

Handbook on the
UNITED NATIONS
COVENANT on

**ECONOMIC,
SOCIAL &
CULTURAL
RIGHTS**



CHRP TREATY SERIES Publication # 1

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CHRP DELEGATION
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AND CULTURAL RIGHTS:

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(CHR Chairperson May 2008- June 2010)
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Fostering Economic Governance:
"Strengthening the Human Rights Infrastructure in the Philippines"



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From the Chairperson

Loretta Ann P. Rosales

message

The Commission on Human Rights is primarily mandated by the Constitution to investigate violations of civil and political rights. Yet, through the years, we witnessed how violations of civil and political rights are inextricably linked to violations of economic, social and cultural rights (ESCR). As a matter of fact, disregard or sheer neglect for the most basic of these ESCR are the root causes of the long-standing armed conflict in Mindanao, the continuing insurgency problem, and our slow, non-inclusive socio-economic development.

It is in this context that the Commission conducts investigative monitoring of the government's compliance or non-compliance with ESCR. While civil and political rights are its primary concern, the Commission is not and should not be limited to them, but rather maximize its powers and resources to be able to comprehensively monitor the entire spectrum of human rights, including ESCR. After all, human rights are indivisible – the violation of one violates all the other.

Comprehensive monitoring, however, is not the sole responsibility of the Commission. We neither have the resources nor the necessary manpower to effectively and efficiently do it. To realize the lofty goal of comprehensive monitoring, multi-stakeholder collaboration is not only desirable and practical, but is absolutely necessary. This is where publications such as this, The United Nations Convention on Economic, Social and Cultural Rights Treaty Series, become crucial.

This publication is the first of its kind from the Commission. It seeks to achieve at least four (4) objectives: 1) Popularize ESCR by drawing on the international norms and standards; 2) Identify duties and the corresponding responsible government agencies; 3) Disseminate information on the procedures, guidelines and forms for reporting; and 4) Empower all stakeholders in the implementation of ESCR, monitoring them, and following up.

It is hoped that this publication will be of help to the government in meeting its reportorial obligations under the Convention. Regular reporting does not only make the Philippines compliant to reportorial obligations it voluntarily entered into, it also allows us to establish baselines and benchmarks which will inform us in tracking our progress in improving the lives of our people. It is also hoped that this publication will encourage all stakeholders to participate in the process of implementation, monitoring, reporting and follow up of ESCR.

But more than just the regular reports and comprehensive monitoring, the real challenge is how to make sure that they will result in the direct and actual improvement of lives of our people. Towards this end, the Commission on Human Rights offers this publication as its humble contribution to our common struggle for the realization of human rights.

From the Chairperson

Leila M. de Lima

message

Encouraged by the Philippine Government's submission of its consolidated second, third, fourth and fifth periodic report on the implementation of the United Nations Economic, Social and Cultural Rights (UNCESCR), the Commission on Human Rights of the Philippines (CHRP) has harnessed its specific mandate to 'monitor government compliance with international human rights treaties' to directly engage in the treaty reporting process.

This resolve has been strengthened with assistance of the United Nations Development Program Project on Fostering Democratic Governance: Strengthening the Human Rights Infrastructure in the Philippines and through this publication we aim to share our outputs for all stakeholders to appreciate their role in the treaty reporting process.

We in the Commission regard the engagement with the Committee on Economic, Social and Cultural Rights (CESCR) as significant for two reasons. First, it was the Commission's debut in the treaty reporting process. Second, the participation was touted as the first National Human Rights Institution to have been requested to provide independent views within the dialogue between the CESCR and a State Party.

A main feature of this collection of documents is the mapping of State Responsibilities in which the Commission has addressed the issuance of Concluding Observations by the Committee. What actions do all duty holders have to perform in light of the observations of the treaty body? How do we, as a National Human Rights Institution (NHRI), bring home human rights in this treaty reporting process? The Commission has the obligation to popularize the concluding observations and refer these recommendations to all branches of government for their compliance as expressed in recommendations for administrative, legislative and other measures. It is in this context that strategic referrals are made in ensuring greater consciousness of human rights obligations by all duty bearers across government structures.

To ensure popularization of the Convention and the Philippine's record of compliance by duty bearers, we have laid out a mapping of responsible state agencies.

In this expression we clarify that when one speaks of government, what comes to mind are the three branches of government. However, human rights advocates, such as NHRIs, elaborate the term to direct human rights obligations not merely to the branches of government but more accurately, to the branches of state responsibilities.

Hence, we have referred specific recommendations to agencies of the executive, respective committees of the legislature, as well as to the judiciary, and other constitutional agencies. The Commission is working with civil society partners to ensure that these recommendations are acted upon.

We offer this maiden issue of the CHRP Treaty Series Publication on the United Nations Convention on Economic, Social and Cultural Rights as a demonstration of our role as a national institution for the promotion and protection of human rights in which we endeavor to help create awareness and greater consciousness for the full enjoyment of all human rights.

From the UNDP Country Director

Renaud Meyer

message

The Millennium Declaration of 2000 set out an ambitious international agenda to tackle peace and security, development, human rights and the environment. These were enshrined in the 8 Millennium Development Goals or MDGs that address key development priorities through a set of specific goals and targets to be achieved by all countries before 2015 to eradicate extreme poverty and hunger, ensure all boys and girls complete primary school, promote gender equality, improve the health of mothers and children, reverse the spread of HIV/AIDS, malaria and tuberculosis, protect the environment, and create a global partnership for development.

Ten years after the MDGs were established, it is clear that the objectives of human well-being and dignity for all, enshrined in the Universal Declaration of Human Rights, will not be achieved if the MDGs are pursued in isolation from human rights. Poverty and deprivation are often exacerbated by poor governance and infringements to human rights.

Based on its MDG Report launched in September 2010, the Philippine's performance on MDGs is generally low. With only five years left before the 2015 deadline, it is essential to renew our commitment to a human rights-based approach to development.

Indeed, the protection of human rights is an absolute prerequisite of human development. This *ESCR Handbook* reinforces these ideals by serving as a comprehensive guide for civil servants tasked with protecting human rights in Philippine governance.

The United Nations Development Programme (UNDP) supports the Philippine government in this endeavor by building on the capacity of state institutions to promote and protect the rights of its citizens. To this end, the UNDP and the Commission on Human Rights launched the project: "Strengthening the Human Rights Infrastructure of the Philippines", of which this publication is a product.

This handbook assists in mainstreaming ESCR in Philippine governance. It clarifies the proper procedures by which the condition of ESCR in the Philippines should be monitored and reported on. By following this correct practice, the Commission on Human Rights and other stakeholders will be able to set benchmarks, highlight pressing issues, and hold accountable those who infringe economic, social and cultural rights.

The establishment of ESCR norms is particularly important, especially when one considers the fact that many of the conflicts that take place in the Philippines revolve around deep-rooted issues of poverty, discrimination, and exclusion. Such conflicts continue to constrain and undermine development efforts, forming a vicious circle which will only be broken once individuals and communities are guaranteed their economic, social and cultural rights.

It is our belief in UNDP that the mainstreaming of ESCR, as facilitated by this publication, will enhance the human dimension of development strategies that aim to eliminate poverty, empower the marginalized, and strengthen democratic institutions throughout the country.

From the 1st
table

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introduction

OBJECTIVES

As the maiden issue of the CHRP Treaty Series Publication, the Commission on Human Rights of the Philippines offers this ESCR Handbook to bring together issuances that facilitate a grounded and fruitful exchange on the elaboration of economic, social and cultural rights as human rights.

The ESCR Handbook aims to be a practical tool in treaty reporting of the Covenant on Economic, Social and Cultural Rights through the outputs produced in the engagement with the Committee on Economic Social and Cultural Rights by the Philippines.

It focuses on the concluding observations issued by the Committee on the 2nd - 4th Periodic reports of the Philippines and demonstrates the role of the Commission on Human Rights in its engagement in the treaty reporting process to include the elaboration of the recommendations of the Committee through a Mapping of State Responsibilities.

This publication is envisaged to guide all dutyholders, government, civil society as well as national human rights institutions in highlighting the importance in heeding the recommendations of the UN Committee as it brings together references that will strike more genuine constructive dialogue in the promotion and protection of all human rights. It is essential that the dialogue begins at the country level. In showcasing the Philippine report, the handbook aims to assist other countries in applying the Philippine perspective in their country context.

The handbook is designed to be a reference guide for the next reporting cycle. However, it is limited in the sense that due to space and cost constraints, this publication has not been able to include various submissions of participating Civil Society.¹

Be that as it may, the Commission has assisted the Non-Governmental Organization, PhilRights which represented the NGO Coalition that gathered information on the implementation and enjoyment of ESC rights and have continued to partner with the Commission in ensuring that the concluding observations have been disseminated at the National and community levels.

The United Nations Development Program under its Fostering Democratic Governance Portfolio and through its project 'Strengthening the Human Rights Infrastructure of the Philippines' has been instrumental in enabling the Commission and its partners to directly engage with the Committee on Economic, Social And Cultural Rights.

¹ To access a copy of various submissions to the CESCR, access online at <<http://www2.ohchr.org/english/bodies/cescr/cescrs41.htm>>.

STRUCTURE OF THE HANDBOOK

The Handbook structure mirrors, as far as practicable, the process of reporting for the Convention on Economic, Social and Cultural Rights and relates the Commission's experience in directly engaging in the treaty reporting process.

TEXT OF THE CONVENTION AND THE REPORTING GUIDELINES

The handbook begins with the text of the United Nations International Convention on Economic, Social and Cultural Rights and the 'Basic Reference Document on the Revised Guidelines regarding the form and content of reports by states parties in accordance with Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights'. These guidelines replaces the previous revised general guidelines (E/C.12/1991/1) and already takes into account the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.5), as well as the evolving practice of the Committee in relation to the application of the Covenant, as reflected in various issuances including concluding observations, general comments and statements. The Convention text alongside the guidelines for reporting sets the stage for both government and non-government duty holders in ensuring substantive submissions to the treaty body.

GENERAL COMMENTS AND STATEMENTS

Deepened understanding of the provisions of the Covenant is provided through issuances of the Committee on Economic, Social and Cultural Rights' General Comments and Statements. These documents provide greater understanding of the 'normative content' of rights contained in the covenant. Simply stated, the normative content of rights is the norm (or prescribed action, behavior) by which government is expected to demonstrate its obligations to human rights. General Comments also elaborate on the scope of specific and related rights. It also elaborates the meaning of the language used and spirit of Convention provisions. Some general comments discuss procedural aspects such as the general comment on reporting by states parties.

For an appreciation of National Human Rights Institutions in the implementation of the Convention, General Comment No. 10 is instructive as it discusses the role of national human rights institutions in the protection of economic, social and cultural rights. This General Comment on NHRIs was issued by the Committee in 1998, the first issuance on NHRIs after the 'Paris Principles' was adopted by the United Nations General Assembly.²

PHILIPPINE GOVERNMENT'S 2ND TO 4TH PERIODIC REPORT, LIST OF ISSUES, GOVERNMENT RESPONSE TO THE LIST OF ISSUES

The submission of the government or state report to the covenant is examined through a pre-sessional working group which meets prior to each of the Committee's sessions. It is composed of 5 members which meets for the purpose of identifying advance questions to facilitate the dialogue with government representatives of the reporting States.³

Members of the working group assigns responsibility for undertaking a detailed review of a specific number of reports based on their area of expertise. Accordingly, members present to the working group a preliminary list of issues. A country rapporteur drafts the list and revises this based on observations raised by other working group members. A final version of the list of issues is then adopted by the working group as a whole.⁴

² General Assembly Resolution No. 48/134 of 20 December 1993

³ Working Methods of the Committee on Economic, Social and Cultural Rights, http://www.bayefsky.com/methods/cescr_e_2009_22_2009.pdf

⁴ Ibid.

In preparation for the pre-sessional working group, the Committee secretariat submits to the working group a country analysis and other pertinent documents containing information relevant to each of the reports to be examined. For this purpose, the Committee invites all concerned individuals, bodies and non-governmental organizations to submit relevant and appropriate documentation to the secretariat.⁵

The lists of issues drawn up by the working group are given directly to a representative of the State concerned, along with a copy of the Committee's most recent report and with a note stating the following:

*The list is not intended to be exhaustive and it should not be interpreted as limiting or in any other way prejudging the type and range of questions which members of the Committee might wish to ask. However, the Committee believes that the constructive dialogue which it wishes to have with the representatives of the State party is greatly facilitated by making the list available in advance of the Committee's session. In order to improve the dialogue that the Committee seeks, it strongly urges each State party to provide in writing its replies to the list of issues and to do so sufficiently in advance of the session at which its report will be considered to enable the replies to be translated and made available to all members of the Committee.*⁶

CHRP RESPONSE TO THE LIST OF ISSUES, COMMENTS ON THE IMPLEMENTATION OF THE CONVENTION

The interaction of the Commission on Human Rights of the Philippines with the Committee on Economic, Social and Cultural Rights marks the first time that the Commission has participated directly in the treaty reporting process. In view of its limited resources, the Commission has decided to participate by responding to the list of issues that the Committee has sent to the Philippine government. This is in the belief that responding to the list of issues, while not meant to be an exhaustive list representing the implementation of the Convention is more strategic and efficient. The Commission shares its submission to the Committee's List of Issues.

The Commission has requested the Committee for a dialogue prior to the consideration of the Philippine Report. To facilitate discussion, another document from the Commission, entitled, 'Comments on the Implementation of the Covenant on Economic, Social and Cultural Rights' was submitted to supplement the oral presentation of Chairperson Leila M. De Lima.

These submissions were prepared by the Commission's Government Linkages Office, a recently created office which undertakes cooperation as a mode of engagement with the Executive, Legislative and Judiciary in respect of the Commission's mandate to monitor government compliance with human rights treaty obligations, particularly of its treaty reporting obligations; the harmonization of domestic laws in accordance with the standards and principles set by Core International Human Rights Instruments; monitoring of Philippine Jurisprudence that affirms the provisions of core human rights treaties in domestic application; and advising the executive on the implementation of state obligations to respect, protect and fulfill human rights.

CONSIDERATION OF THE PHILIPPINE REPORT

In this section, a brief documentation of the dialogue between the treaty body and the government is presented. This is to provide the reader with a sense of how an actual consideration takes place.

According to the Committee's working methods, the dialogue is structured in the following manner:

*In the established practice of each of the United Nations human rights treaty monitoring bodies, representatives of the reporting States should be present at the meetings of the Committee when their reports are examined in order to ensure a constructive dialogue with the Committee.*⁷

5 ibid.
6 ibid.
7 ibid.

The following procedure is generally observed: the representative of the State party is invited to introduce the report by making brief introductory comments and introducing any written replies to the list of issues drawn up by the pre-sessional working group. The Committee then considers the report by clusters of articles (usually articles 1-5, 6-9, 10-12 and 13-15), taking particular account of the replies furnished in response to the list of issues.⁸

The Chairperson will normally invite questions or comments from Committee members in relation to each issue and then invite the State party representatives to reply immediately to questions that do not require further reflection or research. Any remaining questions are taken up at a subsequent meeting or, if necessary, may be the subject of additional information provided to the Committee in writing. Members of the Committee are free to pursue specific issues in the light of the replies thus provided, although the Committee has urged them not to (a) raise issues outside the scope of the Covenant; (b) repeat questions already posed or answered; (c) add unduly to an already long list on a particular issue; or (d) speak for more than five minutes in any one intervention. Representatives of relevant specialized agencies and other international bodies may also be invited to contribute at any stage of the dialogue.

Remarkably, the Commission was invited by the Committee Chairperson to give its comments within the dialogue. We were informed by the secretariat that this has been the first instance that a National Human Rights Institution was ever invited to speak within the dialogue of the State Party and the Committee. Chairperson Leila de Lima presented her views on the implementation of the Covenant.

CONCLUDING OBSERVATIONS, MAPPING OF RESPONSIBLE AGENCIES

The final phase of the Committee's examination of the report consists of the drafting and adoption of its concluding observations. For this purpose, the Committee usually sets aside a brief period in closed session immediately after the conclusion of the dialogue to enable its members to express their preliminary views. The country rapporteur then prepares, with the assistance of the secretariat, a draft set of concluding observations for consideration by the Committee. The agreed structure of the concluding observations is as follows: introduction, positive aspects, factors and difficulties impeding the implementation of the Covenant, principal subjects of concern and suggestions and recommendations. At a later stage, the Committee then discusses the draft, again in private session, with a view to adopting it by consensus.⁹

The section presents concluding observations vis a vis a mapping of state responsibility, which is the outcome document that guides the Commission on Human Rights in monitoring the progress of the recommendations arising from the treaty reporting process.

The Mapping Document is a product of the 'Human Rights Based Approach' tools that the Commission has applied in its monitoring work. This will be used as a template for the Government's report card on how it has fared in considering and acting on the Committee on ESCR's recommendations.

The Mapping features 4 categories of duty bearers, the three branches of government, independent, constitutional bodies (including the CHRP) alongside civil society. The three branches of government has been renamed to reflect the State's primary obligation to human rights and as such, the Commission has chosen to call it the 'Branches of State Responsibility': the Executive, the Legislative, and the Judiciary with Coinstitutional, Independent Bodies'.

This Mapping document also signals 'Human Rights Cooperation' as a mode of engagement among the duty bearers and necessitates the inclusion of claim holders or rights bearers in the process implementation monitoring. Cooperation involves two objectives:

First is to build awareness and capacities in government institutions in order that they are able to adopt rights based approaches in performing their functions and to enable them to fulfill their responsibility to promote and protect human rights;

8 *Ibid.*
9 *Ibid.*

*Second, to develop mechanisms to formalize collaborative efforts to capacitate government in promoting and protecting human rights;*¹⁰

In the process of the Commission – led dissemination process, the mapping was presented in a GO – NGO Forum which was held to call attention to the task of implementing the Convention and focusing efforts to act on Committee’s concluding recommendations. In addition, communications to relevant government agencies were sent to invite their attention to respond to issues pertaining to their mandate.

Many State agencies have responded on their areas of responsibility. The Commission hopes that the sharing of information leading to the fulfillment of the recommendations arising from this reporting cycle on the Convention will lead to a more substantial, timely, and relevant submission for the next periodic report (to be considered the Philippine’s 5th and 6th Report) scheduled on 30 June 2013.

To the credit of the national government as a whole, the Second National Human Rights Action Plan, anchored on the various human rights treaties to which the Philippines is state party, is in the process of validation. The Commission, as well as many non-government organizations, has been part of the drafting process.

WAY FORWARD, FOLLOW UP

Follow up of the concluding observations and recommendations of treaty bodies, will mainly consist of the periodic convening of the GO – NGO Forum and other activities which will be used as a platform for constructive dialogues and action at the national and regional levels to thresh out issues and remind government of its role to implement the Committee’s recommendations.

In the course of performing the Commission’s role to disseminate the Convention, its implementation by government of the recommendations of the Committee, the Mapping Document will be the Commission’s companion in ensuring that national and local processes are grounded on specific issues raised in the treaty reporting process.

10 Design Report of the Cooperation System, Commission on Human Rights, CPRM Consultants, UNDP, 2003.

1. The first part of the document is a list of names.

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7. The seventh part is a list of objects.

8. The eighth part is a list of events.

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46. The forty-sixth part is a list of people.

47. The forty-seventh part is a list of objects.

48. The forty-eighth part is a list of events.

49. The forty-ninth part is a list of places.

50. The fiftieth part is a list of things.

51. The fifty-first part is a list of people.

52. The fifty-second part is a list of objects.

53. The fifty-third part is a list of events.

54. The fifty-fourth part is a list of places.

55. The fifty-fifth part is a list of things.

56. The fifty-sixth part is a list of people.

57. The fifty-seventh part is a list of objects.

58. The fifty-eighth part is a list of events.

59. The fifty-ninth part is a list of places.

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1 United Nations Covenant on Economic, Social and Cultural Rights

International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

Preamble

The States Parties to the present Covenant, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Recognizing that these rights derive from the inherent dignity of the human person, Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights, Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms, Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant, Agree upon the following articles:

Part I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of

international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Part II

Article 11

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Part III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State. 3. Nothing in this article shall authorize States Parties to the International Labor Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labor should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties

will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect

for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

Part IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2.

(a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for

consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

Part V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favor a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favors such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in Article 26.

2 Committee on Economic, Social and Cultural Rights Guidelines for Reporting

UNITED NATIONS

E



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Guidelines on treaty-specific documents to be submitted by states parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights¹

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Note by the Secretary-General

1. In accordance with article 17 of the International Covenant on Economic, Social and Cultural Rights, the Economic and Social Council, by its resolution 1988 (LX) of 11 May 1976, established a programme under which the States parties to the Covenant would furnish in stages the reports referred to in article 16 of the Covenant and the Secretary-General, at the Council's request, subsequently drew up an appropriate set of general guidelines. In response to the introduction of a new reporting cycle, the Committee on Economic, Social and Cultural Rights, at its fifth session, held

from 26 November to 14 December 1990, adopted a set of revised general guidelines which replaced the original guidelines.

2. The purpose of reporting guidelines is to advise States parties on the form and content of their reports, so as to facilitate the preparation of reports and ensure that reports are comprehensive and presented in a uniform manner by States parties.

3. The Committee has decided to replace the revised general guidelines (E/C.12/1991/1) by the present guidelines to take into account the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.5), as well as the evolving practice of the Committee in relation to the application of the Covenant, as reflected in its concluding observations, general comments and statements.

4. The text of the guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of the Covenant is contained in the annex to the present document.

¹ Adopted by the Committee on Economic, Social and Cultural Rights at its 49th meeting (forty-first session) on 18 November 2008, taking into consideration the guidelines on a common core document and treaty-specific documents, as contained in the harmonized guidelines (HRI/GEN/2/Rev.5).

Guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights

A. The revised reporting system and organization of information to be included in the common core document and in the treaty-specific document submitted to the Committee on Economic, Social and Cultural Rights

1. State reports submitted under the harmonized guidelines on reporting under the international human rights treaties consist of two parts: a common core document and treaty-specific documents. The common core document should contain general information about the reporting State, the general framework for the protection and promotion of human rights, as well as information on non-discrimination and equality, and effective remedies, in accordance with the harmonized guidelines.

2. The treaty-specific document submitted to the Committee on Economic, Social and Cultural Rights should not repeat information included in the common core document or merely list or describe the legislation adopted by the State party. Rather, it should contain specific information relating to the implementation, in law and in fact, of articles 1 to 15 of the Covenant, taking into account the general comments of the Committee, as well as information on recent developments in law and practice affecting the full realization of the rights recognized in the Covenant. It should also contain information on the concrete measures taken towards that goal, and the progress achieved, including – except for initial treaty-specific documents – information on the steps taken to address issues raised by the Committee in the concluding observations on the State party's previous report, or in its general comments.

3. In relation to the rights recognized in the Covenant, the treaty-specific document should indicate:

(a) Whether the State party has adopted a national framework law, policies and strategies for the implementation of each Covenant right, identifying the resources available for that purpose and the most cost-effective ways of using such resources;

(b) Any mechanisms in place to monitor progress towards the full realization of the Covenant rights, including identification of indicators and related national benchmarks in relation to each Covenant

right, in addition to the information provided under appendix 3 of the harmonized guidelines and taking into account the framework and tables of illustrative indicators outlined by the Office of the United Nations High Commissioner for Human Rights (OHCHR) (HRI/MC/2008/3);

(c) Mechanisms in place to ensure that a State party's obligations under the Covenant are fully taken into account in its actions as a member of international organizations and international financial institutions, as well as when negotiating and ratifying international agreements, in order to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined;

(d) The incorporation and direct applicability of each Covenant right in the domestic legal order, with reference to specific examples of relevant case law;

(e) The judicial and other appropriate remedies in place enabling victims to obtain redress in case their Covenant rights have been violated;

(f) Structural or other significant obstacles arising from factors beyond the State party's control which impede the full realization of the Covenant rights;

(g) Statistical data on the enjoyment of each Covenant right, disaggregated by age, gender, ethnic origin, urban/rural population and other relevant status, on an annual comparative basis over the past five years.

4. The treaty-specific document should be accompanied by a sufficient number of copies in one of the working languages of the Committee (English, French, Russian and Spanish) of all other supplementary documentation which the State party may wish to have distributed to all members of the Committee to facilitate the consideration of the report.

5. If a State party is party to any of the ILO Conventions listed in appendix 2 of the harmonized guidelines, or to any other relevant conventions of United Nations specialized agencies, and has already submitted reports to the supervisory committee(s) concerned that are relevant to any of the rights recognized in the Covenant, it should append the respective parts of those reports rather than repeat the information in the treaty-specific document. However, all matters which arise under the Covenant and are not fully covered in those reports should be dealt with in the present treaty-specific document.

6. Periodic reports should address directly the suggestions and recommendations of the previous concluding observations.

B. Part of the treaty-specific document submitted to the Committee relating to general provisions of the Covenant

Article 1 of the Covenant

7. In what manner has the right to self-determination been implemented?

8. Indicate the ways and means by which the State party recognizes and protects the rights of indigenous communities, if any, to ownership of the lands and territories which they traditionally occupy or use as traditional sources of livelihood.¹ Also indicate the extent to which indigenous and local communities are duly consulted, and whether their prior informed consent is sought, in any decision-making processes affecting their rights and interests under the Covenant, and provide examples.

Article 2

9. Indicate the impact of international economic and technical assistance and co-operation, whether received or provided by the State party, on the full realization of each of the Covenant rights in the State party or, as the case may be, in other countries, especially developing countries.

10. In addition to information provided in the common core document (paras. 50 to 58 of the harmonized guidelines), provide disaggregated and comparative statistical data on the effectiveness of specific anti-discrimination measures and the progress achieved towards ensuring equal enjoyment of each of the Covenant rights by all, in particular the disadvantaged and marginalized individuals and groups.

11. If the State party is a developing country, provide information on any restrictions imposed under article 2, paragraph 3, of the Covenant, on the enjoyment by non-nationals of the economic rights recognized in the Covenant.

Article 3

12. What steps have been taken to eliminate direct and indirect discrimination based on sex in relation to each of the rights recognized in the Covenant, and to

¹ General comment 12, para. 13; general comment 14, para. 27.

ensure that men and women enjoy these rights on a basis of equality, in law and in fact?

13. Indicate whether the State party has adopted gender equality legislation and the progress achieved in the implementation of such legislation. Also indicate whether any gender-based assessment of the impact of legislation and policies has been undertaken to overcome traditional cultural stereotypes that continue to negatively affect the equal enjoyment of economic, social and cultural rights by men and women.

Articles 4 and 5

14. See paragraph 40 (c) of the harmonized guidelines on a common core document.

C. Part of the report relating to specific rights

Article 6

15. Provide information on effective measures taken to reduce unemployment including on:

(a) The impact of targeted employment programmes in place to achieve full and productive employment among persons and groups considered particularly disadvantaged, in particular women, young persons, older persons, persons with disabilities and ethnic minorities, in rural and deprived urban areas; and

(b) The impact of measures to facilitate re-employment of workers, especially women and long-term unemployed workers, who are made redundant as a result of privatization, downsizing and economic restructuring of public and private enterprises.

16. Provide information on work in the informal economy in the State party, including its extent and the sectors with a large percentage of informal workers, and the measures taken to enable them to move out of the informal economy, as well as on measures taken to ensure access by informal workers, in particular older workers and women, to basic services and social protection.

17. Describe the legal safeguards in place to protect workers from unfair dismissal.

18. Indicate what technical and vocational training programmes are in place in the State party and their impact on empowering the workforce, especially disadvantaged and marginalized individuals, to enter or re-enter the labour market.

Article 7

19. Indicate whether a national minimum wage has been legally established, and specify the categories of workers to which it applies, as well as the number of persons covered by each category. If any category of workers is not covered by the national minimum wage, explain the reasons why. In addition, indicate:

(a) Whether a system of indexation and regular adjustment is in place to ensure that the minimum wage is periodically reviewed and determined at a level sufficient to provide all workers, including those who are not covered by a collective agreement, and their families, with an adequate standard of living; and

(b) Any alternative mechanisms in place, in the absence of a national minimum wage, to ensure that all workers receive wages sufficient to provide an adequate standard of living for themselves and their families.

20. Provide information on working conditions for all workers, including overtime, paid and unpaid leave and on the measures taken to reconcile professional, family and personal life.

21. Indicate the impact of the measures taken to ensure that women with the same qualifications do not work in lower-paid positions than men, in accordance with the principle of equal pay for work of equal value.

22. Indicate whether the State party has adopted and effectively implemented legislation that specifically criminalizes sexual harassment in the workplace, and describe the mechanisms to monitor such implementation. Also indicate the number of registered cases, the sanctions imposed on perpetrators and the measures taken to compensate and assist victims of sexual harassment.

23. Indicate what legal, administrative or other provisions have been taken to ensure safety and healthy conditions at the workplace and their enforcement in practice.

Article 8

24. Indicate:

(a) What substantive or formal conditions, if any, must be fulfilled to form or join the trade union of one's choice. Also indicate whether there are any restrictions on the exercise of the right to form or join

trade unions by workers, and how they have been applied in practice; and

(b) How trade unions are guaranteed independence to organize their activities without interference, as well as to federate and join international trade union organizations, and the legal and de facto restrictions, if any, on the exercise of this right.

25. Provide information on collective bargaining mechanisms in the State party and their impact on labour rights.

26. Indicate:

(a) Whether the right to strike is constitutionally or legally guaranteed and to what extent such guarantees are observed in practice;

(b) Any restrictions on the right to strike in the public and private sectors and their application in practice; and

(c) The definition of essential services for which strikes may be prohibited.

Article 9

27. Indicate whether there is universal social security coverage in the State party. Also indicate which of the following branches of social security are covered: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, and survivors and orphans.²

28. Indicate whether there are legally established and periodically reviewed minimum amounts of benefits, including pensions, and whether they are sufficient to ensure an adequate standard of living for recipients and their families.³

29. Indicate whether the social security system also guarantees non-contributory social assistance allowances for disadvantaged and marginalized individuals and families who are not covered by the contributory schemes.⁴

30. Indicate whether the public social security schemes described above are supplemented by any private schemes or informal arrangements.⁵ If so, describe these schemes and arrangements and their inter-relationship with the public schemes.

² General comment 19, para. 12 (a) to (i).

³ Ibid., paras. 22 and 59 (a).

⁴ Ibid., paras. 4 (b) and 50.

⁵ Ibid., para. 5.

31. Indicate if there is equal enjoyment by men and women of pension rights as regards the age of access,⁶ qualifying periods and amounts.

32. Provide information on social security programmes, including informal schemes, to protect workers in the informal economy, in particular in relation to health care, maternity and old age.⁷

33. Indicate to what extent non-nationals benefit from non-contributory schemes for income support, access to health care and family support.⁸

Article 10

34. Indicate how the State party guarantees the right of men and, particularly, women to enter into marriage with their full and free consent and to establish a family.

35. Provide information on the availability, coverage and funding of social services to support families, as well as on legal provisions in place to ensure equal opportunities for all families, in particular poor families, families from ethnic minorities, and single parent families, in relation to:

(a) Child care;⁹ and

(b) Social services that enable older persons and persons with disabilities to remain in their normal living environment for as long as possible¹⁰ and to receive adequate health and social care when they are dependent.

36. Provide information on the system of maternity protection in the State party, including working conditions and prohibition of dismissal during pregnancy. In particular, indicate:

(a) Whether it also applies to women involved in atypical work¹¹ and women who are not covered by work-related maternity benefits;

(b) The duration of paid maternity leave before and after confinement and the cash, medical and other support measures provided during pregnancy, confinement and after childbirth;¹² and

(c) Whether paternity leave is granted to men, and parental leave to men and women.¹³

37. Indicate the measures of protection and assistance taken on behalf of children and young persons, including:

(a) Age limits below which the paid employment of children in different occupations is prohibited under the law of the State party and the application of criminal law provisions in place punishing the employment of under-aged children and the use of forced labour of children;¹⁴

(b) Whether any national survey has been undertaken in the State party on the nature and extent of child labour and whether there is a national action plan to combat child labour; and

(c) The impact of measures taken to protect children against work in hazardous conditions harmful to their health and against exposure to various forms of violence and exploitation.¹⁵

38. Provide information on the legislation and mechanisms in place to protect the economic, social and cultural rights of older persons in the State party, in particular on the implementation of laws and programmes against abuse, abandon, negligence and ill-treatment of older persons.

39. Provide information on the economic and social rights of asylum seekers and their families and on legislation and mechanisms in place for family reunification of migrants.

40. Indicate:

(a) Whether there is legislation in the State party that specifically criminalizes acts of domestic violence, in particular violence against women and children,¹⁶ including marital rape and sexual abuse of women and children and the number of registered cases, as well as the sanctions imposed on perpetrators;

(b) Whether there is a national action plan to combat domestic violence, and the measures in place to support and rehabilitate victims;¹⁷ and

6 General comment 16, para. 26 and general comment 19, para. 32.

7 General comment 19, paras. 16 and 34.

8 *Ibid.*, para. 37.

9 *Ibid.*, paras. 18 and 28; general comment 5, para. 30; general comment 6, para. 31.

10 General comment 19, paras. 15, 18 and 20; general comment 5, para. 30;

general comment 6, para. 31.

11 General comment 19, para. 19.

12 *Idem.*

13 General comment 16, para. 26; see also draft general comment 20, paras. 10 (b) (vii) and 16.

14 General comment 18, para. 24.

15 *Ibid.*, para. 15.

16 General comment 16, para. 27; general comment 14, paras. 21 and 51.

17 General comment 16, para. 27.

(c) Public awareness-raising measures and training for law enforcement officials and other involved professionals on the criminal nature of acts of domestic violence.

41. Indicate:

(a) Whether there is legislation in the State party that specifically criminalizes trafficking in persons and the mechanisms in place to monitor its strict enforcement. Also indicate the number of reported trafficking cases from, to and through the State party, as well as the sentences imposed on perpetrators; and

(b) Whether there is a national plan of action to combat trafficking and the measures taken to support victims, including medical, social and legal assistance.

Article 11

A. The right to the continuous improvement of living conditions

42. Indicate whether the State party has defined a national poverty line and on what basis it is calculated. In the absence of a poverty line, what mechanisms are used for measuring and monitoring the incidence and depth of poverty?

43. Indicate:

(a) Whether the State party has adopted a national action plan or strategy to combat poverty that fully integrates economic, social and cultural rights¹⁸ and whether specific mechanisms and procedures are in place to monitor the implementation of the plan or strategy and evaluate the progress achieved in effectively combating poverty; and

(b) Targeted policies and programmes to combat poverty, including among women and children, and the economic and social exclusion of individuals and families belonging to the disadvantaged and marginalized groups, in particular ethnic minorities, indigenous peoples and those living in rural and deprived urban areas.

B. The right to adequate food

44. Provide information on the measures taken to ensure the availability of affordable food in quantity

18 See Committee's Statement on poverty and the International Covenant on Economic, Social and Cultural Rights (2001).

and quality sufficient to satisfy the dietary needs of everyone, free from adverse substances, and culturally acceptable.¹⁹

45. Indicate the measures taken to disseminate knowledge of the principles of nutrition, including of healthy diets.

46. Indicate the measures taken to promote equality of access by the disadvantaged and marginalized individuals and groups, including landless peasants and persons belonging to minorities, to food, land, credit, natural resources and technology for food production.²⁰

47. Indicate whether the State party has adopted or envisages the adoption, within a specified time frame, of the 'Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security'.²¹ If not, explain the reasons why.

C. The right to water

48. Indicate:

(a) The measures taken to ensure adequate and affordable access to water that is sufficient and safe for personal and domestic uses for everyone;²²

(b) The percentage of households without access to sufficient and safe water in the dwelling or within its immediate vicinity, disaggregated by region and urban/rural population²³ and the measures taken to improve the situation;

(c) The measures taken to ensure that water services, whether privately or publicly provided, are affordable for everyone;²⁴ and

(d) The system in place to monitor the quality of water.²⁵

49. Provide information on education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.²⁶

19 General comment 12, para. 8.

20 General comment 15, para. 7.

21 Adopted by the 127th session of the Council of the Food and Agriculture Organization of the United Nations, November 2004.

22 General comment 15, paras. 12 (a) and 37 (a); general comment 14, para. 43 (c).

23 General comment 15, paras. 12 (c) (i) and 37 (c).

24 Ibid., paras. 24 and 27.

25 Ibid., para. 12 (b).

26 Ibid., para. 25.

D. The right to adequate housing

50. Indicate whether a national survey on homelessness and inadequate housing has been undertaken, as well as its findings, in particular the number of individuals and families who are homeless or inadequately housed and without access to basic infrastructures and services such as water, heating, waste disposal, sanitation, and electricity, as well as the number of persons living in over-crowded or structurally unsafe housing.

51. Indicate:

(a) The measures taken to ensure access to adequate and affordable housing with legal security of tenure for everyone, irrespective of income or access to economic resources;

(b) The impact of social housing measures, such as the provision of low-cost social housing units for disadvantaged and marginalized individuals and families, in particular in rural and deprived urban areas, whether there are waiting lists for obtaining such housing and the average length of waiting time;

(c) Measures taken to make housing accessible and habitable for persons with special housing needs, such as families with children, older persons²⁷ and persons with disabilities;²⁸

52. Indicate the legislative and other measures in place to ensure that housing is not built on polluted sites or in immediate proximity of pollution sources that threaten the health of inhabitants.²⁹

53. Indicate whether there are any disadvantaged and marginalized individuals and groups, such as ethnic minorities, who are particularly affected by forced evictions and the measures taken to ensure that no form of discrimination is involved whenever evictions take place.³⁰

54. Indicate the number of persons and families evicted within the last five years and the legal provisions defining the circumstances in which evictions may take place and the rights of tenants to security of tenure and protection from eviction.³¹

27 GCGeneral comment 6, para. 33.

28 Idem.

29 General comment 4, para. 8 (f).

30 General comment 7, para. 10.

31 Ibid., paras. 9, 13-15, 16 and 19; see also Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex 1).

Article 12

55. Indicate whether the State party has adopted a national health policy and whether a national health system with universal access to primary health care is in place.

56. Provide information on the measures taken to ensure:

(a) That preventive, curative, and rehabilitative health facilities, goods and services are within safe reach and physically accessible for everyone, including older persons and persons with disabilities;³²

(b) That the costs of health-care services and health insurance, whether privately or publicly provided, are affordable for everyone, including for socially disadvantaged groups;³³

(c) That drugs and medical equipment are scientifically approved and have not expired or become ineffective; and

(d) Adequate training of health personnel, including on health and human rights.³⁴

57. Provide information on the measures taken:

(a) To improve child and maternal health, as well as sexual and reproductive health services and programmes, including through education, awareness-raising, and access to family planning, pre- and post-natal care and emergency obstetric services, in particular in rural areas and for women belonging to disadvantaged and marginalized groups;³⁵

(b) To prevent, treat and control diseases linked to water and ensure access to adequate sanitation;³⁶

(c) To implement and enhance immunization programmes and other strategies of infectious disease control;³⁷

(d) To prevent the abuse of alcohol and tobacco, and the use of illicit drugs and other harmful substances, in particular among children and adolescents, ensure adequate treatment and rehabilitation of drug users, and support their families;³⁸

32 General comment 14, para. 12 (b).

33 Ibid., paras. 12 (b), 19 and 36.

34 Ibid., paras. 12 (d) and 44 (e).

35 Ibid., paras. 14, 21-23 and 44 (a).

36 General comment 15, paras. 8 and 37 (i).

37 General comment 14, paras. 16 and 44 (b).

38 Ibid., para. 16.

(e) To prevent HIV/AIDS and other sexually transmitted diseases, educate high-risk groups, children and adolescents as well as the general public on their transmission, provide support to persons with HIV/AIDS and their families, and reduce social stigma and discrimination;³⁹

(f) To ensure affordable access to essential drugs, as defined by the WHO, including anti-retroviral medicines and medicines for chronic diseases;⁴⁰ and

(g) To ensure adequate treatment and care in psychiatric facilities for mental health patients, as well as periodic review and effective judicial control of confinement.

Article 13

58. Indicate to what extent the form and substance of education in the State party are directed towards the aims and objectives identified in article 13, paragraph 1,⁴¹ and whether school curricula include education on economic, social and cultural rights.

59. Indicate how the obligation to provide primary education that is compulsory and available free for all is implemented in the State party, in particular:

(a) The level or grade until which education is compulsory and free for all;

(b) Any direct costs such as school fees, as well as the measures taken to eliminate them; and

(c) Any indirect costs (e.g. expenses for school books, uniforms, transport, special fees such as exam fees, contributions to district education boards, etc.) and the measures taken to alleviate the impact of such costs on children from poorer households.

60. Indicate the measures taken to make secondary education in its different forms, including technical and vocational education, generally available and accessible to all, including:

(a) Concrete steps taken by the State party towards progressively achieving free secondary education;⁴² and

(b) The availability of technical and vocational education, and whether it enables students to acquire knowledge and skills which contribute to their personal development, self-reliance and employability.⁴³

61. Indicate the measures taken to make higher education equally accessible to all and without discrimination, on the basis of capacity, and the concrete steps taken towards progressively achieving free higher education.⁴⁴

62. Indicate the measures taken to promote literacy, as well as adult and continuing education, in a life-long perspective.

63. Indicate whether minority and indigenous children have adequate opportunities to receive instruction in or of their native language and the steps taken to prevent lower educational standards for these children,⁴⁵ their segregation in special classes, and their exclusion from mainstream education.

64. Indicate the measures taken to ensure the same admission criteria for boys and girls at all levels of education,⁴⁶ and to raise awareness among parents, teachers and decision-makers on the value of educating girls.⁴⁷

65. Indicate the measures taken to reduce the drop-out rates, at the primary and secondary levels, for children and young persons, in particular girls, children from ethnic minorities, indigenous communities and poorer households, as well as migrant, refugee and internally displaced children.

Article 14

66. If compulsory and free primary education is not currently enjoyed in the State party, provide information on the required plan of action⁴⁸ for the progressive implementation, within a reasonable number of years fixed in this plan, of this right. Also indicate any particular difficulties encountered, in the adoption and implementation of this plan of action, as well as the measures taken to overcome these difficulties.

39 *Ibid.*, para. 16.

40 *Ibid.*, para. 43 (d).

41 General comment 13, paras. 4-5 and 49.

42 *Ibid.*, para. 14.

43 *Ibid.*, paras. 15-16.

44 *Ibid.*, para. 20.

45 *Ibid.*, para. 30.

46 General comment 16, para. 30.

47 *Idem.*

48 In general comment 11, paragraph 11, the Committee asks States parties to submit their plans of action as an integral part of the reports required under the Covenant.

Article 15

67. Provide information on the institutional infrastructure to promote popular participation in, and access to, cultural life, especially at the community level, including in rural and deprived urban areas. In this regard, indicate the measures taken to promote broad participation in, and access to, cultural goods, institutions and activities, including measures taken:

(a) To ensure that access to concerts, theatre, cinema, sport events and other cultural activities is affordable for all segments of the population;

(b) To enhance access to the cultural heritage of mankind, including through new information technologies such as the Internet;

(c) To encourage participation in cultural life by children, including children from poorer families, and migrant or refugee children; and

(d) To eliminate physical, social and communication barriers preventing older persons and persons with disabilities from fully participating in cultural life.⁴⁹

68. Indicate the measures taken to protect cultural diversity, promote awareness of the cultural heritage of ethnic, religious or linguistic minorities and of indigenous communities, and create favourable conditions for them to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs.

69. Provide information on school and professional education in the field of culture and the arts.

70. Indicate:

(a) The measures taken to ensure affordable access to the benefits of scientific progress and its applications for everyone, including disadvantaged and marginalized individuals and groups; and

(b) The measures taken to prevent the use of scientific and technical progress for purposes which are contrary to the enjoyment of human dignity and human rights.

71. Indicate the measures taken to ensure the effective protection of the moral and material interests of creators,⁵⁰ in particular:

(a) To protect the right of authors to be recognized as the creators and for the protection of the integrity of their scientific, literary and artistic productions;⁵¹

(b) To protect the basic material interests of authors resulting from their productions, which enable them to enjoy an adequate standard of living;⁵²

(c) To ensure the protection of the moral and material interests of indigenous peoples relating to their cultural heritage and traditional knowledge;⁵³ and

(d) To strike an adequate balance between the effective protection of the moral and material interests of authors and the State party's obligations in relation to the other rights recognized in the Covenant.⁵⁴

72. Indicate the legal provisions in place to protect the freedom indispensable for scientific research and creative activity and any restrictions on the exercise of this freedom.

73. Indicate the measures taken for the conservation, development and diffusion of science and culture and to encourage and develop international contacts and co-operation in the scientific and cultural fields.

49 General comment 5, paras. 36-38; general comment 6, paras. 39-41.

50 General comment 17, paras. 39 (a).

51 *Ibid.*, para. 39 (b).

52 *Ibid.*, para. 39 (c).

53 *Ibid.*, para. 32.

54 *Ibid.*, para. 39 (e).



3 General Comments and Statements

The Committee on Economic, Social and Cultural Rights (CESCR) publishes its interpretation of the content of human rights provisions, in the form of General Comments on thematic issues.

The CESCR has issued general comments on the following subjects:

GC No.	Title	Date
1	Reporting by States	1989
2	International Technical Assistance Measures (Article 21)	1990
3	Nature of State Parties Obligations (Art 2.(1))	1990
4	Right to Adequate Housing	1991
5	Persons with Disabilities	1994
6	The Economic, Social and Cultural Rights of older Persons	1995
7	Right to Adequate Housing: Forced Evictions (Art. 11(1))	1997
8	The Relationship between Economic Sanctions and Respect for Economic, Social, Cultural Rights	1997
9	The Domestic Application of the Covenant	1998
10	The Role of National Institutions in the Protection of Economic, Social and Cultural Rights	1998
11	Plans of Action for Primary Education (Art. 14)	1999

GC No.	Title	Date
12	Right to Adequate Food (Art. 11)	1999
13	Right to Education (Art. 13)	1999
14	Right to the Highest Attainable Standard of Health (Art 12)	2000
15	Right to Water (Arts 11 and 12)	2002
16	The Equal Right of Men and Women to the enjoyment of All Economic, Social and Cultural Rights (Art 3)	2005
17	The right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (Art. 15 (1) (c))	2005
18	The Right to work (art. 6)	2005
19	The right to social security	2008
20	Non-Discrimination in Economic, Social and Cultural Rights (Art. 2, para. 2)	2009
21	Right of everyone to take part in cultural life	2009

Relevant to the Report of the Philippines are the complete text of General Comments Nos. 4, 7, 9, 10, 14 and 16. This inclusion provides quick and ready reference for dutyholders tasked to coordinate the national process on the next periodic report to the Convention on Economic, Social and Cultural Rights.



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS



The right to adequate housing (Art.11 (1)) : . 13/12/91.
CESCR General comment 4. (General Comments)

Convention Abbreviation: CESCR

GENERAL COMMENT 4

The right to adequate housing
(Art. 11 (1) of the Covenant)
(Sixth session, 1991)

1. Pursuant to article 11 (1) of the Covenant, States parties "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights.

2. The Committee has been able to accumulate a large amount of information pertaining to this right. Since 1979, the Committee and its predecessors have examined 75 reports dealing with the right to adequate housing. The Committee has also devoted a day of general discussion to the issue at each of its third (see E/1989/22, para. 312) and fourth sessions (E/1990/23, paras. 281-285). In addition, the Committee has taken careful note of information generated by the International Year of Shelter for the Homeless (1987) including the Global Strategy for Shelter to the Year 2000 adopted by the General Assembly in its resolution 42/191 of 11 December 1987.¹ The Committee has also reviewed relevant reports and other documentation of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.²

* Contained in document E/1992/23

¹ Official Records of the General Assembly, Forty-third Session, Supplement No. 8, addendum (A/43/8/Add.1).

² Commission on Human Rights resolutions 1986/36 and 1987/22; reports by Mr. Danilo Türk, Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1990/19, paras. 108-120; E/CN.4/Sub.2/1991/17, paras. 137-139); see also Sub-Commission resolution 1991/26.

3. Although a wide variety of international instruments address the different dimensions of the right to adequate housing³ article 11 (1) of the Covenant is the most comprehensive and perhaps the most important of the relevant provisions.

4. Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in article 11 (1) of the Covenant and the situation prevailing in many parts of the world. While the problems are often particularly acute in some developing countries which confront major resource and other constraints, the Committee observes that significant problems of homelessness and inadequate housing also exist in some of the most economically developed societies. The United Nations estimates that there are over 100 million persons homeless worldwide and over 1 billion inadequately housed.⁴ There is no indication that this number is decreasing. It seems clear that no State party is free of significant problems of one kind or another in relation to the right to housing.

5. In some instances, the reports of States parties examined by the Committee have acknowledged and described difficulties in ensuring the right to adequate housing. For the most part, however, the information provided has been insufficient to enable the Committee to obtain an adequate picture of the situation prevailing in the State concerned. This General Comment thus aims to identify some of the principal issues which the Committee considers to be important in relation to this right.

³ See, for example, article 25 (1) of the Universal Declaration on Human Rights, article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 (2) of the Convention on the Elimination of All Forms of Discrimination against Women, article 27 (3) of the Convention on the Rights of the Child, article 10 of the Declaration on Social Progress and Development, section III (8) of the Vancouver Declaration on Human Settlements, 1976 (Report of Habitat: United Nations Conference on Human Settlements (United Nations publication, Sales No. E.76.IV.7 and corrigendum), chap. I), article 8 (1) of the Declaration on the Right to Development and the ILO Recommendation Concerning Workers' Housing, 1961 (No. 115).

⁴ See footnote 1.

6. The right to adequate housing applies to everyone. While the reference to "himself and his family" reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of "family" must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination.

7. In the Committee's view, the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised. This "the inherent dignity of the human person" from which the rights in the Covenant are said to derive requires that the term "housing" be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources. Secondly, the reference in article 11 (1) must be read as referring not just to housing but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: "Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost".

8. Thus the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute "adequate housing" for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain aspects of the right that must be taken into account for this purpose in any particular context. They include the following:

(a) Legal security of tenure. Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;

(b) Availability of services, materials, facilities and infrastructure. An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;

(c) Affordability. Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;

(d) Habitability. Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the Health Principles of Housing⁵ prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

5 Geneva, World Health Organization, 1990.

(e) Accessibility. Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement;

(f) Location. Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;

(g) Cultural adequacy. The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, inter alia, modern technological facilities, as appropriate are also ensured.

9. As noted above, the right to adequate housing cannot be viewed in isolation from other human rights contained in the two International Covenants and other applicable international instruments. Reference has already been made in this regard to the concept of human dignity and the principle of non-discrimination. In addition, the full enjoyment of other rights - such as the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom of residence and the right to participate in public decision-making - is indispensable if the right to adequate housing is to be realized and maintained by all groups in society. Similarly, the right not to be subjected to arbitrary or unlawful interference with one's privacy, family,

home or correspondence constitutes a very important dimension in defining the right to adequate housing.

10. Regardless of the state of development of any country, there are certain steps which must be taken immediately. As recognized in the Global Strategy for Shelter and in other international analyses, many of the measures required to promote the right to housing would only require the abstention by the Government from certain practices and a commitment to facilitating "self-help" by affected groups. To the extent that any such steps are considered to be beyond the maximum resources available to a State party, it is appropriate that a request be made as soon as possible for international cooperation in accordance with articles 11 (1), 22 and 23 of the Covenant, and that the Committee be informed thereof.

11. States parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others. The Committee is aware that external factors can affect the right to a continuous improvement of living conditions, and that in many States parties overall living conditions declined during the 1980s. However, as noted by the Committee in its General Comment 2 (1990) (E/1990/23, annex III), despite externally caused problems, the obligations under the Covenant continue to apply and are perhaps even more pertinent during times of economic contraction. It would thus appear to the Committee that a general decline in living and housing conditions, directly attributable to policy and legislative decisions by States parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations under the Covenant.

12. While the most appropriate means of achieving the full realization of the right to adequate housing will inevitably vary significantly from one State party to another, the Covenant clearly requires that each State party take whatever steps are necessary for that purpose. This will almost invariably require the adoption of a national housing strategy which, as stated in paragraph 32 of the Global Strategy for Shelter, "defines the objectives for the development of shelter conditions, identifies the resources available to meet these goals and the most cost-effective way of using them and sets out the responsibilities and time-frame for the implementation of the necessary measures". Both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those

affected, including the homeless, the inadequately housed and their representatives. Furthermore, steps should be taken to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant.

13. Effective monitoring of the situation with respect to housing is another obligation of immediate effect. For a State party to satisfy its obligations under article 11 (1) it must demonstrate, *inter alia*, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) emphasize the need to "provide detailed information about those groups within ... society that are vulnerable and disadvantaged with regard to housing". They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in "illegal" settlements, those subject to forced evictions and low-income groups.

14. Measures designed to satisfy a State party's obligations in respect of the right to adequate housing may reflect whatever mix of public and private sector measures considered appropriate. While in some States public financing of housing might most usefully be spent on direct construction of new housing, in most cases, experience has shown the inability of Governments to fully satisfy housing deficits with publicly built housing. The promotion by States parties of "enabling strategies", combined with a full commitment to obligations under the right to adequate housing, should thus be encouraged. In essence, the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realize the right for every individual in the shortest possible time in accordance with the maximum of available resources.

15. Many of the measures that will be required will involve resource allocations and policy initiatives of a general kind. Nevertheless, the role of formal legislative and administrative measures should not be underestimated in this context. The Global Strategy for Shelter (paras. 66-67) has drawn attention to the types of measures that might be taken in this regard and to their importance.

16. In some States, the right to adequate housing is constitutionally entrenched. In such cases the Committee is particularly interested in learning of the legal and practical significance of such an approach.

Details of specific cases and of other ways in which entrenchment has proved helpful should thus be provided.

17. The Committee views many component elements of the right to adequate housing as being at least consistent with the provision of domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.

18. In this regard, the Committee considers that instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.

19. Finally, article 11 (1) concludes with the obligation of States parties to recognize "the essential importance of international cooperation based on free consent". Traditionally, less than 5 per cent of all international assistance has been directed towards housing or human settlements, and often the manner by which such funding is provided does little to address the housing needs of disadvantaged groups. States parties, both recipients and providers, should ensure that a substantial proportion of financing is devoted to creating conditions leading to a higher number of persons being adequately housed. International financial institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing. States parties should, when contemplating international financial cooperation, seek to indicate areas relevant to the right to adequate housing where external financing would have the most effect. Such requests should take full account of the needs and views of the affected groups.

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High Commissioner for Human Rights
Geneva, Switzerland**



OFFICE OF THE HIGH COMMISSIONER
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***The right to adequate housing (Art.11.1): forced evictions : . 20/05/97.
CESCR General comment 7. (General Comments)***

Convention Abbreviation: CESCR

GENERAL COMMENT 7

**The right to adequate housing
(art. 11.1 of the Covenant):
forced evictions**

(Sixteenth session, 1997)*

1. In its General Comment No. 4 (1991), the Committee observed that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. It concluded that forced evictions are prima facie incompatible with the requirements of the Covenant. Having considered a significant number of reports of forced evictions in recent years, including instances in which it has determined that the obligations of States parties were being violated, the Committee is now in a position to seek to provide further clarification as to the implications of such practices in terms of the obligations contained in the Covenant.

2. The international community has long recognized that the issue of forced evictions is a serious one. In 1976, the United Nations Conference on Human Settlements noted that special attention should be paid to "undertaking major clearance operations should take place only when conservation and rehabilitation are not feasible and relocation measures are made".¹ In 1988, in the Global Strategy for Shelter to the Year 2000, adopted by the General Assembly in its resolution 43/181, the "fundamental obligation [of Governments] to protect and improve houses and neighbourhoods, rather than damage or destroy them" was recognized.² Agenda 21 stated that "people should

be protected by law against unfair eviction from their homes or land".³ In the Habitat Agenda Governments committed themselves to "protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided".⁴ The Commission on Human Rights has also indicated that "forced evictions are a gross violation of human rights".⁵ However, although these statements are important, they leave open one of the most critical issues, namely that of determining the circumstances under which forced evictions are permissible and of spelling out the types of protection required to ensure respect for the relevant provisions of the Covenant.

3. The use of the term "forced evictions" is, in some respects, problematic. This expression seeks to convey a sense of arbitrariness and of illegality. To many observers, however, the reference to "forced evictions" is a tautology, while others have criticized the expression "illegal evictions" on the ground that it assumes that the relevant law provides adequate protection of the right to housing and conforms with the Covenant, which is by no means always the case. Similarly, it has been suggested that the term "unfair evictions" is even more subjective by virtue of its failure to refer to any legal framework at all. The international community, especially in the context of the Commission on Human Rights, has opted to refer to "forced evictions", primarily since all suggested alternatives also suffer from many such defects. The term "forced evictions" as used throughout this general comment is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of,

* Contained in document E/1998/22, annex IV.

1 Report of Habitat: United Nations Conference on Human Settlements, Vancouver, 31 May - 11 June 1976 (A/CONF.70/15), chap. II, recommendation B.8, para. C (ii).
2 Report of the Commission on Human Settlements on the work of its eleventh session, Addendum (A/43/8/Add.1), para. 13.

3 Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Vol. I (A/CONF.151/26/Rev.1(vol.I), annex II, Agenda 21, chap. 7.9 (b).
4 Report of the United Nations Conference on Settlements (Habitat II) (A/CONF.165/14), annex II, The Habitat Agenda, para. 40 (n).
5 Commission on Human Rights resolution 1993/77, para. 1.

and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

4. The practice of forced evictions is widespread and affects persons in both developed and developing countries. Owing to the interrelationship and interdependency which exist among all human rights, forced evictions frequently violate other human rights. Thus, while manifestly breaching the rights enshrined in the Covenant, the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.

5. Although the practice of forced evictions might appear to occur primarily in heavily populated urban areas, it also takes place in connection with forced population transfers, internal displacement, forced relocations in the context of armed conflict, mass exoduses and refugee movements. In all of these contexts, the right to adequate housing and not to be subjected to forced eviction may be violated through a wide range of acts or omissions attributable to States parties. Even in situations where it may be necessary to impose limitations on such a right, full compliance with article 4 of the Covenant is required so that any limitations imposed must be "determined by law only insofar as this may be compatible with the nature of these [i.e. economic, social and cultural] rights and solely for the purpose of promoting the general welfare in a democratic society".

6. Many instances of forced eviction are associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence.

7. Other instances of forced eviction occur in the name of development. Evictions may be carried out in connection with conflict over land rights, development and infrastructure projects, such as the construction of dams or other large-scale energy projects, with land acquisition measures associated with urban renewal, housing renovation, city beautification programmes, the clearing of land for agricultural purposes, unbridled speculation in land, or the holding of major sporting events like the Olympic Games.

8. In essence, the obligations of States parties to the Covenant in relation to forced evictions are based on article 11.1, read in conjunction with other relevant provisions. In particular, article 2.1 obliges States to use "all appropriate means" to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference in article 2.1 to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in paragraph 3 above). Moreover, this approach is reinforced by article 17.1 of the International Covenant on Civil and Political Rights which complements the right not to be forcefully evicted without adequate protection. That provision recognizes, *inter alia*, the right to be protected against "arbitrary or unlawful interference" with one's home. It is to be noted that the State's obligation to ensure respect for that right is not qualified by considerations relating to its available resources.

9. Article 2.1 of the Covenant requires States parties to use "all appropriate means", including the adoption of legislative measures, to promote all the rights protected under the Covenant. Although the Committee has indicated in its General Comment No. 3 (1990) that such measures may not be indispensable in relation to all rights, it is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it. Moreover, in view of the increasing trend in some States towards the Government greatly reducing its responsibilities in the housing sector, States parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. States parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant.

10. Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved.

11. Whereas some evictions may be justifiable, such as in the case of persistent non-payment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected.

12. Forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the Covenant. Likewise, the Committee takes note of the obligations enshrined in the Geneva Conventions of 1949 and Protocols thereto of 1977 concerning prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced eviction.

13. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall article 2.3 of the International Covenant on Civil and Political Rights, which requires States parties to ensure "an effective remedy" for persons whose rights have been violated and the obligation upon the "competent authorities (to) enforce such remedies when granted".

14. In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality. In this regard it is especially pertinent to recall General Comment 16 of the Human Rights Committee, relating to article 17 of the International Covenant on Civil and Political Rights, which states that interference with a person's home can only take place "in cases envisaged by the law". The Committee observed that the law "should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances". The Committee also indicated that "relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted".

15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

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17. The Committee is aware that various development projects financed by international agencies within the territories of State parties have resulted in forced evictions. In this regard, the Committee recalls its General Comment No. 2 (1990) which states, *inter alia*, that "international agencies should scrupulously avoid involvement in projects which, for example ... promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account".⁶

18. Some institutions, such as the World Bank and the Organisation for Economic Cooperation and Development (OECD) have adopted guidelines on relocation and/or resettlement with a view to limiting the scale of and human suffering associated with forced evictions. Such practices often accompany large-scale development projects, such as dam-building and other major energy projects. Full respect for such guidelines, insofar as they reflect the obligations contained in the Covenant, is essential on the part of both the agencies themselves and States parties to the Covenant. The Committee recalls in this respect the statement in the Vienna Declaration and Programme of Action to the effect that "while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights" (Part I, para. 10).

19. In accordance with the guidelines for reporting adopted by the Committee, State parties are requested to provide various types of information

pertaining directly to the practice of forced evictions. This includes information relating to (a) the "number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction", (b) "legislation concerning the rights of tenants to security of tenure, to protection from eviction" and (c) "legislation prohibiting any form of eviction".⁷

20. Information is also sought as to "measures taken during, *inter alia*, urban renewal programmes, redevelopment projects, site upgrading, preparation for international events (Olympics and other sporting competitions, exhibitions, conferences, etc.) 'beautiful city' campaigns, etc. which guarantee protection from eviction or guarantee rehousing based on mutual consent, by any persons living on or near to affected sites".⁸ However, few States parties have included the requisite information in their reports to the Committee. The Committee therefore wishes to emphasize the importance it attaches to the receipt of such information.

21. Some States parties have indicated that information of this nature is not available. The Committee recalls that effective monitoring of the right to adequate housing, either by the Government concerned or by the Committee, is not possible in the absence of the collection of appropriate data and would request all States parties to ensure that the necessary data is collected and is reflected in the reports submitted by them under the Covenant.

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⁶ E/1990/23, annex III, paras. 6 and 8 (d).

⁷ E/C.12/1999/8, annex IV.
⁸ *Ibid.*



***The domestic application of the Covenant : . 03/12/98.
E/C.12/1998/24, CESCR General comment 9. (General Comments)***

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Nineteenth session
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**SUBSTANTIVE ISSUES ARISING
IN THE IMPLEMENTATION
OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**General comment No. 9
The domestic application of the Covenant ***

**A. The duty to give effect to the Covenant in the
domestic legal order**

1. In its General Comment No. 3 (1990) on the nature of States parties' obligations (art. 2, para. 1, of the Covenant)¹ the Committee addressed issues relating to the nature and scope of States parties' obligations. The present general comment seeks to elaborate further certain elements of the earlier statement. The central obligation in relation to the Covenant is for States parties to give effect to the rights recognized therein. By requiring Governments to do so "by all appropriate means", the Covenant adopts a broad and flexible approach which enables the particularities of the legal and administrative systems of each State, as well as other relevant considerations, to be taken into account.

2. But this flexibility coexists with the obligation upon each State party to use all the means at its disposal to give effect to the rights recognized in the Covenant. In this respect, the fundamental requirements of international human rights law must be borne in mind. Thus the Covenant norms must be recognized in appropriate ways within the domestic legal order, appropriate means of redress, or remedies, must be available to any aggrieved individual or group, and appropriate means of ensuring governmental accountability must be put in place.

3. Questions relating to the domestic application of the Covenant must be considered in the light of two principles of international law. The first, as reflected in article 27 of the Vienna Convention on the Law of Treaties², is that "[A] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty". In other words, States should modify the domestic legal order as necessary in order to give effect to their treaty obligations. The second principle is reflected in article 8 of the Universal Declaration of Human Rights, according to which "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law". The International Covenant on Economic, Social and Cultural Rights contains no direct counterpart to article 2, paragraph 3 (b), of the International Covenant on Civil and Political Rights, which obligates States parties to, *inter alia*, "develop the possibilities of judicial remedy". Nevertheless, a State party seeking to justify its failure to provide any domestic legal remedies for violations of economic, social and cultural rights would need to show either that such remedies are not "appropriate means"

¹ E/19991/23, annex III.

² United Nations, Treaty Series, vol. 1155, p. 331.

within the terms of article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights or that, in view of the other means used, they are unnecessary. It will be difficult to show this and the Committee considers that, in many cases, the other means used could be rendered ineffective if they are not reinforced or complemented by judicial remedies.

B. The status of the Covenant in the domestic legal order

4. In general, legally binding international human rights standards should operate directly and immediately within the domestic legal system of each State party, thereby enabling individuals to seek enforcement of their rights before national courts and tribunals. The rule requiring the exhaustion of domestic remedies reinforces the primacy of national remedies in this respect. The existence and further development of international procedures for the pursuit of individual claims is important, but such procedures are ultimately only supplementary to effective national remedies.

5. The Covenant does not stipulate the specific means by which it is to be implemented in the national legal order. And there is no provision obligating its comprehensive incorporation or requiring it to be accorded any specific type of status in national law. Although the precise method by which Covenant rights are given effect in national law is a matter for each State party to decide, the means used should be appropriate in the sense of producing results which are consistent with the full discharge of its obligations by the State party. The means chosen are also subject to review as part of the Committee's examination of the State party's compliance with its obligations under the Covenant.

6. An analysis of State practice with respect to the Covenant shows that States have used a variety of approaches. Some States have failed to do anything specific at all. Of those that have taken measures, some States have transformed the Covenant into domestic law by supplementing or amending existing legislation, without invoking the specific terms of the Covenant. Others have adopted or incorporated it into domestic law, so that its terms are retained intact and given formal validity in the national legal order. This has often been done by means of constitutional provisions according priority to the provisions of international human rights treaties over any inconsistent domestic laws. The approach of States to the Covenant depends significantly upon the approach adopted to treaties in general in the domestic legal order.

7. But whatever the preferred methodology, several principles follow from the duty to give effect to the Covenant and must therefore be respected. First, the means of implementation chosen must be adequate

to ensure fulfilment of the obligations under the Covenant. The need to ensure justiciability (see para. 10 below) is relevant when determining the best way to give domestic legal effect to the Covenant rights. Second, account should be taken of the means which have proved to be most effective in the country concerned in ensuring the protection of other human rights. Where the means used to give effect to the Covenant on Economic, Social and Cultural Rights differ significantly from those used in relation to other human rights treaties, there should be a compelling justification for this, taking account of the fact that the formulations used in the Covenant are, to a considerable extent, comparable to those used in treaties dealing with civil and political rights.

8. Third, while the Covenant does not formally oblige States to incorporate its provisions in domestic law, such an approach is desirable. Direct incorporation avoids problems that might arise in the translation of treaty obligations into national law, and provides a basis for the direct invocation of the Covenant rights by individuals in national courts. For these reasons, the Committee strongly encourages formal adoption or incorporation of the Covenant in national law.

C. The role of legal remedies Legal or judicial remedies?

9. The right to an effective remedy need not be interpreted as always requiring a judicial remedy. Administrative remedies will, in many cases, be adequate and those living within the jurisdiction of a State party have a legitimate expectation, based on the principle of good faith, that all administrative authorities will take account of the requirements of the Covenant in their decision-making. Any such administrative remedies should be accessible, affordable, timely and effective. An ultimate right of judicial appeal from administrative procedures of this type would also often be appropriate. By the same token, there are some obligations, such as (but by no means limited to) those concerning non-discrimination³, in relation to which the provision of some form of judicial remedy would seem indispensable in order to satisfy the requirements of the Covenant. In other words, whenever a Covenant right cannot be made fully effective without some role for the judiciary, judicial remedies are necessary. Justiciability

10. In relation to civil and political rights, it is generally taken for granted that judicial remedies for violations are essential. Regrettably, the contrary assumption is too often made in relation to economic, social and cultural rights. This discrepancy is not warranted either by the nature of the rights or by

³ Pursuant to article 2, paragraph 2, of the Covenant, States "undertake to guarantee" that the rights therein are exercised "without discrimination of any kind".

the relevant Covenant provisions. The Committee has already made clear that it considers many of the provisions in the Covenant to be capable of immediate implementation. Thus, in General Comment No. 3 (1990) it cited, by way of example, articles 3; 7, paragraph (a) (i); 8; 10, paragraph 3; 13, paragraph 2 (a); 13, paragraph 3; 13, paragraph 4; and 15, paragraph 3. It is important in this regard to distinguish between justiciability (which refers to those matters which are appropriately resolved by the courts) and norms which are self-executing (capable of being applied by courts without further elaboration). While the general approach of each legal system needs to be taken into account, there is no Covenant right which could not, in the great majority of systems, be considered to possess at least some significant justiciable dimensions. It is sometimes suggested that matters involving the allocation of resources should be left to the political authorities rather than the courts. While the respective competences of the various branches of government must be respected, it is appropriate to acknowledge that courts are generally already involved in a considerable range of matters which have important resource implications. The adoption of a rigid classification of economic, social and cultural rights which puts them, by definition, beyond the reach of the courts would thus be arbitrary and incompatible with the principle that the two sets of human rights are indivisible and interdependent. It would also drastically curtail the capacity of the courts to protect the rights of the most vulnerable and disadvantaged groups in society.

Self-executing

11. The Covenant does not negate the possibility that the rights it contains may be considered self-executing in systems where that option is provided for. Indeed, when it was being drafted, attempts to include a specific provision in the Covenant to the effect that it be considered "non-self-executing" were strongly rejected. In most States, the determination of whether or not a treaty provision is self-executing will be a matter for the courts, not the executive or the legislature. In order to perform that function effectively, the relevant courts and tribunals must be made aware of the nature and implications of the Covenant and of the important role of judicial remedies in its implementation. Thus, for example, when Governments are involved in court proceedings, they should promote interpretations of domestic laws which give effect to their Covenant obligations. Similarly, judicial training should take full account of the justiciability of the Covenant. It is especially important to avoid any a priori assumption that the norms should be considered to be non-self-executing. In fact, many of them are stated in terms which are at least as clear and specific as those in other human rights

treaties, the provisions of which are regularly deemed by courts to be self-executing.

D. The treatment of the Covenant in domestic courts

12. In the Committee's guidelines for States' reports, States are requested to provide information as to whether the provisions of the Covenant "can be invoked before, and directly enforced by, the Courts, other tribunals or administrative authorities".⁴ Some States have provided such information, but greater importance should be attached to this element in future reports. In particular, the Committee requests that States parties provide details of any significant jurisprudence from their domestic courts that makes use of the provisions of the Covenant.

13. On the basis of available information, it is clear that State practice is mixed. The Committee notes that some courts have applied the provisions of the Covenant either directly or as interpretive standards. Other courts are willing to acknowledge, in principle, the relevance of the Covenant for interpreting domestic law, but in practice, the impact of the Covenant on the reasoning or outcome of cases is very limited. Still other courts have refused to give any degree of legal effect to the Covenant in cases in which individuals have sought to rely on it. There remains extensive scope for the courts in most countries to place greater reliance upon the Covenant.

14. Within the limits of the appropriate exercise of their functions of judicial review, courts should take account of Covenant rights where this is necessary to ensure that the State's conduct is consistent with its obligations under the Covenant. Neglect by the courts of this responsibility is incompatible with the principle of the rule of law, which must always be taken to include respect for international human rights obligations.

15. It is generally accepted that domestic law should be interpreted as far as possible in a way which conforms to a State's international legal obligations. Thus, when a domestic decision maker is faced with a choice between an interpretation of domestic law that would place the State in breach of the Covenant and one that would enable the State to comply with the Covenant, international law requires the choice of the latter. Guarantees of equality and non-discrimination should be interpreted, to the greatest extent possible, in ways which facilitate the full protection of economic, social and cultural rights.

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***The role of national human rights institutions in the protection of
economic, social and cultural rights : . 14/12/98.
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**SUBSTANTIVE ISSUES ARISING IN THE
IMPLEMENTATION OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS
General comment No. 10:**

The role of national human rights institutions in the
protection of economic, social and cultural rights *

1. Article 2, paragraph 1, of the Covenant obligates each State party "to take steps ... with a view to achieving progressively the full realization of the [Covenant] rights ... by all appropriate means". The Committee notes that one such means, through which important steps can be taken, is the work of national institutions for the promotion and protection of human rights. In recent years there has been a proliferation of these institutions and the trend has been strongly encouraged by the General Assembly and the Commission on Human Rights. The Office of the United Nations High Commissioner for Human Rights has established a major programme to assist and encourage States in relation to national institutions.

2. These institutions range from national human rights commissions through Ombudsman offices,

public interest or other human rights "advocates", to "defensores del pueblo". In many cases, the institution has been established by the Government, enjoys an important degree of autonomy from the executive and the legislature, takes full account of international human rights standards which are applicable to the country concerned, and is mandated to perform various activities designed to promote and protect human rights. Such institutions have been established in States with widely differing legal cultures and regardless of their economic situation.

3. The Committee notes that national institutions have a potentially crucial role to play in promoting and ensuring the indivisibility and interdependence of all human rights. Unfortunately, this role has too often either not been accorded to the institution or has been neglected or given a low priority by it. It is therefore essential that full attention be given to economic, social and cultural rights in all of the relevant activities of these institutions. The following list is indicative of the types of activities that can be, and in some instances already have been, undertaken by national institutions in relation to these rights:

(a) The promotion of educational and information programmes designed to enhance awareness and understanding of economic, social and cultural rights, both within the population at large and among particular groups such as the public service, the judiciary, the private sector and the labour movement;

(b) The scrutinizing of existing laws and administrative acts, as well as draft bills and other proposals, to ensure that they are consistent with the requirements of the International Covenant on Economic, Social and Cultural Rights;

* Adopted at the 51st meeting (19th session), on 1 December 1998.

(c) Providing technical advice, or undertaking surveys in relation to economic, social and cultural rights, including at the request of the public authorities or other appropriate agencies;

(d) The identification of national-level benchmarks against which the realization of Covenant obligations can be measured;

(e) Conducting research and inquiries designed to ascertain the extent to which particular economic, social and cultural rights are being realized, either within the State as a whole or in areas or in relation to communities of particular vulnerability;

(f) Monitoring compliance with specific rights recognized under the Covenant and providing reports thereon to the public authorities and civil society; and

(g) Examining complaints alleging infringements of applicable economic, social and cultural rights standards within the State.

4. The Committee calls upon States parties to ensure that the mandates accorded to all national human rights institutions include appropriate attention to economic, social and cultural rights and requests States parties to include details of both the mandates and the principal relevant activities of such institutions in their reports submitted to the Committee.

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**SUBSTANTIVE ISSUES ARISING IN THE
IMPLEMENTATION OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS**

General Comment No. 14 (2000)

The right to the highest attainable standard of
health (article 12 of the International Covenant on
Economic, Social and Cultural Rights)

1. Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. The realization of the right to health may be pursued through numerous, complementary approaches, such as the formulation of health policies, or the implementation of health programmes developed by the World Health Organization (WHO), or the adoption of specific legal instruments. Moreover, the right to health includes certain components which are legally enforceable.¹

2. The human right to health is recognized in numerous international instruments. Article 25.1 of the Universal Declaration of Human Rights affirms:

¹ For example, the principle of non-discrimination in relation to health facilities, goods and services is legally enforceable in numerous national jurisdictions.

"Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services". The International Covenant on Economic, Social and Cultural Rights provides the most comprehensive article on the right to health in international human rights law. In accordance with article 12.1 of the Covenant, States parties recognize "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health", while article 12.2 enumerates, by way of illustration, a number of "steps to be taken by the States parties ... to achieve the full realization of this right". Additionally, the right to health is recognized, *inter alia*, in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, in articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and in article 24 of the Convention on the Rights of the Child of 1989. Several regional human rights instruments also recognize the right to health, such as the European Social Charter of 1961 as revised (art. 11), the African Charter on Human and Peoples' Rights of 1981 (art. 16) and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988 (art. 10). Similarly, the right to health has been proclaimed by the Commission on Human Rights², as well as in the Vienna Declaration and Programme of Action of 1993 and other international instruments.³

3. The right to health is closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement. These and other rights and freedoms address integral components of the right to health.

4. In drafting article 12 of the Covenant, the Third Committee of the United Nations General Assembly did not adopt the definition of health contained

in the preamble to the Constitution of WHO, which conceptualizes health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity". However, the reference in article 12.1 of the Covenant to "the highest attainable standard of physical and mental health" is not confined to the right to health care. On the contrary, the drafting history and the express wording of article 12.2 acknowledge that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.

5. The Committee is aware that, for millions of people throughout the world, the full enjoyment of the right to health still remains a distant goal. Moreover, in many cases, especially for those living in poverty, this goal is becoming increasingly remote. The Committee recognizes the formidable structural and other obstacles resulting from international and other factors beyond the control of States that impede the full realization of article 12 in many States parties.

6. With a view to assisting States parties' implementation of the Covenant and the fulfilment of their reporting obligations, this General Comment focuses on the normative content of article 12 (Part I), States parties' obligations (Part II), violations (Part III) and implementation at the national level (Part IV), while the obligations of actors other than States parties are addressed in Part V. The General Comment is based on the Committee's experience in examining States parties' reports over many years.

I. NORMATIVE CONTENT OF ARTICLE 12

7. Article 12.1 provides a definition of the right to health, while article 12.2 enumerates illustrative, non-exhaustive examples of States parties' obligations.

8. The right to health is not to be understood as a right to be healthy. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. By contrast, the entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

² In its resolution 1989/11.

³ The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care adopted by the United Nations General Assembly in 1991 (resolution 46/119) and the Committee's General Comment No. 5 on persons with disabilities apply to persons with mental illness; the Programme of Action of the International Conference on Population and Development held at Cairo in 1994, as well as the Declaration and Programme of Action of the Fourth World Conference on Women held in Beijing in 1995 contain definitions of reproductive health and women's health, respectively.

9. The notion of "the highest attainable standard of health" in article 12.1 takes into account both the individual's biological and socio-economic preconditions and a State's available resources. There are a number of aspects which cannot be addressed solely within the relationship between States and individuals; in particular, good health cannot be ensured by a State, nor can States provide protection against every possible cause of human ill health. Thus, genetic factors, individual susceptibility to ill health and the adoption of unhealthy or risky lifestyles may play an important role with respect to an individual's health. Consequently, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health.

10. Since the adoption of the two International Covenants in 1966 the world health situation has changed dramatically and the notion of health has undergone substantial changes and has also widened in scope. More determinants of health are being taken into consideration, such as resource distribution and gender differences. A wider definition of health also takes into account such socially-related concerns as violence and armed conflict.⁴ Moreover, formerly unknown diseases, such as Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS), and others that have become more widespread, such as cancer, as well as the rapid growth of the world population, have created new obstacles for the realization of the right to health which need to be taken into account when interpreting article 12.

11. The Committee interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.

12. The right to health in all its forms and at all levels contains the following interrelated and essential elements, the precise application of which will

⁴ Common article 3 of the Geneva Conventions for the protection of war victims (1949); Additional Protocol I (1977) relating to the Protection of Victims of International Armed Conflicts, art. 75 (2) (a); Additional Protocol II (1977) relating to the Protection of Victims of Non-International Armed Conflicts, art. 4 (a).

depend on the conditions prevailing in a particular State party:

(a) *Availability*. Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party. The precise nature of the facilities, goods and services will vary depending on numerous factors, including the State party's developmental level. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs.⁵

(b) *Accessibility*. Health facilities, goods and services⁶ have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:

Non-discrimination: health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.⁷

Physical accessibility: health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, persons with disabilities and persons with HIV/AIDS. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas. Accessibility further includes adequate access to buildings for persons with disabilities.

Economic accessibility (affordability): health facilities, goods and services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these services, whether privately or

⁵ See WHO Model List of Essential Drugs, revised December 1999, WHO Drug Information, vol. 13, No. 4, 1999.

⁶ Unless expressly provided otherwise, any reference in this General Comment to health facilities, goods and services includes the underlying determinants of health outlined in paras. 11 and 12 (a) of this General Comment.

⁷ See paras. 18 and 19 of this General Comment.

publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with health expenses as compared to richer households.

Information accessibility: accessibility includes the right to seek, receive and impart information and ideas⁸ concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality.

(c) *Acceptability.* All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.

(d) *Quality.* As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality. This requires, inter alia, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation.

13. The non-exhaustive catalogue of examples in article 12.2 provides guidance in defining the action to be taken by States. It gives specific generic examples of measures arising from the broad definition of the right to health contained in article 12.1, thereby illustrating the content of that right, as exemplified in the following paragraphs.⁹

8 See article 19.2 of the International Covenant on Civil and Political Rights. This General Comment gives particular emphasis to access to information because of the special importance of this issue in relation to health.

9 In the literature and practice concerning the right to health, three levels of health care are frequently referred to: *primary health care* typically deals with common and relatively minor illnesses and is provided by health professionals and/or generally trained doctors working within the community at relatively low cost; *secondary health care* is provided in centres, usually hospitals, and typically deals with relatively common minor or serious illnesses that cannot be managed at community level, using specialty-trained health professionals and doctors, special equipment and sometimes in-patient care at comparatively higher cost; *tertiary health care* is provided in relatively few centres, typically deals with small numbers of minor or serious illnesses requiring specialty-trained health professionals and doctors and special equipment, and is often relatively expensive. Since forms of primary, secondary and tertiary health care frequently overlap and often interact, the use of this typology does not always provide sufficient distinguishing criteria to be helpful for assessing which levels of health care States parties must provide, and is therefore of limited assistance in relation to the normative understanding of article 12.

Article 12.2 (a). The right to maternal, child and reproductive health

14. "The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child" (art. 12.2 (a))¹⁰ may be understood as requiring measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care¹¹, emergency obstetric services and access to information, as well as to resources necessary to act on that information.¹²

Article 12.2 (b). The right to healthy natural and workplace environments

15. "The improvement of all aspects of environmental and industrial hygiene" (art. 12.2 (b)) comprises, inter alia, preventive measures in respect of occupational accidents and diseases; the requirement to ensure an adequate supply of safe and potable water and basic sanitation; the prevention and reduction of the population's exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health.¹³ Furthermore, industrial hygiene refers to the minimization, so far as is reasonably practicable, of the causes of health hazards inherent in the working environment.¹⁴ Article 12.2 (b) also embraces adequate housing and safe and hygienic working conditions, an adequate supply of food and proper nutrition, and discourages the abuse of alcohol, and the use of tobacco, drugs and other harmful substances.

10 According to WHO, the stillbirth rate is no longer commonly used, infant and under-five mortality rates being measured instead.

11 *Prenatal* denotes existing or occurring before birth; *perinatal* refers to the period shortly before and after birth (in medical statistics the period begins with the completion of 28 weeks of gestation and is variously defined as ending one to four weeks after birth); *neonatal*, by contrast, covers the period pertaining to the first four weeks after birth; while *post-natal* denotes occurrence after birth. In this General Comment, the more generic terms pre- and post-natal are exclusively employed.

12 Reproductive health means that women and men have the freedom to decide if and when to reproduce and the right to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice as well as the right of access to appropriate health-care services that will, for example, enable women to go safely through pregnancy and childbirth.

13 The Committee takes note, in this regard, of Principle 1 of the Stockholm Declaration of 1972 which states: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being", as well as of recent developments in international law, including General Assembly resolution 45/94 on the need to ensure a healthy environment for the well-being of individuals; Principle 1 of the Rio Declaration; and regional human rights instruments such as article 10 of the San Salvador Protocol to the American Convention on Human Rights.

14 ILO Convention No. 155, art. 4.2.

Article 12.2 (c). The right to prevention, treatment and control of diseases

16. "The prevention, treatment and control of epidemic, endemic, occupational and other diseases" (art. 12.2 (c)) requires the establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS, and those adversely affecting sexual and reproductive health, and the promotion of social determinants of good health, such as environmental safety, education, economic development and gender equity. The right to treatment includes the creation of a system of urgent medical care in cases of accidents, epidemics and similar health hazards, and the provision of disaster relief and humanitarian assistance in emergency situations. The control of diseases refers to States' individual and joint efforts to, inter alia, make available relevant technologies, using and improving epidemiological surveillance and data collection on a disaggregated basis, the implementation or enhancement of immunization programmes and other strategies of infectious disease control.

Article 12.2 (d). The right to health facilities, goods and services¹⁵

17. "The creation of conditions which would assure to all medical service and medical attention in the event of sickness" (art. 12.2 (d)), both physical and mental, includes the provision of equal and timely access to basic preventive, curative, rehabilitative health services and health education; regular screening programmes; appropriate treatment of prevalent diseases, illnesses, injuries and disabilities, preferably at community level; the provision of essential drugs; and appropriate mental health treatment and care. A further important aspect is the improvement and furtherance of participation of the population in the provision of preventive and curative health services, such as the organization of the health sector, the insurance system and, in particular, participation in political decisions relating to the right to health taken at both the community and national levels.

Article 12. Special topics of broad application

Non-discrimination and equal treatment

18. By virtue of article 2.2 and article 3, the Covenant proscribes any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on

the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health. The Committee stresses that many measures, such as most strategies and programmes designed to eliminate health-related discrimination, can be pursued with minimum resource implications through the adoption, modification or abrogation of legislation or the dissemination of information. The Committee recalls General Comment No. 3, paragraph 12, which states that even in times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes.

19. With respect to the right to health, equality of access to health care and health services has to be emphasized. States have a special obligation to provide those who do not have sufficient means with the necessary health insurance and health-care facilities, and to prevent any discrimination on internationally prohibited grounds in the provision of health care and health services, especially with respect to the core obligations of the right to health.¹⁶ Inappropriate health resource allocation can lead to discrimination that may not be overt. For example, investments should not disproportionately favour expensive curative health services which are often accessible only to a small, privileged fraction of the population, rather than primary and preventive health care benefiting a far larger part of the population.

Gender perspective

20. The Committee recommends that States integrate a gender perspective in their health-related policies, planning, programmes and research in order to promote better health for both women and men. A gender-based approach recognizes that biological and socio-cultural factors play a significant role in influencing the health of men and women. The disaggregation of health and socio-economic data according to sex is essential for identifying and remedying inequalities in health.

Women and the right to health

21. To eliminate discrimination against women, there is a need to develop and implement a comprehensive

¹⁵ See para. 12 (b) and note 8 above.

¹⁶ For the core obligations, see paras. 43 and 44 of the present General Comments.

national strategy for promoting women's right to health throughout their life span. Such a strategy should include interventions aimed at the prevention and treatment of diseases affecting women, as well as policies to provide access to a full range of high quality and affordable health care, including sexual and reproductive services. A major goal should be reducing women's health risks, particularly lowering rates of maternal mortality and protecting women from domestic violence. The realization of women's right to health requires the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health. It is also important to undertake preventive, promotive and remedial action to shield women from the impact of harmful traditional cultural practices and norms that deny them their full reproductive rights.

Children and adolescents

22. Article 12.2 (a) outlines the need to take measures to reduce infant mortality and promote the healthy development of infants and children. Subsequent international human rights instruments recognize that children and adolescents have the right to the enjoyment of the highest standard of health and access to facilities for the treatment of illness.¹⁷

The Convention on the Rights of the Child directs States to ensure access to essential health services for the child and his or her family, including pre- and post-natal care for mothers. The Convention links these goals with ensuring access to child-friendly information about preventive and health-promoting behaviour and support to families and communities in implementing these practices. Implementation of the principle of non-discrimination requires that girls, as well as boys, have equal access to adequate nutrition, safe environments, and physical as well as mental health services. There is a need to adopt effective and appropriate measures to abolish harmful traditional practices affecting the health of children, particularly girls, including early marriage, female genital mutilation, preferential feeding and care of male children.¹⁸ Children with disabilities should be given the opportunity to enjoy a fulfilling and decent life and to participate within their community.

