

**Response of the Philippine Government to the concerns raised by the  
Committee on Economic, Social and Cultural Rights during its 59<sup>th</sup> session in  
Geneva, Switzerland on September 28-29, 2016**

**General Information**

On the measures taken to ensure the direct application of the Covenant's provisions in the domestic legal order, the Committee recommends that the State Party takes all appropriate measures to ensure the protection of economic, social and cultural rights at a constitutional rank, to institutionalize the *writ of amparo* as regards the Covenant rights, and to ensure that these rights are protected by the domestic courts at all levels. It also recommends for the State Party to enhance the training of judges, lawyers and public officials on the Covenant. The Committee also draws the State Party's attention to its General Comment No. 9 (1998) on the domestic application of the Covenant

The State Party assured the Committee that its domestic legal order provides for the direct application and appropriate measures that protect economic, social and cultural rights. At a constitutional rank, the following provisions clearly spelled out the policy of the State Party to protect and promote economic social and cultural rights, to wit:

- Article 2, Section 2 of the 1987 Constitution provides for the "doctrine of incorporation," whereby the generally accepted principles of international law are considered part of the law of the land.
- Article 2, Section 11, provides that it is the policy of the State to value the dignity of every human person and guarantee full respect for human rights.
- It is also the policy of the State to protect and advance the right of the people to a balanced and healthful ecology in accordance with the rhythm and harmony of nature.
- Article 13, pertains specifically to Social Justice and Human Rights

To quote:

**SEC. 1**

The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

**SEC. 2**

The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

The same article also provides for the protection of Labor, Agrarian and Natural Resources Reform, Urban Land Reform and Housing, Health, Women; the Role and Rights of People's Organizations and the creation of an independent Commission on Human Rights.

The *Writ of Amparo* was institutionalized by virtue of Administrative Matter No. 07-9-12-SC. The Supreme Court, in the case of *Secretary of Defense v. Manalo*<sup>1</sup>, said that the adoption of the *Amparo* rule surfaced as a recurring proposition among recommendations made during the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances on July 16-17, 2007.

On September 25, 2007, the Supreme Court promulgated the *Writ of Amparo* in light of the prevalence of extralegal killings and enforced disappearances. It was an exercise for the first time of the Supreme Court's expanded power to promulgate rules to protect the Constitutional rights of individuals. The remedy of the *Writ of Amparo* provides an equitable and extraordinary remedy to safeguard the right of the people to life, liberty and security as enshrined in the 1987 Philippine Constitution. It is 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.<sup>2</sup> Under the privilege of this remedy, the courts can order the protection of the subject of the petition, his family and witnesses, as well as compel the respondents to produce relevant information connected to the disappearance or detention of the subject. The courts may even direct the respondents to desist from coming into contact with the said subject, in the event that he is released subsequently or not in custody.

This was followed by the Rules of Procedure for Environmental Cases on April 13, 2010, which contained the Rule on the Writ of Kalikasan, which is a legal remedy under Philippine Law, providing for the protection of one's right to a balanced and healthful ecology in accordance with the rhythm and harmony of nature.

The Writ of Kalikasan may be sought to deal with environmental damage of such magnitude that it threatens life, health, or property of inhabitants in two or more cities or provinces.

**On the examples of cases where the economic, social and cultural rights recognized in the Covenant have been invoked before and/or applied by the domestic courts, and on which basis this could be achieved, despite the absence of economic and social rights in the Bill of Rights, included as Article III of the Constitution**

In this regard, the State Party notes the recommendation of the Committee that protection of economic, social and cultural rights must likewise be respected in the domestic court. Unless the case is within the exclusive original jurisdiction of the Supreme Court, most of the cases appealed and elevated to the Court of Appeals and/or Supreme Court originated from the lower court, where economic, social and cultural rights are already applied.

<sup>1</sup> G.R. No. 180906, 7 October 2008, 568 SCRA 1

<sup>2</sup> RULE ON THE WRIT OF AMPARO, sec. 1.

The following is a list of cases where the Supreme Court either on appeal<sup>4</sup> or decided under its original jurisdiction applied the provisions of the Covenant:

1. International School Alliance of Educators vs. Quisumbing [General Register (G.R.) 128845, June 1, 2000] involves right to just and favorable conditions of work by equating the salaries of Filipino teachers with those of foreigners;
2. Central Bank Employees Association vs. Bangko Central ng Pilipinas (446 Supreme Court Report Annotated (SCRA) 299)-upholds Article 2 of the Covenant, which raised the pay of rank and file employees using the same standards used for managerial employees;
3. Republic of the Philippines vs. Cagandahan (G.R. No. 166676, 12 September 2008)- The SC sustained a petition to change the entry in the record of birth of Jennifer Cagandahan from female to male due to Congenital Adrenal Hyperplasia which is one of the many conditions that involve intersex anatomy, i.e., those who cannot be classified as male or female. In deciding the case, the Supreme Court considered the compassionate calls for recognition of the various degrees of intersex as variations which should not be subject to outright denial;
4. Imbong, et al. vs. Ochoa, Jr. et al. (G.R. No. 204819 and other consolidated cases, 8 April 2014)- the Supreme Court unanimously upheld RA 10354 (Responsible Parenthood and Reproductive Health Act of 2012, which is a clear indication of recognition and upholding of the right to health;
5. Poe-Llamanzares vs. Commission on Elections (COMELEC) (G.R. No. 221697 and other consolidated cases, 8 March 2016) on the basic right to equal protection of the laws of all persons;
6. Leus vs. St. Scholastica's College (G.R. No. 187226, 28 January 2015)- The Supreme Court stressed that the right of the employee to security of tenure is protected by the Constitution and found the dismissal of a school employee on the ground that the latter has committed disgraceful and immoral conduct for getting pregnant out of wedlock is illegal;
7. Remman Enterprises, Inc. vs. Professional Regulatory Board of Real Estate Services (G.R. No. 197676, 4 February 2014)- The Supreme Court found RA 9646 (Real Estate Service Act of the Philippines) as a valid exercise of the State's police power, noting that the legislature had rightfully recognized the necessity of imposing the new licensure requirements to all real estate service practitioners, including more importantly, those working for real estate developers, to ensure the health and safety of home and lot buyers;
8. Garcia vs. Drilon (G.R. No. 179267, 25 June 2013)- the Supreme Court upheld the right of women to a temporary protection order under RA 9262 (Anti Violence Against Women and Children). The Court held that it did not violate the equal protection clause as it is based on substantial distinctions, citing the unequal power relations between men and women, that women were more likely to

<sup>4</sup> Original filing in lower courts, either Regional Trial Court or Municipal Trial Court.

become victims of violence than men, and the widespread gender bias and prejudice against women all make for these real differences;

9. **Social Justice Society Officers vs. Lim** (G.R. No. 187836 and other consolidated cases, 25 November 2014)– the Supreme Court held Ordinance No. 8187, allowing the continued stay of the oil depots in Pandacan unconstitutional and invalid in the absence of any convincing reason that the life, security and safety of the residents of Manila are no longer put at risk by the presence of the oil depots in Pandacan, Manila City;
10. **Promulgation of the Rules of Procedure on Environmental Cases** – AM No. 09-6-8-SC dated 13 April 2010 took effect on 29 April 2010. These rules govern the procedure in civil, criminal, and special civil actions before of the Regional Trial Court, Municipal Trial Court in Cities, and Municipal Circuit Trial Court involving the enforcement or violation of environmental or other related laws and rules and regulations, such as but not limited to the Revised Forestry Code; Sanitation Code; Marine Pollution Decree; Water Code; Mining Laws; Indigenous People's Rights Act; Fisheries Code; Clean Air Act and Wildlife Conservation and Protection Act;

Writs of Kalikasan were issued by the Supreme Court en banc, on 21 June 2016 in favor of a community in Santa Cruz, Zambales, Philippines, who accused five (5) mining companies of polluting their municipality. The respondent companies are Benguet Corporation Nickel Mines, Inc., Eramen Minerals, Inc., LNL Archipelago Minerals, Inc., Zambales Diversified Metals Corp., and Shangfil Mining and Trading Corp; and

11. **Tanenglian vs. Lorenzo** (G.R. No. 173415, March 28, 2008)- upheld the economic and cultural rights of indigenous peoples and ruled that the decision of a Regional Adjudicator of the Department of Agrarian Reform Adjudication Board was rendered in excess of jurisdiction due to the absence of a tenancy relationship. The Court therefore dismissed the petition and referred the matter of determination of ancestral lands to the National Commission on Indigenous Peoples (NCIP) for proper adjudication.

**On this note, in response to the Committee's recommendation for the State Party to enhance the training for judges, lawyers and public officials on the Covenant, the Philippine Judicial Academy has conducted several trainings, programs and activities with topics to promote and protect economic, social and cultural rights, to name a few, the following were conducted from 2013-2016, to wit:**

- "Environmental Laws, Issues and Concerns; Rights and Remedies", with 2,025 participants composed of newly appointed judges, legal researchers, librarian, clerk of court, Judges and Justices, lawyers and barangay officials.
- Access to Justice, such as: "Understanding Persons with Disabilities and Diversity in General, and Barriers of Access to Justice of Persons with Disabilities"; "Social Context of Judicial Process: Vulnerable Sectors of

Society and Access to Justice;" "Measures to Protect Victims and Witness in the Trial Process".

- Special courses on International Criminal Law and Security, such as "Substantive Offenses Torture, Persecution and Extrajudicial Killings," which was participated by judges, court attorneys, and officials from the Office of the Executive Secretary, Office of the Solicitor General, Public Attorney's Office and Department of Foreign Affairs; and
- Violence Against Women and Children participated by more or less 9,500 court social workers, clerk of court, lawyers, judges, court personnel, law enforcers, local officials and other government sectors.

**On the judicial process and assistance provided by the State Party for persons with disabilities who are victims of violence**

The State Party has taken upon itself to provide for interpreters and ensure that such assistance is provided.

**On the efforts to sign and ratify, or accede to the Optional Protocol to the Covenant as recommended by the Committee**

The Philippines views that while the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights is well intentioned to provide redress to those whose economic, social and cultural rights have been violated, the State Party is still in the process of reviewing and conducting domestic consultations on the said Protocol. Nevertheless, the State Party continues to fully implement various existing laws, such as the Magna Carta of Women (RA 9710 – August 2009); Magna Carta of Migrant Workers (RA 10022 – March 2010); and Responsible Parenthood and Reproductive Health Act of 2012 (RA 10354 – December 2012), among others, to ensure effective protection and promotion of economic, social and cultural rights domestically.

In addition, there are other existing mechanisms in place, such as the Philippine Development Plan and other related action plans to sustain the economic, social and cultural rights of the Filipino people. Moreover, efforts to continually strengthen local institutions involved in the protection and promotion of economic, social and cultural rights are also being implemented.

**On the efforts to sign, ratify or acceded to the International Convention for the Protection of All Persons from Enforced Disappearances as recommended by the Committee**

The Philippines is also in the process of reviewing and conducting a domestic consultation on the Convention. Nevertheless, the Philippine government has a system and mechanisms in place to effectively address the issue of enforced disappearances. While the Philippines has not yet ratified the Convention, it enacted

into law the Anti-Enforced Disappearance Act on December 21, 2012, the first of its kind in Asia which is practically a replica of the Convention. At this stage, the effectiveness of the Convention largely depends on the domestic application and implementation of the law.

Moreover, aside from the provision of the restitution, compensation and rehabilitation of victims and their immediate relatives in said Act, on February 25, 2013, the State Party also enacted the "Human Rights Victim Reparation and Recognition Act of 2013, which mandates the provisions of reparation to the victims of Martial law as part of their right to access to justice by way of accessing the rehabilitation program, which includes victims of enforced disappearances.

**On the steps taken to enact into law Senate Bill 2818 (Commission on Human Rights Charter) and in view of the Committee's recommendation to ensure that the Commission is explicitly provided with the mandate to deal with economic, social and cultural rights and is allocated sufficient resources, with the autonomy to plan and manage its own budget**

The bills providing for the Charter of the Commission on Human Rights have been refilled in the 17th Congress. In fact, there are four (4) bills in the House of Representatives on this, namely: HB 1303 (Relampagos); HB 1512 (Alejano); HB 2343 (Fortuna); and HB 3217 (Escudero).

Under said Charter, the Commission on Human Rights' power is expanded to explicitly cover economic, social and cultural rights, with express provision on fiscal autonomy and consistent with the Paris Principle.

There are some issues, however, that still require further study. These include the grant of prosecutorial powers, fiscal autonomy, structural reorganization, and the power to issue temporary restraining orders which are still under deliberation with the full participation of the Commission on Human Rights and other stakeholders.

The Commission on Human Rights, under its new leadership, has reviewed the proposed bills to amend its charter in conjunction with the proposal to assume another role as the Philippines' National Preventive Mechanism, pursuant to the country's commitment to the Optional Protocol of the Convention Against Torture. The Commission on Human Rights views the possibility that it could yet assume the mandate and the function of the National Preventive Mechanism.

**On the measures taken to ensure effective enforcement of the Anti-Enforced or Involuntary Disappearance Act, and whether it prevents killings and disappearance of trade union activists, indigenous leaders and other human rights defenders advocating the Covenant**

The State Party noted the Committee's urges to take all measures necessary to protect human rights defenders, including trade union activists, defenders of the urban poor, indigenous activists and peasant activists, from killing and all forms of violence; to ensure a safe and favorable environment supportive of the work of these

defenders to promote and protect economic, social and cultural rights; and to step up its efforts to promptly and thoroughly investigate all reported cases of harassment, disappearance and killing of human rights defenders and bring the perpetrators to justice.

We maintain that the Philippine Government remains steadfast in its commitment to the rule of law, due process and the protection of human rights for all, particularly the trade union activists, defenders of the urban poor, indigenous activists, and peasant activists from killings and all forms of violence.

On 22 November 2012, Administrative Order No. 35 was issued, creating the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons.

The mandate of Administrative Order No. 35 is to uphold the provisions of the 1987 Constitution, specifically on upholding the protection and promotion of life, liberty and property. It also declared the State Party's paramount policy of ending the impression that a culture of impunity exists in the country.

Administrative Order No. 35 provides for the creation of an Inter-Agency Committee, chaired by the Secretary of the Department of Justice with members: Chairperson, Presidential Human Rights Committee; Secretary, Department of the Interior and Local Government; Secretary, Department of National Defense; Presidential Adviser on the Peace Process; Presidential Adviser for Political Affairs; Chief of Staff, Armed Forces of the Philippines; Director General, Philippine National Police; Director, National Bureau of Investigation.

The Commission on Human Rights and the Ombudsman sit as observers and contribute to the list of cases evaluated under Administrative Order No. 35. The Secretary of Justice is supported by a technical working group and a secretariat composed of representatives of member-agencies and observers/resource persons of the Inter-Agency Committee.

