



## Submission to the UN Committee on Economic, Social and Cultural Rights concerning the Review of the Implementation of the ICESCR in the Philippines

### Introduction

This submission is made by the Center for Trade Union and Human Rights, Inc (CTUHR) and Women Workers in Struggle for Employment, Empowerment and Emancipation (Women WISE<sup>3</sup>). CTUHR – a member of Asia Pacific Women Law and Development (APWLD) is a Philippine-based NGO that monitors, documents and investigates human rights violations committed against workers in the formal and informal sectors. It conducts human rights capacity-building activities at grassroots level, research, campaigns and advocacy. CTUHR was established in 1984.

Women WISE<sup>3</sup> is a network of families of victims of extrajudicial killings and other forms of human rights violations in the labor sector. The network also brings together women workers who are victims of workplace violations including gender rights violations as well as those who are displaced from work due to exercise of their rights. .

This submission focuses on economic rights of workers in the last six years to the present.

CTUHR and Women WISE<sup>3</sup> contend that whilst the Philippines has recorded a stable GDP growth at 6.1% in the past years, the 2<sup>nd</sup> highest in Asia region, unemployment rate at 5.8% is also the highest in Southeast Asia while nearly 70% of its employed workers are considered informal.<sup>1</sup> For most of the workers, the growth does not have much meaning as their conditions at work and their wages continue to deteriorate and rights to freedom of association is severely restricted. Economic policies and development plan that Philippine government implemented in the past years and being implemented to the present if not remedied will continue to send the workers in poverty and destitution and will bring the Philippines away from its commitment to adhering to international human rights standards.

<sup>1</sup> Serrano, Melissa, PhD" State of Employment in the Philippines (*Estado ng Empleyo sa Pilipinas*)" A Presentation to the CTUHR Conference on Neoliberalism and Trade Union Movement, UP-SOLAIR, October 8,2014

## **A. Implementation of the right to work and right of everyone to an opportunity to gain her/his living through work**

The Philippine 1987 Constitution, Article XIII, on Social Justice and Human Rights, Section 3 (Labor) provides that:

“The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns to investments, and to expansion and growth.”

This policy declaration is also echoed in Article 3 and 4 of the Presidential Decree 442 or the Labor Code of the Philippines, as follows:

“The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.

**Art. 4. Construction in favor of labor.** All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor.”

Whilst the state policy and law about workers’ economic rights, the reality that prevailed and continue to prevail today, is far from what the letters and spirit of the law aim to achieve. A huge majority of Filipino workers are still mired in poverty and slave-like working conditions in different economic sectors continue to exist.

### **A1. Millions of Filipino are Jobless and 58% of 15-60 years old population are excluded from the labor force**

The Philippines Statistics Authority notes that the country has 42,146 million labor force (persons 15 to 60 years old), of whom 60.7% are males and 39.3% are females. Out of this total

39.775 Million (94.4%) are considered employed. Out of this figure, 7,020 Million are underemployed, or those workers wanting more work while 2,371 million (5.62%) are unemployed. However, the Labor Force Survey deliberately did not include 24.477M (58%) population (15 -60 years) from the labor force.<sup>2</sup> Seven out of 10 of those considered not in the labor force (excluded) are women. The government vaguely defined the excluded from the labor force people as those who had been out of work and had stopped looking for job, either because they believed there are no available jobs or simply discouraged to look for work.

People who had been interviewed by CTUHR note several reasons why they were discouraged to look for jobs: i) difficulty of finding work, there is simply no jobs; 2) costs in getting documents for applications like medical certificate, National Bureau of Investigation and Police Clearances (these documents expire every six months and needed to be replaced if they don't find job within six months), birth certificate, barangay clearance, etc.; 3) few available jobs require educational attainment, experience that they do not have.

Other than discouraged individuals, officially excluded from 2015 labour force survey, are residents from provinces of Samar and Leyte in the Eastern Visayas region (Region VIII) had also been excluded from the survey since Typhoon Haiyan hit the provinces on November 2013. The exclusion of the provinces, though reduced the national unemployment rate but further increased the difficulties and vulnerabilities of typhoon victims from recovering in the aftermath of the super typhoon.

