

Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) to the Universal Periodic Review mechanism established by the Human Rights Council in Resolution 5/1 of 18 June 2007

Internal displacement in the Philippines

November 2007

Content

I. Internal displacement in the Philippines p.1

II. Internal displacement due to conflict, and number of people displaced

III. Main subjects of concern p.2

- Ethnic and descent-based discrimination as a cause of tensions and conflicts resulting in internal displacement

- Protection of civilians during armed conflicts & civil and political rights, in particular the right to life; prohibition of torture and cruel, inhuman or degrading treatment or punishment; freedom of movement and residence; protection of home and property

- Assistance to civilians during armed conflict & economic and social rights, in particular the right to an adequate standard of living; the right to health; the right to education and the right to work

- Humanitarian access & risk of discriminatory provision of humanitarian assistance

IV. RECOMMENDATIONS p.6

V. Attachments

1) *Philippines: More attention needed on protection of IDPs*, IDMC, 14 March 2007

2) Submission from the IDMC/NRC to the Committee on Economic, Social and Cultural Rights, October 2007

I. Internal displacement in the Philippines

The Philippines is one of the countries most prone to natural disaster in the world, with hundreds of thousands of people displaced each year by floods, storms, earthquakes or volcanoes. Development projects such as mines, roads or hydro-electric dams are also major causes of displacement in the country, mainly affecting poor and indigenous populations.

Armed incidents between government forces and rebel groups, and in particular between government forces and the communist rebels of the New People's Army (NPA), sporadically lead conflict-induced displacement in all regions of the country. However, intense fighting and large-scale displacement is mainly concentrated in the southern island of Mindanao where Muslim separatist rebels have fought government forces since the 1970s.

The needs of IDPs are generally addressed as part of wider development and rehabilitation programmes conducted by the government in partnership with the United Nations and donor countries and institutions.

II. Internal displacement due to conflict, and number of people displaced

The majority of the displaced people live in the Muslim-populated areas of the Autonomous Region of Muslim Mindanao (ARMM), where conflict between the government and insurgents of the secessionist MILF (Moro Islamic Liberation Front) has forced close to two million (2,000,000) people from their homes since 2000.

- Between January and September 2007, armed incidents have displaced between 119,600 and 139,600 people in Mindanao.
- An estimated 98,000 people were displaced from their homes in the Philippines during 2006 as a result of armed conflict and human right abuses. 82,000 of these were displaced from their homes in Mindanao.
- In addition to new displacements, which have been mainly temporary, tens of thousands of people in Mindanao remain unable to return home, or are living in situations akin to displacement, following earlier phases of the conflict, particularly those of 2000 and 2003.
- Due to the fluidity of the displacement situation, with frequent clashes and short-term displacement movements, there are no accurate figures available on the total number of internally displaced persons. At the end of 2005, a World bank-led assessment report (JNA) estimated the number of IDPs in Mindanao to stand at 930,000. IDPs were defined as those in Mindanao who fled their homes at least once since 2000.
- The graph shows the number of new displacements per year between 2000 and 2007 (to September):



III. Main subjects of concern

Ethnic and descent-based discrimination¹ as a cause of tensions and conflicts resulting in internal displacement

The ethnic and descent-based (*i.e.* inherited distinctions along religious lines²) divisions and differences, fuel conflicts which result in displacement of populations and have the effect of nullifying or impairing the enjoyment of a range of human rights by the affected populations including internally displaced people.

Central to the conflict are also conflicting claims over land and natural resources, between Muslim and indigenous people who held their land on a communal ownership basis, and the government which has introduced the Regalian system of state ownership which does not recognise ancestral land claims or ownership. Under this system, many Muslims and indigenous people have been deprived of their land largely to the benefit of Christian settlers, who migrated in large numbers to Mindanao as part of government-sponsored settlement programmes after independence. This led to the widespread displacement of Muslims and indigenous people who were forced to abandon their land and homes in the fertile coastal and low-lying areas, and to move further inland. The Indigenous People's Rights Act (IPRA) law, which recognises the right of indigenous people to hold lands under ancestral claims or ownership, has not solved the problem because Muslims refuse to be categorised as indigenous. Moreover, IPRA is not yet in force in the ARMM region.

Conflicting land claims continue to obstruct the peace negotiations between the MILF rebels and the government, with the Muslim rebels demanding that land in Mindanao and Sulu be set aside as "ancestral domain" under Muslim control.