Administrative Order No. 35 streamlines government processes to effectively address reports from government agencies, non-government and civil society organizations locally and internationally on alleged incidents and cases of extra-legal killings, enforced disappearances, torture, and other grave violations of the right to life, liberty, and security of persons, perpetrated by both state and non-state forces. In processing, evaluating and validating the alleged incidents of extrajudicial killings, the technical working group applies the operational definition of extrajudicial killings under the Operational Guidelines of Administrative Order No. 35, to wit: they refer to killings by either state or non-state agents; where the victim is affiliated to a political, environmental or similar cause-oriented organization (or he is an advocate of such causes); where the victim is deliberately targeted and killed because of the actual or perceived membership, advocacy or profession.

This definition effectively expanded the traditional meaning of extrajudicial killings, such that Administrative Order No. 35 does not only focus on killings of political activists but increased the scope of protection to include advocates or those

perceived to be involved in any advocacy which may include but may not be limited to political, environmental, agrarian or labour causes.

Administrative Order No. 35 conducts investigations *motu proprio* or upon recommendation of the technical working group and case build-up of alleged extrajudicial killings, torture and enforced disappearances and other human rights violations. After validating a case as falling under the mandate of Administrative Order No. 35, they are assigned to the appropriate mechanism, such as the Special Investigation Team or Special Oversight Team, with the aim of putting closure to these cases.

Since 2012, the Inter-Agency Committee processed a total of at least 1,089 cases/incidents of extrajudicial killings, media killings, enforced disappearance, torture, and other grave human rights violations that transpired from 2001 up to present.

Out of these 1,089 cases/incidents, a total of 394 cases/incidents had been validated as Administrative Order No. 35 cases/incidents, broken down as follows:

<b>Administrative Order No. 35 Cases/incidents</b>	<b>Number of validated cases</b>
extrajudicial killings	219
media killings	61
enforced disappearance	27
torture	80
other grave human rights violations	7
<b>TOTAL</b>	<b>394</b>

**We categorically state that the Committee's recommendation to stop and prevent extrajudicial killings and any form of violence against drug users is out of context.** The Philippine government emphasizes that the deaths resulting from police operations against drug users, peddlers and individuals involved in bringing into the country and/or manufacture and distribution of illegal drugs are not extrajudicial killings under the veil of Administrative Order No. 35. These are not politically motivated and do not qualify under the definition of extrajudicial killings under Administrative Order No. 35. Instead, the incidents are criminal acts that should be the subject of regular law enforcement operations and judicial processes.

**On the other measures taken by the State Party to ensure effective enforcement of the Anti-Enforced or Involuntary Disappearance Act**

The Philippines has undertaken the following measures:

1. Conduct of Special Course on International Criminal Law and Security, covering specific topics such as substantive offenses, torture, persecution and extrajudicial killings for judges, court attorneys and representatives from related agencies.



2. Expansion of the role of the Inter-Agency Committee from mere inventory keeping and monitoring cases to identifying patterns of impunity, vulnerabilities and areas for improvement, leading to important policy changes.
3. Proposed for the amendment of Republic Act (R.A.) 10353 (Anti-Enforced or Involuntary Disappearance Act) to include non-State actors in its coverage.

**On Corruption, we note the Committees' recommendation and state the following:**

- **For corruption cases filed with the constitutional anti-corruption bodies:**
  - 185 high ranking officials for violation of R.A. 3019 (The Anti-Graft and Corrupt Practices Act) has been disposed by the Office of the Ombudsman in 2014; 188 cases in 2015; and 103 as of May 2016.
  - Other corruption cases include malversation of public funds and/or property; technical malversation and R.A. 7080 (Plunder Law). The total number of cases disposed of from 2014 to May 2016 is: 39 for malversation; 104 for technical malversation; and 44 for plunder.
  - Of these disposals, 109 cases of violations of RA 3019 were presented before the Sandiganbayan in 2015, while 103 cases have been presented as of May 2016 that resulted in 24 and 26 convictions, respectively. For malversation, 28 cases were presented in 2015 and 29 cases as of May 2016 that resulted in 21 and 4 convictions, respectively.
  - 72 persons in 2015 and 52 persons as of May 2016 were convicted for violations of R.A. 3019, while 42 persons in 2015 and 5 as of May 2016 were convicted of malversation.
  - From 2013 to 2015, 89 percent or 7, 258 disciplinary cases have been resolved out of the 8,153 disciplinary cases received by the Civil Service Commission (CSC). Such cases include graft and corruption, among others, filed against government employees and officials who are non-presidential appointees and are holding non-elective positions.
- **For cases filed, investigated and prosecuted, and convictions for bribery**

From 2014 to May 2016, 17 cases of direct bribery and indirect bribery under the Revised Penal Code were filed in the Office of the Ombudsman. Of the 17 cases, 15 cases were prosecuted and 3 cases of convictions were recorded.

**On the measure(s) taken to strengthen the enforcement of anti-corruption legislation and combat impunity for corruption**

- R.A. 10660 (Sandiganbayan Reform Act) was enacted into law in April 2015.

The following bills against corruption are pending in Congress:

- Institutional strengthening of the Office of the Ombudsman;
- Asset Forfeiture;
- Expansion of the Powers of the Office of the Ombudsman; and
- Compliance with the United Nations Convention Against Corruption (UNCAC).

The CSC implements RA 9845 Anti-Red Tape Act (ARTA) of 2007], through the following initiatives:

- Anti-Red Tape Act (ARTA) Watch;
- Regular conduct of Report Card Survey;
- Contact Center ng Bayan (CCB);
- Regular lectures on R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees); and
- Conduct of trainings on Public Service Ethics and Accountability (PSEA), Values Orientation Workshops and Public Services Values Program (PSVP).

Initiatives from the Office of the Ombudsman are as follows:

- Education and Anti-Corruption (partnership through accreditation);
- Graft and Corruption Prevention Education Teaching Exemplars (GCPETE);
- Integrity, Transparency, Accountability in Public Service (ITAPS); and
- Integrity Management Program (IMP).

In addition, he President created a hotline for Filipinos to report the practices of wayward officials and directed all government agencies to reduce the processing time of issuing all permits and licenses to a maximum of three days.

### **On the Philippines' intent to give priority to the adoption of the Freedom of Information (FOI) bill**

Executive Order No. 2, s. 2016 mandates every agency in the Executive Department to issue rules and regulations for full public disclosure of information in their respective offices. All public officials are mandated to file their Statement of Assets and Liabilities and Net Worth (SALN) and make it available for public scrutiny.

### **Article 1(2) – Right to freely dispose of natural wealth and resources**

**On whether indigenous peoples are duly consulted and whether their free, prior and informed consent is obtained in any decision-making processes affecting their rights under the Covenant**

Government line agencies mandated to provide basic services apply the principle of free, prior and informed consent through programs specifically designed and contextualized for indigenous peoples communities. Examples of projects that have clear policy covers and institutional support include:

- (1) The establishment of the Indigenous Peoples Education (IPEd) Program of the Department of Education (details of which have been provided to the Committee);
- (2) The Joint Memorandum Circular (No. 2013-01) of the Department of Health, Department of the Interior and Local Government, and the National Commission on Indigenous Peoples on the Guidelines on the Delivery of Basic Health Services for indigenous peoples; and
- (3) The Modified Conditional Cash Transfer for indigenous peoples and indigenous peoples-specific initiatives under the Kalahi-CIDSS<sup>5</sup> National Community-driven Development Program (KC-NCDDP) of the Department of Social Welfare and Development.

These initiatives operationalize the principle of free, prior and informed consent not just as a 'one-time process' prior to the start of any program or project, but a principle that permeates all the stages of implementation from planning, implementation, and evaluation/review that engages indigenous peoples communities as partners and not just as 'beneficiaries'.

This development contributes to a more meaningful application of the free, prior and informed consent principle and the right to self-determination, covering the entire range of programs, projects, and decisions that indigenous peoples communities face or engage with. This is an approach gaining deeper appreciation among the key government agencies that are expected to scale-up such initiative.

**On some conflicting provisions in our laws concerning the indigenous peoples, in particular, their rights over lands and the Mining Act**

These have been decided by the Supreme Court. Inter-agency consultations, involving offices such as the Department of Environment and Natural Resources, Department of the Interior and Local Government, and National Commission on Indigenous Peoples, among others, will be conducted to resolve the matter.

**On the low birth registration especially among indigenous peoples, Muslims, and children of overseas Filipino workers**

The State Party takes all steps necessary to ensure that all children, including indigenous children, Muslim children and children of overseas Filipino workers, are registered, including through the implementation of the Proclamation and via diplomatic relations with countries of destination of overseas Filipino workers.

The Philippine government informs the Committee that in late 2015, then President Aquino signed Proclamation 1106 declaring the years 2015-2024 as the Civil Registration and Vital Statistics Decade. This is a Philippine initiative in the United Nations Economic and Social Commission for Asia and the Pacific that seeks to comply with the Sustainable Development Goals. The proclamation instructed

<sup>5</sup> *Kapit-Bisig Laban sa Kahirapan (KALAHI)* or linking hands in the fight against poverty- Comprehensive Integrated Delivery of Social Services (CIDSS)

Philippine government agencies to design programs that will increase civil registration.

Relevant agencies such as the Philippine Statistics Authority, an attached agency of the National Economic and Development Authority, the National Commission on Indigenous Peoples, the National Commission on Muslim Filipinos and also the National Council on Disability Affairs (NCDA) met in September 2016 to finalize the program design to address the low rates of birth and death registration among the indigenous peoples and Muslims as well as capture of vital statistics, especially for health information. The current rate of birth registration stands at 94 percent.

**On the other measures that the local government adopted in order to ensure that all children are registered**

The Department of Interior and Local Government issued the following memorandum circular:

- Memorandum Circular No. 2005-014 (*Conduct of Birth Registration Campaign in Local Government Units*) which aims at achieving a 100 percent birth registration of children in the country pursuant to the National Plan of Action and in solidarity with the Global Campaign for Universal Birth Registration launched by the United Nations on February 22, 2005.
- Memorandum Circular No. 2006-086 (*Conduct of Free Birth Registration of Indigent Children in Local Government Units*) which calls for the active involvement of all local chief executives, the Department of Interior and Local Government field personnel, and other concerned parties, in guaranteeing that every child can claim the right to a name and a nationality as key to all other rights despite various social, economic, cultural, legal, and physical barriers. This applies to all illegitimate children born before or after its effectivity.

**On the need for a comprehensive data on persons with disabilities**

The Philippine Statistics Authority recognizes the need to gather data on persons with disabilities. In the 2015 census, one of the difficulties encountered is on coming up with an agreed definition and methodology for the identification of persons with disabilities.

The Department of Education maintains a comprehensive framework in identifying persons with disabilities, but lacks the denominator from the Philippine Statistics Authority.

The Philippine government provides educational assistance for persons with disabilities to enable them to pursue primary, secondary, tertiary as well as vocational or technical education in both public and private schools through the provision of scholarships, grants, financial aids, subsidies and other incentives to qualified persons with disabilities. These include support for books, learning materials, and uniform allowance provided that persons with disabilities shall meet

the minimum admission requirement. Ground level classrooms, for example, are also allocated to students with disabilities.

Once the Philippine Statistics Authority and the National Council on Disability Affairs agree on the definition and methodology in identifying persons with disabilities, they can implement a capacity building training for enumerators to properly identify persons with disabilities. The State Party has also earmarked funds to conduct a special survey or census to identify persons with disabilities.

### On the budget allocated for persons with disabilities

The figure that the Committee mentioned was the budget of the Department of Social Welfare and Development. Every agency of the Philippine government is mandated to allocate 1 percent of its budget for programs for persons with disabilities. For instance, the Department of Health has a program providing wheelchairs and clutches to persons with disabilities.

### On the budget allocated for the health system

The State Party has provided almost 100 billion pesos for the health system based on the latest audited financial statements of the Philippine National Health Accounts in 2013, broken down as follows:

USE OF FUNDS	SOURCE OF FUNDS					TOTAL BY USE OF FUNDS
	National Government				Local Government	
	Department of Health	Other National Government Agencies	Foreign-Assisted Projects			
			Loans	Government of the Philippines counterpart funding		
PERSONAL HEALTH CARE	16,260,159	17,818,936	-	-	10,196,735	44,275,830
PUBLIC HEALTH CARE	14,442,320	5,533,420	1,760,404	19,788	16,627,537	38,383,469
OTHERS	4,966,775	2,024,952	-	-	10,032,565	17,024,292
<b>TOTAL BY SOURCE</b>	<b>35,669,254</b>	<b>25,377,309</b>	<b>1,760,404</b>	<b>19,788</b>	<b>36,856,836</b>	<b>99,683,591</b>

### On the impact of the ongoing armed conflict between the government and the New People's Army on the indigenous peoples

The Philippines is pursuing peace talks with the Communist Party of the Philippines-New People's Army-National Democratic Front of the Philippines, as illustrated by the parties' meetings in Oslo, Norway. An indefinite ceasefire has been put into effect as of August 21, 2016.

At the home front, government agencies such as the Departments of Social Welfare and Development, Department of Health, and Education have been mobilized for the delivery of crucial social services.

#### **Article 2(2) - Non-discrimination**

The State Party notes the Committee's recommendation to review existing legislation with a view to removing all discriminatory provisions and take measures necessary to ensure that laws are not applied in a discriminatory manner.

The following are steps taken to review existing provisions that may result in discrimination in the enjoyment of economic, social and cultural rights of foreign migrant workers and lesbians, gays, bisexuals and transgender persons:

- The Philippine Labor Code does not prohibit the exercise of trade union rights by foreign workers. Article 269 and 272 recognize the trade union rights of foreign workers, provided that said workers are nationals of a country which grants the same rights to Filipino workers or following the principle of reciprocity.
- Commonwealth Act 613 (The Philippine Immigration Act of 1940) Section 29 (a) (2) **does not** include pregnancy as a ground for prohibition of entry or expulsion of migrant workers from the country. The Philippine government does not also prohibit entry of nationals with dreaded diseases, such as AIDS, Ebola or Zika virus, etc. but it monitors their conditions while in the country.
- There is no provision in the Revised Penal Code that discriminates lesbians, gays, bisexuals, and transgender persons. Specifically, Article 200 (Grave Scandal), provides that : "The penalties of *arresto mayor* and public censure shall be imposed **upon any person** who shall offend against decency or good customs..." In other words, the law applies to all regardless of sex or sexual preferences.

The following laws also prohibit discriminatory practices with regard to employment:

- 1987 Constitution;
- Presidential Decree (P.D.) 442 (Labor Code of the Philippines);
- Republic Act (R.A.) 10361 (Domestic Workers Act);
- R.A. 9710 (Magna Carta of Women);
- R.A. 1015 (Employment of Night Workers Act);
- R.A. 6725 (Act Strengthening the Prohibition on Discrimination Against Women in Employment); and
- R.A. 10911 (Anti-Age Discrimination in Employment Act of 2016).