23. States parties should provide a safe and supportive environment for adolescents, that ensures the opportunity to participate in decisions affecting their health, to build life-skills, to acquire appropriate

information, to receive counselling and to negotiate the health-behaviour choices they make. The realization of the right to health of adolescents is dependent on the development of youth-friendly health care, which respects confidentiality and privacy and includes appropriate sexual and reproductive health services.

24. In all policies and programmes aimed at guaranteeing the right to health of children and adolescents their best interests shall be a primary consideration.

Older persons

25. With regard to the realization of the right to health of older persons, the Committee, in accordance with paragraphs 34 and 35 of General Comment No. 6 (1995), reaffirms the importance of an integrated approach, combining elements of preventive, curative and rehabilitative health treatment. Such measures should be based on periodical check-ups for both sexes; physical as well as psychological rehabilitative measures aimed at maintaining the functionality and autonomy of older persons; and attention and care for chronically and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity.

Persons with disabilities

26. The Committee reaffirms paragraph 34 of its General Comment No. 5, which addresses the issue of persons with disabilities in the context of the right to physical and mental health. Moreover, the Committee stresses the need to ensure that not only the public health sector but also private providers of health services and facilities comply with the principle of non-discrimination in relation to persons with disabilities.

Indigenous peoples

27. In the light of emerging international law and practice and the recent measures taken by States in relation to indigenous peoples,¹⁹ the Committee

¹⁹ Recent emerging international norms relevant to indigenous peoples include the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989); articles 29 (c) and (d) and 30 of the Convention on the Rights of the Child (1989); article 8 (j) of the Convention on Biological Diversity (1992), recommending that States respect, preserve and maintain knowledge, innovation and practices of indigenous communities; Agenda 21 of the United Nations Conference on Environment and Development (1992), in particular chapter 26; and Part I, paragraph 20, of the Vienna Declaration and Programme of Action (1993), stating that States should take concerted positive steps to ensure respect for all human rights of indigenous people, on the basis of non-discrimination. See also the preamble and article 3 of the United Nations Framework Convention on Climate Change (1992); and article 10 (2) (e) of the United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (1994). During recent years an increasing number of States have changed their constitutions and introduced legislation recognizing specific rights of indigenous peoples.

¹⁷ Article 24.1 of the Convention on the Rights of the Child.
¹⁸ See World Health Assembly resolution WHA47.10, 1994, entitled "Maternal and child health and family planning: traditional practices harmful to the health of women and children".

deems it useful to identify elements that would help to define indigenous peoples' right to health in order better to enable States with indigenous peoples to implement the provisions contained in article 12 of the Covenant. The Committee considers that indigenous peoples have the right to specific measures to improve their access to health services and care. These health services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines. States should provide resources for indigenous peoples to design, deliver and control such services so that they may enjoy the highest attainable standard of physical and mental health. The vital medicinal plants, animals and minerals necessary to the full enjoyment of health of indigenous peoples should also be protected. The Committee notes that, in indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension. In this respect, the Committee considers that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.

Limitations

28. Issues of public health are sometimes used by States as grounds for limiting the exercise of other fundamental rights. The Committee wishes to emphasize that the Covenant's limitation clause, article 4, is primarily intended to protect the rights of individuals rather than to permit the imposition of limitations by States. Consequently a State party which, for example, restricts the movement of, or incarcerates, persons with transmissible diseases such as HIV/AIDS, refuses to allow doctors to treat persons believed to be opposed to a government, or fails to provide immunization against the community's major infectious diseases, on grounds such as national security or the preservation of public order, has the burden of justifying such serious measures in relation to each of the elements identified in article 4. Such restrictions must be in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by the Covenant, in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare in a democratic society.

29. In line with article 5.1, such limitations must be proportional, i.e. the least restrictive alternative must be adopted where several types of limitations are available. Even where such limitations on grounds of

protecting public health are basically permitted, they should be of limited duration and subject to review.

II. STATES PARTIES' OBLIGATIONS

General legal obligations

30. While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2.2) and the obligation to take steps (art. 2.1) towards the full realization of article 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to health.²⁰

31. The progressive realization of the right to health over a period of time should not be interpreted as depriving States parties' obligations of all meaningful content. Rather, progressive realization means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 12.²¹

32. As with all other rights in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party's maximum available resources.²²

33. The right to health, like all human rights, imposes three types or levels of obligations on States parties: the obligations to *respect*, *protect* and *fulfil*. In turn, the obligation to fulfil contains obligations to facilitate, provide and promote.²³ The obligation to *respect* requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health.

²⁰ See General Comment No. 13, para. 43.

²¹ See General Comment No. 3, para. 9; General Comment No. 13, para. 44.

²² See General Comment No. 3, para. 9; General Comment No. 13, para. 45.

²³ According to General Comments Nos. 12 and 13, the obligation to fulfil incorporates an obligation to *facilitate* and an obligation to *provide*. In the present General Comment, the obligation to fulfil also incorporates an obligation to *promote* because of the critical importance of health promotion in the work of WHO and elsewhere.

The obligation to *protect* requires States to take measures that prevent third parties from interfering with article 12 guarantees. Finally, the obligation to *fulfil* requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to health.

Specific legal obligations

34. In particular, States are under the obligation to *respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a State policy; and abstaining from imposing discriminatory practices relating to women's health status and needs. Furthermore, obligations to respect include a State's obligation to refrain from prohibiting or impeding traditional preventive care, healing practices and medicines, from marketing unsafe drugs and from applying coercive medical treatments, unless on an exceptional basis for the treatment of mental illness or the prevention and control of communicable diseases. Such exceptional cases should be subject to specific and restrictive conditions, respecting best practices and applicable international standards, including the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.²⁴

In addition, States should refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health, from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, as well as from preventing people's participation in health-related matters. States should also refrain from unlawfully polluting air, water and soil, e.g. through industrial waste from State-owned facilities, from using or testing nuclear, biological or chemical weapons if such testing results in the release of substances harmful to human health, and from limiting access to health services as a punitive measure, e.g. during armed conflicts in violation of international humanitarian law.

35. Obligations to *protect* include, *inter alia*, the duties of States to adopt legislation or to take other measures ensuring equal access to health care and health-related services provided by third parties; to ensure that privatization of the health sector does not

constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services; to control the marketing of medical equipment and medicines by third parties; and to ensure that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct. States are also obliged to ensure that harmful social or traditional practices do not interfere with access to pre- and post-natal care and family-planning; to prevent third parties from coercing women to undergo traditional practices, e.g. female genital mutilation; and to take measures to protect all vulnerable or marginalized groups of society, in particular women, children, adolescents and older persons, in the light of gender-based expressions of violence. States should also ensure that third parties do not limit people's access to health-related information and services.

36. The obligation to *fulfil* requires States parties, *inter alia*, to give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation, and to adopt a national health policy with a detailed plan for realizing the right to health. States must ensure provision of health care, including immunization programmes against the major infectious diseases, and ensure equal access for all to the underlying determinants of health, such as nutritiously safe food and potable drinking water, basic sanitation and adequate housing and living conditions. Public health infrastructures should provide for sexual and reproductive health services, including safe motherhood, particularly in rural areas. States have to ensure the appropriate training of doctors and other medical personnel, the provision of a sufficient number of hospitals, clinics and other health-related facilities, and the promotion and support of the establishment of institutions providing counselling and mental health services, with due regard to equitable distribution throughout the country. Further obligations include the provision of a public, private or mixed health insurance system which is affordable for all, the promotion of medical research and health education, as well as information campaigns, in particular with respect to HIV/AIDS, sexual and reproductive health, traditional practices, domestic violence, the abuse of alcohol and the use of cigarettes, drugs and other harmful substances. States are also required to adopt measures against environmental and occupational health hazards and against any other threat as demonstrated by epidemiological data. For this purpose they should formulate and implement national policies aimed at reducing and eliminating pollution of air, water and soil, including pollution by heavy metals such as lead from gasoline. Furthermore, States parties are

²⁴ General Assembly resolution 46/119 (1991).

required to formulate, implement and periodically review a coherent national policy to minimize the risk of occupational accidents and diseases, as well as to provide a coherent national policy on occupational safety and health services.²⁵

37. The obligation to *fulfil (facilitate)* requires States *inter alia* to take positive measures that enable and assist individuals and communities to enjoy the right to health. States parties are also obliged to *fulfil (provide)* a specific right contained in the Covenant when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal. The obligation to *fulfil (promote)* the right to health requires States to undertake actions that create, maintain and restore the health of the population. Such obligations include: (i) fostering recognition of factors favouring positive health results, e.g. research and provision of information; (ii) ensuring that health services are culturally appropriate and that health care staff are trained to recognize and respond to the specific needs of vulnerable or marginalized groups; (iii) ensuring that the State meets its obligations in the dissemination of appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services; (iv) supporting people in making informed choices about their health.

International obligations

38. In its General Comment No. 3, the Committee drew attention to the obligation of all States parties to take steps, individually and through international assistance and cooperation, especially economic and technical, towards the full realization of the rights recognized in the Covenant, such as the right to health. In the spirit of article 56 of the Charter of the United Nations, the specific provisions of the Covenant (articles 12, 2.1, 22 and 23) and the Alma-Ata Declaration on primary health care, States parties should recognize the essential role of international cooperation and comply with their commitment to

²⁵ Elements of such a policy are the identification, determination, authorization and control of dangerous materials, equipment, substances, agents and work processes; the provision of health information to workers and the provision, if needed, of adequate protective clothing and equipment; the enforcement of laws and regulations through adequate inspection; the requirement of notification of occupational accidents and diseases, the conduct of inquiries into serious accidents and diseases, and the production of annual statistics; the protection of workers and their representatives from disciplinary measures for actions properly taken by them in conformity with such a policy; and the provision of occupational health services with essentially preventive functions. See ILO Occupational Safety and Health Convention, 1981 (No. 155) and Occupational Health Services Convention, 1985 (No. 161).

take joint and separate action to achieve the full realization of the right to health. In this regard, States parties are referred to the Alma-Ata Declaration which proclaims that the existing gross inequality in the health status of the people, particularly between developed and developing countries, as well as within countries, is politically, socially and economically unacceptable and is, therefore, of common concern to all countries.²⁶

39. To comply with their international obligations in relation to article 12, States parties have to respect the enjoyment of the right to health in other countries, and to prevent third parties from violating the right in other countries, if they are able to influence these third parties by way of legal or political means, in accordance with the Charter of the United Nations and applicable international law. Depending on the availability of resources, States should facilitate access to essential health facilities, goods and services in other countries, wherever possible and provide the necessary aid when required.²⁷ States parties should ensure that the right to health is given due attention in international agreements and, to that end, should consider the development of further legal instruments. In relation to the conclusion of other international agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the right to health. Similarly, States parties have an obligation to ensure that their actions as members of international organizations take due account of the right to health. Accordingly, States parties which are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should pay greater attention to the protection of the right to health in influencing the lending policies, credit agreements and international measures of these institutions.

40. States parties have a joint and individual responsibility, in accordance with the Charter of the United Nations and relevant resolutions of the United Nations General Assembly and of the World Health Assembly, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons. Each State should contribute to this task to the maximum of its capacities. Priority in the provision of international medical aid, distribution and management of resources, such as safe and

²⁶ Article II, Alma-Ata Declaration, Report of the International Conference on Primary Health Care, Alma-Ata, 6-12 September 1978, in: World Health Organization, "Health for All" Series, No. 1, WHO, Geneva, 1978.

²⁷ See para. 45 of this General Comment.

potable water, food and medical supplies, and financial aid should be given to the most vulnerable or marginalized groups of the population. Moreover, given that some diseases are easily transmissible beyond the frontiers of a State, the international community has a collective responsibility to address this problem. The economically developed States parties have a special responsibility and interest to assist the poorer developing States in this regard.

41. States parties should refrain at all times from imposing embargoes or similar measures restricting the supply of another State with adequate medicines and medical equipment. Restrictions on such goods should never be used as an instrument of political and economic pressure. In this regard, the Committee recalls its position, stated in General Comment No. 8, on the relationship between economic sanctions and respect for economic, social and cultural rights.

42. While only States are parties to the Covenant and thus ultimately accountable for compliance with it, all members of society - individuals, including health professionals, families, local communities, intergovernmental and non-governmental organizations, civil society organizations, as well as the private business sector - have responsibilities regarding the realization of the right to health. State parties should therefore provide an environment which facilitates the discharge of these responsibilities.

Core obligations

43. In General Comment No. 3, the Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant, including essential primary health care. Read in conjunction with more contemporary instruments, such as the Programme of Action of the International Conference on Population and Development,²⁸ the Alma-Ata Declaration provides compelling guidance on the core obligations arising from article 12. Accordingly, in the Committee's view, these core obligations include at least the following obligations:

(a) To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups;

(b) To ensure access to the minimum essential food

²⁸ Report of the International Conference on Population and Development, Cairo, 5-13 September 1994 (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex, chaps. VII and VIII.

which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;

(c) To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;

(d) To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;

(e) To ensure equitable distribution of all health facilities, goods and services;

(f) To adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.

44. The Committee also confirms that the following are obligations of comparable priority:

(a) To ensure reproductive, maternal (pre-natal as well as post-natal) and child health care;

(b) To provide immunization against the major infectious diseases occurring in the community;

(c) To take measures to prevent, treat and control epidemic and endemic diseases;

(d) To provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them;

(e) To provide appropriate training for health personnel, including education on health and human rights.

45. For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties and other actors in a position to assist, to provide "international assistance and cooperation, especially economic and technical"²⁹ which enable developing countries to fulfil their core and other obligations indicated in paragraphs 43 and 44 above.

²⁹ Covenant, art. 2.1.

III. VIOLATIONS

46. When the normative content of article 12 (Part I) is applied to the obligations of States parties (Part II), a dynamic process is set in motion which facilitates identification of violations of the right to health. The following paragraphs provide illustrations of violations of article 12.

47. In determining which actions or omissions amount to a violation of the right to health, it is important to distinguish the inability from the unwillingness of a State party to comply with its obligations under article 12. This follows from article 12.1, which speaks of the highest attainable standard of health, as well as from article 2.1 of the Covenant, which obliges each State party to take the necessary steps to the maximum of its available resources. A State which is unwilling to use the maximum of its available resources for the realization of the right to health is in violation of its obligations under article 12. If resource constraints render it impossible for a State to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above. It should be stressed, however, that a State party cannot, under any circumstances whatsoever, justify its non-compliance with the core obligations set out in paragraph 43 above, which are non-derogable.

48. Violations of the right to health can occur through the direct action of States or other entities insufficiently regulated by States. The adoption of any retrogressive measures incompatible with the core obligations under the right to health, outlined in paragraph 43 above, constitutes a violation of the right to health. Violations through acts of commission include the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to health or the adoption of legislation or policies which are manifestly incompatible with pre-existing domestic or international legal obligations in relation to the right to health.

49. Violations of the right to health can also occur through the omission or failure of States to take necessary measures arising from legal obligations. Violations through acts of omission include the failure to take appropriate steps towards the full realization of everyone's right to the enjoyment of the highest attainable standard of physical and mental health, the failure to have a national policy on occupational safety and health as well as occupational health services, and the failure to enforce relevant laws.

Violations of the obligation to respect

50. Violations of the obligation to respect are those State actions, policies or laws that contravene the standards set out in article 12 of the Covenant and are likely to result in bodily harm, unnecessary morbidity and preventable mortality. Examples include the denial of access to health facilities, goods and services to particular individuals or groups as a result of de jure or de facto discrimination; the deliberate withholding or misrepresentation of information vital to health protection or treatment; the suspension of legislation or the adoption of laws or policies that interfere with the enjoyment of any of the components of the right to health; and the failure of the State to take into account its legal obligations regarding the right to health when entering into bilateral or multilateral agreements with other States, international organizations and other entities, such as multinational corporations.

Violations of the obligation to protect

51. Violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties. This category includes such omissions as the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to health of others; the failure to protect consumers and workers from practices detrimental to health, e.g. by employers and manufacturers of medicines or food; the failure to discourage production, marketing and consumption of tobacco, narcotics and other harmful substances; the failure to protect women against violence or to prosecute perpetrators; the failure to discourage the continued observance of harmful traditional medical or cultural practices; and the failure to enact or enforce laws to prevent the pollution of water, air and soil by extractive and manufacturing industries.

Violations of the obligation to fulfil

52. Violations of the obligation to fulfil occur through the failure of States parties to take all necessary steps to ensure the realization of the right to health. Examples include the failure to adopt or implement a national health policy designed to ensure the right to health for everyone; insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to health by individuals or groups, particularly the vulnerable or marginalized; the failure to monitor the realization of the right to health at the national level, for example by

identifying right to health indicators and benchmarks; the failure to take measures to reduce the inequitable distribution of health facilities, goods and services; the failure to adopt a gender-sensitive approach to health; and the failure to reduce infant and maternal mortality rates.

IV. IMPLEMENTATION AT THE NATIONAL LEVEL

Framework legislation

53. The most appropriate feasible measures to implement the right to health will vary significantly from one State to another. Every State has a margin of discretion in assessing which measures are most suitable to meet its specific circumstances. The Covenant, however, clearly imposes a duty on each State to take whatever steps are necessary to ensure that everyone has access to health facilities, goods and services so that they can enjoy, as soon as possible, the highest attainable standard of physical and mental health. This requires the adoption of a national strategy to ensure to all the enjoyment of the right to health, based on human rights principles which define the objectives of that strategy, and the formulation of policies and corresponding right to health indicators and benchmarks. The national health strategy should also identify the resources available to attain defined objectives, as well as the most cost-effective way of using those resources.

54. The formulation and implementation of national health strategies and plans of action should respect, *inter alia*, the principles of non-discrimination and people's participation. In particular, the right of individuals and groups to participate in decision-making processes, which may affect their development, must be an integral component of any policy, programme or strategy developed to discharge governmental obligations under article 12. Promoting health must involve effective community action in setting priorities, making decisions, planning, implementing and evaluating strategies to achieve better health. Effective provision of health services can only be assured if people's participation is secured by States.

55. The national health strategy and plan of action should also be based on the principles of accountability, transparency and independence of the judiciary, since good governance is essential to the effective implementation of all human rights, including the realization of the right to health. In order to create a favourable climate for the realization of the right, States parties should take appropriate steps to ensure that the private business sector and civil

society are aware of, and consider the importance of, the right to health in pursuing their activities.

56. States should consider adopting a framework law to operationalize their right to health national strategy. The framework law should establish national mechanisms for monitoring the implementation of national health strategies and plans of action. It should include provisions on the targets to be achieved and the time-frame for their achievement; the means by which right to health benchmarks could be achieved; the intended collaboration with civil society, including health experts, the private sector and international organizations; institutional responsibility for the implementation of the right to health national strategy and plan of action; and possible recourse procedures. In monitoring progress towards the realization of the right to health, States parties should identify the factors and difficulties affecting implementation of their obligations.

Right to health indicators and benchmarks

57. National health strategies should identify appropriate right to health indicators and benchmarks. The indicators should be designed to monitor, at the national and international levels, the State party's obligations under article 12. States may obtain guidance on appropriate right to health indicators, which should address different aspects of the right to health, from the ongoing work of WHO and the United Nations Children's Fund (UNICEF) in this field. Right to health indicators require disaggregation on the prohibited grounds of discrimination.

58. Having identified appropriate right to health indicators, States parties are invited to set appropriate national benchmarks in relation to each indicator. During the periodic reporting procedure the Committee will engage in a process of scoping with the State party. Scoping involves the joint consideration by the State party and the Committee of the indicators and national benchmarks which will then provide the targets to be achieved during the next reporting period. In the following five years, the State party will use these national benchmarks to help monitor its implementation of article 12. Thereafter, in the subsequent reporting process, the State party and the Committee will consider whether or not the benchmarks have been achieved, and the reasons for any difficulties that may have been encountered.

Remedies and accountability

59. Any person or group victim of a violation of the right to health should have access to effective judicial

or other appropriate remedies at both national and international levels.³⁰ All victims of such violations should be entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, consumer forums, patients' rights associations or similar institutions should address violations of the right to health.

60. The incorporation in the domestic legal order of international instruments recognizing the right to health can significantly enhance the scope and effectiveness of remedial measures and should be encouraged in all cases.³¹ Incorporation enables courts to adjudicate violations of the right to health, or at least its core obligations, by direct reference to the Covenant.

61. Judges and members of the legal profession should be encouraged by States parties to pay greater attention to violations of the right to health in the exercise of their functions.

62. States parties should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting vulnerable or marginalized groups in the realization of their right to health.

V. OBLIGATIONS OF ACTORS OTHER THAN STATES PARTIES

63. The role of the United Nations agencies and programmes, and in particular the key function assigned to WHO in realizing the right to health at the international, regional and country levels, is of particular importance, as is the function of UNICEF in relation to the right to health of children. When formulating and implementing their right to health national strategies, States parties should avail themselves of technical assistance and cooperation of WHO. Further, when preparing their reports, States parties should utilize the extensive information and advisory services of WHO with regard to data collection, disaggregation, and the development of right to health indicators and benchmarks.

64. Moreover, coordinated efforts for the realization of the right to health should be maintained to enhance the interaction among all the actors concerned, including the various components of civil society. In conformity with articles 22 and 23 of the Covenant, WHO, The International Labour Organization, the United Nations Development Programme, UNICEF, the United Nations Population Fund, the World Bank, regional development banks, the International Monetary Fund, the World Trade Organization and other relevant bodies within the United Nations system, should cooperate effectively with States parties, building on their respective expertise, in relation to the implementation of the right to health at the national level, with due respect to their individual mandates. In particular, the international financial institutions, notably the World Bank and the International Monetary Fund, should pay greater attention to the protection of the right to health in their lending policies, credit agreements and structural adjustment programmes. When examining the reports of States parties and their ability to meet the obligations under article 12, the Committee will consider the effects of the assistance provided by all other actors. The adoption of a human rights-based approach by United Nations specialized agencies, programmes and bodies will greatly facilitate implementation of the right to health. In the course of its examination of States parties' reports, the Committee will also consider the role of health professional associations and other non-governmental organizations in relation to the States' obligations under article 12.

65. The role of WHO, the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross/Red Crescent and UNICEF, as well as non governmental organizations and national medical associations, is of particular importance in relation to disaster relief and humanitarian assistance in times of emergencies, including assistance to refugees and internally displaced persons. Priority in the provision of international medical aid, distribution and management of resources, such as safe and potable water, food and medical supplies, and financial aid should be given to the most vulnerable or marginalized groups of the population.

Adopted on 11 May 2000.

30 Regardless of whether groups as such can seek remedies as distinct holders of rights, States parties are bound by both the collective and individual dimensions of article 12. Collective rights are critical in the field of health; modern public health policy relies heavily on prevention and promotion which are approaches directed primarily to groups.

31 See General Comment No. 2, para. 9.

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COMMITTEE ON ECONOMIC, SOCIAL
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**SUBSTANTIVE ISSUES ARISING IN THE
IMPLEMENTATION OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS**

General comment No. 16 (2005)

**The equal right of men and women to the
enjoyment of all economic, social and cultural
rights (art. 3 of the International Covenant
on Economic, Social and Cultural Rights)**

Introduction

1. The equal right of men and women to the enjoyment of all human rights is one of the fundamental principles recognized under international law and enshrined in the main international human rights instruments. The International Covenant on Economic, Social and Cultural Rights (ICESCR) protects human rights that are fundamental to the dignity of every person. In particular, article 3 of this Covenant provides for the equal right of men and women to the enjoyment of the rights it articulates. This provision is founded on Article 1, paragraph 3, of the United Nations Charter and article 2 of the Universal Declaration of Human Rights. Except for the reference to ICESCR, it is identical to article 3 of the International Covenant on Civil and Political Rights (ICCPR), which was drafted at the same time.

2. The *travaux préparatoires* state that article 3 was included in the Covenant, as well as in ICCPR, to indicate that beyond a prohibition of discrimination, "the same rights should be expressly recognized for men and women on an equal footing and suitable measures should be taken to ensure that women had the opportunity to exercise their rights Moreover, even if article 3 overlapped with article 2, paragraph 2, it was still necessary to reaffirm the equality rights between men and women. That fundamental principle, which was enshrined in the Charter of the United Nations, must be constantly emphasized, especially as there were still many prejudices preventing its full application". Unlike article 26 of ICCPR, articles 3 and 2, paragraph 2, of ICESCR are not stand-alone provisions, but should be read in conjunction with each specific right guaranteed under part III of the Covenant.

3. Article 2, paragraph 2, of ICESCR provides for a guarantee of non-discrimination on the basis of sex among other grounds. This provision, and the guarantee of equal enjoyment of rights by men and women in article 3, are integrally related and mutually reinforcing. Moreover, the elimination of discrimination is fundamental to the enjoyment of economic, social and cultural rights on a basis of equality.

4. The Committee on Economic, Social and Cultural Rights (CESCR) has taken particular note of factors negatively affecting the equal right of men and women to the enjoyment of economic, social and cultural rights in many of its general comments, including those on the right to adequate housing, the right to adequate food, the right to education, the right to the highest attainable standard of health, and the right to water. The Committee also routinely requests

information on the equal enjoyment by men and women of the rights guaranteed under the Covenant in its list of issues in relation to States parties' reports and during its dialogue with States parties.

5. Women are often denied equal enjoyment of their human rights, in particular by virtue of the lesser status ascribed to them by tradition and custom, or as a result of overt or covert discrimination. Many women experience distinct forms of discrimination due to the intersection of sex with such factors as race, colour, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status, resulting in compounded disadvantage.

I. CONCEPTUAL FRAMEWORK

A. Equality

6. The essence of article 3 of ICESCR is that the rights set forth in the Covenant are to be enjoyed by men and women on a basis of equality, a concept that carries substantive meaning. While expressions of formal equality may be found in constitutional provisions, legislation and policies of Governments, article 3 also mandates the equal enjoyment of the rights in the Covenant for men and women in practice.

7. The enjoyment of human rights on the basis of equality between men and women must be understood comprehensively. Guarantees of non-discrimination and equality in international human rights treaties mandate both *de facto* and *de jure* equality. *De jure* (or formal) equality and *de facto* (or substantive) equality are different but interconnected concepts. Formal equality assumes that equality is achieved if a law or policy treats men and women in a neutral manner. Substantive equality is concerned, in addition, with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience.

8. Substantive equality for men and women will not be achieved simply through the enactment of laws or the adoption of policies that are, *prima facie*, gender-neutral. In implementing article 3, States parties should take into account that such laws, policies and practice can fail to address or even perpetuate inequality between men and women because they do not take account of existing economic, social and cultural inequalities, particularly those experienced by women.

9. According to article 3, States parties must respect the principle of equality in and before the law. The principle of equality in the law must be respected by the legislature when adopting laws, by ensuring that those laws further equal enjoyment of economic, social and cultural rights by men and women. The principle of equality before the law must be respected by administrative agencies, and courts and tribunals, and implies that those authorities must apply the law equally to men and women.

B. Non-discrimination

10. The principle of non-discrimination is the corollary of the principle of equality. Subject to what is stated in paragraph 15 below on temporary special measures, it prohibits differential treatment of a person or group of persons based on his/her or their particular status or situation, such as race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status.

11. Discrimination against women is "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field". Discrimination on the basis of sex may be based on the differential treatment of women because of their biology, such as refusal to hire women because they could become pregnant; or stereotypical assumptions, such as tracking women into low-level jobs on the assumption that they are unwilling to commit as much time to their work as men.

12. Direct discrimination occurs when a difference in treatment relies directly and explicitly on distinctions based exclusively on sex and characteristics of men or of women, which cannot be justified objectively.

13. Indirect discrimination occurs when a law, policy or programme does not appear to be discriminatory, but has a discriminatory effect when implemented. This can occur, for example, when women are disadvantaged compared to men with respect to the enjoyment of a particular opportunity or benefit due to pre-existing inequalities. Applying a gender-neutral law may leave the existing inequality in place, or exacerbate it.

14. Gender affects the equal right of men and women to the enjoyment of their rights. Gender refers to

cultural expectations and assumptions about the behaviour, attitudes, personality traits, and physical and intellectual capacities of men and women, based solely on their identity as men or women. Gender-based assumptions and expectations generally place women at a disadvantage with respect to substantive enjoyment of rights, such as freedom to act and to be recognized as autonomous, fully capable adults, to participate fully in economic, social and political development, and to make decisions concerning their circumstances and conditions. Gender based assumptions about economic, social and cultural roles preclude the sharing of responsibility between men and women in all spheres that is necessary to equality.

C. Temporary special measures

15. The principles of equality and non-discrimination, by themselves, are not always sufficient to guarantee true equality. Temporary special measures may sometimes be needed in order to bring disadvantaged or marginalized persons or groups of persons to the same substantive level as others. Temporary special measures aim at realizing not only *de jure* or formal equality, but also *de facto* or substantive equality for men and women. However, the application of the principle of equality will sometimes require that States parties take measures in favour of women in order to attenuate or suppress conditions that perpetuate discrimination. As long as these measures are necessary to redress *de facto* discrimination and are terminated when *de facto* equality is achieved, such differentiation is legitimate.

II. STATES PARTIES' OBLIGATIONS

A. General legal obligations

16. The equal right of men and women to the enjoyment of economic, social and cultural rights is a mandatory and immediate obligation of States parties.

17. The equal right of men and women to the enjoyment of economic, social and cultural rights, like all human rights, imposes three levels of obligations on States parties - the obligation to respect, to protect and to fulfil. The obligation to fulfil further contains duties to provide, promote and facilitate. Article 3 sets a non-derogable standard for compliance with the obligations of States parties as set out in articles 6 through 15 of ICESCR.

B. Specific legal obligations

1. Obligation to respect

18. The obligation to respect requires States parties to refrain from discriminatory actions that directly or indirectly result in the denial of the equal right of men and women to their enjoyment of economic, social and cultural rights. Respecting the right obliges States parties not to adopt, and to repeal laws and rescind, policies, administrative measures and programmes that do not conform with the right protected by article 3. In particular, it is incumbent upon States parties to take into account the effect of apparently gender-neutral laws, policies and programmes and to consider whether they could result in a negative impact on the ability of men and women to enjoy their human rights on a basis of equality.

2. Obligation to protect

19. The obligation to protect requires States parties to take steps aimed directly at the elimination of prejudices, customary and all other practices that perpetuate the notion of inferiority or superiority of either of the sexes, and stereotyped roles for men and women. States parties' obligation to protect under article 3 of ICESCR includes, *inter alia*, the respect and adoption of constitutional and legislative provisions on the equal right of men and women to enjoy all human rights and the prohibition of discrimination of any kind; the adoption of legislation to eliminate discrimination and to prevent third parties from interfering directly or indirectly with the enjoyment of this right; the adoption of administrative measures and programmes, as well as the establishment of public institutions, agencies and programmes to protect women against discrimination.

20. States parties have an obligation to monitor and regulate the conduct of non-State actors to ensure that they do not violate the equal right of men and women to enjoy economic, social and cultural rights. This obligation applies, for example, in cases where public services have been partially or fully privatized.

3. Obligation to fulfil

21. The obligation to fulfil requires States parties to take steps to ensure that in practice, men and women enjoy their economic, social and cultural rights on a basis of equality. Such steps should include:

- To make available and accessible appropriate remedies, such as compensation, reparation,

restitution, rehabilitation, guarantees of non-repetition, declarations, public apologies, educational programmes and prevention programmes;

- To establish appropriate venues for redress such as courts and tribunals or administrative mechanisms that are accessible to all on the basis of equality, including the poorest and most disadvantaged and marginalized men and women;
- To develop monitoring mechanisms to ensure that the implementation of laws and policies aimed at promoting the equal enjoyment of economic, social and cultural rights by men and women do not have unintended adverse effects on disadvantaged or marginalized individuals or groups, particularly women and girls;
- To design and implement policies and programmes to give long-term effect to the economic, social and cultural rights of both men and women on the basis of equality. These may include the adoption of temporary special measures to accelerate women's equal enjoyment of their rights, gender audits, and gender-specific allocation of resources;
- To conduct human rights education and training programmes for judges and public officials;
- To conduct awareness-raising and training programmes on equality for workers involved in the realization of economic, social and cultural rights at the grass-roots level;
- To integrate, in formal and non-formal education, the principle of the equal right of men and women to the enjoyment of economic, social and cultural rights, and to promote equal participation of men and women, boys and girls, in schools and other education programmes;
- To promote equal representation of men and women in public office and decision making bodies;
- To promote equal participation of men and women in development planning, decision-making and in the benefits of development and all programmes related to the realization of economic, social and cultural rights.

C. Specific examples of States parties' obligations

22. Article 3 is a cross-cutting obligation and applies to all the rights contained in articles 6 to 15 of the

Covenant. It requires addressing gender-based social and cultural prejudices, providing for equality in the allocation of resources, and promoting the sharing of responsibilities in the family, community and public life. The examples provided in the following paragraphs may be taken as guidance on the ways in which article 3 applies to other rights in the Covenant, but are not intended to be exhaustive.

23. Article 6, paragraph 1, of the Covenant requires States parties to safeguard the right of everyone to the opportunity to gain a living by work which is freely chosen or accepted and to take the necessary steps to achieve the full realization of this right. Implementing article 3, in relation to article 6, requires inter alia, that in law and in practice, men and women have equal access to jobs at all levels and all occupations and that vocational training and guidance programmes, in both the public and private sectors, provide men and women with the skills, information and knowledge necessary for them to benefit equally from the right to work.

24. Article 7 (a) of the Covenant requires States parties to recognize the right of everyone to enjoy just and favourable conditions of work and to ensure, among other things, fair wages and equal pay for work of equal value. Article 3, in relation to article 7 requires, inter alia, that the State party identify and eliminate the underlying causes of pay differentials, such as gender biased job evaluation or the perception that productivity differences between men and women exist. Furthermore, the State party should monitor compliance by the private sector with national legislation on working conditions through an effectively functioning labour inspectorate. The State party should adopt legislation that prescribes equal consideration in promotion, non wage compensation and equal opportunity and support for vocational or professional development in the workplace. Finally, the State party should reduce the constraints faced by men and women in reconciling professional and family responsibilities by promoting adequate policies for childcare and care of dependent family members.

25. Article 8, paragraph 1 (a), of the Covenant requires States parties to ensure the right of everyone to form and join trade unions of his or her choice. Article 3, in relation to article 8, requires allowing men and women to organize and join workers' associations that address their specific concerns. In this regard, particular attention should be given to domestic workers, rural women, women working in female-dominated industries and women working at home, who are often deprived of this right.

26. Article 9 of the Covenant requires that States parties recognize the right of everyone to social security, including social insurance, and to equal access to social services. Implementing article 3, in relation to article 9, requires, inter alia, equalizing the compulsory retirement age for both men and women; ensuring that women receive the equal benefit of public and private pension schemes; and guaranteeing adequate maternity leave for women, paternity leave for men, and parental leave for both men and women.

27. Article 10, paragraph 1, of the Covenant requires that States parties recognize that the widest possible protection and assistance should be accorded to the family, and that marriage must be entered into with the free consent of the intending spouses. Implementing article 3, in relation to article 10, requires States parties, inter alia, to provide victims of domestic violence, who are primarily female, with access to safe housing, remedies and redress for physical, mental and emotional damage; to ensure that men and women have an equal right to choose if, whom and when to marry - in particular, the legal age of marriage for men and women should be the same, and boys and girls should be protected equally from practices that promote child marriage, marriage by proxy, or coercion; and to ensure that women have equal rights to marital property and inheritance upon their husband's death. Gender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights, on a basis of equality. States parties must take appropriate measures to eliminate violence against men and women and act with due diligence to prevent, investigate, mediate, punish and redress acts of violence against them by private actors.

28. Article 11 of the Covenant requires States parties to recognize the right of everyone to an adequate standard of living for him/herself and his/her family, including adequate housing (para. 1) and adequate food (para. 2). Implementing article 3, in relation to article 11, paragraph 1, requires that women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so. Implementing article 3, in relation to article 11, paragraph 2, also requires States parties, inter alia, to ensure that women have access to or control over means of food production, and actively to address customary practices under which women are not allowed to eat until the men are fully fed, or are only allowed less nutritious food.

29. Article 12 of the Covenant requires States parties to undertake steps towards the full realization of the

right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The implementation of article 3, in relation to article 12, requires at a minimum the removal of legal and other obstacles that prevent men and women from accessing and benefiting from health care on a basis of equality. This includes, inter alia, addressing the ways in which gender roles affect access to determinants of health, such as water and food; the removal of legal restrictions on reproductive health provisions; the prohibition of female genital mutilation; and the provision of adequate training for health-care workers to deal with women's health issues.

30. Article 13, paragraph 1, of the Covenant requires States parties to recognize the right of everyone to education and in paragraph 2 (a) stipulates that primary education shall be compulsory and available free to all. Implementing article 3, in relation to article 13, requires, inter alia, the adoption of legislation and policies to ensure the same admission criteria for boys and girls at all levels of education. States parties should ensure, in particular through information and awareness-raising campaigns, that families desist from giving preferential treatment to boys when sending their children to school, and that curricula promote equality and non discrimination. States parties must create favourable conditions to ensure the safety of children, in particular girls, on their way to and from school.

31. Article 15, paragraph 1 (a) and (b), of the Covenant require States parties to recognize the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress. Implementing article 3, in relation to article 15, paragraph 1 (a) and (b), requires, inter alia, overcoming institutional barriers and other obstacles, such as those based on cultural and religious traditions, which prevent women from fully participating in cultural life, science education and scientific research, and directing resources to scientific research relating to the health and economic needs of women on an equal basis with those of men.

III. IMPLEMENTATION AT THE NATIONAL LEVEL

A. Policies and strategies

32. The most appropriate ways and means of implementing the right under article 3 of the Covenant will vary from one State party to another. Every State party has a margin of discretion in adopting appropriate measures in complying with its primary and immediate obligation to ensure the equal right

of men and women to the enjoyment of all their economic, social and cultural rights. Among other things, States parties must, integrate into national plans of action for human rights appropriate strategies to ensure the equal right of men and women to the enjoyment of economic, social and cultural rights.

33. These strategies should be based on the systematic identification of policies, programmes and activities relevant to the situation and context within the State, as derived from the normative content of article 3 of the Covenant and spelled out in relation to the levels and nature of States parties' obligations referred to in paragraphs 16 to 21 above. The strategies should give particular attention to the elimination of discrimination in the enjoyment of economic, social and cultural rights.

34. States parties should periodically review existing legislation, policies, strategies and programmes in relation to economic, social and cultural rights, and adopt any necessary changes to ensure that they are consonant with their obligations under article 3 of the Covenant.

35. The adoption of temporary special measures may be necessary to accelerate the equal enjoyment by women of all economic, social and cultural rights and to improve the de facto position of women. Temporary special measures should be distinguished from permanent policies and strategies undertaken to achieve equality of men and women.

36. States parties are encouraged to adopt temporary special measures to accelerate the achievement of equality between men and women in the enjoyment of the rights under the Covenant. Such measures are not to be considered discriminatory in themselves as they are grounded in the State's obligation to eliminate disadvantage caused by past and current discriminatory laws, traditions and practices. The nature, duration and application of such measures should be designed with reference to the specific issue and context, and should be adjusted as circumstances require. The results of such measures should be monitored with a view to being discontinued when the objectives for which they are undertaken have been achieved.

37. The right of individuals and groups of individuals to participate in decision-making processes that may affect their development must be an integral component of any policy, programme or activity developed to discharge governmental obligations under article 3 of the Covenant.

B. Remedies and accountability

38. National policies and strategies should provide for the establishment of effective mechanisms and institutions where they do not exist, including administrative authorities, ombudsmen and other national human rights institutions, courts and tribunals. These institutions should investigate and address alleged violations relating to article 3 and provide remedies for such violations. States parties, for their part, should ensure that such remedies are effectively implemented.

C. Indicators and benchmarks

39. National policies and strategies should identify appropriate indicators and benchmarks on the right to equal enjoyment by men and women of economic, social and cultural rights in order to effectively monitor the implementation by the State party of its obligations under the Covenant in this regard. Disaggregated statistics, provided within specific time frames, are necessary to measure the progressive realization of economic, social and cultural rights by men and women, where appropriate.

IV. VIOLATIONS

40. States parties must fulfil their immediate and primary obligation to ensure the equal right of men and women to the enjoyment of economic, social and cultural rights.

41. The principle of equality between men and women is fundamental to the enjoyment of each of the specific rights enumerated in the Covenant. Failure to ensure formal and substantive equality in the enjoyment of any of these rights constitutes a violation of that right. Elimination of de jure as well as de facto discrimination is required for the equal enjoyment of economic, social and cultural rights. Failure to adopt, implement and monitor effects of laws, policies and programmes to eliminate de jure and de facto discrimination with respect to each of the rights enumerated in articles 6 to 15 of the Covenant constitutes a violation of those rights.

42. Violations of the rights contained in the Covenant can occur through the direct action of, failure to act or omission by States parties, or through their institutions or agencies at the national and local levels. The adoption and undertaking of any retrogressive measures that affect the equal right of men and women to the enjoyment of the all the rights set forth in the Covenant constitutes a violation of article 3.

The Committee also issues Statements that call the urgent attention of states to address pressing concerns in the respect, protection and fulfillment of human rights. CESCR has issued Statements on the following issues:

<i>Session, Symbol Number</i> Title
<i>40th session, E/C.12/2008/1</i> Statement of the Committee on the world food crisis
<i>38th session, E/C.12/2007</i> Statement by the Committee: An evaluation of the obligation to take steps to the "Maximum of available resources" under an optional protocol to the Covenant
<i>28th session, E/2003/22-E/C.12/2002/13, annex VI</i> Statement of the Committee to the Commission on Sustainable Development acting as the Preparatory Committee for the World Summit for Sustainable Development (Bali, Indonesia, 27 May-7 June 2002)
<i>27th session, E/2002/22-E/C.12/2001/17, annex XIII</i> Statement of the Committee on human rights and intellectual property
<i>27th session, E/2002/22-E/C.12/2001/17, annex XII</i> Statement of the Committee to the International Consultative Conference on School Education in Relation to Freedom of Religion and Belief, Tolerance and Non-Discrimination
<i>25th session, E/2002/22-E/C.12/2001/17, annex VII</i> Poverty and the International Covenant on Economic, Social and Cultural Rights: Statement of the Committee to the Third United Nations Conference on the Least Developed Countries
<i>25th session, E/2002/22-E/C.12/2001/17, annex XI</i> Statement of the Committee to the special session of the General Assembly for an overall review and appraisal of the implementation of the decisions taken at the United Nations Conference on Human Settlements (Habitat II) (New York, 6 to 8 June 2001)
<i>22nd session, E/2001/22-E/C.12/2000/21, annex VIII</i> Statement of the Committee to the Convention to draft a Charter of Fundamental Rights of the European Union

<i>Session, Symbol Number</i> Title
<i>21st session, E/2000/22-E/C.12/1999/11 and Corr.1, annex VII</i> Statement of the Committee to the Third Ministerial Conference of the World Trade Organization
<i>18th session; E/1999/22-E/C.12/1998/26; chap. VI, sect. A, para. 515</i> Globalization and its impact on the enjoyment of economic, social and cultural rights
<i>13th session, E/1996/22-E/C.12/1995/18, annex VIII</i> United Nations Conference on Human Settlements (Habitat II): Statement of the Committee
<i>12th session, E/1996/22-E/C.12/1995/18, annex VI</i> Fourth World Conference on Women: Action for Equality, Development and Peace - Statement by the Committee
<i>10th session, E/1995/22-E/C.12/1994/20 and Corr.1, annex V</i> The World Summit for Social Development and the International Covenant on Economic, Social and Cultural Rights: Statement of the Committee
<i>11th session, E/1995/22-E/C.12/1994/20, and Corr.1, annex VI</i> Economic, social and cultural rights in the context of the World Summit for Social Development: Statement of the Committee
<i>7th Session, E/1993/22-E/C.12/1992/2, annex III</i> Statement to the World Conference on Human Rights on behalf of the Committee
<i>6th session; E/1992/23-E/C.12/1991/4, chap. IX</i> Preparatory activities relating to the World Conference on Human Rights: recommendations to the Preparatory Committee for the World Conference

Relevant to the current report of the Philippines and its consequent Concluding Observations are the complete text of the Statements on Poverty, Economic Social and Cultural Rights, the Statement on Human Rights and Intellectual Property and the Statement on the Obligation to take steps to the 'Maximum of available resources under an optional protocol to the Covenant'.



On Poverty and ESCR

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session
Geneva, 23 April-11 May 2001
Agenda item 5

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: POVERTY AND THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

STATEMENT ADOPTED BY THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS ON 4 MAY 2001

1. In 1948, the Universal Declaration of Human Rights established that poverty is a human rights issue.¹ This view has been reaffirmed on numerous occasions by various United Nations bodies, including the General Assembly and Commission on Human Rights.² Although the term is not explicitly used in the International Covenant on Economic, Social and Cultural Rights,³ poverty is one of the recurring

themes in the Covenant and has always been one of the central concerns of the Committee. The rights to work, an adequate standard of living, housing, food, health and education, which lie at the heart of the Covenant, have a direct and immediate bearing upon the eradication of poverty. Moreover, the issue of poverty frequently arises in the course of the Committee's constructive dialogue with States parties. In the light of experience gained over many years, including the examination of numerous States parties' reports, the Committee holds the firm view that poverty constitutes a denial of human rights.

2. Accordingly, the Committee warmly welcomes the renewed commitment of a number of States and international organizations to the policy objective of poverty eradication, as well as related policy goals such as the elimination of social exclusion. The Committee regrets, however, that the human rights dimensions of poverty eradication policies rarely receive the attention they deserve. This neglect is especially regrettable because a human rights approach to poverty can reinforce anti-poverty strategies and make them more effective.

3. The present statement is aimed at encouraging the integration of human rights into poverty eradication policies by outlining how human rights generally and the Covenant in particular, can empower the poor and enhance anti-poverty strategies. It is not sought in this statement to formulate a detailed anti-poverty programme or plan of action, but to identify concisely the distinctive contribution of international human rights to poverty eradication. The preparation of operational anti-poverty programmes is a separate undertaking of the first importance which all actors should pursue as a matter of urgency and with due regard to international human rights.

¹ The Preamble to the Universal Declaration of Human Rights and the common Preamble to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights emphasize the importance of "freedom from ... want".

² For example, see General Assembly resolution 55/106 of 4 December 2000 and Commission on Human Rights resolution 2001/31 of 23 April 2001.

³ The term "poverty" is not found in any of the major international human rights instruments. For a recent United Nations study of the links between human rights, development and poverty, see Human Development Report 2000: Human Rights and Human Development, UNDP.

The scale and nature of the problem

4. The President of the World Bank recently wrote: "[P]overty remains a global problem of huge proportions. Of the world's 6 billion people, 2.8 billion live on less than \$2 a day, and 1.2 billion on less than \$1 a day. Six infants of every 100 do not see their first birthday, and 8 do not survive to their fifth. Of those who do reach school age, 9 boys in 100, and 14 girls, do not go to primary school."⁴ While statistics do not provide a complete understanding of poverty, these shocking figures signify massive and systemic breaches of the Universal Declaration of Human Rights and the two International Covenants, as well as of the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and other international human rights instruments.

5. Poverty is not confined to developing countries and societies in transition, it is a global phenomenon experienced in varying degrees by all States. Many developed States have impoverished groups, such as minorities or indigenous peoples, within their jurisdictions. Also, within many rich countries there are rural and urban areas where people live in appalling conditions - pockets of poverty amid wealth. In all States, women and girls bear a disproportionate burden of poverty, and children growing up in poverty are often permanently disadvantaged. In the Committee's view, the greater empowerment of women in particular is an essential precondition for the eradication of global poverty.

6. While the common theme underlying poor people's experiences is one of powerlessness,⁵ human rights can empower individuals and communities. The challenge is to connect the powerless with the empowering potential of human rights. Although human rights are not a panacea, they can help to equalize the distribution and exercise of power within and between societies.

Definitions

7. In the recent past, poverty was often defined as insufficient income to buy a minimum basket of goods and services. Today, the term is usually understood more broadly as the lack of basic capabilities to

live in dignity. This definition recognizes poverty's broader features, such as hunger, poor education, discrimination, vulnerability and social exclusion.⁶ The Committee notes that this understanding of poverty corresponds with numerous provisions of the Covenant.

8. In the light of the International Bill of Rights, poverty may be defined as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights. While acknowledging that there is no universally accepted definition, the Committee endorses this multi-dimensional understanding of poverty, which reflects the indivisible and interdependent nature of all human rights.

The International Human Rights Normative Framework

9. International human rights provide a framework of norms or rules upon which detailed global, national and community-level poverty eradication policies can be constructed. While poverty raises complex multi-sectoral issues that are not amenable to simple solutions, the application of the international human rights normative framework to these issues helps to ensure that essential elements of anti-poverty strategies, such as non-discrimination, equality, participation and accountability, receive the sustained attention they deserve. In this context, the Committee wishes to highlight briefly three features of the international human rights normative framework.

10. First, the normative framework encompasses the entire range of civil, cultural, economic, political and social rights, and the right to development. While the rights enumerated in the Covenant, such as the right to an adequate standard of living, are of central importance to the poor, the Committee emphasizes that all civil and political rights, as well as the right to development, are also indispensable to those living

4 World Bank, World Development Report 2000/2001: Attacking Poverty, Oxford University Press, p.v.

5 For example, see Deepa Narayan, *Voices of the Poor, Can Anyone Hear Us?*, published by them Oxford University Press for the World Bank, 2000.

6 According to chapter II, entitled "Eradication of poverty", in the Programme of Action of the World Summit for Social Development (1995): "Poverty has various manifestations, including lack of income and productive resources sufficient to ensure sustainable livelihoods; hunger and malnutrition; ill health; limited or lack of access to education and other basic services; increased morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments; and social discrimination and exclusion. It is also characterized by a lack of participation in decision-making and in civil, social and cultural life." (para. 19)

in poverty.⁷ Because of its mandate, expertise and experience, the Committee gives particular attention to the economic, social and cultural rights dimensions of anti-poverty strategies, but all rights are equally important as a means of ensuring that all people can live in freedom and dignity.

11. Second, non-discrimination and equality are integral elements of the international human rights normative framework, including the International Covenant on Economic, Social and Cultural Rights. Sometimes poverty arises when people have no access to existing resources because of who they are, what they believe or where they live. Discrimination may cause poverty, just as poverty may cause discrimination. Inequality may be entrenched in institutions and deeply rooted in social values that shape relationships within households and communities. Accordingly, the international norms of non-discrimination and equality, which demand that particular attention be given to vulnerable groups and individuals from such groups, have profound implications for anti-poverty strategies.

12. Third, the international human rights normative framework includes the right of those affected by key decisions to participate in the relevant decision-making processes. The right to participate is reflected in numerous international instruments, including the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development.⁸ In the Committee's experience, a policy or programme that is formulated without the active and informed participation of those affected is most unlikely to be effective. Although free and fair elections are a crucial component of the right to participate, they are not enough to ensure that those living in poverty enjoy the right to participate in key decisions affecting their lives.

13. In conclusion, anti-poverty policies are more likely to be effective, sustainable, inclusive, equitable and meaningful to those living in poverty if they are based upon international human rights. For this to occur, human rights need to be taken into account in all relevant policy-making processes.⁹ Thus, there

7 Consistent with part I, paragraph 5 of the Vienna Declaration and Plan of Action, adopted by the World Conference on Human Rights (1993): "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis."

8 See article 13.1 of the International Covenant on Economic, Social and Cultural Rights and article 2.3 of the Declaration on the Right to Development.

9 See statement of the Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization, Seattle, 30 November-3 December 1999 (E/C.12/1999/9).

is a need for appropriately trained officials operating good processes that are informed by reliable, disaggregated data.

Obligations and accountability

14. The Covenant empowers the poor by granting them rights and imposing legal obligations on others, such as States. Critically, rights and obligations demand accountability: unless supported by a system of accountability, they can become no more than windowdressing. Accordingly, the human rights approach to poverty emphasizes obligations and requires that all duty-holders, including States and international organizations, are held to account for their conduct in relation to international human rights law. In its General Comment No. 9, the Committee remarks upon mechanisms of legal accountability for State parties. As for other duty-holders, they must determine which accountability mechanisms are most appropriate in their particular case. However, whatever the mechanisms of accountability, they must be accessible, transparent and effective.¹⁰

Core Obligations: National and International Responsibilities

15. According to the Covenant, the enumerated rights are subject to resource availability and may be realized progressively.¹¹ However, General Comment No. 3, adopted in 1990, confirms that State parties have a "core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights" enunciated in the Covenant. As the Committee observes, without such a core obligation, the Covenant "would be largely deprived of its *raison d'être*".¹²

16. More recently, the Committee began to identify the core obligations arising from the "minimum essential levels" of the rights to food, education and health,¹³ and it confirmed that these core obligations are "non-derogable".¹⁴ In General Comment No. 14, the Committee emphasizes that it is particularly incumbent on all those in a position to assist, to provide "international assistance and cooperation, especially economic and technical" to enable developing

10 For the Committee's remarks on the "Obligations of actors other than States parties" see, in particular, General Comment No. 13, part III and General Comment No. 14, part V; also General Comment No. 12, paras. 20 and 38-41.

11 Article 2.1.

12 General Comment No. 3, para. 10.

13 General Comment Nos. 11, 13 and 14 respectively.

14 General Comment No. 14, para. 47.

countries to fulfill their core obligations.¹⁵ In short, core obligations give rise to national responsibilities for all States and international responsibilities for developed States, as well as others that are "in a position to assist".

17. Thus, the core obligations of economic, social and cultural rights have a crucial role to play in national and international developmental policies, including anti-poverty strategies. When grouped together, the core obligations establish an international minimum threshold that all developmental policies should be designed to respect. In accordance with General Comment No. 14, it is particularly incumbent on all those who can assist, to help developing countries respect this international minimum threshold. If a national or international anti-poverty strategy does not reflect this minimum threshold, it is inconsistent with the legally binding obligations of the State party.

18. For the avoidance of any misunderstanding, the Committee wishes to emphasize three points. First, because core obligations are non-derogable, they continue to exist in situations of conflict, emergency and natural disaster. Second, because poverty is a global phenomenon, core obligations have great relevance to some individuals and communities living in the richest States. Third, after a State party has ensured the core obligations of economic, social and cultural rights, it continues to have an obligation to move as expeditiously and effectively as possible towards the full realization of all the rights in the Covenant.

Conclusion

19. The Committee strongly recommends the integration of international human rights norms into participatory, multi-sectoral national poverty eradication or reduction plans.¹⁶ Such anti-poverty plans have an indispensable role to play in all States, no matter what their stage of economic development.

20. Non-State actors, including international organizations, national human rights institutions, civil society organizations and private businesses, also have heavy responsibilities in the struggle against poverty. Each should clearly identify how it can

contribute to poverty eradication, keeping in mind the human rights dimensions of poverty as outlined in this statement.

21. The Committee is deeply aware that there are structural obstacles to the eradication of poverty in developing countries. Through its various activities, including the reporting process and the adoption of general comments, the Committee attempts to assist developing States by identifying measures that they can and should take to address these obstacles. However, some of the structural obstacles confronting developing States' anti-poverty strategies lie beyond their control in the contemporary international order. In the Committee's view, it is imperative that measures be urgently taken to remove these global structural obstacles, such as unsustainable foreign debt, the widening gap between rich and poor, and the absence of an equitable multilateral trade, investment and financial system. Otherwise, the national anti-poverty strategies of some States have limited chance of sustainable success. In this regard, the Committee notes article 28 of the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, in particular article 3.3.¹⁷

22. So far as its resources and other responsibilities permit, the Committee continues to prepare additional general comments that clarify the normative content of economic, social and cultural rights, including their core obligations, and it invites all parties to assist in this important and challenging task.

23. Conscious of their far-reaching importance, the Committee confirms its willingness to discuss the issues identified in this statement with all those committed to the eradication of poverty.

Adopted on 4 May 2001

¹⁵ General Comment No. 14, para. 45. The Covenant refers to "international assistance and cooperation", or similar formulations, in articles 2.1, 11.2, 15.4, 22 and 23.

¹⁶ Such as those anticipated by the World Summit for Social Development (1995) and the more recent Enhanced Heavily Indebted Poor Countries Initiative. For a recent examination of national poverty eradication plans see UNDP, Poverty Report 2000: Overcoming Human Poverty.

¹⁷ Article 28 of the Universal Declaration of Human Rights: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized." Article 3.3 of the Declaration on the Right to Development: "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development."



Intellectual Property

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

Twenty-seventh session
Geneva, 12-30 November 2001
Agenda item 3

**SUBSTANTIVE ISSUES ARISING IN THE
IMPLEMENTATION OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS**

**Follow-up to the day of general discussion
on article 15.1 (c),**

Monday, 26 November 2001

Human rights and intellectual property
Statement by the Committee on Economic Social and
Cultural Rights

Introduction

1. The Committee on Economic, Social and Cultural Rights recognizes the broad significance of the creation, ownership and control of intellectual property in a knowledge-based economy and the means that it can afford for promoting or inhibiting the enjoyment of human rights, in particular the rights under the International Covenant on Economic, Social and Cultural Rights. The allocation of rights over intellectual property has significant economic, social and cultural consequences that can affect the enjoyment of human rights. The contemporary importance of intellectual property for human rights reflects two developments. The first is the expansion of the areas covered by intellectual property regimes to include, for example, patenting of biological

entities, copyright print protections in the digital domain, and private intellectual property claims with respect to cultural heritage and traditional knowledge. The second is the emergence of universal rules on intellectual property protection in the global trading system.

2. The Committee has resolved to prepare and adopt, as soon as possible, a general comment on intellectual property and human rights. The Committee, however, has decided to adopt this statement as its preliminary contribution to the rapidly evolving debate on intellectual property, which remains high on the international agenda. The statement aims only to identify some of the key human rights principles deriving from the Covenant that are required to be taken into account in the development, interpretation and implementation of contemporary intellectual property regimes. These basic principles will be further refined, elaborated and applied in the Committee's forthcoming general comment on intellectual property and human rights.¹

3. The principles set out in the present statement apply equally to national legislation and international rules and policies concerning intellectual property protection. In particular, the Committee draws attention to the various intellectual property treaties administered by the World Intellectual Property Organization (WIPO), as well as the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) of the World Trade Organization (WTO), which set out minimum standards for the protection and enforcement

¹ On 27 November 2000, the Committee held a day of general discussion on article 15.1 (c) of the Covenant, the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author, which formed a basis for the Committee's drafting of a general comment.

of intellectual property rights. Reference could also be made to relevant articles of other treaties, such as the 1992 Convention on Biological Diversity. In this regard, the Committee recalls previous statements it has made in which it emphasized that the realms of trade, finance and investment are in no way exempt from human rights principles and that "international organizations with specific responsibilities in those areas should play a positive and constructive role in relation to human rights."²

4. Article 15.1 (c) of the Covenant, together with article 27 of the Universal Declaration on Human Rights, requires the protection of the moral and material interests of authors in their works. The Committee considers that these intellectual property rights must be balanced with the right to take part in cultural life³ and to enjoy the benefits of scientific progress and its applications.⁴ Moreover, article 15.2 of the Covenant requires that States parties undertake steps necessary for the conservation, development and diffusion of science and culture. To be consistent with a human rights-based approach, intellectual property regimes should be conducive to realizing these goals. The Committee therefore encourages the development of intellectual property systems and the use of intellectual property rights in a balanced manner that meets the objective of providing protection for the moral and material interests of authors, and at the same time promotes the enjoyment of these and other human rights. Ultimately, intellectual property is a social product and has a social function. The end which intellectual property protection should serve is the objective of human well-being, to which international human rights instruments give legal expression.

Universality, indivisibility and interdependence of human rights

5. Human rights derive from the inherent dignity and worth of all persons, with the human person as the central subject and primary beneficiary of human rights.⁵ The moral and legal guarantees of fundamental freedoms, protections and entitlements both derive from and support people's self-respect and dignity. Consequently, the entire range of civil, cultural, economic, political and social rights, as well as the right to development, are relevant to intellectual property

systems. To be consistent with obligations to respect international human rights, intellectual property regimes must promote and protect all human rights, including the full range of rights guaranteed in the Covenant.

6. The fact that the human person is the central subject and primary beneficiary of human rights distinguishes human rights, including the right of authors to the moral and material interests in their works, from legal rights recognized in intellectual property systems. Human rights are fundamental, inalienable and universal entitlements belonging to individuals, and in some situations groups of individuals and communities. Human rights are fundamental as they derive from the human person as such, whereas intellectual property rights derived from intellectual property systems are instrumental, in that they are a means by which States seek to provide incentives for inventiveness and creativity from which society benefits. In contrast with human rights, intellectual property rights are generally of a temporary nature, and can be revoked, licensed or assigned to someone else.⁶ While intellectual property rights may be allocated, limited in time and scope, traded, amended and even forfeited, human rights are timeless expressions of fundamental entitlements of the human person. Whereas human rights are dedicated to assuring satisfactory standards of human welfare and well-being, intellectual property regimes, although they traditionally provide protection to individual authors and creators, are increasingly focused on protecting business and corporate interests and investments. Moreover, the scope of protection of the moral and material interests of the author provided for under article 15 of the Covenant does not necessarily coincide with what is termed intellectual property rights under national legislation or international agreements.

Equality and non-discrimination

7. Human rights are based on the equality of all persons and their equal standing before the law. For that reason, human rights instruments place great emphasis on protection against discrimination. Articles 2.2 and 3 of the Covenant stipulate that States parties undertake to guarantee that the rights enunciated in the Covenant must be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and to ensure the equal rights of men and women to the enjoyment of all the rights set forth in the Covenant.

8. A human rights-based approach focuses particularly on the needs of the most disadvantaged

² Statement of the Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization, 26 November 1999 (E/C.12/1999/9).

³ Article 15.1 (a) of the Covenant.

⁴ Article 15.1 (b) of the Covenant.

⁵ See e.g. the Preambles to the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. See also article 5 of the 1993 Vienna Declaration and Programme of Action.

⁶ Report of the High Commissioner on the impact of the Agreement on Trade-Related Aspects of Intellectual Property Rights on human rights, E/CN.4/Sub.2/2001/13, 27 June 2001, paragraph 14.

and marginalized individuals and communities. Because a human right is a universal entitlement, its implementation is evaluated particularly by the degree to which it benefits those who hitherto have been the most disadvantaged and marginalized and brings them up to the mainstream level of protection. Thus, in adopting intellectual property regimes, States and other actors must give particular attention at the national and international levels to the adequate protection of the human rights of disadvantaged and marginalized individuals and groups, such as indigenous peoples.⁷

Participation

9. International human rights law includes the right of everyone to be consulted and participate in significant decision-making processes that affect them. The right to participate is reflected in numerous international instruments, including the Covenant⁸ and the International Covenant on Civil and Political Rights,⁹ as well as the Declaration on the Right to Development.¹⁰ Accordingly, the Committee supports the active and informed participation of all those affected by intellectual property regimes.

Accountability

10. The Committee reiterates its position set out in its statement on poverty, "rights and obligations demand accountability: unless supported by a system of accountability, they can become no more than window-dressing."¹¹ While the State holds the primary duty to respect, protect and fulfill human rights, other actors, including non-State actors and international organizations, carry obligations, which must be subject to scrutiny. Accordingly, the adequate protection of human rights needs accessible, transparent and effective accountability mechanisms to ensure that rights are respected, and where they are not, that victims can find redress. A human rights approach to intellectual property requires that all actors are held to account for their obligations under international human rights law, specifically with regard to the adoption, interpretation and implementation of intellectual property systems.

General legal obligations

11. In the context of intellectual property, it should be noted that while the Covenant provides for progressive

realization and acknowledges the constraints due to limits on available resources, it also imposes on States parties various obligations which have immediate effect, including core obligations.¹² Progressive realization over a period of time should not be interpreted as depriving States parties' obligations of all meaningful content. Rather, progressive realization means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of all the rights enshrined in the Covenant. Accordingly, the Committee wishes to emphasize that national and international intellectual property regimes must be consistent with the obligation of States parties to ensure the progressive realization of full enjoyment of all the rights in the Covenant. Furthermore, all parties are urged to ensure that intellectual property regimes contribute, in a practical and substantive way, to the full realization of all the Covenant rights.

Core obligations

12. In this regard, it should also be recalled that the Committee's General Comment No. 3, adopted in 1990, confirms that States parties have a "core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights" enunciated in the Covenant. As the Committee observes, without such a core obligation, the Covenant "would be largely deprived of its *raison d'être*".¹³ More recently, the Committee has begun to identify the core obligations arising from the "minimum essential levels in relation to the rights to health, food and education".¹⁴ The Committee wishes to emphasize that any intellectual property regime that makes it more difficult for a State party to comply with its core obligations in relation to health, food, education, especially, or any other right set out in the Covenant, is inconsistent with the legally binding obligations of the State party.

International cooperation and assistance

13. As the Committee confirmed in its General Comment No. 14 on the right to health, it is particularly incumbent on all those in a position to assist, to provide "international assistance and cooperation, especially economic and technical", in order to enable developing countries to fulfill their core obligations under the Covenant.¹⁵ Accordingly, it is incumbent upon developed

7 Statement by the Committee on Economic, Social and Cultural Rights on "Poverty and the International Covenant on Economic, Social and Cultural Rights", E/C.12/2001/10, 4 May 2001, paragraph 11.

8 Article 25.

9 Article 13.1.

10 Article 2.3.

11 See note 7, paragraph 14.

12 See, for example, the Committee's General Comments No. 3 (on the nature of States parties' obligations, article 2.1 of the Covenant) and 9 (the domestic application of the Covenant), No. 13 (on the right to education, paras. 43-44) and No. 14 (on the right to health, paras. 30-32), in HRI/GEN/1/Rev.5, 26 April 2001.

13 General Comment No. 3, paragraph 10, see note 12.

14 General Comments Nos. 11, 13 and 14, see note 12.

15 General Comment No. 14, paragraph 45, see note 12.

States, and other actors in a position to assist, to develop international intellectual property regimes that enable developing States to fulfill at least their core obligations to individuals and groups within their jurisdictions. In this regard and so as to avoid repetition, the Committee reaffirms paragraphs 15 to 18 of its statement on poverty.¹⁶

14. The Charter of the United Nations commits all nations to the development of an equitable and just international order that encourages peace, solidarity, social progress and better standards of life for all nations large and small. Article 28 of the Universal Declaration of Human Rights declares that everyone has the right to a social and international order in which the rights and freedoms in the Declaration can be enjoyed. Articles 2.1 and 23 of the Covenant further state that States parties should engage in international cooperation in order to achieve progressively the rights enshrined in the Covenant. Article 15.4 of the Covenant further recognizes the benefits to be derived from encouraging and developing international contacts and cooperation in the scientific and cultural fields.¹⁷

15. The Committee observes that countries enjoy different levels of development, resulting in different technological needs. While some countries might focus on the protection of technology, others may focus more on facilitating access. It is essential that intellectual property regimes facilitate and promote development cooperation, technology transfer and scientific and cultural collaboration. International rules concerning intellectual property should not necessarily be uniform if this might lead to forms of intellectual property protection inappropriate for development goals. The Committee encourages the adoption and implementation of effective international mechanisms for special and differential treatment for developing countries concerning intellectual property protection.

Self-determination

16. Article 1.2 of the Covenant states that “[a]ll peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation ...”. National sovereignty over wealth and resources is an important prerequisite for the effective promotion and protection of human rights. In negotiating, and adhering to, international treaties on intellectual property, States should consider how this will affect their sovereignty over wealth and resources and ultimately their capacity to ensure the rights enshrined in the Covenant.

¹⁶ See note 7.

¹⁷ The Covenant refers to “international assistance and cooperation”, or similar formulations, in articles 2.1, 11.2, 15.4, 22 and 23.

Balance

17. Article 15 of the Covenant sets out the need to balance the protection of public and private interests in knowledge. On the one hand, article 15.1 (a) and (b) recognizes the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications. On the other hand, article 15.1 (c) recognizes the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author. When adopting and reviewing intellectual property systems, States should bear in mind the need to strike a balance between those concurrent Covenant provisions. In an effort to provide incentives for creation and innovation, private interests should not be unduly advantaged and the public interest in enjoying broad access to new knowledge should be given due consideration. The Committee notes that an example of this need to strike a balance can be found in the recent Declaration on the TRIPS Agreement and Public Health, which recognizes that intellectual property protection is important for the development of new medicines, but at the same time also recognizes the concerns about its effect on prices.¹⁸

Conclusion

18. The Committee considers of fundamental importance the integration of international human rights norms into the enactment and interpretation of intellectual property law. Consequently, States parties should guarantee the social dimensions of intellectual property, in accordance with international human rights obligations to which they have committed themselves. An explicit commitment to do so and the establishment of a mechanism for a human rights review of intellectual property systems are important steps towards that goal.

19. There is a similar need for intergovernmental organizations to integrate international human rights obligations and principles into their policies, practices and operations. Conscious of the far-reaching importance and complexity of integrating human rights into the development of intellectual property regimes, the Committee confirms its willingness to discuss the issues identified in this statement with relevant actors and its availability to assist States parties and intergovernmental organizations in this process.

¹⁸ World Trade Organization, Declaration on the TRIPS Agreement and Public Health, Ministerial Conference, Fourth Session, Doha, Qatar, adopted on 14 November 2001, WT/MIN(01)/DEC/2, paragraph 3.



Meaning of Maximum Available Resources

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-eighth session
30 April – 18 May 2007

AN EVALUATION OF THE OBLIGATION TO TAKE STEPS TO THE "MAXIMUM OF AVAILABLE RESOURCES" UNDER AN OPTIONAL PROTOCOL TO THE COVENANT

Statement

1. The Committee on Economic, Social and Cultural Rights welcomes the decision by the Human Rights Council to draft an optional protocol to the Covenant. Such a protocol granting it authority to consider individual and collective communications will assist the Committee in monitoring the implementation of the Covenant by complementing the periodic review of reports, thus strengthening the Committee's interpretation of the Covenant.

2. The Committee is aware of States parties' interest in obtaining further clarification on how it would apply the obligation under article 2(1) "to take steps ... to the maximum of its available resources" to achieve progressively the full realization of the rights recognized in the Covenant.¹ Of particular relevance is how the Committee would examine communications concerning this obligation, while fully respecting the authority vested in relevant State organs to adopt what it considers to be its most appropriate policies and to allocate resources accordingly. On the basis of its practice under the periodic reporting process, the Committee in this present statement seeks to clarify how it might consider States Parties' obligations

under article 2(1) in the context of an individual communications procedure.

3. Having already examined the terms of article 2(1) in its General Comment No. 3, the Committee reiterates that in order to achieve progressively the full realization of the Covenant, States parties must take deliberate, concrete and targeted steps within a reasonably short time after the Covenant's entry into force for the States concerned. The steps should include "all appropriate means, including particularly the adoption of legislative measures". In addition to legislation, the Committee understands the term "appropriate means" to include the provision of judicial or other remedies, where appropriate, as well as "administrative, financial, educational and social measures"

(General Comment No. 3, para. 7, General Comment No. 9, paras. 3-5, 7).

4. The "availability of resources", although an important qualifier to the obligation to take steps, does not alter the immediacy of the obligation, nor can resource constraints alone justify inaction. Where the available resources are demonstrably inadequate, the obligation remains for a State party to ensure the widest possible enjoyment of economic, social and cultural rights under the prevailing circumstances. The Committee has already emphasized that, even in times of severe resource constraints, States parties must protect the most disadvantaged and marginalized members or groups of society by adopting relatively low-cost targeted programmes.

5. The undertaking by a State party to use "the maximum" of its available resource towards fully realizing the provisions of the Covenant entitles it

to receive resources offered by the international community. In this regard, the phrase "to the maximum of its available resources" refers to both the resources existing within a State as well as those available from the international community through international cooperation and assistance.

6. As regards the core obligations of States parties in relation to each of the Covenant rights, General Comment No. 3 states that, in order for a State party to be able to attribute its failure to meet its core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposal in an effort to satisfy, as a matter of priority, those core obligations.

7. Apart from the obligation to take steps (art. 2.1), States parties have an immediate obligation to "guarantee that the rights enunciated in the Covenant will be exercised without discrimination of any kind" (art. 2.2). This obligation frequently requires the adoption and implementation of appropriate legislation and does not necessarily require significant resource allocations. Similarly, the obligation to respect requires States to refrain from interfering directly or indirectly with the enjoyment of Covenant rights and does not necessarily require significant State involvement. For example, the right of women to an equal salary for equal work should be implemented immediately. The obligation to protect and, to a greater extent, the obligation to fulfill, on the other hand, often require positive budgetary measures in order to prevent third parties from interfering with the rights recognized in the Covenant (obligation to protect) or to facilitate, provide and promote the enjoyment of these rights (obligation to fulfill).

8. In considering a communication concerning an alleged failure of a State party to take steps to the maximum of available resources, the Committee will examine the measures that the State party has effectively taken, legislative or otherwise. In assessing whether they are "adequate" or "reasonable", the Committee may take into account, inter alia, the following considerations:

(a) the extent to which the measures taken were deliberate, concrete and targeted towards the fulfillment of economic, social and cultural rights;

(b) whether the State party exercised its discretion in a non-discriminatory and non-arbitrary manner;

(c) whether the State party's decision (not) to allocate available resources is in accordance with international human rights standards;

(d) where several policy options are available, whether the State party adopts the option that least restricts Covenant rights;

(e) the time frame in which the steps were taken;

(f) whether the steps had taken into account the precarious situation of disadvantaged and marginalized individuals or groups and, whether they were non-discriminatory, and whether they prioritized grave situations or situations of risk.

9. The Committee notes that in case of failure to take any steps or of the adoption of retrogressive steps, the burden of proof rests with the State party to show that such a course of action was based on the most careful consideration and can be justified by reference to the totality of the rights provided for in the Covenant and by the fact that full use was made of available resources.

10. Should a State party use "resource constraints" as an explanation for any retrogressive steps taken, the Committee would consider such information on a country-by-country basis in the light of objective criteria such as:

(a) the country's level of development;

(b) the severity of the alleged breach, in particular whether the situation concerned the enjoyment of the minimum core content of the Covenant;

(c) the country's current economic situation, in particular whether the country was undergoing a period of economic recession;

(d) the existence of other serious claims on the State party's limited resources; for example, resulting from a recent natural disaster or from recent internal or international armed conflict.

(e) whether the State party had sought to identify low-cost options; and

(f) whether the State party had sought cooperation and assistance or rejected offers of resources from the international community for the purposes of implementing the provisions of the Covenant without sufficient reason.

11. In its assessment of whether a State party has taken reasonable steps to the maximum of its available resources to achieve progressively the realization of the provisions of the Covenant, the Committee places great importance on transparent and participative

decision-making processes at the national level. At all times the Committee bears in mind its own role as an international treaty body and the role of the State in formulating or adopting, funding and implementing laws and policies concerning economic, social and cultural rights. To this end, and in accordance with the practice of judicial and other quasi-judicial human rights treaty bodies, the Committee always respects the margin of appreciation of States to take steps and adopt measures most suited to their specific circumstances.

12. Where the Committee considers that a State party has not taken reasonable or adequate steps, it will make relevant recommendations to the State party. In line with the practice of other treaty bodies, the Committee will respect the margin of appreciation of the State party to determine the optimum use of its resources and to adopt national policies and prioritize certain resource demands over others.

13. In the context of an optional protocol, the Committee could make recommendations, *inter alia*, along four principal lines:

(a) recommending remedial action, such as compensation, to the victim, as appropriate;

(b) calling upon the State party to remedy the circumstances leading to a violation. In doing so, the Committee might suggest goals and parameters to assist the State party in identifying appropriate measures. These parameters could include suggesting overall priorities to ensure that resource allocation conformed with the State party's obligations under the Covenant; provision for the disadvantaged and marginalized individuals and groups; protection against grave threats to the enjoyment of economic, social and cultural rights; and respect for non-discrimination in the adoption and implementation of measures;

(c) suggesting, on a case-by-case basis, a range of measures to assist the State party in implementing the recommendations, with particular emphasis on low-cost measures. The State party would nonetheless still have the option of adopting its own alternative measures;

(d) recommending a follow-up mechanism to ensure ongoing accountability of the State party; for example, by including a requirement that in its next periodic report the State party explain the steps taken to redress the violation.

4 Philippine Government 2nd to 4th Periodic Report

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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Periodic reports submitted by States parties under articles 16 and 17 of the Covenant Combined second, third and fourth periodic reports of THE PHILIPPINES* ** ***

[14 December 2006]

*The initial report concerning rights covered by articles 6 to 9 of the Covenant (E/1978/8/Add.4), concerning rights covered by articles 10 to 12 of the Covenant (E/1986/3/Add.17), concerning rights covered by articles 13 to 15 of the Covenant (E/1988/5/Add.2) submitted by the Philippines were considered by the Committee on Economic, Social and Cultural Rights on 18 April 1980, on 8 May 1995 and 15 January 1990 respectively. The second periodic report was due on 30 June 1995, the third on 30 June 2000 and the fourth on 30 June 2005 respectively and submitted as the combined initial, second, third and fourth periodic reports on 14 December 2006.

** The information submitted by the Philippines in accordance with the guidelines concerning the initial part of reports of States parties is contained in the core document

(HRI/CORE/1/Add.37).

*** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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Introduction

1. This initial report on the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) was prepared in accordance with the general guidelines adopted by the former Commission on Human Rights, now the Human Rights Council, regarding the submission of initial implementation reports. In observance of the previous three-phase reporting cycle instituted by the Economic and Social Council according to which States Parties were required to report, at three-year intervals, on different clusters of rights, the Philippines has submitted the following ICESCR implementation reports:

- (a) HRI/CORE/1/Add.37 (2 Feb. 1994);
- (b) Initial (arts. 6-9): E/1978/8/Add.4 (28 Dec. 1977);
- (c) 2nd (arts. 6-9): E/1984/7/Add.4 (1 Feb. 1984);
- (d) Initial (arts. 13-15): E/1988/5/Add.2 (21 June 1988);
- (e) Additional (arts. 13-15): E/1989/5/Add.7 (28 Feb. 1992);
- (f) Initial (arts. 10-12): E/1986/3/Add.17 (15 Sept. 1994).

2. This report consists of two parts. The first part provides information on the current situation in the Philippines. The second part provides specific information relating to the implementation of the provisions of the Covenant.

3. This report gives background information on laws, policies, programmes and recent developments pertinent to the rights enumerated in the Covenant, the difficulties and problems arising from their implementation, and the prospects for the future.

4. The report was prepared by the Coordinating Committee on Human Rights (CCHR), which was established through Administrative Order No. 370 dated 10 December 1997. The CCHR is chaired by the Department of Foreign Affairs (DFA) and has 15 government departments and agencies as members.

I. GENERAL INFORMATION

A. The land and the people

5. The Philippines is an archipelago located 966 kilometers off the south-eastern coast of mainland Asia. It is composed of 7,107 islands with three major island groups: Luzon, with an area of 141,395

square kilometers; Visayas, with an area of 56,606 square kilometers and Mindanao, with an area of 101,999 square kilometers. Of the total land area, 92.3 per cent is found within the 11 largest islands. It has a land area of approximately 300,000 square kilometers. It is divided into 15 administrative regions with 76 provinces, 60 cities, 1,543 municipalities and 41,911 barangays (villages).

6. The Filipino is of Malay racial stock. The indigenous culture is a mixture of Malay, Chinese, Japanese, Arabic, Spanish and American influence.

7. There are 110 ethno-linguistic groups in the country, which speak at least 70 recorded languages. There are eight major languages, with Filipino as the national language and Filipino and English as the official working languages.

8. Eighty-five per cent of Filipinos are Christians, the majority of whom are Roman Catholics. A little over 10 per cent of the populations are followers of Islam and the rest belong to other denominations or sects.

9. As of 2005, the population of the Philippines was estimated at 88.5 million. Growing annually at 2.11 per cent, the population is projected to reach 102.8 million by 2015.

10. Population density is 246 persons per square kilometer and about half of the population is concentrated in urban centers all over the country. This is a result of the rapid urbanization caused mainly by the rural to urban migration.

B. General political structure

11. The Republic of the Philippines is a democratic and republican State with a presidential form of government.

12. Executive power is exercised by the President of the Philippines with the assistance of his Cabinet. The President is both the head of State and of the Government. The Vice-President assists the President in the performance of his duties and responsibilities and may also be appointed as the head of one of the executive departments.

13. Legislative power is vested in the Congress of the Philippines, consisting of the Senate and the House of Representatives. The Senate is composed of 24 senators elected at large for a term of six years. The House of Representatives is composed of members elected from legislative districts and through a party-list system.

14. Judicial power is vested in the Supreme Court and lower courts. The decisions of the Supreme Court are binding on all lower tribunals. The other courts under the Supreme Court are: the Court of Appeals, composed of 51 Justices with one Presiding Justice; Regional Trial Courts; the Municipal Circuit Trial Courts; and the Municipal Trial Courts established in every city not forming part of the metropolitan area.

15. The democratic structure and processes are further enhanced by the constitutional provisions on social justice and human rights, protection of labor, women and children and the strengthening of local autonomy of the local government units (LGUs). The Local Government Code of 1991 devolves the responsibility and budget for the delivery of basic services in agriculture, health, social welfare and development, public works, environment and natural resources to the LGUs.

16. At sub-national levels, governance is assumed by the local LGUs in each administrative area, i.e. province, city, municipality and barangay. Each local government office is composed of both elective and appointive officials. The elective officials include the head and vice-head in each administrative area, i.e. governor and vice-governor for the province, mayor and vice-mayor for the city and municipality, and chairman for the barangay; and as members of the councils, i.e. Sangguniang Panlalawigan (Provincial Council), Sangguniang Panlungsod (City Council) and Sangguniang Barangay (Village Council).

17. Legislative power at the sub-national levels is vested in the Sanggunian (Council) at each level. Each local government unit has a development council which assists the Sanggunian (Council) in formulating their respective comprehensive and multi-sectoral development plans.

C. Social and economic conditions

18. The annual per capita Gross Domestic Product (GDP) was estimated at US\$ 1,026 using 2004 nominal prices and exchange rate.

19. The Philippine economy grew despite adverse effects of international shockers. These included the 11 September 2001 bombing in New York, the Severe Acute Respiratory Syndrome (SARS) scare, which slowed down the tourism industry, and the United States-Iraq war, which dislocated overseas Filipino workers in the Middle East.

20. The country's real Gross National Product (GNP) from 2001 to 2004 expanded at an average of 5.05

per cent while real GDP grew by an average of 4.52 per cent, which was within the target set during the same period. The services sector has been the engine of growth which expanded at an average rate of 5.62 per cent over the said period. The expansion could be attributed to the expansion of the telecommunication sector and the new investments in call centers, business process outsourcing and software development. Meanwhile, the trade sector also performed well due to strong consumer spending which was supported by the steady growth of the agriculture sector and remittances of overseas Filipino workers.

21. The agriculture sector grew at an average of 4.05 per cent over the period 2001-2004.

22. The industry sector experienced sluggish growth at a mere 3.4 per cent in 2001-2004. Growth has been limited by the large cuts in public construction to control the deficit as well as the difficulties of some manufacturing industries to keep up with global market. Moreover, the increase in foreign investments was minimal, from US\$ 1.43 billion in 2002 to US\$ 1.49 billion in 2003. The low foreign direct investments resulted from investor preference for China, weakening investor confidence due to concerns about fiscal sustainability, peace and order problems, and a weak infrastructure/logistics system.

23. Unemployment remained high at 10.9 per cent in October 2004 notwithstanding the 3.2 million jobs generated from 2001 to 2004. From January to July 2004, the average unemployment rate was 12 per cent as the number of jobs generated had not been adequate to absorb the influx of labor entrants.

24. Underemployment was a more serious problem since its magnitude was higher than that of the unemployment rate. Underemployment rate was 16.9 per cent in October 2004 of which 61 per cent was in the rural areas (NSCB, 2004). The seasonal nature of farm employment prompted workers to want more labor hours.

25. The fiscal deficit emerged as the major macroeconomic problem. The consolidated public sector deficit is 5.52 per cent of GDP while the Government deficit surged to 3.8 per cent of GDP in 2004. Consequently, the rising deficit pushed the public sector debt to 101 per cent of GDP by 2003.

26. The Government provides social services in the areas of health, nutrition, education, housing, safe water supply and sanitation. Basic services for

children are a special concern. The Government is taking definitive steps to address human development concerns in an integrated manner, through the formulation of a social development framework which will guide the planning and programming of human development-related activities.

27. Starting in 1986, the Government has more explicitly focused on poverty alleviation as a goal of national development efforts. In 1988, poverty incidence among Filipinos was 45.5 per cent, 3.8 percentage points lower than it was in 1985. As of 2003, poverty incidence had gone down to 30.4 per cent.

28. The Presidential Commission for the Urban Poor (1986), the Presidential Commission to Fight Poverty (1993), and the National Anti-Poverty Commission (2000) were established by the Government as agencies to engage in poverty alleviation and people empowerment.

D. General legal framework within which human rights are protected

29. Fundamental human rights have been an integral part of the Philippine Constitution. The Malolos Constitution adopted in 1898, the 1935, 1973, 1986 (also known as Freedom Constitution) and the 1987 Philippine Constitutions all contained a Bill of Rights. Two of the State policies embodied in the Constitution are respect for the dignity of every human person and protection of the basic civil and political rights of the people against State encroachment and abuses. The Bill of Rights specifically prohibits the use of torture, force, threat or intimidation or any other means which vitiates the free will of a person and mandates Congress to pass laws to compensate victims of torture.

1. Judicial, administrative and other authorities competent in matters relating to human rights

30. The 1987 Constitution enumerates the basic human rights and the judiciary stands as the guardian and bulwark of such rights. The Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and other law enforcement agencies are constitutionally mandated to protect human rights and freedoms of citizens; and ensure the security of the State and its people.

31. The 1987 Constitution created the Philippine Commission on Human Rights (PCHR). It is an independent constitutional body mandated to investigate, on its own or on the complaint by any party, all forms of human rights violations involving civil and political rights; adopt its operational guidelines and

rules of procedure and cite for contempt for violations thereof; provide legal measures for the protection of human rights of all persons within the Philippines; provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection; exercise visitorial powers over jails, prisons or detention facilities and request the assistance of any government agency in the performance of its functions; establish a continuing programme of research, education and information to enhance respect for the primacy of human rights; recommend to Congress effective measures to promote human rights; monitor Government's compliance with international treaty obligations on human rights; and grant immunity from prosecution to any person whose testimony, or whose possession of documents or other evidence, is necessary or convenient to determine the truth in any investigation conducted by it, or under its authority.

32. The Office of the Judge Advocate General of the Armed Forces of the Philippines has jurisdiction over complaints against enlisted men. However, under Republic Act (RA) No. 7055, "An Act Strengthening Civilian Supremacy Over the Military By Returning to the Civil Courts the Jurisdiction Over Certain Offenses Involving Members of the Armed Forces of the Philippines", members of the AFP, other persons subject to military law, including members of the Citizens Armed Forces Geographical Units, who commit crimes or offenses penalized under the Revised Penal Code, and other special penal laws, regardless of whether or not civilians are co-accused, victims or offended parties, shall now be tried by the proper civil courts.

33. Republic Act No. 6975 specifies the administrative disciplinary machinery applicable to the members of the Philippine National Police (PNP). Complaints against any PNP member may be brought before any of the following: (a) chiefs of police, where the offense is punishable by the withholding of privileges, restrictions to specified limits, suspension of forfeiture of salary for a period not exceeding 15 days; (b) mayors of cities and municipalities, where the offense is similarly punishable for a period of not less than 16 days but not exceeding 30 days; (c) People's Law Enforcement Board or PLEB where the offense is similarly punishable for a period exceeding 30 days or by dismissal.

2. Remedies available to individuals whose human rights had been violated

34. Under the Philippine Rules of Court, a person who has been unlawfully detained or deprived in any other

manner of his liberty may file before any Regional Trial Court or the Court of Appeals or directly with the Supreme Court, a petition for the issuance of a writ of habeas corpus to obtain his temporary release.