Protection of civilians during armed conflicts³ & civil and political rights, in particular the right to life;⁴ prohibition of torture and cruel, inhuman or degrading treatment or punishment;⁵ freedom of movement and residence;⁶ protection of home⁷ and property⁸

Armed confrontation between the MILF and government forces in Mindanao tends to be of a conventional positional type, often repeatedly affecting the same communities who live near the MILF camps. With the fighting often taking place within villages, clashes also often result in significant civilian casualties and destruction of property as well as large-scale displacement of people who often need to be accommodated in evacuation centres.

Although large armed confrontations such as the 2000 and 2003 wars have been successfully avoided in the past few years, violent skirmishes leading to population movements have occurred with an alarming regularity in Mindanao. Often triggered by land or clan disputes, many small incidents grow into wider confrontations involving paramilitary groups, rebel groups and government forces.

¹ UDHR Article 2 and ICERD Article 1.1 as well as other non-discrimination provisions such as ICCPR Article 2.1, ICESCR Article 2.2

² CERD, General recommendation XXIX on Article 1, paragraph 1, of the Convention (Descent), preamble, 'Confirming the consistent view of the Committee that the term "descent" in article 1, paragraph 1, the Convention does not solely refer to "race" and has a meaning and application which complement the other prohibited grounds of discrimination; Strongly reaffirming that discrimination based on "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights.'

³ Common Article 3 of Geneva Conventions and Additional Protocol II to Geneva Conventions, in particular Articles 4, 13 and 17

⁴ UDHR Article 3 and ICCPR Article 6.1

⁵ UDHR Article 5 and ICCPR Article 7

⁶ UDHR Article 13 and ICCPR Article 12

⁷ ICCPR Article 17

⁸ UDHR Article 17

Caught in the crossfire, civilians and displaced people in particular are vulnerable to a range of direct threats to their physical security, including stray bullets and bombs and also harassment and physical abuse by combatants. For example, in January 2007, four IDPs (internally displaced people) who had been forced to flee fighting in Midsayap, North Cotabato, were reportedly apprehended by an army unit and subjected to physical abuse while attempting to return to their homes to fetch food and other personal items.

Displacements caused by armed encounters between the communist New People's Army (NPA) rebels and government forces tend to be smaller in scale than those involving MILF rebels, mainly because the incidents generally take place at some distance from the villages, but the protection needs of civilians and the displaced population are often as important. Indeed, counter-insurgency operations conducted by the army have frequently resulted in violations against civilians suspected of supporting the NPA insurgents. According to a UNICEF study covering the period between 2001 and 2005, the strategy adopted by the army during counter-insurgency operations against the NPA has tended to disregard the distinction between combatants and civilians. Even more alarming, the official military strategy against terrorism appeared to consider anyone suspected of associating with terrorists as legitimate military targets⁹.

It should be noted that politically motivated extra-judicial killings in the country during 2006 reached their highest level since 1986, with more than 180 people victims including human rights activists, trade unionists and leftist militants. The UN's special rapporteur on extra-judicial killings, Mr. Philip Alston, visited the Philippines in February 2007. In his preliminary report, Mr. Alston concluded that the recent spate of killings was largely attributable to the government's "guilt by association" tactics, where most left-wing groups, and those suspected of associating with leftist groups, are considered as "enemies of the State" and therefore legitimate targets. The Philippines army's counter-insurgency strategy was seen as facilitating the extrajudicial killings of these "enemies".¹⁰

Assistance to civilians during armed conflict¹¹ & economic and social rights, in particular the right to an adequate standard of living;¹² the right to health;¹³ the right to education¹⁴ and the right to work¹⁵

Internal displacement has had a significant negative impact on displaced people's standard of living and access to basic services. Securing immediate subsistence needs, such as food, water and housing poses immense difficulties for them. For the most part their standard of living is far from adequate and affects their opportunity to exercise other rights, for instance by compromising their access to education or healthcare or opportunities to secure a livelihood.

The right to adequate standard of living – housing

The displaced people tend to live in informal settlement areas, with relatives, or in government-provided buildings. While the right to housing assumes living in security, peace and dignity, most of the displaced live in squalid conditions with no basic amenities, far below a standard which might be deemed adequate. These sub-standard housing conditions significantly affect IDPs' health.