The State Party notes the Committee's recommendation to expedite the adoption of a comprehensive anti-discrimination law prohibiting, in line with its General Comment No. 20 (2009) on non-discrimination in economic, social

**and cultural rights, all direct, indirect and multiple forms of discrimination on any grounds and providing for effective remedies for victims of discrimination, including within judicial and administrative proceedings.**

The proposed anti-discrimination law based on sexual orientation and gender identity shall specifically focus on prohibiting violence or hate crimes and discrimination on the basis of sexual orientation or gender identity. It shall look into possible discrimination in certain policies and practices that may affect lesbians, gays, bisexuals and transgender persons in schools, workplaces, commercial establishments, public service, and law enforcement agencies.

The proposed law shall strengthen existing laws on non-discrimination on the basis of sexual orientation and gender identity, such as the Magna Carta of Women which provides, under its Principles of Human Rights (Sec. 3), for the non-discrimination on the basis of sexual orientation, among other circumstances; Anti-Bullying Act of 2013 which includes gender-based bullying as a prohibited and punishable act, to include "any act that humiliates or excludes a person on the basis of perceived or actual sexual orientation and gender identity," and the Philippine National Police Reform and Reorganization Act of 1998, which mandates the National Police Commission to "formulate a gender sensitivity program...to include... prohibition of discrimination on the basis of gender or sexual orientation (Section 59)."

#### **On the continued criminal status of abortion and unsafe abortion**

The Philippines' Revised Penal Code, which considers abortion as illegal, should be viewed from its historical and cultural context. There are current efforts to review and assess this provision in the Penal Code by both government agencies led by the Commission on Human Rights and the civil society organizations.

In the meantime, the Reproductive Health Law directs the government to ensure that all women needing care for post-abortion complications and all other complications arising from pregnancy, labor and delivery shall be treated and counseled in a humane, non-judgmental and compassionate manner. The same law now recognizes that medical indications for abortion can be performed in extreme situations when the life of a woman is at risk.

The increasing number of "unsafe" abortion is a clear indication that pregnancies are not wanted and there may be poor access to contraceptives. Therefore, there is a need to improve and step-up information-education campaigns in this aspect to address the root causes of abortion.

No bill has yet been filed in Congress but women's groups have convened and come up with a list of proposed measures seeking legislation. The Philippines acknowledges, however, that the move can be challenged by religious and cultural groups.

### **Article 3 – Equal rights of men and women**

**On the updated information on the status of the bills, as indicated in the State party's report (paragraphs 47 to 50), which aim at repealing gender discriminatory provisions**

**a) Amendments to pertinent provisions of the Family Code**

The Family Code provides that the husband's decision shall prevail in case of disagreement with the wife on matters related to parental consent for marriage of a child aged between 18 to 21 years old (Article 14), in the administration of community property and conjugal domains (Articles 96 & 124) and in the exercise of parental authority in legal guardianship over the property of their minor common child (Articles 211 & 225).

The amendments, in effect, shall give equal weight to the decision of the husband/father and the wife/mother.

**b) Amendments to Articles of the Revised Penal Code pertaining to prostitution and white slavery**

**c) Articles 202 and 341 of the Revised Penal Code pertain to prostitution and the white slave trade.**

The amendments shall seek to redefine prostitution and the persons exploited through prostitution, target the demand side by shifting the criminal liability from the prostituted person to the buyers/ facilitators of the act. This shall cover persons who induce, persuade, entice, compel, kidnap, recruit, transport, organize travel tours, use information technology, advertise for the purpose of exploiting a person/ persons for prostitution, or derive profit or advantage from procuring, transporting, harboring and prostituting any person. It shall also focus on treating prostituted persons as victims, and on providing higher penalties to those who commit child prostitution.

While Republic Act No. 9208, as amended by Republic Act No. 10364, or the Anti-Trafficking in Persons Act, recognizes prostitution as a form of exploitation, it only partially addresses the issue of prostitution only in so far as trafficked persons who end up in prostitution are concerned.

**d) Amendments to Articles of the Revised Penal Code pertaining to marital infidelity**

The amendments shall seek to amend or repeal the perceived unequal provisions governing marital infidelity, specifically adultery for the wife, and concubinage for the husband, under Articles 333 and 334 of the Revised Penal Code.

Under the current law, one act of sexual intercourse is enough evidence to prove that a wife committed adultery while for the husband, the evidentiary requirement is higher. The aggrieved wife must prove that the husband has kept a mistress in the conjugal dwelling, or cohabits with the mistress in another place; or that he



engages in sexual intercourse with her under scandalous circumstances. Moreover, the penalty is heavier for the erring wife in the case of adultery than for the erring husband in the case of concubinage.

The amendments shall also be uniform with provisions under the proposed Philippine Code of Crimes which introduce the term sexual infidelity for both offending spouses, remove the distinction in the evidentiary requirements, and impose the same penalties.

e) Amendments to Republic Act No. 8353, or the Anti-Rape Law of 1997

Amendments to the law seek to revise the definition of rape to render "lack of consent" at its centerpiece, remove the requirement that sexual assault be committed by force or violence, and that there is proof of penetration. Likewise, the age of determining statutory rape shall be raised from 12 years old to 15 years old and below.

The amendment seeks to further strengthen recognition of marital rape in both law and jurisprudence. The latter is exemplified in Supreme Court in *Pp. vs Edgar Jumawan, G.R. No. 187495*, which ruled that "Husbands do not have property rights over their wives' bodies... Sexual intercourse, albeit within the realm of marriage, if not consensual, is rape."

There shall likewise be reference to the draft Philippine Code of Crimes that seeks to repeal the "forgiveness" clause in the Anti-Rape Law, specifically Article 266-C (Effect of Pardon of the Anti-Rape Law). As such, criminal liability shall not be extinguished by subsequent valid marriage with and forgiveness by the offended party.

f) Amendments to Republic Act No. 7877 or the Anti-Sexual Harassment Law of 1995

Amendments to the law shall expand the definition of sexual harassment to include the following:

- Acts of unwanted sexual advances made by a colleague or peer, by a person in the place or outside of employment, training, or education who has authority, influence or moral ascendancy over another, and by a person who has influence or authority in granting appointments, scholarships or such other benefits or privileges against candidates or applicants for such;
- Perpetrators of sexual harassment to include patrons or paying customers who torment or intimidate employees of establishments; and
- Cyber-harassment, such as unwanted text messages or emails.

Amendments shall also seek the strengthening of institutional monitoring mechanisms, including the creation of committees on decorum and investigation for cases on sexual harassment in all private and public offices, as well as increase the penalties to deter perpetrators.

g) Enactment of Women's Political Participation and Representation Act

The proposed law on women's political participation shall include the following: adoption of gender quotas; creation of a women's campaign fund for aspiring women candidates, especially those belonging to marginalized sectors; training and support for women's gender-responsive and transformational leadership; and promoting gender-responsive voter's education.

h) Enactment of the Magna Carta of Workers in the Informal Economy

Majority of workers in the informal sector are mostly women not covered by the Labor Code and other laws protective of their rights. As such, the enactment of a law that provides for the protection and empowerment of the Filipino women in the informal sector, or specifically a Magna Carta of Workers in the Informal Economy, is strongly pushed.

The Magna Carta of Workers in the Informal Economy is envisioned as a comprehensive legislation to address the needs of the workers in the informal economy, to include their enjoyment of the same rights benefitting workers in the formal economy. It also recognizes the need to promote gender equity and equality and the protection of women workers in the sector against gender-based discrimination. It shall provide financial assistance to women-led livelihood initiatives; enhance participation of women in decision-making processes; develop sex-disaggregated database; and provide women-friendly policies and standards.

A complementary bill to the Magna Carta of Workers in the Informal Economy bill responds to ILO Recommendation 204 on women in the informal economy transitioning to the formal economy. This has been referred to as the bill on the Informal Economy Transition Act. Said Act is anchored on international standards to facilitate transition of workers and economic units from the informal to the formal economy, promote the creation and sustainability of enterprises and decent jobs, and prevent the "informalization" of formal economy jobs.

**Republic Act No. 10655 (An Act Repealing the Crime of Premature Marriage under Article 351 of the Revised Penal Code) has been passed into law**

Re-filed bills addressing gender bias in the 17th Congress are as follows:

- Repeal of Article 247 of the Revised Penal Code pertaining to the infliction of death or physical injuries under exceptional circumstances;
- Amendment to R.A. 8353 (Anti-Rape Law);
- Enactment of divorce bill;
- Amendment of Articles 14, 96, 124, 211 and 225 of the Family Code to equalize the weight of decision of both husband and wife;
- Amendment to Family Code Provisions on Legal Separation;
- An Act Introducing Marital Infidelity, thereby equalizing the evidentiary requirements and penalties for both offending husband and wife;

- Enacting Anti-Discrimination based on Sexual Orientation, Gender Identity and Gender Expression;
- Expansion of the Anti-Sexual Harassment Act;
- Expansion of the Maternity Leave Benefits;
- The President vowed protection for women's rights, calling the abuses against women unacceptable. He also called for the full implementation of the Magna Carta of Women, down to the barangay (village) level.

Divorce Bill, House Bill No. 4408 or "An Act Introducing Divorce in the Philippines", the lawmakers in the 17<sup>th</sup> Congress will seek to refile the bill.

The State Party emphasizes that while divorce is not allowed in the Philippines, there are certain instances wherein the divorce secured abroad by the foreigner-spouse, and even by former Filipinos, are recognized under Philippine laws.

Moreover, the Family Code of the Philippines does allow for legal separation, annulment and void marriages. In essence, "annulment" applies to a marriage that is considered valid, but there are grounds to nullify it. On the other hand, a "declaration of nullity" of marriage, applies to marriages that are void or invalid from the very beginning. In other words, it was never valid in the first place.

#### **On whether women benefit from the Comprehensive Agrarian Reform Program**

The Philippines affirms the statistics cited by the Committee that 29 percent of Comprehensive Agrarian Reform Program beneficiaries are women (2015). Women have been more empowered and active in key decision-making positions affecting rural and farm communities' productivity and efficiency. When jointly working and cultivating a common tillage, they become co-owners of the land with their husbands, i.e., titles bear both the names of husband and wife with the word "and", instead of "married to", between their names. They have become active members and officers of agrarian reform cooperatives/farmers associations, women organizations, including in Local Government Units at the barangay and municipal levels, as well as at the provincial level.

#### **Article 6 – Right to work**

##### **On the Magna Carta of Persons with Disabilities**

The Committee mentioned that there appears to be a lack of information about tax incentives given to companies which hire workers with disabilities. However, there are big companies in the Philippines that allocate a huge part of their employment to persons with disabilities, as part of their corporate social responsibility. What the State Party can further do is to disseminate this information and highlight the good practices with respect to persons with disabilities.

### **On measuring employment data**

The Philippines conforms to the ILO definition of employment. That is, the State Party considers a person as employed if he has rendered work for at least an hour in a week. The State Party considers the following information: First, there is a need to consider if the individual is of working age, meaning 15 years old and above. If he/she is, the next consideration is whether he/she is working or not. If not working, the next question is whether he/she is looking for work or not. If he/she looking for work, is he/she available for work within two (2) weeks. If not available for work in the next 2 weeks, the reasons could be: he/she could already be working, is a student, physically incapable or still doing work for the next 2 weeks.

If not looking for work, reasons for not doing so has to be identified. If the reason is either because of the belief that there is no work available; or there is a disaster/calamity, the person will still be considered unemployed. If the reason for not looking for work is valid, like studying, then the person will not be considered as part of the labor force.

### **On the remark that the Philippines has many employment statistics**

The State Party conducts the Labor Force Survey once every quarter: every second or third week of January, April, July and October. The reference period is the week prior to the survey period. The average of the four (4) snapshots is taken at the end of the year.

Relatedly, the country encountered problems starting from fourth quarter of 2014 until 2015 when it was struck by Super Typhoon Haiyan in November 2013. As a result, the survey returns (records) of the entire Region VIII, the region most devastated by the super typhoon, were destroyed and could not be reconstituted. This is the reason for the many footnotes in the statistics.

Moreover, the Philippines' sampling design still follows the master sample design. This means that there are certain replicates and these have been drawn out every time there is a census. As such, the sampling design has to be represented at the regional level. The problem was during the whole 2014 until mid-2015, many of the sampled households in the regional master sample design could no longer be located, like in those regions highly devastated by super typhoon Haiyan. In 2015, the State Party came up with a new listing to cover those areas. Beginning 2016, there are footnotes again just to make sure that there are statistics that could be compared even during the year that there was super typhoon Haiyan. Nevertheless, the government has already instructed the Philippine Statistics Authority to take out those footnotes due to the confusion they have generated.

### **On the measures being implemented to combat unemployment and underemployment**

In the Philippines, the question of high unemployment relates to the high youth unemployment. It is because if the unemployment statistics are disaggregated by age structure, then the unemployment rate of those aged 15-20 years old is about 14 percent; for those 25 years old and above, it is less than five (5) percent. As such, it

is really about youth unemployment. Consequently, firms may be hesitant to hire first time youth job seekers, in part due to their lack of skills, experience and maturity.

The Philippines has also just implemented the K to 12 Program, which puts an additional two years into the education of students. This program will serve to correct the previous lack of synchronization between the educational system and the legal framework for work. The latter considers a person of legal age once he reaches 18 years old, and the previous 10-year basic education system did not make a graduate eligible for work at age 16.

**On labor market participation of women still being very low and, therefore, their incomes are also low**

The upcoming Philippine Development Plan will serve to improve the labor market participation of women by introducing a complete legal and regulatory framework concerning part-time work. It aims to ensure a policy, legal and regulatory framework for work-life balance.

The government has identified this as well as women who do not join the labor force due to family duties as the principal factors for the low labor market participation rate of women. To date, there is a bill pending in Congress concerning freelance workers to be accorded protection and avail of corresponding benefits.

## **Article 7 – The right to just and favorable conditions of work**

### **On workers in the informal economy**

Informal employment represents a large share of the Philippine labor market. It consists of the self-employed, own-account and unpaid family workers, most of whom are found in the agriculture sector. In 2015, it accounted for 61 percent of the country's gross domestic product (GDP), almost P4 billion or USD87.9 million.

The decreasing proportion of self-employed and unpaid family workers to total employed indicated progress in achieving full, decent and productive employment.

Over a period of 10 years, the proportion of self-employed and unpaid family workers in total employment tapered off from 44.8 percent in 2005 to 38.4 percent in 2014. In July 2015, the number of self-employed and unpaid family workers declined to 13.143 million, from 14,750 million in July 2014, and its proportion further fell to 34.3 percent from 38.4 percent. Moreover, measures are implemented to vulnerable employment which stood at three out of ten workers.

