of a Mindanao-wide consultation to be led by IPs which will look into issues related to the imminent adoption of the GRP-MILF Peace Agreement and come up with recommendations which to be forwarded to all stakeholders
2. Review and undertake corrective actions on Certificates of Precondition on Free, Prior and Informed Consent (FPIC) which were already released but are under questions by the communities concerned and the need to review the NCIP Administrative Order No. 1 Series of 2006 on the FPIC Guidelines; and the need to establish an independent monitoring and redress mechanism to address complaints on FPIC.
3. Effect a moratorium of mining operations in IP communities whose FPIC has been obtained under fraudulent circumstances.
4. Systematize monitoring and documentation of violations of human rights of IPs.
5. Undertake continuing investigation of political killings and human rights violations against IPs and the provision of redress for their families and victims of these violations; and a stop to the militarization of IP communities.
6. Undertake independent assessment of IPRA and make recommendations on how to ensure its more effective implementation and how it should adhere to the standards set by UN Declaration on the Rights of Indigenous Peoples.
7. Include variables of ethnicity in the 2010 Census and for the National Statistics Office to promote data disaggregation on the state of IPs.
8. Government to immediately ratify ILO Convention 169.

10. Ratification of ILO Convention No.169 concerning Indigenous and Tribal Peoples

ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries has not been ratified by the Philippines. But the NCIP continues to rally support for ILO 169 convention.

ARTICLE 2(2): NON-DISCRIMINATION

11. Information on measures adopted by State Party to implement Constitutional provisions on Equal Protection before the law and prohibition on all forms of discrimination

Gender Mainstreaming or Gender and Development (GAD) mainstreaming is the main strategy for ensuring that the government pursues gender equality in all aspects of the development process to achieve the vision of a gender-responsive society where women and men equally contribute to and benefit from development. It is aimed at recognizing and addressing gender issues in legislation, policies, programs and projects and institutional mechanisms of the government on a sustained basis. It institutionalizes gender concerns in the mainstream development processes and agenda and not just in the peripheral programs and projects of the government.¹⁹

The judicial branch of the government, specifically the Committee on Gender Responsiveness in the Judiciary (CGRJ) has implemented seminars/workshops for members of the Committee on Decorum and Investigation (CODI) with the purpose of providing know-how on writing reports and conducting investigations on sexual harassment cases, while providing committee members with a solid background on the multi-faceted nature of sexual harassment and the laws that address the same.

These seminars have been held in different parts of the country, namely in: Manila (for the committee members in the Supreme Court, Sandiganbayan, Court of Appeals, and Court of Tax Appeals); Manila (for the National Capital Judicial Region); Northern Luzon, Cagayan de Oro; and Western Visayas. However, these only catered to a few members of the bench and their subordinates. It was not able to cover all courts in the country.

The executive branch of the government, specifically the Civil Service Commission, through the Committee on Decorum and Investigation (CODI), issued a directory of CODI's in the central and regional offices of the government. The directory was issued to provide a quick reference on the proper authorities to approach on matters relating to sexual harassment. It must be noted that most of the CODI's in the central and regional offices were formed only in 2006, eleven years after the Anti-Sexual Harassment Act (which mandated the creation of these CODI's) was passed and implemented.

¹⁹ http://www.ncrfw.gov.ph/inside_pages/gender_mainstreaming/gender_mainstreaming.html

It must be noted that discriminatory provisions in the Revised Penal Code, the Civil Code, are still in effect. An example of a discriminatory provision in the Revised Penal Code is the prohibition on recently widowed women to marry within a particular period after their husbands have died.

12. Measures adopted by the State to facilitate access to equal employment opportunities, clean water, sanitation services, housing, health services, education.

Labor

Labor force participation rates from 1997-2004 still showed a large gap, growing from 48.9% to 50.2% for women as compared to the men which rose from 82.4% to 83.8% during the same period. Unemployment rates among women have generally been higher compared to men, from 8.5 percent in 1997 to 12.4 percent in 2004, as compared to unemployment rates for men which registered 7.5% to 11.5% during the same period. Women are usually employed in areas that only extend their social reproduction tasks in the household, that is, in domestic/private household activities (laundresses, maids, cooks, babysitters, etc.), education as well as health and social work industries.²⁰

The shift from the formal to informal employment of women has become increasingly marked in the last few years, indicating that more women are exposed today to unregulated working conditions beyond the reach of the Labor Code. So-called “close-open” strategies, a proliferation of apprenticeships or on-the-job trainings, “casualization” or contractualization, piece-work for piece rates, etc., exploit women’s cheap labor in informal work. This has resulted, among others, to the loss of job security and an increase of abusive work arrangements.

Government’s admission (and conspicuous lack of proposed actions) that “flexible employment is usually beyond the reach of labor legislation and social protection” indicates that this problem goes beyond law-making and monitoring impact. In the bigger picture, the dearth of decent employment, especially for women, as against an ever-ballooning labor force is such that many who do get a chance at the job market are pressed into accepting anti-labor conditions. This also represents a dampening effect on fighting for one’s rights or even simply reporting sexual harassment and gender-biased conditions in the workplace, which could mean being forced out of work. The right of women to unionize has

²⁰ “Women & Men Aged 15 Years and Over, by Employment Indicators, Sex & Year”. October 1998-2005 Integrated Survey of Households, National Statistics Office (NSO) at www.nscb.gov.ph

been compromised. By government's own data, women's participation in trade unions has drastically declined from 59.6 percent in 1996 to only 25.6 percent in 2000.²¹

Limited participation of women in tripartite and/or multi-sectoral bodies further exacerbates a situation where social benefits and protection schemes particularly relating to women's needs are not prioritized because of the additional costs this would entail government and private firms alike. These social benefits include provisions of the International Labor Organization (ILO) on maternity protection, the conditions of home-workers, reproductive health, and occupational safety and health across formal and informal sectors.

The potential for earning higher incomes abroad, coupled with the sheer difficulty of finding decent paying work in the country, have been consistent push factors in Filipino labor migration. While there is no formal policy encouraging labor migration, government continues to promote labor export in other ways. The Department of Labor and Employment, for example, sends marketing missions abroad to find job openings for Filipinos. OFWs are hailed as heroes, and with good reason: dollar remittances significantly prop up the Philippine economy. From US\$ 6,031,271 billion in 2001, OFW remittances have risen to US\$ 10,689,005 billion in 2005 and accounts for 10.2% of GNP.²²

From the early 90s onwards, more women have become part of the migrant labor force. By 2001, they made up 73%, deployed mostly as domestic workers, entertainers, and caregivers.²³ In 2002 alone, census statistics recorded over 530,000 women (age 25-29), leaving to work mostly as domestic helpers in Hong Kong. In the succeeding years, this figure would increase, a clear sign of the feminization of Philippine labor migration. These figures do not include untold numbers of women who are victimized by illegal contracting agencies and are trafficked into slave labor conditions and prostitution.

The tragic consequences of this forced diaspora are well-documented but these recede in the background, given government's promotion and institutionalization of a culture of labor migration. While many OFWs have found viable employment, there are harsh and cruel trade-offs in terms of their physical and emotional well-being as well as those of the families they leave behind. Others, especially among the large number of unskilled and semi-skilled workers, have not been so fortunate and return home physically maimed,

²¹ National Commission on the Role of Filipino Women at www.ncrf.gov.ph

²² "Key Labor Statistics." Central Bank data cited by the Bureau of Labor and Employment Statistics at http://www.bles.dole.gov.ph/key_labor/keylabsta.html

²³ Unlad Kabayan Migrant Services Foundation, Inc. at www.unladkabayan.org/phillabor.htm

psychologically broken, or dead. Migration-related violence recorded by the government from 1993-2000 shows that of the recorded 1,013 cases of human trafficking, women made up 64 percent; 19% of this figure had been prostituted.

In the face of horrendous incidences of abuse, even death, suffered by OFWs in the hands of foreign employers, government's view of installing safety nets for women as but another "continuing challenge" shows callousness appalling for a States Party to the CEDAW. At the minimum, government has not even maximized protection mechanisms such as the UN Migrant Workers Convention and related Conventions 97 and 143 of the International Labor Organization.

Way back in 1989, the Committee already called attention to the widespread gaps in applying the principle of equal remuneration for work of equal value by issuing General Recommendation No. 13 (VIII), to strengthen Article 14 of the CEDAW. But rural women hired as wage workers are still subjected to unequal pay for equal work. The PhP15 wage difference between men and women in 1997 rose to PhP21.58 in 2002.

Whether in unpaid family production or in wage work, what is immediately evident is the non-valuation of rural women's work, a condition that the Philippine government should have addressed under Sec. 1d, Article 11 of the CEDAW.²⁴ Women make up a hefty 56.2% of agricultural workers who are unpaid family workers.²⁵ Stereotypes in agriculture and fisheries abound, and men are still privileged over women, even with regard to agrarian reform, control over productive resources and support services. From 1996-2001, women composed only about 25.5% of the Department of Agriculture's beneficiaries in sector-based and agency-led programs.²⁶ Even today, titles are issued to male spouses; female spouses are not counted as beneficiaries. The Comprehensive Agrarian Reform Program will end in 2008, but in 2004 there were still around twice as many men who have been registered as holders of Certificates of Land Ownership Agreements (CLOAs).²⁷

²⁴ Article 11 Section 1d provides for "the right to equal remuneration, including benefits and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work."

²⁵ "NSCB 2006 Factsheet-Updates on Women and Men in the Philippines". at www.nscb.gov.ph/factsheet/pdf06/fs2_06.asp (2006)

²⁶ Department of Agriculture, as cited in "NSCB 2006 Factsheet-Updates on Women and Men in the Philippines". At www.nscb.gov.ph/factsheet/pdf06/fs2_06.asp (2006)

²⁷ As against 912,797 men, only around 402,000 women were CLOA holders in 2004 according to the Department of Agrarian Reform.

One of government's responses to economic globalization has been the enactment of the Agriculture and Fisheries Modernization Act (AFMA) which further softens the ground for the liberalization of the sector. There has been a rise in the use of highly toxic chemical inputs for high-value crops and in capital-led conversions of crops, land and fisheries, which are displacing women farmers from their traditional sources of livelihood. At the same time, rural women producers are being pushed into bankruptcy and greater food insecurity because of the indiscriminate dumping of cheap imported agriculture products. Caught in desperate circumstances, rural women are easy prey to usurers who charge as high as 20% monthly interest. AFMA is supposed to provide safety nets in credit and financing, research and development, etc., but government has not been able to translate these commitments into actual money terms. Again, it violates the CEDAW, particularly with regard to the general recommendation to "...promote women's fundamental human right to nutritional well-being throughout their lifespan"...and by "...take steps to facilitate physical and economic access to productive resources, especially for rural women....".²⁸

Poverty, Health, Access to Water and Sanitation & Education

Rural poverty incidence has hardly budged, from 46.3% in 1988 to 47% in the year 2000. Provinces in the largest Philippine island of Mindanao, where the largest concentration of ethnic minorities and indigenous peoples (61%) can also be found, consistently posted the most dismal human development outcomes relative to other regions.²⁹ Mountain Province, home to various indigenous groupings of the Igorot, registered among the highest income gaps at 38% compared to other provinces.³⁰ Still lacking effective and adequate disaster-preparedness interventions, the calamity-prone Bicol region again came up among the poorest regions.³¹

The Autonomous Region of Muslim Mindanao has consistently registered the poorest indicators of access to safe water and sanitation, and of women's literacy. A child born in the ARMM has "...very limited prospects for a long, productive, and healthy life compared with children in the rest of the country. This child has a substantially higher than average chance of being born to a mother who is not functionally literate and into a family sharing a lower than average income, and of living in a home without access to safe water or a

²⁸ *Convention on the Elimination of all Forms of Discrimination against Women*, General Recommendation 24 (XX), No. 7.

²⁹ "The Indigenous Peoples of the Philippines". at

http://www.adb.org/Documents/Reports/Indigenous_Peoples/PHI/chapter_3.pdf 1 (2006)

³⁰ The family income of poor Filipinos in the Mountain Province must increase by 38 percent of the poverty threshold for them not to be considered poor.

³¹ "Absolute number of poor has increased". Asian Development Bank. Inquirer News Service. Posted March 20, 2005 at www.inq7.net.

sanitary toilet."³² Because of this unbroken tradition of impoverishment, Muslim women are pushed farther out into the margins where greater vulnerabilities are taken advantage of by loan sharks, labor recruiters, sex traffickers and prostitution rings.

ARTICLE 3: EQUAL RIGHTS OF MEN AND WOMEN

13. Measures adopted by State to repeal discriminatory provisions in National Legislation

While the CEDAW has been in force in the State party for 25 years, there is still a lack of progress in undertaking necessary revisions of discriminatory provisions in national legislation and in enacting a comprehensive legal framework pertaining to gender equality. Numerous bills are lying dormant in Congress, in particular, the Magna Carta for Women Bill, the Marital Infidelity Bill and several other bills aimed at amending the Family Code, the Civil Code and the Revised Penal Code. Furthermore, there are existing discriminatory provisions of the Code of Muslim Personal Laws, which permit marriage of girls under the age of 18, polygamy and arranged marriages.

14. Implementation by the State party of Development Plan for Women

The National Commission on the Role of Filipino Women (NCRFW), established through Presidential Decree 633 as the Philippine machinery for the advancement of women, is the advisory body to the President on women and gender. As the lead agency that monitors the implementation of the CEDAW in the country, the NCRFW has laid down its Women Priority Legislative Agenda (WPLA) for the 14th Congress. The WPLA is primarily anchored on the Philippine Plan for Gender-Responsive Development (PPGD), Framework Plan for Women (FPW), and the provision on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), particularly its Concluding comments.³³

The WPLA specifically seeks to repeal discriminatory provisions of existing laws and adopt new legislation that promotes women's empowerment and gender equality. It likewise applies the norms and standards set out by CEDAW through sustained advocacy for the passage of the following legislation: Magna

³² World Bank, Human Development for Peace and Prosperity in the Autonomous Region in Muslim Mindanao." Human Development Sector Unit in East Asia and Pacific Region, 2004.

³³ Accessed at http://www.ncrfw.gov.ph/inside_pages/legislative_advocacy/legislative_advocacy.html

Carta of Women Bill, Anti-Prostitution Bill, Marital Infidelity Bill, Reproductive Health Bill, Kasambahay Bill and the Local Sectoral and Representation Bill.

The Magna Carta of Women recognizes the roles of women in nation building and ensures the substantive equality of men and women. The Anti-Prostitution Bill advocates for a legislation that looks at prostitution through a gender lens. The bill redefines the meaning of prostitution as any act, transaction, scheme or design involving the use or exploitation of another person, whether woman, man or a child, for the sexual gratification or pleasure of another in exchange for cash, profit or consideration. The Marital Infidelity Bill advocates for the revision of Articles 333 and 334 of the Revised Penal Code. The Reproductive Health Bill addresses the reproductive health needs of women and other population development issues. The Kasambahay Bill advocates for better protection of the house helpers. The Local Sectoral Representation Bill pushes for increased women's participation in political and public life.

15. Mandate and Resources allocated to National Commission on the Role of Women

The National Commission on the Role of Filipino Women (NCRFW) was established on January 7, 1975 through Presidential Decree No. 633, as an advisory body to the President and the Cabinet on policies and programs for the advancement of women. It is mandated "to review, evaluate, and recommend measures, including priorities to ensure the full integration of women for economic, social and cultural development at national, regional and international levels, and to ensure further equality between women and men."

In the first decade of its operations, the NCRFW concerned itself with the following major programs: organizing women into a nationwide movement called "Balikatan sa Kaunlaran" (shoulder-to-shoulder in development). This organization is now registered as independent women's organization; conducting policy studies and lobbying for the issuance of executive and legislative measures concerning women; establishing a clearinghouse and information center on women; and monitoring the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Women's concerns were positioned at the heart of the government agenda with the integration of the gender equality principle in the 1987 Philippine Constitution. It was during this period, that the first Philippine Development Plan for Women (PDPW) 1989-1992 was adopted through Executive Order No. 348. Also enacted shortly was the "Women in Nation-

Building Act" (RA 7192), which promotes the integration of women as full and equal partners of men in development and nation-building.

Government officials and staff were sensitized and provided with skills to make gender and development (GAD) concerns a way of life in the government. This campaign was supported by the Canadian International Development Agency (CIDA) under Phase I of its Institutional Strengthening Project.

As a result, the period 1992 to 1998 gave birth to the Philippine Plan for Gender-Responsive Development (PPGD) 1995-2025, a 30-year perspective plan that outlines the policies, strategies, programs and projects that the government must adopt to enable women to participate in and benefit from national development. Under Executive Order 273, the PPGD was adopted as the country's main vehicle for implementing the 1995 Beijing Declaration and Platform for Action (PFA) adopted at the 1995 UN 4th World Conference on Women.

Another milestone achievement was the passage of the legislation on the GAD Budget. The GAD Budget provision mandated all government agencies and instrumentalities including local government units (LGUs) to allocate a minimum of five percent (5%) of their total appropriations for GAD programs and project. This policy has since been incorporated annually in the General Appropriations Act (GAA), though revisions have been made to ensure effective implementation of the GAD budget policy. Through the continuing support of the CIDA, the commission implemented Phase II of the Institutional Strengthening Project aimed at capacitating government agencies on gender mainstreaming, and at the same time, building the Commission's internal capability to manage the over-all gender mainstreaming efforts in the bureaucracy.

Since 1998 to present, the government has focused on poverty alleviation which has revealed the importance of empowering women to ensure that the mainstreaming efforts of the government contribute to the improvement of the lives of women especially at the countryside. The NCRFW, thus, intensified its advocacy for the development of programs and projects that would not only benefit the women, but also, enable them to participate in the decision-making processes.

The table below shows the budget allocation for the NCRFW as gleaned from the General Appropriations Act from the years 2005, 2007 & 2008.

General Appropriation for the National Commission on the Role of Filipino Women (2005-2008)

2008	
I. General administration and support II. Support to operations III. Operations	P 29,767,000
2007	
I. General Administration & Support	18,460,000
II. Support to Operations a. Maintenance of a Data Bank on Gender and Development (GAD)	2,699,000
III. Operations a. Conduct of Policy Researches, Provision of Technical Services and Coordination and Monitoring Activities on Gender and Development	9,252,000
Total Appropriations for 2007	P 29,411,000
2005	
I. General Administration & Support	P 17,332,000
II. Support to Operations a. Maintenance of a Data Bank on Gender and Development (GAD)	2,720,000
III. Operations a. Conduct of Policy Researches, Provision of Technical Services and Coordination and Monitoring Activities on Gender and Development	7,946,000
Total Appropriations for 2005	P 27,998,000

The Women's Legal Bureau Shadow Report discloses that aside from the budget allotted yearly by the General Appropriations Act, line agencies and local government units are also mandated by law to allot a minimum of five percent of their budget for gender-mainstreaming programs, projects and activities. The Philippine Plan for Gender-Responsive Development (1995-2025) provides for institutionalizing GAD in the whole government but, a task that is under the NCRFW's responsibility. Another is the Women in Development and Nation-Building Act (RA 7192) which instructs government bodies to set aside up to 30 percent of their ODA funds for GAD activities.

However, the Shadow report concludes that:

After 13 years, GAD mainstreaming has shown little impact on the lives of ordinary women. Widespread reports of misuse and misallocation of these funds are instructive as to how little these measures are understood and how easy it has been for government agencies to go around laws targeted for GAD mainstreaming. Implementation has

generally been haphazard and unmonitored, characterized more by tokenism than by substance and strategic intent. The lack of stringent sanctions for violators of the law has also emboldened many government units particularly at the local levels, to continue to ignore these laws.

It has not helped that the lead agency for mainstreaming GAD in government does not have the budget and the enforcing capacity proportionate to its roles and responsibilities. NCRFW hardly comes close to what is described in General Recommendation No. 6 (VII) as an effective national machinery, established at a high level of government, and with adequate resources and authority, needed for the implementation of the CEDAW. It no longer enjoys a Cabinet position, following the issuance of an executive order in 2005 that placed it under oversight functions of the Department of Social Work and Development.

ARTICLE 6: THE RIGHT TO WORK

16. Unemployment Rate

The average number of people unemployed from the year 2006–2007 increased from 2,824,000 to 2,827,000, the average increase in employment was only **3,000** in a year, insufficient to combat the very high rate of unemployment. To address such and to come up with better statistical data, the Department of Labor and Employment changed the basis for finding unemployment rate.³⁴ This hopefully, will make the government more aware of the vastness of unemployment in the country, coupled by underemployment. For 2005, the reported JOB VACANCIES REPORTED / SOLICITED through the PESOs³⁵ increased from **1.37M in 2005 to 1.66 M in 2006**. If unemployment **decreased by 3,000** and Job Vacancies increased by **300,000** and in the 2007 data, it has continued to increase. The question is: WHERE ARE ALL THESE JOBS?

The problem will have to be the MISMATCH in the SKILLS of our LABOR FORCE and the SKILLS required for the JOB VACANCIES.

Employment opportunities for young, unskilled, and inexperienced workers and persons living in urban areas

³⁴ In the past years, unemployed people are those who have no work but are ACTIVELY LOOKING FOR WORK, it has been changed and the actively looking for work part was omitted from the definition. The availability doctrine was put into place.

³⁵ Public Employment Service Offices

On technical and vocational training programs, it has been said that the TESDA is more of a venue for accreditation than training – especially for overseas work.³⁶ The focus is not so much to train unskilled workers anymore but only to supervise and standardize those who are able to sustain such education. A concrete step made by the government is the implementation of RA 6685 – Requiring private contractors to hire at least 50% of the unskilled and at least 30% of the skilled labor requirements in the province, city or municipality in which the projects are to be undertaken.

The economic and political crisis the country is facing now will further dim employment opportunities, especially for young graduates. The National Youth Commission expressed fears that this development will further swell the number of unemployed people. Based on the findings of a 2004 national youth assessment study, 1.7 million youth are unemployed, comprising 49 percent of the country's 3.5 million unemployed people.³⁷

17. Underemployment

Underemployed persons or those employed and still desirous of additional hours of work registered at **7.332 million in 2007**, 386,000 less than the 7.718 million posted in 2006. The underemployment rate as of 2005 is 26.1%, the highest level within the last 15 years [about 16-22%]. NEDA attributed it to higher inflation, rapidly lessening the Purchasing Power of the Peso³⁸. But the Peso strengthened in 2007 and the underemployment rate was around **21.99 percent. At present, the Philippine Peso has once again weakened, thus an increase in underemployment should be expected.**

Increase in rural employment opportunities

The Department of Labor and Employment created the Promotion of Rural Employment through Self-Employment and Entrepreneurship Development (PRESEED) as a response to the limited employment opportunities available in the rural areas. It is designed to promote self-employment among rural workers and their families who have entrepreneurial potential by providing them access to entrepreneurship training, credit and technical assistance.³⁹

Another step for increasing employment opportunities in agricultural sectors made by the government is the implementation of RA 6685 – Requiring

³⁶ Center for Migrant Advocacy (CMA)

³⁷ Gonzales, Minerva. "Give Me Dignity or Give Me Work: The Right to Work". ESCR-Asia, Inc.

³⁸ Habito, Cielo. "No Free Lunch: Where are the Jobs?", Inquirer News Service

³⁹ www.evis.net.ph/~dole8/preseed.html

private contractors to hire at least 50% of the unskilled and at least 30% of the skilled labor requirements in the province, city or municipality in which the projects are to be undertaken.

18. Scale of Informal Economy to include policies, programs and mechanisms adopted to improve social protection

The Philippine informal economy is growing and is estimated to be almost 60% of the Philippine labor force, or around 22 million. According to the National Statistical Board (NSCB), its contribution to the Gross Domestic Product is estimated to be more than 60%. The Philippine informal economy major subgroups are those comprising the street and ambulant vendors, small transport groups, home-based workers, marginalized fisherfolks, small and seasonal farmers and community-based non-corporate construction workers.

The Philippines is not wanting in laws that seek to empower the poor and address economic deprivation. The dilemma however lies in the fact that despite legal interventions, the poor remain poor and the gap between the rich and the poor continues to widen. Furthermore, the poor continue to be politically disempowered despite gains in terms of people's participation expressed in the Constitution and some laws.⁴⁰

The only law to date that expressly recognizes the existence of the informal sector is the **Republic Act no. 8425 ("Social Reform and Poverty Alleviation Act of 1997")**. The law is focused on farmers and landless rural workers, fisherfolk, indigenous peoples, and indigenous cultural communities, the informal sector, urban poor, other disadvantaged groups like women and children, among others. The law defines "workers in the informal sector" as "poor individuals who operate businesses that are very small in scale and are not registered with any national government agency, and to the workers in such enterprises who sell their services in exchange for subsistence level wages or other forms of compensation." It is noteworthy that the sectors enumerated above, in addition to the informal sector, are themselves part of the informal sector itself, when the composition of the latter is dissected.⁴¹

The regulatory mechanism in the R.A. 8425 institutionalized the representation of the 14 basic sectors, appointed by the President, as members of the NAPC and to participate in the planning, decision-making, implementation, monitoring and evaluation of the Social Reform Agenda (SRA)

⁴⁰ The Way Forward: Handbook on the Legal Empowerment of the Poor. ESCR-Asia (July 2007). 70 - 75.