If the underemployed and unemployed are taken together, rate of joblessness in the Philippines is much higher than official statistics. Ibon Foundation – a research think tank based in Manila, estimates that unemployment rate could go as high as 9.8% to 10%. This is equivalent to 4.2 million to 4.3 million Filipinos. The Social Weather Station (SWS) survey revealed however that unemployment rate in the country is around 21.9% in 2015. And compared to other Southeast Asian economies, the Philippines remains on top in terms of joblessness.

The Philippine government, under the previous Aquino government implemented several measures to create jobs under the Philippine Labor and Employment Plan, but it did not make a dent in dramatically reducing joblessness. For instance, around 1.15 million Filipinos enter the labor force every year from 2013 to 2016. However, only a quarter of them find jobs in the country, and most of these created jobs are informal, precarious and low-paid in nature. Another move continuing the labor export policy, manifested in sending or encouraging Filipinos to work abroad, through manpower recruitment agencies, bilateral labor agreements, media publicity on the labor shortage and higher wages paid in a certain country coming from the Department of Labor and Employment (DOLE) as well as the office of then President.

Thus, a daily average of 3,600 Filipinos leaving the country to work abroad in 2009, increased to about 6,000 workers in 2015. Turmoil, crises and deaths of Overseas Filipino workers (OFWs) did not stop the migration even in the middle of wars in Western Asia and in Africa, spread of fatal diseases (Ebola virus) in Africa, economic crises in Europe and Saudi Arabia, discrimination,

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<sup>2</sup> Philippines Statistics Authority based on Labor Force Survey, October 2105, released on January 2016

slavery, violence and deaths experienced by OFWs. More than 11,000 migrant workers were stranded in Saudi Arabia since the beginning of 2014 who had no food, shelter etc as their employers were unable to pay their wages. It was only recently, under the new Duterte administration, that this crisis is being attended.

**B. Precarious /Flexible/Contractual employment becomes pervasive depriving workers of their rights to security of tenure, wages, social protection and dignity as humans**

The official statistics says that Philippines has 94% employment rate. Prof. Serrano from School of Labor and Industrial Relations of University of the Philippines (UP-SOLAIR), in her studies however, argues that 1 out of 3 workers who are employed is non-regular. More than half (52.3 %) of those non-regular workers has temporary employment status who are either contract or project-based, probationary (22.7% ) or casual workers at 17.6%<sup>3</sup>. The World Bank also notes in its report in 2013 and 2016 that 75% percent of Filipino workers or around 28 million are informally employed<sup>4</sup> with little or no protection from job losses and opportunities to find gainful employment.<sup>5</sup>

In the last two decades, temporary or flexible nature characterizes the employment structure of the country. This has also been aggravated by private and public sector use of an extensive number of manpower agencies, both registered or non-registered that has undermined not only the labor standards but the workers' rights. This scheme has also obscure the determination of employer-employee relations, which is legally essential in workers' exercise of the right to freedom of association.

Some of the glaring cases how flexible employment violates the economic, social rights and even cultural rights of workers. In a survey conducted by CTUHR in industrial area of Valenzuela city (Metro Manila) from June 26-2<sup>nd</sup> week July 2016, involving 61 establishments, it was revealed that 85% of workers are contract workers, hired mostly by illegal manpower agencies (59%) on five month basis. Under this employment scheme, workers have to re-apply or renew their contracts with new set of requirements. In one of the factories, workers were told to change their names several times to be re-hired. Even with contracts, where workers are not given copies, they are constantly under threat of getting dismissed from jobs so they cling to their work, forced to accept whatever conditions, as that they do not have other options.

