

## Introduction

1. During the period under review, the Philippines has recorded a stable GDP growth at 6.1%, the 2nd highest in Asian region. Its unemployment rate however, stands at 5.6-5.8%, 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 wages continue to deteriorate and right to freedom of association is severely restricted. Economic policies and development plan that Philippine government implemented in the last four 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.

## Right to Work (Art 6, ICESCR)

2. Chronic unemployment persists in the Philippines while employment nature is something that workers could not feel grateful.
3. The government boasts of 94.4% employment rate out of 42,146 million official labor force (LF) and only 5.62% unemployment rate.<sup>2</sup> Yet, the statistics leaves too many questions. The official survey excluded the 24.477M mostly able-bodied individuals or 58% of population (15 -60 years old) from the labor force<sup>3</sup>, on account that they get tired of looking for work. Seven out of 10 excluded are women. They form part of the perennially unemployed deprived of the opportunity to earn their living through work. In addition, provinces hit hardest by typhoon Haiyan in 2013 in Eastern Visayas region (Central Philippines) were also excluded from the 2015 survey for no apparent reason, increasing further the vulnerabilities and misery of typhoon victims who had yet to recover from the damage wrought by the disaster.
4. Existing employment nature is also far from realizing the workers social and economic rights. One out of 3 employed workers mostly hired through manpower agencies is non-regular, flexible or has temporary/precarious status who are either contract or project-based, probationary or casual workers.<sup>4</sup> This practice of flexible employment, locally known as contractualization rose dramatically with the passage and implementation of Department of Labor and Employment (DOLE) Order 18-A in 2012.
5. Flexible employment violates the right to security of tenure. A survey conducted by CTUHR in industrial area of Valenzuela city (Metro Manila) from June 26-July 2016, involving 61 establishments, reveals that 85% of workers are contract workers, hired mostly by illegal manpower agencies (59%). Under this employment scheme, workers have to re-apply or renew their contracts repeatedly with new set of requirements every five months. In one of the factories, workers were told to change their names several times to be re-hired. Even with

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1 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

2 Philippines Statistics Authority based on Labor Force Survey, October 2105, released on January 2016

3 Ibid..

4 Serrano, Melissa, PhD, School of Labor and Industrial Relations of University of the Philippines (UP-SOLAIR)

contracts, workers are constantly under threat of getting dismissed so they cling to their work and forced to accept whatever conditions for absence of other options.<sup>5</sup>

6. Similarly, in the electronics and semiconductors industry located in Philippines' Special Economic Zones, more than 60% of workers, 75%-80% of whom are women, are either short-term or long term contractual workers. There are workers who remain on contractual status even if they worked for 5-11 years still, they constantly face risk of losing jobs.<sup>6</sup>
7. Flexible employment increases risks of forced labour as contract workers are paid lower and often work for 12 hours a day for 7 days, with only day off a month or no day off at all. Refusal to do overtime causes dismissal from job or non-renewal of contracts. To increase their take home pay, contractual workers are forced to work overtime.<sup>7</sup> The scheme also severely restricts the right to form trade unions as employers prohibit them to form/ join unions.
8. The World Bank in its report in 2013 and 2016 affirms the precarity of employment and notes that 75% percent of Filipino workers or around 28 million are informally employed with little or no protection from job losses and opportunities to find gainful employment.<sup>8</sup>
9. CTUHR hopes that commitments made by Duterte administration to end the pervasive 'endo' or 'end of contract after five months' practices by next year will translate into legislation and effective implementation.

#### **Right of everyone to enjoyment of just and favourable conditions of work (Art 7, ICESCR)**

10. The risk of unemployment and massive flexibilization of employment engender an unjust and unfavourable conditions at work which existed in workplaces for decades and tolerated by the government until at present.
11. Wages and salaries continue to deteriorate. There are about 1,000 wage levels in the country resulting from the passage and implementation of RA 6727 or Wage Rationalization Act of 1989. Minimum wage barely supports a decent living. In Metro Manila where workers' wage is highest at P481(US\$10.45)/day is actually 44% of the Family Living Wage (FLW). Similar work in other regions are undervalued as wages become lower as factories inch further away from Metro Manila. The Aquino government had incessantly refused to legislate across the board wage increase all over the country to provide workers some relief.
12. Whilst wages are not enough to support a worker and his/her family, corporations violate the law with impunity. In Valenzuela city, (Metro Manila), 66% of workers do not receive minimum wage. Women workers receive even lesser than men because they are women and the work they performed are deemed lighter.<sup>9</sup>