35. An individual whose human rights were deemed violated may seek immediate assistance from the various government agencies concerned, such as but not limited to the following: PCHR; PNP; Department of Social Welfare and Development (DSWD), National Bureau of Investigation; Public Attorney's Office; Prosecutor's Office; Bureau of Immigration and Deportation, Office of the Solicitor General; Office of the Ombudsman or Tanodbayan; Presidential Anti-Crime Commission; Bureau of Jail Management and Penology for prisoners and other similar agencies.

36. The Revised Penal Code is considered as a public law which concerns public interest, except for those private crimes such as adultery and concubinage in which the intervention of the private offended party is necessary. For other violations punishable under the Revised Penal Code, the action is filed in the name of the People of the Philippines. The offended party files a complaint before the prosecutor, or in places where there are no such office before the municipal trial court of the place where the offense was committed, which would then conduct a preliminary investigation or examination to determine whether there is reasonable cause to believe that the crime punishable under the Code has probably been committed. The finding of the prosecutor or the judge is forwarded to the Provincial Public Prosecutor's Office which then files the corresponding information to the regular courts which, in turn, would determine the culpability of the offender and impose the necessary penalty.

37. The Civil Code of the Philippines regulates the private relations of the members of civil society, determining their respective rights and obligations with reference to persons, things and civil acts. Under its provisions, every person must in the exercise of his rights and in the performance of his duties act with justice, give everyone his due and observe honesty and good faith.

38. The Civil Code also protects human rights when it imposes liability for damages on any public officer or employee, or any private individual who directly or indirectly obstructs, defeats or violates or in any manner impedes or impairs the rights or liberties of another person enumerated in article 32 of the Civil Code. In case of violations punishable under the Civil Code, the offended party files his/her complaint before the regular court which has jurisdiction over the matter, except those cases covered by the

provisions of RA 7160 requiring amicable settlement and arbitration.

3. National Institution for the Promotion and Protection of Human Rights: The Commission on Human Rights

39. The Philippines Commission on Human Rights (PCHR) has established protective legal measures to safeguard the rights of Filipinos according to the principles guaranteed by the Philippine Constitution and international treaty obligations. It deals directly with any particular type of human rights violation, primarily those involving civil and political rights. Specifically, the Commission handles complaints of execution, disappearances, arrest and detention and torture, in addition to other human rights violations related to armed conflict. It may also request the assistance of other agencies of the Government in the fulfillment of its mandate.

40. Representation with the Department of Justice (DOJ), which is in charge of the prosecution of offenses, is also undertaken by the Commission. This is to give preferential attention to the hearing and termination of cases of detainees. As a result, DOJ closely monitors prosecutors who handle these cases to ensure that investigations are completed within the required 60-day period. The Supreme Court, in a parallel move, has likewise urged judges to speed up the resolution of cases through the continuous trial system.

41. A Witness Protection Programme was instituted to give witnesses the necessary courage and confidence to serve the ends of justice. It involves securing the lives of the witnesses victims and their immediate family members and protecting them from any form of harassment or threat.

42. The DOJ is one of the executive departments that plays a vital role in the enforcement and promotion of human rights through its various bureaus, offices and committees at the national and subnational levels.

43. The Office of the Ombudsman is another independent office dealing with human rights enforcement. The main function of this Office is to prevent abuse of power by government officials which adversely affects private rights. The prosecution arm of the Department of Justice works closely with the Office of the Ombudsman and the Office of the Special Prosecutor.

44. The Ombudsman Act of 1989 (RA 6770) strengthened the powers of the Office of the Ombudsman making it a more potent administrative

machinery to insure that government officials remain accountable to the people.

45. A number of other administrative agencies facilitate the implementation and enforcement of human rights. They mainly implement policies in accordance with the laws and administrative issuances. Very often, they enforce and promote the positive rights of citizens which affect their daily lives. For instance, the Department of Labor and Employment (DOLE) sees to it that the rights of workers are protected and their welfare promoted. The Department of Agrarian Reform (DAR) implements the Comprehensive Agrarian Reform Law to promote the economic rights of farmers. With respect to the rights of Filipino children, Filipino women and persons with disabilities (PWDs), the Council for the Welfare of Children (CWC), National Commission on the Role of Filipino Women (NCRFW) and the Council for the Welfare of Disabled Persons, respectively, have been created to coordinate the implementation and enforcement by executive departments of all laws relative to the promotion of the welfare of their respective sectors.

4. Protection of the rights provided for in the Constitution

46. The 1987 Constitution protects, inter alia, the following rights: the right to life, liberty or property (sect. 1, art. III); right of people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature (sect. 2, art. III); right to privacy of communication and correspondence; freedom of speech, of expression, or of the press, or the right of the people to assemble peacefully and petition the Government for redress of grievances; free exercise and establishment of religion; liberty of abode and changing of the same; right of people to information on matters of public concern; right to form unions and associations; right of persons under investigation to be informed of their rights, to remain silent and to have competent and independent counsel; right to bail; right to due process; right to presumption of innocence until the contrary is proven; right to speedy disposition of cases, right to be free from involuntary servitude in any form except as a punishment for a crime whereof the party shall have been duly convicted. Moreover, the privilege of the writ of habeas corpus shall not be suspended except in cases of invasion or rebellion when the public safety requires it.

5. Manner in which international human rights instruments become part of domestic law

47. By virtue of article II, section 2, of the Constitution, the Philippines "adopts the generally-accepted principles of international law as part of the law of the land" which means that provisions of these human rights instruments can be invoked before and be directly enforced by Philippine courts, other tribunals or administrative authorities. Moreover, article XIII, section 18 (7) of the Constitution provides that the PCHR shall monitor the Government's compliance with international treaty obligations on human rights.

48. To date, the Philippines has signed, ratified or acceded to 20 international human rights instruments, including all seven core human rights treaties, to wit: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

E. Information and publicity

49. The Philippines ensures that respect for human rights is observed and, consistent with the mandate of the PCHR to promote human rights, it has intensified measures such as public information and education campaigns, training seminars, and assistance. Human rights subjects have also been integrated in the regular in-service training for all members and staff of the AFP.

50. The PCHR has actively engaged in human rights education, planning, implementation and coordination with various concerned agencies involved in human rights education. In cooperation with the Department of Education (DepEd), the Commission has developed educational materials on human rights and has included them in the elementary and high school curricula.

51. To increase the citizenry's awareness of their various rights and obligations under local and international law, the Commission has produced various publications including primers on human rights in Filipino such as the Filipino version of the United Nations Declaration of Human Rights (published by the University of the Philippines). Other printed materials such as posters and brochures are also being produced and disseminated all over the country.

52. The Commission has initiated several series of consultations and dialogues with government agencies as well as non-governmental entities that can directly help to promote the concept and generate awareness of human rights. This has reinforced the Commission's coordinative task in finding legal, administrative and other alternative measures in resolving human rights issues.

53. Through its Public Information and Education Office, the PCHR undertakes education, training and dissemination of human rights information in order to enhance public awareness, knowledge and understanding of the principles and concepts of human rights. The Commission has established 12 regional offices and four sub-offices nationwide to expedite investigations and provide easy access to human rights victims, as well as for dissemination of information concerning human rights.

II. INFORMATION ON THE IMPLEMENTATION OF THE COVENANT

Article 1

54. This issue is addressed in paragraphs 447-463 of the second and third reports of the Philippine on implementation of the ICCPR (CCPR/C/PHL/2002/2; see appendix A).

55. On 10 May 2004, national elections were held in the country. Prior thereto, on 13 February 2003, RA 9189, otherwise known as the Absentee Voting Law, was enacted into law to enable absentee voting for all overseas Filipinos. The law covers all Filipinos abroad who possess valid Philippine passports and have not renounced their Filipino citizenship. It aims to ensure equal opportunity and access to all qualified overseas Filipinos in the exercise of suffrage regardless of their location.

56. The DFA, through the Overseas Absentee Voting Secretariat, registered 364,187 Filipino absentee voters abroad in 84 Philippine Embassies, Consulates and other foreign service establishments. A total of 233,092 (65 per cent) turned out to vote for the 2004 elections in the more than 100 overseas election precincts.

57. Several international organizations came to observe the conduct of elections in the country and reinforce local monitoring. Some of the observers commended the Filipino people for their continued vigilance to achieve free and fair elections. Others observed that while a genuine desire for credible

elections has been expressed by the Filipinos, important challenges still lie ahead.

Article 2

58. This issue is addressed in paragraphs 464-475 of the second and third reports of the Philippines on implementation of the ICCPR (CCPR/C/PHL/2002/2; see appendix B). 59. In 2004, the DOH led concerned government agencies in conducting the nationwide registration for persons with disability. The program though suffered from a low turn-out of registrants.

Article 3

60. The fifth and sixth consolidated Philippines implementation reports on CEDAW (CEDAW/C/PHI/5-6) were considered by the Committee on the Elimination of Discrimination Against Women last 15 August 2006. (Portions of the report are attached as appendix C).

61. Section 14, Article II of the 1987 Constitution provides that "the State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men." Also, Section 14, Article XIII guarantees working women the right to safe and healthy working conditions, taking into account their maternal functions. Other specific provisions that guarantee women's rights are Section 5(2), which upholds the right of women to sectoral representation in national and local legislative bodies, and Article IV, which grants them equal citizenship rights. Section 1(2), Article IV of the Constitution provides that any child whose father or mother is a citizen of the Philippines may be recognized as a Filipino citizen under existing laws.

62. Towards this end, the Government of the Philippines has adopted laws to correct the historical disadvantages of women in various aspects of life. These include laws prohibiting discrimination in employment, emphasizing the right to education of women and the girl child, removing obstacles to women's entry into the police and military, and criminalizing sexual harassment in educational and training environment and in the workplace.

63. The laws on nationality provide equal rights to Filipino women and men to acquire, change or retain their citizenship or that of their children.

64. Equality of men and women in terms of remuneration for work, equal pay for work of equal value, and conditions of work is a constitutional policy enshrined in Art. II, Sec. 14 of the Constitution.

65. Affirmative measures also exist to respond to the particular needs of women in the workplace. Maternity protection has long been provided to women. Recent legislation, RA 8187 or the 1996 Paternity Leave Act, also grants paternity leave for men on the occasion of childbirth of their spouses. Article 132 of the Labor Code requires employers to provide women with certain facilities like separate toilet rooms and dressing rooms.

66. The Anti-Sexual Harassment Act protects employed women from harassment and penalizes discriminatory acts committed against them.

67. Education is a basic right of every Filipino male and female alike. In 2000, simple literacy rates for women and men 10 years old or older are almost equal at 92.3 per cent and 92.0 per cent, respectively, or a gender gap of 0.3 per centage point.

68. The Government has also ensured that women's rights in securing travel documents, specifically, the passport, are upheld. Guidelines of issuance of passports to women as stipulated in the Philippine Passport Act of 1996 do not require that women seek the consent of their husbands for their application for said document. The guidelines only require submission of pertinent documents to establish the civil or marital status of women applicants.

69. Life expectancy of females has always been higher than males in the Philippines (71.28 years for females in 1999 compared to 66.03 years for males for the same year).

70. The Philippines has maternal mortality rate (MMR) of 190 per 100,000 in 1970 and 179.7 in 1995. The MMR in 1991-97 is 172 per 100,000 live births as estimated from 1998 National Demographic Health Survey (NDHS).

71. In the 1998 NDHS, maternal deaths were estimated to be 14 per cent of all deaths of women ages 15-49. Approximately 2 women for every 1,000 live birth die during pregnancy, at childbirth, or in the period after childbirth. Filipino women also face a one-in-100 chance of dying of maternal causes in their lifetime. Maternal deaths are higher in poor rural and isolated areas and poor urban communities.

72. Since 1986, the Philippine Government, through the National Commission on the Role of Filipino Women, has actively pursued various programs to ensure the effective implementation of laws for women. The Philippine Plan for Gender Responsive Development, 1995-2025, formulated in 1995, has served as the

blueprint for the review and development of gender responsive programs by the different government agencies. These include, among others, training in the use of the gender and development approach for project development, creation of services to deal with problems of physical and sexual abuses as well as other reproductive health issues, and the provision of credit, livelihood skills, and information to enhance women's economic productivity.

73. The Philippine Government also puts high priority on the transformation of society's attitudes and values towards the recognition of the equal roles, rights and responsibilities of women and men. In this connection, it has adopted three development plans for women since 1989. The Philippine Development Plan for Women (GAD) 1989-1992 recognized the shared responsibility of government agencies to implement programs for women's advancement. Agencies created Gender and Development focal points to coordinate plan implementation and lead the capacity building of the agency for gender mainstreaming.

74. Meanwhile, the Philippine Plan for Gender Development 1995-2025 (PPGD), was deliberately long-term in perspective and was envisioned to inform medium-term plans, such as the Framework Plan for Women (FPW), whose objectives, programs and projects are set for a shorter period. FPW aims to promote the economic empowerment of women while upholding and protecting women's human rights in the context of gender-responsive governance.

75. The Philippine GAD Budget Policy, enshrined in the annual budget law, requires the use of five per cent of every agency's budget to implement its plans under the PPGD and FPW. The National Council on the Role of Filipino Women, with the National Economic and Development Authority (NEDA) and the Department of Budget and Management (DBM), are tasked to monitor the implementation of the FPW and the budget policy. From 1999 to 2003, an average of 130 out of the 335 national GAD plan submissions from departments and their attached agencies were received by NCRFW.

Article 4

76. The Philippine Government does not subject the rights provided under the Covenant to any limitations other than those determined by law. Such limitations - where they exist - are compatible with the nature of these rights and are solely for the purpose of promoting the general welfare in a free society.

Articles 5 and 6

Question No. 1. ILO Conventions to which the Philippines is a party

77. The Philippines is a party to the International Labor Organization Convention (ILC) No. 122 (Employment Policy Convention, 1964), ILC No. 111 (Discrimination in Employment and Occupation, 1958), CERD and CEDAW.

78. The Philippine Government submitted its implementation report on ILC 22 for the period ending August 2002. A response to the recommendations made by the ILO's Committee of Expert (Committee) concerning the aforesaid report was likewise submitted.

79. The Philippine Government also submitted its implementation report on ILC 111 for the reporting period ending 31 August 2001. In response to the Committee's recommendation for the Government to address the issue of discriminatory practices relating to "male preference" in the hiring of employees, the Government moved for the amendment of Art. 135 of the Labor Code. Towards this end, various bills were filed before Congress to increase women access to training in employment and prohibit discriminatory practices such as the giving of preference to men in the posting of employment notices.

Question No. 2

2.a. Situation, level and trends of employment, unemployment and underemployment

80. Over the period 1998 to 2003, the country's labor force expanded at a yearly average rate of 3.1 per cent or an average of 979,000 new entrant/re entrants to the labor each year. Overall, the size of the country's labor force increased from 29.674 million to 34.571 million over the six-year period.

Employment and unemployment

81. The level of employment grew steadily from 26.631 million in 1998 to 30.635 million in 2003. Compared to the labor force, however, employment grew at a slower phase annually - 2.9 per cent or 801,000 additional employed persons. The growth was observed to be highly erratic - it suffered a slump twice in 1998 (0.7 per cent) and 2000 (-1.0 per cent), made a recovery in 1999 (4.2 per cent) and in 2001 (6.2 per cent) and posted a moderate growth in 2002 (3.1 per cent) and 2003 (1.9 per cent). The rise and fall in employment over the six-year period was closely tied to the fluctuation in agricultural

employment due to the adverse effect brought by the El Niño phenomenon, which visited the country in 1998 and again in 2000. On the other hand, the full brunt of the Asian financial crisis in 1997 and the global economic slowdown that began in 2000 was felt almost entirely by the industry sector.

82. Employment growth was led by the service sector, which continuously posted an annual growth rate of 5.4 per cent. Its share in total employment expanded from 45 per cent in 1998 to 47.6 per cent in 2003. Meanwhile, the combined agriculture, fishery and forestry sector accounted for a substantial share in total employment, although its share remained stagnant at about 37 per cent. Industry employment however, grew at a very slow pace (1.6 per cent) while its share in total employment declined from 17.1 per cent to 15.8 per cent during the same period.

83. In the public sector, total government workforce stood at 2.37 million in 2003, registering an increase of only 295,000 workers (13.7 per cent) from 1998. Over the period, growth in public sector employment steadily declined from a high of 5.8 per cent in 2000 to 1.8 per cent in 2002. Public sector employment even fell by 0.5 per cent in 2003. Employees in government owned or controlled corporations declined from 128,466 in 1993 to 94,970 in 1999, brought about by the privatization program of the government. A little less than 87 per cent of the total government work force is on permanent status with guaranteed security of tenure.

84. Employment continued to expand in April 2004 posting a 3.6 per cent year-on-year growth or more than a million (1.102 million) employed persons, as indicated in the Labor Force Survey (LFS) of March 2004. The growth resulted from the continued expansion in the service sector (6.2 per cent) and the strong recovery of the industry sector (5.7 per cent). This is an improvement from the data of 2003 when employment recorded a near zero growth (0.8 per cent or 232,000).

85. The agriculture sector, including fishery and forestry, accounts for 45.2 per cent of total employment in October 1990. In October 1999, the share of this sector declined by 6.1 percentage points to 39.1 per cent. This could have been a positive development except that the rate of decline was slow when compared to other ASEAN countries. Also, workers who left the agriculture sector were not absorbed by the industry sector. Data showed that the share of the industry sector to total employment remained almost the same during the period. The increase was minimal at 0.6 per cent, viz., 15. per cent

in October 1990 to 15.6 per cent in October 1999. It appears that the leavers went to the service industry whose share expanded from 39.7 per cent in 1990 to 44.2 per cent in 1999. This forced absorption of redundant agricultural workers in the service sector resulted in the growth of the informal sector in the urban areas.

86. The LFS of July 2000 indicate that the agriculture sector suffered a cutback (1.188 million or 10.1 per cent) after registering an increase (0.8 million) in July 1999. In 2001, its share in the total employment again fell to 35.1 per cent from 37.4 per cent. On the other hand, industry employment rose by 5.7 per cent, following a slump in 1999. All sub-sectors posted positive growth rates led by the manufacturing sector and followed by the construction sector, mining and quarrying sector, and electricity, gas and water sector.

87. The rapid expansion in the labor force and the moderate performance of the economy resulted in the increase of unemployed persons over time. Except for a decline in 1999, the number of unemployed rose gradually from 3.04 million in 1998 to 3.93 million in 2003. Unemployment rate declined slightly from 10.3 per cent in 1998 to 9.8 per cent in 1999 and rose to 11.2 per cent in 2000.

88. Unemployment is largely a problem of young unskilled and inexperienced labor force. The youth, defined as persons 15 to 24 years old, accounts for one half of those totally unemployed. Youth unemployment rate is more than twice the national unemployment rate (21.4 per cent in 1998 and 23.2 per cent in 2003). Most of those who are unemployed were school-leavers - vacationing and graduate students looking for work during off school season - and this explains why April is typically associated with the highest unemployment rate.

89. The male comprised 60.6 per cent of the total unemployed in 2003. However, male unemployment rate (11.3 per cent) is slightly lower than their female counterpart (11.5 per cent). 90. It is also noted that unemployment rate tends to be higher in developed regions such as, the NCR (17 per cent), Region III (12.1 per cent) and Region IV (12.9 per cent), as compared to less developed regions such as, Region II (6.3 per cent), CAR (8.9 per cent) and Region IX (7.8 per cent).

91. The rate of unemployment throughout the nineties exhibited a generally fluctuating trend. From an average of 8.4 per cent in 1990, unemployment rate rose to an average of 10.6 per cent in 1991. This resulted from the power crisis, a super typhoon

that hit the Visayan region in 1990 and a destructive earthquake that hit the capital and the Central Luzon region, and the Mt. Pinatubo eruption in 1991. In 1992, the drop in unemployment rate was the result of the generally improving economic situation brought about by economic reforms and good weather conditions. In 1998, unemployment rate rose sharply to 10.1 per cent following the Asian financial crisis and the El Niño phenomenon which hit the country in 1997 and 1998. In 1999, unemployment rate declined to 9.7 per cent after the economy recovered from the crisis.

92. In 1999, male workforce was reported at 62.3 per cent of the country's labor force. Although females comprised only more than one-third of the labor force, jobless rate was a little higher among females at 9.9 per cent as against 9.5 per cent for the males.

93. Unemployment is basically an urban phenomenon. In 1999, less than two-thirds of the unemployed were urban dwellers (61 per cent). Jobless rate in the urban areas was about twice (12.6 per cent) the rate of unemployment in the rural labor market (7.1 per cent).

Underemployment

94. Underemployment is a more serious problem in the Philippine labor market than unemployment because it cuts across all age barriers and its magnitude is almost twice that of the unemployed persons. Underemployment rate picked in 1998 (21.6 per cent), 1999 (22.1 per cent) and 2000 (21.7 per cent) and thereafter stabilized at 17.0 per cent from 2001 to 2003 as a result of the recovery in agricultural employment.

95. In 2003, a total of 5.21 million employed persons were counted as underemployed in the sense that they wanted to work for more hours than they actually did. This figure represents a substantial decline from the peak recorded in 1999 at 6.127 million. Measured against the number of hours worked during the past week, nearly two-thirds (63.7 per cent) or 3.32 million were visibly underemployed, i.e. they worked less than the 40 hours equivalent of full-time jobs.

96. Underemployment is more of a rural phenomenon. For 2003, underemployment rate was posted highest in less developed regions, such as Regions II (20.1 per cent), V (30.4 per cent) and X (30.5 per cent), and lowest in developed regions, such as the National Capital Region (NCR) (9.6 per cent), Region III (9.2 per cent), Region IV-A (12.3 per cent) and Region VII (11.3 per cent).

97. For 2003, the least educated was also heavily represented among the underemployed. Nearly one-half (46.6 per cent) of the underemployed attended only elementary education or have not completed any grade at all. Slightly over a third (36.4 per cent) attended at least high school and less than a fifth (17.0 per cent) has college education.

98. The level of underemployment rose during the crisis in the early 1990s from 5 million to 6.5 million in 1999. Over this period, the underemployment rates declined by 0.1 per centage points, i.e. from 22.4 per cent to 22.3 per cent. The number of underemployed continued to be high at around 5.4 million annually for the period 1990 to 1999.

99. In 1999, 53.6 per cent of the underemployed were visibly underemployed, meaning they worked for less than 40 hours per week. The rest (46.4 per cent) were invisibly underemployed, which means they worked 40 hours or more but still wanted additional work hours.

Employment of specific groups of workers

100. Employment opportunities for women expanded over the 1990s. From 1990 to January 2002, the number of women workers increased from an average of 8 million to 10.2 million. On the average, women employment grew at an annual rate of 3.5 per cent as against 2.7 per cent of men.

101. From 1990 to 1999, the rate of working children aged between 10-14 years old showed an average annual growth of 3 per cent, from 715,000 to 898,000. Their share in total employment averaged at 3 per cent, with 1991 registering the highest at 3.7 per cent and lowest in 1998 at 3.0 per cent. With the passage of RA 6655, providing for free secondary education and advocacy and mobilization efforts aimed at curtailing child labor, the number of young workers dropped incessantly from 932,000 in 1996 to 831,000 in 1998.

102. In the employment of differently-abled persons, the Philippines is a party to ILC 159 (Convention Concerning Vocational Rehabilitation and Employment [Disabled Persons]). To harmonize local legislation with the principles of ICL 159, Congress enacted RA 7277 to provide for rehabilitation, self development and self-reliance of disabled persons and their integration into mainstream society. In 2000, DOLE introduced "Tulong Alalay sa Taong may Kapansanan" (literally, Program of Assistance for Persons with Disabilities) to assist the integration of differently-abled persons into mainstream society by providing them access to

training and employment opportunities both in the formal and informal sector.

103. From 1994 to May 2004, the program helped employ 22, 110 differently-abled persons in the formal sector. Of this number, 32 per cent or 7, 219 persons with disability (PWDs) were placed in open employment. For self-employment, 67 per cent or 14, 891 PWDs were given assistance for their own livelihood projects. Training benefited 7, 059 PWDs.

104. In terms of technical-vocational education and training, Technical Education and Skills Development Authority (TESDA) conducts various industrial skills, livelihood and entrepreneurship training programs for PWDs. To enhance the skills and employability of PWDs, they are likewise mainstreamed in the national skills certification program. A total of 227 PWDs have been assessed and certified. In terms of access to education, 107 were granted scholarship under the Private Education Scholarship Fund Assistance and the TESDA-Asian Development Bank Technical Education and Skills Development Project.

2.b. Principal policies and measures pursued to ensure that there is work for all

105. A combination of policy and legal instruments embodies the Philippines' commitment to ensure the availability of work and equal opportunities for employment.

Policy instruments

106. The Philippines is a party to ILC Nos. 100 (Equal Remuneration Convention), 111 (Employment and Occupation Convention) and 122 (Employment Policy Convention).

107. The Philippines adopted a new Constitution in 1987. The following provisions of the Constitution are relevant:* Secs. 9, and 18 of Art. II; Sec. 12 of Art. XII; Sec. 3 of Art. XIII and Sec. 2 (2) of Art. IX-B.

108. The following statutory instruments also embody the Philippines' commitment to labor:**

- RA 7277 "An Act Providing for the Rehabilitation, Self-development and Self-reliance of Disabled Persons and their Integration into the Mainstream of Society and for other Purposes."
- RA 9262 "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes".
- Labor Code of the Philippines;

- Administrative Code of 1987;
- RA 8759 "An Act Institutionalizing a National Facilitation Service Network through the Establishment of a Public Employment Service Office (PESO) in Every Province, Key City and other Strategic Areas throughout the Country".

Implementing measures

109. To operationalize these constitutional policies and statutory mandates, DOLE has set up a number of key programs. First is the Public Employment Service Office (PESO), a multi-service facility which offers employment referral services, both local and overseas, and employment enhancement or employability enhancement trainings. PESOs serve as referral and information centers for the various services and programs of government, provide the public with adequate information on employment and the labor market situation, network with other PESOs within the region and nationwide for job exchange purposes, and bring government services closer to the public through active participation of local government units. Support programs for the PESO include undertakings such as job fairs, livelihood and self-employment bazaars, national manpower registry, special programs for employment of students, work appreciation program and youth weekend brigades, and livelihood and household workers centers.

- RA 7323 "An Act to Help the Poor but Deserving Students Pursue their Education by Encouraging their Employment During Summer and/or Christmas Vacations through Incentives Granted to Employers, Allowing them to Pay only Sixty Percentum of their Salaries or Wages and the Forty Percentum through Education Vouchers to be paid by the Government, Prohibiting and Penalizing the Filing of Fraudulent or Fictitious Claims, and for Other Purposes". ***

* Section 9, Article II provides that the State "shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all."

Section 18, Article II, the State "affirms labor as a primary social economic force" and undertakes to "protect the rights of workers and promote their welfare."

Section 12, Article XII mandates the State to "promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive."

Section 3, Article XIII mandates the State to (a) provide full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all; (b) guarantee the rights

of all workers to self-organization, collective bargaining and negotiations, and peaceful and concerted activities including the right to strike in accordance with law; (c) ensure security of tenure, humane conditions of work and a living wage; (d) ensure workers' participation in policy and decision-making processes affecting their rights and benefits; (e) promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes; (f) recognize the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns of investments, and to expansion and growth.

Section 2 (2), Article IX - B (The Civil Service Commission) mandates that appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and, except to positions which are policy-determining, primarily confidential, or highly technical, by competitive examination.

** Article 12 of the Code declares that it is the policy of the State: (a) to protect and maintain a state of full employment through improved manpower training, allocation and utilization; (b) to protect every citizen desiring to work locally or overseas by securing for him or her the best possible terms and conditions of employment; (c) to facilitate a free choice of available employment by persons seeking work in conformity with the national interest; (d) to facilitate and regulate the movement of workers; (e) to regulate the employment of aliens, including the establishment of a registration or work permit system; (f) to strengthen the network of public employment offices and nationalize the participation of the private sector in the recruitment and placement of workers, locally and overseas; (g) to serve national development objectives; and (h) to insure careful selection of Filipino workers for overseas employment in order to protect the good name of the Philippines.

***Article 14 of the Code mandates the Secretary of Labor and Employment to organize and establish employment offices and a nationwide job clearance and information system to inform applicants registering with a particular employment office of job opportunities in other parts of the country and abroad. The Secretary is also mandated to develop and organize a program that will facilitate occupational, industrial and geographical mobility of labor and provide assistance in the relocation of workers from one area to another.

Relevant provisions of the Administrative Code of 1987 -

Section 17 of Title VII Book V of said Code specifically mandates the Bureau of Local Employment of the Department of Labor and Employment, among others, to formulate policies, standards and procedures on productive manpower resources, development, utilization and allocation; as well as establish and administer machinery for the effective allocation of manpower resources for maximum employment and placement. Moreover, the Bureau is mandated to develop and maintain a responsive vocational guidance and testing system and develop and maintain a labor market information system in aid of proper human resource allocation. It is likewise mandated to formulate employment programs designed to benefit disadvantaged groups and communities.

Section 1, Chapter I, Sub-title A, Title I, Book V of the Administrative Code of 1987 declares as a policy that the State shall insure and promote the Constitutional mandate that appointments in the Civil Service shall be made only according to merit and fitness; that the Civil Service Commission, as the central personnel agency of the Government shall establish a career service, adopt measures to promote morale, efficiency, integrity, responsiveness, and courtesy in the civil service, strengthen the merit and rewards system, integrate all human resource development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability; that public office is a public trust and public officers and employees must at all times be accountable to the people; and that personnel functions shall be decentralized, delegating the corresponding authority to the departments, offices and agencies where such functions can be effectively performed.

110. The Special Program for Students (SPES) is a joint undertaking of the DOLE, DepEd and the Department of Finance (DOF). SPES aims to develop the intellectual capacities of children of poor families and help poor but deserving students pursue their education by encouraging their employment during summer and/or Christmas vacations and providing income to finance/augment/subsidize their studies.

111. TULAY program (Tulong Alalay sa Taong May Kapansanan) is a special program for PWDs. (Reference may be made to pars. 103-104) TULAY is a program of the Bureau of Local Employment which aims to assist in the integration of PWDs into mainstream society by providing them access to training and employment opportunities both in the formal and informal sector.

112. In 1999, the CSC adopted the Memorandum Circular on Equal Representation of Women and Men in Third Level Positions. The Circular provides for: (a) the nomination and appointment of both women and men to third level positions; (b) the maintenance of a pool of qualified women and men nominees for every vacant third level position in government; and (c) the encouragement of a 50-50 representation of either sex in third level positions, as may be deemed practicable.

113. The 2004-2010 Medium-Term Philippine Development Plan (MTPDP) adopts a framework for supporting employment generation with the following elements: (a) Adopt the philosophy of free enterprise; (b) Focus on high-value jobs; (c) Microeconomic strategic measures; (d) Improve productivity; and (e) Attract investments. To complement the employment agenda, the government pursues programs meant to generate, preserve, enhance, and facilitate employment. Employment generation involves creating directly or indirectly, employment opportunities in the domestic labor market. Employment preservation entails harmonious worker-employer relationship and maintaining existing jobs with remunerative terms and conditions, to include industrial peace, shared decision making mechanisms and mutual trust and confidence. Employment enhancement involves improved competence, productivity, work values, work conditions/occupational safety and health, remuneration and welfare. Employment facilitation entails facilitating access to employment opportunities and alternatives, including overseas work.

2.c. Measures adopted to ensure that work is productive as possible

114. The Government has adopted the following

approaches aimed towards promoting organizational productivity of employees. There are also special measures adopted which aim to provide relief to working women who traditionally perform multiple roles in the household.¹

Human resource development

115. The first approach is human resource and manpower development. The Government promotes and maintains full and productive employment through improved training and effective allocation and utilization of manpower resources. Republic Act 7796 [1994] which provides for the creation of TESDA, was enacted to assist in the attainment of this objective.

116. Section 7 of RA 7796 creates the TESDA Board to formulate and coordinate a fully integrated technical education and skills development program. The Board is composed of representatives from the Government, industry groups, trade associations, employers and workers.

117. Section 27 of the law provides for appropriate incentive mechanisms, including tax incentives, to encourage government and private entities to implement high quality technical education and skills development opportunities.

118. Republic Act No. 7686, adopting the Dual Training System in technical and vocational education, complements the work of TESDA. The system institutionalizes the partnership between the private sector industry and training institutions in the development of skilled manpower.

119. The two most important performance indicators of TESDA include the number of technical education and vocational training graduates and the number of workers whose skills standards were either assessed

1 The CSC has mandated reforms in the ethical conduct of government workers. Notable among the reforms [contained in the revised Civil Service Code] is the implementation of the Paternity Leave Act of 1996 (RA 8187). Meanwhile, the Department of Social Welfare and Development's Enhanced Reaffirmation of Paternal Benefits program provides fathers an opportunity to improve self-esteem and enrich their paternal capabilities to fulfill their roles, duties and responsibilities. Other government agencies have likewise implemented RA No. 8187 and other CSC Memorandum Circulars on flexi-time, maternity and paternity benefits, and special leave. To ensure that working mothers do not worry while at work, government offices issued their respective Administrative Orders, providing support services and facilities and daycare centers for pre-school children. Modified work schedule policies have been adopted not only for women to manage and balance their work and family responsibilities but also for the men to share parental responsibilities at home.

or certified. For CY 2003, TVET graduates in both the public and private institutions exceeded the one million target. For the same year, assessed graduates and workers totaled 232,823 while the skills of 109,443 workers were certified.

120. For state workers, HRD interventions include scholarship programs for academic and certificate courses and short-term skills enhancement programs, behavioral and value development programs, as well as distance learning. The Civil Service Commission (CSC) grants one-year scholarships to state employees on no-work-full pay status towards completion of a baccalaureate degree or a masters degree in public administration. Between 1994 and 2000, 4,300 employees have been granted scholarships for master's degree; 586 for bachelor's degree completion and over 6,000 for skills upgrading. Overall more than 300,000 state workers at different levels were provided training opportunities in 2000 under CSC-administered programs.

121. The DepEd implemented the National Computer Literacy Programs for teachers, administrators and support staff under the modernization program for teachers.

Employment facilitation and placement

122. Established in 1992, the PESO is intended to maximize private sector and local government participation in the development, operation and maintenance of a registry of manpower, skills and vacancies for effective job-matching. In 1992 alone 75 PESOs were established all over the country. As of May 2004, there were 1,765 PESOs established in different areas of the country, of which 1,531 were deemed fully operational. Through the PESOs, 3,540, 111 job applicants were placed locally and overseas from 1999 to May 2004. Placed applicants to various companies totaled 3,285,960 out of 4,973,858 registered applicants. On the other hand, from January to April 2004 alone, PESO has placed 217,529 job-seekers for local and overseas employment. (Reference may be made to par. 110.)

123. In an effort to continuously expand the concept of the PESO, DOLE, in coordination with the private sector, launched in 1998 a computerized system for matching job vacancies for job placements, known as Phil-Jobnet. Under this scheme, participating enterprises enroll their vacancies and skills needs in a computerized network, making job market information available at any time. Together with the PESO, the Phil-Jobnet is seen as a vital part in the package of long-term solutions to eliminate job mismatches which, in

turn, undermines productive employment.

124. The Phil-Jobnet is automated labor market information and job-skills matching facility designed to shorten the duration of job search by employment seekers as well as the filling up of vacancies by employers. As of July 28, 2004, the Phil-Jobnet has posted over 415,075 vacancies from 2,429 firms, and registered some 379,759 job seekers nationwide.

125. Republic Act No. 8042, otherwise known as the 1995 Migrant Workers Act, governs the recruitment placement and social protection of overseas Filipino workers. Under the Act, the Philippine Overseas Employment Authority (POEA) regulates recruitment and placement activities. A significant policy shift under the Act is the principle of selective deployment with the recognition that "the ultimate protection to all migrant workers is the possession of skills." As such, the Government deploys and/or allows the deployment only of skilled Filipino workers. Also, the law provides for the deployment of workers only in countries where the rights of migrant workers are protected.²

126. Section 2 (g) and Section 4 are preventive responses to the persistent incidence of abuses, which Filipino workers suffer while abroad.

127. The placement and facilitation services of the POEA resulted in the deployment to various destinations abroad of 660,122 Filipino workers in 1996, 747,696 in 1997, 831,643 in 1998 837,020 in 1999, 459,832 from 2000 to 2002, and 867,969 in 2003. Total remittances amounted to over US\$4.2 billion in 1996, over US\$5.7 billion in 1997, over US\$4.9 billion in 1998, over US\$6.7 billion in 1999 and over US\$1.1 billion in January and February 2000 and US\$ 7,640 billion in 2003.

Standards-setting

128. The Labor Code provides for the minimum standards of employment, including wages, hours of work, rest days, overtime and night pay, safety and

2 Sec. 4. Deployment of Migrant Workers. The State shall deploy overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection and the rights of overseas Filipino workers: (a) It has existing labor and social laws protecting the rights of migrant workers; (b) It is a signatory to multilateral conventions, declarations or resolutions relating to the protection of migrant workers; (c) It has concluded a bilateral agreement or arrangement with the Philippine government to protect the rights of overseas Filipino workers; and (d) It is taking positive, concrete measures to protect the rights of migrant workers.

health standards, among others. In particular, The Code also provides for the creation sets up the State Insurance Fund, which provides for compensation and rehabilitation benefits in case of employment-related contingencies or accidents. These standards, which will be discussed in more detail under subsequent headings, are intended not only to ensure an environment for productive work, but also to implement the constitutional provision that the State shall ensure just and humane conditions of work.

Collective bargaining

129. The Philippine Constitution guarantees the rights of workers to organize and to bargain collectively, as well as to participate in policy and decision-making processes directly affecting them. Book V of the Labor Code, which was substantially amended in 1989 through RA 6715, is the enabling law in the implementation of this policy.

130. Article 211 of the Code expressly recognizes collective bargaining and industrial democracy as the preferred modes of defining labor-management relations. Article 275 of the Code declares tripartism as the labor relations policy of the State, while Art. 277 lays down the legal basis for the government to undertake promotional activities, including labor education and technical assistance, to improve productivity, working conditions, quality of work life and cooperation between employers and workers. The Government considers tripartism as an integral part of public governance. In April 1991, the government became a party to ILO Convention No. 144 (Tripartite Consultation, 1976). In 1990, a Tripartite Industrial Peace Council (TIPC) was established through Executive Order No. 403. The TICP serves as an advisory body to the President and to the Secretary of Labor and Employment

Protection against unjustified dismissal

131. Article 279 of the Labor Code assures the right of workers to security of tenure. As such, an employee may not be dismissed except for a just cause or when authorized by law, i.e., closure of business operations or redundancy of the employee's position. Article 277 (b) of the Labor Code provides for the twin requirements of notice and hearing prior to termination of employment. The employee may contest the legality of his dismissal before the National Labor Relations Commission (NLRC).

132. As regards security of tenure for government workers, Sec. 2(3), Art. IX-B of the Constitution provides

that no officer or employee of the civil service shall be removed or suspended except for cause provided by law. This provision is reiterated in Sec. 46, Chapter 7, Sub-Title A, Title I, Book V of the Administrative Code of 1987. Section 2 of Republic Act No. 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization) reiterates the same provision and requires due notice and hearing prior to dismissal.

Productivity programmes

133. Republic Act 6971, otherwise known as the Productivity Incentives Act of 1991, encourages the promotion of industrial peace and higher levels of productivity by providing incentives to both labor and capital. Section 6 of the Act encourages productivity incentives programs and sets the guidelines in the determination of profit-sharing and productivity bonuses. Section 7 of the Act provides for benefits and tax incentives to those enterprises that adopt productivity incentives programs. Also, expenses incurred on training programs and special studies of rank-and-file employees entitle the sponsoring enterprise to tax incentives.

134. The DTI has specialized training centers and regional offices that conduct skills and livelihood training in the following areas: gifts and housewares; garments and accessories; chemicals, electronics and telecommunications; metal engineering; construction manpower services; agro and forest-based activities; and for wholesalers, retailers, cooperatives, managers and supervisors.

135. The Cottage Industry Technology Center offers training on the following livelihood programs: dressmaking, flower making, bag making, holiday décor, novelty items, homemade paper, food processing, handloom weaving, basketry and pottery. TESDA conducts training on non-traditional skills development, including: furniture and builders woodworks, woodworking, machine operation, maintenance and millwrighting, basic welding technology, gifts and houseware, and community-based craft production.

136. The DSWD administers the Productivity Skills Capability Building for Disadvantaged Women Program. The program provides skills training for women in sewing, rattan and toy crafts, food processing and preservation, ceramics, loom weaving, and home aide service. It also provides opportunities for women to enhance themselves, improve their understanding of maternal and personal care,

participate in community activities, and develop their communication skills.³

137. The Women's Business Council of the Philippines sponsors entrepreneurial development courses for differently-abled women and business improvement and survival courses for women-entrepreneurs. Graduates of these programs were found to be more assertive and self-confident, more active in community activities, more decisive and more aware of their rights as women and entrepreneurs.

138. The TESDA Women's Center was established in 1998 to contribute to the improvement of the socio-economic status of women through training, research and advocacy. The Center conducts technology-based training and empowerment/social skills training that cater to the urban poor women, women from the rural areas, women youth, returning women migrant workers, wives of overseas workers/seamen, and women displaced workers.⁴

139. Other activities that aim to improve productivity are as follows - (a) dissemination of knowledge/technology to the rural poor; (b) increasing budgetary support to Research and Development and field extension work; (c) extensive promotion of mariculture activities with mangroves and fish sanctuaries; (d) government financial institutions' financing for state universities & colleges demonstration projects like those provided by the Land Bank of the Philippines and Development Bank of the Philippines; and (e) free patent search for dissemination to small-medium enterprises.

2.d Measures adopted to ensure that there is freedom of choice in employment

140. The Philippines is a State party to the core ILO Conventions on equality of opportunity and treatment

3 From 1995 to 1999, a total of 164,821 disadvantaged women were served nationwide. Of the women graduates, a total of 115,374 were absorbed in the labor force either through self or open employment, sheltered workshop/community manufacturing or sub-contract jobs.

4 The technology-based training has the following levels: pre-employment training (4-6 months); skills upgrading (1-2 months); comprehensive trainers training (18 months); and training methodology (80 hours). This training program covers both the traditional (food processing, crafts-gifts and housewares, garments, and hotel and restaurant management and non-traditional (automotive, ceramics, electronics, jewelry, and metals/welding) courses. Since its establishment in 1998, the TWC has produced 1,569 graduates in pre-employment skills training. The empowerment/social skills training include entrepreneurship development, gender sensitivity, leadership, work ethics and values development, cooperative development, community organizing, and advocacy and social marketing.

as well as on non-discrimination. The general policy statements in the Constitution and the Labor Code demonstrate the government's commitments to the principles embodied in these Conventions.

141. Article 135 of the Labor Code prohibits discrimination in respect to the terms and conditions of employment on account of sex. Article 136 prohibits discrimination by reason of marriage while Art.137 prohibits discrimination on account of pregnancy. The Code also imposes penalties for violations of these provisions.

142. However, the Labor Code allows certain forms of discrimination based on biological or other relevant considerations.⁵

143. Republic Act 6725 strengthens the prohibition of discrimination against women with respect to terms and conditions of employment, promotion and training opportunities.

144. Pursuant to the provisions of the Anti-Sexual Harassment Act, government agencies have established their respective Committees on Decorum and Investigation to address complaints of sexual harassment within their respective offices. These Committees are tasked to identify the different acts and forms of sexual harassment, provide for rules concerning the disposition of cases and provide for the proper penalty depending on the form and gravity of the offense.

145. For the private sector, DOLE requires compliance with certain provisions of the law, including the posting of a copy of the law within office premises, promulgation of company policy on sexual harassment and the creation of a Committee on Decorum and Investigation to handle cases of sexual harassment.

5 For instance, affirmative measures are in place to ensure that women workers enjoy protection by reason of gender. Art. 132 of the Code limits the employment of women in certain forms of night-work. Article 138 ensures that women workers are afforded adequate facilities and standards to ensure their safety and health. Art. 139 provides that a woman working in a nightclub, cocktail lounge, massage clinic, bar or similar establishment be considered as employee of such establishment for purposes of labor and social legislation. For health reasons, Article 139 provides for the minimum employable age of young workers at 15 years old and limits the number of hours and periods of the day they may be employed. The law is also specific that young workers under 18 years old may not be employed in undertakings of a hazardous or deleterious nature. Because of their station or place of work, Article 135 provides for the protection of the rights of industrial home workers, particularly with regard to the standards established by the Secretary of Labor to ensure their general welfare and protection.

2.e. Technical and vocational training programs

146. As indicated above, the Government's human resource development program, particularly technical-vocational education and training (TVET), is lodged with the TESDA.

147. TVET aims to enhance the employability and productivity of Filipinos and, in the long run, reduce the incidence of poverty.

148. TESDA is mandated to formulate a comprehensive development plan on TVET which rests on a reformed industry-based training program. Through the program, TESDA aims to promote the protection and welfare of the worker or trainee, improve the quality and social accountability of technical education and skills development, accelerate the employment generation efforts of the government and expand the range of opportunities available to the populace beyond the traditional higher levels of formal education.

149. As the authority on technical education and skills development, TESDA plays the role of overall manager of the TVET sector. The sector is generally defined in terms of its components. The structural and administrative elements of TVET in the Philippines broadly consist of the following:

150. The school-based system - This provides courses of one to three years duration for young, people who have completed a full secondary education. This sub-sector is dominated by private institutions, which produce 90 per cent of graduates.

151. The non-formal or skills or skills development sub-sector or the center-based programs - This provides courses of training for a wide range of clients including the out-of-school youth, the unemployed, existing workers seeking to upgrade their skills, women seeking to enter the workforce, and returning overseas workers seeking to gain skills for entrepreneurship or skills in demand.

152. In Industry-based training and industry partnerships - This refers to a range of training arrangements, which are in place. This also involves agreements between enterprises and training providers for a combination of on-and-off-the job training.

153. The apprenticeship programme and the dual training system fall under this category. The industry-based programs also cater to industry workers for increased productivity.

154. Community-based sector training - The community-based programs are training programs specifically designed to answer the needs for skills training of community with the end view of creating self-employment. Target beneficiaries include the poor and the underprivileged individuals (out-of-school youths, unemployed adults), marginalized sectors (subsistence farm workers and fisher folks), and economic groups (informal sector) in a community. This kind of training provision is usually provided by the local government units and community groups or non-government organizations.⁶

155. In the performance of its mandate, the TESDA also implements and supervises basic vocational manpower guidance programmes. These programs aim to channel the country's manpower to high demand occupations, promote career awareness and planning, and develop work attitudes and habits. Some of these programmes also include values development.⁷

156. Private sector involvement in is even more important because it is the firm which has the greatest possibility of discerning technological advancements and external developments that may impact on the conduct of its business. As such, the enterprise is in the best position to determine the need for skills retooling, retraining and responding rapidly to enable quick adjustment to the labor market.

6 The community based training for enterprises development is being offered as one of the training and development methodologies for the government's flagship program against poverty, thus it has been designed to operate within a definite and clearly defined area of battleground. Its mission is to hold the flow of labor from the agricultural sector, provide economic opportunities to the unemployed and develop the productivity and profitability of operators and workers in the informal sector.

The Community Training and Employment Coordinators (CTECs) serves as the TESDA's intermediaries in the implementation of community-based training programs at the local level. Being regular LGU-personnel, the CTECs has important and critical roles in the development of the community.

Their mission is to assess, study and plan the implementation of training programs which would help develop and expand the community's economic based. Their job is to cause the conduct of training through other actors. As of 2004, there are about 1,124 CTECs all over the country.

7 The manpower guidance program is made up of 12 major components which fall under the following phases: (a) Preparatory Phase, which consists of a mass-based (medical, social intermediaries and peer) training, recruitment, motivation and career information drive; (b) Pre-training Phase, which consists of applications processing, client assessment, admission notice, and training induction; (c) Training Phase, which consists of in-center counseling, job-induction and graduation; and (d) Post Training Phase, which includes placement and self-employment assistance, follow-ups, and retraining or skills upgrading assistance.

157. Private sector involvement in technical and vocational education is crucial. Many industries have invested in training facilities. Many others also support training through on-the-job training, donations and skills definitions.⁸

158. TVET are carried out through both formal and non-formal means. From more than 286,000 in 2001, school-based TVET enrollment rose to about 439,000 in 2002 and reached almost 492,000 in 2003. Enrollment of community-based training programs also accounted for the bulk of training outputs almost 492,000 in 2003. Enrollment of community-based training programs also accounted for the bulk of training of training outputs almost 600,000 enrollees from 2001-2003.

159. Latest data showed that the provision of TVET through formal means is dominated by the private sector (82 per cent). The exact opposite could be observed in terms of non school-based training with publicly-funded institutions accounting for 64 per cent of all providers. There are about 2,045 private institutions/centers and 1,353 publicly funded TVET. These comprise the total TVET delivery networks that includes higher education institutions, industry-based training centers, NGO-based training centers, LGU-based training centers as well as schools and training centers supervised by TESDA. Private institutions account for about 80 per cent of total enrollment in formal TVET financed almost exclusively by tuition fees and endowment income, with minimal government subsidy.

160. Executive Order No. 358, s. 2004, provides the mechanism to bridge the gap between TVET education and higher education. EO 358⁸ mandates TESDA and CHED, in consultation with concerned sectors, to implement a unified national qualified qualifications framework. The framework aims to establish a ladderized system which would allow easier transition and progression between TVET and higher education. The framework encompasses various unified qualification and articulation mechanisms which include: National System of Credit Transfer, Post-TVET Bridging Programs, System of Enhance Equivalency,

⁸ The Dual Training System is very promising even if its general replicability is not yet assured. The dual training institutions are new, specialized and high-qualified group, with more diversified product range, better equipped and more integrated industry-institutions relationships, catering mainly for occupations with high knowledge content. The apprenticeship system functions more as "employment" than as training, and is limited in its effectiveness by length of time and trades covered in the legislation. The legislation relating to apprenticeship needs radical change, although the system is still required, especially in craft occupations.

Adoption of Ladderized Curricula/Programs, Modulized Program Approach, Competency-Based programs, Network of Dual-Sector Colleges or Universities and Accreditation of Prior Learning, among others.

161. Also, TESDA, in collaboration with the industry, holds skills competition, such as the National Skills Olympics, to promote quality skills development and with the view of participating in international skills competition.⁹

162. The TESDA Women's Center (TWC) takes pride in being the country's lone TVET training institution with world-class facilities that addresses exclusively the empowerment of women.¹⁰

2.f. Difficulties encountered

163. The difficulties encountered in attaining the objectives of full, productive and freely chosen employment can be traced to nagging structural defects of the economy in general, and of the labor market in particular. The pressures of globalization, if not managed well, are also seen to hinder the attainment of these objectives. The macro-economic indicators discussed above should place these difficulties in context.

164. In the informal sector, marginal labor standards in work conditions adversely affect the attainment of a state of productive employment. It can also be noted that unemployment and underemployment are prevalent in the agricultural sector, mostly due to the seasonality of work. Low labor and land productivity also pose complex problems.

⁹ The conduct of the skills competitions serve as venue to recognize the skills excellence of young industry skilled workers and graduates of TVET institutions. Skills competitions consist of a series of local, provincial, sectoral and regional contests being held nationwide. National winners proceed to compete in international skills competitions such as the ASEAN Skills Competition (ASC) and the World Skills Competition (WSC) under the auspices of the International Vocational Training Organization (IVTO).

¹⁰ The TWC maintained strong partnerships with private companies, non-government organizations as well as local government units for the on-the-job training of trainees, employment and scholarships. In terms of entrepreneurship development, the TWC maintained the provision of labor market information to its clients through the *Kasanayan-Kabuhayan One-Stop Service*. It specifically provided free internet training to women entrepreneurs so that they can engage in e-commerce. The *KKOSS* was further strengthened under the *TESDA-UNDP Project*. The marketing of the women's products were tied up with the *Philippine Marketing Corporation* and 42 products are now marketed at malls in *Metro Manila* and four will be exported to the *United States*. The mainstreaming of *GAD* in TVET also gained headway as the training of 51 middle managers and 13 Provincial Directors, aimed at increasing the *GAD* champions within the agency as well as the TVET sector, was also supported under the *TESDA-UNDP Project*.

165. In the formal sector, the most common negative factors include wage levels and benefits, limited job choices, limited access to basic services, limited bargaining power of workers and perceived weakening of unions, and the increasing incidence of contractualization and flexibilization.

166. These difficulties are being addressed by the Government through several reform programs, including - (a) various protection programs and labor standards in the areas of labor contracting and labor flexibilization, anti-sexual harassment, safeguards against women discrimination and child abuse, programs for differently-abled persons and senior citizens, among others; (b) special programs for overseas contract workers which prioritize the protection of women workers in the so-called dirty, demanding and dangerous occupations; (c) short-term measures which help alleviate the plight of landless and rural workers including the intensified implementation of the agrarian reform program, special skills development program, promotion of cooperatives among workers and protection programs for child workers; and (d) emergency employment, social safety nets and economic adjustments that cushion the negative impact of globalization and deregulation and other new economic programs aimed at stabilizing the economy in the medium and long term.

Technical education

167. TVET is faced with several challenges that need careful scrutiny and attention. Some of the issues that the sector must look into include the following:

168. Social Bias against TVET. A 1991 report by the Congressional Commission on Education showed that societal bias and stigma had been attached to TVET. Filipino families aspire that their children finish college and view technical vocational education as only for the less academically inclined.

169. Absence of direct link between technical-vocational education and training and higher education. Filipinos view TVET as a "dead-end" where career usually stagnates and career growth is hampered by lack of the requisite educational qualifications. To counter this perception, a ladderized interface between TVET courses and college degrees to cater to the varying needs of students and promote upward academic mobility.

170. Need for measuring the aptitude of the youth. There is a need to guide high school graduates on what college courses to pursue after graduation. A survey that would map out the capabilities and

competencies of the students would be useful in career guidance and counseling to help parents and students decide in what course to pursue after high school.

171. Existence of labor market demand-supply mismatches. There are a large numbers of trained graduates who are left unemployed or underemployed because they do not fit the requirements of the job market. It is quite ironic that a number of job vacancies could not be filled up because the available manpower supply would not fit the job, as confirmed by a graduate Tracer Study conducted by TESDA in 2002. Results show that employment rate of TVET graduates is rather low at 58.28 per cent for training center graduates, 67.73 per cent for TESDA schools and 57.6 per cent for private institutions. Likewise, employed graduates are not able to utilize the skills that they learned, as they are employed in jobs where they are not trained. Skill utilization rate was reported at 80.04 per cent and 77.46 per cent for graduates of training centers, TESDA schools and private TVET institutions, respectively.

172. Need for more responsive TVET investments. Investments in middle-level skills development has remained focused on direct training provision by national government, which delayed the long-intended devolution to LGUs and private sector. To optimize the use of public investments, there is a need to realign TVET programs to focus only on programs with high market absorption rate.

173. The country also faces a lot of issues that impinge on technical education and skills development. Among the major issues are as follows:

- There is a low cohort survival rate of students, which reflects on the educational qualification of the labor force;
- There is a rising displacement of workers due to global and local factors;
- The majority of technical-vocational institutions are in the urban areas which limits access of the majority of the clientele who are in the rural areas; and
- The problems relating to trainers' capability, outdated curricula and inadequate budget continue to bear down on the quality of technical education and skill development provision.

174. In view of the foregoing, TESDA pursues a three-pronged direction to address the above-mentioned issues, viz:

- Global Competitiveness - This addresses the skills requirements of export-oriented activities,

catalytic industries, industries undergoing adjustments, support industries and overseas employment.

- Rural Development - This addresses the need to mainstream the countryside in national development through addressing the skills requirements of economic activities in the rural areas, especially in pursuing technology-based agriculture and fishery development.
- Social Integration - This focuses on the development of para-professional and other social development workers to facilitate the delivery and accessibility of social development services; provision of wider range of economic and social alternatives to poor and other disadvantaged Filipinos; and development of intangible social and personal skills.

Question No. 3. Discrimination

3.a. Discrimination at work

175. As a rule, there are no distinctions, exclusions, restrictions or preferences in law, in administrative practices or in practical relationships, between persons or group of persons on the basis of race, color, sex, religion, political opinion, nationality or social origin.

176. The only exception is Art. 40 of the Labor Code which regulates the entry of foreign nationals into the employment market. More specifically, Art. 40 requires non-resident aliens seeking admission into the Philippines for employment purposes to obtain an alien employment permit from the DOLE. The issuance of the permit is subject to the "labor market test", that is, only after determination of the non-availability of a Filipino who is competent, able and willing to perform the service required of the alien at the time such service is needed.

177. To allow it to fulfill its commitments to the different multilateral institutions, such as the World Trade Organization, the Association of Southeast Asian Nations and Asia-Pacific Economic Cooperation, the Government is exploring the possibility of liberalizing Art. 40 in industries or occupations where the expertise of a foreign national is needed, specifically in the maritime, air transport, telecommunication and banking industries, as well as in business and the professions.

178. In *International School Alliance of Educators v. Quisumbing*, (G.R. No. 128845, 1 June 2000), the Supreme Court of the Philippines declared discriminatory the grant of higher salaries for foreign hires to the prejudice of local hires. The Court in its

decision said that Art. 7 of the ICESCR "impregably institutionalizes in this jurisdiction the long honored truism of equal pay for equal work. Persons who work with substantially equal qualifications, skill, effort and responsibility, under similar conditions should be paid similar salaries. This rule applies to the School, its international character notwithstanding."

3.b. Non-discrimination regarding vocational guidance and training

179. Philippine laws and policies on technical and vocational guidance and training, employment and occupation apply to all persons regardless of their race or ethnic origin, color, sex and religion.

3.c. Preference for employment of Philippine nationals

180. The preference for employment of a Philippine national over an alien is not considered discriminatory both in law and practice, owing to the nationalization policy of the Constitution and to the realities of the employment market.

Question No. 4. Part of the working population which holds more than one full-time job

181. There is no available information on the proportion of the working population that holds more than one full-time job in order to secure for themselves and their families an adequate standard of living. An inference, however, can be drawn from the incidence of underemployment, which as of 1999 stands at 22.3 per cent.

182. More than 50 per cent of women works full time or worked less than 40 hours per week. In 1989, the proportion of women working full-time was 62 per cent and in 1999, the rate shrunk to 60 per cent. The visibly underemployed women increased from 36.4 per cent in 1989 to 38.1 in 1999.

Question No. 5. Changes in legislation and policies affecting the right to work

183. The three major laws passed during the reporting period which affected the right to work are as follows - TESDA law, the Dual-Tech Law, and the Migrant Workers Act. The Supreme Court has consistently upheld as a valid exercise of police power the regulation by the Government of the outflow of overseas Filipino workers. In 1989, in one case, the Supreme Court sustained a ban imposed by the Secretary of Labor against the deployment of domestic helpers abroad as this was done to safeguard the welfare of this

particular group of workers. In 1994, the Supreme Court likewise upheld the authority of the Secretary of Labor to prescribe minimum age and skills requirements as preconditions to the deployment of performing artists.

184. Other major legislative changes that may be cited are the following:

- EO 180 series of 1987 that governs the right of public sector employees to organize;
- RA 6715 or the 1989 New Labor Relations Law;
- RA 6727 or the 1989 Wage Rationalization Act;
- RA 6725 of 1989 that strengthened the prohibition on discrimination against women;
- RA 6971 or the 1990 Productivity Incentives Act;
- RA 7641 or the 1992 New Retirement Law;
- RA 7655 prescribing a minimum wage for house helpers;
- RA 7699 of 1994 which mandates the limited portability scheme in Social Security Insurance Systems;
- RA 7877 or the 1995 Anti-Sexual Harassment Law;
- RA 7875 or the 1995 National Health Insurance Act;
- Department Order No. 26 series of 1995 that provided for integrated guidelines in accessing the funds of the workers organization and development program;
- RA 8187 or the 1996 Paternity Leave Act;
- RA 8291 or the 1997 New Government Service Insurance System Act;
- RA 8282 or the 1997 New Social Security Act;
- RA 8972 or the Solo Parents Welfare Act of 2000;
- RA 9231 or an Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for the Purpose;
- RA 7610, as amended, otherwise known as "The Special Protection of Children Against Child Abuse, Exploitation and Discrimination";
- RA 9178 Barangay Micro Business Enterprises (BMBEs) Act of 2002;
- RA 9257 or the "Expanded Senior Citizens Act of 2003".

185. The executive branch also issued rules and guidelines implementing the foregoing laws. Among the most important issuances by the DOLE in the area of industrial relations are:

- EO 330 series of 1994 adopting the expanded higher education equivalency accreditation program;

- Department Order No. 18 series of 1995 relating to the training, testing, certification and registration of vulnerable workers;
- Department Order No. 21-95 and Department Order No. 18 series of 1995 rationalizing the conditions, requirements and procedures for deployment of performing artists;
- Department Order No. 09 series of 1997 liberalizing the registration of unions and other forms of workers organizations;
- Department Order No. 18 series of 2002 on the new rules on subcontracting;
- Department Order No. 10 series of 1997 on the new rules on subcontracting;
- Department Order No. 19 and Memorandum Circular No. 19 series of 1997 requiring training, testing, certification and registration of domestic helpers bound for the Kingdom of Saudi Arabia and Kuwait;
- Department Order No. 14 series of 2001 on guidelines governing the employment and working conditions of security guards and similar personnel in the private security industry;
- Department Order No. 65-04 on Rules and Regulations Implementing Republic Act No. 9321 Amending R.A. 7610, as amended.

186. The direction of judicial decisions interpreting these laws and regulations has been to affirm the constitutional policy of protection to labor and the primacy of the police power in cases where workers are exposed to employment conditions which tend to give rise to exploitation.

Question No. 6. International assistance in the full realization of right to work

187. The World Bank financed Vocational Training Project II which aims to support government efforts to create an environment conducive to investment and employment generation.

Article 7

Question No. 1. ILO Conventions to which the Philippines is a party

188. The Philippines is not a State Party to the following Conventions:

- ILO Convention No. 131 (Minimum Wage-Fixing), 1970;
- ILO Convention No. 14 (Weekly Rest [Industry]), 1921;
- ILO Convention No. 106 (Weekly Rest [Commerce and Offices]), 1957;

- ILO Convention No. 132 (Holidays With Pay [Revised]), 1970;
- ILO Convention No. 81 (Labor Inspection), 1947;
- ILO Convention No. 129 (Labor Inspection [Agriculture]), 1969; and
- ILO Convention No. 155 (Occupational Safety and Health), 1981.

189. But as will be detailed in the succeeding discussion, the Labor Code provides for : (a) a mechanism for minimum wage fixing; (b) a rest day of at least 24 hours after six consecutive days of work; (c) holidays with pay; (d) occupational safety and health standards taking into account distinctions between hazardous and non-hazardous occupations; and (e) an inspectorate system to ensure enforcement of standards.

190. The Philippines is a party to the following Conventions:

- ILC No. 100 (Equal Remuneration), 1951;
- ILC No. 99 (Minimum Wage-Fixing [Agriculture]), 1951; and
- ILC No. 176 (Safety and Health in Mines), 1995.

191. The Philippines has submitted its reply to ILO's 1998 direct request on Convention 99 concerning minimum wage-fixing machinery (Agriculture) for the period ending August 2002. The report provided the ILO with a table on the "Nominal Minimum Wage Rates by Sector and Region and a table on "Employed Persons by Major Industry Group, Class of Worker and Hours Worked" (DOLE Publication Factbook on Labor and Employment (as of June 2002).

192. Moreover, the detailed report provided to the ILO contained updates on the recent implementation of RA 6727, Wage Rationalization Act, as amended by RA 8188 or the Double Indemnity Act and other provisions of the Labor Code of the Philippines concerning minimum wage rates.

193. The Philippine government has also submitted its detailed report to the ILO on Convention 100 concerning Equal Remuneration last August 2001. The report provided the ILO with more recent information on the implementation of RA 6725 and other laws and regulations relative to the Convention.

194. The Philippines ratified Convention 176 concerning safety and health in mines on 27 February 1998. For the period ending August 2002, the Philippine Government has submitted its first detailed report to the Committee. The Committee

was provided with a list of laws, regulations and other measures made by the Government in compliance with the provisions of the Convention.

Question No. 2. Wages

2.a. Principal methods used for fixing wages

195. The principal methods for fixing wages are minimum wage fixing and collective bargaining.

196. Minimum wage fixing has been conducted on a regional basis since 1989 by 17 independent Regional Tripartite Wage and Productivity Boards (RTWPBs). Republic Act 6727, otherwise known as the Wage Rationalization Act, provided for the creation of the RTWPBs and placed them under the supervision of DOLE.

197. The State recognizes collective bargaining as the preferred mode of setting the terms and conditions of employment, including wages. Collective bargaining is primarily governed by Book V of the Labor Code, as amended by RA 6715. However, it must be noted that wages fixed through collective bargaining must not be lower than the applicable minimum wages fixed by the RTWPB.

198. Public sector wages are governed by RA 6758, otherwise known as the Salary Standardization Law of 1989, which provided for a unified compensation and position classification system for all job positions across the entire bureaucracy, including LGUs, based on the principle of equal pay for substantially equal work. Salary rates are fixed by legislation.

199. Collective bargaining in the public sector is a recognized mode for negotiating terms and conditions in the work place, except those that are fixed by law, including wages. As such, welfare-related benefits, such as annual medical examinations, work assignment of pregnant women, facilities for differently-abled personnel, first aid medical facilities and day care for employees' children, may be negotiated.

2.b. Minimum wage-fixing

200. Wage-fixing was originally a function of the legislature. During the martial law period (1972-1981), minimum wage fixing was done through presidential decrees or wage orders issued by the President. As discussed above, with the enactment of RA 6727, wages were determined by the independent RTWPBs which have representatives from labor, business, and government sectors.

201. Household or domestic helpers, and persons employed in the personal service of another, including family drivers, are exempted from the provisions of RA 6727. The law also exempts retail and service establishments regularly employing not more than 10 workers from the provisions of the law.

202. There are 11 criteria for minimum wage fixing under RA 7627 and one under the Rules of Procedures for Minimum Wage Fixing as determined by the National Wages and Productivity Commission (NWPC). These criteria may be categorized into four groups, namely - (1) Needs of workers and their families - (a) demand for living wage, (b) wage adjustment vis-à-vis CPI, (c) cost of living and changes therein, (d) needs of workers and their families, and, (e) improvements in standards of living; (2) Capacity to pay of employers/industry - (a) fair return on capital invested and to pay of employers and (b) productivity; (3) Comparable wages - (a) prevailing wage levels; and (4) Requirements for national development - (a) need to induce industries to invest in the countryside, (b) effects on employment generation and family income, (c) equitable distribution of income and wealth along the imperatives of economic social development.

2.b.i. Weight of minimum wages and measures undertaken to secure against erosion

203. Minimum wages have the force of law for all covered enterprises. Its enforcement is monitored and ensured through the inspectorate system established by the DOLE. Inspection may be done upon complaint by an interested party or through routine inspection. To ensure effectiveness of the inspectorate system, an employer is under the obligation to provide the Government with "access to the employer's premises at any time of the day or night, whenever work is being undertaken therein, and the right to copy therefrom, to question any employee, or to investigate any fact, condition or matter which may be necessary to determine violations ... of any wage order" (Art. 128.a, Labor Code).

204. If a violation of a wage order is established, the DOLE has the power to issue compliance or restitution orders. An indemnity equal to the amount of underpayment shall be imposed on an enterprise found in violation of a wage order.

205. As has been stated above, salary emoluments and allowances for public sector employees are determined through legislation. Thus, any salary increases are applied across-the-board. Since the

unified compensation system took effect in 1989, salaries in government were increased in 1994, 1995, 1996 and 1997 (comprising a four-tranche increase) and in 2000. Budget legislations, likewise, carried provisions for periodic increases in allowances (cost of living, representation and transportation allowances for position levels from division chiefs and higher).

206. Actual salary rates for LGUs not classified as urbanized may differ from the national benchmark, based on their classification and financial capacity. Pay rates of LGUs classified as sixth class (the lowest) up to second class are determined as per centages of the salary schedule (between 75 per cent and 95 per cent of the corresponding rates applied to national government agencies and first class LGUs).

2.b.ii. Needs of workers vis-a-vis economic factors

207. Article 124 of the Labor Code provides for ten benchmarks or indicators in fixing wages, namely: (a) the demand for living wages and wage adjustment vis-à-vis the consumer price index; (b) the cost of living and changes or increases thereon; (c) the needs of workers and their families; (d) the need to induce industries to invest in the countryside; (e) improvements in standards of living; (f) the prevailing wage levels; (g) fair return on investments and capacity to pay of employers; (h) effects on employment generation and family income; and (i) equitable distribution of income and wealth along the imperatives of national development.

208. The objective of providing workers and their dependents with a minimum standard of living is weighed against the goals of creating employment, encouraging investments and promoting global competitiveness. The erosion in purchasing power is also considered in the estimation of possible minimum wage adjustment. In turn, the impact of such an adjustment on inflation is estimated to determine whether or not the resulting inflation would be well within targets. Econometric models are used to determine or assess the possible impact of any wage increase.

209. Since 1989, minimum wages have been adjusted each year, generally to maintain real wages. In 2001-2003, however, minimum wages were not adjusted to minimize job losses brought about by the economic downturn. Also, it was only in 2005 that new minimum wage orders were issued in less than a year of effectivity of the previous wage orders due to abrupt and unusually high prices of commodities.

2.b.iii Machinery for fixing, monitoring and adjusting minimum wages

210. The first two tiers in the structure for implementing the wage system are the NWPC and, under it, the rtwpbs. The NWPC formulates policies and guidelines on wages, incomes and productivity improvements at the enterprise, industry and national levels. It reviews wage orders issued by the rtwpbs and exercises technical and administrative supervision over them. It also serves as the consultative and advisory body to the President and Congress on matters relating to wages, incomes and productivity.

211. The third tier in the wage-fixing machinery is monitoring and enforcement. The Regional Offices of the DOLE, particularly the inspectorate system, constitute the frontline enforcement mechanism on wages. Where underpayment of wages is claimed and employer-employee relationship no longer exists, the appropriate complaint may be filed through the government's compulsory arbitration machinery, the NLRC.

2.b.iv. Development of average and minimum wages

212. Data from the NCR show that minimum wage has increased by 189.1 per cent from PhP 64.00 in 1987 to PhP 185.00 in 1997. Recent wage adjustments in NCR pegged the minimum wage to PhP 250.00 per day effective November 1, 2000. On the other hand, the consumer price index (CPI) rose by 187.6 per cent during the period 1987-1997.

213. The minimum monthly compensation for government workers increased from PhP 1,103 (PhP 603 basic rate + PhP 500 cost of living allowance) in 1987 to PhP 5,840 (PhP 4,840 basic rate + PhP 500 Personal Economic Relief Allowance + PhP 500 additional compensation) in the year 2000. Additional allowance (PhP 1,000.00) was granted to government workers in 2006.

2.b.v. Measures undertaken to ensure compliance with minimum wages

214. Based on inspection data, the incidence of non-compliance to minimum wages has been about 21.8 per cent from 1997-2003. There are current efforts to enhance public awareness on the applicable minimum wage rates in all regions. To improve enforcement, there is also an on-going study to simplify regional minimum wage structures that currently vary by province, sector or industry classification, employment size and amount of capitalization, among others.

2.c. Discrimination in work employment

215. The Philippines has ratified ILC No. 100, which seeks to eliminate discrimination in employment based solely on sex or gender. The Philippines is also a State party to CEDAW.

216. Equality of men and women in terms of remuneration for work, equal pay for work of equal value and conditions of work is a constitutional policy.¹¹

217. To promote equality of treatment, Art. 135 of the Labor Code makes it unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex. RA 6725 criminalizes the commission of certain acts tending to denigrate the status of working women on account of their gender. Article 136 of the Code also prohibits contractual stipulations against marriage and makes it unlawful for employers to withhold benefits from or discharge a woman employee on account of her gender or of pregnancy.

218. Affirmative measures also exist to respond to the particular needs of women in the workplace. Maternity protection has long been provided to women. The Paternity Leave Act also grants paternity leave for men on the occasion of childbirth of their spouses. Art. 132 of the Labor Code requires employers to provide women with certain facilities like separate toilet rooms and dressing rooms.

219. Since 1953, the Philippines has been a party to ILO Convention No. 89 (Nightwork Prohibition for Women), which restricts the employment of women at specific periods of the night. Consistent with the Philippines' obligation under the Convention, Art. 130 of the Labor Code proscribes women from working in certain types of work between 10 p.m. and 6 a. m. The Philippines notes the concerns raised by some sectors that this prohibition may in practice result in reverse discrimination. The ILO has taken note of this concern by initiating a review of international instruments, and the Philippines will be supportive of such review.

220. Reference may be made to paragraph 179 on the Supreme Court decision in *International School*

¹¹ Article II, Section 14 of the Constitution provides that the State recognizes the role of women in nation-building and ensures the fundamental equality before the law of men and women. Article III, Section 1 of the Constitution also ensures to every person equal protection of the laws. Article XIII, Section 3 further assures protection to labor regardless of sex.

Alliance of Educators v. Quisumbing, (G.R. No. 128845, 1 June 2000).

2.c.i. Steps undertaken to eliminate discrimination

221. To ensure that national laws are carried out in practice, the following measures have been undertaken by the government:

- Creation in 1989 by the Civil Service Commission (CSC) of the Equality Advocates in Government to prevent harassment and discrimination in public sector employment;
- Integration of the Philippine Development Plan for Women (PDPW) with the Medium-Term Philippine Development Plan (MTPDP) for 1993-1998;
- Setting up by the CSC of Career Advancement Program for Women in Government Service to enhance women in government's capability to break the glass ceiling and advance to decision-making positions;
- The CSC also formulated a policy framework on gender equity in line with a proposed executive order giving women equal representation in third level positions of the government;
- Conduct of lectures and workshops on equal employment opportunities in all regions;
- Inclusion of gender issues in the enforcement of labor standards, particularly by integrating the same in the inspection checklist;
- Sex desegregation of statistics on employment and membership in workers organizations;
- Promotion of women participation in trades and other occupations through the setting up of the women in non-traditional trades program under the TESDA;
- Conduct of a nationwide occupational wage survey of non-agricultural establishments to address the under valuation and under remuneration of women's work;
- Conduct of studies on frameworks that measure the unremunerated contributions of women and men to the economy.

2.c.ii. Measures to promote objective appraisal of jobs

222. Republic Act No. 6725 provides that all employees regardless of sex shall be afforded equality of treatment in the evaluation of the quality of work and other factors considered with respect to promotion, training opportunities, study and scholarship grants.

223. In the public service, the CSC has devised a performance evaluation system that is being used as a standard instrument for measuring job performance.

The system is, however, being reviewed to factor in actual job differences and uniqueness or specificity of operations in the various government agencies.

224. In the private sector, the Labor Code recognizes payment of wages on piece-rate, time or task basis. Such determination can be done with the intervention of government or exclusively at the enterprise level. The Labor Code recognizes two areas of government intervention, as when rates or formulas are fixed on an industry basis after consultations undertaken by the Secretary of Labor and Employment, or when the DOLE is requested by an enterprise to provide technical assistance in undertaking time and motion studies upon which an objective job appraisal can be based. At present, only the sugar industry has adopted an industry-wide formula. Generally, however, job appraisal methods are evolved at the enterprise level, although it is not uncommon that the process will entail a comparison of benchmark jobs and the corresponding reward schemes within industries.

225. Further, researches have attempted to estimate the monetary value of women's household work and consider its contribution to the total income of the household. A study commissioned by the national women's machinery revealed that when given monetary value, doing household chores can account for as much as 20 per cent of the GNP. Review of related laws and policies for discriminatory provisions is lacking to ensure equal status of women especially in the light of monetary valuation of their contribution to economic debt. There are, however, no statistical data to measure the exact monetary value of women's economic work.

2.d. Income distribution of employees

226. There is no data available on the comparative remuneration of jobs in the public and the private sectors. There is, however, a perception that lower-level public sector employees are paid more than their counterparts in the private sector. On the other hand, middle to high-level executives in the private sector are paid more than their counterparts in the public sector. In a 1994 World Bank research study of public and private sector wage comparisons, the salary of a bureau director in the government is about one fourth of the salary of his counterpart executive in the private sector.

227. Regarding non-monetary benefits, the basic differences between the private and the government sectors lie in the entitlement to vacation and sick leaves and premium pay for holiday work, overtime

and night work. The Civil Service Law grants public sector employees with vacation and sick leaves of 15 days each per year. In addition, Civil Service regulations likewise grants public sector employees a maximum of three days within a calendar year for the availment of any special privileges given (i.e. funeral/mourning leave, graduation leave, enrollment leave, wedding/anniversary leave etc.) On the other hand, in the absence of a collective bargaining agreement or company policy providing a higher benefit, the Labor Code provides a five-day service incentive leave to every private sector employee who has completed one year of service. Overtime compensation is paid to public sector employees in excess of the regular 40 hours of work rendered in a week but with the limitation that overtime compensation shall not exceed 50 per cent of the regular salary. No premium pay is given for holiday work nor or night work.

Question No. 3. Other legal, administrative or other provisions that exist to prescribe minimum conditions of occupational health and safety

228. The right of all workers to humane conditions of work is guaranteed in Art. XIII, Sec. 3 of the Constitution. In implementing this mandate, the Labor Code envisions two types of health and safety rules, those applicable generally and those with specific application depending on the nature of occupation.

229. The general requirements for enterprises are prescribed under Books III and IV of the Labor Code which regulate, among others, working hours, provision of safety gear, clinics, and access to hospitals or medical centers.

230. On an occupational basis, the minimum conditions of health and safety are prescribed in the Manual on Occupational Safety and Health Standards. These standards apply to particular occupations as determined by the inherent differences and risks in given work environments. For instance, RA 8558 amended Art. 287 of the Labor Code by reducing the compulsory retirement age of underground mine workers from 65 to 55 years of age, taking into account the health hazards associated with underground mining operations.

231. The DOLE administers and enforces safety and health standards mainly through the inspectorate system as described above. The Secretary of Labor and Employment has the power to order the stoppage of work or suspension of operations of an establishment when non-compliance with the law or implementing rules and regulations poses grave and imminent danger to the health and safety of workers.

232. Articles 162 to 165 of the Labor Code outline the responsibilities of the DOLE in ensuring occupational health and safety of workers.

3.a. Categories of workers who are excluded from existing schemes on occupational health and safety

233. The occupational safety and health provisions of the Labor Code are applicable only to workers falling within an employer-employee relationship. Thus, workers in the informal sector are excluded from the coverage of the Labor Code.

3.b. Statistical data and information on number, nature and frequency of occupational accidents

234. Data from the DOLE show that from 1996-2000, out of 1,726 representative establishments, there were 27,057 total work accidents with an average of 5,411 cases per year. Of the reported 27,057 cases, 17,856 or 66 per cent were disabling injuries broken down as follows: temporary total disability with 17,608 cases, 185 fatal cases, 65 permanent partial disability while remaining 9,201 cases or 34 per cent were classified as non-disabling or medical treatment/first aid treatment only. Total economic loss was placed at 56 million.

235. From the Five Year Summary (1996-2000) of Annual Medical Report, the following were noted:

- A total of 10,176 representative establishments submitted AMR with wholesale and retail trade with the most number of reports (4,533) followed by manufacturing (1,699);
- A total of 248,144 workers were exposed to various occupational hazards. Bacterial, viral, dust, mist and liquids were the specific types of hazards to which the majority of workers had been exposed. The majority of workers in the manufacturing sector topped the list of workers exposed to biologic, ergonomic, chemical and physical hazards;
- The top 10 diseases/illnesses reported by industry include the following: colds, tension headache, diarrhea, tonsillopharyngitis, gastritis and influenza.

Question No. 4. Equal opportunity for promotion

236. The response is similar to that given above (see paras. 223-226).

Question No. 5. Laws and practices regarding rest, leisure, limitations of working hours, periodic holidays and remuneration for holiday pay

237. The following provisions of the Labor Code, prescribe the policies and rules regarding rest periods, working hours, and remuneration for public holidays:

Work hours

238. Article 83, which states that normal hours of work of any employee shall not exceed eight hours a day.

239. Article 84, which provides that rest periods of short duration (meaning less than one hour) during working hours shall be counted as hours worked and therefore compensable.

240. Article 85, which requires every employer to give its employees not less than 60 minutes time-off for their regular meals.

241. Article 86, which defines nightwork as work rendered between 10 p.m. and 6 a.m., and prescribes a premium of at least a 10 per cent of the regular wage for work rendered during these hours.

242. Article 87, which prescribes a premium of at least 25 per cent of the regular wage for work rendered beyond eight hours.

Rest periods and holidays

243. Article 91 provides for rest periods of not less than 24 consecutive hours after six consecutive normal workdays. Work on a rest day may be required under certain circumstances, but compensation therefore shall be 130 per cent of the regular wage.

244. Executive Order No. 203 classifies two types of holidays, regular and special. The regular holidays are New Year's Day, Maundy Thursday, Good Friday, 9 April (Bataan and Corregidor Day), 12 June (Independence Day), Last Sunday of August (National Heroes Day), 30 November (Bonifacio Day), 25 December (Christmas Day), 30 December (Rizal Day). The special days are 1 November (All Saints' Day) and 31 December. Moreover, RA 9177 includes Eidul-Fitr as a regular holiday while RA 9256, 21 August of every year is declared as Ninoy Aquino Day which shall be a special non-working holiday.

245. Payment of wages for holiday work depends on the nature of the holiday. For regular holidays, there are two basic rules: 1) an employee shall be entitled to 100 per cent of his or her regular wage on an unworked regular holiday, provided he or she reported for work on the day immediately preceding the holiday; and 2) an employee who works on a

regular holiday shall be compensated at 200 per cent of his or her regular wage. For special days, there are likewise two rules: 1) if an employee does not work on a special day, the principle of no work, no pay applies; and 2) an employee who works on a special day is entitled to 130 per cent of his or her regular wage.

246. Article 95, which provides for a service incentive leave of five days for every employee who has rendered at least one year of service in the absence of a greater benefit provided by the company or an existing collective bargaining agreement.

Work hours in Government

247. Section 1 of RA 1880 provides that the legal hours of work in government shall be eight hours a day, for five days a week or a total of 40 hours a week, exclusive of time for lunch. Government offices may adopt flexible work schedule for employees and compensatory service may be rendered outside of the regular work hours, except Sundays, to offset non-attendance or undertime.

5.a. Difficulties affecting realization of these rights

248. Difficulties affecting realization of these rights include internal and external flexibility measures adopted by private sector establishments and the exigencies in export-oriented industries of requiring workers to render services during rest days and holidays in order to meet quotas or job orders.

249. Article 82 of the Labor Code provides, in varying degrees, for the exclusion of government employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results from the application of the Labor Code provisions on working conditions and rest periods.

Article 8

8. ILO Conventions to which the Philippines is a State party

250. The Philippines is a State Party to the following Conventions:

- International Covenant on Civil and Political Rights;
- ILO Convention No. 87, 1948 (Freedom of Association and Protection of the Right to Organize); and

- ILO Convention No. 98, 1949 (Right to Organize and Collective Bargaining).
- The right to unionize is enshrined in the Constitution and implemented through legislation.¹²

Question No. 2. Conditions for the exercise of the right to self-organization

2.a. Legal provisions regarding the establishment of trade unions

251. Under Article 242 of the Labor Code states that an applicant labor organization shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration. Legitimacy entitles the labor organization with legal personality to claim the representational and bargaining rights or to strike and picket in accordance with the rules provided for by law.

252. Article 234 specifies five requirements for issuance of the certificate of registration, viz., (a) payment of registration fee; (b) submission of the list of the union's officers, their addresses, the address of the organization, the minutes of the organizational meetings and the list of workers who attended such meeting; (c) submission of the names of the union's members, which must be at least 20 per cent of all the members of the bargaining unit sought to be represented; (d) submission of a copy of the union's

12 Section 8 of the Philippine Bill of Rights ensures that "the right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged." Alongside the longstanding protection of freedom of association, the framers of the 1987 Constitution deemed it necessary to recognize private and public sector unions as important examples of free and democratic organizations. This salient aspect of the Bill of Rights at once recognizes the statements in the *travaux préparatoires* relative to the inclusion of a specific article on trade union rights in the Covenant despite the freedom of association clause in the Universal Declaration of Human Rights. Indeed, the so called "Lerum Amendment" to the freedom of association clause in the Philippine Constitution maintains the inadequacy of a general freedom of association clause, and upholds the protection of trade union rights as an "essential condition" for the guarantee of economic rights in general, and the right to satisfactory working conditions in particular." In addition, Section 3 of the Article XIII (Social Justice and Human Rights) in the 1987 Constitution commands the State to "guarantee the rights of all workers to self-organization." The rationale for Article XIII is the realization that social justice provides the material and social infrastructure for the realization of basic human rights, the enhancement of human dignity and effective participation in democratic processes." To fulfill these constitutional mandates, two statuses govern the exercise of the employees' right to self-organization. For the private sector, the applicable statute is the Labor Code of the Philippines; for the public sector, it is Executive Order No. 180, series of 1987.

financial report if it has been operating for more than one year; and (e) submission of copies of the union's constitution and by-laws, minutes of its adoption and ratification and the list of members who ratified it. However, a federation or national union may organize and affiliate locals and chapters without registering such locals with the DOLE.

253. If the applicant for registration is a federation or a national union, it shall, in addition to the requirements provided above, submit proof to show that it has at least 10 locals or affiliates, each of which must be a duly certified collective bargaining agent in the establishment where they operate.

254. Once the formal requirements are complied with, it becomes ministerial for the DOLE to issue the union the appropriate certificate of registration. The union however, acquires legitimate status from the date of filing of the complete documents. For a local directly chartered by a federation or national union, it acquires legitimate status from the time its charter certificate, the list of officers and their addresses, the principal address of the local, and the local's constitution and by-laws are submitted to the DOLE.

255. On the other hand, the requirements for registration of chartered locals are simpler and requires the submission of the following: (a) charter certificate; (b) constitution and by-laws; and (c) names of officers and principle of the local/chapter. There is no minimum membership requirement nor a need to submit financial reports in applications for registration of chartered locals.

256. Trade unions essentially have the inherent freedom to lay down their own organization rules and qualifications. Discriminatory rules on union membership, however, may be declared as unfair labor practices.

257. The Supreme Court has clarified that the registration requirements are not a limitation on the right of assembly or association, which may be exercised with or without said registration. The requirements are merely conditions *sine qua non* for the acquisition of legal personality of labor organizations.

258. The minimum membership requirement for independent union registration is considered a formality that does not impair the free establishment of organizations. Decisions and principles of the Freedom of Association Committee of the ILO suggest minimum membership requirements that are "obviously too high a figure" or "where establishment

of a trade union may be considerably hindered" are discouraged. The submission unit is not considered excessive, considering independent union organizing has consistently surpassed chartered local creation over the years.

259. Also, unlike some legal jurisdictions where a flat rate or specific number of members has been required, the minimum membership requirement for independent unions under Philippine law is based on a per centage requirement. This requires greater flexibility on the part of registering authority to allow union registration even on the basis of an erroneous aggregate numerical base (total number of employees in an appropriate bargaining unit), as long as such a determination was approximated in good faith by the applicant union.

260. The mandatory "one union, one industry" concept was repealed by President Corazon Aquino in 1986 with the issuance of EO 111. As such, matters of unity and diversity in the labor movement rest solely the free will of the workers.

261. With 147 labor federations registered as of July 2004, the diverse Philippine union movement is an embodiment of the observation of the Committee on Economic, Social, and Cultural Rights, i.e., a "plurality of trade unions form(s) part of the notion of freedom of trade union rights".

2.b. Restrictions upon the exercise of the right to join and form trade unions

262. Several parameters exist for purposes of exercising the right to self-organization.

263. The first parameter is whether a worker is covered by an employee-employer relationship. Under Art. 243 of the Labor Code, only employees may join/form/assist trade unions for purposes of collective bargaining. Those without definite employers or those who are not employed may assist/join/form associations/organizations for their mutual aid and protection.

