



**WRITTEN COMMENTS BY THE CENTRE ON HOUSING RIGHTS AND
EVICTIONS (COHRE)**

CONCERNING PHILIPPINES

**FOR CONSIDERATION BY
THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS**

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I. Introduction

The Centre on Housing Rights and Evictions (COHRE), an international human rights organisation acting to secure the right to adequate housing for everyone, everywhere, respectfully submits written comments concerning the Philippines for consideration by the Committee on Economic, Social and Cultural Rights (hereafter “the Committee”) at its 41st Session to be held 3-21 November 2008.

COHRE is aware of the efforts undertaken by the Philippines Government (hereafter “the Government”) to comply with its obligations under the International Covenant on Economic, Social and Cultural Rights (hereafter “the Covenant”), as detailed in its most recent report on Coenant implementation to the Committee. To date, however, these measures have been insufficient to ensure the implementation of the Covenant with regard to Article 11(1) on the right to adequate housing, as a component of the right to an adequate standard of living.

COHRE is further aware of – and has been involved in the preparation of – a submission by a range of civil society groups in the Philippines on economic, social and cultural rights matters, prepared for the current review by the Committee (“Philippine NGO Network Report”).¹ COHRE joins with Philippines civil society in raising concerns about the inadequate and insecure housing conditions of the poor and the continued practice of forced evictions and displacement in the Philippines. This report presents some of the key issues of concern in the Philippines with respect to the right to adequate housing as stipulated in General Comment No 4 and forced eviction as stipulated in General Comment No 7 of the Committee on Economic, Social and Cultural Rights. It proposes recommendations to the Committee and the Government of Philippines with respect to its fulfillment of its international and national legal obligations. The sole purpose of this document is to reflect upon some of the concerns raised by Philippines civil society in its submission, in light of guidance provided by Committee on housing rights matters.

This document should be regarded as a memorandum elaborating several aspects of the submission provided by the Philippine NGO Network. This document should not be regarded as a comprehensive assessment of all human rights issues at issue in Covenant review of the Philippines, nor even of all housing rights issues in the Philippines.

¹ “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), submitted to the Office of the High Commissioner for Human Rights on 2 October 2008.

II. Right to Adequate Housing

The international human rights law right to adequate housing is transposed into Philippines domestic law *inter alia* as a result of the Philippines Constitution 1987 (Article XIII) and the Urban Development and Housing Act (Republic Act 7279). These provisions provide a basis for the implementation of the right to adequate housing as set out under Covenant law. Nevertheless, human rights violations related to the lack of effective implementation of the constitutional and legal framework continue in the Philippines, calling into question both the effectiveness and the adequacy of these provisions as guarantor of the Philippines' international law commitments.

Legal Security of Tenure

Legal security of tenure is one of the cornerstones of the right to adequate housing. As cited in the shadow report provided by the Philippines NGO coalition however, an estimated 16.5 million or circa 30 percent of the Philippine's urban population continue to live in informal settlements and slums on public lands, on privately-owned properties or in 'danger zones' such as riverbanks and railroad track. These persons and communities are without security of tenure. They lack legal protection against forced evictions, harassment and other threats. For the majority of the poor, acquiring land through formal channels, or purchasing or renting accommodation on legally developed land, is beyond their means.

The Committee has noted in its General Comment No 4 that governments are obliged to take measures aimed at conferring legal security of tenure upon those persons and households lacking such protection, in genuine consultation with affected persons and groups.² To this end, the Government has pursued programs such as Presidential Land Proclamation³ as an intermediate instrument of tenure for the poor on public land. This is a positive and welcomed response; however the program is plagued by internal inconsistencies which the government has recognized but repeatedly failed to address.⁴ The number of proclaimed sites touted in the Government's Report to the Committee is also misleading;⁵ more than half have merely been 'proclaimed' without the formulation of corresponding Implementing Rules and Regulations (IRRs), completion of beneficiary selection, survey and post-proclamation resource allocation necessary to actually dispose the proclaimed land to the informal settlers. In addition, less than half have been awarded the Certificate of Entitlement to Lot Allocation (CELAs). Thus, there is no provision for the eventual allocation of title. A number of proclaimed sites, such as the 56 hectare site in Baseco and in

² UN Committee on Economic, Social and Cultural Rights, General Comment No 4, para. b.

³ Presidential Land Proclamation is the process of regularization of tenure of families in informal settlements through the issuance of presidential proclamations declaring parcels of idle public land open for disposition to qualified beneficiaries (families) (see Executive Order No 131 (2002) and Memorandum Order No 74 (2002)).

⁴ Government Report para 654 'Presidential Proclamation on Housing'. Among those needing immediate attention are: a guideline on site and beneficiary selection, lack of resource allocation for post-proclamation activities, etc.