**On the issues that workers in the informal economy sector are often the least-protected; that they work under circumstances with relatively low levels of income; are less likely to have formal work arrangements and access to benefits or social protection; and are more at risk to changing economic cycles**

Programs and practices, including social protection interventions, for the workers in the informal sector are being implemented by the Philippine government.

In the past six years, the Philippines helped increase the productive capacity of the informal economy by affording them greater access to productive resources such as livelihood skills training, financing and start-up capital assistance, productivity tool kits, and common service facilities. From 2011 to 2015, a total of 475,610 individuals benefitted from the Integrated Livelihood and Emergency Employment Program, while an average of one million workers each year graduated from community-based trainings under the Technical Education and Skills Development Authority.

The Philippine government eased the eligibility requirement and simplified the enrolment procedures for the informal economy under the 2013 National Health Insurance Act. PhilHealth now covers 93.45 million Filipinos, or over 87 percent of total population, towards universal coverage by end of this year.

The State Party has also eased the enrolment and premium collection for informal sector workers to our Social Security System. There is the special savings program (AlkanSSSy Program) for the self-employed; contribution subsidies for workers in the agricultural sector, and accreditation of municipalities, cooperatives, and microfinance institutions as collecting partners. As of 2014, membership of informal sector workers to Social Security System reached 4.3 million, or 13.5 percent of its 34.1 million members.

In addition, the coverage of employees' compensation to the self-employed was extended and their compensation benefits for work-related contingencies were increased. The Philippines' emergency employment program not only provided income to more than 35,000 typhoon victims in 2013 but a guaranteed minimum wage, social protection, and safety and health – all of which are important steps on the way to formality and decent work.

To meet the need for more coherent policies and coordinated services of various agencies on social protection, the State Party adopted an Enhanced Social Protection Framework and Strategy consistent with the principles of the 2013 ASEAN Declaration on Social Protection. In 2014, the Assessment Based National Dialogue was completed, which furthered the steps in crafting a nationally-defined social protection floor on the four guarantees to implement the framework, namely: essential health services; income support for children for education, health, and nutrition; income assistance for economically active groups who do not have sufficient earnings in case of contingencies; and financial support for elderly population.

### **On the Social Protection Floor**

The Social Protection Floor system is one of the objectives of the Enhanced Social Protection Operational Framework and Strategy of the Philippines, which identified four core programs, as follows:

- social insurance;
- labour market interventions;
- social safety nets; and
- social welfare.

The social protection floor will benefit the following five vulnerable occupational groups:

- Farmers, forestry workers, and fishermen constituting 4.786 million workers;
- Labourers and unskilled workers totaling some 4.388 million workers;
- Service workers and shop market sales workers constituting 1.071 million workers;
- Trade and related workers which has 608,000 workers; and
- Drivers which has 396,000 workers.

To come up with a social protection floor, technical working groups were held in the previous administration to set a common definition and level of the social protection floor.

### **On the minimum wage**

The head of the Philippine delegation, as the Vice-Chair of the Regional Wage Board of the National Capital Region, shared to the Committee that wage setting is a very delicate balancing act due to many considerations. It is an issue of addressing the needs of the workers versus the employers while taking into consideration the level of productivity and market structure, since a mismatch in these two variables can lead to wage and price inflation. This will make the wage increase anti-poor, since it could lessen the chances of employment of those who are seeking for work.

These are the things that the State Party has been balancing. Hence, the State Party keeps abreast of the standard of living and cost of living. In fact, the government has yet to come up with a Cost of Living Wage which is why, the head of the Philippine delegation would like to find out the basis of the living wage that the Committee mentioned during the session. In the previous administration, an instruction was given to all the regional wage boards to ensure that wage levels are above the poverty line; this was affirmed by the Philippine delegation.

Lastly, minimum wage earners in the Philippines are exempted from paying the income tax.

### **On the two-tiered wage system**

The State Party has instituted the two-tiered wage system. The first tier is actually the minimum wage. The second tier is productivity-based wages. For the past 17 years, the Philippines has seen an uninterrupted economic growth, with the average growth rate of the last six years being the highest since the 1970s. Establishing wage increases on the basis of a rise in productivity has to be appropriately

balanced, which can be firm-based. The government first piloted the wage increases on a per industry basis, such as the tourism sector in the National Capital Region.

In addition, the Philippine government tries to find the sources of productivity and where it can be utilized. It also provides free Productivity Enhancement Trainings for certain firms, on the condition that any productivity gains from these measures, must be shared with other firms. Other regions of the country have also begun to take advantage of the program, after it passed the pilot stage. This is expected to be implemented in other sectors as well.

As stated earlier, the State Party also supports the legislative enactment of the Magna Carta for Workers in the Informal Sector that is aligned with the provisions of ILO Recommendation 204 concerning the Transition of the Informal to Formal Economy, and consistent with the International Convention on Economic, Social and Cultural Rights which the State Party ratified in 1974. The said bill covers the following provisions which protect the rights of workers in the informal economy:

- Protection of children from any violent, abusive and exploitative forms of work/labor;
- Promotion of effective labor market programs to "encourage entrepreneurship among the disadvantaged, especially women and young people in informal employment";
- Creation of Local Government Unit-based registration system for workers in the informal economy and shall only be eligible to renew "in accordance with the merit and fitness principle, and with the conditions that no child labor shall be used...";
- Creation of the Informal Economy Development Council that is mandated to: (1) Develop a centralized database system to effectively guide in policy formulation and implementation relative to needs of women and children in the informal economy; and (2) Develop and ensure implementation of a comprehensive plan to eliminate child labor;
- Provisions on the allowable employment of workers of minor age wherein persons aged 15 years old but below 18 years old may be employed, provided that parental or legal guardian consent is presented, and that they should not render work more than 4 hours, 5 days a week.

There are also pending bills that cover those in the non-government sector. The National Economic and Development Authority has come up with a study on the needs of the sector and the plausible options. Consultations are scheduled to be conducted with the labor groups, government and social security agencies.



## On Contractualization

It is important to clarify the definition of contractualization as a form of work arrangement in the Labor Code of the Philippines.

There is contracting or subcontracting when an employer, referred to as the principal, farms out the performance of a part of its business to another party, referred to as the contractor or subcontractor. For the purpose of undertaking the principal's business that is farmed out, the contractor or subcontractor then employs its own employees. Contracting and subcontracting are synonymous under Philippine labor law. The term that is more commonly used is subcontracting.

Contracting shall be legitimate if the following conditions concur:

- a) The contractor or subcontractor carries on a distinct and independent business and undertakes to perform the job, work or service on its own account and under its own responsibility, according to its own manner and method, and free from the control and direction of the principal in all matters connected with the performance of the work except as to the results thereof;
- b) The contractor or subcontractor has substantial capital or investment;
- c) The agreement between the principal and the contractor or subcontractor assures the contractual employees entitlement to all occupational safety and health standards, free exercise of the right to self-organization, security of tenure, and social and welfare benefits.

On the other hand, there is a form of work arrangement that is prohibited, referred to as 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:

- 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.

The practice of this illegal work arrangement is prevalent in agriculture, services such as hotels, restaurants, shopping malls, and manufacturing.

Consistent with the pronouncement of the President to eradicate the practice of labor-only contracting, the Department of Labor and Employment is implementing a three-pronged action plan on ending the illegal contracting and subcontracting or popularly referred in our jurisdiction as "ENDO" (end of contract).

The first tract is the strict enforcement of labor laws and standards where consultations are conducted to inform the workers and employers on the practice of contractualization. As of date, 134 consultations were conducted nationwide which were attended by 9,070 representatives from 7,261 establishments/principals and

contractors resulting to voluntary regularization of 5,353 workers. The labor department also conducted 5,674 assessment activities resulting to the regularization of 2,120 workers. Based on initial reports, there are 442 principals engaged in labor-only contracting affecting 24,099 workers.

Overall, there is an estimated 4,425 contractors to 16,217 principals, with a total of 320,661 deployed workers. The Government's efforts resulted to the regularization of almost 10,000 workers.

The second Track is a review of the existing Implementing Rules and Regulations relative to contracting/subcontracting, particularly Department of Labor and Employment Order No. 18-A. Area-wide focused group discussions are being conducted to solicit substantial inputs and recommendations aimed at reformulating the said Implementing Rules and Regulations.

The third Track is to pursue the amendment of Labor Code provisions on contracting and subcontracting and security of tenure. Department of Labor and Employment supports all proposed bills that will further strengthen the right of the workers to security of tenure.

Efforts to eradicate this abusive, onerous work arrangement are a work in progress with the support of the tripartite partners – government, workers and employers.

#### **On the condition of women workers in sweatshops**

The Department of Labor and Employment has a number of labor inspection officers. During the previous administration, there has been a hundred-fold increase of *plantilla* positions for labor inspection officers. While it is not yet the desirable ratio that advanced countries have, there has been significant progress with respect to the ratio of labor inspection officers and firms.

The State Party also acknowledges that compliance to the minimum wage is one of the most difficult areas to check and monitor. There is also physical evidence with respect to the conditions, which is already being addressed by labor inspection officers. There are punitive measures in case firms are found to be in violation.

Labor inspection officers also conduct random discreet interviews with workers to check compliance with the minimum wage. In case interviewed workers are unable to express that they are not being paid properly, the State Party has to strengthen the organization and trade unions for such workers to be given a voice.

The National Labor Relations Commission (NLRC), an attached agency of the Department of Labor and Employment that has offices in every region, has streamlined the processes for complaining, which resulted to improvements in the timeline of resolutions of complaints.

## **On whether full benefits are given to “endo”**

The State Party is aiming to eliminate “endo” because, under the law, such practice is illegal.

## **Article 8 – Trade union rights**

**On the issue of limited trade union rights, decreasing collective bargaining agreements (CBA), and measures to protect workers not covered by CBAs**

### **Labor Relations Overview**

As of December 2015, a total of 17,066 unions were recorded to exist at the enterprise level with a membership of more than 1.4 million workers. Union registrations increased by 1 percent from 16,880 the previous year.

For the period 2006-2015, unionization rate peaked in 2007 for the private sector with 10.0 percent, while the lowest was recorded in 2015 with 8.1 percent. Union membership grew by almost 13 percent over this period, from 1.2 million in 2006 to 1.4 million in 2015.

For federations, there are 135 existing federations, wherein their locals/affiliates comprise the 56 percent (9,561 out of 17,066) of the total number of unions and 47 percent (670,656 out of 1,438,096) of the total union members in the private sector.

On Collective Bargaining, there are 1,149 CBAs covering 190,747 workers.

### **Institutional Mechanisms fostering labor relations and labor management cooperation in the country**

1. Republic Act No. 6715, an Act to Extend Protection to Labor, Strengthen the Constitutional Rights of Workers to Self-Organization, Collective Bargaining and Peaceful Concerted Activities, Foster Industrial Peace and Harmony, Promote the Preferential Use of Voluntary Modes of Settling Labor Disputes, and Reorganize the National Labor Relations Commission.

The operating mechanism of labor-management cooperation program in organized establishments is called a Labor-Management Council -. In unorganized establishment, the mechanism is called Labor-Management Committees -

The Labor-Management Council aims to foster better relations between labor and management, to supplement the grievance process when necessary and to supplement the CBA.

2. Republic Act No. 10396 of 2013: An Act Strengthening Conciliation-Mediation as a Voluntary Mode of Dispute Settlement for All Labor Cases

The law provides that all issues arising from labor and employment shall be subject to mandatory conciliation-mediation proceedings which may be pre-terminated by the parties involved with a request for endorsement from the appropriate Department of Labor and Employment office, or for voluntary arbitration.

The Implementing Rules and Regulations of this law provide for 30-day mandatory conciliation-mediation of all labor and employment cases and specifically enumerate cases exempted therefrom.

It requires the personal appearance of parties at all times during the process and prohibits/discourages participation of lawyers, agents or representatives unless the latter submits a Special Power of Attorney/Board Resolution/Secretary's Certificate giving them authority to represent the parties, but only in certain circumstances provided by the Rules.

Demand for settlement and arbitration services has been high. Requests for Assistance under the Settlement and Arbitration Program reached 62,517 in 2015. During the same period, the national disposition rate was 90 percent or 56,504 Requests for Assistance were disposed. Likewise, the national settlement rate was posted at 61 percent or 38,423 Requests for Assistance were settled. Since Settlement and Arbitration prescribes a mandatory 30-day conciliation-mediation, the average number of days to settle cases is eighteen (18) days.

3. Republic Act No. 10395 in 2013: "An Act Strengthening Tripartism, Amending for the purpose Article 275 of the Labor Code Functions".

The Tripartite Industrial Peace Council and its various subcommittees are consistently working toward setting workplace standards and protection of labor and employers' rights. They participate in national, regional or industry-specific tripartite conferences and participate in reviewing existing labor, economic and social policies affecting them.

The Tripartite Industrial Peace Council has a Monitoring Body to look into the labor-related cases that are being lodged in the International Labor Organization as a follow through to the High Level Mission in 2009. There had been capacity-building activities for the tripartite monitoring bodies to aid them in the delivery of their functions. Focal persons and secretariats of the Regional Tripartite Councils, has undergone orientations on international labor standards, freedom of association, and collective bargaining. They were trained on case profiling and reporting.

The Tripartite Monitoring Body completed a comprehensive inventory of 65 cases of extrajudicial killings, 11 cases of abduction, and 12 cases of harassment. Out of these 65 cases, 12 were filed in court, with 9 cases having resolutions.

4. Voluntary Codes of Good Practices is a set of guidelines establishing voluntary minimum standards on the social and employment aspects in the industry. It is a step towards industry self-regulation allowing the social partners of the concerned industry to voluntarily self-regulate their engagement and cultivate a culture of social responsibility.

The Tripartite Industry Peace Council, through TIPC Resolution No. 3-D, series of 2010, has affirmed the promotion of VCGPs and encouraged the Regional TIPC's and Industrial Tripartite Councils to formulate and adopt them.

Of the 179 existing VCGPs, 21 were created in 2015 in industries identified as Key Employment Generators such as Agribusiness; Construction, Information Technology/Business Process Management; Health and Wellness; Hotel, Restaurant and Tourism; Wholesale and Retail Trade; Banking and Finance; Mining; Transport and Logistics; Manufacturing; Ownership, Dwellings and Real Estate; Education; and Power and Utilities.

### **Legislative agenda in labor relations**

The Government, in coordination with the tripartite partners, is undergoing tripartite Labor Code review to amend certain provisions of the Labor Code of the Philippines, as amended, to align with international standards, as follows:

1. House Bill No. 1355 was filed in the current Congress seeking to further strengthen the workers' right to self-organization by amending Articles 234, 235, 236, 237 and 270 of the Labor Code of the Philippines. The bill is proposed to reduce the minimum membership requirement for registration of independent unions from 20 percent to 10 percent and reduce the registration requirement for federation from 10 to 5 duly recognize bargaining agent-local chapters to align with the requirements under ILO Convention 87.
2. House Bills No. 175, 711, and 1908 seek to rationalize government interventions in labor disputes by adopting the essential services criteria in the exercise of the assumption or certification power of the Secretary of Labor and Employment, providing conditions in its exercise and to decriminalize violations thereof.
3. House Bill No. 1354, to allow all foreign individuals and foreign organizations to engage in trade union activities in the Philippines.

