



COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES

COMMENTS IN RELATION TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/C.12/PHL/CO/4)

INTRODUCTION

This report was produced by the Commission on Human Rights of the Philippines (CHRP), a national human rights institution (NHRI) having “A”-status accreditation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).¹

The report is based on consultations done by the CHRP at the national² and sub-national³ level in accordance with its constitutional mandate to monitor compliance of the Philippine Government with its international obligations.⁴ These consultations were held with non-governmental organizations (NGOs) and civil society organizations (CSOs),⁵ as well as agencies of the national and local government.

¹ See ICC, *Report and Recommendations of the Session of the Sub-Committee on Accreditation*, 26-30 March 2012 at 24-26. Available at <http://nhri.ohchr.org/EN/AboutUs/ICC/Accreditation/Pages/SCA-Reports.aspx>.

² Philippine Judicial Academy, 26-27 March 2015.

³ Region XII, 23 October 2015; Region XI, 27 October 2015; Region X, 27 October 2015; Region V; Region IV, 14 October 2015; Region III, 27 October 2015; Region II; CAR, 27 October 2015.

⁴ See CONSTITUTION, art. XIII, sec. 18.

⁵ **CAR:** Benguet Federation of Small Scale Miners, Private Sector Representative of RDC-CAR, Benguet United Massage Therapist Organization of the Visually Impaired (BUMTOVI), Father Rafael Daesmeth (FARAD) Multi-purpose Coop., Labor sector from Nardas, Ebai’s Cafe and Pastry and Winaca. **Region III:** Alyansa ng Mammamayang Naghihirap (ALMANA), Bamban Aeta Tribal Assoc., Bantay Bayanihan, God’s Love for the Indigent Ministry, Inc. (GLIM) and National Alliance of Christians for Moral Recovery Program. **Region IV:** Akapin Batangan Inc., Atikha Overseas Workers and Community Initiative Inc., CARD MRI, Dualtech Foundation Inc., KALIPI, Mangyan Mission Inc., NORFIL Foundation Inc., Pantawid, St. Martin de Porres Street Children’s Home. **Region X:** Amnesty International – CDO Group, BANLAOD Mindanaw, Guma sa Kabataan, Inc., Liceo Legal Aid Center-Center for Alternative Lawyering of Liceo, Samdhana Institute, Touch Foundation, Inc. and Xavier University-Center for Legal Aid. **Region**

The Committee on Economic, Social and Cultural Rights (Committee) welcomes parallel reports from national human rights institutions,⁶ to be transmitted “preferably 6 weeks and latest 3 weeks before the beginning of the session” of either the Committee proper or the Pre-Sessional Working Group.⁷ The Pre-Sessional Working Group on the latest Philippine submission is scheduled for the 57th session to be held on 7-11 March 2016,⁸ hence the deadline for submission by the CHRP on 25 January 2016 or, at the latest, 15 February 2016.

As the Pre-Sessional Working Group has yet to meet, the CHRP submits this report to the secretariat for distribution to the full working group,⁹ discussing developments in relation to the latest Concluding Observations of the Committee.¹⁰

In accordance with the rules, the CHRP reserves its right, subject to the discretion of the Committee, to submit relevant oral information to the members of the working group,¹¹ and to submit another parallel report when the Philippine report is scheduled for consideration.¹²

COMMENTS ON E/C.12/PHL/CO/4

On training of judges, lawyers and public officials, and decisions of national courts, tribunals giving effect to Covenant rights (para. 12)

The CHRP, in collaboration with the University of the Philippines and the Integrated Bar of the Philippines, provides lectures on human rights at the Mandatory Continuing Legal Education (MCLE) for lawyers. It has provided human rights lectures to members of the Philippine Bar at MCLE-accredited sessions in the province¹³ and in the national capital region.¹⁴ Lectures on human rights mechanisms were also given to Department of Trade and Industry officials in charge of enforcing consumer protection laws,¹⁵ as well as to Department of Justice state prosecutors and state counsels.¹⁶