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<sup>5</sup> The Labour Conditions of Workers in Valenzuela, CTUHR Research, July 2016

<sup>6</sup> CTUHR research on the Workers condition in Philippines Information, Technology and Communication, supported from April 16-June 16,2016

<sup>7</sup> CTUHR Survey, summary published at [www.ctuhr.org/](http://www.ctuhr.org/) and [http://electronicswatch.org/en/electronics-watch-monitoring-focus-on-the-philippines\\_2486426](http://electronicswatch.org/en/electronics-watch-monitoring-focus-on-the-philippines_2486426)

<sup>8</sup> Philippine Economic Update, World Bank, March 2013

<sup>9</sup> Labor Conditions of Workers in Valenzuela city, CTUHR Research, July 2016

13. The 'quota system' continue to exist in garments, electronics, food packaging and in other manufacturing sectors which drive workers to work beyond their physical capacity in order 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 a total of P150 or (US \$3.10) as she can't cope with the speed required to pack. 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.
14. 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 (Mindanao). In fishing and in canning sector in Zamboanga (Western Mindanao), a worker assigned to cut the fish head (for canning) is only paid US\$0.40 for a 40kg barrel of fish cleaned.<sup>10</sup>
15. Whilst daily wage is already low, then Aquino government issued, DOLE Department Order 118-12 that implemented a two-tiered wage system (2TWS) in 2012 cutting further the wage. Under this system, workers are to be paid the floor wage and the productivity wage. The floor wage is based on P46 (US\$1.00)/day poverty threshold, abandoning the wage setting based on cost of living. In Region IV-A (Luzon)--hosts to more than 40 special economic zones where the first computation of 2TWS was released, wages were in fact reduced, as the floor wage set was P255 (US\$5.54), which is 25% lower than P337 (US\$7.32) mandated minimum wage in the region. <sup>11</sup> As productivity wage is optional for employers, workers' income is then reduced.
16. Corporations are also exploiting Republic Act 7686 or Dual Training Act of 1994 through employment of students and/or youth workers as trainees who are paid only 75% of prescribed minimum wage,<sup>12</sup> without insurance although they performed jobs similar to contractual or regular workers.
17. Discrimination and exploitation of women and child laborers pervade in various sectors. Women's labor participation is only 50.7% compared to 78.6% for men. There are industries where women receive generally lower wages than men. In the service sector, where 70% are women, their average wages is 6.5% lower than average wages of men. Women workers are also concentrated in occupations that are known to being flexible, informal or precarious. Six out of 10 unpaid family workers are women and six out of 10 employed in the wholesale and retail and food and accommodation are women.
18. Child laborers persist in different industries. In oil palm plantations in CARAGA, 25% of laborers are children, 17 years under who perform jobs similar to adult workers as haulers, loaders of fruit bunches that weigh 15-50kgs each but paid much lesser than adults.<sup>13</sup> In artisanal mining in

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<sup>10</sup> CTUHR Monitoring, 2015

<sup>11</sup> 'Deaths Amid Growth and Destitution, Poverty and Resistance': A CTUHR Assessment Report of 6-years of Aquino administration, <http://ctuhr.org/wp-content/uploads/2016/04/Term-ender-PNov-English-Final-print.pdf>

<sup>12</sup> Republic Act 7686, Dual Training Act of 1994

<sup>13</sup> Children of the Sunshine Industry: Child Laborers and Workers Situation in Oil Palm Plantations in Caraga region, CTUHR, 2012

Mindanao and Bicol region, 14.2% of workers are also children who are exposed to chemicals and physical hazards of underground and compressor mining.<sup>14</sup>