### **On the steps taken to strengthen the fight against trafficking**

- Republic Act 10364 or the Expanded Anti-Trafficking in Persons Act of 2012 amended and strengthened the Anti-Trafficking in Persons Act of 2003. The new law expands the list of acts considered as promoting human trafficking to include: a) destroying or tampering with evidence, b) influencing witnesses in an investigation, and, c) using public office to impede an investigation or execute lawful orders. Among the important provisions of the law is the conduct of pre-departure counseling services for Filipinos in intermarriages, to prevent women in intermarriages from becoming victims of human trafficking in the guise of marriage. It also increases funding for government agencies involved in the fight against human trafficking.
- Under the recently-enacted Republic Act 10364 (Expanded Anti-Trafficking in Persons Act of 2012), the coverage of trafficking now includes attempted

trafficking. The new law also has accessory or accomplice liability, covering more related acts and individuals. For example, recruitment in the guise of domestic or overseas employment for sexual exploitation, forced labor or involuntary debt bondage, are now considered human trafficking.

- The amended law removes the veil of confidentiality of the identity of the person accused of trafficking, which was much abused by accused individuals who manage to continue to commit acts of trafficking despite pendency of their cases.
- The Capacity-building of the Department of Foreign Affairs Foreign Service Personnel includes the following:
  - a) Series of Regional Anti-Trafficking in Persons Workshop for FSPs from 2014 to 2015
  - b) Echo-training seminars by the Philippine Ambassadors to their personnel
  - c) Department of Foreign Affairs Pre-Deployment Orientation Seminar for Foreign Service Personnel

Below is the list of assistance/services provided:

- a. The Department of Foreign Affairs assisted a total of 223 victims of human trafficking from January to November 2015; broken down as follows: 131 (Middle East Region), 70 (Asia and the Pacific), 12 (Europe), and 10 (Americas). The victims were assisted using the Assistance to Nationals (ATN) Fund (expenses for temporary shelter, basic necessities, and repatriation) and the Legal Assistance Fund (expenses for legal services). Some victims were assisted in collaboration with the host governments, local non-government organizations, the Filipino community, and international organizations.
- b. The Recovery and Reintegration Program for Trafficked Persons delivers a complete package of services addressing the psychosocial, social, and economic needs of trafficked persons to ensure their adequate recovery and reintegration.
- c. The International Social Welfare Services for Filipino Nationals is a project institutionalizing a system deployment of Social Welfare Attaches or Social Work Interns in foreign countries with high rate of Overseas Filipino Workers in order to provide comprehensive social welfare and protection services.
- d. The Gender Responsive Case Management is a practice model for social workers in handling cases of Violence Against Women in residential care centers and in communities.
- e. Task forces are being set up in every major port and airport to guard against the trafficking of persons, including children.

## **Relevant Policy Issuances**

- a. Administrative Order No. 6 in 2013 provides guidelines on the management of Social Welfare Attaché Office at the Philippine Embassy/Foreign Posts and selection and placement of Social Welfare Attaché.
- b. Administrative Order No. 14 Series of 2012 (Guidelines on the Institutionalization of GRCM as a Practice Model in Handling Violence Against Women Cases) was issued for institutionalization and nationwide adoption and use of Gender Responsive Case Management.
- c. Department of Social Welfare and Development's Guidelines on Minors Travelling Abroad is strictly implemented by the Bureau of Immigration to guard against the trafficking of children outside the country.
- d. Memorandum of Understanding between the Inter-Agency Council Against Trafficking and the National Child Labor Committee in March 2016 harmonizes efforts and strategies to effectively address trafficking for the exploitation of children. This is done through cooperation in the investigation and prosecution of cases, coordination in the rescue of victims and provision of assistance to victims and their families, complementation of resources, and sharing of information.

## **Publication**

The Handbook on International and National Legal Frameworks in Combatting Human Trafficking of the Department of Foreign Affairs was published in 2015.

### **On the measures taken to protect people affected by natural disasters, particularly children, from being victims of trafficking**

- a) Establishment of the Child Protection Working Group chaired by the Council for the Welfare of Children to ensure protection of children's rights and highlight issues and needs in times of disasters or emergency situations
- b) Creation of child-friendly space and resumption of early childhood development activities in evacuation center as a first response to children's needs
- c) Creation of women-friendly spaces to address the practical and strategic gender needs of internally displaced women and their children
- d) The Protection, Camp Coordination and Management Cluster sets the orderly movement from origin to safe, secure and accessible evacuation centers and areas
- e) Issuance of Memorandum Circular No. 14, series of 2002: Policy Guidelines on the Delivery of Basic Services to Displaced Children in Disaster Situations

### **On the specialized services provided to victims of trafficking, particularly boys**

From 2013 to 2015, 23 boys who were reported victims of trafficking were served under Recovery and Reintegration Program for Trafficked Persons with a complete package of services addressing their psychosocial, social and economic needs.

### **On the measures taken to strengthen the legislative framework to prevent and prohibit child labor**

- Republic Act No.10821 (Children's Emergency Relief and Protection Act) in May 2016 provides for the protection of the fundamental rights of children before, during, and after disasters and other emergency situations. It also mandates relevant government agencies to immediately heighten comprehensive measures and monitoring to prevent child trafficking, labor, and prostitution, including domestic and sexual violence, in the areas declared under a state of calamity.
- Department of Labor and Employment Order No. 149, s. 2016 (Guidelines in Assessing and Determining Hazardous Work in the Employment of Persons below 18 Years of Age) strengthen measures to prevent and eliminate the worst forms of child labor.

### **On the measures taken to strengthen inspection on child labor, its outcome and sanctions imposed**

- Department of Labor and Employment-Human Resource Development Service conducts series of capacity-building activities for Labor Laws Compliance.
- Sagip Batang Manggagawa, an inter-agency quick action mechanism, is aimed at responding to cases of child labor in extremely abject conditions, and employs an inter-agency quick action team for detecting, monitoring, and rescuing child laborers in hazardous and exploitative working conditions.

### **On the measures taken to facilitate recovery and access to educational opportunities for former child workers**

- In 2014, the Department of Labor and Employment has initiated profiling of vulnerable workers, including child laborers, and has profiled 75,724 child laborers.
- As of December 2015, data on 36,247 (47.9%) profiled child laborers have been encoded.

All of the 36,247 encoded workers below 18 years old claimed that they are exposed to various work hazards, the most prevalent is "unhealthy environment that exposed them to hazardous processes, temperatures, noise levels or vibrations."



- Department of Education has formulated the proposed Guidelines on the Handling of Child Laborers in School. This is aimed at providing a child labor lens in schools to identify and track child laborers and provide appropriate services to help them and their families.
- Joint Memorandum Circular of HELP ME Convergence Program was signed in January. It serves as the basis in converging partner government agencies in the delivery of services, including educational services.
- Campaign for child labor-free barangays has been done and Child Labor-Free Establishment certificates have been issued.
- In 2015, through the Department of Labor and Employment's Project Angel Tree, 3,138 child laborers and children at-risk were provided with educational assistance in the form of school supplies.
- Also, in 2015 the Department of Labor and Employment provided livelihood assistance to 5,944 parents of child laborers in the form of livestock raising, Negokart (cart business) and starter kits, materials for mat weaving, soap making, etc.

## Article 9 – Right to social security

### On unemployment benefit

The State Party refers to it as employment insurance. We do not have such except for Government Service Insurance System, which only covers government employees.

### On the Conditional Cash Transfer

There are about 4.4 million families benefiting from the Pantawid Pamilyang Pilipino Program (or Pantawid Pamilya), the government's Conditional Cash Transfer program. Below is the sex disaggregated data of program beneficiaries from 2013 to 2015:

2013		2014		2015	
Male	Female	Male	Female	Male	Female
335,444	3,505,703	453,706	4,001,410	472,349	3,907,105
3,841,147		4,455,116		4,379,454	

The State Party has already conducted two (2) rounds of National Household Targeting System to identify who and where are the poor households. The first one was in 2009 and the second one was in July of 2015. The sampling is done administratively: by regions (16), provinces (81), and municipalities (1400). For provinces with very high incidence of poverty (i.e., poverty incidence greater than 50 percent), the National Household Targeting System adopted a census of all municipalities. If the poverty incidence in the provinces was less than 50 percent, small-area estimates was done among municipalities to find out which among the

municipalities have the highest proportion of the poor. For these municipalities, census were conducted. On the other hand, municipalities where the estimates show a low proportion of the poor, a sampling was conducted. Further, researchers also surveyed pockets of poverty. In the case of an urban poor area, a cluster sampling of that area was utilized.

Proxy means test is also done by feeding the information from the census and the survey itself into a model and used as one of the bases if the family is qualified or eligible. There are other eligibility criteria. For example, there has to be a child 0-18 years of age, the family is classified as poor, there has to be a pregnant or lactating mother in the family, among others.

Since this is a proxy means test, there will surely be coverage (inclusion) and leakage (exclusion) errors. However, this was minimized when the re-survey was done in July 2015, where the model itself was refined in order to minimize these Type 1 and Type 2 errors. As such, all the families tagged as poor (have children 0-18 years of age; and have pregnant or lactating mothers) are qualified as beneficiaries of the conditional cash transfer.

#### **On the supply side conditions for the conditional cash transfer**

The pilot study was done in 2009 and then the first wave of evaluation was done in 2012. As a result of these studies, the government has already improved the supply side condition. Coordination has been made with the Department of Education and the Department of Health to make sure that the health centers are in place. If there is no facility, the Department of Health has to come up with a proxy or mobile facility. Beginning 2014, there has been a Health Facility Enhancement Program operated by the Department of Health as the village level health center has a devolved function from the Local Government Units and money flows from this scheme. For some of Local Government Units, it is not a priority. To address this, the Department of Health came up with Health Facility Enhancement Program for barangay health stations. This is to address the supply side issue of the conditional cash transfer.

#### **On the possibility of increasing the budget for the conditional cash transfer**

As a planning agency, the National Economic and Development Authority has already raised this concern to the highest level of the executive branch - that the amount of the transfer has been seriously eroded in terms of its real value. This is now being discussed at the highest level of the concerned agencies.

#### **On the modified cash transfer program for the displaced, the homeless and the migrants**

The Philippines also has a modified cash transfer program that targets indigenous peoples communities, the homeless and those who have been displaced by conflicts and calamities. Apart from the full package of the CCT benefits, they are also given housing assistance. There are certain conditionalities, especially for those previously living in the streets. The beneficiaries have to make an effort not to live off the

streets. There are offers for livelihood assistance, provided that these families' children are removed from the streets. This is a strict eligibility criterion that has to be complied with for at least a year.

Number of household beneficiaries per type of Modified CCT (as of June 30 2016)

Type of MCCT	Number of Beneficiaries
Indigenous People	182,061
Families in Need of Special Protection	50,594
Homeless Street Families	5,214
<b>Total</b>	<b>237, 869</b>

**On how assistance are given to modified CCT beneficiaries with no address**

The first provision to the beneficiaries is housing assistance (rent assistance for 6 months on the condition that they will not be found back in the streets; may be extended up to two years).

On CCT following a rights-based approach, the main objective is to address the intergenerational cycle of poverty. The State Party believes that it addresses the needs of the women and children, specifically their right to education and healthcare, by improving their healthcare-seeking behavior.

In this regard, the State Party disagrees on the statement that the CCT program does not adopt a rights-based approach. Some sectors of the society have been against the CCT because they consider it as a "dole-out". However, the State Party's contention is that it is not a "dole-out" program because there are conditions that are included in the program. Regardless of how parents spend the cash transfers, the program ensures that children get education and proper healthcare, pregnant women are taken care of, and they are informed of their rights.

**On the programs for the elderly persons**

The pension for seniors as of now stands at P500 per month (\$10) and there are other programs that are intended for the seniors. That is really automatic coverage for the PhilHealth. There is also a Department of Health program that provides for free maintenance medicines for diabetes and hypertensives. This is a fairly new program, and the government is still looking at the fiscal sustainability issue but, be that as it may, the Filipinos care for their elderly persons and, in fact, Philippine culture requires that they stay with their families.

From 2015-2016, the government has increased the program by more than 50 percent from \$ 130 million to S190 million. For 2017, it will be at \$400 million. So when the government first had this program, it only covered age 77 and above and that was really because of fiscal resources constraints. When the government gained fiscal space of all those good governance programs, the program coverage expanded to cover 60 years old and above.

### **On persons with disabilities left solely to each family for care**

It is the socio-cultural norm for Filipino families to take care of their members personally, hence, there is no need to put the aged, the children, etc. in homes or provide them with personal assistant services.

New disability specific data shall be obtained through the following:

- 1) Socio-economic profile of persons with disabilities in Cebu to be undertaken by Philippine Institute for Development Studies in cooperation with the Philippine Statistics Authority; and
- 2) National Prevalence Disability Survey to be funded by the Department Health (P30M in 2015 and additional P12.5M in 2016)

### **Article 11 – Right to an adequate standard of living**

#### **On programs that were implemented in the least developed regions**

Even as the gross domestic product has been increasing, some regions and provinces have been left behind. In view of this, the State Party categorized in its Philippine Development Plan Midterm Update (2014) the provinces into three, namely: Category 1, Category 2, and Category 3. These categories of provinces face different challenges with respect to poverty reduction.

The three categories of provinces are as follows:

1. Category 1 - those provinces where the magnitude of the poor is high but the proportion of the poor is low. These are usually populated provinces with growth centers benefitting the whole province on the average but pockets of poverty exists where the poor are not able to benefit from the growth. For provinces in this category where development opportunities exist, interventions are aimed at increasing investments to create more employment opportunities;
2. Category 2 - are those provinces where proportion of the poor is very high but the magnitude of the poor is low. These are sparsely populated provinces found in remote areas. The strategy is geared towards increasing opportunities in these areas but, in the medium term, to increase connectivity of these provinces with the nearest growth centers; and
3. Category 3 - are vulnerable provinces that have been affected by multiple disasters in the past. These provinces have remained poor because of their increased vulnerability, thus, the government strategy is to mitigate these risks and build-up their resiliency. During the last administration, the geo-hazard maps of the major river basins have already been completed as well as the maps for the entire country with respect to hazards such as floods and landslides.

For the current Philippine Development Plan, the government will be categorizing the provinces in a larger scale. It is hoped that both top-down and bottom-up approach to poverty reduction can be employed -- where there is growth happening in the macro level, the macro constraints to growth are being addressed at the same time. Additionally, addressing the reasons why certain provinces, certain communities are not able to benefit from the growth is being done.