264. The second parameter is whether the employee belongs to the private sector or to the public sector. As a rule, the provisions of the Labor Code apply only to private sector employees and employees of government owned and controlled corporations established under the Corporation Code. Article 244 of the Code itself recognizes that all other employees in the civil service shall be governed by civil service rules and regulations.

265. The third parameter is the classification of an employee by reason of his or her position. For the private sector, managerial employees, including confidential employees with access to labor relations information held by management, are not eligible to form unions. Supervisory employees may form unions of their own kind, but may not join unions composed of rank-and-file employees. For the public sector, employees occupying high level, policy-determining or primarily confidential positions, as well as members of the AFP, the PNP, jail guards and firemen are not allowed to assist/form/join unions.

266. In the private sector, a category of workers to which special provisions are applicable are the workers in the construction industry. Section 5 of Department Order No. 19 provides that in recognition of the right to self-organization and collective bargaining of project employees, the DOLE encourages the formation of trade unions in the construction industry, provided that the formation or activities of a recognized trade union will not prejudice existing bargaining units constituted in accordance with existing laws.

267. For the public sector, employees occupying high-level, policy-determining or primarily confidential positions are prohibited from unionizing. As stated above, the interests of national security and public order, prohibit members of the AFP, the PNP, jail guards and firemen from assisting, forming, or joining unions.

268. Third, employees of a cooperative are entitled to exercise their right to self-organization, except members of the cooperative who are considered owners of the enterprise.

269. As for foreign nationals, Art. 269 of the Labor Code allows aliens to join or assist unions of their own choosing, provided they obtain valid working permits issued by the DOLE and are nationals of countries that grant the same or similar rights to Filipino workers.

2.b. Measures undertaken to secure the right to self-organization

270. Article 246 of the Labor Code states that the right to self-organization shall not be abridged. Thus, it is unlawful for any person to restrain, coerce, discriminate against or unduly interfere with employees and workers in their exercise of the right to self-organization. Articles 248 and 249 enumerate and declare unlawful, acts of employers and unions constituting unfair labor practices. Commission of unfair labor practices subjects an offender to administrative and criminal sanctions.

2c. Right to trade unions to federate and join international trade union organizations

271. As a State party to ILC Nos. 87 and 98, the Government recognizes the right of unions to federate and join international organizations. The private sector has evolved a more mature system than the public sector in this regard.

272. There is no prohibition on the part of any trade union to join international trade union organizations. Most federations or national unions within an umbrella trade union center are, in one way or another, affiliated with international unions. It must be emphasized that Art. 270 of the Labor Code seeks to regulate the receipt of foreign assistance by any trade union. However, this is no longer enforced in practice, for which reason DOLE has requested Congress to repeal the aforesaid provision.

2d. Conditions or limitations placed upon Philippine trade unions and the promotion of free collective bargaining

273. Philippine trade unions have the right to function freely, most especially in relation to three areas, viz.: (a) internal organization; (b) collective bargaining; and (c) protection from arbitrary dissolution or suspension.

Internal organization

274. Philippine trade unions have the power to draw up their constitutions and rules, elect their own representatives, and organize their administration and policies. The Supreme Court has recognized the union constitution and by-laws as the contract binding all union members.

275. Article 241 of the Labor Code enumerates the rights and conditions of union membership, which include: (a) financial or fiduciary rights, and (b) political rights. Violation of any of these rights and conditions of membership gives the aggrieved member cause of action to file the appropriate complaint with the DOLE. As a rule, only through such a complaint may government authority interfere in internal union affairs.

276. Article 241 also requires the direct election of union officers at intervals of five (5) years, made applicable even to federation or national union officials. One of the salient amendments to the Labor Code in 1989, the "direct election" mandate was meant to "underscore democracy as a necessary element of trade unionism."

Promotion of free collective bargaining

277. Collective bargaining or negotiations towards collective agreement is a democratic framework under the Labor Code to stabilize the relation between labor and management to create a climate of sound and stable industrial peace. Although bargaining is a mutual obligation of the employer and the employees, the mechanics of collective bargaining is set in motion only when the following jurisdictional preconditions are present, namely: (a) possession of the status of majority representation of the employees' representative in accordance with any of the means of selection or designation provided for by law; (b) proof of majority representation of the labor union chosen by the employees to be their bargaining agent; (c) a demand to bargain by the bargaining agent with the employer.

278. The duty to bargain collectively means the performance of a mutual obligation of the parties to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an

* Financial or fiduciary rights of a union member include: (a) right against arbitrary, oppressive or excessive fees, fines and forfeitures; (b) right to full and detailed reports on all financial transactions in accordance with the constitution and by-laws of the union; (c) right against unauthorized collection of any fees dues or other contributions; (d) right to claim receipt for every payment of fees, dues or other contributions; (e) right to prevent funds of the organization from being applied for any purpose or object other than those expressly provided by the union's constitution and by-laws or allowed expressly by written resolution adopted by the majority of the members at a general meeting duly called for the purpose; (f) right to demand or require that every income or revenue as well as every expenditure of the union shall be recorded or receipted, which record or receipt shall form part of the financial records of the union; (g) right against unauthorized special assessment or other extraordinary fees; (h) right against unauthorized check-off for special assessments, attorney's fees, negotiation fees or any other extraordinary fees without an individual written authorization duly signed by the employee; (i) right to vote on the compensation of the union officers; (j) right against unreasonable assessment to finance labor relations seminars and other labor relations activities; (k) right to require the treasurer and other officers of the union to render a true and correct account of union funds and properties; (l) right to require that the account be duly audited and verified by affidavit and a copy thereof furnished to the Secretary of Labor and Employment; and (m) right to inspect the books of accounts and other financial records of the union and full and detailed reports from their officers and representatives of all financial transactions as provided in the constitution and by-laws. Political rights of a union member include: (a) right to be informed of the provision of the constitution and by-laws, collective bargaining agreement, prevailing labor relations system and all their rights and obligations under existing labor laws through the medium of labor relations seminars or other labor education activities; subject to qualifications and disqualifications (such as membership in a subversive organization); (d) right to be appointed to positions in the organization, subject to qualifications and disqualifications; (e) right to vote by secret ballot of any question of major policy affecting the entire membership of the organization; and (f) right to initiate and participate in impeachment or expulsion proceedings against an erring officer or member of the union.

agreement with respect to wages and all other terms and conditions of employment with respect to wages, hours of work and all other terms and conditions of employment.

279. The Supreme Court has consistently held that there is no *per se* test of good faith bargaining. A fair criterion in collective bargaining requires that the parties involved deal with open and fair mind and sincerely endeavor to overcome obstacles or difficulties existing between them to the end that employment relations may be established. Good faith or bad faith is an inference to be drawn from the facts and is largely a matter for the expertise of the government agency which has jurisdiction on the matter. A finding of good faith in bargaining cannot be based upon whether a particular provision of a contract seems reasonable or unreasonable to the government agency vested with jurisdiction on the matter, or whether the aforesaid agency thinks the provision should be agreed to, but it must be based entirely upon a consideration of the negotiations as a whole. By the same token, the effect of an employer's actions individually is not the test of good-faith bargaining, but the impact of all such occasions or actions, considered as a whole, and the inferences fairly drawn therefrom collectively, may offer a basis for the finding of the government agency vested with jurisdiction on the matter.

280. In 2003, DOLE issued a series of administrative regulations which provided for the creation of a voluntary system of multi-employer bargaining.¹³ Simplified registration procedures for collective bargaining agreements were also outlined, to the extent that only two statements on posting and ratification, as well as payment of a minimal fee, are required to secure a certificate of registration within the five-day registration period.

Protection from dissolution or suspension

281. The power of the DOLE to order the cancellation of registration of a legitimate labor organization is provided for in Art. 238 of the Labor Code. Article 239, on the other hand, provides for the grounds for

¹³ Sections 5 to 7 Rule XVI, Department Order No. 40-03. A legitimate labor union and employers may agree in writing to come together for the purpose of collective bargaining, based on the following parameters: (a) only legitimate labor unions who are incumbent exclusive bargaining agents may participate and negotiate in multi-employer bargaining; (b) only employers with counterpart legitimate labor unions who are incumbent bargaining agents may participate and negotiate in multi-employer bargaining; and (c) only those legitimate labor unions who pertain to employer units who consent to multi-employer bargaining may participate.

cancellation. DOLE requires grave and compelling reasons to justify cancellation or dissolution. As a rule, misrepresentation, fraud, or coercion allegedly related to union formation must have affected a majority of union members in order to warrant cancellation of union registration. If a petition for cancellation coincides with pending certification election proceedings, the members of an appropriate bargaining unit are given the opportunity to affirm or deny the legitimacy of the union by casting their ballots in a certification election. In addition, no order of cancellation shall issue unless the concerned union is afforded the right of a hearing.

2.e. Number and structure of trade unions established in the country

282. The following table summarizes current data (July 2004) on union registration and membership.

Type of Union	Registration	Membership
Federations/ National Unions	147	519 892
Independent (enterprise)	7 688	918 853
Chartered local (enterprise)	7 206	364 935
Public sector unions	1 339	262 454
Workers' associations	7 000	249 551

283. Currently, there are 10 registered trade union centers or groups of registered federations or national unions.

284. Workers' associations are groups organized for the purpose of mutual aid and protection of its members or for any other legitimate purpose other than collective bargaining. They are mostly found in rural areas and usually functions as a vehicle for livelihood opportunities.

Question No. 3. Right to strike

285. The right to strike of all employees in the private sector is both constitutional and statutory.¹⁴

3.a. Restrictions placed on the right to strike

Procedural restrictions

286. The Philippine legislature has legitimized the imposition of certain procedural requirements for the

¹⁴ Article XIII, Section 3 of the Constitution guarantees the right of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities including the right to strike in accordance with law. Hence, while there is no general prohibition on strikes, the legislature has placed legal restrictions upon the enjoyment of the right.

right to strike in the Labor Code. Such preconditions are as follows:

(a) notice of strike filed with the National Conciliation and Mediation Board (NCMB);

(b) observance of a cooling-off period from the date of the filing of the notice; (c) a strike vote to be taken by union members and submitted to the NCMB; and (d) observance of a seven-day strike ban from the date of reporting the results of the strike vote.

287. The purpose of the cooling-off period is to allow the DOLE through the NCMB to conduct conciliation and mediation conferences. The seven-day strike ban, on the other hand, provides DOLE an opportunity to ascertain the peaceful and honest conduct of the strike vote.

288. The Supreme Court has invalidated strikes on the basis of non-compliance with any of the procedural requirements, having accepted these requirements to be reasonable and minimal restrictions upon the enjoyment of the right to strike.

Durational restrictions

289. There are temporary restrictions relative to strike prohibitions during conciliation and arbitration procedures. Article 264 (a) states that "(n)o strike or lockout shall be declared after ... submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout".

290. Also, "no strike, no lockout clauses" in collective agreements are widely accepted and have been upheld by the Supreme Court. Such a stipulated prohibition, however, is inapplicable to prevent a strike grounded on an unfair labor practice.

291. As mentioned, strikes are generally enjoined during cooling off periods and the seven-day strike ban.

National interest cases

292. Pursuant to Art. 263 (g) of the Labor Code, the Secretary of Labor and Employment may assume jurisdiction over a labor dispute or certify the same for compulsory arbitration if such a dispute causes or is likely to cause a strike or lockout in "an industry indispensable to the national interest."

293. A list of prohibited acts during strikes and lockouts includes a declaration that "(n)o strike

or lockout shall be declared after assumption of jurisdiction by the President or (the Secretary of Labor and Employment)." The Supreme Court has ruled that a strike undertaken after the issuance of an assumption or certification order becomes a prohibited activity and thus illegal. Hence, an assumption or certification order is simultaneously a return-to-work order by force of law.

294. The authority of the Secretary to assume jurisdiction over a labor case is an exercise of the police power of the State. It has been said that assumption of jurisdiction aims to promote the common good, for a prolonged strike or lockout can be inimical to the national economy.

295. Thus, the Supreme Court upheld the use of the assumption power in the case of a university, an enterprise exporting 90 per cent of its production and generating more than \$12 million per year, a drugs and pharmaceuticals firm, and an airline that services domestic routes. The exercise of the power, however, has been nullified by the Court in cases involving a company which is in the business of producing telephone directories and an enterprise which produces matches factory.

Minimum service

296. The ILO Committee of Experts has discussed the concept of a minimum service that "would be appropriate in situations in which a substantial restriction or total prohibition of strike action would not appear to be justified and where, without calling into question the right to strike of the large majority of workers, one might consider ensuring that users' basic needs are met and that facilities operate safely or without interruption.

297. Article 263 (g) of the Labor Code states that in labor disputes adversely affecting the continued operation of hospitals, clinics, or medical institutions, it shall be the duty of the striking union to provide and maintain an effective skeletal workforce of medical and other health personnel, whose movement and services shall be unhampered and unrestricted, as are necessary to insure the proper and adequate protection of the life and health of its patients, most especially emergency cases, for the duration of the strike.

Government service

298. For the public sector, CSC Memorandum Circular No. 6, series of 1987 enjoins under pain of administrative sanctions, all government

officer and employees from staging strikes, mass demonstrations, mass leaves, walk-outs and other forms of mass action which will result in temporary stoppage or confusion.

299. The alternative venue for public sector employees is representation in the Public Sector Labor Management Council (PSLMC), created pursuant to E.O. 180. While EO 180 does not expressly provide for representation of employees' organizations, the PSLMS has allowed representatives from line agencies, LGUs, government-owned or controlled corporations with original charter, and state universities and colleges.

Picketing

300. Private and public sector employees may however resort to picketing or other forms of symbolic expression of opinion provided the activity does not affect the delivery of services.

3.b. Special legal provisions regarding the exercise of the right to strike by certain categories of workers

301. As indicated, employees in the public sector are prohibited from staging a strike. Employees in medical institutions, hospitals, and clinics, on the other hand, are under subject to the rule of minimum service as provided for in Art. 263 (g).

302. Members of the AFP and the PNP, as well as jail guards and firemen, are not allowed to form or join employees' organizations within the E.O. 180 framework.

303. Under DO 40-03, the Secretary of Labor and Employment emphasized the four-pronged approach in labor-management relations: (a) upholding the right to self-organization; b) expeditious delivery of administrative services; (c) advocacy for responsible unionism; and (d) promotion of the shared responsibility between labor and management to peacefully and voluntarily resolve disputes.

Question No. 4. Power of the members of the armed forces and the police in restricting the right to self-organization

304. Members of the AFP and the PNP, as well as administrative authorities, have no power to restrict or interfere with the legitimate exercise of trade union rights, except where there is disruption of public order. Article 264 (d) of the Labor Code provides, "no public official or employee, including officers and personnel of the New Armed Forces of the Philippines or the

Integrated National Police, or any armed person, shall bring in, introduce, or escort in any manner any individual who seeks to replace strikers in entering or leaving the premises of a strike area, or work in place of the strikers. The police force shall keep out of the picket lines unless actual violence or other criminal acts occur therein. Provided, that nothing herein shall be interpreted to prevent any public officer from taking any measure necessary to maintain peace and order, protect life and property, and/or enforce the law or any legal order."

Question No. 5. Short review of changes in national legislation and court decisions

305. The following are the major legislative changes introduced during the reporting period:

- EO 111 [1986], amending certain provisions of the Labor Code particularly for the purpose of liberalizing the exercise of trade union rights;
- EO 126 [1987], Sec. 22 of which created the National Conciliation and Mediation Board to absorb the conciliation, mediation and voluntary arbitration functions of the Bureau of Labor Relations;
- EO 180 [1987], providing for guidelines for the right to organize among public sector employees;
- RA 6715 supplements EO 111 in term of liberalizing the exercise of the right to self-organization.

306. Executive Order No. 111 was intended to democratize the exercise of trade union rights. It brought about the following major changes: (a) the minimum membership requirement before a union can be formed was lowered to 20 per cent of the members of the appropriate bargaining unit; (b) it repealed the one-union, one industry concept mandated through the old provisions of Arts. 238 and 239 of the Labor Code; (c) it recognized the right of employees of government corporations organized through the Corporation Code to organize and to bargain collectively. In effect, such government employees were placed outside the civil service laws and under the protective mantle of the Labor Code for purposes of self-organization and collective bargaining; (d) it lowered the support requirement for petitions for certification election in unorganized establishments to 20 per cent; (d) it proscribed public officials as well as members of the Armed Forces and National Police from escorting individuals into company premises for the purpose of replacing strikers.

307. Executive Order No. 180 restored the right of workers in the public sector to self-organization. This right has been denied to public sector employees beginning 1972 upon the declaration of martial law. As of June 2002 there are 1,072 registered public sector unions. Of these, 346 have been accredited as sole bargaining units within their respective government agencies.

308. Republic Act No. 6715 continued the reforms initiated by EO 180. The following changes are notable: (a) it lengthened the term of collective bargaining agreements in so far as representation aspect is concerned from three years to five years to promote industrial stability, other provisions of the CBA however, shall be renegotiated not later than three years after its execution (Art. 253-A); (b) it expressly recognized the right of individual union members to participate in policy and decision-making processes in the establishment where they are employed (Art. 255); (c) in certification elections, it requires a 25 per cent support signatures for filing a petition for certification election in an organized establishment to help preserve industrial stability (Art. 256), removed the support requirement for filing a petition for certification election in unorganized establishments (Art. 257); it set up mechanisms for grievance and voluntary arbitration, creating in the process the voluntary arbitration fund (Arts. 260 to 262 and 277[f]); and (d) it recognized the right of every employee to join a union on the first day of his or her employment (Art. 277.b).

309. In the application of these laws, the Supreme Court has been guided by the broad policy of the state to protect labor and the affirmation of the freedom of choice in the exercise of the right to self-organization.

310. In 1994, the DOLE instituted the Workers Organization Development Program to assist workers' organizations through capability-building or entrepreneurship measures. Since 1994, a total of PhP 343,658,000 has been allocated by the government to fund this programme.

311. The DOLE recognized collective bargaining as a means for eliminating wage inequality against women. In support of organized labor, it has conducted labor education activities for unionized and non-unionized establishments, and training and consultations on negotiation and advocacy leadership among women union leaders and workers from 204 workers' associations and labor organizations. Seminars to promote economic rights were conducted among workers, union members and management in

Philippine Export Zone Authority-locator enterprises in the public economic zones.

Article 9

Question No. 1. ILO Conventions related to Art. 9 to which the Philippines is a State Party

312. The Philippines is not a party to ILC Nos. 102, 121, 128, 130 and 168. But it is a party to the following Conventions:

- ILO Convention No. 118 (Equality of Treatment on Social Security), 1962;
- ILO Convention No. 157 (Maintenance of Social Security Rights), 1982;
- ILO Convention No. 17 (Workmen's Compensation Arising From Accidents), 1925;
- ILO Convention No. 19 (Equality of Treatment on Accidental Compensation), 1952.

Question No. 2. Branches of social security which exist in the country

313. The branches of social security that exist and are being implemented in the Philippines consist of (a) medical care; (b) cash sickness benefits; (c) maternity benefits; (d) old-age benefits; (e) invalidity benefits; (f) survivors benefits; and (g) employment injury benefits.

314. A limited unemployment program is also provided for under RA 8291. The law represents a most welcome amendment to the 20 year-old revised charter of the GSIS, known as PD 1146. It not only increased and expanded the social security protection of government workers and enhanced the powers and functions of the GSIS to allow it to better respond to the needs of its members. Moreover, the provident benefits are also included as part of social security programs existing and implemented in the Philippines. This aspect of social security was addressed through the creation of Pag-IBIG Fund, which tackled two of the country's basic concerns, namely, generation of savings and provision of shelter for the workers.

Question No. 3. Main features or schemes of available social security

A. Health insurance (medical care)

315. Medicare is a health insurance program whereby members enrolled therein pay monthly contributions which, in turn, are pooled to subsidize the medical needs of members who may get sick and find

themselves in sudden need of financial assistance when they get hospitalized.

316. Republic Act 7875 (National Health Insurance Act of 1995) extended the medical care program to all citizens of the Philippines.

317. The program covers all persons currently eligible for benefits under the Medicare Program, including SSS and GSIS members, retirees, pensioners and their dependents; all persons eligible for benefits through health insurance plans established by the PHIC; and all persons eligible for benefits as members of other government-initiated health insurance programs, community-based health care organizations, cooperatives, or private non-profit health insurance plans.

318. To enable the government to finance the scheme, all members of the programme contribute to the fund, in accordance with a reasonable, equitable and progressive contribution schedule which is determined on the basis of applicable actuarial studies and in accordance with the following guidelines:

- Formal sector employees and current Medicare members and their employers shall continue paying the same monthly contributions as provided for by law until such time that the PHIC shall have determined the contributions schedule mentioned therein, provided that their monthly contributions shall not exceed three per cent (3 per cent) of their respective monthly salaries;

- Contributions from self-employed members shall be based primarily on household earnings and assets; their total contributions for one year shall not, however, exceed three per cent (3 per cent) of their respective monthly salaries;

- Contributions made in behalf of indigent members shall not exceed the minimum contributions set for employed members.

- Contributions for indigent members shall be subsidized partially by the local government unit where the members reside. The PHIC shall provide counterpart financing equal to the local government unit's subsidy for indigents, provided that in the case of the fourth, fifth and sixth-class local government units, the National Government shall provide up to ninety per cent (90 per cent) of the subsidy for indigents for a period not exceeding five years. The share of local government units shall be progressively increased until such time that its share becomes equal to that of the National Government.

B. Health insurance (cash sickness benefits)

319. The cash sickness benefit is a daily cash allowance paid to a member of the SSS or GSIS for the number of days he or she is unable to work due to sickness or injury, normally for a period not exceeding 120 days in any calendar year. Sickness benefits differ in both Systems.

320. Under the SSS, the sickness benefit is a daily cash allowance for the number of days an SSS member is unable to work due to sickness or injury. A member is eligible to receive sickness benefit if the following conditions are met: (1) the member has at least three monthly contribution within the 12-month period prior to the semester of contingency, (2) the member has been confined in the hospital or at least four days, (3) the SSS has been notified, and (4) all sick leaves have been used up in the case of for members who are regular employees.

321. The amount of the sickness benefit paid to a member per day is equivalent to 90 per cent of his average daily salary credit. A member can be granted a maximum sickness benefit of 120 days in one calendar year but he shall not be paid for more than 240 days on account of the same illness.

322. Under the GSIS, a member may avail of the benefit provided: (i) he is in the service at the time of his or her disability; or (ii) if separated, he has rendered at least three years of service and has paid at least six monthly contributions in the twelve-month period immediately preceding the disability. A member who suffers temporary total disability shall be entitled to 75 per cent of his daily compensation for each day or fraction thereof of temporary disability benefit not exceeding 120 days in one calendar year after exhausting all sick leave credits and collective bargaining agreement sick leave benefits, if any, but not earlier than the fourth day of his or her temporary total disability. A member cannot enjoy the temporary total disability benefit and sick leave pay simultaneously. However, if the disability requires more extensive treatment that lasts beyond 120 days, the payment of the temporary total disability benefit may be extended by the GSIS but not to exceed 240 days.

323. Title II, Book IV of the Labor Code also provides cash income benefits to members of SSS and GSIS who suffered illnesses and injuries in the course of their employment.

324. In case of a temporary total disability occasioned by occupational illnesses and injuries, an employee

shall be entitled to cash income benefits in the form of daily cash allowance equivalent to 90 per cent of the employees' average daily salary credit and which shall not be more than 90 pesos for GSIS members and not more than 200 pesos for SSS members.

325. This daily cash allowance benefit for work-related illnesses shall be in addition to or on top of the benefits obtainable under SSS and GSIS following the principle of "simultaneous recovery of benefits".

326. A temporary total disability (TTD) is a disability that prevents an employee from performing his gainful occupation for a continuous period not exceeding 120 days and which may be extended to 120 days if medical attendance is still required but not to exceed 240 days.

327. Cash income benefit being given in cases of TTD is a form of wage replacement (compensation for loss of earnings or income) during the period of disability. The period of compensability is counted from the first day of such injury or sickness.

328. The employer shall be liable for the benefit if such illness or injury occurred before the employee is duly reported for coverage to the System.

C. Maternity benefits

329. The maternity benefit is an allowance paid to a female member of the SSS who gives birth or who has suffered a miscarriage or has to undergo an abortion.

330. The SSS maternity benefit is a daily cash allowance given to members who are unable to work due to childbirth or miscarriage. The benefit depends on the number of compensable days and the type of delivery. Maternity benefits are available only to female members, up to four pregnancies. The main qualifying condition for eligibility to claim maternity benefits is at least 3 monthly contributions during the 12-month period prior to the semester of contingency.

331. The amount of the maternity benefit is equivalent to 100 per cent of the member's average daily salary credit multiplied by 60 days (for normal delivery, miscarriage or abortion cases) or 78 days (for caesarian section delivery)

332. Under the Civil Service Law, a female member is allowed to go on a maternity leave for a period of 60 days with pay.

D. Old-age benefits

333. The old-age benefit is a cash benefit paid to a member of the SSS who can no longer work due to old age or has reached the retirement age as provided for by law.

334. The SSS retirement benefit is a cash benefit in the form of monthly pensions or a one-time lump-sum payment. A covered member who does not qualify for the monthly pension is entitled to a lump-sum benefit equal to the total contributions paid by him and his previous employers, plus interest earned. He must be at least 60 years old, separated from employment and has not opted to continue payment of contributions.

335. A covered employee is entitled to the monthly old-age pension for life if he has paid at least 120 monthly contributions and if retired, has reached the age of 60 years or if still employed, has reached the age of 65. In the case of underground miners, the member is eligible for pension benefits if he is 55 years old, separated from employment or ceased to be self-employed, and has paid at least 120 monthly contributions, has been an underground mine worker for at least 5 years; or has reached the age of 60 whether employed or not.

336. Aside from the monthly pension, the retiree is entitled to a 13th month pension. A retiree has the option to receive his first 18 monthly pensions in lump sum discounted at a preferential rate of interest. The member will receive his monthly pension on the 19th month thereafter.

337. In the case of members who have met the pension eligibility requirement but who retires after the age of 60, they will receive a monthly pension equivalent to the higher of the monthly pension computed at the earliest time he could have retired had he been separated from employment or ceased to be self-employed plus all adjustments thereto, or the monthly pension computed at the time when he actually retires.

338. A pensioner who retires more than once shall be entitled to the higher of the following: the monthly pension computed for the first retirement claim or the re-computed monthly pension for the new claim.

339. The monthly pension shall be suspended upon the re-employment or resumption of self-employment of a retired member who is less than 65 years old.

340. Upon the death of an SSS pensioner, his primary beneficiaries as of the date of retirement are entitled to continue receiving his pension.

341. A government employee who opts to retire from the service prior to the compulsory retirement age of 65 shall be entitled to the retirement benefits, provided that: (i) he or she has rendered at least 15 years of service; (ii) is at least 60 years of age at the time of retirement; and (iii) is not receiving a monthly pension from permanent total disability.

342. The retirement benefit is equivalent to either a lump sum amount of 60 times the basic monthly pension (bmp) in addition to a lifetime monthly pension after the 60-month period covered by the lump sum or a cash payment of 18 times the bmp plus an immediate lifetime monthly pension after the date of retirement.

343. The monthly pension shall be suspended upon the reemployment or resumption of self-employment of a retired member who is less than 65 years old. He and his employer will again be subject to compulsory coverage.

E. Invalidity benefits

344. The disability benefit is a cash benefit paid to a member of the SSS who becomes permanently disabled, either partially or totally.

345. A member of the SSS who suffers permanent total disability and who has paid at least 36 monthly contributions prior to the semester of disability shall be entitled to the monthly pension. If he has not paid the required 36 monthly contributions, he shall be entitled to a lump sum benefit equivalent to the monthly pension times the number of monthly contributions paid to the SSS or 12 times the monthly pension, whichever is higher. A member who has received a lump sum benefit and is re-employed or has resumed self-employment not earlier than one year from the date of his or her disability shall again be subject to compulsory coverage and shall be considered a new member. The monthly pension and dependents' pension shall be suspended upon the re-employment or resumption of self-employment or the recovery of the disabled member from his or her permanent total disability or failure to present himself or herself for examination at least once a year upon notice by the SSS. If the permanent disability is partial and occurs after the 36 monthly contributions have been paid prior to the semester of disability, the benefit shall be the monthly pension for permanent total disability payable not longer than the period specified in the law. If the benefit is permanent partial, and such disability occurs before 36 monthly contributions have been paid prior to the semester of disability, the benefit shall be such per centage of the lump sum benefit described in the SSS Law.

346. In addition to the monthly pension, a disabled member is granted a supplemental allowance of Php 500 to help the pensioner meet his extra financial needs resulting from his disability. A dependent's pension is provided to the member's dependent minor dependent legitimate, legitimated, legally adopted, and illegitimate children (up to five children starting from the youngest). Aside from the monthly pension, the pensioner is entitled to a 13th month pension.

347. For a permanent totally disabled member who is entitled to lump sum benefit, the amount is equivalent to the monthly pension times the number of monthly contributions paid to SSS or 12 times the monthly pension, whichever is higher.

348. For permanent partially disabled members who are entitled to lump sum benefit, the amount is equivalent to the monthly pension times the number of monthly contributions paid to SSS times the per centage of disability in relation to the whole body, or 12 times the monthly pension, whichever is higher.

349. The pension of a permanent and fully disabled member will be suspended if the member recovers from his illness, has resumed employment or has failed to report for his annual physical examination when notified by the SSS. Those unable to report for physical re-examination due to their illness or disability may arrange for a home visit by an SSS physician.

350. Upon the death of a totally disabled pensioner, his primary beneficiary as of the date of disability shall be entitled to receive 100 per cent of the monthly pension. If a totally disabled pensioner dies within 60 months from the start of his monthly pension and is not survived by primary beneficiaries, his secondary beneficiaries are entitled to a lump sum benefit equivalent to the difference of 60 times the monthly pension and the total monthly pensions paid by the SSS.

351. A GSIS member who suffers permanent disability for reasons not due to his or her grave misconduct, notorious negligence, habitual intoxication, or willful intention to kill himself or another shall, on the other hand, be entitled to monthly income benefits for life equal to the basic monthly pension effective from the date of disability. If the disability is partial, he or she shall receive a cash payment in accordance with a prescribed schedule of disabilities. If a member has at least 15 years of service at the time of the disability, he or she shall also be entitled to a cash payment of 18 times of bmp at the time of the disability. If, on the other hand, a member is not in the service at

the time of disability, he or she must have at least 36 monthly contributions within the last five years preceding the disability or has paid a total of 180 monthly contributions to be entitled to the lifetime monthly pension benefit. If the disability is partial, he shall receive a cash payment in accordance with the prescribed schedule of disability.

F. Employment injury benefits

352. The employment injury benefit program in the country is governed by the provisions of the Labor Code and PD No. 626, also known as the Employees' Compensation and State Insurance Fund. It is a tax-exempt employees' compensation programme whereby employees and their dependents, in the event of work-connected disability, may promptly secure adequate income benefit, and medical or related benefits.

353. The benefits are in the form of income benefits or services, consisting of the following: (a) medical services and appliances, as the nature of disability and progress of recovery may require subject to expense limitation; (b) rehabilitation services; (c) disability benefits; (d) death benefits, which is a lifetime pension to the primary beneficiaries plus the dependent pensions equivalent to 10 per cent of the monthly income benefits of the primary beneficiaries for five unmarried, dependent minor children counted from the youngest and without substitution; and (e) funeral benefits.

354. Under Art. 173 of the Labor Code, the recovery of benefits under the employees' compensation program is not a bar to the recovery of benefits provided in other laws for the same contingency. The Code therefore allows simultaneous recovery of benefits provided by different laws for the same work-related disability or death.

355. Unlike in the SSS, GSIS and Medicare, where the method of financing is through compulsory contributions from both employers and employees, the employment injury benefits in the country is financed solely by employers. Contributions under the programme shall be paid in their entirety by the employer and any contract or device for the deduction of any portion thereof from the wages or salaries of the employees is illegal. The Employees' Compensation Program covers all workers compulsorily covered by both SSS and GSIS.

356. For an injury and the resulting disability or death to be compensable, it must be caused by an accident arising out and in the course of employment.

357. An accident is considered to be arising out of and in the course of employment when it was sustained by the employee: While performing his official functions; At the place where his work requires him to be; If sustained elsewhere, he must be executing an order coming from the employer.

358. Other contingencies occurring outside the place of work which are considered to be compensable, include: Accidents while an employee is going to and coming from office provided there is no deviation by any other activity or departure from the usual route; Injuries sustained during company-sponsored activities; Activities while ministering to personal comfort; Accidents occurring while the employee was onboard a shuttle bus or any vehicle provided by the company; Special errand activities; and Accidents sustained while performing a dual purpose.

359. In addition to disability benefits under the social security law and government service insurance scheme, the employees' compensation program embodied in Title II, Book IV of the Labor Code as amended by PD 626, identified two categories of disability compensation for work-related contingencies, to wit.

G. Temporary Total Disability

360. Temporary Total Disability (TTD) covers illnesses and injuries which prevent an employee from performing his gainful occupation for a period of 120 days and extendible to another 120 days but not more than 240 days.

361. TTD covers both illnesses and injuries; the disease definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment, subject to proof that the risk of contracting the same is increased by working conditions while injury should any harmful change in the human organism as a result of any accident arising out of and in the course of work.

H. Permanent Partial Disability

362. A disability is permanent partial if as a result of the injury or sickness the employee suffers a permanent loss or loss of use of a body part.

363. Any employee who sustains PPD shall for each month not exceeding the designated period be paid a monthly income benefit equal to the monthly income benefit paid for Permanent Total Disability or PTD.

364. The income benefit shall be paid beginning on the first month of disability but not longer than

a designated number of months depending on the nature of the disability.

365. Upon the death of a pensioner, his primary beneficiaries, as of the date of disability, shall be entitled up to 100 per cent of the monthly pension.

366. The survivor's pension is payable to the primary beneficiaries who are the legitimate dependent spouse (until he/she marries) and the dependent legitimate, legitimated, legally adopted, and illegitimate children of the member.

367. Under the GSIS charter, an employee entitled to permanent total disability shall be paid a monthly income benefit equivalent to the basic monthly pension plus 20 per cent thereof.

368. When a member or pensioner dies, his primary beneficiaries shall be entitled to 80 per cent of the basic monthly pension plus a dependent's pension equivalent to 10 per cent of the monthly pension per dependent but not exceeding five. The survivorship's pension is payable to the primary beneficiaries of the deceased, including his legitimate dependent spouse, until he remarries, and the dependent legitimate, legally adopted, and illegitimate children.

I. Unemployment benefits

369. Under RA 8291 covering state employees, unemployment benefits in the form of monthly cash payments equivalent to 50 per cent of the average monthly compensation shall be paid to a permanent employee who is involuntarily separated from the service due to the abolition of his office or position usually resulting from reorganization, provided that he has been paying integrated contributions for at least one year prior to the separation.

370. Unemployment benefits shall be paid in accordance with the following schedule:

Contributions made	Duration of benefit
1 year or less than 3 years	2 months
3 or more years but less than 6 years	3 months
6 or more years but less than 9 years	4 months
9 or more years but less than 11 years	5 months
11 or more years but less than 15 years	6 months

371. The first payment shall be equivalent to two (2) monthly benefits. A seven-day waiting period shall be imposed on succeeding monthly payments to determine whether the separated member has found gainful employment. All accumulated unemployment benefits paid to the employee during his entire membership with the GSIS shall be deducted from voluntary separation benefits.

J. Provident benefits

372. This aspect of social security was addressed through the creation of Pag-IBIG Fund, which tackled two of the country's basic concerns, namely, generation of savings and provision of shelter for the workers. Since the promulgation of the Pag-IBIG Fund Law, various changes and amendments have been effective to better serve and respond to the needs of its members.

K. Dependent's allowance

373. Under the SSS, upon a member's retirement, permanent disability and death, up to five minor dependent children shall receive a dependent's pension equivalent to P 250 or 10 per cent of the member's monthly pension, whichever is higher. The dependent children include legitimate, legitimated, legally adopted, and illegitimate children of the deceased member. Only 5 minor children, starting from the youngest, are entitled to the dependent's pension. When there are more than 5 legitimate and illegitimate children, the legitimate children shall be preferred.

374. The dependent's pension stops only when any of the following occurs: (1) the child reaches 21 years old, (2) the child gets married, (3) the child gets employed and earns at least PhP 3,000 a day, or (4) the child dies. However, the dependent's pension is for life if the child is incapacitated or incapable of self-support due to physical or mental defect which is congenital or acquired during minority.

375. Once the legitimate spouse of the deceased member remarries, the survivor's pension transferred to the dependent legitimate, legitimated, legally adopted, and illegitimate children of the member.

L. Social security schemes for Overseas Filipino Workers

376. The SSS offers voluntary social security coverage for Overseas Filipino Workers (OFWs) under two

programs: the Regular Program and the Flexi-Fund Program or the National Provident Fund for OFWs.¹⁵

377. The Regular Program provides for retirement, death, disability, sickness, maternity and funeral benefits as well as salary, housing and business loans.

378. The Flexi-Fund Program, on the other hand, is a tax-exempt savings and pension plan designed to encourage overseas Filipinos to augment their savings from their hard-earned income, so they would have generated enough funds when they eventually decide to go home. Any amount contributed on top of the maximum contribution to the Regular Program goes to a worker's individual account. The cumulated balance can be used to supplement member's retirement or disability benefits under the Regular Program - in lump sum, pension or a combination of both. A member also has the option to withdraw any amount to finance needs such as housing, education, or seed capital for business.

Question No. 4. Percentage of the GNP spent on social security

379. National spending on social security is estimated at about 2 per cent of the GDP. In 1996, the combined benefit payments by the four major social security agencies, which represented 7.3 per cent of the national budget, was more than PhP 28.8 billion, broken down as follows:

	PhP
SSS	20,375,976,335.00
GSIS	6,581,540,558.00
PHIC (Medicare)	3,343,084,213.00
ECC	1,357,612,582.75

(2003 data showed that EC benefit payment amounted to PhP 1,715,950,000.00)

15 OFW registration stands at around 600,000 as of end-2005, representing 25 per cent of the total number of workers in countries where the SSS has established its representative offices. It bears notice that to cater to the needs of OFWs prior to their deployment, SSS established an office inside the One-Stop Center of the Philippine Overseas Employment Administration. The SSS has also established 15 offices worldwide mostly housed at Philippine embassies or consulates. OFW collections have also grown immensely from PhP 95 million in 1999 to PhP 893 million in 2005. Members' net equity in the Flexi-fund has already reached Ph 80 million.

380. In 2003, the SSS had total expenditures amounting to PhP 47.583 billion or equivalent to 1.03 per cent of the country's gross national product. Of the PhP 46.5 billion, P42.8 went to benefit payments while PhP 4.8 was spent on operating expenses. Compared to a decade earlier, in 1993, the SSS expenditures amounted to PhP 13.153 billion which is 0.9 per cent of GNP.

381. The increase in SSS expenditure may be attributed to the annual across-the board pension increases granted by the Social Security Commission from 1980 up until 2000. The number of beneficiaries has likewise increased. From about 472 thousand pensioners a decade ago, the number doubled to about 993 thousand in 2003.

Question No. 5. Supplemental informal arrangements which complement social security scheme

382. Some social security schemes are supplemented by private arrangements. Workers with enough margin of savings allowing them to pay additional or higher contributions or premiums usually procure for themselves and their dependents additional health services through health insurance packages offered by various health maintenance organizations. There are also private pension plans and pre-need programs being offered by some private investment companies. Unions may be able to obtain additional insurance benefits through collective bargaining.

383. Under Art. 287 of the Labor Code, any employee may retire or be retired by his employer upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract or retirement plan. He shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other arrangements, provided the benefits are not less than what the law provides. In the absence of an applicable agreement or retirement plan, a worker in the private sector may retire optionally at the age of 60 or compulsorily at the age of 65, provided he has served at least five years in the said establishment; and is entitled to retirement pay equivalent to at least one-half month salary for every year of service.

384. The SSS has negotiated and concluded security agreements with Austria, Belgium, Canada and its province Quebec, France, Spain, Switzerland and United Kingdom and Northern Ireland. The salient features of the aforesaid agreements include equality

of treatment, export of benefits, totalization, payment of benefits and mutual administrative assistance.¹⁶

Question No. 6. Groups that do not enjoy the right to enjoy the social security

385. The State's policy objective is to afford universal social security protection to all workers. Thus, the SSS law makes a classification between the employed and the self-employed for purposes of membership in the system. At present, however, a substantial part of the labor force is not covered by social security protection, either through the SSS, the GSIS, the employees' compensation program, or HMOs.

386. Of the 28.38 million labor force in 1995, only 17.4 million employees and 710,000 self-employed were members of the SSS or GSIS; of the 29.733 million labor force in 1996, only 18.26 million employees and 1.13 million self-employed were members; of the 30.354 million labor force in 1997, only 18.94 million employees and 1.68 million self-employed were members, and of the 33,444,000 labor force in 1999, only 18,438,707 employees and 2,877,465 million self-employed were members. A large part of the informal sector does not enjoy social security protection. As such, loans and other benefits provided under the different systems are virtually unavailable to them.

387. With the passage of RA 8282, practically all private sector workers now have the right to social security. The SSS Charter provides that membership to the social security program is compulsory for all private sector employed and self-employed workers not over 60 years old and earning an income of at least PhP 1,000 a month (roughly \$18). The minimum salary base for social security contributions is a modest requirement even for self-employed persons.

388. The types of members include the following:

16 (a) Equality of treatment - a covered Filipino, including his dependents and survivors, shall be eligible for social security benefits under the same terms as the national of the state with which RP has entered into an agreement; (b) Export of benefits - a person shall continue to receive his benefits wherever he decides to reside. (c) Totalization - contributions/creditable periods in both countries shall be added to determine qualification for benefits; (d) Payment of benefits - each country shall pay a fraction of the benefit due from their respective systems; and (e) Mutual administrative assistance - covered members or beneficiaries may file their claims with the designated liaison agencies of RP or the country where RP has an existing agreement, which shall accordingly extend assistance to facilitate processing of claims.

- Covered employees which include private employees, whether permanent, temporary or provisional; household helper; and Filipino seafarers upon the signing of the standard contract of employment between the seafarer and the manning agency, which together with the foreign ship owner, act as employers;
- Self-employed members which include self-employed professionals; business partners, single proprietors and board directors; actors, directors, scriptwriters, news reporters who are not under an employer-employee contract; professional athletes, coaches, trainers, and jockeys; farmers and fisherfolk; and workers in the informal sector such as cigarette vendors, watch-your-carboys, and hospitality girls;
- Voluntary members which include separated members; overseas Filipino workers; and non-working spouse (usually females) of SSS members.

389. As of end-2005, SSS membership stands at 26.2 million individuals and 757,971 employers. Covered employees comprise a significant number accounting for 80 per cent of the total number of members. Notably, the total number of SSS members accounts for about an estimated 71 per cent of the Philippine labor force.

6.a. Measures regarded as necessary in order to realize the right to social security for groups which do not enjoy the right to social security or which do so to a lesser degree

390. One of the principal objectives of Government is to enable those who are presently excluded from social protection some access to the credit facilities of existing social security programs. In 1994, the government formulated a Social Reform Agenda (SRA), out of which was a program for credit for the poor was set up. The program adopts a clientele segmentation by economic brackets strategy, with a socialized credit program based on the Grameen Bank approach for the ultra poor, an active sustained cooperative formation and development program for the average poor, and dynamic mainstreaming program for the near poor.

391. Non-government and people's organization (NGOs/POs) play a significant role in attaining the government's objectives, particularly in respect to the implementation of credit and livelihood programs. Aside from being tapped as intermediaries or conduits to provide assistance especially to low income groups, NGOs/POs can take the lead in advocacy as well as in the pilot-testing of social protection schemes. Their

networks with the informal sector are particularly useful in information-sharing and capacity building relative to available schemes.

392. Through the SRA, partnerships between government financial institutions on one hand, and NGOs/POs, on the other, are continuously evolving. For instance, the Land Bank of the Philippines now acts as the trustee bank for socialized credit programs and cooperatives while NGOs/POs, including cooperatives, act as the actual program implementors. Further, the People's Credit and Finance Corporation (PCFC) has been designated as the lead agency in the implementation of the program and the delivery of credit to the poor with the help of the National Credit Commission (NCC) sub-group for the poor and the Task Force on Credit.

393. The PhP 22 million loan proposal under the National Livelihood Support Fund, which is aimed at augmenting the funds available for re-lending to the poor, as well as funds from the Perpetual Trust Fund for Capability Building, were utilized in support of the program. Additional support was provided by the Task Force on Credit led by PCFC to help make available the targeted PhP 250 million to fund the credit-related capability building activities of the targeted clientele and of the conduit NGOs/POs. The NCC coordinates these activities to ensure the rationalization of all existing government credit programs.

394. Workers categorized under other working groups (i.e., self-employed, non-working spouses, overseas workers, and members of cooperatives, trades and associations) among those eligible for Pag-IBIG membership. As fund members, they will also be entitled to benefits accruing to employees mandatorily covered by Pag-ibig.

395. Membership levels under this category in 1995 and 1886 were recorded at 119, 473 and 144, 678 respectively.

6.b. Policy measures taken by the Government, to the maximum of available resources, to implement the right to social security of disadvantaged groups

396. The following indigenous social protection schemes have been implemented to extend the benefits of social security schemes to the informal sector:

- "Damayan", which is a community or cooperative-based social protection scheme involving voluntary or compulsory contribution of members to defray expenses for funerals or burials, or in

other cases, even for weddings, baptism, and childbirth;

- "Paluwagan", which refers to the appropriation of a certain per centage of income to a common fund. Each member is assigned a date wherein he or she will receive an amount practically equal to what he or she has contributed to the fund;
- "Pondohan", which involves the holding of fund-raising activities for a cause. The proceeds from such activities are used to finance intended projects.

397. There are also many self-help programs which are being implemented by associations of cooperatives.¹⁷

6.c Effects of above-mentioned measures on the situation of disadvantaged groups

398. The measures enumerated above are relatively new. While the main difficulty has generally been how target beneficiaries can increase their capacities in managing these programs effectively, there is yet no empirical system of measurement nor detailed documentation of success stories that can be used to effectively evaluate these programs.

Question No. 7. Changes in legislation and policies which affect the right to social security

399. The major changes in national legislation that took place during the period are those introduced by RA 7875, the National Health Insurance Act; RA 8291, the Government Service Insurance System Act; RA 8282, the Social Security Act, RA 6656 Rules on Government Reorganization; RA 6758 Salary Standardization in Government; RA 7192 Women in Development and Nation Building; RA 7796 Technical Education and Skills Development Act; and RA 8187 Paternity Leave. The effects of these acts are already discussed under the relevant questions.

17 These programs are as follows - Mutual Assistance System (MAS). For a uniform benefit of PHP 5,000.00, a member pays a premium of PHP 48.00 and another PHP 48.00 as equity per year as long as he or she is a member of the system. Those who reach the age of 60 are retired from the system and are entitled to receive the accumulated equity per earnings; Loan Protection Plan (LPP). Payments for loans obtained by members are insured by the cooperative such that, in case of death of the member, the cooperative pays the balance of the loan; Member Protection Plan (MPP). An optional insurance program for members with premium depending on the age and amount of policy. If death occurs, the beneficiaries receive the amount of the policy coverage; Cooperative Employees Retirement Plan (CERP). Designed for permanent members or employees of cooperatives or self-help organizations where benefits depend on the premiums paid on a certain per centage basis between the employer/cooperative and the employee.

400. Also several measures have been implemented to enhance the financial viability and extend the life of Social Security Fund.¹⁸

Question No. 8. Role of international assistance in the full realization of the right to social security

401. Continuing technical and funding assistance from various international organizations like the ILO and even the Bretton Woods institutions can play an important role in the continuing efforts toward universalization of social security protection.¹⁹

Article 10

Question No. 1. International instruments to which the Philippines is a party

402. The Philippines signed the ICCPR on 19 December 1986 and submitted the instrument of ratification on 23 October 1986. It signed the CRC on 26 January 1990 and ratified it on 21 August 1990. As regards the CEDAW, the Philippines signed and ratified the instrument on 15 July 1980 and 5 August 1981, respectively.

403. The Philippines is also a party to the ILC No. 138, Minimum Age Convention of 1973, having ratified the instrument on 4 June 1998. It is also a party to the ILC No. 90, Night Work of Young Persons Convention

18 In January 2003, President Gloria Macapagal-Arroyo approved a one percentage point increase in the SSS contribution rate, to 9.4 per cent from the previous 8.4 per cent, which took effect in March 2003. Beginning 2002, the maximum monthly salary credit for the SSS social insurance program was raised to P 15,000 from P 12,000. The increase provides incremental benefits for SSS members and infused liquidity for the SSS terms of higher collections. Also effective January 2002, SSS adopted a new definition of the credited year of service (CYS) to be equivalent to twelve months of contributions from the previous definition of at least 6 monthly contributions in a year. Revisions in policies have also been adopted regarding contributions payments. On 10 December 2003, the SSC approved additional policy changes for implementation in 2004 to improve the viability of the SSS fund, facilitate payment of member contributions to SSS, and ease the administration of Self-Employed (SE) and Voluntary Member (VM) contributions. In June 2001, the SSS, in addition to its define benefit program established a defined contributions scheme called the SSS Flexi-Fund for Overseas Filipino Workers (OFWS). The Flexi-Fund program facilitates voluntary savings for supplemental income upon retirement, death, disability, and termination of an overseas employment contract or upon need of an OFW.

19 The recommendations presented in a study conducted by the UNDP and the ILO (Social Protection in the Philippines: Options and Recommendations for Reform and Development [1996] are also worth considering, notably the following: Review labor and social security

of 1948, having ratified the same on 29 December 1953. Lastly, the Philippines is a party to ILC No. 182, Worst Forms of Child Labor Convention of 1999, having ratified the same on 28 November 2000.

Question No. 2. Definition of "family" under domestic legislation

404. The family is recognized in Philippine society as an indispensable element of social cohesion and equilibrium. The Philippines fully believes that the vitality and strength of the State depends upon the solidarity of its nucleus, the family. This explains the strong interest of the Government in the family.

405. Article 149 of EO 209, otherwise known as the Family Code of the Philippines, explicitly provides, "The family, being the foundation of the nation, is a basic social institution which public policy cherishes and protects. Consequently, family relations are governed by law and no custom, practice or agreement destructive of the family shall be recognized or given effect." legislation and procedures in relation to their application and relevance to the needs and circumstances of informal sector workers (including homeworkers); Identify and analyze social protection systems for the informal sector in Metro Manila o determine the basis for the design of benefit packages consistent with the needs and capacity for self-financing; Survey informal sector and agricultural cooperatives outside Metro Manila that are registered with the Cooperative Development Authority to determine and classify those with basic savings or social protection systems; Conduct a feasibility study regarding the introduction of a system of direct support for the vulnerable poor; Determine the cost of providing health care packages including primary outpatient care for beneficiaries under the National Health Insurance scheme. The study would include an indication for the potential of lower hospital utilization if patients were treated effectively in the community. The study would also include an assessment of the impact in purchasing power of the local government units if the funds for providing primary care were redirected to health insurance funds, with greater pooling of risks; and Study the possibility of funding social protection for the informal sector and agricultural workers by application of a levy on products or raw materials or through the imposition of a special tax.

406. Under domestic legislation, family relations include those - between husband and wife; between parents and children; among other ascendants and descendants; and among brothers and sisters, whether of the full-or-half blood.

407. Family relations are regulated by the Family Code which governs marriage, legal separation, property relations, rights and obligations between husband and wife, the family and the home. Muslims are covered by the special provisions of the Muslim Code of Personal Laws. The Child and Youth Welfare Code (PD 603) also governs family relations with special emphasis on the child.

Question No. 3. Age at which children are deemed to attain their majority

408. Under the Family Code, "Emancipation takes place by the attainment of majority. Unless otherwise provided, majority commences at the age of 18 years."

409. The following legislative and administrative measures define the minimum legal age which corresponds to the evolving capacity of the child at which certain rights are deemed to prevail:

- Consent to marry: The Family Code provides that parties to a marriage who are below 21 years of age should secure parental consent. Art. 16 of the Muslim law any Muslim male at least fifteen of age and any Muslim female of age of puberty or upwards and not suffering from any impediment under the provisions;
- Participation in armed conflict. For a child to qualify for conscription into the regular force of the Armed Forces of the Philippines, he should not be less than 18 years old;
- Criminal responsibility. A child under 15 years of age is exempted from criminal responsibility. A child over 15 years of age but under 18 is exempt from criminal responsibility, provided he acted without discernment. Discernment means the mental capacity of the child to fully appreciate the consequences of his unlawful act;
- End of compulsory education/admission to employment. The age for compulsory schooling is defined by DepEd Order No. 65. A child enters grade one at 6 years old. Elementary education of 6 years is completed at eleven years of age. With four years in high school, free education ends, at 15, which is also the minimum age for admission in any undertaking except in employment that endangers the child's life, safety, health, morals or impair his normal development;
- Giving of testimony. No minimum age has been set by law for a child to testify in court. If a child is to testify in court, he should be able to express himself with discernment and he should be physically and mentally capable of handling the rigors of court proceedings;

- Lodging complaints. A child below 18 must be assisted by his parents or his guardians in lodging complaints before the court;
- Legal capacity to inherit. A person can take full right to inheritance or make decisions on his property, or enter into legal or property transactions, upon reaching the age of 18.

Question No.4. Information on the ways and means employed to grant assistance and protection to the family

4.a. Right of men and women to enter into marriage and establish a family with their full and free consent

410. Article 2 of the Family Code of the Philippines provides:

"No marriage shall be valid unless these essential requisites are present:

- (1) Legal capacity of the contracting parties who must be male and female; and
- (2) Consent freely given in the presence of the solemnizing officer."

411. In determining legal capacity, Art. 5 of the Family Code reads, "any male or female of the age of eighteen years or upwards x x x may contract marriage."

412. Also, the consent must be "freely given," such that it must be real and not vitiated or rendered defective by any of the vices of consent like fraud, force, intimidation, and undue influence. Further, the parties must personally appear before the solemnizing officer during the marriage. The appearance of the parties before the solemnizing officer gives the party who is being forced, intimidated, or unduly pressured into the marriage an opportunity to inform the solemnizing officer of such fact so that the marriage ceremony may be suspended or stopped."

413. Article 4 of the Family Code provides that absence of any of the essential requisites renders the marriage void ab initio, while a defect in any of the essential requisites renders the marriage voidable. This means that the absence of consent of both parties, such that when both parties have no intention to be bound, renders the marriage void from the beginning. On the other hand, a defect in the consent given, such that when either one of the parties has been forced or unduly pressured to give his consent to the marriage, renders the marriage voidable.

414. The essential requisites of marriage under Muslim law are legal capacity of the contracting parties; mutual consent of the parties; offer (ijab) and acceptance (gabul) of the marriage duly witnessed by at least two competent persons after the proper guardian in marriage (wali) has given his consent; and stipulation of customary dowry (manu) duly witnessed by two competent persons.

415. Article 27 of the Code of Muslim Personal Laws allows a man to have more than one wife "if he can deal with them with equal companionship and just treatment as enjoined by Islamic law and only in exceptional cases", but a woman may not have more than one husband.

4.b. Measures undertaken to facilitate the establishment of a family as well as maintain, strengthen and protect it, while it is responsible for the care and education of children

416. In the Philippines, only legal separation is allowed. However, no legal separation may be decreed unless the court has taken steps towards reconciling the spouses and is fully satisfied that reconciliation is highly improbable (Art. 59, Family Code).

417. Towards this end, the law gives the spouses, who are parties to an action for legal separation, an opportunity to reconcile. Thus, under Art. 58 of the Family Code, an action for legal separation shall in no case be tried "before six months shall have elapsed since the filing of the petition." The six-month period after the filing of the action is a cooling-off period given by law to the spouses during which their passions may subside and reconciliation between them may take place. Even during this period, however, the court must still provide for the support of the spouses and the children as well as the custody of the children.

418. The Family Code also introduced the concept of "psychological incapacity" as a ground for declaration of nullity of marriage (Art. 36). However, the term "psychological incapacity" has not been meant to comprehend all such possible cases of psychoses.

419. The Supreme Court has defined, "psychological incapacity" to refer to "no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which x x x include their mutual obligations to live together, observe, love, respect and fidelity and render help and support.

There is hardly any doubt that the intentment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage." (Santos vs. Court of Appeals, G.R. No. 112019, 4 January 1995)

420. Articles 28 and 29 of the Code of Muslim Personal Laws restrict the subsequent marriage of a widow or divorcee unless she has observed an idda (four months and 10 days from death of husband or three monthly courses from the date of divorce). Article 29 of the same law further allows the Article 29 allows the husband to take back his wife without the need of a new marriage, if they are reconciled during her idda.

421. The constitution of the family home strengthens the family as an institution and assures it of a home that cannot be seized by creditors except in certain special cases. The exemption from execution, forced sale or attachment of a family home starts from the time of its constitution as such, and lasts so long as any of its beneficiaries actually resides therein. (Arts. 152-155, Family Code)

422. Preservation of family harmony as a legal policy is evident in Art. 151 of the Family Code, which provides that no suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts towards a compromise have been made, but the same have failed. If it is shown that no such efforts were in fact made, the case must be dismissed, except in cases which may not be subject to compromise.

423. In 1997, Philippine Congress enacted RA 8369, otherwise known as the Family Courts Act. The law provided for the creation of family courts that are vested with exclusive jurisdiction over child and family cases. The law mandates family courts to try to preserve the solidarity of the family, provide procedures for the reconciliation of spouses and the amicable settlement of family controversy.²⁰

20 To be established in every province and city, the Family Court shall have jurisdiction to hear and decide on the following cases: Criminal cases where one or more of the accused is below 18 years of age but not less than 9 years of age, or where one or more of the victims is a minor at the time of the commission of the offense; provided the minor is found guilty, the court shall promulgate sentence and ascertain any liability which the accused may have incurred. The sentence shall however, be suspended without need of application as provided in PD 603 (Child and Youth Welfare Code); Petition for guardianship, custody of children, habeas corpus in relation to the latter; Petition for adoption of children and their revocation;

424. All hearings and conciliation of child and family cases shall be consistent with the promotion of the child's and family's dignity and worth, and shall respect their privacy at all stages of the proceedings, by treating records of the case with utmost confidentiality and the identity of parties not to be divulged unless necessary and with authority of the judge.

425. In cases of violence among immediate family members living in the same domicile or household, the Family Court may issue a restraining order against the accused or defendant upon a verified complaint for relief from abuse. The court may order the temporary custody of children in all civil actions. The court may also order support pendente lite, including deductions for support from the salary and use of conjugal home and other properties in all civil actions.

426. The presiding judge of the Family Court, who shall undergo training in dealing with child and family relations cases, shall have direct control and supervision of the youth detention home that the LGU shall establish to separate the youth offenders from the adult criminals. Alternatives to detention and institutional care shall be made available to the accused such as counseling, recognizance, bail, community continuum or diversions form the justice system and that the human rights of the accused are fully respected in a manner appropriate to their well-being.

427. The law also provides for a Social Services and Counseling Division (SSCD), under the guidance of the DSWD, which shall be established in each judicial region as the Supreme Court shall deem necessary based on the number of juvenile and family cases existing in each jurisdiction. The SSCD shall cater to all juvenile and family cases filed with the court and recommend the proper social action, It shall also

develop programs, formulate policies and procedures, and provide technical supervision and monitoring of all SSCD in coordination with the judge.

428. In Islam, monogamy is a general rule while polygamy is only an exception. To justify a subsequent marriage, the man must be able to deal with his wives equally in terms of companionship and treatment. In some instances, polygamous relationships become inevitable when the wife is unable to procreate, is in a state of perpetual illness or is unsuitable for cohabitation. The husband and the wife have the right to divorce under the Muslim Code (Art. 34).

429. Under Islamic law, the husband and the wife are obliged to live together, observe mutual respect and fidelity, and render mutual help and support. When one of the spouses neglects his or her duties to the conjugal union or brings danger, dishonor or material injury upon the other, the injured party may petition the court for relief. The court may counsel the offender to comply with his or her duties, and take such measures as may be proper (Art. 34).

430. For a detailed discussion on the Filipino family and its responsibility for the care and education of dependent children, please refer to the Philippine initial and second reports on the implementation of the CRC, viz., CRC/C/3/Add.23 and CRC/C 65/Add.31, and the first, second, third, fourth fifth and sixth reports on the implementation of the CEDAW, viz., CEDAW/C/5/Add.6, CEDAW/C/13/Add.17, CEDAW/C/PHI/3, CEDAW/C/PHI/4 and CEDAW/C/PHI/5-6.

National Policy on Family and the Rearing of Children

431. The Philippines has drafted many progressive laws aimed at assisting families in the rearing of children.

432. Republic Act 9262, otherwise known as The Anti-Violence Against Women and their Children Act of 2004, criminalizes people who commit acts of physical, sexual, psychological (including verbal), and economic abuse and violence against women and their children in a marriage, when dating, or in a common-law relationship. For the first time, a Philippine law protects women who are abused by their spouses, former partners, or lesbian partners. It also includes the "battered woman syndrome" as a justifying circumstance for self-defense, leaving the woman-victim free from any civil or criminal liability if she injures or kills her abuser.

433. An illustrative case is *People vs. Genosa* (G.R. No. 135981, 15 January 2004), where the Supreme Court had the occasion to discourse on the "battered

20 *continued*: Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains; Petitions for support and or acknowledgment; Summary judicial proceedings brought under the provisions of EO 209 (Family Code of the Philippines); Petitions for declaration of status of children as abandoned, dependent or neglected children; petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases covered by PD 603, EO 56, series of 1986 and other related laws; Petitions for the constitution of the family home; Cases against minors covered by RA 6425, otherwise known as the Dangerous Drugs Act, as amended; Violations of RA 7610, also known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, as amended by RA 7658.

woman syndrome," thus - "First, each of the phases of the cycle of violence must be proven to have characterized at least two battering episodes between the appellant and her intimate partner. Second, the final acute battering episode preceding the killing of the batterer must have produced in the battered person's mind an actual fear of an imminent harm from her batterer and an honest belief that she needed to use force in order to save her life. Third, at the time of the killing, the batterer must have posed probable - not necessarily immediate and actual - grave harm to the accused, based on the history of violence perpetrated by the former against the latter."

434. In 2003, EO 238 was issued providing for the creation of the National Committee on the Filipino Family. The Committee is mandated to promote awareness of the importance of the family through appropriate programs and activities.

435. Republic Act No. 8972, otherwise known as the Solo Parent Welfare Act of 2000, has the objective of developing a comprehensive program of services for solo parents and their children to be carried out by various governmental and non-governmental agencies. Towards this end, the DSWD maintains a Comprehensive Package of Social Welfare and Development Services for Solo Parents and their Children that includes livelihood, self-employment and skills development, psycho-social services, educational services, employment related benefits, health services and housing services for solo parents and their dependents.

436. Moreover, Sec. 8 of RA 8972 provides that "in addition to leave privileges under existing laws, parental leave of not more than seven days every year shall be granted to any solo parent employee who has rendered service of at least one year."

437. The National Internal Revenue Code of 1997 entitles the head of the family to a personal exemption in the computation of tax liability. The head of the family is also allowed to claim additional exemption for each of his dependent not exceeding four. In case the spouses are legally separated, additional exemptions may be claimed only by the spouse who has custody of the child or children.

438. The Paternity Leave Act grants all married male employees in the private and public sectors with a paternity leave of seven days with full pay for the first four deliveries of the legitimate spouse with whom he is cohabiting.

439. Republic Act No. 7160, otherwise known as the Local Government Code of 1991, transferred the implementation of family and community welfare and development services from the DSWD to the local government units.²¹

440. The DSWD develops policies and standards for the guidance of local government social welfare units and non-governmental agencies on family and community welfare and development services.²²

Government programs on family

441. The Government embarked on a family-focused approach to service delivery. In order to reach the more disadvantaged groups and to address the task of employment generation, programs on self-sufficiency and self-reliance were expanded. The national livelihood program was launched to promote and provide opportunities for self-employment. As a consequence, income-generating livelihood programs and projects and entrepreneurial training increased during the period.

442. The Government recently formulated the National Plan of Action for the Filipino Family 2005-2015. This plan of action built upon the previous Philippine Plan of Action for the Filipino Family, 1994-

21 However, the DSWD through the Bureau of Family and Community Welfare retained the following functions: Formulation of programs, policies, rules, regulations and standards relative to the implementation of family and community welfare and development services; Initiation and administration of pilot or special projects for demonstration of the corresponding policies, programs, services, strategies, methods, procedures and guidelines prior to nationwide implementation; and Evaluation and provision of technical assistance and consultative services to operating units and local government welfare departments on program implementation.

22 These services include - Parent Effectiveness Service, which includes parenting sessions on: early childhood care and development, parenting laws, improving marital relationship, health care; Responsible Parenthood Service, which refers to the provision of information and guides to individuals and couples of reproductive age in making decisions and corresponding action on planning family size and child spacing; Marriage Counselling Service, which refers to the provision of guidance to would-be couples on the realities and obligations of conjugal life and thereby coming to an informed decision about marriage. This service also includes exploring information and alternatives with married couples and making decisions about resolution of marital differences or enrichment of conjugal relationship; Family Casework, provides family members who are unable to cope with role adjustments resulting from crisis situations with knowledge and skills in problem solving; Special Social Services for Single Parents, which refers to counselling on the resolution of negative and bothersome feelings brought about by the loss or absence of the spouse; and Self-Employment Assistance, which refers to the provision of capital assistance to disadvantaged families, family members or groups to undertake income-generating projects.

2004. A National Steering Committee on the Filipino Family was created to oversee the implementation of the Plan.²³

443. The DSWD administers several community based programs which aim to assist families in the rearing of children such as child care and placement service, among others.²⁴

444. The DSWD is also currently piloting several projects which aim to assist families.²⁵

23 The Committee is chaired by the Secretary of Social Welfare and Development and composed of government agencies, non-governmental organizations, civic and religious, marriage and family organizations, educational institutions and media groups.

24 These programs are as follows:

- Child Care and Placement Service - provides parental care, whether temporary or permanent, to abandoned, abused, orphaned children or those with special needs.
- Day Care Centers - the DSWD operates care centers nationwide, benefiting almost two million pre-schoolers thus allowing their mothers to have regular jobs.
- Child Protective Service - provides immediate intervention to abandoned, neglected, abused or exploited children, to prevent further abuse and exploitation and assist the child and the child's family to overcome the trauma of such experiences.
- Healthy Start Project - a community based preventive strategy designed to improve family coping skills and functioning, promote positive parenting skills and parent child interaction, and advance optimal child development.
- Special Social Services for Youth Offenders - a program for youth offenders with suspended sentence and assist them and their family by rehabilitating and reintegrating youth offenders into the mainstream of society.
- Early Detection and Intervention of Disabilities of Disabilities Among Children - a program with assists parents in detecting disabilities of children at an early stage and avail themselves of intervention to reduce the risk of secondary problems.
- Family Drug Abuse Prevention Program - a community based prevention program which aims to educate prepare families and their members on the adverse effects of drugs abuse. It involves the promotion of family life enrichment activities to enhance cohesive, bonding and harmonious relationship among family members. It further aims to equip the families with parenting and life skills towards a drug free home.
- Substitute Family Care - a service to meet the needs of persons with disabilities, including children, and senior citizens for custodial care and rehabilitation services through residential care and group homes.

25 The following programs have recently been introduced by the DSWD:

- Night Care for Children of Working Mothers - provides substitute parental care to young children (3 months-6 years old) while their mothers/parents are working at night and young children are left with nobody to take care of. The program is a preventive measure in the elimination of abuse and neglect against young children. It also provides opportunities for mothers to accept jobs on night shifts without sacrificing their roles as mothers, and thus enabling them to be productive at work. The project was pilot-tested in Taytay, Rizal and was able to serve 25 children of 18 mothers working in factories in 1999. The project was later adopted in Binangonan and Cainta Rizal and Tanauan City, Batangas
- Integrated Day Services for Senior Citizens and Children - this program provides for integrated social services for older persons, pre-schoolers, youth and

their parents through intergenerational approaches and strategies bridging the gap between and among generations. This project was pilot tested in Neptali Gonzales Integrated Day Center for Senior Citizens and Their Children in Mandaluyong City.

- Protective Behavior Program - an educational training program which teaches/empowers children and adults on safety issues related to sexual abuse..
- Tulong Aral Walang Sagabal - provision of day care service program to 3-6-year-old children with disabilities. As of 2002, this project is being implemented in 21 provinces, 19 cities and 851 barangays nationwide.
- Growing Great Kids - this program adopts a training curriculum for caregivers of children 0-3 years old.
- National Family Violence Prevention Program - a community-based strategy which educates family members on how to protect themselves against violence within the context of family relations. It mobilizes communities and inter-agency structures to consolidate efforts in support to families at risk of domestic violence through the organization and strengthening of Barangay
- Councils for the Protection of Children, Family Councils, development of family advocates/family watch and peer support to victims, as well as the training of Katarungang Pambarangay members on proper mediation of domestic violence through the conduct of the Family Group Conference.
- Neighborhood Support Service for Older Persons - a community based project which provides appropriate services to older persons in their own homes regardless of their status and condition in life. This project was pilot-tested in Regions VI, XI and CAR.
- Liberating the Indigenous People from Indignity - a capability-building program which is designed to uplift the self-worth of indigenous peoples, exercise cultural awareness in them and strengthen their positive indigenous values, system and practices. The project is currently being pilot-tested in Lamitan, Basilan, and Zamboanga City.
- Sheltered Workshops/Work Center for High Functioning Mentally Challenged Persons - a business facility that fulfills hopes of persons with disabilities for economic sufficiency. It was pilot-tested in Davao City, Region VIII (Tacloban) and CAR (Baguio). The project was able to serve a total of 60 mentally challenged persons in 2001.
- ECCD School on the Air - provides relevant and helpful information on early childhood development to parents with young children (0-6 years old).
- Child Friendly Investigation Studio - a community based facility which assists children who are victims of abuse to disclose facts surrounding the incidence of crime for preliminary and criminal investigation, and/or court hearings. This facility is being pilot tested at the DSWD-NCR.
- Rehabilitation Program for Street Children Recovering from Substance Abuse - a residential center-based program that utilizes the Modified Social Stress Model as a framework of intervention to help street children exposed to substance abuse has a healthier life and prevents the harmful use of substances. The project is being pilot-tested at DSWD-NCR's Haven for Street Children in Alabang, Muntinlupa City.
- Halfway Home for Children in Conflict with the Law - provides aftercare support to youth who have completed their rehabilitation program and with court order for release either to their families or for independent living preparing them emotionally, socially and economically for eventual reintegration to society. The project is being pilot tested in Region XI (Davao City) in partnership with Bahay Kalamboan, an NGO catering to street children.
- Information Technology Literacy for Out-of-School Youth with Disabilities (Sharing Computer Access Locally and

Special programs for Overseas Filipino workers

445. As a response to the emerging issue of the migration of Filipino workers, the DSWD, in coordination with DOLE, pilot-tested the International Social Welfare Services for Overseas Filipino National. The program aims to institutionalize the establishment of social welfare desks at diplomatic posts where there are large concentration of overseas Filipinos workers.²⁶

25 continued:

Abroad Program) - a community based intervention which offers basic computer literacy skills program to youth with disabilities and out of school youth to broaden their employment opportunities. At present, there are 15 ICT Centers being operated with local government units. The project is being pilot-tested in Regions I, II, III, IV, VI, VII and CAR.

- Special Drug Education Center (SDEC) - a community based facility which helps out-of-school youth and street children to cope with the challenges of adolescence particularly their vulnerability to drugs and substance abuse. It is being pilot-tested in two centers being managed by local government units particularly NCR, Pasay City and Legaspi City.
- Community-Based Rehabilitation Program for Perpetrators of Domestic Violence - provides various treatment approaches to restore the perpetrators social functioning and to break the cycle of violence in the family. The program is in response to Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Children Act. The project is currently being pilot-tested in Regions III, IV, V and VIII, X, XI, NCR and CAR.
- Special Social Services for Stranded - a mechanism that institutionalizes coordinated responses to efficiently manages the stranded during disaster through the Municipal Disaster Coordinating Council, an inter-agency structure in the municipality.
- Alliance of Networks for Assistance to Stranded - a facility that gives immediate assistance such as food, potable water, shelter and medicines to stranded commuters in various ports of the country.

26 There are three (3) schemes of deployment - A Social Welfare Attache was deployed to Malaysia to assist in the handling of OFW concerns, more particularly the concerns of the deportees. For 2004, the attache was able to assist 7,368 deportees and victims of trafficking through provision of temporary shelter, counseling, critical stress debriefing and repatriation; Seven (7) social workers were detailed as technical and administrative assistants to Labor Attaches in Hongkong, Singapore, Taiwan, Dubai, Abu Dhabi in UAE, Jeddah and Kuwait. The social workers were able to assist a total of 6,256 overseas Filipino, mostly domestic helpers who were victims of physical and sexual abuse. Provision of temporary shelter, counseling, critical stress debriefing, medical, financial assistance and referrals to other sources were extended to OFWs; and Four (4) social workers were also deployed on secondment at the International Social Services of Hongkong and Japan in 2004. They provided services on international adoption, repatriation of children of undocumented Filipinos and counseling on interracial marriage.

Question No. 5. Scheme of maternity protection

446. Reference may be made to pars. 330 to 333.

447. The maternity leave benefit grants entitled female employees with 60 calendar days for a normal delivery, abortion or miscarriage. The benefit is extended to 78 calendar days in the case of caesarian section. If a female employee who is employed in the private sector should give birth or suffer abortion or miscarriage without the required contributions having been remitted for her by her employer to the SSS, or without the latter having been previously notified by the employer of the time of pregnancy, the employer shall pay to the SSS damages equivalent to the benefits which said employee would otherwise have been entitled to, and the SSS shall in turn pay such amount to the employee concerned.

448. Meanwhile, under DOLE regulations the assignment of female employees to the night shift of 10.00 p.m. to 6.00 a.m. is allowed only if she is not a nursing mother, among other conditions.

449. Also, the Philippine Health Insurance Corporation (PHIC) shoulders a portion of the hospitalization costs incurred by reason of childbirth, abortion or miscarriage. The assistance extended by PHIC includes subsidy for room and board and operating room fees as well as allowances for drugs and medicines, laboratories and doctor's professional fees.

Question No. 6. Special measures of protection and assistance on behalf of children and young persons

450. The Constitution provides for the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development; the right of the family to a family living wage and income; and the right of families or family associations to participate in the planning and implementation of policies and programs that affect them.

451. The Constitution also recognizes the vital role of the youth in nation-building and mandates that the State shall promote and protect their physical, moral, spiritual, intellectual, and social well-being; inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs. Furthermore, the Constitution requires that the State shall defend the right of children to assistance, including proper care and nutrition, and

special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.

452. The Child and Youth Welfare Code is the basic framework for the development and protection of children. It defines the rights and the responsibilities of children as well as the responsibilities of the family, community, samahan (association), school, church and the State in ensuring the proper development of children. It presents the administrative measures and programs for the care and treatment of special children, namely, the abandoned, neglected, dependent, working, physically disabled and emotionally disturbed children, as well as youth offenders.

453. Protection measures for children are further amplified in RA 7610, otherwise known as an Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination RA 7658 to enforce particularly the policy against child labor.

454. Last 19 December 2003, RA 9231 providing for the elimination of the worst forms of child labor was signed into law. Essentially, RA 9231 seeks to eliminate the worst forms of child labor such as those involving slavery, prostitution, drug trafficking, and any work that is hazardous and harmful to the health, safety and morals of children. Violation of the law subjects the offender to a penalty of imprisonment and/or fine.²⁷

455. The Child and Youth Welfare Code provided for the creation of the Council on the Welfare of Children. The Council acts as the prime government machinery charged with the promotion and protection of children's rights, welfare and development in the Philippines. Also, as the focal coordinating agency of the Philippine Government for children's concerns, the Council is responsible for coordinating and

27 The law strictly prohibits the employment of children under 15 years old, except if they are supervised by their parents and their education is ensured. Child actors from the entertainment industry are also exempt from this law if their parents secure official permits from the labor department, if their employers can ensure proper working arrangements and if their schooling is not sacrificed. The law newly prescribes reasonable working hours for all working children to ensure their access to free and compulsory education provided by public schools. It stipulates that if working in non-hazardous conditions, children below 15 years old can work not more than 20 hours a week, at most 4 hours a day. It also limits children 15-17 years old to work not more than 8 hours a day or 40 hours a week. Night work from 8pm to 6am is prohibited. An ILO study reveals that working beyond this prescribed hours of work will be detrimental to any child's total development.

monitoring the implementation of all laws, programs and services for children.

456. The Youth in Nation Building Act, RA 8044, created the National Youth Commission and established a National Comprehensive and Coordinated Program on Youth Development through which the youth will be enabled to fulfill their vital role in nation-building. The National Youth Commission has been tasked, among others, to: (a) formulate and initiate the national policy on youth; (b) oversee a national integrated youth promotion and development program; and (c) establish a consultative mechanism which shall provide a forum for continuing dialogue between the government and the youth sector on the proper planning and evaluation of policies, programs and projects affecting the youth.

457. The Philippine National Strategic Framework for Plan on Children (2000-2025) or Child 21, as a sequel of PPAC of 1991-2000, was prepared in 2000. Child 21 lays the foundation of a "rights-based and evolving capacity" approach to planning and programming of plans and projects which are focused on children. Child 21 requires the interfacing of critical interventions at the various stages of the child's development and the rights and tasks corresponding to the evolving capacities of the child.

458. Executive Order 275 created the Special Committee for the Protection of Children from all forms of neglect, abuse, cruelty, exploitation, discrimination and other conditions prejudicial to their development. The Special Committee is tasked with the coordination of governmental and non-governmental efforts implementing national laws specifically designed to protect the rights of children who are victims of various forms of child abuse and commercial sexual exploitation. The Committee reports to the President such actions taken to address specific issues on child abuse and exploitation, and directs other agencies to immediately respond to the problems brought to their attention and report to the Committee the action taken.²⁸

459. The PNP has established the Women's Crisis and Child Protection Center which places under one

28 The Committee is chaired and co-chaired by the secretaries of the DOJ and the DSWD, respectively, and includes as members the CHR Chairperson, the Commissioner of the Bureau of Immigration, the respective undersecretaries of the DOLE, the Department of Tourism, the DILF and the DFA, as well as three representatives of private organizations to be nominated by said groups and appointed by the President, as members. The Council for the Welfare of Children acts as Secretariat of the Committee.

office police professionals involved in the treatment of children victims.

460. The Children's Television Act, RA 8370, aims to support and protect the interests of children by providing them television programs that reflect their needs, concerns and interests without exploiting them. The law provided for the creation of the National Council of Children's Television (NCCT), which is attached to the Office of the President. The NCCT is mandated, among other things, to formulate and recommend plans, policies and priorities for government and private sector, i.e., broadcasters, producers and advertisers, action towards the development of high quality locally-produced children's television programming. It shall also monitor, review and classify children's television programs and advertisement aired during child-viewing hours and shall act on complaints committed in violation of the law.

461. The principle of non-discrimination is upheld in the Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act (RA 7610). This Act declares that it is the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development. It provides that the State shall intervene on behalf of the child when the parent, guardian, teacher, or person having care and custody of the child fails, or is unable, to protect the child against such actions or conditions.

462. Apart from the Anti-Violence Against Women and Their Children Act (RA 9262), Congress also passed the Anti-Trafficking in Persons Act of 2003 (RA 9208). The law defines trafficking in persons as "recruitment, transport, transfer or harboring or receipt of persons with or without the victims' consent or knowledge, within or across national borders by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs." The law gives legal protection to trafficked persons, regardless of whether or not they have given their consent. As such, all trafficked persons, without qualification, shall be recognized as victims of trafficking and shall not be penalized for it. The victims or survivors shall be entitled to the

witness protection program, and to services such as counseling, temporary shelter, education, health care and legal assistance.²⁹

463. In 2000, the Supreme Court issued the Rules on Examination of a Child Witness. This comprehensive document sets the rules for dealing with children who are (1) witnesses to a crime, (2) victims of a crime, and (3) accused of a crime. These rules are now being applied in family courts. As a result of the enforcement of these rules, child-friendly investigation studios have been set up in select areas, which should greatly facilitate the examination of children and thus keep them from having to appear in courts.

464. In 2002, children born out of wedlock were given the right to use the surname of their fathers, provided they had been acknowledged by their fathers in either a public or private handwritten document.

465. The Magna Carta for Disabled Persons, RA 7277, protects the disabled, both children and adults, from discrimination. This Act provides that the State shall encourage respect for disabled persons and shall exert all efforts to remove all social, cultural, economic, environmental and attitudinal barriers that are prejudicial to them.

466. Republic Act No. 8980, otherwise known as the Early Childhood Care and Development (ECCD) Act, provides for, among others, the ECCD Curriculum which focuses on the children's development according to their individual physical needs and socio-cultural background. The DepEd sets the standards for the curriculum, staff requirements and physical facilities for the operation of pre-schools, as well as requirements for registration. The DSWD, for its part, looks after accreditation and standards setting for ECCD centers, programs and services catering to children four years and below. Executive Order No. 249 established the Council on the Welfare of Children-National ECCD Coordinating Council as the institutional machinery that coordinates the implementation of the early childhood education programs and ensuring collaboration among DSWD, DepEd, DOH, non-governmental organizations and LGUs.

29 Following the passage the Anti-Trafficking in Persons Act of 2003, the Inter-Agency Committee Against Trafficking (IACAT) composed of eight (8) government agencies was created. IACAT has formulated the National Strategic Plan of Action Against Trafficking in Persons to serve as the blueprint for all actions in combating trafficking and protecting trafficked persons. The Strategic Plan contains three (3) major components, i.e., prevention; protection, law enforcement and prosecution; and recovery and reintegration, and adopts certain strategies.

467. At the present, around 77 per cent of five-year-old children are served by accredited public and private preschools and local government unit or LGU-run day care centers. The quality of services provided in preschools and day care centers varies in terms of curricula. Some preschools and day care centers are mere child-minding centers while some, particularly those in urban areas, apply some form of formal school curricula, especially for children ages five to six years old. However, not all children of poorest households are covered by existing ECCD programs. Twenty-three per cent of children who are supposed to avail of ECCD are not yet served.

6.a. Age limits below which child labor is prohibited

468. Republic Act No. 7658 prohibits the employment of children below 15 years of age in any public or private undertaking, except when the employed child is under the sole responsibility of his or her parents or legal guardian and where only members of the employer's family are employed.

469. Section 12 of RA 9231 reads:

"Sec. 12-D. Prohibition Against Worst Forms of Child Labor. - No child shall be engaged in the worst forms of child labor. The phrase "worst forms of child labor" shall refer to any of the following:

"(1) All forms of slavery, as defined under the "Anti-trafficking in Persons Act of 2003", or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict; or

"(2) The use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances; or

"(3) The use, procuring or offering of a child for illegal or illicit activities, including the production and trafficking of dangerous drugs and volatile substances prohibited under existing laws; or

"(4) Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:

"(a) Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or

"(b) Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or

"(c) Is performed underground, underwater or at dangerous heights;

"(d) Involves the use of dangerous machinery, equipment and tools such as power-driven or explosive power-actuated tools;

"(e) Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or

"(f) Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations; or

"(g) Is performed under particularly difficult conditions; or

"(h) Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes and other parasites; or

"(i) Involves the manufacture or handling of explosives and other pyrotechnic products."

6.b. and c. Number of children engaged in paid employment; Children employed in their families' households, farms or businesses

470. Reference may be made to par. 102.

471. According to the 2001 International Labor Organization and National Statistics Office Survey on Children five (5) to 17 years old, 16.2 per cent (4.2 million) of a total population of 24.9 million Filipino children and youth belonging to this age group in 2001 were employed. This proportion is slightly higher than the 16 per cent (or 3.6 million) economically-deprived children in 1995. There were far more male working children than female ones, comprising 2.5 million or 63.4 per cent and 1.5 million or 36.6 per cent, respectively. Seven in ten working children were in rural areas. The latest Labor Force Survey, conducted from October 2003 to October 2004, revealed that approximately 2.116 million or 9.1 per cent of the total 25.210 million children 5 to 17 years old were working.

472. Almost 60 per cent of the working children were engaged in agriculture, hunting, and forestry. That is, 59.2 per cent of the working children in October 2003 and 57.3 per cent by October 2004. The second highest number of working children was found in the wholesale and retail trade, followed by children employed by private households, with almost 10 per cent. Less than 2 per cent of working children were

found in construction and other industries. More than 50 per cent of the working children were unpaid while those who were paid made up at least a third of the working children. An average of 23 per cent of working girls spent more than eight hours of work every day, compared to 8.5 per cent of the working boys. Then, too, at least a third of the girls worked at least 40 hours a week, whereas only about a fourth of the boys did the same.

473. In most cases, children's work involves simple chores which can be undertaken without much training, such as gathering, sorting or picking materials. Others render personal or community services, like washing cars and jeepneys, babysitting, shining shoes and toting bags. They sell in sari-sari stores (small neighborhood stores and on the streets (street vendor). In the agricultural areas, children are often involved in traditional crafts production, such as abaca crafts or mat weaving.

6.d Disadvantaged groups of children

474. For the year 2003, a total of 2,732 children had been separated from their parents and deprived of a family environment. Nine hundred seventy children were placed with foster families while 1,902 children had been either adopted domestically or through inter-country adoption.

475. The DepEd reported that in 2003, a total of 3,951 children attended special education classes in regular schools while 120,426 children enrolled in 159 special schools all over the country.

476. In 2004 a total of 3,485 crimes were alleged to have been committed by children between 9 and 17 years old. Based on data from the DSWD, theft/qualified theft emerged on top of the list of crimes most often committed by children in conflict with the law, followed by robbery/hold-up/frustrated robbery/robbery with serious physical injuries, and rape/attempted rape/statutory rape.

6.e. Measures undertaken to remedy the situation of children in vulnerable situations

477. Whenever a parent is found to be neglectful, as in the case of children who beg or work in the streets and are brought under police custody, the child is returned home and the parents are admonished by the Barangay Council for the Protection of Children (Art. 61, Child and Youth Welfare Code). Family casework is provided by a social worker to resolve any conflict in the family that brings about neglect by the parent and prevent the separation of the child from the family.

478. In cases of children who are under the protective custody of the DSWD in residential facilities, in foster care, or in rehabilitation centers, parents have to visit their children to maintain the child's personal relationships when it is for the best interest of the child. A family day is designated to give the child and his family a chance to get together during which time family therapy sessions are conducted by social workers. Visitation rights, however, are curtailed for offending parents particularly when the child refuses to see them because of fear and tendency of some parents to put the child under stress, i.e. pressuring the child to withdraw the case against the parent-perpetrator.

479. Relative to cases of abuse and family conflicts where the child may be separated from the family, the Family Violence Prevention Program has been developed as a community based mediation strategy to prevent the child's separation and/or resolve issues/conflicts affecting family relationship. The Family Group Conference is one strategy that provides an opportunity for the parents and children to identify possible solutions to the problem.

480. Permanent separation of a foundling from parents is forestalled by the social worker through media announcements and intensive search procedures within six (6) months by the police and the Barangay Council for the Protection of Children while the child is in a residential facility or with a foster family.

481. Pre-adoption counseling services are extended to the prospective adoptee and the children of the adopting parents, to ensure that they understand the nature and effects of adoption and are able to express views on adoption in accordance with his/her level of discernment.

482. Counseling services are also provided to biological parents who will be giving up their children for adoption before and after the birth of the child to ensure that no hurried decisions are made about relinquishing parental responsibility over the child. Simulation of a child's birth is punishable under the Revised Penal Code.

483. The social worker helps the child understand his parents' inability to care for him and his feelings about the separation.

484. A child who is ten years old and above and made available for adoption is required to give his written consent to the adoption.

