

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS 41ST SESSION PHILIPPINES, COMBINED 2ND, 3RD, AND 4TH REPORTS 11-12 NOVEMBER 2008

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Key facts¹

Ratification	Reservations	Other core treaties ratified
1974	None	ICERD, ICCPR, CEDAW, CAT, CRC, CMW

¹ The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx.

Information submitted to the Committee

State report

The Philippines submitted its combined 2nd, 3rd, and 4th reports to the Committee on Economic, Social and Cultural Rights (the Committee) on 14 December 2006.² Philippines last appeared before the Committee in April 1980, January 1990 and May 1995 concerning articles 6 to 9, 13 to 15, and 10 to 12 respectively.³ The 2nd and 3rd periodic reports were due in June 1995 and June 2000 respectively. The present report is generally self-critical, openly recognising problem areas. It stresses the Philippines' commitment to the *International Covenant on Economic, Social and Cultural Rights* (the Covenant) by introducing the State's many human rights mechanisms. These include the national human rights institute, which monitors the Government's compliance with its international human rights treaty obligations, the Office of the Ombudsman, whose powers were strengthened in 1998 to ensure that Government officials remain accountable to the people, the Department of Labour and Employment, the Council for the Welfare of Children, and the National Commission on the Role of Filipino Women.

The State asserts that poverty decreased by almost 3 percent between 2000 and 2003 due to an increase in earnings in most of the country and an increase in the poverty and food thresholds. Many pages of the report are dedicated to Government initiatives to increase access to food and housing among the impoverished populations. The report claims that underemployment is a more serious problem than unemployment, especially in rural areas. The State report describes the various efforts the State is making to improve employment conditions. The State report proudly points out that universal access to primary education was achieved in the 1960s in the Philippines and secondary education is 'generally available and accessible to all'. However, the report acknowledges that the quality of education is deteriorating, as schools cannot deal with the growing number of students. A large proportion of the State report was dedicated to achievements and challenges in the area of healthcare. While the State's National Health Policy, in line with the Constitution, ensures the right to health of every Filipino, only 2.36 percent of the national budget is allocated to the Department of Health. One of the focus areas of the Government is HIV/AIDS, and it is working with non-governmental organisations (NGOs) to support victims of HIV/AIDS.

List of issues

After having studied the report, on 17 September 2008, the Committee provided its list of issues to the State.⁴ Much focus is placed on the implementation of the Covenant. The Committee requests examples of cases in which the Covenant has been used before the domestic courts, and asks how the Government is raising public awareness of the provisions in the Covenant. The Committee requests detailed information on the progress achieved and difficulties faced in the implementation of the *Indigenous People's Rights Act* of 1997. Many questions are dedicated to protection of the family, mothers, and children under Article 10. Sexual violence is also a key concern under this Article, the Committee asking how the Government is implementing the *Anti-Rape Law* of 1997, providing support to victims of sexual violence, and raising awareness amongst judges and law-enforcement agents. Information is also requested about: the restrictive law on abortion; the dire housing situation; measures adopted to address extreme poverty. The Committee also requests statistical data on homelessness and people living in informal settings, as well as detailed information on the large-scale forced evictions that took place between January 2006 and September 2007.

² E/C.12/PHL/4, available at www2.ohchr.org/english/bodies/cescr/cescrs41.htm.

³ Website unavailable.

⁴ E/C.12/PHL/Q/4, available at www2.ohchr.org/english/bodies/cescr/cescrs41.htm.

Very late written replies were submitted about a week before the session.⁵ The 121-page document contains comprehensive replies to all of the Committee's questions and includes very detailed statistical data covering employment, education, housing, and other areas of concern. The replies, however, do not focus on the challenges encountered as regards the implementation of legislation and programmes, such as the *Indigenous People's Rights Act*, focusing mostly on the mechanisms in place to ensure the enjoyment of human rights and their achievements. This reflects the sense of pride of the Government in its commitment to and achievements in human rights.