The right to food – the fundamental right of everyone to be free from hunger

People living off the land become extremely vulnerable to hunger and/or malnutrition when they are displaced. While at home, agricultural activities allow them to secure basic nutrition needs; when

⁹ See UNICEF, October 2006, pp. 35-36

¹⁰ See UN HRC, 22 March 2007, p.4

¹¹ Additional Protocol II to the Geneva Conventions, in particular Article 18.2

¹² UDHR Article 25.1 and ICESCR Article 11.1 as well as its impact on Articles 12, 13, and 6

¹³ UDHR Article 25.1 and ICESCR Article 12

¹⁴ UDHR Article 26.1 and ICESCR Article 13

¹⁵ UDHR Article 23 and ICESCR Article 6 as well as Articles 7 and 9

displaced and especially when in evacuation centres, they have no access to their fields and crops, and assistance is often limited or inaccessible. The access to and availability of food has sometimes been so limited that food-related deaths have been reported. For example, the Asian Human Rights Commission reported in September 2005 at least three cases of displaced children dying from malnutrition-related illnesses such as diarrhoea caused by inadequate food and unsanitary water in evacuation centres.

The threat of the lack of food in evacuation centres is so serious that people have sometimes chosen not to accept the refuge and safety they offer but risk their lives to stay close to their farms. Hundreds of farmers in Barangay Ahan, Guindulungan, and Maguindanao have reportedly preferred to stay near their homes to ensure that they could harvest their crops and feed their families, although in view of ongoing fighting and random air strikes they did have the option to move to designated evacuation centres. However, many refused to move because of the meagre assistance and poor conditions awaiting evacuees in the centres.

The right to water

The displaced people staying in evacuation centres do not have adequate access to water, either for personal or domestic use, as the often-makeshift centres often lack ample potable water and toilet facilities. Poor sanitation and related unhygienic living conditions alongside the overcrowding in centres, are major causes of health problems linked to displacement.

The right to the highest attainable standard of physical and mental health

The major concerns related to the right to health are connected with the availability, accessibility and affordability of health care on the one hand, and on the other hand the underlying determinants of health related to the inadequate standard of living.

Generally, there is an insufficient number of health care centres, which makes it difficult for the displaced to find medical help when needed. There is a need for more qualified health workers, and medicines are either lacking or too expensive. Limited accessibility and availability of health services in conflict affected areas, especially rural areas, add to high mortality and low life expectancy.

Health problems seem to be greater for the displaced people living in overcrowded evacuation centres than for those who remained in their communities. It is so due to below-standard living conditions and lack of access to food, water and sanitary facilities in these centres.

The right to education

As regards education, displaced children seem to be more affected by conflict than children who remain in their communities. Their education is often disrupted for longer periods or repeatedly, with each new or temporary displacement. Sometimes displaced children stop their education entirely. Geographically-based studies show that poverty, conflict and displacement are main factors affecting education and that literacy and school enrolment rates are lower in the Muslim-populated and displacement-affected areas of Mindanao than in the rest of the country.

Displaced children's education is often disrupted due to the lack of security and uncertainty about the length of displacement, limited accessibility to education facilities related to the long distances between schools and evacuation centres or the loss of documentation, which makes it difficult or impossible to enlist in new schools. Access to education is further compounded by the restricted availability of school infrastructure damaged or destroyed by fighting and the inaffordability of education for families who have lost their incomes and livelihoods.

Children who remain in their communities are also affected by conflict and the prevailing feeling of insecurity. Teachers fear to work in such difficult and dangerous circumstances and, as a consequence, classes have to be suspended. In addition, school buildings are often turned into evacuation centres for the displaced, which temporarily or permanently disrupts or limits education activities.

Young people's chance of completing education is also sometimes affected by the need for them to work to contribute to their family's survival.

The right to work and fair conditions of work & to social security

Conflict and displacement have irreparable short-term and long-term economic and social consequences for those affected. They often directly interfere with people's opportunity to gain a living by work they have freely chosen and pursued. New employment and income-generating opportunities are hard to find during displacement, which makes it indispensable for the government to secure basic social security for those forced to flee from their homes. The short-term consequences such as loss of homes and property, employment or other survival and income-generating opportunities are further aggravated by the continuation of displacement.

During displacement, to make ends meet, people mostly engage in subsistence low-input agricultural production and irregular low-paid work such as gardening, fishing, farming, harvesting, collecting firewood and scrap metal and working in construction firms. Displaced women often become sources of extremely cheap labour, for example doing laundry or housekeeping, and the money they earn is far below the minimum necessary to survive. .

