

Joint Civil Society Report for the 2<sup>nd</sup> Cycle  
Universal Periodic Review (UPR)

**PHILIPPINES**

\*This report was prepared by a network of sixty-three (63) civil society organizations (see annex 1 for list) facilitated by the

**Philippine Alliance of Human Rights Advocates (PAHRA)**



Contact persons:

**MR. TEODORO DE MESA**- Chairperson

**MS. ROSEMARIE R. TRAJANO** - Secretary General

53-B Maliksi St. Bgy. Pinyahan, Quezon City, Philippines (1100)

Tel/fax (632) 436-26-33,

E-mails: [pahra@philippinehumanrights.org](mailto:pahra@philippinehumanrights.org); [pahracampaigns@gmail.com](mailto:pahracampaigns@gmail.com)

Website: [www.philippinehumanrights.org](http://www.philippinehumanrights.org)

**November 28, 2011**

## **I. Description of the methodology and the consultation process followed for the preparation of information provided under the universal periodic review**

1. This submission was prepared through facilitation of the Philippine Alliance of Human Rights Advocates (PAHRA) with assistance of the Philippine Human Rights Information Center (PhilRights) in coordination with sixty-three (63) civil society organizations (*see annex 1*). Four (4) national workshops and consultations<sup>1</sup> including one with Commission on Human Rights of the Philippines (CHRP) were conducted to gather inputs and recommendations for this report.

## **II. Issues and concerns on the promotion and protection of human rights on the ground and implementation of international human rights obligations**

2. During this UPR review period, Philippines adopted domestic laws that mirror international human rights instruments, such as Anti-Torture Law or Republic Act 9745, criminalization of violations of International Humanitarian Law (IHL) or Republic Act 9851, Magna Carta for Women, anti-child pornography law of 2009 and ratified the Convention on the Rights of Persons with Disabilities (CRPD) and Rome Statute of the International Criminal Court.
3. The Aquino government stated that human rights would be a pillar of his governance, a basis of his development plans and the core of the paradigm shift in the security sector. However, after one and a half years in power, it still has no clear human rights agenda with the draft National Human Rights Action Plan (NHRAP) still waiting presidential approval.
4. Furthermore, human rights violations persist while the culture of impunity remains to be a glaring reality in the country. Factors behind this are the militarist and punitive approach in addressing the root causes of insurgency, weak exercise of command responsibility and poor implementation of laws. Police and military forces continue to be among the top human rights violators as shown in the records of the CHRP. Human rights enjoyment also suffers due to lack of harmonization of and conflicts in the implementation of laws, such as the Indigenous Peoples Rights Act (IPRA) and the Mining Act of 1995.
5. In a study<sup>2</sup> of Atty. Parreño, among the 305 incidents of extrajudicial killings (EJKs) from 2001 to August 2010, 32% of victims were activists while 10% were farmers. This only shows that civil and political rights (CPR) violations such as EJKs and enforced disappearances could often be traced to suppression of people's assertion and claiming of their economic, social and cultural (ESC) rights.
6. The Philippines also failed to adopt its NHRAP that would have given direction to the State to implement its obligations under the rights of children, women, migrants, indigenous peoples, and lesbians, gays, bi-sexual, and trans-gender (LGBT), persons with disabilities as well as the rights to life, food, health, education and work. Concomitantly, there is lack of decisiveness and haphazard approach by State agents in following-up the implementation of the accepted recommendations from the last UPR.
7. The absence of a National Monitoring Mechanism (NMM) composed of the CHRP, government agencies, security sector, and civil society, exacerbated by the non-passage of a law on the right to information and lack of transparency in complaint processes has eroded the substance of human rights pronouncements and encouraged impunity to thrive.

8. The State has to fully integrate and consistently use the rights-based approach in its governance, legislative and development plans.
9. Government also needs to harness the potential of civil society by reinstating CSOs' participation in the revitalized Presidential Human Rights Committee (PHRC) and encouraging CHR deputization of human rights defenders (HRDs).
10. Finally, the State has to maximize the expertise and material assistance of the United Nations and its member nations, such as inviting the UN Special Rapporteurs, e.g., the Special Rapporteur in Promoting Human Rights while Combating Terrorism and the Special Rapporteur on Disability.