NGO information

The national human rights institute, the Philippines Commission on Human Rights (CHR), five individual non-governmental organisations (NGOs)⁶ and 3 coalitions of NGOs⁷ submitted **written reports** to the Committee.⁸ The CHR report is surprisingly short and focuses merely on the general framework within which the Covenant is implemented. The report attempts to justify why the CHR focuses only on civil and political rights, saying that this is directly to do with the recent dictatorship, which had particularly violated civil and political rights. The reports submitted by Economic, Social and Cultural Rights – Asia (ESCR – Asia) and the coalition led by Philippine Human Rights Information Centre and Urban Poor Associates respectively give an overview of the implementation of all the rights in the Covenant, including the right to food, housing, education, security, health, and water. The two reports argue that the Government is failing to address all of these areas within the poorer sectors of society. They also criticise the State-sponsored mining on indigenous ancestral lands, which is a violation of the right to self-determination.

The Global Initiative to End All Corporal Punishment of Children informs the Committee that in spite of the law restricting the use of corporal punishment in the home, many reports show that parents inflict injury on their children through corporal punishment.

A group of NGOs working on reproductive rights presented a detailed report on *Executive Order 003*, which effectively bans contraception in Manila. Though it is not legally binding, the passing of this order has meant the limiting of access to condoms, pills and other 'artificial' contraceptives and the closing of private clinics and those run by NGOs who support family planning. One consequence of this has been an increase in clandestine abortion. According to this coalition, this is a violation under international law with regard to the right to life and the right to access to family planning services. They recommend that this ban be revoked.

Centre on Housing Rights and Evictions (COHRE) gives various figures on the housing situation in the State. It also describes the internal inconsistencies which account for the ineffectiveness of the *Presidential Land Proclamation Program* designed to alleviate the housing problem. COHRE also raised the issue of the 1.2 million people forcibly evicted for urban renewal and beautification and other development projects between 1995 and 2008. The submission by the Internal Displacement Monitoring Centre (IDMC) reports that two million people have been displaced due to armed conflict since 2000. Such displacement has negatively impacted the population's access to basic services such as food, housing, water, physical and mental health, and education. The report submitted by the coalition headed by the World Organisation against Torture (OMCT) addresses the social, economic and cultural root causes of violence, stating that poverty and inequality have rendered Filipinos vulnerable to many forms of violence, including that which is State-

⁵ E/C.12/PHL/Q/4/Add.1, available at www2.ohchr.org/english/bodies/cescr/cescrs41.htm.

⁶ FIAN International, Internal Displacement Monitoring Centre (IDMC), Centre on Housing Rights and Evictions (COHRE), Global Initiative to end all corporal punishment of children, Economic, Social and Cultural Rights – Asia (ESCR-Asia).

⁷ Coalition 1: Philippine Human Rights Information Centre, Urban Poor Associates in partnership with 101 NGOs based in the Philippines. Coalition 2: Linangan ng Kababaihan, Reproductive Health, Rights and Ethics Centre for Studies and Training, Centre for Reproductive Rights. Coalition 3: OMCT, Philippines Alliance of Human Rights Advocates (PAHRA), Karapatan (Alliance for the Advancement of People's Rights), Task Force Detainees, Philippines (TFDP)

⁸ The NGO reports are available at www2.ohchr.org/english/bodies/cescr/cescrs41.htm.

sponsored. Such vulnerability has also led to extrajudicial executions and the recruitment of persons for trafficking.

At the beginning of the session, four NGOs⁹ gave **oral presentations** on the situation of human rights in the Philippines, though most of what was presented had been submitted in writing. OMCT described the impact of mining and the violence that results from resistance to mining projects. It was critical of the violence used against trade union leaders and the use of the term ‘anti-insurgency’ as a justification for Government-supported violations of economic, social and cultural rights. COHRE pointed out the lack of judicial powers of the CHR and the violation anti-terror laws by the Government. FIAN expressed its concern about the Philippines’ failure to address the right to food and the debt servicing which has detracted from social services.

