

# **Philippine NGO Network Report on the Implementation of the International Covenant on Economic, Social, and Cultural Rights (ICESCR)**

## **1995 to Present**

Facilitated by the

Philippine Human Rights Information Center (PhilRights), an institution  
of the Philippine Alliance of Human Rights Advocates (PAHRA)

and the Urban Poor Associates (UPA)  
for the housing section

*in partnership with 101\* non-government organizations, people's organizations,  
alliances, and federations based in the Philippines*

in solidarity with the Center on Housing Rights and Evictions (COHRE)  
and Terres des Hommes France (TDHF)

*(\*Please see page iv to vi for the complete list of participating organizations.)*



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## Participating Organizations

Aksiyon Kababaihan  
ALMANA  
Alliance of Progressive Labor (APL)  
Alternate Forum for Research in Mindanao (AFRIM)  
Aniban ng Manggagawa sa Agrikultura (AMA)  
Asian South Pacific Bureau of Adult Education - ASPBAE  
ASSERT  
Bicol Urban Poor Coordinating Council (BUPCCI)  
Brethren Inc.  
Bukluran ng Manggagawang Pilipino (BMP)  
Center for Migrant Advocacy - Philippines (CMA)  
Civil Society Network for Education Reforms - E-Net Philippines  
CO – Multiversity (COM)  
Commission on Service, Diocese of Malolos  
Community Organizing for People's Enterprise (COPE)  
DPGEA  
DPRDI  
Democratic Socialist Women of the Philippines (DSWP)  
Economic, Social and Cultural Rights-Asia (ESCR-Asia)  
Education Network – Philippines (E-Net)  
Families and Relatives of Involuntary Disappearance (FIND)  
Fellowship of Organizing Endeavors Inc.(FORGE)  
FIND – SCMR  
Foodfirst Information Action Network (FIAN-Phils)  
Freedom from Debt Coalition (FDC)  
FDC – Cebu  
FDC – Davao  
Homenet Philippines  
Homenet Southeast Asia  
John J. Carroll Institute on Church and Social Issues (JJCICSI)  
IBASMADC  
IRDF/Task Force Food Sovereignty  
Kaabag sa Sugbo (KAABAG)  
Kahugpungan sa Mindanao (KAMI)  
Kaisa Ka  
Kaisa-ka (Gen Santos City.)  
KAISAMPALAD, A Philippine NGO Network for Food Security and Fair Trade  
Kapisanan ng mga Kamag-anak ng Migranteng Manggagawang Pilipino (KAKAMMPI)  
Kasama Ka  
Kasama Reflexo-therapy  
Katawhan  
Kilusang Mangingisda (KM)  
Kilusan para sa Pambansang Demokrasya (KPD)  
KKM  
KMCG  
KMYO  
Kongreso ng Pagkakaisa ng mga Maralita sa Lungsod (KPML)  
KPML - NCR

Lihok Pilipina Foundation Inc.  
 Likhaan  
 Luzon Community Mortgage Program Peoples Organization Network (LCMP – PO Network)  
 MAKABAYAN  
 MAKALAYA  
 MAGCAISA  
 MAGISSI  
 Management and Organizational Development for Empowerment (MODE)  
 Manila Estero Informal Settlers Alliance (MEISAL)  
 Medical Action Group (MAG)  
 Mindanao Land Foundation Inc. (MLFI)  
 MPSTA/TDC  
 Moro Human Rights Center  
 National Anti-Poverty Commission  
 Negros Alliance of Human Rights Advocates (NAHRA)  
 Nagkakaisang Kabataan para sa Kaunlaran (NKPK)  
 Pamaas  
 PAMAKO-NUBCW  
 Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK)  
 Panagtagbo  
 Panday  
 Panday - QC  
 Partido Manggagawa (PM)  
 PM-Mindanao  
 PILAKK  
 PKKK-Bataan  
 PKKK-Bulacan  
 PKML – CTF  
 Partnership for Rural Reform and Development Services (PARRDS)  
 Partnership of Philippine Support Services Agencies, Inc.(PHILSSA)  
 PATAMABA  
 Philippine Alliance of Human Rights Advocates (PAHRA)  
 Philippine Human Rights Information Center (PhilRights)  
 Philippine Network of Rural Development Institutes, Inc. (PhilNet–RDI)  
 Philnet-Visayas  
 Philnet - Mindanao  
 Philippine NGO Coalition for Food Sovereignty and Fair Trade (PNLC)  
 Philippine Rural Reconstruction Movement (PRRM)  
 PS LINK  
 PSLINK CREO  
 PSLINK – PASAGURU  
 PSLINK – TNHS  
 RISC  
 Samahan ng mga Apektadong Pamilya sa Riles (SAPAR)  
 Samahan ng Nagkaka-Isang Na-Demolis sa Roxas Boulevard  
 Samahan ng Pinagbuklod na Pagkakaisa – R-10 (SAPIPA – R-10)  
 Sancowa/Pamako  
 Sanlakas  
 Sarilaya Inc.  
 Sentro ng Alternatibong Lingap Panligal (Saligan)  
 Samahan ng Kababaihan para sa Kaunlaran (SKPK)

SPPI

Task Force Detainees of the Philippines (TFDP)

Teachers, Inc

Tricom Inc.

TUMC

Ugnayan Lakas ng mga Apektadong Pamilya sa Baybaying Ilog Pasig (ULAP)

Urban Poor Associates (UPA)

Urban Poor Southville Association Inc. (UPSAI)

UWHAD – LK

Visayas Urban Poor Colloquium (VUPC)

Waves Davao

Women's Institute for Sustainable Economic Action, Inc.(WISEACT)

Women's Education, Development, Productivity and Research Organization  
(WEDPRO)

# Philippine NGO Network Report on the Implementation of the International Covenant on Economic, Social, and Cultural Rights (ICESCR)

1995 – Present

## **Executive Summary**

1. In December 2006, the Philippine Government submitted a consolidated document of its second, third, and fourth periodic reports on the implementation of the United Nations International Covenant on Economic, Social, and Cultural Rights. This report, on the other hand, is a product of a Philippine NGO initiative that started in October 2007, facilitated by the Philippine Human Rights Information Center (PhilRights) and the Urban Poor Associates (UPA) for the housing section, that reflects civil society perspective on the situation of these rights and how they could be further respected, protected, and fulfilled by the concerned State Party.

2. Crucial to this NGO process were the three inter-island consultations conducted for peoples' organizations (POs) and non-government organizations (NGO) based in the National Capital Region – Luzon, Visayas, and Mindanao from August 26 to September 10, 2008. The said meetings involving 101 individuals and 72 groups and institutions validated and improved the observations, analyses, and recommendations included in the draft reports.

3. This report was also completed in solidarity and coordination with the Centre on Housing Rights and Evictions (COHRE) and Terre Des Hommes France (TDHF). COHRE also provided comments on the draft text during the writing of this information to the Committee.

4. Most of the observations and analysis on children and women in this executive summary were culled from the respective NGO alternative reports submitted by the Philippine NGO Coalition on CRC in 2008 and by the Women's Legal Bureau (WLB) in 2006 to appropriate UN treaty monitoring committees.

Both NGO reports on women and children were completed through a national consultative process involving various NGOs and peoples' organizations, more than 90 organizations for the CEDAW and 101 civil society groups for the CRC, initiated by these two organizations.

5. During the period covered both by the government and NGO reports, 1995 to present, the country has been saddled with deeply rooted problems of massive poverty, ballooning population partly due to inconsistent policies, disparity between economic classes, lack of jobs and livelihood opportunities, labor outmigration, culture of impunity, corruption, subtle and outright suppression of democratic rights,

foreign and domestic debt, and armed conflict.

The present report provides a detailed elaboration on how these interlocking factors have affected the State Party's compliance with its economic, social, and cultural rights obligations and the consequent enjoyment of these rights by the Filipino people.

6. However, it is also worth noting the implications of the recent escalation of the war in Mindanao due to the aborted Memorandum of Agreement on Bangsamoro Juridical Entity (BJE) and its harrowing effect on the almost half a million people displaced and scores of civilians hurt or killed in the crossfire.

Also during the first half of 2008, the sudden global spike in the prices of food commodities specifically rice and fuel propelled the country's inflation rate to a record high of 12.5 leaving consumers groaning in pain.

7. At this point, this NGO report wishes to convey to the Committee general issues of concern that heavily affect ESC rights in the country.

8. In its 1995 concluding observations, the Committee already noted the status of the Covenant in the country's judicial system and the lack of prosecution powers of the Commission on Human Rights (CHR). Up to now, no policy reform has been adopted to provide CHR with this mandate and even the investigatory authority of the Commission is still limited to civil and political rights violations.

Also up to the present, judges in the country are still generally unfamiliar or uninformed neither on the Covenant's provisions nor on the ESC rights framework, principles, and norms as a whole except for the legal standards for the right to work. This partly explains why despite the Constitution's recognition of these rights, the nation has not yet established either a rich nor even a substantial jurisprudence on these.

On the ground, peoples' organizations and individual victims decry the lack of effective redress mechanisms to exact accountability for human rights violations especially in the field of ESC rights e.g. victims of forced evictions, agrarian-related violence, or abused overseas workers.

9. The Philippine Government has no clear Human Rights Agenda.

Similarly, a careful examination of government programs related to ESC rights like the Accelerated Hunger Mitigation Program (AHMP) would reveal that critical human rights-based elements as defined by the Committee in its General Comments were not or insufficiently considered.

10. The Committee also observed back in 1995 that debt servicing was limiting the resources for basic social services thereby restricting the government's capacity to



fulfill its ESC rights obligations. More than a decade later, the government still insists on honoring all of its liabilities even those reportedly illegitimate and onerous ones and has continued to automatically appropriate a huge chunk of its budget to debt servicing.

In the 2008 budget, for example, debt servicing was allocated P624 B more than twice the funds for education, health, agriculture and agrarian reform, environment, and the military combined. Needless to say, this has been the trend annually even before the Committee made its observations on debt servicing in 1995.

Lack of resources has been one of the main culprits why government's socio-economic and pro-poor programs like socialized housing, micro-finance, etc. always end up as short-term, palliative, limited in scope, and inaccessible to intended beneficiaries.

11. Corollary to this, reliance on foreign loans and funding has rendered the country's economic development strategy hostage, with top leaders and technocrats as willing accomplice, to the neo-liberal impositions of the World Bank, International Monetary Fund (IMF) and the World Trade Organization (WTO).

The negative effects of major WTO treaties on women's rights is said to be extensive. Key national legislations and policies protecting women's rights are in danger of being revoked once they are considered not to conform with WTO rules. Further, given a context where women's work is largely un-valorized and their tasks and roles are usually in the realm of reproduction, it is expected that women will take the crunch in the form of extended and unpaid labor hours when the government abandons its responsibilities in services like child care.

Free trade and liberalization have cast a dark shadow over local industry and agriculture that could not compete with heavily-subsidized imported products flooding the market. While privatization, with its assumed aura of efficiency has penetrated the social goods domain such as water, housing, education, and power transforming these services as commodities instead of entitlements.

The government must seriously rethink its adherence to neo-liberal creed because as this NGO report has shown these policies if applied in a developing country have debilitating effects on people's enjoyment of their ESC rights.

12. Worse, the already inadequate public funds for social services like health and education and for critical infrastructure like roads and irrigation are further reduced in value because of corruption from the highest level of government down to the local government units.

Corruption committed with impunity is so ingrained in Philippine bureaucracy that giving "commissions and percentages" to politicians and public personnel have become an "standard operating procedure" in most of government's transactions.

Even more disturbing is the fact that the public, despite expressing dismay over this, has become so used to this practice that they have accepted it as the norm in government.

One of the most controversial examples would be the reported overpricing of the National Broadband Network (NBN) deal with China's ZTE Corporation by more than \$100 M as revealed by star witness Rodolfo 'Jun' Lozada, one of the project's former consultant . In his testimony to the Senate, Mr. Lozada implicated former Comelec chairperson Abalos and First Gentleman Mike Arroyo in the aborted project which sought to establish a government-run high-speed internet service provider.

Mr. Lozada's credible statements forced Abalos to resign and allegations of the President's involvement stirred public anger that almost brought down the current administration more than a year ago.

13. The government's underinvestment on social services while automatically reserving budget for debt servicing plus its frantic drive towards privatization give credence to civil society perception that the State is **gradually abandoning or passing its human rights obligations to other non-State entities.**

In many instances this has been accomplished in the guise of "decentralization" and "empowerment" of other stakeholders. Like in the case of the education sector, the school administrators, parents, teachers, alumni, and local governments were involved in 'school governance' but in reality they were just being mobilized for fund generation.

14. On the other hand, the reigning culture of impunity manifested by the unresolved extra-judicial killings and enforced disappearances of activists mostly leaders of farmers, workers, and other basic sectors' organizations has further weakened and has a 'chilling effect' on human rights advocacy in the country.

Also, there are many instances wherein state and non-state actors have used violence and harassment in dealing with citizens demanding or protecting their ESC rights like the urban poor dwellers defending their right against forced evictions, farmers fighting for agrarian reform, and teachers and unions asserting their right to better working conditions.

Just a few years ago, the military also started setting up detachments and deploying personnel in some urban areas as part of its anti-insurgency campaign. However, even the legal peoples' and sectoral organizations and leaders became targets of investigation, "invitations for questioning," and monitoring of these soldiers. For them, being vocal about one's rights is reason enough to be in their list of "suspicious" elements in the community.

15. Similarly, the recent enactment of an anti-terrorist law titled Human Security Act has sent reasonable fears among human rights advocates that this could be used by

the government to spy on its citizens and harass legitimate organizations voicing out legitimate grievances and demands.

Furthermore, the government's anti-terrorism campaign as part of its role in the coalition of the willing of the United States has raised the degree of discrimination being experienced by Filipino Muslims.

16. Under the auspices of the Mining Act of 1995, the government is currently fast tracking the entry of large scale foreign mining companies in parts of the country with considerable mineral deposits. However, what are being swept aside are the rights of the indigenous people, 49% of whom are estimated to be women, including their right to self-determination on whose ancestral domain and sacred grounds rest most of the country's natural deposits.

Being sacrificed also in exchange for foreign mining investments are the watershed areas, declared natural parks, forests, agricultural lands, and fishing grounds.

17. In terms of legislation, the country is relatively efficient in enacting ESC-related laws such as the Urban Development and Housing Act (UDHA), agrarian reform law, Generics Act, Indigenous Peoples' Rights Act (IPRA) and many more but sadly most of these laws suffer from lack of resources and promotion, limited application and implementation monitoring and evaluation.

Another hindrance in the full implementation of these laws is the failure of the government to repeal or amend contradicting or inconsistent laws and programs like the Mining Act to IPRA, the National Building Code and Civil Code on Nuisance to UDHA, and many more.

18. The government's labor migration policy which started as a stop gap measure has become a permanent instrument in dealing with poverty and lack of decent job opportunities in the country. Consistently, OFW's dollar remittance has kept the nation's economy afloat no wonder the government, despite its inability to protect its workers abroad, continues to promote overseas employment among its citizens desperately looking for work.

19. Based on the issues associated with the government's compliance with its ESC rights obligations as discussed in this report, the Philippines would most likely fail to deliver its commitments under the Millenium Development Goals (MDGs) specifically on *eradicating hunger, achieving universal primary education, promoting gender equality and empowerment, reducing child mortality and improving maternal health.*

20. The following are highlights of each section in this report devoted to a particular right or topic:

## **On the Right to Work**

21. Statistics show an unemployment rate of 8% in April 2008. There is also a significant portion of the underemployed - 6.7 M which consists 37% of those employed. The number of self employed comprises 10.6M or 31.5% of the workforce.

Noting an increase in the labor force participation of women, the alternative report on the CEDAW posits that the “feminization of the labor force” can be largely attributed to rising demand for women’s cheap labor and not to the actions on the part of the State.

The usual employment of women continue to be extensions of their social reproduction roles including cooks, babysitters, and educators, among others.

22. The Technical Education and Skills Development Authority created in 1994 to spearhead the provision of training to workers is now more focused on training Filipinos for skills that are highly desirable abroad. It has become more of an accreditation agency for workers wanting to go abroad rather than training.

23. The minimum wage system was established to ensure the security of workers and their families but now there is a significant discrepancy between the minimum wage rate and the amount needed to sustain a family daily. Thus, making minimum wage insufficient for an average-sized family to live decently.

24. Worse, many establishments do not pay minimum wage and get away with it because of weak inspectorate system. Also exempted from paying minimum wage are establishments hiring apprentices, learners, disabled workers, workers in retail and those regularly employing less than 10 workers.

25. Discrimination remains to be a huge problem in the workforce. Currently there are no provisions in the Constitution specifically to protect Muslims and LGBT community. And while there are provisions that protect women, they still suffer from discrimination in the form of harassment from male counterparts, being relegated to minor positions, and being deprived of opportunities for advancement and promotions.

26. A disturbing trend in the labor sector is the common practice of employers to hire contractual workers either directly or through employment agencies because this provides them legal excuse not to give permanent status with corresponding benefits to most of their workers. Most of these contractual workers are hired in big shopping malls, fastfood chains, and other service establishments.

These trends of contractualization, on-the-job trainings, and casualization exploit women’s cheap labor especially given the shift of women’s participation on the labor force from the formal to the informal employment sector.

27. While the Constitution clearly recognizes the right to organize, in practice, union workers suffer from discrimination and harassment from their employers. Union leaders are often pressured to comply with company regulations or be faced with legal charges. Many have also found ways to circumvent this right by the use of “kept” unions which are controlled by employers rather than workers.

28. Reforms are still needed to ensure that work conditions respect the dignity of workers, especially those vulnerable to discrimination and abuses which the government ignore for ‘higher economic interest’. These include looking into the conditions of Special Economic Zones (SEZ), where production targets often compromise workers’ welfare and the need for foreign investment jeopardize workers’ right to unionize.

Workers in designated Special Economic Zones work under an unofficial but widely acknowledged policy of “no union, no strike” implemented by SEZ authorities and local government authorities.

29. Employees must know where they can let out their grievances and an efficient and impartial redress mechanism should be put in place to address abuses. Current legal procedures for this often take years, with no guarantee of fair results. Abused workers are forced to endure their situation just to keep their jobs because employers know that many unemployed are waiting to take over their position once they resign.

30. Philippine law provides for minimum conditions on occupational health and safety which are applicable throughout the country but no reliable numbers are available regarding compliance. Nonetheless, the occupational health and safety situation in the Philippines is far from being admirable.

31. While the Philippines has a system of inspections to check employer compliance with labor laws, it is now government policy to routinely suspend these inspections and not allocate sufficient resources for its efficient and effective operation.

### **On the Rights of Migrant Workers**

32. The tremendous increase in the number of Filipino workers deployed abroad in the last few years manifest the worsening employment, unemployment, underemployment, contractualization and consequent poverty in the Philippines.

This also proves that the government’s labor export policy violates the right of its citizens to a freely chosen work because for many Filipinos, working abroad is a desperate measure of survival.

33. In 1995, the Committee already called on the attention of the government regarding the situation of OFWs especially women but up to now, increasing number of women working as domestic workers, entertainers and caregivers abroad are still

exposed to various forms of gender abuses especially in restrictive societies.

The alternative report to the CEDAW cited 2002 labor statistics which indicate that women consist of 73% of the total migrant labor work force. They are usually employed as domestic workers, entertainers and caregivers. This signals the feminization of labor migration, excluding the undocumented women OFWs.

This trend exposes women to abuses including trafficking and maltreatment given that the government has failed to extend protection to women who are leaving the country to find employment abroad.

34. The Committee also noted the social costs of massive labor exportation such as family disintegration and juvenile delinquency but up to now these are very real concerns because no significant step was taken to address these.

35. It is also unsettling to note that while the government aggressively markets OFWs, the Department of Labor and Employment (DOLE) and Department of Foreign Affairs (DFA), particularly foreign posts are unable to provide sufficient protection to them, especially onsite and where they are concentrated.

36. Government education and information dissemination programs such as the Pre-Departure Orientation Seminar (PDOS) on the rights of OFWs have been proven to be ineffective and limited in reach and scope.

37. The Overseas Workers' Welfare Administration (OWWA) despite it being a government agency is not receiving public funding but instead collects 25\$ for every departing OFW as membership fee and for social insurance. However the agency's board decided without consulting its members to suspend the provision of such benefits to build up OWWA's fund.

Also, a survey conducted by the Center for Migrant Advocacy (CMA) among 400 OFW respondents revealed that there was low awareness among OFWs on OWWA programs meant to assist them and their families, only 7% of respondents have utilized these, and only 5% stated that these adequately met their needs.

38. So far the country has forged bilateral labor agreements with receiving government but these are mostly limited to deployment arrangements for seafarers and deployment and recruitment procedures for landbased workers.

However it is very important for the government to forge agreements including multilaterals that clearly recognizes rights of OFWs and set-up protection mechanisms with as many host countries and cover as many types of OFWs as possible to better protect them from abuses.

The government should persevere to dialogue with host countries to make them equally committed to protect, promote and fulfill the rights of migrant workers.

Effective enforcement of government policies also requires the cooperation and commitment of host countries.

### **On the Right to Social Security**

39. As of now, the government provides the following forms of social security but mainly to formal workers: medical care, cash sickness benefits, maternity benefits, old-age benefits , invalidity benefits, survivors' benefits , and employment injury benefits.

40. Informal workers,including homebased workers, vendors, small farmers and fisherfolk, and many more, enjoy very little social protection even if they comprise 76% (26 million) of the total employed population.

41. Housewives, domestic workers, and other working women who are mostly in the informal economy or in overseas employment also have very limited access to social insurance and other forms of social protection compared to actual need.

42. Only 8 million out of the 27 million members of the Social Security System (SSS) are able to sustain and pay their monthly contributions. There is also a big drop in PhilHealth payments among the ranks of individually paying members, among whom informal workers are largely categorized. These have serious implications on sustainability and continuation of benefits.

43. Government agencies and corporations providing social insurance and protection need to be democratized by including in its leadership representatives(both women and men) of workers (both formal and informal) and other relevant basic sectors accountable to their constituencies. They should also be transparent in their transactions, operations, and financial records.

44. Needless to say, social insurance and protection schemes should be expanded to extend more and better benefits and packages (unemployment, maternity, occupational and reproductive health, etc.) and include as members more women, informal workers, government volunteers such as barangay health workers, and other marginalized groups belonging to the working poor and the ultra poor. This warrants a strong support logistically and financially from different levels of government. Such support should also be extend to indigenous and community-based social protection initiatives.

45. Social security and economic security go hand in hand. More resources should go into labor market and social development programs to create sustainable employment and an empowering community environment that will enable a healthy and educated citizenry to commence and to continue participating in social insurance and other social protection schemes.

**On Children's Rights** *(from the 2008 Alternative Report of the Philippine NGO Coalition on the CRC )*

46. It is important to note that the 1995 Concluding Observation of the Committee on Economic, Social and Cultural Rights specifically mentioned its concern on the areas of protection of children's rights against sexual and economic exploitation, and children's rights to education, health and housing.

47. Some of the salient findings of alternative report on the CRC which is congruent to the present alternative report are that the macro-economic policies of the Philippine Government have negatively affected the rights of children, and the children's sector has been largely neglected in the crafting of these policies. The much touted economic growth does not necessarily translate to improvement in the lives of children.

48. One of these policies which adversely affect children include the reliance on overseas labor migration of the economy which has deprived them of fundamental support system without safety nets to protect them from the negative effects of parental absence. Sexual abuse, including incest between fathers and daughters has been reported as the most common form of child abuse.

Another harmful strategy is the aggressive promotion of tourism which has exposed children to the dangers of sexual exploitation.

49. Generally, relevant to the Economic, Social and Cultural Rights of Filipino children, the CRC alternative report posited that children from poor and impoverished regions suffer from lack of access to quality education, health and other basic services. This clearly highlights the fact that the ESC rights of children are continuously being violated.

50. Specifically, on the right to food, the 2003 National Nutrition Survey revealed that 18% of Filipino children from 6,683 households have reported missing meals because there was no money to buy food.

51. Children's right to health and quality basic education are not being prioritized given the inadequate funds allocated to health and education sectors.

52. On the economic and sexual exploitation of Filipino Children, the 2003 Functional Literacy Education and Mass Media Survey (FLEMMS), revealed that among the top reasons why children do not attend school is search for employment which has exposed them to dangerous situations including trafficking and working in hazardous environment, among others.

Further, a National Survey on Children in 2001 showed that there are 4M economically active children belonging to the 5-17 age bracket. Of this, 60% or 2.4M were exposed to hazardous work environments. The status of children working in



the informal sector remains hidden and unknown. These are the unrecognized and unregulated small-scale economic activities which includes activities that expose children to hazardous environments.

53. Moreover, an NSO Survey in 2000 reflected that 240,000 children were employed in private household. A non-government organization working with children in domestic work, the Visayan Forum said that there are at least 1M Filipino children under the age of 18 who are working in domestic settings.

54. On the issue of children victimized by trafficking, the present lack of monitoring and documentation system specific to trafficking makes it difficult to determine the actual extent of child trafficking in the country. However, estimates pegged that there were 60,000 to 100,000 prostituted children in the country.

55. A recent development on this matter is the proliferation of cybersex which is considered as a billion-dollar underground industry. The Optical Media Board (OMB) confiscated sex video materials shot in the Philippines where Filipino children were employed as “actors”.

56. Violence also mars children’s enjoyment of their ESC rights. Children have reported experiencing corporal punishment, including humiliating and degrading treatment in the home, schools, work place, in residential care and juvenile rehabilitation centres. Corporal punishment has resulted either in death, injury, low self-esteem or aggressive behaviour. It stifles children’s initiative, creativity and critical thinking. Students lose interest in going to school out of fear and humiliation or decide to transfer to other schools.

Children are especially vulnerable in the home because of the widespread belief that children are the properties of their parents to do with as they please and that children learn when they feel and experience pain. This shows lack of respect for children’s dignity and physical integrity as human beings and violates their rights. Hence there is a need for an explicit law prohibiting corporal punishment and other degrading treatment in home, schools and other settings.

57. Some of the recommendations of the Philippine NGO Coalition on UN CRC include: provision of budget allocation for the implementation domestic legislation related to children’s rights, and the enactment of protection laws including one specific to child pornography and corporal punishment. It is also calling for crafting of mechanisms to regulate operations of internet cafes and tourism institutions in relation to child trafficking and sexual exploitation.

58. Meanwhile, on the matter of children’s exposure to hazardous work and environment, the Philippine NGO Coalition on the UN CRC coalition is calling for a deeper look into the situation of children working in the informal sector.

## **On the Right to Housing**

59. The government in 2003-2008 made history by staging the largest eviction operations ever done in the country when it relocated approximately 40,000 families from the North and South railroad tracks. Northrail evictees were given in-town relocation while Southrail families were given distant resettlement.

Both in-town and distant resettlements were ill-prepared and inadequate. Only around half of all evicted railroad families from 1996 to 2008 were relocated.

60. Despite the various government housing financing policies and programs, the poor and the marginalized sectors in urban and urbanizing areas have either no or very limited access to adequate and decent dwellings.

61. The proliferation of slums and the large number of urban poor families without secure housing tenure underscore the high cost of legal and formal housing and the short supply of government-subsidized or assisted housing in urban areas.

62. Most of the government's current housing programs are aimed at providing houses to middle/high income and low-income while only a small part of the housing budget goes to low-income families or households, including the Community Mortgage Program which is inexpensive and has an excellent track record of eventually recovering costs in the long term.

63. Existing legal protection mechanisms of the urban poor against forced evictions such as the Sec. 28 procedure of the Urban Development Housing Act (UDHA) and the designation of the Presidential Committee for the Urban Poor (PCUP) as clearing house of demolition operations are largely ignored by implementing agencies especially by the Metro Manila Development Authority (MMDA). No official has been sanctioned or penalized for violating these laws or policies.

64. Nearly one fourth or 25% of the evictions carried out were violent, injuring scores of urban poor and some of them were even arrested. During demolition operations, children, women, and elderly suffer the most. Children were traumatized and many stopped attending school while pregnant women gave premature births or lost their babies. The elderly were reduced to living without shelter, exposed to the sun, rain and cold, endangering their health.

65. Proclaiming lands for socialized housing is good and should therefore be continued, however, post proclamation implementation mechanisms and adequate funds should be provided for the full development of these communities.

## **On the Right to Food**

66. A Social Weather Station (SWS), an independent research institution, survey revealed that involuntary hunger was experienced in varying degrees from 1996-

2008. The latest report in July 2008 stated that 2.9 million or 16.3 % families experienced involuntary hunger at least once in three months (April-June 2008). This is 4 % higher than the ten-year average of 12. 1 % (June 1998 – June 2008).

67. The official ESC report did not bring up the absence of an enabling law recognizing the right to food of Filipinos and the lack of or misallocation of public resources devoted to agriculture and agrarian reform that would have boosted productivity and ensured sustainability and availability of food products.

68. Thirteen years after the Committee, in its concluding observations, prompted the government to fast track the completion of the agrarian reform program, the implementing agency is still unable to meet its target with more than a million hectares of private land yet to be distributed to farmer beneficiaries.

In the implementation of the Comprehensive Agrarian Reform Program (CARP), women comprised only 23% of the total agrarian reform beneficiaries. Their names were included in land titles by virtue of their marriage to male farmers.

69. Worse, a peasant NGO documented from 2001 to the present, a total of 415 agrarian-related human rights violations of which 41 were cases of summary killings against farmers and their families.

70. After ten (10) years of WTO membership and twelve (12) years after the forging of the ASEAN Free Trade Agreement (AFTA), the country has not felt the promised economic prosperity of liberalization but instead suffered the opposite. The Philippines has turned from a net agricultural exporter to importer by the mid-1990s, the only ASEAN-4 with this experience

71. In fisheries, according to Tambuyog Development Center (TDC), the export-oriented nature of the country's industry negatively affects Filipino's right to food. The Philippines trade the best fishery products and import fish to supply canneries and the aquaculture sector.

### **On the Right to Health**

72. In the course of the implementing national policies to improve the health situation of the country, gaps and inequality of distribution of health services has been reflected in national statistics and research studies of various non-government organizations.

73. The Filipinos' access to health services remains poor while prices of drugs and medicines remain high.

The issue of the migration of health professionals continues to ail the nation. From 1999-2003, Philippines produced only 27,342 nurses while exporting 56,000 during the same period. With the exodus of health professionals abroad the following

personnel to patients ratio increased: 1 doctor to 29,318; 1 nurse to 18,765; 1 dentist to 47,338.

74. Even if statistics report a significant decrease in the Infant Mortality and under Five Mortality Rates, the Philippines remains comparatively higher from other countries in the region. In 2003, the Philippines Infant mortality rate was at 29 for every live births, compared to lower rates from six Asian countries such as Vietnam with only a rate of 19, Singapore with only a rate of 3, and Brunei with a rate of 5.

75. Meanwhile, Maternal Mortality Rate (MMR) has declined. In 1993, MMR has reached 209 and has decreased to 162 in 2006, however it is far from reaching the MDG target of 52 maternal deaths per 100,000 live births.

The 2003 statistics on maternal mortality rate of 107 deaths per 1,000 live births is deemed as unacceptably high compared to the other South East Asian neighbors by the alternative report on CEDAW.

76. According to the 2003 National Demographic and Health Survey (NDHS) of maternal services, women categorized under the lowest quintile receive the least health assistance during delivery, 68.9% of them are being assisted by 'hilots' or traditional health provider. Only 8.6% women from the lowest quintile while 73.2% of them from the highest quintile receive assistance from doctors during their delivery.

77. Filipino children also continue to suffer from undernutrition. Based on the 2003 Food and Nutrition Research Institute (FNRI), infants from 6 months to less than one year has a 66.2 percent prevalence rate for anemia. While, increase in the prevalence of vitamin A deficiencies of children from 6 months to 5 years were reported, from 35.3 percent in 1993 to 40.1 percent in 2003.

78. The NGO report on health revealed that families in rural communities have less access to basic health services, hospital care facilities, medicines and in terms of health personnel assistance. Majority of government doctors and nurses are concentrated in the National Capital Region.

79. It has been the practice of private hospitals to ask for cash deposit from patients even during emergency cases and detain those who could not pay their bills. The legislative has already addressed these practices by passing appropriate legislations prohibiting both acts but so far, no implementation report has been released.

80. In actual terms, the actual minimum spending per person per year for basic, life-saving services is only about 140 pesos. This falls short of the WHO estimate for health spending per person, which is around 35 dollars or 1,575 pesos.

81. A pending bill in Congress that seeks to provide information and access to both natural and artificial family planning methods to Filipino couples is currently being blocked by the powerful Catholic hierarchy in the country.

While the debate is raging on over this proposal, the executive branch could not intervene effectively due to its inconsistent position on the population issue because of its political interest which could be jeopardized if it goes against the crusade of the Catholic clergy.

According to the alternative report to CEDAW, the government is clearly compromising, or worse, surrendering women's enjoyment of their rights by virtue of accommodating the Catholic church and other conservative allies given the absence of a national legislation on reproductive rights.

The report further assessed that the government is over-privileging natural family planning by failing to support modern contraceptives as a violation of Article 16 of CEDAW.

82. Reliance on private sector financing of health services has also led to treating health services as a commodity. The result is that almost 50% of health spending of Filipinos is through out-of-pocket payments. This is against the dismal 16 percent and 14 percent covered by the national and local government, respectively.

### **On the Right to Water**

83. Continuity and availability of water services still evades many Philippine households. In some areas, water flow is available only at particular hours at night, translating into a heavy burden for women upon whom the task of collecting water for the next day's usage requirements is often relegated.

84. Although there has been an improvement in the safety levels of water provided for public consumption since the 1990s, morbidity and mortality rates deriving from water-related diseases still leave much room for improvement. Between 1994 and 2000, 31% of illnesses in the Philippines were traced to water-related diseases.

85. Recent studies estimate the percentage of Philippine households with access to water services to be at around 80% nationwide in 2006, thereby indicating no improvement from previous statistics which pegged the percentage of the population with access to potable water also at 80% in 2002.

86. The overlapping functions of different agencies supposedly regulating and protecting water sources and use have resulted to weak management, inefficient data collection and management, and inconsistent policies in water activities.

The absence of an independent regulatory body overseeing both resource and economic regulation of the water sector has also hindered significant progress in the distribution and conservation of water.

87. A comprehensive assessment of the water privatization in Metro Manila must be carried out to determine whether privatization has improved service delivery or

ended up doing the opposite.

Such review should also factor in the effect of privatization on the access to water of the poor and marginalized families and communities.

### **On the Right to Education**

88. The current Philippine education system's success is dramatically over represented by the governments UN ESCR report, which ignores or downplays glaring failures in the very structure of the education system, which is considerably underfunded, fraught with corruption, and increasingly ineffective and not responsive to the emerging learning needs of children and youth.

89. In reality the right to education of the Filipinos has been historically and still being violated in relation to accessibility, availability, equity in access and quality. In fact, the state of the education sector in the country has been on a continuous and alarming decline over the last decade. This is a compounded result of neglect on the part of the Philippine government to address the issues confronting the education sector over the years.

90. Neglect of the education sector is reflected in relevant statistics including the increasing numbers of illiterates, decreasing participation and performance of boys in school, the downward trend with less school age student participating ever year; declining survival rate; and the consistent drop in the completion rate through the years.

91. For children, young adults and adults who have received no education or who have failed to complete their primary education, there are appropriate programs designed to educate them during later stages in their lives are almost non-existent. The limited programs being funded by the DepEd are even threatened by little funds and poor monitoring and management.

92. Government resources for education including teachers, books, learning materials and classrooms could not keep up with the dramatic increase in student enrollment especially in the secondary level in public schools. This swelling of student population in government schools was mainly due to two factors; the bulging general population and the influx of students from private to public institutions due to economic woes. Every year, the education budget increases only by 2% while school population increases by 2.5%.

93. The fact that teachers in the Philippines have, on average, been under paid and under qualified for their role as educators is a main factor contributing to the decline in performance of the Philippine primary and secondary education system. Teachers have to pay for their own professional development while teacher development programs provided by the government are limited to those who are up in the hierarchy of the bureaucracy.

## **On Resource Allocation**

94. Much of the policy constraints which prevent the government from strategically resolving poverty were due to the debt problem, which compromises both public financing to social services linked to human rights and the sovereign determination of development direction.

95. As of end-August 2007, the National Government (NG) outstanding debt was pegged at P3.871 trillion pesos or US\$81.91 billion. This translates to P 43,649.57 liability per Filipino with each individual coughing P 7, 012.12 yearly just to service the national debt.

96. The automatic debt servicing provision contained in Section 26(B), Book VI of the 1987 Revised Administrative Code (Executive Order 292) contradicts Constitutional mandate of reserving the highest budget allocation to education. Furthermore, this policy heavily limits public spending on other essential social services like health, housing, and agriculture.

97. An equally important aspect of the debt issue which should be looked at are the conditionalities imposed by International Financial Institutions (IFIs) and bilateral financial institutions on southern countries like the Philippines.

98. These conditionalities were attached from loans meant to rescue the government from fiscal quagmires which lenders took advantage of to make the government swallow painful, industry-wide “reforms” acquiescent with the paradigm of neo-liberal globalization – that of liberalization, deregulation, and privatization.

99. The imposition of conditionalities as part of the loan violates the international precept of sovereign development. Northern countries dangle their foreign financing in order to meddle into the policy directions and strategies of the Southern states. This effectively constitutes a transgression of the right to “self-determination”.