### **III. Achievements, best practices, challenges and constraints in relation to the previous review's recommendations**

#### **A. Gender-responsive approach to violence against women and children**

11. The documented incidence of violence against women (VAW) rose to 37.4% from 2008 to 2009. In 2009 alone, the Philippine National Police reports an alarming increase from 10,630 incidents of VAW in 2008 to 14,040 in 2009<sup>3</sup>. Meanwhile the Philippine Deaf Resource Center (PDRC) documented over 240 cases from 2006-2011, at least 60 cases involve deaf women complainants of rape. Due to non-implementation of Supreme Court policies on providing sign language interpreters, these women encounter difficulties during proceedings on their cases.
12. The Children's Legal Rights and Development Center (CLRD) encountered cases where judges or Prosecutor, or in the local council, do not issue Protection Orders despite petitions, and despite mandatory requirement in the case of barangay chair, to issue Protection Orders in cases filed under the Anti-Violence Against Women and Their Children Act. There are judges refusing to issue contempt orders on husband's/partners who violate protection orders. In rape and child sexual abuse cases, many rape complaints are dismissed at the Preliminary Investigation level and Regional Trial Level.
13. Based on research<sup>4</sup> of Women's Legal and Human Rights Bureau (WLHRB), most VAW victims do not get justice due to: a.) length and complexity of case proceedings; b.) lack of competence and sexist attitude of duty bearers; and c.) women's inability to file or sustain cases due to economic vulnerability.
14. The CHRP has not been able to perform its role as Gender Ombudsman under the 2009 Magna for Women as evidenced by the fact that up to now, there are no guidelines as to how CHRP would execute such responsibility. The Children Center as well as the Women Center of CHRP has no data on violence against women and children, and no clear program direction.
15. There is difficulty in prosecuting new forms of violence against women<sup>5</sup> such as ICT<sup>6</sup>-related VAW<sup>7</sup> ranging from cyberharassment, cyberpornography to cybertrafficking due to lack of readiness of law enforcement and absence of clear investigation guidelines.

#### **Recommendations**

16. Magna Carta for Women should be effectively implemented especially in terms of funding,

appropriate structures and mechanisms, and competent personnel.

17. Pursue judicial reforms towards making the judiciary gender sensitive and accessible, both in terms of procedure and attitude.
18. Women's desk in Barangays (villages) and police stations should be fully functional, accessible and competently staffed.
19. The government should provide employment to women, prioritizing single or separated mothers who are heads of family. In cases of VAW, support services should also include livelihood opportunities.
20. Adopt procedural and investigative tools appropriate to ICT-related VAW; issue rules of institutions<sup>8</sup> and provide capacity-building programs in addressing ICT-related VAW.

#### **B. Human rights training for security forces**

21. Since early 1990's, CHRP has been instrumental in designing and conducting human rights education for members of security forces. However, in a study<sup>9</sup> commissioned by CHRP, human rights integration in schools and also for security sector has been limited and only at appreciation level. It is more theoretical and mechanical resulting to non-internalization of HR values and attitudes and weak application in day-to-day operations of security forces.
22. While CSOs appreciate the efforts of security sector like appointment of HR Desk, formulation of Armed Forces of the Philippines (AFP) HR Handbook, and HR-based operational guidelines, these are superficial and require review and improvements. Meaningful changes need to be done in HR education curricula and pedagogy for security forces; selection/recruitment, orientation and mandate of HR officers in various units of security sector.

#### **Recommendations**

23. Convene a multi-sectoral review body for HR curricula & modules of security sector. The review should focus towards ensuring use of experiential learning methodologies, and its field application. The stress and starting point should always be respect of people's rights and dignity and appreciation of roles of HRDs. Regular monitoring of implementation and assessment of impact should be conducted.

#### **C. Torture, extra-judicial killings (EJKs), and enforced disappearance**

24. From 2008-2011, Task Force Detainees of the Philippines (TFDP) documented 23 cases of EJKs claiming 30 victims; and 105 cases of torture with 163 victims while Families of Victims of Involuntary Disappearance (FIND) documented 79 victims - 50 surfaced alive; 24 still missing; and 5 found dead.
25. Atty. Al Parreno, in recent study<sup>10</sup> documented 31 cases of EJKs from 2008 to August 15, 2010 with 8 incidences under Aquino administration. The same research unearthed 305 cases from 2001-August 2010 of which 32% of victims were human rights defenders (HRDs). From same 305 EJK cases, 56.29% were filed before prosecutors, 33.22% prosecuted, 32.52% tried in court, and only 1.05% had convictions. In short, 99% of 305 cases surveyed remain unsolved.