### **Conditional Cash Transfer for the poorest sectors**

The Pantawid Pamilyang Pilipino Program (conditional cash transfer program) is a special program targeted to the poorest sectors and aims at arresting the intergenerational cycle of poverty by way of improving the human capital of the children.

Poor households with children 0–18 years old and pregnant or lactating women are eligible for the health transfer set at PhP500 (approximately US\$10) per household per month. The education transfer is P300 (approximately US\$6) per month, for 10 months per year (PhP3, 000 or approximately \$62 per year) for up to a maximum of three (3) children per family. This is with the following conditionalities such as:

1. For health and nutrition
  - Pregnant women must have pre-natal and post-natal care, and be attended by a skilled/trained health professional during childbirth;
  - Children 0–5 years old must receive regular preventive health checkups and vaccines;
  - Children 0–14 years old must take deworming pills every 5 months.
2. For education
  - Children 3–5 years old must attend daycare at least 85 percent of the time;
  - Children 6–18 years old must enroll in elementary or high school and attend at least 85 percent of the time
3. Attendance to family development sessions
  - Parents or guardians must attend family development sessions where responsible parenting, family decision-making, mother's classes and parent effectiveness seminars at least once a month;

### **On Philippine Government Interventions for the Development of the Fisheries Subsector and Eradication of Poverty in Poor Fishing Communities**

The State Party is fully committed to eradicating poverty in the country particularly in the fisheries sub-sector where the incidence of absolute poverty is high.

To demonstrate this commitment, budget increase is proposed for the Bureau of Fisheries and Aquatic Resources from PhP6.7 billion in 2016 to PhP7 billion in 2017. The budget represents around 18 percent of the proposed budget allocation for the Department of Agriculture in 2017, and does not include the one for the development and management of fish ports.

The State Party regularly allocates around 60 percent of the Bureau's budget for the National Fisheries Program to benefit areas where the majority of households are engaged in artisanal and small-scale fishing, and where the absolute number of fisherfolk and the incidence of poverty is high. In the proposed budget for 2017, the allocation for the National Fisheries Program is more than PhP4 billion.

Targeted Actions to Reduce Poverty and Generate Economic Transformation in the Fishery Sector Program (TARGET) are also being established to better design and implement the country's poverty reduction measures in the poorest fishing communities. Beneficiaries of livelihood interventions are targeted and are based on the cross-matching of data between the BFAR's national registry of municipal fisherfolk (FishR) and the Department of Social Welfare and Development's database on National Household Targeting System for Poverty Reduction (NHTS-PR). A holistic approach to poverty reduction is provided to LGU-beneficiary taking into account the balance between the type and capacity of the resources, with the number of resource users and institutionalizing good resource governance by local government units. Livelihood interventions in aquaculture, post-harvest, capture fishing (e.g., upgrading wooden fishing boats to disaster-resilient reinforced fiberglass plastic boats), establishment of shared facility such as the Community Fish Landing Center and providing trainings and capability building across the value chains and linking them with government institutions, including the local government units are provided to institutionalize the program at the local level.

To further demonstrate the country's strong commitment to eradicating poverty, the Fisheries Management Fund was established under Section 142 of the 'amended' Fisheries Code of 2015 to enhance the budget of the Bureau for "supplementary livelihood for poverty alleviation" and "improvement of productivity and processes of the various stakeholders." The fund may also be used for other purposes including the "conservation, preservation, protection, management, development and regulation of the fisheries and aquatic resources" which is critical for sustainability and enhancing food security.

The Fund will come from collections from enforcing the fisheries management measures under the updated Fisheries Code, and is on top of the annual budget allocation for the Bureau.

The strengthened fisheries management measures under the Fisheries Code also ensure that artisanal and small-scale fishers are given priority over the exploitation of fishing resources.

Finally, poor fishing households can also benefit from other poverty-reduction programs of the country including the Conditional Cash Transfer program, insurance coverage for fishing boats and aquaculture crops and free government health insurance for senior citizens and fisherfolks covered by the National Household Targeting System for Poverty Reduction. These poor households are also expected to regularly receive freshly-milled and low priced rice - rice being the country's predominant staple - once the "Rice for the Masses" Program is implemented.

## **On housing**

The State Party's policy is that there will be no demolition without a suitable relocation. On the issue of the relocation sites for families affected by calamities, the most prominent examples are those that have been affected by super typhoon Haiyan. The Committee should understand that this is in a big catastrophic scale. The government has several stages to this relocation assistance from temporary shelter to transition shelter or the bunk houses. The Committee should also understand that during the Haiyan calamity, there was chaos and much destruction.

The State Party also has problems with the permanent resettlement sites because, as it turns out, those resettlement sites that are safe for settlements are actually very far from the sites where there are water sources. The water sources are there in the danger areas. So for things like this, it is very difficult to plan ahead. There is a temporary assistance being done to be able to provide for these water facilities and discussions for the laying down of pipes is really quite far. So, there is really that issue of having them relocate quite soon and having that infrastructure provided right away.

## **On the plan to increase the housing budget**

Comparative data indicates that the average Philippine budget for housing for 2011-2016 is 1.135 percent of the national budget, the lowest in Asia. This concern has been likewise raised during the 2015 National Housing and Urban Development Summit initiated jointly by the House Committee on Housing and Urban Development and the Senate Committee on Urban Planning Housing and Resettlement. By far, the Summit was the largest multi-sectoral forum participated in by the representatives of various government agencies and institutions, civil society, peoples' organizations, business groups, academe and international development organizations. It focused on four thematic areas, namely: Land and Housing, Financing, Participatory Governance and Inclusive Urbanization. Under Housing Finances' concluding recommendations, the participants urged the Executive Department to "provide adequate funding support for community development program for first communities and resettlement sites." This recommendation shall be strongly advocated in the succeeding years of its national budgeting cycle.

## **On the measures taken to address informal settler families' living condition without tenurial security**

The State Party continues to implement the following housing programs:

1. Housing program for Informal Settler Families in danger areas in Metro Manila such as esteros, river banks and other low-lying areas (through pre-emptive evacuation) brought about by the devastation caused by Typhoons Ketsana and Parma which hit the country one after the other in a span of two (2) weeks in 2009. Permanent housing are provided either:

- a. In-City;
- b. Near City; and

c. Off-City.

2. Resettlement Programs for Informal Settler Families affected by Government infrastructure projects (Metro Manila and its environs);
3. Regional resettlement assistance program to Local Government Units. Under the regional resettlement program to Local Government Units, the approach is in-city.
4. Settlements Upgrading Program does not require relocation but on-site development of blighted communities;
5. Community Mortgage Program is a financing scheme for organized Home Owners Associations to purchase the land they are presently occupying or another land for permanent resettlement;
6. Land Proclamations- distribution of government –owned lands which will no longer be utilized for their intended use to qualified occupants;
7. Housing assistance for calamity victims
  - a. permanent housing; and
  - b. home materials assistance
8. Socialized housing loan at affordable interest rates at 4.5%-6.5% interest rate based on the borrowers' income.

Other enabling mechanisms to ensure tenurial stability include liberalized repayment terms through:

1. reduced interest rates from 9% to 4.5 and 6.5%;
2. extending the repayment period from 25-30 years;
3. option to lease for five (5) years (renewable for another 5 years) before amortization payment;
4. one (1) year moratorium on payment after relocation; and
5. for calamity victims, only the lot is cost recoverable, the housing unit is free.

**On the observation that homelessness occurs because of forced eviction**

The Philippine delegation finds the observation quite inaccurate.

The Urban Development and Housing Act of 1992 (Republic Act No. 7279) clearly identifies the condition for eviction. Eviction and demolition is allowed when Informal Settler Families:

1. occupy danger areas posing hazard to life and property;
2. affected by government infrastructure and development projects that will redound to the common good; and
3. occupy privately-owned lots and covered by a valid order with respect to the recognition of private ownership.

The first two (2) conditions are implemented administratively through the executive department and the third through a judicial court order. The execution of eviction and demolition goes through the mandatory requirements such as but not limited to:

1. stakeholders' consultation thru the creation of Local Inter-Agency Committee;
2. individual notice to affected households at least 30 days before relocation; and
3. adequate relocation or financial assistance consisting of a housing unit and socio-economic support services before, during and after relocation.



### **On socialized housing for person with disabilities**

Socialized housing projects are compliant to the design standards prescribed by the National Building Code, Batas Pambansa No. 220 and Republic Act No. 10754, Magna Carta for Persons with Disabilities. In the allocation of Low Rise Building residential units, persons with disabilities are assigned the ground floor housing units. And as for row houses, accessibility to primary roads is a major consideration.

### **On the report of 57 notorious incidents of evictions involving 73,000 families from 2010 to 2014**

As earlier mentioned, the execution of eviction and demolition is governed by the Urban Development and Housing Act of 1992 and its implementing rules and regulations. To enable the State Party to respond adequately to these incidents, the State Party may be provided with specificities on the cases such that appropriate interventions, measures and sanctions will be implemented accordingly.

Sometime in 2015, a case was filed with the United Nations High Commissioner for Human Rights by Mr. Dionisio Garsain Sr. et.al., versus the Philippines for alleged violation of Articles 2, 6, 7 and 17 of the International Covenant on Civil and Political Rights. The complaint allowed the State Party to revisit and review the eviction and demolition process undertaken to validate the serious allegations during the 2011 demolition at Barangay (village) Corazon de Jesus, San Juan City. The State Party submitted its report in 2015 articulating the facts as they were documented during the actual eviction and demolition process. In addition to the above incident, the State Party seeks clarification from the Committee on data it cited on some 22 million families living in slum areas, of which 1.2 million are children.

### **On President Duterte's "No Demolition, No Relocation Policy"**

The State Party recognizes that one of the challenges of the government's resettlement programs is the provision of basic services (such as water, electricity, washing and sanitation) and adequate facilities (including school, health care center, and transportation) at the time the resettlement takes place.

Off-city relocation requires extensive coordination with National Government Agencies, Local Government Units, private service providers and other stakeholders for the provision of such basic services and facilities.

Upon his assumption to office, President Duterte affirmed his administration's guarantee towards the provision of housing units as well as the provision of services and facilities. The President directed the housing agencies to prioritize in-city relocation to minimize dislocation and ensure sustainability of livelihood, basic social services and facilities. In particular, the National Housing Authority, as the government's sole housing production arm for the lowest 30 percent income decile, was directed to conduct an inventory of its vacant lands for vertical development and high density housing in urban centers.

Efforts realizing sustainability of present off-city relocations sites will be pursued through increased budget allocation as earlier proposed.

### **On the Philippines' status of compliance to the Committee's Concluding Observations**

Four (4) of these are reiterations of existing legislative and executive issuances that are being implemented, namely:

1. The effective implementation of the Urban Development and Housing Act and other laws and regulations prohibiting illegal forced evictions and demolitions;
  2. Undertaking open, participatory and meaningful consultations with affected residents and communities prior to implementing development and urban renewal projects;
  3. Ensuring that persons forcibly evicted from their properties will be provided with adequate compensation and/or offered relocation in accordance with section 28 of Republic Act No. 7279;
  4. Guaranteeing that relocation sites are provided with basic services and facilities.
- Clarifications on the status of implementation of these four (4) recommendations have been presented along with the responses to the issues earlier raised.
5. The fifth recommendation to reinforce the mandate of the Presidential Commission for the Urban Poor "As the sole clearing house for the conduct of demolition and eviction" in accordance with Executive Order No. 152 of 2002.

While the recommendation is being reviewed, the Executive branch made some progress on the following:

1. The National Resettlement Policy Framework is presently being formulated through an extensive and comprehensive participatory process. The framework will define among others the institutional arrangement of an effective clearing house. Presently, this mandate is lodged with the local government units.
2. Mandatory adaption of the international best practice on the formulation of the Relocation and Resettlement Action Plan for projects/activities that require displacement of informal settler families. Subsumed under this is to allow greater peoples' planning and participatory process.
3. Executive Order No. 69 was issued in 2012 prescribing the operational mechanism to ensure the strict implementation and compliance to Republic Act No. 7279. Most notable provision is the directive to Presidential Commission for the Urban Poor to lead the social preparation activities.
4. With respect to judicial court ordered evictions, the Department of Interior and Local Government, Presidential Commission for the Urban Poor and the Philippine National Police forged a memorandum of agreement that requires the conduct of a pre-demolition conference before any eviction or demolition takes place. It strictly provides that police assistance to eviction and demolition shall not be provided without pre-demolition conference. These are embodied in Memorandum Circular No. 2014-82, "Guidelines on Requesting for Police Assistance on Eviction and Demolition pursuant to Urban Development and Housing Act. The pre-demolition conference has expanded its coverage to administrative eviction and demolition as well.
5. The Office of the Court Administrator issued in 2013 Circular No. 118-213 requiring the court to issue copies of the writ of eviction to the Presidential

Commission for the Urban Poor and the Philippine National Police, the latter two representing the executive branch.

### **On the Right to Food Bill**

There have been two bills filed in the 16th Congress: one in the House of Representatives and one in the Senate. Said bills were filed to provide legal framework to achieve zero hunger progressively, but remains pending in both Houses. However, in the current (17<sup>th</sup>) Congress, four bills on the Right to Adequate Food Framework Bill have been filed. This reflects the importance that legislators are ascribing to the right to food. The government will follow this up closely as they progress.

### **On the extension of the Comprehensive Agrarian Reform Program Extension with Reforms**

The National Economic and Development Authority and Department of Agrarian Reform have already recommended the extension of the Comprehensive Agrarian Reform Program Extension with Reforms as a priority legislation to extend the validity of the Notices of Coverage of land reform issued by the Department of Agrarian Reform as well as extend the period for the issuance of Notices of Coverage to about 6,600 landholdings covering 67,800 hectares which have not been issued Notices of Coverage under the Comprehensive Agrarian Reform Program. As of January 2016, there are still 621,085 hectares to be covered, to benefit about 568,575 agrarian reform beneficiaries.

### **On the definition of adequate standard of living**

As regards the definition of adequate standard of living, the Committee mentioned the research of IBON foundation. The State Party can hold a technical meeting with them to discuss methodologies and pursue an agreement on this issue.

### **On the access of persons with disabilities to transportation**

Batas Pambansa No. 344 or the Accessibility Law does not only provide for accessibility features in streets, highways, and transport-related structures but also requires that accessibility requirements are also available for public transport terminals in addition to public telephones. It is required that for 1 in every 4 units have to be accessible to persons with disabilities and should have visual aid, if needed. Persons with disabilities may also be allowed to drive a car with special modifications and may be given driver's licenses, special seats for persons with disabilities, and access to elevators in the light rail transit system.