XI: Digos City PDW Advocates and Workers with Disabilities Assoc., FIND – Purok 2, Callawa Buhangin District, Davao City, Global Impact Phils. Foundation, Inc., Mindanao Action Group for Children’s Rights and Protection, Tambayan Center for Children’s Rights, Inc. and Task Force Detainees of the Philippines – Davao City. **Region XII:** Community and Family Services International, Health Organization for Mindanao, Lumad Development Center, Inc., Mindanao Tulong Bakwet, Kalipunan ng Liping Pilipina, Save the Children – Philippines Kaagapay OFWRSC, Inc., Moro Women Development and Cultural Center, United Youth for Peace and Development, Inc., Consortium on the Bangsamoro Civil Society and Nonviolent Peaceforce.

⁶ See <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/NGOs.aspx>.

⁷ *Id.*

⁸ See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CESCR.

⁹ E/2001/22, Annex V, para. 16(b).

¹⁰ E/2001/22, Annex V, para. 19.

¹¹ See E/C.12/1990/4/Rev.1, Rule 69, paras. 2-3.

¹² E/2001/22, Annex V, para. 22.

¹³ Iloilo City, 27 October 2015.

¹⁴ Quezon City, 1 December 2015.

¹⁵ Makati City, 4 and 12 November and 8 December 2015.

¹⁶ City of Manila, 4 February 2016.

Jurisprudence invoking provisions of the ICESCR are scarce, but they have been cited in cases enforcing the rights of workers against discrimination in both the private¹⁷ and public¹⁸ sector.

While the CHRP lauds the State Party, through the judicial branch of government, in institutionalizing the writs of *amparo* and *habeas data* as effective remedies to protect the rights to life, liberty, and security, the Committee may wish to recommend the State Party to explicitly include within the scope of said writs the protection of specific economic, social and cultural rights, such as the right to an adequate standard of living.

On adequate financial resources for the Commission on Human Rights (para. 13)

The CHRP wishes to inform the Committee that its budgetary allocation has been increased by almost 24%, from 355,101,000.00 Philippine Pesos in 2015¹⁹ to 439,671,000 Philippine Pesos in 2016.²⁰ In line with its increased budget, the incumbent members of the CHRP, who were appointed in June of 2015, have implemented organizational reforms to make the CHRP more responsive to its mandate.

Likewise, the incumbent members of the CHRP are working with the Philippine Congress (Congress) to update the draft bill on the CHRP Charter, taking into account the recommendations of the Committee.

The Committee may wish to reiterate its previous recommendation and urge the State Party to include the CHRP Charter among the priority legislation for the next Congress and ensure its passage into law by the next administration.

On efforts to prosecute cases of corruption, and ensure the transparency of the conduct of public authorities (para. 14)

The CHRP notes the efforts of the Office of the Ombudsman in filing charges against, and causing the arrest of, high-ranking government officials allegedly involved in plunder, namely Senators Ramon “Bong” Revilla, Jr.,²¹ Jinggoy Estrada²² and Juan Ponce Enrile.²³

However, it laments the slow pace at which the proposed bill on the Freedom of Information Act is being considered by Congress. Moreover, CHRP regional offices (Regions

¹⁷ See *International School Alliance of Educators v. Quisumbing*, G.R. No. 128845, June 1, 2000.

¹⁸ See *Central Bank Employees Assoc., Inc. v. Banko Sentral ng Pilipinas*, G.R. No. 148208, December 15, 2004.

¹⁹ See General Appropriations Act of 2015, Republic Act No. 10651, *reprinted in* 110 O.G., VOL. II-B at 1385.

²⁰ See General Appropriations Act of 2016, Republic Act No. 10717, *reprinted in* 111 O.G., VOL. III at 667.

²¹ See Andreo Calonzo et al., *Timeline: Senator Bong Revilla’s arrest and detention for plunder*, GMA NEWS, June 20, 2014. Available at <http://www.gmanetwork.com/news/story/366545/news/specialreports/timeline-senator-bong-revilla-s-arrest-and-detention-for-plunder>.