26. Although the Anti-Torture Act was passed in 2009, non-compliance and complicity by law enforcers have rendered the law ineffective in providing justice to victims. PAHRA members in cooperation with CHRP filed two torture cases both in 2010 involving victims Lenin Salas, et al. (*see Annex 2*) and Ronel Cabais (*see Annex 3*). The victims were both tagged as rebels by law enforcers.
27. Salas' case, with police as alleged perpetrators, was dismissed because the victims could only identify their assailants through their voices. The victims were blindfolded during their ordeal. The prosecutor disregarded the fact that blindfolding itself is prohibited act under the anti-torture law and the arresting police officers were responsible for it. Meanwhile, the prosecutor found the Cabais case meritorious and had the court issued a warrant for the arrest of alleged torturers. However, the warrant could not be served because AFP officials claimed that the suspects' names were not in their roster.
28. In July 23-26, 2011, Abdul-Khan Balinting Ajid (*see Annex 4*), a Muslim baker in Basilan was illegally arrested and tortured by members of the 39<sup>th</sup> Scout Rangers of AFP. He reportedly experienced beating, water cure and burning of his forehead and abdominal area. His arrest was illegal because the warrant was intended for one Kanneh Malikil. Despite Ajid's insistence that he was not that person by showing identification card, the soldiers brought him to a camp where he was allegedly tortured. The case caught media attention forcing the military to dismiss the two personnel allegedly involved while the officer implicated was still under investigation.
29. The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) has not been ratified. The Department of Justice (DOJ) wants to defer for three years the visit of the Sub-Committee on Prevention of Torture to places of detention in the Philippines once OPCAT has been ratified. PHRC in 2008 supported the full ratification of OPCAT.
30. President Aquino has not officially endorsed the signing and ratification of the International Convention on the Protection of All Persons from Enforced Disappearance (ICPAPED) and the immediate enactment of an anti-enforced disappearance law despite the persistent lobbying of CSOs.
31. Impunity in Muslim areas is compounded by political warlordism<sup>11</sup> and practice of Rido<sup>12</sup>. There is general knowledge that there are more cases of human rights violations and abuses in Mindanao however most are unreported. The victims are compensated through blood money which even the military takes advantage of to avoid accountability. A commission on human rights in the Autonomous Region of Muslim Mindanao (ARMM) is still non-existent despite provision for such institution under ARMM law or Republic Act 6734.<sup>13</sup> The Maguindanao massacre where 58 people, many of whom media people, were killed allegedly by top government officials of the region was the epitome of violations in Mindanao.
32. In October 2011, military offensives to hunt down "lawless elements" behind killings of soldiers in Mindanao triggered mass exodus of civilians. Almost one month later, 34,000 persons<sup>14</sup> still could not return to their homes, particularly in Basilan and Zamboanga Sibugay provinces. Five civilians were killed while ten were wounded during this conflict.<sup>15</sup>

## **Recommendations**

33. Enact laws addressing internal displacement, protecting HRDs, criminalizing enforced disappearance and extra-judicial killings and utilize the Minnesota Protocol in investigating EJK.
34. Ask CHRP to conduct investigations on violations of IHL in conflict-affected areas and take corresponding actions in line with RA 9851.
35. Immediately ratify International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED) and respond to repeated requests of the UN Working Group on Enforced or Involuntary Disappearances to visit the country.
36. Institutionalize and strengthen the multi-stakeholder NMM being formed through EP-JUST of European Union in April 2011 headed by CHRP and PHRC. NMM could be strengthened through replication and coordination at local levels.
37. Immediately convene the Anti-Torture Law's oversight committee to address obstacles in prosecuting cases and making government agencies especially police, military and the justice department accountable.
38. Immediately create a human rights institution in ARMM under the jurisdiction of CHRP.

## **D. Eliminating gender-based discrimination**

39. Anti-discrimination bills, originally, House Bill 956 and Senate Bill 11 were filed in Congress in 1998 but up to now, thirteen (13) years later, the HoR has yet to adopt them.
40. Laws like vagrancy act, anti-public scandal and anti-trafficking act are being used to discriminate, abuse and criminalize women and LGBTs.
41. In September 2011 alone, Coalition against Trafficking in Women – Asia Pacific (CATWAP), had to rescue at least 27 women out of jail, after being arrested by police. By experience, policemen ask sexual favors or extort money from arrested women in prostitution.
42. According to the Philippine LGBT Hate Crime Watch research on violence against the LGBT population in the Philippines, around 141 deaths of LGBTs with varying elements of motives of hate or bias, extrajudicial killing, and/or discrimination-related violence related to sexual orientation and gender identity have been documented in media mass media reports and oral testimonies since 1996 (**See Annex 5**).

## **Recommendations**

43. Prioritize enactment of law against discrimination based on Sexual Orientations and Gender Identities (SOGI), reproductive health bill, and anti-prostitution law to shift liability from women to patrons and sex syndicates.
44. Integrate repeal of Vagrancy Act, in the ongoing process to amend the Anti-Trafficking Law of 2003.

45. Hate crime should be legislated in Congress as particular criminal offense. The State should compel the police and the Department of Justice to work with the Commission on Human Rights, and LGBT experts and groups to define hate crime and implement procedures in the investigation of incidents, assisting survivors in accessing justice mechanisms, and the serious prosecution of accused parties.