⁴¹ Ibid.

at all levels, the planning and policy formulation and decision making under RA 825 remain a matter for national initiative and local execution. Thus, while this guarantees a level of predictability in the manner of execution of poverty alleviation programs and ensures immediate impact and benefit to constituents, a net effect is also to substantially limit the capability of the LGUs and local level aspirations in coming up with locally relevant and responsive alleviation programs. The LGUs then merely package local poverty alleviation programs to respond to national priorities as a financial and political survival strategy.

RA 8425 also does not give much attention to coming up with a system that would enable administrative adjustments or streamlining of bureaucratic processes and “red tape” to ensure efficient management by the LGUs of the programs, especially towards ensuring a role for the LGUs as stewards of the resources of the locality.

Another law that seeks to empower members of the informal sector is **RA 6938 (“Cooperative Code”)**. A “cooperative” is defined under the law as a “duly registered association of powers with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.” Membership is voluntary and available to all individuals regardless of their social, political, racial, or religious backgrounds or beliefs.⁴²

RA 7610 (“Special Protection of Children against Child Abuse, Exploitation and Discrimination Act”) is another law affecting a major segment of the population of the informal sector. It seeks to define impermissible forms of child labor. Under this law, children are allowed to work only under the supervision of their parents or guardians, provided that his/her work neither endangers his/her life, safety, health, and morals nor impairs his/her normal development. The parent/guardian has the duty to ensure that the child receives primary and/or secondary education despite their work.⁴³

The provisions of law, however, discount the fact that child labor is a result of poverty, forcing children to work in order to augment family income. The income of the child pertains exclusively to the family for meeting daily needs. Often, employers using children as part of their work force do not possess any permit

⁴² Ibid.

⁴³ Ibid.

from the Department of Labor and Employment. This is particularly seen in the industrial sector where the children are hidden from the view of the public; their work is largely confined in dark rooms of the factory with pay very minimal and work conditions quite dismal. Children too are exploited and prostituted, sometimes even by the people they trust. They are forced to sell their bodies in order to bring home income to their families. Hardly working alone, these children are also exploited by their pimps who take a large cut out of their earnings and drive them hard into the exploitative business.

The law proscribes these exploitative acts, imposing heavy penalties on employers, pimps, customers, and owners of establishments where child prostitution is encouraged. The language of the law however reveals its reactionary nature. It seeks to punish, not prevent. And because the law does not recognize the reality of work for children, they are not given any voice nor conferred any benefits. Their rights may be exercised only through their parents/guardians, and only when these people assert it for them. Their voices are not heard at all. The law overlooks the fact that child work is resorted to because the family is poor and the parents are unable to provide for their children. Thus, the legal exclusion experienced by the parents is felt too by the child, in multitudes, suffering also their own exclusion before the law. It cannot be gainsaid therefore that addressing child labor must also address the needs of the basic unit of society, the family.

A law that has significant impact on the informal sector, especially women who are part of it, is **RA 6725 (“An Act Prohibiting Discrimination of Women in the Workplace”)**. Said law confers certain rights, benefits and opportunities for women and provides areas of protection for them. It proscribes the discrimination of women in the workplace, such as payment of lower wages to women and favoring the promotion of male workers over women on account of sex alone. A reading of the law however reveals that the law is not applicable to women in the informal sector, since protection is accorded only to those with an existing employer-employee relationship – something that is almost always lacking in the informal sector.⁴⁴

With respect to women engaged in micro or cottage businesses, which include sari-sari stores and the like, they are accorded special benefits under **RA 7882 (“Women in Micro and Cottage Business Enterprises Act”)**. Women who have been engaged in these businesses for at least a year, with a daily inventory of not more than PhP 25,000 are given priority in obtaining loans at a low interest rate. The law gives the woman a chance to expand her small

⁴⁴ Ibid.

business and thus economically empower her. However, it is to be noted that the law merely provides for an opportunity to improve the current business, and not an opportunity to *start* one.⁴⁵

Probably, the most important piece of legislation to date concerning the empowerment of women is **RA 7192 (“Women in Nation Building Act”)**. The law seeks to achieve the equality of women before the law and society by mandating that equal opportunities be granted to them as have been granted to men, even if they previously were not granted such. The law likewise abolishes some social precepts embodied in other laws that limit a woman’s capacity to contract. It must be noted that the law is one for all women in general; its effect on women in the informal sector in particular is but an incident of its purposes and implementation.⁴⁶

With respect to other sectors or sub-groups of the informal sector, several laws are also in place. **RA 7607 (“Magna Carta for Small Farmers”)** seeks to empower small farmers by providing for the equitable distribution of benefits and opportunities to them. The law provides for: 1) a mechanism of representation in the local legislative councils and concerned administrative agencies; 2) credit facilities at minimal interest rates to help farmers finance their livelihood; 3) provision of privileges to farmers’ organizations; 4) support mechanisms such as infrastructure support inputs and services in the form of transportation, market, communications and post-harvest facilities; 5) Education and skills development for farmers and technical assistance for agricultural projects; and 6) prioritization of produce of small farmers, prohibiting the importation of goods when they are able to meet the demands of the consumers.

Meanwhile, **RA 6657 (“Comprehensive Agrarian Reform Law”)** seeks to address the social and income disparities between the landed gentry and the farmers. It particularly benefits landless farmers who are tilling the land of another for a simple fee and/or small part of the harvest.

The problem with RA 6657, however, is in the definition of “farm workers” (the primary beneficiary of the law), which connotes the existence of an employer-employee relationship, in that they are, “employee or laborer in an agricultural enterprise”, be they regular or seasonal workers. The core of the informality of the sector is the non-existence of an employer-employee relationship which labor law standard prioritizes. Thus, by definition, informal

⁴⁵ Ibid.

⁴⁶ Ibid.

agricultural workers are excluded. While they may be included in “other workers” recognized by said law, they do not enjoy any degree of priority in land grants.

Another limitation on the right of farm workers to own the land they till is the power of the local government units (LGU's) to convert land from agricultural to non-agricultural even without the approval of the DAR, thereby excluding it from the coverage of the RA 6657. This is what happened to the Del Monte Plantation in Bukidnon province in Mindanao, where compulsory acquisition under the law was avoided by the owner corporation when the provincial government of Bukidnon declared the conversion of the land from an agricultural to an agro-industrial land.

The documents granted to the farmers for awards under the CARL called Emancipation Patent and Certificate of Land Ownership Award have the weight of a title,⁴⁷ which should therefore secure for the farmers tenure of land. However, the cancellation of these instruments continues upon the initiative of the landowner. Farmers who are recipients of the said titles are not immediately installed in their lands.⁴⁸

The CARL created the Special Agrarian Court to determine just compensation due to the landowner and to prosecute criminal offenses under the law. At the same time, the Department of Agrarian Reform Adjudicatory Board (DARAB) has primary jurisdiction to determine and adjudicate issues and conflicts arising from the application of the law. Redress under the CARL, however, primarily deals with the rights of the landowner, particularly on just compensation.

Furthermore, judicial interventions in agrarian-related disputes have become a major obstacle in securing for the farmers their land. Farmers who assert their right to the land are harassed by the landowners with criminal suits. Since they cannot afford bail for their provisional release, this essentially becomes an effective deterrent for the farmers to fight for their rights.

Another concern of farmers is the availability of seeds which they use for their livelihood. Although not included in this study, it is important at this point to look at **RA 9168 (“Plant Variety Protection Act of 2002”)**. The said law limits the usage of seeds by farmers; usage is regulated by the multinational corporations who own the rights of the seeds. The farmer cannot reuse the

⁴⁷ Estribillo, et. a., v. DAR & Hacienda Maria, G.R. No. 159674, June 30, 2006

⁴⁸ The Way Forward: Handbook on the Legal Empowerment of the Poor. ESCR-Asia (July 2007). 77 – 79.

seeds already used in the previous planting season (although they are still usable) as it is punishable under the law. They have to again buy from the multi-national companies. Such a practice imposes added financial burdens on the small farmer who barely has enough to make ends meet.⁴⁹

Farmers now face yet another problem. The 20-year period of the CARL expired in 2007 without any major changes having been made. The distribution of public agricultural lands also has not been completed pursuant to the law.

To adapt to the changing times and to meet the ever-expanding needs of farmers, **RA 8435 (“Agriculture and Fisheries Modernization Act of 1997” or AFMA)** was enacted in 1997. AFMA is said to be the cornerstone of the government’s poverty alleviation program.⁵⁰ The Agriculture and Fisheries Modernization Plan is focused on food security, poverty alleviation and income enhancement of the farmers and fisher folks, as well as the global competitiveness and sustainability of the industry. It gives special focus on the women, rural youth, indigenous peoples, handicapped persons and senior citizens of the agricultural community. It further complements the CARL by providing assistance to its beneficiaries by means of credit facilities, marketing services and infrastructure support to the farmers and fisher folks.

However, the law is highly focused on the economic aspect of the sector and its main objective is to produce more agriculture and fisheries products.⁵¹ Implementation of the above law is hampered at the local level due to the absence of ordinances that fully protect the fishing grounds from illegal fishing activities like the use of compressors. The resources of the Bureau of Fisheries and Aquatic Resources are not sufficient for policing the fishery grounds, and there are no programs to capacitate deputized fish wardens and “bantay-dagat” (sea watchers). Titles are also issued to cover mangrove areas. Commercial fishing in municipal waters continues unabated and no legal and financial support is given for prosecution thereof. Judges, prosecutors and other concerned officials are not familiar with fishery laws. Oftentimes, there are conflicting interpretations of the fishery laws, particularly clarifying the rules on delineation of municipal waters and its applications to bays, since the rules affect the ability of the fisher folks to fish and exercise their livelihood.

⁴⁹ Ibid.

⁵⁰ Dasig-Salazar, Amiella Marie and Dasig, Sheila Marie, Looking for Women in Fisheries Policies and Programs: A Review of Literature on Women and the Fisheries Sector in the Philippines, PALIHAN Journal, Vol. 1, no. 1, NFR, 2006, p. 11.

⁵¹ Ibid., p. 12.

Meanwhile, **RA 8550 (“The Fisheries Code”)** was enacted to address the country’s food security and is part of the poverty alleviation program. It espouses sustainable development, management, conservation and protection of fishery and aquatic resource of the country. The law emphasizes exclusive use and enjoyment of fishery and aquatic resources to Filipino citizens, where the rights of fisher folk, especially of the local communities with priority to municipal fisher folk, in the preferential use of the municipal waters shall be protected.⁵² Towards this end, support to the fishery sector, primarily to the municipal fisher folk, including women and youth sectors, shall be ensured and provided through appropriate technology and research, adequate financial, production, construction of post-harvest facilities, marketing assistance, and other services. It also protects fish workers who shall receive a just share for their labor in the utilization of marine and fishery resources.

The implementation of the law has given rise to some problems. While some fisher folks are already battling for the full implementation of the law, there are fisher folks who remain unfamiliar with RA 8550 and have not exactly participated in the implementation of the law.

Some fisher folks experienced that the law conflicts with the **National Integrated Protected Areas System law or RA 7586** and the Local Government Code (RA 7160), relating to the management of the sea to ensure subsistence to the fisher folks. A case in point is the 216,000 hectares of protected mangrove area under NIPAS in the Saranggani area, which is being bid out by the municipal government to fish fry concessionaires. Two government agencies conflict in their views regarding the economic activities: whereas DENR believes that economic activity can be undertaken, BFAR believes otherwise. Under section 45 of the law, public lands such as tidal swamps, mangroves, marshes, foreshore lands and ponds suitable for fishery operations shall not be disposed or alienated. How this provision impacts on other provision of law needs to be reviewed.

In addition, fisher folks have been displaced due to tourism directed policies as well as the development of economic zones. The mechanism of

⁵² Municipal waters, as defined by section 4 of RA 8550, include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under Republic Act No. 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from the opposite shore of the respective municipalities.

FARMC must be made functional and integrated with other development concerns to ensure adherence to the guarantees of the law.

The above laws also take into account vulnerable sectors as outlined by the SRA. CARL, in particular, excludes ancestral lands from the coverage of the laws so as not to deprive indigenous peoples and indigenous cultural communities their home land. This guarantee however remains to be realized in the light of the fact that conflicts arise in the determination of who has prior rights in property in terms of agrarian reform, ancestral domain, environment, mining, and others.

The CARL also mandates the equal opportunities be given to women in the acquiring land under the program. The Agriculture and Fisheries Modernization Act also places special focus on women, the rural youth and indigenous peoples by providing special training opportunities for them. However, as mentioned earlier, it is the men who benefit more from the effect of these laws than the women in view of the absence of knowledge of women's rights and gender, as well as the capacity to purposively integrate the same into development planning and implementation down to the level of the smallest political unit, the barangay.

Small Businesses and Vendors

The increasing cost of everyday living and Filipino ingenuity has given rise to small businesses, which, more often than not, concentrate on retail trade. This entrepreneurial activity is often engaged in for lack of available and/or sustainable employment opportunities to the majority of the population.⁵³

There are laws that encourage the formation of small businesses to make members of the informal sector self-sufficient. In particular, **RA 6977 (“Magna Carta for Small Enterprises”)** is one such particular law. Usually, the informal sector is classified under the micro-enterprises with a capital or assets worth less than P 1,500,001. Micro-enterprises are usually the sari-sari stores that proliferate in Philippine neighborhoods. To encourage the proliferation and development of these businesses, a mandatory allocation of credit resources for small enterprises is provided by the law. Assistance, counseling, incentives and promotion services are also available to the enterprises covered under the law.

In 2002, **RA 9178 or (“Barangay Microbusiness Enterprises Act”)** was passed to encourage the formation and growth of barangay micro-business enterprises (BMEs) which also seeks to integrate the informal sector into the

⁵³ The Way Forward: Legal Empowerment of the Poor. supra, pp. 80-83.

mainstream economy. Under the said law, enterprises with a capital outlay of P3, 000,000 or less are considered as BMEs who may enjoy the benefits like exemption from income taxes and the application of the minimum wage law among its employees.

Similarly, to support the efforts of small entrepreneurs, as well as to extend opportunities for them to improve their current economic status, **RA 7393 or (“Quedan and Rural Guarantee Act”)** provides for credit-support mechanisms to small businesses and also to farmers and fisher folks. Incentives are to be given to banks that would extend credit facilities to the concerned sectors. The law especially provides financial support to the CARP beneficiaries.

In 1997, **Executive Order (EO) No. 452** was passed to encourage vendors to register for their security. This EO provided for the designation of a workplace for vending in their local communities. The workplaces are to be determined through a consultation with the registered vendors, ambulant vendors, peddlers, market vendors, as well as the local police and the affected inhabitants. Empowerment of vendors can be further achieved by encouraging them to organize for their mutual aid, benefit and protection.

All business endeavors, regardless of its size are encouraged by law to be registered in the proper government agencies, particularly in the LGU where they are located. For members of the informal sector, registration may mean protection of their interests and freedom from harassment committed by enforcement agencies. The tedious and costly requirements of registration however deter the informal sector from registration. The difficulties however do not really deter the vendors from registering, even if they know that the main purpose of registration is to tax them. The laws or policies in place are the ones that effectively deter them from doing so.

Some specific cases of harassments and or violations of the rights of the members of the informal economy have been reported to ESCR-Asia in 2003 and until now by KATINIG (Kalipunan ng mga Tinig ng mga Manggagawang Impormal) or Association of Informal Sector Groups in Metro Manila, the Loyola Heights TODA (LHTODA) and Loyola-Pansol TODA, two small transport groups plying the route of Katipunan Avenue and Pansol in Quezon City. More than three hundred street vendors from Caloocan, Eremite, Muntinlupa, Valenzuela, Quezon City and even in Manila of the violent dispersals and physical harassments of the authorities belonging to the Metropolitan Development Authority (MMDA). Ms. Mercedes Nicolas, president of KATINIG told ESCR-Asia in an interview in 2005 that, often, goods or wares of street vendors including those of their members were either seized, burned, thrown into the garbage,

and not returned of if returned, lacking in quantity already. Members of MMDA hit the street vendors with their hard wooden batons thus prompting the latter to fight back.

Mr. Alex Bahay, president of Loyola Heights TODA and Mr. Hilario Botor, board member of Loyola-Pansol TODA, reported to ESCR-Asia that without prior notice and consultation, on two occasions, the members of the Metropolitan Development Authority (MMDA) arrested in 2005 and also last August 15, 2008 at least 75 drivers and stopped them from plying the route of Katipunan Avenue and Pansol invoking the National Road Law. The complaint of the LHTODA drivers refer not only to a violation of their right to proper information, inconsistency of the interpretation of the law as other small transport drivers of the other side of the avenue are allowed by MMDA to use the streets but also of their right to decent livelihood. With the arrests and stoppage of use of the road, their daily income of almost P 500 (\$10.65) has been reduced to P 250 (\$5.5), hardly enough to feed a family. The drivers have been plying the route for 15 years prior the ban of the use of the avenue.

In their dialogues with the Quezon City Office and MMDA, vendors and or the TODA drivers receive conflicting resolutions. The local government units seem to be more tolerant of their livelihood as compared to MMDA. Thus, according to both groups, there is imperative to review the powers of MMDA or its possible dissolution as traffic management and related concerns are better handled by the local government unit.

Informal businesses

Majority of informal businesses are household-based, that is, the business enterprise is operated by a social unit that shares the same sleeping and eating quarters. Further, many of these informal businesses are home-based and are operated solely by the owner-proprietor.

Although majority of informal businesses are still dominated by men, the percentage of female-headed informal businesses has been increasing. Business establishments owned and operated by women are mostly food and beverage retail and service enterprises, variety (*sari-sari*) stores; personal and household services; and textile, wearing apparel, and leather manufacturing. Women micro-entrepreneurs prefer these kinds of enterprises because these allow them to stay close to home. Unfortunately, many of women-led enterprises operate at subsistence or survival levels (i.e. profit income is used for household needs instead of being re-invested into the business), and therefore offer little in terms of reaching economies of scale.

More than 99% of business establishments in the country are micro and small scale, most of which are engaged in wholesale and retail trade services and in manufacturing sub-industries (e.g. food products and beverages, wearing apparel, fabricated metal products, furniture, and non-metallic mineral products).⁵⁴

More than 60% of the country's total labor force is employed in micro and small enterprises. These are jobs mostly found, as may be expected, in the wholesale and retail trade and manufacturing industries.⁵⁵

Despite their large numbers and the amount of employment they generate, Philippine micro and small enterprises lag behind in terms of output and productivity compared to their counterparts in other Asian economies. Micro and small enterprises account for less than 30% of the Philippine economy's gross value added (GVA), while large enterprises, which represent a mere 0.3% of all establishments in the country, accounts for the remaining 70%.

In 2003, the Philippine Government launched its National SME (Small and Medium Enterprises) Development Plan for 2004-2010. The goal of the plan is to improve sales and output of MSMEs, (medium scale and micro-enterprises) increase MSME's contribution in the country's GVA from 32% to 40%, register MSME export sales growth of 16% per year, and spur the emergence of new creative entrepreneurs especially in identified priority growth industries.

The SME Plan adopts an integrated approach to MSME development taking into account five key elements that go into MSME development: 1) finance, 2) training/human/resource development, 3) marketing, 4) product development and technology intervention, and 5) advocacy for an enabling environment. Finance, however, is a priority—if not the main—component of the SME plan.

The finance side of the SME Plan is called SULONG (SME Unified Lending Opportunities for National Growth) Program which was launched by the Arroyo Administration prior to the SME Plan. As of 2005, SME lending through the SULONG Program has reached P95.7, and government is set to allocate another P310 billion for the next five years.

In addition to the SULONG Program, the 'One Town, One Product, One Million Pesos' Program of President Arroyo was also introduced as a

⁵⁴ Ibid.

⁵⁵ Ibid.

supplemental finance component of the SME Plan. Under this program, the government will allocate for SME lending the amount of P1 Million for every city or municipality in the country. The funds will be used to finance an identified SME product or service cluster in these cities and municipalities.

The Philippines has a well-defined policy and regulatory framework for microfinance. This is borne partly by the country's long tradition in cooperative development, the high volume and evolving role of NGOs operating in the country, and government's adherence to microfinance as a development tool for the poor.

In 1997, the National Credit Council, an interagency body under the Department of Finance, came out with the National Strategy for Microfinance which adhered to the following guiding principles: greater role of the private sector (microfinance institutions or MFIs) in the provision of financial services; an enabling policy environment that will facilitate the increased participation of the private sector in microfinance; market-oriented financial and credit policies, e.g. market-oriented interest rates on loan and deposits; non-participation of government line agencies in the implementation of credit and guarantee programs.⁵⁶

Executive Order 138 was issued later in 1999 which directed government entities involved in government's credit programs to implement the guidelines set by the National Credit Council. And a year later, R.A. 8791 or otherwise known as the General Banking Law of 2000 was enacted, providing the legal mechanism for the microfinance sector to tap formal capital resources and expand their breadth of services. Succeeding circulars issued by the *Bangko Sentral ng Pilipinas*, the regulatory authority over all banking institutions in the country, provided the policy directives in implementing provisions contained in RA 8791.

Microfinance institutions (MFI's) in the Philippines operate under a tiered regulatory structure. There are those that are regulated and licensed and there are those which are virtually unregulated and/ or unlicensed. (See table 5.) Thrift, rural and cooperative banks are formally regulated and supervised by the Central Bank, and operate following the set of rules and guidelines as prescribed by the General Banking Law and the various circulars issued by the Central Bank.

⁵⁶ National Strategy for Microfinance.

Table 5	
Regulated/ Licensed MFIs	People's Credit and Finance Corporation Commercial Banks Thrift banks Rural Banks Cooperative Banks Private Lending Investors Pawnshops
Unregulated/ Unlicensed MFIs	NGOs Credit Unions/ Savings and Credit Units of Cooperatives Village "banks"/ Solidarity Groups ROSCAs and ASCAs

Unregulated/ unlicensed MFIs, meanwhile, do not necessarily operate outside the purview of the law. Credit Unions, Savings and Credit Cooperatives and NGOs engaged in microfinance are generally registered legal entities. However, for lack of effective regulatory institutions that will supervise and monitor these types of MFIs, the common practice has been self-regulation and autonomous supervision of their savings and loan portfolios.⁵⁷

There are around 500 NGOs in the Philippines who are engaged in some form of microfinance servicing. But because there is no regulatory body overseeing their operations, there is hardly any data available on NGO operations and performance. Thus, there are no definitive estimates on the number of clients served and the amount of savings and loans generated by microfinance NGOs.

The enactment of the General Banking Law paved the way for the growth in the number of rural banks engaged in microfinance. In 2000, only 55 rural banks were directly engaged in microfinance. By 2005, there were 187 rural banks operating across the country offering microfinance services.⁵⁸

Conclusion

What is clear is that there are existing policies, programs and services that directly or indirectly provide some form of legal protection to informal

⁵⁷ Ibid.

⁵⁸ Ibid.

businesses. However, there are some key issues and challenges that limit the impact of current legal mechanisms in empowering informal businesses.

The reason may be because informal businesses are not categorically defined and included in current business enterprise laws and in the National SME Development Plan; thus, their specific issues and concerns are not properly reflected in these legal mechanisms. An example is the limitation of current legal mechanisms in addressing workspace issues. Policies, program and services relating to MSME enterprise development often focus on providing less credit and training which are less “contentious” and less “politically-charged” issues.

Another key challenge is getting local governments and their constituencies to be more discerning and active in enterprise development. The literature has been consistent in stating the invariably important role that local government plays in addressing informal business needs and concerns. This is because the first line of engagement for informal businesses is the local government which has the power to issue business permits, impose taxes and fees, and regulate the use of commercial and public spaces. It may even be argued that city-level policies are more important than national-level policies, especially if these refer to land use and access to infrastructure. If this is the case, then it is at this level of governance where changes and improvements in regulatory policies must be implemented.

One other key challenge is sustaining the growth of the microfinance sector. While the years 2001 to 2007 saw the emergence of a very vibrant and promising microfinance sector, these accomplishment and successes may be put into peril if the sector remains highly fragmented and deeply unregulated. The challenge is further reducing the regulatory restrictions on formal financial institutions in “downscaling” their operations in order to be more viable microfinance providers, while at the same time establishing systems that would effectively monitor and supervise the activities of microfinance-NGOs and credit cooperatives.

Addressing these issues and challenges generally involves re-articulating or re-formulating the existing legal and regulatory prescriptions and adapting these into the local milieu in order to create the right enabling environment to create such a linkage. And those who are in the best position to do these are LGUs and their constituencies.

19. Employment Opportunities, Undocumented Migrant Workers & Implementation of the Philippine Migrant Workers Act of 1995.