Themes and issues

The delegation of the Philippines was led by Ms Erlinda Basilio, Ambassador of the Permanent Mission in Geneva. She was supported by a medium-sized high-level delegation consisting of: Mr Severo Catura, Under-Secretary of the Presidential Human Rights Committee; Assistant Secretary Mr Evan Garcia of the Department of Foreign Affairs; Mr Ricardo Gloria of the Department of Labor and Employment; Mr Denis Lepatan, the Deputy Permanent Representative of the Permanent Mission in Geneva; as well as representatives from the Department of Justice, the Department of Interior, and the National Economic Development Authority.¹⁰

The head of delegation dedicated much of her opening statement to emphasising the importance the Government attaches to the promotion and protection of economic, social and cultural rights. She also described the cultural diversity of the Philippines. She stressed the fact that the Philippines was a founding member of the United Nations and played an active role in the drafting of the Universal Declaration of Human Rights. Committee members’ first question, consequently, was why it took so long to submit the report to CESCR if the Philippines is so committed to these rights and to the Covenant.

Ms Basilio proudly compared the Philippines to other Asia-Pacific countries, developing countries, and the world as regards gender empowerment, the Human Development Index,¹¹ health, and literacy, areas where the Philippines ranks high for a developing country. She pointed out, however, the challenges that the Philippines continues to face and that hinder the enjoyment of human rights of the Filipino people. These included the fact that the Philippines is situated in the ‘Pacific Ring of Fire’, exposing the country to regular natural disasters, and the two active insurgent groups, namely the leftist rebels and the Muslim separatists.

The Committee made history during the assessment of the Philippines, allowing for the first time the President of the CHR, Ms Leila M de Lima, to speak during the formal dialogue in addition to the standard informal lunch meetings national human rights institutions are entitled to. She spoke as a separate, independent body, answering questions about the methods of work of the CHR that the delegation themselves were unable to answer.

The main topics under discussion were housing, the rights of the indigenous populations, women’s rights, and education. Poverty was a theme mentioned as a premise in many violations of economic, social and cultural rights. There were many discrepancies, however, regarding whether poverty has indeed increased or decreased, and by how much.

⁹ FIAN, COHRE, OMCT, Centre for Reproductive Rights.

¹⁰ The list of members of the delegation is not available online.

¹¹ The Philippines ranked 90 out of 177 in the *Human Development Report* of 2005.

Housing

The delegation confirmed that 30 percent of Filipinos live in informal settlements due to the lack of housing and natural disasters, and are therefore vulnerable to forced evictions. Between 1996 and 2008 more than 500,000 individuals were evicted from their homes. The Committee wanted to know if it is the Presidential Commission for the Urban Poor (PCUP) that carries out these evictions. Mr Ariranga Govindasamy Pillay was shocked that given this statistic only 0.5 percent of the gross domestic product (GDP) is allocated to housing, while 0.9 percent is allocated to the military. He criticised that only 20 percent of the housing budget goes to social housing for the poorer sectors of society, while 80 percent goes to the higher echelons of Filipino society. He also stressed that the guidelines on forced evictions in the Committee's General Comment 7 are not being met by the Philippines. Ms Barbara Elaine Wilson wanted to know what preventative measures the Government is taking to deal with the impacts of natural disasters on the right to housing.

The delegation was proud to point out housing programmes facilitated by the Government, which have, *inter alia*, improved access to water and increased sanitation. The representative of the Department of Interior and Local Government asserted that the practises adopted by the Government as regards the right to housing adhere to the guidelines of General Comment 7. The representative of the National Economic Development Authority admitted that the budget allocated to housing is very low and attributed this to the fact that housing is the responsibility of the private sector. Consequently, the Government has a minimal role. Committee members rejected this justification, stating that housing must be a main concern of the Government.

Mr Pillay requested disaggregated data on homeless persons and families; information he was not given during the session. He stressed that the Philippines put a stop to forced evictions until proper guidelines are devised. In general, Committee members stressed that before any eviction takes place, alternative housing must be provided. The Chairperson of the NHRI recommended that the Government finalise the invitation for the visit of the Special Rapporteur on adequate housing to look into the situation of the violations of housing rights in the Philippines. She also called for amendments to be made to the law to protect informal settlers.