A similar survey conducted by CTUHR from April 16-June 16,2016 in the electronics and semiconductors industry in the Philippines located in the country's Special Economic Zones or Export Processing Zones, more than 60% of workers, huge majority are women, are either short-term or long term contractual workers. In one electronics company manufacturing spindle

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<sup>3</sup> Serrano, Melisa, 'State of Employment in the Philippines Under Neoliberalism', CTUHR Conference, October 2014

<sup>4</sup> Informal employment is sum of jobs in informal enterprises and informal (non-regular) jobs in formal enterprises, which include self-employed, unpaid family workers and non-regular workers.

<sup>5</sup> Philippine Economic Update, World Bank, Marh 2013

motor for computers, there are workers who remain on contractual status even if they worked for 11 years already. These workers work 12 hours a day for 7 days, often without day off.

In manufacturing plant, like in Mitsumi Cebu - the biggest single electronics and semiconductor companies in the Philippines, (supplier for Apple, Samsung, Sony, Oppo camera) it is estimated that about 75% of more or less 26,000 workers are either on short term employment status, on-job-trainees, contractuales or probationary. Seventy five-80% of these workers are women. On-the-job trainees who are employed for one year, are actually not enrolled in school or training centers but simply classified as trainees only to skirt payment of minimum wage.<sup>6</sup>

In retail service, like in Shoe Mart (SM) chain of malls, where out of estimated 26,000 workers, only about 2,000 are regular or permanent workers. Others are called 'seasonal', contractual, merchadisers, etc that do not have security of tenure. In plantations and canning, like Dole Philippines, subsidiary of Dole Foods (USA), in Mindanao, only about 4,500 are regular workers out of estimated 23,000 workers, who are employed by eight manpower agencies registered as labour cooperatives. In its banana division (Stanfilco) and asparagus production, the company employs about 30,000 workers [CTUHR meeting with Dole Foods EVP, June 2013] in a multi-layer and multi-dimension employment arrangement, i.e. use of contract growing (farming) that also allow growers to hire their own labour, use the labour cooperatives and direct hiring. The company or the manpower agencies they contracted can easily hire and fire the workers.

This structure of employment negatively impacts the workers' enjoyment of their rights. Contract / temporary or flexible workers suffered a lot of employment discrimination. They are paid less, often lower than legally mandated wages (*see discussion below*) resulted in the precarity of income sources, life's insecurity (housing, health, education, leisure) receive less or no benefits and do not enjoy the protection of a trade union. Even their family life has been neglected as they spent more time in work, or finding work when they finished their contracts.

Flexible employment causes unemployment, as regular jobs are destroyed through sub-contracting, and permanent workers (particularly older ones) are replaced with temporary workers. Precarious and 'flexible' employment also tremendously makes union organizing and bargaining extremely difficult. Trade unions, which are shopfloor-based, are traditionally based on the regular jobs, or where employer is clearly identifiable.

Flexible work promotion also found its way within the framework of the other sectors outside manufacturing production--banking and finance, government service, transportation, water, and education. Labor flexibilization is part of the implementation of several policies like Bangko Sentral ng Pilipinas or Central Bank of the Philippine BSP Circular 268 that allowed outsourcing of bank functions to third party service providers, in rationalization in government agencies, privatization of hospitals, transportation systems, dams and other public services, and even K to 12 (Kindergarten-Grade 12) education curriculum.

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<sup>6</sup> [CTUHR Interview, April 2016]

In the public sector, around 22% of government staff are contractual in 2010. This figure had increased six years after as more government agencies resorted to contractual or job order positions as part of rationalization. Contractualization is most widespread in the Department of Social Welfare and Development (DSWD) among all government agencies. According to Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), contractual employees in the said agency is roughly 20,000 compared to only 3,000 regular employees<sup>7</sup>. Contractualization is also present in local government units.

The ongoing privatization program also threatens jobs of railway, hospital workers and even teachers. About 964 workers of Light Rail Transport Authority (LRTA), are in danger of losing their jobs or become contractual as the new management renewed their contracts for only six months. Similar threats of contractualization hound nurses and employees of public hospitals up for privatization. In addition, about 49,000 teachers are contractual while 78,318 more face the risk of losing their jobs following the implementation of K to 12 program in universities.<sup>8</sup>

The Labor Code of the Philippines<sup>9</sup> (Article 106-109) prohibits labor only contracting or the use of manpower agencies, but it legalizes job contracting and sub-contracting.<sup>10</sup> The latter has been extensively used by employers and companies to justify the employment of manpower recruitment agencies. Following the issuance of Department of Labor and Employment (DOLE)'s Department Order 18-A in 2011, contractualization as it is locally known, has become even more pervasive.