100. It is also important that the government lead the way in pressuring lender states into giving “policy space” to Southern nations with which they can exercise their right to sovereign development and end their domestic misery. This can be done in the form of debt cancellation and the recognition that not all debts being claimed to and paid by Southern governments are legitimate.

## **General Conclusion / Recommendations**

101. Based on the information, cases, and statistics cited in this NGO report, clearly, the Philippine government has adopted policy directions and taken steps that either undermine or, on the other hand, neglected the ESC rights of its people.

It has failed to respect, protect and fulfill the ESC entitlements of its constituency and therefore it is in breach of the ESC Covenant.

102. Social goals such as the MDGs, the Philippine Plan of Action for Nutrition, Habitat Agenda, Education for All, and many more which the government has set or committed itself to were either already missed or would most likely remain undelivered.

103. Most of the Committee's 1995 Concluding Observations addressed to the Philippine government were unheeded or received token compliance.

104. Based on these observations, this NGO report proposes the following in the interest of strengthening ESC rights recognition and realization in the country:

105. The Philippine government should adopt a policy and implement it stating its commitment to play a central and active role in terms of ESC rights fulfillment of its people.

106. Reform the mandates of existing human rights and redress mechanisms such as the Commission on Human Rights, Ombudsman, Commission on Audit, Presidential Committee on Human Rights, and anti-graft bodies to give them appropriate powers and make them more independent and insulated from politics.

Meaningful civil society participation in these bodies' processes and activities should also be ensured.

107. Make sure that national programs and policies are implemented down to the barangay level, e.g. utilization of Gender and Development budget. This could be done through efficient and strict monitoring and regular assessments.

108. Pursue an economic framework that focuses on sustainable domestic production and not solely on providing services especially abroad.

Similarly, implement an economic development action plan which will create decent jobs available domestically thus making employment abroad a choice and not a painful decision.

109. Prioritize basic services and agriculture development in the national budget and reallocate chunks of the budget originally intended for debt servicing to these. Public spending for social services should be aligned with internationally and locally recommended standards such as the WHO prescription of 5% of GDP for health.

Instead of automatically appropriating a huge portion of the annual national budget to debt servicing, the government should do this for basic services.

110. Enact ESC-related legislations on reproductive health, social pension for the elderly, anti-prostitution, patients' rights, mandatory food labeling, domestic reflection of Precautionary Principles, Magna Carta for Women, among others.



111. Conversely, repeal or amend existing laws, policies, local issuances that weakens, violates, and impedes human rights like the anti-terrorism law or the Human Security Act, Mining Act of 1995, National Building Code, etc.

112. Conduct a participatory and transparent review of multi-lateral and bilateral agreements entered into or will enter into by the government. Ensure that these are in consonance with human rights standards and principles.

In the meantime, install temporary measures to protect the poor, migrant, IP and Muslim population especially children and women from ill effects of globalization.

113. Adopt measures that will strengthen ESC rights justiciability and establish corresponding accessible legal venues.

The Commission on Human Rights' (CHR) mandate should be expanded to cover ESC rights and it should deputize civil society HR defenders who will conduct monitoring, documentation, and visitation. CHR should also be given quasi-judicial powers to hold various actors accountable for human rights violations.

Another laudable effort is the recent Access to Justice Forum convened by the Supreme Court that recommended among others the designation of special courts for ESC rights violations and the inclusion of ESC rights in the continuing education for legal practitioners.

114. Another important step is the massive education and information campaign on ESC rights for State officials and personnel especially those agencies whose mandates are directly linked to ESC rights.

115. Extension of the Writ of Amparo to forms of ESC rights violations such as forced evictions and forced entry of mining operations in communities.

The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

116. Withdraw military personnel deployed in urban areas.

Strict observance of International Humanitarian Law (IHL) provisions prohibiting establishment of military encampment and conduct of military operations amid civilian population as these affect their enjoyment of their ESC rights.

As much as possible, minimize effects of armed conflict on civilian residents.

117. The specific recommendations for each ESC right or topic covered in this report could be found at the tail-end section of the following reports.

## Right to Work

*Prepared by Sentro ng Alternatibong Lingap Panligal (SALIGAN), a legal assistance center.*

### General Employment Situation

As of 2008, unemployment remains high although evidencing a decrease since 2005. At least one expert explained that this is mainly because the National Statistics Office (NSO) switched to the International Labor Organization (ILO) definition of an unemployed starting in 2005. Nevertheless, even under the new definition, underemployment has dramatically increased, indicating the failure of the government to foster an environment that will create, sustain and enhance local decent employment.

Table 1

	Unemployment rate:	Underemployment rate:
<b>1998:</b>	13.3%	21.8%
<b>1999:</b>	11.8%	22.3%
<b>2000:</b>	13.9%	21.7%
<b>2001:</b>	13.3%	17.2%
<b>2002:</b>	13.9%	17%
<b>2003:</b>	12.2%	17%
<b>2004:</b>	11%	17.6%
<b>2005:</b>	11.3%	
<b>2006:</b>	8%	
<b>2007:</b>	7.4%	
<b>April 2008:</b>	8%	

A private study found that the underemployed are estimated by government to be 6.7 million (37.4 percent) and the self-employed, 10.6 million (31.5 percent).

Table 2

Status	Number	as % of Employed
Unpaid Workers	4 million	12%
Working less than 40 hr/week	12.3 million	35.5%
Underemployed	6.7 million	37.4%
Self-Employed	10.6 million	31.5%

A private study finds that the job creation of the country has been dismal in relation to the Medium-Term Philippine Development Plan (MTPDP) target and worse, it is even declining.

Table 3

Year	Actual Job Increment	MTPDP Target
2004-2005	700,000	1.6 million
2005-2006	648,000	1.6 million
2006-2007	599,000	1.6 million

A large part of the government's failure to create jobs lies in its inability to address corruption, inefficiency and red tape. In the latest 2008 IFC-World Bank Doing Business Survey, the Philippines continued its decline in ranking, ending as 133<sup>rd</sup> out of 178 economies surveyed.

While a handful of local governments have shrugged off the sluggishness of the national government and have simplified the procedures implied by doing business, the IFC still noted the failure of the national government to formulate concrete measures to address excess bureaucracy and corruption. In particular, the government's lack of implementation of the Anti-Red Tape Act despite being signed into law June of 2007.

Aside from lack of jobs, the labor sector is also burdened by the fact that existing jobs are tenuous at best, leaving many workers jobless after only 6 months of employment.

Consequently, the number of workers in the informal sector has increased. According to the Department of Labor and Employment (DOLE), **workers in the informal sector have gone up to 14.7 million in 2006, making up 45 percent of the total number of employed.**

Table 4

Year	Number	As % of employed
2004	13.5 million	42.8%
2005	14.5 million	44.8%
2006	14.7 million	44.6%

However, despite the huge number of informal workers, the government has no policy of social or economic protection for them. Instead the opposite is being done by the Metro Manila Development Authority (MMDA) led by its chairperson Bayani Fernando, countless vendors, transport workers and similar workers in the informal sector have lost their livelihood without due process and any viable alternative.

In relation to the participation of women in the labor force, Prof. Myrna Feliciano observed the following:

Female labor participation rates (FLPR) have also steadily increased in the last decade but remain to be lower than the participation rates of males. In 2003, men dominated the construction, mining, quarrying, agriculture and transport industries. The women dominated the health and social work, education, and other service sectors. This has always been the pattern of work distribution in the formal sector between men and women, which can be traced to the persistence of traditional beliefs and practices about appropriate masculine and feminine roles.

With highly sex-stereotyped distribution of employment and occupations, it is easy to understand how men and women had been affected by trade liberalization and export-oriented policies of the government. The shift from industrial protection to more liberal foreign investment policies also altered the level and composition of the manufacturing sector. The decline of the agricultural and manufacturing sectors has coincided with the growth of the service industry, providing more job opportunities to both sexes, particularly women. In general, men have been absorbed by the transportation, storage, and communications sectors, and to some extent, the wholesale and retail trade. More women, on the other hand, have entered the community, social and personal services as well as the wholesale and retail trade.

The labor force remains predominantly male. This can be attributed to the relative ease that men are absorbed into the labor force and the quality of jobs women get. The actual number of employed males has increased faster than females. This implies that in actual number, more men are being absorbed in the labor market than women. Also, while women increasingly participate in the labor market, they still comprise the majority of the country's unpaid family workers who are usually found in home-based industries and in family-run farms and business. On the other hand, men constitute majority of the waged and salaried workers.

Another barrier that women encounter in joining the labor force is the gender typing of occupations. Apart from wholesale and retail trade, and community, social and personal services, all other industry groups are male dominated. This unbalanced composition of workforce has not changed much. Within certain industry groups, gender typing of the work to be performed still exists. In the manufacturing sector, where there is a relatively equal participation of men and women in terms of percentage employed, women tend to be concentrated on labor-intensive section such as assembly, post-assembly/finishing and administration while men are engaged in more skilled jobs. This delineation of roles results from the perception that women, compared to men, are more patient and possess a high level of concentration which enable them to carry out monotonous and repetitive tasks. These perceptions, coupled with the cultural norms that condition women into accepting subordinate positions in male-dominated society intensify the continuing existence of gender stereotyping in manufacturing industries.

(M. Feliciano, Laws On Women And Children, A Report for the EU Access to Justice Project, 2008)

Meanwhile, the Philippine Constitution prohibits slavery and this is reflected in statutory law (Civil Code), meaning Filipino workers have the freedom to choose employment. In addition, there are provisions in Philippine labor laws prohibiting discrimination based on sex.

However, there are prevailing conditions which effectively force Filipino workers into employment which they would not otherwise choose or stay with. Knowing that other workers are waiting to take over their job regardless of the working conditions, Filipino workers make do with their current jobs despite no guarantee of tenure and little protection by way of labor standards and social welfare.

Employers have also begun to demand bonds or promissory notes from employees to ensure continued employment. Although inconsistent with Philippine law, this practice is prevalent and is yet to be challenged before the courts.

There are also some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, domestic service, and other areas of the informal sector. Generally, enforcement of legal guarantees is hampered by (1) restricted access to legal representation due to cost, (2) complicated labor dispute resolution system and (3) legal system plagued with delay and corruption. It is common for labor cases to remain unresolved for more than 5 years. In the end, rather than demand recognition of legal rights, Filipino workers would often just endure substandard conditions of work.

### Technical/Vocational Education in the Philippines

Technical education of Filipino workers is principally entrusted to the Technical Education and Skills Development Authority (TESDA), established through Republic Act No. 7796, the "Technical Education and Skills Development Act of 1994."

By its own account, a major thrust of TESDA is the formulation of a comprehensive development plan for middle-level manpower based on the National Technical Education and Skills Development Plan which maps out a national training program that includes apprenticeship, dual training system and other similar schemes.

Overall, TESDA formulates manpower and skills plans, sets appropriate skills standards and tests, coordinates and monitors manpower policies and programs, and provides policy directions and guidelines for resource allocation for the TVET institutions in both the private and public sectors.

From its inception, however, the TESDA has yet to measure and inform stakeholders just how far it has gone to reach its goals.

It is commonly held by workers and workers' groups that TESDA has evolved as a source of accreditation rather than training because it is now part of the government machinery presently focused on sending more Filipinos abroad as Overseas Filipino Workers (OFWs). This is reflected in the courses primarily held out by TESDA to interested workers. Apart from the government auspices under the TESDA, technical education of Filipino workers has long been sought through the various skills development and enhancement provisions of the Labor Code which allows the employment of so-called *apprentices* (in highly skilled occupations) and *learners* (in non skilled work).

Through tax incentives and exemptions from payment of minimum wages, employers are encouraged to engage apprentices and learners to develop skills needed for employment. The government has yet to monitor and report just how many secured local jobs this system has generated.

In contrast, it has been widely found that employers deliberately misclassify jobs as appropriate for apprenticeship or learners so as to avoid paying correct wages. Thus, apprentices and learners get lower wages for doing regular work. An examination of the list approved by the Department of Labor and Employment of apprenticeable jobs readily shows the abuse of this classification to the prejudice of workers. For instance, considered apprenticeable are knitters, shop tailors etc.

One issue being raised with TESDA is its move to provide more globally marketable courses and less skill driven ones. Currently, call center trainings are being prioritized and traditional classes like carpentry, others have been eradicated.

### Discrimination in the Workforce

Philippine Constitution and law expressly prohibit discrimination based on sex, race, or religion. This protection is carried over into administrative practices but are impeded greatly by practical relationships and prevalent social bias.

While women's rights have greatly advanced in letter and in practice, social bias still demand Filipino women to add their duties at work to their traditional duties at home as homemaker, mother and wife. While law contains a few provisions prohibiting discrimination against women, their enforcement is largely ineffective due to government sluggishness. Women continue to be discriminated against, especially in terms of wages and tenure, and pregnancy persists to be a cause for termination among women employees.

Despite legal protection, employers can easily mask actual discrimination with claims of other bases for discriminating against women such as merit, performance, productivity, and others.

It is noted that while there is an existing policy ensuring equal pay for equal work, the government has yet to address persisting concerns over the fact that there is no clear policy that equal pay is guaranteed for work which may not be the same but is of equal value. At the same time, the government has yet to formulate the means by which work will be evaluated to determine its value for purposes of avoiding employment discrimination. In compliance with its international obligations, the Philippines has placed in its Labor Code provisions which help address the special needs of women in the workplace which will alleviate discrimination against them in hiring and continued employment. Examples are regulation by the Labor Secretary to mandate separate restrooms for women and men, seating for women at their place of work, and child care facilities. To date however, the Secretary of Labor has not issued any regulation on these measures. This explains why the actual availability of these facilities are rare in workplaces in the country.

Where women who experience discrimination do have cause to complain, the complicated and inefficient labor courts does not make enforcement through the courts an attractive option. By and large, women seriously consider just moving on to other employment instead of taking employers guilty of discrimination to task.

In a study, Prof. Myrna Feliciano made the following observations:

ILO Convention No. 103 guarantees maternity benefits to women employed in industrial, commercial and agricultural undertakings, including women wage earners working at home, regardless of age, nationality, need or marital status. These benefits may be in the form of cash or medical aid, maternity leave (both before and after childbirth) and permissions for interruptions during the working day to nurse the child. It also prohibit employers from terminating women who take maternity leaves.

The Labor Code is silent regarding the requirement imposed on employers by the Women and Child Labor Law of 1952 to allow their nursing women

employees to nurse their children for two half-hour periods during their work hours.

To a great extent, maternity protection against discrimination has been incorporated in the Labor Code under Article 136 on the Stipulation against marriage and Article 137 on the Prohibited Acts. Such protection implicitly recognizes the gender biases that women had to face as a consequence of their childbearing capacities, and as such, provide the means for them to counter these gender biases that impede their access to employment opportunities.

In *Locsin v. Court of Appeals*, the Supreme Court upheld the conviction of an employer for dismissing a female employee, to prevent her, as in fact she was prevented, from enjoying the maternity leave benefits prescribed by Republic Act 679. In the 1989 case of *Reyes v. NLRC and Kong Hua School*, Reyes was forced to take protracted leave of absences because of health complications due to childbirth. Instead of granting her applications for leave, the school advised her to voluntarily resign her post with the promise that they will take her back once she recuperated. When she applied for her former position, the school refused to rehire her. The High Court, in ruling for Reyes stated that:

“The school had no right to disapprove her application for an indefinite leave of absence due to illness caused by the delivery of her child and to force her to resign instead. This is contrary to Article 133(b) of the Labor Code.”

(M. Feliciano, *Laws On Women And Children*, A Report for the EU Access to Justice Project, 2008)

Gay and lesbians however, have very little protection against discrimination. Proposed legislation to introduce protections for gay and lesbians have yet to gain any traction. With regard other groups such as Muslims and other religious groups, senior / elderly, and persons living with HIV/AIDS, no protection is expressly available under Philippine laws.

### Minimum Wage

Since 1989, the Philippine government has established a system of minimum wage fixing which has, at its core, seventeen (17) boards throughout the country, each composed of representatives from government, employers and workers and each authorized to set minimum wage in a prescribed territory. The minimum wage level fixed by each board covers industrial as well as agricultural workers commonly with differentiations between them. Exemptions from payment of minimum wages are also commonly added by the Boards, even though they do not have the authority under the law to add such exemptions.

However, Philippine law also allows for exceptions to payment of minimum wages, including those given to exporters and that provided by RA 9178 or the Barangay Micro Business Enterprises (BMBE) Law which exempts businesses with a certain level of capitalization from paying minimum wages.

In practice, while the Philippines has a minimum wage regime in place, it is more felt through its non compliance either through legal exemptions or outright illegal violations. Underpaid

workers have minimal options to enforce their rights considering the government's refusal to discharge its inspectorate functions and the labor justice system plagued with delay and corruption. Also of significance is the proliferation of tenuous and contingent employment conditions which employers use as leverage to avoid complaints from workers. Under the law, there is already a wide range of workers who are deprived minimum wages. These include apprentices, learners, disabled workers, workers in retail and service establishments regularly employing less than 10 workers, workers in so called barangay micro business enterprises (BMBE's)

Minimum wages have the force of law and workers may bring cases for wage underpayment to the labor courts. However, workers are not allowed to conduct a strike on the basis of non payment of minimum wages and complaints for underpayment take at least 6 years for the courts to resolve and enforce.

By and large, government is at best sluggish to take violators of the minimum wage regulation to task. Hence, the degree of compliance to labor regulation in general and to payment of minimum wage in particular, is very poor. Together with the arduous labor justice system, government inaction and precarious employment conditions contribute greatly to the widespread violation of the minimum wage law. Government is widely perceived as purposely lax in implementing labor standards laws (including minimum wage rates) to complement its ongoing call for investors to come to the Philippines.

#### Factors that affect the minimum wage

By and large, only the country's inflation rate effectively informs the level of minimum wage. Other considerations of minimum wage fixing are only paid lip service but are largely ignored. Also, the Boards which fix minimum wages, while tripartite in composition, are influenced more by politics than by economic factors and the real needs of workers. This is easily seen in the fact that Boards usually wait for a signal from the Philippine president before considering any initiative to adjust the level of minimum wage. Despite the rapid deterioration of economic conditions of the country, especially since 2006, minimum wages have only been minimally adjusted and only when perceived to be politically expedient by the President. Thus, current minimum wage levels hardly come close to what workers need to sustain decent living.

The Philippines is divided into seventeen (17) territories, called regions, each having its own Regional Tripartite Wages and Productivity Board, composed of representatives of government, employers and workers. Under the law, each board can issue a wage order fixing the minimum wage level for its respective region and this can be done no more than once in a year.

Monitoring of compliance is minimal, the general attitude of government is to standby and be ready for complaints from affected workers. Labor inspectors who are tasked with the duty of making spot inspections among Philippine establishments are not funded well by the government and as such, they are largely ignored and often corrupted by employers. Revealing areas of inquiry on this include the number of labor inspectors supported by the government and the budget support given to the labor inspectorate system. It will also be good to examine the percentage of employers who had been inspected in relation to the total number of employers.



## Special Economic Zones

Currently there are 19 Special Economic Zones in the country. This has generated 1M jobs as of March 2005 alone, with ecozone exports reaching US\$32.03 billion that year. NSO states that 67% of this revenue in 2004 came from the electronics sector.<sup>1</sup>

Economic zones have minimal government interference. According to Philippine Economic Zone Authority, an Export Processing Zone (EPZ) should administer its own economic, financial, industrial and tourism development, with minimal government help. Designated as centers of development, these areas are focused more on the output provided by workers than the conditions of the workforce.

While the right to unionize is not officially prohibited, investors have devised their own methods to secure a well kept workforce by manipulating union factions, decertifying a certain union or keeping a union which they themselves can control.

Aside from this violation to the right to organize, EPZs also violate the rights of their workers through lowered minimum wages and inhumane working conditions. In a 2004 study commissioned by the Trade Union Congress of the Philippines (TUCP), the Solidarity Center and the United States Agency for International Development (USAID) confirmed EPZ workers received less than the mandated minimum wage.

There have also been several individual cases of work safety hazards. TUCP documented the case of South Korean company Hanjin Heavy Industries Corp. in Subic Bay Freeport Zone regarding the high mortality rate of its construction workers. This company has also been accused of serving maggot infested and spoiled food and workers have contracted malaria due to their unsafe work conditions.

Particularly in EPZ's, workers are forced to work longer hours to meet export deadlines. Many of these hours are unpaid.

The case of Hanjin Heavy Industries Corp. is just one of countless others. Because of workers' fear of losing their jobs and efforts by employers to silence grievances of employees, most cases are undocumented.

In her study entitled "Assessing the Situation of Women Working in CALABARZON, (2001)", for the Philippine Apec Study Center Network, Dr. Divina M. Edralin noted the following:

The ILO report further asserts that "it is a regrettable feature of many zones that both male and female workers are trapped in low-wage, low-skill jobs. They are viewed as replaceable and their concerns do not receive sufficient attention in labour and social relations." The workforce in EPZs worldwide is usually female in majority, and in certain activities, notably textiles, garment manufacturing and electronics assembly, women can account for 90 percent or more of the workers.

Furthermore, the ILO report notes that the shortage of appropriate human resource development strategies may well limit the potential for EPZs to improve productivity and upgrade jobs. Labour relations and human resource

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<sup>1</sup> Philippine Human Rights Information Center. "Race to the Bottom." In Focus: A Semestral Human Rights Situationer. January to June 2008

development remain two of the most problematic aspects of zone functioning. Mechanisms for improving labor standards are often inadequate: “The classic model of labour regulation – with a ‘floor’ or framework of minimum labour standards, and free trade unions and employers coming together to negotiate binding agreements – is extremely rare in EPZs.”

Finally, in another ILO report, trade union organizations strongly criticize special economic zones, claiming they are characterized by low wages and abuse of workers. In an ICFTU report, export processing zones are called concentration camps. In addition, the ICFTU argues that the “Asian miracle” was largely built on the rapid growth of manufacturing industries, mainly light-assembly operations producing for export, and a steady increase in agricultural productivity. According to the ICFTU, most of the region’s proliferating export processing zones have been deliberately created to prevent union organization as an incentive to investors. Foreign investors have been able to take advantage of the low pay and manual dexterity of workers. These industries have generated unprecedented employment opportunities for women, which are an escape route from rural poverty. However, working conditions are frequently long, arduous and dangerous. Few of the women keep these low-paid jobs much beyond their twenties, because employers fire those who marry and start a family. (ILO, 2001, cited from ICFTU: The Global Market: Trade Unionism’s Greatest Challenge)

#### Labor contracting and flexible arrangements

Companies have created flexible arrangements for employees to compete with growing demand for exports and output. These include labor contracting, “consignment” hiring, agency hiring and subcontracting. According to a study conducted by ILO, as early as 1992, 72% of the companies in the Philippines engage in these practices.

Labor-only contracting, as opposed to subcontracting is prohibited in the Constitution. Section 2 of Department Order No. 3 of DOLE states that there is labor-only contracting where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and the following elements are present:<sup>2</sup>

- a.) The contractor or subcontractor does not have substantial capital or investment to actually perform the job, work or service under its own account and responsibility; and
- b.) The employees recruited, supplied or placed by such contractor or subcontractors are performing activities directly related to the main business of the principal.

Article 106 of the Labor Code allows companies to hire workers for six months or less. According to an article by Alfredo Rosario of Manila Times,<sup>3</sup> labor contracting practices have generated savings for companies since they are no longer required to pay Social Security System (SSS) and Philhealth contributions. It has also provided temporary employment to

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<sup>2</sup> Labor in the Philippines, [http://www.gov.ph/faqs/labor\\_contract.asp](http://www.gov.ph/faqs/labor_contract.asp)

<sup>3</sup> Rosario, Alfredo. *The debate on labor-only contracting*.  
<http://www.manilatimes.net/national/2008/apr/22/yehey/opinion/20080422opi4.html>

many Filipinos, most service workers in restaurants, fastfoods and hotels are hired on a contractual basis.

An article by Alexander Remollino which appeared in Bulatlat and PinoyPress discusses how contractualization weakens and discourages formation of unions.<sup>4</sup> Contractual workers cannot join unions as this will result in immediate cessation of their jobs.

## **The Real Picture**

### **a.) Minimum Wage**

In practice, the system of minimum wages is ignored and violated by many employers due to lack of government interest in enforcement and due to the difficulty by which workers can enforce their rights to receive minimum wage.

In addition, the country has yet to rationalize minimum wage levels on the national level. Currently, wage levels are set by each board with parochial considerations and the impact on the national level is largely ignored. It is thus common for employers in lucrative areas such as banks and telecommunications to be obliged to pay the low minimum wage rates more appropriate to smaller employer units.

### **b.) Occupation Health**

Philippine law provides for minimum conditions on occupational health and safety which are applicable throughout the country but no reliable numbers are available regarding compliance. Nonetheless, The occupational health and safety situation in the Philippines is far from being admirable, to say the least. To attract foreign investments and grab a bigger share of the market, companies operating in the Philippines continue with their race to the bottom in terms of labor standards.

More and more workers are suffering from poor working conditions, with no protection whatsoever, while their wages and benefits are driven to insanely low levels. With social service taking the last priority, proper health care and housing for workers is a big wish waiting to come true.

Labor inspectors who are tasked to do spot checks on employers are too few to be effective, and government has had to suspend inspection-related activities regularly. Needless to say, to save on cost, employers are hard pressed to provide healthful and safe working conditions.

In 2002, the Bureau of Working Conditions (BWC) stated that there were only 59 accredited workplace inspectors assigned to monitor more than 700,000 registered enterprises. Each inspector, to provide at least 80% coverage must check 9,492 firms a year or 32/day.<sup>5</sup>

The main problem with occupational health statistics in the Philippines is the general lack of readily available and accessible data. With regard occupational accidents, for example, the data below is the one available but only represents data in 2003.

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<sup>4</sup> Remollino, A. Contractualization Main Culprit in Decline of Unionism in the Philippines from:

<sup>5</sup> Asian Network for the rights of Occupational Accident Victims (ANROAV), Briefing Paper, 2007

### Occupational Injuries Reported to the DOLE, 2000-2003

	2000	2002	2003
Total Occupational Injuries	69208	57752	<b>58720</b>
Without lost workdays	42742	35973	<b>35454</b>
With lost workdays	26467	21779	<b>23265</b>
Permanent incapacity	179	321	<b>131</b>
Fatal	178	302	<b>170</b>

Source: Bureau of Labor and Employment Statistics, Department of Labor and Employment

**Table 5. Distribution of Accidents and Fatality by Sectors, Non-agricultural, 2003**

Industry Sector	Total	With Lost Workdays					Without Lost Workdays
		Total	Fatal	Non-fatal			
				Total	Permanent incapacity	Temp. incap.	
TOTAL	58720	23265	170	23095	131	22964	35454
Mining & quarrying	156	60	5	55	---	55	96
Manufacturing & processing	40498	14403	24	14379	76	14303	26094
Electricity, gas, water & sanitary service	1329	805	25	780	5	775	524
Construction	1768	1114	4	1110	1	1109	654
Wholesale and retail	6637	2690	48	2642	18	2623	3948
Hotels and restaurants	2757	1195	10	1186	---	1186	1562
Transport, storage and communication	2335	1558	36	1522	13	1509	776
Financial & Insurance	109	100	2	98	---	98	9
Real estate	1022	566	14	552	10	543	456
Private education services	699	132	2	130	8	122	567
Health and social work	169	96	---	96	---	96	72
Other community, social and personal service activities	1243	546	---	546	---	546	697

Source: Bureau of Labor and Employment Statistics, Department of Labor and Employment

**Table 6. Occupational Diseases Reported to DOLE, 2003.**

Occupational Disease	Number	Percent
<b>Total</b>	<b>55413</b>	<b>100.0</b>
Work-related musculoskeletal diseases	20603	37.2
Infections	7825	14.1
Bronchial asthma	6742	12.2
Essential hypertension	5708	10.3
Peptic ulcers	5347	9.6
Occupational dermatitis	5028	9.1
Others	4160	7.5

Source: BLES Integrated Survey, Department of Labor and Employment, 2003-2004

In 2004, instead of increasing the number of inspectors from its current number of 59, the DOLE issued Department Order (D.O.) 5704 stipulating companies with more than 200 workforce just have to do self-assessment and is no longer required for inspection. Companies are expected to fill up an working condition assessment form and submit that to

the BWC. The second group of firms with 10 to 199 workers will be inspected on a per request basis, while those with less than 10 shall be given advise on how to improve working conditions.<sup>6</sup>

Compensation for accident victims must also be developed. The Employment Compensation Commission (ECC) provides monetary compensation for workers figuring in accidents causing permanent and temporary disabilities. The ECC have reported their financial difficulties since they are merely borrowing money from the Social Security System (SSS) and monetary compensation usually are small and late. There are no program for reintegration of workers who figured in occupational accidents.<sup>7</sup>

### **c.) Rest and recreation**

Regarding right to rest and recreation, workers who are generally exempted from the relevant provisions of the Labor Code include: government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations. Workers employed in retail and service establishments of less than 10 workers are also exempted by the law.

In addition to these formal exemptions, it is usual practice for employers to deliberately deny its employees these benefits on the false pretext that they are classified as a kind of employee who are exempt under the law. Countless workers have been victims of this deception but are helpless given (1) the government's lack of initiative to take employers to task as shown by the impoverished labor inspectorate system, (2) failure of government to improve the inefficient and slow system of labor justice, and (3) the refusal of government to encourage unions or workers' groups who would otherwise be able to check abuses by employers.

### **d.) Freedom of association**

Workers have to register with the Department of Labor and Employment (DOLE) and must have a minimum number of members (relative to the number of employees they wish to represent) to form a union and be recognized by the company and DOLE. Registration with the DOLE invariably exposes the identity of unionizing workers to employers who usually exert considerable efforts to dissuade and coerce them to refrain from and cease their union activities.

A classic example of employers' application of undue pressure and violence to quell workers' unions and their demands was the infamous Nestle workers strike more than a decade ago as documented by Jen Schradie, an independent documentary producer and writer.

In February 1996, Nestle bought majority shares of stock for the Magnolia ice cream and other product lines of San Miguel Corporation. Upon assumption of ownership, the company immediately cut benefits in half and began a process of making permanent positions contractual, or temporary.

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<sup>6</sup> Asian Network for the rights of Occupational Accident Victims (ANROAV), Briefing Paper, 2007

<sup>7</sup> Ibid

Nestle workers protested with posters, T-shirts, button wearing and armbands but the management demanded they remove these paraphernalia. The workers resisted with a sit-down strike but two days later, the company fired eight union officers and two active members. The rest of the participants received a ten-day suspension.

On January 11, 1997, the workers decided to launch a strike. 129 workers endured intense company instigated harassment and violence throughout the duration of their unified action.

Meanwhile, public sector employees are allowed to form unions as long as these do not have the purpose of collective bargaining. This includes government owned and controlled corporations having their own charter.<sup>8</sup>

Members of the police, armed forces, jail security, and fire fighting institutions are not allowed to form unions altogether.

In the private sector, workers who are also members of cooperatives are not allowed by law to form or join unions. Managerial employees, and, by jurisprudence, confidential employees, are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in a union of the rank-and-file employees but may join, assist or form separate labor organizations of their own.<sup>9</sup>

Aside from these formal classes of workers whose right to form and join unions are restricted, workers in designated Special Economic Zones work under an unofficial but widely acknowledged policy of “no union, no strike” implemented by SEZ authorities and local government authorities. Through threats, intimidation and violence, workers are told not to form unions or, if they do, form unions which are supported by the management of the employer.

Furthermore, nominal freedom is given to Philippine trade unions to function and exercise their rights. However, statutory guarantees are regularly flouted and enforcement of legal provisions are hampered by (1) restricted access to legal representation due to cost, (2) complicated labor dispute resolution system and (3) legal system plagued with delay and corruption. It is common for trade unions to have cases litigated for years in court while their members are dissociated from their work due to coercion, force, harassment or some other cause.

#### **e.) Right to strike**

The right to strike is guaranteed by the Constitution with certain restrictions.

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<sup>8</sup> Labor Code, Article 244: ART. 244. Right of employees in the public service. - Employees of government corporations established under the Corporation Code shall have the right to organize and to bargain collectively with their respective employers. All other employees in the civil service shall have the right to form associations for purposes not contrary to law.

<sup>9</sup> Labor Code, Article 245: ART. 245. *Ineligibility of managerial employees to join any labor organization; right of supervisory employees.* - Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in a labor organization of the rank-and-file employees but may join, assist or form separate labor organizations of their own.

By law, Philippine workers in the public sector are prohibited from engaging in strikes. Private sector workers may engage in strike but the process is so complicated and fraught with technicalities as to effectively blunt their right to do so.

In fact, even if trade unions do successfully comply with legal requirements, the Secretary of Labor still retains the authority under the law to prevent the strike by exercising his power of “assumption of jurisdiction” over labor disputes affecting the national interest.

In practice, the application of this authority has been very broad. The declaration of a strike after such an “assumption of jurisdiction” or submission of the dispute to compulsory arbitration is a prohibited activity and the violation by any person of any of the provisions of section 264 is punishable by imprisonment which involves an obligation to perform labor.

The Revised Penal Code also lays down sanctions of imprisonment for participants in illegal strikes (section 146).

Under Article 264 of the Labor Code, the following are prohibited:

ART. 264. *Prohibited activities.* - (a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the Ministry. No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike.

(b) No person shall obstruct, impede, or interfere with, by force, violence, coercion, threats or intimidation, any peaceful picketing by employees during any labor controversy or in the exercise of the right to self-organization or collective bargaining, or shall aid or abet such obstruction or interference.

(c) No employer shall use or employ any strike-breaker, nor shall any person be employed as a strike-breaker.

(d) No public official or employee, including officers and personnel of the New Armed Forces of the Philippines or the Integrated National Police, or armed person, shall bring in, introduce or escort in any manner, any individual who seeks to replace strikers in entering or leaving the premises of a strike area, or work in place of the strikers. The police force shall keep out of the picket lines unless actual violence or other criminal acts occur therein: Provided, That nothing herein shall be interpreted to prevent any public officer from taking any measure necessary to maintain peace and order, protect life and property, and/or enforce the law and legal order.

(e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares.

In addition to the grounds under Article 264, it is also prohibited for workers to strike in defiance of an order from the Secretary of Labor and Employment for them to return to work. Such defiance will make the strike illegal.

It is common experience for employers to file complaints for illegal strike against workers invoking any of these grounds which, if successful, would result in the dismissal of union officers and for union members responsible for the illegal conduct. The prohibitive costs of litigation, together with the delay and corruption implied by it greatly burden the trade unions involved.

### **Recommendations**

The alternative report and the consultations that followed showed the need for comprehensive and long term reforms in the workplace, especially for the vulnerable and marginalized sectors. These focus on strengthening the system and empowering the workers.

- 1.) First, labor laws and rights should be a required course in tertiary/ secondary/ vocational education. Future workers should be aware of their rights as future members of the workforce.
- 2.) There should be clearer laws on labor contracting and contractualization. The law should clearly classify these as illegal, as workers are deprived of benefits.
- 3.) The informal sector/self employed comprise a significant chunk of the workforce, however they are those who are most deprived of benefits. Government should ensure that the security of this sector is guaranteed.
- 4.) A reexamination of the minimum wage is necessary as there is a huge discrepancy between the minimum wage (Php380) and the amount necessary for an average family to survive (Php740).
- 5.) There is a huge need for accountability. Ensure a system where grievances of employees can be heard.
- 6.) There is a need to enhance the health and safety protection system especially of those vulnerable to injury. These include those doing manual labor: carpenters, construction workers.
- 7.) Guarantee the humane treatment of workers, especially in Special Economic Zones. There should be regular inspections of conditions of the workplace. The inspection body should be strengthened in terms of number of personnel and training.
- 8.) Regulate to ensure that labor standards/employee rights are being prioritized versus investments of private companies and the government.



- 9.) Check whether company unions are genuine unions or employer-formed unions.  
Verify with labor groups on how common this phenomenon is.
- 10.) There is also a need to push for benefits for informal workers

# Philippine Government's Labor Export Policy Violates the Right to Work and other ESC Rights

*a report on the rights of migrant workers prepared by the  
Center for Migrant Advocacy – Philippines (CMA)*

The increasing overseas deployment figures of Filipino workers manifest the worsening employment, unemployment, underemployment, contractualization and consequent poverty in the Philippines and proves that the government's labor export policy violates the right to work of its citizens.

While the government was short of the annual target of 1.6 million jobs, with new jobs created declining from 700,000 in 2005 to 599,000 in 2007<sup>1</sup>, overseas deployment totalled to 1,077,623 in 2007, 21% more than those deployed 5 years before and 44% more than 10 years earlier.<sup>2</sup>

In 2008, this trend continues, with Philippine Overseas Employment Administration (POEA) reporting that for the first six months of 2008, it has already met 64% of the year's 1 M target with the departure of 640,401 OFWs. This is a 33.5% increase in the deployed documented OFWs over the same period in 2007.<sup>3</sup>

Related to this, an overview of remittance figures since 1985 indicates the scale of growth in remittance income to the Philippines. Remittances to the Philippines (measured as those moving through formal channels) are over 18 times higher than twenty years ago. While some of this growth may be attributed to improved remittance capture by the formal financial system, the rate of growth is nonetheless impressive:

1986	1990	1996	2000	2006
US\$680 million	US\$1.18 billion	US\$4.3 billion	US\$4.3 billion	US\$ 12.8 billion

Source: POEA 2001, POEA 2006.

The POEA and President Arroyo have always bragged about its deployment figures year in and year out as one of their significant achievements. POEA has, since 2006, also become more explicit about labor export being a government policy.