In its concluding observations, the Committee urges the Philippines to provide sufficient funds for programmes that ensure security of tenure and affordable housing, especially to the most vulnerable members of society, and to ensure that victims of forced evictions be provided with adequate compensation, and if need be, relocation to sites with basic services and adequate facilities.

Indigenous rights to ancestral land

In her opening remarks, the head of delegation mentioned that the majority of the Filipino population belongs to indigenous groups. The Committee commended the creation of the *Indigenous People's Rights Act*, but were sceptical of its effectiveness. Ms Barbara Elaine Wilson pointed out that though this Act gives indigenous people the right to exploit their own land, according to reports, this is not always the case. Mining companies have been allowed, and indeed have been encouraged by the State through the *National Policy Agenda on Revitalising the Mining Industry*, to mine in indigenous ancestral lands. The representative of the National Commission for Indigenous Peoples stressed that indigenous populations also benefit from these projects, pointing out that the *Indigenous Peoples Rights Act* is in favour of mining if it is carried out with prior consent, which, according to him, indigenous communities have given. He assured that civil society, indigenous organisations, and Government agencies have worked together on this issue.

In its concluding observations, the Committee urges the Philippines to implement the *Indigenous Peoples Rights Act*, especially by ensuring the enjoyment by indigenous peoples of their rights to ancestral lands and natural resources, and avoiding that activities, such as mining, that may adversely affect indigenous peoples.

Women's rights

Violence against women

The *Anti-Rape Law* of 1997 has since been reformed to include rape with foreign objects in any orifice of the body and to allow complaints to be made by anyone who may have information. The Committee commended this but was shocked about the 'forgiveness clause' which allows charges to be dropped against a rapist husband if the victim forgives him. The Executive Director of the National Commission on the Role of Filipino Women said it is difficult to assess the issue of domestic violence as it has long been a private issue. The State has however sponsored the National Demographic and Health Survey, whose results will be released next year. At that stage, the State will have an idea of extent of domestic violence against women.

Reproductive health

Contraception in Manila and abortion country-wide remain prohibited, indirectly leading to a high rate of maternal mortality due to the common practise of clandestine abortion. The delegation regretfully admitted that the Millennium Development Goal to reduce maternal mortality is likely to be the only Goal that will not be met by the Philippines. The Committee stressed that the Philippines need to make more efforts to improve reproductive health.

Marriage and divorce

The Committee requested confirmation as to whether women in the autonomous Muslim region enjoy the same level of gender equality as in other areas of the country. Polygamy and early marriage were of particular concern in this regard. The Executive Director of the National Commission on the Role of Filipino Women stated that the Congress has attempted to amend Islamic law regarding early marriage and polygamy, but this was unsuccessful due to the patriarchal nature of the Muslim Autonomous Region. The delegation asserted that a dialogue with the Islamic leaders is currently underway. The Committee was also critical of the fact that divorce is illegal. This, they argued, instigates discrimination as regards property upon the separation of a couple. The delegation responded by stating that legal separation and annulment do exist, upon which there is a judicial separation of property.

Trafficking

The issue of trafficking was not picked up by the Committee, though the delegation mentioned it on various occasions. The representative of the National Commission on the Role of Filipino Women regrettably admitted that there is a lag in efforts to convict perpetrators. The representative from the Department of Justice, however, proudly described the various programmes the State has sponsored to combat trafficking. These include awareness-raising activities, the creation of a manual on law enforcement and prosecution when dealing with traffickers, the employment of an airport task force, and the creation of the 'We are not for sale' project, which provides victims with protection and support and aids their reintegration into society.

In its concluding observations, the Committee recommends that the Philippines adopt legislation that allows men and women to divorce, to increase efforts to combat trafficking, and to take measures to protect the sexual and reproductive rights of women and girls.