485. The Inter-Country Adoption Act of 1995, RA 8043, establishes the rules to govern inter-country adoption

of Filipino children and provides for measures to ensure that inter-country adoptions will be beneficial to the child's best interest, and serve and protect his/her fundamental rights. The law provided for the creation of the Inter-Country Adoption Board to act as the central authority in matters relating to inter-country adoption in consultation and coordination with the DSWD, the different child-care and placement agencies, adoptive agencies, as well as non-governmental organizations in child-care and placement activities.

486. Adoption, foster care, residential or group home care is made available only when parental care is not suitable or possible. The type of care depends on the (1) age and evolving capacity of the child; (2) degree of deprivation of parental care and support; and (3) inability of the parent to exercise parental responsibility unaided.

487. The DSWD had always worked for the mainstreaming of children with disabilities. Recently, the DSWD has developed a community based program for the protection of children with disabilities. The program, known as Tuloy Aral Walang Sagabal Project (TAWAG), was developed to guide parents, caregivers, day care workers, volunteers and other intermediaries in mainstreaming the integration of children and youth with disabilities into the regular school system and eventually into the community.

488. The DSWD also pilot tested the Mainstreaming of Children with Disabilities Program in five (5) regions of the country. The project involved the deployment of roving day care workers who have technical know how on handling children with disabilities. The program aims to raise the positive consciousness of families of children with disabilities as well as the community where they live on the proper way to care for and deal with disabilities. The project has benefited 1,485 children with disabilities through educational programs while 970 others were integrated to day care centers, special educational school and regular schools.

489. The DSWD also developed the Community Based Day Care for Children with Autism, which is a pilot program providing early childhood enrichment activities to children with autism and those whose developmental age is from 3 to 6 years.

490. Republic Act 9344, otherwise known as Juvenile Justice and Welfare Act of 2006, provides for the immediate turn over of children in conflict with the law to social workers upon apprehension instead of jailing them as was the practice. It also provides

for the referral of children's cases to community-based rehabilitation programs (diversion programs) instead of going to trial, and for juvenile delinquency prevention programs as well as rehabilitation and reintegration.

491. Under the law, the diversion program shall include adequate socio-cultural and psychological responses and services for the child. At the different stage where diversion may be resorted to, viz., at the level of the village chief, the law enforcement officer and the prosecutor or the court, several programs are made available for the child in conflict with the law.³⁰

Article 11

Question No. 1. Standard of living

1.a. Current standard of living

Status and trends: 2003 Official poverty data

492. As of 2003, a total of 24.7 per cent of Filipino families (or 30.4 per cent of the Filipinos) were considered poor compared to 27.5 per cent (33 per cent of the population) in 2000. The poor families had income that was below the poverty threshold of PhP 12,267 in 2003. The decrease in the poverty incidence of families was mainly attributed to the increase in earnings across almost all income levels and across all regions except in Metro Manila, CALABARZON, and Northern Mindanao. Using the World Bank's international poverty line of US\$1/day, the Philippines slightly improved with the proportion of the population below US\$1/day declining from 13.5 per cent in 2000 to only 11.1 per cent in 2003.

493. The country's annual per capita poverty threshold reached PhP 12,267 in 2003, up by 7.1 per cent compared to the revised 2000 level of PhP 11,451. Thus, a family of five members should have an income of at least PhP 5,111 a month to be able to sustain their minimum basic needs, both food and non-food.

30 A. At the level of the village chief - (1) restitution of property; (2) reparation of the damage caused; (3) indemnification for consequential damages; (4) written or oral apology; (5) care, guidance and supervision orders; (6) counseling for the child and his family; (7) attendance in training, seminars and lectures; (8) participation in available community-based programs including community service. B. At the level of the law enforcement officer and the prosecutor - (1) diversion programs specified above; (2) confiscation and forfeiture of the proceeds or instruments of the crime. C. At the level of the appropriate court - (1) diversion programs specified above; (2) written or oral reprimand or citation; (3) fine; (4) payment of the cost of the proceedings; or (5) institutional care and custody.

494. Meanwhile, the annual per capita food threshold increased from PhP 7,707 in 2000 to PhP 8,134 in 2003, up by 5.5 per cent during the period. Subsistence incidence, or the proportion of families with per capita income below the food threshold, stood at 10.4 per cent in 2003 (or 13.8 per cent of the population), exhibiting a decrease of almost two per centage points from 12.3 per cent in 2000. The subsistence level or threshold, which is measured as the minimum income needed by a family to satisfy its nutritional requirements (2,000 kilocalories per day) was estimated at PhP 3,389 per month for a family with an average of five members or PhP 8,134 per capita per year. This means that in 2003, about 1.664 million families did not earn enough income to provide for their basic food requirements, representing a drop from the 2003 level of 1.850 million families. The subsistence or core poverty of families declined slightly from 12.3 per cent in 2000.

495. Based on the preliminary results of the 2003 Family Income and Expenditure Survey, households' allocation for food expenditures decreased from 43 per cent in 2000 to 42 per cent in 2003. They also reduced the allocation of expenditure on food consumed at home from 38 per cent in 2000 to 37 per cent in 2003. On the other hand, higher spending on food consumed outside the home was observed as the proportion went up from five per cent in 2000 to 5.3 per cent in 2003, suggesting a change in the Filipino family lifestyle of eating at home.

Incidence of poverty, 1980-2000

496. Since the 1980s, poverty has gradually been diminishing in the Philippines. Official estimates from the National Statistical Coordination Board (NSCB) showed poverty incidence³¹ at a high of 44.2 per cent in 1985, to 31.8 per cent in 1997.

497. A comparison of time periods shows different rates in poverty reduction. For three three-year interval periods³² - 1985 to 1998, 1991 to 1994, and 1994 to 1997 - there were relatively substantial reductions in poverty incidence, with poverty decreasing between 3.5 to 4.5 percentage points. These were periods of high economic growth and as observed, periods with rises in household and per capita expenditure. Poverty reduction during these periods is positively associated with economic growth.

31 Poverty incidence in this section means the proportion of families whose incomes fall under the poverty threshold; all incidences in this paper would refer to families.

32 Poverty incidence is estimated officially only every three years since it is dependent on the Family Income and Expenditure Survey which is undertaken only every three years.

498. From 1988 to 1991, poverty reduction was slow as it went down by only 0.3 percentage points. For this period, studies point to political instability, natural disasters, and economic mismanagement as the culprits for low growth and consequently, slow reduction in poverty. Also, for the first time in almost two decades, due to the combined effects of the East Asian financial crisis and the El Niño phenomenon, poverty incidence worsened in the year 2000. From a 1997 figure of 31.8 per cent, 2000 figures show that poverty incidence was at 33.7 per cent already. In terms of actual number, by 2000, the total number of poor families breached the 5 million mark for the first time in recent history.

499. Both the proportion and number of families with incomes insufficient to buy the necessary quality and quantity of food, measured by the food or subsistence incidence, has followed the trend of poverty incidence, although relatively smaller in degree. The proportion of the so-called 'core-poor' has gone down substantially in the years of economic boom, while for intervals marred with crises and shocks, it has gone up.

500. In terms of magnitude, there were 2,546,486 families in 2000 that had incomes below the needed amount to buy sufficient quantity and quality of food, going beyond 1985 figures. The latest figure reflects a reverse of the trend of constant decline since 1991.

501. Mindanao, among all the Island groups, has had the slowest pace of poverty. From 1985 to 2000, it has only managed to decrease its poverty incidence by 3 percentage points. Across time, it has surpassed the national average and at the turn of the decade, it has had the highest poverty incidence among the island regions. Four out of its five regions in 2000 have the highest incidence among the regions. The Autonomous Region of Muslim Mindanao (ARMM), since the middle of the nineties, has been occupying the top spot with almost 7 out of 10 families living in poverty.

502. Visayas, on the other hand, has had the fastest reduction in poverty from a high of 58.8 per cent in 1985 to only 41.7 in 2000. Poverty rates in the respective regions have been high but Regions 6, 7, and 8 have been improving relative to their neighbors.

503. Luzon, has consistently been performing the best in terms of the above figures. Regions in Luzon continue to enjoy the lowest poverty incidences among regions, except for Bicol (Region 5), which has been the weakest performer in Luzon. The Bicol region has hardly improved since the eighties. As

expected, NCR has the lowest incidences across time among the regions and has decreased its poverty incidence the fastest.

Poverty as a rural phenomenon

504. Philippine poverty continues to have a rural face. A higher proportion and number of the poor continue to exist in rural areas. Rural poverty incidence has constantly been in the 45 to 50 per cent mark throughout 1985 up to 1997 and 2000, failing to catch up with urban poverty incidence which has dramatically decreased from 33.6 per cent in 1985 to only 17.9 per cent in 1997. In six years - from 1991 to 1997 - poverty incidence in urban areas was almost halved, from 31.1 to 17.9 per cent - this suggests that the economic boom in the early part of the nineties benefited the urban areas more than it did the rural areas.

Inequality of income distribution

505. If there is one factor that significantly influences poverty reduction aside from economic growth, it is inequality. Inequality in income distribution is partly responsible in determining how the fruits from economic growth are spread across the different income groups. In terms of inequality, the country has consistently had high levels of it.

506. In 2000, poverty incidence went up but inequality improved - this may be attributed to the nature of the crisis which affected the upper income groups more.

507. Partly because of an unequal distribution through time, poverty reduction has not been as rapid as desired. From 1985 to 1997, a country estimate found that poverty incidence could have been reduced by 20.5 percentage points, however, due to inequality of income distribution, it only went down by 16.5 per cent.

508. In terms of inequality, majority of the regions in the country has had high inequality of income distribution. It has been observed that inequality has worsened since 1985 for all the regions except the CARAGA Region (Region XIII) and Region 3. Inequality is centered mostly on Visayas which has had three of the highest gini rates in recent years. Region 8 has performed the worst, starting at 0.3947 in the 1980s, moving up to 0.4901 in 2000. Mindanao has a similar case with Visayas. ARMM turns out to have the lowest inequality as it registers a gini coefficient of only 0.3278. Many have cited that ARMM, being the poorest region, may have very few households in the upper income groups since majority (almost

70 per cent) is considered poor. Although NCR has posted the lowest poverty incidences, it exhibited a high level of inequality.

Income gap, poverty gap and severity of poverty

509. Other measures of poverty, which provide complementary information on the extent of poverty, include the income gap, poverty gap, and the severity of poverty. These indicators provide useful information on the depth of poverty and the overall cost of eliminating poverty through additional income generation.

510. The income gap in the country was placed at 29.6 per cent in 2000, not significantly different from the 29.8 per cent income gap computed in 1997. This means that on the average, the family income of poor Filipinos must increase by 29.6 per cent of the poverty threshold for them not to be considered as poor.

511. In 2000, 27.2 per cent of the provinces had income gaps ranging from 27.5 to 30.9 per cent. More than half of the provinces actually had income gaps of at least 27.5 per cent. At the highest depth of poverty are Sarangani and Mountain Province with income gaps of 40.4 and 38.0 per cent, respectively, while at the shallowest end is Batanes with an income gap of only 3.1 per cent.

512. The poverty gap, on the other hand, indicates by what per centage of the poverty threshold on the average would the income of Filipino families have to be increased for poverty incidence to be zero.

513. Finally, the severity of poverty indicator tries to capture the problem of inequality among the poor. In 2000, poverty was found to be most severe in Masbate even if it is only second in ranking in terms of poverty incidence. Sulu recorded the highest poverty incidence in 1997 and 2000, but is not included among the 10 poor provinces with severe poverty. This means that although there are more poor families in Sulu, the incomes of most of these poor families are relatively nearer the poverty threshold. Thus, the poor families in Sulu would need less additional income to get out of poverty compared to the poor families in Masbate.

1.b. Relevant report

514. Reference is made to Philippine implementation reports on the CEDAW (CEDAW/C/5/Add.6, CEDAW/C/13/Add.17, CEDAW/C/PHI/3, CEDAW/C/PHI/4 and CEDAW/C/PHI/ 5-6, as well as the Philippine implementation report on the CRC, viz, CRC/C/3/Add.23).

1. Poverty line

515. Poverty line refers to the cost of basic food and non-food requirements. In the Philippine official the total basic expenditures. Thus, poverty line may be viewed as the minimum income required to meet the food requirements and other non-food basic needs. (NSCB; Philippine Poverty Statistics, 1997)

516. The latest official poverty data indicate that in 2003, about 4.0 million families or 23.5 million Filipinos, more than a quarter of the country's total population, were living below the poverty line. These figures represent a decrease from the corresponding 2000 levels of 4.1 million families or 25.4 million Filipinos then straining to make ends meet.

517. The three regions with the highest proportion of poor families in 2003 were all in Mindanao, namely CARAGA with 47.3 per cent, the ARMM with 45.7 per cent, and Western Mindanao (Region IX) with 44.1 per cent. At the brighter end of the beam, the three regions with the lowest poverty incidence are all located in Luzon, namely, the NCR with 5.0 per cent, and its neighboring regions - Central Luzon (Region III) with 13.7 per cent, and the CALABARZON area (Region IV-A) with 14.9 per cent.

1. Quality of Life Index/Human Development Index for the Philippines

518. In the Philippines, any progress or change in human development is officially measured not by the "Quality of Life Index" but by the "Human Development Index" or HDI. This index attempts to measure the complex concept of human development by tracking the progress of selected aspects of human life.

519. The HDI is based on the unweighted average of three indicators of well-being: longevity, as measured by life expectancy at birth; educational attainment, as measured by a combination of adult literacy (two-thirds weight) and combined primary, secondary and tertiary enrollment ratios (one-third weight); and standard of living as measured by real GDP per capita (PP\$).

520. While the index was first employed in 1994, official generation of the index at the National Statistical Coordination Board began only in 1997. The first report was released in March 2000; succeeding reports are expected to follow every three years thereafter.

521. The 1997 HDI revealed that the Filipinos' quality of life has relatively improved. During the year, the

Philippines registered an HDI of 0.625, which is 1.7 per cent higher than the 1994 index of 0.614.

522. The provinces which have close proximities to Metro Manila attained higher HDIs while those that are geographically far from the capital of the country remained at the tail ends. Among the major island groups, Luzon posted the highest average HDI of 0.596, up from its 1994 index of 0.558. This was followed by the Visayas with a mean HDI of 0.531 and Mindanao with 0.490.³³

523. The country's state of human development improved in 2000 as human development index stood at 0.656, or 0.027 points higher than the 1997 computed index of 0.629. All component indices grew in 2000 but the most remarkable progress was noted in income index.

Question No. 2. Right to adequate food

2.a. General overview of the extent to which the right to adequate food has been realized

Total food supply

524. Food poverty statistics in 2003 show a modestly improving trend from 2000 data. The National Statistical Coordination Board - Food Balance Sheet (NSCB-FBS) report series showed that there was more than adequate food supply available for consumption. However, while modest gains in addressing (poverty and) hunger were observed, neighboring countries, are succeeding at a faster pace.

525. The total food supply available for consumption in the country in 2001 was more than adequate to meet the recommended nutrient allowance for the population. Despite a slight decrease of 0.2 per cent, from 1,191.2 grams in 2000 to 1,188.4 grams in 2001, the country's per capita food supply exceeded the recommended dietary allowance (RDA) of 1,031.0 grams (based on the RDA of DOST-FNRI, 1989).

526. Production of animal-based food commodities posted a higher growth in 2004 compared to production of vegetable-based food items. This was evidenced

33 On the other hand, the NCR was still way ahead of the country's provinces in terms of development as its HDI was recorded at 0.885 in 1997, an improvement from its 0.873 index in 1994. Majority (63 provinces or 81.8 per cent of the total) of the provinces fell under the medium classification in 1997. This performance was an improvement from the 1994 HDI results when only 56 provinces or 73.7 per cent attained medium classification. On the other hand, 14 provinces (18.2 per cent of the total) exhibited poor performance as they posted low HDIs.

by the 9.6 per cent increase in fish production and 4.2 per cent in poultry production which made up for the decline in livestock production. Vegetable production, on the other hand, decreased by almost 7 per cent.

527. Net import of food commodities has been decreasing for the period 2002-2004. Animal-based food commodities especially live livestock and poultry commodities registered negative growth rates, while vegetable-based food commodities registered minimal decreases over the same period.

528. Although food is readily available, many do not have enough money to buy the food they need. Poverty is a major cause of food inadequacy particularly in the rural areas. Access to food by poor communities remains a problem with the increase in price of goods as evidenced by food manufacturing data wherein value of production index (VaPI) for the manufacturing industry on a year-on-year bases increased by 13.0 per cent in 2005 compared with the year-ago figure, with Food Manufacturing Value growing by 18.2 per cent. Dietary energy consumption

529. On the consumption side, the 4th National Nutrition Survey in 1993 conducted by Food and Nutrition Research Institute-Department of Science and Technology (FNRI-DOST) shows that the average Filipino food and nutrient intake of Filipinos is generally inadequate. Trends in food consumption indicate a general decrease in the intake of various foods. The mean one-day per capita food consumption decreased from 869 grams in 1987 to 803 grams in 1993, and the mean one-day per capita energy intake went down from 1753 kilo calories to 1684 kilo calories in the same period. Energy, iron, calcium and ascorbic acid intakes significantly decreased from 1987 to 1993, and this can be traced to the general downward trend in food consumption, particularly of rice along with the decreases in fish and meat consumption during the period.

530. However, results of the 2004 Household Food Consumption Survey by FNRI revealed an improvement in the trend. From 1993 to 2003, mean one-day per capita food consumption and mean one-day per capita energy intake increased from 869 grams to 879 grams, and 1,684 kilo calories to 1,887 kilo calories, respectively. Animal sources have higher contribution to total food and protein intake. Higher intake of fats, oils and nutrients was observed, except that of iron and vitamin C.

531. The proportion of Filipino households with per capita intake below 100 per cent dietary energy requirement decreased from 69.4 per cent in 1993

to 57.2 per cent in 2003, with average annual percentage point reduction of 1.22 per cent. It should, however, be noted that the HFCS used different nutrient-based dietary standards, i.e., Recommended Dietary Allowances (RDA) in 1993 vis-à-vis Recommended Energy and Nutrient Intakes (RENI) in 2003 to emphasize that the standards are based on nutrients and not food or diet which is the case in the RDA. National Salt Iodization Program

532. As a signatory to the World Declaration on Nutrition and Global Plan of Action for Nutrition during the international Conference on Nutrition in Rome (December 1992), the Government committed to address the problems of malnutrition, including iodine deficiency disorders. As such, the Philippine Plans of Action for Nutrition for 1993-1998 and 1999-2004 included an explicitly stated objective for the virtual elimination of iodine disorders in the country.

533. Towards this end, the Philippine Congress enacted RA 8172, otherwise known as "An Act of promoting Salt Iodization Nationwide and Other Purposes." RA 8172 requires the iodization of all food-grade salt for human or animal consumption. It also mandates all salt producers, importers and traders to iodize salt and make it available to all Filipinos.

534. As the lead agency mandated by RA 8172, the DOH is responsible for the nationwide implementation of the National Salt Iodization Program. The program has four components, namely: (1) production; (2) marketing and distribution; (3) promotion and advocacy; and (4) management and coordination.

Food fortification

535. The Philippine Food Fortification Program is composed of two major components. The first is the voluntary food fortification program that encourages food manufacturers to initiate nutritional fortification measures to fight micronutrient deficiency through the DOH's Sangkap Pinoy Seal Program (SPSP). The second is the mandatory food fortification program that entails the nutritional enhancement of flour with vitamin A and iron, sugar and edible oil with vitamin A, and rice with iron.

536. Fortification of food with micronutrients is generally recognized as the most cost effective long-term strategy for eliminating micronutrient malnutrition. It is also socially acceptable, requires none or little change in food habits and characteristics, and provides a means for reaching the greatest percentage of the population requiring the micronutrients.

537. The SPS Program is a strategy of the DOH to encourage food manufacturers to fortify food products with essential micronutrients at levels approved by the DOH. The DOH matches this encouragement by authorizing food manufacturers to use a seal of acceptance known as the Sangkap Pinoy Seal on product labels that meet a set of defined criteria. The seal indicates that the product is recognized by the DOH as a vehicle for the delivery of micronutrients and which can therefore contribute to the elimination of micronutrient malnutrition.

Nutritional surveys and other monitoring arrangements

538. Presidential Decree No. 491, otherwise known as the Nutrition Act of the Philippines, assigns the formulation of the Philippine Food and Nutrition Program to the National Nutrition Council. The Council, which is the central government agency charged with the formulation of an integrated national nutrition program, is composed of representatives from the DA, DOH, DSWD, DepEd, DILG, DOLE, Department of Science and Technology (DOST), Department of Budget and Management (DBM) and the National Economic Development Authority (NEDA).

539. Since the passage of the Nutrition Act in the late 70s, the country has had had six (6) Philippine Plans of Action for Nutrition (PPAN), including the latest - Medium-Term Philippine Plan of Action for Nutrition, 1999-2004.

540. The PPAN is a master plan to ensure good nutrition for all Filipinos by promoting household food security and preventing, controlling and eliminating micronutrient malnutrition. PPAN hopes to achieve this by promoting: home and community food production, micronutrient supplementation and food fortification, credit assistance for livelihood, nutrition education and food assistance.

541. The Food and Nutrition Research Institute of the DOST (FNRI-DOST) is the country's lead agency in food and nutrition research for the government's PPAN and is responsible for conducting nationwide nutrition surveys (NNS) every five (5) years to determine the nutritional status of the Filipino people.

542. NSS consists of seven (7) components, namely: (1) Anthropometric Nutrition Survey; (2) Household Food Consumption Survey; (3) Dietary Assessment among 0-5 Year-Old Children, 6-11 Year-Old Children, Pregnant and Lactating Mothers; (4) Household Food Security Survey; (5) Awareness and Usage of Fortified Foods and Fortifiable Foods Survey; (6) Biochemical

Nutrition Survey; and (7) Clinical Phase: National Nutrition & Health Survey.

543. Six (6) NNS have been conducted so far - 1978, 1982, 1987, 1993, 1998 and 2003. The 2003 NNS covered about 70,000 individuals of all ages, sampled in 99 areas. These areas include 77 provinces (excluding Basilan) of the country's 15 regions, 5 major cities and 5 cluster areas in the National Capital Region, 10 highly urbanized cities (HUCs), and 2 cities of Central Mindanao.

2.b. Hunger and malnutrition

544. Time-series survey by the Social Weather Station (SWS) shows the increasing incidence of hunger from end 2003 to present. The most affected areas are Mindanao (21 per cent), NCR (18.3 per cent), Visayas (16 per cent), and Balance Luzon (14.7 per cent). Based on recent SWS Survey, the estimated number of Filipinos who have experienced severe hunger is around 3.6 million. Also the 6th NNS in 2003 showed that among children, 1.8 million are considered food insecure and that about 9.7 million Filipinos suffer from inadequate energy intake.

545. However, based on the volume of production of rice, the country is nearing rice sufficiency at 96 per cent. Moreover, based on recommended daily allowance of calories from rice, Filipinos are consuming more (1,143 calories) than required (800 calories) per day. Meanwhile, with regard to poultry, particularly chicken, the country is 176 per cent sufficient. This reflects that there is surplus in poultry that could have been exported.

546. On the food sector, trends in food sufficiency basic indicators show marked worsening in hunger incidence based on qualitative and perception-based information, but caloric sufficiency from current per capita rice consumption - per capita consumption supplies 48.5 per cent of caloric requirements in 2005- suggest exceeding health/nutrition standards.

Nutrition situation of Filipino children

547. A 2001 survey conducted by FNRI-DOST revealed that among the preschool-age children, underweight prevalence was 30.6 per cent, "under-height" was 31.4 per cent, and thinness was 6.3 per cent. Among the school-age children, a higher proportion of 32.9 per cent, 41.1 per cent, 6.5 per cent, prevalence of underweight, under height, thinness, respectively, were shown. Compared with the survey done in 1998, prevalence of underweight and under height among the 0-5 year-old children generally decreased

but thinness and overweight prevalence increased. However, among the 6-10 year-old children, there was a general increase in the prevalence rates of underweight, under height and overweight. Disaggregating by single age, the highest prevalence rate of all forms of malnutrition remained among the younger group of 1-2 year-old preschoolers. The prevalence of malnutrition between the preschool-age boys and girls did not differ much. However, among the school-age children, the boys were more at-risk to all the three forms of malnutrition than the girls. The Bicol region appeared to be the worst-off in underweight prevalence, the ARMM for under height, and the Cagayan Valley for thinness.

548. The 2003 NNS conducted by FNRI-DOST revealed an improving pattern. The proportion of underweight-for-age 0-5 year-old children fell down by 4.4 per cent from the 1998 official statistics at 27.6 per cent. The prevalence of underheight-for-age or short children also fell by 3.6 per cent from 1998 at 30.4 per cent. The prevalence of thinness among the young children was recorded at 5.5 per cent, 0.5 per centage points lower than the 1998 figure.

549. The results of the survey are indicative of general improvements in the nutrition situation of young Filipino children over the past five years from 1998. The indicators height-for-age and weight-for-age are associated with changes in conditions that may influence the nutritional status of children including the economic performance of the country from 1998 to 2003. It may also be reflective of the corrective measures undertaken in the overall health and welfare of the population. Present nutritional status of young children, based on the weight-for-height indicator has slight changes between the periods 1998 and 2003, and may be reflective of the seasonality of available foods in the households and the incidence of infections among children at the second and third quarters of the year when both surveys were conducted.

Overall nutrition situation among various population groups

550. The 2003 NNS revealed that there had been a general improvement between 1998 and 2003 in the country's overall nutrition situation affecting various population groups. There had been a reduction in underweight among pregnant and lactating women as well as a reduction in Chronic Energy Deficiency among adults. There is however a trend towards increasing overweight among adults and children. The anemia problem, especially among infants from six (6) months to less than a year old, toddlers one

(1) year old and 11 months old and pregnant and lactating women, has remained unabated.

Micronutrient malnutrition

551. Micronutrient malnutrition particularly with reference to vitamin A, iron and iodine deficiencies has been found prevalent in the Philippines. This results in serious health consequences that consequently affect national development.

2. Measures considered necessary to guarantee access to adequate food

552. To ensure access to adequate food, the Philippine government realizes the need to focus on food security and poverty alleviation. This means ensuring the availability and accessibility of food to all consumers while at the same time protecting the welfare of Filipino farmers. Measures undertaken to promote women's economic empowerment

553. In 2001, President Gloria Macapagal-Arroyo identified microfinance as the cornerstone of her government's fight against poverty and directed the People's Credit Finance Corporation (PCFC) to provide credit to 1 million borrowers by June 2004. Between June 2001 and December 2003, PCFC reported to having served 864,956 beneficiaries, 98 per cent of which are women.

554. The DSWD has several programs which aim to aid women living in poverty, viz., the SEA-Kaunlaran (SEA-K) Integrated Program and Enhancing the Role and Status of Filipino Women in Social Development Program.

555. Under the SEA-K Integrated Program, families could bond together and form their own organization, called SEA-Kabayans, which, in turn, could access higher loan assistance for micro-enterprise.

556. The Enhancing the Role and Status of Filipino Women in Social Development Program makes accessible credit facilities to women and promotes the formation of community-based organizations that can manage sustainable credit assistance program for its members.

557. For its part, the DA, through the Ginintuang Masaganang Ani (Golden Bountiful Harvest) Countryside Assistance for Rural Employment Program, provides credit and loans to women living in the countryside. Under the said program, Quedancor released about PhP 1.6 billion to provide agricultural

credit and loans to 45,173 women beneficiaries all over the country. The DA also provided loans to 113 Rural Improvement Clubs benefiting 2,691 members and 19 groups with 174 beneficiaries under the Home Economic Extension Program.

558. The DTI launched its One-Town-One-Product Program (OTOP) with the aim of economically empowering those who live in the countryside. Under OTOP, local chief executives identifies, develops and promotes a specific product or service, which has a competitive advantage in the market, as the primary showcase of their locality. In 2005, DTI conducted a total of 2,203 market matching activities. During the same period, 319 OTOP booths were put up at trade fairs to showcase these products and services. Also, OTOP products are currently being sold at 663 market outlets and 83 pasalubong centers nationwide.

559. The DTI, in coordination with the National Anti-Poverty Commission and the LGUs, also implements the Rural Micro-Enterprise Promotion Program (RuMMEPP). RuMMEPP aims to reduce poverty, create employment and enhance the income of the rural poor by assisting existing and starting micro-entrepreneurs realize their full potential through capacity building, market linkages and policy improvements.

2.e. Measures taken to improve methods of production and distribution of food

Methods of production

560. On 28 July 1997, RA 8435, otherwise known as the Agriculture and Fisheries Modernization Act (AFMA), was passed. The said law aims to strengthen the support services for modernizing agriculture and fisheries while at the same time empowering people, particularly the small-holders, engaged in sustainable agricultural development.

561. To put AFMA into work, a blueprint towards agricultural development was formulated by the Department of Agriculture viz, Ginintuang Masaganang Ani - Makapagpabagong Programa Tungo sa Masagana at Maunlad na Agrikultura at Pangisdaan (Golden Bountiful Harvest - Innovative Program Towards a Bountiful and Progressive Agriculture and Aquaculture). The program focuses on achieving food security and poverty alleviation, with the local government units and other stakeholders developing their own plans and programs suitable to their respective localities. Such plans aim to ensure food security by increasing productivity in irrigated areas, while addressing poverty alleviation by providing

support to marginal areas to empower those who have the least.³⁴

Gains realized

562. For 2004, agriculture grew by 5.06 per cent from 2003. Despite the disastrous effects of several typhoons which hit the country in the fourth quarter, output increments were sustained in the crops, poultry and fishery subsectors. Only the livestock subsector recorded a minimal decline in output. At current prices, the gross value of agricultural output amounted to PhP 783.9 billion in 2004 or 18.40 per cent more than last year's level.

563. The crops subsector generated a 4.89 per cent output increase for 2004. Improved performances were particularly notable in rice and corn farms where production grew by 7.38 per cent and 17.28 per cent, respectively. The other crops that recorded significant output expansion were banana, pineapple, tomato

34 The immediate concern of the program is to address direct investments in support of the following: (a) protection and development of watersheds; (b) proper management of agricultural land and water resources; (c) establishments and rehabilitation of irrigation systems; (d) providing marginalized sectors with preferential access to productive assets; and (e) providing other essential measures and support services. The major strategies utilized by the program are as follows- Participatory approach. Participatory planning, implementation and monitoring and evaluation of programs are done with all stakeholders; LGU-led program implementation. The local government units are the lead players in the implementation of the GMA program. The DA and the DILG, along with other concerned agencies, provide the necessary technical and financial support; Area-based approach. The GMA program opts for identified interventions based on the domain specificity of the program areas. Under the program, a situation analysis focusing on the water, soil, climate, production, human resources, processing and marketing endowments of the program area would be outlined first. The comparative advantage or competitive edge as well as the scale economies present in the area, among others, would then be utilized as the central criteria in the selection of program areas/interventions; Capability-Building. The program promotes local capability-building in the areas of participatory planning - implementation, monitoring, evaluation, research and extension, processing, marketing and entrepreneurship, among others; Focused targeting. Projects are developed based on the situation of the people. Programs catering to the poor as well as the big farmers would be designed. Programs would be identified for "winners" or impact areas and also for marginal areas; Productivity improvement. The GMA program promotes ...sustainable development not only in terms of environmentally-sound interventions but also in terms of project viability. Interventions, which would be identified, should be sustainable, meaning they should be worth continuing in terms of profit, management and resources; and Counterpart schemes. The DA, DILG, other concerned agencies and LGUs enter into program financing arrangements which would entail counterpart funds from each partner, to be stipulated in a memorandum of agreement. The counterpart amount is, in turn, based on the partner's capacity. Contributions in kind, such as personnel, facilities and services are included.

and rubber. Overall, the subsector's contribution to agricultural production was 47.46 per cent, equivalent to PhP 383.2 billion at current prices which was 15.83 per cent higher than its 2003 record.

564. The livestock subsector which contributed 13.53 per cent to total agricultural production posted a negative growth of 0.41 per cent in 2004. This was largely attributed to the decline in hog and cattle production. At current prices, the subsector's gross value of output amounted to PhP 145.7 billion, indicating a 27.01 per cent increase during the year.

565. Poultry raisers had an output expansion of 4.23 per cent. The subsector's share in total agricultural output was 15.57 per cent. Except for duck, all other poultry commodities recorded production gains during the year. The subsector's gross output was valued at PhP 116.0 billion at current prices, up by 19.96 per cent from last year's level.

566. The 17.90 per cent surge in aquaculture production contributed to the 9.45 per cent growth of the fisheries subsector. Production of commercial fisheries moved up by 1.86 per cent and that of municipal fisheries, by 2.43 per cent. The subsector which accounted for 23.44 per cent of the total agricultural output grossed PhP 139.1 billion at current prices, representing a 16.03 per cent improvement this year.

567. On the average, farmgate prices of agricultural commodities increased by 12.71 per cent when compared to 2003 data. The livestock subsector recorded the biggest price gain at 27.53 per cent. Poultry prices were also up by 15.10 per cent. Prices in the crops subsector, likewise, continued to go up and this year, a 10.43 per cent rise was noted. Fishery prices bounced back from last year's negative growth and registered an increase of 6.01 per cent in 2004, and resources; and Counterpart schemes. The DA, DILG, other concerned agencies and LGUs enter into program financing arrangements which would entail counterpart funds from each partner, to be stipulated in a memorandum of agreement. The counterpart amount is, in turn, based on the partner's capacity. Contributions in kind, such as personnel, facilities and services are included.

568. Activities implemented under the various programs of President Gloria Macapagal Arroyo in 2004 included: expansion of area planted in hybrid rice; distribution of production inputs such as seeds, fertilizers, fingerlings, fish, fry, feeds, animals, doses of medicine to control and prevent animal diseases;

distribution of various postharvest/production facilities; and establishment of seaweed nurseries.

Methods of distribution

569. The National Food Authority (NFA), an attached agency of the Department of Agriculture (DA), has been mandated to ensure the stability of the supply and price of staple cereals, which include rice and corn, both at farm-gate and consumer levels.

570. Pursuant to this, the NFA employs both direct and indirect market intervention strategies. Under the direct market intervention strategy, the NFA engages in actual grains procurement and distribution, via the NFA Rolling Stores or through accredited retailers at government-set prices, using government buffer and subsidized pricing system. On the other hand, the NFA, through its indirect market intervention strategy, catalyzes the farmers' access to and ownership of grains post-harvest and marketing facilities and services. Farmers are given priority access to NFA's storage, drying, milling, transporting and weighing facilities at reasonable service rates. Also, the NFA assists farmer-organizations in the construction of warehouses which are equipped with basic administrative and post-harvest facilities. In return, these farmer-organizations commit themselves to sell to the NFA an agreed volume of their seasonal produce. Payment for the facility is usually made over a period of 5 to 15 years.

571. The Government's program known as the Strong Republic Nautical Highway, apart from enhancing public access to selected tourism areas throughout the country, also offers an alternate route for the flow of agricultural products. Otherwise referred to as the RORO Food Highway, this route encourages agricultural producers and fisheries suppliers to break new grounds in areas it traverses. It serves as a more efficient option for transporting goods from Mindanao to Luzon, creating new and bigger markets and building a stronger network for inter-island trade between north and south.

2.f. Measures taken to disseminate knowledge of the principles of nutrition

572. Nutrition education remains a strong pillar in the government's program in improving the nutritional status of its population. Disseminating nutritional guidelines, which are simple and practical nutrition messages that encourage individuals to consume an adequate and well balanced diet and maintain a healthy lifestyle, is a key strategy of this program.

573. The FNRI-DOST, in support of the commitment of the pursuit of "Health for All," led the formulation of the first set of Dietary Guidelines for Filipinos in 1990 consisting of five main messages.

574. In 1996, the National Nutrition Council initiated the review of the 1990 guidelines. After four (4) years, or in 2000, the new Nutritional Guidelines was formulated consisting of ten (10) messages designed to provide simple recommendations on how to attain good health through appropriate dietary and nutrition-related practices.³⁵

575. The DepEd, for its part, has adopted and currently administers the Integrated School Health and Nutrition Program (SHNP) in public elementary schools in Metro Manila and in selected provinces. The SHNP has four major components: health and nutrition; health and nutrition education; healthful school living and school-community co-ordination for health. Under the initiative teachers become guardians of the children's health. Deworming and micronutrient supplementation (such as vitamin A, iron and iodine) are implemented with priority given to undernourished children. Health and nutrition information is also provided to every school.

2.g. Measures taken by the Government to ensure an equitable distribution of food supplies

Agrarian reform

576. In the late 1980s, agrarian reform was seen as an imperative to respond to the clamor of the peasantry for social justice and to propel the country towards greater agricultural production and industrialization. The 1987 Constitution declared the promotion of comprehensive rural development and agrarian reform as state policy. Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988, detailed the coverage priorities, components, and mechanics for the implementation of the Comprehensive Agrarian Reform Program (CARP), which is aimed to achieve a "more equitable distribution and ownership of

land...to provide farmers and farmworkers with the opportunity to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands."

577. Under the CARL, agrarian reform is defined as "the redistribution of lands, regardless of crops or fruits produced, to farmers and regular farmworkers who are landless, irrespective of tenurial arrangement, to include the totality of factors and support services designed to lift the economic status of beneficiaries and all other arrangements alternative to the physical redistribution of lands, such as production or profit sharing, labor administration, and the distribution of shares of stock, which will allow beneficiaries to receive a just share of the fruits of the lands they work."

Components of CARP

578. The main ingredients therefore of agrarian reform are land reform, or the transfer of control and ownership of agricultural land to small farmers and landless agricultural workers; and a package of support services to enhance or facilitate the beneficiaries' access to natural resources, finances, extension services, technology and information, rural infrastructure, post-harvest and marketing facilities, and the social infrastructure components of the agrarian system. These refer to two of the three major components of the CARP, viz., land tenure improvement (LTI), and program beneficiaries development (PBD). The other major component is the agrarian justice delivery (AJD).

579. LTI features the re-distribution of about 8.17 million hectares of private and public agricultural lands, which represent 80 per cent of the total arable lands in the country, to about five (5) million farmers or agrarian reform beneficiaries (ARBs). Of this total area, 54 per cent, or 4.29 million hectares, falls under the responsibility of the Department of Agrarian Reform (DAR) while the remaining 46 per cent, or 3.77 million hectares composed of public alienable and disposable lands, falls under the jurisdiction of the Department of Environment and Natural Resources (DENR).

580. On land retention limits, the Law provides that "no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing viable family-size farm, such as commodity produced, terrain, infrastructure, and soil fertility...but in no case shall retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to

35 These simple messages are as follows - eat a variety of foods everyday; eat foods cooked in edible/cooking oil daily; breastfeed infants exclusively from birth to 4-6 months, and then, give appropriate foods while continuing breastfeeding; consume milk, milk products, or other calcium-rich foods such as small fish and dark green leafy vegetables everyday; maintain children's normal growth through proper diet and monitor their growth regularly; use iodized salt, but avoid excessive intake of salty foods; consume fish, lean meat, poultry or dried beans; eat clean and safe food; eat more vegetables, fruits and root crops; and for a healthy lifestyle and good nutrition, exercise regularly, do not smoke, and avoid drinking alcoholic beverages.

each child of the landowner, subject to the following qualifications: 1) that he is at least 15 years of age, and 2) that he is actually tilling the land or directly managing the farm."

581. LTI also includes non-land transfer programs such as leasehold, production and profit-sharing and stock distribution option that are short of land distribution but ensure the tenurial security of farmers and farm workers.

582. AJD involves the resolution of agrarian cases arising from the implementation of CARL and the provision of legal assistance services to agrarian reform beneficiaries. It covers the adjudication of land valuation and agrarian disputes filed before the DAR Adjudication Board. It includes the extension of free legal assistance and counselling to ARBs, particularly through mediation and conciliation and the resolution of Agrarian Law implementation cases.

583. PBD covers the delivery of support services for the economic and social development of ARBs through improved production and productivity and increased incomes. To make the awarded land economically productive, the ARBs must be supported with the necessary facilities and services that may or may not have been provided by their former landowners. PBD is carried out through Social Infrastructure and Capability Building (SILCAB), Sustainable Agribusiness and Rural Enterprise Development (SARED) and the facilitation/enhancement of access to economic support services (e.g., technology, credit, rural infrastructure, market information) and basic social services (primary health care, potable water systems).

Government agencies mandated to participate in the program

584. The implementation of CARP is led by the Presidential Agrarian Reform Council (PARC) as the highest policy-making and coordinating body, and by the DAR as the lead implementing agency. The PARC, which has the President as Chair and the DAR Secretary as the Vice Chair, includes as members the Executive Secretary and the Secretaries or Heads of 13 agencies, namely: DENR, Department of Agriculture (DA), Department of Budget and Management (DBM), Department of Finance (DOF), Department of Justice (DOJ), Department of Labor and Employment (DOLE), Department of Interior and Local Government (DILG), Department of Public Works and Highways (DPWH), Department of Transportation and Communication (DOTC), Department of Industry (DTI), National Economic and Development Authority (NEDA), Land Bank of the Philippines (LBP) and the National

Irrigation Authority (NIA). Three representatives of landowners and six representatives of agrarian reform beneficiaries also serve as members of the PARC.

585. The DAR is responsible for the execution of the three major components of the CARP. In LTI, it collaborates with the DENR in land survey and land distribution; with the LBP in land valuation and compensation and ARBs amortization; and with the DOJ, specifically the Land Registration Authority, in land titling registration. In PBD, the DAR works with the DA, DTI, NIA and DOLE on extension services; with the LBP on credit assistance; with the DTI on livelihood projects; and with the DPWH and NIA on infrastructure support. Meanwhile, the delivery of agrarian justice, the non-land transfer component of LTI are undertaken solely by the DAR.

CARP implementation status

586. Under RA 6657, land acquisition and distribution shall be accomplished within a period of 10 years, i.e., from June 1988 to June 1998. However, with only 56 per cent accomplishment at the end of this 10-year period, the implementation of the Program has been extended through Republic Act No. 8532, which provided for the strengthening of the Program by allocating an additional funds for its implementation for another ten years.

587. As of December 2005, a total of 3,690,956 hectares of the total working scope of 4,370,071 hectares had been acquired and distributed by the DAR, representing 85 per cent accomplishment of targets. For the DENR, the corresponding figures are 2,937,067 of 3,771,441 hectares or 78 per cent. The DAR balance of 630,280 hectares is composed mostly of private agricultural lands (79 per cent), the redistribution of which represents the core of agrarian reform. About 31 per cent of the balance, or 196,051 hectares, are private agricultural lands more than 50 hectares in size.

588. Most of the private agricultural lands are planted to coconut, except in some provinces where the main crop is sugarcane. The regions with the highest balances are Region V, VI VIII and the ARMM. Ten provinces - Negros Occidental, Camarines Sur, Maguindanao, Leyte, masbate, Lanao del Sur, Isabela, Tawi-tawi, North Cotabato and Sarangani- account for 62 per cent of the balance.

589. In leasehold operations, the principal non-land transfer program of CARP, the cumulative accomplishment as of December 2005 is 1,604,364 hectares, benefiting 1,157,309 farmer - beneficiaries.

The balance for leasehold coverage is relatively small. Hence, leasehold operations now focus on monitoring existing contracts and ensuring conformity with the prescribed 75-25 sharing arrangements in favor of the ARB.

590. Since 1998, the DAR has received 274, 585 agrarian cases for adjudication by the DAR Adjudication Board, or an average of about 16,152 cases a year. As of December 2005, 263,516 cases or 96 per cent had been resolved. The number of agrarian cases is expected to increase in the coming years because the coverage of private agricultural lands is more contentious.

591. PBD is expensive and difficult because it seeks to fulfill the needs of the rural sector which include farm-to-market roads, irrigation systems, extension services, post-harvest facilities, social infrastructure and capability building requirements, among others. In view of budgetary constraints, the accomplishment in PBD is limited. The CARP Impact Assessment Studies noted that PBD practices are "characterized more by improvisation, resourcefulness and determination of frontline agencies and personnel operating the best they can, given the limits of allocated resources and mandates."

Agrarian reform community development strategy

592. In 1993, the DAR adopted an area-focused approach in the implementation of PBD. To facilitate effective delivery of support services through integration and convergence of efforts and resources among CARP implementing agencies, the DAR identified agrarian reform communities (ARCs), composed of a village or a cluster of villages where there are critical mass of ARBs who are willing to be organized and undertake the integrated development of an area and/or their organization/cooperative.

593. Republic Act No. 7905 gave the legal basis for the development of ARCs and tasked the DAR to establish at least one ARC per legislative district and identify the farmers' organizations that shall take the lead in the agricultural development in the identified areas. These ARCs serve as growth centers or convergence centers for partnerships in implementation of programs for the development of ARBs and ARB organizations. Partnerships between and among key players in government, civil society and the business sector have significantly contributed to more effective implementation of PBD.

594. The ARC development strategy features the following:

- A scale intervention that is primarily area-based, covering clusters of villages and based on extent of LTI accomplishment, number of ARBs, economic and environmental endowments and socio-political development;
- A focused, gender-sensitive approach intended to empower, and build the social capital of under-represented and marginal groups (such as small farmers, farmworkers, agricultural lessees, subsistence fisherfolk, indigenous people and rural women) in rural communities;
- An integrated area development approach that aims to establish closer linkages among ARCs belonging to the same economic and ecological systems.

595. DAR has established 1,784 ARCs nationwide, with 990 of these supported by various foreign-assisted projects. The total number of ARB organizations in the ARCs is 5,053, of which 47 per cent have reached higher levels of development, i.e., levels 3, 4 and 5 of the DAR's 5-level ARC Level of Development Assessment (ALDA). These organizations have a combined membership of almost 500,000 farmers.

596. Other support services delivered include 10,734 kilometers of farm-to-market roads 141,823 hectares serviced by irrigation systems, 95 bridge projects, 174 post-harvest facilities, 689 potable water systems and 136 multi-purpose buildings. Other physical infrastructure provided for ARBs include health centers, school buildings, flood control, rural electrification and sanitation systems. Non-physical infrastructure services include establishment of demo farms and rural micro-enterprise, training of ARB leaders and DAR implementers and health and nutrition services.

597. The study on the impact of CARP (Reyes, 2000) revealed that "agrarian reform has had a positive impact on farmer-beneficiaries. It has led to higher real per capita incomes and reduced poverty incidence between 1990 and 2000. Compared to non-ARBs, ARBs tend to have higher incomes and lower poverty incidence. However, poverty incidence among ARBs remains high compared to the estimate for the whole country.

State of trade in agro-based commodities

598. The value of agro-based exports grew by 7.4 per cent, mostly of coconut oil, bananas and shrimps/prawns, with share to total exports growing to 6.5 per cent in 2005 from 6.3 in 2004, but was outpaced by imports, which grew by 8.9 per cent, mostly of rice, dairy products and wheat, sustaining the net-importer

status of the sector. During the third quarter of 2005, local trade of food and live animals similarly attained year-on-year gains of 25.6 per cent, with marginally higher contribution to total local trade value (29.6 per cent versus 28.6 per cent year-on-year).

Other measures

599. Bilateral trade negotiations were concluded for the Early Harvest Program (EHP) under the ASEAN-China Free Trade Agreement (with issuance of implementing Executive Orders) and the Japan-Philippines Economic Partnership Agreement, while negotiations were initiated for the ASEAN-Korea, India, Australia and New Zealand. On advancing the agro-based trade promotion agenda, the Sixth World Trade Organization Ministerial Conference held in Hong Kong, China in December 2005, yielded gains in terms of time-bound elimination of subsidies in the sector's export markets (e.g., European Union), exemption from reduction requirements for our local subsidies, flexibility in designating tariff lines for special treatment and in lowering local tariff levels for fisheries.

Question No. 3. Right to adequate housing

3.a. Housing situation in the country

State of housing in the Philippines

600. Housing construction, relative to the huge housing need (3.6 million in 2001-2004) has been modest. Against a target of 1.2 million units of housing assistance or shelter security units (i.e., a house, house and lot, or lot only), the housing sector, through the National Shelter Program, was able to provide 882,823 shelter security units or an accomplishment rate of 73.6 per cent as of June 2004. From 1998 to 2000, achievements in the provision of mass housing were modest. The housing subsector sought to provide shelter security units especially for the poor by promoting security of tenure in housing.

601. The housing demand-supply gap remains as critical as ever in view of rapid urbanization abetted by in-city migration, rapid population growth and formation of new households, and the current slowdown of the country's economic growth.

Housing assistance needs

602. Demand for housing continues to grow as the Philippine population continues to grow rapidly. Government resources are, however, limited and most public programs tend to produce complete

shelter packages largely unaffordable to the poor. Annual population growth rate is estimated at 2.36 per cent while urbanization rate (i.e., the proportion of urban areas to total land area) is 52 per cent. For the period 2005-2010, the housing need is projected to be 3.75 million units. In terms of geographical location, more than half of the total housing need (56 per cent) is in Southern Tagalog, Metropolitan Manila, and Central Luzon, 21 per cent in the Visayas and the remaining 23 per cent in Mindanao.

603. In terms of geographical location, more than half of the total housing need (56 per cent) is in Southern Tagalog, Metropolitan Manila, and Central Luzon, 21 per cent in the Visayas and the remaining 23 per cent in Mindanao.

Disadvantaged groups

604. In 2002, the Government estimated that there were 588,853 informal settler families or squatter households nationwide. More than half of the informal settlers or 51 per cent were in the NCR, Region VI, and Region IV. On the other hand, the areas with the least number of informal settlements were CAR, Region I and the ARMM. These informal settlers live in dwelling units that are substandard or are not durable for at least five years, mostly in urban areas characterized by slums with little or no basic or auxiliary services such as safe water, health center, elementary and high schools, and decent and gainful livelihood opportunities.

Relevant legislation: land and housing development

605. Batas Pambansa Blg. 220, otherwise known as the Social Housing Law, liberalizes land development and construction standards to enable production of low-cost housing.

606. Presidential Decree No. 399, also known as the Striplands Law, reserves strips of land along national and provincial roads, which is within 1,000 meters, for urban development and human settlement purposes.

607. Republic Act No. 7279, otherwise known as the Urban Development and Housing Act (UDHA) outlines a three-point agenda which include - a) fostering people's participation in the urban development process; b) empowerment of local government units to address urban development issues particularly homelessness; and c) private sector participation in the national shelter program in exchange for incentives. UDHA provides impetus to social housing development through incentives, funding allocations, land identification mechanisms, and imposition of social housing quota on land developers.

Legislation on squatting and eviction

608. Another important feature of UDHA is that it discourages eviction or demolition as a practice. Eviction is allowed only under the following conditions, viz: when persons occupy danger areas; or when government infrastructure projects with available funding are about to be implemented; or when there is a court order for eviction and demolition. The law also outlines the guidelines for eviction, viz - the provision of basic services and facilities in resettlement sites, livelihood support, meaningful participation and adequate social preparation for the affected households, close coordination between sending and host local government units, grievance redress and related aspects.

609. Republic Act No. 8368, also known as the Anti-Squatting Repeal Act of 1997, an act repealing Presidential Decree No. 772, a decree Penalizing Squatting and Other Similar Acts. It is also an act that decriminalizes squatting.

610. Executive Order No. 129 established an institutional mechanism to curtail the activities of professional squatting syndicates and professional squatters and intensifying the drive against them. This E.O. protects the rightful beneficiaries of the UDHA from the squatting syndicates and professional squatters who continuously prey on and victimize the former by sowing disinformation, collecting fees and inflicting harassment.

611. Executive Order No. 152 (December 10, 2002), Designating the Presidential Commission for the urban Poor (PCUP) as the Sole Clearing House for the Conduct of Demolition and Eviction /Activities Involving the Homeless and Underprivileged Citizens and Establishing for the Purpose a Mechanism to Ensure Strict Compliance with the Requirements of Just and Humane Demolition and Eviction Under the urban Development and Housing Act of 1992, and for other Purposes. The said EO minimized arbitrary demolition and eviction activities.

612. Executive Order No. 153 (December 10, 2002), Institutionalizing the National Drive to Suppress and Eradicate Professional Squatting and Squatting Syndicates, Amending EO Nos. 178 S. of 1999 and 129, S. of 1993, and for Other Purposes, ensures that only the legitimate homeless and underprivileged are the beneficiaries of the government housing programs.

613. Executive Order No. 178 created the National Police Task Force on Professional Squatters and

Squatting Syndicates. The Task Force will vigorously pursue the apprehension and prosecution of professional squatters and squatting syndicates nationwide.

614. Republic Act No. 8974 (November 07, 2000), an Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for other Purposes, amplifies the resettlement processes of informal dwellers affected by government infrastructure projects.

Legislation on land and property regulation

615. Presidential Decree No. 957, also known as Subdivision and Condominium Buyers Protective Decree, prescribes the comprehensive rules and standards to govern the development, sale and regulation of subdivision and condominium projects.

616. Presidential Decree No. 1098, otherwise known as the Building Code, codifies all laws, rules and standards for building construction.

617. Presidential Decree No. 1216, also known as the Open Space Requirement, amend PD 957 by prescribing the open space requirements for subdivision projects and the uses to which such space may be devoted.

618. Republic Act No. 4762, also known as Condominium Law, serves as the enabling law for the establishment of condominium corporations, and provides the comprehensive rules on condominium ownership, registration of titles and condominium administration.

619. Republic Act No. 6552, otherwise known as the Realty Installment Buyer Protection Act, provides protection to installment buyers against onerous and oppressive conditions. The law provides that in case of non-payment of installment, the contract will not be cancelled outright but the buyer will be given a grace period equivalent to one month per year of installment payment made, without additional interest. If the buyer cannot pay within the grace period and the contract is cancelled, the buyer does not lose everything as he is entitled to a refund of 50 per cent of the total payments made.

620. Republic Act No. 7160, otherwise known as the Local Government Code of 1991, prescribes the powers of the local government units to enact zoning ordinances and reclassify agricultural lands into non-agricultural.

621. Republic Act No. 9161, otherwise known as the Rental Reform Act of 2002, sets out restrictions and requirements on the imposition of rent on leased residential properties in urban areas.

622. Republic Act No. 9275, otherwise known as the Clean Water Act of 2004, provides, among others, for - a) the interconnection of sewage lines of residential, industrial and commercial projects; b) the manner of regulating effluent of industrial establishments; and c) incentives for establishments investing in wastewater treatment or pollution control facilities.

Legislation on land and house financing

623. Presidential Decree No. 1530 provided for the creation of the Pag-Ibig Fund. The Pag-Ibig Fund provides for a system of government and private employee contributions, with employer counterpart, to be pooled into a mutual fund, 70 per cent of which is mandated to be allocated to home loans of Fund members. The Pag-IBIG Fund is the single biggest home financing institution in the country. As of December 2005, 34.94 per cent of the total accounts financed by different government and private financial institutions equivalent to P94.32 billion were generated by the Fund.

624. Republic Act No. 7835, also known as the Comprehensive and Integrated Shelter Finance Act, prescribes funding sources and additional budgetary appropriations for home lending programs and housing development programs of the housing agencies. *Simon, et. al. v. Commission on Human Rights*, G.R. No. 100150, 5 January 1994

625. Upon the petition of vendors and squatters occupying a property located in Quezon City, the PCHR issued an order directing the Quezon City government "to desist from demolishing the stalls and shanties at North EDSA pending resolution of the vendors/squatters' complaint before the Commission." The mayor of Quezon City and his deputies proceeded with the demolition. Hence, the PCHR cited them in contempt and imposed upon them a fine of PhP 5,000.00 each. The mayor and his deputies went to the Supreme Court questioning the power of the Commission to take cognizance of the case and its power to cite them in contempt.

626. The Supreme Court ruled that the Constitution empowers the PCHR to "investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights" (Sec. 1). The term "civil rights," refers to those "rights that belong to every citizen of the state or country,

or, in wider sense, to all its inhabitants, and are not connected with the organization or administration of the government." The term political rights, on the other hand, was interpreted to mean, "the right to participate, directly or indirectly, in the establishment or administration of government, the right of suffrage, the right to hold public office, the right of petition and, in general, the rights appurtenant to citizenship vis-a-vis the management of government."

627. According to the Court, the order for the demolition of the stalls and establishments does not fall within the compartment of "human rights violations involving civil and political rights" intended by the Constitution.

628. It bears quoting the following words of the Court:

"The Universal Declaration of Human Rights, as well as, or more specifically, the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights, suggests that the scope of human rights can be understood to include those that relate to an individual's social, economic, cultural, political and civil relations. It thus seems to closely identify the term to the universally accepted traits and attributes of an individual, along with what is generally considered to be his inherent and inalienable rights, encompassing almost all aspects of life."

Other measures taken to fulfill the right to housing

Creation of housing agencies

629. The creation of several housing agencies manifests the Government's strong commitment to promote the right to housing.

630. The Housing and Urban Development Coordinating Council (HUDCC), created through EO 90, is the highest policy making and coordinating office on shelter. It is an umbrella organization which consists of the heads of the four (4) housing agencies, viz, National Housing Authority (NHA), Home Guaranty Corporation (HGC), National Home Mortgage Finance Corporation (HGC), and Housing and Land Use Regulatory Board (HLURB); the heads of three (3) funding agencies, such as SSS, GSIS and Home Development Mutual Fund (HDMF); the heads of seven (7) government support agencies, viz., Presidential Management Staff (PMS), DOF, DBM, NEDA, DBP, Metropolitan Manila Development Authority (MMDA); and the two (2) private sector representatives consisting of NGOs and private developers.

631. The Housing and Land Use Regulatory Board (HLURB), which is under the administrative supervision of the HUDCC. The sole regulatory body for housing and land development. It is charged with encouraging greater private sector participation in low-cost housing through liberalization of development standards, simplification of regulations and decentralization of approvals for permits and licenses.

632. The NHA, a government-owned and controlled corporation which is operating under the supervision of the HUDCC, was mandated to be the sole public agency engaged in direct shelter production through, (a) development and implementation of a comprehensive and integrated housing development and resettlement program; (b) formulation and enforcement of general and specific policies for housing development and resettlement (c) determination and development of government lands suitable for housing; (d) exercise of the right of eminent domain or acquisition by purchase of privately owned lands for purposes of housing development, resettlement and related services and facilities; (e) protection of the sustainability of socialized housing funds by undertaking cost recovery, among others.

633. The Home Guaranty Corporation is tasked to operate a credit guaranty program in support of government efforts to promote home ownership. Since its creation in 1950 as the Home Financing Commission, the HGC has institutionalized a viable system of credit guarantees that has become an integral component of the shelter program of government. HGC stands alone and unique in this field of housing finance. No other government institution or instrumentality, for lack of enabling law, can provide the risk cover and tax incentives that HGC is authorized to extend. HGC provides risk guarantees and fiscal incentives for housing credits extended by financing institutions, thereby stimulating the flow of funds from both the government and private sectors for housing and urban development. -provides guarantee, loan insurance and other incentives to assist private developers to undertake low and middle income mass housing production and encourage institutional funds and commercial lenders to finance such housing development.

634. The National Home Mortgage Finance Corporation, a major government home mortgage institution, is mandated to develop the secondary mortgage market.

635. The Home Development Mutual Fund, which is more popularly known as Pag-Ibig Fund, is charged with the development of savings scheme for home

acquisition by private and government employees.

636. To further improve access to housing by the poor, EO 272, series of 2004, provided for the creation of the Social Housing Finance Corporation (SHFC) that will cater to the housing needs of the bottom 30 per cent of the poor population. EO 272 also transferred the implementation of the Community Mortgage Program and Abot-Kaya Pabahay Program from the NHMFC to the SHFC as the former's subsidiary.

Policies and programs

637. The Government's efforts in housing are directed towards three main tasks: Direct Housing Provision, Indirect Provision and the Enforcement of Regulations. The Direct Housing Provision involves securing the housing tenure of informal settlers, as well as delivering low-cost housing units and affordable financing, especially for families in the lowest 30 per cent of the population. Towards this end, the Government has been implementing various programs on land distribution, relocation, mortgage financing and housing development. These programs have provided shelter security to over 614,000 families since 2001.

638. One of the programs that have been aggressively pursued by the Government is the disposition of its idle properties for shelter purposes. This has led to the fast tracking of the asset reform program, which aims to convert idle government-owned lands into housing sites. Presidential proclamations were issued identifying specific properties for disposition to qualified beneficiaries. Since informal settlers are already occupying many of these idle government-owned lands, it thus became a matter of formalizing their land tenure and giving them the chance to own their land tenure and giving them the chance to own their lots. Thus far, the President has issued a total of 96 such proclamations, which secured the housing tenure of 195,445 families.

639. One major undertaking of the Government that has led to securing the housing tenure of informal settler on a massive scale is the relocation project for the "riles" dwellers living along the Northrail and Southrail lines. In Northrail, the government has relocated a total of 21,023 families from the Metro Manila and Bulacan Segments, completing phase 1 of the clearing and resettlement operations. These families have voluntarily moved to their respective resettlement sites, which the government has dubbed the Northville communities. This is the most massive relocation project to be undertaken by the government so far, HUDCC did without the violent

conflicts associated with relocation. For the Southrail project, which involves the rehabilitation of the existing PNR Commuter Service line from Caloocan to Alabang, a total of 7,404 families have been relocated, particularly along the Manila, Makati and Cabuyao Segments. To sustain the momentum, the President instructed HUDCC to clear the large portion of Manila along with Taguig and Muntinlupa.

Urban development initiatives

640. One is the development of the 416 hectare New Bilibid Prison Property in Taguig into mixed residential, commercial and institutional use. President Arroyo has already signed the attendant proclamations and Executive Order on this matter. HUDCC takes the lead in the development plan for this project with the NHA as implementor. Second is the North-East Triangle Development Project which is envisioned to transform the area into commercial, business and residential center. This is a daunting task considering the complicated status of the properties, including the presence of informal settlers. Thirdly, HUDCC is also in-charge of other properties that are up for development like the 1,500 hectare San Miguel, Bulacan government housing site, various commercial areas, the Fabela Hospital-Central Market area, the Monemento Mall, and the Subic Properties.

Community Mortgage Program

641. The Community Mortgage Program (CMP) utilizes an innovative system of mortgage financing whereby an undivided tract of land may be acquired by several beneficiaries through the concept of community ownership. Financing through Community Mortgages is intended primarily to assist residents of blighted or depressed areas and/or the urban poor.

642. CMP is a three-stage loan program—land purchase, site development, and house construction/improvement. Depending on its present capacity and needs, the borrowing community association may avail itself of the CMP loan either on three stages, or on a one-time basis. Maximum loanable amounts per family-beneficiary is up to PhP 120,000 for those located in Metro Manila and other highly urbanized areas, or up to PhP 100,000 in other areas, payable up to 25 years at six (6) per cent interest per annum.

643. Since January 2001, a total of PhP 3.432 billion in total loans were granted under the CMP. From January to October 2006 alone, a total of PhP 592,127,312.43 in total loans have been granted to some 10,992 family-beneficiaries who are located in 89 housing sites nationwide. This brought the cumulative total

to PhP 6.41 billion loans granted to 179,984 informal settlers in 1,431 housing sites.

644. What has made the overall performance of CMP remarkable and meaningful to the homeless low-income earners is its having kept housing loans within the affordability levels of the majority of informal-income earners. Based on records, average loan availments per family beneficiary of CMP was at PhP 33,331. Amortized at PhP 239 a month, the loan is within the income capability of workers earning as low as PhP 3,101 a month.³⁶

645. CMP has also enabled the participation of various community-based stakeholders in joining their resources and expertise to help the homeless who are considered as the "poorest of the poor." These include the people's and non-government organizations involved in urban poor housing; the local government units, which are tasked as the main implementors of socialized housing in their localities; and government and private agencies that serve will assist, organize and originate the community for CMP.

646. As a measure of their participation, local government units have served as conduits or originators of CMP loans in the total amount of PhP 141.8-million in 2005. This comprises 19.6 per cent of the total of PhP 722.4 million CMP loans granted in 2005. NGOs, as loan conduits have assisted in the grant of more than 50 per cent of loan released during that year.

36 Friday-the-13th-day in October proved to be a fortunate day for this fisherman's village in Naic, Cavite. Living along the river banks near the coastal areas of Naic, Cavite for some twenty years, the fisherfolk members of Senor Santo Niño Homeowners' Association of Barangay Munting Pino at last realized their dream of calling a piece of land their own. The Association, led by its president, Brenda D. Ipil, received from Vice Pres. Noli de Castro the certificates of lot award for the members. Vice Pres. De Castro also released a check for P3.3 million, representing the advanced release of 50 per cent of the association's CMP loan, as payment to the landowner for the land that the association has negotiated to buy. The beneficiaries are fishing families who came all the way from as far as Leyte, Samar, Siquijor, Bohol, who have found the shorelines of Naic a haven. From the mouth of the river and the coastal areas, which have been proclaimed as danger areas for resettlement, the beneficiaries were relocated last 13 October 2006 to a place identified by the local government of Naic, as suitable housing site. Measuring some 1.6 hectares, the site is one kilometer away by the northeastern side of the Naic municipal hall. The surrounding areas are residential areas. It is also about one kilometer away from schools, banks, as well as the private and government offices. While the land was earlier considered as an "off-site" project, the maximum loan value of 100 per cent of the appraised value of the land was given, without need for any equity from the borrowers. Average loan extended per beneficiary amounted to P30,194 which will be easily repaid in monthly amortizations of PhP 208.

647. By virtue of E.O. 272, Social Housing Finance Corporation assumed from the National Home Mortgage Finance Corporation (NHMFC) the development and implementation of CMP. Made operational in October 2005, SHFC celebrated its first year of operation last Oct. 2006. During its first year (Oct. 2005 to Sept. 2006), SHFC posted an all-time high record of PhP 839.4-million in CMP loans granted to a corresponding total of 15,788.

Presidential proclamations on housing

648. Last 28 May 2001, President Gloria Macapagal-Arroyo issued Executive Order No. 20 reaffirming the government's commitment to mass housing as a centerpiece program in its poverty alleviation effort.

649. In order to address the housing problem, particularly those belonging to the bottom 40 per cent of urban households, the Arroyo administration pursued the regularization of tenure of informal settler families (ISFs) through the issuance of Presidential proclamations declaring parcels of public lands open for disposition to qualified beneficiaries. In addition, the Government targeted the conversion of government idle or vacant lands into housing sites that are intended to benefit low-salaried government employees, including soldiers and policemen.³⁷

650. As of 31 August 2006, the regional breakdown of proclaimed sites for housing shows the following data:

Region	Proclaimed Sites
NCR	35
CAR	7
Region 3	5
Region 4	15
Region 5	3
Region 6	7
Region 7	8
Region 8	2
Region 9	5
Region 11	3
Region 12	2
CARAGA	2
Luzon-wide (EO 48 - PNR Non-Core Properties)	1
Mindanao-wide (EO 98 - SPDA properties)	1
Total	96

37 Mr. Danton Cantuba, together with his growing family, started living at #087 Sitio de Asis, San Martin Porres, Paranaque, Metro Manila in the early 1960s. He was an owner of a medium-scale machine shop and like all of his neighbors, is a squatter in a property owned by the Philippine National Railways (PNR). As early as 1976, the neighborhood formed the United Residents of Balagbag Abandoned Lines (UROBAL) Association and made representations with the PNR to sell to them the lots they are occupying, since PNR had not used and apparently has no plans of utilizing the said property for any of its programs/projects. Their struggles and hardships paid off on February 26, 2001 when Pres. Arroyo issued Executive Order No. 48 declaring non-core properties of the PNR as socialized housing sites and providing for the disposition of the same to bonafide occupants. Executive Order No. 48 gave way to the realization of the bonafide occupants' dream of owning the lot they are occupying. Each beneficiary was given the chance/entitlement to own/buy the lot they are occupying on an as-is-where-is basis at P1,100.00 per sq. m., with an average lot size of seventy (70) square meters. On December 7, 2005, realization of these 410 beneficiaries' came in the form of lot titles awarded to them by no less than the Vice President and HUDCC Chairman Noli De Castro. The people/community of UROBAL (as the place is now known or commonly called) have expressed their gratitude to the government by working doubly hard with their collection and ensure that they pay their financial obligations with the Philippine National Railways on time.

Total area: 39,214 sq. meters
 Total amount: PhP 32,147,500.00
 Total payment: PhP 6,500,000.00
 Total balance: PhP 25,647,000.00 (payable in 10 yrs.)

651. Of the 96 proclaimed sites, an aggregate area of 26,336.65 hectares have been proclaimed as housing sites which provided security of land tenure to about 195,445 informal-settler families.

652. The status of the 96 presidential issuances is as follows: 49 sites have signed Implementing Rules and Regulations (IRRs) while 34 sites have completed the final draft and due for signing by the stakeholders; The IRR provide a set of uniform and adequate policies and procedures in implementing laws and Presidential issuances which proclaimed or declared certain government lands open for disposition under any government housing program;

- 23 proclaimed sites have conducted census and tagging activities;
- 23 proclaimed areas have undertaken boundary and subdivision surveys;
- 18 sites have completed beneficiary selection activities; and
- 14 proclaimed sites have awarded Certificate of Entitlement to Lot Allocations (CELAs) to the qualified beneficiaries.

653. From 2001 up to the present, a total of 20,378 CELAs have been awarded out of the projected

Summary of Presidential Issuances, total areas and total number of beneficiaries per year								
Year	No. of Issuances issued						Total area (hectares)	No. of benefit
	PP	EO	MO	AO	DOC	Total		
2001	6	5	1			12	1 478.72	35 662
2002	8	9	2		2	21	20 701.90	78 112
2003	13		1			14	242.59	13 636
2004	35			1		36	3 271.95	40 280
2005	4					5	209.61	7 807
2006	6	1				8	430.88	19 948
Total	72	2	4	1	2	96	26 336.65	195 4

Note: PP - Presidential Proclamation EO - Executive Order
 AO - Administrative Order DOC - Deed of Conveyance (NHA and DOH)
 EO - Executive Order

195,445 CELAs which will be awarded upon the completion of the beneficiary selection activities for the 96 proclaimed sites.

654. The following are the issues and concerns affecting the implementation of the provision of security of tenure to the intended beneficiaries:

- Lack of budgetary support for the conduct of census and tagging activities and survey works (boundary, structural and subdivision);
- Lack of manpower complement- HUDCC does not have physical representation in all proclaimed sites. This is the rationale why there is a need to transfer all HUDCC functions in the proclaimed areas to the NHA, who has sufficient manpower support and logistics to undertake post-proclamation activities;
- Conflicts among peoples' organizations within the proclaimed sites;
- Difficulty in tapping LGU resources to support the implementation of various post-proclamation activities;
- Land valuation- some proclaimed sites have prohibitive land assessment, e.g. GSIS property in Sta. Mesa, Manila, wherein the GSIS offered price is P25,000 per square meter which is beyond the affordability level of the intended beneficiaries;
- Difficulty in preventing the intrusion of informal settlers upon the issuance of the proclamation which makes the conduct of beneficiary selection activities more difficult to implement;

- Overlapping of boundaries and presence of adverse claimants; and
- Portions of some proclaimed sites are not suitable for residential purposes.

Pag-Ibig Fund Housing Programs

(a) Disposition of Real and Other Properties Owned and Acquired (ROPOA)

655. Through this program, delinquent former owners or successors-in-interest occupying Pag-IBIG Fund foreclosed or acquired properties are given the opportunity to repurchase said properties, in either cash or installment basis. As of August 2006, 1,175 former owners or successors-in-interest have already reacquired their respective properties.

656. Unoccupied properties, on the other hand, are made available to interested parties through sealed public bidding or negotiated purchase. Discounts are given to the winning bidder or negotiated sale offer or at the rate of 10 per cent for cash purchases and 5 per cent for purchases made through installment or housing loans.

(b) Rent-to-Own Program

657. The Rent-to-Own Program is aimed at providing Pag-IBIG members, whose current income cannot sustain the monthly amortization of a Pag-IBIG housing loan, with a facility that will provide affordable housing, and ensure home ownership by the time they are eligible for such loan.

658. In this program, unoccupied units acquired by the Fund through foreclosure, dacion en pago, or cancellation of CTS are offered to Pag-IBIG members for lease at a monthly rate of at least PhP 1,000, and for a term of at most five years. He/she is required to exercise his/her right to purchase not later than the end of the term of lease. A discount of about 3 to 5 per cent of the purchase price is also granted to the lessee, depending on the year that the option to purchase was availed. Over 7,000 members have already benefited from the program in the six years that it has been implemented.

(c) "Magaang Pabahay, Disenteng Buhay" Program

659. Under the "Magaang Pabahay, Disenteng Buhay" Program, the Fund's ROPOA are put up for sale, initially to government employees, at reduced rates. Discounts of 15 per cent and 20 per cent are given to interested buyers who will purchase properties through housing loan and through cash payment respectively. An additional discount of 5 per cent is granted to the buyers if the properties they are acquiring are illegally occupied. Buyers who are opting to pay through housing loan enjoy 6 per cent interest rate for the entire term of the loan.

(d) "Gabay Pabahay" Program

660. The "Gabay Pabahay" Program seeks to assist Pag-IBIG borrowers protect their homes from foreclosure or cancellations of the CTS by providing them with the opportunity to restructure their loans with the Fund. A non-interest bearing scheme has been devised to deal with the borrower's unsettled interest and penalties during the delinquency period. The borrower is also provided with a longer repayment term of 30 years, provided that it does not exceed the difference between his/her age at the time of loan application and age 65.

Program performance/accomplishments of Pag-Ibig Fund

661. The Pag-IBIG Fund is the single biggest home financing institution in the country. As of December 2005, 34.94 per cent of the total accounts financed by different government and private financial institutions equivalent to PhP 94.32 billion were generated by the Fund.

662. The Fund was designed to make housing more affordable to its members. Firstly, interest rates have been reduced on certain loan packages. The loan ceiling on socialized housing has been raised. Borrowers are provided with a longer repayment term.

Lastly, the loan-to-collateral ratio has been increased on particular loan packages. From 2001 to 2005, the Fund had extended housing loans amounting to PhP 48.625 billion to 142,229 members to finance 141,091 units.

663. In promoting sustainable source of housing finance as a financial institution, the Fund Housing continuously sustains its liquidity and flow of funds to finance the benefits of its members, as exemplified by 1) Fund Sources- Pag-IBIG Fund generates its funds mainly through membership contributions as well as short-term, housing and institutional loans. Collections from these sources have steadily grown through the years. In fact, it reached a total of PhP 184.51 billion from 2001 to 2005 at an average of nearly PhP 37 billion annually and 2) Short-term Investments/Borrowings. To supplement the company's funding requirements, the Fund invests in government securities and other short-term investments, as well as in the flotation of Pag-IBIG Bonds.

664. Extending private sector participation is an effort to meet the housing needs. The Fund continues to carry out consultations or dialogues with its clients in order to address their issues and concerns about the Fund's programs, benefits, policies and guidelines.

665. Earlier this year, the Fund had talks with developers' organizations on ways to improve the Fund's housing programs. The most notable outcome of these consultations is the enhancement and liberalization of our housing guidelines such as the Pag-IBIG Fund Circular No. 213 or the Revised Guidelines for the Pag-IBIG Housing Loan Program, and Pag-IBIG Fund Circular No. 212 or the Omnibus Guidelines Implementing the Pag-IBIG Takeout Mechanism under the Developers' CTS/REM Scheme.

Programs of the National Housing Authority

666. The NHA-Administered Resettlement Program involves the acquisition of large tracts of raw land to generate lots or core housing units for families displaced from sites earmarked for government infrastructure projects and those occupying danger areas such as waterways, esteros, and railroad tracks.

667. The relocation of informal settler families living along railroad tracks to designated resettlement areas were undertaken through a beneficiary-led approach such as - in-city/in-town relocation, formulation of regulations to govern relocation activities by inter-agency committees, direct provision of housing units through serviced lots, self-help construction of houses through the Housing Materials Loan Program, and

provision of amenities and livelihood for the resettled families.³⁸

668. The Housing Materials Assistance Program is integrated into the Resettlement Program as a component of housing development which will entail the provision of building materials to relocated families for the construction of houses using sweat equity in lieu of a completed housing unit developed by NHA.

669. The Resettlement Assistance Program for Local Government Units is designed to assist LGUs outside Metro Manila to address the need of informal settlers living in danger areas or those affected by infrastructure projects for resettlement sites implemented as a joint undertaking of the LGU and NHA.

670. The Slum Upgrading Program entails the acquisition and on-site improvement of occupied lands through the introduction of roads or alleys and basic services such as water and electricity. The issue on land tenure is resolved through the sale of homelots to bonafide occupants.

671. The Sites and Services Development Program entails the acquisition and development of raw land into serviced homelots which shall serve as an alternative to informal settlements as well as catchment areas for in-migration and population growth. This approach is adopted in urban centers where population growth and overspill are anticipated and where beneficiaries intend to acquire housing on an incremental basis.

672. The Core Housing Program entails the acquisition and development of raw land as the construction of housing units. This provides serviced lots with core housing designated to match the affordability of

the target market consisting mostly of low-salaried government and private sector employees.

673. The Medium Rise Housing Program is an in-city housing alternative which entails the construction of three-to-five-storey buildings. This is directly implemented by NHA utilizing the allocation for the Program under RA 7835 and units are made available through lease arrangement.

674. The NHA acts as a conduit between community associations/cooperatives and financing institutions such as the NHMFC, the Home Development Mutual Fund (HDMF) and other government and non-government institutions offering liberalized financing for land acquisition and other forms of grants to people's organizations.

675. The NHA likewise extends technical assistance to the community association/cooperative or LGUs in terms of community organization, negotiation with the land owner, preparation of required development plans, formulation of disposition and collection schemes, and coordination with other national government agencies for the processing of required documents.

Accomplishments and plans

676. Under Administrative Order No. 111 issued on 04 November 2004, NHA was designated as the lead agency to implement the PNR Rail Systems Relocation and Resettlement Program.

677. Under the Resettlement Program is the Northrail Project. This involves the relocation of settler families living along the railroad tracks of Metro Manila and Bulacan to make way for the development of a commuter system that will run from Caloocan to Malolos. A total of 21,023 informal settler families from Metro Manila and Bulacan segments were relocated to resettlement areas paving the way for the infrastructure development works for the railway system.

678. The Resettlement Program also includes the Rail Project that involves the rehabilitation of the existing PNR Commuter Service Line from Caloocan to Alabang which will extend further to the south. A total of 7,404 families along Manila, Makati, and Cabuyao, Laguna segments, have been relocated.

679. HUDCC and NHA utilized a beneficiary-led approach in relocating the families affected by the rail projects. This is to ensure that the families are given the type of assistance they need during the relocation activity so that proper delivery of housing

38 Tomas Chavez, 40, with his brood of ten, who were uprooted from the railroad tracks of Metro Manila, were relocated to Southville Housing Project in Cabuyao, Laguna. Chavez plans to beautify the core house awarded to him by the government and looks forward to a bright future for his children. Sixteen-year old Ma. Cristina Paris, and her parents felt lucky to have been relocated to Southville I in Calamba, Laguna and attest that though they lack in terms of financial stability, they are thankful for having found bliss and contentment in their new home. "Barbecue Man" Ronnie Coniconde and wife Dima were among the 60 families resettled in Southville I Relocation Project. With Ronnie's happy-go-lucky business acumen, he had long since repaid his livelihood loan and is happier to be out of the dangers of the railroad tracks along their former house in Makati. "Nagpapasalamat ako at pinagkatiwalaan ako ng NHA kahit hindi ako tapos ng pag-aaral" was what Mr. Henry Tripulca, formerly from San Antonio, Makati, bragged. He and his family were relocated at Southville I and is now relishing the feeling of having their own house.

services is achieved. This approach can be an in-city/in-town relocation approach to minimize dislocation, preparation of development plans to govern the relocation, extension of loans to directly acquire serviced lots from developers, self-help construction of houses through the Housing Materials Loan Program, and the provision of basic facilities and livelihood opportunities to uplift the living standards of the resettled families.

Role of international cooperation in the realization of the right to housing

680. Official Development Assistance (ODAs) to assist cities/ local government units to improve their capacities in providing essential infrastructure and basic services to their constituents. Such projects constitutes the capability building of city administrators and city planners. Some of the ODAs projects are as follows:

(a) Development of Poor Urban Communities Sector Project (DPUCSP) under the Asian Development Bank. DPUCSP's objective is to improve access by urban poor communities to secure land tenure, affordable shelter, basic municipal infrastructure and services, and financing for their shelter and livelihood needs. HUDCC is also supported by the Development Bank of the Philippines in this project;

(b) Cities Without Slum Initiative under the Cities Alliance. The project aims to enhance the capability of the community to participate in the preparation of their own shelter strategy. This project specifically targets Millennium Development Goals- in particular those relating to slum upgrading, water supply, health and education; and includes mechanism to ensure gender issues are adequately considered and addressed;

(c) The Metro Manila Urban Services for the Poor Project (MMUSP) under the Asian Development Bank. The project aims to strengthen the capability of local government of Metro Manila to plan and set up their own project for the urban poor and housing.

3.e. Right to adequate clothing

681. The Philippines is a tropical country with warm weather conditions. The people therefore do not have serious clothing problems. Government intervention lies mostly in the area of regulating the entry of imported cloth and clothing in order to help local manufacturers. The Textile Research Institute is looking into the possible use of indigenous materials for the textile industry. The Department of Social

Welfare and Development includes in its assistance programs for the indigent and victims of natural calamities emergency provisions for clothing.

Difficulties encountered

Right to food

682. There was not much improvement in overall labor productivity in the agriculture sector. Comparative yield, production cost and price data on various agricultural commodities show that the gains posted by the country were hardly apace with those of its neighbors. Thus, the comparative advantage of Philippine agriculture continued to wane resulting in its increasingly becoming a net importer of agricultural products since 1994.

683. A major reason for this is the higher cost of farm inputs and poor access to recommended packages of technologies. For instance, prices paid for the various fertilizers used by Filipino farmers were nearly double that of the world price. This may be partially due to possible monopolistic pricing since more than half of the supply of fertilizers in the market comes from a single company. There may also be cumbersome as well as inefficient application of regulatory procedures and requirements, thus, inordinately adding to the production and distribution costs of fertilizers. Consequently, there may be a need to evaluate the effectiveness in which the responsible regulatory agencies are overseeing the market for agricultural inputs. Other factors may include inefficiencies in farm inputs logistics systems and the devaluation of the peso. The same situation most likely exists for pesticides and other agricultural chemicals given that they operate within the same regulatory and logistics environment.

684. In addition, there is limited access to certified high-yielding varieties due to supply and distribution constraints. There are relatively few farmers willing and able to grow certified rice seeds, for instance, partially due to inadequate know-how and skills as well as technical support. As a result, seed cost in the Philippines is higher than in Thailand, Vietnam, India and China.

685. Another factor is the high post-harvest losses incurred by the country due to inadequate equipment, infrastructure and poor post-harvest handling practices. For instance, although the Philippines has a higher average rice yield than Thailand (3.2MT/ha v. 2.4MT/ha), its rice postharvest losses reach as high as 34 per cent while Thailand's have been only around 15 per cent.

686. The sustainability of these modest production and income growths also appears to be uncertain as well. The country's environment and natural resource base, which largely determines the sustainable rate at which agriculture can grow, continue to generally degenerate. Various indicators show that the sustainability of the environment and natural resources continue to be either poor or low.

687. Moreover, the output and income gains achieved during the period have yet to be translated into significant and commensurate rural sector-wide welfare gains. In spite of the more than a million jobs generated by agriculture from 1999 to 2002, rural unemployment and underemployment continue to be severe as over 1 million and 3 million rural workers remain to be unemployed and underemployed, respectively, every year.

688. Meanwhile, agricultural extension service delivery as well as communal irrigation development and management were generally disrupted when these were devolved from the national government to the LGUs with the passage of the Local Government Code of 1991. Many LGUs lacked preparation, capacity and funding to effectively take over these functions.

Right to housing

689. The Philippines continues to urbanize rapidly. Over half of the population is in the urban areas, and this proportion is expected to reach 60 per cent by 2010 if current trends continue. Affordable shelter and land markets have not kept pace with rapid urban growth: more than 40 per cent of urban families have to live in makeshift dwellings in informal settlements. Many of the urban poor living in informal settlements suffer from lack of access to basic services and infrastructure, poor-quality housing, insecure tenure, and high risks to public health. Complicated legal processes for obtaining legal title and the scarcity of urban land further prevent poor urban dwellers from using the necessary capital to rise from poverty, and financial services for the urban poor are virtually nonexistent in the formal sector. Generally, the housing finance system benefits only formal sector employees, and few Government housing programs are effectively targeted to the urban poor communities.

Future directions

690. The following constitute the policy directions adopted by the Government for the housing sector:

- Removing Institutional and Structural Distortions in the housing sector;

- Determine programs that will help augment meager funds for housing, especially for bottom 30 per cent. Including the idea of upgrading of relocations sites as an alternative compliance to balance housing;
- Put in place a sound housing finance system in the next three years that will serve as backbone for a sustainable housing. Directed the National Home Mortgage Finance Corporation to make sure that secondary mortgage market is being implemented;
- Social Housing Finance Corporation to provide rational appraisal system in place;
- National Housing Authority to pursue serious plans on all of NHA's prime assets and improve its collection efficiency;
- Housing and Land Use Regulatory Board to keep up with the changing times as far as standards and regulations are concerned; and
- Pag-ibig Fund to provide the much needed liquidity in the market so that the housing finance engine (including securitization and guaranty) could run efficiently.

691. Meeting the housing requirements of the informal settlers would entail: (a) scaling up proven multi-stakeholder and cost-effective housing programs; (b) improving the security of tenure of households, improving land registration process, and adopting and developing innovative tenure arrangements to address the affordability factor; (c) relocating informal settlers occupying danger areas in Metro Manila in a just and humane manner; (d) supporting LGUs and private sector-led housing programs; and (e) developing new centers of housing for Luzon, Visayas and Mindanao.

Pursuing an urban asset reform program

692. In line with the MTDP 2004-2010, an urban asset reform program shall be pursued by providing property rights for informal settlers. This would involve unlocking "dead capital" or lands occupied by informal settlers through the granting of legal rights to the occupied lands. The informal settlers can use the rights to raise capital for micro-enterprises. This approach should be pursued as it provides both security of tenure and livelihood opportunities for slum dwellers.

Promoting sustainable source of housing finance

693. To promote a sustainable housing finance, the Social Housing Finance Corporation (SHFC) should have adequate capitalization and authorized to enter into loans or issue bonds and other debentures to raise funds for socialized housing construction.

Expanding private sector participation in socialized housing finance and construction

694. There is an urgent need to expand private sector participation in socialized housing (i.e., housing package below PhP 225,000) finance and construction by: (a) establishing an active and liquid secondary mortgage market; (b) fast-tracking disposition of assets and non-performing loans to generate additional funds for housing; (c) rationalizing the subsidy mechanism for socialized housing to remove distortions and leakages; and (d) pursuing strategic linkages with client/sectoral groups, private developers for joint venture arrangements.

695. The development of the secondary mortgage market is a scheme for fund generation in housing that is long awaited. There is a need to institutionalize an "on-budget" amortization subsidy scheme for socialized scheme to maintain its affordability and which should be kept separate from the housing finance market. Joint venture schemes with the private sector should also be developed for public housing for the informal sector (i.e., nonmembers of HDMF, GSIS and SSS) in government properties proclaimed for housing purposes. These approaches will redefine the role of government in housing finance to ensure a better distribution of responsibilities and risks with the other stakeholders.

Strengthening housing regulation

696. There is a need to establish Local Housing Boards in every city and municipality. The proposed Local Housing Boards shall formulate, develop, implement and monitor policies on the provision of housing and resettlement areas on the observance of the right of the underprivileged and homeless to a just and humane eviction and demolition.³⁹

Article 12

Question No. 1. Physical and mental health of the Filipinos

³⁹ The Boards shall have the authority to: (a) prepare local shelter plans; (b) assist in the preparation of Comprehensive Land Use Plans (CLUPs); (c) approve preliminary and final subdivision and development plans; (d) evaluate and resolve issues in the issuance of development permits; (e) ensure compliance with the 20 per cent balanced housing requirement in the Urban Development and Housing Act (UDHA) (which provides that in every housing development project, at least 20 per cent of the units or project cost should be for socialized housing); and (f) identify lands for socialized housing, among others.