The state shall also endeavor to end employment discrimination. One step that could be taken is a thorough review (in aid of amendment or repeal), of RA 7686 or Dual Training Act of 1994 which allowed companies to employ students and/or workers as trainees. Under this law, workers and/or students employed shall only be 75% of the minimum wage and without benefits. The law states that trainees may be involved to fulfill the academic or course requirements and must still be able to attend to their in-school training. This law has been abused by companies by employing cheap labor in the guise of being trainees, while at the same time use the system to avail of tax deduction.

CTUHR studies revealed that trainees such as in the electronics sector are paid less, work for more than 8 hours, and receive no benefits or legally prescribed insurance. They performed even heavier workload than of the regular workforce. In spite of working beyond the prescribed training period, companies do not give assurance of getting them hired.

These laws as well as the corporations' violations of labor standards with impunity bode ill for Philippine commitment to international human rights.

The current Duterte administration has committed a stop to 5-month contractual jobs, and the Labor Department has promised a 50% success by end of the year. Whilst this is a very positive

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<sup>7</sup> "Workers launch struggle against contractualization," Manila Today, 2015; Guda K.R., 2014

<sup>8</sup> Geronimo, Jee "Worst –case scenario: K to12 may displace 78,000 workers

<sup>9</sup> Presidential Decree 442, or known as Labor Code of the Philippines, Article 106-109

<sup>10</sup> Republic Act 6715 passed in 1989, and whose provisions formed part of the Labor code of the Philippines as Amended

step, the necessity to address other forms of contractualization or flexibilization that leads to precariousness must also be included in the state priority as concrete step inching closer to achieving right to work.

**C. The right to just and favorable conditions of work is seriously violated**

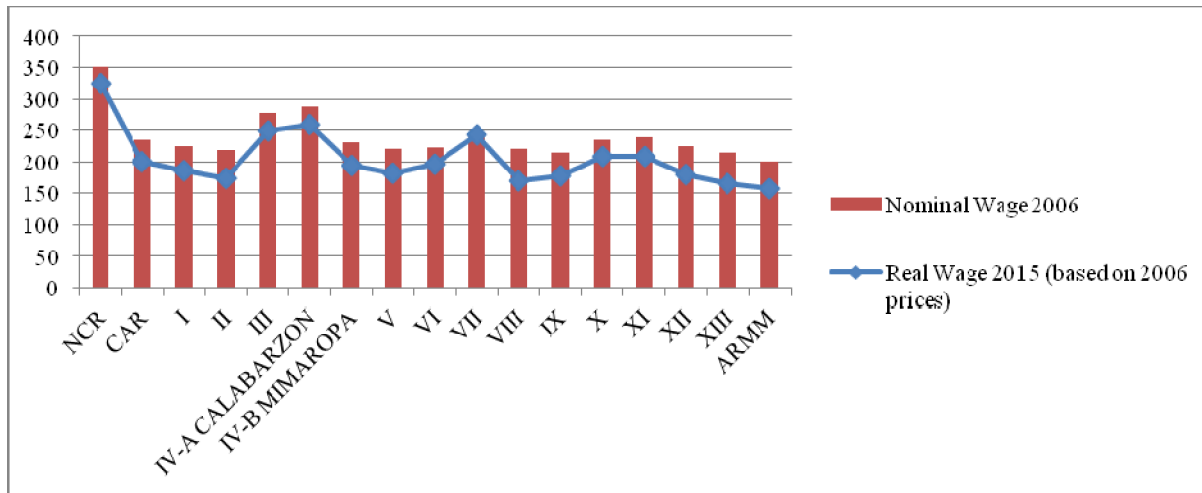
The risk of unemployment and massive flexibilization of employment engenders an unjust and unfavourable conditions at work that characterized workplaces for at least three decades but have been tolerated by the government.