²² See Andreo Calonzo et al., *Timeline: Jinggoy’s arrest and detention for plunder case in PDAF scam*, GMA NEWS, June 23, 2014. Available at <http://www.gmanetwork.com/news/story/366902/news/specialreports/timeline-jinggoy-s-arrest-and-detention-for-plunder-case-in-pdaf-scam>.

²³ See Andreo Calonzo et al., *Timeline: Enrile’s arrest for plunder case*, GMA NEWS, July 4, 2014. Available at <http://www.gmanetwork.com/news/story/368727/news/nation/timeline-enrile-s-arrest-for-plunder-case>.

V and XI) noted alleged corrupt practices at the Bureau of Jail Management and Penology (BJMP), particularly the lack of adequate food provided to detainees despite the BJMP receiving subsidies from the local government unit to supplement its appropriated budget.

The CHR has also issued an advisory on the right to adequate food of detainees at the lock up cells of the Philippine National Police (PNP),²⁴ noting that detainees thereat were held beyond the periods required by law²⁵ and that there was no budgetary allocation for their food as detention is meant to be temporary. The CHR suggested that measures be taken to ensure the said detainees' right to adequate food, including funding for the PNP specifically allocated for this purpose.

The Committee may wish to urge the State Party to make passage of the Freedom of Information Act a priority measure; to investigate the allegations of corruption in the BJMP; and to provide the PNP with adequate funding for the provision of food for detainees.

On the protection of trade union activists, indigenous leaders, peasant activists and human rights defenders, and cases of forced disappearances and extrajudicial killings (para. 15)

The CHR notes the passage of the Anti-Enforced or Involuntary Disappearance Act,²⁶ the first of its kind in the region. This law reproduces *verbatim* provisions of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPED), including the definitions of enforced disappearance²⁷ and its victim;²⁸ the non-derogability of the right against enforced disappearance;²⁹ and the right against "refouler".³⁰

Despite the foregoing, the CHR regrets that the Philippines is not a State Party to the ICPED, as it has not even signed the same.

The CHR further regrets the pendency of a National Land Use bill before Congress, the passage of which would be instrumental in resolving existing land use conflicts.³¹

The Committee may wish to urge the State Party to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and to recommend that the State Party be guided by and implement the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on human rights defenders).

The Committee may also wish to urge the State Party to include the National Land Use bill among the priority legislation for the next Congress and ensure its passage into law by the next administration.

²⁴ Advisory CHR (V) No. A2015-005. Available at http://www.chr.gov.ph/MAIN%20PAGES/about%20hr/advisories/pdf_files/CHRV/A2015-005.pdf.

²⁵ See REVISED PENAL CODE, art. 125. The maximum period within which to deliver persons arrested to the judicial authorities is 36 hours.

²⁶ Republic Act No. 10353.

²⁷ Compare *id.*, sec. 3(b) with ICPED, art. 2.

²⁸ Compare *id.*, sec. 3(d) with ICPED, art. 24(1).

²⁹ Compare *id.*, sec. 4 with ICPED, art. 1(2).

³⁰ Compare *id.*, sec. 25 with ICPED, art. 16(1).

³¹ See, e.g., <http://www.up.edu.ph/the-up-forum-roundtable-discussion-2/>.

Finally, the Committee may wish to recommend that the State Party grant the country visit requests of the Special Rapporteur on the situation of human rights defenders³² and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.³³

On implementation of the Indigenous Peoples Rights Act, and economic activities adversely affecting the rights of indigenous peoples (para. 16)

The CHR conducted a two-day public inquiry³⁴ on the situation of the “lumad”³⁵ and has issued a lengthy statement on the matter.³⁶ It has also widely condemned the killings of “lumad” members.³⁷

In a consultation-workshop,³⁸ the CHR, together with Lumad Mindanaw People’s Federation, identified some of the common concerns faced by the indigenous peoples in Mindanao, including displacement due to the armed conflict between government forces and the New People’s Army (Higaonon and Banuwaon; Ata Manobo; Kirinteken Menuvu; Ernumanen ne Menuvu) as well as inter-tribal conflict (Subanen); the loss of land, including ancestral domains claims, to big corporations (Higaonon and Banuwaon; Bla-an; Ernumanen ne Menuvu; Teduray); the erosion of indigenous culture (Teduray; Mansaka); and the effect of climate change on their livelihood (Manobo).³⁹

The CHR regional offices have also documented other cases of non-implementation of the provisions on free and prior informed consent (Regions III and IV; Teduray; Manobo; Subanen).