19. With this condition, poverty amongst workers continue to increase. World Bank in its report on the Philippines, affirmed 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. Report says that 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.<sup>15</sup>
20. Unsafe and unhealthful conditions characterized workplaces as companies' compliance to occupational safety and health (OSH) standards are made by the government voluntary, instead of mandatory by virtue of issuance of DOLE Department Order 131-13, (2013) Rules on Labor Law Compliance System.<sup>16</sup> This leaves the workers' safety and health to the mercy of corporations, exacerbating the already weak enforcement of safety standards in workplaces.
21. On May 13, 2015, 74 workers, of whom 45 were women were burned to death at Kentex Manufacturing Corp – a rubber slipper factory, Valenzuela city. The factory had no fire exit and windows were covered with steel matting grills, chemicals were placed on the floor by the door and contractual workers were paid half of the minimum wage. The fire that engulfed the entire factory occurred less than a year after DOLE gave the factory a Certification of Compliance on OSH and general labor standards.<sup>17</sup> Prior to Kentex fire, 8 women workers were killed in Asia Micro Tech fire in Pasay City 2014 while 17 women were also burned to death in locked store of Novo Jeans in Butuan City (Mindanao) in 2012.<sup>18</sup>
22. During the period under review, CTUHR documented 231 workers who died in 39 workplace accidents. This is partial count as CTUHR is not able to cover all areas. No corporation, employer or negligent government official has been held accountable for these deaths.

**Right to freedom of association with others, including the right to form and join trade unions (Art 8, ICESCR, Art22, ICCPR, ILO C87&98)**

23. The Philippines has ratified all eight ILO Core Labour Conventions. But restrictions on trade union rights in law and in practice enable discrimination, poverty wages and child labor to proliferate as workers are left with less protection. The massive use of flexible workforce and replacement of permanent and regular workers with temporary /contracted labour inflict heavy loss on union membership.
24. In practice, a climate of violence and intimidation against trade unions persists. Employers and state authorities use of anti-union practices and legal system in order to curb unions' rights and

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<sup>14</sup> "Child Labor in Plantation and Mining Communities: A Baseline Study for the Community Approach to Combating Child Labor in Hazardous Industries in Mining and Plantation", Crispin B Beltran Resource Center, Quezon city, October 2015, an EU funded project

<sup>15</sup> World Bank report "Labor Market Review: Employment and Poverty in the Philippines" released on June 10, 2016.

<sup>16</sup> DO 131-13, Series of 2013, Rules on Labor Law Compliance System, Department of Labor and Employment, [http://www.dole.gov.ph/files/DO%20131-13\(2\).pdf](http://www.dole.gov.ph/files/DO%20131-13(2).pdf)

<sup>17</sup> CTUHR and other NGOs Fact-finding Mission Report, May 2015, can be accessed at <http://ctuhr.org/on-the-kentex-factory-fire/>

<sup>18</sup> Deaths Amid Growth for a Few, Destitution and Resistance, CTUHR Assessment on Worker Situation under Aquino's 6-year term of Office, <http://ctuhr.org/wp-content/uploads/2016/04/Term-ender-PNoy-English-Final-print.pdf>

frustrate workers' attempts to organize unions. In the last four years, CTUHR documented 14,725 workers who 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) lost their jobs in 44 cases of union busting as the case of Hoya Glassdisk and Carina Apparel (Batangas and Laguna in Luzon) which shut down operation, when workers organized independent unions in 2014. Similarly, 397 out of 437 contractual workers serving Tanduay Distillers, were unjustly dismissed when organized into union (TUDLA), and filed legitimate complaints against the illegal manpower agencies overseeing their employment. Their collective strike was violently dispersed by company hired-goons on plain view of the police forces.<sup>19</sup>

25. Trade unionists and trade union organizers who assert their rights are threatened, harassed and intimidated. Activities are criminalized, and 293 leaders are slapped with trumped-up criminal offenses related to their exercise of collective action or are accused of being rebel sympathizers.
26. Randy Vegas and Raul Camposano- organizers of public sector union, COURAGE National Office, Gil Corpuz of the transport group PISTON and Rene Boy Abiva are continued to be detained in Daet, Camarines Norte and Cagayan Valley (Luzon) respectively. They were accused of multiple murders and frustrated murders in connection with the activities of rebel groups New People's Army.
27. Oplan Bayanihan- the government counter-insurgency program also inflicted damages on trade unionists and other labor rights defenders. Extrajudicial killings, though scaled down, continued, and 24 trade unionists, workers and organizers were killed, one trade union organizer (Benjamin Villeno) was forcibly disappeared in 2013. None of the 105 victims of extrajudicial killings during the Arroyo administration was thoroughly investigated and given justice, despite the Tripartite Monitoring Body established by the Aquino administration following the ILO-high level Mission to the Philippines in 2009.
28. Florencio Romano, organizer of National Coalition for the Protection of Workers Rights (NCPWR)-Southern Tagalog's SEZs was found dead on the street on March 8, 2015. Teresita Abasilla herself a miner, leader and spokesperson of Save Pantukan Network -- a group of small scale miners resisting the entry of big local and foreign mining corporations in Pantukan, Compostela Valley was also killed by unknown men on January 2016.<sup>20</sup>
29. Last January 9, 2016, a 14 year old child miner was fatally wounded when he was hit by bullet in his chest while inside the mining tunnel, similarly, an adult mine worker seriously injured when elements of 46<sup>th</sup> Infantry Battallion of Armed Forces of the Philippines indiscriminately fire their guns in Pantukan, Compostella Valley. The communities alleged that the soldiers' presence was part of clearing operation to give way for the entry of National Development Corporation (NADECOR) large scale mining operation in the area.