#### **E. Addressing legislative gaps on children's rights**

46. Juvenile Justice Law has not been properly implemented due to following: a.) low level of knowledge and lack of capacity of local officials and law enforcers; b.) non-allocation of mandated budget for local councils for the protection of children (LCPCs); c.) absence of intervention programs in many areas; and d.) lack of resources and unclear mandate of the Juvenile Justice Welfare Council.

47. And yet there are proposals in Congress to suspend the Juvenile Justice Act and lower the Minimum Age of Criminal Responsibility from 15 to 11 or 9 years old.

48. According to CLRD, there are 756 children in detention in Metro Manila alone, detained in cramped, unventilated, dark, stinky, detention centers. From June 2009 to June 2011, CLRD documented 76 cases of torture of children from their arrest, and even while in detention awaiting trial. In provinces, many child suspects were detained for extended periods without access to social workers and lawyers and not segregated from adult criminals.

49. Torture of children in conflict with the law (CICL) is prevalent<sup>16</sup> but no reporting and documentation of child torture incidents is conducted. While policies fail to address torture in children, there is also lack of differentiation between child abuse and child torture<sup>17</sup> resulting to low awareness of torture of children. Children are at risk of torture from time of arrest and until/if the child reaches a youth centre or NGO. In worst cases, torture and maltreatment take place in closed institutions, places of detention or in youth homes.

50. Nationwide, the Department of Social Welfare and Development (DSWD) recorded 6,524 child abuse cases in 2009 and 4,749 incidents in 2010.<sup>18</sup>

51. On corporal punishment, a study of UNICEF, Plan International and the Council for the Welfare of Children in 2009 on 6,931 children revealed that "at least four (4) out of ten (10) children in Grades 1-3 and seven (7) out of ten (10) in Grades 4-6 and high school have experienced violence in school". Verbal abuse by teachers was the most frequent form of violence experienced by children in educational setting (**see Annex 6**).

52. According to the 2011 report of the Secretary-General to Security Council (A/65/820-S/2011/250) issued 23 April 2011 there was an increase in the recorded number of cases of child recruitment and use by armed groups in 2010 (24 children), compared to 2009 (6 children). Three cases were verified in 2010 involving boys, aged 13, 15 and 16 years old. Also, there are problems with regards the post-conflict care facilities for women for those affected by the conflict such as food, shelter and clothing.<sup>19</sup>

53. Despite ratification of the Convention on the Rights of Persons with Disabilities, and enactment of Magna Carta for Persons with Disabilities, abuse and violence against children with disabilities has not been addressed. The PDRRC reported that of over 240 deaf cases

from 2006-2011, at least 50 cases involve children, all on crime of rape.

54. Furthermore, accessibility through disability/gender/age- appropriate accommodations have not been provided, e.g., CASAGALs (Court Appointed Special Advocates & Guardian Ad Litem), and sign language interpreters. The Supreme Court's Order No. 59-2004 and 104-2007 on free court interpreting is not effectively implemented because of absence of specific national budget appropriations, as well as administrative procedures.
55. The Reproductive Health Bill (now known as Responsible Parenthood, Reproductive Health and Population Development Act of 2011) is still pending in Congress. With lack of access to sexual and reproductive health information and services, young people continue to face risk of early pregnancy, reproductive tract infections and sexually transmitted infections, including HIV and AIDS.

### **Recommendations**

56. Enactment of laws concerning children's rights such as the following: anti-statutory rape, "SB 873 - Anti-Corporal Punishment of Children Act," House Bill (HB) 4480 – Special Protection of Children in situations of armed conflict, HB 4631 or "Court Interpreters for Persons with Disabilities Act."
57. Maintain the current minimum age of criminal liability to 15 years old as stated in Juvenile Justice Law.
58. The Juvenile Justice Law should be implemented effectively and not amended. The conditions of children in jails should be addressed by government especially the issue of torture, forced labor/slavery, ill treatment. Provide a healthy living environment for children in detention. Local councils must be trained on how to conduct programs for Diversion of released child detainee.
59. Effectively implement the following: a.) National Plan of Action on the Decade of Persons with Disabilities; b.) 1% allocation from national budget and 5% from internal revenue allotment for local government units for persons with disabilities; c.) Supreme Court Rules on Examination of a Child Witness, specifically appointment of CASAGALS and court-appointed sign language interpreters; and d.) Republic Act (RA) 8505, establishing Rape Crisis Centers in every province and city.
60. Government should ensure budget allocation both at national and local government institutions/agencies for programs related to recovery and reintegration of children such as intervention and diversion programs for CICL and Alternative Learning System. Improve existing programs of government institutions that cater to promotion and protection of children's rights such as implementation of the National Program of Action on Violence against children and pursuance of the National Strategic Framework for Plan Development for Children.
61. Enhance effective sharing of information and coordination among actors involved in monitoring and reporting of Children in Armed Conflict.