The Committee may wish to:

- urge the State Party to reduce military presence and/or operations in areas held by indigenous peoples;
- ensure implementation of the provisions on free and prior informed consent;⁴⁰ and
- recommend that the National Commission on Indigenous Peoples be a member of the local mining boards.

³² See <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/CountryVisits.aspx>.

³³ See <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/CountryVisits.aspx>.

³⁴ Davao City, 23-24 September 2015. See Janvic Mateo, *CHR holds public inquiry on lumad killings*, PHIL. STAR, September 23, 2015. Available at <http://www.philstar.com/nation/2015/09/23/1502768/chr-holds-public-inquiry-lumad-killings>.

³⁵ See also Janvic Mateo, *CHR holds public inquiry on lumad killings*, PHIL. STAR, September 23, 2015. Available at <http://www.philstar.com/nation/2015/09/23/1502768/chr-holds-public-inquiry-lumad-killings>.

³⁶ See Aie Balagtas et al., *AFP, NPA recruiting ‘lumad’ – CHR*, PHIL. DAILY INQ., November 3, 2015. Available at <http://newsinfo.inquirer.net/736350/afp-npa-recruiting-lumad-chr>.

³⁷ See Lorenzo Benitez, *CHR condemns violations against Lumad communities*, RAPPLER, November 3, 2015. Available at <http://www.rappler.com/move-ph/issues/mindanao/111488-chr-condemns-violations-lumad>.

³⁸ Cebu City, 16-17 December 2015.

³⁹ See Report to the CHR, “Submission of Lumad-Related Documents culled from the Consultation-Workshop Promoting the ESC Rights of Select Indigenous Lumad Communities in Mindanao” (Jan. 22, 2015).

⁴⁰ See, e.g., Indigenous Peoples’ Rights Act of 1997, Republic Act No. 8371, sec. 59.

On increasing national spending on social services such as housing, health and education (para. 17)

The CHRP appreciates the statistics proved in the State Party's report on the increase in spending on social services from the period of 2009 to 2013.⁴¹ However, it laments the lack of disaggregated data which prevents the CHRP from independently evaluating the results of the increase in government spending.

The Committee may wish to request the State Party to provide statistical data on the beneficiaries of such increase in spending on social services, disaggregated by gender, age, rural/urban population, and other status.

On efforts to reduce unemployment and underemployment (para. 19)

The CHRP regional offices note that there is discrimination in the hiring of persons with disability (PWDs) (Region III) and non-implementation of the 1% mandatory hiring of PWDs⁴² (Regions II and V).

The Committee may wish to urge the State Party to ensure implementation of the provisions of the Magna Carta for PWDs, as amended.

On the situation of persons working in the informal economy (para. 20)

The CHRP expresses concern at reports that, despite passage of the Domestic Workers Act,⁴³ one million domestic workers remain deprived of its provisions on social protection.⁴⁴ Because of persistent barriers to their inclusion in social protection policies, majority of domestic workers remain in precarious employment and in the informal economy, in contradiction with the formal recognition of domestic workers as workers through the ILO Convention on Domestic Workers (C189, 2011) and the Domestic Workers Act.