Similarly, POEA with the shift in its thrust to concentrate more on sending professionals abroad has proudly announced the significant increase in the deployment of skilled workers, now making up 75% of new hires. Given this labor strategy, the critical question would be how the Philippines could develop both in short and long-term with the continuous outflux of its human resources especially its nurses, IT workers, production technicians and mechanical and electrical engineers.<sup>4</sup>

<sup>1</sup> Research paper coordinated by Focus on the Global South and presented during the July 13 Development Round Table Series forum at SOLAIR, UP Diliman, Quezon City

<sup>2</sup> Ibid.

<sup>3</sup> Doris C. Dumlao. Remittances surged to \$1.5 B in June. Philippine Daily Inquirer August 18, 2008

<sup>4</sup> The 2007 POEA Annual Report

## **Undocumented or irregular OFWs**

The estimated number of irregular Overseas Filipinos (OFs) was on a downtrend since 2001 but it went up by 2% in 2007. Undocumented/irregular workers are a major concern because their status in the host countries makes them vulnerable to human and workers' rights' violations.

The Commission on Filipinos Overseas (CFO) estimated irregular OFs to number 1,607,170 in 2002 but it has dropped by 44% in 2007. However, their increase in countries like Qatar, Oman, by 15,000 in United Arab Emirates (UAE) and by 18,000 in Singapore in 2007 and their sheer number in countries like Kuwait (10,000), Saudi Arabia (KSA) (20,000), UAE (35,000), Singapore (56,000) and Malaysia (128,000) are worrisome, given complaints of abuses in these countries, including the continuing deportation in Malaysia.

Undocumented OFWs are mostly women and unskilled/ domestic workers and thus, more vulnerable to abuses.

## **Feminization of Filipino migration**

The 1998-2002 NSO Survey of Overseas Filipinos found there were more men than women OFWs, averaging 110:100<sup>5</sup> While NSO reported that women OFWs grew by only 15% vis a vis male OFWs' (18%) from 1998 to 2005, POEA statistics still showed the growing feminization of OFW migration since the early 90s.

The total newly-hired land-based women deployed in 1997 has grown by 61% to 199,423 by 2002. The ratio of women to men was 71:29 in 2003. The 1997 figure has grown to 70% by 2004. By 2004-2007, women OFWs have outpaced the men in terms of numbers.

But from a high of 209,372 total women deployment in 2004, it went down to 145,549 in 2007. This decline came about when Japan tightened its immigration policy affecting overseas performing artists (OPAs) starting 2005. Likewise, the POEA's implementation of the Household Service Workers (HSW, a new term coined by the POEA for domestic workers) policy reform starting 2007 also cut down the newly-hired domestic workers (DWs) deployed by 56.6% in 2007, to almost 40,000.

From 1998-2002, the biggest proportion of these women OFWs worked abroad at a younger age (25-29 years old) compared with their male counterparts (45 yrs old and above), raising their vulnerability to abuses given the jobs they land. They continued to be generally younger up till 2007, the biggest proportion working abroad still younger at 25-29 age range, the next big proportion is the 30-34 range. In 2005, the next big proportion to the 25-29 age range was 15-24 years old, most likely overseas performing artists.

In terms of skills or job category, during the 1998-2002 period, most of the women went to Hongkong (HK) and had lower paying jobs as laborers and unskilled workers (including DWs, cleaners and manufacturing laborers). While most male OFWs were in trades and related work in Saudi Arabia (KSA).

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<sup>5</sup> The 2007 POEA Annual Report

What makes feminization of Philippine migration a problem is that more and more women OFWs have been going into **domestic work** that in 1997, they totalled to 62,000 and increased to 91,412 in 2006. Currently, 98% of domestic workers are women.

Meanwhile, caregivers who are thinly separated from domestic workers in terms of status averaged 17,000 from 2003 to 2006 but increased to 20,394 in 2004. The requirement of their job to stay in their employers' homes (caregivers sleep in the room of the person they are caring after) expose them to pressures to also perform uncompensated domestic chores. This work arrangement also makes them vulnerable to abuses such as sexual harassment and rape.

Of the 130 cases of women OFWs documented by CMA in 2008, three complained of sexual advances, rape attempt, and actual rape. The US military also announced in late February they were investigating the alleged rape of a woman OFW by a member of the US Army on Okinawa just three (3) days after she arrived there.<sup>6</sup> In Kuwait, the embassy reported that 7 women complained of sexual harassment and 6 more of rape by the end of 2006

### **Lack of Job Opportunity**

Obviously, the lack of quality jobs in the Philippines has been the main reason why OFWs are forced to work away from their families. Even if there are government mechanisms to facilitate local employment like the Public Employment Service Office (PESO) at the LGU level and job fairs, local job availability is very limited and what is being promoted are mostly jobs abroad.

Due to this situation current OFWs and returnees tend not to bother to look for local jobs and usually opt to seek for other overseas jobs instead. So, a significant proportion of those being deployed are rehires, consistently two thirds (2/3) of landbased overseas workers from 2001-2005 are 'veterans' OFWs.

The bleak job prospect at home also pressures OFWs to renew their contracts for as long as possible until the time they can afford to retire or in the case of the undocumented, until they are forced to return when they are caught and deported.

For those who opted to return home and take their chances, the bad news is that there is **no serious government reintegration program** waiting for them. There was high-profile launch of the government's reintegration center in 2007 but no sufficient budget was allocated to it.

Even when the Japan government implemented its stringent rules against OPAs and POEA implemented its HSW reform policy, despite the expected plunge in both OPA and domestic worker deployment, there was no job nor alternative livelihood contingency provided for those displaced. To accommodate those deported from Malaysia, screening for domestic workers was loosened up instead.<sup>7</sup> Nor were there plans to absorb Filipino nurses who may

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<sup>6</sup> US military probing alleged rape of Filipina in Japan. AFP. <http://abs-cbnnews.com/storypage.aspx?StoryId=109856>

<sup>7</sup> Powerpoint on Proposed mandatory psychiatric testing for HSWs distributed during the August 6, 2008 consultation called by Poe Gratela of the POEA Governing Board.

be displaced from abroad by reduced or closed quotas as in the United Kingdom.<sup>8</sup> So, domestic workers were forced to overstay or recruitment agencies go around the policy reform by contract substitution, not declaring that women will be working as domestic workers in their destination but rather as beauticians, etc.

### **“Protectors” of OFWs**

Under the government’s labor export policy, instead of providing sufficient protection to OFWs, there are Philippine posts abroad that focus more on human resource marketing.

Labor attaches identify and assess labor market opportunities abroad and together with the POEA go on intensive marketing campaigns, conduct labor marketing missions e.g. “with the intensive marketing campaigns conducted by the DOLE and POEA, job orders identified increased by 211.83% from CY 2004’s 21,744 to 80,735 in CY 2005...227,179 OFWs benefited or will stand to benefit...”<sup>9</sup>

“With the Secretary of Labor at the helm, we dispatched marketing missions to expand employment opportunities for Filipinos in these countries...” In addition, the POEA “facilitated and supervised 364 job fairs...that registered 38,208 jobseekers...1,678 were hired for overseas jobs.”<sup>10</sup>

And while the Philippine Overseas Labor Offices at the embassy or consulate verifies job orders and contracts, there continue to be cases of contract substitution are victimizing OFWs. For example in Israel, a Filipina caregiver will arrive there with contract and visa but the employer will tell her that he has found somebody else or after a few days, that he does not like her so she has to find another employer.

In a more serious case as documented by CMA, Teresita Santos, a gang rape victim in Saudi Arabia, learned the painful way that she could not rely on consulate personnel and officials in time of distress because when she sought their assistance in pursuing her private rights, she was not given immediate assistance and was not properly instructed on what to do to get justice. Worse, the consulate translator appeared to be more sympathetic to her tormentors. As a result, her case dragged on for two years before she finally got redress.

### **The human rights’ situation of OFWs**

#### **a.) Right to information**

While all deployed OFWs took up Pre Deployment Orientation Seminar (PDOS), a whole day for first-timers and a half-day or less for rehires, CMA’s evaluation study found that providers conduct PDOS in various manners that did not have clear and standardized learning objectives, topics, assessment features and qualifications of trainers.

CMA respondents and discussants remarked that it could be improved to be more valid and relevant by making them country- and job-specific. Materials should also be supplemented

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<sup>8</sup> Parliament adopts directive on return of illegal immigrants. June 18, 2008.

[http://www.europarl.europa.eu/news/expert/infopress\\_page/018-31787-168-06-25-902-20080616IPR31785-16-06-2008-2008-true/default\\_en.htm](http://www.europarl.europa.eu/news/expert/infopress_page/018-31787-168-06-25-902-20080616IPR31785-16-06-2008-2008-true/default_en.htm)

<sup>9</sup> The 2005 POLO Annual Report

<sup>10</sup> The 2007 POEA Annual Report

by appropriate and adequate explanations. The needs of rehires and those approaching reintegration should likewise be considered.

A similar Scalabrini Migration Center evaluation in 1992 and 1997 concluded that the “OFWs’ frame of mind at the time of completing the seminar was already set on their imminent departure...appeared as competing with their pre-departure concerns and forfeited the purpose of being a pre-orientation.”

In 2001 and 2003, the Kanlungan Centre Foundation also came up with a study that described PDOS as “particularly not being helpful in teaching them basic information and how to cope with their work abroad” e.g. rights of OFWs, dos and donts, where to file cases, etc.

On the other hand, the Pre-Employment Orientation Seminar (PEOS), meant to orient prospective migrants about legal application process and to avoid illegal recruiters, was seen to be more timely and relevant. However, it is not institutionalized unlike the PDOS.<sup>11</sup>

POEA conducted 543 PEOS in 2007 with 50,467 participants and 66% of which were conducted outside Metro Manila. It also signed Memoranda of Understanding with 22 local government units to regularly conduct PEOS with anti-illegal recruitment components.<sup>12</sup> But compared to the 1 million annual OFWs deployment, PEOS reach was very minimal.

In addition, OWWA also conducts country-specific language and culture courses to departing OFWs however, agencies still require applicants, mostly domestic workers and caregivers, to undergo expensive private training elsewhere prior to attending the OWWA courses.

Executive agencies have just started consulting stakeholders in relation to the legislated Shared Government Information System on OFWs but this early, the system has bogged down due hardware and software problems. While the posts are submitting semestral reports on the situation of overseas Filipinos to the Department of Foreign Affairs which submits them to Congress, these information need to be systematized and summarized for easy retrieval and reference for policy studies and recommendations.

#### **b.) Protection against illegal recruitment/excessive placement fees**

##### **Status of illegal recruitment cases handled by POEA in 2006 and 2007<sup>13</sup>**

	<b>2006</b>	<b>2007</b>
Complainants assisted in filing complaints against recruitment agencies		5,089
Cases handled	1,504	1,624
Pending cases at the beginning	992	1,154
Cases received	512	470
Number of complainants involved	1,135	1,057
Cases acted upon/disposed	350	339

<sup>11</sup> Dr. Erlyn Sana and Dr. Melflor Atienza. Evaluation of the Pre-Employment and Pre-Departure Orientation Seminars. CMA. December 2007

<sup>12</sup> The 2007 POEA Annual Report

<sup>13</sup> Ibid

Cases pending at the end	1,154	1,285
Facilitated arrest of suspected illegal recruiters		26
Establishments closed	12	9

The number of complainants shows the prevalence of illegal recruitment including collection of excessive placement fees and add this to credible report that many victims do not report and just continue looking for other opportunities to work abroad.

Of the 301 cases involving 805 victims endorsed by POEA to different local prosecution offices for preliminary investigation, 20 were simple illegal recruitment (IR), 166 were simple IR and Estafa, 35 were large scale IR and Estafa, 41 were syndicated IR and Estafa while 34 were large scale/syndicated IR and Estafa.<sup>14</sup> Meanwhile, recruitment violation cases were reported to have declined from 3,811 in 2006 to 3,316 in 2007. In relation to this, recruitment and disciplinary action cases received in 2007 were 3,642 plus the previously pending 2,375 cases. Of these, POEA reported that 3,087 were resolved.

Desperation drives Filipinos to pay excessive fees to recruitment agencies and brokers despite the law allowing the charging of only a month's salary's worth of placement fee. So far, POEA has not exerted enough effort to strictly control the collection of placement fees and penalize erring agencies. But another major stumbling block to this is the refusal of victims to file a case or even report an incident.

### **c.) Women's Rights**

In addition to their food, housing, education and health requirements, women have particular needs because of their gender. In particular, domestic workers and caregivers, tend to be vulnerable to sexual violence, from harassment to rape, however, Filipinas tend not to complain or file cases regarding this. Usually, it takes a sensitive investigation of their situation before gender-related problems surface.<sup>15</sup>

Data would show that female OFWs are more prone to abuse in ASEAN and Middle Eastern countries like Kuwait as can be seen in the table below:

**Problems of Filipina domestic workers in Kuwait<sup>16</sup>**

<b>Problem</b>	<b>Number of complainants</b>
Verbal abuse	239
Overwork	230
Inhuman treatment	165
Lack of food	159
Physical maltreatment/maltreatment	116
Unpaid salaries	89
No rest days/lack of rest	72
Finished contract/not provided exit ticket	12
Misunderstanding with employer	10

<sup>14</sup> The 2007 POEA Annual Report

<sup>15</sup> Anat Kidron, Adv. Kav LaOved. CMA forum on Responding to the situation of caregivers and domestic workers in Israel. September 12, 2008

<sup>16</sup> Semi-annual report to Congress of foreign service posts on assistance to nationals July-Dec 2006

Sexual harassment	7
Rape	6
Others	143

However, OFWs still flock to these countries, even as irregular workers because of the relatively lower airfares and the ease of travel in ASEAN that do not require visa for Filipinos and the possibility of “buying” a visit visa to countries like the UAE.

Many women OFWs work for long hours, e.g. six (6) restaurant workers in Cyprus complained of working for 33 days without salary and overtime pay despite a 1day-off per 1-2 weeks proviso in their contracts. When one of them voiced out their grievance, she was locked up in an isolated room, tortured and abused by the police in connivance with her employer.<sup>17</sup>

Added to the woes of women OFWs are poor accommodations, no contract or copy of it, no overtime pay and no day-off. In Saudi Arabia, 10 nurses of Thadiq General Hospital in KSA suffered from cramped quarters, poor air-conditioning, and lack of water heater from September 2007 up to the time they finally went home in February 2008.

The continuing abuses and vulnerabilities of Filipina OFWs are important to note given a steady trend of deployment of younger female OFWs. Hongkong, Saudi Arabia, and Japan were the top three countries of destination of female OFWs. 54.9 percent of the total female OFWs were laborers and unskilled workers, almost the same estimate in 2004 at 55.0 percent.<sup>18</sup>

#### **d.) Rights of detainees and deportees**

In Malaysia, undocumented Filipino workers are still being arrested, detained, and deported. The embassy reported to OUMWA that by the end of 2006, there were 1,600 Filipinos in three detention centers and regular prisons in Kota Kinabalu, Tawau and Sandakan mostly on immigration-related problems. Out of the 9,277 Filipinos deported, over 98% were from Sabah with an average of 762 deportees a month.<sup>19</sup>

This trend continued very recently when according to the DSWD, 11,729 were deported in 2007 and another 8,205 as of August 2008.<sup>20</sup> From 2007 to April 15, 2008, RELA<sup>21</sup> was reported to have conducted 7,213 raid operations and arrested 42,946 undocumented migrant workers (Home Affairs Minister answer to YB Khalid Abdul Samad on May 5, 2008).<sup>22</sup>

<sup>17</sup> CMA case file 2008

<sup>18</sup> latest official statistics on womn migrants from the National Commission on the Role of Filipino Women (NCRFW) based on NSO statistics

<sup>19</sup> Semi-annual report of foreign service posts on assistance to nationals July-Dec 2006

<sup>20</sup> DSWD service delivery report sent to CMA in August 2008

<sup>21</sup> Rela is a civil volunteer corps formed by the Malaysian government whose main duty is to check the travel documents and immigration permits of foreigners in Malaysia to reduce the illegal immigrants. It is authorized to deal with situations like policemen e.g. raiding suspected places e.g. streets, factories, restaurants and even hotels, interrogating and even detaining people who forgot to bring their passports and/or working permits. Wikipedia [http://en.wikipedia.org/wiki/RELA\\_Corps](http://en.wikipedia.org/wiki/RELA_Corps)

<sup>22</sup> Press release. July 25, 2008. Migrant Care. Indonesia



In addition, human trafficking was monitored mostly in Labuan, Sabah, and Sarawak where victimized Filipinos could not seek shelter and protection from the Philippine Embassy in faraway Kuala Lumpur. The embassy reported 46 cases of human trafficking, 78% in Sabah.

#### **e.) Right to family life**

Unicef deputy country representative Colin Davis said that around 56% of migrants are married based on 2000 data. So, if there are 2 million OFWs abroad who are married and assuming an average of three children per household, then there are six million children left behind who are at risk from the social costs of migration.<sup>23</sup>

The HSW reform policy has prevented many women OFWs to visit their families because many of them do not want to go home and risk losing their jobs despite the reduced salary. In addition, many countries, especially in the west e.g. Israel, discourage if not disallow family reunification – contributing to the break up of many families that impact negatively on their children.

Of the 130 cases of women OFWs documented by CMA in 2008, six Filipinas also complained of abandonment by their husband or child custody dispute.

Another major concern are the children of undocumented OFWs in Sabah whose right to nationality is violated by the long-standing problem of civil registration in faraway Kuala Lumpur and who risk continuing raids, arrests, detention in subhuman conditions and deportation.<sup>24</sup> As of Jan. 2007, the Immigration Department Enforcement Unit in Putrajaya showed that of 1,943 Filipinos in detention, 231 were children, for whom there are no special provisions in the detention cells.

A related disturbing development is the adoption of a legislative text of the European Return Directive that allows undocumented migrants to be held in custody between six months and 18 months including children.<sup>25</sup>

A recent research also found out that migration risks Filipino adolescents to become "worse off" in life, as presented at the United Nations Children's Fund (Unicef)-Philippine Institute for Development Studies (PIDS) Seminar Series on Public Policies and the Rights of Children. It showed OFWs give less time and money to their children aged 13 to 16, making them "susceptible to being engaged in unwarranted acts, such as premarital sex that results in teenage pregnancies and subjects them to abuse, whether sexual or physical; or they go into drugs."<sup>26</sup>

#### **f.) Right to protection**

While Republic Act 8042 has good anti-illegal recruitment provisions, the government fails in implementing some crucial provisions of the law regarding monitoring and oversight. While

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<sup>23</sup> United Nations Children's Fund (Unicef)-Philippine Institute for Development Studies (PIDS) Seminar Series on Public Policies and the Rights of Children.

<sup>24</sup> CMA and Mujeres. A report on irregular migration and human trafficking. 2007

<sup>25</sup> Veronica Uy. New EU rules may affect 94,000 irregular OFWs in Europe. Inquirer.net 6/20/08 <http://globalnation.inquirer.net/news/breakingnews/view/20080620-143800/New-EU-rules-may-affect-94000-irregular-OFWs-in-Europe>

<sup>26</sup> Rosemarie Edillon. "The Effects of Parent's Migration on the Rights of Children Left Behind"

there has been an ongoing anti-illegal recruitment and anti-trafficking campaign, no big fish has been arrested. Thus, thousands continue to fall prey to illegal recruitment without excepting legal recruitment agencies.

It is also unsettling to note that while the government aggressively markets OFWs, the Department of Foreign Affairs (DFA) particularly the foreign posts are unable to provide sufficient protection to them, especially onsite and where they are concentrated. There are only 85 foreign posts, including MECO in Taiwan, 34 labor offices (POLOs) in 24 countries and Filipino Workers' Resource Centers (FWRCs)/ shelters in 20 countries while OFWs are scattered in more than 197 countries and territories worldwide.

Filipino welfare and resource centers are overstretched and underfunded – resulting in dire situation for runaways, case neglect and OFWs avoiding most posts known for their inefficiency, ineffectivity and looking down on OFWs as second class citizens.

On the other hand, the Legal Assistance Fund of the OUMWA under DFA to the amount of P100 million was not exhausted in the years 2005 to 2007.<sup>27</sup> While the Emergency Repatriation Fund of P100 million can not suffice for the number of distressed OFWs needing repatriation thus there have been instances where some languish in crowded FWRCs while waiting for plane tickets or forced to work irregularly outside the shelter just to raise airfare money<sup>28</sup>.

Among CMA's documented cases, 89 troubled OFWs experienced neglect of embassy/consulate, given poor advice, or were simply ignored and not assisted.

Worst, there are cases wherein diplomatic personnel themselves abuse domestic workers like the staff of the Philippine permanent mission to the UN in Geneva who was charged with abusing her domestic worker who was even a cousin. The Geneva court ordered her to pay damages as far back as January 2000 but she has not done so to date and despite a warrant of arrest, the DFA continues to employ her in the home office.<sup>29</sup>

A major concern too is that OFWs do not want to file cases against their abusers for lack of trust in the justice system. Some OFWs complain that those who win their cases in the National Labor Relations Commission (NLRC) in fact, win only paper victories because they could not get actual redress because the errant agency has closed or has disappeared.

#### **g.) Right to Social Security**

In general, **workers' and social benefits**, if any, are very limited in the Philippines, thus the strong push on people to work abroad.

OFWs or at least those who pass through the POEA are required to "voluntarily" join OWWA and pay \$25 per contract up to the maximum of 2 yrs. They cannot board their plane or ship without their Overseas Employment Certificate that he/she gets upon paying the \$25. Those who did not pass through POEA including the undocumented may also contribute to OWWA onsite.

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<sup>27</sup> Ellene Sana report to pinoy-abroad egrouop on the House Committee on Overseas Workers Affairs meeting on bills to amend RA 8042. Feb 28, 2008

<sup>28</sup> Jean Pundar. AJG Forum September 2008

<sup>29</sup> *ibid.*

OFWs may benefit from employment injury benefits if he/she religiously pay his/her membership dues as per its Omnibus Policy. The family may also benefit from accident and life insurance, limited scholarships and loans from OWWA.

However, most of the OWWA life- and work-related accident insurance and its other services are suspended due to its priority to grow the core \$10 billion welfare fund to keep it “stable”. Its benefits have been limited to the contract period. 90% of its annual budget charged to the interest of the fund principal amounting to some \$10 B budget go to salaries. The rest of the interest is what is left to benefit contributing OFWs and their families.

The Omnibus Policy was passed by the OWWA board without sufficient consultation with the fund contributors, the OFWs, or any legislative review. It should be noted that its board is composed of mainly non-OFWs, except one land-based and one sea-based yet there is not a single cent contribution from the government.

Last June 2008, CMA conducted an online survey on OWWA among 400 respondents and found that the welfare agency has failed to sufficiently inform its members and target constituency regarding its nature, services, benefits, requirements and processes and limitations. Many lose their right to claim benefits through no fault of theirs. They are denied social security protection without being given the necessary information to remain in good OWWA standing – a violation of due process.

Worse, only 7% have used its programs and only 5% stated that the program successfully met his or her welfare needs. To date, OFWs’ demand for OWWA reform, accountability and transparency have fallen on deaf ears. Likewise, NGOs call to suspend and review the Omnibus Policy has been ignored by OWWA.

In addition, OFWs are also required to pay membership to Philhealth for medical benefits while undocumented may also join Philhealth in select countries. It is quite affordable but very insufficient vis a vis the poor health situation of Filipinos, the sorry state of the public health system and the expensive privatization of health care.

An OFW may also access old-age benefits if he/she volunteers to contribute to the Social Security System (SSS) but the pension is insufficient given so much poverty and lack of social safety nets.

Meanwhile, undocumented OFWs **do not enjoy the right to social security** and have to compete for the limited Legal Assistance Fund and Emergency Repatriation Fund of the Office of the Undersecretary for Migrant Workers Affairs – Department of Foreign Affairs (OUMWA).

#### **h.) Right to food**

Many OFWs, especially domestic workers and caregivers, complain of insufficient or unsuitable food that they cannot eat because of cultural preferences and worse, their employers even charge them for these. OFWs who are detained, especially the undocumented, likewise complain of the same problem.

### **i.) Right to shelter/housing**

Many OFWs, especially domestic workers and caregivers, suffer from inadequate housing abroad like when they run away from their employers and seek shelter to the embassy or consulate, accommodation is a big problem. There are just too many victims of abuses and runaways that Philippine government's Filipino Workers' Resource Centers/ shelters cannot humanely house them due to lack of space and other resources.

### **j.) Right to education**

Many OFWs suffer from de-skilling because they take up jobs that do not match their educational background e.g. teachers working as domestic workers, doctors shifting to nursing, architects working as draftspeople, nurses working as caregivers, etc.

Filipinos working abroad also would not have time for continuing education opportunities or adult education e.g. domestic workers and caregivers are usually overworked, with only one day-off, if they are lucky. The only day-off usually is not even enough time for themselves (rest, relaxation, stress management) and communicating with their families.

Meantime at home, the Technical Education and Skills Development Administration's (TESDA) PGMA-Training for Work Scholarship Program and Employment Skills Training Program cater to potential migrant workers, with modules such as housekeeping (for domestic workers) and gas metal arc welding (for construction workers). But the training centers it has accredited nationwide, largely private ones, offer expensive courses on Information Technology (IT), caregiving (6 mos), housekeeping, seafaring, call center services and medical transcription, etc – again catering to potential OFWs.<sup>30</sup>

On the other hand, another social cost of migration is the tendency of OFWs children, particularly domestic workers and caregivers, not to finish their studies since they just want follow their parents' footsteps and be domestic workers and caregivers themselves which is the easier way to join them or go abroad themselves. Lack of parental guidance also result to bad study attitude and habits and eventually dropping out of school.

### **k.) Right to health**

Long hours of work, lack of days off or overwork, usually without compensation, especially in the case of domestic workers and caregivers, stress out OFWs physically as well as emotionally and mentally. Human rights abuses, including physical maltreatment, emotional violence, psychological torture and violence against women from sexual harassment to rape likewise stress them out, wearing their health down. Unfavorable work and living conditions including lack of sufficient nutrition and proper accommodations as well as worries over those they left behind in the country and insufficient social support all contribute to ill health. Undocumented OFWs are particularly vulnerable to illnesses because they are more prone to abusive work and living conditions. They are without access to health services because of their immigration non-status where abusive employers can easily withhold such benefit and the OFWs, afraid that they will lose their job, are unwilling to fight for their right to health.

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<sup>30</sup> Open courses as of June 2008. Technical education and skills development authority: <http://www.tesda.gov.ph/page.asp?rootID=4&sID=54&pID=34>

Employers of some OFWs do not provide them health insurance. Access of marginalized OFWs to health services is limited because health insurance and private health services are very expensive thus if the employer does not provide this, the OFWs will have to pay a lot of money for health services which they cannot afford.

### **I.) Discrimination**

No significant steps have been taken to eliminate discrimination against **domestic workers, caregivers, overseas performing artists and women.**

Domestic work abroad is attractive to housewives who are not remunerated for their housework, they continue to flock to restrictive societies like Saudi Arabia, Jordan and Lebanon despite abuses, runaways and repatriations of OFWs there that have been well-covered by the international media. While entertainment work is attractive due to the lure of potential high pay.

For example, in Jordan as of 2007, there were 200 domestic workers waiting, some for almost six months, for their cases to be settled, for their exit papers or repatriation tickets.

One should note that domestic workers in the Philippines itself are not recognized as workers thus eroding the right of Filipinas working abroad to assert their rights. However, there is a bill (*Kasambahay Law*) but pending for years now in Congress towards recognizing domestic workers as workers and providing for their rights and benefits.

Another form of gender discrimination is the recent POEA policy discouraging unskilled jobs such as domestic work, on the assumption that skills and a higher age requirement will protect OFWs from abuses.

The government has been sending mixed signals regarding domestic work employment abroad. Official pronouncements signify that it wants to end the predicament of hundreds of abused domestic workers temporarily housed in the Filipino Workers' Resource Centers abroad but on the other hand, the President is encouraging *Supermaids* and Tesda has *supermaid* training programs promoting domestic work abroad.

### **The Urgent Need for Bilateral labor agreements**

So far the country has forged bilateral labor agreements with receiving government but these are mostly limited to deployment arrangements for seafarers and deployment and recruitment procedures for landbased workers.

However it is very important for the government to forge agreements including multilaterals that clearly recognizes rights of OFWs and set-up protection mechanisms with as many host countries and cover as many types of OFWs as possible to better protect them from abuses.

The government should persevere to dialogue with host countries to make them equally committed to protect, promote and fulfill the rights of migrant workers. Effective enforcement of government policies also requires the cooperation and commitment of host countries.

An example of why the country needs to forge bilateral labor agreements with host countries is the POEA's Household Service Workers policy increasing minimum wage of domestic

workers to \$400 from the prevalent US\$200 and requiring assessment or training in housework ostensibly to promote their rights.

While higher wage is desirable but the domestic workers and host governments were not consulted before this policy was imposed.

As a result, the said reform was ineffective since the Philippine government could not impose this on host countries who are more decisive on-site without bilateral labor agreements.

Instead, officials are pushing for treaties that are perceived to be disadvantageous to the country and its workers like the Japan-Philippines Economic Partnership Agreement (JPEPA) which only affirms the commodification of our migrant workers and places them under unfair labor and social conditions because Filipino nurses and caregivers would not be treated as professionals in Japan.

## **RECOMMENDATIONS**

In the light of the above, the following recommendations have been forwarded in various public forums and consultations on the situation and problems of OFWs and their families:

1. The government should review its labor export policy while seriously addressing the labor situation in the country to prevent more outflux of its human resources.
2. A comprehensive and coherent reintegration program for returning OFWs to include drawing up incentives to lure them and their investments into the local economy and addressing the social costs of migration so they are not trapped in the cycle of outmigration.
3. Evaluate and improve TESDA and PESO. Improve their capacity to also target workers who have gone abroad for retooling and adult education. Until most Filipinos can find work and earn decent wages, push factors will drive them abroad in droves, even as undocumented workers.
4. Strict regulation of recruitment agencies and imposition of penalties against those collecting excessive placement fees. Enforce the POEA standard of one-month salary as maximum worth of this fee.
5. Government agencies should seriously ensure that the rights of OFWs are promoted and protected. They should also be gender-sensitive and responsive – Filipinas tend not to complain or file cases but sensitively investigating their situation usually surfaces gender-related problems.<sup>31</sup>

Deceits and abuses like switching and unjust cancellation of contracts should be closely monitored and penalized.

Create a policy environment that would encourage victimized OFWs to file cases like provision of legal assistance and witness protection, etc.

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<sup>31</sup> Anat Kidron, Adv. Kav LaOved. CMA forum on Responding to the situation of caregivers and domestic workers in Israel. September 12, 2008

6. Capacity and resources for counseling, stress debriefing and management and other assistance for both distressed OFWs and families/ children negatively affected by migration should be provided.

Victims of illegal recruitment must also be documented and given post-trauma counselling.

7. The government should also evaluate the performance of all OFW-related agencies to improve their attitudes and services towards OFWs, to increase their capacity and to weed out undesirable personnel. The OWWA should be overhauled to better serve and benefit OFWs.
8. Funds of and for OFWs should be strictly monitored and audited.
9. Local government units (LGUs) should also be trained so that they could help address the needs of OFWs and their families.
10. Work out bilateral labor agreements especially with countries where OFWs are concentrated and monitor and maximize existing Memorandum of Understanding.
11. Evaluate the implementation of the Magna Carta for Overseas Filipinos and their Families or Republic Act 8042 and amend sections that fall short of its intent to promote and protect their rights. Congress, with its oversight function, should regularly hold hearings and investigations regarding the situation of OFWs.
12. Improve government's information and education work and regulate agencies providing PDOS and PEOS. Develop curriculums relevant to first timers, rehires and those approaching reintegration. The pre-employment orientation seminar (PEOS) should enable citizens considering overseas work to make an informed decision so that they could prepare adequately. They should know their rights as migrant workers and should know what to do when these rights are violated.
13. Include labor code and migration issues in tertiary and vocational education curriculum as part of basic human rights education.
14. Considering the soon to be held Global Forum on Migration and Development in Manila come October 2008, the government should take this opportunity to come together with other governments to seriously address migrant workers and their families' concerns.
15. OFW organizations and other CSOs should be supported in its continuing efforts to inform, educate, organize and mobilize OFWs and their families.

## **The Right to Social Security and Protection: To What Extent is it Enjoyed in the Philippines?**

*Prepared by Rosalinda Pineda Ofreneo of Homenet Southeast Asia with the participation of the following organizations under Homenet Philippines and MAGCAISA -- Aksiyon Kababaihan, ALMANA, DSWP, MAGISSI, MAKALAYA, NKPK, PATAMABA, PKKK, Panday, PAMAko-NUBCW, SKPK, RISC, and WISEACT -- referring to Article 9 - on Social Security – of the ESCR Covenant.*

This year marks the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights (UDHR). Article 23 of this historic document states that:

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (*underscoring ours*)
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (*underscoring ours*)
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Supporting the provisions on social protection mentioned above is Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which provides that “The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.”

### **International Labor Organization (ILO) Conventions on Social Security Not Ratified**

The Philippines has not ratified the following ILO Conventions having to do with social security and protection:

1. C 102 Social Security (Minimum Standards) Convention, 1952
2. C 121 Benefits in Case of Employment Injury Convention
3. C 128 Invalidity, Old Age, and Survivors Benefits Convention , 1967
4. C 132 Medical Care and Sickness Benefits Convention, 1969
5. C 168 Employment Promotion and Protection Against Unemployment Convention, 1983

The fact that the Philippines is not a signatory to ILC 102 underscores the reality that it is not officially committed to complying even with the minimum standards on social security. As of now, it provides the following forms of social security but mainly to formal workers: medical care, cash sickness benefits, maternity benefits, old-age benefits , invalidity



benefits, survivors' benefits , and employment injury benefits.<sup>1</sup>

However, only permanent state employees get unemployment benefits (in extremely limited form), and only if their office or position is abolished due to government reorganization. Otherwise, there is no unemployment benefit to speak of.

There are also no family benefits in terms of allowances to meet the needs of children, except for minor dependents of retired, disabled or deceased members of the Social Security System. Some of the benefits being provided in the Philippines fall below the minimum standard set by C102, for example, maternity leave is limited to eight weeks but the international norm is at least 12 weeks.

### **The Need for Inclusive Social Protection**

Based on its historical origins, social security was originally meant to cover industrial worker-breadwinners, mostly men, against risks. The traditional ILO definition of social security read as follows: "...the protection which society provides its members ... against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death; the provision of medical care, and the provision of subsidies for families with children." (Amante, in Ofreneo and Serrano, 1999:4).

But as the ILO itself emphasized in recent years, "Only one in five people in the world has adequate social security coverage." Furthermore, "lack of social security coverage is largely concentrated in the informal economies of the developing world, which are generally a larger source of employment for women than for men." (ILO website, Facts on Social Security).

Thus, the Geneva Consensus forged by the International Alliance<sup>2</sup> for the extension of social protection and 'fair globalization' on September 7, 2005 aims for universal coverage of the whole population of the world based on the following shared principles and values: 1) Social security is a fundamental and universal human right; 2) it is a global public good; 3) it is a core instrument of redistribution for reducing inequality; and 4) it plays a key role in stimulating economic and social development by fostering growth and social cohesion.

The concerns highlighted by the ILO and the Geneva Consensus Alliance are magnified if recent employment data from the Philippines are considered.

The table below shows the expanding number of informal workers in the Philippines, who at the latest count already comprised 26 million or 76 percent of total employed population. Among them are homebased workers, vendors, small farmers and fisherfolk, non-corporate construction workers, small transport operators, barangay health workers, waste collectors and other service workers.

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<sup>1</sup> For a detailed description of what these benefits are, please see the official Philippine government report prepared by the Coordinating Committee on Human Rights.

<sup>2</sup> This Alliance is composed of ILO, ISSA (Intl Social Security Association), AIM (Association Internationale de la Mutualite), ICA (Intl Cooperative Alliance), ICMIF (Intl Cooperative and Mutual Insurance Federation), IHCO (International Health Cooperative Organization), WIEGO (Women in Informal Employment Globalizing and Organizing)

In contrast, the ranks of formal workers, who comprise the bulk of those covered by social security mechanisms, are progressively decreasing. This has serious implications on the inclusivity (or exclusivity) of current schemes which will be seen later in this report.

**Table 4: COMPARATIVE SIZES OF FORMAL AND INFORMAL SECTORS:  
1999 and 2005**

	1999		2005		Difference
	No. of Workers	% to total employed	No. of Workers	% to total employed	
Labor Force	30,758,000	90.19%*	**	**	**
Total Employed	27,742,000		32,313,000		+4,571,000
Formal Sector	6,013,688	21.68	5,322,320	16.4	-691,368
Informal Sector	20,492,312	65.13	24,666,680	76.34	+4,174,368
Wage and Salary	4,156,312	14.98	7,068,680	21.88	2,912,368
Own-account	10,792,00	38.90	12,104,000	37.46	1,312,000
Domestic Helpers	1,498,000	5.40	1,473,000	4.55	-25,000
Unpaid workers	4,046,000	14.58	3,893,000	12.05	-153,000

\* Per cent unemployed

\*\* Cannot be computed due to the adoption of the revised unemployment definition starting April, 2005.

Source : NSO Labor Force Surveys; Annual Surveys of Philippine Business and Industry as analyzed by the Employers' Confederation of the Philippines (ECOP) in its position papers and website.

In keeping with the new discourse on social security, supplemented by other discourses from the World Bank and the Asian Development Bank viewing social protection as integrated risk management and poverty reduction instrument, the National Economic Development Authority (NEDA) came up with an expanded definition of social protection.