Physical health status

697. In terms of general health conditions and survival prospects, Filipino males born in 1970 were expected to live for about 57 years while females were expected to live for about 61 years, on the average. In 1990, life expectancies increased to 62 years for males and 67 years for females. In 1995, these indices were estimated to have increased further to 64.5 years for males and 69.7 for females (NSCB, 1995). Further increase was noted in the following years to an average life expectancy of 68.6 years in 1999.

698. Large variations in the average life expectancy occur among the different regions of the country. Central Luzon and Southern Tagalog have the highest life expectancy while the ARMM and Eastern Visayas have the lowest.

699. In 1946, after World War II, the crude birth rate (CBR) was noted at 28.9 per 1,000 population. It went up to 30.5 per 1,000 population the next year and remained stable during the 1950s. The trend decreased in the 1960s, reaching the lowest rate ever recorded in 1972 at 24.8 per 1,000 population. Rates from 1973 to 1979 showed an increasing trend, soaring from 26.1 per 1,000 population in 1973 to a high of 30.7 per 1,000 population in 1979. From the 1980s and through the 1990s a continuous decline of the CBR was noted. The CBR for 1997 is 28.4 per 1,000 population. For 2002, the number has gone down to 25.6 per 1,000 population.

700. A sharp decline of the crude death rate (CDR) was noted from the 15.1 per 1,000 population recorded in 1946 to the rate of 7.3 per 1,000 population recorded in 1959. From the 1960s until the 1990s, a slow but steady decline in the CDR was noted, from the rate of 7.8 per 1,000 population in 1960 to the rate of 6.1 per 1,000 population recorded in 1997. The recorded CDR remains at 6.1500 per 1,000 population in 2002.

701. Death rates by age tend to be very high at infancy and early childhood, declining sharply by the age of 10. The rates remain low from this age, begin to climb around at age 40 years and accelerate beyond 50 years and above. In 1993, the mortality rate for males was 5.6 per 1,000 male population while that for females was 3.9 per 1,000 female population. There were more male than female deaths, accounting for a death sex ration of 147 males per 100 females dying.

702. The total fertility rate (TFR) in 2001 is 3.4 children per woman. This is slightly lower than that TFR between 1995 and 1998, as estimated from

the 1998 National Demographic and Health Survey (NDHS), which is 3.7 children per woman. Between 1990-93, TFR was 4.1 children per woman. For 2003, TFR was recorded at 3.5 children per woman.

703. Infant mortality decline (IMR) slowed down considerably during the 1980s. After a decade of poor performance in mortality reduction, where infant mortality hardly went down, recent estimates suggest that infant and child mortality declined during the period 1990 to 1995. IMR declined from 56.7 per 1,000 live births in 1990 to 48.9 per 1,000 live births in 1995, while child (under five years) mortality declined from 79.4 per 1,000 children under five in 1990 to 66.8 in 1995.

704. IMR varies with socioeconomic and demographic factors as determined in the 1998 NDHS. Within the 10-year period before the survey, IMR in urban areas was 30.9 while in rural areas it was 40.2. The lowest IMR was in Metro Manila (23.7) followed by Central Luzon (23.6) and Western Visayas (26.0). The three regions with highest IMR are Eastern Visayas (60.8), ARMM (55.1) and CARAGA (53.2). High IMR is noted among infants of mothers with no education, no antenatal and delivery care, and aged below 20 and above 40 years. IMR is also high among male infants, small or very small infants, birth order number seven and above, and previous birth interval below two years.

705. Based on the reported maternal mortality rate (MMR) in 1970 to 1995, the country's health situation barely improved unlike in other Southeast Asian countries. The Philippines has an MMR of 190 per 100,000 live births in 1970 and 179.7 in 1995. In 1995, it ranked second to Indonesia with an MMR of 312 to 385 and very far behind Malaysia, Japan and Singapore.

706. The MMR in 2000 is 170 per 100,000 live births. This is slightly lower than the estimated MMR of 172 per 100,000 live births between 1991-97 as estimated from the 1998 NDHS. The 1993 NDHS estimated MMR at 109 per 100,000 live births in 1987-93. The MMR slightly improved from 209 per 100,000 live births in 1990 to 180 per 100,000 live births in 1995. The MMR was highest in ARMM and Northern Mindanao and lowest in the National Capital Region (NCR) and Southern Tagalog.

707. Among Filipino women, the lifetime risk of dying from maternal causes is one in 100 (NSO, 1998). Maternal deaths made up less than one per cent of the total deaths in the country, but they contribute 14 per cent of all deaths in women aged 15-49.

708. The IMR and MMR by provinces show large differentials. For example, in both 1990 and 1995, the top five high mortality provinces had infant mortality rates that were twice as high as the five lowest mortality provinces. Similarly, large maternal mortality differentials by province persist. In 1995, the five highest mortality provinces had maternal mortality rates twice as high as the five lowest mortality provinces.

709. Although progress has been made in infectious disease control, diseases like pneumonia, tuberculosis, and diarrhea continue to be the leading causes of death of all ages constituting 21 per cent of total deaths. Side by side with the continuing importance of infectious diseases is the increasing importance of chronic diseases as major causes of death. These are the diseases of the heart, diseases of the vascular system and malignant neoplasms, which accounted for over 30 per cent of total reported deaths.

710. Since the time the first Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) was reported in 1984, the documented HIV/AIDS epidemic has progressed slowly. As of May 2004, according to the HIV/AIDS registry of the National Epidemiology Center, a total of 2,073 HIV/Ab seropositive cases had been detected, of which four (4) per cent were below 19 years old.

711. HIV infection is found in all regions of the country, although it appears to be concentrated in the urban areas of Luzon, Mindanao, and Visayas Islands. Sexual intercourse remains the predominant mode of transmission, accounting for up to 86 per cent of all infections. Mother-to-child and other modes of transmission, such as via blood and blood products, needle-stick injuries, and injecting drug use, account for smaller percentages of infections.

Mental health status

712. The magnitude of mental ill health and disorders is broad, and government resources are limited. The 1980 WHO Collaborative Studies for Extending Mental Care in General Health Care Services showed that 17 per cent of adults and 16 per cent of children who consulted at three health centers in Sampaloc, Manila have health disorders. Depressive reactions in adults and adaptation reaction in children were most frequently found. In Sapang Palay, San Jose Del Monte, Bulacan, the prevalence of adult schizophrenia was 12 cases per 1,000 population in 1988-89.

713. In a study conducted for Region 6 (Iloilo, Negros Occidental and Antique) in 1993-94, it was found out

that the prevalence of the following mental illness in the adult population were: psychosis (4.3 per cent), anxiety (14.3 per cent), panic (5.6 per cent). For the children and adolescent, the top five most prevalent psychiatric conditions were: enuresis (9.3 per cent), speech and language disorder (3.9 per cent), mental subnormality (93.7 per cent), adaptation reaction (2.4 per cent) and neurotic disorder (1.1 per cent).

714. According to the DSWD, in 2001 a total of 2,172 mentally retarded persons, psychotic vagrants, and mendicants were placed in appropriate institutions to facilitate their treatment or rehabilitation.

Question No. 2. National health policy

715. The 1987 Constitution of the Republic of the Philippines ensures the right to health of every Filipino and enunciates the State's resolve to see to it that this right is exercised and enjoyed by all with priority for the needs of the underprivileged, sick, elderly, women and children.

716. Following the International Conference on Primary Health in Alma Ata in 1978, the Philippines crafted a primary health care strategy program anchored on the delivery of priority health care services.

717. In 1993, the government's commitment to PHC was underscored with the issuance of DOH Administrative Order No. 11, Series of 1993. AO 11, s. 1993, upheld PHC as the core strategy in the government's health program. The DOH's Community Health Service was given the prime responsibility in the implementation of the PHC Approach.

718. Some significant milestones in the country's public health care system in the past 25 years are: adoption of PHC Approach in 1979; implementation of a national health policy along PHC lines in 1981; integration of public health and hospital services in 1983 as per EO 851; re-organization of the DOH in 1987 in accordance with EO 199; and the devolution of health services in 1992 to local government units as mandated by the RA 7160.

719. Of particular interest is RA 7160 which mandates that delivery of basic services and the operation and maintenance of local health facilities be devolved to LGUs consisting of provinces, cities and municipalities. Each local government unit is responsible for a minimum set of health services and facilities in accordance with established national policies, guidelines and standards. The devolution of health services conferred to the local government

several major functions which were originally lies with the DOH⁴⁰

720. While the delivery of basic health services has been devolved to local government units, the DOH continues as the lead agency for the health sector and convenor of all stakeholders to ensure strong collaboration for health promotion and disease prevention and control. Through the DOH, the government formulates and enforces national health policies, standards and regulations.

721. In 1999, the DOH took a bold step towards improving the performance of the health sector by improving the way health services are being provided and financed. This program of change, known popularly as the Health Sector Reform Agenda, (HSRA) identifies five major reforms - (a) provide fiscal autonomy to government hospitals; (b) secure funding for priority public health programs; (c) promote the development of local health systems and ensure its effective performance; (d) strengthen the capacities of health regulatory agencies; and (e) expand the coverage of the National Health Insurance Program (NHIP).⁴¹

40 These functions are as follows: Formulation and enforcement of local ordinances related to health nutrition, sanitation and other health-related concerns; Implementation of health programs in accordance with national policies, standards and regulations; Provision of promotive, preventive, curative and rehabilitative health programs and services; Operation and maintenance of local health facilities (e.g., district and provincial hospitals under the provincial government; rural health units health centers and barangay health stations under the municipal or city government); Health human resource capability building; Establishment of a functional local health information system; Monitoring and evaluation of the implementation of various health services; Establishment of partnership with all sectors including inter-local government unit collaboration in health promotion; Provision of funds for health at the local level.

41 The five major areas of the HSRA are as follows: (i) Provide fiscal autonomy to government hospitals. Government hospitals must be allowed to collect socialized user fees so they can reduce the dependence on direct subsidies from the government. Their critical capacities like diagnostic equipment, laboratory facilities and medical staff capability must be upgraded to effectively exercise fiscal autonomy. Such investment must be cognizant of complimentary capacity provided by public-private networks. Moreover, such capacities will allow government hospitals to supplement priority public health programs. Appropriate institutional arrangement must be introduced such as allowing them autonomy towards converting them into government corporations without compromising their social responsibilities. As a result, government hospitals are expected to be more competitive and responsive to health needs; (ii) Secure funding for priority public health programs. Multi-year budgets must be provided to eliminate or significantly reduce the burden of infectious diseases as public health problems. Investments must be undertaken to effectively address emerging health concerns and to advance health promotion and prevention programs. In order to ensure that such investments are effectively ...

722. In 1992, as a response to the growing HIV/AIDS endemic, the Government, through EO 39, created the Philippine National AIDS Council (PNAC). EO 39 mandated the PNAC to "advise the President of the Republic of the Philippines regarding policy development for the prevention and control of AIDS x x x x" PNAC also serves as a venue for intensive policy discussion between government and NGOs in policy development.

723. Other legislative and executive issuances on health are summarized below.

724. Republic Act No. 6675, Generics Act of 1988, decrees and requires the use of generic terminology in the importation, manufacture, distribution, marketing, advertising and promotion, prescription and dispensing of drugs.

725. Republic Act No. 6972, Barangay Health Total Development and Protection of Children Act, stipulates a referral and health care system at the village level for pregnant mothers, delivery of infants, and neonatal care.

726. Republic Act No. 7305, otherwise known as Magna Carta of Public Health Workers, aims to: (a) promote and improve the social and economic well-

being of the health workers, their living and working conditions and terms of employment; (b) develop their skills and capabilities in order that they will be more responsive and better equipped to deliver health projects and programs; and (c) encourage those with proper qualifications and excellent abilities to join and remain in government service.

727. Republic Act No. 7600, otherwise known as Rooming-In and Breastfeeding Act, stresses the provision of safe and adequate nutrition of infants through the promotion of rooming-in and breastfeeding of the newborn.

728. Republic Act No. 7719, otherwise known as the National Blood Services Act of 1994, provides for the establishment of blood services network and aims to instill public consciousness of the principle that blood donation is a humanitarian act through a nationwide public awareness campaign.

729. Republic Act No. 7846 amends PD 996 and requires compulsory immunization against Hepatitis B for infants in addition to the basic immunization services which include BCG against tuberculosis; diphtheria, tetanus, pertussis, vaccination; oral polio vaccine against poliomyelitis; and immunization against measles and rubella.

730. Republic Act No. 7875, otherwise known as the National Health Insurance Act of 1995, endeavors to provide all Filipinos with a mechanism to gain access to health services, especially that segment of the population who cannot afford such services. The law provides for the creation of the NHIP which would serve as the means to help people pay for health care services. The Program aims to give the highest priority to achieving coverage of the entire population with at least a basic minimum package of health insurance benefits.

731. Republic Act No. 7883, otherwise known as the Barangay Health Workers' Benefits and Incentives Act of 1995, recognizes the Primary Health Care Approach as the major strategy towards health empowerment. The law emphasizes the need to provide accessible and acceptable health services through participatory strategies such as health education, training of barangay health workers, community building and organizing.

732. Republic Act No. 8172, otherwise known as the Salt Iodization Nationwide Act, provides for the mandatory fortification of all human-grade salt with iodine. The full implementation of the law promises to reduce significantly pregnancy wastage as well

41 *continued* ...utilized, the management capacity and infrastructure of public health programs must be upgraded. Capacity building is also required for these programs to provide technical leadership over local health systems. (iii) Promote the development of local health systems and ensure its effective performance. Local government units must enter into cooperative and cost sharing arrangements to improve local health services. To promote the development of local health systems, funds must be secured to upgrade local health facilities and build local human resource capacities. Participation of the private sector and volunteer groups must be tapped for more effective performance. Appropriate mechanisms for sustainability and continuous delivery of quality care must be developed and institutionalized; (iv) Strengthen the capacities of health regulatory agencies. Health regulatory agencies must be strengthened to ensure safe, quality, accessible, and affordable health services and products. Weaknesses in regulatory mandates and enforcement mechanisms must be effectively addressed. Appropriate legislation must be enacted to fill regulatory gaps. Public investments must be made to upgrade facilities and manpower capability in standards development, technology assessment, and enforcement; and (v) Expand the coverage of the NHIP. Social health insurance must expand to extend protection to a wider population especially the poor. Health insurance benefits must be improved to make the program more attractive. Improved benefits and services will be used to aggressively enroll members. Adequate funding must be secured for premium subsidies needed to enroll indigents. Effective mechanisms must be developed to cover and service individually paying members. As membership expands and benefit spending increases, appropriate mechanisms to ensure quality and cost effective services must be developed and introduced. Capacities

as the risk of children from being born with lower IQ points or with physical and mental abnormalities and disabilities.

733. Republic Act No. 8191 provides for the creation of the National Commission on Diabetes in pursuance of the government's efforts to prevent and control diabetes mellitus in the Philippines.

734. Republic Act No. 8203, otherwise known as Special Law on Counterfeit Drugs, seeks to safeguard the health of the people by protecting them against counterfeit drugs.

735. Republic Act No. 8423, otherwise known as the Traditional and Alternative Medicine Act of 1997, encourages the development of traditional and alternative health care. The law seeks the integration of traditional and alternative medicine into the national health care delivery system.

736. Republic Act 8504, otherwise known as the Philippine AIDS Prevention and Control Act of 1998, is the centerpiece of the national response to HIV/AIDS. Hailed as a landmark legislation, the law is often described as path-breaking for it prohibits mandatory testing of HIV; respects human rights including the right to privacy of individuals living with HIV/AIDS; integrates HIV/AIDS education in schools; prohibits discrimination against people living with HIV/AIDS in the workplace and elsewhere; and provides for basic health and social services for individuals with HIV.

737. Republic Act No. 8749, otherwise known as the Clean Air Act of 1999, is a milestone piece of legislation that collects scattered rules and regulations on air quality and collates them into a single law. It contains stringent standards for ambient and source emissions, also known as technology-forcing standards.

738. Republic Act No. 8976, or the Food Fortification Act, compensates for the nutritional inadequacies of the Filipino diet, which are more pronounced among young children. The law provides for the mandatory fortification of staples, i.e., rice with iron, flour with iron and vitamin A, sugar and cooking oil with any combination of vitamin A, iron or iodine.

739. Republic Act No. 9211, otherwise known as the Tobacco Regulation Act of 2003, regulates the use, sale and advertisements of tobacco products in order to promote a healthful environment for the people.

740. Republic Act No. 9334 has provisions which mandate the earmarking of the 2.5 per cent incremental revenue derived from the excise taxes

imposed on alcohol and tobacco products to disease prevention and control programs of the DOH. Further, the aforesaid law further provides for the earmarking of 2.5 per cent of the incremental revenue to the PHIC.

741. Executive Order No. 205 mandates the DOH and the DILG to form a national health planning committee and inter-local health zones throughout the country.

742. As per EO 286, entitled Directing National Government Agencies and Other Concerned Agencies to Actively Support and Implement the Programs on the "Bright Child," child-focused programs of the DOH, DSWD, and DepEd are promoted under one brand. The brand will be called the "bright child". Pursuant to this order, immunization, nutrition, breastfeeding, day-care, pre-school and school programs were integrated under a label that gave families a better appreciation for all the requirements needed to raise a bright child - physical, emotional, social, educational.

743. Jurisprudence which illustrates the right of the people to enforce their right to health are provided below:⁴²

- Pollution Adjudication Board v. Court of Appeals, G.R. No. 93891, 11 March 1991;
- Rodriguez, Jr. v. Intermediate Appellate Court, G.R. No. 74816, 17 March 1987;
- Oposa v. Factoran, G.R. No. 101083, 30 July 1993.

Question No. 3. Budget for health care

744. For 2005, the total programmed appropriation for health is P9.8 billion. The aforesaid budgetary

42 Pollution Adjudication Board v. Court of Appeals. Facts: The case stemmed from the Pollution and Adjudication Board's issuance of an ex parte cease and desist order against Solar Textile Finishing Corp's textile plant in Malabon. Solar contested the order saying that the Board's issuance of an ex parte order amounted to a denial of its constitutional right to due process. Ruling: The Board, under Sec. 7, PD 984 has the power to order the closure if it finds that the wastes discharged exceed the "allowable standards."

Rodriguez, Jr. v. Intermediate Appellate Court. Facts: Rodriguez, Jr. together with his neighbors filed an action for abatement of a public nuisance with damages against Daytona Construction and Development Corporation, a cement factory located in Malabon. A physician who lived in the area testified that he had treated several patients who traced their sickness to the pollution caused by the Daytona cement-batching plant. He said that cement dust produces cardiopulmonary complications, and the people living in the neighborhood of the batching plant are the most susceptible to these diseases. He reported many cases of bronchial asthma in both children and adults who lived in the vicinity of the batching plant. Issue: Should the cement-batching plant be closed on the ground that is a public nuisance? Held: The cement dust coming from the batching plant of Daytona is injurious to the health of the plaintiffs and other residents in the area. The noise, vibration, the smoke, and the odor generated...

allocation is PhP 154 million lower than that allocated in 2003. The 2003 budget is in turn lower than that provided for in 2002. In 2002, of the 781 billion-peso national budget, PhP 14.5 billion pesos, or two (2) per cent of the total budget was allocated for health services.

745. In 1997, DOH had a total appropriation of PhP 11 billion. This appropriation was 18.47 per cent higher than that given in 1996 and represented 15.58 per cent of the social sector budget and 2.54 per cent of national total budget. However, this is only 0.43 per cent of the Gross National Product (GNP) of the same year at current prices. DOH ranked 6th among all other Government agencies in terms of its share of national budget.

746. An annual average of 2.36 per cent of national government budget was allocated to the DOH during the period 1993 to 1997 which was lower than the 5.37 per cent of national government budget during 1988 to 1992. The reduction of the DOH share of the national government budget was due to the devolution of basic health care service delivery to the local government units, which was mandated by the Local Government Code.

Question No. 4.a. Infant Mortality Rate

747. Data from various sources indicate a declining trend of IMR in the country. The 1998 NDHS estimated the IMR at 45.3 in 1985, 36.8 in 1990, and 35.3 in 1995. IMR slightly dropped from 57 in 1990 to 49 in 1995 as reported by NSCB. In the 1998 NDHS, IMRs was 35 per 1,000 births, while the neonatal death

rate was 18 deaths per 1,000 live births. In 2001, IMRs was reported at 29 per 1,000 births.

748. Live births in 2002 totaled 866,521 males and 800,252 females. Of these data, infant deaths numbered 13,955 males and 9,868 females. There are more deaths among males than among females.

749. IMR varies with socioeconomic and demographic factors as determined in the 1998 NDHS. Within the 10-year period before the survey, IMR in urban areas was 30.9 while in rural areas it was 40.2. The lowest IMR was in Metro Manila (23.7) followed by Central Luzon (23.6) and Western Visayas (26.0). The three regions with highest IMR are Eastern Visayas (60.8), ARMM (55.1) and CARAGA (53.2).

750. The 2003 NDHS indicates that mortality rates in urban areas still remain much lower than those in rural areas. Infant mortality rate in urban areas, for example, is 24 death per 1,000 live births compared with 36 deaths per 1,000 live births in rural areas.

4.b. Population access to safe water

751. From 1960 to the present, there has been a significant increase in households with access to safe water at average rate of 2 per cent increase yearly. About 87 per cent of the total households have access to safe water supplies with 91 per cent of households in urban areas and 71 per cent of households in rural areas (NHDS, 1998). Drinking water supplies come from Level I (39 per cent), Level II (18 per cent), Level III (30 per cent) and doubtful sources (13 per cent).

752. Water is distributed through the Manila Waterworks and Sewerage System and the water concessions in Metro Manila, the water districts, the LGUs, the cooperatives, the private sector and bulk water supplier. The reach of these systems, however, are limited and many Filipinos still do not have access to water that is clean and affordable.

753. Access is greater in the urban areas at 87.2 per cent in 1998, compared with only 69.8 per cent in the rural areas. Moreover, access is 58 per cent for the poorest decile and 93 per cent for the richest decile of the population.

754. A baseline study under the Urban Health and Nutrition Project in 1995 showed that the majority (72 per cent) of households among slum dwellers have access to piped water or tube wells. However, 36 per cent of the water were contaminated at the point of consumption that it had been at source (17 per cent).

42. *continued* ...by the day and night operation of the plant must be indeed be causing them serious discomfort and untold miseries. Its operation therefore violates certain rights of the plaintiffs and causes them damages.

Oposa v. Factoran. Facts: Petitioners Filipino children, representing themselves and generations yet unborn, filed an action for the cancellation of all logging permits in the country. In support of their petition, petitioners invoked their right and legal personality to sue by way of a class suit in order to protect their environment. Their theory was based on the principle of intergenerational responsibility. Ruling: Insofar as the merits of the case of the case is concerned, the Court found that the complaint focused on one specific fundamental legal right - the right to a balanced and healthful ecology as provided for in Sec. 16, Art. II of the Constitution. The Court related the specific provision with the right to health as embodied in Sec. 15, Art. II of the Constitution. According to the Court, while the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation, the advancement of which may even be said to predate all governments and constitutions.

This was due to improper transport, handling and storage of drinking water.

4. Population Access to Adequate Excrete Disposal Facilities

755. In 1998, about 19 per cent of households or 2.3 million households did not have access to sanitary toilet facilities. Around 92.3 per cent of the population had access to sanitary toilets compared to 69.8 per cent in the rural communities (NDHS). Among poor families, 67.4 per cent have access, while non-poor families have greater access at 89.4 per cent.

756. It is also estimated that only about seven per cent of the population are connected to sewer. Access to sanitary toilet facility, either household or public toilet, remains a problem. According to the 1995 Urban Health and Nutrition Baseline Studies, some reasons for not having a toilet were lack of space and money to build one.

757. For Metropolitan Manila, data for 2006 indicate that about eight per cent of its total population have access to sewerage facilities. This represents a total of 99,400 sewer service connections. The rest of the population is served by on-site sanitation. Majority of these households have toilets that are connected to septic tanks which provide primary treatment.

4.d. Infants immunized against diphtheria, pertussis, tetanus, measles, poliomyelitis and tuberculosis

758. The Expanded Programme on Immunization began in 1976. Oral polio vaccine and tetanus were added in 1980 and measles in 1982. Twice yearly mass campaigns were held from 1977-1983. This was increased to four times yearly in 1984. At about the same time, clinic-based year-round delivery expanded gradually. The coverage rates for 1986 are as follows: BCG-51 per cent, DPT3-32 per cent, OPV3-37 and measles-40 per cent. As a result, among children under five (5) years of age, incidence of all six diseases fell, especially polio, which fell down to 83 per cent, when compared with the per centage in 1980. Measles fell down to 20 per cent since 1982.

759. In 1993, the Philippines achieved its highest level of coverage for Fully Immunized Child (FIC) at 91 per cent. This has declined to 86 per cent in 1995, possibly as a result of the devolution of health services to local government units. The coverage for FIC improved to 90 per cent coverage in 1996 and 1997.

760. Immunization coverage in 2003 is higher for children living in urban areas than for those in rural

areas (74 and 65 per cent, respectively). Slightly more females (71.3 per cent) received complete vaccinations than males (68.4 per cent).

761. The Philippines was declared polio-free during the Kyoto meeting on Poliomyelitis Eradication in the Western Pacific Region in October 2000. Despite this, the Philippines remains vigilant in protecting its citizens from risks of acquiring poliovirus from other countries. Measures for sustained vigilance include strengthening of the surveillance system and capacity for rapid response to outside contamination, adequate laboratory containment of wild poliovirus and continuing routine immunization until global certification is achieved.

762. The Polio Patak Campaign in 2002 immunized 12 million children twice over during the months of February and March. This campaign was designed to suppress the spread of the vaccine-derived poliovirus, which emerged when polio immunization rates dropped in the previous two years.

763. The Measles Elimination Campaign dubbed *Ligtas Tigdas* drastically brought down the number of outbreaks and measles cases to the lowest level compared with previous years. The campaign achieved a high coverage of almost 95 per cent measles immunization among the nine months up to 15 years of age.

764. The Follow-up Measles Immunization Campaign in February 2004 targeted 18 million children, aged 9 months to less than 8 years old. Ninety five per cent of target population was immunized.

4.e. Life Expectancy at Birth

765. The average life expectancy at birth rose from an average of 61.6 years in 1980 to 64.6 years in 1990. Further increase was noted during recent years to an average life expectancy of 68.6 years in 1999.

766. Life expectancy of females has always been higher than males in the Philippines (71.28 years for females in 1999 compared to 66.03 years for males for the same year). Large variations in the average life expectancy occur among the different regions of the country. Central Luzon and Southern Tagalog have the highest life expectancy while the ARMM and Eastern Visayas have the lowest.

4.f. Proportion of the population having access to trained personnel for the treatment of common diseases and injuries

767. Data on the proportion of the population having access to trained personnel for treatment of common diseases and injuries, disaggregated by socioeconomic status, which usually could be generated through administrative reports from branch offices of the DOH, were not available because of the previously stated devolution of service delivery to local government units. However, the following data might find relevance.

768. Of the 1,708 hospitals in the country, 1,068 are privately owned and only 640 are public hospitals (DOH, 2001). Hospitals are unevenly distributed across regions. While there are 177 hospitals in Metro Manila, the ARMM, which is one of the poorest regions in the country, has only 14 hospitals.

769. Further, most health practitioners are in Metro Manila and other urban centers. In 1990-1995, there were 82,494 doctors, 259,629 nurses, 102,878 midwives. In 1997, there were 3,123 doctors, 1,782 dentists, 4,822 nurses, and 15,647 midwives employed by the local government units while the DOH has 4,232 doctors, 179 dentists, 4,837 nurses and 241 midwives. The ratio of government health workers to the population was one doctor per 9,727 people, one dentist per 36,481, one nurse per 7,361 and one midwife per 4,503.

770. In addition to these hospitals, there were around 2,405 rural health units (RHU) and 13,096 barangay health stations (BHS) in 1997. On the average, each RHU serves 29,746 people while each BHS catered to 5,277 people. RHUs are usually staffed by doctor, a nurse and a few midwives, while BHSs should have at least one midwife.

771. As of 2002, health care workers in local government units all over the country totaled 282,224. These included doctors, nurses, dentists, nutritionists, midwives, and barangay (village) health workers.

4.g. Proportion of pregnant women having access to trained personnel during pregnancy and proportion attended by such personnel for delivery; figures on the maternity mortality rate

772. The 1998 NDHS showed considerable gaps in maternal care services. For most of births (77 per cent), mothers made three or more prenatal visits, and for almost half of the births, the first prenatal visit was made in the first three months of gestation. Only 33 per cent were told about the danger signs of

pregnancy. The proportion of mothers who received tetanus toxoid immunization was only 30 per cent compared to 42 per cent in 1993. Seventy-five per cent of pregnant women received iron tablets, but only 57 per cent of the pregnant women received iodine supplement. A high proportion (86 per cent) of pregnant women go to professional health workers for prenatal check-ups. The 2000 FHSIS reported that 64.8 per cent pregnant women have had three or more prenatal visits.

773. Government field data for 2000 (FHSIS 2000) showed that 69 per cent of pregnant women received assistance at delivery from a doctor, nurse or midwife; and 31 per cent were assisted by traditional birth attendants (TBAs). Moreover, there were large regional disparities in patterns of delivery care.

774. Overall, midwives provide the largest per cent age of delivery at 40.7 per cent, but this varies from a low of about 30 per cent of deliveries in Mindanao to a high of about 60 per cent in Northern Luzon. Nationally, trained TBAs and doctors attended approximately the same number of deliveries (26.8 per cent). In the urban NCR 51.4 per cent of the deliveries were attended by doctors. (NDHS, 1998; FPA, 2001 and 2002).

775. In the 1998 NDHS, maternal deaths were estimated to be 14 per cent of all deaths of women ages 15-49. Approximately 2 women for every 1,000 live birth die during pregnancy, at childbirth, or in the period after childbirth. Filipino women also face a one-in-100 chance of dying of maternal causes in their lifetime. Maternal deaths are higher in poor rural and isolated areas and poor urban communities. Based on the NSCB data, the top three regions in terms of maternal mortality rate from 1990-1995 are ARMM, Regions 10 and 9.

776. Maternal deaths are mainly due to postpartum hemorrhage, hypertension and its complications, sepsis, obstructed labor and complications from abortions. Among the causes of hemorrhage, abortion ranks fourth with an average rate of 7.22 per cent over a period of 10 years (POGS 1985-1994). Indirect estimates of abortion rates showed Metro Manila with the highest abortion rate of 33 per 1,000 women aged 15-44 years and lowest in the Visayas with 9 per 1,000 women aged 15-44. While most women survive such complications, they may nonetheless suffer acute or chronic illness and debilitating conditions such as anemia or reproductive tract infections or lifelong disabilities such as obstetric fistulae.

4.h. Proportion of infants having access to trained personnel for care

777. Data on infants having access to trained personnel for care, disaggregated by gender, age, and socio-economic status, which usually could be generated through administrative reports from branch offices of the DOH, were not available because of the previously stated devolution of service delivery to LGUs. However, the following data might find relevance.

778. The potential infrastructure to mobilize for newborn health remains untapped. Nationally, the per cent age of all public health facilities with functioning basic essential obstetric care is only 9.5 per cent of rural health units (RHUs) and 2.6 per cent of barangay health stations (BHUs). The per cent age of referral hospitals with functioning comprehensive essential obstetric care is only 20 per cent of district hospitals and 47 per cent of provincial hospitals. (Women's Health and Safe Motherhood Program Report, 1998).

779. The Maternal and Child Health Survey of 2000 revealed that only six in 10 women with surviving children below the age of three years consulted someone for postnatal care. Fifty two per cent of those who had postnatal care consulted a doctor. Thirty seven per cent saw a nurse or midwife, and about one in every 10 went to a TBA. Although nurses and midwives, in general, were the most common providers of postnatal care (48 per cent), doctors were the leading providers of this care in urban areas (66.9 per cent). During postnatal care visits, the most frequent service was a check-up for the baby.

Question No. 5. Vulnerable and disadvantaged groups

780. From the indicators presented above, both urban and rural poor appear as the most disadvantaged groups in terms of access to health services.

781. The extent of poverty in the country reflects the persisting disparities in the control of disease and malnutrition. Also, those who live in rural remote areas received less and lower quality health services. Hospitals and other health care facilities are still concentrated in urban centers and the poor cannot afford the cost of health care.

5.a. Changes in national policies, laws and practices negatively affecting the health situation of disadvantaged groups

782. For over forty years after postwar independence, the Philippine health care system was administered

by a central agency based in Manila. This central agency provided the singular source of resources, policy direction, and technical and administrative supervision to all health facilities nationwide. However, with the implementation of the Local Government Code in 1991, local government executives were made responsible to operate local health care services. New centers of authority for local health services emerged. These consist of 78 provincial governments, 82 city governments, 1,536 municipal governments, one autonomous regional government and one metropolitan authority. Now, the Provincial Governors operate the hospital system (provincial and district hospitals) while the Municipal Mayors operate the Rural Health Units (RHU) and Barangay Health Stations (BHS) in their respective localities.

783. The devolution has broken the chain of integration because of these separate administrative controls. There is now the existence of a two-tier health system - hospital services - which are administered independently. This situation is more evident in the technical supervision and assistance over RHU and BHS. Moreover, municipalities operate separately from each other resulting to further segregation even of the public health system within the province. Consequently, this fragmentation of local health services resulted to the deterioration of integrative approaches to health care delivery, efficiency of the health care delivery system and quality of local health care services.

784. In the initial year of devolution, local health care services deteriorated due to lack of trained manpower, clinical equipment and physical structures. Human resource development and training of health personnel were discontinued, resulting to decrease in health service capabilities. Moreover, career path and development of health personnel was cut due to the loss of promotional systems to higher levels of authority in the health care system. The exchange of technical resources between hospitals and public health units were likewise stopped, resulting to shortages of technical manpower for health operations. Due to lack of resources, clinical equipment for health facilities and physical structures, needing repairs and replacements, continued to be unattended. As a result, many of the local health facilities were downgraded to primary health facilities causing tertiary hospitals to be overburdened with primary and secondary cases, which could have been managed by lower health facilities.

785. The cost of devolved function of health services turned over to the LGUs did not match the Internal

Revenue Allotment (IRA) budget, which was provided by the National Government. Provinces obtained only about 23 per cent of IRA while the cost of health functions almost doubled. Municipalities and cities received IRA shares of 34 per cent and 23 per cent respectively, which almost matched the cost of devolved health functions. However, these shares fell short of increasing costs of health operations. Barangays obtained 20 per cent IRA shares, with minimal cost of devolved functions. With the limited budgets, provincial and municipal governments found it difficult to work together because of implied cost sharing schemes with their already limited budgets.

786. Lastly, most of the LGUs considered health as a low priority in budgetary allocations. Therefore, budget for health services were kept at a minimum.

5.b. Measures considered necessary to improve health situation of vulnerable groups or in such worse-off areas

787. In order to address the health needs of all sectors of society, especially those of the vulnerable groups, an agenda for health sector reforms have been developed by DOH. HSRA describes the major strategies and measures, organizational and policy changes and public investments needed to improve the way health care is delivered, regulated and financed.

5.c. Policy measures taken by the government, to the maximum of available resources, to realize improvements; time-related goals and benchmarks for measuring achievements

788. **Sentrong Sigla Certification.** To ensure that the quality of health services is maintained and for the national government to continuously provide guidance in setting health standards, a quality improvement initiative was created with the main strategy as voluntary "certification" of health facilities. This initiative was developed in 1998 and implemented in 1999. There was an overwhelming response from the devolved local governments. National and regional teams conducted assessment visits to hospitals and primary health facilities nationwide. Towards the end of 1999, around 481 rural health units, 17 hospitals have been certified as meeting quality standards. These are called "Sentrong Sigla" (Centers of Vitality) facilities. With the favorable response of local government units, the DOH institutionalized the program with the establishment of the Quality in Health (QPI) Program.

789. Improvement of the National Health Insurance Program (NHIP). The heart of the NHIP is the Indigent

Program as it aims to provide health insurance coverage to those who could not otherwise afford to pay their premium contributions. In the first years of implementation, the Indigent Program concentrated on the Social Reform Agenda (SRA) provinces. SRA provinces are those provinces which have been identified by the government as most in need of assistance for development.

790. To date, PhilHealth is redirecting the implementation of the Indigent Program to focus on the urban areas. Not only do these LGUs have the administrative infrastructure to implement the program, they also have the financial capability to enroll their indigents. This would provide a mechanism for the "richer" LGUs to subsidize the "poorer" LGUs.

791. **Doctor to the Barrios Program (DTTB Program).** Given the reality where there is a varying pace of development and inequitable distribution of scarce resources, 271 municipalities were identified in 1992 to be doctorless and lacking in the capability to provide adequate health services resulting in high mortality and morbidity rates in these areas.

792. The DTTB Program was created by the DOH in May 1993 to address this need. Its mission is to deploy competent, committed, community-oriented and dedicated doctors to the doctorless municipalities. Although the Doctors to the Barrios Program deploys doctors to municipalities, as the Municipal Health Officers of these municipalities, these doctors reach and serve all the barrios of the municipality, including the most inaccessible ones.

793. **Half-Priced Medicines.** Several strategies were employed to chase the prices of medicine down.

794. First, through the Gamot na Mabisa at Abot Kaya Program, the DOH expanded the parallel drug importation program from India. Initially operating in a few hospitals with a limited variety of medicines worth PhP 5,000,000.00 pesos in 2000, these imports were increased in 2001 to 42 essential drug varieties worth a total of PhP 100,000,000.00. These were then made available nationwide through the 72 DOH retained hospitals and a few LGU devolved hospitals.

795. Secondly, the DOH enlisted the support of the pharmaceutical industry, both local and multinationals companies, to help bring down the prices of drugs and medicines. Two drug companies, United Laboratories, Inc. (Unilab) and Glaxo Smith Klein have put in the market a line of products 30-50 per cent less than their regular prices. Unilab's line is marketed as Rite Med and this started in 2002.

Glaxo Smith Klein announced that it was reducing by at least 30 per cent the prices of its saleable essential medicines beginning early 2004.

796. Generics companies have also been allowed to provide medicines to hospitals at competitive prices. Four local drug companies have been allowed to consign products in DOH pharmacies. To ensure that only high quality medicines will be made available to the public, all prospective suppliers were pre-screened and were required to have a Certificate of Good Manufacturing Practice from the BFAD.

797. A third initiative was the promotion of generic products by the DOH through television commercials. Promotion of generic products has been a DOH concern ever since the Generics Law was passed in 1988.

798. The fourth initiative was the widening of the distribution system for common everyday drugs and medicine. The Rolling Stores of the NFA were given a special license to sell household remedies and herbal medicines while Botika ng Barangays (BnBs) were established to sell 2 prescription antibiotics (amoxicillin and cotrimoxazole), common over the counter medications and herbal medicines in far-flung and hard to reach barangays. DOH supervises the setting up and regulation of these BnBs. This program continues to expand with a target of 1,500 new BnBs by middle of 2004. To provide for the needed capitalization for the BnBs, PCSO allocated money for the purchase of medicines.

5.d. Effect of these measures on the health situation of the vulnerable and disadvantaged groups

799. As a result of all of the initiatives on cutting off medicine prices, headway was slowly being made. In the SWS survey of the last quarter of 2002, 49 per cent of respondents who bought medicines two weeks before the SWS interview claimed they were able to buy low-priced medicines. Forty two per cent said that they thought prices of medicines were now cheaper.

5.e. Measures taken to reduce stillbirth rate and infant mortality and promote healthy development of the child

800. Following the launching of the global Safe Motherhood Initiative in Nairobi, Kenya, Philippines hosted its own Safe Motherhood Conference in 1988.

801. The following years saw the revitalization of the Safe Motherhood Task Force, the formulation of the

National Safe Motherhood Policies and Framework and the holding of the First National Safe Motherhood Congress (1988) as well as the Second National Safe Motherhood Congress (2003). These efforts were executed to reciprocate the international initiatives and supplement efforts at country-level consensus building among key stakeholders in the safe motherhood initiative.

802. The four (4) pillars of the safe motherhood initiative include: proper antenatal care to all mothers; proper training of all birth attendants and proper post-partum care to the mother and new born; proper emergency obstetric care; and family planning program.

803. In 1992, the Philippine Congress enacted RA 7600 into law. RA 7600, otherwise known as The Rooming-In and Breast-Feeding Act of 1992, adopts rooming-in as a national policy and supports the practice of breastfeeding. The law was passed on the recognition of the need to create an environment where the basic physical, emotional, and psychological needs of mothers and infants are fulfilled through the practice of rooming-in and breastfeeding.

804. In 1996, the government launched the Women's Health and Safe Motherhood Project (WHSMP). The WHSMP is a five (5)-year project of the DOH and LGUs at the provincial, municipal and barangay levels. Generally, it aims to establish partnership arrangements among NGOs, LGUs and the DOH, with the objective of empowering women and their communities to improve their health situations. While it is the DOH which would provide all technical and managerial directions, LGUs would be responsible for the actual delivery of the project services.

805. In 1999, the government launched a five (5)-year Early Child Development Project (ECD). ECD is part of a broader program to promote the development of Filipino children and to address the great risks that children from poor and disadvantaged families face. In 2002, the government program by legislating the Early Child Care and Development Act (RA 8980), which established governance structures and delivery systems for children 0-6 years.⁴³ Please refer to pars. 429 to 430.

43 The ECD's overarching goal is to maximize the survival and developmental potential of children, particularly those most vulnerable and disadvantaged. It aims to minimize the health risks to very young children; to contribute to the knowledge of parents and the community about child development and encourage their active involvement; to advocate for child-friendly policy and legislation; to improve the ability and attitude of child-related service providers; and to mobilize ...

806. On 3 November 2000, EO 310 was issued authorizing the adoption and implementation of the Philippine Strategic Framework for Plan Development for Children, 2000-2025 or Child 21. Child 21 is a strategic framework that aims to guide stakeholders in planning programs and interventions that promote and safeguard the rights of Filipino children in the 21st century. Child 21 aims to synchronize family, community, and national efforts towards the full realization of the rights of children by 2025. The framework weaves child rights (survival, development, protection and participation) with the child's life cycle. As a strategic framework, it operates as a road map for the national government as well as for local government units, private initiatives and non-governmental organizations in setting priorities for action and in allocating and utilizing resources to promote the rights of Filipino children.

807. The government also implements community-based programs to provide basic services at the barangay level.⁴⁴

808. Concomitant capacity building for health workers was conducted especially for the rural midwives, village health volunteers, and traditional birth attendants. The training was focused on ensuring

43 *continued...* The ECD's overarching goal is to maximize the survival and developmental potential of children, particularly those most vulnerable and disadvantaged. It aims to minimize the health risks to very young children; to contribute to the knowledge of parents and the community about child development and encourage their active involvement; to advocate for child-friendly policy and legislation; to improve the ability and attitude of child-related service providers; and to mobilize resources and establish viable financing mechanisms for ECCD projects. The ECD program set specific quantitative goals, such as decreasing the child mortality rate. The program uses health, nutrition, early education, and social services programs that provide for the basic needs of young children. It uses a multitude of instruments, among them a national child surveillance and referral system; investments in essential, child-focused services for parents, caregivers, and service providers; expanded community participation and local ownership to ensure sustainability; and the establishment of ECCD Coordinating Councils at all levels of government to monitor implementation.

44 The DOH has an Essential Health Care Package for Mothers and the Unborn which includes antenatal registration, tetanus toxoid immunization, vitamin A, folate and iron supplementation, treatment of existing conditions, early detection and management of complications before delivery, clean and safe delivery, breastfeeding, information services for family planning, HIV/STD prevention and management, and dental care. The corresponding essential newborn care elements include resuscitation, prevention and management of hypothermia, routine eye prophylaxis, immediate and exclusive breastfeeding up to six (6) months, birth registration, newborn screening, prevention and management of infection, birth weight and growth monitoring....

safe pregnancy, delivery and postpartum care, breastfeeding counseling, and strategies for post-natal follow up for mothers. The Midwives Manual on Maternal Care was developed and distributed.

4.f. Measures taken to improve all aspects of environmental and industrial hygiene

809. Enumerated below are the legislative and executive issuances enacted to improve all aspects of environmental and industrial hygiene.

810. Presidential Decree No. 856, otherwise known as the Sanitation Code, updates and collates all sanitary laws to ensure that they are in keeping with modern standards of sanitation.

811. Presidential Decree No. 1151 requires all instrumentalities of the government and all private corporations and entities to prepare, file and include in every action, project or undertaking which significantly affects the quality of the environment a detailed statement of the environmental impact of the proposed action.

812. Presidential Decree No. 1152, otherwise known as Philippine Environment Code, enunciates the country's environmental management policies and environmental quality standards aimed at protecting and improving the country's water, air and land resources.

813. Presidential Decree No. 1586 establishes the Environmental Impact Statement System, which is founded and based on the environmental impact statement required in PD 1151.

814. Presidential Decree No. 984, otherwise known as the Pollution Control Law, authorizes the National Pollution Control Commission to order the immediate discontinuance of discharge of sewage, industrial wastes, or other wastes into the water, air, or land.

44 *continued...* In furtherance of its healthy development of the child campaign, the government has put in place the Integrated Management of Childhood Illness Program. The program includes preventive health care aspects of immunization, nutrition, and growth monitoring, prenatal/postnatal care of mothers. The government's service delivery network for this program extends to the BHUs.

Also, the DOH holds twice annually the *Garantisadong Pambata Campaign* (Preschoolers' Health Week Campaign). The campaign serves to highlight routine health services for children who missed their routine services on immunization, Vitamin A supplementation, weighing, oral-health and other services. In addition, the *Prent-Effectiveness Program* was enriched by adding modules on *Keeping a Healthy Environment and For Your Children's Health and Nutrition*.

815. Republic Act No. 4850, also known as the Laguna Lake Development Authority (LLDA) Act of 1966, provides for the creation of the LLDA. The LLDA has been tasked with carrying out the social and economic development of the Laguna Lake region with due regard and adequate provisions for environmental management and control, preservation of the quality of human life and ecological systems, and the prevention of undue ecological disturbances, deterioration, and pollution.

816. Republic Act No. 6969, otherwise known as Toxic Substance and Hazardous Wastes Act, encourages proper management of hazardous wastes by promoting, in order of preference: minimization of generation; recycling and reuse; treatment to render hazardous waste harmless; and landfill of inert residues.

817. Republic Act No. 8749, also known as the Clean Air Act of 1999, provides for the comprehensive air pollution policy to establish and operate appropriate devices necessary to monitor ambient air. It also provides for the elimination of certain industrial processes as means of disposal.

818. Republic Act No. 9275, otherwise known as the Clean Water Act, covers the management of all water resources in the country and control of potential sources of water pollution.

819. Republic Act 9003, otherwise known as the Solid Waste Management Act of 2000, adheres to the principles of solid waste minimization, thereby promoting the use of clean production, resource recovery, and solid waste prevention. It also aims to promote clean technology processes and practices and the adoption of industries to lessen their impact on the environment.

820. In 1994, the Presidential Task Force on Waste Management (PTFWM) was created through Administrative Order No. 90. The PTFWM was mandated to (a) extend technical assistance to cities and municipalities in the country which are beginning to be affected by solid waste problems; (b) assist LGUs in enhancing their capacity to meet local development needs, especially the improvement of their system for managing solid waste; (c) refine the framework plan and monitor/evaluate its implementation; and (d) generate the necessary mass support by linking with other sectors and coordinating all efforts on solid waste management.

821. In 1998, the DENR adopted the Ecowatch project, the department's compliance monitoring system which provides promotion of waste minimization, pollution prevention and clean technology. The

project's objectives are to promote compliance with existing environmental laws, rules and regulations through public pressure and scrutiny; encourage pollution reduction beyond compliance through public recognition and praise; create incentives for polluters to develop internal environmental management systems; and develop the foundations for ISO 14000.⁴⁵

822. Pursuant to the provisions of the Clean Air Act, the government adopted the Metro Manila Air Quality Improvement Sector Development Program (MMAQISDP). MMAQISDP is a comprehensive government effort to support the implementation of the Clean Air Act and address issues in air quality management. The objective of the Program is to promote policy reforms and investment requirements that improve air quality through the abatement of mobile and stationary sources of air pollution, all integrated within an agreed policy matrix termed the Air Quality Action Plan. It focuses on the Metro Manila air shed, the location of the main concentrations of air pollution, which consists of the National Capital Region, and parts of Regions III and IV-A.

823. For its part, the Department of Energy (DOE) embarked on an Alternative Fuels and Technology Program that aims to achieve energy supply security, reliability and affordability and fuel diversification, while meeting environmental challenges. Through the program, the DOE aims to create public and private sector partnerships to increase awareness of sources and harmful effects of air pollution and to promote alternative fuels for transport such as the compressed natural gas, bio-diesel, liquefied petroleum gas and possibly fuels cells and hydrogen.

824. The Department of Science and Technology (DOST) adopted the Integrated Program for Clean Technologies as one of its flagship programs. The program aims to promote sustainable development and strengthen the competitiveness of Philippine industries, especially small and medium enterprises (SMEs), by providing them with technical information and implementation assistance in adopting clean technologies (CT). They thus formulate guidelines and policies for the promotion of CT, provide information, decision support and implementation assistance to SMEs adopting cleaner production

45 Ecowatch does not only identify major polluters but rates all industrial firms in terms of their environmental management performance through a color coding system. Colors range from Gold for companies that reached excellent levels of environmental management; Green for companies that have reached very good levels; Blue for those firms that achieve baseline compliance with applicable environmental regulations consistently for at least one year; Red and Black ratings reflect the lowest ratings meaning they're the most polluting firms.

techniques and CT, provide industrial extension services to regional SME processing plants and evaluate the economic and environmental impacts of adopting CT on the environment.

825. Following are jurisprudence which emphasize environmental and industrial hygiene:⁴⁶

46 Metro Manila Development Authority v. JANCOM. Facts: Sometime in 1997, the Presidential Task Force on Waste Management entered into a Build-Operate-and-Transfer (BOT) contract with a waste management company known as JANCOM. On 5 March 1998, the BOT contract was submitted to President Fidel V. Ramos but was left unsigned and subsequently endorsed to incoming President Joseph Ejercito Estrada. With the passage of the Clean Air Act of 1999, the Metro Manila Development Authority (MMDA) sought to set aside the contract with JANCOM. Among the reasons cited by MMDA was that the Clean Air Act of 1999 banned the process of incineration as a method of waste disposal. Inasmuch as JANCOM's proposed waste management contract involved incineration, MMDA argued that its contract has been superseded by the incineration ban. Issue: Is incineration banned by the Clean Air Act? Held: Section 20 of the Clean Air Act does not absolutely prohibit incineration as a mode of waste disposal; rather it bans only those burning processes which emit poisonous and toxic fumes.

Laguna Lake Development Authority v. Court of Appeals. Facts: A group of residents calling themselves the Task Force Camarin Dumpsite of Our Lady of Lourdes Parish, Camarin, Caloocan City, filed a complaint with the Laguna Lake Development Authority seeking to stop the operation of the 8.6-hectare open dumpsite dumpsite in the Tala Estate of Barangay Camarin. They alleged that the dumpsite poses hazards to the health of the residents and pollute the waters of the Laguna Lake. The Laguna Lake Development Authority (LLDA) issued a cease and desist order against the City Government of Caloocan enjoining the dumping of garbage in the area. The City Government questioned the power and authority of the LLDA to issue the cease and desist order. Issue: Is the LLDA authorized to order the City Government of Caloocan to desist from dumping garbage in the river? Held: By its express terms, Republic Act No. 4850, An Act Creating the Laguna Lake Development Authority, authorizes the LLDA to "make, alter or modify orders requiring the discontinuance of pollution." Sec. 4, paragraph (d) explicitly authorizes the LLDA to make whatever order may be necessary in the exercise of its jurisdiction.

Tatel v. Socrates. Facts: To curtail the practice of cyanide fishing, the legislative council of Puerto Princesa City passed an ordinance banning the export of live fish from the city. On another level, the sanguniang panlalawigan of the Province of Palawan also passed an ordinance prohibiting the catching of certain coral-dwelling aquatic organisms for a period of five (5) years. Petitioners questioned these ordinances on the ground that these ordinances have, in effect, deprived them of their livelihood without due process of law. Issue: Are these ordinances valid? Held: The ordinances in question are meant precisely to protect and conserve our marine resources to the end that their enjoyment may be guaranteed not only for the present generation, but also for generations to come. What must likewise be borne in mind is the State policy enshrined in the Constitution regarding the duty of the State to protect and advance the right of the people to a healthful and balanced ecology in accord with the rhythm and harmony of nature. The general welfare clause of the Local Government Code of 1991 expressly mentions this right when it states that "within their respective territorial jurisdictions, local government units shall ensure and support, among others, the preservation and enrichment of culture, and enhance the right of the people to a balanced ecology."

- Metro Manila Development Authority v. JANCOM, G.R. No. 147465, 30 January 2002;
- Laguna Lake Development Authority v. Court of Appeals, G.R. No. 110120, 16 March 1994;
- Tatel v. Socrates, G.R. No. 110249, 21 August 1997;
- Oposa v. Factoran, G.R. No. 101083, 30 July 1993;
- Pollution Adjudication Board v. Court of Appeals, G.R. No. 93891, 11 March 1991;
- Rodriguez, Jr. v. Intermediate Appellate Court, G.R. No. 74816, 17 March 1987.

831. The DOH has renewed its fight against tuberculosis in the country with the establishment of the National Tuberculosis Control Program. In line with this, the DOH has also initiated a cooperation project with the Japanese government to improve the control of tuberculosis in the country by building the National TB Reference Laboratory (NTRL).

832. Since 1996, the DOH has adapted a hierarchy of dengue warning signals designed to timely alarm communities so that appropriate interventions can be taken in a timely manner. These include a dengue alert, dengue hot spot, and dengue epidemic.

833. In 1999, the National Center for Disease Prevention and Control (NCDPC) was tasked to lead and synchronize all government efforts in disease prevention and control.

5.h. Measures taken by the government to assure to all medical service and medical attention in the event of sickness

834. The government maintains a network of hospitals, rural health units and barangay health stations to deliver medical services.

Question No. 6. Measures taken by the government to ensure that the rising costs of health care for the elderly do not lead to infringements of these persons' right to health

835. Republic Act No. 7876, otherwise known as the Senior Citizens Center Act of the Philippines, as amended by RA 9257, mandates that senior citizens, defined as any person 60 years of age, be granted: (a) free medical and dental service, diagnostic and laboratory fees in all government facilities; (b) 20 per cent discount on medical and dental service, diagnostic and laboratory fees, including professional fees of attending doctors in all private hospitals and

medical facilities; and (c) 20 per cent discount on the purchase of medicines in all establishments.⁴⁷

Question No. 7. Measures taken to maximize community participation in the planning, organization, operation and control of primary health care

836. With the passage of the Local Government Code of 1991, local health boards (LBHs) were mandated to act as the main mechanisms to ensure broader community participation and involvement in local health development. LHB members include the mayor as chairman, municipal health officer as vice-chairman, local councilor for health, a representative of the DOH and a member of a health non-governmental organization who represents the community in the LHB. As advisory bodies, LHBs were tasked to propose annual budgetary allocations for the operation of health services, serve as advisory committees to the legislative council, and create advisory committees on personnel selection, promotion and discipline, bids and awards, budget review, etc.

837. To sustain community efforts in primary health care, the Government has adopted the Minimum Basic Need Approach (MBN) using four areas of intervention to assist communities, namely: (1) social preparation of families and communities; (2) building capabilities of community volunteers, leaders and families; (3) accessing social welfare services; and (4) monitoring and evaluation.

838. Also, the DOH's Community Health Service conceptualizes, develops and manages foreign-funded and pilot program components which tap community involvement in project planning and implementation.

Question No. 8. Measures taken to provide education concerning prevailing health problems and the measures of preventing and controlling them

839. Health education is made available to the general public through the following: (a) development, publication and distribution of manuals, information

materials and health advisories; (b) communication campaigns of different programs through tri-media; (c) radio-television guestings on health issues by health officials; and (d) dissemination of health information through magazines and newspapers; (e) enter-educate (education through environment).

840. Support and educational materials have been developed and are integrated in appropriate subject areas in the elementary and secondary level of education.

841. In 1997, Administrative Order No. 341 was passed mandating the establishment of the Philippine Health Promotion Program through Healthy Cities. The program is a multi sectoral-health promotion strategy aimed at communicating health messages and building health supportive environments through advocacy, networking and community action.

Question No. 9. Role of international assistance in the full realization of the right to health

842. The government has formed partnerships with international agencies that supplement its funding for the promotion of health, including aspects of environmental and industrial hygiene, with substantial amounts of financial assistance.

843. More recently, the World Bank-assisted Women's Health and Safe Motherhood Project produced the following outputs: (a) upgraded obstetric units in 70 Rural Health Units (RHUs) and 74 Barangay Health Stations (BHS) in 36 provinces, including the provision of furniture and equipment; (b) trained 2,450 Public Health Providers, 26 Project Coordinators, 16 Trainers on the Syndromic Approach to Diagnosis and Management of Reproductive Tract Infection/Sexually Transmitted Disease (RTI/STD) care in ten (10) provinces in Visayas and Mindanao and public health workers in the 70 RHUs and 74 BHSs in 36 provinces; and (c) constructed and provided 10 RTI/STD clinics with diagnostic equipment in the 36 provinces.

Challenges and difficulties

844. Air pollution remains a problem in metro Manila and major urban centers the last two decades. A 1992 report estimated that 80 per cent of Metro Manila residents and 31 per cent of residents in Metro Cebu are exposed to Total Solid Particulates (TSP) in the air above normal standards. It is projected that the volume of air pollutants (e.g., TSP, Particulate Matter, Sulfur Oxide, Nitrogen Oxide) will continue to increase due to increasing industrial activity, traffic and the number of vehicles plying the streets including the

47 Sec. 8 of the Implementing Rules and Regulations of RA 9257 reads, "The senior citizen shall be provided free medical and dental services and diagnostic and laboratory fees such as, but not limited to, x-rays, computerized tomography scans and blood tests in all government facilities x x x" Sec. 9 of the same rules states, "The senior citizen shall be granted twenty per cent (20 per cent) discount on medical and dental services and diagnostic and laboratory fees such as but not limited to x-ray, computerized tomography scans and blood tests, including professional fees of attending doctors in all private hospitals and medical facilities x x x".

many smoke-belching public utility vehicles. Majority of TSP concentration is contributed by motor vehicles. Increasing air pollution load was reported by the WHO in 1996 to contribute to the high incidence of upper respiratory tract diseases in major urban centers like Metro Manila.

845. Despite the high average rainfall, the supply of freshwater is diminishing due to over extraction of groundwater, water pollution, denuded forests/watersheds and lack of catchment basin and, occasionally, the El Niño phenomenon.

846. The issues besetting the water sector include disparities in water supply coverage across regions, depletion of groundwater especially in Metro Manila and Metro Cebu, lack of cost recovery on investments, institutional weaknesses and low willingness of consumers to pay.

847. In addition, pollution of water sources such as rivers and lakes is evident in many parts of the country. About 457 water bodies have already been classified by the Department of Environment and Natural Resources. Of these, however, about 51 per cent still meet the water quality standard, as of 1996. About 16 rivers nationwide are considered biologically dead during the dry months. About half (48 per cent) of water pollutants are domestic waste, about a third (37 per cent) are agricultural wastes, and the remainder are industrial wastes (15 per cent). Pollution of rivers, streams and lakes contaminate ground and surface waters, thus, exposing the population to environmentally-related diseases. Water pollution is decreasing the primary productivity of many water bodies. Heavy loads of inorganic pollutants have made water increasingly a threat to life. A report by the WHO in 1996 cited the rise in morbidity rate caused by gastrointestinal diseases from 502 in 1982 to 5,151 per 1000,000 population.

848. Solid waste generation in Metro Manila is estimated at 5,345 tons per day. This is expected to double by 2010. Waste collection in Metro Manila is only about 65-75 per cent of total wastes generated and recycling level is estimated to be about 13 per cent. The 25 to 35 per cent uncollected wastes are just thrown anywhere, especially in esteros and creeks. These threaten the health of the population and contribute considerably to flooding.

849. Urbanization has inevitably increased the use of chemicals, which resulted in an increasing number of incidents involving chemicals, particularly the release of ammonia and chlorine over the years. Presently, only about 45 per cent of the total industries using

chemicals such as cyanide, mercury, asbestos and ODS have been registered. For polychlorinated biphenils (PCB), only about 25 per cent have been inventoried.

850. Based on the JICA Study (2001), about 700 industrial establishments in the Philippines generate about 273,000 tons of hazardous wastes per annum. It was further estimated that with 5,000 potential hazardous waste generators, about 2.41 million tons of hazardous wastes will be generated. A study of the Asian Development Bank on hospital wastes reported that there are about 30,000 tons of hospital wastes generated per annum.

851. At present, there is no integrated treatment facility for hazardous wastes in the country. However, there are about 95 small to medium-scale treatment facilities that treat hazardous wastes. There is approximately 50,000 tons of hazardous wastes stored on or offsite due to lack of proper treatment and landfill facilities. Other hazardous wastes are exported to other countries for recovery and disposal (i.e., metal bearing sludge and used solvents) and treatment (i.e. PCB).

Article 13

Question No. 1. Full realization of the right to education

Situationer

852. The Philippines has one of the shortest basic education systems in Asia-Pacific, with six years of elementary and four years of high school. The average Filipino child starts formal schooling in elementary at age six. However, children, who are expected to avail of private education undergo pre-schooling at the age of three. Reference may be made to pars. 429 to 430 on pre-schooling under ECCD.

1.a. Primary education

853. Section 2, Article XIV of the 1987 Constitution provides, "The State shall establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural right of parents to rear their children, elementary education is compulsory for all children of school-age."

854. The Philippine education system, one of the most mature in Asia, can boast of impressive quantitative achievements. Universal access to elementary education was reached as early as themid-60s.

1.b. Secondary education

855. As in the case of primary education, secondary education is generally available and accessible to all. Republic Act No. 6655, otherwise known as the Free Secondary Education Act, declares it the policy of the State to provide for a free public, secondary education to all qualified students. As such, students enrolled in secondary schools established, administered, maintained and funded by government are free from payment of tuition and other school fees" except "fees related to membership in the school community such as identification cards, student organizations and publications."

856. There are two types of schools according to funding source: public and private schools. Both public and private high schools offer the four year Basic Education Curriculum (BEC) - secondary education. However, some schools have special and enriched curricula like Regional Science High School, schools with Special Programs in the Arts, Special Program in Sports, Science and Technology Oriented - Classes, and Technical-Vocational Schools. These schools offer additional subjects and/or electives to enrich the general curriculum (the BEC) as well as to develop various talents/skills of students.⁴⁸

1.c. Higher education

857. The delivery of higher education in the Philippines is provided by private and public higher education institutions. Of the 1,605 higher education institutions in the country, 1,431 are private and 174 are public. The average enrollment for the last nine (9) academic years, from School Year 1994-1995 to School Year 2002-2003, is 2,222,395. Based on the

48 Regional Science High School - established in each of the country's region. Science high schools offer additional subjects and electives in Science, Mathematics, Research and English in addition to the requirements of the Basic Education Curriculum (secondary level). Science and Technology Oriented-Classes - implemented in 110 schools across the country. It was originally funded from a Worldbank loan of the Department of Science and Technology for the Engineering and Science Education Program (ESEP). Technical-Vocational High School - a special secondary school with a mission of preparing high school students for gainful employment and for higher learning. Special Program in the Arts (SPA) - a special program for high school students with special talents in the different fields of art namely: music, visual arts, theater arts, media arts, dance and creative writing which have been pilot implemented in the fifteen (15) schools across the country. Special Program in Sports (SPS) - a program that addresses the needs of talented students-athletes in the different sports discipline. They undergo additional two (2) hour training under trained coaches specializing in the sports where they excel in (athletics, badminton, baseball/softball, basketball, football, gymnastics, sepak takraw, swimming, table tennis, taekwondo, tennis and volleyball).

country's estimated population of 88 million, those who are attending higher education comprise 2.8 per cent of the population. Since this per cent age is much higher than most countries, it would seem that access to higher level education is less of a problem in the Philippines than in other countries. However, numbers alone do not reveal the problem with regard to access to and equity of higher education.

858. The cost of higher education has substantially gone up, especially in the last 4 decades. The per student cost of university education now ranges from PhP 5,000.00 to PhP 90,000.00 per school year. The wide range is due to the difference in the quality of education available from the different classes of tertiary education.

859. The tuition fee charged by the different institutions per unit vary greatly. (A course or subject in college is usually two (2) or three (3) units. One course unit is equivalent to 14 to 18 hours of lecture or class contact time.) Some state universities still charge PhP 8.00 per unit while some high quality private universities PhP 1,000.00.00 per unit. The University of the Philippines (UP) charges PhP 300.00 per unit. This is augmented with government subsidy, to enable UP, which is the premier state university, to provide quality education.

860. The problem of cost of tertiary education is addressed to some extent by the state universities and colleges. There are 111 State Universities and Colleges (SUCs), 56 Local Universities and Colleges (LUCs), one (1) CHED Supervised Higher Education Institutions (CSIs), five (5) Special Higher Education Institutions (SHEIs), and 9 Other Government Schools (OGS), making a total of 182 public tertiary level institutions as of January 2006. Comparatively, there are 1,465 privately-run colleges and universities which are totally dependent on tuition fees for support.

861. SUCs are chartered public higher education institutions established by law, administered and financially subsidized by the government. LUCs are those established by the local government through resolutions or ordinance. They are financially supported by the local government concerned. CSIs are non-chartered public post-secondary education institutions established by law, administered, supervised and financially supported by the government. OGS are public secondary and post-secondary education institutions usually a technical-vocational education institution that offer higher education programs. SHEIs are directly under the government agency stipulated in the law that created them. They provide specialized training in areas such as military science and national defense.

862. As for private-run colleges and universities, these institutions are established under the Corporation Code and are governed by special laws. Non-sectarian schools are duly incorporated, owned and operated by private entities that are not affiliated to any religious organization while sectarian universities and colleges are usually non-stock, non-profit, duly incorporated, owned and operated by a religious organization.

1.d. Education for those who have not received or completed primary education

863. In response to the needs of special groups, the State provides, through the DepED, the CHED, and the TESDA, special educational services which include among others, the following:

(a) Nonformal education which is any organized, systematic educational activity carried outside the framework of the formal school system to provide types of learning to a segment of the population;

(b) Technical-vocational education which is any non degree program at the post-secondary education level leading to proficiency in skills. Reference may be made to pars. 147 to 156 on TVET;

(c) Work education or practical arts which provides basic education to develop proper attitudes toward work; and;

(d) Special education which develops the capabilities of individuals who are physically, mentally, emotionally, socially or culturally disabled as well as gifted children. In terms of school practices and services, the clientele is served with a modified education program.

Question No. 2. Difficulties encountered in the realization of the right to education

864. The quality of basic Philippine education has been deteriorating continuously. Basic education bore the effects of continuing rapid population growth, estimated at 2.3 per cent annually. The public school system is hard-pressed to cope with the requirements of an expanding student population, particularly at the secondary level, due to, among others, the implementation of free public secondary education. Severe budgetary constraints have led to underinvestment in basic education.

i. Primary and secondary education

865. For primary and secondary education, DepED has noted the following difficulties, viz:

Access to Basic Education

866. In 2000, there were 4,569 barangays (about 10 per cent of the total barangays) without elementary schools. However, it was identified in 2001 that only 1,617 of these barangay needed schools because the rest had access to schools outside of their barangays. Of these barangays identified as having without access to elementary education, only 118 remain unserved as of 2004.

Efficiency

867. High drop out rate is credited to both school and non-school factors such as poor health and/or nutrition, parental attitude, financial capability, geography, political conflicts, and disability; and teacher factor.

Quality

868. Another urgent and pressing challenge is improving the quality of education. Results of various achievement tests indicate a serious problem in the quality of education in the country. In 2002, only 51.73 per cent of elementary students passed the National Elementary Achievement Test. In the recent High School Readiness Test, only 0.52 per cent of the examinees achieved grades of 75 per cent and above.

869. The DepEd administered diagnostic tests at the start of 2002-2003 for Grade IV pupils and Year I students in public schools showed that students had very poor competencies in Math, Science and English.

870. Far more alarming were the results of the testing conducted for incoming first-year students in SY 2004-2005, where only about half of a per cent of the examinees got scores within the 79-94 per cent range and less than 20 per cent got 50 per cent scores, which is the start students garnered scores of 49 per cent or below. But it is worth noting that actual pupil performance in 21 provinces supported by the Third Elementary Education Project (TEEP) generally showed scores significantly higher (56 per cent) than the national mean of 44 per cent. TEEP is one of the official development assistance projects aimed to improve the quality of education in the provinces. Other province-based projects include AusAID-assisted Basic Education Assistance in Mindanao (BEAM), Japan's Educational Facilities Improvement Projects, the United Nations Children's Fund or UNICEF-assisted Fifth Country program for Children, and the School-Based Training Program.

871. The problem of poor quality has been traced to a number of causes which include among others

teacher-related factors in terms of competencies and skills, the need for institutionalized support system to strengthen in-service training, clearly defining career paths and prospects of mobility in the teaching profession to enhance motivations to stick to the profession, and to regulate the teaching load, which according to a study conducted revealed that the Filipino teacher has 72 tasks other than teaching.

872. Teacher qualifications remain to be an issue, especially at the secondary education level, both in terms of content and pedagogy. As of SY 2004-2005, only 80 per cent of the public school teachers teaching math have math majors. In the sciences, 44 per cent of Biology teachers are majors in the subject, compared with 34 per cent in Chemistry, and 27 in Physics. The other teachers are science generalists. However, even for teachers who are specialists in these subject areas, the level and quality of subject competency appears to be wanting, too.

873. Other factors affecting quality which may be identified are the school curriculum which is rather congested - the shortest as compared to other ASEAN countries and where learning materials are inadequate; the system's Bilingual Policy which has affected the performance in Science and Mathematics which require for English proficiency; as well as student and family characteristics and pedagogical processes which provide students very little opportunity to "explore and discover" knowledge.

Underinvestment in education

874. The country's public allocation for education is relatively low. For SY 2005-2006, 88 per cent per cent of total expenditures went to salaries.

875. As a result of underinvestment in education classroom backlog reached 4 per cent in the public elementary schools in 2000. Classroom gap for SY 2006-2007, despite the employment of double-shift classes, reached 3,416 units. Textbook shortage reached 67.30 million for SY 2006-2007 on a 1:1 ratio.

876. Teacher-pupil ratio was registered at 1:36 in elementary level and 1:42 in the secondary level, both for SY 2003-2004. The average class by level consists of 38.64 for the elementary level and 56.37 for the secondary level, also for SY 2003-2004. Failure of the education sector to modernize was evident in the past because of the absence of some basic services, facilities and equipment, which proved crucial to efforts at maximizing the advantages of technological developments.

877. While the national ratios may appear sound, the data when disaggregated by division/province showed serious gaps such as classrooms being used by more than 100 children, a two-seater desk shared by three to four children, and a teacher holding a class of 100 or more pupils. In addition, excess teachers in some areas cannot be redeployed to areas with severe shortage because that is disallowed by the Magna Carta for Public School Teachers Act.

ii. Higher education

878. Higher education faces the same problems faced by the primary and secondary sectors. In 2000, CHED formulated the Long-Term Higher Education Development Plan (LTHEDP), 2001-2010. LTHEDP is a comprehensive document, which spells out the vision and mission of higher education in the Philippines as well as the strategic directions to be adopted in order to address the different issues and concerns of higher education and outline its future directions.

879. The major initiatives of the higher education was geared towards the attainment of four (4) goals, namely:

- (a) Quality and Excellence - the provision of undergraduate and graduate education that meets international standards of quality and excellence;
- (b) Relevance and Responsiveness - generation and diffusion of knowledge in the broad range of disciplines relevant and responsive to the dynamically changing domestic and international environment;
- (c) Access and Equity - broadening the access of deserving and qualified Filipinos to higher education opportunities; and;
- (d) Efficiency and Effectiveness - the optimization of social, institutional, and individual returns from the utilization of higher education resources.

Question No. 3. Statistics on education

Literacy rate

880. Based on the 2003 Functional Literacy Education and Mass Media Survey (FLEMMS), the Philippines' basic or simple literacy rate stood at 93.9 per cent. There was a significant difference between male (93.2 per cent) and female (94.6 per cent). Compared to 1994 data, the females had a 0.6 per cent age point improvement in simple literacy while males had 0.5 per cent age decrease.

881. Across regions, the NCR posted the highest literacy rate at 99.1 per cent while ARMM registered

the lowest with 70.7 per cent. Other regions with higher literacy rate than the national level were Region I (Ilocos Region) with 97.1 per cent, Region V (Bicol Region) with 95.5 per cent. In terms of functional literacy, the rate improved from 83.8 per cent in 1994 to 85.1 per cent in 2003.

Statistics for elementary education

882. At present, there are more than 42,000 public elementary and secondary schools in the country, all of which are providing education free of charge.

883. Enrollment in public and private elementary schools reached 13 million in SY 2003-2004 representing an increase of 1.96 per cent from the SY 2000-2001 level of 12.8 million. Based on school-age population of 6-11 years old, the participation rate at the primary or elementary level stood at 90 per cent in SY 2002-2003. The most recent data on participation rate suggest that there is a need for greater effort to achieve the target of universal access to elementary education. Across regions, the ARMM registered the highest participation rate with 91 per cent while the lowest was registered in the NCR with 77 per cent.

884. Schooling data for SY 2003-2004 showed that girls have higher participation rates than boys at elementary (82.59 per cent vs. 80.88 per cent) and high school (51.19 per cent vs. 42.97 per cent) levels.⁴⁹ Disparity is generally minimal across regions at the elementary level except in the ARMM, which posted a gender parity index (GPI)⁵⁰ of 1.10 (93.91 per cent: 84.85 per cent). Larger ratio discrepancies were posted in the secondary level with GPIs ranging from 1.08 (58.02 per cent: 53.8 per cent) in the NCR to 1.34 per cent (48.99 per cent: 36.66 per cent) in Eastern Visayas.

885. Enrolment figures for Grade 1 (SY 2003-2004) likewise indicated that there were more girls (45.99 per cent) who started school than boys (41.88 per cent).

886. Cohort survival rate (CSR) at elementary level showed continuing improvement from 67.21 per cent in SY 2000-2001 to 69.84 per cent in SY 2002-2003. In the same period, completion rate showed slight improvement from 66.13 per cent to 66.85 per cent. Conversely, dropout rate for elementary slightly

declined from 7.67 per cent in SY 2000-2001 to 7.34 per cent in SY 2002-2003.

887. Though ARMM registered a high participation rate in public elementary schools in SY 2003-2004, it posted the lowest cohort survival rate and completion rate of 37.02 per cent and 33.34 per cent, respectively. On the other hand, Region I (Ilocos Region) posted the highest cohort survival rate and completion rates of 76.98 per cent and 75.97 per cent, respectively. The highest simple dropout rate was registered in Region VII (Central Visayas) with 3.27 per cent.

888. Data for SY 2003-2004 show that in terms of completion rate, girls still emerged to be at an advantage over boys at both elementary (66.86 per cent vs. 57.76 per cent) and secondary (63.7 per cent vs. 48.77 per cent) levels.

889. The results of the 2002 Annual Poverty Indicators Survey (APIS) also offered useful insights. Schooling status data showed more females attending school than males (72 per cent vs. 66 per cent) - a trend consistent in both urban and rural areas. For males, the most frequently cited reasons for not attending school were employment concerns (30 per cent), lack of personal interest (25 per cent), and the high cost of education (23 per cent). Employment-related concerns (22 per cent) also turned out to be the primary deterrent among females in attending school followed by the high cost of education (21 per cent) and housekeeping responsibilities (16 per cent).

Statistics for secondary education

890. For SY 2006-2007, there were 8,059 public and private secondary schools in the country. Enrollment in public and private secondary schools reached 6.78 million in the same year representing an increase of 1.69 per cent from the SY 2000-2001 level of 5.8 million.

891. CSR, using EFA formula, declined from 71.68 per cent in SY 2000-2001 to 65.63 per cent in SY 2002-2003. In the same period, completion rate also declined from 70.62 per cent to 59.79 per cent. Conversely, dropout rate (school leavers rate) increased from 8.50 per cent in SY 2000-2001 to 13.10 per cent in SY 2002-2003.

Statistics for higher education

892. The average enrollment for the last 11 academic years, from SY 1994-1995 to SY 2004-2005, is 2,256,248. Based on the country's estimated population of 88 million, those who are attending

⁴⁹ All education data cited in this Report cover only public schools.

⁵⁰ Gender Parity Index is the ratio of female to male values of an indicator. A GPI of 1.0 indicates gender parity (equality). A GPI greater than 1.0 indicates a gender disparity in favor of females (i.e., there is a higher proportion of females than males in school).

tertiary level school comprise 2.8 per cent of the population.

893. The variety of undergraduate and graduate programs being offered by the higher education institutions in the country can be classified into 20 clusters of disciplines or fields of study:

(i) Agriculture, Forestry, Fisheries and Veterinary Medicine; (ii) Architectural and Town Planning; (iii) Business and Management Education; (iv) Education and Teacher Training; (v) Engineering and Technology; (vi) Fine and Applied Arts; (vii) General Education; (viii) Home Economics; (ix) Humanities (x) Information Technology; (xi) Law and Jurisprudence; (xii) Maritime Education; (xiii) Mass Communication and Documentation; (xiv) Mathematics; (xv) Medical and Allied; (xvi) Natural Science; (xvii) Religion and Theology; (xviii) Service Trades; (xix) Social and Behavioral Science; (xx) Trade, Craft and Industrial.

894. Enrollment is high in the medical and allied discipline group, education and teacher training, business administration and related fields, engineering courses, and information technology courses. At present, the nursing program is becoming increasingly attractive to students in view of the perceived high demand abroad.

895. The present over-all cohort survival rate ranges from 20 to 22 per cent from first year to fourth year college. The cohort survival in private schools is much lower than in the government or state schools.

Policies and programs taken by the government to promote education at all levels

896. Several institutional and program development were put in place to improve access to and quality of education and learning efficiency.

897. For many years, the administration, supervision and regulation of the educational system was vested in only one agency of the government - the then Department of Education, Culture and Sports.⁵¹

51 In August 2001, Republic Act 9155, otherwise called the Governance of Basic Education Act, was passed transforming the name of the Department of Education, Culture and Sports (DECS) to the Department of Education (DepED) and redefining the role of field offices (regional offices, division offices, district offices and schools). RA 9155 provides the overall framework for (i) school head empowerment by strengthening their leadership roles and (ii) school-based management within the context of transparency and local accountability. The goal of basic education is to provide the school age population and young adults with skills, knowledge, and values to become caring, self-reliant, productive and patriotic citizens.

However, the department's bureaucratic and priority foci were primarily geared towards basic education.

898. In 1991, Congress came out with the Congressional Commission on Education Report recommending the restructuring of the education sector bureaucracy. The report provided the impetus for Congress to pass RA No. 7722 and RA No. 7796 in 1994 creating CHED and TESDA, respectively.

899. As a result of the trifocalization of education, the DepED concentrates only in the administration, supervision and regulation of basic education (elementary and secondary education). CHED, a department-level agency attached to the Office of the President, oversees the higher education subsector. By focusing its attention on system governance and policy guidance over public and private higher education institutions, CHED monitors and evaluates the programs of these institutions, formulates and implements development plans, policies and standards and undertakes developmental programs and projects on higher education. On the other hand, TESDA, an agency attached to the DOLE, oversees the post-secondary technical and vocational education including skills orientation, training and development of out-of-school youths and community adults.

900. The Local Government Code of 1991 gave the LGUs with greater resources to support elementary and secondary education. The law has empowered the LGUs with more autonomy and spending power primarily through their Internal Revenue Allotments and their greater authority for resource generation and mobilization. However, more than the enhanced capacity to spend on education, the biggest contribution of the law could very well be that it has brought the direction of education closer to the stakeholders, and with it, the greater responsibility that they now have over their respective communities' educational future.

901. More specifically, the law provided for the creation of a Special Education Fund (SEF) in every provincial city or municipal treasury. The SEF consists of the respective shares of provinces, cities, and barangays in the proceeds of the additional tax, equivalent to 3 per cent, imposed on real property. Under Sec. 277 of the code, the proceeds of the tax imposed shall be allocated for the operation and maintenance of public schools, construction and repair of school buildings, facilities and equipment, educational research, purchase of books and periodicals, and sports development as determined and approved by the Local School Board.

902. School partnership with various stakeholders such as the community, parents, local government units, non-government organizations and business groups are further encouraged.

Primary education

903. In SY995-96, DepED lowered the entry age for Grade I to six and a half years and subsequently to six years the following school year. To give itself time to plan effectively for teaching assignments, classrooms and textbooks, DepED, instituted the National School Enrolment Day (NSEED) for children who shall have reached the age of six and a half (later reduced to six years) by the beginning of the school year. The NSEED is held on the last Monday of January of every year.

904. The Multigrade Program in Philippine Education (MPPE) supports the DepED's mandate to improve access to and quality elementary education. The program consists of several projects.⁵²

905. There are numerous other programs being implemented by the DepEd which aim to improve access to and quality elementary education.⁵³

52 These are the following projects under the Multi-Level System: Multigrade Demo Schools Projects (MDSP) - Multi-grade Demonstration School Project (MDSP) has been established to improve the overall performance of MG schools through the training of teachers and school officials and the provision of textbooks and instructional materials.

Pupil Learning Enhancement Program (PLEP) - The UNDP-assisted Pupil Learning Enhancement Program undertakes direct support to multi-grade classes through the provision of supplementary pupil learning materials and encourages community support to the program. The project is focused on four (4) selected provinces: Surigao del Sur, Zamboanga del Sur, North Cotabato, and Negros Oriental. Little Red School House Project (LRSP) - In 1998, the Department of Education (then DECS) forged a partnership with the Coca-Cola Foundation, Phil. Inc. (CCPI) in organizing the Little Red School House Project (LRSH). The LRSH aimed at providing fifty (50) three-room school buildings to selected multigrade schools across the country. A three-phase training on multigrade instruction is also given to the teachers, coordinators and schoolheads of the recipient MG schools to equip them with skills in quality management.

To further ensure the institutionalization of the MG program, DepED issued Department Order No. 96, s. 1997 setting the policies and guidelines in the organization and operation of multi-grade classes. As of 1999, the multigrade teaching program is being implemented in all regions except the NCR.

53 Alternative Delivery Mode Community School Approach The Alternative Delivery Mode Community School Approach was also adopted to solve congestion in schools with big class sizes and mobilize and strengthen community support. The project's initial pilot implementation started in October 2005 in 4 regions covering a total of 14 elementary schools. Sineskwela. Using television sets to teach science was introduced in the public elementary schools in June 1995 through a program called Sine'skwela. Produced by the ABS-CBN Foundation, said show is designed to supplement the elementary science curriculum. Hence,

906. DepED also issued a number of directives to intensively undertake specific interventions aimed at increasing the holding power of schools.⁵⁴

its viewing was made mandatory. The Continuing Science Education via Television (CONSTEL) was also launched in 1995 to boost the development of science awareness among Filipinos. DECS Order No. 53, s. 1996, enjoined the institutionalization of the use of CONSTEL tapes in elementary and secondary schools.

Third Elementary Education Project. More recently, the Government, in cooperation with the World Bank and Japan Bank for International Cooperation, implemented the Third Elementary Education Project (TEEP). The project's overall aspiration is to improve the quality and access to elementary education. The project consists of three (3) main component groups, viz: (a) civil works, which includes the construction and rehabilitation of classrooms and division offices; (b) finance and administration, including procurement, financial management, management information system and project management; and (c) educational development, encompassing student assessment, textbooks and instructional materials. The special features of TEEP include: decentralization and school empowerment; local educational planning and management; school improvement and innovation facility; adequate textbooks and instructional materials; needs-based training for teachers, principals and supervisors; local school construction and equipment; multi-grade program; and partnership with stakeholders.

Early Childhood Development Project (ECDP). In line with the ECCDP, the BEE of DepED has provided for the integration of the early childhood care and development program into Grade 1 curriculum. The integration started as a summer school experiment in 1991, consisting of a six-week program for children 6.5 to 7 years of age. An evaluation of the program showed that the dropout rate for summer preschool attendees was only one (1) per cent compared to the 15 per cent among those who had no summer preschool exposure. Because of the positive results, DepED decided to continue this activity, but not during the summer considering the difficulty of getting teachers to teach and children to attend during the summer. Thus, DepED now has an 8-week program (6 weeks of pre-schooling plus 2 weeks of transition) that is introduced during the initial 2 months of Grade 1. The program has lowered dropout rates and increased cohort survival rate and school achievement.

DepED Preschool Program. DepED Preschool Program is being implemented in 22 SRA divisions composed of 1,428 classes and handled by 714 permanent preschool teachers.

Preschool Service Contracting Program - This is being implemented in the 5th and 6th class municipalities nationwide to provide the 5-year old children or prospective Grade 1 enrollees with preschool experiences. This program intends to capture children who are not accommodated in the PTCA preschool classes and day care centers.

54 DECS Order No. 24, s. 1995 called for definitive action to achieve the education mid-decade goals and targets for both participation and cohort survival rates; the completion of incomplete elementary schools by organizing combination and/or multi-grade classes; the intensification of the balik-eskuwela (Back-to-School) campaign, in which every elementary school must retrieve at least 10 out-of-school children in its catchment area; and the attainment of zero dropout rate for Grades V and VI; DECS Order No. 45, s. 1995, enjoined the various divisions to select the best teachers for Grade I classes to ensure that Grade I pupils will stay long enough in school to complete their elementary schooling; DepED Order no. 9, s. 2005 institutes measures to increase time of task of teachers by lessening activities that take teachers and/or students away from the classroom, maximizing the use of time allotment for every subject, and reducing the non-teaching duties of teachers; DepED Order No. 26, s. 1997 institutionalizes the Special Education Program in the schools.

Multi-Grade and Drop-Out Intervention Program. The Program seeks to address the needs of children from poor families and far-flung areas. To increase the participation rate at the secondary level, programs on education contracting and tuition fee supplement were implemented by DepED, benefiting thousands of high school students.

Alternative Learning System. The program was implemented by DepED to allow flexible entry of learners in both formal and nonformal/informal streams of basic education and ensure their upward social mobility. It is a parallel learning system that provides a viable alternative to the existing formal education instruction.

Education Service Contracting Scheme (ESCS) and the Tuition Fee Supplement Scheme (TFSS). Through both projects, students who could not be accommodated in public schools due to overflow of enrollment are admitted in the private secondary schools. These two programs are subsumed under the Government Assistance to Student and Teachers in Private Education (GASTPE). As of SY 2005-2006, the ESC has 363,187 student beneficiaries in 1,683 participating schools while the TFS has 10,692 grantees in 3 participating schools. There are 104 schools offering both programs of GASTPE. As of 15 January 1999, the ESC has 374,918 student beneficiaries in 1,122 participating schools, while the TSF has 162,966 grantees in 638 participating schools.

BP-OSA (Balik-Paaralan Para Sa Out-Of-School Adults). Age need not be a deterring factor for those who wish to pursue secondary education. The BP-OSA is a novel alternative delivery system that provides out-of-school adults high school education and assistance on entrepreneurial and employable skills for initial job opportunity. There are presently 31 secondary schools all over the country serving almost 1,381 adult learner.

Home-Partnership Program. This program complements the existing school program in population education. The objectives of the program are to enhance knowledge, attitudes and practices of parents on PopEd related concerns and to empower them as teaching partners of the school in educating their children and other community members. The project kicked off by conducting a modified Delphi study, which revealed that parents should handle delicate topics on adolescent reproductive health.

Community and Public Safety Training (CS-PST). has evolved and is being implemented in both private and public secondary schools as component of Citizenship Advancement Training course for all senior high school students. It aims to (a) enhance students' social responsibilities and commitment to the development of their communities, (b) develop their ability to uphold law and order as they assume active participation in community activities and (c) develop their readiness in assisting the members of the community especially in times of emergency. To date, the Bureau of Secondary Education is preparing instructional materials and the learning competencies to assist teachers in the teaching-learning process.