### **F. Economic, Social, and Cultural (ESC) Rights Justiciability**

62. Lack of effective redress mechanisms for economic, social, and cultural (ESC) rights violations in the country could be attributed to low awareness and capability on ESC rights



of State instrumentalities especially the judiciary and weak implementation of ESC-related laws such as Urban Development Housing Act (UDHA) and Magna Carta of Persons with Disabilities.

63. ESC rights justiciability is also weakened by the fact that existing jurisprudence<sup>20</sup> limit CHRP's investigative power to civil and political rights violations.

#### **Recommendations**

64. The Philippines must sign and ratify Optional Protocol to the International Covenant on ESC Rights.
65. Prioritize enactment of CHRP Charter bill to strengthen and expand the mandate of this institution to monitor and investigate ESC rights violations. Increase budgetary appropriation for CHRP.
66. Conduct a comprehensive study on how ESC-related laws are being implemented.

#### **G. Civil society participation in national report and follow-up process to UPR**

67. CSO's were not consulted in the drafting of 2008 UPR Philippine Report. The result of review A/HRC/WG.6/1/PHL/3, 11 March 2008, was also not disseminated to CSOs and public. CSO's on their own initiative sought the document and tried to lobby its recommendations when there were opportunities. No activity was facilitated by State Party to allow CSOs to join the follow-up process for UPR recommendations.
68. As of writing of this stakeholder's submission, no consultation on the national report for the 2<sup>nd</sup> cycle of the UPR has been conducted by the State Party.

#### **H. Trafficking in human beings**

69. Despite the removal of Philippines in trafficking Tier 2 watchlist, substantial number of Filipinos still fall prey to trafficking due to lack of local decent employment. Worse, victims are the ones being criminalized especially in cases of undocumented women overseas workers.
70. According to CATWAP, almost every day they receive at least one call to help a trafficked woman arrested and detained especially in Malaysia. Before they could be repatriated, imprisoned women abroad have to suffer months of lack of food, cruel treatment, and delays in processing their travel documents due to corruption in embassies.
71. Although Magna Carta for Women stipulates the designation of gender focal person in Philippine embassies and consulates but no de facto budget has been provided, thus this function is usually assigned to existing personnel with no gender expertise.
72. Protection and rehabilitation of rescued women are jeopardized by lack of resources of frontline agencies such as the social welfare department and police and by lack of shelters in provinces especially in ARMM. These problems persist despite the \$550,000 Congress allocation to the Inter-agency Council Against Trafficking (IACAT).

#### **Recommendations**

73. The Anti-trafficking in Persons Act of 2003 should be allocated sufficient funds and effectively implemented.

74. Strictly audit and report disbursement of anti-trafficking budget to Congress.
75. Prosecute corrupt officials in Philippine embassies especially in Malaysia and ensure speedy repatriation of trafficking victims, by setting a humane timeframe for their stay in holding or detention areas abroad.
76. Recommend for Malaysia and other receiving countries to sign and ratify the UN Trafficking Protocol, and legislate against criminalization of trafficked persons.
77. Develop follow up mechanisms on the Off-loading passengers scheme in local/domestic seaports/airports through investigation and verification while ensuring respect for human rights when offloading them.
78. Confiscation or forfeiture of property of alleged perpetrators of trafficking as indicated in RA9208 should be implemented.

#### **I. Meeting basic needs of the poor and other vulnerable groups**

79. The flagship anti-poverty program of the government is the Pantawid Pamilyang Pilipino Program (4Ps), a conditional cash transfer scheme targeting the poor. However, criticisms have been raised on aspects of the program including selection of beneficiaries, funding sources, impact, and effectiveness in addressing poverty.
80. Based on a survey<sup>21</sup> among program beneficiaries, Social Watch Philippines (SWP) made the following observations regarding 4Ps:

4Ps does not cover other vulnerable groups like poor senior citizens, chronically sick, people with disabilities, millions of out-of-school, and functionally illiterate or unemployed poor. In fact, budgets for these sectors have been reduced to provide bigger funding for 4Ps;

Success of 4Ps which addresses demand side might be endangered if supply side such as schools, health centers, and transport facilities could not be ensured given low public investment on these infrastructures; and

Most of 4Ps beneficiaries expressed that what would lift them out of poverty is productive employment.

81. The government borrowed US\$405M from World Bank and US\$400M from ADB for the 4Ps which is a cause for concern because it not only increases the country's public debts. The government has likewise placed massive investment on a strategy heavily criticized for its limited and short-term impact on poverty.
82. Despite the fact that poverty incidence among persons with disabilities is higher compared to other Filipinos, CRPD mandated access to poverty reduction programs has not been fulfilled. Neither are there disability-specific interventions in social protection.
83. A basic need which is also a basic right of vulnerable groups is housing, specifically security of housing tenure. Data provided by Centre on Housing Rights and Eviction (COHRE) (**see**

**Annex 7**), an estimated 16.5 million or 30% of the country's urban population live in informal settlements while around 300,000 families in Metro Manila alone are currently threatened with eviction.