⁵ Ninety-six sites around the Philippines were reportedly proclaimed (Government Report para 652).

Pasig, Manila; 32 hectares in Cebu⁶ and in the Visayas are in danger of being reverted for commercial projects and therefore un-proclaimed.

In order for the Government to protect and promote security of tenure for the poor, the Government should increase resource allocation to the Housing and Urban Development Coordinating Council (HUDCC) to enable more urban informal families to benefit from the Presidential Land Proclamation Program. Budgets should be prioritized for post-proclamation activities, namely slum upgrading. The Government should also develop innovative tenure options such as occupancy leases for informal settlers on private land, which forms the majority of the informal settlements in Philippines.

Affordability

30.4 percent⁷ of the population live under the poverty line, earning less than P13, 823 (UD\$307) per annum. According to Government estimates for 2006, housing-related costs constituted 15.1%⁸ and food 41.4% of the monthly income of a low-income family. Given the recent increases in food, energy prices and subsequent inflation, more Filipino families are believed to be falling below the poverty line, severely threatening the attainment of other basic needs such as health and education for their families. The Committee in its General Comment No 4 has noted that Governments should ensure the percentage of housing-related costs is, in general, commensurate with income levels. It further states that Governments should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflects housing needs.

While the government has set targets for securing low-cost housing and affordable financing for the lowest 30 percent low-income population, high interest rates and weak monitoring, among other problems, has in fact resulted in housing subsidies being unavailable to the poor and primarily benefitting upper- and middle-income families. The government's social housing program has packages starting from P300,000 (UD\$6,667), with the monthly amortization payment of P1,000 (US\$ 21) at 6% annual interest rate for 25 years, which is beyond reach for most poor families in low-paying informal sector work. The Community Mortgage Program (CMP) with monthly amortization of PH 300-600 (UD\$6-13) remains the only affordable, pricing for all other housing finance program including those for the social housing, resettlement projects remain unaffordable to majority of the urban poor families. The Government has suspended the Abot-Kaya Pabahay Fund⁹, which provided

⁶ According to civil society report, Presidential Proclamation 409 site covering 32.27 hectares in Cebu with 1,300 families are currently in the process of being reverted by the Provincial government.

⁷ Second Philippines Progress Report on the Millennium Development Goals, available at: <http://www.neda.gov.ph/Files/MDGReports/Pages1-23.pdf>

⁸ National Statistics Office, 2006 Family Income and Expenditure Survey.

⁹ <http://www.census.gov.ph/data/pressrelease/2002/ie00hsctx.html2000>. Philippine Family Income and Expenditure Survey. National Statistics Office <http://www.census.gov.ph>

⁹ The Abot-Kaya Pabahay Fund was created through the passing of the Republic Act No. 6846 in January 1990. The P2.5 billion fund was aimed at (1) providing amortization support, expediting the development of land into suitable sites for social housing; (2) providing developmental financing to developers of low-cost housing projects; and (3) establishing a guarantee system to ensure cash flow for the funding agencies involved in housing. The fund was suspended in 2000.

much needed amortization support, development financing and guarantee system for low-income families, adding to the further disenfranchisement of the urban poor population.

The Philippines has a housing shortage. At the end of the Medium Term Development Plan 2001-2004, the government was able to meet only 24.6 percent (892,216 units) of the country's 3.6 million housing units needs. The new Medium-Term Philippine Development Plan 2005-2010 has projected the country's housing need to grow to 3.76 million units, composed of a housing backlog of over 946,466 units. The high cost of legal and formal housing and the short supply of government-subsidized or assisted housing in urban areas have left vast segments of the urban poor with no other choice but to live in precarious conditions, under constant threat of evictions. Despite the rapidly increasing number of informal settlements and slums in the country, the government has allocated only 0.5 percent of the national budget to the housing sector and further less to the security of tenure program such as – Presidential Proclamation, Community Mortgage Program (CMP)¹⁰ and Resettlement Program.¹¹ Owing to scarce resource allocation, security of tenure programs were able to achieve only 51% of its target for the period 2001-2004.

In order for the government to ensure housing is affordable to all Filipino's, the Government should increase the allocation for housing in the national budget from 0.5% to at least 2%. It should also prioritize and provide more financial assistance for housing programs aimed at low-income households and urban informal families with low affordability. Further, it should streamline procedures and policies of the Social Housing Finance Corporation to enable more poor communities to access the Community Mortgage Program (CMP) loans. In addition, the government should strengthen the capacity of the Local Government Units to deliver basic services and manage local housing programs and projects such as the localized CMP. Resume the Abot-Kaya Pabahay Program.