The people displaced also often lose the tools to earn a living when their homes and villages are looted by combatants. They may become dependent on unreliable relief and social services, just as their informal systems of mutual support become overloaded by massive displacement and overwhelming needs.

Poverty and lack of livelihood opportunities are also seen as the main obstacle to sustained returns. Even when the displaced manage to return to their areas of origin, most face harsh economic conditions. The main problems identified in the return areas are lack of housing, health care, sanitation facilities, education and roads.

Humanitarian access & risk of discriminatory provision of humanitarian assistance¹⁶

Humanitarian access for aid groups is not always secured and safe, and delivering aid to the displaced is at times difficult and dangerous for aid workers. For example, in November 2006 two women NGO workers assisting IDPs were reported to have been abducted, interrogated and sexually abused by members of the army in North Cotabato.

As most international NGOs in Mindanao work closely with the government in providing humanitarian assistance, they may be susceptible to pressure to discriminate against those IDPs who are seen as close to the MILF. It has been reported that during the displacement incident in Shariff Aguak in June and July 2006, thousands of reportedly pro-MILF IDPs were not recognized and enrolled as beneficiaries in the early phase of humanitarian response. On top of that, much of the aid was reportedly distributed to non-displaced civilians close to paramilitary groups linked to the government and the provincial governor of Maguindanao.

¹⁶ Additional Protocol II to the Geneva Conventions, in particular Article 18.2

IV. RECOMMENDATIONS

1) Resolve land issues

As a result of discriminatory land policies which imposed state ownership over land and natural resources and did not recognize ancestral land claims or ownership, many Muslim and indigenous groups living in Mindanao were deprived of their lands largely to the benefit of Christian settlers who obtained titles to the lands. Conflicting claims over land previously owned on a communal basis and land now owned privately, which is the cases of the majority of lands in the conflict-affected areas of Mindanao, remain a serious issue today. The government should formulate a comprehensive policy framework to harmonize ancestral land rights and private ownership and address pending land disputes. Where restitution of land is no longer possible, efforts should be done to ensure compensation for lost lands. Addressing this problem is fundamental to ensuring the success of the peace talks with the MILF rebels, where the issue of “ancestral domain” remains a bone of contention.

2) Ensure unimpeded humanitarian access and safety for aid workers

Grant and facilitate safe, unimpeded and timely access of humanitarian organisations and others to help people displaced by fighting and human rights abuses, in particular in the south-western provinces of Sulu and Basilan, where military operations have displaced up to 80,000 (TBC) people since January 2007.

3) Collect data disaggregated on the displaced population

More accurate information is needed on the displaced population and their needs to provide more targeted information. Government agencies, such as the DSWD should lead the collection, analysis and dissemination of information on the profile (age, gender, ethno-linguistic groups) and needs of the displaced population.

4) Develop national IDP policy

Develop, and disseminate at provincial and local levels, a comprehensive and integrated national policy on internal displacement including clear implementation guidelines. The IDP policy should be in line with the United Nations’ Guiding Principles on Internal Displacement, and should clarify strategies for addressing the protection and assistance needs of the displaced. The IDP bill filed by Senator Pimentel at Senate the end of 2006 represents a step in the right direction and should be supported as strongly as possible.

5) Strengthen efforts to provide assistance to displaced and returned communities

Assistance is needed in particular in the conflict-affected areas of Mindanao where years of fighting and destruction have resulted in the impoverishment of large segments of the population:

- a) Ensure that displaced people living in camps, informal settlements and with relatives have access to potable water, health care, food, shelter and education.
- b) Ensure that conditions are met in areas of return for sustainable return and reintegration.

Particular attention should be paid to the housing and livelihood needs of returned and resettled people, many of whom have lost everything in the course of the hostilities. Restitution of, or compensation for, lost property should be ensured.

6) Assist the displaced to return, settle in another part of the country or integrate locally

Displaced people unable or unwilling to return due to protection concerns, such as continued militarisation of their homes, landmines or other threats to their lives, should be assisted to integrate locally or to settle in another part of the country.

The information above is drawn from the following (where it is fully referenced):

- the Philippines country profile in the IDMC's online database
- the overview "More attention needed on protection of IDPs"
- IDMC/NRC submission to the Committee on Economic, Social and Cultural Rights of October 2007

This information, and more, is accessible at
<http://www.internal-displacement.org/countries/PHILIPPINES>

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