The Committee may wish to recommend the State Party to monitor and evaluate the implementation of the Domestic Workers Act, its compliance with C189 and address the barriers against access to social protection of domestic workers

On effective policies to protect the rights of overseas Filipino workers (OFWs) (para. 21)

The CHRP is in the process of entering into bilateral agreements with the NHRIs of Qatar and Oman, in line with the Paris Principle on cooperation with national institutions of other countries.⁴⁵

The Philippines co-chairs the Migrants in Countries in Crisis Initiative (MICIC).⁴⁶ While it is important to take humanitarian measures to respond to the needs of migrants

⁴¹ See E/C.12/PHL/5-6, paras. 25-28.

⁴² See Magna Carta for PWDs, Republic Act No. 7277, sec. 5, second paragraph, *as amended by* Republic Act No. 10524, sec. 1

⁴³ Republic Act No. 10361.

⁴⁴ See Mayen Jaymalin, *IM kasambahay still without social protection*, PHIL. STAR, January 25, 2016 at 18.

⁴⁵ See A/RES/48/134 Annex, Principle A.3.e.

including Filipino workers caught in crises, the human rights of migrants should be at the heart of these measures, guided by legally-binding human rights treaties, principles and multilateral, long-term and sustainable approaches and solutions of States and non-State actors.

The Committee may wish to urge the State Party to continue implementing the provisions of the UN Migrant Workers Convention and the Migrant Workers and Overseas Filipinos Act,⁴⁷ and coordinate with the Office of the Undersecretary for Migrant Workers Affairs (OUMWA) of the Department of Foreign Affairs in responding to the situations of overseas Filipinos caught in crisis.

On sufficient resources for the Department of Labor and Employment to conduct regular and independent inspections of workplaces (para. 23)

The CHRP regional offices note with grave concern the hazardous conditions of work in the mining sector (Region V) and small scale poultry and piggery industries (Region II), as well as the death of 72 workers in the fire that gutted the factory of Kentex Manufacturing Inc. (Kentex) on 13 May 2015 (National Capital Region). Survivors and families of the victims seek justice and redress from the company and relevant government agencies responsible for the inspection and monitoring of compliance with general labor standards and occupational health and safety policies of the factory. Kentex was given certification on OHS compliance in 2014, despite evident absence of fire exits and other safety requirements.⁴⁸

The Committee may wish to reiterate its previous recommendation for the State Party to conduct regular and independent inspections of workplaces.

The Committee may further wish to recommend that the State Party investigate, through the Department of Labor and Employment (DOLE) and Bureau of Fire Protection, the process of inspection for the issuance of compliance certification of factories and companies.

On efforts to combat trafficking in human beings (para. 26)

The CHRP regional offices (Regions IV, X and XI) note with concern that there is no coherent data on the traffic of persons. The CHRP also notes with regret that it has no place on the Inter-Agency Council against Trafficking.⁴⁹

⁴⁶ “The Migrants in Countries in Crisis (MICIC) initiative is a State-led undertaking which seeks to improve the ability of States and other relevant stakeholders to increase the protection and decrease the vulnerability of migrants affected by crisis situations. The ultimate outcome of the initiative will be a set of non-binding, voluntary Principles, Guidelines, and Effective Practices that identify the roles and responsibilities of different stakeholders vis-à-vis migrants in countries in crisis and a compilation of effective practices to prepare for, respond to, and address such situations.” Available at <http://micicinitiative.iom.int/about-micic>.

⁴⁷ Republic Act No. 8042, as amended by Republic Act No. 10022.

⁴⁸ See Human Rights Online Philippines, “Statement of the fact-finding team on the Kentex Factory Fire,” available at <http://www.hronlineph.com/2015/05/16/statement-of-the-fact-finding-team-on-the-kentex-factory-fire-ctuhr/> (accessed 11 February 2016).

⁴⁹ See Anti-Trafficking in Persons Act, Republic Act No. 9208, sec. 20, as amended by Republic Act No. 10364, sec. 21.

The Committee may wish to recommend that the State Party collect disaggregated data on the trafficking of persons, and make the CHRP a permanent member of the Inter-Agency Council against Trafficking.

The Committee may also wish to recommend the State Party to respect the human rights of and protect trafficked persons from being criminalized for any laws they have inadvertently broken while in the process of being trafficked.