According to NEDA Board SDC Resolution No. 1 s.2007, social protection are “policies and programs that seek to reduce poverty and vulnerability to risks and enhance the social status and rights of the marginalized by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risks.” This is a perspective that takes into consideration the interests of the poor, vulnerable, and marginalized, expanding what is traditionally meant by “social

security” which usually refers mainly to formal mechanisms of social insurance.<sup>3</sup>

The components of social protection under this definition include the following:

1. **Labor market programs** - measures aimed at enhancing employment opportunities and protection of the rights and welfare of workers (Champion agencies are the Department of Labor and Employment, Department of Agriculture, and Department of Agrarian Reform)
2. **Social insurance** – programs that seek to mitigate income risks by pooling resources and spreading risks across time and classes .(Champion agencies are the Department of Health and PhilHealth )
3. **Social welfare** – preventive and developmental interventions that seek to support the minimum basic requirements of the poor, and reduce risks associated with unemployment, resettlement, marginalization, illness, disability, old age and family care. (Champion agency is the Department of Social Welfare and Development-DSWD)
4. **Safety nets** – stop-gap mechanisms or urgent responses that address effects of economic shocks, disasters, and calamities on specific vulnerable groups.(Champion agency is the DSWD)<sup>4</sup>

### Existing Social Insurance Mechanisms

#### a.) The Social Security System (SSS): Coverage and Accountability Issues

Type of Member	Number <i>as of Mar. 2008</i>
<b>Employee</b>	<b>21,527</b>
Regular	21,413
Househelper	114
<b>Self-employed</b>	<b>5,159</b>
Regular	1,270
Expanded	3,373
Farmers & Fishermen	517
<b>Voluntary</b>	<b>694</b>
Overseas Worker	688
Non-working Spouse	6
<b>Total</b>	<b>27,380</b>

<sup>3</sup> There is however a critique that gender should be integrated into such a definition. One possible alternative is the following proposed by Rosalinda Pineda Ofreneo during the NCRFW Multi-Stakeholder Forum on Social Protection for Women in Informal Economy (August 14,2008, Bayview Park Hotel) , based on definitions from other sources: “All interventions from public, private and voluntary organization and informal networks to support communities, households and individuals, both women and men, in their efforts to prevent, manage and overcome risks and vulnerabilities throughout their life cycle, and to realize their rights as citizens participating fully and equally in all decision making which affects their access to and control over resources necessary to maintain and sustain a decent and secure life.”

<sup>4</sup> As presented by NEDA Director for Social Development Erlinda Capones during the NCRFW Multi-Stakeholder Forum on Social Protection for Women in Informal Economy.

Source: *Nora Mercado, Head of the SSS Membership Program Management Department* <sup>5</sup>

SSS benefits cover the following contingencies for employees and workers in the private sector: old age, disability, work-related injury, death, sickness, and maternity.

The total SSS membership of 27.38 million as of March 2008 as reflected above comprise 80 percent of the labor force and has been progressively rising from 23.5 million in 2001.

An analysis of current figures, however, will show the predominance (79 percent) of workers in formal employment and yet they comprise only 14 percent of the total employed population (based on 2005 figures). While the self-employed sector, to which most of the informal workers belong, constitutes only 19 percent of SSS membership but the share of informal sector workers in total employment was already 76 percent in 2005.

Women as a group are also disadvantaged in terms of SSS coverage considering that majority of employed women are in the informal sector. They also comprise the overwhelming majority (two-thirds to three fourths) of newly hired Overseas Filipino Workers (OFWs) and also of domestic workers. SSS Commissioner Jose Matula reported that there are less women (11,871,770) than men (17,670,345) in the membership roster<sup>6</sup>.

Similarly, here are some disturbing membership figures: Only 680,000 of the millions of OFWs are SSS members; 114,000 out of the 1.473 million domestic workers (see table on p.5); and 6,000 only out of millions of Filipino housewives (almost half of all Filipino women) who could be classified as “non-working spouse.”<sup>7</sup>

Worse, Nora Mercado, head of the SSS Membership Program Management Department revealed that only eight million of the more than 27 million SSS members are actually continuing their payments. Paying members comprise just one-third (1/3) of the total membership and one-fifth (1/5) of the self-employed membership.

Non-continuation of payments have implications on benefits that may accrue, particularly retirement benefits which require at least 10 years of continuous payment, and even maternity benefits which assume that at least three monthly contributions during the 12-month period prior to the semester of delivery have been paid. Again, women who are less covered, who live longer, and who face sex-specific contingencies such as maternity, are more disadvantaged.

In response to pressure from informal workers and other groups, and to enhance its own viability, the SSS in recent years has expanded its payment channels in order to provide more access to informal workers, overseas workers, and other underserved groups. It now has 117 accredited banks that accept payments; eight accredited banks for the Automatic Debit Arrangement (ADA) program; and 18 banks for internet-based payments.

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<sup>5</sup> Symposium on “The State of Social Insecurity of Workers, the Informal Sector, Urban and Rural Poor: Structure, Benefits, Funding and Universal Coverage of the SSS and GSIS,” 5 August 2008, College of Social Work and Community Development, University of the Philippines

<sup>6</sup> Presentation during the Multi-Stakeholder Forum on Social Protection for Women in Informal Economy, 14-15 August 2008, Bayview Park Hotel, sponsored by the National Commission on the Role of Filipino Women (NCRFW) and CIDA.

<sup>7</sup> This even assumes that there are no male “non-working spouses” who are members.

In addition, beginning in 2002, there has been an SSS nationwide tellering program for SSS offices, and the target is 87 by end of 2008. The SSS has also accredited non-bank collection agents such as the CIS Bayad Centers, SM malls, I-Remit and Ventaja International Corporation.

However, despite its efforts to expand its payment channels, SSS still has a long way to go in terms of reaching out to informal workers and other vulnerable groups. The ADA program, by which informal workers can open a savings account for one hundred pesos, and later on have their SSS contributions automatically debited, has not been that successful on the ground. SSS leaders admit that just over a thousand ADA members remain active.<sup>8</sup>

ADA members complain about unfriendly bank tellers who do not give them the courteous attention they deserve when they come to pay. Reports from the field also show that SSS and bank tellers tend not to accept monthly payment contributions below P364, when the minimum contribution should only be P104. Payments of P300 and above are already prohibitive for most informal and other vulnerable groups, thereby preventing them from sustaining their contributions.

Lastly, credibility and transparency need to be brought to the fore, given the recent appointment of a controversial political figure very close to the President to the SSS leadership, and the past scandals involving questionable investments and expenditures which hounded the SSS in the past. (See Serrano, 2006).

#### **b.) Government Service Insurance System: Membership Exclusion and Other Questions**

GSIS covers all government employees (some 1.36 million) who enjoy a monthly compensation regardless of employment status. It provides social insurance to meet contingencies such as death, disability, separation from service, unemployment due to involuntary retrenchment, and retirement. GSIS now has 140,119 pensioners and 68,099 receiving survivorship benefits. It provides life insurance, various kinds of loans, and hospital support.<sup>9</sup>

Unfortunately, GSIS does not cover barangay health workers, barangay nutrition scholars, and other workers in the government service who are considered part of the informal sector and who do community work in exchange for small honorarium or allowance. There should be ways by which GSIS can develop programs for this group of workers to ensure their coverage.<sup>10</sup>

GSIS members have also articulated a number of issues during the NGO-PO consultations convened by PhilRights for this ESC alternative report. Teachers present during the consultation for NCR on September 4 complained that their contributions (automatically deducted from their salaries) have not been remitted by their offices, though no fault of their

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<sup>8</sup> MAGCAISA dialogue with SSS officials led by Vice President for Public Affairs Marissu Bugante, SSS Gallery, 12 August 2008.

<sup>9</sup> Presentation by the GSIS representative during the August 5, 2008 forum at the U.P.CSWCD.

<sup>10</sup> In House Bill 1955 for a Magna Carta for Workers in the Informal Economy, it is proposed that barangay health workers and similar categories of workers be covered by the GSIS.

own, yet they are the ones being penalized through surcharges for non-remittance of payments.<sup>11</sup> Even retirees are being charged interest for these non-remitted payments.<sup>12</sup>

GSIS, like SSS, has also been under fire for alleged corruption and mismanagement, again highlighting the need for transparency in operations.

### **c.) PHILHEALTH : Weaknesses and Limitations**

PhilHealth, established in 1995, is mandated to provide health insurance coverage to all Filipinos within 15 years from the year of establishment. It provides subsidy for room and board, drugs and medicines, laboratory fees, operating room and professional fees for in-patient members. It also covers day surgeries, dialysis and cancer treatment procedures for out-patients.

In addition, it has the newborn care, maternity care, tuberculosis, and SARS special benefit packages. These services and packages can be obtained from accredited medical facilities.

#### **MEMBERSHIP PER SECTOR AS OF DECEMBER 2007**

<b>SECTOR</b>	<b>MEMBERS (in millions)</b>	<b>BENEFICIARIES</b>
Government –Employed	1.78	7.42
Private-Employed	7.00	24.86
Sponsored Program – Active	2.72	13.64
<b>Individually Paying Program (IPP)</b>	<b>2.94</b>	<b>11.07</b>
Non-Paying (registered)	0.34	0.57
OWP (registered)	1.59	6.91
<b>TOTAL</b>	<b>16.37</b>	<b>64.47</b>

Membership figures from PhilHealth also have the same lopsided proportion just like those of SSS.

As of December 2007, there were 16.37 million members and an estimated 64.47 million beneficiaries (the members' next of kin). However, majority of the members (53 percent) belong to the formal sector of which 7 million are privately employed and 1.78 million are public employees for a total of 8.78 million.

The individually paying members, to which informal workers are categorized, comprised only 2.94 million or a little less than 18 percent of the total PhilHealth membership. The sponsored program which used to be the indigent program covered 2.72 members or 16.6 percent of total. But the number of sponsored members fluctuates from year to year because it is dependent on whether politicians – especially those wishing to influence the outcome of elections, local government units, or private corporations agree to defray membership cost just for a year.

<sup>11</sup> It was further suggested by teacher representatives that the matter of too many deductions from their salaries be looked into, since very little is left for their daily survival needs.

<sup>12</sup> In the NCR consultation, the need to clarify how interest is computed for loans and other transactions with GSIS was brought up.

Again, there are less women members among the formally employed and the sponsored (indigent program) but more under the individually paying program. Overall, there are more benefit claims filed by female beneficiaries (56 percent) than male beneficiaries (44 percent). This may be due to the childbirth/maternity care that only women can claim. Nonetheless, this maternity care is limited to only three normal spontaneous deliveries (inconsistent with the SSS provision allowing maternity leave benefits of up to four pregnancies).

Overseas workers have 1.59 million members in PhilHealth. In 2005, PhilHealth assumed the administration of the Medicare Program of the Overseas Workers Welfare Administration (OWWA). The Medicare funds of the OFWs were thus transferred to PhilHealth.

Migrant workers' groups during the NCR ESCR consultation voiced out concern about how these funds have been actually used for the benefit of their contributors.<sup>13</sup> Again, the need for transparency and information dissemination regarding these matters was underscored. In decision-making, the PhilHealth Board has members representing workers, the self-employed, and the National Anti-Poverty Commission (NAPC). Pressure from within the Board as well as from forces outside pushing for faster inclusion of marginalized sectors has helped accelerate efforts to develop partnerships with organized groups.

PhilHealth now has the KASAPI (Kalusugang Sigurado at Abot-Kaya sa PhilHealth Insurance) program in partnership with large organizations such as microfinance institutions (MFIs), cooperatives, NGOs, and rural banks having more than 1000 members and strong operational, management, and financial capacities. It is supposed to be a triple-win for the three actors in the program: a.) informal economy workers receive protection for financial implications of illness; payment flexibility; lower premium; more benefits; and time and hassle savings; b.) PhilHealth benefits from increased, sustained coverage, and improved financial stability of the program for informal sector workers; and c.) the partner institution is able to fulfill its social mission, gain additional membership, and reduce risk.

But PhilHealth's KASAPI program still has a very limited reach and has very stringent requirements.

Likewise, many individually paying members (including informal economy workers) are unable to sustain their contributions, endangering both their access to benefits as well as the overall sustainability of PhilHealth. This highlights the "major gap" in terms of widespread and sustained coverage identified in many social health insurance programs – the working poor who are "neither poor enough to qualify as indigents nor well-off enough to pay regular PhilHealth premium contributions." (Gonzalez, 2007:4). The problem is further magnified by PhilHealth policies which require fairly consistent contributions in order to

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<sup>13</sup> For example, there was a proposal to build a hospital for OFWs but it is unclear to how the OFW contributions still lodged in OWWA or already transferred to PhilHealth could be used for this purpose. Virginia Pasalo of the OWWA Board explained in an interview 26 September that the hospital proposal was not approved by OWWA because the alternative of improving and expanding health services for OFWs in health facilities near their areas of origin was deemed more practical than to have a hospital just in one place.

access benefits when the need arises.<sup>14</sup>

Moreover, since the focus of PhilHealth packages is on hospital care, it is claimed that it tends to benefit health care providers more. This has been inviting unscrupulous Health Maintenance Organizations (HMOs) to make fraudulent claims which have built up to a staggering sum of P4 billion since 1995, involving “unnecessary operations, overpriced medicine, and even ghost patients.” (Gonzalez, 2007:3). At least two sources (Gonzalez and former Health Secretary Alberto Romualdez Jr) say that in PhilHealth, the poor subsidize the rich or the “relatively well-off employees who have a higher incidence of catastrophic illnesses requiring more expensive treatments.”<sup>15</sup>

#### **d.) Private, Community-Based and Other Civil Society Initiatives**

A survey of 1,000 respondents conducted by PATAMABA in 2004 among homebased and other informal workers revealed that 63 percent had never had any form of social protection.<sup>16</sup>

This is indicative of a large unmet need. Since existing social insurance mechanisms such as the SSS and PhilHealth are often inaccessible, unaffordable, and/or inadequate for many Filipinos, especially the marginalized, there are many other arrangements that have been devised to fill the gap.

At the community level, there is the indigenous scheme called *damayan*, whereby neighbors come to each other's aid during times of death and burial. In some instances, such a scheme is complemented by medical assistance in times of illness.<sup>17</sup> The *damayan* concept is also integrated in homegrown microfinance schemes, as exemplified by the PATAMABA Region VI initiative covering some 500 women in Iloilo, Antique, and Capiz.<sup>18</sup>

Large cooperatives such as NOVADECI, ACDECO, and ORT have also built in community-based health micro-insurance and other social protection packages within their programs, with varying success.<sup>19</sup> There are mutual benefit associations (MBAs) and health maintenance organizations (HMOs) which cater to employees and other groups which seek to access, enhance, or supplement their health benefits.

#### **Other Social Protection Schemes**

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<sup>14</sup> For example, failure to make payments during the last quarter before needed hospitalization disqualifies the member concerned from enjoying inpatient benefits, except when it is clear that contributions for at least nine months during the last year were made, in which case the member can be given a grace period to make full payments.

<sup>15</sup> In Gonzalez, 2007. In his University of the Philippines Centennial Lecture, former Health Secretary Romualdez showed a chart of 10 hospitals leading in PhilHealth reimbursements, of which only one was public. This suggests that private patients (who are better off) use PhilHealth more. The Romualdez lecture was featured by Michael Tan, in his column “Health for All,” *Philippine Daily Inquirer*, 12 September 2008.

<sup>16</sup> See Homenet Southeast Asia, 2006:91.

<sup>17</sup> An example of this is the *Damayan* in San Francisco, Bulacan, Bulacan, with more than 200 members, and which has an agreement with a nearby clinic entitling its members to immediate medical attention. (Homenet Southeast Asia, 2006:42-43).

<sup>18</sup> For an extended discussion, see Homenet Southeast Asia, 2006:48-49/

<sup>19</sup> The ORT Health Plus Scheme in La Union, for example, floundered due to weak collections after many years of success and being hailed as a model by the ILO.



### **a.) Labor Market Programs and Decent Work**

The Department of Labor and Employment provided capacity building and livelihood assistance services to 61,698 women through its WEED program (2004-07), 40,006 jobs through its PRESEED program (2001-07), and microfinance worth P88.7 million to 8,804 workers. It also engaged in a campaign to enroll workers in social protection mechanisms, with 260,444 becoming members in the period 2003-07.

It provided maternity benefits worth P71.9 million to women sugar workers. It gives learning sessions on workers' safety and health and provides visibility and voice to informal economy workers through designated desks in local government units.<sup>20</sup>

However, the labor market program of the DOLE is too under-financed and has very limited coverage, compared to actual need. It accounts for only .1 percent of total social protection expenditures of the country which is very miniscule at a time when livelihood and economic security is truly an essential ingredient in accessing and maintaining social security. Occupational safety and health for informal workers is also very important, but currently most of the programs as mandated and internally financed cover only formal workers. There is merit in the advocacy to localize occupational health and safety programs through their integration in the health development plans of local government units.

The ILO has been working closely with the DOLE, trade unions, and employers' groups in crafting and implementing a National Program of Action for Decent Work which includes the concerns of workers in the informal economy and integrates social protection as an essential component. This can be a venue for fleshing out a comprehensive and integrated approach to social security and protection for all workers and for foregrounding the resource implications of this approach.

### **b.) Social Welfare and Safety Nets: The Need to Go Beyond Doleouts**

In response to the rice and fuel crisis which hit the country in the first half of 2008, the Department of Social Welfare and Development (DSWD) implemented safety nets to cushion their impact on the poor. These include the *Pantawid Kuryente: Katas ng VAT Project* and the Family Access Card (FAC). The former is a one-time cash subsidy of P500 for the lifeline consumers utilizing 100 kilowatt hours or less electricity per month, (for the billing period ending in May 2008).

FAC for NFA Rice is a "card bearing the *BIGAS access number* issued to eligible poor families to let them purchase NFA rice at P18.25/kilo sold at *Tindahan Natin* outlets and *Bigasan sa Parokya*." Targeted beneficiaries are 30 percent of the bottom poor families in 911 barangays of the 16 cities and one (1) municipality in Metro Manila.

As of 13 August 2008, a total of 3,359,074 lifeline electricity users have been provided credit memos by the Land Bank of the Philippines, NEA and PEPOA nationwide utilizing P1.68B; while 270,480 families in 668 barangays have been issued the Family Access

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<sup>20</sup> Presentation of Director Chita Cilindro of the DOLE Bureau of Women and Young Workers, NCRFW Multi-Stakeholder Forum

Cards (FACs).<sup>21</sup>

But critics, especially NGOs and peoples' organizations view, these DSWD's safety net programs as mere dole-outs which again benefit only a fraction of those in need and cover limited areas, principally Metro Manila. They also violate the sense of dignity and self-worth of the poor who, for example, have to stand in line for hours, just to avail of cheap rice.

On the other hand, the *Pantawid Pamilyang Pilipino* Program (4Ps) is "a program that provides cash grant to poor families to enable them to invest in human capital by sending their children to school and taking them to the health center for preventive health check-ups and immunizations."<sup>22</sup> Eligible households receive P500 a month for health and nutrition, and P300 a month per child for education, for a total of P1,400 a month for a family with three children in school.

Under this scheme, parents are obliged to make sure that their children get regular health check-ups and vaccines, attend day-care, pre-school or regular school, and to participate in mother's classes and other sessions on responsible parenthood. Mothers are organized into small groups and are mobilized at the municipal level.

Target beneficiaries for the next five years are 320,000 of the poorest households nationwide, "a mere drop in the bucket considering the latest official poverty figures, which estimated that there were 27.5 million poor Filipinos in 2006."<sup>23</sup>

These conditional cash transfer programs are perceived to be more empowering and sustainable although DSWD Secretary Esperanza Cabral admitted that "there are risks, including political manipulation, problems with selection of beneficiaries and misuse of funds." However, she says these can be mitigated by good design and implementation strategies. (DSWD website).

In addition, cash transfers have been proven to have positive outcomes in Mexico and other parts of the world.

### **Where is the money for social security and protection?**

According to the recent ADB study entitled "Social Protection Index for Committed Poverty Reduction (2008)," Philippine social protection expenditure as percent of GDP is only 2.2 percent.. Just how low this percentage is can be gauged by the fact that in Europe, social security expenditure is nearly 25 percent of GDP; in North America, 16.6 percent, and Africa, 4.3 percent. (ILO website, Facts on Social Security).

In the same study, the Philippines came out with a Social Protection Index (SPI) of .28, which is below the Asian average of .36. It was ranked no. 22 out of 31 countries studied, and fared poorly because of low expenditures on social protection (80 percent went to social

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<sup>21</sup> Data source for this is the DSWD representative(Asst. Secretary Vilma Cabrera) who made a presentation during the NCRFW Multi-Stakeholder Forum on Social Protection for Women in Informal Economy, 14 August 2008, Bayview Park Hotel.

<sup>22</sup> Presentation by Undersecretary Pablo of the DSWD, forum on conditional cash transfers, University of the Philippines College of Social Work and Community Development, August 2008.

<sup>23</sup> Karin Schelzig Bloom, "Teaching people how to fish: conditional cash transfers in the Philippines, Philippine Star, June 4, 2008.

insurance vs. .1 percent to labor market programs), low coverage of, distribution of benefits to, and impact on the poor.

The challenge, therefore is political will in allocating and actually spending resources for the universal right of social security and protection.<sup>24</sup> In this endeavor, the state must take the lead role, being the only institution with the financial clout, either through tax-based financing or the mixed model (tax subsidy to finance lower premia for informal economy workers).<sup>25</sup>

## **Recommendations**

In view of the above discussions, this NGO report on the right to social security recommends the following:

### **On the Social Security System:**

- 1.) Social security should be provided to all workers, including the working poor who mostly belong to the informal economy, in cases of death, illness, disability, maternity, and old age.

The NGO-PO consultations also highlighted the need for the SSS to be more inclusive, to reach out to underserved sectors of the working poor such as tricycle drivers, fisher folk, vendors, domestic workers, seasonal workers, and housewives, and to devise more programs to ensure equality of access to benefits among people of different socio-economic classes.

- 2.) The same consultations on ESC alternative report also underscored the need to provide unemployment insurance and to include the youth in the scope of coverage.
- 3.) Sponsorships and subsidies from the national and local governments should be extended to those who cannot afford to pay the full SSS premiums particularly for those who enroll as self-employed and therefore pay for both the employer and the employee's share.<sup>26</sup>

Local government units where various organizations are registered for accreditation as well as permits to operate can also provide subsidies to fully or partially cover SSS payments of their constituents.

- 4.) Informal workers, in addition to formal labor, should be represented in the SSS Commission, where gender balance should also be observed. Since SSS contributions come from workers, workers' representatives should decide how best to use them based on the principles of democratic control, transparency, and accountability.<sup>27</sup>

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<sup>24</sup> This is the main conclusion of Gonzales in his 2007 Social Watch Report.

<sup>25</sup> Synthesis Report of the Conference on Extending Social Health Insurance to Informal Economy Workers, 18-20 October 2006, Manila, sponsored by PhilHealth, GTZ, ILO, WHO, and World Bank.

<sup>26</sup> In House Bill 1955 for a Magna Carta for Workers in the Informal Economy, it is proposed that the share of the employer for the self-employed members will be paid by government.

<sup>27</sup> From the results of the workshop on national policies and programs, NCRFW Multi-Stakeholder Forum on Social Protection for Women in Informal Economy, 14-15 August 2008, Bayview Park Hotel. (Currently, formal labor is already represented in the SSS Board. There is also one woman member.) Previous

- 5.) In order to facilitate universal membership, cooperatives, women's and people's organizations should be accredited as collecting agents of premiums.
- 6.) Other collection mechanisms (through cellphones, couriers, etc.) should also be developed.
- 7.) Membership campaigns should be directed particularly at housewives or spouses, domestic workers, overseas workers, and informal workers among whose ranks women are concentrated.
- 8.) Funds should be set aside to meet the immediate needs of SSS pensioners.
- 9.) Monitoring of compliance by employers, especially in the provinces, needs to be improved and if possible be conducted by an independent body.

**On the Government Service Insurance System (GSIS):**

- 10.) GSIS should develop programs to ensure coverage for barangay health workers, barangay nutrition scholars, and other workers in the government service who are not yet its members.
- 11.) Complaints regarding non-remittance of members' contributions by their offices should be addressed quickly and equitably.
- 12.) Entitlements of GSIS pensioners should be immediately provided.
- 13.) Transparency and accountability should govern GSIS operations.

**On PhilHealth**

- 14.) The National Health Insurance Corporation or PhilHealth should move towards the provision of universal coverage with state subsidy and sponsorship programs from various sectors for those who cannot afford to pay the full premiums.
- 15.) Government subsidies for sponsorship programs should be better targeted and expanded to fully or partially cover the working poor and the ultra poor against illness and other contingencies.
- 16.) PhilHealth's presence should also be extended further to rural areas which are still underserved both in terms of membership and access to accredited hospitals.
- 17.) All micro finance institutions (MFIs) should be required to integrate micro-insurance into their lending operations.<sup>28</sup>

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recommendations go as far as workers and their organizations participating directly in choosing their representatives to the SSS Board, instead of the latter being appointed by the President of the Republic. (Serrano, 2006).

<sup>28</sup> It was also suggested during the NCR consultation that these MFIs should be more tightly monitored by government for policies that actually worsen rather than alleviate poverty.

- 18.) In the meantime, the KASAPI and other PhilHealth programs for indigents and the working poor should be expanded and improved in order to develop effective partnerships with organized groups, especially those composed and led by women, senior citizens, persons with disabilities, ethnic communities and other marginalized sectors, to better serve increasing numbers of those in need.

Organized groups with less than one thousand members should be allowed to be collecting agents benefiting from certain incentives.

- 19.) Maternal, occupational and other health concerns of women should be integrated in the PhilHealth package of programs and benefits.

Maternity benefits should cover at least four pregnancies(not just three) to make these consistent with SSS coverage.

It is recommended that family planning services based in hospitals should be fully covered by PhilHealth, especially in the case of patients who cannot afford to pay.<sup>29</sup>

To emphasize the preventive aspect further, it is also recommended that annual physical medical check-ups of members be covered by PhilHealth.<sup>30</sup>

### **On Other Social Protection Components**

- 20.) Labor market programs to create employment and alternative livelihood following decent work standards to prevent or mitigate the effects of sudden loss of income should be sustained with adequate resources to enable the citizenry, particularly women, to attain economic security and to continue their access to social insurance and other forms of social protection.

- 21.) State-sponsored social welfare and safety net programs should respect the rights and dignity of the recipients by veering away from dole-outs and moving towards food for work and similar initiatives whereby the recipients are able to exchange their labor or any other resource for the social assistance received.

Other forms of such transfers, such as pensions for senior citizens, especially older women, should be seriously considered. The SEA-K program of the DSWD for women's livelihood should also be strengthened.<sup>31</sup>

- 22.) Mutual benefit associations, community-based health insurance and indigenous schemes such as the damayan should be supported through technical assistance, subsidies, and other means by national and local bodies so that they can be of better service to their membership who cannot access or who need to supplement benefits provided by formal social protection mechanisms such as PhilHealth and SSS<sup>32</sup>.

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<sup>29</sup> Results of the workshop on national policies and programs, NCRFW Multi-Stakeholder Forum on Social Protection for Women in the Informal Economy, 15 August 2008, Bayview Park Hotel.

<sup>30</sup> NGO-PO Consultation in Davao, 10 September 2008.

<sup>31</sup> Results of the workshop on national policies and programs, NCRFW Multi-Stakeholder Forum on Social Protection for Women in the Informal Economy, 15 August 2008, Bayview Park Hotel.

<sup>32</sup> See for example, the provisions on social protection in the proposed bill for a Magna Carta for Workers in the Informal Economy.

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## The Right to Adequate Housing

*This report was prepared by the Sentro ng Alternatibong Lingap Panligal (Saligan), John J. Carroll Institute on Church and Social Issues (ICSI), Foundation for the Development of the Urban Poor (FDUP), and the Urban Poor Associates (UPA).*

*Three (3) consultations with 45 housing NGOs were held to finalize this report, one in Metro Manila for Luzon and Bicol, in Cebu City for the Visayas, and in Davao City for Mindanao.*

*The NGOs involved in drafting and finalization of this report include research groups, church offices, grassroots organizers, women's and environment groups, social housing developers and policy advocates. Most are linked with the Philippine Partnership of Support Service Agencies (PHILSSA).*

### REVIEW

As a way of assessing the years since the last NGO and State Party reports back in 1995, it may be useful to review the recommendations made by the Committee that year in their Concluding Observations and determine to what extent they have been attended to.

The following paragraphs were from the 1995 Concluding Observations that refer to housing issues:

**No. 10: The Committee said it was unable to see the precise status of the Covenant in terms of its practical relevance within the judicial system of the Philippines.** This is still a concern here. The Commission on Human Rights gives great importance to the Covenant in matters of evictions and resettlement, but it cannot be said that the government executive agencies or the courts do so. The Supreme Court accepts arguments based on the Covenant, but it isn't clear how they assess the cogency of the arguments (See Housing Laws and Issuances for the Poor).

**No. 15: The Committee was concerned about the practice of criminalizing squatters. It singled out PD 772.** This decree was repealed in 1997 but there are legislative efforts to restore its essence and intent. These would be discussed in the Housing Laws and Issuances section of this report.

**No. 16: The Committee noted more families were scheduled for eviction than the relocation resources of the government could handle.** Unfortunately, this is still true (See the chapter on evictions).

**No. 17: The Philippine Government used to argue that the ECOSOC Covenant provides no protection from forced evictions, the Committee stated.** Some important state actors, such as, the Metro Manila Development Authority (MMDA) still hold that opinion. Most agencies, with the exception of the Commission on Human Rights would not publicly agree with MMDA, though they might not also follow the Covenant provisions (See Housing Laws and Issuances section).

**No. 18: The Committee asked that a “fair share of the housing resources available be utilized for making low-cost housing available to the poor.”** The government has not yet complied with this since at present only 0.5% of the national budget goes to housing though 2% would be closer to the amount really needed. Of the total budget allocation for housing, only 20% goes to social housing while the remainder goes to housing for higher income groups (See Housing Finance for the Poor section).

**No. 21: The Committee noted more government money is spent on the military than on housing, health and agriculture combined.** This is still true. The government is planning to raise military spending because of the recent (August 2008) outbreak of armed conflict between the military and Muslim rebels in Mindanao.

**No. 23: The Committee suggests more money in the budget be for slum upgrading and the Community Mortgage Program.** This is an important suggestion that the government has yet to take fully to heart. The CMP budget has remained at the same meager level for years while funding for slum upgrading has been very scarce. More public money goes to resettlement than to slum upgrading and CMP combined.

Resettlement houses are included in the Social Housing category everytime government housing statistics are drawn up but what is not being divulged is the fact that for every resettlement house built, a house was first demolished somewhere else to make way for infrastructure or for other purposes. Never has the government presented the number of demolished homes and evicted families though the figures are very large and still growing. Housing agencies should be required to monitor, keep account of and publish eviction and demolition comprehensive data.

**No. 24: The Committee suggests ODA money be used for the two programs, upgrading and the CMP.** Presently, there no ODA funds for CMP while development assistance for slum upgrading is limited and hard to access.

**No. 31: The Committee urged the Government to:**

- Treat evictions only as a last resort.
  - Extend a moratorium that was in force in 1995.
  - Promote security of land tenure.
  - Prosecute those who violate housing laws.
  - Make sure there are hospitals, schools and transport facilities in relocation sites.
1. Eviction, often without relocation, seems to be the government’s only way of dealing with urban poor people occupying areas earmarked for infrastructure or living in “danger zones” (along canals, railroad tracks, etc.). It seems that there is no effort to plan infrastructure in such a way that the number of families affected is minimized. Likewise, the government is not interested in upgrading “danger zones”, so that people can live there decently, for example, by building embankments.
  2. There is no moratorium on evictions now despite repeated calls from people’s organizations and NGOs for the government to stop demolishing houses until the laws and official practices are in line with the Constitution and international human rights instruments. On Sept 2, 2008, around 500 urban poor people marched to the



office of the Commission on Human Rights to ask for its cooperation in securing the said moratorium.

3. During the first three years of President Gloria Macapagal-Arroyo's term (2001-2004), there had been a spike in the number of CMP take-outs and land proclamations that benefitted 195,000 urban poor families. But since 2005, there have been very few proclamations and she announced last January 31, 2008 that she would no longer proclaim land but would upgrade the lands already declared for the urban poor.
4. No official has been prosecuted for violating housing laws especially the Urban Development and Housing Act of 1992.
5. Most of the time, as relocatees arrive in their new housing sites, they would not find basic services and infrastructure like hospitals, schools, water, electricity, drainage, etc. because it usually takes years before these could be set up in these areas. Worse, practically, nothing is being done to provide affordable transport facilities to and from relocation sites despite the obvious importance of job accessibility to resettled families.

**No. 32: The Committee suggested creating an independent body, legally responsible for preventing illegal, forced evictions.**

The role of an independent body for preventing forced evictions was not accepted by the Housing and Urban Development Coordinating Council (HUDCC) and the Presidential Commission for the Urban Poor (PCUP). Instead, Executive Order (EO) 152 assigned and gave PCUP the power to monitor and control evictions but this proved unsatisfactory to different stakeholders, for example, some government agencies found this policy troublesome and ignored it.

But on the contrary, PCUP should be given a stronger mandate to protect the rights of urban poor dwellers and to collect reliable information and statistics on evictions.

However, in 2008, Malacañang issued EO 708 transferring the monitoring task and the power to certify evictions to local government units (LGUs). This is highly questionable because the LGUs are often the ones evicting the urban poor, so how could they monitor their actions objectively?

**Some aspects of land and housing matters arising since 1995 should be mentioned.**

- Proclamations for a few years, from 2001 to 2005, became a major program.
- There has been a recent deterioration in the implementation of the Urban Development and Housing Act, especially in matters of evictions and relocation. In the first half of 2008, for example, there were 2,000 families evicted in Metro Manila excluding those demolished along the railroad but only 190 families or less than 10% were relocated. Important government agencies such as the Department of Public Works and Highways (DPWH), MMDA, and local executives regularly evict families without relocation. Sometimes they offer monetary compensation but some evictions

are also done violently. The people are pressured and harassed to agree to relocation even if they are not prepared to move. Distant relocation has a new meaning: in the past, the farthest NHA resettlement sites were 40 to 50 kms. away but now it's 82 kms. away. The pressure of finding more and more relocation in the face of new infrastructure leads to abuses since adequate relocation is expensive and time consuming (See Evictions and Resettlement).

- The government in 2003-2008 made history by staging the largest eviction operations ever done in the country when it relocated approximately 40,000 families from the North and South railroad tracks. In the beginning, it seemed that the government was aware of what adequate relocation should be because in the NorthRail, it provided in-town relocation but in the SouthRail, it reverted to distant relocation.
- Largely upon the urging of NGOs and people's organizations, the government constituted the Socialized Housing Finance Corporation (SHFC) but traditional bureaucracy has prevented it from offering various forms of assistance to poor families. Currently, it needs to come up with more innovative programs for vulnerable groups.

## IN SUM

MORE THAN A DECADE SINCE THE COMMITTEE ISSUED THE CONCLUDING OBSERVATIONS ABOVE BUT WE FIND THAT THE SITUATION HAS HARDLY IMPROVED, FOR EXAMPLE, ILLEGAL DEMOLITIONS CONTINUE IN BIG NUMBERS; RELOCATION IS NOT PROVIDED IN MOST CASES OF EVICTIONS; FUNDING FOR HOUSING IS STILL INADEQUATE.

The next section will be chapters discussing the following: **(1) Overview of the General Situation in the Philippines; (2) Housing Finance for the Poor; (3) Housing Laws and Issuances for the Poor; (4) Evictions; and (5) Proclamations and Resettlement.**

In some of the matters discussed by the Committee in the past there has been improvement; in some the situation has worsened, while in others it is about the same as in 1995. Overall, the housing situation ranges between fairly much the same and somewhat worse.

## CHAPTER ONE

### OVERVIEW OF THE GENERAL SITUATION IN THE PHILIPPINES

Urbanization, or the rise in the proportion of a country's total population living in urban areas, is a double-edged phenomenon. While it is generally acknowledged that there exists a positive and natural relationship between economic growth and the rate of urbanization, in the Philippines, the latter has proceeded at a fast pace even as economic development for the vast majority has been slow. High population growth and political and governance issues

are often identified as reasons for the seeming gap between the rates of urbanization and economic growth.

In 2007, the Philippine population stood at 88.57 million at an annual growth of 2.04 percent since 2000. The National Statistics Office (NSO) placed the urban population at 48.03 percent, which is quite a conservative estimate given the evidently rapid urbanization and the growing number of cities (136 as of 2008). A United Nations report placed the urbanization level in the country at a rough and higher figure of 64 percent which translates to 57 million of the entire population or more than 10 million households. More than 20 percent of this proportion is estimated to be in the National Capital Region (NCR) or Metro Manila.

This large urban population is the cumulative aftermath of sustained high rates of natural population growth and a substantial rural-to-urban migration. Both are organic phenomena in urban areas where growth is mainly concentrated, but policy makers deem these trends as threatening to the sustainability of cities. These phenomena are not false but often misunderstood. As a result, efforts to slow down urban growth—curbing birth rates and discouraging migration—continue to be part of the government's response to the attendant circumstances of rapid urbanization such as urban poverty and housing shortage. Yet, millions of Filipino households lack basic assets required to live a decent quality of life, and are confronted with the constant threat of demolition and eviction.