Accessibility

The Committee in its General Comment No 4 and related commentary has noted that Governments should make adequate housing accessible to disadvantaged groups such as ethnic and religious minorities and indigenous peoples, the elderly, children, physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups. The Government has not taken into account the special housing needs of these groups in its policy and programs. A chief priority area is the housing needs of the families displaced by the conflict in Mindanao in Southern Philippines. The Government has increased military spending for the conflict in Mindanao; however has failed to allocate funding and provide adequate resettlement and rehabilitation packages to the families displaced by conflict. The decade-long between the separatist groups and the government

¹⁰ The Community Mortgage Program (CMP) allows low-income families to collectively acquire and formalize ownership of privately-owned land they are occupying through a community mortgage. The CMP is implemented by the Social Housing Finance Corporation (SHFC) which extends loans to qualified community organizations, it is a three-stage loan program—land purchase, site development and house construction/upgrading.

¹¹ Resettlement Program administer by the National Housing Authority (NHA) involves the acquisition of land for housing units for families displaced from government-led infrastructure projects and those occupying danger areas such as waterways, esteros and railroad tracks.

has caused many marginalised Muslim families to lose their homes, their source of livelihood, and the land they once tilled. They have been forced to seek refuge in churches and other religious institutions, schools and other open facilities, converted into evacuation centers.

The Government as priority should make safe and adequate housing accessible to poor families, particularly Muslim communities, displaced by the ongoing conflict in Mindanao.

Location and Availability of Services, Materials, Facilities and Infrastructure

According to a study by the housing rights group Urban Poor Associates (UPA), the government's Resettlement Programs, administered by the National Housing Authority (NHA), has provided relocation to only 57 percent of evicted families, with majority forced to locations often 40-50 km away from the place of original homes and work. The latest such area is the Calauan relocation site which is over 100 km away from Metro Manila. The Committee in its General Comment No 4 has noted that Governments should ensure adequate housing must be in location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. It has further stated that the Government should ensure all beneficiaries should have sustainable access to natural and common resources, safe drinking water, energy for cooking, sanitation and washing facilities, site drainage, etc. Many of the relocation sites are plagued with problems of lack of basic services (potable water, electricity, sanitation, classrooms and teachers, health centers) and opportunities (livelihood and employment). In the case of the Northrail Southrail Linkage Project, national and international housing rights law was clearly breached where relocation provisions were administered according to a policy of 'incremental development'.¹²

The Committee in its General Comment No 7 has noted that the Government is obliged to provide adequate alternative housing, to the maximum of available resources, in those exceptional circumstances where evictions are justified. Where relocations are necessary, the Government should ensure that relocation sites are selected in consultation with affected communities, and that housing at these sites is adequate (prepared sites with plots, electricity, water, sanitation and other services) as defined by international law, at the time that relocation takes place. The Government should abandon all approaches leading to large scale displacement and/or other violations of the fundamental right to adequate housing.

III. Forced Eviction

The large-scale forced eviction of urban poor families continues unabated in Philippines. Between 1995 and 2008 over 1.2 million¹³ people were forcibly evicted from their homes in Philippines. Majority of these were carried out for urban renewal and beautification; infrastructure and large-scale development projects such as Pasig River

¹² Incremental development-. basic services are incrementally implemented as funds allow, after families have started to move in to these resettlement sites

¹³ 1,280,550 people or 256,110 families. Estimate of evictions since the last committee review in 1995 to date by Urban Poor Associates (UPA), Manila-based housing rights organisation,

Rehabilitation Project; NorthRail and SouthRail Projects; Metro Guwapo; Road Widening Projects; Flood Control Projects and some international events such as hosting the APEC and ASEAN Summits. The government has not only failed to stop forced evictions committed by third parties, but in majority of the instances itself carried forced eviction through state agencies such as the Metro Manila Development Authority (MMDA) or the Department of Public Works and Highways (DPWH).

In its 1995 Concluding Observations, at para 32, the Committee recommended that the Government consider the establishment of an independent body legally responsible for preventing illegal forced evictions and for monitoring, documenting and reviewing any ongoing or planned forced evictions. In December 2002, the Government issued Executive Order 152 which designated the Presidential Commission for the Urban Poor (PCUP) as the monitoring agency and sole clearing house for the conduct of eviction activities, requiring all state agencies to secure Certificates of Compliance (COC)¹⁴ before carrying out evictions. Local Government Units (LGU), namely the MMDA,¹⁵ have however largely ignored the PCUP and continued to carry out over 51 evictions from 2002 to date without securing the COC, relying mostly on other laws and regulations such as the National Building Code (PD 1096) and the Civil Code provision on nuisance to evict urban poor families without legal protection or due process. In February 2008, the Government passed an Executive Order No 708, which stripped the clearing house function of the PCUP and transferred the monitoring and certification tasks to the LGUs. This is of serious concern, as LGU's such as the MMDA have been carrying out forced evictions without regard to procedural protection stipulated in the General Comment No. 7 of the Committee on Economic, Social and Cultural Rights¹⁶, and section 28 of the UDHA¹⁷ rendering thousands of families