**C1. Wages and salaries continue to deteriorate**

There are about 1,000 wage levels in the country which was reduced to about 500 following the two-tiered wage system implementation in 2012. This was the result of passage and implementation of RA 6727 or Wage Rationalization Act of 1989 which removed the national minimum wage and wage fixing was taken out of Philippine Congress and handed to a tripartite body. This means that wages shall be determined according to cost of living prevailing in specific region.

The law and implementation gave rise to more depressed real value of wages especially in regions where nominal wages are already low. For example, based on Ibon Foundation’s computation, the real wage of P481(US\$10.45) in the National Capital Region (NCR) based on its value in 2010 only increased by P17. And based on government computation, current real wages in 2016 (based on 2006 prices) is much lower than wage levels in 2006 in almost all regions (See Chart 2A).

**Chart 2A: Real wages 2016 at Nominal Wages in 2006 (2006=100)**



With workers’ depressed wages , the gap between the minimum wage and the family living wage (FLW) widened. In 2009, the wage gap between minimum wage rates and (FLW) is P535 (US\$11.63) This amount increased by 14% with the current wage gap now at P608 (US\$13.21).

This means that a family of five or six people with only one minimum wage earner needs to earn P608 more in order to afford basic needs.

**Table 2A: Nominal wages, FLW and Wage Gap (2009 vs 2016)**

	2009	2015
Nominal Wage (National Capital Region)	P 382	P 481 (US\$10.45)
Family Living Wage	P 917	P 1,089 (US\$23.67)
Wage Gap	P 535	P 608 (\$13.21)

Under the pretext of getting more employment by attracting more investors, the Philippine government issued a new

guidelines (DO 118-12) that implemented the two-tiered wages system o (2TWS) in 2012. This new wage system introduces two wage levels: the floor wage as the first tier and the productivity wage as the second tier. This scheme radically redefines the basis of wage computation. Currently, the minimum wage is based on the concept of a living wage, but the floor wage in the 2TWS is based on the poverty threshold, which is only P46 (US\$1) per day. 2TWS thus result in wage cuts. In region IV-A (CALABARZON hosts to more than 40 economic zones) where the first computation of 2TWS was released, the floor wage set is P255 (US\$5.54) which is 25% lower than the minimum wage in the region set at P337 (US\$7.32).

Productivity wage under the 2TWS is voluntary on the part of the company, that often deny getting profits when wage issue is raised. Thus productivity wage is not likely to be implemented by employers. In addition, productivity-based wage scheme is exploitative as it pushes workers to compete with each other and intensify their labor inputs to increase production. A similar system, called 'quota system' which exists in garments, electronics, food packaging and in other manufacturing sectors drive workers to work beyond their physical capacity to meet the quota and earned the minimum wage. In W.L Foods in Valenzuela city, a packer is paid P20 (US\$ 0.40) for 100 pcs of snacks packed. A worker interviewed by CTUHR testified that in her first week in work, she only earned P150 or (US \$3.10) as she can't cope with the speed that more experienced worker employ. Another worker in the same company, who was promoted as operator after 26 years of service is only paid US\$ 10.34/12 hours workday, still way below the minimum wage. W.L Foods has around 2,000 workers nationwide.

In other sectors, wages are far lower. In the agriculture sector, workers earn as low as P100 (US2.10).day (sugar) or P150/day (US3.15) in banana plantation. In fishing and in canning sector in Zamboanga for instance, a worker assigned to cut the fish head (for canning) is only paid US\$0.40 for a 40kg barrel of fish cleaned. The fisherfolks are poorest among the working poor.

Whilsit the minimum wage is already low, DOLE also acknowledges that companies violate the minimum wage law but no penalties are applied. In Valenzuela city, where CTUHR had conducted its study, 66% of workers do not receive minimum wage. Women workers receive even lesser than men.