In terms of income, households in urban areas fare better than their rural counterparts. However, while poverty incidence, or the proportion of the population living below the poverty threshold, is more severe in rural areas, the officially determined poverty threshold, or the minimum income required for a person to be able to afford food and non-food necessities, is higher in urban areas. Those who cannot meet this high cost of living in urban areas constitute the urban income-poor. There is also reason to believe that more Filipino families in urban areas fall below the poverty line given the recent increases in food and energy prices. The situation is worse for those receiving minimal wages from short-term employment, raising bigger families, and belonging to the so-called informal sector of the economy.

Experts, however, say that the poverty situation in the country may be worse than what government data indicate. Questions on the methodology used in generating official poverty statistics cloud the reliability of government data for measuring the extent of poverty. For one, official urban poverty statistics exclude families without official and permanent residence such as the ambulant poor living under the bridge, road islands and along streets. The officially used minimum survival standards also only include those who are desperately poor and do not consider as poor those who fail to meet decent living standards.

The lack of income and employment gives rise to a host of other forms of deprivation that afflict the urban poor such as poor health and lack of proper education. Another asset that continues to be elusive to the urban poor due to small incomes is housing or, more specifically, secure tenure. The absence of security of tenure is another defining characteristic of the urban poor as it renders them vulnerable to forced eviction and displacement, events which push them to further impoverishment.

The proliferation of slums and the large number of urban poor families without secure housing tenure underscore the high cost of legal and formal housing and the short supply of government-subsidized or assisted housing in urban areas. The continuing and rapid pace of urbanization has increased the demand for housing to a level that is far beyond the current capacity of the government to address alone. Despite low poverty incidence in urban areas, 30 percent of the country's urban population or 3 million families are said to be illegally occupying government-owned lands, privately-owned properties and danger zones such as riverbanks and railroad tracks, living in blighted communities and poor housing conditions and who are under constant threat of eviction. The present housing situation also reflects the extralegal and informal arrangements that the urban poor employ to be able to survive and cope with their limited options for land ownership. While the government seeks to remove and prevent the formation of informal settlements, the urban poor seem to have no other choice but to resort to such living arrangements because it is in urban areas where jobs and basic services are most accessible.

Suffering from scarce budget allocation, achievements of the housing programs of the government have been modest and fraught with problems. While thousands have benefited from these programs, a significant number of these beneficiaries can still be considered potentially displaceable because of the slow disposition of tenure security instruments such as land titles. Given the scale of these programs and limited resources, full ownership is indeed too high a target to aim for. Hence an intermediate instrument would allow social housing beneficiaries to enjoy the benefits of secure land tenure without a title.

Further hurting the informal urban poor sector are inhumane evictions carried out by some government agencies, a blatant violation of housing rights with economic and social repercussions to affected families. Despite the law, no violators have been sanctioned by the government. The failure of the government, from the national to local levels, to effectively implement laws protecting the rights of the poor undermines its commitment to provide decent, adequate and sustainable human settlements. Instead of forcefully removing informal settlers, the government should provide them spaces for opportunities in order for them to increase their household incomes.

Addressing the housing situation in the country and fulfilling the government's obligation in the realization of the right to shelter of its people go beyond relocating slum dwellers or awarding land titles to the homeless. The government should also look at and understand how other critical factors, such as migration, rural underdevelopment and population growth among others, contribute to urban growth and the challenges it brings about. With these factors in mind, the government should find ways to enable cities and urban areas to accommodate the needs of their constituents especially of the poor and homeless.

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## CHAPTER TWO

### HOUSING FINANCE FOR THE POOR IN THE PHILIPPINES

A look at the different programs and projects on housing or shelter finance of various agencies and corporations of the Philippine government will show that despite the passing of laws, executive orders and other proclamations, a key issue of concern is that the poor and marginalized sectors in urban and urbanizing areas in the country have either no or very limited access to adequate and decent dwellings.

The role of housing as a catalyst of economic growth and development is fully recognized by both the Senate and House of Representatives of the Philippines when these legislative bodies jointly passed in December 1994, Republic Act 7835 (RA7835) or the “Comprehensive and Integrated Shelter Financing Act (CISFA) of 1994”. However, almost 14 years since CISFA’s enactment, various programs on social housing including provision of shelter finance for the poor remain problematic due to unclear targets, limited funds, and problems in implementation.

Fund support for Resettlement Programs are incorporated in the CISFA budget appropriations but even committed funds from 1995-2004 amounting to PhP6.8 million (US\$ 151,111) have not been released on time for the program.

For the Community Mortgage Program, total funds appropriated from 1994-2005 was PhP11.1 billion (US\$ 246.67 million) but actual releases from the Department of Budget and Management was only PhP6.7 billion (US\$148.89 million) and actual utilization is about PhP5 billion (US\$111.1 million). The total accumulated backlog for CMP projects is about PhP3.7 billion for 638 projects as of Oct 2007.

The Abot-Kaya Pabahay Program Fund which would provide amortization support, development financing and guarantee system to low-income families has been suspended since 2000.

Most of the government’s current housing programs are aimed at providing houses to middle/high income and low-income families or households with financing assistance geared at eventually recovering costs in the long term. The homeless poor or marginalized families especially in war-torn areas in Mindanao are left out.

Programs facilitating land tenure security for the poor, i.e., lands classified as resettlement sites under Presidential Proclamations, CMP and Resettlement Programs performed poorly with 52% accomplishment rate partly due to lack of government funding support. Weak financial assistance have also hampered post-proclamation activities and currently the government has suspended land proclamations for new social housing sites.

Except for CMP, pricing of social housing projects including those for resettlement projects remain unaffordable to most of the homeless poor due to the spiraling cost of land and construction materials.

## Recommendations

- A. Prioritize and provide more financial and technical assistance for housing programs aimed at low-income households and poor homeless families as mandated by law.

Specifically, we call on the government to:

1. Increase housing budget to 2% of the total budget with an 80-20 ratio in favor of social housing
2. Increase the CMP budget
3. Support slum upgrading
4. Support Presidential Proclamations of lands as social housing sites
5. Resume the Abot Kaya Pabahay Program
6. Resume the Group Land Acquisition and Development Program
7. Provide safe and decent shelter and other housing interventions to poor families, including Muslim communities, displaced by the ongoing conflict in Mindanao

- B. Innovate pro-poor housing finance programs that will support other modes of tenure aside from ownership.

We call on the government to:

1. Provide grants (technical assistance) and subsidies (below market interest rates for housing loans) to low income families with low affordability
2. Provide grants (free and decent housing) to homeless or marginalized families
3. Seek the active participation of target beneficiaries in all levels of program planning and implementation of social housing programs
4. Ensure that policies, programs and projects continue to directly improve the people's quality of life through the provision of basic social services even after the provision of shelter has been accomplished

- C. Policies and guidelines for social housing programs should fit into the realities of its target sector, the informal settlers and marginalized poor.

We call on the government to:

1. Streamline the procedures and policies of the Social Housing Finance Corporation to enable more poor communities to access CMP loans.

- D. Strengthen the capacity of Local Government units to deliver basic services and manage local housing programs and projects like the localized CMP

We call on the government to:

1. Give more responsibility to LGUs to implement initiatives on shelter provision and other basic social services at the local level
2. Provide funds to LGUs to ensure full implementation of the programs of the local housing boards

3. Invest more in improving capacities of LGUs through problem-solving, involving and strengthening local participation, managerial know-how and transparent mechanisms in utilizing local resources
4. Local government units should also set aside funds for social housing including the development of resettlement sites.

■ Ana Oliveros

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## **CHAPTER THREE**

### **HOUSING LAWS AND ISSUANCES FOR THE POOR IN THE PHILIPPINES**

As a basic human right, housing is best seen on the ground rather than read on paper. However, it also pays to scrutinize and delve into the intangibles of a right associated so much with tangibility. The following report seeks to flesh out recent developments in the legal field as far as the right to housing is concerned. It highlights the vital components of the right to housing and the particular laws and issuances, which give them life.

The following report outlines several selected laws and issuances by first laying down the General State Policies adopted by the Philippines as to the right to housing. International treaties and covenants such as the UN Declaration of Human Rights and the International Covenant on Economic and Socio-Cultural Rights are cited as bases for Philippine compliance with its right to housing obligations. Pursuant to the Doctrine of Incorporation, these international agreements are written into the fundamental laws of each state party. Such incorporation can be found in Article XIII, sections 9 and 10 of the 1987 Philippine Constitution, which provisions basically dissect the right to housing into two sub-rights: the right against forced evictions and demolitions and the right to adequate and affordable housing.

The said sub-rights are further fleshed out in the Urban Development and Housing Act (UDHA) or Republic Act No. 7279. As far as the right against forced evictions and demolitions is concerned, the UDHA lays down a strict protocol in its Section 28, where basic guidelines on how to conduct a just and humane eviction and demolition are listed. To further this mandate, the executive department issued Executive Order No. 152 (2002), which designates the Presidential Commission for the Urban Poor (PCUP) as the sole clearing house when it comes to evictions and demolitions. According to EO 152, certificates of compliance (COCs) must first be issued by the PCUP before any demolition can be carried out by a proponent. Just recently, EO 152 was superseded by Executive Order No. 708 (2008), where the clearing house function was delegated to cities and municipalities through their respective local housing boards. However, the effectivity of said measure still remains to be seen.

Further fleshing out the right against forced evictions and demolitions is Republic Act No. 8368, which repealed Presidential Decree No. 772 – a law which criminalized the act of squatting. Despite the repeal of PD 772 by RA 8368, a pending bill in the House of Representatives, House Bill No. 1087, is trying to revive PD 772. However, through the

efforts of various NGOs and POs who expressed their outright opposition to HB 1087, the said measure was sidetracked and a Substitute Bill focusing on strengthening efforts against professional squatters and squatting syndicates resulted in its stead.

Despite these legal safeguards, rampant violations abound as far as implementation of these laws are concerned. The case of the Metro Manila Development Authority's (MMDA) clearing operations is a glaring example.

As far as the sub-right to adequate and affordable housing is concerned, recent legal developments turn to executive issuances pertaining to presidential proclamations. Basically, presidential proclamations identify specific idle government land, which can be proclaimed and distributed for socialized housing purposes. For said purposes, the executive branch issued Executive Order No. 131 (2002) and Memorandum Order No. 74 (2002).

To further buttress the provision of adequate housing, another executive issuance, Executive Order No. 272 (2004), aims to strengthen a veritable and viable government program when it comes to socialized housing – the Community Mortgage Program (CMP). Prior to EO 272, the government agency in charge of implementing the CMP is the National Home Mortgage Finance Corporation (NHMFC). However, pursuant to its mandate, CMP implementation is not really part of the NHMFC's functions. Thus to provide focus and stability to the CMP, EO 272 constituted the Social Housing Finance Corporation (SHFC), which aims to specialize exclusively on CMP provision.

## **Recommendations**

So far as recommendations are concerned, the major recommendation to be given lies in the proper implementation of the said laws and issuances. If one were just to focus on this portion on laws and issuances, one would have the impression that the Philippine Government has surpassed its target compliance with flying colors. However, after a cursory examination of the other sections of this report on housing right (i.e. Evictions and Demolitions, Housing Finance, Proclamations etc.), one can see that the Philippine Government's compliance isn't exactly at par with international standards set by the Covenant to which the country is a signatory of.

Failure to properly distribute proclaimed government lands for instance, manifest the government's failure on housing provision. More so, the blatant human rights violations committed by the MMDA in the conduct of their clearing operations leave very much to be desired. For what purpose shall these laws and issuances serve if they could not be properly implemented and hence, could not give protection and redress to the people in whose behalf they were enacted. Not much really.

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## CHAPTER FOUR

### EVICTIONS

Since 1996 to June 2008 the Philippine government has failed to stop forced evictions committed by third parties and instead, has itself conducted forced evictions which is a gross violation of human rights, in particular the right to adequate housing, based on the 1987 Constitution, UDHA of 1992, and the Committee's General Comment No.7.

In most of these forced eviction incidents whether committed by the government or by a third party, adequate protection and due process were not observed, advance or prior notice was largely not complied with, and consultations with the affected families and communities were not conducted.

Nearly fifty percent (50%) of those evicted were not provided relocation. Thousands of families were rendered homeless and were made vulnerable to other human rights violations such as the rights to work, education, health, food and water, and the right to be protected against "arbitrary or unlawful interference" in one's home. Moreover, the government and the courts has not provided compensation to the evicted families.

Nearly one fourth or 25% of the evictions carried out were violent, injuring scores of urban poor and some of them were even arrested. During demolition operations, children, women, and elderly suffer the most. Children were traumatized and many stopped attending school while pregnant women gave premature births or lost their babies. The elderly were reduced to living without shelter, exposed to the sun, rain and cold, endangering their health.

The Government's attempt to correct this situation was a failure. Its Executive Order No. 152 empowering the PCUP as a clearing house of evictions, whether proponents were complying with Section 28 of UDHA, was largely ignored by government agencies especially the MMDA and some LGUs. In February 2008, the clearing house function was transferred to LGUs but its Implementing Rules and Regulations (IRR) has not been issued, meaning no monitoring mechanism practically exist at present.

The State tolerated or ignored national government agencies and LGUs which evicted poor families using other laws, such as the Civil Code on nuisance, the National Building Code or PD 1096 that contravene with domestic and international legal instruments that recognize the right to housing of these people.

Despite these obvious violations and neglect, no court decision at the Court of Appeals or Supreme Court has been rendered recognizing the right to adequate housing of poor families, providing them with legal protection against forced evictions, and penalizing those violating their rights. Lower courts continue to issue judgements based solely on property rights, either of the government or private entities, ignoring or rejecting arguments protecting the housing rights of the affected families.

The legislative, on the other hand, has not exercised its oversight function, meaning it has not conducted a comprehensive inquiry or investigation on how government agencies have been implementing and complying with UDHA provisions. Neither has it initiated efforts to plug loopholes of UDHA.

## **RECOMMENDATIONS**

1. Prosecute all those who commit forced evictions either through the courts, ombudsman, the Commission on Human Rights, or administrative bodies.
2. Establish an independent body with the power to ensure compliance with domestic and international laws against forced evictions, including the power to suspend or stop forced evictions.
3. Order all government bodies that there is only one law, the UDHA, specifically its Section 28, in conformity with General Comment No. 7 on Forced Evictions, to be followed when carrying out just and humane demolitions/evictions and that they should not use any other laws and regulations such as the National Building Code or PD 1096, the law on nuisance, including ordinances such as the MMDA Ordinances No. 03-96 and No. 02-28. Moreover, clarify and instruct all government agencies and units that there is no cut-off date in the UDHA.
4. Undertake the following judicial and legal steps:
  - a.) establish special courts on housing rights at the lower levels as well as within the Court of Appeals;
  - b.) require the Philippine Judicial Academy to include a course on housing rights in its curriculum for judges and a similar course in the Mandatory Continuing Legal Education (MCLE) for lawyers;
  - c.) lower or remove court fees in housing rights cases involving the urban poor;
  - d.) process expeditiously court cases involving forced eviction and similar cases; and
  - e.) extend Writ of Amparo and Habeas Data protection to economic, social and cultural rights violations such as illegal demolitions.
5. Hold twice a year oversight hearings, separately or jointly by the two houses of Congress, on government agencies and units' compliance with UDHA, particularly Section 28.
6. Amend certain provisions of UDHA such as providing stiffer penalties against those who commit forced evictions.
7. Monitor, document, and maintain a database on evictions which should be shared to the public.

### **For the UN CESCR:**

1. Get commitments from the Philippine government that it will invite fact finding missions from UN Rapporteurs, including the UN Rapporteur on the Right to Adequate Housing.
2. Send letters of inquiry or concern to the Philippine government regarding reports and complaints of forced evictions by civil society organizations, like what the former CESCR chairperson Philip Alston did on the report of massive forced evictions because of the 1996 APEC Summit.

3. Persuade officials of the legislative, executive and judicial branches of government to undergo seminars on housing rights and forced evictions to be conducted by UN housing rights experts.
4. Send letters of inquiry and concern to ODA donors and foreign investors on their obligation to prohibit forced evictions in their projects in the Philippines.

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## CHAPTER FIVE

### PROCLAMATIONS AND RESETTLEMENT

#### PART ONE

#### PROCLAMATIONS

In this section on Presidential Proclamation several good and not so good aspects appear. Taking into account both the positive and negative aspects, we believe that:

In her first State of the Nation Address (2001) President Gloria Macapagal-Arroyo promised to implement a land proclamation program that would benefit 150,000 urban poor families per year. Over the next few years she made a strong effort to carry out this promise: she issued **102 proclamations** (called variously, Presidential Proclamations, Executive Orders, Memorandum Orders, Administrative Orders and Deeds of Conveyance), that benefited **195, 475 families** on a total land area of 26, 300 hectares

The peak years were 2001-2004 when 83 proclamations (80% of all proclamations) were issued, and 160, 200 families (82% of all beneficiary families) were covered.

- (1) The proclamations are inexpensive; they help **all** the poor in an area, not only those with resources and skills, and provide land tenure security even if the sites are never upgraded and titled. No families have been evicted from proclaimed land. **The proclamations, therefore, should be continued despite the President's statement on January 31, 2008 that she would no longer proclaim more land.** For example, government lands which are idle for 10 years should still be proclaimed. (See UDHA, Article IV, Sec.8)
- (2) None of the 90 proclaimed sites of President Arroyo have been fully upgraded and titled, though the people and often the local authorities have done all that might be expected of them. But the problem is that the program is over centralized. Also, authorities must find **alternative ways to upgrade these areas inexpensively**, a budget of P10,000-P15,000 per family should be enough to provide light, water, drainage, straight roads and alleys, and open space.

- (3) **The binding power of the proclamations must be clarified** and if necessary, strengthened in the light of plans to convert the 56 hectares proclaimed site in Baseco, Manila into a commercial area. Other proclaimed areas, including some in the Visayas, are also in danger of reverting to their former status.
- (4) **The final price of proclaimed land must be affordable to all**. Many families cannot pay without taking money from their food, education and health budgets.

Land proclamation is a very good program and should be continued. It is a good way of doing a little for many families rather than a lot for a few. It was not mentioned in the NGO 1995 Report so President Arroyo deserves credit for implementing the said program.

## **RECOMMENDATIONS**

1. Continue proclaiming government lands for the urban poor. A consistent program benefiting approximately 50,000-60,000 a year for 10 years is recommended.
2. Government should commit to upgrading the sites already proclaimed and should be done *pari - passu* with new proclamations. A specific goal should be set, approximately 20,000-30,000 families for 20 years which would ensure the poorest areas in the entire country would benefit.
3. Government should take steps to ensure that proclamations are binding and cannot be changed except in very extreme cases.
4. Land should be given at as little cost as possible. The cost must be affordable so that families could also improve their homes and communities. Some families cannot pay anything while some can pay a little but those with more income should pay more.
5. The proclamation program should be managed by only one agency led by a competent and resourceful person.
  - The government must work closely with local government units, NGOs and people's groups to streamline the proclamation process as has been attempted in the Community Mortgage Program.
  - More power must be given to local governments.
6. All families and persons within proclaimed areas should benefit including renters and sharers.

## **PART TWO** **RESETTLEMENT**

From the end of World War II to the present it is estimated that some 200,000 families have been evicted and relocated in Metro Manila. The National Housing Authority (NHA) says

130,000 families have been evicted and relocated since 1994 in the National Capital Region.

This part of the NGO report traces the major relocation trends since the end of World War II to the present.

- (1) The relocation distance including the distance from jobs, is the most crucial element in resettling poor people. The remoteness of a relocation site could nullify other services provided to the resettled families because family income will be severely cut.
- (2) People's resistance and negotiating capability could help persuade the government to modify its relocation plans, for example, choose sites near the city, and it can mobilize government to prepare the sites adequately.
- (3) The country is heading to a policy showdown. Relocation is becoming increasingly expensive regardless of the site while planned infrastructure require evicting of hundreds of thousands of families in the near future (60-70 thousand families still on the railroad tracks; 30,000-40,000 families for Circumferential Road 5 or C-5; 70,000 along canals and waterways, and other areas). There will come a time the government will be forced to choose between implementing the law on housing and provide adequate relocation or miss the chance to build useful infrastructure unless compromise solutions could be found.

One such possible remedy is for the government to ask for relocation funds as part of loan packages from abroad.

- (4) It is absolutely necessary to persuade the government to adhere and enforce the principle that all evicted families deserve relocation. Currently, government agencies just leave many evicted families in the streets to fend for themselves. The new Commission on Human Rights Chairperson Leila de Lima stressed this point in her "Advisory on the Conduct of Force Evictions and House Demolitions." She said that proper notice, consultation and relocation must be given to every family that would be resettled as prescribed by UDHA.
- (5) Officials who violate eviction and relocation laws should be severely punished but so far, no one has been prosecuted
- (6) Relocation areas must be adequately prepared before people are asked to move in there.

## RECOMMENDATIONS

1. Since great distances, the lack of work in such areas, and the high cost of commuting to work are among the most serious obstacles to good relocation, the government should discontinue distant relocation as a practice.

2. The government must be open to and encourage people's participation in planning relocations. Their advice has proven to be very useful in many instances. Such people's participation can begin with the consultation prescribed by law which should be a dialogue that has room for people's alternate relocation suggestions and full discussion of resettlement matters.
3. Government should ask that the cost of relocation be added to loans for infrastructure projects from foreign sources. There is no other practical way to provide good relocation, especially since infrastructure-related evictions will continue to grow.
4. All evicted families must be relocated.
5. Government should fully prepare sites before evicted people arrive and they should not be pressured nor harassed to move until this requirement has been fulfilled.
6. Government should look for sites and routes for infrastructure projects that would not entail evicting large numbers of people. For example, roads should pass through golf courses and not in slum areas.
7. The rights of the people should be the first priority of the government, so in cases that it could not provide adequate relocation, then it should not evict people.
8. Families in resettlement sites are expected to pay back the total cost of land, house and other expenses without considering the evicted families' loss of income and the original homes destroyed when they were asked to leave their former communities. A fair proportion of these costs should be written off as compensation.

**■ Denis Murphy**  
**Urban Poor Associates (UPA)**

## Are Filipinos hungrier now?

*A right to food report prepared by the People's NGO Coalition on Food Sovereignty and Fair Trade (PNLC), a network of organizations that promotes the right to adequate food.*

Perhaps the best image that captures how right to food has been realized in the Philippines is the now familiar scene in many areas of the country – the long queues of people, mostly mothers and children, waiting to buy government rice at P18.25 (\$.43) per kilo because they could not afford the P46.00 (\$1.09) per kilo commercial rice.

Since the spike of world food prices in early 2008 followed by the skyrocketing of fuel costs that jacked up inflation rate to 12.5%<sup>1</sup> in August, securing adequate food on the table of impoverished and hungry Filipino families has become a tooth and nail struggle everyday, no every meal.

A Social Weather Station (SWS), an independent research institution, survey revealed that involuntary hunger was experienced in varying degrees from 1996- 2008. The latest report in July 2008 stated that 2.9 million or 16.3 % families experienced involuntary hunger at least once in three months (April-June 2008)<sup>2</sup>. This is 4 % higher than the ten-year average of 12. 1 % (June 1998 – June 2008).

Government nutritional studies revealed the same thing. Based on the 2006 National Nutrition Council (NNC) research using the Food Insecurity and Vulnerability Information and Mapping Systems (FIVIMS), 49 provinces (63.6%) in the Philippines were experiencing food insecurity in varying degrees.<sup>3</sup> Earlier in 2003, based on findings of the Food and Nutrition Research Institute, 7 out of 10 Filipino households in the country are food insecure.<sup>4</sup>

Currently the minimum wage in the National Capital Region (NCR) is pegged at P382<sup>5</sup> and it is even lower in the provinces but according to the National Wages and Productivity Commission (NWPC), a family of six, with two members working, needs P768 per day to survive in Metro Manila.<sup>6</sup>

While it is true that one of the major reasons why Filipinos are getting hungry is the lack of income to buy food as pointed out in the Philippine government report but what it failed to mention is the absence of an enabling law that recognizes the right to food of Filipinos and institutes clear cut policies and mechanisms to fulfill this right.

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<sup>1</sup> <http://www.census.gov.ph/data/pressrelease/2008/cp0808tx.html>

<sup>2</sup> <http://www.sws.org.ph/>

<sup>3</sup> Roslyn C. Valientes, Ellen Ruth F. Abella, Marilou O. Del Mar, Arlene R. Reario, Maria-Bernardita T. Flores, Elsa M. Bayani Identifying Food Insecure and Vulnerable Areas in the Philippines through FIVIMS, August 11, 2006.

<sup>4</sup> Ibid

<sup>5</sup> [http://www.nwpc.dole.gov.ph/pages/ncr/cmwr\\_table.html](http://www.nwpc.dole.gov.ph/pages/ncr/cmwr_table.html)

<sup>6</sup> Philippine Human Rights Information Center. "Just How Hungry are the Filipinos: A Right to Food Situationer." In Focus: A Semestral Human Rights Situationer. January to June 2007, p. 43

Likewise, the official report did not bring up the lack of or misallocation of public resources devoted to agriculture and agrarian reform that would have boosted productivity and ensured sustainability and availability of food products.

It should also be noted that government agriculture agencies prioritize and promote agribusiness, hybrid seeds, and aquaculture which are not sustainable and environment-friendly. This despite constant appeals of farmers' groups for the government to support sustainable and organic farming. This despite repeated warnings from various sectors and actual experience that prioritization of cash and bio-fuel crops and the export-oriented nature of our fishing industry could jeopardize food self-sufficiency of the country.

On the consumer side, the government has the Accelerated Hunger Mitigation Program (AHMP) of which the main components were the Food for School Program (FSP) which provides rice ration to grade school students and the "Tindahan Natin," mobile community stores where poor residents could buy cheap rice and noodles.

However, AHMP, mainly a hodge podge of existing food and agriculture programs, failed to consult major food stakeholders especially the vulnerable sectors during the framing of this program. The inter-agency task force that was supposed to implement this is yet to be consolidated and orchestrated and pour resources where they are most needed. To date, the government has yet to come up with an impact assessment of these programs.

The official report on food also enumerated a few headway of the country in its free trade negotiations with other countries such as China and Japan and within the World Trade Organization (WTO) but on the contrary, these arrangements hurt local food producers because they could not compete with highly subsidized imported food products.

### **Vulnerable and Disadvantaged Groups Experiencing Hunger and Malnutrition**

The 2006 Philippine report did not highlight the situation of hunger and malnutrition of vulnerable and disadvantaged groups. There could have been a better picture of the report if the conditions of these sectors were presented.

The National Nutrition Council admitted that households headed by subsistence fisherfolk, kaingineros, hired laborers, the unemployed, urban poor, families in remote areas, families with poorly educated mothers and large-sized poor families are malnourished.<sup>7</sup>

Vulnerable groups suffer more, they are the rural women, indigenous peoples, landless peasants, farmers and fisherfolk.

Rural women are deprived of their access to productive resources that makes access to food more difficult. The Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK), a national alliance of rural women, said in their study among women farmers, fishers and indigenous peoples, that rural poverty is characterized by low income, lack of entitlements, lack of access to market and the negative effect of trade liberalization.<sup>8</sup>

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<sup>7</sup> National Nutrition Council. AHMP\_ESCR 2007 ppt.

<sup>8</sup> Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK). Local and Sectoral Application of CEDAW. 2008.



The 150 Manobo families in Don Carlos, Bukidnon experience extreme hunger and deprivation of the access to feed themselves. *“They are lucky to eat at least once a day. Children don’t go to school now. They are not strong enough to walk to school. Mothers are being afflicted with tuberculosis since they are the last people to eat in the household.”*<sup>9</sup>

Lumad groups present in almost all total 67 municipalities in Caraga, the Manobo, Mamanwa and Higaonon ethnic groups were dominant but their numbers are dwindling especially the Mamanwas (Negrito-like) due to extreme poverty which make them susceptible, exposed to all kinds of illnesses.<sup>10</sup>

News reports and documentaries stated that some urban poor Filipinos would recycle left over food from garbage bags and recook to sell to other urban poor or feed their families. We call this “pagpag”. Has this become culturally acceptable in times of poverty?

### **Measures to Guarantee Access to Food**

In its official report, the government cited various credit facilities and micro-finance programs such as the *SEA-Kaunlaran (SEA-K) Integrated Program and Enhancing the Role and Status of Filipino Women in Social Development Program* to help vulnerable sectors improve their livelihood and increase their purchasing power.

However, in reality, microfinance programs were barely effective in augmenting income of women and other marginalized groups to enable them to buy more food. The programs were centered on entrepreneurial poor in urban centers but excluded workers in the informal sector, disabled, elderly, disaster victims, farmers and fisherfolks.<sup>11</sup>

Teresita Quintos Deles of the National Anti-Poverty Commission (NAPC) mentioned that micro-finance institutions (MFIs) served the non-agricultural entrepreneur poor based on the report she submitted to President Gloria Macapagal Arroyo. Only 25% to 28% of the 4.3 million households living in poverty were covered in 2002 for the government’s microfinance project.<sup>12</sup> The SEAK project, targeting the ultra poor, was effective only in remote areas with capacity-building as a critical input. Today, SEAK is now facing problems of sustainability.

In 2006 and 2007, the Department of Social Welfare and Development (DSWD) reported to have served NCR, Region III and Region IV through SEAK<sup>13</sup> but what about areas in the Visayas and Mindanao which have more food insecure and vulnerable families?

Likewise, the DSWD also reported accomplishments of FSP, Tindahan Natin, and breastfeeding programs only in the National Capital Region, Regions III and IV in 2006 and 2007.

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<sup>9</sup> Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) with inputs from the Philippine Association for Inter-cultural Development (PAFID) August 1, 2008.

<sup>10</sup> Serrano Ben. NCIP admits rising cases of Indigenous People’s rights violations in Caraga Region, Mar 6, 2008

<sup>11</sup> Prof. Rosalinda Pineda Ofreneo. *Problematizing Microfinance as an Empowerment Strategy for Women Living in Poverty: Some Policy Directions*

<sup>12</sup> Ibid citing Miranda, Marcia Feria. *The First Decade of Philippine Microfinance: 1992-2002- A review of Microfinance in the Philippines*.

<sup>13</sup> [www.dswd.gov.ph](http://www.dswd.gov.ph)

These information only add fuel to the perception that most of the government's food programs are being utilized as political gimmickry meant to sweeten the image of the Chief Executive who became unpopular due to charges of election manipulation and corruption.

### **Measures taken to improve methods of food production**

Enacted into law in 1997, Republic Act 8435 or the Agriculture and Fisheries Modernization Act (AFMA) aimed to “strengthen the support services for modernizing agriculture and fisheries while at the same time empowering people, particularly the small-holders, engaged in sustainable agricultural development.”

However, allocations for AFMA did not reach the mandated PhP20 billion for its first year of implementation nor did it reach the PhP17 billion mandated for the succeeding years. Based on the GAA, AFMA allocations peaked at PhP16 billion in 2000. The lowest allocation was PhP9 billion in 2004 and the funds were inclusive of the Department of Agriculture (DA) budget.

No wonder irrigation of farmlands did not improve much, from 40.57 percent to 44.66 percent, within 9 years of AFMA implementation.

To add insult to farmers' injury, the already insufficient agricultural fund intended as subsidies and support services for them has time and again fallen prey to graft and corrupt practices of government officials.

In 2005, the Philippine Center for Investigative Journalism (PCIJ) reported that DA released nearly P3 billion during the 2004 presidential elections campaign and was diverted to the political allies of President Arroyo.<sup>14</sup>

Similarly, a Commission on Audit report revealed that P419 million of the Comprehensive Agrarian Reform Program (CARP) funds from the sequestered Marcos wealth was used for phones, food, and travel of government agencies implementing CARP. These agencies include the Departments of Agriculture, Agrarian Reform, Environment and Natural Resources, and Public Works and Highways, National Irrigation Administration, and the Land Registration Authority.<sup>15</sup>

### **Measures to disseminate knowledge of the principles of nutrition**

According to the government report, nutrition education continues to be a “strong pillar” in its program to improve the nutritional status of its people. However, less priority is now given to nutrition education because in the past there used to be a separate subject devoted to it but now it is only part of a bigger subject called “Makabayan.”<sup>16</sup>

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<sup>14</sup> <http://www.pcij.org/blog/?p=689>

<sup>15</sup> Philippine Human Rights Information Center. “Just How Hungry are the Filipinos: A Right to Food Situationer.” In Focus: A Semestral Human Rights Situationer. January to June 2007, p. 48

<sup>16</sup> Dr. Cecilia Florencio, Nutrition in the Philippines. 2004.

In 1999, the National Nutrition Congress identified the weaknesses of the country's nutrition education as follows: low and adequate financial support; inadequate knowledge, attitude and skills of program implementers; inadequate participation of parents; inadequate education materials for both clientele and frontline workers; messages are conflicting, misleading, inappropriate and not user friendly; lack of baseline data about the clientele; non-utilization of monitoring data for decision making or program design; and negative influence of media.<sup>17</sup>

## **Agrarian Reform in the Philippines**

Based on the 2006 Philippine report, 85% of the agricultural lands has been distributed to agrarian reform beneficiaries by the Department of Agrarian Reform (DAR) as of 2005 with a remaining balance of 630, 280 hectares of which 79% were private agricultural lands.

However, this figure was reportedly questionable because of "recycling" of accomplishments and arbitrary removal of landholdings from the target according to a study done by three peasant organizations. These organizations, the Philippine Ecumenical Action for Community Empowerment Foundation Network (PEACE), Partnership for Agrarian Reform and Rural Development Services (PARRDS), and Pambansang Ugnayan ng Nagsasariling Lokal ng mga Samahang Mamamayan sa Kanayunan (UNORKA) estimated the agrarian reform accomplishment at 40% of the target hectares of agricultural land.<sup>18</sup>

More recently, DAR reported that as of December 2007, it has distributed 3.96 million out of the target 5.16 million hectares. The remaining 1.023 million that are yet to be distributed are sugarlands, coconut areas and commercial plantations owned by powerful families and corporations.<sup>19</sup>

In its 1995 Concluding Observations, the Committee already noted the failure of the government to achieve its CARP target due to "major loopholes, lack of funding and the lack of implementation measures" and the "lack of political will to redress the situation."<sup>20</sup> Back then, the Committee even prompted the government to implement an emergency plan including the identification of benchmarks to expedite agrarian reform process and institute mechanisms for faster resolution of grievances.<sup>21</sup>

Thirteen (13) years hence, DAR is still unable to complete the transfer of land ownership to rightful agrarian reform beneficiaries which indicates that same old problems as enumerated by the Committee still persist and that the government was not able to carry out reforms and appropriate steps for the program to succeed.

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<sup>17</sup> National Nutrition Council. "Concept paper on the formulation of the national nutrition education program, 2001-2004." NNC Secretariat, 23 July 2001.

<sup>18</sup> Philippine Human Rights Information Center. "Just How Hungry are the Filipinos: A Right to Food Situationer." In Focus: A Semestral Human Rights Situationer. January to June 2007, p. 41

<sup>19</sup> Raffy Ray Hipolito. FIAN Philippines. Unpublished Article, Land Distribution. 2008.

<sup>20</sup> Committee on Economic, Social, and Cultural Rights. Concluding Observations, E/C. 12/1995/7 7 June 1995, par.19

<sup>21</sup> Ibid, par.30

Worse, the implementation of the Comprehensive Agrarian Reform Program (CARP) has been tainted with deceit, harassment, and violence at the expense of farmers' lives and limbs. PARRDS noted that in the course of the peasants' struggle for their rights to land, subsistence and food, there have been 41 cases of summary execution and killings against them and their families.

PARRDS also documented from 2001 to the present, a total of 415 agrarian-related human rights violations. Just in the period of July 2006 to September 2007, there have been 33 cases affecting 614 people reported one of which was the Alang-alang case wherein the court reversed an earlier ruling in favor of the landowner.<sup>22</sup>

### **Inequitable distribution, production and trade**

The State's adherence to free trade and neo-liberalization policies especially in agriculture has not yielded benefits for farmers and fishers. The influx of imported sensitive products like rice and vegetables due to the World Trade Organization (WTO) Agreement on Agriculture (AOA) resulted to the decline of income of small farmers and thus endangered them and their families.<sup>23</sup> The US Public Law 480 also reinforces dumping of US agricultural supply to our markets.

After ten (10) years of WTO membership and twelve (12) years after the forging of the ASEAN Free Trade Agreement (AFTA), the country has not felt the promised economic prosperity of liberalization but instead suffered the opposite. The Philippines has turned

from a net agricultural exporter to importer by the mid-1990s, the only ASEAN-4 with this experience.<sup>24</sup>

Even the recently concluded agreement with Japan titled, Japan-Philippines Economic Partnership Agreement (JPEPA) would eventually make the country a dumping ground of toxic waste since it included waste products in the preferential trading (zero tariff) between the two countries.<sup>25</sup>

Meanwhile, the RP-China Agreement threatens to convert 1.2 million hectares of agricultural land to the priority development needs of China, mainly bio-fuel, to the detriment of the country's food security.<sup>26</sup>

In fisheries, according to Tambuyog Development Center (TDC), the export-oriented nature of the country's industry negatively affects Filipino's right to food. The Philippines trade the best fishery products and import fish to supply canneries and the aquaculture sector.<sup>27</sup>

### **Conclusion and Recommendations**

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<sup>22</sup> Gilbert -MODE Data. Documented under the joint paralegal program of KAMAO (Ormoc City), BRAMO (Ormoc City), RDI-LEYTE (Ormoc City), and KAISAHAN-PESANTEch.