84. Food security is also a priority concern yet it seems that government has not come up with realistic and comprehensive food strategy program that will forestall, if not prepare the population for another food crisis such as that of 2008.
85. In June 2008, when the Comprehensive Agrarian Reform Program (CARP) was about to expire, there were 1.61 million hectares of private agricultural lands still undistributed. As of December 2010, more than one year after Congress passed the CARP Extension with Reforms law (CARPER), reports showed that 960,726 hectares have yet to be distributed. This means that Department of Agrarian Reform (DAR) has to distribute 26, 686 hectares monthly if it wants to beat its 2014 deadline, a daunting task given its performance of only 12,667 hectares from January to June 2009 and 18,635 hectares from January to June 2010.<sup>22</sup>
86. With the trend in business of outsourcing and subcontracting to reduce overhead costs, a serious workers' rights issue is labor contractualization. The Aquino government stamped its approval to this when it upheld the decision of Philippine Airlines (PAL) management to outsource its "non-core" operations such as catering, reservation and ground handling.<sup>23</sup> This resulted to the retrenchment of 2,600 regular PAL employees<sup>24</sup>. When the Philippine Airlines Employees Association (PALEA) staged a work stoppage on September 28, 2011 to protest this scheme, President Aquino initially referred to the act as economic sabotage and asked lawyers if legal actions could be filed against PALEA.
87. Government has not reviewed its labor migration policy in view of realizing the right of Filipino migrant workers to decent work in the country. As a result, yearly, more than a million Filipinos continue to migrate for work abroad, 1.23M in 2008, 1.42 in 2009 and 1.47 in 2010.
88. By all indications, the Aquino government will not revise its predecessor's policy of aggressively promoting large-scale mining even if Mining Act of 1995 runs contrary to indigenous people's rights to self-determination and ancestral domain as guaranteed by 1987 Constitution and IPRA.
89. Last August 2011, President Aquino showed his support to the mining industry by bringing along 15 mining executives to his official visit to China where he witnessed signing of four (4) mining agreements<sup>25</sup>. Large-scale mining has also been retained as one of key priority areas under the Philippine Development Plan (PDP) for 2011-2016<sup>26</sup>.

### **Recommendations**

90. Conduct of an independent and transparent monitoring and review of 4Ps with CSO participation before expanding the program.
91. Come up with a comprehensive anti-poverty strategy with increased public spending that targets other vulnerable groups such as persons with disabilities, indigenous people, etc.
92. Job creation and protection of workers' rights including women's rights should be at the forefront of government's anti-poverty agenda.

93. Allocate additional funds for programs aimed at providing security of tenure and affordable housing, particularly to members of disadvantaged groups.
94. Prevent forced evictions and undertake participatory and meaningful consultations with affected residents prior to implementing development and urban renewal projects, and ensure that persons evicted from their properties be provided with adequate compensation and/or relocation.
95. Fulfill right to food by fast-tracking distribution of private agricultural lands and ensure that agrarian reform beneficiaries (ARBs) under RA 9700 or CARPER are awarded ownership especially those in sugar lands, coconut lands and other problematic landholdings measuring above 24 hectares. Pursue and protect CARPER provisions such as providing support subsidies, banning conversion of irrigated and irrigable lands, and giving equal support services to rural women and farmer associations.
96. Prioritize passage of Security of Tenure Bill to reverse the trend of labor contractualization and the Food Security Bill to address hunger and food shortage.
97. Enact Alternative Minerals Management Bill that will repeal the 1995 Mining Act and usher in a rights-based, democratic, and pro-environment mining policy regime.

#### **J. National Human Rights Action Plan**

98. As of drafting of this stakeholder report, the 2<sup>nd</sup> NHRAP has not been approved by the Aquino government. It was adopted during the term of former Pres. Gloria Arroyo but was shelved by Pres. Aquino when he came to power in June 2010. CSOs were consulted once during the formulation of the NHRAP.
99. According to draft NHRAP, among the priority areas are the 2008 UPR results, recommendations of treaty bodies, special procedures, as well as proposals from CSOs. However, said document did not articulate legislations and policies recommended by the UN HRC and other treaty bodies. It would have been best if the commitments made by the Philippines have been categorically stated in the plan so as to ensure that these would be acted upon.