Revitalized Homeroom Guidance Program (RHGP). The program assists students in their choice of a career (college course) or work (vocation) that matches their interests and aptitude. It was institutionalized in 1997 and since the introduction of BEC in 2002, its content is addressed in Edukasyon sa Pagpapahalaga.

Developing and Managing Curriculum Innovation (DMCI). The program is a continuing training program of the Bureau of Secondary Education. It adheres to the goal of the Department of equipping every administrator with the required skills in managing the school as curriculum managers. As such, their competencies are enhanced in nurturing the culture of innovation, designing and piloting curriculum innovations, monitoring and evaluating pilots, and institutionalizing and scaling up curriculum innovations.

TSD-MCP (Thinking Skills Development for Maximized Cognitive Performance). TSD-MCP is a research and development program which aims to improve high school students' cognitive skills through the purposeful teaching of thinking skills. It was previously tried out in six (6) schools.

School Based Education. This is a departure from the conventional external evaluation that is commonly administered to measure the performance of the school in general and the learners in particular. The advantage of the school-based evaluation is that it is initiated, planned and implemented by the principal and the teachers themselves. The program is being tried out in two (2) schools in Region I, but is limited to the area of Mathematics.

Secondary education.

907. To enhance the readiness of elementary school graduates for secondary education, the DepED adopted the Optional High School Bridge Program. Under the program, students planning to enroll for first year in public high schools will have to take a placement or readiness test. Based on the results of the test, they will either take the existing first year high school curriculum or opt for a five-year bridge curriculum focused on English, Science and Math.

908. The DepEd has also adopted several programs which aims to provide high school students with an opportunity to finish secondary education.⁵⁵

Indigenization/Localization of the Secondary Education Curriculum. The project focuses on the relevance of the curriculum to the local culture. It took off with a national workshop on the development of curriculum frame works and sample lesson plans in eight (8) subject areas.

Population Education Program. Competitions are conducted that highlights the responsiveness of education in promoting curricular programs related to societal concerns, like population education. There are three (3) national competitions, which focus on population education, namely; National Pop Quiz, the National Poster Making Contest, and Essay Writing Contest were conducted to promote public awareness on the subject. Funded by UNFPA under PHL6R306 "Institutionalizing Adolescent Reproductive Health through Lifeskills-Based Education Project" aims to enhance the over-all wellness of adolescents vis-à-vis his/her physical, mental, emotional, social and spiritual development contributory to better learning outcomes through the: provision of quality adolescent reproductive health education designed to address the adolescent's interests, capability, needs, concerns and other reproductive health-related requirements; provision of school and community-based health services; promotion of program advocacy through a variety of social mobilization efforts and strategies; installation of a systematic monitoring and evaluation scheme for a sustainable reproductive health programs, and building models for ARH programs in schools and communities. The project developed ARH Age-Appropriate and Segmented Core Messages and a Secondary Teacher's Toolkit. These materials shall be pilot tested this SY 2006-2007. Likewise, the National POPQUIZ, hosted by DepED Region IV-A (CALABARZON) was successfully conducted last October 2005 where DepED Region 12 emerged as the national winner.

55 There was an increase in enrolment in secondary schools largely due to the implementation of the Secondary Education and Improvement Project (SEDIP) as well as Project EASE (Effective and Affordable Secondary Education). SEDIP is a seven-year foreign assisted project, jointly funded by Asian Development Bank and the Japan Bank for International Cooperation.

Open High School System. The DepEd has adopted the Open High School System, another mode of formal education which aims to provide students an opportunity to finish secondary education either through face-to-face instruction or via distance learning mode. The process involves the use of print such as the Project EASE modules and non-print materials. It puts premium on independent, self-pacing and flexible study to reach learners who are unable to start or complete secondary education due to problems of time, distance, education design, physical impairment, financial difficulties or family problems.

909. In cognizance of the problems besetting the higher education system in the country, CHED is pursuing various development initiatives or reform strategies. A majority of the development programs and projects of CHED are supported through the Higher Education Development Fund anchored on four major thrusts outlined above, namely: quality and excellence; relevance and responsiveness; access and equity; and efficiency and effectiveness.

910. There are a number of program and reform initiatives aimed towards improving access to higher education which currently being implemented in the country.⁵⁶

56 Creation of Technical Panels. The CHED has organized the Technical Panels in thirteen clusters of disciplines. These Technical Panels, composed of experts, senior specialists, and academicians or practitioners, assist CHED in setting standards for programs and in monitoring and evaluating these programs and institutions. The CHED also created Regional Quality Assessment Teams (RQATs) in various disciplines or fields, which assists the Regional Offices in assessing the quality of the program offerings of HEIs in the region. The members of the CHED RQATs are likewise experts in their disciplines from the academe, industry or professional associations. Both the Technical Panels and the RQATs are serving on an on-call basis. In addition, a mechanism for institutional monitoring and evaluation for quality assurance (IQuaME) of the outcomes of the programs, processes, and services of Higher Education Institutions was established by virtue of CEB Resolution No. 201-2005. The CHED Office of Programs and Standards and the CHED regional offices in coordination with the Office of the Executive Director implement the institutional monitoring and evaluation. Technical working groups and pool of assessors were also constituted to support project implementation.

Grants for Higher Education Research. Research is one of the three (3) major functions of higher education institutions (HEIs). In support of its mandate to promote research in higher education, the Commission on Higher Education (CHED) produced the ten-year National Higher Education Research Agenda (1998-2007). This document provides the policies, strategies, priorities and procedures as well as guidelines on the research environment required to promote, encourage and support research in Philippine colleges and universities public and private. Technical, logistics and financial support are provided by CHED to improve the research capacities of HEIs. Other than the research capacity building program, CHED also addresses the need to support the publication and promotion of quality research through the following intervention programs: research publication and advocacy; Integrated Research Utilization Program (IRUP); research managements; and the establishment of the Research Management and Information System (RMIS).

EO 330 mandates the adoption of the Expanded Tertiary Education Equivalency and Accreditation Program (ETEEAP) as an integral part of the educational system and designates CHED as ETEEAP's implementing agency. ETEEAP is an educational assessment scheme, which recognizes knowledge, skills and prior learning obtained by individuals from non-formal and informal education experiences. After completing the equivalency and accreditation procedures, the successful applicant is awarded equivalent credits and an appropriate academic degree by the CHED deputized higher education institution.

Budget for education

911. The education sector enjoys the biggest budget allocation of about PhP 112 billion or 12.35 per cent of the 2005 annual budget of the Philippine government. 88.11 per cent of which was allocated for Personal Services (PS), 7.79 per cent for Maintenance and

Formulation of Minimum Standards. With the assistance of the Technical Panels, CHED has been formulating and revising minimum standards for the various undergraduate and graduate programs. Such standards spell out the minimum requirements in terms of curriculum, faculty and staff, physical facilities, laboratories and equipment, library facilities, research and extension program, etc. These minimum standards for the different programs are promulgated as CHED Memorandum Orders (CMOs). Compliance with the minimum standards is used as a gauge in determining the quality of program-offerings of HEIs.

Upgrading of Graduate Education. CHED has been implementing the policy of vertical articulation where in the offering of new graduate programs across all the higher education disciplines. Per CMO No. 36, s. 1998, Level III accreditation of undergraduate programs is a major requirement of CHED in granting permit to private HEIs to open new graduate programs except in cases when CHED believes that the opening of programs will contribute significantly to the development of high-level manpower in undersubscribed and critical disciplines.

Level III accreditation of undergraduate programs is now also a major consideration in the granting of government recognition in the programs.

Identification of Centers of Excellence. CHED is strengthening public and private HEIs which have consistently exhibited qualities indicating excellence in instruction, research and extension through the establishment of Centers of Excellence (COEs) and Centers of Development (CODs) in thirteen clusters of disciplines.

CHED, through its HEDF provides financial assistance to the identified COEs and CODs in the form of student scholarships, faculty and staff development, research grants, instructional materials development, library and laboratory facilities upgrading and conduct of networking activities. The idea is to focus resources on few institutions offering quality higher education programs. For their part, COEs and CODs are expected to act as role models and share their resources or expertise and provide assistance to other higher education institutional within their geographic area.

Grant of Autonomous and Deregulated Status. CHED recognizes the enormous contribution of private HEIs in the growth and prominence of tertiary education in the country. The task of supervising these private HEIs is formidable and demanding. CHED decided to rationalize its supervision of private HEIs by granting autonomy and deregulated status to deserving private colleges and universities. By virtue of CHED Resolution

Number 151-2001, CHED rationalizes its supervision of private HEIs by granting autonomy and deregulated status to deserving private colleges and universities with corresponding benefits.

Improving Faculty Qualifications. The quality of faculty is one of the determinants of the quality of education. CHED requires that every faculty member should have at least a master's degree in the field in which they teach.

With the hope to upgrade the academic qualifications of tertiary faculty to masters and doctorate degree, CHED offers scholarships grants for thesis/non-thesis master's programs to be undertaken on campus/via distance learning on a full/part-time basis through its Faculty Development Program (FDP).

Other Operating Expenses and 4.10 per cent of which was allocated for Capital Outlay.

912. The DepED budget has an average growth rate of 7.18 per cent over the past 10 years, 1995-2005. For 2002-2004, government spending on education grew at an annual average of 4.5 per cent. The 2004 budget for basic education increased by PhP 10.8 billion or an increase of about 11 per cent from the 2001 level of PhP 98.2 billion. While this appears generous, 89 per cent of the budget goes to salaries and other personnel benefits while expenditures for developmental purposes (e.g., attendance to training programs, purchase of instructional materials, conduct of institutional supervision) are derived from its maintenance and other operating expenses budget at seven per cent. On the other hand, classrooms and instructional equipment, including computers for teaching and learning purposes are obtained from the capital outlay at four per cent.

913. However, its share in total expenditures declined from 13.24 per cent to 12.35 per cent during the period 2003-2005. Further, the amount spent per child per year (roughly US\$ 150) is one of the smallest in the region (compare this to US\$ 950 per child that Thailand spends).

914. The basic education sub-sector continues to take on the bigger chunk of the education budget in line with the government's commitment for free and compulsory elementary education and free education.

915. In terms of spending for each educational level using FY 2005 as basis, DepED allocated 1.89 per cent for preschool education, 48 per cent for elementary education, 45.24 per cent for secondary education and .55 per cent for alternative learning systems.

System of education

916. The structure of formal education in the Philippines consists of the following three levels:

Elementary education - the first level, provides basic education, which traditionally is of six or seven grades. Generally elementary education is categorized into two levels: the primary level, which covers the first to the fourth grades and the intermediate, which includes the fifth to the sixth or seventh grade. Preschool education is adjunct to elementary education consisting of nursery and kindergarten schooling (reference may be made to par. 429 on ECCD).

Secondary education (high school) - the second level is a continuation of the basic education, which is

provided at the first level. It is expanded to include learning and training in basic employable skills. This covers a period of four years of formal schooling.

Tertiary education (higher education) - the third level provides prescribed courses of studies, which are credited towards degrees in academic disciplines or professions.

Building of new schools

917. School-buildings, which are funded by the Government under the General Appropriations Act (GAA), are built by the Department of Public Works and Highways. For CY 2005, the budget for school building constructions and/or repairs/rehabilitations was divided into two implementing agencies - the DPWH and the DepED. The latter, as provided in the special provisions of the GAA, will concentrate in the construction of new classrooms for areas experiencing acute classroom shortage or those schools that fall under the "red" and "black" zone of the Basic Education Information System (BEIS).

918. Local government units are also responsible for the construction and repair of classrooms and school buildings located within their jurisdiction. Under Sec. 272 of the Local Government Code, LGUs shall apply the proceeds of the Special Education Fund for the operation and maintenance of public schools, construction and repair of school buildings, facilities and equipment, educational research, purchase of books and periodicals, and sports development as determined and approved by the Local School Board.

919. Under the CY 2005, budget for school building particularly that of the DepED portion, the LGUs were given the 2nd priority in the implementation of the SBP next to the NGOs.

920. Legislators, through their Countrywide Development Fund (CDF), also assist in the building of new classrooms. The CDF or Priority Development Assistance Fund refers to funds given to the members of the Senate and the House of Representatives which the members of these bodies could use to fund projects within their jurisdiction. Ideally, legislator fund projects that would have the most impact on the lives of their constituents - those aimed at improving health, alleviating poverty, or upgrading the quality of education. Under the Country Wide Development Fund of the Legislators, a total of 1,075 new classrooms were built for the period of January to December 2005.

921. Under the Third-Elementary Education Project classrooms for elementary schools are built b

the DepED's principals and school heads in the 22 depressed provinces. TEEP provides technical and financial assistance to LGUs in the construction and rehabilitation of school buildings in the depressed provinces of the country. Seventeen (17) of these were identified by the SRA, while the other five (5) were chosen by the Presidential Commission to Fight Poverty.⁵⁷ The TEEP has already built a total of 5,230 new classrooms and repaired 14,534 existing ones.

922. There are several other programs being implemented by the Government which aim to fill the gap in the need for classrooms.⁵⁸

57 These include the following provinces: Luzon: Kalinga, Apayao, Abra, Batanes, Mountain Province, Ifugao, Benguet, Aurora, Masbate; Visayas: Antique, Negros Oriental, Romblon, Capiz, Eastern Samar, Leyte, Southern Leyte, Biliran, Guimaras; and Mindanao: Agusan del Sur, Surigao del Sur, North Cotabato, Zamboanga del Sur.

58 In 2003, the DOLE launched the Classroom Galing sa Mamamayang Pilipino Abroad (CGMA) project. The project aims to alleviate the classroom shortage in the country through the construction of 25 classrooms in needy public schools. The project draws its funds from contributions received from overseas Filipino workers (OFWs) association and communities across the Middle East, Asia, Europe, and US. The project is under the Kabayanihan Program of the Overseas Workers Welfare Administration (OWWA) of DOLE. The DOLE, is being assisted by its partner agencies, the Federation of the Filipino Chinese Chamber of Commerce and Industry, Inc. (FFCCCII), and the Departments of Education (DepED) and Foreign Affairs (DFA). As of 31 March 2005, more than Php62 million in donations by overseas Filipino workers (OFWs), corporations, and philanthropists worldwide has been received by the CGMA project for the construction of 310 classrooms in selected public elementary and high schools nationwide. The CGMA Project has already completed a total of 185 new classrooms for CY 2005. Overall, this project has already accomplished a total of 234 new classrooms, which represents 74 per cent of their targets of 315 new classrooms.

The DepED also promotes the Adopt-A-School Program which is aimed at generating private sector support for the public basic education system. The Program yielded donations valued at over Php270 million from September 2002-January 2004. Donor assistance came in the form of classroom construction; teaching skills development, provision of basic school resources, including textbooks; computer and science laboratory equipment and school-feeding programs for children.

In May 2003, the DepED launched the Brigada Eskwela (School Brigade) to mobilize community support. This is a school maintenance project that involves time, labor and resources volunteered by the community for the rehabilitation and maintenance of classrooms, laboratories and multipurpose workshops. Since its launching, the number of participating elementary and secondary schools increased from 13,600 in 2003 to 16,086 in 2004. In May 2004, a total of 278,170 parent-volunteers joined the program and undertook rehabilitation and maintenance activities. In May 2005, a total of 20,563 public schools (17,861 elementary and 2,702 high schools) participated in the project.

The Armed Forces of the Philippines (AFP), through the AFP Engineers', also assists in the building of schools. The AFP's involvement in the building of schools has resulted in the construction of 220 school buildings for 2002 and 155 school buildings for 2003. The AFP targets the construction of an additional 48 school buildings for 2005. To date, the AFP has constructed 589 new classrooms out of its target of 802 new classrooms in selected areas under school-less barangays project.

Schooling schedules and curricula

For primary education

923. The school calendar for elementary students was lengthened from 185 to 200 days beginning 1993. In addition, the daily student contact hours for critical subjects were increased. In particular, learning time has been increased in English in Grades I and II from 60 to 80 hours; and Mathematics in Grades I to III from 40 to 60 minutes. Science and Health was introduced in Grades I and II and given a time allotment of 40 minutes.

924. In 2003, DepED introduced the Basic Education Curriculum (BEC). BEC decongests the overcrowded curriculum by reducing the learning areas to five (5) - Math, Science, English, Filipino and Makabayan (Patriotism) - and increasing time on these areas. Values is integrated in all subject areas.

Secondary education

925. The high school curriculum likewise focuses on the following learning areas -English, Science, Mathematics, Filipino, and Makabayan. High school math shifted from the spiral system that introduced all math subjects in every level to the linear, sequential approach where only Elementary Algebra is taught in 1st year, Intermediate Algebra in the 2nd year and Geometry in the 3rd year.

926. Integrative and interactive teaching-learning approaches are stressed. These are characterized by group learning and sharing of knowledge and experiences between teachers, between teachers and students and among students. For instance, under the old curriculum, English teachers prepared lesson plans for English and values teachers prepared for values education. Under the BEC, the English and Values Education teachers work together on their lesson plans.

Question No. 5. Equal access to education

5.a. Ratio of men and women making use of the different levels of education

927. Schooling data for SY 2003-2004 showed that girls have higher participation rates than boys at elementary (82.59 per cent vs. 80.88 per cent) and high school (51.19 per cent vs. 42.97 per cent) In terms of completion rate for SY 2003-2004, girls still emerged to be at an advantage over boys at both elementary (66.86 per cent vs. 57.76 per cent) and secondary (63.7 per cent vs. 48.77 per cent) levels.

928. With more females successfully completing high school and generally more predisposed to schooling, higher education is still female-dominated. In SY 2001-2002, females comprised 55 per cent of total enrollees. The graduation figures for SY 2000-2001 showed greater disparity as 60 per cent of those who graduated were females.

929. The entry of females into several of the "traditionally" male-dominated disciplines have steadily continued. Female enrollees (SY 2004-2005) in the fields of agriculture, forestry, fishery, veterinary medicine; and mathematics and computer science comprised 49 per cent and 57 per cent, respectively. The participation of women in the military and police academy has also increased.

930. In TVET, the total number of graduates for SY 2002-2003 indicated an almost equal distribution between females (48 per cent) and males (51 per cent). The same can be said of total enrollment based on SY 2003-2004 data, which showed a 49:50 per cent female-male share. However, regional enrollment data suggested uneven degrees of disparity. In the National Capital Region, for example, females outnumber males 14:10 while Region II, the opposite was noted with female-male ratio of 6:10.

5.b. Vulnerable and disadvantaged groups

931. The urban and rural poor as well as members of indigenous cultural communities are the most disadvantaged groups in terms of access to education services.

932. The ongoing socio-political integration of the indigenous cultural communities (ICCs) into the national mainstream is perceivably slowed down by, among others, illiteracy. The low literacy rate, in turn, is attributed to the scarcity of schools where these ICCs live.

5.c. Measures undertaken to guarantee equal access to education

933. As for those persons who have not received or completed the whole period of their primary education, there are different programs and projects, which are being implemented by the Bureau of Alternative Learning System (BALS). Such programs and projects include Nonformal Education Accreditation and Equivalency System, Mobile Teacher Project, Basic Literacy Thru Service Contracting Scheme Project and the Balik-Paaralan Para sa Out-of-School Youth Adult Project.

934. Functional literacy programs, which are geared toward increasing the numerical ability and communication skills of the population, are also being implemented for out-of-school youths and adults in hard-to-reach areas on a wider scale. Reference may be made to par. 749.

935. The Government also administers the Philippine Education Placement Test (PEPT) for the benefit of those who would want to continue with their schooling after stopping for a number of years. PEPT is a paper-pencil test which measures and accredits the non-formal learning experiences of the out-of-school youths so that they can qualify for re-entry and placement into the formal school system.

936. The Expanded Tertiary Education Equivalency Accreditation Program (ETEEAP)⁵⁹ is a comprehensive program of identifying, assessing and assigning equivalent college-level learning acquired from non-formal and informal training and related work experience towards the final granting of equivalent credits and/or awarding of appropriate academic degree. The Panel of Experts from the academe, industry and professional assesses and determines the level and extent of competencies of the applicant and the competence enhancement/supplementation for completion of the academic program requirements. There are at present 88 institutions (64 private higher educational institutions and 24 state colleges and universities) deputized to implement the ETEEAP and 50 baccalaureate degree programs and 20 graduate degree programs offered under the ETEEAP. Beginning 1999 until 2005, 1,947 students have graduated under ETEEAP.

For children of indigenous communities

937. For members of indigenous communities, Section 3 of the Indigenous Peoples Rights Act of 1997, RA 8373 provides that indigenous cultural communities shall have equal access. In this regard, the Government grants assistance programs to deserving indigenous peoples through the Select Ethnic Group Education Assistance Program and provides them with adult education programs, which includes basic reading, writing and mathematics classes.

938. The DepED is also enjoined to develop and institute an alternative system of education for children of indigenous communities, which is culture-specific and relevant to the needs and existing situation of their communities.

⁵⁹ EO 330 mandates the adoption of the ETEEAP as an integral part of the educational system and designates CHED as ETEEAP's implementing agency.

939. Confronted with the severe lack of teachers and classrooms compounded by the distance of the schools from their homes, many children in remote sitios and mountainous communities in Mindanao are not able to proceed and finish either primary or elementary education.

940. To respond to this, the Basic Education Assistance for Mindanao (BEAM) was conceived. BEAM is a DepED project funded by the Government of the Philippines and the Government of Australia.⁶⁰

941. For Muslim children, the DepED, beginning SY 2005-2006, implemented the Madrasah Education. The offering of the Madrasah curriculum is in accordance with DepED Order 51, s. 2004 which highlights Madrasah education as a vital component of the educational system that enhances national unity. Included in Madrasah curriculum, in addition to regular subjects of English, Mathematics, Science, Filipino and Makabayan, are lessons in Arabic language and Islamic values.

Educational development of children in situations of armed conflict

942. Republic Act No. 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, seeks to ensure the survival and protection of children in situations with ongoing armed hostilities. Under the law, the Government ensures the delivery of basic services, provides physical and psychological recovery services, and protects and promotes the rights of children in situations of armed conflict. Among the activities undertaken under the

60 BEAM aims to improve access to formal education in Mindanao. The project introduces distance learning as an approach to the delivery of classes, more particularly for remote and isolated communities. To ensure that these pupils will be able to proceed without having to walk and attend the daily classes in the nearest elementary public school (on the average a daily hike of 2-4 hours), classes are delivered right in their homes through a distance learning strategy. Self-paced learning materials for all the core-learning subjects in the normal grade level were developed for use of these pupils. Mobile teachers who were trained in the delivery of the instructional materials visit the children enrolled in the program on a weekly basis. The pupils are given self-paced learning modules for the week and are aided by trained local para-teachers. The self-instructional materials are also made culturally relevant to the IP children by indigenizing some of the contents and learning strategies while they remain consistent with the standard curricula requirements. BEAM's current plans for support to Muslim education focus on addressing key elements of DepED's recently released "Roadmap for Upgrading Muslim Basic Education" - a special program for the comprehensive educational development of Muslim Mindanao. A key objective of the roadmap is enhancing the capacity of the ulama/asatidz (madrasah teachers) as professional teachers particularly in the areas of English language proficiency, pedagogical skills and content mastery.

program includes training of day care workers on ECCD and psychosocial interventions; production and distribution of kits on early childhood enrichment program; conduct of parent effectiveness seminars; training of community health volunteers; health and nutrition classes for mothers; training on critical incident stress debriefing for parents and care givers; and provision of safe water and sanitary facilities.

Access to educational opportunities to poor but deserving tertiary level students

943. To provide wide access to educational opportunities to poor but deserving tertiary level students in quality schools and priority courses programs, the Philippine Government administers and funds several scholarship programs.⁶¹

5. Linguistic facilities

944. Bilingual education in the Philippines is defined operationally as the separate use of Filipino and English as the media of instruction in specific subject areas. As embodied in the DECS Order No. 25, Filipino shall be used as medium of instruction in social studies/social sciences, music, arts, physical education, home economics, practical arts and character education. English, on the other hand is allocated to science, mathematics and technology subjects. The same subject allocation is provided in the 1987 Policy on Bilingual Education, which is disseminated through Department Order No. 52, s. 1987.⁶²

61 These are the following scholarship programs: State Scholarship Program; National Integration Study Grant Program; Selected Ethnic Group Educational Assistance Program; CHED-DND-NPUDC Grant Program for MNLF Officer Integreees; OPAPP-CHED Study Grant for Rebel Returnees; Private Education Student Financial Assistance Program; Study-Now-Pay-Later Plan Program; Student Loan Program for the Bicol Region; Student Loan Program for Centers of Excellence; CHED Scholarship Program for Bright Mindanaoan Muslim; Student Scholarship Program in BSED Major in Science and Mathematics for Selected State Colleges and Universities; College Faculty Development Program; CHED Special Study Grant Program for Congressional Districts; College Faculty Development Program; Post Baccalaureate Scholarship Program for College Faculty Members from the Underserved Islands Off Luzon; CHED-Supported Second Congressional District of Davao Oriental Scholarship Program; and UP-CHED Scholarship Program.

62 The policy on Bilingual Education aims towards the achievement of competence in both Filipino and English at the national level, through the teaching of both languages and their use as media of instruction at all levels. The specific goals of the Bilingual Education Policy are as follows: enhanced learning through two (2) languages to achieve quality education; the propagation of Filipino as a language of literacy; development of Filipino as a linguistic symbol of national unity and identity; the cultivation and elaboration of Filipino as a language of scholarly discourse, that is to say its continuing intellectualization; and the maintenance of national language for the Philippines and as a non-exclusive language of science and technology.

945. However, the regional languages are to be used as auxiliary languages at the primary level. Three (3) major lingua francas - Tagalog, Cebuano and Ilocano - are used in teaching basic literacy and numeric skills for Grades I and II students. This is pursuant to the Lingua Franca Project, which was developed to test how the children may be taught in the local language prevalent in the region as a medium of instruction. The project includes the production of instructional materials in the vernacular. Furthermore, under the Basic Literacy Project, basic literacy learning materials were translated into seven major dialects.

946. At the tertiary level, the language policy is embodied in CHED Memorandum Order (CMO) No. 59, s. 1996, which provides: language courses, whether Filipino or English, should be taught in that language; and at the discretion of the higher education institution, literature subjects may be taught in Filipino, English or any other language as long as there are enough instructional materials for the same and both students and instructors/professors are competent in that language.

Question 6. Conditions of teaching staff at all levels

Teacher training

947. To ensure that there are sufficient teachers and to enhance their competence and quality of teaching, Centers of Excellence in Teacher Education to handle pre-service training were established. These centers were put in place pursuant to RA 7784 Excellence in Teacher Education Act to further ensure quality education for all children.

948. Teachers in public and private elementary schools must have earned at least a bachelor's degree in elementary education. Secondary school teachers are expected to have earned a bachelor's degree in secondary education with specialization (major or minors) in secondary school subjects. Both degrees must be earned in approved teacher education courses at recognized institutions.

949. Faculty qualifications in higher education have improved in terms of per cent age of collegiate faculty with masters degrees from 25.7 per cent in 2000 to 29.88 per cent in 2003. Faculty with doctorate degrees likewise increased from 7.5 per cent to 9.21 per cent for the same period.

950. All teaching degree programs are four years in length. Non-education graduates may complete an 18-unit Certificate of Professional Education program in order to qualify as primary or secondary teachers.

After completion of these programs, the students are required under RA 7836, otherwise known as Teachers Professionalization Act, to take the Licensure Examination for Teachers to qualify them to teach both in the elementary and secondary levels.

Upgrading teacher competencies

951. The DepED regularly conducts in-service training for teachers at the division and regional levels. District and school learning action cell sessions are also regularly held to continuously improve the teachers' managerial and instructional skills.

952. The National Educators Academy of the Philippines (NEAP) responds to the demand for professional competence as well as management and leadership excellence in the educational community. To fulfill its mandate, NEAP focuses on the following three (3) components: the training and development component; program and development component and, research and development component.

953. The annual search for the most effective public elementary and secondary schools has contributed to enhancing the capabilities of administrators and teachers in the school system. Criteria used are (1) highly motivated learners; (2) competent and highly committed teachers; (3) capable and dynamic managers; (4) adequate and wholesome learning environment; (5) harmonious school-parent community relationships.

Salaries of teachers

954. The minimum gross basic monthly salary of public school teachers in the elementary and secondary school is Php 9,939.00 (US\$183.21).⁶³

Question No. 7. Proportion of schools privately owned and administered

63 Soldiers in the Armed Forces of the Philippines receive higher salaries. A public school teacher with the 1st Teacher 1 (entry level) only receives a gross pay of Ph 9,939 (\$183.21) monthly, as mentioned above, which is equivalent to a private's salary. A chief master sergeant on the other hand has the same salary as the District Supervisor II of DepED. The master sergeant need only be a high school graduate while DepED supervisor and principals have masteral degrees. In addition, an Assistant Professor 1 at the college level belongs to the same salary grade of a Chief M/Sgt and District Supervisor II (salary grade 18) and consequently receives a gross monthly pay of Php 15,841 (\$292). A cadet of the Philippine Military Academy belongs to Salary Grade 19 and receives an even higher "subsistence allowance" than the District Supervisor who, aside from being an MA degree holder, has served the government for at least 15 years.

955. As mentioned above, for SY 2006-2007, there are 42,160 elementary schools in the country, 4,668 of which are privately owned and administered. During the same period, there are 8,059 secondary schools, 3,331 of which are privately owned and administered. 956. As mentioned above, for SY 2005-2006, there are 1,647 higher education institutions in the country, of which 1,465 are privately owned and administered.

Article 15

Question No. 1. Measures adopted to realize the right of everyone to take part in cultural life

957. Republic Act No. 7356 provided for the creation for the National Commission for Culture and the Arts (NCCA). The Commission acts as the overall policy-making and coordinating body that systematizes national efforts towards the development, preservation and promotion of culture and the arts.

958. The Commission is composed of 12 representatives from the government sector and 3 representatives from the private sector. The three representatives from the private sector are elected heads of the three subcommissions, viz., Subcommittee on Cultural Heritage, the Subcommittee on the Arts, and the Subcommittee on Cultural Dissemination.

959. It bears mentioning that in addition to the three subcommissions mentioned above, the Commission has the Subcommittee on Cultural Communities and Traditional Arts.⁶⁴

960. The NCCA supervises six (6) attached cultural agencies namely, the Cultural Center of the Philippines, the National Museum, the National Historical Institute, the National Library, the National Archives, and the Commission on the Filipino Languages.

64 "The Subcommissions. The Commission shall oversee the operation and maintenance of National Committees under the following Subcommissions: (a) Subcommittee on Cultural Heritage, which shall cover but will not be limited to the following areas: libraries and information services; archives, museums, galleries, monuments; and sites, and historical research; (b) Subcommittee on the Arts, which shall cover but will not be limited to the following areas: literary arts, visual arts, architecture, dramatic arts, broadcast arts, musical arts, dance and film; (c) Subcommittee on Cultural Dissemination, which shall cover but will not be limited to the following areas: language and translation, cultural events, cultural education and information; (d) Subcommittee on Cultural Communities and Traditional Arts, which shall cover but will not be limited to the following areas: Agta culture and art, cultures and arts of Northern cultural communities, Southern cultural communities, Muslim cultural communities, and lowland cultural communities."

961. The Cultural Center of the Philippines is the national center for the performing arts. It is mandated to promote excellence in the arts through the initiation and implementation of activities that aim to improve and elevate standards among cultural workers, artists and audiences and to recognize the multiplicity and differences of aesthetic experiences and standards encompassing the arts from grassroots to those formulated by academy-trained artists. It houses several venues for the performing arts as well as areas for both permanent and changing exhibits. It serves as home for the country's premier performing arts groups such as the Ballet Philippines, the Philippine Philharmonic Orchestra, Tanghalang Pilipino and others.

962. The National Museum is tasked with the preservation, conservation and protection of movable and immovable cultural properties and for the enjoyment of present and future generations. As an educational institution, it disseminates scientific and technical knowledge in more understandable and practical forms through lectures, exhibitions, interviews and publications for students and the general public. As a scientific organization, it conducts basic research programs combining integrated laboratory and field work in anthropology, archaeology, botany and zoology. It maintains reference collections on these disciplines to promote scientific studies in the Philippines. As a cultural center, the National Museum has taken the lead in the study and preservation of the nation's rich artistic, historic, and cultural heritage.

963. The National Library serves as the country's premier repository of printed and recorded materials which reflect the intellectual, literary and cultural heritage of the Philippines as well as the knowledge and wisdom of peoples elsewhere in the world. While acquiring and maintaining a comprehensive national collection of library resources, the Library promotes access to these research and information materials and makes them available for the use of the present and future generations of Filipinos.

964. The National Historical Institute (NHI) was created in 1972 to integrate the diverse functions of various historical agencies. NHI is responsible for the conservation and preservation of the country's historical legacies. Its major thrusts encompass an ambitious cultural program on historical studies, curatorial works, architectural conservation, Philippine heraldry, historical information dissemination activities, restoration and preservation of relics and memorabilia of heroes and other renowned Filipinos. The NHI continues to undertake the commemoration

of significant events and personages in Philippine history and safeguard the blazoning of the national government and its political divisions and instrumentalities.

965. The Records Management and Archives Office is the official repository of the nation's permanent records and records of archival and historical value. It is mandated to plan, develop and coordinate government-wide programs, policies, rules and regulations governing the use, storage and disposition of current and non-current records as well as to render assistance to government agencies for the retrieval of vital documents.

966. The Commission on the Filipino Language is tasked to undertake, coordinate and promote researches for the development, propagation and preservation of Filipino and other Philippine languages.

967. Since 2002, initiatives of the culture sector have been focused on the implementation of policies and strategies contained in the Medium-Term Philippine Development Plan for Culture and Arts (MTPDPCA) 2002-2005. There are seven program thrusts identified in the Plan that addresses certain needs in the sector: (a) Culture and Education; (b) Culture and Development; (c) Support for Artistic Excellence; (d) Promotion of Culture and the Arts; (e) Conservation of Cultural Heritage; and (f) Culture and Diplomacy. Towards the end of 2003, the NCCA established the seventh program, i.e., Culture and Peace. These programs were created as the framework for direction and policy development from where project ideas can be developed.

968. The Government also promotes recognition for outstanding Filipino artists through such awards such as the Gawad Manlilikha ng Bayan and the National Artists' Award. Cultural centers, museums, libraries, theatres, cinemas

969. The oldest museum in the country, the University of Santo Tomas (UST) Museum of Arts and Sciences, lays claim to more than 100 years of existence. When UST was setting up its Faculty of Medicine, it had to comply with the prerequisite that it included a Gabinete de Fisica. The Gabinete was to contain what were called *materia medica* - mineral, plant and animal specimens possessing medical properties. Thus, the establishment of the Faculty of Medicine in 1871 is also considered the beginning of the UST Museum.

970. The National Museum started in 1901 as the Insular Museum of Ethnology, Natural History and Commerce

under the Department of Public Instruction by virtue of Act 284 passed by the Philippine Commission. The name was changed in 1903 to Bureau of Ethnological Survey, under the Department of Interior. After the St. Louis Exposition in 1904 the Office was renamed the Philippine Museum. At the moment, the National Museum has 18 regional Museums widely distributed all over the Philippines.

971. Government museums and other centers were built at various levels and opened to introduce the arts to the masses. The CCP Museum opened in 1969 highlighting a collection of Philippine art. The Central Bank Money Museum opened in 1974 to showcase a connoisseur's collection of coins, bills and medals from the Philippines and abroad. The Metropolitan Museum of Manila opened in 1976 to exhibit non-Philippine art. Its sister museum was the Museum of Philippine Art which opened also in 1976, to focus on Philippine visual arts. In 1978, the Museo ng Buhay Pilipino, located in the Central Bank Quezon City Complex, formally opened exhibiting the furniture collection of the D. M. Guevarra Foundation. In 1979, the Intramuros Administration was created through a presidential decree tasked to preserve and revive the culture of Old Manila. The Intramuros Administration is in-charge of a museum complex comprised of the Casa Manila, Museum and the Puerta de Isabel Gallery.

972. Philippine museums have evolved in number, in structure and in the quality of programs and services. There are currently 161 museums in the country. In the National Capital Region there are 56 museums; Northern Luzon has 22 museums; Southern Luzon has 36 museums; Visayas has 36 museums and Mindanao has 11 museums. Organizational structure has not been confined to administrative and curatorial offices but has branched out to education, marketing, public relations, development, extension programs, museum shops and restaurants. Traditional programs of collections management, in-house exhibitions, research and publications have expanded to seminars, concerts, children's activities apprenticeships, training, films and technical exchanges.

973. The latest development in Philippine museums is the emergence of interactive museums and ecomuseums. An interactive museum is based on the concept of allowing the audience to interact with exhibition components to heighten their enjoyment and to facilitate their learning process. Exponents of this format are the Science Centrum and Museo Pambata. Ecomuseums, such as Museo San Isidro de Pulilan, Bahay Nakpil Bautista ng Quiapo, and Museo ng Maynila, are community learning centers that link

the past with the present as a strategy to deal with future needs of the particular society.⁶⁵

974. Museums in the local government levels featuring history and ethnographic collection of the locality were also built. In 1969, the province of Iloilo donated a 2,000 square meter lot on the provincial capitol to house the Museo Iloilo. In 1970, the Benguet Provincial Board formed a committee on culture that established the Benguet Museum. The Cagayan Museum was conceived in 1971 and opened to the public two years later. The Museo de La Union was constructed and completed in 1979 as a repository of the rich cultural and historical artifacts gathered in the province of La Union. The Museo Iloko was restored by the Philippine Tourism Authority in 1981.

975. Military and police museums were formed to boost the morale and strengthen the military machinery. In 1974, the Philippine Air Force Museum, the Philippine Constabulary-Integrated National Police Museum and the Western Police District Museum were established. The Philippine Navy Museum was inaugurated in 1978 in Cavite City while the Philippine Army Museum opened in 1979 in Fort Bonifacio.

976. Early initiative for a corporate museum was shown by the Ayala Museum of Philippine History and Iconographic Archives. The concept of the museum was to provide a visual tour of Philippine history under one roof. Thus, intricately executed dioramas of the 60 most important historical events in the country were assembled. The Museum, a project of the Filipinas Foundation Inc. was established in 1967.

977. The Folk Arts Theater was built in 1974, while the Philippine International Convention Center was built in 1976. The Film Center was built seven years later in 1983 to accommodate the Manila International Film Festival.

Preservation and presentation of mankind's cultural heritage

65 The Museo San Isidro de Pulilan was established in 1997 by a youth organization "to serve as a unifying factor for the people of Pulilan, the repository of their artifacts, the educator of their youth, the center for its intellectual and cultural development...to participate in the continued, sustainable and meaningful development of Pulilan." Bahay Nakpil Bautista ng Quiapo was soft-opened to the public in 1997 "to serve as a venue in teaching culture and history that would instill civic responsibility, aesthetics, cultural stewardship and positive values for the community". Museo ng Maynila was inaugurated in 1997 "to create a center that shall engender heritage consciousness for the city's inhabitants, a house that serve as a repository for historical and cultural relics of value, and a haven for the pantheon of local heroes."

978. The preservation of major monuments of Philippine culture - the Ifugao Rice Terraces, Spanish colonial period churches, art deco buildings, ethnic architecture - is a major challenge and has been attended to in a limited way. There is great urgency in cultural heritage preservation, calling for the enactment of a National Heritage Law and systematic cultural heritage preservation work.

979. The NCCA has projects which aim to support research and documentation of historical and cultural sites and landmarks, events and personalities in the different regions of the country.

980. In recognition of the importance of the preservation and protection of intangible heritage, the NCCA also supports projects for the retrieval of ethnic literature; documentation of traditional Filipino music, chants and dance; and promotion through publications and media broadcast of Philippine cultural traditions.

981. The NCCA supports conservation of cultural properties, movable and immovable giving priority to those endangered by destruction, and especially those UNESCO declared World Heritage Sites. NCCA supports a program which aims to protect the landmarks of the Filipino achievements and creativity, while at the same time promote cultural tourism. This shall include technical assistance for the restoration of built structures, conservation and restoration of paintings and other works of art, preservation of works on paper; actual restoration work; improvement of local museums; partial funding for the establishment of new museums; and the enhancement of cultural tourism. Technical assistance is also extended to the establishment of local museums and centers for culture, libraries and archives, including the development and upgrading of the skills of the staff.

982. The NCCA encourages young people to learn and appreciate the culture and the arts of their community. Thus, the NCCA supports the Schools of Living Traditions (SLTs), which aims to support establishment of training activities in order to transfer knowledge and skills from the masters to the other members of the community, especially the youth, as a way of preserving traditions. The program also support festivals (traditional arts and rituals) as way of reviving various community rituals and exhibition of the arts and crafts of the different cultural communities. From 1995 to 2003, the NCCA approved the creation of 30 SLTs, 13 of which have already been completed; with eight currently ongoing and nine for implementation in 2004.

983. A three-year action plan has been formulated for the preservation of the Huhhud Epic of the Ifugaos, which was cited by UNESCO as one of the Masterpieces of the Oral and Intangible Heritage of Humanity. The Darangan Epic of the People of Lake Lanao in Mindanao was also submitted to the UNESCO for nomination and inclusion in the UNESCO Memory of the World Registry as an outstanding masterpiece of oral and intangible heritage of humanity.

Special interventions for Muslim Mindanao

984. In terms of initiating special interventions for Mindanao, the program for culture and peace was crafted and is being implemented to address the need to provide assistance to projects that advocate peace, particularly in Mindanao regions. The Program is based on the belief that cultural dialogue has a key role in the peacemaking process. In a similar view, projects promoting peace and national unity in Mindanao were undertaken. Most of the activities were in support of indigenous festivals, workshops aimed at helping the members of communities develop cultural programs, cultural exchange programs, and strengthening the networking of the NCCA in the regions.

985. One major undertaking being done by the NCCA is to provide support for the Mindanao Natin Project spearheaded by the Office of the Presidential Adviser on the Peace Process, particularly on the Mindanao Youth Peace and Development Advocacy Component, which is being done in coordination with the National Youth Commission, Office of Muslim Affairs, NCIP, Philippine Sports Commission and DSWD.

Legislative structure and judicial decisions

986. Sections 14 to 18 of Article XIV of the Constitution pertain to the State's obligation to preserve, protect and enrich the nation's historical and cultural heritage.⁶⁶

66 Sec. 14 provides, "The State shall foster the preservation, enrichment and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic expression. Sec. 15, reads, "The arts and letters shall enjoy the patronage of the State. The State shall conserve, promote and popularize the nation's historic and cultural heritage and resources, as well as artistic creations. Sec. 16 states, "All the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition." Sec. 17 provides, "The State shall recognize, respect and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institution. It shall consider these rights in the formulation of national plans and policies." Sec. 18 states, "(1) The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, scholarships grants and other incentives and community cultural centers and other public venues. (2) The State shall encourage and support researches and studies on the arts and culture."

987. The Philippines has enacted a number of laws which aim to promote and protect its cultural heritage, viz., Cultural Properties Preservation and Protection Act (RA 4846), National Museum Law (RA 8492), National Historical Commission (RA 4368), Law Creating the National Commission for Culture and the Arts (RA 7356), Sites and Shrines (PD 260) and Archeological Reservations in Cagayan Valley (PD 1109) and Archeological Reservations in Kalinga Apayao (RA 4368).

988. In 1997, the Supreme Court invalidated the alienation of Manila Hotel, a historic site, to foreign interests. In *Manila Prince Hotel v. Government Service Insurance System* (3 February 1997), the Court held that Manila Hotel has become part of the national patrimony and in the sale thereof, preference must be given to Filipinos pursuant to Sec. 10 (2), Art. XII of the Constitution. The aforesaid provision states that in the grant of rights, privileges and concessions covering national economy and patrimony, the State shall give preference to qualified Filipinos. According to the Court, the term national patrimony pertains to cultural heritage of which Manila Hotel has become a part.

989. Other Supreme Court decisions pertaining to the protection of cultural heritage are as follows: *Joya v. Presidential Commission on Good Government* (G.R. No. 96541, 24 August 1993), *Army and Navy Club v. Court of Appeals* (G.R. No. 110223, 8 April 1997), and *Manosca v. Court of Appeals* (G.R. No. 106440, 29 January 1996).⁶⁷

Other cultural and development programs

990. Strengthening Social Infrastructure [Capability Building for Local Communities; Community Organizing; Local Cultural Exchange Projects / Intercultural Dialogues; Creation of Local Culture and Arts Councils; and Projects on advocacy for Peace]. The program is intended to assist the community to develop its cultural capabilities and value its

67 In *Joya v. PCGG*, the petitioners questioned the sale by the PCGG of a part of the Marcos wealth which include a collection of the old masters and silverware on the reasoning that they were historical relics and had cultural significance. The Court, however, took note of the certification by the Director of Museum that the objects of the sale do not constitute protected cultural properties. In *Manosca v. Court of Appeals*, the government instituted expropriation proceedings over a parcel of land classified as national historical landmark, it being the birthplace of the founder of the Iglesia ni Cristo. The owner of the land objected saying that the expropriation was not for public use. The Court ruled against the owner on the reasoning that "public use must be considered in its general concept of meeting a public need. The property's historical value justified expropriation."

cultural resources. It provides opportunities for the community to organize themselves, establish network and cooperation towards building a stronger social infrastructure. The program seeks to assist the different cultural communities identify their cultural resources, retrieve its traditions and values, way of governance and celebrate their culture to empower them to assert their significant presence in the Philippine society. It likewise, promotes the creation and sustainability of local culture and arts groups, through the following forms of incentive assistance:

- a) support for organizational development activities such as arts management training, planning, etc.;
- b) programs or projects that will support part of a comprehensive long term development plan.

991. Arts for the Disadvantaged, Outreach Projects; Community Cultural Action. Under this program, assistance and support are given especially to disadvantaged groups, which include the following - landless farmers, fisherfolk, informal sector workers, urban poor, residents of resettlement areas, street children, senior citizens, persons with disabilities, public school students and teachers, government employees. Projects under this program come in different forms.⁶⁸

992. Cultural Tourism. The NCCA assists the Department of Tourism (DOT) and the LGUs in the development of cultural programs and heritages sites in localities with tourism potential and in production of the corresponding promotional materials. This program includes projects such as a regular cultural show; production of brochures or video materials; restoration of historical sites which will enrich tourism activities.

993. Cultural industries. Through this program, the NCCA supports the development of crafts and products which are typical of a community and is an integral part of their culture, including weaving, pottery, bamboo instruments, basketry, music, film.

68 Cultural Tours - support is given to cultural/ educational trips which will expose students and teachers of public schools, government employees, out-of-school youth to centers such as museums, galleries, historical sites, performing arts centers, etc. Support includes vehicle rental and admission fees. Mounting of Artistic Creation - support includes mounting of theatrical productions, musical performances and exhibitions by art groups or individuals from the marginalized sectors, e.g. differently abled groups, out-of-school youth, public schools, etc. Artistic Competition -the Commission organizes competitions that will encourage artistic excellence among the artists in the sector. Training - support includes lecture-demo and workshops on the different art forms. Development of Community Arts Organization -the Commission assists in the establishment of community arts organization in resettlement areas and by out-of-school youth.

994. Culture and governance. [Regional Empowerment; NCCA-DILG-LGU Collaborations; Local Cultural Planning Activities] The NCCA encourages the culture and arts projects of LGUs, particularly those intended to identify and develop talented persons in the locality, to safeguard cultural heritage, and to develop audiences for culture and arts activities.⁶⁹

Education in the field of culture and the arts

995. In the efforts of the NCCA to address the need to enhance cultural literacy among Filipinos, it supports the activities of the Philippine Cultural Education Plan (PCEP). The PCEP is designed to make cultural education accessible to all sectors of Philippines society particularly the youth, the teachers, the artists and cultural workers, officials and employees of the government, members of the media and civil society.

996. The plan resulted in the setting up of the Speakers' Bureau in response to numerous requests from schools, arts council, LGUs, and other cultural agencies, the conduct of trainings and conferences under its cultural enrichment program for teachers and students, and education courses in tertiary level, and the donation of more than 30,000 copies of different publications/books and almost 2,000 electronic materials to public libraries and schools nationwide.

997. Meanwhile, the Institute for Cultural and Arts Management (ICAM) as the educational arm of the NCCA continues to train culture and arts managers in developing their management and technical skills. Training almost 2,500 cultural workers, artists, arts managers, cultural officers of LGUs and private corporations, teachers, and cultural attaches, ICAM has reached many regions in the country since 2003. There are several projects being supported by the NCCA through ICAM.⁷⁰

69 The program includes tours within the Philippines of recognized performing groups supported by the LGU; support to a continuing performing arts season sponsored by the LGUs; technical assistance to local museums, libraries, archives and historical associations; partial sponsorship of publications on the history, culture and arts of the locality, including biographies of persons from the region who received national prominence; assistance in enabling local groups to perform at suitable national events in Metro Manila; and assistance in the scientific study and excavation of cultural heritage sites.

70 (a) Cultural Enrichment Program for Teachers - The NCCA supports the service training of teachers and arts educators in the field of culture and the arts. This program category aims to assist Teacher Training Institutions, the DepEd, Arts Organizations, and other groups in developing and providing continued training program for teachers;...

998. The government also runs a secondary school for artistically gifted and talented adolescents - the Philippine High School for the Arts (PHSA). PHSA implements a special secondary education curriculum and support programs committed to the conservation and promotion of the Filipino artistic and cultural traditions. Established in 1977, PHSA strives to develop the expertise and potentials of young artist-scholars, its faculty, and staff as cultural workers capable of and dedicated to achieving the programs which are focused on the development and enhancement of a truly Filipino orientation.

Role of mass media and communications media in promoting participation in cultural life

999. The NCCA encourages the development of a self-sustaining range of publications and audio-visual materials on Philippine culture and the arts and current forms of cultural and artistic expression for Filipino and international audiences alike. NCCA supports the production of print (e.g. magazines, journals, periodicals, books) and electronic materials (e.g. video and audiotapes, compact discs, video compact discs) on culture and arts as both educational and entertainment materials. The NCCA supports the production radio and television programs in varied formats (game shows, telenovela, talk shows, etc.) which are attractive to general audience and are intended to promote the Filipino history, values, achievements, arts. To service the culture and arts sector, the NCCA maintains a web page to boost Filipino identity and broaden public awareness locally

70 *continued...* (b) Libraries Enrichment - This is intended to assist the National Library and the DepEd to acquire culture and arts library materials to include books, magazines, journals, and audio-video for the public libraries and the libraries of the public schools all over the country; (c) Curriculum and Instructional Materials Development - The program supports projects for curriculum enrichment especially that of the Special School for the Arts, the Education Courses in the Tertiary level, etc. This also aims to encourage production of audio-video and printed materials to aid the teaching of culture and arts related subjects/courses; (d) Audience Development and Cultural Awareness Program - The program aims to support projects, which will promote awareness and develop appreciation for the Philippine culture and the arts among the Filipinos. This may include exhibit-lecture, performance-symposium, and seminar / lecture for a general audience; (e) National Education Program/Training for Cultural Workers - This program is the response of NCCA to the greater responsibility of spearheading the intensive cultural education program [the PCEP] as offshoot of RA 9155. The program supports projects covering any of the following areas: formal education, informal education, and informal education. Strategic thrusts and policy guidelines, and program directions shall be formulated to guide the proponents properly; (f) Research Program - Towards enhancement of the cultural education program, the NCCA encourages and supports scholarly research on the various areas of the Philippine culture and the arts.

and internationally on Philippine culture and arts. This shall include development and maintenance of local and wide area network among the cultural agencies and similar offices to improve access on sharing of Information Technology resources on arts and culture.

1000. Likewise, the NCCA's Filipino Literary Works / Comprehensive Translation Program aim to make Filipino literary works and selected foreign classics accessible to Filipinos and international readers by encouraging translation of works written in other Philippine languages to Filipino and English and vice versa.

1001. The NCCA also assists museums and galleries, libraries and archives, and other similar cultural institutions, government agencies, arts organizations, and schools in the design and mounting of exhibits that illuminate aspects of Philippine culture and the arts.

Question No. 2. Measures adopted to realize the right of everyone to enjoy the benefits of scientific progress and its applications

1002. In 1987, in response to increasing demands for science and technology (S&T) intervention in national development, the Government elevated the former science and technology body to a cabinet level. The cabinet body was named Department of Science and Technology (DOST) and accorded broad policy-making and program implementing functions.

Priority programs of the DOST

1003. The DOST is currently implementing six priority programs to develop competence, enhance competitiveness, and address the needs of the different sectors of society.

1004. Comprehensive Program to Enhance Technology Enterprises (COMPETE). COMPETE aims to spur private R&D initiatives, particularly among small and medium-scale enterprises (SMEs); to enhance public and private sector participation in S&T activities; and to upgrade the facilities and technical competence of government, academic and private sector institutions involved in S&T activities. Accomplishment of this is being done primarily through the establishment of Virtual Centers for Technology Innovation in the areas of microelectronics and information technology.

1005. Integrated Program on Cleaner Production Technologies. The program aims to promote sustainable development and strengthen the competitiveness of the Philippine industries, particularly small and medium

enterprises, by providing technical information and assistance in adopting cleaner production technologies that include waste minimization and pollution prevention techniques. Through the adoption of these industrial practices, Philippine industries will become highly competitive in the global market. The Program has four components, viz., a) policy study on the promotion of cleaner production technology transfer; b) establishment of a center for cleaner production technology development; c) setting up of a regional network for cleaner production technology transfer; and d) the identification of market based and command-and-control instruments for the adoption of cleaner production technologies.

1006. Establishment of a Packaging Research and Development (R&D) Center. The DOST aims to establish a national packaging R&D center that will provide, among others, a common service facility for the use of industry. Through the Center, the Department will offer testing and related services for industry; conduct training programs and information dissemination campaigns; facilitate technology transfer to industry; and develop and maintain regional industry networks on packaging technology and services, particularly for SMEs. The Center is DOST's response to the concern over the low quality and added-value, and lack of competitiveness, of Philippine export products. Through the development of attractive, inexpensive, appropriate and environment-friendly packaging materials, as well as of designs that conform to international standards, the Center aims to make Philippine export products more competitive.

1007. Expansion of Regional Metrology Centers. The DOST is currently developing a pyramidal metrology infrastructure of the country and upgrade the capabilities of public and private calibration laboratories in the regions to match the requirements of the various users. The program aims to provide the framework for promoting metrology awareness and application among all sectors and regions of the country. The Program has four components: a) identification of gaps in the present metrology system; b) the development, through the upgrading and expansion of regional/local calibration laboratories, of a national measurement system; c) the establishment of a metrology training center; and d) the development and adoption of a laboratory proficiency evaluation program.

1008. S&T Intervention Program for the Poor, Vulnerable and Disabled. The program aims to the provide the poor and the disadvantaged sectors of the civil society access to DOST generated/sourced

technologies and science-based approaches to resource management to meet the minimum basic needs and to facilitate technology based-livelihood opportunities through the efficient and effective delivery of S&T services. Through the Program, the marginalized coastal and upland communities, indigenous communities, displaced communities, persons with disabilities and other vulnerable groups will be provided techno-transfer training, technical assistance, higher skill/knowledge acquisition, equipment grant and/or prototyping, and linkages for resource generation, including marketing and financing, integrated with value orientation to provide a wholistic approach to development.

1009. S&T for Mindanao. The program aims to build up the Mindanao region's technological capability in order to boost its long-term attractiveness to investors. It has generated the support and collaboration of various line agencies, and the local governments including some cultural minorities from Mindanao. The Program has two major components: 1) Technology Program for Micro and Small Scale Enterprises; and b) Mindanao S&T Human Resources Development Program. To optimize the use of limited government resources, the Program will focus on four priority sectors, namely: 1) food industry; 2) marine; 3) horticulture; and 4) furniture.

Research and Development

1010. In undertaking and supporting R&D projects/activities, the Department gives priority to those that (a) address the most urgent problems of society; (b) are "use-inspired" or demand driven; (c) enhance private sector participation; and (d) build the competence and long-term capability of the Philippine S&T community. In keeping with the new social contract, R&D activities that promote intergenerational equity (i.e. benefit future generations) will also be given high priority.

1011. The DOST works in tandem with the Department of Agriculture in implementing a comprehensive R&D program under the Agriculture and Fisheries Modernization Act (AFMA). More specifically, the DOST supports R&D aimed at increasing the productivity of the agricultural sector through the application of modern, efficient and appropriate technologies, thus enhancing their competitiveness in the world market and ensuring food security.

Technology transfer and commercialization

1012. The DOST's technology transfer and commercialization program aims to hasten the delivery,

adoption and commercialization of appropriate technologies to farmers and entrepreneurs. Through the program, support is provided for the accelerated development of technology business incubators and S&T parks in order to, respectively, assist in spinning off technologies from the laboratories to industries and provide an environment conducive to industry-academe collaboration for R&D and innovation.

S&T services, testing and calibration

1013. In line with its commitment to improve the productivity and competitiveness of the local industry, the Department is upgrading its calibration, testing and S&T services. This is in line with the MTPDP's objectives of improving product standards and quality, encouraging innovation, and protecting the consumers. The program includes the following components: Manufacturing Productivity Extension Program for Export Promotion (MPEX), Consultancy for Agricultural Productivity Enhancement (CAPE), Municipal Science and Technology Advisory Program (MSTAP), and Science and Technology Experts Volunteer Pool Program (STEVP), and Assistance to Inventors.

1014. MPEX aims to reduce production costs and improve the productivity and profitability of SMEs through the provision of technical assistance and consultancy services. Through the CAPE Program, the Department provides technical assistance to farmers with the end-view of improving farm incomes. Under the STEVP, experts extend free assistance (e.g., training, seminars, workshops, hands-on-demonstration) to organizations, cooperatives and other interested parties in the countryside.

1015. The Department also provides calibration, analytical and testing services to Filipino firms to ensure the quality, safety and competitiveness of their products and to assist them in obtaining ISO Certification.

Disaster preparedness and hazard mitigation

1016. The Department provides timely information, monitoring and prediction services on weather, floods, earthquakes and related natural phenomena. It will also conduct studies such as hazard identification and mapping and vulnerability and risk assessment of potentially active volcanoes, faults and lahars.

1017. The DOST is currently supporting a project that utilizes satellite technology to forecast weather conditions. Efforts are geared toward accurate monitoring and prediction of the location, behavior

and characteristics of a weather phenomenon for warning and public safety purposes. The project, which is being implemented by the Philippine Atmospheric, Geophysical and Astronomical Services Administration, aims to establish the use of satellite data in monitoring Philippine weather systems and conducting continuous weather observations over vast mountain and ocean surfaces and other remote areas. Part of the project's goal is to use satellite technology to predict rainfall and tropical storm intensity that could help in the early warnings of flash floods, strong winds and destructive waves.

S&T human resources development

1018. Pursuant to RA 7687, the DOST provides scholarships to bright young Filipino students, especially those from underrepresented areas. The S&T Human Resources Development Program is the Department's response to the MTPDP's call on the government to "complement its competition (and other) policies by programs aimed at encouraging investment in education and S&T in order to raise Philippine productivity to international benchmarks". It will also train more science and mathematics teachers under the Project RISE (Rescue Initiatives in Science Education).

1019. The DOST also operates the Philippine Science High School System (PSHSS) which is a special public high school. The PSHSS offers scholarships to Filipino students who are exceptionally gifted in the sciences and mathematics, "helping the country reach a critical mass of professionals in science and technology." Graduates of the PSHS are bound by law to major in the pure & applied sciences, mathematics, or engineering upon entering college.

1020. Reference may be made to TVET programs being offered by TESDA as discussed in pars. 148 to 156.

Question No. 3. Difficulties encountered in promoting the right of everyone to take part in scientific progress

1021. The key challenges in S&T and in the mobilization of knowledge for greater productivity and economic growth include the following.

1022. Need to make S&T policies coherent with national development goals. New conditions call for new S&T policies. The key policy challenge is to boost productivity, economic growth and job creation through increased knowledge-intensive economic activities while maintaining social cohesion. Shaping up the Philippine National Innovation System will

require S&T policies that are more focused, integrated to and coherent with other socioeconomic policies. To achieve this, a clear and better understanding of the flows of knowledge and technology among people, enterprises and institutions has to be attained. Mismatches within the system both among institutions and government policies that serve as barriers to innovation have to be identified.

1023. Weak knowledge base. The sociocultural, political and economic environment sets the stage for the formulation of appropriate economic, education, S&T, labor, trade and industry policies that collectively affect the rate with which the country's knowledge base is formed. This, however, is also conditioned by the interaction and collaboration between the academe and S&T community as producers of knowledge, and the industry as users of knowledge. The outcomes of their relationships influence the capacity of the economy to produce products and services for changing market needs.

1024. The following factors indicate the weakness of the country's knowledge base:

- Lack of critical mass of R&D. The country lacks a critical mass of R&D workers as it has only 6,803 scientists and engineers engaged in R&D in 2002, a significant decrease from 39.3 per cent from 1996 level. The decline occurred among government, public higher education and private non-profit institutions. Brain drain contributed to the country's declining number of S&T practitioners. Since knowledge and technologies are mostly embodied in human resources, this points to the urgency of the need to accelerate the development of R&D human resources in the country;
- Underinvestment in R&D. The country's expenditures in R&D amounted to PhP 4.5 million in 2002, only 0.11 per cent of the GDP and far too less than the standard 1 per cent of GDP recommended by the United Nations Educational, Scientific and Cultural Organization for developing countries. While the private sector (private business, private nonprofit and private higher education institutions) already contributes the bigger portion of the R&D investments (64 per cent of the PhP 4.5 billion total R&D expenditures in 2002), there is a need to promote greater R&D investments from both public and private sector;
- Low Number of Scientific Publications and Patents. The low number of R&D personnel in the country would naturally result in lower scientific

outputs. To provide a glimpse of the poor state of S&T in the country vis-à-vis other countries, a comparison of scientific articles published by origin of author in 1999 placed the Philippines at 29th place among the 30 countries included in the Institute for Management Development survey. The Philippines had 146 published scientific articles.

1025. The average number of patents granted to residents of the Philippines from 1998 to 2000 stood at six, placing the country at 28th ranking out of 30 countries. The low number of patents granted is attributed to the lack of government's capital support for patenting as well as the lack of government and public support in the promotion of inventions.

1026. Need to improve the competitiveness of the country's knowledge and S&T workers. The Philippines was ranked 3rd out of the 49 nations in producing knowledge jobs in 2001, up from 8th in 2000, according to the META Group's Global Technology Index (GTI). The GTI is the successor of the Global New E-Economy Index, a cyber atlas that represents an important measure of the economic dynamism and strength, as well as the technological capabilities and potential of each country. However, this is still lower than the country's 1st place ranking in the knowledge jobs category in 1999, which included ranking criteria on senior management, availability of IT skills, and qualified engineers.

1027. The decline of the Philippines from 35th to 39th in the transformation of the country's digital economy in 2001 was attributed mainly to the decline of the number of computers per capita, weak deployment of cellular access and small population of internet users. Meanwhile, the significant drop, from 38th to 45th in technological innovation capacity category was due to the decrease in the number of patents issued.

1028. Poor mechanism for knowledge retrieval/exchange/dissemination. Access to knowledge and technology vital to the development of rural and remote areas in the country is still inadequate and non-existent in many regions of the country.

1029. Need to leverage knowledge for greater productivity and global competitiveness. Knowledge needs to be identified and appropriately packaged to target those who could make the most effective use of knowledge productivity-enhancing technologies. There is the need to intensify content and create knowledge by organizing knowledge networks to document and package best practices with the help of mass media, business, various church groups,

academic institutions, professional organizations, LGUs, and civil society for the use of farmers, fisherfolks, ordinary office and factory workers.

1030. Lack of mechanism/programs to promote and encourage entrepreneurship. To enable micro, small and medium enterprises to a formal, viable, growing businesses, there is a need to start-up incubation centers that would provide technology, in-house credit, legal and marketing assistance to locators; promotion of microfinance for entrepreneurs, streamlined processes for loan application; provision of one-stop shops for marketing support; and provision of training to develop/enhance entrepreneurial skills.

Question No. 4. Measures taken to realize the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic work of which he or she is the author

1031. Republic Act 8293, otherwise known as the Intellectual Property Code of the Philippines, protects the intellectual property of an individual. Intellectual property, under the law, refers to any creation or product of the human mind or intellect. It can be an invention, an original design, a practical application of a good idea, a mark of ownership such as trademark, literary and artistic works, among other things.

1032. The Intellectual Property Code declares it the policy of the State to promote the diffusion of knowledge and information for the promotion of national development and progress. Towards this end, the State aims to streamline the administrative procedures of registering patents, trademarks, copyright, liberalize the registration on the transfer of technology, and enhance the enforcement of property rights in the Philippines.

1033. The intellectual property rights under the Code are as follows:

- Copyright and related rights;
- Trademark and service rights;
- Geographic indications;
- Industrial designs;
- Patents;
- Layout designs (topographies) of integrated circuits; and
- Protection of undisclosed information.

1034. The agency of the government in charge of the implementation of the Intellectual Property Code is the Intellectual Property Office which replaced the Bureaus, namely:

- Bureau of Patents;
- Bureau of Trademarks;
- Bureau of Legal Affairs;
- Documentation, Information and Technology Transfer Bureau
- Management Information System and EDP Bureau; and
- Bureau of Administrative, Financial and Personnel Services.

1035. The Intellectual Property Code is mandated under the law to:

- Examine applications for the grant of letters patent for inventions and register utility models and industrial designs;
- Examine applications for the registration of marks, geographic indication and integrated circuits;
- Register technology transfer arrangements and settle disputes involving technology transfer payments and develop and implement strategies to facilitate technology transfer;
- Promote the use of patent information as a tool for technology development;
- Publish regularly in its own publication the patents, marks, utility models and industrial designs, issued and approved, and the technology transfer arrangements registered;
- Administratively adjudicate contested proceedings affecting intellectual property rights; and
- Coordinate with other government agencies and the private sector efforts to formulate and implement policies to strengthen the protection of intellectual property rights in the country.

1036. The Intellectual Property Code sets the following for the duration of copyright protection of different works in the Philippines:

- Literary works: lifetime of the author and for 50 years after his/her death;
- Applied art: 25 years from the date of creation;
- Photographs: 50 years from publication (published) or from creation (unpublished);
- Audio-visual works: 50 years from publication (published) or from the date of creation (unpublished);
- Sound recordings: 50 years from 31 December which the recording took place;
- Broadcast recordings: 20 years from the date the broadcast took place;
- Copyrights generally last 25 years for corporate works, which include product designs and logos.

1037. The Intellectual Property Code also protects pending copyrights by providing automatic copyrights.

1038. The Code also provides for the "first to file rule" which states that if two (2) or more persons have made the invention separately and independently of each other, the right to the patent shall belong to the person who filed an application for such invention, or where two or more applications are filed for the same invention, to the applicant who has the earliest filing date or, the earliest priority date.

1039. Section 185 of the Code provides for fair use for criticism, comment, news reporting, teaching including multiple copies for classroom use, scholarship, research, and similar purposes of copyrighted material provided the copyrighted work will be evaluated based on the following:

- The purpose of the usage of the copyrighted material to be classified as fair use;
- The nature of the copyrighted work;
- The amount or portion of the copyrighted work being classified as fair use;

- The effect(s) the copyrighted materials has or have on the potential market and the value the item has to enriching the item of which the copyrighted material is being classified as fair use.

1040. Under the Code, moral rights are relatively expansive on the behalf of the copyright holder, which are listed below:

- Attribution;
- The right to be prominently displayed as the creator of the copyrighted material, in any form practical to the work;
- The right to change or even withhold the work from circulation;
- Integrity of ownership;
- The right to object to any alteration detrimental to the name of the creator of the material;
- The right to restraining the use of the creator's name in a work not of his making.

Annex
LIST OF ACRONYMS

AFMA	Agriculture and Fisheries Modernization Act
AFP	Armed Forces of the Philippines
AJD	Agrarian Justice Delivery
ALDA.....	ARC Level of Development Assessment
AMR.....	Annual Medical Report
AO	Administrative Order
APIS.....	Annual Poverty Indicators Survey
ARCs	Agrarian Reform Communities
ARMM	Autonomous Region of Muslim Mindanao
BALS	Bureau of Alternative Learning System
BEAM	Basic Education Assistance in Mindanao
BEC	Basic Education Curriculum
BHS	Barangay Health Stations
BnB	Botika ng Barangays (Pharmacy in the Village)
CAPE	Consultancy for Agricultural Productivity Enhancement
CAR	Cordillera Administrative Region
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CBA	Collective Bargaining Agreement
CBR	Crude Birth Rate
CCHR	Coordinating Committee on Human Rights
CDF	Countrywide Development Fund
CDR	Crude Death Rate
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CELA	Certificate of Entitlement to Lot Allocations
CHED	Commission on Higher Education
CMP	Community Mortgage Program
CPI	Consumer Price Index
CRC	Convention on the Rights of the Child
CSC	Civil Service Commission
CSI - CHED.....	Supervised Higher Education Institutions
CT	Clean technologies
CWC	Council for the Welfare of Children

DA	Department of Agriculture
DAR	Department of Agrarian Reform
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DepEd	Department of Education
DFA	Department of Foreign Affairs
DILG	Department of Interior and Local Government
DOE	Department of Energy
DOF	Department of Finance
DOH	Department of Health
DOJ	Department of Justice
DOLE	Department of Labor and Employment
DOST	Department of Science and Technology
DOT	Department of Tourism
DOTC	Department of Transportation and Communication
DPWH	Department of Public Works and Highways
DSWD	Department of Social Welfare and Development
DTI	Department of Trade and Industry
DTTBP	Doctor to the Barrios Program
ECCD	Early Childhood Care and Development
EHP	Early Harvest Program
EO	Executive Order
ETEEAP	Expanded Tertiary Education Equivalency and Accreditation Program
FIC	Fully Immunized Child
FLEMMS	Functional Literacy Education and Mass Media Survey
FNRI-DOST	Food and Nutrition Research Institute-Department of Science and Technology
GAD	Philippine Development Plan for Women
GDP	Gross Domestic Product
GNP	Gross National Product
GSIS	Government Service Insurance System
GTI	Group's Global Technology Index
HDI	Human Development Index
HDMF	Home Development Mutual Fund
HGC	Home Guaranty Corporation
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
HLURB	Housing and Land Use Regulatory Board

HSRA	Health Sector Reform Agenda
HUCs	Highly Urbanized Cities
HUDCC	Housing and Urban Development Coordinating Council
ICAM	Institute for Cultural and Arts Management
ICC	Indigenous cultural communities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILC	International Labor Organization Convention
IMR	Infant Mortality Rate
IRA	Internal Revenue Allotment
LBH	Local Health Boards
LBP	Land Bank of the Philippines
LGU	Local Government Units
LLDA	Laguna Lake Development Authority
LTHEDP	Long-Term Higher Education Development Plan
LTI	Land Tenure Improvement
LUC	Local Universities and Colleges
MBN	Minimum Basic Need Approach
MMAQISDP	Metro Manila Air Quality Improvement Sector Development Program
MMDA	Metropolitan Manila Development Authority
MMR	Maternal Mortality Rate
MO	Memorandum Order
MPEX	Manufacturing Productivity Extension Program for Export Promotion
MPPE	Multigrade Program in Philippine Education
MSTAP	Municipal Science and Technology Advisory Program
MTPDP	Medium-Term Philippine Development Plan
NCC	National Credit Commission
NCCA	National Commission for Culture and the Arts
NCDPC	National Center for Disease Prevention and Control
NCMB	National Conciliation and Mediation Board
NCR	National Capital Region
NDHS	National Demographic and Health Survey
NEAP	National Educators Academy of the Philippines
NEDA	National Economic and Development Authority
NESSS	National Epidemic Sentinel Surveillance System
NFA	National Food Authority

NGOs/POs	Non-government and people's organization
NHA	National Housing Authority
NHI	National Historical Institute
NHIP	National Health Insurance Program
NHMFC	National Home Mortgage Finance Corporation
NIA	National Irrigation Authority
NLRC	National Labor Relations Commission
NNS	Nationwide Nutrition Survey
NSCB	National Statistical Coordination Board
NSCB-FBS	National Statistical Coordination Board - Food Balance Sheet
NSED	National School Enrollment Day
NTRL	National Tuberculosis Reference Laboratory
NWPC	National Wages and Productivity Commission
OFW	Overseas Filipino Workers
OTOP	One-Town-One-Product Program
PARC	Presidential Agrarian Reform Council
PBD	Program Beneficiaries Development
PCEP	Philippine Cultural Education Plan
PCFC	People's Credit and Finance Corporation
PCHR	Philippine Commission on Human Rights
PCUP	Presidential Commission for the Urban Poor
PEPT	Philippine Education Placement Test
PESO	Public Employment Service Office
PHC	Primary Health Care
PHIC	Philippine Health Insurance Corporation
PHSA	Philippine High School for the Arts
PLEB	People's Law Enforcement Board
PMS	Presidential Management Staff
PNAC	Philippine National AIDS Council
PNP	Philippine National Police
POEA	Philippine Overseas Employment Authority
PPAN	Philippine Plans of Action for Nutrition
PPD	Permanent Partial Disability
PPGD	Philippine Plan for Gender Development
PSHSS	Philippine Science High School System
PSLMC	Public Sector Labor Management Council

PTFWM	Presidential Task Force on Waste Management
PWDs	Persons with Disability
RA	Republic Act
RDA	Recommended Dietary Allowances
RENI	Recommended Energy and Nutrient Intakes
RHU	Rural Health Units
RITM	Research Institute for Tropical Medicine
ROPOA	Real and Other Properties Owned and Acquired
RTI/STD	Reproductive Tract Infection/Sexually Transmitted Disease
RTWPB	Regional Tripartite Wage and Productivity Boards
RuMMEPP	Rural Micro-Enterprise Promotion Program
SARED	Sustainable Agribusiness and Rural Enterprise Development
SEF	Special Education Fund
SHEI	Special Higher Education Institutions
SHFC	Social Housing Finance Corporation
SHNP	School Health and Nutrition Program
SILCAB	Social Infrastructure and Capability Building
SME	Small and medium enterprises
SPES	Special Program for Students
SRA	Social Reform Agenda
SSCD	Social Services and Counseling Division
SSS	Social Security System
STEVPP	Science and Technology Experts Volunteer Pool Program
SUC	State Universities and Colleges
SWS	Social Weather Station
TAWAG	Tuloy Aral Walang Sagabal Project
TBA	Traditional Birth Attendants
TEEP	Third Elementary Education Project
TESDA	Technical Education and Skills Development Authority
TFR	Total Fertility Rate
TTD	Temporary Total Disability
TULAY	Tulong Alalay sa Taong May Kapansanan
TVET	Technical-Vocational Education and Training
TWC	TESDA Women's Center
UDHA	Urban Development and Housing Act
WHSMP	Women's Health and Safe Motherhood Project

5 CESC List of Issues

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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

List of issues to be taken up in connection
with the consideration of the combined
second, third and fourth periodic reports of
the Philippines concerning the rights
covered by articles 1 to 15 of the
International Covenant on Economic,
Social and Cultural Rights (E/C.12/PHL/4)

I. General framework within which the Covenant is implemented

1. Please provide detailed information on the measures adopted to implement the suggestions and recommendations contained in the Committee's concluding observations on the initial report of the State party (E/C.12/1995/7), in particular those

included in paragraphs 25 (concerning the situation of street children), 27 (concerning child labor), 28 (concerning overseas Filipino workers), 31 and 32 (concerning forced eviction and the establishment of an independent body responsible for the prevention of illegal forced eviction).

2. Please provide information on whether the Covenant is regarded as a "generally-accepted principle of international law" in accordance to article 2, Section 2 of the Constitution. Please also indicate whether Covenant provisions have been invoked before, or directly enforced by the courts, other tribunals or administrative authorities. (E/C.12/PHL/4, para. 47)

3. In its decision on the case Simon et. al. v. Commission on Human Rights, the Supreme Court ruled that according to the Constitution, the mandate of the Philippines Commission on Human Rights (PCHR) to investigate all forms of human rights violations is limited to those "involving civil and political rights". Does the protection and promotion of economic, social and cultural rights fall within the mandate of the PCHR? Please provide concrete examples of such occurrences, if any. (E/C.12/PHL/4, paras. 31 and 39-40), (see also paragraphs. 625-628).

4. Please provide additional information on measures taken by the State party to increase awareness among the public at large, and in particular among teachers, judges, police officers and other public authorities, of the provisions of the Covenant. Is there any information on the Covenant available in the minority languages and dialects? (E/C.12/PHL/4, paras. 49-53)

5. Please outline in more details the responsibilities of, and the resources allocated to, the local government units (LGUs) in ensuring the implementation of economic, social and cultural rights at the local level. (E/C.12/PHL/4, para. 15)

6. Please provide detailed information on the mandate of, and the resources allocated to, the National Commission on Indigenous Peoples.

7. Please provide information on whether the State party's bilateral and multilateral trade agreements and policies take into account the obligations under the Covenant. In this regard, please provide detailed information on the measures adopted by the State party to assess the impact that the Japan-Philippines Economic Partnership Agreement (JPEPA) may have on the enjoyment of economic, social and cultural rights, especially with regard to small farmers and fishermen.

8. Please indicate whether civil society organizations have been consulted in the preparation of the report of the State party.

9. Please indicate the position of the State party on the draft optional protocol to the International Covenant of Economic, Social and Cultural Rights.

II. Issues relating to the general provisions of the Covenant (arts. 1-5)

Article 1: The right of self-determination

10. Please provide detailed information on the Indigenous People's Rights Act (IPRA), enacted by the Congress in 1997, and on the progress made, and difficulties encountered, by the National Commission on Indigenous Peoples in the implementation of the Act. In particular, please provide information on the measures adopted by the State party to ensure that the rights recognized to indigenous peoples by the IPRA are not de facto undermined by the implementation of other laws, such as the 1995 Mining Act.

11. Does the State party envisage ratification of the International Labour Organization Convention (ILO)

No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries?

Article 2, paragraph 2: Non-discrimination

12. Please provide detailed information on the measures – legislative or otherwise – adopted by the State party to implement the Constitutional provision guaranteeing equal treatment of all persons before the law and to prohibit all forms of discrimination.

13. Please provide detailed information on the measures adopted by the State party to give effect to the provisions of article 2, paragraph 2, of the Covenant, with particular regard to measures undertaken to eliminate de facto discrimination faced by the most vulnerable groups in society, including indigenous peoples and Muslim persons living in the Autonomous Region of Muslim Mindanao and facilitate their access to equal employment opportunities, clean water and sanitation services, housing, adequate health services, and education. (E/C.12/PHL/4, paras. 58-59)

Article 3: Equal rights of men and women

14. As already requested by the Committee in paragraph 29 of its previous concluding observations please provide updated information on the measures adopted by the State party to repeal discriminatory provisions in national legislation, such as those contained in the Code of Muslim Personal Law (concerning inter alia the minimum legal age to marry and polygamy), and enact a comprehensive legal framework on gender equality. (E/C.12/PHL/4, paras. 407, 409, 415 and 428)

15. Please provide further information on the progress made, and difficulties encountered, in the implementation of the development plans for women adopted by the State party since 1989 with a view to eliminating deep-rooted stereotypes regarding the roles and responsibilities of men and women in the family and society. (E/C.12/PHL/4, para. 73)

16. Please provide information on the mandate of, and the resources allocated to, the National Commission on the Role of Filipino Women. (E/C.12/PHL/4, para. 74)

III. Issues relating to the specific provisions of the Covenant (Articles 6-15)

Article 6: The right to work

17. In addition to the information provided in paragraphs 87 to 93 of the report, please provide

updated information on the measures adopted by the State party to reduce the unemployment rate in the State party, with a particular regard to measures aimed at increasing employment opportunities for young, unskilled and inexperienced workers and persons living in urban areas. (E/C.12/PHL/4, paras.87-93)

18. In addition to the information provided in paragraphs 94 to 99 of the report, please provide updated information on the measures adopted by the State party to tackle the phenomenon of underemployment, with a particular regard to measures aimed at increasing employment opportunities for persons working in rural areas, and especially in the agricultural sector. (E/C.12/PHL/4, paras. 94-99)

19. Please provide further information on the scale of informal economy, and indicate which policies, programmes and mechanisms the State party has adopted to improve social protection for those working in the informal economy. (E/C.12/PHL/4, paras. 164 and 233)

20. Please provide detailed information on the efforts undertaken by the State party to create employment opportunities at the national level and reduce the number of undocumented migrant workers, especially women, that leave the country in search of better employment opportunities abroad. Please also provide information on the concrete measures adopted by the State party pursuant to the Migrant Workers Act of 1995 and the various bilateral agreements concluded with countries of destination to protect the rights of overseas Filipino workers. (E/C.12/PHL/4, paras. 125-127)

Article 7: The right to just and favorable conditions of work

21. Please indicate whether the minimum wages fixed in accordance with the procedures described in paragraphs 195 (ff). of the State party report are sufficient to enable workers and their families to enjoy an adequate standard of living, especially those living in the poorest regions of the country. Please also provide information on the measures adopted by the State party to prevent and punish violations of the minimum wage standards. (E/C.12/PHL/4, paras. 195-214)

22. Please provide detailed information on the implementation of the legislation prohibiting discrimination against women and sexual harassment in the workplace, including information on the number

of complaints brought before competent authorities (including the Committees on Decorum and Investigation established by the Anti-Sexual Harassment Act) and on the penalties imposed on employers. (E/C.12/PHL/4, paras. 140-145 and 215-225)

23. Please provide detailed information on the extent to which persons employed in the various export processing zones (EPZs) existing in the State party enjoy in practice all of their rights under articles 7 and 8 of the Covenant.

24. Please provide detailed information on the measures the State party has undertaken to enforce its national legislation on health and safety at work, and comment on the compatibility of the Labor Standards Enforcement Framework of 2004, which abandons the principle of government labor inspections for workplaces with more than 200 workers, with the right to safe and healthy work conditions, enshrined in article 7(b) of the Covenant. Please also provide updated statistical data on the number of labour inspections carried out, on the number of work-related accidents and illnesses occurred and on the number of prosecutions launched against perpetrators in recent years. (E/C.12/PHL/4, paras. 228-235)

25. Does the State party envisage ratification of the ILO Convention No. 81 (1947) concerning Labor Inspection in Industry and Commerce?

Article 8: Trade union rights

26. Please provide detailed information on the measures adopted by the State party to prevent and punish violations of trade union rights, including updated information on the efforts undertaken to investigate the killings, abductions, and other attacks carried out against several labor leaders and supporters since September 2005.

Article 9: The right to social security

27. Bearing in mind the Committee's general comment No. 19 (2007) on the right to social security, please provide disaggregated data on the number of persons and families entitled to the various social security benefits recognized under the State party's social security system. Please also provide disaggregated data on the number of persons and families who are not covered by the social security system, for example persons working in the informal economy, and on the measures adopted by the State party to ensure, to the maximum of its available resources, an adequate protection from social risks and contingencies. (E/C.12/PHL/4, paras. 312-401)

28. Does the State party envisage ratification of the ILO Convention No. 102 (1952) concerning Minimum Standards of Social Security.?)

Article 10: Protection of the family, mothers and children

29. Please provide information on whether the State party has considered introducing legislation concerning the legalization of divorce [and if not, why].

30. Please provide information on the implementation of the Anti-Rape Law of 1997 and the Anti-Violence against Women and their Children Act of 2004, including information on cases of rape and other forms of violence for which criminal proceedings were instituted and disaggregated data on the number of persons who have been victims of gender-based violence. Please also indicate which measures the State party has adopted to raise awareness among judges, law enforcement agents and other officials on the anti-violence legislation, as well as to provide counseling and temporary shelter to victims of domestic violence. (E/C.12/PHL/4, paras. 432-433)

31. Please provide disaggregated data on the number of street children, as well as information on measures, legislative or otherwise, taken by the State party to protect street children from all forms of violence and sexual and economic exploitation and ensure their access to adequate nutrition, clothing, housing, social and health services and education, as well as to rehabilitation and social reintegration programmes for children victims of violence and abuse. (E/C.12/PHL/4, paras. 450-461)

32. Please provide recent disaggregated data on the number of children working in the State party, as well as on children who have been victims of sexual and economic exploitation. Please also provide information on the implementation of the legislation adopted by the State party to prevent and punish all forms of violence and sexual and economic exploitation against children, including the worst forms of child labor, including detailed information on the number of prosecutions and convictions, and on the sanctions imposed on perpetrators. (E/C.12/PHL/4, paras. 101, 450-461 and 468-473)

33. Please provide updated information on the efforts undertaken by the State party to prohibit corporal punishment in all settings, including in the home.

34. In addition to the information provided in the report, please indicate what effective measures the State party has adopted and implemented to combat the problem of trafficking in persons. Please

provide statistical data, disaggregated on the basis of gender and country of origin, on this phenomenon, as well as information on the number of prosecutions and convictions, and on the sanctions imposed on perpetrators. (E/C.12/PHL/4, para. 462)

Article 11: The right to an adequate standard of living

35. Please provide information on measures taken by the State party to address the high rate of poverty in the State party and to overcome the wide regional disparities between the National Capital Region and the poorest regions of the country, in particular the Autonomous Region of Muslim Mindanao. Does the State party have a plan of action to combat poverty which integrates economic, social and cultural rights, in line with the statement adopted by the Committee on 4 May 2001 on Poverty and the International Covenant on Economic, Social and Cultural Rights? (E/C.12/PHL/4, paras. 492-523)

36. In addition to the information provided in the report, please provide detailed information on the housing situation existing in the State party, including recent statistical data on (a) homeless persons and families; (b) persons and families living in informal settings; (c) persons and families who have benefited from the various Government programmes aimed at ensuring access to adequate housing for members of the most disadvantaged and marginalized groups.

37. According to information before the Committee, more than 14 thousand families have been subject to large-scale evictions during the period January 2006 to September 2007. Please provide detailed information, including recent disaggregated data on the number of affected persons and families, on the extent of this phenomenon, on whether such evictions were carried out in accordance with the safeguards referred to in the Committee's general comment No. 7 (1997) on forced evictions, and on the measures adopted by the State party to ensure the effective implementation of the Urban Development and Housing Act of 1992. (E/C.12/PHL/4, paras. 608-614)

Article 12: The right to physical and mental health

38. Please provide information on the programmes and health policies in place to ensure access to adequate health services, goods and facilities, in particular in the rural areas of the poorer provinces of the State party, and provide statistical data on trained medical personnel, disaggregated by rural and urban areas, and by disadvantaged or marginalized individuals and groups.

39. In addition to information provided in the State party report, please provide detailed information, including recent statistical data disaggregated by provinces, on the main causes of the high maternal mortality rate existing in the State party, and on measures adopted to improve access to sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to accurate and objective information about contraception and family planning methods. (E/C.12/PHL/4, paras. 705-708 and 772-776)

40. Please provide detailed information on the current legal restrictions on abortion existing in the State party. What steps have the State party taken to protect women from pregnancy-related death and morbidity due to unsafe abortion and to prevent discrimination and abuse in post-abortion care facilities?

41. Please provide detailed information on the measures adopted and implemented by the State party to combat the main environmental hazards, such as air pollution, pollution of water sources and solid waste generation, particularly in Metro Manila and in other major urban centers. (E/C.12/PHL/4, paras. 705-708 and 848-851)

Articles 13 and 14: The right to education

42. Please provide information on the measures adopted and implemented by the State party to

provide primary and secondary education to the most vulnerable and disadvantaged groups, including urban and rural poor and members of indigenous communities, as well as to reduce the high drop-out rates existing in the poorest regions, and especially in rural areas, of the country. (E/C.12/PHL/4, paras. 705-708 and 864-877)

43. Please provide detailed information on whether school curricula and textbooks for primary and secondary schools contain sufficient information on the history and culture of the different ethnic and religious groups present in the territory of the State party. Please provide detailed information on measures taken in the field of education to combat racial prejudices and to promote tolerance and friendship among ethnical and religious groups.