<sup>23</sup> Regalado, Aurora. "Trade Liberalization in the Philippines" April 10, 2005

<sup>24</sup> Ibid

<sup>25</sup> <http://www.pcij.org/blog/?p=1264>

<sup>26</sup> <http://fairtradealliance.org/?p=261>

<sup>27</sup> Cesar Allan and Malou Vera. Fisheries Trade Liberalization and Food Insecurity. (TAMBUYOG, 2003).

The persistence of hunger in the lives of millions of individuals and families for years now as shown by the SWS time series survey and other official studies clearly indicates that the right to food of Filipinos has been violated or at the very least neglected by the government.

Filipino farmers continue to be denied of their right to land, many of them are harassed and killed in their struggle to own the land they and their forefathers have been tilling for generations.

Farmers and fishers remain in the fringes of government priority in terms of subsidies and support services and infrastructure. Funds allocated for them have become milking cows of greedy politicians.

The country's compliance with international free trade and neo-liberalization regimes has failed to live up to its promise of development and instead brought more woes to Filipino food producers.

Meanwhile, hunger mitigation and poverty alleviation programs also continue to suffer from lack of resources, politicking and corruption, minimizing their impact in terms of at least substantially reducing hunger and misery of the people.

In this context, the Philippine civil society proposes the following to put the realization of right to food back on track:

- a.) Extend and fully fund CARP. More than 1 million private agricultural lands should be distributed through compulsory acquisition.
- b.) Lease-back arrangements, joint venture agreements, and stock distribution options in commercial plantations should be cancelled to allow farm workers effective control.
- c.) Re-evaluate import-oriented trade policy especially in the fisheries sector;
- d.) Increased government investment in the agricultural sector in the form of capability-building, subsidies, support services, and infrastructure;
- e.) Review multi-lateral and bilateral trade agreements from a human rights perspective;
- f.) Participatory formulation of food security plans in every municipalities and cities;
- g.) Government promotion and support to sustainable agriculture and organic farming;
- h.) Protection and conservation of land and aquatic resources devoted to food production, watershed areas;
- i.) Prioritize and patronize locally-produced food;
- j.) Limit the power of the local government units (LGUs) to convert land use; and
- k.) Provide incentives to farmers for them to continue producing food and not cash or bio-fuel crops.

# Right to Health

*Prepared by the Medical Action Group, Inc (MAG)*

The Filipinos' access to health services remains poor while prices of drugs and medicines remain high. The migration of health professionals continues to ail the nation while Maternal Mortality and Infant Mortality rates remain unsatisfactory.

Public health spending is still beneath the World Health Organization's ideal percentage of health spending. Inadequate government funding resulted to privatization of health services and out-of-pocket payments of patients is making life more miserable for many Filipinos already burdened by high prices of basic commodities.

This report aims to reflect gaps in the healthcare delivery across the nation, providing emphasis on the vulnerable sectors of society. After elaborating the health situation, the report discusses the primary issues in the national health policy and the corresponding steps of the government.

In the hopes of improving health service delivery and fulfilling the right to health of Filipinos, this report will present recommendations to ensure that existing health policies are maximized to its fullest potential and that the results of these policies will bring change and improve the health situation of the country.

## Health care in the Philippines

### ***Infant Mortality Rate***

In 2006, under five (5) Mortality Rate was reported at 32 per live births, decreasing from the 1995 figure of 67 per live births. Infant Mortality Rate has also decreased, from 49 per 1000 live births in 1995 to only 24 in 2006.<sup>1</sup>

However, while statistics reports a significant decrease in the Infant Mortality and under Five Mortality Rates, the Philippines remains comparatively higher from other countries in the region.

In 2003, the Philippines Infant mortality rate was at 29 for every live births, compared to lower rates from six Asian countries such as Vietnam with only a rate of 19, Singapore with only a rate of 3, and Brunei with a rate of 5.<sup>2</sup>

**Table 1: Infant Mortality and Under five Mortality Rate (National Statistics Office, DHS 2003)**

Country	Infant Mortality Rate (per 1,000 live birth) 1990	Infant Mortality Rate (per 1,000 live births) 2003	Under Five Mortality Rate (per 1,000 live births) 1990	Under Five Mortality Rate (per 1,000 live births) 2003
Vietnam	36	19	51	23

<sup>1</sup> Fabros, M., "Health Insecurity: a GMA legacy" in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007, p. 30.

<sup>2</sup> Ibid, p. 31.

Singapore	7	3	8	3
Thailand	34	23	40	26
Malaysia	16	7	21	7
Brunei	10	5	11	6
Philippines	34	29	66	40

Infant Mortality rates for under one year of age in Urban areas was reported at 24 for every 1, 000 live births in 2003, while the rate in the Rural areas was reported at 36 for every 1, 000 live births. <sup>3</sup>

**Table 2: Infant Mortality Rate: 1991,1994,1998,2003 (infants under one year of age per 1,000 live births)**

Area	1991	1994	1998	2003
Philippines	55	50	36.0	
Urban			30.9	24
Rural			40.2	36

Notes: The 1998 data is based on the 1998 National Demographic and Health Survey  
The 2003 data is based on the 1998 National Demographic and Health Survey.

### **Immunization**

In 2006, fully immunized children ages 9-11 months was reportedly at 82.9%. the Cordillera Administrative Region (CAR) had 70.2% while Region 3 was reported the highest with 94.1 %.<sup>4</sup>

**Table 3: Fully Immunized Children 2006**

Area/Region	Fully Immunized Children (9-11 months) %
<i>Philippines</i>	<i>82.9</i>
<i>National Capital Region</i>	<i>81.3</i>
<i>CAR</i>	<i>70.2</i>
<i>Region 1</i>	<i>82.4</i>
<i>Region 2</i>	<i>83.4</i>
<i>Region 3</i>	<i>94.1</i>
<i>Region 4A</i>	<i>88.3</i>
<i>Region 4B</i>	<i>80.7</i>
<i>Region 5</i>	<i>80.8</i>
<i>Region 6</i>	<i>76.9</i>
<i>Region 7</i>	<i>87.0</i>
<i>Region 8</i>	<i>76.5</i>
<i>Region 9</i>	<i>82.7</i>
<i>Region 10</i>	<i>82.0</i>
<i>Region 11</i>	<i>77.4</i>
<i>Region 12</i>	<i>75.9</i>

<sup>3</sup> Technical Working Group on Maternal and Child Mortality (1991 & 1994 data) and National Statistics Office

<sup>4</sup> Department of Health (DOH), FHSIS 2006

ARMM	86.0
CARAGA	77.1

Source: Department of Health (DOH), FHSIS 2006

### **Maternal Mortality Rate**

Maternal death continues to comprise 14 percent of the total deaths of women aged 15-49 years old.

**Table 4: Maternal Mortality Rate**

Country	Ratio
1. Philippines	170
2. Thailand	44
3. Malaysia	41
4. South Korea	20
5. Japan	8

Source: Dr. Manuel Dayrit's presentation on the International Conference on Population and Development at 10 (4 October 2004 at the Heritage Hotel)

Maternal Mortality Rate (MMR) has declined, in 1993, it has reached 209 and has decreased to 162 in 2006. The MMR however is far from being satisfactory with the Millenium Development Goal target of 52 maternal deaths per 100, 000 Live births.<sup>5</sup>

Maternal Death rate is highest in ARMM with 1.3%, followed by CARAGA 1.2% and Region 4B and Region 11 at 1%. Infant death rate meanwhile is highest in the National Capital Region with 21.7%, followed by Region 11 at 12.9% and 11.5% in Region 4B.<sup>6</sup>

**Table 5: Maternal and Infant Death Rate, 2006**

By Region/Province	Maternal Death Rate	Infant Death Rate
National Capital Region	0.4	21.7
CAR	0.6	10.1
Region 1	0.4	10.6
Region 2	0.6	6.5
Region 3	0.2	5.1
Region 4A	0.3	7.5
Region 4B	1	11.5
Region 5	1.2	10.6
Region 6	0.9	11.2
Region 7	0.5	6.7
Region 8	0.9	11.5
Region 9	0.7	8.9
Region 10	0.7	8.2
Region 11	1	12.9
Region 12	0.6	5.2

<sup>5</sup> Fabros, M., "Health Insecurity: a GMA legacy" in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007, p. 34.

<sup>6</sup> Department of Health , FHSIS 2006, NEC



ARMM	1.3	4.4
CARAGA	1.2	7.4

Source: Department of Health , FHSIS 2006, NEC

Over half of the cases of maternal deaths remain unreported. In 2002, 56 percent of recorded maternal deaths in the Civil registry were unaccounted for.<sup>7</sup>

### Percent of Live Births Delivery Assistance by Birth Attendants (in percent)

The percent of live births delivery assistance by health professionals has increased from 52.8% in 1993 to 59.8% in 2003. Births specifically delivered by doctors were at 26% in 1993 and has also increased to 33.6 % in 2003. Those delivered by nurses and midwives were at 26.8% in 1993, was slightly reduced to 25.5 % in 1998 but has increased to 26.2% in 2003. With the increase of birth delivered by health professionals, the number of births assisted by traditional birth attendants was reduced from 45.3 % in 1993 to 37.1% in 2003.<sup>8</sup>

**Table 6: Percentage of Live Birth Delivery Assistance of Health Professionals**

	1993	1998	2003
Health Professionals	52.8	56.4	59.8
Doctor	26.0	30.9	33.6
Nurse/Midwife	26.8	25.5	26.2
Traditional birth attendant	45.3	41.3	37.1

Source: NDHS cited in 2007 DOH paper

In 2006, out of the total birth deliveries, doctors attended 29.4% while the nurses attended births were at 1.2%. Meanwhile, midwives were at 39.8%, trained hilots garnered 25% while untrained hilots were at 3.2%.

**Table 7: Live Births by attendance of different Health personnel, 2006**

Area	Total Deliveries	Doctors (%)	Nurses (%)	Midwives (%)	Trained Hilots (%)	Untrained Hilots	Others/ Unknown
Philippines	1,770,735	29.4	1.2	39.8	25	3.2	1.5

Source: Department of Health

**Table 8: Proportion of Births attended by skilled health personnel per year**

Year	Proportion of Births attended by skilled health personnel
1993	60.0
1994	60.9
1995	62.7

<sup>7</sup> [http:// www. doh.gov.ph/data\\_stat/html/maternal\\_deaths.htm](http://www.doh.gov.ph/data_stat/html/maternal_deaths.htm) and WHO, UNICEF and UNFPA, Maternal Mortality in 2000 as reported by Dr. Junice Melgar of Linangan ng Kababaihan in August 14, 2008

<sup>8</sup> NDHS cited in 2007 DOH paper

1996	64.1
1997	65.0
1998	69.2
1999	69.5
2000	69.0
2001	69.1
2002	67.0
2003	60.0

Source: National Statistics Office 1993 & 1998 data: National Demographic & Health Survey; 1995 to 1997 & 1999 to 2002 data: Family Planning

**Table 9: Maternal Services by Wealth Index, 2003 NDHS**

### Q u i n t i l e s

<b>Assistance during delivery</b>	<b>Lowest</b>	<b>Second</b>	<b>Middle</b>	<b>Fourth</b>	<b>Highest</b>
1. Doctors	8.6	21.0	37.4	52.6	73.2
2. nurse	0.5	1.7	1.8	0.6	1.2
3. midwife	16.0	28.7	33.2	31.2	18.0
4. hilot	68.9	45.4	26.3	13.3	7.0
5. relatives, friends, others	0.4	0.2	0.1	0.0	0.0
<b>Place of Delivery</b>					
1. Government hospitals	8.7	19.6	30.4	34.6	29.9
2. Government Health Center	0.5	0.8	1.8	3.0	1.6
3. private facility	1.2	4.4	11.1	22.2	45.5
4. Home	88.7	74.3	56.2	39.0	22.6
5. Other	0.1	0.3	0.2	0.3	0.1
3. Delivered by C – section	1.7	3.4	6.8	10.8	20.3
4. Number of births	1,858	1,590	1,352	1,162	993
5. Current use of contraceptives (any method)	37.4	48.8	52.7	54.4	50.6

The table above shows that poor women have the least access of health service delivery in assisting birth delivery as expressed in the following data delivered by hilot 68.9 lowest and 45.4 from second lowest quintiles, 88.7 poor and 74.3 second lowest delivered at home, inversely the highest quintiles assisted by doctors 72.3 and 52.6 fourth quintiles.

“The disparity of health status among different socio-economic and regional groups is evident: the Infant Mortality Rate (IMR) among the poorest quintile of the population is more than twice the level of the richest quintile, and more than thrice for the under five mortality. (Gwatkin, et al, World Bank, 2007).

Inequities in health status also result from location differences. For example, the richest quintile in rural areas has an IMR that is twice that in urban areas. Geographically, there were regions that in 2006 had infant mortality rates exceeding the national average of 24 deaths. These were Cordillera (29), Mimaropa (32), Bicol (26), Eastern Visayas (29), Zamboanga (38), Davao (28), Caraga (28) and the ARMM (31).”<sup>9</sup>

### **Water and Sanitation**

Population using an improved water source decreased from 87% in 1990 to 85% in 2004.<sup>10</sup> In 2002, Households with Access to Safe Water Supply was reported to reach 83%. Region 6 ranked the highest area with 95.3% and the Autonomous Region of Muslim Mindanao as the lowest with 55.3%.

The Philippines was reflected to have 75.4% of households with sanitary toilets with Region 1 having the highest percentage at 93.8% and ARMM still having the lowest with 34.4%.<sup>11</sup>

**Table 11: Proportion of Households with Access to Safe water (a) and sanitary toilet facility (b), 2002**

Area	Household with Access to Safe Water Supply (%) (a)	Households with Sanitary Toilet (%) (b)
<i>Philippines</i>	83.0	75.4
<i>National Capital Region</i>	82.6	79.0
<i>C.A.R.</i>	92.1	77.2
<i>Region 1</i>	91.3	93.8
<i>Region 2</i>	84.3	86.0
<i>Region 3</i>	72.8	71.7
<i>Regio 4A</i>	80.0	76.3
<i>Region 4B</i>	78.4	63.2
<i>Region 5</i>	82.6	64.3
<i>Region 6</i>	95.3	88.2
<i>Region 7</i>	87.4	75.2
<i>Region 8</i>	81.2	72.0
<i>Region 9</i>	80.5	77.0
<i>Region 10</i>	91.3	74.5
<i>Region 11</i>	91.6	76.6
<i>Region 12</i>	84.4	72.4
<i>ARMM</i>	55.3	34.4
<i>CARAGA</i>	85.0	81.2

*Notes: 1 DOH report classifies Batanes under NCR while NSO survey classifies Batanes under Region 2*

<sup>9</sup> Fabros, M., “Health Insecurity: a GMA legacy” in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007, p. 43.

<sup>10</sup> United Nations Development Report, “Human Development Report 2007/2008 Philippine HDI Rank”, <http://hdrstats.undp.org/indicators/62.html>, August 9, 2008.

<sup>11</sup> Department of Health (DOH), FHSIS 2006

### **Health personnel**

Department of Health (DOH) statistics reports that in 2006, there are 2, 955 Doctors in the local government units (LGUs), 1, 930 nurses, 16, 857 midwives, 601 nutritionists, and 1, 700 Barangay Health workers. The highest concentration of the doctors and nurses are in the National Capital Region with 650 doctors and 683 nurses.

**Table 12: Number of BHS and Selected health workers in LGU, 2006**

Area	Total population	No. of Brgys	No. of BHS	Doctors	Nurses	Midwives	Nutritionist	Engr's/Sanitary	Active BHWs
Philippines	85,822,854	41,793	16,191	2,955	1,930	16,857	601	3,429	1,700
NCR	11,394,158	1,697	20	650	683	1,065	86	261	4,005
CAR	1,591,963	1,186	564	83	151	599	5	106	5,502
Region 1	4,562,030	3,265	978	154	232	1,019	11	436	20,125
Region 2	3,121,351	2,242	939	95	176	816	7	262	6,186
Region 3	8,793,618	3,057	1,866	284	384	1,630	40	242	14,331
Region 4A	10,457,286	3,966	2,112	247	459	1,802	38	332	18,472
Region 4B	2,521,970	1,456	686	83	124	527	10	104	10,109
Region 5	5,245,066	3,471	1,115	179	271	1,072	27	184	15,023
Region 6	7,001,978	4,050	1,604	263	485	1,689	31	307	23,996
Region 7	6,182,821	3,081	1,381	215	305	1,495	14	287	19,235
Region 8	4,219,261	4,363	813	152	208	880	5	215	16,542
Region 9	3,325,682	1,904	642	94	167	541	3	125	7,020
Region 10	4,053,020	2,022	949	116	203	956	13	154	13,333
Region 11	4,164,728	1,158	656	69	110	859	277	85	7,991
Region 12	3,848,885	1,173	911	108	186	817	17	88	6,698
ARMM	2,817	2,390	408	78	114	459	5	122	2,754
CARAGA	2,503,254	1,312	547	85	116	631	12	119	10,575

Note: BRGY: Barangay (villages)

BHS: Barangay Health Stations

BHW: Barangay Health Workers (Village Health Workers)

Source: Department of Health\_FHSIS, 2006

## **The State's Fulfillment of its Right to Health Obligation**

Amidst attempts by the government to ensure that the right to health of Filipinos are indeed guaranteed, issues on healthcare delivery remains unresolved.

### **1. Inadequate and Inequitable Access to Healthcare, Delivery Hospital care and the provision of drugs and medicines to the people have reflected a dismal condition especially in remote provinces.**

1.1. The National Statistics Office in its 2002 Annual Poverty Indicator Survey (APIS) reported the number of families with access to health facilities by province in 2002. The province of Oriental Mindoro ranked number 1 with 61.62 percent families with access to health facilities. The province of Albay ranked second with 56.22 percent followed by Ilocos Norte with 55.47 percent. Batanes ranked at 77 with only 14.03 percent, the lowest among families with access to health facilities.<sup>12</sup>

Under the DOH's Health facilities development program from the FOURmula One, local health facilities were rationalized to include facility mapping for the Basic Emergency Maternal Obstetric Care (BEMOC) & the Comprehensive Emergency Maternal Obstetric Care (CEMOC). To be able to maximize the financial and human resources of every health units, district health units were closed down to be able to strengthen the Rural Health Units. Rural Health Units are now restructured to focus on BEMOC services while Provincial hospitals have been further strengthened in its capacity to provide CEMOC services.

The consequences of the restructuring of the health units however, were the inequitable and inaccessible delivery of health services in the districts. According to the study conducted by Dr. Nymia Pimentel-Simbulan, accessibility in the Philippine setting is identified to be a maximum of 4 kilometers from an individual's residence. With the closure of District Health Units, the residents will need to travel beyond the ideal accessible distance of 4 kilometers to avail of health services in the Rural Health Units.

Aside from the distance, other difficulties were experienced by residents who have availed of the services of health units. Based on a study conducted by PhilRights in thirty (30) barangays in Metro Manila, the common and consistent problems in health centers include impolite and unapproachable personnel, solicitation of donations, absence of health workers, slow service and lack of medicines. In some barangays, health workers are accused of using the supplies of the center for their own personal use.

In 2007, the Philippine Government has enacted a law to curb the number of patients being detained in the private hospitals because of unpaid hospital bills. The Hospital Detention Law while seeking to serve the poor Filipino patients, merely transfers the state obligation to provide for the health care services to the private sector.

1.2. Previously cited data further illustrates the insufficient number of health personnel to address the health care needs of the public. Region 11 has the lowest doctors and nurses in the local government units with only 69 doctors and 110 nurses. The ARMM ranked second

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<sup>12</sup> Fabros, M., "Health Insecurity: a GMA legacy" in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007, p. 167.

to the lowest with 78 doctors, and 114 nurses. The highest distribution of doctors and nurses remains in the NCR with 650 doctors and 683 nurses.<sup>13</sup>

1.3. Sales of medicines were highest in the Metro Manila area with 47 percent. The statistics reported by the Philippine Trading Corporation based on IMS findings in 2006 reflects the percentage of regional sales of drugs and medicines gradually decreased for areas beyond Metro Manila. Luzon consists of 30 percent, Visayas with 15 percent while Mindanao has the least percentage of sales with only 12 percent.

1.4. In the delivery of health care services, several groups are statistically proven worse than the rest of the population.

According to the 2003 National Demographic and Health Survey (NDHS) of maternal services, women categorized under the lowest quintile receive the least health assistance during delivery. 68.9% of the said women are being assisted by 'hilots' or traditional health worker. Only 8.6% women of the lowest quintile receive assistance from doctors during their delivery while, 73.2% of the women belonging in the highest quintile are receiving assistance from doctors during child birth.

Based on the same study by the NDHS, 88.7% of the women from the lowest quintile give birth in their homes. Women who are able to deliver in private hospitals belong to the highest quintile, 45.5% of them give birth in private facilities. The poorest women cannot avail of life saving C-Sections with a mere 1.7 percent while 20.3 percent of the rich women can access the service.

**Table 13: Maternal Services by Wealth Index, 2003 NDHS**

Assistance during delivery	Quintiles				
	Lowest	Second	Middle	Fourth	Highest
1. Doctors	8.6	21.0	37.4	52.6	73.2
2. nurse	0.5	1.7	1.8	0.6	1.2
3. midwife	16.0	28.7	33.2	31.2	18.0
4. hilot	68.9	45.4	26.3	13.3	7.0
5. relatives, friends, others	0.4	0.2	0.1	0.0	0.0
Place of Delivery					
1. Government hospitals	8.7	19.6	30.4	34.6	29.9
2. Government Health Center	0.5	0.8	1.8	3.0	1.6
3. private facility	1.2	4.4	11.1	22.2	45.5
4. Home	88.7	74.3	56.2	39.0	22.6
5. Other	0.1	0.3	0.2	0.3	0.1
3. Delivered by C –section	1.7	3.4	6.8	10.8	20.3
4. Number of births	1,858	1,590	1,352	1,162	993
5. Current use of contraceptives (any method)	37.4	48.8	52.7	54.4	50.6

Gaps in the delivery of healthcare in children are also manifested in the geographical data across the nation. The Infant Mortality Rate (IMR) in some regions has exceeded the

<sup>13</sup> Ibid, pp.189-193.

national average of 24 deaths, these regions include Cordillera (29), Mimaropa (32), Bicol (26), Eastern Visayas (29), Zamboanga (38), Davao (28), Caraga (28) and the ARMM (31).<sup>14</sup>

To provide for the health development of the child, the government continues to maintain the immunization program from 1990. However, the number of children receiving full immunization has been declining since then from 71.5 percent in 1993 to 72.8 percent in 1998 to 69 percent in 2003 according to the NDHS.<sup>15</sup>

Filipino children continue to suffer from undernutrition. Based on the 2003 Food and Nutrition Research Institute (FNRI), infants from 6 months to less than one year has a 66.2 percent prevalence rate for anemia. Meanwhile, increase in the prevalence of vitamin A deficiencies of children from 6 months to 5 years were reported from 35.3 percent in 1993 to 40.1 percent in 2003.<sup>16</sup>

## **2. Privatization of Healthcare in the Philippines**

The country's healthcare system has relied on the private sector to augment the inadequate health services being provided by the government.

Incidents of patients being refused treatment and admittance to private hospitals for lack of deposit became a practice among hospitals in the country. Admitted patients without money to pay hospital bills are further detained in the hospitals.

2.1. Legislations to address the said practices were enacted. Republic Act No. 9439 or the Hospital Detention Law seeks to prevent hospitals from detaining patients in the charity ward. The patients will need to sign a promissory note covering the hospital expenses, guaranteed by a mortgage or a co-maker who will similarly be liable for the unpaid hospital dues.

Failure to adhere to the Hospital Detention Law would entail fines amounting to not less than twenty thousand pesos (P20, 000.00), but not more than fifty thousand pesos (P50, 000.00). The violating party may also be imprisoned by not less than one month, but not more than six months. Both fine and imprisonment may also be applied depending on the discretion of the proper court.<sup>17</sup>

While Republic Act No. 8344 or the Act Prohibiting the Demand of Deposits or Advance Payments for the Confinement or Treatment of Patients, aims to prevent private hospitals from asking for advance payments and deposits before providing appropriate medical treatment to the patient. The law declares the said practice as illegal and violating parties will be subject to corresponding penalties<sup>18</sup>

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<sup>14</sup> Fabros, M., "Health Insecurity: a GMA legacy" in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007, p. 43.

<sup>15</sup> Ibid, p. 31.

<sup>16</sup> Fabros, M., "Health Insecurity: a GMA legacy" in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007.

<sup>17</sup> Senate of the Philippines official website, [http://www.senate.gov.ph/republic\\_acts/RA%209439.pdf](http://www.senate.gov.ph/republic_acts/RA%209439.pdf)

<sup>18</sup> Department of Health (DOH) Official website, <http://www.doh.gov.ph/ra/ra8344>

2.2. Due to the privatization of healthcare services in the nation, the private sector became an indomitable force in the country. The Private Hospitals Association of the Philippines (PHAP) has time and again threatened to stage hospital holidays to protest and block the enactment of the Hospital Detention Law arguing that without patients' payments, hospital funds will not suffice for medicine and equipment expenses as well as employees' salaries.

The group added that hospitals' lack of fund sources will lead to closures and will further drive health professionals to work abroad wherein better compensation and benefit packages await them.<sup>19</sup>

Another hospital holiday was planned and announced to the public to during the deliberations on the Cheaper Medicines Bill which was later passed as Republic Act 9502.<sup>20</sup> The health professionals' protest stemmed from a provision in the said bill requiring doctors to exclusively prescribe generics medicine.

### **3. Migration of Health Personnel**

3.1. Health Professionals are continuously flocking to other countries for better compensation and benefit packages. Figures from the POEA, CFQ records and ILO study indicates the extent of the deployment of health workers abroad.

In 1995, there were only 69 doctors deployed, the figure was reduced to 27 doctors in 2000 but have again increased in 2002 at 129 doctors and in 2003 with 112 deployed in other nations.

Nurses' deployment in 1995 was already high with 7,584. It has dropped to 5,413 in 1999 but has increased again to 11,867 nurses deployed the following year. In 2003, the data slightly decreased with 8, 968 nurses working abroad. While the number of caregivers leaving has also dramatically increased from 465 in 2001 to 5,382 in 2002 and eventually tripled since then.<sup>21</sup>

3.2. Aside from health migration, health workers are shifting careers to those that would grant more compensation particularly the nursing profession. According to former Department of Health (DOH) Secretary Dr. Jaime Galvez-Tan, at a rate of 1,200 per year, at least 9,000 Doctors are now becoming "nursing medics" At least 6, 000 doctors are now in the USA to work as nurses.

Dr. Galvez-Tan further reported that the continuing health migration have led to the closure of 200 hospitals within the past two years – 'no more doctors and nurses' according to the

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<sup>19</sup> GMA News TV, DOH sets Wednesday dialog with 'striking' hospitals, <http://www.gmanews.tv/story/58663/DOH-sets-Wednesday-dialog-with-striking-hospitals>

<sup>20</sup> Naval, Gerard, DOH warns medics anew against Hospital Holiday, Malaya News Online, <http://www.malaya.com.ph/jan22/metro4.htm>

<sup>21</sup> Fabros, M., "Health Insecurity: a GMA legacy" in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007, p. 39.



PHAP in November 2005. Recently, 800 hospitals have partially closed (with one to two wards closed) for lack of doctors and nurses.<sup>22</sup>

Meanwhile, the percent of enrolment in hospital residency specialty training programs have been reduced to 30 percent in the last three years. On the other hand, the number of nursing schools has increased from only 140 in 1999 to 470 institutions to date.

3.3. The Philippines produced only 27,342 licensed nurses from 1999-2003 but exported 56,000 during the same period.

Without healthcare personnel to attend to the needs of the people, the doctor and patient ratio has increased with the respective ratios, Doctors 1 : 29,318; Nurses 1 : 18,765; Dentists 1 : 47,338 Filipinos.<sup>23</sup>

#### **4. Public Health spending**

4.1. Filipinos' healthcare spending consists of 50% out-of-pocket payments, and 14% and 16% share of the national and local governments respectively<sup>24</sup>.

Also, the government share or public health spending did not reach the World Health Organization (WHO) mandated 5% of the Gross Domestic Product (GDP) for developing countries.

In 2000 prices, the real per capita DOH spending is from PhP 172 in 1998 to PhP 81 in 2006. This also falls short of the WHO estimate for health spending per person, which is around 35 dollars or 1,575 pesos.

On the DOH budget, fifty (50) percent of this goes to hospital services compared to the less than 15% that goes to health service delivery. This explains the ineffectiveness and minimal impact of many health and anti-disease programs of the government.

4.2. To improve Filipinos' access to health care services and fulfill the right to health of its citizens, the government has undertaken various programs and policy measures, foremost of which is the FOURmula ONE for Health framework that seeks reform within the health sector.

Among the plans and programs of the FOURmula ONE are the increase in membership and expansion of benefits of the National Health Insurance Policy (NHIP) or PhilHealth.

Presently, the Philippine Health Insurance Company (PhilHealth) has 15.9 Million members nationwide and has paid 17.68 Billion pesos in reimbursements of which 13.56 billion went

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<sup>22</sup> Galvez-Tan, Jaime, *Skilled Migration and the Effects on the Philippines: The Filipino Health Care Professions*, powerpoint presentation, presented in October 8-12, 2007 at the 12th International Metropolis Conference 2007 Theme: Migration, Economic Growth & Social Cohesion Melbourne, Australia; Based on PHA, November 2005 data

<sup>23</sup> *Ibid.*

<sup>24</sup> Fabros, M., "Health Insecurity: a GMA legacy" in Social Watch Philippines, *Missing Targets, An alternative MDG midterm report*, 2007, p. 45.

to facilities while 4.11 billion as professional fees. PhilHealth has an estimated fund reserves of Php 80 billion.<sup>25</sup>

While above data reported the extent of PhilHealth reimbursements, it is important to note that the funds circulating among PhilHealth members and patients also came from them and not from the budget provided by the government.

To date, PhilHealth only covers expenses incurred during patients' confinement in the hospital, it does not cover out-patient reimbursements. As of February 21, 2005, PhilHealth benefits are limited to ambulatory surgeries and procedures including dialysis, radiotherapy and chemotherapy and the Directly Observed Treatment Short Course (TB-DOTS).<sup>26</sup>

However, there were reports indicating that politicians has been using PhilHealth to boost their campaigns. President Arroyo herself distributed PhilHealth cards with paid membership up to at least one year, weeks before the 2004 presidential elections. Politicians have also appointed personnel in positions within the agency to facilitate the allocation of free insurance cards.<sup>27</sup>

## **5. Reproductive Health Rights: Contraceptive Ban in Manila City and the contested Reproductive Health bill**

5.1. In 2000, Mayor Jose "Lito" Atienza issued Executive Order No. 003 declaring that the city of Manila upholds natural family planning and discourages the use of artificial methods of contraception such as condoms, pills, intrauterine devices, surgical sterilization and others.

Since then, artificial family planning methods were gradually pulled out from the city health facilities. Contraceptives that were once freely provided by the government were no longer available for the poor women in Manila. Health service providers have reportedly refused to give instructions on how to use contraceptives because of the Atienza's pro-life stance.<sup>28</sup>

Since the imposition of the contraceptive ban, the suffering of women in Manila worsened. Likhaan, a women's NGO, in its report titled "Imposing Misery, The Impact of Manila's Contraceptive Ban on Women and Families," attested that women's financial burden was aggravated by the pull-out of contraceptive device and medicines from public health centers.

Women have also reported that lack of contraceptive supplies have taken its toll on their physical and mental health because of continuous anxiety of getting pregnant. Family relationships were also strained with some women reporting domestic violence because they refuse to have sexual intercourse with their husbands without contraceptives.<sup>29</sup>

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<sup>25</sup> Valera, Madeleine, Medicines Transparency Alliance launching of the Good Governance Awards in Medicines powerpoint presentation, August 2008

<sup>26</sup> Medical Action Group, Inc. (MAG), "A Study on the Applicability of Reference Pricing in the Philippines towards Access to Quality Medicines" 2007, Chapter B, p. 2.

<sup>27</sup> Gonzales, Edwardo, Social Watch Philippines 2007 Report, H:\Social Watch Country by country.mht

<sup>28</sup> Likhaan, ReproCen, Center for Reproductive Rights., "Imposing Misery, The Impact of Manila's Contraceptive Ban on Women and Families", 2007, pp. 23-24.

<sup>29</sup> Ibid., pp. 17-23.

Women interviewed for the Likhaan report shared the effect of contraceptive ban in their lives:

*I feel anxious and fearful of the chance of getting pregnant if I don't have money to buy pills, unlike before when I used to get injectables for free, which were very convenient to use and effective for months.*

*I want to use family planning to limit the number of my children. The mother is the one to search for food, school allowance and everything, on top of doing the household chores. All these are brain-racking. I feel sorry for my kids. I'm full of pity and can't help crying when one of my children is sick and I can't buy medicine.<sup>30</sup>*

*Sometimes when there's no money to buy condoms and I don't want to have sex with my husband, he gets angry and forces me. I tell him, "Aren't you ashamed of yourself? You've got so many kids already and we don't have privacy." Our house is very small; we sleep together with the kids. Only thin wall separates us from the neighbors I don't want them to hear us arguing so I just give in to what my husband wants.<sup>31</sup>*

When the contraceptive ban was imposed, no proper information campaign was done and EO 003 was inconsistently implemented and were subject to various interpretations by city health personnel.

Non-government health service providers also reported harassments and intimidation whenever contraceptives were provided or even discussed. An NGO Clinic in Baseco which provided family planning service, closed down because of the said order. In spite of its compliance with the requirements of the Manila City Hall, the clinic was denied a renewal of its license to operate. The NGO later on received a cease and desist order from the city government.<sup>32</sup>

Also during this time, availability of contraceptive supplies in commercial drugstores diminished. Mercury Drug, the leading drug store in the country, stopped selling injectables in its outlets across Manila.<sup>33</sup>

5.2. In Quezon City, councilors have passed an ordinance titled, "Population and Reproductive Health Management Policy" which sets a comprehensive population and reproductive health management policy and emphasizes the use of condoms and other contraceptives. The said ordinance also mandates the inclusion of reproductive health and sex education in the curriculum of students from the 5<sup>th</sup> elementary grade to high school.

The ordinance was reportedly contested by a Bishop from Cubao because of its alleged abortion and anti-life provisions. The councilors clarified that the said policy was consistent with the position of the church and gave an assurance that the city government remains anti-abortion which was categorically stated in the policy.<sup>34</sup>

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<sup>30</sup> Likhaan, ReproCen, Center for Reproductive Rights., "Imposing Misery, The Impact of Manila's Contraceptive Ban on Women and Families", 2007 p. 20.

<sup>31</sup> Ibid., p. 23.

<sup>32</sup> Ibid., pp. 27-28.

<sup>33</sup> Ibid., p. 31.

<sup>34</sup> Andrade, Jeanette, Philippine Daily Inquirer, Reproductive health policy for Quezon City not Pro-Abortion, February 19, 2008

5.3. On a national scale, the debate on reproductive rights was reignited by a proposed bill in Philippine Congress.

House Bill No. 5043 or the Reproductive Health (RH) Bill seeks to provide information on and access to both natural and modern family planning methods to Filipinos. The RH bill further envisions an enabling environment where women and couples have the freedom of informed choice in the form of family planning they wish to adopt.

The pending legislation also contains measures to strengthen the Population Commission (Popcom) to promote natural and modern family planning methods and to serve as the central body for comprehensive and integrated reproductive health and population development.

Increasing the capacity of community-based health volunteers through updated training on reproductive healthcare service delivery was also included in the proposed bill as well as the employment of a number of midwives and other skilled attendants.

Also emphasized in the bill was the establishment of Emergency Obstetrics care with adequate and qualified personnel in every city and province and the role of local government officials in achieving this.

Other controversial provisions include the classification of contraceptives as an essential medicines and will be included in the National Drug Formulary; reproductive health education shall become mandatory to elementary and high schools from Grade 5 to 4<sup>th</sup> year high school students. Among others, the bill also encourages an ideal family size of two children for every Filipino family without any sanction for those couples with more than two children.<sup>35</sup>

The proposed legislation was strongly denounced by the Catholic Church and other pro-life advocates, further heightening the issue to a pro-life vs. anti-life debate. The Catholic Church is unyielding in its crusade to stop the passage of such legislation because of its alleged anti-life provisions and the threat to the sanctity of life.

In the past, CBCP has formulated a policy that will deny Catholics communion, baptism, confirmation, wedding and burial rites if they support the use of birth control devices or artificial methods of family planning.<sup>36</sup>

## **6. Access to Medicines and the Cheaper Medicines Law**

6.1. Republic Act No. 9502 or the Cheaper Medicines Law of 2008 effectively amended the Intellectual Property Code of the Philippines, Generics Act, Pharmacy law, and provisions on Drug Price Regulation, Non-Discriminatory Clause and sought to strengthen the Bureau of Food and Drugs to achieve its ultimate objective of providing affordable medicine to Filipinos.

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<sup>35</sup> Comparative table of the reproductive health bill, Reproductive Health Saves Lives, <http://reproductivehealth.com.ph/poprhprimer.php>

<sup>36</sup> Herrera, Christine, Church adopts tough stance on birth control, Manila Standard Today Online, [http://www.manilastandardtoday.com/?page=news05\\_feb20\\_2006](http://www.manilastandardtoday.com/?page=news05_feb20_2006)

The Intellectual Property amendments incorporates flexibilities provided under the World Trade Organization – Trade Related Aspects of Intellectual Property Rights (WTO-TRIPS), including the application of parallel importation, stricter patentability criteria, early working provision (Bolar Exemptions), Government Use and Compulsory Licensing among others.