No new policies or measures were undertaken to ensure there is decent work domestically. [2001-2005]

Bilateral Labor Agreements, Regional Agreements, Multilateral Agreements and International Protocols

In her 2008 report (Protecting Migrant Workers: A Shared Responsibility) addressed to the just concluded Global Forum on Migration and Development at PICC last Oct.29, 2008, Ms. Patrica Sto. Tomas, Chairman of the Development Bank of the Philippines related that the Philippines has " *actively pursued negotiations and succeeded in signing Bilateral Labor Agreements (BLAs) with fifty nine (59) labor receiving countries. Eighty two (82) BLAs have been signed with these fifty nine countries.*" Other regional agreements signed was the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant which defined the obligations of both receiving and sending States. This agreement, signed in January 2007 during the ASEAN's Head of States expressed the commitment of ASEAN Member Countries in the protection and promotion of the rights of migrant workers (see table 1, 2, 4 re Deployment of Filipino OFWs, Number of Licensed Recruitment Agencies and Record of Cases Handled and Disposed and Benefits/Services of OFWS.)

Irregular Workers

The International Center for Migration Policy Development has estimated that up to **650,000 unauthorized migrants entered European Union countries in 2001**. Some studies have suggested that irregular migration is driven more often by the demand for cheap labor in developed countries than by push factors in developing countries. Globalized economies are dependent to some extent on low-cost migrant labor. However, migrant contributions to the development of the host country—as suppliers of labor, as consumers, and even as taxpayers—are unrecognized. Likewise, access to socioeconomic and financial services, particularly for irregular workers, is curtailed largely.

Human Rights

Human rights violations against legal and irregular workers continue to be reported by studies and overwhelming anecdotal evidence. Some migrants work under severe employment conditions, which compromise their well-being and ultimately affect their capacity to maximize the amounts that they send to family members. The very nature of irregularity breeds abuse and exploitation. Many of these workers, especially women and others in vulnerable occupations (e.g., domestic work and entertainment), often receive low wages. Further, they are subjected to, or are open to, physical abuse. Irregular workers, who are most likely to send home small amounts, select unregulated remittance channels because they fear exposing their status, or are disqualified from opening bank accounts.

Feminization of Migration

More than 65% of OFWs are women. Aside from traditional Middle East destinations, the newly industrialized economies in South and Southeast Asia have generated a demand for female workers for domestic work. In Japan, Filipino women are recruited as performing artists or entertainers. Due to stringent Japan policy in 2005, there was a decline in women OFWs by 2006. These women OFWs are mostly in “Lowly-skilled” jobs like domestic workers, cleaners, manufacturing laborers. They are lower paid.

Philippine Incentive-Based Programs

The Philippines has an organized overseas deployment system, through which the Government monitors and seeks to protect the welfare of its OFWs. The government has implemented the following programs for its Overseas Filipino Workers.

a) Homecoming Programs – Balikbayan Program

This long-running program offers balikbayans and returning workers exemptions from travel tax, as well as from duties and taxes on (i) the purchase of items from Philippine duty free shops, (ii) the importation of personal household items for those resettling permanently in the country, and (iii) the importation of capital equipment for use in enterprise. In 2003, figures from the airport duty free shop indicate that about 185,000 Filipino returnees purchased an estimated \$36 million worth of goods, a low figure compared to 1996–2000 when at least 250,000 visitors purchased items annually. Most purchases were liquor, cigarettes, chocolates, signature items, and other imported goods.

b) The Dual Nationality Act

On 29 August 2003, the Dual Nationality Act (Republic Act 9225) became law. Before this act was passed, former Filipinos who lost their citizenship for various reasons were allowed to reacquire Philippine citizenship. The Dual

Nationality Act enables them to adopt Philippine citizenship without abandoning their foreign citizenship. Said law was passed precisely to increase participation in the development of their native country through property ownership, investments, savings, and other productive undertakings that could generate livelihood and employment.

Agencies Involved in Deployment & Problems Encountered

In the Philippines, at least 10 Government agencies are involved in the migration process. However, five main agencies have primary responsibility for managing overseas deployment, welfare protection, and reintegration. DOLE implements the Migrant and Overseas Filipinos Act (RA 8042), which is the repository of policies, rights and obligations, and sanctions and regulations that govern overseas employment. Two attached agencies under DOLE—POEA and OWWA—also are involved in key aspects of the migration process. The BSP, meanwhile, records remittance flows. POEA handles the documentation of land-based and sea-based contract workers recruited mostly by private, fee-charging recruitment agents, usually working for foreign principals. POEA also handles the licensing and regulation of recruitment agencies, and collects and compiles data of migrant and remittance flows to assist policy formulation. While POEA organizes pre departure orientation seminars for direct-hire workers, OWWA handles the orientation of OFWs under accredited recruitment agencies. OWWA also is responsible for promoting the welfare of OFWs and dependents through the implementation of welfare programs for migrants and dependents. These programs consist of health or repatriation assistance, livelihood loans, skills training, scholarships, and reintegration initiatives for returned workers. Proceeds of an OWWA-administered trust fund, created from \$25 contributions by OFWs before their departure overseas, finance these programs. The fund, which began operating in 1982, is estimated to be worth P7–8 billion. The Department of Foreign Affairs (DFA), which is involved primarily in conducting foreign relations with other countries, also has the duty to protect the interests and welfare of Filipinos. While the protection functions of DFA, DOLE, OWWA, and POEA overlap the Migrant Workers Act calls for these agencies (and other players, such as commercial and agricultural attaches) to operate under a “country team approach” to minimize redundancy. CFO, another small Government agency attached to DFA, documents and monitors Filipinos leaving the Philippines as immigrants or permanent residents. At the same time, CFO links overseas Filipino associations to humanitarian and infrastructure projects in the Philippines, particularly in rural areas; according to a profiling system it devised to match remittances with needs.

Other problems noted are: employers often deviate from the agreed wage and employment terms. Conditions in the employment contract signed by the worker and the employer are changed upon arrival at the workplace, a practice known as "contract substitution". Workers resign themselves to the lower wage, or file cases against employers; Workers, particularly those in vulnerable positions such as women and domestic workers, are subject to abuse and exploitation. These cases are reported frequently to the Government or to NGOs; practice of withholding passports and similar ways of limiting the mobility and freedom of the migrant worker; few labor and welfare officers overseas cannot adequately service the needs of the thousands of migrant workers. This shortage undermines the Government's ability to deliver much-needed services.

According to POEA, migrant returnees often experience severe economic reintegration problems due to their inability to adjust to the large differences in wages. Their social reintegration to their families after a long separation is likewise a struggle. Any savings they might have brought home are easily exhausted, especially if they are unable to find a source of livelihood. Large numbers of returnees have ended back in the recruitment lines, waiting for another overseas contract. Ironically, starting an enterprise could be the only option open for migrant workers who have returned after a long absence from the Philippines or are too old to rejoin the labor force. An effective mechanism is needed that would allow entrepreneurs to access credit, as well as entrepreneurship and skills training and business identification. Furthermore, the time to prepare a migrant worker for life after migration is not after return, but before departure and while still employed overseas. Although the websites and brochures of the DTI, the Technical Education and Skills Development Authority (TESDA), and the Technology and Livelihood Resource Center show the availability of such programs and services, information is lacking on whether many OFWs have used these programs.

ARTICLE 7: THE RIGHT TO JUST AND FAVORABLE CONDITIONS OF WORK

20. Minimum Wage Sufficiency

The average daily basic pay of wage and salaried workers covered by the Labor Force Survey of the NSO was at P260.31 in January 2007. In 2006, it was estimated at P252.08, translating to a P8.23 increase. Average increases were highest among Special Occupations (P45.59) as well as in the Extra-Territorial Organization and Bodies sub sector (P246.74) industry. Nine (9) regions suffered cuts in daily basic pay. Only three (3) regions, namely NCR (August 28,

2007), Region III (September 27) and Region XI (September 16, 2007) effected minimum wage increases. Additional P12.00 was added to worker's pay in NCR in all industry/sector. In Region III, a P9.00 increase was granted to their workers while additional P10.00 was given to Region XI workers.⁵⁹ The minimum wage for NCR nonagricultural workers in 2001 is about \$5.60 (280 pesos), which does not provide a decent standard of living for a worker family. At this pay level, at least two family members would have to work full-time to support a family of six. The lowest minimum wages are in the ARMM, where the daily agricultural wage is \$2.60 (131 pesos). Large numbers of workers receive less than the minimum wage set for their area.⁶⁰ The Wage Board generally gets a signal from the President before acting and moving to adjust the minimum wage rate. It is not really an independent body. Minimum Wage Compliance is not monitored well and the ineffectiveness of the labor inspection and labor justice system.

The Labor Code provides for the punishment of corporations, individuals, firms and entities violating the minimum wage set by the wage orders via fine, imprisonment or both. The fine imposed is Twenty Five Thousand Pesos, the imprisonment imposed is for the duration of not less than one year but not more than two years. These penalties are too light. This fact has been recognized by a pending Senate bill⁶¹ providing for the increased of such penalties.

21. Discrimination Against Women

There are a number of laws in place to prevent discrimination against women. Some of these laws are RA **6725** (Prohibition of discrimination against women with respect to terms and condition of employment), **RA 1564** (Grant of maternity leave to government employees under temporary appointment), **RA 7877** (Anti-Sexual harassment law).

22. Export Processing Zones

Violation of minimum wage standards is common. Many firms hire employees at below the minimum apprentice rates, even if there is no approved training in their production-line wage requirement and acknowledge that the shortage of inspectors makes the law difficult to enforce. Complaints about nonpayment of social security contributions, bonuses and overtime are

⁵⁹ Current Labor Statistics, Department of Labor and Employment (2007)

⁶⁰ *Supra* note 4

⁶¹ Senate Bill No.2036

particularly common with regard to companies in SEZs.⁶² Also, the minimum wage, provided in the wage orders issued, are not observed in export processing zones, as these zones are exempt from compliance.

23. Health and Safety at Work, Inspection, Work-related Accidents, Illnesses & Prosecutions

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with only 260 positions allocated for inspectors nationwide, actual enforcement often is carried out by local authorities. DOLE officials acknowledge that their 253 inspectors are not adequate for the number of work sites in need of visits. Statistics on actual work-related accidents and illnesses are incomplete, as incidents (especially in Agriculture) are underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment. There are no data available on compliance of the law which covers occupational hazard, the government's inspection system does not work well and labor justice system hardly addresses Occupational Safety and Health.⁶³

24. Ratification of the Convention concerning Labor Inspection in Industry and Commerce

As of this year (2008), the Convention is not yet ratified.

ARTICLE 8: TRADE UNION RIGHTS

25. Measures adopted by the State to prevent and punish violations of trade union rights

The major impediments to the exercise of the right to unionize: (1) restricted access to legal representation due to cost, (2) complicated labor dispute resolution system and (3) legal system plagued with delay and corruption.⁶⁴

The table below shows the existing workers organizations, collective bargaining and collective negotiation agreements from 2005-2007. It is

⁶² *Id.*

⁶³ Draft Shadow report

⁶⁴ *Id.*

important to note that in 2006, an alarming number of unions were cancelled or dissolved.

INDICATORS	2005	2006	2007(1stqtr)
Unions Registered	492	371	100
Membership of Newly-Registered Unions	45,032	31,777	10,612
Unions Cancelled / Dissolved	72	717	4
Federations Cancelled	11	-	-
Existing unions	17,132	16,778	16,861
Membership of Existing Unions	1,910	1,855	1,893
Collective Bargaining Agreements	459	536	138
Collective Negotiation Agreements	33	56	31

The State has enacted RA 9481, an act strengthening the worker's right to self-organization. The act amended the Labor Code's provisions on the right to self-organization. This act made it easier for labor unions to register as a legal entity.

ARTICLE 9: THE RIGHT TO SOCIAL SECURITY

26. Social Security Benefits

Growth of Membership in the Country's Social Security System

1981: 8.5 million
 1991: 13.2 million
 2001: 23.5 million
 2007: 27.2 million

The statistics and cumulative membership in the SSS as divided by the types of workers are as follows:

Type of Member	Number as of March 2008
Employee	21,527
Regular	21,413
House helper	114
Self-employed	5,159
Regular	1,270
Expanded	3,373
Farmers & Fishermen	517
Voluntary	694
Overseas Worker	688
Non-working Spouse	6
Total	27,380
Employer	813

SSS' membership is predominantly of formal employees [79%]. Only 8 million of 27 million continue to pay. It could be attributed to plain poverty, lack of sufficient channels, unsuccessful information dissemination.

Social Protection and social security measures for members of the Philippine Informal economy

There are existing and a number of social protection programs and policies directly and or indirectly servicing the members of the informal economy. Examples of this would be the Department of Labor's (DOLE) WORKTREP and Decent Work Agenda. Members of the informal economy are fairly covered by Social Security Laws like the the Social Security System (SSS) and PhilHealth Programs. At the height of the rice shortage and high prices, the Department of Social Welfare and Services (DSWD) developed relief interventions targeting the poor, including members of the informal economy like the *conditional cash transfer program* and the *rice subsidy*.

On the one hand, there is a lack of consistency in labor standards of social protection laws. Full protection and general welfare clause of the Philippine Constitution and the Labor Code are inadequate in defining and protecting the real members of the informal economy. The current Labor Code heavily favors and was formulated for members of the formal economy.

Also relief-related endeavors by some government agencies, in the long run, do not really capacitate the poor, e.g. direct cash transfer program – to allow them to feed themselves *in dignity*. Some Philippine informal sector groups have to prove themselves that they are indeed poor and have to show a lot of identification papers before they are able to qualify to receive relief goods. Queuing long lines just to get a kilo or two of rice from DWSD and other agencies often times prove to be an embarrassing/undignifying experience. Relief and social protection interventions also lack systematic information drive and hardly reach at the bottom end of the line.

ESCR-Asia in its just concluded studies of legal empowerment of the poor in the Philippines (2006-2007 Phases 1 and 2) believes that social protection should be interfaced with the greater economic strategies and linked up with the national social protection agenda and should not “stand alone” interventions of certain agencies. The key to meaningful social

protection is when it is tied up to effective local governance and is rooted at the community-grassroots level. As concrete steps, Philippine agencies can adopt more informal economy-friendly or socialized schemes or rates of payments related to SSS, PhilHealth and Pag-ibig. Members of the Philippine informal economy also need security in their workplaces to enable them to pay their SSS payments regularly. Their inability to sustain SSS payments are also due to disruptions and violent harassments of the members of the Metro Manila Development Authority (MMDA) confiscate their wares, thus disrupting livelihood and affecting income.

ESCR-Asia strongly proposes that the Philippine government supports the ongoing bills being endorsed by informal sector and alternative legal groups that provides explicit social protection clause for members of the informal economy entitled " *An Act Providing for a Magna Carta of Workers in the Informal Sector/Economy Institutionalizing Mechanism for Implementation Thereof and Amending for the Purpose Certain Provisions of Republic Act 7160 and Republic Act 8282* (note RA 7160 is the Local Government Code and RA 8282 is the Social Security Act)

Only 2.2% of GDP is allocated for social protection. The Philippines ranked no.22 among 32 Asian countries studied, with a Social Protection Index of .28 versus the .36 Asian averages. There is low coverage, distribution and impact on the poor.

27. Ratification of the Convention concerning Minimum Standards of Social Security

As of this year 2008, the Convention has not been ratified.

ARTICLE 10: PROTECTION OF THE FAMILY, MOTHERS AND CHILDREN

28. State's party's consideration on the Introduction of Divorce

There is a divorce bill but has not gained headway, given the strong opposition of the Church.

29. Implementation of the Anti-Rape Law of 1997 and the Anti-Violence against Women and their Children Act of 2004

The **Anti-Rape Law or R.A. 8353** changed the classification of rape from being crimes against chastity to a crime against persons. The legal consequence of such change is that the institution of said criminal complaint is not limited to the rape victim or her parents, guardian or grandparents in case of the victim's incapacity, but allows others to institute the action as well. Furthermore, upon institution of the criminal action of rape, the State becomes the public complainant along with the victim as private complainant. Thus, even if the victim seeks to abandon her complaint, the case will proceed with the State as public complainant.

The Anti-VAWC Act is a penal legislation insofar as it defines punishable acts of violence, treats of their nature, and provides for their punishment. The law defines violence against women and their children as:

Any act or series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child, whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.⁶⁵

The law also provides for specific penalties for acts of violence. Violations of protection orders issued by both the court and the barangay are also treated as punishable acts.⁶⁶

RA 9262 or the Anti-violence Against Women and Their Children which took effect on 04 March 2004 is a domestic legislation that institutionalizes the principle of non-discrimination against women in terms of gender-based violence advanced in Article 1 of the UN Convention on the Elimination of all forms of Discrimination Against Women or CEDAW for brevity. Part of the law is the inter-agency council (IAC-VAWC) which consists of government agencies is integrated as an implementing mechanism. The Commission on Human Rights as part of this collaboration has been actively involved in the areas of advocacy, capability building, policy development, and

⁶⁵ Violence Against Women and Children Act, R.A. 9262, Sec. 3(a)

⁶⁶ Strengthening Responses to Violence Against Women: Overcoming Challenges in the Anti-Violence Against Women & their Children Act. Women's Unit, SALIGAN (2008)

monitoring. The Commission also provides legal counseling for VAW victims and assists in the drafting of application and/or petition for protection orders.

The Philippine government may indeed pride itself on the formal laws and processes that address the violence against women (VAW), even as it has yet to institutionalize the meaning of discrimination against women, as enshrined in the CEDAW. But it is precisely because such policies exist that the prevalence and persistence of this sex and gender-based abuse becomes glaring and inexcusable. That several of these instruments were borne out of women's determined struggles to claim and protect their rights, makes government even more culpable and accountable.⁶⁷

The Women's Legal Bureau NGO Shadow Report reveals that:

"Laws passed that should otherwise have made inroads in protecting and promoting women's human rights suffer from weaknesses in enforcement and implementation. For example, local officials have shown ignorance on the protection order mechanism, the most defined feature of Republic Act 9262 or the Anti-Violence against Women and Their Children Act of 2004. It offers relief from harm on the very day that it is applied for, and provides for the filing of appropriate charges in court. Still, local barangay officials have been known violate RA 9262 by continuing the practice of facilitating the settling of VAWC disputes between victims and offenders. The issue may be one of raising the low level of awareness and understanding among enforcing and judicial systems, particularly in the local government units, and among women themselves who have internalized values of submissiveness and accepted their oppression. But human rights education proceeds at a slow pace, and while there is an existing Commission on Human Rights (CHR), it is limited to investigative and recommendatory powers. Many cases of women's human rights have been filed before the CHR, only to meet a blank wall outside the Commission.

As though these patriarchal values and norms are not heavy impediments enough, the financial costs of accessing justice in the Philippines adds another disincentive for women to seek relief and redress. Poor women who are income-poor, and often do not have access to their own income, may not even be able to afford the filing fees for the Temporary Protection Order provided for under RA 9262."

⁶⁷ Philippine Shadow Report to the 36th Session of the Committee on the Elimination of Discrimination Against Women. Women's Legal Bureau, Inc. (2006)

Violence against Women and Children Statistics

The research of the Women's Unit of Sentro ng Alternatibong Lingap Panligan (Alternative Legal Assistance Center) provides statistics on cases of violence against women and children and provides that:

"The records of the Philippine National Police (PNP) reflect a total of 924 complaints filed for violation of R.A. 9262 throughout the Philippines in the year 2005. In 2006, the number increased to 1,279 complaints. For this year, there are 1,649 reported complaints for Anti-VAWC Act with physical injuries/wife battery having a separate count of 1,248. These numbers show an increasing pattern to the number of criminal cases received by the Philippine National Police. This trend may be attributed to the awareness of more women of their rights under the law brought about by the information campaigns conducted by different stakeholders. Or, in the alternative, the rise in numbers may be caused by the complete apathy of the perpetrators to the legislation. It is, however, not an accurate gauge to the number of cases filed in Courts as most complainants desist from pursuing the case. Moreover, many incidents of abuse are still left unreported simply because many women still opt to remain silent, choosing not to report the abuses committed against them."

VAW and Prostitution

In 1998, the International Labor Organization (ILO) estimated around 400,000 - 500,000 Filipino women (aged 15-20) working in prostitution. Others have calculated the number of prostituted women to be about the size of the country's manufacturing workforce.⁶⁸ Government is yet to put in place an effective and systematic monitoring system for gathering statistical data, which is another of its unfulfilled commitments under the CEDAW General Recommendation No. 12 (VIII).

Research findings that prostitution has become a multi-million dollar business, reportedly with the fourth largest contribution to GNP, indicate that the numbers today must be much higher than what is usually quoted by official sources.⁶⁹ More children are also being trapped in circumstances of sexual exploitation including prostitution, pornography, and as victims of pedophilia,

⁶⁸ Rene Ofreneo, a f (Dario Agnote, "Sex trade key part of S.E. Asian economies, study says," *Kyodo News*, 18 August 1998

⁶⁹ Agence France Presse. "Prostitution in RP fourth largest source of GNP - study". Citing "Child Pornography in the Philippines", a UNICEF-commissioned study released by the Psychological Trauma Program, University of the Philippines at <http://news.inq7.net/top/index.php>, 5 (2005)

and may have alarmingly passed previous estimates of 100,000 with the growing use of the internet. The Philippines was reported fourth among nine nations with the most children in prostitution.⁷⁰ The Anti-Child Abuse Law, the first to be passed in Asia, has obviously not had much success in rooting out the issue of prostituted children and in curbing, if not totally stopping its spread. Though figures remain difficult to ascertain, what undeniably persists are the push and pull factors widening the net for women and girls' recruitment into the industry. These include the impacts of sex/gender-based discrimination, poverty and globalization which have not been decisively addressed by government and are deeper than before. *Amihan*, a national formation of peasant women had alarming news during the 25th commemoration of World Food Day in October 2005: the increasing occurrence of *palit-bigas* prostitution (rice for sex) among rural women.⁷¹

State measures to raise awareness among judges, law-enforcement agents and other officials on anti-violence legislation

The Supreme Court has created a Committee on Gender-Responsiveness in the Judiciary. In support of the Violence against Women and Their Children (VAWC) Act, the Court issued the Rule on Violence Against Women and their Children, which seeks to protect the rights of the family and its members, particularly women and children, from violence and threats to their personal safety and security, and enables the courts to manage and monitor such cases.⁷²

There are admittedly efforts by government to raise gender awareness through human rights education among the members of the judiciary, and these should be commended. However, there should also be recognition that sexism in the judicial culture only reflects the larger sexist cultural context in which it is entrenched, a patriarchal culture that promotes and benefits from VAW. This is a necessary first step to put in context the fact that projects like the Gender Justice Awards which give incentives to members of the judiciary for rendering gender-aware legal judgments, have their limits and that the more decisive course to take would be the development and adoption of a holistic, comprehensive framework addressing the deeply-embedded machismo culture and patriarchal norms in the judiciary.⁷³

⁷⁰ UNICEF and NGOs, Sol. F. Juvida, "Philippines - Children: Scourge of Child Prostitution," *IPS*, 12 October 1997

⁷¹ Alexander Martin Remollino. "'Palit-Bigas' Prostitution". *Bulatlat*. Vol. V, No. 37, October 23-29, 2005. at

http://www.bulatlat.com/news/5-37/5-37-prosti_printer.html (22 May 2006)

⁷² National Report at <http://www.crin.org/resources/infoDetail.asp?ID=17023#na>

⁷³ Philippine NGOs Shadow Report to the 36th Session of the Committee on the Elimination of Discrimination Against Women. Women's Legal Bureau, Inc. June 2006.

Philippine Police and Judicial System: Promoting VAW

The Philippine criminal justice system has legal mechanisms for the protection of women, migrant workers, youth, indigenous peoples, and other vulnerable groups. At least 15 laws have been passed during the last decade on the protection of their rights. The PNP and NBI have established mechanisms for dealing with women, youth and children. The PNP operates Women and Children Protection Desks in police stations staffed by accordingly-trained policemen/policewomen. As mentioned earlier, the DSWD and civil society also maintain institutions to address needs of women and children in conflict with the law or victims of crimes.⁷⁴

The enactment of RA 9262 or the Anti-Violence against Women and Their Children Act of 2004 was a step forward in implicitly recognizing gender-based violence, and the need for specific laws to protect the rights of these vulnerable sectors. Specifically, the 30-day Temporary Protection Order (TPO) immediately provides a way "to safeguard the victim from further harm, minimizing any disruption in her daily life, to help her to independently regain control over her life," while a permanent protection order has not yet been issued. But reports, for example, of local officials attempting to settle issues and reconcile parties surface a lack of understanding of RA 9262 and its implementation. In one case, a man accusing his wife of abusing their child, was erroneously awarded a TPO and succeeded in gaining custody, regardless of the truth of his charges, and notwithstanding that the TPO under RA 9262 should only apply to women and children.⁷⁵

Education of Teachers on VAWC by the State

To empower them with the knowledge of basic human rights, over a hundred teachers in Capiz Division were trained on child welfare program, particularly on Violence Against Women and Children (VAWC). Segundina Dollete, Capiz Division Gender and Development (GAD) program coordinator disclosed that the training on VAWC is part of the topics discussed during the GAD training. The number of participants consist of 54 are elementary teachers while the remaining 52 teachers are in high school. As part of the school-based program on child protection, the program includes symposia on child sexual

⁷⁴ National Report at <http://www.crin.org/resources/infoDetail.asp?ID=17023#na>

⁷⁵ Rina Jimenez-David. "Testing the limits of the law". *Philippine Daily Inquirer*, 8 January 2006. At http://news.inq7.net/opinion/index.php?index=2&story_id=62302&col=79 (7 June 2006.)

abuse, VAWC and sexual harassment that happen in the home, in school or in the workplace.