¹⁴ To further implement Section 28 of UDHA, Executive Order No. 152 was passed in 2002 designating the Presidential Commission for the Urban Poor (PCUP) as the monitoring agency and sole clearing house for the conduct of demolition and eviction activities involving the homeless and underprivileged citizens. Under the Executive Order, government agencies proposing to undertake demolition and eviction activities are required to secure first from either the PCUP Central Office (in case of national projects) or from the PCUP Regional Office (in case of regional or local projects) the checklist, guidelines, and compliance certificates on demolition and eviction prior to the actual implementation thereof and thereafter, submit to the PCUP the completed checklist, attested to under oath by the proponent and indicating that:

- a. Adequate consultations with the affected families have already been undertaken;
- b. Adequate resettlement site and relocation facilities are available; and
- c. The provision of Section 3, paragraph 1 of the Implementing Rules and Regulations of Section 28 of RA 7279 (Pre-Relocation) have been complied with (i.e. Identification of Resettlement Site, Pre-census, Census, Issuance of 30-day Notice, Consultation Proper, Completion of Relocation Documents/Requirements, Voluntary Relocation and Resettlement).

¹⁵ The MMDA has reportedly carried out 51 evictions during the period 2002 to June 2008 with no COCs having been secured.

¹⁶ Advance or prior notice was largely not secured. Consultations with the affected families and communities were not conducted. Adequate protection and due process were not observed.

¹⁷ Section 28 of the UDHA sets out mandatory requirements for moving persons. Non-compliance with any of the following requirements renders the eviction or demolition unlawful:

1. Notice upon the affected persons or entities at least thirty (30) days prior to the date of eviction or demolition;
2. Adequate consultations on the matter of settlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated;
3. Presence of local government officials or their representatives during eviction or demolition;
4. Proper identification of all persons taking part in the demolition;

homeless and vulnerable to other human rights violations, such as the rights to work, education, health, food and water.

In its 1995 Concluding Observations, at para 31, the Committee recommended that the Government consider repealing the Presidential Decree 772 (PD772), also known as the Anti-Squatting Law, which had been used as a basis for the criminal conviction of squatters. The PD 772 was repealed in 1997 by the passing of the Republic Act No 8368 also known as the Anti-Squatting Repeal Act of 1997. This was seen as a landmark victory for the urban poor. However, there have been various attempts to revive problematic provisions of the Anti-Squatting Law, the most recent being the pending bill (House Bill no 1087)¹⁸ in the House of Representatives. Due to the strong opposition of civil society organizations, the said bill has not yet been acted upon, and a substitute bill focusing on strengthening efforts against professional squatters and squatting syndicates was drafted instead.

Government agencies, most notably the Metro Manila Development Authority (MMDA), have continued to ignore the mandatory provisions of Section 28 of the UDHA and Executive Order No 152 issued by President Arroyo, which requires “strict compliance with the requirements of just and humane demolition and eviction under the UDHA”. Thus, clearing operations and mass forced evictions are regularly reported in the Philippines. The Government has furthermore failed to take the necessary measures, including criminal prosecution, to stop the violations of laws such as the UDHA.

The Government should place a moratorium on forced evictions on government land and elsewhere, pending the adherence to processes that fully comply with national and international housing rights law. It should further ensure the establishment of an independent body with the power to ensure the compliance of the Government and state agencies notably the LGUs with domestic and international laws against forced evictions. Moreover, the Government should ensure that all State officials, including police personnel, who are responsible for human rights violations, including the excessive use of force, torture or other cruel, inhuman or degrading treatment, and/or violations of the right to adequate housing, are prosecuted to the fullest extent of the law.

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5. Execution of eviction or demolition only during regular office hours from Mondays to Fridays and during good weather, unless the affected families consent otherwise;
 6. No use of heavy equipment for demolition except for structures that are permanent and of concrete materials;
 7. Proper uniforms for members of the Philippine National Police who shall occupy the first line of law enforcement and observe proper disturbance control procedures; and
 8. Adequate relocation, whether temporary or permanent: Provided, however, That in cases of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, relocation shall be undertaken by the local government unit concerned and the National Housing Authority with the assistance of other government agencies within forty-five (45) days from service of notice of final judgment by the court, after which period the said order shall be executed: Provided, further, That should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing minimum daily wage multiplied by sixty (60) days shall be extended to the affected families by the local government unit concerned.

¹⁸ Previously the House Bill 4215 in the 13th Congress