Meantime, the Generics Act amendments strengthens previous provisions on the posting and publication of generic names and corresponding brand names of a drug and medicines, required production of unbranded generic drugs for every branded drugs manufactured, imported and distributed in the country. Penalty provisions were also increased for violating parties.

Under the Drug Price Regulation, the President of the Philippines may now issue maximum retail prices for drugs and medicines based on recommendations by the Department of Health.

Drugs and medicines that are subject for drug price regulation includes those indicated for treatment of chronic illnesses and life threatening conditions, pregnancy and prevention of diseases, anesthetic agents, and intravenous fluids. Drugs and medicines listed in the Philippine National Drug Formulary Essential Drug List and other medicines that the DOH deems necessary to subject to price regulation are also covered by said regulation.

Also with the amendment of the Pharmacy law, over-the-counter drugs will now be available in supermarkets, convenience stores, and other retail establishments. The law also prevents discrimination among drugs and medicines. Under the non-discriminatory clause, it will be illegal for any drug retail outlet to refuse to carry, either by sale or by consignment any parallel imported drugs and medicines.<sup>37</sup>

On the other hand, strengthening the capacity of the Bureau of Food and Drugs (BFAD), Section 31 of RA 9502 seeks to allow retaining fees, fines, royalties and other charges incurred from its services. Such retained fees will be used in its operations such as upgrading of facilities, equipment outlay, human resource development, and expansion among others.

6.2. The Implementing Rules and Regulations of the RA No. 9502 is currently being formulated by the concerned agencies – the Department of Health and the Intellectual Property Office. It is hoped that the state will ensure the strict implementation of RA No. 9502 to be able to truly improve the Filipinos' access to medicines.

### **The Philippines FOURmula One (F1) program**

The national health policy of the Philippine government is embodied in the National Objectives for Health 2005-2010 otherwise known as the FOURmula One (F1) program or the Health Sector Reform Agenda culled from the Medium Term Development Program of the current President Gloria Macapagal Arroyo.

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<sup>37</sup> Republic Act No. 9502, Universally Accessible Cheaper and Quality Medicines Act of 2008, [http://www.senate.gov.ph/republic\\_acts/ra%209502.pdf](http://www.senate.gov.ph/republic_acts/ra%209502.pdf)

This program discusses the implementation framework for health sector reforms in the Philippines, and its objective is to implement critical health interventions as a single package, backed by effective management infrastructure and financing arrangements.

The objectives of the program is to generate resources for health financing; assure access to quality and affordable health products, devices, facilities and services, especially those commonly used by the poor; improve the accessibility and availability of basic and essential health care for all, particularly the poor; and improve health systems performance at the national and local levels.<sup>38</sup>

Although the F1 Program managed to incorporate the World Health Organization's (WHO) building blocks for health care, three years since its implementation, the health situation in the Philippines has remained dismal.

At the onset of the FI program, the budget allocated for DOH was 9.2 billion pesos. In 2007, the appropriated DOH budget reached 10.9 billion pesos marking an increase over a span of two years.

However, it is important to note that despite this budget increase there is still no change in the pattern of DOH spending. Hospital services still consistently eat up more than 50% of the DOH budget proper while public health service delivery remained at measly 15%. Because of this, there was no significant improvement for the vital public health programs such as the prevention and control program of major diseases like TB, malaria and other vaccine-preventable diseases.

Inadequate government health services has forced many Filipinos to rely on the private sector for their health needs thus making these services more of a commodity rather than entitlements.

The privatization of health services, in the light of the growing poverty of the majority of the population, has led to lesser spending for health care. According to the Family Income and Expenditure Survey (FIES 2006), family expenditure of poor families on health in 2006 is only 1.7% compared to 2.9% in 2003.

The F1 program also stresses the role of local government units in delivering health services at the community level. However, lack of budget and prioritization has resulted in the dwindling number of personnel, infrastructures, and health services at the local level.

## **Recommendations**

Based on the detailed discussion of the healthcare situation in the country, the following recommendations are hereby proposed:

1. Preventing health disparities through the strengthened implementation of primary health care in national health policies. Incorporate community-based health care in the primary health care implementation.
2. Increase the Government's public health spending to decrease if not completely eradicate the gap between the advantaged few and the marginalized sector.

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<sup>38</sup> Department of Health (DOH) website, <http://www.doh.gov.ph/fourmulaone>

3. Strict enforcement and fulfillment of the government policies and legislations on the Right to health particularly the following legislations:
  - a. Republic Act No. 7305, the Magna Carta of Public Health Workers
  - b. Republic Act No. 8344, the Act Prohibiting the Demand of Deposits or Advance Payments for the Confinement or Treatment of Patients,
  - c. Republic Act No. 9502, the Universally Accessible Cheaper and Quality Medicines Act of 2008
4. Enact legislations that will uphold the right to health of Filipinos, in particular on the following issues:
  - a. Patients Rights
  - b. Reproductive Health
5. Ensure that no public health center would be allowed to collect whatever form of fees.
6. Establish well-equipped public health emergency response.
7. Increase PhilHealth package of benefits and expand programs covering outpatient members.
8. Adequately address the health needs of those persons in prisons and other detention centers and those confined in mental institutions.

# Report On the Right to Water

*prepared by the Freedom from Debt Coalition, Phils. (FDC)*

In the Philippines, large portions of the population, particularly among the marginalized sectors of both the urban and rural poor, continue to be deprived of their right to water. In degrees that vary from region to region, the right to water is being discriminatorily withheld from those with the least economic means. None of the three factors of availability, quality and accessibility<sup>1</sup> which combine to define this right has been satisfactorily fulfilled. In some instances, the numbers have even gone down to levels lower than those in the previous decade, thereby indicating a crucial need to step up state and civil society efforts in reasserting water as a social and cultural good for all.

## **A. Current state of water services in the Philippines**

### ***(a) Availability***

Continuity and availability of water services still evades many Philippine households. Many communities and households that have actual connections to water services still experience service interruptions that last for hours in a day. In some areas, water flow is available only at particular hours at night, translating into a heavy burden for women upon whom the task of collecting water for the next day's usage requirements is often relegated.

In the case of Metro Manila, the persistent failure of the two private concessionaires to raise water pressure to desired levels through necessary infrastructure and pipe work has resulted in the need to purposely shut off services in certain areas at certain hours so as to service another area. Service disconnections resulting from non-payment also continue unabated across the archipelago, exacerbated by high water rates, thereby allowing for constant violations against the right to water.

### ***(b) Quality***

Although there has been an improvement in the safety levels of water provided for public consumption since the 1990s, morbidity and mortality rates deriving from water-related diseases still leave much room for improvement. Between 1994 and 2000, 31% of illnesses in the Philippines were traced to water-related diseases. In the year 2000 alone, the Philippines' Department of Health (DOH) reported more than 500,000 morbidity and 4,000 mortality cases attributing to water-related diseases. In the same year, a total of 303 cholera cases were reported with the most cases in the NCR (131 cases) followed by Western Mindanao (80 cases).

More recently, in 2003, a cholera outbreak in several communities in Tondo, Manila and Malabon victimized more than 800 individuals, eight of whom succumbed to the disease<sup>2</sup>.

Practically the same pattern persists today. Earlier this year, two villages in the Southern province of Sultan Kudarat suffered from a cholera outbreak that claimed 21

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<sup>1</sup> See par. 12 General Comment No. 15 (2002) on the right to water

<sup>2</sup> FDC (2006) Profiting from People's Lives: Metro Manila's Water Privatization Saga



lives.<sup>3</sup> A report submitted by the National Statistics Office in August of this year also reiterates the prevalence of water-related diseases, with three of the ten leading causes of morbidity in the years 2004-2006 belonging to the range of water-related diseases<sup>4</sup>, as shown in the table below.

**Table 1. Leading causes of morbidity 2004-2006**

<b>Cause</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Pneumonia	776,562	690,566	670,231
<b>Diarrheal diseases</b>	<b>577,118</b>	<b>603,287</b>	<b>572,259</b>
Bronchitis	719,982	616,041	538,990
Hypertension	342,284	382,662	408,460
Influenza	379,910	406,237	339,881
Tuberculosis ( <i>all forms</i> )	103,214	114,360	132,729
Diseases of the heart	37,092	43,898	38,482
<b>Malaria</b>	<b>19,894</b>	<b>36,090</b>	<b>22,284</b>
Chickenpox	46,779	30,063	18,326
<b>Dengue fever</b>	<b>15,838</b>	<b>20,107</b>	<b>15,279</b>

Source: NSO, 2008.

### **(c) Accessibility**

Recent studies estimate the percentage of Philippine households with access to water services to be at around 80% nationwide<sup>5</sup> in 2006, thereby indicating no improvement from previous statistics which pegged the percentage of the population with access to potable water also at 80% in 2002<sup>6</sup>.

This national rate is significantly 7% less from where it stood in 1990 thereby illustrating a failure to keep up with the country's rapid population growth. Although access to water was provided to an additional 23.04 million Filipinos between the years 1990 to 2005, a population increase of 24.5 million over the same period rendered the additional connections insufficient<sup>7</sup>. With an estimated 2.36% annual population growth, the Philippine population is expected to double up to 145.4 million in 2033.

Unless new strategies are employed, the current rate of new service connections will not be able to prevent further declines in the percentage of Philippine households with access to water. Metro Cebu, which has an annual population growth of 2.2%, is estimated to require around 342 m<sup>3</sup>/year by 2025 but at this point only has a water providing capacity of 60 m<sup>3</sup>/year. Another major city, Metro Davao, has an annual population growth pegged at 2.83% and is estimated to have a water demand more than twice its present water capacity by 2025.<sup>8</sup>

<sup>3</sup> In ABS-CBN News Online (2008) Red Cross: Cholera kills 21 in Sultan Kudarat.

<sup>4</sup> National Statistics Office, 2008. The Philippines in Figures 2008.

<sup>5</sup> Moore, D. 2006. Developing Sustainable Financing for Water Supply and Sanitation: Philippine Water Revolving Fund. In: *Local Financing Strategies Workshop, 4th World Water Congress.*

<sup>6</sup> NWRB (2005) NWRB Strategic Planning and Management of Integrated Water Resources Management in the Philippines

<sup>7</sup> LCP (2006) The Philippines Water Situation report 2006

<sup>8</sup> NEDA (2006). NEDA DevPulse, March 30, 2006

**Table 2. Waterless Communities**

In a survey released by the National Economic Development Authority in 2006, waterless communities (where less than 50% of the total households have access to piped water) were identified by region. The number of communities without access to safe water belie deep-seated problems related to inefficient distribution of water supply with high wastage from pilfering and under-maintained pipes and prohibitive water connection costs that prevent poorer households from subscribing for their own connection. In Metro Manila, for example, where a residential connection is pegged at more than half the minimum wage for one month, only 55% of water consumers have household connections. Many resort to connection-sharing with as many as six households sharing a single connection, thereby rendering useless the progressive rate scheme that charges higher rates for water use in excess of 30 cu. meters.

Source: NEDA, 2006

Metro Manila	212
Region I	12
Region II	29
Region III	7
Region IV	51
Region V	28
Region VI	64
Region VII	41
Region VIII	22
Region IX	72
Region X	39
Region XI	26
Region XII	50
Region XIII	51
ARMM	95
CAR	77

## **B. Specific Challenges in the promotion of the right to water**

### ***(a) Financing***

Providing non-discriminatory and continuous access to safe quality water for all households and consumers entails tremendous costs. NEDA has estimated this cost to be at around Php255 billion for the period 2006-2010 alone<sup>9</sup>. With government spending held captive by an automatic debt appropriation law that gnaws away more than 60% of the annual government budget, financing for necessary infrastructure investments cannot be shouldered by the state.

In the case of Metro Manila, the problem of financing was relinquished by the government to the private sector through the privatization of the large Metropolitan Waterworks and Sewerage System, as endorsed by IFIs such as ADB and the World Bank<sup>10</sup>. Theoretically, the infusion of private capital and involvement into the water sector would free the state from bearing the annual subsidies and equity capital extended to the MWSS while at the same time provide much-needed capital for service expansion and more efficient distribution of water supply. Ten years into the privatization of MWSS' water distribution service, however, has shown no marked improvement in the promotion of water as a human right especially in regards to the element of accessibility, thereby thrusting us back to the drawing board and readdressing the question of financing upon de-privatization.

### ***(b) Conflicting Business Interests in Privatization***

Measures employed by the private groups handling water distribution in the country prioritize risk aversion over equal access and have ended up further marginalizing those in the lower economic strata. Whereas state involvement in the water sector is hinged on the concept of state obligation, private sector involvement is hinged on profit. As such, varying

<sup>9</sup> NEDA, 2006. Comprehensive and Integrated Infrastructure Program (CIIP) 2006-2010.

<sup>10</sup> Buenaventura, M. and Palattao, B.(2004) Taking Stock of Water Privatization in the Philippines

mechanisms are being employed in furtherance of profit to the detriment of the state's avowed obligation to protect and provide for the right to water.

In Cebu, for instance, a cunning way of minimizing business risk has been introduced through a pre-paid water service mechanism in the municipality of Ronda<sup>11</sup>. Full cost recovery is ensured with the local residents being bound to pay for water via a debit card. Water distribution machines do not dispense water unless there is sufficient balance still available in the debit card, thereby amounting to a "no pay, no water" scheme. The case of other privatized water services such as that of the MWSS concessionaire scheme and the Subic Freeport's water services<sup>12</sup> follow parallel paths characterized by non-fulfillment of obligations undertaken in the bidding process particularly in regards to the curtailment of non-revenue water, phenomenal increases in water prices, gross fiscal inefficiency which translate into higher capital expenditures and higher water prices, and failure to mobilize independent capital without state guaranty.

### ***(c) Inefficiencies in Distribution***

The 24-hour availability of water flow in the areas which already avail of some degree of access to water services is hampered by insufficiency in the water volume that are distributed to the end-consumers. Whereas surveys have shown watershed volume to be more than sufficient to meet projected demands from population growth, inefficiencies in water distribution amounting to high levels of non-revenue water contribute largely to the insufficiency of the distributed water volume<sup>13</sup>.

In Metro Manila, the MWSS has already begun to reduce the water supply for households and businesses due to huge volume losses from under-maintained pipes. The reduction of non-revenue water levels was one of the obligations undertaken by MWSS' private concessionaires in the 1997 bidding process. Not only have their projected decreases in NRW been adjusted to cater to their underperformance in the first five years, but actual capital expenditure that was proposed to be directed to the repair of Manila's pipe networks have been sorely unfulfilled with most capital investments being sourced instead to the costly development of new water sources. Maynilad, for one, promised to infuse a total of Php23.8B between 1997-2001 for the repair, rehabilitation and maintenance of old pipes.<sup>14</sup> In actuality it set aside only a third of the pledged amount thereby failing to fully address the problem of volume losses from non-revenue water.

### ***d) Regulation***

A survey of the existing regulatory mechanisms and laws related to water service and distribution in the Philippines showcase existing difficulties in the task of regulating and protecting the right to water. While some agencies may have regulatory and management functions, the National Water Resources Board is the chief government agency responsible for the regulation of water usage. It is mandated through Presidential Decree 424 to regulate and control the utilization, exploitation, development, conservation and protection of water

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<sup>11</sup> FDC (2006). Water as Commodity: Cebu's Pay-As-You Drink Project

<sup>12</sup> Buenaventura, M. and Palattao, B.(2004) Taking Stock of Water Privatization in the Philippines

<sup>13</sup> LCP (2006) The Philippines Water Situation Report 2006

<sup>14</sup> FDC (2005). Lessons from a Failed Privatization Experience.

resources; and, mandated to formulate policies and guidelines on water resources related development and management<sup>15</sup>.

There are, however, many overlapping functions between the different agencies that result in a lengthy and confusing bureaucratic process. The absence of an independent regulatory body overseeing both resource and economic regulation of the water sector has also hindered significant progress in the distribution and conservation of water.<sup>16</sup> Furthermore the roles and responsibilities of many of these agencies are provided in a fragmented and inconsistent manner through separate decrees that were passed through the years. There is no single entity that can be a central agency for all water related activities.

PD 424, for example, which created the National Water Resources Board with the mandate of coordinating, and regulating water resources management and development, and uses needs to be taken in consideration with EO 192 of 1987 which directed the reorganization of the Department of Environment and Natural Resources as the lead agency in promulgating the rules and regulations for the control of water and ambient and effluent standards for water and air quality, among others<sup>17</sup>.

It was only 5 years later when this apparent inconsistency was addressed with EO 123 which transferred the National Water Resources Board to the Office of the President and eventually to the Department of Environment and Natural Resources, directing both bodies to rationalize their organizational structures, and streamline systems and procedures and/or decentralization of functions to render faster services<sup>18</sup>.

Control over water systems is also inconsistently laid out in several laws. While PD 198 or the Provincial Water Utilities Act of 1973 expressly declares a national policy favoring local operation and control of water systems<sup>19</sup>, RA 8041 or the National Water Crisis Act of 1995 mandated the MWSS to enter into contractual arrangements with the private sector for the operations, maintenance, and investments on water services and sewerage<sup>20</sup>.

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<sup>15</sup> NWRB 2005 NWRB Strategic Planning and Management of Integrated Water Resources Management in the Philippines

<sup>16</sup> Ibid.

<sup>17</sup> **Executive Order 192** providing for the Reorganization of the department of Environment, Energy, and natural resources, renaming it as the Department of Environment and Natural resources, and for other purposes

<sup>18</sup> **Section 3.** The NWRB shall immediately initiate review of the Implementing Rules and Regulations (IRR) of the Water Code of the Philippines, and shall amend the same as may be necessary to effectively implement and enforce the provisions of the Code. The NWRB shall likewise formulate a new/revised organization structure for its Secretariat to effectively and efficiently carry out its mandate under PDs 424 and 1067, subject to approval by the President, through the Department of Budget and Management (DBM), and the Civil Service Commission.

<sup>19</sup> **Presidential Decree 198** declaring a national policy favoring local operation and control of water systems, authorizing the formation of local water districts and providing for the government and administration of such districts, chartering a national administration to facilitate improvement of local water utilities, granting said administration such powers as are necessary to optimize public service from water utility operations, and for other purposes;

<sup>20</sup> **Republic Act 8041** relevant provisions

**Sec 2. Declaration of Policy** (*second paragraph*)

..Pursuant thereto the government shall address the issues relevant to the water crisis including, but not limited to, supply, distribution, finance, privatization of state-run water facilities..

Shortcomings in the current institutional make up of the water service sector is related to the oft cited issues and concerns such as weak management, inefficient data collection and management, and inconsistent policies in water activities. Streamlining the applicable laws related to the use of water must be pursued in order to properly establish an effective regulatory mechanism that would address various failures in the promotion of water as a human right in the face of constant violations committed against it.

### **C. State recalcitrance in the face of apparent failures and mounting crises**

While much remains to be assessed in regard to the failure of the state to ensure right to water for all, changes in the state's approach in addressing water service have been practically nil since it began the thrust towards private sector involvement. State response to persistent deprivation of the said right remain only in the level of stop-gap measures such as the President's Priority Program on Water (P3W) and EO 688.

The P3W, under the National Anti-Poverty Commission, was engineered to provide alternative assistance for water supply and sanitation projects in waterless communities across the archipelago, and requires from the local community a degree of sustainability of the water operation as well as corresponding funds that the state only intends to supplement or match<sup>21</sup>. Executive Order 688, on the other hand, allows for MWSS takeovers in the water systems of waterless private subdivisions in Metro Manila<sup>22</sup>. Both developments, however fail to mention or address the state's role in the long run particularly in regards to sustainable financing.

Apart from these two stop-gap measures, recent developments and actions of the state continue to proceed in the same privatization line which it initiated a decade ago. These developments are progressing without undertaking sufficient measures to assess the impact of privatization in the water sector, especially in the case of Metro Manila, despite the voiced concerns of civil groups and certain members in the legislative branch.

A lower house resolution in 2007 directing a comprehensive review and investigation into the MWSS privatization contract, for instance, has not yet produced any results. In spite of its failure to assess the failures of the privatization schemes that have been employed in

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**Sec 6. Negotiated Contracts** -- For projects to be implemented under Build-Operate-Transfer (BOT) and/or related schemes, the President of the Republic may, for a period of one (1) year after the effectivity of this Act, enter into negotiated contracts for the financing, construction, repair, rehabilitation, improvement and operation of water facilities and projects related to increasing water supply, its treatment and its distribution to industrial and household consumers: Provided, That there is no government financing or financing guarantee for the contracts, except for the acquisition of right-of-way.

The contracts shall be awarded only to contractors with proven competence and experience in similar projects, competent key personnel, efficient and reliable equipment, and sound financial capacity.

<sup>21</sup> Article 6 of the Implementing Guidelines Of The President's Priority Program On Water (P3W) states:

**Article 6. Implementation Strategy.** Taking into consideration the internal factors (strengths and weaknesses) and external factors (opportunities and threats) that may affect the attainment of the objectives of the program, the following strategic directions shall be pursued:

- A. Leverage DPWH Funds through Grant Matching. – Grant Money for the Program from DPWH shall be used to match local counterpart contributions from program partners (Municipal LGUs, Water Districts, NGOs, corporations, etc.) and beneficiaries. This approach shall be used to establish sense of co-ownership of the project with project proponents and beneficiaries.

<sup>22</sup> In INQ7.Net. 2008 MWSS takeover of BF homes water system seen. Philippine Daily Inquirer, Jan. 21, 2008.

several localities, the state continues to promote further private sector involvement especially in the operation of local water districts without forwarding any concrete schemes to prevent such involvement from going down the same path as current privatization schemes.

#### **D. Conclusion and Recommendations**

The Committee in its General Comment #15 stated that “the human right to water is indispensable for leading a life in dignity.” It further asserted that everyone is entitled to sufficient, safe, acceptable, physically accessible, and affordable water.

This NGO report on ESC fully agrees with the Committee and wishes to remind the Philippine government that protecting and realizing the right to water of Filipinos still rest primarily on its shoulders. Given this, it should seriously rethink and review its water privatization policy based on the initial experience already gained with the two private concessionaires in Metro Manila and other privatized water facilities in the country.

There is a pressing need to review and assess the concrete outcome of water sector privatization particularly in the MWSS experience. A concentrated and thorough examination of the MWSS experience beyond general improvements in water delivery must be carried out to determine whether or not privatization may indeed be credited for any improvements in service delivery or if privatization has in fact ended in limiting such improvements.

The government should resume a central and active role in ensuring that water is treated as a public good and a basic right and not simply a commodity. For this reason, it is vital for the government to pursue the strict regulation of water delivery and water usage not only in terms of resource allocation but also in terms of tariffs in order to ensure that the basic right to water is sufficiently protected especially in the current scenario wherein the private sector has been permitted to involve itself in water delivery services.

This NGO report further proposes the following to ensure that the basic elements of water as a human right are being adhered to:

- a.) Enact and implement policies that would ensure sustainability of water supply like proper resource management and protection of water sources and watershed areas;
- b.) A multi-sectoral and independent body that will monitor safety and quality of water including bottled water, regulate water use (resolve conflicting interests) and water pricing, and check profits of private concessionaires.
- c.) Strict regulation of groundwater extraction and overexploitation. Government must improved efforts to monitor water-level declines and comprehensive assessments of the (negative) effects of ground-water depletion.
- d.) Impose stricter rules and regulations for water companies, water stations, and companies contributing to water pollution.
- e.) Provide equipment and proper training to LGUs to enable them to monitor and test water quality in their respective localities.

- f.) Facilitate access to water of people in remote communities and provide subsidies to vulnerable groups who could not afford to have physically accessible water connection.
- g.) Relocated urban poor families should have immediate access to safe and affordable water regardless of the status of their amortization payment.
- h.) Indigenous peoples should be provided with sufficient support by the state in ensuring the conservation and sustainability of watersheds within their ancestral domains.
- i.) The government must support the initiatives of people's organizations, cooperatives, and community associations to set-up water facilities in waterless areas.
- j.) All stakeholders in the water issue especially the consumers, should be properly and adequately consulted. Consumers should be empowered to have greater influence in decision-making.

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## Right to Education

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### Primary School

The 1987 Philippine Constitution expressly states, that the State shall establish and maintain a system of free public education throughout the elementary and high school levels, which will be compulsory on the elementary level. The Constitution further mandates that the State should assign the highest budgetary allocation to education.

Despite the high ideals enshrined in the Constitution, the government has failed to invest the level necessary to match the increasing demand on the public education system, which has led to a majority of students receiving a substandard quality of education and has also led to a significant percentage of children, both primary and secondary school age, having practically no access to complete basic education.

The Philippines has one of the shortest basic education systems in the Asian Pacific region, with six years of elementary education and four years of secondary education. Though the government states that the average age at which a Filipino child should start formal education is the age of six, nearly 64% of the countries 1.4 million 6 year olds have never set foot into a classroom.<sup>1</sup>

Though the government often touts its long history of universal access to elementary education, the elementary participation rate is currently under 85% and falling annually.<sup>2</sup> In addition, there are currently still 267 Barangays, mostly in remote regions, which are without any public education facility.<sup>3</sup> This shortfall is especially bothersome when considering the poor quality of most distance learning initiatives.

### Secondary School

In regards to secondary school, the Philippine Constitution requires that the government make available to all interested student, free high school education. According to a Department of Education (DepEd) report all but four municipalities contain a public high school, however the quality and accessibility of these institutions remains in question.

The main issues are the overcrowding of classrooms and the high cost of attending these public schools. The Constitution and the Free Secondary Education act requires the State to provide free public education, however the government expects students to pay "other fees associated with school."

The government also dramatically under funds the amount realistic required to run highschool facilities while properly educating constantly growing student body. As a result of these funding shortfalls, the fees and peripheral costs have been rising dramatically and

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<sup>1</sup> The Philippine Center for Investigative Journalism

<sup>2</sup> DepEd Basic Education Statistics Fact Sheet

<sup>3</sup> Ibid

school administrators have been forced to pursue alternative funding sources to finance the school's expenses.

A recent study estimated that parents on average must contribute Php1700 a month to cover the incidental cost of education.<sup>4</sup> In a case study of two high schools in Central Luzon a rough estimate indicated that the government's share of the total cost of public secondary education accounted for less than 1/3 of the total expenditure. The remaining 2/3 were paid by parents, non-governmental organizations, foreign funding organizations, and private corporations.<sup>5</sup>

The government was initially taking steps to make secondary school more accessible with programs such as GASTPE which subsidize tuition fees of students enrolled in private schools because they could no longer be accommodated in public facilities. However, it took a step backward when it increased the financial burden of students in public schools by phasing out the Tuition Fee Supplement (TFS) in 2003, which helped finance the secondary education of over 166,000 students.<sup>6</sup>

Ultimately, though secondary education facilities are indeed widely available, public education is not provided solely, and often not even primarily, by the government and the cost of pursuing a public education can often be prohibitive.

### **Higher Education**

Tertiary education in the Philippines is provided by both public and private institutions. A large majority of the centers for higher education are privately funded, with only 182 out of the 1,647 institutions publicly funded. The average enrollment as of 2005-2006 school year was 2,404,649. Based on these figures and the estimated national population 88 million, approximately 2.8% of the population is attending an institute of higher education.<sup>7</sup>

Higher education is not managed by DepEd but by the Commission for Higher Education (CHED) which receives 13.4% of all government allotment for education.<sup>8</sup> Much of this budget is utilized to support public educational institutions. There are currently 111 State Universities and Colleges, 56 Local Universities, 1 CHED supervised institution, 5 Special Higher Education Institutions, and 9 other government schools.

The main issues facing the tertiary education system in the Philippines is that the prices of both public and private institutions have increased substantially over the last four decades. The costs of higher education vary substantially dependant on the quality of education available from different institutions. The costs are commonly calculated on a per unit or credit basis, with a course traditionally being made up of 2 to 4 credits and students commonly taking 10 to 20 classes a year. Again the cost per unit varies depending on the institution but the national average is approximately Php300.<sup>9</sup> As a result of the expenses associated with higher education, access to tertiary education can often be cost prohibitive.

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<sup>4</sup> Teachers Center of the Philippines (TCP), Privatizing Public Basic Education in the Philippines, commissioned by E-Net Philippines for SouthEast Asia Real World Strategies conference on EFA and Privatization of Education 2005

<sup>5</sup> Ibid

<sup>6</sup> 2004 DepEd Assessment; Annex-B

<sup>7</sup> Commission on Higher Education, Statistics

<sup>8</sup> UNESCO Global Education Digest 2006

<sup>9</sup> Commission on Higher Education, Statistics

#### **d. Alternative education**

Though the government has recently put into place programs designed to increase cohort survival rates and keep students in school, for those that have received no education or who have failed to complete their primary education, there are little to no programs designed to educate them during later stages in their lives.

E-Net Philippines in its policy brief for an alternative budget for education cited that the Bureau of Alternative Learning System (BALS) updated the 2003 FLEMMS figures on the out-of-school and placed the number of those not attending school at 1.84 million for the 6-11 age group and another 3.94 million for the 12-15 age group.<sup>10</sup> The BALS figures are closer to the estimates of the study done by the UNESCO Institute for Statistics (UIS) in their global monitoring of the out of school children. For the Philippines, the UIS placed the number at 2.072 million out-of-school among children of primary school age. Given this figure, the Philippines has one of the biggest number of out of school children in Southeast Asia - higher even than Vietnam and Indonesia in both absolute number and percentage.

Given this reality, the DepEd's alternative learning programs reach only 200,000 every year. Many of these learners eventually do not finish the program as indicated by a mere 20,000 test takers of the Accreditation and Equivalency programs (based on BALS report).

At the same time, there are very few appropriate learning programs for adults who did not finish schooling. Few programs are being done by the Local Government Units, mostly not sustained and undermined by other priority programs of incumbent officials.

## **2. Difficulties**

The quality of basic education in the Philippines has been on a continuous and alarming decline over the last decade. The main issues the education system is facing are underfunding and extreme classroom over crowding, as a result of dramatic increases in enrollment.

The current growth rate in Philippine public school enrollment is 2.35% annually and as much as a 5% in secondary schools.<sup>11</sup> Severe budget constraints have led to underinvestment in basic education, as evidenced by the decline in real spending per student.<sup>12</sup> This under investment has not only had a detrimental effect on the children who have been denied access to schools but has also dramatically reduced the quality of the education received by most students.

In a research conducted by PhilRights in thirty (30) barangays in the National Capital Region, it was found that majority of public elementary and secondary high schools suffer from under funding, which then results to inadequate personnel, facilities and services. The setting of public school institutions isn't conducive for learning.

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<sup>10</sup> Bureau of Alternative Learning System (BALS), Department of Education, 2007

<sup>11</sup> DepEd Basic Education Statistics

<sup>12</sup> Teachers Center of the Philippines (TCP), Privatizing Public Basic Education in the Philippines, commissioned by E-Net Philippines for the SouthEast Asia Real World STrategies conference on EFA and Privatization of Education in 2005

### **a. Primary School**

The Constitution requires the State to provide free public education, however the government has dramatically under funded the amount realistic required to properly educate the constantly growing student body. As a result of these funding shortfalls the financial burden of educating children has fallen on individual school administrators, who have been compelled to look for alternative resources that could help bridge the gap in school finances.

Many school administrators have utilized Parent-Teacher and Community Associations (PTCA) to address the financial constraints public schools are facing. Due the decentralized nature of the Philippine education system the school administrators and associations have a great deal of decision making power. In the main, what was passed on was the difficult decisions needed to finance expenses that cannot be covered by the meager MOOE. Thus, in this scenario, the PTCA shoulders a great deal of the daily school expense from school janitors, the school utility costs, even the salary of some contractual teachers. These costs are mostly borne by the parents of students.

In the PhilRights study, an average student pays fees amounting to more than Php100. These often include payment for testpapers, PTA fees, Red Cross fees, Boy Scout/Girl Scout fees and others. Schools have also been forced to develop canteens, which are small food businesses run by teachers, to raise money to cover expenses. Finally, many administrators have been forced to reach out to private corporations to get the necessary funds which are not coming from the government.

The main problem with this kind of decentralized school managerial structure and privatization of the school house is that it has a direct detrimental impact on student learning. Many of the student's parents can not afford the high cost of participation which may account for the falling cohort survival rate and the general reduction in participation.

Also, the costs of privatization to learning are very high as the procurement of much of the funds require the commercialization of the classroom which disrupts and distracts schools from pedagogical pursuits.

Finally, many teachers are forced to divide their time between educating students and fund-raising projects such as working the canteen and perusing non-governmental funding options. This is especially detrimental considering the already high average teacher to student ratio of 1 to 40-50 students. Some schools in the urban areas even have as high as 1:100 teacher-pupil ration.

This overcrowding and lack of resources has led to high failure rates on the fourth grade National Achievement Test and relatively high drop out rates. The current passing rate for public school students taking the NAT is less the 60%. A result, many of these students are not prepared for high school which explains why so many students fail to participate in secondary education.

In addition to shortage of teachers, there is shortage of classrooms and course materials. In 2006 the text book shortage reached 67.3 million books.<sup>13</sup> The Philippines would need to build more than 6,000 new classrooms a year at Php450,000 each for 4 years to close the

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<sup>13</sup> Philippine Implementation Report on ICESCR

gap required for the traditional education system, while still filling each classroom with at least 50 students.<sup>14</sup>

Ultimately, rather than invest the nearly 3 billion Pesos for the facility development and school construction, the government implemented the double shift system as a patch solution.

### The Double Shift System

Prior to the double shift system student would attend classes from 7 a.m. till 6 p.m. with one hour break for lunch. Though this appears to be a very long school day but considering the condense number of years that student receive public education, 6 for elementary and 4 for high school, such a long school day is not unreasonable.

However, under the current class schedule, students attend classes in two shifts. The first batch will start at 6 a.m. and end at noon, then the second from running noon to 6 p.m.<sup>15</sup> This is a massive reduction in the hours spent in school for students that are already underperforming. In addition to the fewer hours of instructions, there is also many logistical issues involved.

First, many studies have shown that early morning and late afternoon are not the best times for a majority of students to learn.<sup>16</sup> Second, despite the move to the double shift system the Philippines still has a classroom shortfall of over 1,500.<sup>17</sup> Also, the savings for non-construction is not a permanent solution because the increased use places a heighten burden on the facilities, many of which were already in dismal conditions and in need of costly maintenance.

Finally, the largest portion of the government appropriated money for education goes to teachers salaries, so the double shift method will not only further increase this portion of the expenses but will also require many teachers to work exhausting double shift which reduces the quality of the education they can provide. The double shift system is only a short term remedy to the problem and should not be used as a solution to the Philippines' educational crisis.

### **b. Secondary Education**

Many of the same problems that plague primary education are only further amplified in the high school system.

Due in part to the annual increase in enrollment of nearly 5%, currently the average teacher to pupil rate is 1 to 40.<sup>18</sup> In addition to other factors, under investment in Secondary education couple with overpopulation has lead to dismal performances in the National Achievement Test and rapidly increasing drop out rates.

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<sup>14</sup> Action for Education Reform (AER), Working Group on Education Finance 2005 Update

<sup>15</sup> Medium-Term Philippine Development Plan 2004-2010, Chapter 18

<sup>16</sup> University of Illinois, Ron Banks and Beth Atkinson, What is the Best Time of Day for Student Learning?, 2004

<sup>17</sup> Medium-Term Philippine Development Plan 2004-2010, Chapter 18

<sup>18</sup> DepEd Basic Education Statistics Fact Sheet

Less than 45% of high school students are able to pass the National Achievement Test, which tests basic education skills. In addition, less than 1% of students obtained grades of 75% or more and at least half actually scored less than 30%.<sup>19</sup>

The failure of the students is not surprising when considering the poor performance of the teachers, who on average scored only slightly better than their students on the same exams. So though the government is often quick to tout the universal access of its secondary education system, that system is failing to provide meaningful education to well over half the student body.

Unfortunately, despite the incredibly low performance of secondary students, the government's proposed budget allocation for education during the last three years actually represents an annual decline of over 2% in real terms.<sup>20</sup> If the government sincerely appreciates the vital importance of education in attaining social development and economic growth, it must reverse the decline of the Philippine education system by making a serious financial and budgetary commitment to improving the quality of faculty, investing in the infrastructure of education, and by truly making affordable education universally available.

#### Inconducive Setting for Primary and Secondary Education

The underfunding manifests in the public schools located in the thirty (30) barangays in Metro Manila that PhilRights studied. About a third of barangays surveyed are lacking in teachers, books and basic facilities. Majority of the schools have no medical or dental services, and only two barangays report having a feeding program in their school. Most schools also lack multimedia equipment, computers and sports equipment.

The classroom setting typically contains thirty-eighty students. Most elementary and high schools exceed the ideal classroom size promoted by DepED which is thirty-five students to one teacher. Only two barangays out of the thirty (30) studied areas have a classroom size of thirty to forty students. This large ratio of students to teachers contributes to a low quality of education and to low motivation of students to keep coming to school.

#### **c. Higher Education**

Many of the problems of secondary education transfer into deficiencies in the higher education system. Colleges and university students are disproportionately concentrated in private and urban school systems. In addition, as the costs of higher education continue to rise, access to higher education will be limited to the most qualified of applicants. This is in part due to the dramatic reduction of over 10% in governmental subsidies, grants, and scholarships for students pursuing higher education.<sup>21</sup>

Other issues faced by the higher education system are lack of proficient professors and lack of funding for teacher research. Due to unsatisfactory compensation and lack of facilities, many of the most proficient educators and researchers accept positions overseas, causing in effect a brain drain.