## **Article 12 – Right to physical and mental health**

### **On the right to health**

The State Party would like to correct the figure referred by the Committee stating that less than 3 percent of gross domestic product is being allocated to health. The health systems delivery follows a devolved governance structure. Hence, the budget of the Department of Health is not the sole source for the delivery of health services. The State Party has a National Health Account compiled by the Philippine Statistics Authority. It has a lag of two years as it has to wait for Statements of Expenditures from all the local government units in the country. As of 2013, spending for health accounted for 4.6 percent of gross domestic product. It is expected to be significantly higher for the period 2014-2015 as the budget of the Department of Health had been increased considerably.

### **On the implementation of the reproductive health program given the temporary restraining order by the Supreme Court**

The Philippine Government will endeavor to have the temporary restraining order lifted. But given this constraint, the government is looking for innovative means to deliver these crucial commodities.

The Department of Health has secured a legal opinion and that states that the temporary restraining order only covers the government. However, it neither covers private facilities, non-government organizations nor civil society organizations.

### **On the Responsible Parenthood and Reproductive Health law**

The Responsible Parenthood and Reproductive Health law was deemed constitutional and those on temporary restraining order were only certain provisions of the law, particularly the distribution of implants. The temporary restraining order does not cover the private health practitioners and the private health facilities. The Department of Health can still distribute other commodities/contraceptives. The Department of Health has a roadmap to fill the reproductive health requirements by 2020. Coordination has been done towards increasing the funds necessary to meet this 100 percent target. This is part of the 0+10 Economic Agenda of the President, with No. 10 as the full implementation of the law.

### **On measures to achieve the 100% coverage in the National Health Insurance Program**

The primary mandate of the Philippine Health Insurance Corporation (PhilHealth) is to ensure that the National Health Insurance Program shall cover all Filipinos especially the poor, marginalized and vulnerable and protect them from the high cost of health care.

As of June 30, 2016, the National Health Insurance Program covers 92.62 million principal members and dependents or 90 percent of the 2016 projected population of

102,897,536 estimated from the August 2015 Population Census by the Philippine Statistics Authority.

The Indigent Program constitutes 37 percent of the total members while the formal economy, comprising mostly of the employed sector (government and private), comprised around 35 percent of the total covered members. The informal economy accounted for 8 percent of the total members while 15%, 2%, and 3% belongs to senior citizens, sponsored and lifetime members, respectively.

**National Health Insurance Program Coverage as of June 30, 2016**

<b>Sector</b>	<b>Members</b>	<b>Dependents</b>	<b>Total Beneficiaries</b>
Formal Economy	14.27	14.61	28.89
Informal Economy	3.33	4.97	8.3
Indigents	14.93	29.41	44.35
Sponsored Members	0.68	0.91	1.59
Senior Citizens	6.11	1.30	7.42
Lifetime Members	1.23	0.82	2.05
<b>Total</b>	<b>40.57</b>	<b>52.05</b>	<b>92.62</b>

One of the strategic pillars to attain coverage for all would be to capture the remaining 10 percent of the population. The difference is mostly composed of citizens under the informal economy, which can be classified as: overseas Filipino workers, both documented and undocumented; transient and nomadic poor; street dwellers; vulnerable groups; indigenous peoples; persons with disabilities; battered women under the care of Department of Social Welfare and Development or any of its accredited institutions run by non-government organizations, whose premium contributions shall be paid for by the Department of Social Welfare and Development.

Another is the Point-of-Care Program (for poor patients who are not included in the National Health Targeting System for Poverty Reduction or Listahanan of the Department of Social Welfare and Development. Their premiums will be paid for by the National Government.

Next are those poor women who are about to give birth but are not enrolled in the National Health Insurance Program, whose premium contributions shall be fully borne by the Local Government Units concerned.

The methodology that PhilHealth employs is defined through economic segmentation and not through descriptive indicators (i.e., indigenous peoples, persons with disabilities). As such, indigenous peoples and persons with disabilities are captured either as formal economy members, informal economy members, or as indigent members, depending on their capacity to pay and economic status.

## On the targeting of the poor in the anti-drug campaign

The State Party would like to emphasize that there is no deliberate effort to target the poor. President Duterte's list of people involved in drugs also includes prominent personalities.

## On the anti-drug campaign

The State Party notes that the health sector considers drug dependency as a health issue. The anti-drug campaign has approximately 700,000 surrenderees and the intent is to provide a full package of services to rehabilitate, reform, and reintegrate them into the society. Further, there is a convergence of government agencies and non-government organizations and religious groups to address the different concerns. This is led by the Department of Interior and Local Government. They are working around 3 pillars under the "Drug Rehabilitation Construction and Community-based Drug Rehabilitation Project", to address the drug problem.

Pillar 1: Identification and classification of drug dependents led by the Department of Health

Pillar 2: Community-based rehabilitation program led by UBAS (Ugnayan ng Barangay at Simbahan)

Pillar 3: Aftercare reintegration and transformation support for recovering drug dependents led by the Department of Social Welfare and Development

The Three (3) Clusters or Phases of the Drug Rehabilitation Project		
Cluster/Phase	Lead Agency	Mechanism
<b>CLUSTER I</b> (Identification and Assessment Phase)	Department of Health	Surrenderers are screened, profiled and the extent of their drug dependence is assessed using a checklist designed by the Department of Health.
<b>CLUSTER II</b> (Rehabilitation Phase)	<b>Inpatient:</b> Rehabilitation Centers	San Miguel Corporation has pledged to contribute 1 billion pesos for the project.  Other business tycoons pledged to help in various capacities, including the construction of drug rehabilitation centers with 10,000 patient capacity in Fort Magsaysay, Nueva Ecija.
	<b>Outpatient:</b> Faith-based organizations	This is the community-based outpatient drug rehabilitation program. Different programs have been identified and developed to hasten the rehabilitation process in the community.
<b>CLUSTER III</b> (Aftercare Phase)	Department of Social Welfare and Development	As patients are reintegrated to society, their reintegration is monitored to ensure that they become productive citizens and do not undergo relapse.

Further, of the more than 700,000 who surrendered, only less than 1 percent of these will need in-patient treatment and rehabilitation (and will be admitted to the Treatment and Rehabilitation Centers); 2 percent to 10 percent will go to outpatient facilities and 90 percent will require community-based interventions.

Despite this, the government acknowledges that the problem is overwhelming and there are gaps which have been identified and are being addressed, such as:

1. the need for more treatment and rehabilitation center beds – there are 44 accredited treatment and rehabilitation centers, 15 of which are under the Department of Health that can accommodate around 5,300 in-patients only;
2. community-based rehabilitation programs are not yet in place in our local government units; and
3. policies or guidelines.

The government also recognizes that people who inject drugs using contaminated needles get HIV (and Hepatitis C). Harm reduction strategy shall be included in the proposed amendments of the Comprehensive HIV Prevention and Control Act or Republic Act No. 8504.

### **On the prison condition in the Philippines**

Along with other reform measures, the Bureau of Jail Management and Penology embarked on a Decongestion Program consisting of three components particularly, (1) Paralegal Program to pursue early release opportunities for inmates, (2) Construction of additional jail facilities to create more space, and (3) Legislative Agenda to lobby passage of laws that will provide alternatives to imprisonment and enhance legal opportunities for release.

In year 2015, of the 58,678 total number of inmates released from the jails nationwide, 45,867 of those releases were facilitated through the Bureau of Jail Management and Penology Paralegal Program using the various legal modes of release. From a total of 160,171 inmates released from 2013 to 2015, 117,591 or 73 percent were helped by the Paralegal Program.

As earlier reported in the country report, the legal modes of early release applied were (1) Release on Recognizance, (2) Article 29 of the Revised Penal Code on grant of Full Time Credit and Release when Preventive Imprisonment equals maximum imposable penalty, (3) Release on Probation, (4) Release on Probation of Children In Conflict with the Law, (5) Grant of Good Conduct Time Allowance, (6) Bail, (7) Parole, including transfer to other institutions and assistance towards case dismissals/acquittals.

Republic Act No. 10389 or the Recognizance Law in 2012, indigent accused charged with offenses not punishable with life imprisonment may be released in lieu of conventional bail. On the other hand, Republic Act No. 10592 amending provisions of the Revised Penal Code on Good Conduct Time Allowance immensely enhanced the grant of said allowance on account of good conduct, study/teaching/mentoring, or loyalty during state of calamity.

In addition, the Supreme Court promulgated Administrative Matter No. 12-11-2-SC, which reiterated the provisions in the Philippine Constitution on bail and provided guidelines for the implementation of the new Release on Recognizance Law. In sum, these laws and regulations represent the restorative justice components of the Philippine criminal justice system and are implemented through the Bureau of Jail Management and Penology Paralegal Program.

Likewise, from 2011 to 2016, PhP623,748,000 (US\$132.8 million) budget was appropriated by Philippine Congress for the construction of additional jail facilities. For 2016 alone, PhP373,458,000. (US\$7.95 million) which is almost ten times of the previous year's budget appropriation has been allocated by the Philippine Congress and is expected to build 21,968 square meters of additional space for about 4,674 prisoners. The Philippines, with the growing economy, hopes to sustain this momentum of increased spending for the construction of more jails.

The Bureau of Jail Management and Penology crafted and requested the sponsorship of a Bill on Alternatives to Imprisonment. That proposed legislation is now under consideration by the Philippine legislature.

Congestion as manifested on occupancy rates has also been a major issue for all of the seven (7) prison facilities of the Bureau of Corrections. The Bureau of Corrections has responded to this concern through:

First, under a new law that seeks to strengthen the Bureau of Corrections, (Republic Act No. 10575), also mandates the transfer of the New Bilibid Prison and the Correctional Institution for Women to a new prison facility in the province of Nueva Ecija. This new facility aims to comfortably house around 25,000 inmates and will have infrastructure that will serve as places of reformation. This new facility will be completed in five (5) to eight (8) years.

Second, in the transition towards this new facility, two (2) pilot efforts have begun on the conversion of container vans into living quarters and venues of reformation. One facility will accommodate around 400 inmates while the other will house around 4000 inmates. Both facilities will be complete with reformation infrastructure, including outdoor recreational facilities.

The Bureau of Corrections is also looking at improving their other five (5) facilities to facilitate even better reformation, as these facilities will be nearer to detainees' families who may be included in the reformation programs.

Third, similar to the Bureau of Jail Management and Penology, the Good Conduct and Time Allowance facilitated the early release of detainees.

### **President Duterte's mandate and election promise**

President Duterte was elected into office with 16 million votes or 36 percent of the 45 million strong Philippine electorate on the platform of restoring peace and order and addressing widespread criminality. He promised to address crime in the first six



months of his presidency, introducing his brand of governance from his 22-years as the local chief executive of Davao City.

In his inaugural address in June 30, 2016 and first State of the Nation Address on July 25, 2016, President Duterte vowed to address criminality in the streets and the abuse of illegal drugs in all strata of Philippine society; the persistent corruption in the high and low echelons of government; and the lingering poverty and inequality among Filipinos. The president's current 91 percent approval rating signifies the Filipino people's support for his leadership in the country's campaign against illegal drugs.

The Philippines young workforce remains the country's main leverage in attracting investments while its young population drives economic growth with its considerable consumption and market potential. The Duterte Administration sees the drug menace as a lingering threat to the safety and advancement of Philippine youth and communities.

**We note the Committee's recommendation for the State Party to reconsider the criminalization of drug users; adopt a right-to-health approach to drug abuse with harm reduction strategies, such as syringe exchange programs; and increase the availability of treatment services that are evidence-based and respectful of the rights of drug users.**

The Duterte Administration campaign revealed the prolific use and sale of illegal drugs in all strata of Philippine society, reaching almost pandemic proportions. There are an estimated 3.7 million Filipino drug users nationwide. Of the country's 42,065 barangays (villages), 11,321 or 27 percent is affected by illegal drugs. In the National Capital Region's 1,706 barangays, 1,611 barangay are affected, exhibiting a 94 percent saturation rate.

Between July 1 and August 17, 2016 or the first 48 days, illegal drugs and paraphernalia confiscated by the police have been valued to approximately PhP2.4 billion or US\$53 million. This amount is almost equal to the 2017 proposed budget of the Department of Tourism. This is a marked increase from the average value of illegal drugs confiscated in the previous administration which reached PhP412 million or US\$9 million per month.

The problem can be categorized not only as a national security concern, but a serious public health and safety challenge. This widespread use of illegal drugs can be considered to have a strong correlation to criminality in the country ranging from petty theft, holdup to kidnapping, rape, human trafficking, money laundering, and murder perpetrated by persons under the influence of illegal drugs or involved in the illegal drugs trade.

With over 700,000 surrenderees, the government was not ready for the magnitude of the problem as more investments on drug rehabilitation facilities and trained personnel are needed. In response to this, the national government allotted a budget for 2017 for the construction of four (4) large capacity rehabilitation centers.

Concerted efforts are being done to address this concern not only by the different government agencies but also by faith-based organization, business groups among others which include: (1) increased resources of the Department of Education for its Alternative Learning System program and training of its personnel under the said program so that they can cater to the drug offenders; (2) training of Department of Health personnel for those requiring residential care; (3) repair and reconstruction of existing facilities of the Local Government Units; (4) Sports Commission's collaboration with the National Commission on Culture and the Arts for the nationwide sports development program; (5) efforts of the church through outreach and counselling programs for those who are not really drug-dependents but need residential care; and donations from businesses. Giving solution to this growing concern on illegal drugs is seen as an opportunity for over 700,000 surrenderees to be restored to their family and be reintegrated in the society.

### **Article 13 - The right to education**

#### **On the right to education**

The State Party disagrees on the Committee's remark that low birth registration is an obstacle to education. In fact, if the child who is enrolling does not have birth certificate with her or with him, then the guardian or the parent can just issue an affidavit of identity, and then the child will be allowed to enroll. The number of dropouts has been declining.

#### **On the safety of schools during armed conflict and recent reports of 'attacks of paramilitary groups' in non-government schools serving the lumad in Mindanao**

First of all, it should be emphasized that the Philippine Government denounces and condemns in the strongest possible terms all forms of violence involving any armed group – state or non-state – especially as they occur in schools. Consistent with the policy declaring schools as zones of peace (DepEd Order No. 44, s. 2005, "Declaration of Schools as Zones of Peace"), the State Party has constantly maintained that schools are zones of peace where the safety and well-being of students, teachers, and personnel are of utmost importance.

The State Party also wishes to inform the Committee that the Philippines has adopted and observes specific "Guidelines on the Protection of Children During Armed Conflict," which among others, prohibits military presence in schools and is the basis for investigating grave child rights violations committed in schools. This policy was adopted in consultation with the Inter-agency Committee on Children in Armed Conflict) and the UN Country Task Force on Monitoring and Reporting. Further, the Armed Forces of the Philippines has issued a directive that strictly prohibits any of its personnel from entering a school without prior approval from the Department of Education. These policies serve as mechanisms for accountability as the State Party strives to prevent the occurrence of child rights violations during armed conflict.