Interior and Local Government Secretary Ronaldo Puno has recently called on local chief executives nationwide to mobilize their respective Local School Boards (LSBs) to help implement a school-based program that aims to prevent sexual abuse among children. It includes a Personal Safety Lessons (PSL) program which is being implemented by the Center for the Prevention and Treatment of Child Sexual Abuse, where every student is provided with personal safety information and skills to protect themselves from sexual abuse.⁷⁶

Child Rights Center

The Child Rights Center of the Commission on Human Rights investigates human rights violations against children, initiates legal action, and monitors and reports on all violations of the Convention on the Rights of the Child involving civil rights and freedoms, and special protection. The Center develops and implements awareness programs on children's rights; conducts studies in aid of legislation and for more effective ways to implement existing national and international laws and treaties.

Women's Rights Program Center

The Women's Rights Program Center of the Commission on Human Rights is a special unit that investigates human rights violations against women and initiates legal action or provides assistance in legal discrimination, non-recognition, women's rights as human rights, multiple burdens, unequal access to land, violence against women, politics and governance, justice and peace and order, employment, health and education.

⁷⁶ Teachers Tapped To Uplift Basic Human Rights. Accessed at <http://www.deped.gov.ph/posts.asp?dp=68> (October 2007)

30. Disaggregated data on the number of street children and measure taken by the State to protect them from forms of violence, and sexual and economic exploitation and ensure access to nutrition, housing, social and health services and education, rehabilitation and reintegration.

In 1998, the Department of Social Welfare and Development (DSWD) estimates that there are a total of 222,417 street children in the 65 major cities in the Philippines. Action International Ministries estimates 50,000 to 70,000 street children in Metro Manila alone. Out of this number, approximately 70% are boys, but girls are extremely vulnerable and experience much discrimination.⁷⁷

On the other hand, a recent study conducted by Dr. Exaltacion E. Lamberte, as commissioned by UNICEF, revealed that there were about 246,011 street children in 22 major cities in the country. About 80% are boys and 95% still have parents.⁷⁸

Government and non-government efforts towards protection of street children include⁷⁹:

- Legislation on protection against abuse, exploitation and discrimination, child labor, juvenile justice (including provisions on diversion);
- Training of police officers in the management of cases of children in especially difficult circumstances;
- Women and Children's Protection Desk, Department of Interior and Local Government (DILG), in coordination with Department of Social Welfare and Development (DSWD), is implementing the Street and Urban Working Children Program (supported by AusAID), with approximately 350 programs for street children nationwide; guide policies developed by NGOs on outreach, intake, street education, temporary shelter and residential care, alternative education, working with families, provision of skills training and income-generating opportunities, adoption and foster care; indicators for monitoring programs and services were developed by the National Program Committee on Street Children;

⁷⁷Childhope Asia Philippines. Philippines: Country Report on Street Children at www.childprotection.org.ph (February 2003)

⁷⁸ Council for the Welfare of Children. Violence Against Children, Philippine Report @ www.childprotection.org.ph. (April 2005)

⁷⁹ Childhope Asia Philippines. Philippines: Country Report on Street Children at www.childprotection.org.ph (February 2003)

- Barangay Councils for the Protection of Children (BCPCs) at local level which advocate for the CRC and monitor and report cases of child abuse and the incidence of street children in their local communities;
- City governments have also organized a City Council for the Protection of Children;
- NGO training of street children on gender-specific topics and protective behavior against child sexual abuse;
- Conferences/forums and training seminars on children's rights, issues, programs, and services are conducted at the national and regional levels;
- Variety of help lines coordinating with the authorities in cases of child abuse;
- The Department of Social Welfare and Development (DSWD) as well as child-focused NGOs like ECPAT Philippines, Our Lady of Sorrows Outreach Foundation and the Child Protection Unit of the Philippine General Hospital continue their programs for abused children. These programs are centered on providing counseling to child victims of physical and sexual abuse, giving children medical assistance, and educating more people, especially the parents, on the proper care of children as well as the effects of child abuse.

31. Disaggregated data on number of children working and data on victims of sexual & economic exploitation. Implementation of legislation adopted by the State party to prevent and punish all forms of violence and sexual economic exploitation against children. Information on number of prosecutions and convictions imposed on perpetrators.

Based on Republic Act No. 7610, child labor in the Philippines is the employment of children below 15 years of age or the employment of those 15 years of age or over but below 18 years of age in hazardous or exploitative situations. The Philippine-ILO Indicative Framework for Action has identified the following as the major forms of hazardous child labor: child victims of trafficking; children engaged in mining and quarrying; children in home-based enterprises especially sub-contracting arrangements; children in domestic service; children in commercial agricultural plantations, including sugar and vegetable production; children in pyrotechnics production; children in deep sea diving and fishing; and, children in prostitution.⁸⁰

The National Survey on Children, which was conducted by the National Statistics Office (NSO), revealed an increase in the number of working children from 3.6 million in 1995 to 4 million out of a total of 24.9 million children in the

⁸⁰ Council for the Welfare of Children. Violence Against Children, Philippine Report @ www.childprotection.org.ph. (April 2005)

country in 2001. The 4 million working children were aged 5-17 years old, representing 16.2 percent of the total number of children in the said age group. About 60% of them were exposed to hazardous working environment.

Child Labor Trends in the Philippines (1994-1995 and 2000-2001)⁸¹

Indicators	1994-1995	2000-2001
Total no. of children, 5-17 years old	22,382,000	24,851,000
No. of working children, 5-17 years old	3,577,999	4,018,000
Proportion of working children to total	16 percent	16.2 percent
Distribution of working children <ul style="list-style-type: none"> • Rural • Urban 	67.1% 32.9%	70% 30%
Distribution of working children by gender <ul style="list-style-type: none"> • Male • Female 	65.4% 34.6%	63.4% 36.6%
Distribution of working children by age <ul style="list-style-type: none"> • 5-9 years old • 10-14 years old • 15-17 years old 	6% 44.7% 49.3%	6.1% 48.1% 45.8%

Although the boys comprise the larger share of working children, it should be noted that the proportion of working girls increased. More than 50% of the working children were engaged in agriculture, hunting and forestry while 15% were in trade-related activities. About 2.4 million or 59% of the children did not receive any pay. Being young, they are also prone to other forms of exploitation, maltreatment and abuse.

About 37% of the children work from 5-8 hours a day while approximately 9% worked for more than 8 hours and about one-fourth worked even in the evenings.

They suffer from exhaustion, stress, risks, danger, illnesses and fall hazards. They are exposed to heat, noise, radiation, pressures and fall hazards. About 23% of working children suffer from work related injuries. Only 22% of them continue to attend school but their work reportedly had adverse effect on school performance since they are prone to absenteeism and tardiness thus, got low grades. Many are working in the informal sector that are beyond the reach or difficult to detect by authorities.⁸²

⁸¹ NSO, Survey of Children 1994-1995 & Survey on Working Children 2000-2001

⁸² Council for the Welfare of Children. Violence Against Children, Philippine Report @ www.childprotection.org.ph (April 2005)

Among the worst or the worst form of child labor is commercial sexual exploitation of children (CSEC). Since it is a highly illegal activity, it is hard to obtain data as to the number of prostituted children. As of 2002, there were 284 reported CSEC cases. The study entitled “Commercial Sexual Exploitation of Children in the Philippines: A Situation Analysis”, which was commissioned by the Department of Social Welfare and Development (DSWD) and UNICEF, showed that children-victims were mostly females aged 13-18 years old. Most of the children were out-of-school and belonged to large families. They were lured or deceived into the sex trade. The respondents cited poverty, lack of parental care, history of abuse as well as community factors such as vices, lack of youth programs, presence of gangs and propensity for materialistic or consumerist behavior as the major factors that force the children to commercial sex.⁸³

Government Efforts to Protect Filipino Children from Abuse, Exploitation and Violence

In 2003 alone, the Department of Social Welfare and Development served 10,044 abandoned, neglected, abused, exploited children, 2,768 of which are boys while 7,276 are girls. Despite passage of R.A. 9262 or the Anti-Violence against Women and Children Act and other legislation protecting children, there is still an alarming increase in the incidences of crimes against children.

The tables below show the number of crimes committed against children, as per the records of the Philippine National Police.

Table on Crimes against Children 2002-2003⁸⁴

Crime	2002	2003
Rape	1,358	2395
Acts of Lasciviousness	644	513
Physical Injuries/Maltreatment	1,150	1,370
Abduction/Kidnapping	119	Not available
Child Trafficking	11	66
Child Prostitution	22	311

⁸³ Council for the Welfare of Children. Violence Against Children, Philippine Report @ www.childprotection.org.ph. (April 2005)

⁸⁴ Women and Children Concerns Division, Philippine National Police. (2002)

Crimes in Need of Special Protection under DSWD's Custody 1st Quarter of 2002⁸⁵

Category	Total	Male	Female
Abandoned	255	123	132
Sexually Abused	1,180	12	1,168
Physically Abused	435	250	185
Children in Conflict with the Law	1,796	1,670	126
Child Labor	98	58	40
Child Trafficking	10	4	6
Street Children	1,081	724	357
Disabled	5	2	3
Neglected	377	191	186

32. Efforts undertaken by the State party to prohibit corporal punishment in all settings.

Information on violence against children in school is not available. Though corporal punishment is strictly prohibited in school, there are a few reported cases of physical and verbal abuses. Some of these cases involved bullying by classmates that result to injuries or even illegal hazing conducted by fraternities, some of which result to death. Other reported cases of violence in school involved the teachers who impose physical punishments or verbal abuses such as scolding in public. There are also a few reported cases of sexual abuses or harassment committed by school teachers or officials.⁸⁶

33. Measure by State part to combat the problem of trafficking in persons. Provide statistical data on the basis of gender and country of origin, number of prosecutions and convictions.

Child Trafficking

The magnitude of child trafficking for sexual purposes in the Philippines cannot be sufficiently measured due to lack of available statistical data. This maybe attributed to the relative newness of the anti-trafficking legislation.

⁸⁵ Women and Children Concerns Division, Philippine National Police. (2002)

⁸⁶ Asia ACTs Against Child Trafficking & Terre des Hommes-Germany & Netherlands. "Violence Against Children: The Philippine Experience". Surviving Cruelty: Combating Violence Against Children in Southeast Asia (2005)

Although RA 7610 has provisions on child trafficking, these primarily focus on trafficking for illegal adoption.⁸⁷ Although no official figures are available, a few separate studies and assessments have been made: 54% of trafficked children in the Philippines are 15-17 years old. In 1999, there were 85 child trafficking victims documented by the Department of Social Welfare and Development.⁸⁸ However, the 2001 Survey on Children throws light on the possible number of children that have been trafficked as paid employees or unpaid family workers. It reveals that a total of 147,000 thousand (54.7%) working children living away from home were engaged in permanent jobs or businesses.⁸⁹

The DSWD reports a total of 10,045 child victims of abuse who were served by their agency in the year 2003. It lists a total of 284 sexually exploited children, 80 children in situations of armed conflict, 358 children victims of child labor, 95 victims of child trafficking, and 21 victims of illegal recruitment. These groups of children are, in all probability, victims of trafficking as it is presently defined. This gives a total of 838 children trafficked, or 8.3% of the total number reported. The assumption that these children are trafficked may or may not be correct. If it were correct at 8.3%, the count would seem low. But even if there is only one child who is trafficked, it is one child too many. The Visayan Forum, a non-governmental organization, has been cited as one group that is able to monitor the trafficking of children in selected ports of the country. Despite this effort, the data are limited and only directly addresses the issues related to child trafficking as the organization comes in contact with these children.

Records from Visayan Forum indicate that in 2001, about 100 trafficked children and women intercepted in Manila passed through the Davao port. A study conducted at the Davao port showed that from November 2000 to February 2001, 70 victims of trafficking were intercepted.

These victims were intercepted by government authorities at the Sasa wharf. Most of them came from the rural towns of North Cotabato, Davao Oriental, Davao del Norte, Davao del Sur, Compostela Valley, Butuan City, and Davao City. Since October 2003, when the Visayan Forum opened its halfway house in cooperation with the Philippine Ports Authority (PPA), it has served

⁸⁷ Endangered Generation: Child Trafficking in the Philippines for Sexual Purposes, 2004, ECPAT Philippines & Terre des Hommes-Netherlands

⁸⁸ "How grave is the problem?" www.stopchildtrafficking.info, 27 August 2003.

⁸⁹ Child Trafficking in the Philippines: A Situational Analysis. International Labour Organization. Manila: International Labor Office (2007)

more than 2,000 victims of human trafficking. Many of the cases it has documented involve teenage girls from Mindanao.⁹⁰

From April 2003 to April 2004, groups such as End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT)-Philippines in coordination with different groups and organizations and with the support of Terre des Hommes-Netherlands (TDH-NL), conducted an Action Research on Child Trafficking for Sexual Purposes⁹¹ in seven high-risk areas in the Philippines namely Metro Manila, Laoag City, Bicol, Cebu, Dumaguete City, Cagayan de Oro City and Zamboanga City. Realizing that familiarity and knowledge with the local culture and dialect would help facilitate data gathering, Local Research Teams (LRTs) composed of people from different organizations in each area were organized and were given orientation on the issue and the basic research skills.

Their findings are as follows:

“In Cebu, an NGO recorded 534 women and girls that were trafficked for sexual purposes from 1997 to 2000. Another NGO, Antonia de Oviedo recorded 22 trafficked girls from 1999 to 2002.

In Cagayan de Oro City, the Philippine National Police recorded 14 child trafficking cases from 2001-2003 but the exploitative purpose was not identified. The regional office of the DSWD reported 4 trafficking cases for sexual purposes in 2001 and 2 cases in 2002.

Except for Cebu, data gathered indicate that six areas: Manila, Dumaguete, Bicol, Cagayan de Oro, Laoag and Zamboanga City are possible source area for child trafficking for sexual purposes. The only case that was gathered from Laoag also indicates that it can also be a potential sending point. The said areas together with Cebu also emerged as transit points for trafficking activities. Except for Dumaguete, the six other areas are places of destination for internal trafficking while Malaysia and Japan were the primary receiving areas for children trafficked abroad.”

As per Asia ACTs against Child Trafficking regional study on child trafficking, the table below shows the origin and destination of trafficked children in the Philippines:

⁹⁰ Child Trafficking in the Philippines: A Situational Analysis. International Labour Organization. Manila: International Labor Office (2007)

⁹¹ Endangered Generation: Child Trafficking in the Philippines for Sexual Purposes, 2004, ECPAT Philippines & Terre des Hommes-Netherlands

Places of Origin and Destination of Trafficked Children for the Purpose of Sexual Exploitation⁹²

Place Of Origin		Destination
Luzon	----- Angeles City, Pinatubo area, Bicol, Manila, coastal area in region 1, primarily Laoag	Local Laoag, General Santos City, Negros, Southern Tagalog Provinces, Pinatubo area, Pagadian City, Manila, Cavite, Baguio City, Pampanga, Cebu City Abroad Costa Rica, United States, Malaysia, Japan, Taiwan
Visayas	----- Samar	
Mindanao	----- General Santos, Zamboanga	

ARTICLE 11: THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

34. Measures taken to address the high rate of poverty

The proportion of the population living below the overall poverty threshold went down from 45% in 1991 to 30% in 2003. However, there has been slippage in recent years as poverty incidence worsened nation-wide to 32.9% in 2006. In terms of magnitude, this means that 27.6 million Filipinos subsist below the poverty line. Save for a few, the regions followed the same pattern of improving in 2003 (relative to 2000) but worsening in 2006. If poverty incidence is examined by region, the deterioration is most stark in the National Capital Region, increasing from 7.8% in 2000 to 10.4% in 2006, or 11.5 million Filipinos. The ARMM remained the most disadvantaged region in the country with a poverty incidence of 61.8% in 2006 but Bicol has the most number, at

⁹² Asia's Children in Peril: A Regional Study on Child Trafficking (Country Profile: Philippines). Asia ACTs Against Child Trafficking at www.childprotection.org.ph (2003)

26.4 million, of people living below the poverty threshold (NEDA Online Economic and Social Database).

Poverty incidence among the population by region:

Place	2000	2003	2006
Philippines	33.0	30.0	32.9
NCR	7.8	6.9	10.4
Cordillera (CAR)	37.7	32.2	34.5
Ilocos	35.3	30.2	32.7
Cagayan Valley	30.4	24.5	25.5
Central Luzon	21.4	17.5	20.7
CALABARZON	19.1	18.4	20.9
MIMAROPA	45.3	48.1	52.7
Bicol	52.6	48.5	51.1
Western Visayas	44.5	39.2	38.6
Central Visayas	36.2	28.3	35.4
Eastern Visayas	45.1	43.0	48.5
Zamboanga	44.8	49.2	45.3
Davao	33.3	34.7	36.6
SoCSKSarGen	46.8	38.4	40.8
CARAGA	51.2	54.0	52.6
ARMM	60.0	52.8	61.8

However, it must be taken into account that poverty measurements are not entirely free from inaccuracies. For one, the poverty data used excludes families without “official and permanent residence” (the ambulant poor who live under bridges, slum areas, on the streets, etc.), thereby *understating* the actual number of poor people in the country.⁹³ Moreover, the income and extreme poverty thresholds in the Philippines are much lower than the global figure of \$1 a day. For instance, the per-capita daily food threshold is set at Php 22.33 in 2003. This value implies that enjoying three meals in a day comes at a cost of only Php 7.44 per meal, which leaves one wondering about the quality of nourishment that can be obtained from this amount of money.⁹⁴ As a result, lower poverty thresholds mean reduced numbers of people defined officially as poor. Furthermore, an ADB study showed that despite the country’s growth in GDP from 2000 to 2003, preliminary 2003 Family Income and Expenditures Survey (FIES) results indicate a 10% drop in real average family incomes.

⁹³ Tiongson, 2006

⁹⁴ Tiongson, 2006

The current government of President Gloria Macapagal-Arroyo (PGMA) is currently implementing the 2004-2010 Medium-Term Philippine Development Plan (MTPDP), which recognizes that the eradication of poverty remains the country's greatest challenge. Upon her term's end in 2010, PGMA intends leave a legacy anchored on more focused action strategies that include: promotion of livelihood; strengthening of education; attainment of fiscal stability; decentralized development; and achievement of sustained national harmony. The medium term development plan is further elaborated and supplemented by a medium-term public investment plan (also multi-year) drafted with inputs from donors and international financial institutions (IFIs). In the formulation of these multi-year plans, civil society participation is either negligible or non-institutionalized. Even legislative and (big) business participation and intervention is not institutionally provided for; most likely, they are coursed through informal mechanisms.

35. Information on the housing situation

36. Large Scale Evictions from January 2006 - September 2007

The large scale evictions during the period January 2006 to September 2007 affected 14,468 families.⁹⁵ The Metro Manila Development Agency was singled out as the government agency responsible for these large scale evictions.

The same report of COHRE (Center on Housing Rights and Eviction) provided that many evicted persons are not provided with any form of alternative accommodation or otherwise.

36.1 Right to adequate food

In November 2004, the 127th Session of the Council of the Food and Agriculture Organization (FAO) of the United Nations adopted nineteen (19) policy-related voluntary guidelines in support of the progressive realization of the right to adequate food in the context of national food security. These are:

- * Guideline 1 Democracy, Good Governance, human rights and the rule of law
- * Guideline 2 Economic development policies
- * Guideline 3 Strategies
- * Guideline 4 Market Systems
- * Guideline 5 Institutions
- * Guideline 6 Stakeholders
- * Guideline 7 Legal Framework

⁹⁵ <http://www.cohre.org/store/attachments/COHRE%20Philippines%20UPR%20Submission%20FINAL.pdf>

- * Guideline 8 Access to resources and assets
 - Guideline 8A Labour
 - Guideline 8B Land
 - Guideline 8C Water
 - Guideline 8D Genetic resources for food and agriculture
 - Guideline 8E Sustainability
 - Guideline 8F Services

- * Guideline 9 Food Safety and consumer protection
- * Guideline 10 Nutrition
- * Guideline 10 Nutrition
- Guideline 11 Education and awareness raising
- Guideline 12 National Financial Resources
- Guideline 13 Support for vulnerable groups
- Guideline 14 Safety Nets
- Guideline 15 International Food Aid
- Guideline 16 Natural and Human-made disasters
- Guideline 17 Monitoring, indicators and benchmarks
- Guideline 18 National Human Rights Institutions
- Guideline 19 International Dimension

These Voluntary Guidelines or right to food guidelines express the novel attempts by governments to interpret an economic, social and cultural right and to propose actions and programs to be undertaken for its realization. The Philippine government, through its Agricultural Attache in Rome heavily participated in the deliberation and adoption of the guidelines. ESCR-Asia, was one of the four (4) civil society spokespersons chosen to represent the CSO community in 2004-2005 and also initiated a resource book on right to food for policymakers and planners and how the guidelines are being applied and realized in the Philippines.

Guideline 1: Democracy, Good Governance, Human Rights and the Rule of Law
Case Digest ⁹⁶

The Accelerated Hunger Mitigation Program (AHMP): A Reaction to Self-Rated Hunger by the Filipinos

The November 2006 Social Weather Station survey revealed that 17.7% experienced hunger in Metro Manila and Luzon, 19.0% in the Visayas, while 22.3% experienced hunger in Mindanao. The question was: During this past 3 months, did your family experience hunger and no food to eat?

⁹⁶ SWS Media Release: 23 July 2007; PDI, 28 July 2007, Opinion, Social Climate, Mahar Mangahas, p. A13.; DevPulse, NEDA Advocacy Fact Sheet, Vol. 11, No. 3, 15 April 2007.

In an emergency meeting, the President reacted to the November 2006 SWS survey by ordering key government agencies to address hunger in the Philippines. A program known as the Accelerated Hunger Mitigation Program (AHMP) was immediately launched and was provided resources of about Php 1 billion.

Addressing hunger is a goal under the Medium Term Philippine Development Plan (2004-2010). The AHMP seeks to address the causes of hunger which were identified as poverty, unavailability of food to eat and a large family size. It analyzes the hunger problem from the supply side or the production of food, and the demand side, or the means of people to obtain sufficient food. Most of the projects included in the AHMP are already being implemented.

Observations:

Viewed from the essential elements of this Guideline, the AHMP has failed to address hunger in the Philippines strategically and from a rights-based approach. Clear from the way the AHMP has been developed, as well as the MTPDP, is the old-age reliance of determining development goals based on needs, which are not targeted to realize the people's right to food. Hunger is the issue, and hunger eradication is the goal, yet there is no recognition of the people's right to food at all in the AHMP as well as MTPDP, despite the fact that hunger is clearly a right to food problem. Eradicating hunger is the essential minimum level of State compliance with the said right.

While the State is acting on the issue (obligation of conduct), albeit in a very reactive manner, still, the program failed to bring out reduction of hunger, if we are to base the same on the SWS survey (obligation of result). The program has not addressed the issues of food-related oppression and the factors that engender it.

Issues of transparency, empowerment, non-discrimination, equality, equity and accountability are not considered as equally important issues in eradicating hunger as the issue of hunger has been limited to the issues of poverty, inefficient market system, and population growth, but not as an issue of governance and human rights. This thereby limits the ability of the people to claim their rights and secure redress for the unwillingness of the State to resolve hunger and realize the right to adequate food. Despite the AHMP, hunger continues to grow, clearly a violation of the State's obligation to fulfill the right to food.

Guideline 2: Economic development policies

Guideline 2 focuses on promoting sustainable, broad based economic development in support of food security based on an assessment of the economic and social situation and the degree of food insecurity and its causes, the nutrition situation and food safety. Policies should be sound, inclusive and non-discriminatory with appropriate focus on agriculture and rural development with due regard to the growing problem of urban poverty. States should adopt economic policies that create conditions that encourage stable employment that promotes the protection and conservation of natural resources and enhances the productivity of poor rural communities. Policy development should consider a holistic and comprehensive approach to hunger and poverty reduction based on a participatory assessment with relevant stakeholders that identifies who are the poor, where they are located and why they are poor. This information is vital in designing an effective poverty reduction strategy. Right to food impact assessments can be used to create policies that empower participation of all stakeholders, increase policy transparency, and raise accountability of states to their constituents.