#### **IV. Development of human rights situations in the State and Emerging Issues**

100. Despite domestic law on International Humanitarian Law, several violations were documented such as the cases of the Miraflores brothers in Zambales and of Mariano-Esquivel in Bulacan (**see Annexes 8 and 9**). In both cases, victims were accused or mistaken as rebels and the identities of suspected military or police personnel were not established.
101. On June 2, 2010, the 3 Miraflores brothers sustained gunshot wounds when they were shot by Zambales policemen on their way to make charcoals. While on July 19, 2011, the hut of Mariano-Esquivel family was strafed by soldiers belonging to the 56<sup>th</sup> Infantry Battalion. The father died, the son survived but sustained gunshot wounds while the grandmother was unhurt. It took several hours before the dead body and injured could be brought out because of continued harassment of suspects after the shooting.

102. Government established Special Economic Zones (SEZs) to lure foreign investments by giving tax incentives, exemptions, and minimum labor standards regulation. As a result, reports of workers' rights abuses by firms in SEZs have persisted over the years such as union busting, harassment, and violation of minimum wage law and occupational health and safety guidelines.
103. Hanjin Heavy Industries, a Korean shipbuilding firm operating in Subic Freeport Zone, has become notorious due to numerous work-related accidents over recent years. In March to April 2011, Samahan ng mga Manggagawa sa Hanjin (SAMAHAN) documented nine accidents that resulted to death of two and serious injury of ten (10) workers.
104. In the light of several bilateral and multilateral free trade agreements that government plans to enter into, it needs to balance these vis-à-vis effects on the rights of its people and environment. Already there are industries and businesses such as mining and agro-bio fuel that affect rights of vulnerable groups such as indigenous peoples, farmers, and fisherfolks. State must study and adopt the Ruggie Framework<sup>27</sup> to uphold the rights of its citizens while pursuing economic development.

## Endnotes

<sup>1</sup> 1.) FIDH Civil Society Consultation on the Philippine Government's Compliance on the CESCR, UPR and CAT Recommendations, June 17, 2010, 2<sup>nd</sup> floor conference room, PRRM Building, Mother Ignacia Ave., Quezon City

2.) NGO Consultation on the UPR, March 26, 2011, Ciudad Christia Resort, Brgy. Ampid, San Mateo, Rizal

3.) Universal Periodic Review 2<sup>nd</sup> Cycle Writeshop, September 12, 2011, Max's Restaurant, Quezon Memorial Circle, Quezon City.

4.) Commission on Human Rights of the Philippines (CHRP) and Civil Society Consultation-Workshop on the UPR, November 8, 2011, 3<sup>rd</sup> floor Multi-Purpose Hall, CHRP Building, Commonwealth Ave., Diliman, Quezon City

<sup>2</sup> Parreno, A. (2011). Report on the Philippines Extra Judicial Killings, 2001-2010. The Asia Foundation. Retrieved November 24, 2011.

[http://www.asienhaus.de/menschenrechte-philippinen/dokumente/EJKReport\\_Parreno.pdf](http://www.asienhaus.de/menschenrechte-philippinen/dokumente/EJKReport_Parreno.pdf)

<sup>3</sup> National Statistical Coordination Board (March 2010)., Updates on Men and Women in the Philippines 2010. Retrieved on Nov. 22, 2011.

[http://www.nscb.gov.ph/factsheet/pdf10/Women\\_Men\\_March2010.pdf](http://www.nscb.gov.ph/factsheet/pdf10/Women_Men_March2010.pdf)

<sup>4</sup> Women's Legal and Human Rights Bureau (2010) Women's Access to Justice: Mapping of Domestic Legal Remedies on Violence against Women. unpublished.

<sup>5</sup> The study conducted by Women's Legal and Human Rights Bureau intended to comprehensively map the terrain of existing Philippine laws and jurisprudence and analyze the existing policy framework on ICT, VAW and Sexuality.

<sup>6</sup> Information and Communications Technology

<sup>7</sup> In the study ICT-related VAW ranges in different forms- from cyberharassment which includes cyberstalking, blackmail and threats, monitoring and surveillance, and trolling and flaming; to cyberpornography and cybertrafficking, among others.

<sup>8</sup> Such as the National Telecommunications Commission, internet intermediaries, and telecommunication companies.

<sup>9</sup> Fernandez, M.T. & Brilliantes A. B., The State of Human Rights Education in the Philippines: Issues, Directions and Concerns. Philippine Commission on Human Rights

<sup>10</sup> Parreno, A. (2011). Report on the Philippines Extra Judicial Killings, 2001-2010. The Asia Foundation. Retrieved November 24, 2011.