All reports received by the Department of Education on alleged military presence within school premises and incidents or cases of alleged grave child rights violations were immediately referred to the Inter-Agency Committee on Children Involved in Armed Conflict, which together with the Monitoring, Reporting, and Response System through the Council of the Welfare of Children, was specifically established to address issues and concerns of children in conflict areas and provide timely and appropriate responses.

For cases involving non-state or private armed groups, such as what has been recently reported in Mindanao and has been raised by the Committee, these are investigated and pursued by the appropriate authorities in accordance with Philippine laws. The Philippine Government's peace efforts include disarming private armed groups, which includes so called "paramilitary groups."

The State Party would also like to further inform the Committee that in cases of armed conflict where a school is affected and which have resulted to the disruption or suspension of classes, the Department of Education, after validating such incidents, provides psycho-social interventions and directs its Schools Division Offices to coordinate with the local government unit concerned and the school head is tasked to ensure the delivery of educational services to the affected children through alternative modes of delivery.

#### **On the access of persons with disabilities on education**

Government provides educational assistance for persons with disabilities to enable them to pursue primary, secondary, tertiary as well as vocational or technical education in both public and private schools through the provision of scholarships, grants, financial aids, subsidies and other incentives to qualified persons with disabilities. These include support for books, learning materials, and uniform allowance provided that persons with disabilities shall meet the minimum admission requirement.

#### **On steps taken by government to ensure access to education especially for marginalized and disadvantaged children**

The State Party acknowledges that children under certain circumstances are having difficulty to enter and/or finish school.

Over the last five years, the Philippine Government has been improving our policy environment to address the barriers for entry to the education system. At the same time, various programs are being implemented, and are currently being strengthened to ensure that we keep our learners in school.

The Philippines is continuously implementing the Alternative Delivery Modes which provide quality education through learning options and alternative modalities within the formal education system for working learners, those living far from schools, and learners at risk of dropping out. A total of 29,454 learners both in elementary and

secondary are enrolled in various Alternative Delivery Modes for school year 2015-2016, a big jump from 16,390 for SY 2012-2013.

The Philippines is strengthening its multi-grade program to complete elementary schools and accommodate learners in sparsely populated, isolated, and far-flung areas. A multi-grade class is composed of learners in multiple grade levels taught by a single teacher. For SY 2015-2016, 544,556 learners are enrolled in multi-grade classes. Although we have established new schools in various barangays, 8,823 out of 42,036 barangays still do not have elementary schools in their areas.

Through the Alternative Learning System, we provide marginalized learners with a viable option to the formal basic education. The Alternative Learning System implements two major non-formal education programs: the Basic Literacy Program and the Accreditation and Equivalency Program. In 2015, we served a total of 519,535 Alternative Learning System learners, a notable increase from 2009's Alternative Learning System enrolment of 319,208.

Launched in 2014, the Abot-Alam Program is a joint initiative among various government agencies, civil society organizations, and local government units. The program aims to map out-of-school youth aged fifteen to thirty years old who are unemployed or have not completed basic or higher education. From 2014-2015, a total of 860,808 learners were enrolled in basic education programs, 448,214 of which were enrolled in 2015. These learners have been matched to appropriate program interventions: 694,824 are enrolled in education through ALS, 88,182 are given opportunities in entrepreneurship, and 77,802 are undergoing skills training for employment.

Partnerships with development partners and non-government organizations have also strengthened our commitment in ensuring access to schools for learners in disadvantaged areas. One of which is the Pedals and Paddles program, launched last 2015, which will provide 35,374 bicycles and 1,216 boats for learners in far-flung areas. Through the Kariton Klasrum, we aim to provide street children, out-of-school children, and school dropouts with access to basic education

### **On the ensuring free education, especially for secondary education**

Government budget for basic education has been consistently increasing over the last seven years. From 2010 to 2016, it has increased to 147 percent from PhP175 billion to PhP433.5 billion. In addition to this, per learner spending has increased to more than 100% from 2010 to 2015.

With this allocation, the Philippine government endeavors to bring basic education services to every community, especially in hard-to-reach areas. Different modalities are being explored in this area such as construction of schools and alternative delivery modalities.

Moreso, tuition fee subsidy is provided to secondary students who opt to enroll in private schools.

Specifically, for Senior High School the voucher program is designed to give students and their families options in deciding on the school that is most relevant to their needs and career goals. For SY 2016, of the 1,517,610 Grade 11 enrollees, 34.5 percent or 523,525 students are expected recipients of the voucher program.

Further support is provided with the expanded coverage of conditional cash transfers to up to age 18, which covers the Grade 12 equivalent of the Senior High School Program. This is aimed at supporting the holding power of schools and addressing the socioeconomic reasons for dropping out.

#### **On rising trend of privatization of schools**

The State Party would like to inform the Committee that the enrolment in private education has been stable in the past five years with minor decline in the total number of enrolled learners. From a total of 3,041,242 learners in School Year 2011-2012, it went down to 2,909,141 learners in School Year 2015-2016. Private school enrolment for School Year 2015-2016 is only 12.19 percent of the total enrolment of 23,871,245 learners. Furthermore, there are only 16,428 private schools or 26.01 percent of the 63,167 elementary and secondary schools in the country as of 2015.

To ensure quality education being offered in private schools, the Department of Education also issued a manual of regulations for private schools in basic education (DepEd Order No. 88, s. 2010). This manual outlines the standards and guidelines for private schools in establishing a school. This policy also covers the process of applying to establish a school and sanctions for those violating these standards. The policy also provided protocols on increasing tuition fees where proper justification has to be made and approval from education authorities has to be sought.

#### **On access of indigenous peoples to basic education services**

The Philippine Government would like to highlight the implementation, through its Department of Education, of a National Indigenous Peoples Education (IPEd) Program, which was launched in 2013. From 2013 to 2016, a total of PhP972.4 million or approximately US\$21.75 million was allocated to new initiatives under the National IPEd Program. This is in addition to the regular budget allocated for IP students enrolled in public schools.

Improving the access of IP communities to culture-based basic education services has been a priority under the National IPEd Program. For this school year (2016-2017) alone, for example, the Philippines is completing the establishment of 251 new public schools with 605 classrooms and the deployment of an additional 583 teachers to serve more than 18,000 students from IP communities in Mindanao alone.

The National IPEd Program is the Philippine Government's response to the right of IP communities to basic education that is responsive to their context, respects their

identities, and promotes the value of their indigenous knowledge, competencies, and other aspects of their cultural heritage. It is a systematic and comprehensive policy and program initiative that is pursued on a national-scale and implemented in partnership with indigenous communities, in keeping with the rights-based approach and the principles of participation, inclusion, and empowerment.

Together with efforts to address the learning needs of IP learners who lack access to basic education services, the Department of Education is strengthening the enabling conditions for culture-based education through the following key activities:

- building the capacity of teachers, school heads, and other personnel in making curriculum implementation culturally responsive to the community context;
- supporting the development of culturally appropriate learning resources and learning environment;
- strengthening the policy and program environment supportive of IPEd; and
- establishing and strengthening mechanisms for partnership with indigenous elders, leaders, indigenous peoples organizations, non-government support organizations, private learning institutions, and other government agencies in achieving the goals of IPEd.

Indigenous peoples enrolment data from Kindergarten to Grade 12 is collected by the Department of Education through its Basic Education Information System (BEIS), including ethnicity data per learner. In the last six years, there has been a dramatic increase in IP enrolment by 206% from 798,878 in SY 2010-2011 to 2,445,256 in SY 2015-2016.

The Philippine Government has adopted a landmark policy on IPEd – the National IPEd Policy Framework (DepEd Order No. 62, s. 2011 or “DO62”)<sup>6</sup> – which was formulated in consultation with representatives of IP communities. This policy formally affirms the Department of Education’s recognition of the longstanding issues raised by indigenous communities. This provides a framework for policy formulation, program implementation, and sustained engagement among the Department of Education, IP communities, civil society organizations, and other stakeholders. It also serves as a key basis for operationalizing the IPEd-related provisions of the 1987 Philippine Constitution, the Indigenous Peoples Rights Act (IPRA) of 1997, and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Since the adoption of DO62, the Department of Education has steadily put in place the needed institutional elements to develop and implement an IPEd Program, such as the establishment of the Indigenous Peoples Education Office (IPsEO) (DepEd Order No. 103, s. 2011), which serves as the focal point in planning, implementing, coordinating and monitoring of activities related to IPEd, and mechanisms for IPEd policy and program coordination in Regional and Schools Division Offices nationwide.

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<sup>6</sup> This may be accessed in full through the following link:

<http://www.deped.gov.ph/sites/default/files/order/2011/DO%20No.%2062%2C%20s.%202011.pdf>

Recognizing IPEd as an integral part of making the education system truly inclusive, a key principle in the K to 12 education reform, the Implementing Rules and Regulations (IRR) of Republic Act No. 10533 (The Enhanced Basic Education Act of 2013) has included IPEd as a vital program to ensure the inclusiveness of enhanced basic education. This further supports the institutionalization of IPEd in the education system and a more holistic and sustainable framework of implementation.

In line with the Enhanced Basic Education Act of 2013 and DO62, DepEd has formulated and adopted an IPEd Curriculum Framework (DepEd Order No. 32, s. 2015) in consultation with indigenous community representatives and IPEd practitioners. The IPEd Curriculum Framework intends to serve as guidance to all schools and other education programs nationwide, both public and private, as they engage with each specific indigenous communities in localizing, indigenizing, and enhancing the K to 12 curriculum based on their respective educational and social contexts. The IPEd Curriculum Framework is premised on the principle that the continuous process of community engagement and refinement of the IPEd curriculum at the school community level actualizes the Philippine Government's commitment to the attainment of the right of IPs to culture-based education. In this respect, for schools/learning programs serving IP learners, the goals of the K to 12 Basic Education Program is realized through IPEd.

For the Kindergarten Education Program, a specific provision in the Implementing Rules and Regulations of Republic Act No. 10157 (The Kindergarten Education Act) has been included on the IPEd Curriculum "which shall provide an education acceptable to indigenous peoples in general and to specific communities in particular, and shall be localized to suit the unique needs of learners relevant to their worldviews, conditions, needs, indigenous knowledge systems and practices" (DepEd Order No. 32, s. 2012).

Guided by the IPEd Curriculum Framework, the Department of Education intends to develop at least 500 indigenized lesson plans by end of 2016.

Strengthening the capacity of the Department of Education's Regional Offices, Schools Division Offices, and schools/learning centers, as the "frontliners" in the actual implementation of IPEd, has been a priority of the IPEd Program since its inception. Together with capacity building interventions, the field offices have been provided IPEd Program Support Fund since 2013 to enable progressive engagement in a manner that is flexible, demand-driven, evidence-based and specific to the context of indigenous communities in their respective service areas. Fifteen (15) Regional Offices and more than a hundred Division Offices have been provided IPEd Program Support Fund and technical assistance. One of the key targets of the IPEd Program to be achieved by 2016 is the training of 2,766 schools serving indigenous learners from different parts of the country. To date, 2,589 (or 94 percent) of the said schools have already been trained.

One of the perennial concerns raised by IP communities and civil society groups that the Department of Education has sought to address is the recognition of community/civil society organization-run schools serving IP learners, many of which operate in geographically isolated and disadvantaged areas. In collaboration with IP

and civil society representatives, a set of guidelines that is responsive to the unique needs and context of learning institutions in IP communities have been prepared and adopted by the Department of Education – “Guidelines on the Recognition of Private Learning Institutions Serving Indigenous Peoples Learners” (DepEd Order No. 21, s. 2014). Through this new policy, the Department of Education has addressed a major issue that has long been in the advocacy agenda of IP communities and civil society.

### **On the scope of internet coverage**

The Philippines has recently created the Department of Information and Communication Technology (DICT). Previously, the Philippines has a Department of Transport and Communications (DOTC), which was during the time when the communication was through snail mail and would have made sense that it be attached to the Department of Transportation. Consequently, it made sense to create the DICT due to the advancement of technology.

The DICT has two major projects, namely:

- a) One Connect, which aims to provide free WiFi in public places in urban areas and the rural areas. This will help to provide access to e-commerce, e-learning, e-health, and e-government.
- b) Tech for Ed Project, which provides access points to individuals and communities to bridge the digital education divide. For instance, access points are made available where there are weak infrastructure or backbone. These access points are situated in barangay halls and schools.

### **Article 15 Cultural Rights**

#### **On measures to address 'the destruction of indigenous lifeways' and 'preservation of culture' of indigenous peoples**

As a means of contributing to the protection of the right of indigenous peoples to cultural integrity, the Philippines through its Department of Education is implementing an Indigenous Peoples Education Program. Consistent with the National Indigenous Peoples Education Policy Framework (DepEd Order No. 62, s. 2011) that has been adopted, this program promotes not only access to basic education services, but more importantly, ensuring that basic education is anchored on the indigenous communities' aspirations for their ancestral domain and the exercise of self-determination, including the protection of indigenous ways of life and culture.

The Indigenous Peoples Education Program seeks a deeper and more meaningful partnership between schools and indigenous communities that is not just limited to the integration of so called aspects of 'surface culture' such as traditional arts and crafts but ensuring a viable and holistic interface between indigenous learning systems and indigenous knowledge systems and practices, and the national education system. Two landmark policies have been recently adopted that articulate



the said approach in detail: the National Indigenous Peoples Education Curriculum Framework (DepEd Order No. 32, s. 2015) and the Guidelines on the Conduct of Activities and Use of Materials Involving Aspects of Indigenous Peoples Culture (DepEd Order No. 51, s. 2014).<sup>7</sup>

The Philippines is investing heavily on the capacity building of our teaching and non-teaching personnel to enable them to effectively engage with indigenous communities in contextualizing the basic education curriculum for Indigenous Peoples Education. More than a hundred school division offices in 16 regions all over the country are being supported technically and financially to fully rollout the program. For 2016, the Department of Education is targeting to finish at least 500 indigenized lesson plans together with various indigenous communities that give due recognition to the community's indigenous knowledge, systems and practices (prioritizing Kindergarten to Grade 3 first, and then scaling up to cover the curriculum of all grade levels). To date, 7,767 teachers and school heads assigned in schools serving indigenous communities have undergone basic retooling on Indigenous Peoples Education. The present Administration intends to further scale-up this program and is committed to ensure that it shall be sustainable in the long run.

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<sup>7</sup> These policy documents may be accessed in full through the following links:  
[http://www.deped.gov.ph/sites/default/files/order/2015/DO\\_s2015\\_32.pdf](http://www.deped.gov.ph/sites/default/files/order/2015/DO_s2015_32.pdf)  
[http://www.deped.gov.ph/sites/default/files/order/2014/DO\\_s2014\\_51.pdf](http://www.deped.gov.ph/sites/default/files/order/2014/DO_s2014_51.pdf)