The previous administration has slammed the call of the labor sector for the repeal of RA 6727 as the law had caused the number of working poor to spike. The labor sector has also called for a



national minimum wage, a legislated national wage but was also outrightly rejected by the past administrations.

The view that in-work poverty is increasing is also interestingly echoed in the The World Bank report “Labor Market Review: Employment and Poverty in the Philippines” released on June 10, 2016. The report noted the existence of pervasive in-work poverty, where workers remain below the poverty line despite having jobs and despite economic growth in the last decade. The same report found that the growth of real wages—or wages adjusted for changes in prices of goods and services—has yet to catch up with rising productivity. As a result, many workers remain poor. This prevalence of poverty among workers reflects two things: the scarcity of “good jobs” and low earning capacity of poor workers.

## **C2. Excessive working hours, increasing the risk of forced labor**

The 8-hour work /day has been won, through painstaking struggle particularly by women workers many decades ago. It has been norm and standard of humane work hours. For more than a decade this eight-hour workday particularly in manufacturing and service sectors is dramatically disappearing or has disappeared already.

The same research that CTUHR conducted in Valenzuela city (Metro Manila) and in electronics and semiconductors industry speak of the disappearance of 8-hour workday. Of the 120 respondents in Valenzuela city, 64.2% said that they are required to work for 12 hours, 6-7 days a without overtime pay, 12% say that their working hours are indefinite. Respondents also noted that by working overtime, they can get paid close to the amount of minimum wage. Factories in the area are mostly engaged in food packaging, tin cans, diapers and plastic production .

In semiconductors industry that is predominantly transnational corporations (TNCs) supplying for big brands, CTUHR research revealed that average hours of work is 9.5 hours per day with overtime ranging from 2 hours to 4 hours a day. Average hours of overtime work is 3.1 hours. Workers who are in a compressed workweek with 12 hours of work for four days in a week report that their overtime is computed on a day basis. Twelve hour workday is common for operators and assembly workers and day off once a week is seldom if not observed. While at work, operators perform their jobs standing for 11 hours or administering 10 or more machines requiring them to stand and walk frequently.

The research also asked whether the workers can refuse to work overtime, and they noted that it is required and the management puts high premium on perfect attendance as one of the evaluation references. They added that they accept overtime work to increase their take home pay.

## **C3. Unsafe and unhealthful conditions of work**

On May 13,2015, 72 workers, majority were women, 2 were minors, were burned to death at Kentex Manufacturing Corp – a rubber slipper factory, Valenzuela city. It was the worst factory fire in the Philippines industrial history. Less than a year before the tragedy, the Department of Labor and Employment gave the company a certification of Compliance to Labor standards and

occupational safety and health. CTUHR and other NGOs conducted a Fact-finding Mission. The FFM (<http://ctuhr.org/on-the-kentex-factory-fire/>) revealed that the factory did not have fire exit, chemicals were not labeled and stored separately, factory windows were covered by steel matting, workers were contractual and were paid just half of mandated wage. The manpower agency who recruited the majority workers was illegal and thus workers employed were not listed and therefore not covered by any social protection. The company had union, but the workers were able to know its existence only after the fire. The union was a company union, they mused. Yet, Kentex was given a certificate of compliance by the government.

The incident created uproar prompting the government to conduct inspection in all factories in the city. Congressional hearings were also held in aid of legislation. A trade union leader who joined the inspection told that 99% of the companies inspected in Valenzuela city violate the labor standards and occupational safety and health. The state response ended there and victims were not served justice. DOLE gave the workers, including the families of those who died in the fire P10,000 (US\$ 217.00) each and some groceries. Victims and survivors demand justice.

One year after, the research conducted by CTUHR revealed that the situation that caused the fire at Kentex remains the same. Workers are not sure of their safety and they continue to experience common accidents: wounded hands, allergies from powders and artificial flavors added to junk foods, finger and hands being cut and skin burns. They complain of over fatigue from 12 hours work. A worker testified that he witnessed a co-worker died when a large piece of glass pierced through and eventually killed his co-worker. Other complained of respiratory problems due to the toxic and unsafe effects chemicals used and the intensified heat inside the factories. Some of them were handed by the management personal protective equipment, of which the costs are deducted from their salaries.