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<sup>19</sup> DepEd Basic Education Statistics Fact Sheet and Action for Education Reform (AER), Working Group on Education Finance 2005 Update

<sup>20</sup> Philippine Department of Budget Management compared to Philippine National Statistics Office, inflation statistics.

<sup>21</sup> Commission on Higher Education, Statistics: Student Financial Aid Programs

In addition, there is an oversupply of courses in business and teacher education, so that the market is saturated with graduates for these professions. Inversely, there is a dramatic lack of classes designed to educate in professions related to the national development needs, such as agricultural modernization and engineering. Finally, there are few institutions that reach a sufficiently high level of accreditation, which would make them eligible for grants and autonomy from government supervision.<sup>22</sup>

The government has started to recognize these issues and tried to rectify the problems by granting scholarship to students that pursue an education in science or math, but many of these grants come at the expense of other educational subsidies. If the government is genuine in its efforts to improve the overall quality of education and increase the wealth of knowledge within the country, it must invest more fully in its highest caliber students, by improving the quality and affordability of tertiary education through regulation and investment.

### **3. Statistics**

#### **a. Literacy**

The current functional literacy rate has largely remained constant over the last 10 years at approximately 84.1%. However, the literacy disparity between boys and girls is significant with literacy among girls at 86.3% and literacy among boys at only 81.9%, a disparity of nearly 4.5%.<sup>23</sup> In addition, the basic literacy rate has been overstated by the Philippine Implementation Report on ICESCR, with the actual rate being closer to 88.6% rather than the 93.9% quoted. Across regions, the NCR posted the highest functional literacy rate at 94.6%, while ARMM registered the lowest with 62.9%.<sup>24</sup> On a national level, the functional literacy rate has remained unchanged since the 1994 rate of 84%.<sup>25</sup>

#### **b. Elementary Education**

There are currently 37,352 public elementary schools in the Philippines, with a total enrollment of over 12 million students.<sup>26</sup> Based on school-age population of 6-11 years old, the participation rate at the elementary level is under 85% as of 2006. This has been on a downward trend with less school age student participating every year.

The elementary cohort survival rate is on a similar annual decline with a 2.4% rate reduction between 2002 and 2005. The completion rate is also sadly in jeopardy as the rate dropping from 71.5% in 2002 to nearly 68.1% in 2005.<sup>27</sup>

#### **c. Secondary Education**

There are currently 5,078 public high schools in the Philippines, with a total enrollment of over 5 million students.<sup>28</sup> The current enrollment growth rate for secondary education is over 5% annually, with nearly all additional students enrolling in the public school system. The high school cohort survival rate is on an annual decline of nearly 10% from the 77% rate in 2002 to the 67.3% rate in 2005. In addition, the completion rate is also falling dramatically from 74.8% in 2002 to a rate of 61.6% in 2005. Finally, drop out rates have

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<sup>22</sup> World Bank, Philippine Country Summary 2005, Higher Education Summary.

<sup>23</sup> 2003 Functional Literacy Education and Mass Media Survey (FLEMMS)

<sup>24</sup> Ibid

<sup>25</sup> 1994 Functional Literacy Education and Mass Media Survey (FLEMMS)

<sup>26</sup> DepEd Basic Education Statistics Fact Sheet

<sup>27</sup> Ibid

<sup>28</sup> Ibid

increased from 8.45% to 12.5% over the same time period.<sup>29</sup> Such negative trends in these important indicators are certainly reason for concern and should resound as a call to action.

#### **d. Higher Education**

Based on the countries estimated population of 88 million, 2.8% of the population are currently attended a school of higher education. The average cohort survival rate is 21% in public or state universities and significantly less in private institutions.<sup>30</sup>

#### **Broad Policies Taken to Promote Education**

The government has taken several steps to implement policies designed to reduce the costs and improve the effectiveness of the Philippine education system. The government has divided the duties of the Department of Education and restructured the bureaucracy in hopes of creating autonomous focused divisions that better understand the needs of their respective fields. Though the DepEd still runs primary and secondary education, higher education now falls under the Commission of Higher Education which is attached to the Office of the President. Though the creation of the Commission is sure to create more of a voice for the needs of higher education, the funding still flows from the education budget and is inadequate considering the scope and demands of the division.

The Local Government Code of 1991 is one of the most important moves the government has made in line with restructuring the education system. The Code in effect significantly increases the autonomy of local schools to decide how to raise and spend funds. Though this policy has often been said to generate innovative teaching and managerial styles, the Code is also cited as a cause of corruption and educational system failure in some cases.

Though the government argues that increased local involvement allows communities to have a great positive impact on the education system, the Code in effect shifts much of the burden of running and financing public education from the National government to local governments and communities. To cope with the inadequate education budget, many schools and communities have been forced to privatize some aspects of their education or facilities, often at the expense of students, as there are currently no regulation on the means and scope of this privatization.

In addition, the Code implements a 1% real property tax for the creation of a local Special Education Fund managed by the local school board to help maintain, construct, and repair school buildings.

Overall, the Philippines has committed targets for attainment of functional literacy for all, as articulated in the Philippine Education for All Plan 2015 that was signed by President Arroyo in February 2006 and submitted to the UNESCO. The four goals under this EFA Plan are:

1. Universal Adult Functional Literacy
2. Universal Completion of the Full Cycle of Basic Education Schooling with Satisfactory Achievement Levels by All at every grade or year
3. Universal School Participation and Elimination of Drop-outs and Repitition in First Three Grades
4. Total Community Commitment to Basic Education Competencies for All

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<sup>29</sup> DepEd Basic Education Statistics Fact Sheet

<sup>30</sup> Commission on Higher Education, Statistics



## **Policies Taken to Promote Primary Education**

On the whole, the government's solution to many of the problems that plague primary education has been the Double Shift System. Unfortunately, such a solution is not only a short term patch, but it also fails to address the glaring problems of incompetent teachers, failing tests scores, and a decrease in participation. Though the government has recently started to address these issues by providing teachers with further training, these trainings are commonly optional provided and are only offered on a small scale. In addition, though the government has made claims to the contrary, it is still resistant to implement harsh testing on teachers to ensure that they are capable of fulfilling their duty to educate students.

One government program that has a great deal of potential for improving the quality of education and student performance is the Preschool Contracting Program and the Early Childhood Development Project in which the government provides or helps to subsidize the cost of preschool education for children prior to first grade. Though the current systems are underfunded and the means of implementation, whether through privatized contracts or as public service, have not full been vetted such a move towards pre-elementary education could be an effective step towards improving student performance.

## **Policies Taken to Promote Secondary Education**

To combat the academic failures of the current high school education system, Philippine public schools have recently undergone a restructuring of the curriculum with the introduction of the Basic Education Curriculum (BEC). The program is designed to instill in students a more relevant educational base to respond to the needs and demands of local a global society. The main issue with the BEC is that the means by which it is currently being applied does not effectively develop reflexive thinking skills, partially because teachers have not been trained in this method effectively and have difficulty instructing students.

In addition, the Department of Education is implementing programs, such as the High School Bridge Program, to help prepare students who were not allowed to graduate by their primary schools and are not prepared to matriculate into secondary school, through up to five years of additional English, Math, and Science education. Though the enrollment in such an optional program remains low, its availability helps students that have been improperly educated continue on to secondary education and such programs should be expanded.

## **Policies taken to promote Higher Education**

The Commission on Higher Education has attempted to resolve many of the most detrimental problems in Philippine higher education and have tried to foster increased access, quality, and effectiveness of tertiary institutions through increased regulation, supervision, and investment. Though projects like the Higher Education Development Fund are useful tools in the restructuring and eliminating some of the most corrosive aspects of Philippine higher education, such minimally funded projects are currently insufficient to address the systemic issues faced by the Commission. Furthermore, the government should take further steps to increase access to higher education of qualified students, while remaining vigilant that the quality of the education does not further deteriorate.

#### **4. Budget**

The Philippines expenditure on education is less than 3% of its national GDP. International benchmarks set the desirable level of education expenditure at 6% of GDP and 20% of total public expenditure. After debt allocation, education sector enjoys the largest budget allocation at nearly 12.1%.<sup>31</sup> Though in nominal terms government spending on education has generally increased at an average rate of 4.5% annually, in real terms the budget has on average been shrinking by an annual rate of 2%.<sup>32</sup> Of the DepEd's Php146 billion budget for 2008, 89% percent goes to the payment of salaries and other personal benefits, while maintenance and other operating expenses (as well as expenditures on development) make up only 7% of the budget, with only 4% left for classroom and instructional materials (textbooks and computers).<sup>33</sup>

The Philippines has one of the lowest amount annually spent per child ratio in the Southeast Asia at approximately Php6,450. Much of this spending goes towards basic education with secondary and higher education enduring repeated budgetary cuts. In terms of spending the DepEd allocates 1.9% for preschool education, 48% for elementary education, and 45% for secondary education.<sup>34</sup> The budget of the BALS to implement alternative learning programs to reach out to marginalized children, youth and adults who cannot afford to school is very minimal, amounting to less than 0.68% of the basic education budget.

Indeed, the current level of expenditure is low and falls short of the requirements for quality education. It places the Philippines among the lowest spenders on education in Asia and the rest of the world. Thailand spends over six times what the Philippine government spends for educating its citizens, while Malaysia spends over ten times more. India spends nearly 4% of GDP on education while Sri Lanka allots about 3% of GDP (E-Net Philippines policy brief for Alternative Budget for Education 2009).

#### **Building of New Schools**

The burden and responsibility for the costs of school construction is divided between the DepEd and the Department of Public Works and Highways (DPWH). The DepEd is particularly responsible for the construction of schools in remote regions or in areas with an acute classroom shortage.

Under the 1991 Local Government Code, local governments are responsible for the building and maintenance of schools located within their jurisdiction. Much of this is funded by the 1% tax on real property which goes to the Local Board. But in depressed regions, where property values are low, the revenue received from the tax is insufficient to finance the necessary construction or maintenance leading to a growing inequality in facilities and education among regions.

In such cases, the DepEd under the Third-Elementary Education Project (TEEP) is expected to provide both technical and financial assistance for construction and rehabilitation of

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<sup>31</sup> Philippine Department of Budget Management

<sup>32</sup> Philippine Department of Budget Management compared to Philippine National Statistics Office, inflation statistics.

<sup>33</sup> Medium-Term Philippine Development Plan 2004-2010, Chapter 18

<sup>34</sup> Ibid

school buildings. Though the TEEP has constructed over 5,230 new classrooms and repaired nearly 15,000, there remains a great need for further construction.<sup>35</sup>

The Philippines has been suffering from classroom shortage for nearly a decade. In 2003, there remained a shortage of over 57,000 classrooms.<sup>36</sup> The shortage is so vast that despite the implementation of the double shift system, to achieve the government's quota of 50 students per classroom, 1,500 new rooms are still required.<sup>37</sup> Though the government has recently increased classroom construction they have not yet resolved the shortage, due partly to the surprisingly high growth in student enrollment.

## **5. Equal Access**

### **a. Ratio of Men and Women in different levels of education**

Women in the Philippine education system have much higher participation and completion rate than similar aged boys. Among elementary student 83.4% of girls were enrolled in school, as compared to 81.8% of their male counterpart. On the secondary school level, statistics show a participation rate for girls of 63%, compared to 51.8% for the boys.<sup>38</sup>

In addition, girls are found to consistently outperform boys in gross and net primary enrollment rates, elementary cohort survival, repetition, drop out rates, and learning achievement.<sup>39</sup> This has been observed for the past two decades and can be said to be generally true for both urban and rural areas. Statistics show that the completion rate among girls in elementary education is 66.7%, as against that of boys which is at 57.7%. In secondary school the disparity between completion rates is even higher with 63.7% for girls and 48.7% for boys.<sup>40</sup>

As a result of the higher secondary school completion rate among girls, higher education is increasingly female dominated, with women comprising nearly 57% of total enrollees.<sup>41</sup> Though many have applauded the government's actions to increase equal access for women, recent data has shown a further increase in disparity, which has led to growing concern for the lack of participation among male students, which must be addressed before parity is threatened.

### **b. Vulnerable and Disadvantaged Groups.**

In terms of access to educational services those most disadvantaged groups remain the Indigenous cultural communities, communities within the ARMM, and the urban and rural poor. The highest levels of basic and functional illiteracy are found within ARMM and among the indigenous communities.<sup>42</sup> The lowest levels of participation and access to primary education are found among indigenous communities and the rural poor, as many communities suffer from a scarcity of school facilities.

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<sup>35</sup> Medium-Term Philippine Development Plan 2004-2010

<sup>36</sup> 2004 DepEd Assessment; Annex-B

<sup>37</sup> Medium-Term Philippine Development Plan 2004-2010

<sup>38</sup> 2003 Functional Literacy, Education and Mass Media Survey (FLEMMS)

<sup>39</sup> 2005 Philippine Social Watch Report

<sup>40</sup> 2005 Basic Education Information Services (BEIS) of the Department of Education

<sup>41</sup> Commission on Higher Education, Statistics: Basic Fact Sheet

<sup>42</sup> 2003 Functional Literacy, Education and Mass Media Survey (FLEMMS)

### **c. Government Steps to Ensure Equal Access**

The government has taken several steps to increase the access to primary education, particularly in remote area and among indigenous peoples through Distance Learning Programs and the Mobile Teacher Project. Distance Learning Programs have repeatedly been criticized because the lessons are only designed to educate until grade four and because it places much of the burden of educating student on parent and their communities. As a result distance learning programs have a high failure rate and remote communities have low literacy levels.

The government, in conjunction with Australia, has implemented the Basic Education Assistance for Mindanao to address the educational failures in the ARMM. The project is a training program that included the instruction of over 560 educators and nearly 1,800 school managers in the region. Despite these actions the literacy and performance rates of students in the region remain the lowest in the country, partially due to a shortage of schools. More must be done by both local and national government to improve the quality of the education for children in the region.

Finally, the government has taken steps to help the children of indigenous communities by making educational assistance grants more available and by restructuring the curriculum to be more culturally specific and relevant to the needs of their community.

### **d. Access to Higher Education**

Though the government has many potential subsidies and grants for qualified underprivileged students, the supply of funds is insufficient to satisfy the demand. To meet the needs of qualified students seeking higher education, the government should increase the quantity and resources of scholarship pools to match the increase in the cost of higher education.

## **6. Teachers**

The fact that teachers in the Philippines have, on average, been under paid and under qualified for their role as educators is a main factor contributing to the decline in performance of the Philippine primary and secondary education system. Elementary teachers are expected to earn at least a bachelor's degree in elementary education. Secondary school teachers are expected to earn a bachelor's degree in education with a specialization in a secondary school subject. Unfortunately, due to failures in regulation and accreditation of institutions of higher education, many of these teachers are not qualified to begin instruction and require further education.

In addition, the poor performance of students is directly related to the competency of instructors in handling the subjects they teach. Nearly 60% of all science classes are taught by teachers without a major or focus in the respective science. Nearly a quarter of all Math classes are taught by teachers without a major in mathematics.<sup>43</sup> This is often due to shortages in certain areas of qualified teachers as a result of restrictions on the re-assignment of teachers, under the teacher's Magna Carta, which in effect binds the hands of education administrator that need to transfer teachers to an environment where their specific training is needed or where they could have a larger impact.

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<sup>43</sup> DepEd, FY 2006 Budget Proposal, October 2005

Finally, low salaries and lack of appreciation for teachers remain serious issues which drive many of the Philippines' most qualified educators out of teaching. Though the government claims that the minimum monthly salary of a public school teacher is Php11,000, this figure fails to take into consideration the salaries of contractual teachers.

Due to the financial shortages, many schools are forced to hire qualified teachers on an annual temporary basis for a small portion of the minimum monthly salary. Many of these teachers are committed, qualified, and central members of the faculty. In some cases contractual teachers have worked up to five years under these conditions, under the assurance that they would be hired once a position opens.

In addition, many teachers are forced to purchase supply and instructional materials for students out of their own salaries. Further more, over and above their duties as educators, teachers are often pressured to accept duties such as fund raisers and canteen monitors to help raise money for the school. Clearly, the demands on public school teachers are incredibly high and numerous, all of which distract them from their duty of educating their pupils.

Ultimately, the key to any meaningful effort to reform and improve the Philippine education system must address the qualifications and conditions of teachers.

### **7. Portion of schools privately owned and administered.**

As of the 2006-2007 school year there were 42,152 school in the Philippines, of which 37,352 were public and 4,800 were privately owned.<sup>44</sup> During the same period, there were 8,455 high schools, of which 5,078 were public and 3,377 were privately owned and operated.<sup>45</sup> In addition there were 1,647 institutions of higher education, of which 182 were public and 1,465 were privately owned and administered.<sup>46</sup>

### **8. Extent of corruption in educational system**

A World Bank study estimates that 48 billion pesos are lost annually to corruption in the education sector because it is not insulated from corruption and mismanagement of funds by politicians and officials. The lack of accountability and transparency in government policies and activities has even made it difficult to determine how money is being used.

The education sector has been rife with accusations of scams and corruptions. In late 2007, some politicians called for the abolition of the Cyber Education project which was supposed to boost the educational system by providing satellite-based educational services to public elementary and high schools. However, the huge costs of the project made its sustainability highly questionable and the lack of transparency on how it was negotiated raised doubts on its integrity.

In 2006, controversy arose when politicians complained about the unfair procurement and monopoly of a certain textbook company leading to low quality of books provided to schoolchildren. Allegations of hidden government transactions like these have shown the

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<sup>44</sup> DepEd Basic Education Statistics Fact Sheet

<sup>45</sup> DepEd Basic Education Statistics Fact Sheet

<sup>46</sup> Philippine Implementation Report on ICESCR, 2006

lack of transparency in practices that only have dire consequences for the quality of information being taught.

Corruption is evident from the national to the local level. Bureaucracy and nepotism is widespread in local educational systems, from the hiring of top positions in the education bureaucracy to the hiring of teachers in schools.

### **9. International assistance**

A great deal of the development of the Philippine education system is a result of international assistance either financed through international loans, contracting, or grants. For example, much of the construction and rehabilitation of classrooms are being facilitated through Official Development Programs such as the World Bank's Third Elementary Education Project and the Asian Development Bank's assistance on Secondary Education Development and Improvement Project.

In addition, international investment in education from organizations in Korea and Japan are a large source of funding for school development and pre-elementary programs. Private investment from multinational organization are also a large source of international assistance for the Philippine education system with initiative such as Coca-Cola's Little Red Schoolhouse project which builds and improves schools in isolated communities.

### **Conclusion and Recommendations**

The current Philippine education system's success is dramatically over represented by the governments UN ESCR report, which ignores or downplays glaring failures in the very structure of the education, which is considerably under funded, fraught with corruption, and increasingly ineffective.

The government has to instill reforms which will have a long term effect on the educational system.

1.) Foremost is compliance with the Constitution's mandate to provide free primary and elementary education. Automatic appropriation should be allocated to basic education, rather than debt. Six percent of the GNP should be allocated to education.

2.) Access to education should be improved through programs for indigenous people, the differently abled and dropouts. This can be achieved through prioritizing these programs in the local sector.

3.) Focus should be on improving the quality of education and adopting it to develop the individual, rather than to meet the demands of the global market.

This warrants adopting a rights based, nationalist, scientific, culture-sensitive, development-oriented curriculum for primary and secondary education. The curriculum should also be developed to make sure they fulfill the needs of indigenous peoples.

Children should be taught to take care of themselves, through a class on human rights/reproductive rights and others.

4.) Reforms must be enforced to remove discrimination and abuse happening in schools, to children and teachers. There is a need to look at the plight of the differently abled, special children in school settings.

5.) Teachers' right to self organization must be emphasized.

6.) The increased budget for education should be allocated to fix classroom and book shortages, augment salaries of teachers and personnel, provide more grants and scholarships. Much can be done to ensure quality of education starting from the improvement of facilities, such as adopting technological materials, investing in teachers through teacher trainings to regularly scrutinizing textbook material for errors.

7.) The education sector can also benefit from addressing external factors that inhibit educational progress among Filipinos. These include poverty which leads to high dropout rates, lack of schools and institutions in remote areas, and armed conflicts which often cause displacement.

8.) To repeal Batas Pambansa 232, also known as Republic Act 7722 or Education Act of 1982, that instituted the policy of deregulation of private education. Since its implementation, tuition fees have increased 370% according to a study of Senator Madrigal. To make higher education more accessible, the government has to put a cap in the yearly tuition fee increases of private education institutions. Likewise, teachers' rights and welfare need to be protected by ensuring the strict implementation of the Magna Carta for Teachers.

## ***Debt-driven Development Strategy, Public Financing Quagmires, and ESC Rights in the Philippines***

*A report on resource allocation and debt servicing by the Philippine government prepared by the Freedom from Debt Coalition (FDC)*

The country is currently facing the worst of its economic woes in recent history. The Bangko Sentral ng Pilipinas (BSP) warned that inflation might have reached more than 12% percent in June this year because of rapidly rising food, oil, and energy prices – the highest in 17 years. The crisis is so severe that the Arroyo administration was compelled to resort to desperate measures such as subsidies and cash dole-outs.

The Freedom from Debt Coalition (FDC) believes that much of the policy constraints which prevent the Philippine government from strategically resolving poverty were due to the debt problem, which, as will be discussed at length later, compromises both public financing to social services linked to human rights and the sovereign determination of development direction.

In this report, we attempted to look into how the debt-driven development strategy and the “debt first” public financing policy of the government violate the rights of its people as mandated by its own constitution and by accepted international laws. Moreover, the international and domestic financial system, which is supposed to be instrumentalities towards equitable development, instead serves as tools with which the poverty and misery of the people are perpetuated.

### ***Debt and the Public Financing Quagmire***

In order to understand better how the debt problem is intricately linked with these fundamental socio-economic quagmires, we have to see first the magnitude of the debts claimed from the government. As of end-August 2007, the National Government (NG) Outstanding debt was pegged at P3.871 trillion pesos or US\$81.91 billion. This translates to a National Government debt per Filipino pegged at P 43,649.57 with each individual coughing P 7, 012.12 yearly just to service the debt. Our situation is rendered even more precarious with National Government contingent liabilities<sup>1</sup> reported to having reached P537 billion by 2007, much of it is foreign currency denominated.

What is the impact of such a problem? If we are going to look at this year’s budget, it becomes clear that the government’s top priority is debt servicing. This budget includes earmarked P295.75-billion for Interest Payments of National Government (NG) debts and an additional P 328.34-billion off-budget expenditure for Principal Amortization of these NG debts. All in all, the government will be allocating P 624.09 billion for debt servicing.

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<sup>1</sup> Contingent liabilities are commitments by the national government, expressed or implied, to directly assume the liability of another entity should it be unable to honor its obligations. Thus, contingent liabilities are potential debts.



Government Spending for 2008 (in billion pesos)			
<b>Debt Service</b>	<b>624.09</b>	<b>Education</b>	<b>181.86</b>
<i>Interest Payments</i>	295.75	<b>Health</b>	<b>22.90</b>
<i>Principal Amortization</i>	328.34	<b>Agriculture and Agrarian Reform</b>	<b>41.18</b>
		<b>Environment</b>	<b>10.06</b>
		<b>Military</b>	<b>61.42</b>
<u>Note:</u> Breakdown of totals may not sum up due to rounding of digits.			

**Table 1.** *Proposed 2008 National Budget. Source: Budget of Expenditures and Sources of Financing (BESF) Fiscal Year 2008. Department of Budget and Management (DBM).*

Looking up at the table above, even if you add up the total proposed spending on education, health, agriculture, agrarian reform and the environment, these will still be less than interest payments alone by as much as PhP 39.75 billion.

But this year is not an isolated case. Historically, while debt expenditures remain high, other expenses remain to be low. Social services didn't experience much growth in terms of share in the national government spending.

Sectoral Shares of National Government Spending (in percentage)					
	<b>Marcos (1981-85)</b>	<b>Aquino (1986-92)</b>	<b>Ramos (1993-98)</b>	<b>Estrada (1999-00)</b>	<b>Arroyo (2001-04)</b>
<b>Economic Services</b>	36.2	23.1	25.5	24.2	20.6
<b>Social Services</b>	21.9	22.2	28.0	32.2	29.8
<b>Defense</b>	9.9	7.1	6.8	5.5	5.5
<b>General Public Services</b>	16.1	13.7	18.3	18.1	17.1
<b>Net Lending</b>	4.3	4.4	0.5	0.5	0.6
<b>Debt Service Interest</b>	11.6	29.5	20.7	19.5	26.8

**Table 2.** *Sectoral distribution of national government spending. Source: Prof. Benjamin Diokno's data on per capita spending, titled "Two Decades of Suffering", used in his presentation "The Real State of the Nation".*

The reason for this, as FDC had already expressed in its 20 years of existence, is the automatic debt servicing provision contained in Section 26(B), Book VI of the 1987 Revised Administrative Code (Executive Order 292). This provision was actually copied exactly from

a law during the dictatorship of former President Marcos, the Section 31 (B) of Presidential Decree 1177. The provision states:

*“Automatic Appropriations. — All expenditures for ... (b) principal and interest on public debt, ... are automatically appropriated.”*

The government, pushed by its own self-imposed administrative constraints, specifically the automatic appropriations provision, continues to have an austere spending program which cuts social spending. This kind of policy, while it may satisfy standards of lenders, will have serious developmental ramifications due to lack of government investment in the social infrastructures. Such kind of policy violates the United Nations’ International Covenant on Economic, Social, and Cultural Rights (UN-ICESR):

*Article 1.1. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*

This is echoed by the Declaration on the Right to Development as adopted by United Nations' General Assembly in 1986, which states:

*Article 1.1. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.*

Let us elaborate on the case of education and healthcare services.

### **Violating ESC Rights, Denying Essential Services** ***The Case of Education and Health***

Education and healthcare stands to be the “public goods” that are universally recognized, not so much because investing in these services have immense positive externalities, but because these are prerequisites in a human and civilized society as part and parcel of the requirements of a life with dignity. According to the UN-ICESR:

*Article 12.1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*

*Article 13.1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*

The Declaration on the Right to Development affirms this:

*The General Assembly,*

*Recalling the provisions of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights,*

*Proclaims...:*

*Article 8.1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.*

The Philippine laws itself enshrines education and health. In terms of public financing, it puts prime on education above all spending. According to Article XIV, Section 5.5 of the Philippine Constitution, education is supposed to receive the highest budgetary allocation. The constitution states that:

*Section 5.5. The State shall assign the highest budgetary priority to education and ensure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment.*

In this year's budget (see Table 1) however, it'll be getting merely a third of what the government will be spending on debt (P181.86 billion compared to P 624.09 billion). This kind of policy is a flagrant violation of the spirit of Article XIV, Section 5.5.

Moreover, even if it is already receiving less than debt service as it is, education spending is still progressively dipping. Per pupil spending actually dropped from President Estrada's P5,830 to Mrs. Arroyo's P5,467.

Average National Government Spending for Basic Education 1981-2004 (in 2000 prices)					
	Marcos (1981-85)	Aquino (1986-92)	Ramos (1993-98)	Estrada (1999-00)	Arroyo (2001-04)
Per pupil spending, 2000 prices	3,027	4,478	4,959	5,830	5,467

**Table 3.** *Average National Government Spending for Basic Education.* Source: Prof. Benjamin Diokno's data on per capita spending, titled "Two Decades of Suffering", used in his presentation "The Real State of the Nation".

As for healthcare service, the Constitution also provides for overall government policy, but this is not realized. Article XIII, Section 11 of the Philippine Constitution states:

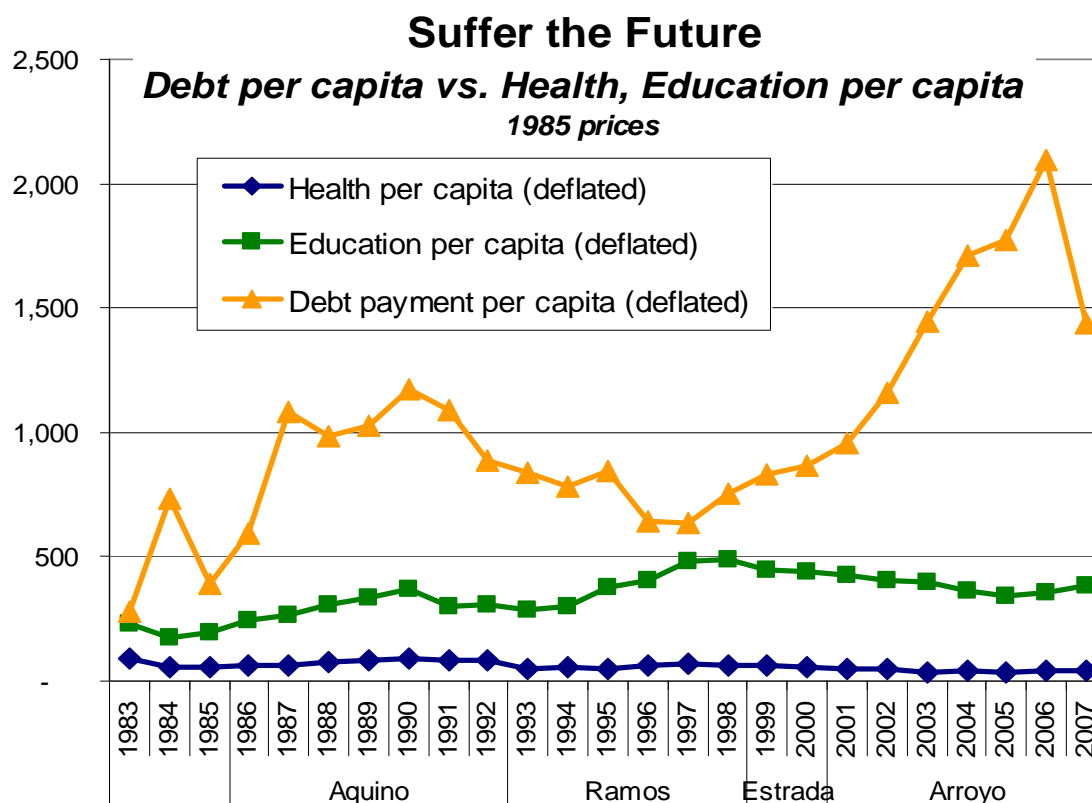
*Section 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health, and other social services available to all the people at affordable cost...*

The situation for health is much more horrendous – it's only 4% of what we will be spending on debt (or P22.9 billion, see Table 1) under this budget. Historically, we can also see a continuous drop in healthcare spending. From Estrada's P201.00, per capita spending on health dropped to P184.00.

<b>Consolidated per capita health spending, by administration, 1981-2004 (in 2000 prices)</b>					
	<b>Marcos (1981-85)</b>	<b>Aquino (1986-92)</b>	<b>Ramos (1993-98)</b>	<b>Estrada (1999-00)</b>	<b>Arroyo (2001-04)</b>
National Government	240	278	321	360	303
Local Government	203	247	160	159	119
<b>Total</b>	<b>37</b>	<b>31</b>	<b>161</b>	<b>201</b>	<b>184</b>

**Table 4.** Consolidated per capita health spending in 2000 prices. Source: Prof. Benjamin Diokno's data on per capita spending, titled "Two Decades of Suffering", used in his presentation "The Real State of the Nation".

Even in real (1985) prices, debt service historically surpasses health and education spending. In 2006, the gap between education spending and debt service in real terms reached a peak of P8,226, with debt service per capita pegged at two-decade-high of P9,896.



**Table 5.** *Debt per capita vs. Health, Education per capita, 1985 prices.* Sources: NSO for population, DBM for expenditures in healthcare, education, and debt service (principal and interest), NSCB for GDP deflator.

#### **Conditionalities and the Debt-driven Strategy:** ***A Violation of Right to Sovereign Development***

The debt problem and how it leads to the violation of human rights doesn't end on the impact of huge debt service requirements. An equally important aspect of the debt issue which should be looked at are the conditionalities imposed by International Financial Institutions (IFIs) and bilateral financial institutions on southern countries like the Philippines.

These conditionalities were attached from loans meant to rescue the government from fiscal quagmires which lenders took advantage of to make the government swallow painful, industry-wide "reforms" acquiescent with the paradigm of neo-liberal globalization – that of liberalization, deregulation, and privatization.

While some of such conditionalities might actually have "good" intentions, we believe that in principle, imposition of conditionalities through loans violates the principle of self-determination of nations. The UN-ICESR puts it such rights as:

*Article 1.1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

*Article 1.3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.*

This further calcified by some of the provisions of the Declaration on the Right to Development:

*The General Assembly,*

*Recalling the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development,*

*Recalling also the right of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources,*

*Confirming that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,*

*Proclaims...*

*Article 2.3. States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.*

Thus, the imposition of conditionalities as part of the loan violates the international precept of sovereign development. Northern countries dangle their foreign financing in order to meddle into the policy directions and strategies of the Southern states. This effectively constitutes a transgression of the right to “self-determination”.

On the side of the Philippines, the acceptance of conditionality impositions are also not in line with the Philippine Constitution, which outlines the right to self determination:

*Article 2. Section 7. ... In its (the Philippine State) relation with other states, the paramount consideration shall be national sovereignty... and the right to self-determination.*

Furthermore, FDC believes these conditionalities have little if anything to prove that they helped the Southern countries. In the case of the Philippines, we believe that the oil, power, and energy crises the country is currently experiencing are a direct result of these damaging conditionalities. Each of these crises can more or less be matched with previously transacted project and program loans. The oil, power, and food crises the country is experiencing are “debt-induced”, and had been the consequences of the “policy reforms” attached to loans lent to us by foreign bilateral and multilateral financial institutions.

Let us recall, for instance, the International Monetary Fund's (IMF) 1994 Extended Arrangement calling for the full deregulation of the country's downstream oil industry in exchange for a \$650 million loan. The Ramos administration passed in 1996 Republic Act (RA) 8180 and 8479 in compliance with IMF arrangement. RA 8479 is mostly to blame for the increasing prices of oil. The deregulation of the oil prices resulted to a skyrocketing increases in the price of consumer petroleum – from P7.03 for diesel in April 1996, when RA 8180 was passed, to a staggering P50-60 this year.

The same thing happened in the case of the EPIRA (Electric Power Industry Reform Act) or RA 9136, which was the main culprit behind the staggering costs of electricity. It was passed in order to satisfy the conditionalities of the Power Sector Restructuring Program (PSRP) as financed by a \$600 million loan from Asian Development Bank (ADB) and the Japan Bank for International Cooperation (JBIC). After seven years of implementation, EPIRA has brought about a transition from government monopoly to an enhanced private monopoly—worse, a hundred percent increase in power rates. EPIRA, for example, allows MERALCO to purchase at most half of its electricity requirements from its sister companies or IPPs. EPIRA removed cross-subsidies which it believes distort the “real” price of electricity. The result is, under EPIRA, we ended up having the second highest electricity rates in Asia.

In addition, the \$175 million Grain Sector Development Project (GSDP) also funded by JBIC redefined towards emasculation the National Food Authority (NFA), the agency which would have been at the forefront in addressing the food crisis. Another damaging loan would be the Community-Managed Agrarian Reform and Poverty Reduction Project (CMARPRP) loan by the Japan Social Development Fund (JSDF), an affiliate of the World Bank, which introduced Market-Assisted Land Reform (MALR) and emasculated the government's inherent expropriatory powers. Because of the CMARPRP, peasants further became indebted to land credit (which is supposed to be used to buy-back their land) agencies and landowners were compelled to hasten land conversion (in order to avoid high land taxes).

### **Conclusion**

#### ***Deficit in Public Financing = Deficit in Human Rights***

The Philippine government, despite its record in under-spending on important social services, continues to uphold its commitment on financing human rights. Looking at the Philippines' Commitments in the Human Rights Council:

*The Government of the Republic of the Philippines has decided to present its candidature to the Human Rights Council at elections by the UN General Assembly on 9 May 2006.*

*In this regard, the Government of the Philippines pledges to undertake the following:*

*Continue the Philippine Government's pioneering efforts in instilling a human rights-based approach in the realization of UN Millennium Development Goals, the right to development and economic, social and cultural rights, as embodied in national development policies, plans and programs.*

Thus, it is fundamental that we pressure the government into spending more in order to finance the goals and rights it committed itself to realize, like the MDGs, the UN-ICESR, and

the right to development. Without adequate finances, these will not be realized, and such will be a huge step backward for the Philippines in terms of human rights.

It is also important that the government lead the way in pressuring lender states into giving “policy space” to Southern governments with which they can exercise their right to sovereign development and end their domestic misery. This can be done in the form of debt cancellation and the recognition that not all debts being claimed to and paid by Southern governments are legitimate.

This is acquiescent to provisions in the UN-ICESR:

*Article 2.1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*

*Article 11.1. The States Parties to present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the international co-operation based on free consent.*

Only through national and sovereign will and international solidarity shall the right to development be achieved by the peoples of the world, and one of the first ways to exercise is the strategic resolution of the economic crisis brought about by the debt problem.

## **Recommendations**

- a.) Repeal Section 26(B), Book VI of the 1987 Revised Administrative Code (Executive Order 292) or the automatic appropriations provision.
- b.) An official comprehensive and transparent audit of all public debt and contingent liabilities.
- c.) The options that could be proposed regarding foreign debts range from cancellation to moratorium on payments.
- d.) Repudiate onerous and illegitimate debts.
- e.) Identify and reallocate chunks of the national budget originally intended for debt servicing.
- f.) Reduce military budget and reallocate the amount to health services.
- g.) Participatory and multi-sectoral monitoring and auditing of government agencies' budget and expenditures.