In the Philippines, the majority who are poor live in rural areas and are directly or indirectly dependent on agriculture and natural resource extraction for their livelihood. As such, agriculture and rural development are cornerstones of a pro-poor economic growth strategy. Infrastructure development including roads, bridges, irrigation systems, communication facilities, schools and clinics are part and parcel of rural development. A well functioning transportation, communication and distribution systems facilitate diversified trade and enable the poor to take advantage of new market opportunities. A functioning and well-maintained irrigation system can double rice harvests that is in short supply. Education and health services delivery can help the poor break the transmission of poverty and hunger to succeeding generations.

Case Digest: MEDIUM TERM PHILIPPINE DEVELOPMENT PLAN 2004-2010

The Medium Term Philippine Development Plan is a detailed roadmap towards achieving the country's common goal of reducing poverty through job creation and enterprise. One of the fighting targets of the MPTPDP is GDP growth accelerating to 7-8% by the years 2009 and 2010.

To accelerate economic growth and to create even more jobs that what is currently being generated, special emphasis is put on vigorous support for micro, small and medium enterprises and agribusiness as they are the most efficient generators of jobs in terms of jobs to investment ratio.

Observations:

GDP growth seems to be on target with the average of the first three quarters of 2007 GDP pegged at 7.06. According to Cielito Habito, a Philippine economist and former director of the National Economic Development Authority (NEDA), in an article of the Philippine Daily Inquirer, the growth has been propelled by the strong showing of agriculture, call center and business process outsourcing (BPO) and the steady improvement in investment growth. He defined the challenges in terms of the following: Take good care of agriculture, reverse the export decline and nurture investment, particularly the more problematic domestic part. The recent appreciation of the peso vis a vis the US dollar is a deterrent to export production.

Despite the increasing GDP, family incomes fell between 2003 and 2006. Based on official statistics, family income, which is surveyed only once every three years, was lower in 2006 than it was in 2003. Previous surveys of family income were in 1997, 1994, etc.

The new Family Income and Expenditure Survey (FIES) of 2006, done by the National Statistics Office (NSO), found that average annual income per family was only P144,000 in 2006, compared to P148,000 in the previous FIES of 2003, with both numbers based on the purchasing power of the peso in base year 2003. It shows a real decrease of 2.7 percent, meaning it has been corrected for inflation. On the other hand, according to the National Statistical Coordination Board, per capita GNP rose from P14,366 in 2003 to P16,128 in 2006, also corrected for inflation (but using 1985 as base year for prices). That's a substantial real growth of 12.3 percent, which is good if family incomes also grew in step with it.

According to the NSO Release Number 2007-81, of Oct. 9, 2007, titled "Change in Spending Pattern among Filipino Families Seen in 2006," the share of home expenditures devoted to food by the bottom 30 percent of families rose from 48 percent in 2003 to 59 percent in 2006. When incomes rise, the food share falls; this empirical principle is known as Engels' Law. An increase in the food share is a clear sign that incomes fell.

The current food crisis has shown the failure of government agricultural policies during the last few decades. Neglect and underinvestment in agriculture and a rice import policy have taken a toll on the sector's growth. The government has spent very little on irrigation and post harvest support resulting in the loss of 14-25 percent of their yield. The amount spent yearly to import rice is more than a hundred times the amount spent yearly for post-harvest facilities. Agriculture Secretary Arthur Yap admitted that the country's target of attaining 100-percent self-sufficiency in rice could be pushed back to 2011

because more funds are needed to reverse the years of neglect of the agriculture sector. It is estimated that the government needs to invest about P50 billion in irrigation repair, seed support, correct fertilizer use program, post-harvest program, extension/equipment, grants and production loans with the private sector.

Guideline 3: Strategies

States, as appropriate and in consultation with relevant stakeholders and pursuant to their national laws, should consider adopting a national human-rights based strategy for the progressive realization of the right to adequate food in the context of national food security as part of an overarching national development strategy, including poverty reduction strategies, where they exist.

The elaboration of these strategies should begin with a careful assessment of existing national legislation, policy and administrative measures, current programs, systematic identification of existing constraints and availability of existing resources. States should formulate the measures necessary to remedy any weakness, and propose an agenda for change and the means for its implementation and evaluation.

Observations:

At the heart of any strategy aimed at realizing the right to food is the adoption of a development framework and pursuance of a development track that recognize food as a basic human right, and operationalizing the right in real terms, as a result of State actions. The realization of the right to adequate food entails a targeted and strategic approach, where every aspect of the right must be addressed and State obligations defined.

Guideline 4: Market Systems

The Philippines, following its national laws and priorities as well as its international commitments, must improve how the agricultural and food markets function in order to help economic growth and sustainable development by spearheading public and private savings in the country, by developing relevant credit policies, by generating sustained and adequate levels of national productive investments through credits, and by increasing human capacity.

Case Digest

Isabela's price subsidy program, which won a Gawad Galing Pook national award, is teaching self-reliance among farmers, according to officials in Ilagan,

its capital. Rep. Edwin Uy, who teamed up with the provincial government for the price support scheme, said the program had helped 87,511 rice farmers and 85,086 corn farmers from October 2005 to May 2007.

The program contributes P2-a-kilo of rice or palay sold by farmers to the National Food Authority (NFA) warehouses in the province. Uy said that "*It is an achievement because a real people empowerment project has given life through it.*" Private rice traders and middlemen had been increasing their buying prices of palay and corn grains to gain share of farmers' produce. This has enabled farmers who are now fetching higher prices for their products, to pay their loans from grains traders from whom they borrow farm inputs like seeds and fertilizers, and even their daily subsistence while waiting for the harvest season.

According to Gov. Maria Gracia Cielo Padaca, it took only at least P5M very harvest season to implement the program and the money went back to the provincial government.

Records show that the government has generated P740, 881.14 from ops Oct 2005 – May 2007. This program serves as shield for rice and corn farmers against sudden change in prices because of unforeseen market forces or manipulations that affect their income.

Observations

The province of Isabela is located in the northeastern part of the island of Luzon and has its own rice and corn growing farms that evidently can sustain the people of the province. The team-up between the local congressional representative and the provincial government has led to everyone who has a hand in the production as well as the distribution of rice to a better life, hopefully shielding rice and corn farmers from going hungry during lean months.

Guideline 5: Institutions

Guideline 5 stresses the significant role of grassroots communities and other civil society entities not only in the planning but also in the implementation of hunger and food-related endeavors.

Case Digest: The Anti-Hunger Task Force of the Accelerated Hunger Mitigation Program (AHMP) of the Administration of Pres. Gloria Macapagal-Arroyo

Compared to the past five administrations, it is the current administration of President Gloria Macapagal-Arroyo (GMA) which created an inter-agency structure that addresses the issue of food supply, demand and hunger mitigation. Signed in May 2006, Executive Order 616 mandated the

creation of an Anti-Hunger Task Force which is composed of at least fourteen major (14) government departments or major agencies and seventeen (17) department-related bureaus or structures including that of the Office of the President, and one civil society entity. The fourteen government agencies are the Department of Agrarian Reform (DAR), the Department of Agriculture (DA), the Department of Budget and Management (DBM), the Department of Environment and Natural Resources (DENR), the Department of Education (DepEd), the Department of Health (DOH), the Department of Interior Local Government (DILG), the Department of Labor and Employment (DOLE), the Department of Social Welfare and Development (DSWD), the Department of Public Works and Highways (DPWH), the Department of Trade and Communication (DOTC), the National Economic Development Authority (NEDA), the Office of the President, the PCFC, the Armed Forces of the Philippines (AFP). The lone civil society entity involved in the Anti- Hunger Task Force is the Catholic Bishops Conference of the Philippines (CBCP).

EO 616 also directed the National Nutrition Council (NNC) as the oversight agency that will coordinate the actors of the Accelerated Hunger Mitigation Program (AHMP) in marching its steps with its overall thrusts. The Anti-Hunger Task Force enhanced the framework of the program that of identifying the supply and demand targets including aligning the appropriate agencies that would carry-out the targets. For example, under the supply side of which one of the objectives is to enhance the efficiency of logistics and food delivery, the following agencies were identified: for the Barangay Food Terminal and *Tindahan Natin*, it is the Department of Agriculture (DA), the National Food Authority (NFA), for the farm-to-market roads- it is the Department of Public Works and Highways (DPWH), the Department of Agrarian Reform (DAR), Department of Agriculture (DA), for the food-for- school program, it is the Department of Education and Department of Social Work and Department (DSWD).

The Agency Anti-Hunger Focal person has the following roles: fast tracks the implementation of agency's hunger-mitigation component program/s, ensure timely disbursement of funds, monitor and report on program status, provide public with correct information on hunger-mitigation component and programs.

Observations: ⁹⁷

⁹⁷ Framework Paper on the Accelerated Hunger Mitigation Program provided by the National Nutrition Council (NNC); Right to Food: Lessons Learned in Brazil, pg.16, Right to Food Unit-Food and Agriculture Organization (RTF-FAO)

While positively there is a clear inter-agency coordinating mechanism to address hunger, the composition of such structure is predominantly government-related. Guideline 5 stresses the significant role of grassroots communities and other civil society entities not only in the planning but also in the implementation of hunger and food-related endeavors.

Of the forty (40) member-agency in the AHMP of the current administration, only one civil society entity is involved – the Catholic Bishops Council of the Philippines (CBCP). The participation of community-based and or CSOs should have been important in the Anti-Hunger Task Force.

While the Philippine government has a similar positive experience compared with Brazil particularly in the creation of an inter-agency mechanism to address hunger and malnutrition, the striking difference lies in the significant participation of civil society groups in the structure.

Guideline 6: Stakeholders

Voluntary Guideline 6, on stakeholders, stresses the importance of governments adopting a multi-stakeholder approach in formulating a national food strategy and in identifying their specific roles. The aim of such approach is to harness the knowledge base and expertise of food producing groups, farmer-fisheries groups, business groups, non-government organizations, people's organizations, including academe and church groups to achieve maximum and efficient utilization of resources.

Case Study: The Creation of the Philippine National Anti-Poverty Commission (NAPC)

By virtue of RA 8425 or the "Social Reform and Poverty Act" passed during the Ramos Administration that became effective last June 30, 1998, the Anti-Poverty Commission (NAPC) was created. NAPC was mandated to enhance the programs, approaches and strategies to strengthen the partnership between government and the Basic Sectors in relation to poverty reduction mechanisms.

Specifically, NAPC, as a coordinating and advisory body exercises oversight functions in relation to all poverty reduction programs, the Basic Sector participation the implementation of the Social Reform Agenda (SRA) and ensures that is incorporated into the formulation of the national, regional, sub-regional and local development plans. NAPC's specific mandates also include the following: to operate on the principle and strategy of institutionalizing the basic sector and NGO participation in the SRA management cycle; to develop and

promote microfinance through the establishment of the People's Development Trust Fund (PDTF), strengthening of the People's Credit and Finance Corporation.

Observations:

While positively, through the NAPC, the Basic Sectors play a crucial role in government efforts to put into operation efficient and effective poverty reduction mechanisms through effective planning, decision-making, implementation, monitoring and evaluation of poverty reduction programs at all levels of governance, the real impact and effective outcomes measuring the effectivity of their participation the last ten years have to be thorough reviewed and evaluated.

There were reports received by ESCR-Asia from the Basic Sector leaders that most of the meetings were mostly devoted to formulation of plans but in wellmeaning implementation in the field in some areas has to be monitored.

Guideline 7: Legal Framework

Case Digest: The Philippine's Blueprint for Food Security

Republic Act 8435, otherwise known as the Agriculture and Fisheries Modernization Act (AFMA), has been touted as the country's current and main strategy to ensure food security. It aims to strengthen the agriculture and fishery sectors through modernization, greater participation of small-holders (or small stakeholders), food security and food self-sufficiency, private sector participation and people empowerment.

Enacted in 1997, AFMA is said to be the cornerstone of the government's poverty alleviation program. The Agriculture and Fisheries Modernization Plan is focused on food security, poverty alleviation and income enhancement of the farmers and fisher folks, as well as the global competitiveness and sustainability of the industry. It gives special focus on the women, rural youth, indigenous peoples, handicapped persons and senior citizens of the agricultural community. It further complements the CARL in that it provides for assistance to its beneficiaries.

The law provides for credit facilities, marketing services and infrastructure support to the farmers and fisher folks. In addition to this, the law seeks to promote people empowerment through strengthening of peoples' organizations, cooperatives and NGOs.

Observations:

RA 8345 is highly focused on the economic aspect of the sector and its main objective is to produce more agriculture and fisheries products.⁹⁸

In terms of fishing, implementation of the above law is hampered at the local level due to the absence of ordinances that fully protect the fishing grounds from illegal fishing activities like the use of compressors. The resources of the Bureau of Fisheries and Aquatic Resources are not sufficient for policing the fishery grounds, and there are no programs to capacitate deputized fish wardens and “bantay-dagat” (sea watchers). Titles are also issued to cover mangrove areas. Commercial fishing in municipal waters continues to be unabated and no legal and financial support is given for prosecution thereof. Judges, prosecutors and other concerned officials are not familiar with fishery laws. Oftentimes, there are conflicting interpretations of the fishery laws, particularly clarifying the rules on delineation of municipal waters and its applications to bays, since the rules affect the ability of the fisherfolks to fish and exercise their livelihood.

While agriculture, on the other hand, is being pushed to modernize and agribusiness prioritized, the agrarian reform continues to be ineffective insofar as redistributing resources to the people, particularly to the poor. Less than two-thirds of the program scope has been accomplished, a mere 18% of private lands under compulsory acquisition has been covered or distributed, and only 28% of the land distributed has been titled in the name of the tillers after 10 years since the agrarian reform law was enacted. In the study on the impact of CARP on poverty and growth commissioned by the Department of Agriculture, it has been shown that per capita expenditure; per capita income and per capita net farm income of farmers owning lands are significantly higher than those who do not own land. Also, non-monetary indicators (e.g., housing and education) in Agrarian Reform Communities show better performance than non-ARCs.

RA 8345 might be framework legislation for food security, but not for the right to adequate food. Aside from the absence of a purposive recognition of the right to adequate food, it does not work to ensure the full implementation of agrarian reform, which is basic to the issue of access for the poor in terms of fulfilling their right to adequate food. The law does not protect the rights of the farmers and fisher folks to this access, in terms of other areas, like protecting their security to the resources and ensuring legal mechanisms to ensure this security and/or access to resources. Unless the State is serious in fulfilling this

⁹⁸ Ibid., p. 12.

obligation through genuine redistributive measures, the right to adequate food may not be realizable in the country.

Guideline 8: Access to Resources and Assets

Voluntary Guideline 8 discusses the obligation of the State to respect and protect the rights of individuals regarding access to natural resources, and facilitate sustainable, non-discriminatory and secure access to such resources, if need be by undertaking land reform and protecting the rights of indigenous peoples, especially with regard to their relation to natural resources.

8 a: Labor

By Voluntary Guideline 8A, states should provide opportunities for work that provides for adequate standards of living for rural and urban wage earners and their families and to promote and protect self-employment. Working conditions should comply with the obligations assumed under the ICESCR, relevant ILO conventions, other treaties and human rights conventions. States should enhance human capital through non-discriminatory education, adult literacy and training programs.

Case digest:

The Medium Term Philippine Development Plan (MTPDP) focus on the need to accelerate economic growth and to create even more jobs than what is currently being generated through trade and investment , agri-business, environment and natural resources, housing/construction, tourism, infrastructure, fiscal strength, the financial sector and labor. There is special emphasis on vigorous support for micro, small and medium enterprises and agribusiness as they are the most efficient generators of jobs in terms of jobs to investment ratio.

A key strategy for job generation is the development of 2 million hectares new lands for agri-business which is expected to generate 2 million new jobs and enhance the productivity and incomes of Filipino farmers who comprise a large portion of the country's poor. The Plan also aims to create 3 million micro-enterprises and provide them with credit, technology and marketing support, as embodied in the SULONG and the One Town One Product programs. LGU support is deemed vital, particularly in the establishment of SME support centers nationwide. Housing and its related enterprises is expected to generate 1 million new jobs through the Strong Republic Housing Program and measures to facilitate private sector financing such as the development of a secondary market for housing mortgages. Tourism development is another key element in

the job generation strategy and if properly promoted and with a liberal airline policy can generate at least 3 million new jobs.

Observations:

The third quarter (Oct 2007) labor and employment report from the government show that the unemployment rate went down to 6.3 percent from last year's 7.3 percent. There are fewer unemployed Filipinos compared to a year ago (i.e., by about 372,000 workers), prices have been relatively stable, and overall production is on the rise.

Cielito Habito, former director general of NEDA, says that unemployment is down not so much because a lot of new jobs were generated in the economy, but because a significantly lower percentage of working-age Filipinos actually sought jobs. From October 2006 to October 2007, there were 876,000 new working-age (i.e., above 15 years) Filipinos. But only 483,000 new jobs were actually created in the past year and the proportion of working-age people who are actually working or looking for work went down significantly from 64 to 63.2 percent. There were only 106,000 new job-seekers in the same period, far less than the new jobs created. Habito postulates that the continued surge of overseas remittances has dampened the urge of their spouses and children from looking for work.

There are signs that the quality of jobs generated by the economy has also improved. First, there are 658,000 less underemployed workers compared to a year ago, with underemployment rate dropping to 18.1 percent from 20.4 percent last year, and 22 percent last July. The proportion of workers working only part-time, or less than 40 hours a week, has also declined to 35.1 percent, from close to 37 percent a year ago. Second, wage and salary workers make up a higher percentage (51.1 percent) than last year's 50.5 percent, while there has been a corresponding decline in the proportion of unpaid family workers from 13.1 percent last year to 12.4 percent this year.

8b: Land

The former Special Rapporteur on the Right to Food, Jean Ziegler, said that "access to land and agrarian reform must form a key part of the right to food" given that "access to land is often fundamental for ensuring access to food and to a livelihood, and therefore freedom from hunger". The direct availability of food through an individual cultivating her own land is part of the basic content of the right to adequate food and implies economic access to productive resources such as land and other productive resources (e.g., irrigation, farm animals, agricultural technology, credit, etc.). State Parties to the ICESCR are obligated to respect, protect and fulfill access to land, given that this forms part

of the basic content of the right to food and is particularly important for peasants, indigenous peoples, fisherfolks, upland and forest dwellers, and people living in rural areas who have no alternative options for earning a living.

States are urged by the Guidelines to implement policy mechanisms that advance land reform, so that the access to land is guaranteed to those who want and need it to realize their right to food. In addition, peasants must be able to make use of the land given and to become self-reliant through access to affordable credit facilities, to rural infrastructure, agricultural advisory services, to new information and technology, education and marketing assistance, as well as access to agricultural inputs. Agrarian reform policies have also to take into account the sustainability of agriculture and the human right to food of future generations by engaging in diversified agriculture and the conservation of food producing resources like soil, water, and biodiversity.

Case digest: Land reform in the Philippines

Problems of land tenure in the Philippines started when the Spanish colonizers introduced the concept of the *encomienda* system (royal grants). Numerous legislations during the American and Commonwealth Periods tried to address the resulting agrarian unrest. The Land Reform Act of 1955 created the Land Tenure Administration (LTA) which was responsible for the acquisition and distribution of large tenanted rice and corn lands over 200 hectares for individuals and 600 hectares for corporations. When martial law was declared in 1972, Presidential Decree No. 27 issued by President Marcos provided for reform on lands devoted to rice and corn. After the fall of the dictatorship in 1986, the CARL of 1988 expanded coverage to 3.4 million hectares to be redistributed to agrarian reform beneficiaries (ARBs). President Fidel V. Ramos strengthened the implementation of agrarian reform, infused an additional P50 billion and extended its implementation for another 10 years, until 2008. As of December 2005, seventeen years after the implementation of CARP in 1988, 6.6 million hectares have been distributed, constituting 81% of the distribution target of 8.2 million hectares.

Observations⁹⁹:

⁹⁹ <http://www.dar.gov.ph/darhistory2.html>; Mendoza, Amado Jr., Property Rights and Legal Empowerment of the Poor in the Philippines, Thematic Paper 2, A Policy Resource Book on Legal Empowerment of the Poor in the Philippines, 2007; FAO : "The Right to Food - Putting it into practice", Brief 4: Agricultural and Food Policy, Rome, 2006, available in Right to Food Virtual Library http://www-data.fao.org/righttofood/kc/library_en.htm; ICARRD Final Declaration and documentation accessible at <http://www.icarrd.org/index.html>; D 49: How to Use the Voluntary Guidelines on the Right to Food, FIAN International, May 2007

While agrarian reform has had a positive effect in reducing poverty (Reyes, 2002), analysts believe that the full benefits of land redistribution have not been realized (Llanto and Ballesteros, 2003). The said lands are practically 'dead assets' since property rights over them are 'imperfect' due to regulatory and bureaucratic impediments. Several key problems—identification of beneficiaries and actual coverage of the reform; land valuation; complicated land titling and registration, agency capture, and the opposition of adversely affected parties—delayed the program's implementation and have led to 'imperfect' ownership.

The future of agrarian reform in the Philippines is on the edge as funding for CARP will end on 2008. To date, the target of redistributing 3.4 million hectares to agrarian reform beneficiaries has not been reached. The farmer's profile today is this: Seven out of 10 of them do not own the land they till and can barely provide their families three meals a day. Even among those who own the land they till (of 8.5 million hectares of arable land, 6.5 million have been distributed to 4 million farmers), most have to wait for rain to irrigate their fields, have no access to credit, have little money to buy seeds and end up agreeing to part with the bulk of their harvest to usurers, cannot afford the high-yielding varieties, are prey to private traders who under-price their harvest (the National Food Authority buys only 1-2 percent of it), and have vested interest groups and individuals (rural banks, creditors, real estate and commercial developers) cajoling them to sell their land for conversion to other uses.

8c: Water

States should strive to improve access to and promote sustainable use of water resources and their efficient and equitable allocation among users. Water is important to life and health that needs to be managed in a manner that preserves, protects and where possible, restores both quantity and quality and facilitates equitable and sustainable allocation of access to surface and groundwater by different users for different uses. In the case of competing demands, drinking water and water for domestic uses should take priority. The water needs of subsistence farmers and indigenous peoples also need special consideration. The Philippine Poverty Reduction Agenda of 2002 recommended the adoption of an integrated water basin approach towards universal access to safe water, reconciling cost recovery with the concern of ensuring access by the poor.

Case digest: The Baguio experience

Baguio City, like all cities in the Philippines, had no integrated water situationer, plan nor regulatory framework on water governance. No single agency coordinated local water policymaking, planning and actions. Such absence shaped the fragmented perspective and management operations over water services and resource management, weakened the coordination among key sectors involved (e.g., between the Baguio Water District and the City Government), and posed threats to water security. There is no coordinative mechanism for local water governance and monitoring mechanism for water quality, water sourcing, and plan implementation.

The primary focus of SWIM (Sustainable Water – Integrated Management and Governance) was institutional and policy development interventions on Baguio City, Philippines. The crux of the water reform agenda was to shift from fragmented to integrated actions on water governance. The Project commenced in September 2004 and was completed on August, 2005. The City is pursuing discussion with its neighboring municipalities on transboundary water. Initial meetings with the neighboring municipalities were conducted because the local government of Baguio believes that in order to have water security it must address issues dealing with transboundary water.

The project has increased the awareness and understanding of stakeholders for the need to regulate water resources. Partnerships have been forged with the water district and barangays and coordination with NWRB, LWUA, NGOs, media, and business sector have been improved and strengthened. Water revilers' stations organized themselves into the Baguio Association of Purified and Mineral Water Revilers (BAPMWR). Civil society participation in water governance is provided for in the policies and institutional mechanisms established.

Observations ¹⁰⁰:

The challenge for good water governance is to recognize the link between water services and water resource management, alongside the implications of local water policies and actions on protecting water as a common and global good. Local capacity development for integrated water governance should form part of all urban infrastructure investment programs, and to maintain institutional development in poverty reduction investments that target poorer local governments for basic water and sanitation services.

¹⁰⁰ <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/Water/CaseStudy.asp#citywide> (Integrated Water Management in Baguio City, Philippines; Gonzales, Minerva, UNESCAP, 2007)

Water is a basic need that is increasingly getting scarce. National and local government agencies and other sectors need to work together to ensure equitable access to safe water. The project was an institutional development investment to ensure sustained interest and commitment of stakeholders to participate in the reform process in ensuring sustainable access to safe water by everyone in the community, especially the poor and disadvantaged groups. Water as an identified priority helped in sustaining management and political interest and securing political, management and community legitimacy over the integrated institutional mechanisms introduced by the Project.

8d: Genetic resources for food and agriculture

Focuses on specific national policies, legal instruments and supporting mechanisms to prevent the erosion of and ensure the conservation and sustainable use of genetic resources for food and agriculture, including the protection of relevant traditional knowledge and equitable participation in decision making and the sharing of benefits arising from the use of these resources.