Finally, the Committee may wish to encourage the State Party to ratify the Protocol of 2014 to the Forced Labour Convention, 1930, a legally binding international instrument that aims to prevent contemporary forms of slavery, protect groups vulnerable to trafficking from forced labor and forced prostitution such as women, children, migrants and indigenous people, and compensate and rehabilitate abused workers and individuals.

On efforts to combat child labour and protect children from all forms of sexual and economic exploitation (para. 27)

The CHRP notes with concern that child labor is still being used in certain industries, such as in the manufacture of firecrackers (Region III). Moreover, the DOLE has yet to provide an updated report on the situation of child labor (Region V).

The Committee may wish to reiterate its previous recommendation for the State Party to conduct inspections in order to ensure compliance with anti-child labor laws.

On security of tenure and affordable housing, particularly to members of the most disadvantaged and marginalized groups (para. 29) and implementation of the UDHA (para. 30)

The CHRP notes with approval the issuance by the Department of Interior and Local Government (DILG) of a memorandum⁵⁰ directing all local government units to strictly observe the advisory issued by the CHRP⁵¹ which incorporates the Committee's recommendations and General Comments Nos. 4 and 7.

However, the CHRP is concerned that up to 127 families have lost their homes to illegal demolitions in one region alone (Region XI).⁵² Moreover, the Magna Carta for PWDs, while mandating that PWDs must be taken into consideration in the government's housing program,⁵³ fails to provide explicit measures for the right to housing to be enjoyed by PWDs.

The Committee may wish to urge the State Party to strictly implement the DILG circular, and to undertake a comprehensive revision of its social housing and housing finance laws to enable PWDs to avail of the right to housing.

⁵⁰ DILG Memorandum Circular No. 2011-182.

⁵¹ Advisory CHRP (IV) No. A2011-003.

⁵² See CHRP Case No. XI-2005-2357DC.

⁵³ Magna Carta for PWDs, Republic Act No. 7277, sec. 39.

On the right to the highest attainable standard of health, and access to sexual and reproductive health services, including access to family planning (para. 31.)

The CHRP notes with concern that the enacted budget of 1,959,626,000 Philippine Pesos for the implementation of the Responsible Parenthood and Reproductive Health Act (Reproductive Health Act) is a reduction by almost 40% of the proposed budget of 3,275,078,000 Philippine Pesos.⁵⁴

The CHRP is also investigating the issuance by the City of Sorsogon of Executive Order No. 3 of February 2, 2015, declaring said city as a “pro-life city”.⁵⁵ The order, which was brought to the attention of the CHRP by a local CSO⁵⁶ (Region V), is impacting negatively on the right of women to access contraceptives in said city.

The Committee may wish to recommend the State Party to provide adequate funding for the implementation of the Reproductive Health Act, and to ensure that the provisions of said law are implemented uniformly throughout the country.

Other concerns

In relation to observations of the Committee regarding “the legislative framework [...] established by the State party for the protection of the environment” (para. 9), a petition was filed with the CHRP by various parties led by Greenpeace Southeast Asia against national and multi-national corporations allegedly responsible for greenhouse gas emissions (carbon majors).

The petition is the first of its kind as it attempts to determine the potential liability of carbon majors in one “global petition,” and directs international attention to view the practices of businesses through a human rights lens. The CHRP will be holding a public inquiry on the matter later in the year.

Finally, in relation to agrarian reform, the Committee may wish to encourage the State Party to enact a law that would allow the Department of Agrarian Reform to continue issuing notices of coverage for compulsory acquisition under the comprehensive agrarian reform program in view of the lapse of such authority on 30 June 2014.⁵⁷

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⁵⁴ See Jess Diaz, *House records show Senate wanted P1.3-B cut in RH funds*, PHIL. STAR, January 11, 2016 at 4.

⁵⁵ See CHRP Case No. V-2015-0411.

⁵⁶ Likhaan Center for Women’s Health.

⁵⁷ See Republic Act No. 6657, sec. 7, as amended by Republic Act No. 9700, sec. 5.