Even in TNCs like in semiconductors industry, where there are clinics, doctors and nurses, workers expressed that they suffered from headaches, dizziness, leg and muscle cramps, shortness of breath, eye strain due to long hours use of microscope, reproductive problems, burns etc. A big number of them collapsed while working. A female worker complains of leg pains as she has to keep on walking as she assists 20 machines at a time. They are not aware of health effects of the chemicals they used.

The Philippines is also a signatory to various ILO conventions. ICESCR is clear that the just and favourable conditions of work must be implemented and complied with. It is the state that must ensure that corporations comply with the law. However, the Philippine government through the Department of Labor and Employment, issued DO 131-13, has made compliance to labor law as well as occupational safety and health voluntary, instead of mandatory. Another law (DO 115-11) even provides incentives to companies voluntarily complying with the law. Under this law, inspection will be done jointly (government, trade union and employer). Previous to that, companies with 200 or more workers were exempted from labor inspection, and instead direct companies to self-inspect and report.

CTUHR and Women WISE<sup>3</sup> maintain that compliance to labor standards, particularly occupational safety and health must be mandatory and should be strictly enforced. The safety, health and lives of the workers must not be handed over to the wishes or options of corporations but must be ensured and protected by law and its strict implementation, practice. Thus, we deem that there are serious problems with the twin laws issued by the Labor Department, and urge the Committee to remind the state party to review and immediately do remediation.

The lives of 228 workers who died in 38 workplace accidents in the last five years (partial), until April 2016 (CTUHR documentation) are testimony and enough reasons that right to just and healthful conditions at work must be strictly protected and upheld.

### **C3. The right to freedom of association is restricted and violated**

Under the Arroyo administration, 105 trade union leaders, unionists, organizers, labor rights advocates were extrajudicially killed while 6 were forcibly disappeared. The ILO High Level Mission visited the Philippines to investigate the cases in 2009. The killings of trade unionists and labor rights defenders did not stop. The International Trade Union Confederation (ITUC) in its report in 2014 has placed the Philippines as the 5<sup>th</sup> most dangerous place for workers.

In the last six years, 26 unionists and urban poor leaders were killed, 1 forcibly disappeared. To date, no one from the perpetrators of those killings was arrested and prosecuted. Trade unionists are continually harassed and hounded by state forces. Two hundred twenty (228) were slapped with trumped up charges like murders, robbery and arson, 887 were harassed, threatened and intimidated by suspected military intelligence agents to dissuade their trade unionism work. Two hundred thirteen (213) workers were arrested and detained following collective actions but were released on bail or for further investigation.

Corporations are also aggressive in its legal offensive and anti union practices in frustrating workers' attempts to organize unions. CTUHR documented that 14,725 workers lost their jobs in 35 cases of mass lay-off and closure that occurred when workers were either starting to organize unions or began to negotiate their collective agreement. Eleven thousand, seven hundred sixteen (11,716) have been affected by 44 cases of union busting.

A case in point was 3,600 workers who were left jobless when a giant garment factory in Laguna province, Carina Apparel suddenly shut down its operation on March 27, 2014. Carina Apparel was the maker of known brands like Mark and Spencer, Calvin Klein, Victoria Secret, Uniqlo, Gap, etc. According to Carina Apparel Inc. Labor Union (CAILU), the closure came without notice as their newly organized union was starting to negotiate for a Collective Bargaining Agreement with the management. The workers had filed illegal closure to the Labor Department, but to this date, no decision is issued. Similarly, Hoya Glass Disk, a Japanese company – supplying for computer brands, Hitachi, Toshiba etc. in Batangas also declared closure without notice in 2014, rendering 2,600 workers, mostly women jobless, when workers organized union. Workers were forced to accept separation pay, but eight months later when nearly all workers accepted severance pay, the company resumed operation, with entirely new workforce.