Case digest : National Integrated Protected Areas Systems Act (NIPAS) of 1992 (RA 7586)

This Act sets forth the government policy of the Philippines for securing for present and future generations "the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national parks as provided for in the Constitution." The Act establishes a National Integrated Protected Areas System (NIPAS) and provides for its management, organization, functions, and funding. Under the Act, several categories of protected areas are also created: nature reserves, natural parks, natural monuments, wildlife sanctuaries, protected landscapes and seascapes, resource reserves, and natural biotic areas, among others. Further provisions of the Act relate to protected area management boards, environmental impact assessments, ancestral lands and rights over them, surveys for energy resources, the Integrated Protected Areas Fund, annual reports, and prohibited acts.

Observations:

After 10 years of the NIPAS in 2002, only five protected areas have been formally established through congressional actions (Northern Sierra Madre Natural Park, Mt. Kitanglad Natural Park, Batanes Protected Landscape and Seascape, Mt. Kanlaon Natural Park and the Sagay Protected Landscape and Seascape). These protected areas can now receive congressional allocations from the national budget without depending on the DENR for financial support

for its operations. However, given the perennial budgetary constraints experienced by the Philippine government, funding remains a limitation in the effective functioning of PAs. One reason why only five PAs have passed congressional actions can be attributed to the daunting requirements outlined in the 13 legal steps in the NIPAS that need to be fulfilled before one receives congressional actions. In the formally established protected areas, a regular Protected Areas Management Board (PAMB) had been created, while those in various stages of processing under the NIPAS Act, interim PAMBs are in place. Despite limitations of resources and capabilities, there is increasing appreciation for the need to strengthen protected areas and local communities are persuaded to be actively involved in the work of the PAMB.

Protected Areas management needs to be strengthened and other appropriate conservation approaches such as biodiversity corridors developed around PAs. Protected areas will continue to play a critical role in providing the country's threatened biodiversity a refuge for it to escape, be nurtured and be rehabilitated. Protected areas will form the core of a string of biodiversity corridors across the archipelago that will provide sanctuary and hope for the country's biodiversity and ensure the survival of Filipinos as a people.

8e: Sustainability

States should protect ecological sustainability and the carrying capacity of ecosystems to ensure increased and sustainable food production for present and future generations, prevent water pollution, protect the fertility of the soil, and promote the sustainable management of fisheries and forestry.

Case digest: Philippine Agenda 21

The Philippine Agenda 21's concept of development is grounded on both an image and a shared vision of the Filipino society. It recognizes the key actors in sustainable development as the government, business and civil society and the functional differentiation of modern society into three realms--economy (where the key actor is business), polity (where the key actor is government) and culture (where the key actor is civil society). The three realms are interacting, dynamic and complementary components of an integral whole.

Philippine Agenda 21 envisions a better quality of life for all through the development of a just, moral, creative, spiritual, economically vibrant, caring, diverse yet cohesive society characterized by appropriate productivity, participatory and democratic processes and living in harmony within the limits of the carrying capacity of nature and the integrity of creation.

In concretizing the vision, Philippine Agenda 21 describes a path of images for individuals, families, households and communities; for each ecosystem and across ecosystems in consideration of the interaction of the various lifescapes and landscapes found therein.

Observations

Ever since the adoption of Philippine Agenda 21 in 1996, the government promoted the concept of living in harmony with nature where environmental considerations were integrated into economic decision-making and sustainable development became the paradigm for development planning at the national and local level. Efforts were undertaken to reorient the working methods of policy makers, policy analysts, and those who implement policies and programs. In addition, information and education campaign measures were implemented to educate the entire population to understand and appreciate the shift towards an environmentally-friendly development path.

8f: Services

Focuses on the creation of an enabling environment and strategies to facilitate and support the development of private and public sector initiatives to promote appropriate tools, technologies and mechanization in the provision of services, including research, extension, marketing, rural finance and micro credit to enable more efficient food production by all farmers, particularly the poor and to address local constraints such as shortage of land, water and farm power.

Case digest: The Altertrade initiative in trading muscovado and banana

Alter Trade is an NGO that was established in 1987 in response to the Negros hunger crisis of the mid-80s. Its formation was framed under the development principle of "trade not aid" and "people to people trade" as the sustainable option. In the face of the vicious cycle of misery in Negros island caused by widespread landlessness, mono-cropping in agriculture, lack of capital, soil degradation and lack of agricultural technology assistance, Altertrade envisioned to produce and market quality agricultural products in partnership with self reliant and self –determining communities. Altertrade engages in the promotion of support programs for sustainable production and social development of marginal producers, provision of organic inputs to organic producers, manufacture of muscovado and other organic products and bridging marginal producers to Fair Trade markets in the Philippines and abroad, Japan, specifically. Its programs and activities include provision of credit assistance support, diversified crop management, bio organic conversion, livestock

production, sloping agricultural land technology, community development planning and sustainable organizational systems.

Altertrade assistance has increased the productivity and income of its partners through the years.

Guideline 9: Food Safety and Consumer Protection

Focuses on both legal and institutional arrangements to ensure food safety and consumer protection, whether through domestic production or imports.

Case digest: Bureau of Food And Drugs (BFAD)

The following are BFAD's activities for food control: licensing and inspection of food processing plants, monitoring compliance with GMP requirements; registration of food products for direct sale to consumers; monitoring of products in trade outlets and action on consumer complaints; regulation and inspection of processed foods by ensuring performance with the provisions of RA 3720 that prohibits the sale and distribution of adulterated and misbranded foods.

Observation:

The 1987 Philippine Constitution provides that the State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower and development research, responsive to the country's health needs and problems.

Guideline 10 Nutrition

Guideline 10 on Nutrition promotes strengthening dietary diversity, healthy eating habits, food preparation and feeding patterns, including breastfeeding, to prevent malnutrition. Changes in availability and access to food should not negatively affect dietary composition or intake. Cultural values as well as dietary and eating habits should be taken into account when making policy and program decision.

Case digest: THE PHILIPPINE PLAN OF ACTION FOR NUTRITION (PPAN), 2005-2010

The Philippine Plan of Action for Nutrition, 2005-2010 is the country's blueprint for achieving nutritional adequacy for all Filipinos. The implementation

of the PPAN is being coordinated by the National Nutrition Council in collaboration with the local government units, NGOs, the business sector, the international and local communities.

The objectives of the PPAN are: reduction in the proportion of Filipino households with intake below 100% of the dietary energy requirement from 53.2% to 44.0%; reduction in the prevalence of iodine deficiency disorders (IDD) among lactating women from 22.6% to 20.0%; elimination of moderate and severe IDD among school-age children and pregnant women; contribute to reduction of the prevalence of low birth weight.

The strategies of PPAN are: food-based interventions for sustained improvements in nutritional status; life-cycle approach with strategic attention to adolescent females, pregnant/lactating women and children 0-3 years; effective complementation of nutrition interventions with other services; geographical focus to needier areas.

Observation:¹⁰¹

The mid-term assessment of MTPPAN covering the period 2005-07, showed that the targets for reducing levels of protein-energy malnutrition are likely to be met given the trends in underweight-for-age pre-school and school age children, nutritionally pregnant women and percent of households with inadequate calorie intake.

However, targets for Vitamin A deficiency (VAD) are not likely to be met. Even with interventions undertaken, VAD has been increasing progressively through the years. Targets for reducing anemia among infants and preschool and school age children will not likely to be met given that no massive effort was done to address the problem.

Guideline 11 Education and Awareness Raising

Education geared towards agriculture and the environment should be encouraged at the primary and secondary levels so that a more sympathetic awareness about the importance of preserving and sustaining of natural resources for continued and responsible use is fostered in each succeeding generation. Hence, the State must aid higher education by strengthening

¹⁰¹ How to Use the Voluntary Guidelines, FIAN International; Voluntary Guidelines on the Right to Food, FAO 2006; National Nutrition Council, Updated MTPPAN, Dec 2007

university and technical professors in agriculture and business to teach and do research.

Information about the right to food as well as food-related issues should be disseminated to individuals so that they may be able to participate actively in relevant policy decisions that may affect them as well as to challenge decisions that impinge negatively on their rights. Measures should be done by the State to help people improve their housing conditions as well as the way they prepare food for these are related to food safety. These can be through information dissemination and education, as well as providing relevant infrastructure.

Human rights education in its entire range – civil, political, economic, social and cultural, including the right to adequate food should be part of the schools' curriculum. Promoting awareness of the importance of human rights including that of food is to be encouraged. Proper training of government officials responsible for its implementation must be undertaken. Public awareness of these guidelines and improving access to them and to related human rights laws, especially in rural and remote areas is needed. The guideline ends with encouraging States to empower civil society to join actively in the implementation of the guidelines.

Case Digest HR Education in Government Offices (Philippine Commission on Human Rights)

The Commission from its inception has conducted numerous human rights education among government agencies, often especially in the earlier years of its existence in collaboration with various human rights cause-oriented groups who were in the forefront of civil and political rights advocacy and activism as a response to the martial law years of 1973 -1981.

In cooperation with the Department of Education, it has developed a human rights education curriculum for elementary and secondary levels aside from producing a human rights education facilitator's Manual for Training Teachers. Among the modules are: why teach human rights, foundation of human rights, human rights principles and concepts, and children's rights.¹⁰²

Observations:

The Human Rights Program of the Commission on Human Rights has done a commendable job giving training seminars and workshops in the various government agencies from national to local levels, as well as linking up with UN

¹⁰² www.chr.gov.ph

agencies for funding and resource support. Local government units, as well the police and military have benefited from its programs. Be that as it may, there still is a great challenge to be faced by the CHR: in the field of economic, social and cultural rights, government officials especially in the bureaucracy need to know and understand that these are entitlements on the same level as civil and political rights; more specifically, the right to adequate food as part of the right to adequate standards of living.

In recent years, the Commission on Human Rights has gradually weaned itself away from focusing solely on civil and political rights violations and welcomed the advance strides made by human rights NGOs as well as special sector NGOs like those of women, children, and the indigenous peoples in the field of economic, social and cultural rights. Yet there is a long way to go. In the latest Philippine Human Rights Report to the United Nations, it was noted that the situation of economic, social and cultural rights in the country was not comprehensively dealt with.

Creating a national consciousness of economic, social and cultural rights as RIGHTS which the Commission on Human Rights can help bolster, especially for government personnel on the local government unit level (city, municipality, barangay) is needed. When one mentions rights among people, there is still the association with civil and political rights. However, when one speaks of housing or food, the association of these two to their corresponding rights does not come as readily.

Guideline 12 National Financial Resources

Consistent with their obligation of realizing their commitment to progressively realize the right to adequate food, the State is not only enjoined to allocate budgetary resources for hunger and food security budgetary resources.

The State is encouraged to guard that expenditures including budgetary cuts do not negatively affect the poor and the food insecure groups in a society. States are not only urged to develop social programs but also in seeking creative sources of funds from both public and private at national and international levels for such food-related programs.

Also, the government is invited to encourage families of migrants to value savings in their remittances for viable investments that may yield sustainable livelihood specially the food security of the family.

Case Digest : One hundred forty five billion (Php 145) for Philippine Food Security excluding the One Billion Pesos for the Accelerated Hunger Mitigation Program of Pres. Gloria Macapagal Arroyo

In its effort to implement its anti-hunger measures and to realize the targets of the Accelerated Hunger Mitigation Program (AHMP), the current administration allocated one billion pesos. Of the one billion fund, specifically, Php 900 million was allocated for agricultural food production targeting the following: rice seed subsidy, small water impounding projects, Programang Gulayan para sa Masa, fisheries, post-harvest facilities, livestock programs, Barangay Food Terminal and Tindahan Natin. Fifty million(50) was also allocated to the National Nutrition Council, fifty million (40) Department of Social Welfare and Development and ten million(10) to the National Anti-Poverty Commission (NAPC) for its various anti-hunger initiatives and programs.

Also, for the past 11 years, Philippine Congress has allocated P145 billion pesos to safeguard the farming sector and help ensure the country's food security in the context of adverse effects of global free trade. From the 1997 to 1999, Congress appropriated a total of P 39 billion on top of the budget of the Department of Agriculture (DA). In 2000, P16.6 billion was approved and the General Agreement on Tariffs and Trade (GATT)-related budget was reclassified as financial support to the Agriculture and Fisheries Modernization Act (AFMA). The latter's allocation is on top of the annual budget of DA which totaled P 43.8 billion in the past 11 years.

Observation: ¹⁰³

The case shows positive efforts by the Philippine State in concretizing its commitment in curbing hunger and trying to ensure food security for its population. The current administration is trying to fulfill its responsibility in bringing food on the table. On the one hand, the budgetary allocation of almost Php 150 billion for the last 11 years has not prevented the rice shortage. The current flux of food insecurity in the Philippines is a mix of factors which led to the current crisis - neglect of irrigation systems, allowed trade liberalization and aggressive land conversions of prime agricultural lands into commercial, residential and industrial estates which started during the Ramos administration, the unchecked population of almost ninety-million which the GMA administration has not effectively addressed due to its adherence to the Roman Catholic line. Corruption has also aggravated the current situation.

¹⁰³ March 28, 2008, Philippine Star, pg. 14

Hence, budgetary allocations are not the panacea to food security, but can only become an effective tool if accompanied by meaningful governance, accountability and effective social, political and economic policies and programs.

Guideline 13 Support for Vulnerable Groups

Under this guideline, States are expected to create Food Insecurity and Vulnerability Information and Mapping Systems (FIVIMS), tool gathering mechanisms that contain pertinent and systematized data showing which groups and households are vulnerable to food insecurity as well as the reasons why they are such. With this, the States must devise ways and measures to address the situation arising from such a mapping system. Thus, it is hoped, the rights of vulnerable groups to their right to adequate food can be immediately and progressively realized.

Case Digest TRIBE, FARMERS GUARD AGAINST BIOPIRACY

To protect agricultural genetic resources, a proactive measure through a “community registry” proved effective in protecting locally bred rice in Bohol. The experience of Bilar, a first in the country is a collective action by farming communities against the Plant Variety Protection (PVP) Act (RA 9168). Signed into law in June 2002, the PVP act limits rights of farmers to save their traditional seeds.

They breed traditional varieties of rice; practice organic farming and seed selection. From harvest they choose best seeds for next cropping season, which they share and exchange with other farmers. These are practices they fear may be limited by the PVP Act. To prevent seeds from being appropriated, Bilar farmers decided to put up a community registry starting with those in Barangay Campagao and replicated in other barangays.

Observation: ¹⁰⁴

The above case illustrate what people can achieve in terms of ensuring that they and their future generations can have adequate supply of food, and are supported by their local government leaders (case 1).

The Bilar farmers of Bohol actively undertook a community registry measure to preserve their traditional grains and prevent these from being illegally appropriated by other entities that would perhaps make a huge profit

¹⁰⁴ Bulatlat – the Philippines alternative weekly magazine, vol. V, no. 37, Oct. 23-29, 2005, QC; www.bulatlat.com/news/5-37/5-37-prosti.htm

without benefiting the community it came from. More, the model has been replicated in other areas of the Philippines especially in Mindanao.

According to General Comment #12 of the UNCESCR, the minimum core obligation of a State viz. the right to adequate food is the fundamental right to freedom from hunger and malnutrition. It also asserts that the right to adequate food is "indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights in the International Bill of Human Rights" (GC12 #4) as well as being inseparable from social justice.

However, it admits that while there is international affirmation of full respect for the right to adequate food, a "disturbing gap" still exists between standards stated in Art. 11 of the ICESCR and the prevailing world sit. The Philippines is no exception.

As a matter of fact, in the normative content of Art. 11, States must ensure an "equitable distribution of world food supplies in relation to need." The operative phrase "in need" applies to vulnerable sector such as farmers. Further, when we explore further the content of this right – adequacy, availability and accessibility, we realize that the Bilar group of farmers have ensured with the solid backing of their local government units, food for both present and future generations, as well as making traditional rice seeds available and accessible to their communities now and in the future.

Guideline 14 Safety Nets

Guideline 14 recommends that social and food safety nets be established and maintained to provide for the weakest segments of society who cannot access and afford food for themselves. As far as possible, States should consider building on existing capacities within communities at risk to provide the necessary resources for social and food safety nets. If food is missing in a certain area, it should be procured in neighboring areas rather than abroad. States should target the neediest and respect the principle of non-discrimination in the establishment of eligibility criteria.

Case digest : Safeguard Measures Act or RA 8800 of 2000

The Safeguard Measures Act or RA 8800 or the safety net law, enacted in year 2000, allows farmers and industry to get temporary relief against the predatory trade practices of other nations through safeguard tariffs. The law provides for general and special safeguard measures to relieve domestic

industries and agricultural products suffering from serious injury as a result of increased imports.

The WTO permits Member Countries to provide affected domestic industries relief against imports under circumstances specified in the General Agreement on Tariffs and Trade 1994 (GATT 1994). The importing government may take temporary (general) safeguard measures (higher tariffs, tariff quotas, or quantitative restrictions) against imports if the products at issue are being imported in such increased quantities, either absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry.

The government agencies tasked with enforcing the law are: Department of Trade and Industry/ Bureau of Import Services (DTI/BIS) for industrial goods; Department of Agriculture (DA) for agricultural products; and the Tariff Commission (Commission) Conducts formal investigation and submits recommendation to DTI or DA Secretary on the form of definitive safeguard measure to be imposed.

Observations¹⁰⁵

The Safeguard Measures Act is viewed by advocacy networks such as the Fair Trade Alliance as helpful in protecting the rights of small farmers and local entrepreneurs. The FTA views the measure as a necessary policy instrument to help Philippine industries and agricultural producers survive global and regional competition, especially since other countries do not hesitate to provide their own industries credit, technology, marketing and other forms of assistance, including safeguard measures.

However in August 2005, the Supreme Court rendered RA 8800 unconstitutional when it affirmed a writ of preliminary injunction issued by a local court restraining the implementation agencies of RA 8800 (DTI, DA, Department of Finance, Bureau of Customs) from enforcing the said Safeguards

¹⁰⁵ Department for International Development (DFID): "Using social transfers to improve human development", in UK: Social protection briefing note number 3, London, February 2006; FAO : "The Right to Food - Putting it into practice", Brief 7: Social Safety Nets, Rome, 2006, http://www-data.fao.org/righttofood/kc/library_en.htm; Künnemann, Rolf: "Basic food income – option or obligation?" FIAN International, Heidelberg 2005; <http://www.tariffcommission.gov.ph/safeguar.html> - Safeguard Measures, Philippine Tariff Commission; World Bank Report World Bank Study (Subbarao, Ahmed, and Teklu 1996); NFA plans to raise selling price of rice, Philippine Daily Inquirer, 04/10/2008; IRRRI proposes 9-point rice plan By Amy R. Remo, Philippine Daily Inquirer, 05/04/2008; No Free Lunch, Cielito Habito, PDI, 4/13/08; *(Mis)targeting the poor*, Cielito Habito, Philippine Daily Inquirer, 04/20/2008; Focus on the Global South No2, 2004, <http://www.focusweb.org/philippines/content/view/25/6/>; *Fair Trade Statement on the SC Twin Decision Assailing the Constitutionality of Safety Nets Law* <http://fairtradealliance.org/?p=24>Published September 30th, 2005 in *Resources, Safeguard Measures*

Law. The Fair Trade Alliance said that this decision, if not reversed, will leave our farmers, our vegetable, onion and garlic growers, poultry and livestock producers, fisher folks, shoe, cement, glass, ceramic tile manufacturers or the whole economy literally defenseless, unprotected and powerless in the era of unbridled liberalization. The vegetable industry, for example, has 400,000 farmers in the Cordilleras, not to mention those in other regions who would be severely affected with this SC decision.

Recently, IRRI issued a 9-point rice plan which included an item on, "Strengthen food safety nets for the poor." These will ensure that the needs of the poor and disadvantaged who are highly vulnerable to food shortages are adequately met. The government must show political will to put up new and or enhance existing safety nets for poor people who are the most vulnerable among the population. Safety nets are all the more highlighted by the impending great impacts of climate change on agriculture and food production. Building the long-term resilience of poor people to crisis like global warming, droughts, typhoons, floods and many others, has to be addressed.

Guideline 15 International Food Aid

As explained by this guideline, the importance of ensuring that international food aid is received and dispersed without risk must be highlighted. Food aid, which is the provision of foodstuffs, and food-related aid, such as transfers of agricultural inputs like seeds and cash transfer to purchase food, should respect eating and cultural habits and should not disrupt local food production. Food aid provisions should be based on a sound need assessment properly targeted towards the food insecure, and should avoid creating dependency by having a clear exit strategy. Humanitarian agencies should have safe access to needy populations, and emergency food aid should take long-term relief and rehabilitation goals into consideration.¹⁰⁶

Guideline 16 Natural and Human-made Disasters

The guideline suggests how States can respond more efficiently to the impact of natural disasters and conflict situations with regards to providing for and respecting the right to food. Refugees and internally displaced persons must have access at all time to food, and food should never be used as a means of political and economic pressure

¹⁰⁶ ReliefWeb International; DSWD Social Marketing Service; Philippine Daily Inquirer; WFP, Food Aid Monitor, May 2004; World Food Program - World Food Program's Operational Requirements, Shortfalls and Priorities for 2007

Since the Philippines does not yet have the economic capacity to comprehensively fulfill its role as food aid provider in times of crisis around the globe, this section will instead examine how the Philippine government manages the proper distribution of the food aid it receives in cases of natural or man-made disasters.

Case Digest : Food Aid in Conflict Regions of Mindanao

Mindanao has long been considered the poorest island in the Philippines. Four of the five poorest regions and six of the poorest provinces in the country are in Mindanao. The ARMM has the highest incidence of poverty than any region in the Philippines. *Armed conflict aggravates that poverty.* Mindanao, particularly the Autonomous Region for Muslim Mindanao (ARMM) and adjacent provinces are those defined as "conflict affected" areas where people have been affected by successive displacements and these areas share poverty indicators far below national average. Over 50 percent of the population in the region lives below the poverty line (60 cents/day/person); approximately 30 percent of the children under five years of age are stunted, and the rate of children completing primarily school education is at 33 percent or half the national average of 67 percent. In 2000, a year of prolonged intense armed conflict, ARMM suffered a decline in the Gross Regional Domestic Product and an inflation rate of 9.3 percent, more than twice that of Mindanao as a whole. Although Mindanao is often considered to be the *food basket* of the Philippines, the agriculture sector is under-developed, resulting in low productivity. Small farmers have limited access to land, credit, technology, production facilities and rural infrastructure. Uncertain security has contributed to delays in construction of farm-to-market roads, irrigation equipment, and post-harvest facilities. Political instability in Mindanao affects food security primarily through reduced access to markets. For poor households, reduced access to market increases vulnerability to food insecurity. Along-standing internal conflict, chronic poverty and economic underdevelopment, along with inter-clan and inter-family violence and natural and geological hazards have contributed to the food insecurity of a vast population in Mindanao. Despite the current optimism over the peace negotiations, the population remains vulnerable to food insecurity.

The Philippine government requested the World Bank to prepare a Multi Donor Trust Fund (MDTF) Program in September 2003 in order to facilitate the peace building process and the early rehabilitation of the conflict affected people in Mindanao once the peace agreement is reached. The Philippine government also requested the World Food Program to provide assistance to the returning internally displaced persons (IDPs) and to contribute to the expansion of the food based safety net programs. WFP joined the Multi-Donor Trust Fund - Joint

Needs Assessment mission (MDTF-JNA) to Mindanao in April 2004. The mission assessed the probable post-conflict needs in Mindanao in anticipation of the peace agreement between the Philippine government and MILF. WFP further conducted an initial field visit to Mindanao in December of 2004; a mission to Manila in July 2005; and a second field visit to Mindanao by Logistics and Security staff in August 2005. The mission met with various Government departments, NGOs, UN, and the World Bank.

Observations¹⁰⁷:

The Philippine has extensive experience in implementing successful poverty alleviation programs. This has taken the form of large scale Government programs; National Food Authority price support programs; and collaborative international programs with World Bank, Asian Development Bank, USAID, Japan, Australia and Canada. However, external assistance programs in Mindanao have not reached all those in need. This can be attributed to security considerations, the politically tense situation, limited geographical distribution of activities, and budget constraints. The government and NGOs implement various programs in livelihood assistance, including technical training and vocational training. However, many of the poor have not been able to participate in these opportunities due to the need to obtain sufficient food for themselves and their families.

Within the selected municipalities, the presence of government or NGO implementing partners is the determining factor in selecting which Barangays to implement FFW, Mother and Child Nutrition Programs, and Food for Education programs. Most vulnerable groups (war widows, handicapped, demobilized soldiers, TB patients under treatment) are targeted using a combination of the existing government and NGO identification criteria and additional food security criteria mutually agreed between WFP and its partners. FFW is a well accepted type of intervention within the Philippines, widely practiced by DSWD. The economic value of the WFP food ration will be slightly below the local daily wage rates in order to prevent competition with the local labor market. This will ensure self-targeting of the assistance, attracting those who cannot find alternative employment.