Employment

The Committee was concerned about growing unemployment despite the claim by the delegation that underemployment was a larger issue. Ms Maria Virginia Bras-Gomes pointed out that the minimum wage in the Philippines does not ensure an adequate standard of living and, even so, many enterprises do not apply minimum wage standards. Some lack regulations for working hours and social security, meaning that workers

are not adequately protected. Also, the social security system only comprises of workers in formal employment. This is a problem as 76 percent of the work force works in the informal sector. The Committee asked whether the Philippines envisaged ratifying *ILO Convention 102* and whether there are plans to improve family benefits.

A representative from the National Economic Development Authority explained that modest investment spending has led to unemployment. There is thus a Government plan to increase investment. The Government will focus on the information technology (IT), automotive, health care and tourism industries. Mr Catura of the Presidential Human Rights Committee explained the *10-point Legacy Agenda*, a plan whose target is to create between six and ten million new jobs during the 10-year presidency. Included in this plan is the tripling of loans to small and medium-sized enterprises, development plans for farmland, and providing more access for apprentices through enhanced vocational training. The delegation also listed the various inspections of places of work that the Department of Labour and Employment has carried out to monitor labour conditions.

The delegation assured the committee that *ILO Convention 102* is on the agenda and family benefits for workers are improving. For example, maternity leave has increased from 60 to 120 days. As regards the informal sector, he stated that Bill 1955 is pending in Legislative House. This bill will take into account matters regarding the informal sector in which 76 percent of workers are employed. Responding to why the number of trade unions has decreased, Mr Gloria of the Department of Labor and Employment explained that labour groups are finding it easier to deal with demands through arrangements made by a Legal Management Council.

The Committee also raised concerns about the conditions of Filipinos employed overseas. The delegation confirmed that the Philippines has entered into various bilateral agreements with countries where Filipinos are employed.

In its concluding observations, the Committee urges the State to take measures to reduce unemployment and underemployment, to regularise the situation of people working in the informal sector and to create policies that protect the rights of overseas Filipino workers.

Other issues

Committee members were concerned about allegations that the **CHR** lacks independence. The President of the CHR confirmed that the Commission is independent and asked the Committee what actions taken by the CHR have given them the impression that it is not an independent body. There was also criticism regarding the fact that the focus of the CHR is exclusively on civil and political rights and not economic, social and cultural rights. Mr Catura, of the Presidential Human Rights Committee, confirmed that at the time of the conceptualisation of the CHR, the Philippines was experiencing a transition from the dictatorial regime.

Though Committee members congratulated the Philippines for being among the first countries to provide universal primary education, they regretted that the **educational system** in the Philippines has since deteriorated due to large classes and low-quality teaching. They criticised the fact that the education budget has decreased from 4 percent of the GDP to 2.5 percent, 88 percent of which currently goes to the salaries of teachers. The delegation explained that the increase in salary is an incentive for teachers to remain in the Philippines

Corruption at all levels of society was another problematic area brought up. The Committee explained that in the last 20 years an estimated 40 billion dollars was wasted in corrupt practises. It noted that the Philippines is the most corrupt country in the region despite regular persecutions, laws against corruption, and the Anti-Corruption Court. A representative from the Department of Justice stated that the judiciary is independent from the Government and thus there are no guarantees that the former is completely free from corruption.

The Committee was also concerned about the problem of servicing of **external debt**. As a result of this, social services have been cut and this has affected the implementation of the Covenant due to lack of resources.

Conclusions and next steps

The dialogue was constructive, with the delegation comprehensively answering all questions posed by the Committee. In closing, the head of delegation asserted that the State will continue to assess the impact of initiatives adopted to improve human rights in the Philippines. The Chairperson, Mr Philippe Texier, closed by stating his appreciation of the State's obvious interest in human rights in general as well as in the Covenant. He commended the 'competent delegation' and expressed his hope that the Philippines will present its next report on time.

Last revised and updated: 2 December 2008.

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The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the six treaty bodies (all but the Committee on the Rights of the Child) and provides an overview of every treaty body session. It is currently an online publication that can be found at www.ishr.ch.

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