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<sup>19</sup> Statement of Solidarity Mission to striking workers at Tanduay, May 2016, <http://ctuhr.org/tanduay-solidarity-statement/>

<sup>20</sup> Deaths Amid Growth for a Few, Destitution and Resistance, CTUHR Assessment on Worker Situation under Aquino's 6-year term of Office, <http://ctuhr.org/wp-content/uploads/2016/04/Term-ender-PNoy-English-Final-print.pdf>

30. Conduct of union elections was also militarized. The military actively guarded and waged anti-communist campaign against the leaders and organizers of Kilusang Mayo Uno or May First Movement (KMU) who were standing in the union election in Clarence T Pimentel Mining Corp in Surigao del Sur (2015) and Sumitomo Fruits Co in Compostela Valley (both in Mindanao). In Negros Occidental, (Visayas) CTUHR received reports that a platoon of military from 62th IB-PA-AFP was present and harassed workers during union election in Hacienda Ambolong Levar Development Corporation, to dissuade workers from voting in favour of HALDICORWU-NAFLU-KMU.<sup>21</sup>
31. Employment flexibilization and repression of workers rights to organize union saw a rapid decline in trade unions where only 1.96million out of 22.2million wage and salaried workers are into unions as at 2015. One out of 10 unionized workers or 206,927 workers are covered by Collective Bargaining Agreement.<sup>22</sup>
32. CTUHR is hopeful that the resumption of peacetalks between the Government of the Philippines under the Duterte administration and the National Democratic Front which will tackle socio-economic reforms will significantly stem the violence against trade unionists, workers and other human rights defenders.

## Recommendations

33. In the light of the above, with respect to the upcoming UPR on the Philippines on May 2017, the CTUHR requests the UN Human Rights Council to call on the Philippine government to:
  - i. Ratify the OP-ICESCR as previously recommended by Portugal, Germany and Palestine<sup>23</sup> to provide workers and other stakeholders other avenue for remediation to hold violators to account;
  - ii. Review towards ending all forms of flexible work in the Philippines 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;
  - iii. Revisit, amend and when necessary repeal all special and national laws issued by the past administrations including but not limited to Wage Rationalization Act of 1989 and Dual Training Act of 1994, to enable workers to enjoy their right enshrined in ICESCR and ILO Core Labour Conventions;
  - iv. Institute laws and mechanisms where corporation could be held accountable for human rights violations;
  - v. Continue its peace negotiations with the National Democratic Front of the Philippines and with rebel groups in Mindanao (Southern Philippines) struggling for self-determination. It has been pointed out that the government's counter-insurgency program is one of the causes of many human rights violations against trade unionists and labor rights defenders

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<sup>21</sup> `Deaths Amid Growth for a Few, Destitution and Resistance: CTUHR Assessment Report on Workers Rights Situation under 6-years of Aquino administration, April 2016

<sup>22</sup> Bureau of Labor and Employment Statistics, website URL labstat.psa.gov.ph

<sup>23</sup> A/HRC/21/12 Para131, A/HRC/21/12

and principled negotiations to address the roots of the armed conflict can help mitigate these violations.

- vi. Enforce the implementation of the laws on Anti-Torture and Anti-enforced Disappearance.
- vii. To conduct a transparent and public consultation, to 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 protect investors interest's that causes human rights violations particularly on restriction to freedom of association;
- viii. Issue invitation to all UN Special Procedures particularly with those standing requests, as well as ILO Committee on Freedom of Association to the Philippines as a follow-up to the ILO High Level Mission in 2009.

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