Anti-union discrimination is pervasive. In all sectors and industries, corporations and manpower agencies discourage trade union organizing from the time workers are accepted from employment. Threat of joblessness constantly hangs over the heads of workers, to dissuade them from associating themselves. Corporate practices are encouraged by state laws and enforcement that favour corporations than workers. Workers who are able to withstand the restriction and able to organize union and launch collective actions are physical harmed by company guards, goons and state forces. Organizers and trade union leaders as noted above, are harassed, or even killed.

This intervention by state forces in labor affairs had existed in the past administrations. In fact it was also a subject and concern was raised by the ILO High Level Mission and even in the report by then UN Special Rapporteur on Extrajudicial killings and Summary Executions, Philip Alston. Under the Aquino administration, such intervention was strengthened and institutionalized through the Philippine Economic Zone Authority (PEZA) Guidelines on Police and Military Intervention on Labor Disputes

The combination of anti-union practices and massive employment of contractual labor has taken toll on country's trade unions. Out of 22.2 million wage and salaried workers, only 1.96million or 1 out of 12 wage and salary workers belong to the union. Only one out of 10 unionized workers is covered by collective bargaining agreement (CBA).

This condition exacerbates the lack of protection for workers and thus they become more vulnerable to abuses and exploitation.

## **Conclusion and Recommendations:**

Having said the above, it is apparent that the Philippines economic policies and development plan are biased in favour of corporations and employers at the expense of the rights and conditions of the workers. The laws and regulations that were formulated in the past did not lift the workers out of poverty, but bond them into a condition of modern slavery.

If workers' human rights are to be promoted, protected and fulfilled, development justice must prevail. It must be an economic and development plan that restores rights and dignity to workers, particularly women, their families and the organizations that they established to protect their rights. It is necessary that the state abandons neoliberal development plan that feeds on profit accumulation for corporations at the expense of health, well-being, rights and dignity of those who labor for them and increased exclusion.

The current Duterte administration has promised many things to improve the lives of the poor, including an end to contractualization. As steps to fulfilling the administration's promises and the Philippines obligations to implementing its human rights commitments, particularly on economic rights, the following:

1. Review towards ending all forms of contractual work in the Philippines, not only the 'endo' five month contractual system, by revisiting the Labor Code of the Philippines, particularly Articles 106-109, 263g with the view of amending them and when necessary repeal such laws and create new law/s that are compliant with ICESCR and ILO Conventions;
2. Revisit all special laws issued by the past administrations that contravenes the ICESCR such as those on wages, job security and occupational safety and health, protection of women workers; institute or create laws that provides equal protection to workers in their redress of grievances or when they seek remedy against corporate or company retaliation;
3. In order to stem the poverty, particularly in-work poverty, that the state ensure that wages paid to workers are fair and able to sustain a decent living for her/his self and family; On the immediate side that the state must implement a national wage and abandon the highly divisive and unjust regional wage systems that exist in the country since 1989;
4. To conduct a transparent and public consultation, in view of reviewing the Special Economic Zone Act of 1994, on the conditions of workers in the country economic zones and the use of state forces to contain the trade unions;
5. In relation to the above, the state officially sends invitation to the UN Special Rapporteur on Contemporary Forms of Slavery including its root causes and consequences to look into working conditions in factories and plantations;
6. That the state issued an invitation for a follow-up mission of the ILO Committee on Freedom of Association to the Philippines
7. That the state, must revisit with the view of ending labor export policy as an employment generation measure, and/or ending forced migration;
8. So that respect for human rights particularly labor and women's rights be part of the culture, the state must endeavor to include such values in the educational curriculum, and immediately incorporate it to the training programs that national government are running;



Daisy Arago  
CTUHR Executive Director  
Email address: [ctuhr.pilipinas@gmail.com/](mailto:ctuhr.pilipinas@gmail.com)  
[daisy.arago@gmail.com](mailto:daisy.arago@gmail.com)



Kamille Deligente  
Coordinator, Women WISE<sup>3</sup>  
Email: [womenwise.ctuhr@gmail.com](mailto:womenwise.ctuhr@gmail.com)