Here one must note that the food security problem to be addressed by this EMOP is mainly one of physical accessibility. The targeted beneficiaries lack the purchasing power to access sufficient food, due to the effects of the conflict. The cultural needs of the food being provided must also be taken into account,

¹⁰⁷ ANGOC. 2001. *200 Village Project: Household Survey Report*.

particularly given that Mindanao is predominantly Muslim, implicating religious dietary restrictions that WFP and DSWD must consider.

Guideline 17 Monitoring, Indicators and Benchmarks

Guideline 17 encourages States to construct mechanisms to monitor and evaluate how the Guidelines are implemented so as to realize progressively the right to adequate food in the context of national food security. These mechanisms can be built upon already extant information systems, and can fill in the gaps in information already present.

Case Digest FOOD INSECURITY AND VULNERABILITY INFORMATION AND MAPPING SYSTEM (FIVIMS)

FIVIMS in the Philippines was established in 1998.¹⁰⁸ Twelve (12) core indicators of FIVIMS¹⁰⁹ were used to identify which provinces were insecure in food and vulnerable, where they were located, and why there was food insecurity and vulnerability. In so doing, it proved that food insecurity does not exist in a single dimension but rather in a cross-section of dimensions that include socio-economic, nutrition, health and sanitation aspects. The 12 FIVIMS core indicators are: (1) Ratio of Per Capita Expenditure per Capita Income; (2) Poverty Incidence; (3) Median Family Income; (4) Food Expenditure per Total Expenditure; (5) Cereal Expenditure per Food Expenditure; (6) Percentage of Households with Safe Water, (7) Percentage of Families with Working Children, 5-17 years old; (8) Unemployment Rate; (9) Cohort Survival Rate, Elementary; (10) Percentage of Underweight Children, 0-5 years old; (11) Percentage of Underweight Adults, BMI <18.5 kg/m², and (12) Percentage of Agricultural Land under Tenancy.

Using these indicators, it was found that food insecurity in the Philippines is prevalent in 49 provinces (63%) in varying degrees: 38 are Vulnerable, 8 are Very Vulnerable, and 3 are Very Very Vulnerable. This means that as of 2003 (based on the data of the National Nutrition Survey of that year) 6 out of every 10 provinces in the country are food insecure and vulnerable.

Clusters were identified and characterized as follows: Cluster 1 = Not Vulnerable, Cluster 2 = Less Vulnerable, Cluster 3 = Vulnerable, Cluster 4 = Very Vulnerable, and Cluster 5 = Very Very Vulnerable.

¹⁰⁸ www.coa.gov.ph/1998_AAR.

¹⁰⁹ Undertaken by the National Nutrition Council which is under the Department of Health.

Based on the characterization of the cluster using the 12 FIVIMS indicators, provinces in Clusters 4 and 5 are areas for concern since they have the highest number of income-poor households; lowest family income resulting in high expenditure on food, particularly on cereals; lowest access to safe water; highest prevalence of underweight among children 0-5 years old and adults; highest agriculture land under tenancy and highest percentage of families with working children; and low elementary cohort survival rate.

Island group-wise, Luzon had the most number of provinces belonging to Clusters 1 and 2 making this island group better-off than Visayas and Mindanao. Mindanao had the most number of provinces in Clusters 4 & 5 compared with the other island groups which make Mindanao a special area of concern.

In general, results showed a worsening trend as food insecurity and vulnerability condition worsens across the 12 indicators of Philippine FIVIMS.

This study also revealed that vulnerable provinces have higher prevalence of underweight both among children, 0-5 years old and adults. This is supported by the negative relationship of underweight among children with median family income and poverty incidence as well as the linear relationship between underweight child with underweight adult. Thus, findings of this study are consistent with previous studies that the most obvious sign of hunger and food insecurity is poor growth and/or poor weight status of adults.

In October 2005, the Food for School Program, a food subsidy package for young learners who belong to poor families, was recognized as a concrete step to address hunger and malnutrition among school children and pre-school children and their families. The Vulnerable areas (Clusters 3, 4 and 5) identified by FIVIMS were used as basis in identifying the 55 target provinces for the said program, along with the other provinces identified by the Council for the Welfare of Children and the National Anti-Poverty Commission as well as the Early Childhood Care and Development Program convergence areas and selected barangays in Metro Manila.

After the study, it was recommended that policy makers and program planners use the results as basis for policy formulation, prioritizing areas for interventions and resource allocation particularly targeting the Vulnerable (cluster 3), Very Vulnerable (cluster 4), and Very Very Vulnerable (cluster 5) provinces. It was also recommended that

government, non-government organizations and the business sector use these results for identifying and locating programs and projects to address hunger and food insecurity in the country.

Observations:

In the Philippines' FIVIMS, food insecurity is defined as a situation where "people do not, at all times, have physical, social or economic access to sufficient, safe and nutritious food which meet dietary needs and food preferences for an active and healthy life."¹¹⁰ Vulnerability is "that range of factors"¹¹¹ that make people exposed to the risk of becoming food insecure.

By the very definitions given as well as the results of that initial study, it would seem that the right to adequate food of Filipinos especially in Clusters 4, 5 and 6 has not been strategically addressed. There seems to be a situation wherein the magnitude of the incidence of hunger vis-à-vis poverty has not been adequately understood, i.e. the deep historical and socio-economic roots from whence poverty comes, linked to vulnerability and food insecurity.

The right to adequate food presumes that people have access to sufficient, safe and nutritious food. Where this is lacking, the State has the responsibility to provide the infrastructure wherein adequate food is available as well provide the means by which vulnerable groups can access it. No long-term solution to food insecurity and vulnerability can prosper, however, if the State, to begin with, doesn't have a rights framework and having that, data that show just how the right to food has impacted on people. Such data can only be had if there is a systematic interlocking network of indicators, benchmarks and monitoring systems, FIVIMS included.

Guideline 18 National Human Rights Institution

The guideline emphasizes three concerns: the need to establish and strengthen national human rights institutions (NHRIs) or ombudspersons in accordance with the Paris Principles; the need to ensure that NHRIs take on, as part of its mandates, the monitoring of the progressive realization of the right to

¹¹⁰ www.nc.da.gov.ph/fivimxab.pdf

¹¹¹ Ibid.

adequate food by the States; and, the need for NHRIs to establish partnerships and cooperation with civil society organizations and individuals.

The guideline goes on further by emphasizing that NHRIs should be established in accordance with the Paris Principles.

Among the functions which NHRIs have to protect the right to adequate food are complaints handling, conducting investigations, monitoring the performance of obligations under human rights treaties, advising the State on the domestic application of international treaty obligations, and recommending policy changes.

The guideline recognizes the important role of national human rights institutions (NHRIs) in monitoring the States as to the latter's progressive realization of the economic, social and cultural right to adequate food. It further recognizes the need of NHRIs to build partnerships and alliances with civil society organizations and individuals in undertaking the monitoring of the State's progressive realization of the right to adequate food.

For it to be effective in its monitoring function, and consistent with the Paris Principles, it is extremely necessary that NHRIs should be independent and autonomous from the government, which is the object of its monitoring activities. While maintaining its independence, NHRIs are encouraged to enlist the participation and cooperation of civil society organizations and individuals in its monitoring activities. Likewise, this guideline encourages civil society organizations and individuals to contribute to the monitoring activities of NHRIs.

Case Digest: The Commission on Human Rights of the Philippines

The CHRP is a creation of the 1987 Philippine Constitution, but was duly established and made operational pursuant to Executive Order 163 that was issued by the President of the Philippines on 5 May 1987. Its creation as a national human rights institution predates the birth of the Paris Principles. Although the latter instrument came later, the CHRP works along the standards set by this UN instrument.

The powers of the CHRP listed under the 1987 Constitution clearly cover both the promotion and protection of human rights.

In the Philippine Constitution, guarantees for economic, social and cultural rights are enshrined in Articles 2, 12, 13, 14, and 15 on the: Declaration of

Principles and State Policies; National Economy and Patrimony; Social Justice and Human Rights; Education, Science and Technology, Arts, Culture and Sports; and, The Family, respectively. The right to adequate food is subsumed under these different provisions, especially on the right to a life with dignity.

By virtue of the incorporation clause in Article II of the Constitution, all international treaties on human rights that were ratified by the Philippines, such as the International Covenant on Economic, Social and Cultural Rights, are part of the law of the land. They are therefore enforceable in Philippine courts. CHRP is mandated to protect and promote all rights guaranteed by the Philippine Constitution or embodied in the international human rights instruments. Expectedly, CHRP has been active in the promotion and protection of economic, social and cultural rights, including the right to food.

Working Towards a Common Set of Indicators on the Economic, Social and Cultural Right to Adequate Food

To carry out its constitutional mandate of monitoring government's compliance with all its international treaty obligations on the Right to Adequate Food, the Commission on Human Rights of the Philippines, in partnership with the United Nations Development Program and concerned government and non-government organizations, embarked on a project geared towards the development of a common set of indicators that can adequately provide a reliable approximation of the government's performance with respect to the right to food.

The process of monitoring compliance is being approached in a spirit of co-operation and dialogue. Concerned State institutions are made to understand that the indicators that are being developed together with them shall be used by the CHRP in monitoring the State as to the latter's compliance with the ICESCR provision on the right to adequate food.

Existing indicators on the right to food were reviewed and analyzed vis-à-vis the core content of the right which takes into consideration adequacy, sustainability, dietary needs, availability, accessibility, safety, acceptability and cultural adaptability.¹¹²

¹¹² PHI/02/011 Right To Development: Strengthening Capacities to Mainstream Gender and Human Rights (GOP-UNDP Program – Fostering Democratic Governance), INDICATORS ON THE RIGHT TO FOOD (A Terminal Report on the Pilot Study: Rights-Based Indicators on Selected Economic, Social and Cultural Rights prepared by the Government and Linkages Office of the Commission on Human Rights of the Philippines), undated.

NEXT STEPS:

The mechanisms for the implementation of the right to adequate food seem to be all in place. However, there is a need to strengthen administrative as well as judicial procedures. Internal enforcement mechanism of the government has to be clarified. The indicators have been collaboratively and consultatively crafted by all concerned stakeholders on the right to adequate food. Initiating the actual use of the indicators to initially produce baseline data is the logical next step.

“Just as important as the indicators are the baseline data. The value of the indicators that were gathered can be better appreciated alongside a reliable baseline data. But, the establishment of the baseline data, in itself, involves a process that is as complex as the development of indicators. Parties engaged in the development and implementation of policies and programs would normally vie for a baseline data that tend to yield a more favorable outcome. Hence, the process should be very democratic – providing as much room as possible for the articulation of ideas and an objective evaluation of all possibilities. The formulation of a baseline data can be a fitting follow through to the project on indicators.”¹¹³

A pilot research on monitoring the right to adequate food is being contemplated by the CHRP that shall determine the bottom lines of the right to adequate food, especially in indigenous peoples communities, conflict areas, and in mainstream society. Coming up with an electronic data system is another envisioned activity.

Yet to be determined is the system of recourse for any violation of the right to adequate food. Is justice accessible to everyone? Does one go to court? Or does one merely seek administrative remedies? From what agencies? If in India the violation of the right to health is adjudicated by linking said right to the right to life, perhaps the same approach can be tested on infringement on the right to food. Definitely, the jurisprudence is growing on economic, social and cultural rights; but, those on right to adequate food are yet to be consolidated.

Also, if the right to adequate food is taken in as an important area of CHRP’s economic, social and cultural rights concerns, CHRP is yet to find practical ways of linking up with the Food and Agriculture Organization.

¹¹³ Ibid.

Guideline 19 International Dimension

The guideline echoes the Maastrich Guidelines which states that: "Non-governmental organizations can lay an important role in promoting the implementation of the Covenant (International Covenant on Economic, Social and Cultural Rights). This role should accordingly be facilitated at the national as well as the international level."¹¹⁴

"States parties are accountable both to the international community and to their own people for their compliance with the obligations under the Covenant."¹¹⁵

ARTICLE 12: THE RIGHT TO PHYSICAL AND MENTAL HEALTH

37. Programs and policies in place to ensure access to adequate health services, goods and facilities

The Philippine Constitution of 1987 provides that, "The State shall protect and promote the right to health of the people and instill health consciousness among them." As part of its Health Sector Agenda, intervention by the Government will be made. This include, the provision of fiscal autonomy to government hospitals; securing funds for priority health programs; strengthening the capacity of health regulatory agencies; promoting the formation and effective performance of local health networks and expanding the coverage and benefit package of the National Health Insurance Program as provided for under the National Health Insurance Act of 1995.¹¹⁶

Sentrong Sigla Movement is a joint effort of the Department of Health and the LGUs which aims to promote availability of quality health services in health centers and hospitals and at making these services accessible to every Filipino. The Doctors to the Barrios Program is the deployment of doctors as Rural health Physicians to doctorless municipalities, usually hard to reach, economically underdeveloped areas. RA 7719 [Blood Services Act of 1994] promotes and encourages voluntary blood donation by the citizenry and instills public consciousness of the principle that blood donation is a humanitarian act. The National Tuberculosis program is a joint project of the LGUs, PhilCAT and PhilHealth. There also was a 5-year [2000-2004] Food Fortification Program,

¹¹⁴ Supra., Maastrich Guidelines, Part I.A.9

¹¹⁵ Ibid., Part I.A.10

¹¹⁶ Gonzales, Minerva. "Kalusugan Ko, Yaman ng Bayan Ko": The Right to Health, ESCR-Asia, Inc.

the Safe Motherhood Program and programs by the Local Government. Philippine International Commitments, the Constitution and national health policies, laws and programs are aimed at providing quality health care for all. However, current economic and social problems constrain the realization of a healthier population. Majority of the causes of death are preventable if access to health experts, services and medication is made available to the population, especially the disadvantaged.¹¹⁷

Goal 5 of the Millennium Development Goals (MDG) aims to improve maternal health and one of the targets is to reduce by three-quarters between 1990 and 2015 the maternal mortality ratio (MMR). Monitoring the desired decline in MMR is tricky since the last official timeline-based data is only for 1990 – 1995 through the Technical Working Group on Maternal and Child Mortality and the 1998 data came from the National Demographic and Health Survey (NDHS). The former considers some assumptions: the latter that cost the government hundreds of thousands of pesos, still is not representative of the true situation because the event is so rare to be captured only through a survey. Assessing the Philippine’s achievement in terms of goal 5 using the two is misleading, since they are not comparable. Another option for computing MMR is through obtaining the registered vital documents, which can be considered inaccurate because of incomplete registration. Intervention programs and policies on the reduction of maternal mortality will be in vain if the measure to assess their effect falls short from the real.¹¹⁸

The following table shows the number of health facilities and government health manpower from 1995-2005.

Health Facilities and Government Health Manpower, 1995-2005

Item	1999	2000	2001	2002	2003	2004	2005
Hospitals	1,794	1,712	1,708	1,739	1,719	1,725	1,838
Government	648	623	640	662	662	657	702
Private	1,146	1,089	1,068	1,077	1,057	1,068	1,136
Government Health Manpower							

¹¹⁷ Id.

¹¹⁸ BENEDICTA A. YABUT, FAYE Y. BAUTISTA. INDIRECT ESTIMATES OF MATERNAL MORTALITY: PHILIPPINES, 2006

Doctors	2,948	2,943	2,957	3,021	3,064	2,969	...
Dentists	2,027	1,943	1,958	1,871	1,946	1,929	...
Nurses	4,945	4,724	4,819	4,720	4,735	4,435	...
Midwives	16,173	16,451	16,612	16,534	17,196	16,967	...
Barangay Health Stations	14,416	15,204	15,107	15,283	14,490	15,099	15,436
Rural Health Units a/	2,212	2,218	1,773	1,974	2,259	2,258	2,266

The quality of health care remains wanting in many areas. Some health facilities have deteriorated and poor quality services exists. Low quality drugs and medicines are present in the market. These have been attributed partly to the weak enforcement of health regulations. In this regard, a quality improvement program for all health facilities and services at all levels of the health care system must be pursued. Regulatory capabilities, systems and procedures will be upgraded and strengthened. The support of all stakeholders in the initiatives to attain quality care should also be strengthened and sustained. Government and non-governmental agencies must expand services, improve their quality and tailor them to meet the needs of women and communities by ensuring that health facilities are accessible with adequate trained staff, continuous supply of drugs and equipment and are linked to hospitals by an emergency transport and referral system. Also, enforcing standards and protocols for service delivery, management and supervision, and using them to monitor and evaluate the quality of services, along with feedback from clients and health providers. Moreover, by providing free or affordable maternal and infant health services that manage any complications as well as offer routine care. Finally, educating women and communities about the importance of maternal health and appropriate services.¹¹⁹

38. **Data on the main causes of High Mortality Rate**

The government's target in the area of improving maternal health is to "Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio or the Proportion of births attended by skilled health personnel".

¹¹⁹ Shanna Elaine B. Rogan and Ma. Virginia R. Olveña. Factors Affecting Maternal Health Utilization in the Philippines

Indicators	Reference Period	WOMEN		MEN		Both Sexes
		Number	%	Number	%	
Life Expectancy at Birth (number of years)	1990-1995	67.83		63.03		
	1995-2000	69.83		65.03		
	2000-2005	71.83		66.53		
	2005-2010	73.33		68.03		
	2010-2015	74.53		69.23		
	2015-2020	75.73		70.43		
Registered Live Births	2002	53,745	48.11	58,214	51.89	111,959
Mortality Causes (All)	2002	10,870	41.78	15,146	58.22	26,016
Under 1 year	2002	607	41.52	855	58.48	1,462
1 - 4 years		515	45.82	609	54.18	1,124
5 - 9 years		236	45.65	281	54.35	517
10 - 14 years		169	39.39	260	60.61	429
15 - 19 years		179	37.21	302	62.79	481
20 - 24 years		219	36.02	389	63.98	608
25 - 29 years		239	35.67	431	64.33	670
30 - 34 years		310	38.46	496	61.54	806
35 - 39 years		289	33.03	586	66.97	875
40 - 44 years		378	36.38	661	63.62	1,039
45 - 49 years		359	32.37	750	67.63	1,109
50 - 54 years		468	33.03	949	66.97	1,417
55 - 59 years		529	31.38	1,157	68.62	1,686
60 - 64 years		623	31.98	1,325	68.02	1,948
65 - 69 years		797	36.36	1,395	63.64	2,192
70 years and over	4,943	51.34	4,685	48.66	9,628	
Not Stated	10	40.00	15	60.00	25	
Disabled Persons	2000	37,602	49.63	38,170	50.37	75,772
Total Blindness	2000	1,634	48.17	1,758	51.83	3,392
Partial Blindness		4,623	49.03	4,806	50.97	9,429
Low Vision		14,585	56.25	11,342	43.75	25,927
Total Deafness		1,224	44.61	1,520	55.39	2,744
Partial Deafness		1,824	48.60	1,929	51.40	3,753
Hard of Hearing		2,357	49.68	2,387	50.32	4,744
Oral Defect		1,707	45.29	2,062	54.71	3,769
Loss of One or Both Arms/Hands		827	36.02	1,469	63.98	2,296
Loss of One or Both Legs/Feet		1,287	35.02	2,388	64.98	3,675
		2,219	44.88	2,725	55.12	4,944
		2,413	48.18	2,595	51.82	5,008

Quadruplegic		2,071	50.46	2,033	49.54	4,104
Mentally Retarded		831	41.82	1,156	58.18	1,987
Mentally III						
Multiple Impairment						

Source: Department of Health

VITAL STATISTICS 1983-2003

Year	Live Births	Total Deaths	Marriages
1983	1,506,356	327,260	351,663
1984	1,478,205	313,359	380,171
1985	1,437,154	334,663	378,550
1986	1,493,995	326,749	389,482
1987	1,582,469	335,254	400,760
1988	1,565,372	325,098	393,514
1989	1,565,254	325,621	395,933
1990	1,631,069	313,890	422,041
1991	1,643,296	298,063	445,526
1992	1,684,395	319,579	454,155
1993	1,680,896	318,546	474,407
1994	1,643,499	321,341	490,135
1995	1,645,043	324,737	504,300
1996	1,608,468	344,363	525,552
1997	1,653,236	339,400	562,808
1998	1,632,859	352,992	549,265
1999	1,613,335	347,989	551,445
2000	1,766,440	366,931	577,387
2001	1,714,093	381,834	559,162
2002	1,666,773	396,297	583,167
2003	1,669,442	396,331	593,553

Source: National Statistics Office.

Maternal Mortality Statistics

Maternal Mortality by Main Cause, Rate/1000 Livebirths & Percentage

Cause	Number	Rate	Percent
1. Other Complications related to pregnancy occurring in the course of labor, delivery and puerperium	844	0.5	46.0
2. Hypertension complicating pregnancy, childbirth and puerperium	520	0.3	28.4
3. Postpartum hemorrhage	315	0.2	17.2
4. Pregnancy with abortive outcome	152	0.1	8.3
5. Hemorrhage in early pregnancy	2	0.0	0.1

* Percent share to total number of maternal deaths (Total = 1,833)
Last Update: February 12, 2008

Maternal Mortality by Main Cause, Rate/1000 Livebirths & Percentage

Cause	Number	Rate	Percent
1. Other Complications related to pregnancy occurring in the course of labor, delivery and puerperium	811	0.5	45.1
2. Hypertension complicating pregnancy, childbirth and puerperium	479	0.3	26.6
3. Postpartum hemorrhage	319	0.2	17.7
Pregnancy with abortive outcome	189	0.1	10.5

* Percent share to total number of maternal death
Last Update: January 11, 2007

Maternal Mortality by Main Cause, Rate/1000 Livebirths and Percentage 2004

Cause	Number	Rate	Percent
1. Other Complications related to pregnancy occurring in the course of labor, delivery and puerperium	779	0.5	43.3
2. Hypertension complicating pregnancy, childbirth and puerperium	533	0.3	29.6
3. Postpartum hemorrhage	327	0.2	18.2
4. Pregnancy with abortive outcome	161	0.1	8.9
5. Hemorrhage related to pregnancy	1	0.0	0.1
* Percent share to total number of maternal deaths			

Maternal Mortality by Main Cause, Rate/1000 Livebirths & Percentage

Cause	Number	Rate	Percent
1. Other Complications related to pregnancy occurring in the course of labor, delivery and puerperium	769	0.4	45.3
2. Hypertension complicating pregnancy, childbirth and puerperium	431	0.2	25.4
3. Postpartum hemorrhage	345	0.2	20.3
4. Pregnancy with abortive outcome	152	0.1	9.0
5. Hemorrhage related to pregnancy	1	0.0	0.1
TOTAL	1,698	1.0	100.0

Source: Philippine Health Statistics, 2000

Maternal Mortality Rate (2000): 1.0, Maternal Deaths by Region, 2000

AREA	Maternal Deaths
Philippines	1,698
NCR (Metro Manila)	164
CAR (Cordillera)	23
Region 1 (Ilocos)	86
Region 2 (Cagayan Valley)	60
Region 3 (Central Luzon)	129
Region 4 (Southern Tagalog)	272
Region 5 (Bicol)	192
Region 6 (Western Visayas)	129
Region 7 (Central Visayas)	186
Region 8 (Eastern Visayas)	102
Region 9 (Western Mindanao)	73
Region 10 (Northern Mindanao)	63
Region 11 (Southern Mindanao)	114
Region 12 (Central Mindanao)	42
ARMM	50
CARAGA	12
Foreign Countries	1
Residence not stated	-

Source: Philippine Health Statistics, 2000

39. **Current legal restrictions on abortion**

At present, abortion is still not allowed in the Philippines except if it is needed to save the life of the mother. The fetus, under Philippine Law is already respected as a person and as such, rights are already given to it, including the right to life. Abortion is penalized. Post-abortion facilities are not provided because abortion is not allowed.

40. **Measures adopted and implemented to combat the main environmental hazards, particularly in Metro Manila and in other major urban centers**

A number of pertinent environment legislation has been passed throughout the years. Some of the pollution control laws are: RA 8749 (Clean Air Act of 1999), RA 6969 (Toxic Substances and Hazardous Nuclear Waste Act of 1990), RA 9275 (Clean Water Act of 2004), RA 9003 (Ecological Waste and Management Act of 2000).

The Clean Air Act is the policy and program of the State for air quality management. The Clean Water Act is the policy and program of the State for water quality management in all water bodies. It seeks to abate and control pollution from land based resources. The Ecological and Waste Management Act of 2000 instituted measures to promote a more acceptable system which corresponds to the vision of sustainable development. It aims to merge environmental protection with economic pursuits, recognizing the re-orientation of the community's view on solid waste, providing schemes for waste minimization, volume reduction, resource recovery utilization and disposal. The Toxic Substances and Hazardous Nuclear Waste Act of 2004 established rules, regulations and programs for controlling chemical substances and hazardous wastes.