[http://www.asienhaus.de/menschenrechte-philippinen/dokumente/EJKReport\\_Parreno.pdf](http://www.asienhaus.de/menschenrechte-philippinen/dokumente/EJKReport_Parreno.pdf)

<sup>11</sup>Santos, Soliman Jr. (November 30, 2009). The Maguindanao Massacre, the Bangsamoro Problem and the Peace Process. Philippine Center for Investigative Journalism. Retrieved on November 24, 2011. <http://pcij.org/stories/the-maguindanao-massacre-the-bangsamoro-problem-and-the-peace-process/>

<sup>12</sup> The Asia Foundation (2007). Rido: Clan Feuding and Conflict Management in Mindanao. ed. Wilfredo Magno Torres III. Retrieved November 24, 2011. <http://asiafoundation.org/resources/pdfs/PHridoexecsummary.pdf>

<sup>13</sup> Republic Act No. 6734, August 1, 1989, An Act Providing For An Organic Act For The Autonomous Region In Muslim Mindanao , Art. XVI Sec. 10 <http://www.chanrobles.com/republicactno6734.html>

<sup>14</sup> Internal Displacement Monitoring Center (IDMC). (November 11, 2011). Philippines: 34,000 new IDPs in southern provinces still unable to return. Retrieved on November 27, 2011. <http://www.internal-displacement.org/countries/philippines>

<sup>15</sup> Mangosing, Frances. (October 26, 2011). Fighting in Basilan, Zamboanga Sibugay displaced 19,000. Philippine Daily Inquirer. Retrieved on November 27, 2011. <http://newsinfo.inquirer.net/83501/19000-people-displaced-due-to-armed-conflicts-in-basilan-zamboanga-sibugay>

<sup>16</sup> Report on Torture and Children, submitted to the UPR by the International Rehabilitation Center for Torture Survivors, November 26, 2011; Torture and Abuse of Children in their Own Pictures, <http://www.preda.org/main/cicldraw.php?ctid=2#top>

- 
- <sup>17</sup> UNICEF Innocenti Research Centre: Child Victims of Torture and Cruel, Inhuman Or Degrading Treatment. Dan O'Donnell and Norberto Liwski, IWP 2010-11, June 2010.
- <sup>18</sup> Virola, R. A. (October 2011). Abused Children. National Statistical Coordination Board. Retrieved on Nov. 22, 2011. [http://www.nscb.gov.ph/headlines/StatsSpeak/2011/101011\\_rav.asp#.TpMFb18HAG8.facebook](http://www.nscb.gov.ph/headlines/StatsSpeak/2011/101011_rav.asp#.TpMFb18HAG8.facebook)
- <sup>19</sup> Office of the Special Representative of the Secretary General for Children in Armed Conflict. (April 23, 2011). Developments in the Philippines. Retrieved on November 28, 2011. <http://www.un.org/children/conflict/english/philippines.html>
- <sup>20</sup> Cariño vs CHR, 1991 and Simon vs CHR, 1994
- <sup>21</sup> Social Watch Philippines (2010). Social Watch Philippines' Position Paper on the PantawidPamilyang Pilipino Program (4Ps). Retrieved on Nov. 22, 2011. [http://www.socialwatchphilippines.org/news\\_38\\_4Ps.htm](http://www.socialwatchphilippines.org/news_38_4Ps.htm)
- <sup>22</sup> Royandoyan R.C., et al. (July 25, 2011). Beating 2014: Pushing for the Decisive Implementation of CARPER. Focus on the Global South Philippines Program. Retrieved on November 22, 2011. <http://focusweb.org/philippines/fop-articles/articles/533-beating-2014-pushing-for-the-decisive-implementation-of-carper>
- <sup>23</sup> GMA News Online. (November 2, 2010). DOLE justifies decision favoring PAL in labor row Retrieved on November 22, 2011. <http://www.gmanews.tv/story/204945/dole-justifies-decision-favoring-pal-in-labor-row>
- <sup>24</sup> Esguerra, Christian V. (September 28, 2011). Aquino orders legal action vs PAL union over work stoppage. Philippine Daily Inquirer. Retrieved on November 22, 2011. <http://newsinfo.inquirer.net/66739/aquino-orders-legal-action-vs-pal-union-over-work-stoppage>
- <sup>25</sup> Chamber of Mines (2011). BPGR Welcome Remarks. Retrieved November 2011. <http://www.chamberofmines.com.ph/b/download/Mining%20Philippines%202011%20Presentation/Session%201/01%20-%20BPGR%20Welcome%20Remarks%20-%20Mining%20Philippines%202011-3-1.pdf>
- <sup>26</sup> National Economic Development Authority (2011). "Philippine Development Plan, 2011-2016". p.62
- <sup>27</sup> Ruggie, John. (March 21, 2011) "Guiding Principles for the Implementation of the UN 'Protect, respect and Remedy' Framework." Prof. Ruggie is the United Nations special Representative on transnational corporations and other business enterprises. Retrieved on November 25, 2011. <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>