ARTICLE 13 & 14: RIGHT TO EDUCATION

41. Information on measure adopted by State to provide primary and secondary education to the most vulnerable and disadvantaged groups, including urban and rural poor and IP members.

The Department of Education (DepEd) is stepping up its efforts to provide quality education to Muslim public schoolchildren through the Madrasah Program.¹²⁰ The Program was launched in 2004 as part of DepEd's Muslim Basic Education Roadmap, which is in response to the Medium-Term Philippine Development Plan and the GRP-MNLF (Government of the Republic of the Philippines-Moro National Liberation Front) Peace Agreement.

The Muslim-friendly curriculum is being implemented in grades 1 and 2, affecting 52 classes or a total of 1,814 Muslim students in selected public schools around Metro Manila, where large Muslim communities reside. In addition to Mathematics, English, Science, Filipino and Makabayan, Arabic Language and Islamic Values have been included in the curriculum. Subjects are taught by Muslim asatidz (teachers) who underwent a 22-day training program.

A total of 141 Teacher 1 positions have been allotted for the program. These posts were distributed throughout the country according to the needs of every region.

Education for IPs

Regarding the education of Indigenous Peoples, the NCIP has provided education scholarships to a number of indigenous students all over the country. The table below shows the number of educational grantees per region from the years 1999-2004.

Summary of Grantees Per Region School Year 1999-2000 to 2003-2004

Region	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
CAR	3,301	2,944	3,671	2,984	3,058
I	1,159	979	653	852	969
II	1,967	1,966	1,673	1,714	1,483
III	926	1,982	1,413	893	866
IV	709	896	733	1,082	813
V					45

¹²⁰ Madrasah Program Provides Quality Education to Muslim Schoolchildren. Accessed at <http://www.deped.gov.ph/posts.asp?dp=66>. (August 2007)

VI & VII				80	192
IX	393	380	397	543	679
X	132	62	57	219	569
XI	190	361	335	706	766
XII	201	303	284	335	573
XIII	382	424	454	546	811
ARMM	143	201	158	154	125
ABA	81	91	88		
Central Office	126	93	83	248	273
AHEIP	18	35	35		
TOTAL	9,728	10,717	10,034	10,356	11,222

The Alliance of Concerned Teachers (ACT) came up with a research paper issued last July 20, 2007 – which unfortunately has gone unnoticed by the Arroyo government and even the media – entitled “The Arroyo years: towards a lost decade for education?”¹²¹

ACT came up with indicators, based on data from the Department of Education (DepEd), to show that the Macapagal-Arroyo administration has failed miserably in its obligation to provide access to universal quality education. It stated that the Arroyo years have been characterized by declining enrolments, reduced completion rates, and dramatic increases in the number of drop-outs and out-of-school children.

The findings of the Alliance are as follows:

“ACT data showed a slowing down in the growth in enrolment in basic education. From a rate of 1.98 percent from 1995-2002, the growth in enrolment slowed down to an average of 0.97 percent. As it is, the 1.98 percent growth is already lagging behind the 2.3 percent population growth. The further slowing down in enrolment growth rates means that more and more children are not able to attend school.

And not only that, the drop-out rate is also increasing. In 2003, 66 out of 100 Grade 1 students graduate from elementary. In 2006, only 56 are able to complete elementary school. In 2001, 70 out of every 100 first year high school students complete their four years in high school. In 2006, this dropped to 54 out of every 100.

¹²¹ Alliance of Concerned Teachers at <http://www.pinoypress.net/2007/08/14/the-deteriorating-education-system-and-worsening-poverty-situation/2/> (2007)

A result of the slowing down in enrolment rates and the worsening drop-out rates is the increase in the number of out-of-school children. In 2001, there were approximately 1.87 million out-of-school children with ages from 6-15 years old. In a matter of four years, in 2005, the number of out-of-school children has reached a staggering 3.1 million.

And the quality of education is still way below standard. Achievement rates of elementary and high school students in National Achievement Tests remain far below the passing rate of 75 percent.

The achievement rates for elementary students has slightly improved from school year (SY) 2000-2001 to SY 2005-2006 but are still far below the passing rate: 53.66 percent in Math, 46.77 in Science, 54.05 in English, 58.12 in Hekasi (Social Sciences), and 60.68 in Filipino.

The achievement rates for secondary students are worse and have even worsened during the same period. The current rates are 47.82 percent in Math, 37.98 in Science, 47.73 percent in English, 40.51 percent in Filipino, and 47.62 percent in Araling Panlipunan (Social Sciences).

It is then not surprising that the Philippines ranked 41st in Science and 42nd in Mathematics from among 45 countries by the Trends in International Math and Science Survey.

Notwithstanding the tirade by Pres. Gloria Macapagal-Arroyo against the officer-in-charge of the Department of Education in June, 2006, the shortages in classrooms, seats, textbooks, and teachers have worsened. The shortage of 8,443 classrooms during SY 2001-2002 worsened to 57,930 during SY 2005-2006. The lack in 2,108,173 seats during SY 2001-2002 increased to 3.48 million during SY 2005-2006. The shortage of 24.22 million textbooks during SY 2003-2004 went up to 34.7 million the next school year. And the 37,932 shortage in teachers during SY 2001-2002 worsened to 49,699 during SY 2005-2006.

The result is overcrowded classrooms exceeding 60 students per class; a severe shortage in learning materials; shorter hours for classes and teacher-student interaction; heavy teaching loads for harassed and underpaid teachers; and an environment not at all conducive to learning, not to mention the sore lack in teacher training.

Entry-level (Teacher 1) pay for teachers is at P10, 933 (\$239 at an exchange rate of \$1=P45.74), way below the P17, 366 (\$379) monthly living wage set by the National Wages and Productivity Commission. Worse, public school teachers are deprived of their benefits because it is based on savings by the DepEd. And with the decreasing budget for education, savings are hard to come by.

The shortages and deterioration in the quality of education can be attributed to the decrease in the budget for education being allocated by the Macapagal-Arroyo administration. The government has been religiously implementing the "limited or zero growth" in government spending recommended by the World Bank and the Asian Development Bank to tame the government deficit and ensure debt payments in the aftermath of the Asian financial crisis. This was made worse by the fiscal crisis which hit the Arroyo government in 2002. Since then, the government has drastically cut its spending.

According to the Congressional Budget and Planning Office, "the average annual growth rate of the DepEd's budget in real terms from 2001-2006 has been negative 3.5 percent." It also pointed out that "in terms of share of the national budget, (the 2007) DepEd budget represents one of the lowest at 11.96 percent since 1995."

The decrease in budget allocation also affects access to basic and secondary education. Public schools are not being given budgets for Maintenance, Operating, and Other Expenses (MOOE) such as repairs and purchases of furniture, fixtures and equipment, and even in paying for the salaries of maintenance personnel. Thus, this is being shouldered by parents in the form of fees and donations."

42. Information on whether school curricula and textbooks, for primary and secondary schools, contain sufficient information on the history and culture of the different ethnic and religious groups including measures taken in the field of education to combat racial prejudices and to promote tolerance and friendship among ethnical and religious groups.

Based on the 2007 Accomplished Report furnished to ESCR-Asia by the Office of Education, Culture and Health of the National Commission for Indigenous Peoples (OECH-NCIP), there are still insufficiencies and more accurately erroneous information on the history and culture of some ethnic groups in the Philippines. An example, in some subject textbooks for Grades 1 and 2 "Sibika and Kultura", indigenous groups are always referred to as ignorant, poor and wearing in g-strings. At one instance, the famous Banaue Rice Terraces, the seventh wonder of the world, were mentioned to be located in Baguio and not in Ifugao and those living in Baguio were Ifugaos. Ethnic groups were portrayed not in indepth descriptions as not only the ancestors of the country but with long history of cultural traditions. There have been some corrections done on the textbooks though only in the last recent years.

OECHP-NCIP, however reported cooperation projects with the Department of Education (DepEd) specifically with its Bureau of Alternative Learning System (BALS) the continuous validation and pilot testing of the Indigenous Peoples Core Curriculum for the Alternative Learning System (ALS). This endeavor is a contribution to the "indigenization of existing curriculum" which aims to make the existing educational system and curriculum appropriate to the indigenous communities or indigenous peoples. For 2005-2007, the following table show the selected IP communities for the pilot-testing of the IP Core Curriculum for ALS:

<u>IP EDUCATION</u>	
Pilot Testing of the IP Core Curriculum for Alternative Learning System (ALS) in partnership with the Department of Education (DepEd)	
2005	IP Group involved
R-I Dumalneg, Ilocos Norte	<i>Isneg</i>
R-III Botolan, Zambales	<i>Aeta</i>
R-IX Mariki, Zamboanga City	<i>Bajau</i>
R-XII Lake Sebu, South Cotabato	<i>T'boli</i>
2006	
CAR Balasi, Flora, Apayao	<i>Isneg</i>
R-2 Ibojan, San Mariano, Isabela	<i>Calinga</i>
R-6 Roxas 8, Tapaz, Capiz	<i>Bukidnon</i>
R-XI Ngan, Compostela Valley	<i>Mandaya</i>
2007	
R-IV Gen. Nakar, Quezon	<i>Agta</i>
R-V Iriga City, Camarines Sur	<i>Agta-Tabangnon</i>
R-X Nangkaon, Opol, Misamis Oriental	<i>Higaonon</i>
R-XIII Bitan-agan, San Francisco, Agusan del Sur	<i>Manobo</i>

Learning materials and facilitator's guides were prepared by IPs themselves for other pilot areas like those involving the Isnegs, of Botolan, Zambales and the Aetas in Pinatubo.

In partnership with the Department of Education (DepEd) Technical Working Group on Muslim and Indigenous People's Education and other stakeholders on IP Education under the auspices of the Basic Education Sector Reform Agenda (BESRA), a National IP Education Framework was drafted last July 22-24, 2008 at the Development Academy of the Philippines, Tagaytay City. This draft is hoped to be a basis for the finalization of the Indigenous People's Education Roadmap which will be subject to validation activities.

Below are also pioneering initiatives on Higher Education for Indigenous Peoples which started in 2005:

Area and School	Indigenous People's-Based Curriculum Content/Elements
University of Southeastern Philippines, DAvao City: <i>The Pamulaan Center of Indigenous Peoples Education and IP-Based Multi-Level Programs and Services</i>	<ul style="list-style-type: none"> *Valuing Education *Promoting Cultural Integrity and Empowerment * Promoting Peace and Community Development * Valuing Land and Environment *Promoting Holistic and Integrative Learning <p>Also runs formal Elementary and Secondary Education Programs with an IP-based Early Childhood Development Program</p> <p>Also offers fulltime degree courses like: Bachelor of Science in Education, Bachelor of Arts in Anthropology, Bachelor of Arts in Peace Education, Bachelor of Arts in Agricultural Technology, etc.</p>
University of Southern Mindanao, Kabacan, North Cotabato: <i>Ladderized</i>	<ul style="list-style-type: none"> * Diploma in Sustainable Ancestral Domain

<i>Curriculum for the Indigenous Peoples of Mindanao Leading to</i>	<ul style="list-style-type: none"> • Bachelor's Degree in Elementary Education with Concentration on Indigenous People's Development Studies • Community Mapping and Resource Use Mapping
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A core group composed of Presidents and representatives of State and Private Universities and Colleges in the Philippines is advocating for an Indigenous People's Higher Education in the Philippines. Partnerships with the Department of Education, CHED and TESDA are currently sought.

ARTICLE 15: RIGHT TO TAKE PART IN CULTURAL LIFE

43. Concrete measures adopted by the State party to promote and protect the right of indigenous peoples to enjoy their cultural rights

Indigenous peoples/Indigenous cultural communities, by virtue of the Indigenous Peoples Rights Act, are authorized to use traditional and customary rules in order to settle disputes within their tribe.

The following activities all over the country have been approved and are being undertaken by the National Commission on Indigenous Peoples (NCIP) to promote socio-economic and cultural development:

List of Approved Socio-Economic and Cultural Development Projects CY 2004

REGION	SPECIFIC PROVINCE	PROJECT
CAR	Abra	Improvement of Tribal Hall
	Abra	Completion/Painting & Ceiling of Abra Tingguian Center Annex
	Ifugao	Credit assistance to Tribal Communities in Ifugao
	Mt. Province	Construction of Mt. Province Tribal Center, NCIP Provincial Office & Asso. of Barangay Captains Office (Phase II)
	Baguio City	Construction of Cordillera Indigenous Tribes Multi-Purpose Hall/Center
	Kalinga	Gubang Watershed Protection Project

Region I	Ilocos Norte	Purchase of Hand Tractor with Trailer Conversion of Tribal Hall to Museum, Poblacion, Dumalneg Propagation of Grafted Mango Seedlings, Barangobong, Nueva Era Construction of Multi-Purpose Tribal Hall (Phase II), Mangmangga, San Millar Emilio Improvement of Irrigation System, Brgy. Baybayabas, Santiago Cattle Fattening, Sta. Cruz Construction of Multi-Purpose Tribal Hall (Phase I)
	Pangasinan	Financial Assistance to Livelihood Project (Goat Dispersal) in Asan Sur, Sison Financial Assistance to Livelihood Project (Goat Dispersal) in Calunetan, Sison Financial Assistance to Livelihood Project (Cattle Dispersal) in San Nicolas
	La Union	Rice Production Sapdaan, Santol Spring Development Lipay Este, San Gabriel Provision of Farm Implements Porporiket, Sudipen Construction of Multi-Purpose Tribal Hall (Phase I) Linuan, Burgos
Region II	Batanes	IP Youth Training on Heritage Conservation, Province of Batanes Agri-Crops Development Program, Province of Batanes
	Isabela	Goat Dispersal Anonang, Jones Pineapple Production San Mariano IP Communal Shelter Cabisera #10, Ilagan
	Nueva Vizcaya	Construction of Tirepath Sitio Mantata, Macabenga, Dupax del Sur
Region III	Region-wide	Operation Sagip Katutubo for Begging Aetas
	Zambales	Banana Plantation, Bucao, Porac, Botolan
	Nueva Ecija	Farm Input Implements (Farm Tools/Power Sprayer) Calsib, Namulandayan, Lupa
	Aurora	Construction of Payaw (Artificial Fish Shelter) Settlement Of Disigisiw, Dalt Calabgan, Casiguran
Region IV	Occidental Mindoro	Garlic Production So. Ibanig, Brgy. Monteclaro, San Jose Draft Animal with Fam Implements So. Alyanay, Pag-asa, Sablayan Construction of Multi-Purpose Pavement So. Talayob, Nicolas, Magsaysay Child Care Development Program So. Danlog, Monteclaro, San Jose Child Care Development Program So. Mamara, Brgy. Tubili, Paluan
	Oriental Mindoro	Goat Dispersal Project So. Gravida, Brgy. Bugtong na Tuog, Socorro Early Child Care Development Program Brgy. Lantuyang, Baco IP Community Early Childhood Care & Dev't. Tambangan, San Juan Bulalacao
	Palawan	Child Care Development Program So. Maipa, Pancol, Taytay Construction of Multi-Purpose Pavement Brgy. Burirao, Narra Construction of Multi-Purpose Pavement So. Bayanan, Brgy. Baclayan, Puerto Gal Conduct of Medical & Dental Mission (Health & Nutrition Project) Bo. Labog, S Española Construction of Multi-Purpose Pavement Brgy. Ipilan, Brooke's Point Construction of Multi-Purpose Pavement Poblacion, Roxas
	Quezon	Motorized Banca with Fishing Paraphernalia Brgy. Barra, Lucena City Child Care Development Program So. Kalawines, Brgy. Tanauan Real
	Romblon	Farm Implements Brgy. Amatong, Odiongan Construction of Multi-Purpose Pavement Brgy. Tampayan, Magdiwang Child Care Development Program So. Agcalatao, San Isidro, Sta. Maria
	Rizal	Ginger Production So. Makantog, Cuyambay, Tanay Child Care Development Program Brgy. Sta. Inez, Tanay

Region V	Albay	Fertilizer Loan Assistance
	Camarines Norte	Construction of Multi-Purpose Tribal Hall Osmeña, Panganiban Construction of Multi-Purpose Tribal Hall Guisikan, Labo
	Camarines Sur	Corn Production Libod, Tigaon Water Melon Culture Napulidan, Lupi Carabao Dispersal Matagodtod Igbac, Buhi Construction of Multi-Purpose Tribal Hall Caranday, Baao School Supplies Assistance Buhi, Iriga City, Balatan Medical Assistance Buhi, Iriga City, Balatan Water Works Development Project Del Rosario, Ocampo, 2nd District Educational Assistance to College Students Guinaban, Ocampo, 2nd District
	Sorsogon	Provision of Motor Engine Naburacan, Matnog Construction of Multi-Purpose Tribal Hall Donsol, Sorsogon School Supplies Assistance Provincewide
Region VI / VII	Negros Oriental	Support to SLT Program Brgy. Garangan, Calinog Indigenous Craft Making / Handicraft Development Brgy. Tayawan, Caba' Canguhob
	Iloilo	Training on Gender Sensitivity with Perspective for the Tribal Women of the Province of Iloilo
Region X	Misamis Occidental	Dispersal of Draft Animal and Farm Implements Tonggo, Namut, Tudela Medical and Dental Mission Trigos, Ozamiz City
	Bukidnon	Vegetable Production (Irish Potato) Miarayon, Talakag
	Misamis Oriental	Abaca Loom Weaving/Sinamay Weaving Project Mt. Malindawag, Lubilan, Naawan Blacksmith (Manufacturing and Distribution of Farm Implements) Man-ibay, Apo; Claveria
Region XI	Region-wide	Research and Documentation on Conflict Resolution Mechanism
	Compostela Valley	Takong and Butay Handicraft Making Sitio Peli, Pagsabangan & Tadia Bantacan, New Bataan
	Davao City	Bukag Making Sitio Putting Bato, Brgy Baganihan, Marilog & Sitio Kabagaayan, Brgy. Sibulan, Toril Training of Project Implementation, Monitoring & Evaluation (Reorientation Workshop on Project Development) Davao City
	Davao Del Norte	Mat Bag Making Misaoy, New Corella & Asuncion
	Davao Oriental	Handloom Weaving Cateel, Davao Oriental & Anitap, Gov. Generoso Mat Making Anitap, Gov. Generoso
Region XII	Region-wide	IEC on Scholarship Program Support to IP Hospitalization Legal Assistance/Counseling
	North Cotabato	Support to IP Hospitalization/Medicines Provincewide Support/Relief and Rehab of IP Evacuees Cotabato Province Horse Dispersal Dapok, Daig, Tulunang, Cotabato and Agkiragkir, Sinapangan, Libungan, Cotabato (1st & 2nd District) Support to IP Hospitalization/Medicines Midsayap, Cotabato (Regionwide) Farm Inputs/Implements Manobisa, Magpet, Cotabato & Macabenban, Carmen, Cotabato (1st & 2nd district of Cotabato Province)

		Support to Corn Production Karukuan, Alamada Inland Fishing Pigkawayan Inland Fishing Makilala Inland Fishing Tulunan Cattle Breeding/Dispersal Malapang, Aleosan Cattle Breeding/Dispersal Salunayan, Midsayap Poultry Raising Montay, Libungan Support to Red/Green Mongo Production Dakupila, Renibon, Pigkawayan
	South Cotabato	Cattle Breeding/Dispersal Brgy. Lambayong, Tampakan Assistance to Vegetable Production Municipalities of Tampakan, Polomolok, Lake Sebu, Tupi and T'boli Goat Raising/Dispersal Banga, South Cotabato Support to IP Hospitalization/Medicines Provincewide
	Sultan Kudarat	Support/Relief and Rehab of IP Evacuees Provincewide Support to IP Hospitalization/Medicines Isulan Support to Revitalization of Indigenous craft on beads and costume making Tanansang, Palavilla, Lutayan
	Sarangani	Cattle Breeding/Dispersal Lower Mainit, Malungon Goat Raising Alegria, Alabel Support to IP Hospitalization/Medicines Provincewide
Region XIII	Agusan del Norte	Vegetable Production Brgy. La Paz, Santiago Swine Production Doña Telesfora, Tubay Construction of Multi-Purpose Tribal Hall Cabadbaran
	Agusan del Sur	Goat Raising Tagubay, Bayugan Nipa Shingles Production/Nipa Plantation Kiawan, Poblacion Loreto Broiler Production Project Manuwali, Pob. Loreto Spring Development Sta. Maria, Trento Goat Dispersal Coalicion, San Luis Farm Implements Mahagsay, San Luis Agro-Forestry Km. 3, Hawilian, Esperanza Swine Raising Malihog, Bunawan Brook, Bunawan
	Surigao del Norte	Banana Production Baliw, Payapag, Baclag Banana Production Camp Edward, Alegria Banana Production Cama-onan, Gigaquit Banana Production Motorpool, Tubod, Surigao Banana Production Gacepan, Sison Banana Production Tagbasingan, Mat-I, Surigao City Banana Production Marayag, Mainit Multi-Purpose Tribal Hall Brgy. Magtangale, San Francisco
	Surigao del Sur	Agro-Forestry (Abakahoyan) Bantayanan, Awasian, Tandag Goat Dispersal Bagyang, San Miguel Farm Implements Implements Assistance Proj. Brgy. Mabuhay, Tandag Disaster Calamity Assistance Program Tandag (Provincewide)

44. Measures adopted to ensure that Muslims living in the Autonomous Region of Muslim Mindanao have the right to enjoy their own culture and to profess and practice their own religion

The State has embarked on certain attempts to recognize the autonomy of Muslims in Mindanao and their proprietary claims over certain territories in Mindanao, as an indispensable part of the recognition and exercise of the right to self-determination.

In July 2008, news reports leaked of a draft "Memorandum of Agreement on Ancestral Domain" (MOA-AD), entered into between the negotiating panel for the Government of the Republic of the Philippines (GRP) and the panel for the Moro Islamic Liberation Front (MILF).¹²²

The draft MOA-AD has four (4) Strands: Concepts and Principles, Territory, Resources and Governance. A basic feature of the MOA-AD is the clear attempt to establish a framework by which the issue and the struggle of the Bangsamoro need to be viewed and interpreted. It introduces seven basic concepts and principles that the Philippine Government "recognizes" which are:

- a. The GRP recognizes that a Bangsamoro Identity is a birthright of all Moros and IPs of Mindanao;¹²³
- b. The GRP recognizes the Bangsamoro homeland;¹²⁴
- c. The GRP recognizes that the ownership of the Ancestral Domain is exclusively vested in the Bangsamoro people since time immemorial to the present;¹²⁵
- d. The GRP recognizes that the Ancestral Domain is not part of the public domain;¹²⁶
- e. The GRP recognizes the Bangsamoro as "First Nation" with defined territory and system of government;¹²⁷ and
- f. The GRP recognizes the right of the Bangsamoro to determine their future political status by popular consultation.¹²⁸

The document also recognizes the rights of the Bangsamoro to freedom of choice, self-governance of the Bangsamoro, right to a collective identity, parity

¹²² Memorandum of Agreement on the Ancestral Domain Aspect of the GRP-MILF Tripoli Agreement on Peace of 2001

¹²³ Ibid.

¹²⁴ Ibid. "Concepts and Principles." No. 2.

¹²⁵ Ibid.

¹²⁶ Ibid. "Concepts and Principles." No. 3.

¹²⁷ Ibid. "Concepts and Principles" No. 4.

¹²⁸ Ibid. "Concepts and Principles" No. 5.

of esteem, and their vested property rights, including rights over the ancestral domain.

As of Oct. 13, 2008, the Philippine Supreme Court ruled the MOA-AD unconstitutional but a very narrow margin of 8-7. This ruling may have implications on human rights viz. not only the people affected but also of how the Philippine State itself protects the rights of the peoples within its territorial boundaries."

ABOUT ESCR-ASIA

Brief History

ESCR-Asia is a Philippine-based regional organization which has a subsidiary or a newly set-up Country Desk in Islamabad, Pakistan. Established in October 1999, ESCR-Asia started as an exploratory desk of Terre des Hommes-France (TDHF) until September 2002. Formed as an independent regional NGO based in Metro Manila, Philippines, ESCR-Asia, Inc. was formally registered in March 3, 2003. ESCR-Asia, Inc. fills in the gap of addressing economic, social and cultural rights issues not only in the Philippines but in select countries in Asia as well.

Vision/Mission/Goal

Vision Statement

An Asia composed of compassionate, just, equitable, peaceful and prosperous societies where individuals and peoples are empowered and enabled, in partnership with their States, to enjoy and realize all their human rights.

Mission Statement

We commit to serve as an effective agent in the promotion and protection of economic, social and cultural rights of Asian peoples particularly the poor and the marginalized.

Goal Statement

To contribute to the recognition and realization of ESCRs in Asia through appropriate reform measures that would result in changes in attitudes, behaviors and policies of both State and non-State actors towards the promotion and protection of the rights of the poor and the marginalized.

Affiliation:

ESCR-Asia is a member of ESCR-Net and also of the Coalition in the Adoption of the OP-ICESCR.

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