Article 15: The right to take part in cultural life

44. Please provide detailed information on the concrete measures adopted by the State party to promote and protect the right of indigenous peoples to enjoy their cultural rights under article 15, paragraph (1)(a) of the Covenant.

45. Please provide detailed information on the measures adopted by the State party to ensure that Muslim persons living in the Autonomous Region of Muslim Mindanao have the right to enjoy their own culture and to profess and practice their own religion. (E/C.12/PHL/4, paras. 984-985).

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6 Government Response to List of Issues

UNITED NATIONS

E



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THE PHILIPPINES* [28 October 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

Question 1. Please provide detailed information on the measures adopted to implement the suggestions and recommendations contained in the Committee's concluding observations on the initial report of the State Party (E/C.12/1995/7), in particular those included in paragraphs 25 (concerning the situation of street children), 27 (concerning child labor), 28 (concerning overseas Filipino workers), 31 and 32 (concerning forced eviction and the establishment of an independent body responsible for the prevention of illegal forced eviction?)

1. The National Program Against Child Labor, 2000-2004 is the program of the Philippine Government to implement focused, community-based, and integrated interventions to reduce the incidence of the worst forms of child labor particularly in hazardous occupations and abject conditions of work. To continue these efforts, a new Philippine Program Against Child Labor for the period 2007-2015 was proposed. Under the new proposed strategic framework for 2007-2015, a national monitoring system against child labor will be installed, with all regions maintaining a regular and reliable database on child labor estimated to affect some four million Filipino children, 2.4 million of them in its worst or most hazardous forms. Among other goals, the initiative also seeks to assist the greater involvement of teachers, social workers, health care providers, law enforcers, prosecutors, parents, families, and other duty bearers in the fight to protect children from the worst forms of child labor and uphold their rights. At the same time, the measure aims to boost the capacity of law enforcers to effectively enforce anti-child labor laws, as well as intensify the organization of Barangay Councils for the Protection of Children hand-in-hand with the DOLE-led "Sagip Batang Manggagawa" ("Save the Child Worker") Quick Action Teams.

2. Strategic policies were also developed to give further emphasis on the protection of the welfare of the vulnerable groups, specifically working children. Republic Act (RA) No. 7610, otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act" prohibits the employment of children below 18 years old under conditions hazardous to life and safety, which unduly interferes with the normal development of children. R.A. No. 9231, otherwise known as the Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, which was enacted in July 2003 amending R.A. 7610. R.A. 9231 strictly prohibits the employment of

children especially in the worst forms of child labor such as slavery, sale and trafficking of children, forced labor including the recruitment of children for use in armed conflict; the use of children for prostitution, pornography, and illegal activities; and work which is hazardous and harmful to the health, safety, and morals of children. Exceptions to R.A. 9231 may be applied only when the children particularly those below 15 years old work under the sole responsibility of their parents or guardians.

3. Moreover, Special protection measures were provided by the government led by the Department of Labor and Employment (DOLE), such as the continuous implementation of the (1) National Program Against Child Labor (NPCL); (2) Philippine Time-Bound Program (PTBP) on eliminating the worst forms of child labor (PTBP in 6 regions, i.e., National Capital Region, Regions 3, 5, 6, 7 and 11); (3) Sagip Batang Manggagawa-Quick Action Team operational in 16 regions. The conduct of 601 rescue operations from 1998 to 2006 led to rescue of 2,161 child laborers, 1,100 of whom were girls in prostitution.

4. The Government, in partnership with various Non-government Organizations (NGOs) provided educational assistance & conducted community advocacy, notably the following: (1) Educational Research and Development Assistance; (2) World Vision Development Foundation; (3) Visayan Forum Foundation; (4) Trade Union Congress of the Philippines; (5) Federation of Free Workers, reaching over 80,000 children from 2003 to 2006.

5. Likewise, the Philippine Children's Ministry Network (PCMN) of the Philippine Council of Evangelical Churches (PCEC) had also been conducting community-based and church-based training on how to prevent and control child trafficking and commercial sexual exploitation.

On issues concerning overseas Filipino Workers

6. The Philippines is among the largest migrant-sending countries in the world. The number of documented Overseas Filipino Workers exceeded the 1 million mark in 2005, registering a total of 1.205 million. The Government of the Republic of the Philippines exerts all possible diplomatic and legal means and resources to assist its distressed migrant workers/nationals abroad. In this regard, The Overseas Workers' Welfare Administration (OWWA) successfully provided comprehensive services and programs for Overseas Filipino Workers (OFWs) and members of their families.

7. To provide workers with social security consistent with the standards set under ILO Convention on the Establishment of an International System for the Maintenance of Rights in Social Security, bilateral agreements had been forged with Austria, Belgium, Canada, Quebec, France, Spain, Switzerland and the United Kingdom. The Philippines is presently negotiating an agreement on Social Security with Republic of Korea.

8. The bilateral agreements cover: a) mutual assistance in the field of social security; b) equality of treatment for nationals of both countries; c) export of social security benefits; and d) accumulation of membership periods in both the host country and the Philippines schemes.

9. The current statistics on Overseas Filipino Workers (OFWs) served by deployed social welfare attaches and social workers for the period 2002 to 2006 of the International Social Welfare Services for Filipino Nationals (ISWSFN) is summarized, as follows:

10. There were 23 social workers deployed as Administrative Assistants to the Labor Attache in Jeddah, Riyadh, Kuwait, Dubai, Abu Dhabi, Taiwan, Hong Kong, Lebanon and Singapore, for the said period. These social workers rendered services to 25,353 clients in various countries for the year 2002 to 2006 as follows:

Number of Clients served per country:		
Jeddah	-	1292
Riyadh	-	3076
Kuwait	-	9190
Dubai	-	2569
Abu Dhabi	-	3586
Taiwan	-	626
Hong Kong	-	2799
Lebanon	-	1399
Singapore	-	816
TOTAL		25,353

11. The nature of these cases involved Human Trafficking, Plight of Deportees, Detainees and Prisoners, Illegal Recruitment, Health Problems, Domestic Cases, Adoption and Travel Clearance Concerns and others.

12. On the other hand, the deployment of social workers on Internship to the International Social Service (ISS) Japan and Hong Kong resulted in 270 clients served in Japan and 2,447 clients served in

Hong Kong, for a total of 2,717 clients served in both countries for the period of 2002 to 2006.

13. The cases covered in ISS-Japan and Hongkong were labor-related, those relating to those accused of crime, visa/travel concerns, trafficked victims, victims of abuse and other family-related problems.

14. Finally, in Malaysia, there were 35,279 clients served for the period of 2002 to 2006. These cases ranged from Human Trafficking, Released Detainees, Prisoners, Illegal Recruitment, Mental Cases, Run-away Domestic Helpers, Battered Wives or Women, Deportees, and others.

On issues concerning forced eviction and the establishment of an independent body responsible for the prevention of illegal forced eviction

15. The Government has established the Presidential Commission on the Urban Poor as the independent body legally responsible for preventing illegal forced evictions, and for monitoring, documenting and reviewing any ongoing or planned forced evictions.

16. Furthermore, under Executive Order 152, the Presidential Commission on the Urban Poor's mandate to protect housing rights and prevent forced eviction was strengthened. It designated the Commission as the sole clearing house for the conduct of activities involving the relocation of the homeless and underprivileged citizens and establishing for the purpose a mechanism to ensure strict compliance with a just and humane mechanism under the Urban Development and Housing Act of 1992.

17. Specifically, it provides for the powers and functions of the Commission, as follows:

(i) monitor all evictions and demolitions, whether extra-judicial or court-ordered, involving homeless and underprivileged citizens;

(ii) require the concerned departments and agencies, including concerned local government units (LGUs), proposing to undertake demolition and eviction activities to secure first from either the PCUP Central Office (in the case of national projects) or from the PCUP Regional Office (in the case of regional or local projects) the checklist, guidelines and compliance certificates on demolition and eviction prior to the actual implementation thereof. Thereafter, they should submit to the PCUP the completed checklist, attested to under oath by the proponent indicating that:

(a) adequate consultations with the affected families have already been undertaken;

(b) adequate resettlement site and relocation facilities are available; and

(c) the provisions of Section 3, paragraph 1 of the Implementing Rules and Regulations of Section 28 of RA 7279 (Pre-Relocation) have been complied with.

(iii) based on the completed checklist, and subject to further verification, issue demolition and eviction compliance certificates to proposed demolitions and evictions involving the homeless and underprivileged citizens;

(iv) investigate motu proprio or upon complaint by any party, any violation of the provisions of Section 28 of RA 7279 or its implementing rules and regulations;

(v) file motu proprio or by way of assistance to any aggrieved party, the appropriate criminal, civil or administrative case against any person or persons found to have violated the provisions of Section 28 of RA 7279 or its implementing rules and regulations;

(vi) recommend to the President appropriate measures for the implementation and enforcement of Section 28 of RA No. 7279 and its implementing rules and regulations, including possible administrative sanctions against national or local government officials who have violated the said law, rules and regulations;

(vii) request any government agency for assistance and necessary information in the discharge of their respective functions under this Order;

(viii) publicize matters covered by its investigation of violations of the provisions of Section 28 of RA 7279 or its implementing rules and regulations, where circumstances so warrant and with due prudence. Provided, however, that the PCUP shall, under the rules and regulations it shall hereafter promulgate determine what cases may not be made public. Provided, further, that any publicity issued by the PCUP shall be balanced, fair and true;

(ix) administer oaths, issue subpoena and subpoena duces tecum, and take the testimonies of witnesses in the course of its investigation;

(x) adopt its own operational guidelines and rules of procedures, as well as rules and regulations not otherwise inconsistent with existing laws, rules and regulations, to effectively carry out its mandate; and

(xi) perform such other function as may thereafter be provided by law or executive issuance.

Question 2. Please provide information on whether the Covenant is regarded as a "generally-accepted principle of international law" in accordance to Article 2, Sec. 2, of the Constitution. Please also indicate whether Covenant provisions have been invoked before, or directly enforced by, the courts, other tribunals or administrative authorities. (E/C.PHL/4, para 47.)

In its decision on the case Simon et. al.. v. Commission on Human Rights, the Supreme Court ruled that according to the Constitution, the mandate of the Philippines Commission on Human Rights (PCHR) to investigate all forms of human rights violations is limited to those "involving civil and political rights". Does the protection and promotion of economic, social and cultural rights fall within the mandate of the PCHR? Please provide concrete example of such occurrences, if any. (E/C.12/PHL/4, paras 31, and 30-40; see also paras 625-628).

18. The case of International School of Alliance of Educators (ISAE) vs. Hon. Leonardo A. Quisumbing, in his capacity as the Secretary of Labor and Employment; Hon. Cresenciano B. Trajano, in his capacity as the Acting Secretary of Labor and Employment; Dr. Brian Maccauley, in his capacity as the Superintendent of International School-Manila; and International School, Inc., G.R. No. 128845, June 1, 2000, is illustrative of this matter. The pertinent portions of the case is hereby quoted, to wit:

(a) "That public policy abhors inequality and discrimination is beyond contention. Our Constitution and laws reflect the policy against these evils. The Constitution 8 in the Article on Social Justice and Human Rights exhorts Congress to "give highest priority to the enactment of measures that protect and enhance the right of all people to human dignity, reduce social, economic, and political inequalities." The very broad Article 19 of the Civil Code requires every person, "in the exercise of his rights and in the performance of his duties, [to] act with justice, give everyone his due, and observe honesty and good faith.

(b) "International law, which springs from general principles of law, likewise proscribes discrimination. General principles of law include principles of equity, i.e., the general principles of fairness and justice, based on the test of what is reasonable. The Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights,

the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Discrimination in Education, the Convention (No. 111) Concerning Discrimination in Respect of Employment and Occupation all embody the general principle against discrimination, the very antithesis of fairness and justice. The Philippines, through its Constitution, has incorporated this principle as part of its national laws."

19. A perusal of the quoted portions of the case shows that the Covenant is regarded as a generally accepted principle of international law. Consequently, the Philippines is guided by the said principle in the conduct of its internal and external affairs as mandated in the incorporation clause of the Constitution.

20. Likewise, the Covenant has been enforced by the courts, specifically in the case of Central Bank (now Bangko Sentral ng Pilipinas¹) Employees Association, Inc. vs. Bangko Sentral ng Pilipinas and the Executive Secretary, G.R. NO. 148208, December 15, 2004, wherein Article 7 of the Covenant has been invoked as one of the basis in the ruling of said case.

21. On the other hand, pursuant to Article XIII Section 18 of the 1987 Constitution, the Commission on Human Rights shall monitor the Philippine Government's compliance with international treaty obligations on human rights. Accordingly, the Commission guarantees compliance of the Philippines in the promotion of economic, social and cultural rights in observance of the International Covenant on Economic, Social and Cultural Rights through its "investigative monitoring activities."

Question 3. Please provide additional information on measures taken by the State party to increase awareness among the public at large, and in particular among teachers, judges, police officers and other public authorities, of the provisions of the Covenant. Is there any information on the Covenant available in the minority languages and dialects? (E/C.12/PHL, paras 49-53).

The Barangay (Village) Human Rights Action Centers (BHRAC's)

22. The Commission of Human Rights of the Philippines (CHRP) instituted the Barangay (Village) Human Rights Action Centers (BHRACs) Program pursuant to Art. 2 Sec. 11 of the 1987 Constitution, designed to empower the ordinary citizen to take the

1 Central Bank of the Philippines

lead in the promotion and protection of human rights at the grassroots level. In support of the program, the DILG issued Memorandum Circular 94-194 enjoining all barangays to pass /adopt a resolution for the establishment of Human Rights Action Centers.

23. On 27 October 1994 Memorandum Circular No. 94- 194 was issued by the DILG Enjoining all the Barangays to Pass/Adopt a Resolution for the Establishment of Human Rights Action Center in Local Government Units.

24. To add impetus, the CHRP in coordination with the Department of Interior and Local Government (DILG) passed Resolution CHR (III) No. A2006-024 dated March 15, 2006 to achieve the following: the speedy setting up of BHRAC's, reactivating idle BHRAC's, appropriating funds and their inclusion in the annual budgets, sponsorship of human rights activities, reproduction of information and education materials, review of human rights action plans; and the monitoring, processing, and documentation of human rights complaints and concerns.

25. To further strengthen and revitalize the BHRAC program, the DILG issued Memorandum Circular No. 2006-45 dated May 11, 2006 restating therein the responsibilities of the Local Government Units to the BHRAC specifically in capacitating the Barangay Human Rights Action Officers (BHRAOs) to be more effective in performing their functions.

26. To provide clear guidelines in the process of selection of BHRAOs, the CHRP and the DILG issued Joint Memorandum Circular No. 1, s, 2006 dated October 6, 2006 on the Guidelines in the Conduct of Election of the BHRAOs in every barangay nationwide.

Accomplishments

27. As of midyear 2008, out of the 41,992 barangays nationwide, a total of 33,784 barangays were able to establish BHRACs (and elect BRAOs), an equivalent of 80.45%.

28. Capability building seminar workshops for BHRAOs were conducted in areas where human rights violations are high, in order to capacitate the BHRAOs to be more effective in performing their functions and to deepen their understanding of human rights.

29. Continuous collaboration is maintained through various Memorandums of Agreement between and among cooperating agencies, namely the Commission of Human Rights of the Philippines (CHRP), the Department of Interior and Local Government

(DILG), League of Provinces/Cities, League of Municipalities, Liga ng mga Barangay (League of Village Associations), as well as Non- Government Organizations such as Soroptimist International Philippines Region (SIPR), Promoting Initiative for Justice and Peace (PRODEM), Ateneo Human Rights Center, among other institutions.

30. The BRAOs, being locally based and/or placed make extensive use of the respective local dialects in the information, education, and dissemination of human rights principles, issues and concerns.

Judiciary

31. The Philippine Judicial Academy (PHILJA), the education arm of the Supreme Court, has particular subjects integrated into its curricula relevant to those espoused under the Covenant. For example, as early as 2001, a seminar on the subject "Philippine Judiciary Workshop on Realizing Economic, Social and Cultural Rights" was conducted with the objective of making the judges-participants a) understand the substance, process and applicability of international norms on economic, social and cultural rights; b) examine administrative and judicial processes in light of basic principles on human rights including state responsibilities under the Convention on the Elimination of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC); and c) understand the role of the judiciary in the application of treaty obligations on economic, social and cultural rights within the context of Philippine laws. Further, in PHILJA'S regular programs, e.g., the "Pre-Judicature Program," topics on human rights, social and economic concepts, orientation on gender sensitivity and protection of children, and the Access to Justice by the poor and marginalized, are mandatory training subjects.

Philippine National Police

32. The Philippine National Police (PNP), in its avowed mandate of promoting and advancing the cause of human rights, including those embodied in the International Covenant on Economic, Social and Cultural Rights (ICESCR), has created the Human Rights Affairs Office (HRAO), which was officially activated on 29 June 2007 pursuant to NHQ PNP General Orders number DPL-07-04 and National Police Commission (NAPOLCOM) Resolution Number 2007-247, both dated 29 June 2007. The HRAO, which is under the Office of the Chief, Philippine National Police (PNP), serves as a management facility that oversees the implementation of the PNP guidelines and policies on human rights.

33. Consistent with the thrust for the promotion and protection of human rights, the PNP under the leadership of former Police Director General Avelino J. Razon Jr, Chief, PNP, further strengthened the police agency's human rights initiatives through Letter of Instruction 55/07 ("PAMANA"), or the PNP Human Rights Development Program. LOI PAMANA, which took effect on 07 December 2007, serves as the blueprint for action on human rights and aims to develop the PNP as a UN-certified fortress of human rights protection. It has four components, namely: Institutional Policy Development on Human Rights; Capability Building; Prevention and Control of Human Rights Violations; and Multi-Sectoral Cooperation.

34. The HRAO spearheaded the implementation of the projects and activities under these components. The following are the various activities undertaken by the HRAO for the period January 1 to August 18, 2008:

A. On Capability Building

(i) Spearheaded and monitored the establishment of Human Rights Desks in all police offices and units. In addition, HRAO consolidated the names and contact numbers of all HR Desk Officers nationwide for easy reference. To date, the PNP has 1,636 HR Desks broken down as follows:

Unit/Office	No. of HR Desk Officers
NOSUs	10
PROs	17
PPOs	79
CPOs	18
MPS/CPS	1,507
NCR Districts	5
TOTAL	1,636

(ii) Administered written examinations on human rights and general police knowledge. The examinations were conducted to determine the level of human rights consciousness among police personnel. So far, results showed that the examinees have a fairly good grasp of human rights, especially among the men in the field since they are directly involved in arrest, investigation, and other police actions. In addition, HRAO has a representative in AGI-ORSITE who will conduct the examination in the regions.

Participants	Date	Place	No. of Participants
NHQ Offices / Directorates	Dec. 10, 2007	Different Directorates	196
Police Protection and Security Group (PPSG) and Police Training Service	Feb. 15, 2008	PPSG Classroom	120
Intelligence Group (IG)	Feb. 16, 2008	IG Conference Room	40
Aviation Security Group (AVSEGRP)	Feb. 27, 2008	AVSE Group Conference Room	47
Students of CIDDC, DIDM	March 7, 2008	PNP Training School	63

iii) Conduct of Human Rights Deepening Seminar. The seminar is designed to enable participants to better understand and appreciate human rights issues in the performance of their duties as servants and protectors of the citizenry.

Participants	Date	Place	No. of Participants
PROs 1-5, NCRPO, HRAO, and selected NSUs	Apr. 9-11 2007	MPC, Camp Camp Crame Quezon City	138
PROs 6, 7, 8	May 26-27, 2008	Cebu City	75
PROs 9, 10, 11, 12, 13, ARMM	Jul. 30-31 2008	Crown Regency Residences Davao City	80
TOTAL			293

(iv) Conduct of special training programs on HR/IHL and other HR components in the following PNP Offices:

Participants	Date	Place	No. of Participants
Police Protection and Security Group (PPSG) and Police Training Service	Feb. 15, 2008	PPSG Classroom	120
Intelligence Group (IG)	Feb. 16, 2008	IG Conference Room	40
Aviation Security Group (AVSEGRP)	Feb. 27, 2008	AVSE Group Conference Room	47
Headquarters Support Service	Feb. 27, 2008	HSS	40
Students of CIDDC, DIDM	March 7, 2008	PNP Training School	63
Crime Laboratory	Mar. 17-18 2008	Crime Lab	45
PNP Comptrollership Officers Course	May 6, 2008	PNP TS	35
PNPA Class '08 (1st batch)	May 20, 2008	PPSG Classroom	56
PNPA Class '08 (2nd batch)	June 3, 2008	PPSG Classroom	36
NCRCIDIU-CIDG	June 18, 2008	NCRCIDU Classroom	20
Legal Service	June 18, 2008	Legal Service	13
Finance Officers Course Class 2008-17	July 2, 2008	Finance Service Classroom	45
Engineering Service	July 7, 2008	Engineering Service	58
PNP Training School	July 9, 2008	PNP Training School	50
Highway Patrol Group	July 24, 2008	HPG Conference Room	15
TOTAL			683

Participants	Date	Place	No. of Participants
Police Protection and Security Group (PPSG) and Police Training Service	Feb. 15, 2008	PPSG Classroom	120
Intelligence Group (IG)	Feb. 16, 2008	IG Conference Room	40
Aviation Security Group (AVSEGRP)	Feb. 27, 2008	AVSE Group Conference Room	47
Headquarters Support Service	Feb. 27, 2008	HSS	40
Students of CIDDC, DIDM	March 7, 2008	PNP Training School	63
Crime Laboratory	Mar. 17-18 2008	Crime Lab	45
PNP Comptrollership Officers Course	May 6, 2008	PNP TS	35
PNPA Class '08 (1st batch)	May 20, 2008	PPSG Classroom	56
PNPA Class '08 (2nd batch)	June 3, 2008	PPSG Classroom	36

(v) Conduct of Training of Trainers on Human Rights. The training would start the process of creating an environment for human rights education within the PNP, as it would empower the participants to be human rights trainers and educators who would be applying the principles and processes of human rights education in relation to human rights work.

Participants	Date	Place	No. of Participants
HRAO, PROs 1-5 and NCRPO	Apr. 12-18, 2008	MPC, Camp Crame, QC	22
PROs 6, 7, 8	May 28-31, 2008	Cebu City	27
PROs 9, 10, 11, 12, 13, ARMM	Aug. 1-5, 2008	Crown Regency Residences, Davao City	41
TOTAL			90

(vi) Conduct of a one-day Human Rights Seminar for 50 police personnel of Quezon City Police District (QCPD) on August 28, 2008 at district headquarters Camp Karingal, Sikatuna Village, Quezon City.

(vii) Conduct of a Law Enforcement Workshop for PNP Senior Police Officers – a 3-day Workshop on International Humanitarian Law and Human Rights supported by the International Committee of the Red Cross (ICRC).

Participants	Date	Place	Attendees
Senior Police Officers from NHQ, PNP, Camp Crame, Selected NSUs and Regional Officers	September 2 - 4, 2008	Tiara Hotel, 7248 Malugay, Makati City	20

(viii) Intensified training and seminar on Human Rights Awareness, Human Security Act, and Writ of Amparo.

Title	Number of Activities	Number of Participants
Human Rights Awareness	623	10,004
Human Security Act	1,453	50,633
Writ of Amparo	1,355	30,690
TOTAL	3,431	91,327

(ix) Published articles on human rights utilizing the centerfold of the PNP Digest in its monthly issue starting November 2007.

(x) Published articles on human rights in the PNP Journal in its quarterly issue since December 2007.

(xi) Activated HRAO webpage in the PNP website in March 2008 and uploaded articles on HRAO projects and activities.

(xii) Produced and distributed IEC Materials on Human Rights in various forms for different target clients:

- (a) Compilation of International and National HR instruments, distributed to participants of HR Training 293
- (b) DVDs of HR Training references 300
- (c) Miranda Doctrine card to HR examinees 210

(xiii) Established the **PNP HUMAN RIGHTS RESOURCE CENTER**, a library of books, periodicals, and other references for use of police personnel in acquiring a deeper understanding of human rights. The Center, which was inaugurated on September 26, 2008, is located beside the HRAO and it is under its administrative and operational supervision. Guest of honor during the occasion was the outgoing Chief, PNP, PDG AVELINO I RAZON JR.

B. Multi-Sectoral Cooperation

35. To enhance stronger cooperation between the PNP and relevant partners from the government, NGOs, and other sectoral groups, as well as international bodies in pursuit of the promotion, protection and fulfillment of human rights principles in the country, the HRAO:

- (i) Launched "HR Time Check" on February 5, 2008 – a focus group of PNP, AFP, DILG, DND, OPAPP, and DSWD to discuss current issues about human rights.
- (ii) The HRAO led the 250-strong PNP contingent in the anti-torture run dubbed "Basta! Run Against Torture (BRAT)! The fun run was organized by Amnesty International Philippines, Philippine Alliance of Human Rights Advocates (PAHRA) and Balay Rehabilitation, Inc. (BALAY). This is the first time that the human rights group invited a uniformed service, this time the PNP, in their human rights activities. Their invitation is an indication of their appreciation of the human rights initiatives of the PNP. The anti-torture-run was held on June 26, 2008 from the UP Oblation to Quezon City Hall in observance of the United Nations International Day in Support of Victims of Torture.

36. The extent of the accomplishments of HRAO as prime mover of the PNP human rights initiatives has propelled the organization to greater heights of consciousness and understanding for the protection and promotion of human rights. The HRAO has gained the support and cooperation of both local and international concerned human rights organizations, enabling it to implement various programs, projects and activities geared towards the realization of the aims and objectives of the PNP Human Rights Development Program.

National Commission on Indigenous Peoples

37. The National Commission on Indigenous Peoples has not come out with any translation in IP dialects of

the ICESCR. However, there are provisions in Republic Act 8371, or the Indigenous Peoples Rights Act (IPRA) which similarly address the economic, social and cultural rights of Indigenous Peoples.

38. The Indigenous Peoples Rights Act has already been translated in local dialects that are commonly understood and spoken by groups of Indigenous Peoples nationwide. These dialects include Tagalog which is commonly understood and spoken by all Indigenous Peoples nationwide; Ilocano which is commonly understood and spoken by Indigenous Peoples in Northern Philippines; Cebuano which is commonly understood and spoken by Indigenous Peoples in Eastern and Central Visayas Region including Western, Eastern, Northern and parts of Central Mindanao; and Ilonggo which is commonly understood and spoken by Indigenous Peoples in Western Visayas and parts of Central Mindanao.

39. The original English version of the IPRA and copies translated in the vernacular are being used as reference materials by the NCIP Central Office, 12 Regional Offices, 46 Provincial Offices and 108 Community Service Centers nationwide in their regular and special Information-Education Consultation (IEC) activities with the Indigenous Cultural Communities as well as with the local government units (LGU's) and other agencies of the government at all levels.

40. Aside from NCIP, Partner Civil Society Organizations also conduct their respective advocacy programs on IP rights and issues dwelling on the economic, social and cultural rights of Indigenous Peoples. The NCIP entered into an institutionalized partnership through a Memorandum of Agreement with the EED-Task Force for Indigenous Peoples, an umbrella organization of non-government organizations advocating for IP rights. The partnership is currently being sustained in the conduct of multi-level and expanded orientations on Indigenous Peoples Rights and Issues with agencies and offices of government to include, among others, the educational sector, judiciary and security agencies, specifically: the Department of Education and the Commission on Higher Education, the Department of Justice and the Supreme Court, and the National Police Commission, Philippine National Police, Department of National Defense, and Armed Forces of the Philippines. The partnership project is designed to ensure that government institutions are well-informed of the rights and issues confronting Indigenous Peoples. It will help surface agency mandates and programs attending to the needs of Indigenous Peoples and for agencies and offices of government to have a good grasp on the rights of Indigenous Peoples to guide them in policy

formulation, planning and program implementation in addressing the concerns of Indigenous Peoples in their respective areas of jurisdiction.

Question 4. Please outline in more details the responsibilities of, and the resources allocated to, the local government units (LGUs) in ensuring the implementation of economic, social and cultural rights at the local level. (E/C/12/PHL/4, para 15).

41. Department of Interior and Local Government

Programs	Total
a) Formulation of Policies on Supervision and Development of Local Governments.....	82,559,000
 Operations	
a) Supervision and Development of Local Governments.....	1,244, 565,000
 Projects	
a) Emergency Response Network (Patrol 117).....	19, 316,000
b) Financial Assistance to Matilde Olivas Hospital in Cagayan	20,000,000
c) Hospital Equipment Assistance Project	248,078,000
 Special programs and activities	
a) Formulation of developmental policies, programs standards by the Bureau of Local Government Development	19,250,000
b) Formulation of policies on supervision, programs and standards by the Bureau of Local Government Supervision	23,431,000
c) Formulation of developmental policies, programs and standards for barangays by the National Barangay Operations Office.....	16,635,000
d) Formulation of new approaches and strategies to improve and enhance the technical capabilities of the local governments by Office of Project Development Service	9,210,000
e) Formulation of policies, plans and programs in the administration of public information by the Office of Public Affairs.....	14,033,000

Field Operations

1. National Capital Region	49,922,000
2. Region I	89,275,000
3. CAR	66,210,000
4. Region II	79,317,000
5. Region III	99,302,000
6. Region IV-A	98,602,000
7. Region IV-B	55,423,000
8. Region V	93,308,000
9. Region VI	106,816,000
10. Region VII	94,675,000
11. Region VIII	107,729,000
12. Region IX	61,892,000
13. Region X	80,783,000
14. Region XI	53,621,000
15. Region XII	57,522,000
16. Region XIII	50,138,000

Question 5. Please provide detailed information on the mandate of, and the resources allocated to the National Commission on Indigenous Peoples.

42. The National Commission on Indigenous Peoples (NCIP) has a total budget of Five Hundred Eighty Seven Million Fifteen Thousand Pesos (PHP587,015,000.00) for Fiscal Year 2008.

43. The National Commission on Indigenous Peoples was created to implement the provisions of the Indigenous Peoples Rights Act. It is mandated to protect and promote the interest and well-being of indigenous peoples with due regard to their beliefs, customs, traditions and institutions. It is the primary government agency that formulates and implements policies, plans and programs for the recognition, promotion and protection of the rights and well-being of Indigenous Peoples with due regard to their ancestral domain and lands, self-governance and empowerment, social justice and human rights, and cultural integrity.

44. As enabling partner and lead advocate, the NCIP envisions genuinely empowered IPs whose rights and multi-dimensional well-being are fully recognized, respected and promoted towards the attainment of national unity and development.

45. The NCIP has 3 major functions: quasi-judicial, quasi-legislative and executive.

46. As a quasi-judicial body NCIP approves and awards Certificates of Ancestral Domain and Land Titles; hears and decides cases arising out of IPRA; promotes the primacy of customary law; maintains Regional Hearing Offices; and, observes its rules and procedures.

47. The NCIP attends to cases involving: ancestral domains and lands; violation of the Free and Prior Informed Consent; violation of employment rights to just compensation and conditions of employment; defacing, removing or destroying cultural sites and artifacts; and, cases involving property rights.

48. As a quasi-legislative body NCIP promulgated the Implementing Rules and Regulation of IPRA. It promulgated and continuously comes out with Operational Guidelines and other issuances to realize the provisions of IPRA.

49. As an Administrative and Executive Body NCIP plans and implements programs, projects and activities while sustaining a human resource component to execute the mandates of the organization. Its programs are focused on: 1) The formulation of policy guidelines, plans and programs; 2) Advocacy and coordination services; 3) Adjudication and legal services; 4) Ancestral domains and lands delineation and titling services; and, Development services.

50. These programs are translated into various projects and activities as follows:

- (a) Delineation and titling of Ancestral Domain/ Ancestral Lands has been prioritized to ensure domains/land security for the IPS
- (b) Formulation of Ancestral Domains Sustainable and Development and Protection Plan (ADSDPP), which serves as the blueprint for development and empowerment of the IPs without compromising the needs of future generation. The sustainable development and protection of the ancestral domain by the Indigenous Cultural Communities themselves is the manifestation of their rights to self-governance and self-determination. To guarantee the exercise, enforcement and realization of these rights, the Indigenous Cultural Communities shall prepare their own ADSDPP in accordance with their customary practices, laws and traditions. The formulation of the ADSDPP is a tool for the empowerment of the Indigenous Cultural Communities towards the fulfillment of the general well-being of the current ICC/IP generation without compromising the needs of future generations. It serves as the blueprint of the IP community for their preferred development agenda.
- (c) Institutionalization of the Free and Prior Informed Consent, which is the consensus of all members of the Indigenous Cultural Communities which is determined in accordance with their respective customary laws and practices that is free from any external manipulation, interference and coercion

and obtained after fully disclosing the intent and scope of the plan/program/activity, in a language and process understandable to the community. The FPIC is given by the concerned Indigenous Cultural Communities upon the signing of the Memorandum of Agreement (MOA) containing the conditions/requirements, benefits as well as penalties of agreeing parties as basis for the consent.

- (d) Establishment of the Indigenous Peoples Consultative Body composed of traditional leaders, the elderly and representatives from the women and youth sectors serves as the voice of the Indigenous Peoples at all levels in relation to their problems, needs, interests and aspirations;
- (e) Institutionalization of the IP Civil Registration System that ensures the rights of IPs to a name, identity and nationality;
- (f) Operationalization of the Educational Assistance Program, which seeks to uplift the educational development of the IPs to be at par with the mainstream Filipinos.

51. The NCIP is composed of seven (7) Commissioners each representing an ethnographic region: Ethnographic Region Cordillera Administrative Region and Region I; Ethnographic Region II; Ethnographic Region III and Rest of Luzon; Ethnographic Islands Group and the Visayas; Ethnographic Northern and Western Mindanao; Ethnographic Region Central Mindanao; and, Ethnographic Region Southern and Eastern Mindanao.

52. Two (2) of the seven (7) must represent the women sector and another two (2) must be lawyers. One (1) of the seven (7) shall be appointed as Chairperson of the Commission.

53. The Commission is headed by the Chairperson. He is assisted by six (6) Commissioners. The Executive Director serves as the Secretariat to the Commission.

54. There are seven (7) bureau offices at the NCIP Central Office which serve as the backbone of the Commission in terms of its support to operations functions. This includes the Ancestral Domains Office, Office of Empowerment and Human Rights, Office on Education, Culture and Health, Office on Socio-Economic and Special Concerns, Office on Planning, Policy and Research, Legal Affairs Office, and Finance and Administrative Office.

55. NCIP maintains twelve (12) Regional Offices, forty-six (46) Provincial Offices, and 108 Community Service Centers nationwide. They all function as the frontline, or operational arms of the NCIP. The total human resource component of NCIP is 1,588.

56. The Medium Term Philippine Development Plan for Indigenous Peoples has served as NCIPs blueprint in operationalizing its mandate for FYs 2004 to 2008.

57. The Organizational Performances Indicator Framework, or OPIF succeeds the Medium Term Philippine Development Plan as NCIPs operational framework in carrying out its mandate. To accomplish its mandate, the NCIP has the following jurisdiction powers and functions as provided in Section 44 Chapter V11 of the IPRA), to wit:

- (a) To serve as the primary government agency through which ICCs/IPs can seek government assistance and as the medium, through which such assistance may be extended;
- (b) To review and assess the conditions of ICCs/IPs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address their role in national development;
- (c) To formulate and implement policies plans programs and projects for the economic, social and cultural development of the ICCs/IPs and to monitor the implementation thereof;
- (d) To request and engage the services and support of experts from other agencies of government or employ private experts and consultants as may be required in the pursuit of its objectives;
- (e) To issue certificate of ancestral land/domain title;
- (f) Subject to existing laws, to enter into contract agreements, or arrangement, with government or private agencies or entities as may be necessary to attain the objectives of this Act, and subject to the approval of the President, to obtain loan from government lending institutions and other lending institutions to finance its programs;
- (g) To negotiate for funds and to accept grant donations, gifts and/or properties in whatever form and from whatever source, local or international, subject to the approval of the President of the Philippines, for the benefit of ICCs/IPs and administer the same in accordance with the terms thereof; or in the absence of a condition, in such manner consistent with the interest of ICCs/IPs as well as existing laws;
- (h) To coordinate development programs and projects for the advancement of the ICCs/IPs and to oversee the proper implementation thereof;
- (i) To convene periodic conventions or assemblies of IPs to review, assess as well as propose policies or plans;
- (j) To advise the President of the Philippines on matters relating to the ICCs/IPs and to submit within sixty (60) days after the close of each calendar year, a report of its operations and achievements;

- (k) To submit to Congress appropriate legislative proposals intended to carry out the policies under this Act;
- (l) To prepare and submit the appropriate budget to the Office of the President;
- (m) To issue appropriate certification as a precondition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned;
- (n) To decide all appeals from the decisions and acts of all the various offices within the Commission;
- (o) To promulgate the necessary rules and regulations for the implementation of this Act;
- (p) To exercise such other powers and functions as may be directed by the President of the Republic of the Philippines; and
- (q) To represent the Philippine ICCs/IPs in all international conferences and conventions dealing with indigenous peoples and other related concerns.

Question 6. Please provide information on whether the State party's bilateral and multilateral trade agreements and policies take into account the obligation under the Covenant. In this regard, please provide detailed information on the measures adopted by the State party to assess the impact that the Japan-Philippines Economic Partnership Agreement (JPEPA) may have on the enjoyment of economic, social and cultural rights, especially with regard to small farmers and fishermen.

58. The Government in entering into bilateral agreements, had always taken into account the socio-economic benefit of small farmers and fishermen, to wit:

- (a) Japan-Philippines Economic Partnership Agreement (JPEPA)- The Japan-Philippines Economic Partnership Agreement (JPEPA) was ratified by the Philippine Senate on 09 October 2008 in line with the Philippines' domestic ratification procedure.
 - (i) With the ratification and consequent entry into force of JPEPA, more Philippine products will enter the Japanese market including fruit wines, small bananas, small pineapples, tropical vegetables and organically-grown vegetables which are produced by small farmers and cooperatives. These are among the products that

Japan had agreed to import from the Philippines once JPEPA becomes effective. The Philippines is not exporting these products to Japan at the moment.

(ii) These products will enjoy zero tariff in Japan immediately.

- (b) Agreement on the Cooperation in the Field of Agriculture and other Related Fields between the Philippines and the People's Republic of China. Corollary to this agreement are the MOUs on Scientific and Technical Cooperation in Agriculture (1978), MOU on Cooperation in Hybrid Rice Technology (1999), and MOU on Cooperation in the Fields of Agriculture, Irrigation and other Related Areas, MOU on Fisheries Cooperation (2004).

(i) One of the important projects under this agreement is the establishment of the Philippines-China Agricultural Technology Center, the first grant project of China to the Philippines, which provided a mechanism for continued cooperation in rice technology and improving the agricultural yield of small farmers and attain rice self-sufficiency for the Philippines.

(ii) The MOUs, inter alia, aim to rehabilitate irrigation facilities in different locations of the country, provide farmers and fisherfolk with post-harvest facilities, modern technology and machinery, advanced technical know-how through technical cooperation in the areas of aquaculture, post-harvest development, coastal fisheries management, marine fisheries conservation, research and education.

- (c) Other agricultural bilateral agreements with other countries like the United States of America, Spain etc., are likewise entered into by the Government with small farmers and fisherfolks as the beneficiaries.

Question 7. Please indicate whether civil society organizations have been consulted in the preparation of the report of the State party.

59. As a founding member of the United Nations and a State Party to the ICESCR, the Philippines is mindful of and respects the rights of all stakeholders in relation to the said Covenant. In preparing its 2nd-4th consolidated reports, Philippine government agencies exerted best efforts in consulting civil society organizations and other key stakeholders. The consultations are essentially thematic and cluster-based. All agencies designated in Administrative Order No. 163 (A.O. 163) agreed by consensus to

spearhead the preparation of the sections covering their respective areas of responsibility in close consultation with government and civil society stakeholders.

Question 8. Please indicate the position of the State party on the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

60. In the spirit of cooperation, which marks its full engagement with the Human Rights Council, the Philippines joined other delegations in forging a consensus on HRC Resolution No. 8/2. The Executive Branch of the Government will endeavor to convene multi-stakeholder consultations soonest to assess the gaps and identify the needs of all the branches of government in relation to the OP-ICESCR.

II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (Articles 1-5)

A. Article 1: The right of self-determination

Question 9. Please provide detailed information on the Indigenous Peoples Rights Act (IPRA), enacted by the Congress in 1997, and on the progress made, and difficulties encountered, by the National Commission on Indigenous Peoples in the implementation of the Act. In particular, please provide information on the measures adopted by the State party to ensure that the rights recognized to indigenous peoples by the IPRA are not de facto undermined by the implementation of other laws, such as the 1995 Mining Act.

Information on the Indigenous Peoples Rights Act

61. The Indigenous Peoples Rights Act (IPRA) or RA 8371 had been acclaimed as a landmark legislation not only for government and civil society but more significantly for the nation's indigenous peoples. The IPRA, as a policy in itself, took more or less a decade before its enactment into law. It was a product of several consultative and participative processes of IPs, civil society, IP advocates and government that provided the basic foundation for its promulgation. Consequently, the Philippines gained commendation from the United Nations, countries, and civil society organizations, for legally recognizing the collective rights of Indigenous Peoples to self-determination, ancestral lands/domains and natural resources and cultural integrity.

62. The IP related provisions of the 1987 Constitution (Section 22, Article II; Section 5, Article XII; and, Section XII, Article XVI) became the basis for the

government to legislate and approve Republic Act 8371 or the Indigenous Peoples Rights Act, a historic legislation which primarily seeks to correct historical injustice, enforce constitutional mandates, and comply with international human rights standards.

63. Basically, the Indigenous Peoples Rights Act recognizes, protects and promotes both the collective and individual rights of IPs. It created the National Commission on Indigenous Peoples. It establishes implementing mechanisms, appropriates funds and other purposes serving the greater interests of Indigenous Peoples.

64. IPRA provides the Indigenous Peoples' with four (4) bundles of rights: 1) The Rights to Ancestral Domains; 2) Rights to Self-Governance and Empowerment; 3) Social Justice and Human Rights; and, 4) Rights to Cultural Integrity.

65. The Rights to Ancestral Domains provides the IP with security of tenure and sustainable use of the ancestral domains/lands. It likewise protects the territorial integrity of the ancestral domains and the general welfare of its owners.

66. Ancestral Domain refers to all areas generally belonging to Indigenous Cultural Communities, is held under a claim of ownership, occupied or possessed by themselves or through their ancestors communally or individually since time immemorial continuously to the present, and is necessary to ensure their economic, social and cultural welfare.

67. Ancestral Domain includes: ancestral lands, forests, pasture, residential, agricultural, hunting grounds, worship areas, bodies of water, minerals and other natural resources.

68. On the other hand, Ancestral Land refers to land occupied, possessed and utilized by individuals, families and clans who are members of the Indigenous Cultural Communities, since time immemorial, by themselves or through their predecessors-in-interest under claims of individual or traditional group membership continuously up to the present, except when interrupted by war, force majeure or displacement by force, deceit, stealth and as a consequence of government projects or other dealings between government and private corporations.

69. The concept of Native Title refers to conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs, have never been

public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest.

70. For the Indigenous Cultural Communities, ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity. Ancestral domains are the ICCs private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. The concept covers sustainable traditional resource rights.

71. The Rights to Self-Governance and Empowerment ensures that indigenous socio-political, cultural and economic rights are respected and recognized. It ensures that capacity building mechanisms are instituted and IPs are afforded every opportunity to participate in decision-making processes.

72. On the other hand, the Rights to Social Justice and Human Rights ensures non-discrimination in all its forms against IPs. It provides the enjoyment of basic human rights norms and standards by the IPs. It ensures that the employment of any form or coercion against IPs/ICCs shall be dealt with by law.

73. And lastly, the Rights to Cultural Integrity ensures the proper documentation, management, preservation and promotion of the historical and archeological artifacts of the IPs including their community intellectual rights, indigenous knowledge systems and practices as well as biological and genetic resources

74. In chapter 11, Section 3h of the IPRA, IPs/ICCs is referred to, "as a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously live as organized community on communally bounded and defined territory, and who have under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have through resistance to political, social, and cultural inroads of colonization, non-indigenous religions and cultures became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include people who are regarded as indigenous on account of their descent from the population which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have

been displaced from their traditional domains or who may have resettled outside their ancestral domains."

Progress Made and Difficulties Encountered on IPRA Implementation

75. As of October 2008 the NCIP was able to accomplish the following:

76. On the Rights to Ancestral Domains: NCIP issued 84 Certificates of Ancestral Domain Titles covering 2,024,312.8252 hectares and 184 Certificates of Ancestral Land Titles covering 6,420.5007 hectares, or an aggregate of 2,030,733.3259 hectares out of the estimated 7, 747, 932.9390 hectares nationwide which is 25% of the total national land area of 30M hectares. On-going AD titling activities covers 3,145,889.3634 hectares. It is hoped that by the end year 2008 NCIP will have titled a total of 5,170,202.1886 hectares which is roughly 67% of the total ancestral domain areas in the country.

77. It was able to facilitate 70 Ancestral Domains Sustainable and Protection Plan with 104 ADSDPPs on-going formulation.

78. On the Rights to Empowerment and Self-Governance: It has constituted 66 Provincial Consultative Bodies nationwide. It is progressively implementing Indigenous Peoples Mandatory Representation in Local legislative Councils and Other Policy-Making Bodies. Indigenous Peoples are currently represented in one (1) Provincial Legislative Council, one (1) City Legislative Council, and fourteen (14) Municipal Legislative Councils. These are pilot areas implemented for the NCIP to come out with a national guideline based on actual applications for massive program implementation nationwide.

79. NCIP has also issued 154 Certificates of Precondition with FPIC and 678 Certificates of Non-Overlap (CNO).

80. On the Rights to Social Justice and Human Rights: NCIP has served 25, 637 Educational Assistance grantees for SY 2001 to 2008; It has been attending to capability building of NCIP and IPCB in documenting and handling Indigenous Peoples Children Involved in Armed Conflict and coordination for Disarmament, Demobilization, Rehabilitation, and Reintegration in their respective communities.

81. It assisted 66, 923 IPs for health services and provided 931 various socio-economic and cultural development projects: livelihood & entrepreneurship, traditional craft and other basic services.

82. It assisted 169 IP community schools; conducted a rapid field assessment on the situation of IP children, youth and women for UNICEF policy formulation and program implementation for its 7th Countryside Program covering the period 2010 to 2014; conducted an IP Women in Peace in Development Program highlighting the role of IP women in peace building and conflict resolution management; and, strengthening the implementation of the IP civil registration system, recognizing the Indigenous Peoples rights to a name, civil identity and nationality in accordance to their customary ways and traditional practices.

83. It has installed 12 Regional Offices; provided 1,656 legal services to clients; and, resolved 295 legal cases.

84. In December 2006, it was designated to be the lead agency in monitoring and reporting State compliance on the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). It was also designated to be a member-agency in the preparation of the Philippine Report for the Universal Periodic Review as well as in the preparation of the National Human Rights Action Plan of the Philippines which is to be founded on State compliance to international human rights commitments.

85. In its commitment to serve not only the interests of Filipino Indigenous Peoples, it helped in the lobbying for the adoption of the UN Declaration on the Rights of Indigenous Peoples and represented the Philippine government during the September 13, 2007 adoption of the instrument by the UN General Assembly.

86. Just recently, the NCIP through its Chairman was elected as one (1) of the 16 expert-members of the United Nations Permanent Forum on Indigenous Issues.

87. On the Rights to Cultural Integrity: NCIP has also been launching projects that seek to preserve and promote the rich and colorful cultures of the Filipino Indigenous Peoples through the educational system and cultural activities. It has also embarked on health and livelihood projects as well as employment in areas usually and predominantly occupied by non-IPs.

88. Specifically, NCIP was able to accomplish the following: 12 pilot projects on Indigenous Knowledge Systems and Practices (IKSPs) documentation in support to policy formulation & legislation; 20 Indigenous Health Knowledge and Practices and use of traditional medicine documented; Ongoing planning and coordination with the National Statistics Office (NSO) for the inclusion of ethnicity variable

in the 2010 census to obtain IP population and disaggregated data on Indigenous Peoples; 13 Cultural Community Festivals staged/supported; 12,617 Certificates of Confirmation (COC) issued for employment, scholarship, travel abroad and for other purposes; ongoing documentation of customary laws; National IP Curriculum for the Alternative Learning Systems in coordination with the Department of Education developed and pilot tested with the Episcopal Commission on Indigenous Peoples-Catholic Bishops Conference of the Philippines (ECIP-CBCP) and, 8 indigenized curricula and 52 learning material developed with IPs and partner stakeholders.

89. Under its Revised Development Plan through its Organizational Performance Indicator Framework Plan (OPIF), the NCIP has focused mainly on the following programs:

(a) Policy, plans, program and guideline formulation:

Documentation of Indigenous Children Involved in Armed Conflict (IP-CIAS) (Art. 2)

Indigenous Knowledge Systems and Practices (IKSP) Documentation in support to Policy Formulations and Legislation (Art.1,150)

Indigenous Health Knowledge and Practice and the Use of Traditional Medicine (Art. 1, 15)

(b) Advocacy and Coordination Services;

- Support to ICC Festival and other cultural integrity-related activities (Art.15)
- IP Education (Arts 1,2, 15)
- Integration of Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) (Art. 1,2,15)
- Confirmation of Tribal Membership through the issuance of Certificate of Confirmation (COC) (Arts. 1,2, &15)

(c) Adjudication and Legal Services:

- (i) Legal Assistance Services
- (ii) Quasi-judicial Services

(d) Delineation and Titling Services that involves the issuance of Certificate of Ancestral Domains Land and Titles (CALTs)

- (i) Issuance of Certificate of Ancestral Domains Title (CADTs) and Certificate of Ancestral Land Title (CALTs) Articles 1,2,&15

(e) IP Development Services that includes

- (i) Social and Cultural Support Services:
 - Educational Assistance Program (Arts. 2, 13, &14)
 - Assistance to Community Schools (Arts 2,13,7 &14)
 - Health Services & Phil health Program enrollment (Art. 2)
 - Livelihood and Entrepreneurship (Art. 2)
 - Delivery of Basic Services
- (ii) Leadership Capability and Skills Training:
 - Constitution and Sustainable Operation of the Indigenous Peoples Consultative Body (IPCB)
 - Appointment of the IPs in Local Legislative Councils and other Policy making Bodies
 - Capability Building on Governance, Peace and Development, Wealth Management and Gender Development (GAD)
 - Assistance to ADSDPP implementation
 - Certificate Precondition and Certificate of Compliance from FPIC

Measures adopted for IPs rights under IPRA are not de facto undermined by other laws such as the 1995 Mining Act

90. The IPRA clearly emphasizes the participation of ICCs/IPs concerned in the protection of their rights and cultural integrity and ensuring that ICCs/IPs benefit on an equal footing from the rights opportunities which national laws and regulations grant to other members of the population (Paragraph e, Section 2).

91. To reinforce IP participation, the NCIP promulgated the Free and Prior Informed Consent Guidelines in 2002, which was amended further in 2006 through the issuance of Administrative Order No. 1, Series of 2006 to enhance its implementation. Finalization of the current Guidelines had undergone a series and massive consultations with the ICCs/IPs civil society organizations, indigenous peoples organizations, the Indigenous Peoples Consultative Body, concerned agencies and offices of government and local government units. The New FPIC Guidelines is again currently being reviewed to further strengthen its implementation. The creation of a Technical Working Group (TWG) from the NCIP and the Episcopal Commission on Indigenous Peoples of the Catholic Bishops Conference of the Philippines (ECIP-CBCP) is underway to review the guidelines. The Chairman of the NCIP has even encouraged the direct involvement of the civil society in the FPIC processes to allay doubts and suspicions of irregularities in the facilitation of activities by the NCIP field personnel.

92. The FPIC is an essential process that manifests the government's recognition of the need to provide leverages for indigenous peoples. It provides for the consensus of all concerned members of the ICCs determined in accordance with their respective customary laws and practices and free from any external manipulation, interference and coercion and which consensus is obtained after disclosing the intent and scope of any project. The FPIC also should be in a process and language understandable by the community (Section g, IPRA). Further, the FPIC strictly enjoins all government agencies not to issue, renew nor grant any concession, license or lease, nor should they enter into any production-sharing agreement, without prior certification from the NCIP that the affected areas do not overlap with any IP/ICC ancestral domain. The issuance of Certification Precondition (CP) is a safeguard mechanism to ensure that IPs rights and interests are protected.

93. With reference to 1995 Mining Act, the IPRA through the FPIC reinforces and further enhances the Mining Act provision of 'prior informed consent in accordance with the customary laws of the concerned ICCs (Section 16, Mining Act of 1995)'. Aside from ensuring genuine ICCs/IPs participation in decision-making processes, the FPIC, among others also ensures just and equitable partnership in environmental management, land use, development, utilization and exploitation of resources within ancestral domains, as well as benefit sharing, between and among the concerned ICCs/IPs and other stakeholders such as the prospective investor, government and non-government organizations, local government unit (LGU) involved in FPIC-related undertakings.

94. As additional measure to strengthen the provision of free and prior informed consent in the Mining Act of 1995, the President signed Executive Order No. 270 which took effect on 16 January 2004 setting the national Policy Agenda on revitalizing mining in the Philippines.

95. The Executive Order is premised on economic, environmental and social principles of responsible mining.

96. In terms of economic principles, the Executive Order emphasizes the critical role of investment and regulatory policies and use of efficient technologies.

97. In terms of environmental principles, the Executive Order places premium on the protection of the environment, safeguarding the ecological integrity of areas affected by mining and the rehabilitation of abandoned mines.

98. Under the principle of social responsibility, continuous and meaningful consultation with stakeholders and equitable sharing of economic and social benefits are viewed as tools to promote and advance sustainable development. This brings us to the next point: what can a revitalized mining industry, which is intended to promote economic, environmental, cultural, social harmony and sustainable development, do to ensure that the rights of Indigenous Peoples are not compromised? To expressly address concerns referring to the protection of the rights of Indigenous Peoples and Communities, the President went further in ensuring the protection of these rights by signing Executive Order 270-A which amended the previous Executive Order 270.

99. This EO 270-A, which signed as far back on 16 April 2004 carries a provision under Section 1, Paragraph (g) that strongly reiterates the rights of Indigenous Peoples. It states, "The ecological integrity of areas affected by mining operation, including biodiversity resources and small-island ecosystems, shall be safeguarded in order to protect public welfare, safety and environmental quality. The rights of affected communities, including the rights of Indigenous Cultural Communities, especially the Free and Prior Informed Consent requirement shall be protected."

100. The Free and Prior Informed Consent of Indigenous peoples is founded upon a clear understanding of the full range of issues resulting from mining activities. As the IPRA provides, FPIC is a mechanism to ensure that "the concerns of all members of the ICCs is determined in accordance with their customary laws and practices free from any external manipulation, interference and coercion and obtained after fully disclosing the intent and scope of the activity in a language and process understandable to the community."

Question 10. Does the State Party envisage ratification of the Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention No. 169)?

101. The Government is still in process of consulting key stakeholders on the propriety of RP ratification of ILO 169. Integral to the consultation process is the determination of the system gaps in existing domestic legislation and possible ways to address these gaps.

B. Article 2(2): Non-discrimination

Question 11. Please provide detailed information on the measures-legislative or otherwise-adopted by the State Party to implement Constitutional Provisions guaranteeing equal treatment of all persons before the law and to prohibit all forms of discrimination.

102. The Philippine Government wishes to emphasize that racial discrimination, as defined under paragraph 1, article 1, of the Convention on the Elimination of All Forms of Racial Discrimination (Convention), is alien to the prevailing mores and culture of the Filipino people. The type of racial discrimination, similar to what was practiced in South Africa when the policy of apartheid was not yet dismantled, has never officially or factually existed in the Philippines, neither in a systemic nor formal nor intermittent nor isolated manner. Hence, there has never been any reference to the existence of a discriminatory policy on racial grounds nor has there been any allegation of instances of racial discrimination as a specific kind of human rights violation in the Philippines, even before or immediately after the Philippines adopted and ratified the Convention on 21 December 1965 and 15 September 1967, respectively.

103. Racial discrimination has never existed among ancient Filipinos who belong to a single racial stock—the Malays. It was in fact the ideological, cultural and socio-economic legacy of a long history of colonialism that brought about the present differences in the levels of development between the majority of Filipinos and those among them who tenaciously cleaved to the indigenous Filipino cultural heritage, i.e., the Muslim Filipinos in the south and the indigenous cultural communities in northern and southern Philippines.

104. Millennia of living and interacting among the various ethno-linguistic groups and cultural influences from abroad have forged a tolerant and democratically-oriented Philippine society, where the selection of one language "Filipino" from among 86 languages and dialects in the country, as the basis for a common national language was done democratically by referendum.

105. While the vast majority of indigenous groups in the Philippines have adopted modern lifestyles, some small indigenous groups chose to maintain their traditional way of life. In recognition of this fact and as an affirmative action to promote and protect the human rights of small indigenous groups in a fast-changing world, the Philippines enacted Republic Act 8371, otherwise known as the "Indigenous Peoples Rights Act (IPRA) of 1997" that seeks to recognize the ancestral domains and lands of small indigenous groups, preserve their distinct cultural identity and promote and protect their human rights, including their means of livelihood.

106. The Philippine Government reiterates once again that it supports the Convention and that racial discrimination as defined therein constitutes a grave

violation of human rights and fundamental freedoms. It also supports the international consensus on the need to prevent the occurrence of racism, racial discrimination and discriminatory practices or policies on racial grounds wherever and whenever they might occur. To this end it adopted and ratified the Convention and enshrined in its Constitution the obligation to respect, uphold and protect all human rights and fundamental freedoms under a regime of law (art. 2, section 11).

107. The enactment of Republic Act 8371, otherwise known as the "Indigenous Peoples' Rights Act (IPRA) of 1997, reinforced the assurance against discrimination or exclusion from development of Indigenous Peoples/Indigenous Cultural Communities (ICCs) and Muslim Filipinos. Said law specifies penal sanctions for violation of its provisions.

108. The Philippine Government therefore maintains that discrimination based on race, color or ethnic origin is non-existent in the Philippines because Filipinos have essentially the same racial and ethnic origins. It is noteworthy to reiterate at this juncture that such practice has never been implemented officially nor is it present in an informal form in the country.

109. Consequently, the following statues were enacted to bolster anti-discriminatory measures, viz:

- (a) Republic Act 8425, otherwise known as the "Social Reform and Poverty Alleviation Act";
- (b) RA 9257 Expanded Senior Citizen's Act of 2003 – For Senior citizens;
- (c) RA 7877 Declaring Sexual Harassment Unlawful in the Employment, Education, or Training Environment and for Other Purposes (Anti-Sexual Harassment Act of 1995);
- (d) RA 6725 An Act Strengthening the Prohibition on Discrimination Against Women with Respect to Terms and Conditions of Employment, Amending for the Purpose Article One Hundred Thirty-Five of the Labor Code , as Amended;
- (e) RA 6955 An Act to Declare Unlawful the Practice of Matching for Marriage to Foreign Nationals on a Mail-Order Basis and for Other Similar Practices, Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefore;
- (f) RA 7192 An Act Promoting the Integration of Women as Full and Equal Partners of Men in Development and Nation- Building and for Other Purposes;
- (g) RA 7322 An Act Increasing Maternity Benefits in Favor of Women Workers in the Private Sector,

Amending for the Purpose Section 14-A of Republic Act 1161, as Amended, and for Other Purposes;

- (h) RA 8353 An Act Expanding the Definition of the Crime of Rape, Reclassifying the same as a Crime Against Persons, Amending for the Purpose Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code, and for Other Purposes;
- (i) RA 9208 Anti-Trafficking in Persons Act of 2003 – For Women and children;
- (j) RA 7277 An Act Providing for the Rehabilitation, Self-Development and Self- Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes (Magna Carta for Disabled Persons) – for persons with disabilities;
- (k) RA 7279 An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establishing the Mechanism for its Implementation and for Other Purposes (Urban Development Housing Act of 1992) — for urban poor;
- (l) RA 8042 An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of the Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes – for migrant workers;
- (m) RA 9344, An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council under the Department of Justice, Appropriating Funds Therefore and For Other Purposes, (Juvenile Justice and Welfare Act of 2006) – For children in conflict with the law;
- (n) RA 9231 Elimination of the Worst Forms of Child Labor Act of 2003 – For children;
- (o) RA 9255 An Act Allowing Illegitimate Children to Use the Surname of their Father – For children;
- (p) RA 9262 Anti-Violence Against Women and their Children Act of 2004 – For women and children;
- (q) Republic Act No. 7610, or "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"
- (r) RA 7309 An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes -- For victims of unjust imprisonment/ detention and victims of crimes;
- (s) RA 7438 Defining Certain Rights of Persons, Arrested , Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violations Thereof – For arrested persons/detainees

110. The Philippines has also made progress in closing the gender gap as it ranked 6th among 128 countries in the 2007 Global Gender Gap Report published by the World Economic Forum. This index was developed measuring four categories – economic participation and opportunity, educational attainment, political participation, and health and survival.

111. In terms of Gender Empowerment Measure (GEM), the Philippines ranks 45 out of 177 countries. Ratio of estimated female to male earned income is 0.61. There are more female professional and technical workers (61% of total) than males. There are also more female legislators, senior officials and managers (58 % of total) than males.

112. The Philippines has a long tradition of women's participatory inclusion and empowerment, in both public and private sectors. Women are well represented in all three branches of government (two presidents have been women) and are also in the police and armed services. Landmark legislation on women, include the Women in Development and Nation-building Act, laws promoting the greater participation of women in the economy, and laws addressing violence against women and children.

113. For 33 years, the Philippine Government, through the National Commission on the Role of Filipino Women (NCRFW) has ensured that policies, plans, structures and mechanisms to sustain gender mainstreaming in government were developed and strengthened. A Framework Plan for Women, a time-slice of the 30-year Philippine Plan for Gender-responsive Development (PPGD), 1995-2025, prioritizes women's economic empowerment, women's human rights, and gender-responsive governance. A Gender and Development (GAD) Budget Policy requires at least 5 percent of national and local government budgets are allocated for programs and services for women and gender equality.

114. At the local level, 63 local government units have enacted GAD Codes and 1,650 local women's or GAD councils have been created. Implementation of programs that address gender issues such as violence against women and women's health services have improved. Regional GAD Resource Centers have been set up in 8 regions to provide technical assistance.

115. The NCRFW and the Office of the Presidential Adviser for the Peace Process (OPAPP) have held joint workshops to forge cooperation among stakeholders in recognizing issues and promoting initiatives concerning gender and peace. NCRFW co-organized with civil society groups a workshop on UN Security

Resolution 1325 on Women, Peace and Security geared towards the formulation of a national action plan to implement the Resolution.

116. With the improved performance of women in formal education, greater attention is now being focused in expanding job options of women through technical-vocational training and non-formal education programs that are implemented by government agencies and NGOs. In the last decade, Filipino women have become increasingly active as men in realizing their economic rights, while being assisted with their childcare and other family responsibilities. They are in all kinds of employment in formal or informal work settings here and abroad. The last decade had seen an increase in the number of women in the labor force with 49% of all women working compared to 79% of men.

117. Filipino women almost equal men in numbers as workers overseas. There had also been a rising percentage of women in management and economic decision-making positions.

118. Landmark laws to eliminate violence against women, such as sexual harassment, rape, trafficking in persons, and domestic violence have been passed. The delivery of government and NGO programs aimed at preventing violence against women has benefited a considerable number of Violence Against Women (VAW) survivors. Performance standards for gender-responsive handling of VAW cases by local officials, police, social workers, health workers, and prosecutors have been developed.

119. The Supreme Court has created a Committee on Gender-Responsiveness in the Judiciary. In support of the Violence against Women and Their Children (VAWC) Act, the Court issued the Rule on Violence Against Women and their Children, which seeks to protect the rights of the family and its members, particularly women and children, from violence and threats to their personal safety and security, and enables the courts to manage and monitor such cases.

120. Government policies that promote women's reproductive health include: promoting Responsible Parenthood; promoting birth spacing of 3 to 5 years from recent pregnancy; respecting 'Informed Choice'; and promoting 'Respect for Life' Health services, including Reproductive Health Services, are devolved by the Local Government Code (LGC) to the local government units (LGU). To date 20 local government units have enacted reproductive health codes.

121. The passage of the MCW will strengthen the national machinery for the advancement of women

and provide it with the authority, decision-making power, and human and financial resources vital to its work to effectively promote gender equality. The Women's Priority Legislative Agenda should receive higher priority in Congress. The NCRFW is also working with government agencies to develop and monitor indicators for the progressive realization of women's human rights.

122. In its efforts to eradicate acts that could incite or would constitute racial discrimination, a legislative bill has been introduced on anti-discrimination in the Lower House of the Philippine Congress entitled, "The Anti-Religious and Racial Profiling Act of 2007" and is presently being considered. This bill is the consolidation of two (2) bills authored by Congresswoman Faysah RPM Dumarpa of Lanao del Sur and described as "Anti-Religious and Racial Profiling Act of 2007" ("Dumarpa Bill") and the Hataman Bill, authored by Congressman Mujiv Hataman of the Anak Mindanao (Child of Mindanao) Partylist and described as "Anti-discrimination Act of 2007."

123. The Executive Branch of the Philippine Government is also lobbying for the enactment of the following legislative bills before the Upper House of the Philippine Legislature, i.e., Philippine Senate: (a) Senate Bill # 1674 and 189, an Act Creating the National Commission on Muslim Filipino defining its powers, functions and responsibilities and appropriating funds therefore or for other purposes, filed on August 10, 2004 by Aquilino C. Pimentel, Jr. in the 13th Congress and on June 30, 2004 by Ejercito Estrada, Luisito Loi P. Estrada respectively; (b) House Bill Nos. 6739 and 1175, an Act Creating a National Commission on Muslim Filipinos, filed in the 14th Congress by Ejercito Estrada, Jinggoy P. on July 3, 2007; Legarda Loren B. on July 4, 2007 and Pimentel, Jr. Aquilino on the same date; (c) Senate Bill No. 284, an Act Amending Executive Order No 122-A, Creating the Office on Muslim Affairs, as amended, filed on June 30, 2004 by Osmena III, Sergio R. otherwise known as an Act creating the Office on Muslim Affairs.

124. It is also noteworthy to cite at this juncture that the Department of Justice and the National Commission on Indigenous Peoples concluded a Memorandum of Agreement on 07 March 2005 to expedite the resolution of cases for alleged violation on the National Integrated Protected Area System (NIPAS) Law and the Small Scale Mining Act, with the purpose of realizing the provisions of the IPRA in recognition of the preferential rights of ICCs/IPs to the natural resources within their ancestral domains/lands.

125. The National Commission on Indigenous Peoples also endeavored to harmonized its policy vis-à-vis the policies of the Department of Environment and Natural Resources (DENR), Department of Agrarian Reform (DAR), and the Land Registration Authority (LRA) to address overlapping concerns. These policy harmonization initiatives include: a) Harmonization of the implementation of IPRA and DENR policies through Joint DENR-NCIP Memorandum Circular No. 1, Series of 2003; b) Temporary Suspension of Land Acquisition and Distribution and AD/AL Titling Activities in Contentious Areas through DAR-NCIP Memorandum Circular No. 15, Series of 2003; and, c) Supplemental Guidelines on the Delineation, Titling and Registration of CADTs and CALTs through LRA-NCIP Memorandum Circular No. 1, Series of 2007.

Question 12. Please provide detailed information on the measures adopted by the State Party to give effect to the provisions of article 2, paragraph 2, of the Covenant, with particular regard to measures undertaken to eliminate de facto discrimination faced by the most vulnerable groups on society, including indigenous peoples and Muslim persons living in the Autonomous Region of Muslim Mindanao. And facilitate their access to equal employment, clean water and sanitation services, housing, adequate health services, and education (E/C.12/PHL/4, paras 54-59.)

126. The National Commission on Indigenous Peoples (NCIP) administers programs for the Indigenous Peoples/Indigenous Cultural Communities (IPs/ICCs) in the country. It has ensured IP land security tenure by issuing 57 Certificates of Ancestral Domain Titles (CADTs) covering 1,116,260 hectares of land, representing 20% of the projected 6 million hectares of Ancestral Domain nationwide. It has also issued 172 Certificates of Ancestral Land Titles (CALTs) covering an area of 4,838 hectares, assisted in the formulation of 21 Ancestral Domains Sustainable Development and Protection Plans (ADSDPP) with 73 ADSDPPs ongoing formulation. NCIP, in partnership with civil society constituted 66 Provincial Consultative Bodies. It also assisted 86,340 Educational Assistance grantees, and provided legal services and various socio-economic and cultural projects.

127. Cases of alleged infringement of IP rights are handled through the application of relevant provisions of the IPRA, the "Rules and Pleadings, Practice and Procedure before the NCIP", the NCIP "Guidelines on Free, Prior and Informed Consent" (FPIC), and the regular existing legal instruments.

128. IPs have rightful access to mainstream governance as well as in exercising their rights to self-

governance. The Local Government Code of 1991 and the IPRA have provisions to address the governance situation of IPs aimed at upgrading their socio-economic development, the provision of adequate educational and health services, as well as guarantee their physical security and welfare.

129. Respecting the rights of IPs/ICCs during armed conflict is specifically provided in Section 22 of IPRA. Tapping authentic and recognized IP leaders and respecting existing leadership structures and peace building mechanisms in peace efforts before, during and after armed conflict as well as the active involvement of IPs in the Comprehensive Peace Agreement with the Government have minimized the impact of armed conflict on IPs/ICCs.

130. Section 25 of the IPRA on basic services clearly provides for the rights of IPs to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security.

131. The NCIP for this purpose has implemented several economic, health, and training projects. For the Year 2007 alone, it has provided 165 livelihood, entrepreneurial and socio-economic projects and 29 traditional craft projects to support IPs/ICCs throughout the country. For access to health and training services, the NCIP implemented IP Community Early Childhood Care, Health and Nutrition Posts, IP Day Care Services and the conduct of Medical and Dental Missions.

132. Moreover, Section 21, Chapter V of the IPRA reiterates non-discrimination of IPs/ICCs. It underscores the due recognition of IPs/ICCs distinct characteristics and accords to them the same rights, protections and privileges enjoyed by the rest of the citizenry. Further on, Paragraph d, Section 2 of IPRA also provides that 'the State shall guarantee that members of the ICCs/IPs ...shall equally enjoy the full measure of human rights and freedoms without distinction and discrimination.

133. One parallel program of the NCIP in ensuring the above provisions of the ICESCR and IPRA towards non-discrimination among IPs/ICCs is the confirmation of tribal membership. This program is aligned to Republic Act 8551 or otherwise known as the Philippine National Police Reform Act providing automatic grant of height waiver to members of IPs/ICCs entering the police force. To this effect, the NCIP issues Certificate of Confirmation (COC) to confirm membership of IPs/ICCs to a certain tribe as certified by Council of Elders,

leaders or the equivalent traditional leadership structure one claims to belong. For the Year 2007, 1,696 applicants for National Police Commission height waiver were confirmed membership to IPs/ICCs and issued COCs.. This number is more or less 50% of the total number of COCs issued of 2,300 in Year 2007. The rest applied for other purposes like local employment, Scholarship, Bureau of Jail Management and Penology (BJMP), Bureau of Fire Protection (BFP), Armed Forces of the Philippines (AFP), Philippine Drug Enforcement Agency (PDEA), Philippine Navy (PN), Philippine Army (PA), Philippine Merchant Marine Academy (PMMA), Philippine Coast Guard (PCG), Philippine Air Force (PAF) and travel abroad to name a few.

134. Another measure to mitigate non-discrimination of IPs/ICCs, is the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP). The ADSDPP, developed by the IPs/ICCs themselves, when integrated to local and national development plans can serve as a measure to bridge the gap of exclusion for IPs in local and national development agenda. At present, the NCIP has facilitated 18 ADSDPPs. Notwithstanding the Medium Term Development Plan-IP (MTPDP-IP) 2004-2010, the ADSDPPs will represent a valid and complementary plan for IPs.

135. Furthermore, groundwork has been laid for measures to mitigate discrimination of IPs/ICCs even during armed conflict. With special focus on IP Children Involved in Armed Conflict (IP-CIAC), the NCIP has conducted public fora on the rights of IPs/ICCs during armed conflict (Section 22, IPRA) in at least three locations namely in the Provinces of Basilan in Mindanao, Samar in Region V and in Alaminos City in Ilocos Region.

136. Common to Basilan and Samar public for a was the conduct of the IP-CIAC Forum participated in by representatives of LGUs, Provincial Social Development Office, Philippine National Police, OPAPP, Philippine Commission on Human Rights, children involved and affected including NCIP personnel who sponsored the activities. While in Alaminos, participants were NCIP focal persons on IP-CIAC, human rights and empowerment concerns. Three participants from each region (at least 1 from the community service center and provincial office) were in attendance during the Alaminos activity. The activity was a 3 day orientation workshop were NCIP focal personnel leveled off understanding on IP-CIAC, provided enhancements on IP-CIAC templates for documentation purposes and action planning. For the three fora, more or less 200 participants were oriented and have increased awareness on IP-CIAC concerns.

137. Provision of legal services has also been primordial for the NCIP. An IP Legal Assistance Fund (IPLAF) has been annually provided amounting to Php 862,480.00. The amount will cover IPs from Regions I, II, IV, V, VIII, IX, X, XI and the Cordillera Administrative Regions. Quasi-judicial services have also been conducted. In Year 2007, at least 10 cases were lodged to the NCIP Clerk of the Commission and being acted upon.

C. Article 3: Equal rights of men

Question 13. As already requested by the Committee in paragraph 29 of its previous concluding observations, please provide updated information on the measures adopted by the State Party to repeal discriminatory provisions in national legislation, such as those contained in the Code of Muslim Personal Laws (concerning inter alia the minimum legal age to marry and polygamy), and enact comprehensive legal framework on gender equality (E/C.12/PHL/4, para 407, 409, 415 and 428).

138. Presidential Decree No. 1083 or A Decree to Ordain and Promulgate A Code Recognizing the System of Filipino Muslim Laws, Codifying Muslim Personal Laws, And Providing for Its Administration and for Other Purpose or the Code of Muslim Personal Laws of the Philippines (CMPL) was signed into law by then President Ferdinand E. Marcos.

139. Presidential Decree 1083 accords recognition to the Shari'a justice system based on Islamic religious law on civil matters. Muslim tradition involves strong roles played by religious leaders in informally settling disputes. Justice is guaranteed to all regardless of any social and political biases. Among Muslim Filipinos, informal settlements particularly on cases involving family and property matters are preferred over the formal (court) processes. Shari'a court judges themselves have assumed the role of customary elders that citizens can seek help to resolve conflicts, an indication of the pervasive informal nature of Muslim dispute resolution traditions that are deeply imbedded in practice. Criminality continues to remain within the purview of the Revised Penal Code and other laws in consonance with the constitutionally guaranteed rights of all Filipinos.

140. Among others, the CMPL promotes the advancement and effective participation of the National Cultural Communities in the building nation. It likewise provides principles of equity and justice, to which the Filipino Muslim communities adhere, offers an essential basis for the fuller development of said communities in relation to the search for harmonious

relations of all segments of the Filipino nation to enhance national unity. It likewise provides for an effective administration and enforcement of Muslim personal laws among Muslims.

141. In the course of reviewing the provisions of the CMPL, the National Commission on the Role of Filipino Women (NCRFW), under the UNFPA project, is undertaking initial efforts of integrating a gender perspective in Islam.

142. A Statement of Commitment was signed and issued by the participants mostly Muslim Women during the Conference on Gender Issues in the Context of Islam and CEDAW. They committed, among others, to pursue and support all efforts to protect the rights of Muslim Women with emphasis on marriage and family, economic and property rights, governance and political decision-making. They likewise pledged to uphold the principles of equity, equality and justice human dignity, accountability, reward for individual striving, moral values, property rights and religious beliefs so that biases and prejudices, discrimination and violence against women be eventually lessened and ultimately eliminated. Enactment of Regional Code of Muslim Personal Laws in Autonomous Region of Muslim Mindanao (ARMM), local ordinances on gender-sensitive marriage counseling, dialogue on non-violent means to achieve sustainable peace in Philippine Muslim communities are also highlighted in the statement.

143. Likewise Public Forum on Islamic Legal Theory and Round Table Discussion on Islam and Gender were conducted by the Nisa Ul-Haqq Fi Bangsamoro through the Sentro ng Alternatibong Lingap Panligal (SALIGAN). Nisa is group of Muslim women working for gender justice in the Bangsamoro. They believed that women, as much as men, have the ability and the potential to contribute to the struggle for a more egalitarian, just and compassionate society. SALIGAN, on the other hand, is an alternative law group, providing legal services to the poor and marginalized.

144. The two activities were conducted to understand women's rights in the context of Islam. Below are some of the recommendations that were forwarded by the participants during the conduct of the two activities: 1) reinterpret the meaning of polygamy as monogamy; 2) involve the men. Men and women should work together for gender justices; and 3) Muslim society must transform itself. Constituency building is important. Next round table discussions will focus on certain issues such as age of marriage and consent, issues related to child marriages and forced marriages, among others. Involvement of men

in the advocacy for the above-mentioned issues will likewise be prioritized.

On the repeal of discriminatory provisions in national legislation:

(a) Code of Muslim Personal Laws:

- (i) The NCRFW conducted a Conference on Gender and Islam in 2007, participated in by Muslim religious leaders, Muslim scholars, Muslim women NGOs, and the ARMM government. Foremost in the discussion are the various gender issues within the context of Islam, especially on how Islam is interpreted and practiced by Muslims. In the process, certain provisions of the Code of Muslim Personal Laws (CMPL) were discussed, especially those touching on polygamy, child marriages, and other provisions with gender implications.
- (ii) The NCRFW supported the planning activity of the newly established ARMM Regional Sub-Committee on Gender and Development (RSCGAD), a subcommittee under the ARMM Regional Planning Bureau. One of the major activities planned by the Sub-Committee is the review of the national CMPL as to its gender-sensitivity, with the end in view of coming up with a regional (ARMM) CMPL that addresses the discrimination against women and girls.

(b) Marital Infidelity Bill

- (i) The NCRFW includes in its Women's Priority Legislative Agenda the passage of the Marital Infidelity Bill. This Bill seeks to remove the discriminatory provisions in the Revised Penal Code, pertaining to "concubinage" and "adultery". The NCRFW participated in the review of the bill on "Marital infidelity" to ensure that gender discrimination is removed by equalizing the penalties for the same act, and substituting the neutral term "marital infidelity" in lieu of the terms "adultery" and "concubinage".
- (ii) The said bill is pending in the First Reading in both the House of Representatives and the Senate. The NCRFW is part of the Technical Working Group working on the substitute bill.

(c) Anti-Prostitution Bill

- (i) The Anti-Prostitution Bill seeks to remove the criminal liability of prostituted persons and treat them as victims in need of state protection. The criminal liability in this Bill rests on the pimps, traffickers, establishment owners, and the

customers. At present, the Bill is pending in First Reading at the House of Representatives

- (ii) The Anti-Prostitution Bill has been passed in Second Reading at the Senate of the Philippines.

Question 14. Please provide further information on the progress made, and difficulties encountered, in the implementation of the development plans for women adopted by the State Party since 1989 with a view to eliminating deep-rooted stereotypes regarding the roles and responsibilities of men and women in the family and society (E/C.12/PHL/4, para 72).

145. In 1987, the Philippines embarked on a pioneering enterprise, gender and development (GAD) mainstreaming, long before it became an international norm. It began with influencing the 1987-1992 Medium-Term Philippine Development Plan (MTPDP) with the incorporation of the phrase "Women, who constitute half of the population, shall be effectively mobilized" in the plan's overall thrust of harnessing the country's human resources to reduce poverty, generate employment, promote social equity and justice, and attain sustainable economic growth. The phrase became the basis for the preparation and adoption of the Philippine Development Plan for Women, 1989-1992 (PDPW), as a companion plan of the medium-term plan. As the national machinery for women, the National Commission on the Role of Filipino Women (NCRFW) worked closely with the National Economic and Development Authority (NEDA), the central planning agency, in coordinating the preparation and approval of the PDPW.

146. In the early 1990s, the government realized that the transformation of the socio-cultural as well as eco-political system would require time and a systematic approach, and decided that the successor plan should have a longer time frame. The Philippine Plan for Gender-Responsive Development, 1995-2025 (PPGD) is a strategic plan that translated the Beijing Platform for Action into policies, strategies, programs and projects for Filipino women. Among the PPGD goals are women's empowerment and gender equality. As with the PDPW, the formulation of the PPGD involved other government agencies and GAD advocates in non-government organizations (NGOs) and the academe. While the PPGD provided the government with its long-term road map for its GAD work, short-term operational plans were needed to realize the goals of the PPGD. To this end, government, in collaboration with its partners in NGOs and the academe, crafted in 2001 the Philippine Framework Plan for Women (FPW).

147. Sex role stereotyping remains a challenge to women's full development. Achievements in

eliminating deep-rooted stereotypes regarding the roles of women and men in the family and society were noted, however, as evidenced by the following government initiatives:

- (a) Combating pornography. The Videogram Regulatory Board (VRB) issued Memorandum Circular No. 98-001 that aims to eradicate the showing of pornographic video of women in public transportation. Bills filed in the 12th Congress include Senate Bill 169, which explicitly prohibits advertising materials that degrade Filipino people, particularly women; and Senate Bills and House Bill 2037, which consider criminal the exploitation of women through pornography.
- (b) Eliminating the business of mail order brides. Various bills have been filed in the 12th Congress
- (c) against the practice of advertising brides in the internet or email. These are intended to adapt RA 6955, or the Anti-Mail Order Bride Law, to the present internet age. The Anti-Trafficking in Persons Act of 2003 strengthened the Anti-Mail Order Bride Law by including in the list of unlawful acts of trafficking in persons such acts of matchmaking of any Filipino woman to a foreign national for marriage for the purpose of acquiring, buying, offering or trading her to engage in prostitution, pornography sexual exploitation, forced labor, slavery, involuntary servitude and bondage."
- (d) Improving children's programming and other children's rights issues in media. Moves to achieve this include the passage of RA 8370, or Children's Television Act of 1997, which aims to protect and promote their well-being by enhancing their overall development, taking into account their needs in the development of education, cultural, recreational policies and programs. It requires each broadcasting network to allot a minimum of 15 percent of daily total airtime for child-friendly shows. It also created the Children's Television Council, which is tasked to formulate plans and policies towards high quality locally produced children's television programming. Another law, RA 8296 of 1997, declares every second Sunday of December as National Children's Broadcasting Day and requires television and radio stations nationwide to allocate three hours airtime for children's programs. Meanwhile, Department Order 22 series of 1998 of the social welfare department prescribes guidelines for the media coverage of victims of abuse and exploitation, whether children, women or other disadvantaged sectors.
- (e) Promoting shared and gender-fair parenting. RA 8980 (Early Childhood Care and Development

[ECCD] Act of 2000) promulgates a comprehensive policy and a national system for ECCD. It promotes the active involvement of parents and communities in providing the full range of health, nutrition, early education and social services programs to meet the basic needs of young children from birth to age six for their optimum growth and development. The implementation of this system is the responsibility of the national government, local governments, NGOs and private organizations. With the enactment and implementation of this law, raising a child is no longer solely the responsibility of mothers. The community, national and local government and other institutions are now assisting in providing for the basic holistic needs of young children.

148. The education, social welfare and tourism departments coordinated their efforts in mobilizing media in the campaign to promote and protect the rights of children. The social welfare department developed and disseminated appropriate materials for media use, and convened a forum on the portrayal of girl children in media during the Girl Child Week celebrations. In 1999, it also implemented street children rescue programs in 17 cities and municipalities in the National Capital Region, saving 726 street children and 19 street families who were then placed temporarily in centers managed by the department and its NGO partners. This project also provided 1,800 children with educational assistance.

149. The National Youth Commission organized a "YouthSpeak" to forge a covenant with media practitioners to develop a more responsive media environment reflective of the youth's visions and aspirations and supportive of their well-being. YouthSpeak reached over 100 students and youth leaders and media practitioners. The National Youth Commission also formed the Bantay Cinema Youth Network to serve as monitoring team in various localities.

150. Networking and advocacy among media practitioners in academe, government and private sector have begun making media more responsive to the country's development needs, women issues and gender concerns. The aim is to raise public consciousness and understanding of women's issues to such a level that people could be mobilized to take positive action to address the stereotyped and negative portrayal of women and girls in media. Examples of these efforts are:

- (a) Dialogues and fora with women media practitioners from government, the private

- media and NGOs that were initiated by NCRFW to improve the coverage of women issues in the media;
- (b) Basic gender sensitivity briefings and seminars for media practitioners and members of media organizations and associations (broadcasters, association, advertising board and television networks) to promote a balanced and non-stereotyped image of women;
- (c) Production and dissemination of information education campaign materials on various women's concerns by the Philippine Information Agency, including a briefing module on women's rights that promote a balanced and non-stereotyped portrayal of women in media. Since 1995, it has been producing 30-second public service infomercials on its specific concerns. These are aired on the six major television networks and cable channels all over the country. The agency also integrated a briefing module on women's rights in all its training programs; and
- (d) The Media Guidelines on Media Reportage concerning women and children's issues and concerns is being drafted, with the active participation of the Kapisanan ng mga Brodkaster sa Pilipinas (Broadcasters Association of the Philippines), print media, and the Ad Board. The continuing concern of women media practitioners and journalists to produce gender-sensitive materials is manifested in broadsheets, television programs, and advertising.

151. In terms of ensuring the sharing of responsibility in the upbringing and development of children, the Social Welfare Department has undertaken a project called ERPAT, i.e., Empowerment and Reaffirmation of Paternal Responsibilities, which is also a Filipino colloquial for father, that aims to develop the skills of fathers in childrearing and care giving. Part of a national program for training fathers to become trainers to other fathers in the community, it has trained a total of 186 fathers as trainers. NGOs have been engaged in this type of program in other areas.

NGO and private sector efforts

152. Women NGOs and alternative media groups have coalesced to strengthen their advocacy work in the media industry. Their efforts are as follows: Mediawatch, a network of individual women and women's groups, has produced slides and videos assessing the image of women in media, while advocates have written letters to the editor and opinion articles or columns, which called attention to the negative reporting and portrayal of women in media. Kalayaan, an NGO working against VAW,

has staged mime-drama-musical projecting feminist views and values.

Media women continue in their efforts at highlighting women's news and issues and in linking with women's organizations, media-oriented NGOs and similar groups. In particular, the Philippine Center for Investigative Journalism (PCIJ) whose Executive Director was awarded the 2003 Ramon Magsaysay Award for Journalism continues its attempts to make mass media relevant in the current national situation. One of its projects seeks to create an environment of public opinion sensitive to women's health, gender, population and development issues. PCIJ trains women media practitioners to make them more gender-sensitive in their reporting of issues. Content analyses of newspapers and magazines are also being done to encourage policymakers to design appropriate measures to improve media coverage of women issues.

153. Women's groups and other NGOs are producing alternative media programs and undertaking other women and media projects. Some of these projects are: (a) a 24-episode television series by the Philippine Educational Theater Association (PETA) on grassroots people's issues and experiences, six of which pertain to gender issues and concerns; (b) tri-media campaign by the Women's Media Circle for the empowerment of young women and girls, which includes a radio program that mixes music with interviews on health and empowerment issues (such as violence and teenage pregnancy), a supplement in one of the leading magazines and printing of publications on the same topics; and (c) multi-media discussion on women, religion and reproductive health by the Women's Feature Service (WFS) Philippines, a part of an international news agency reporting on development from the women's perspective with the objective to put women's issues in mainstream media.

154. Since 1995, the Women's Media Circle has created programs discussing women's issues (such as Body Talk and reproductive health for adolescents and women) and gender and development over television (XYZ), radio (XYZone) and magazines (XYZine). Using the theater, the Philippine Educational Theater, an NGO, has staged in various parts of the country two plays on women's issues, where they encouraged the women and men in the audience to ask questions and share their experiences on situations in their life, in the family, in their place of employment, instances of sexual harassment, job discrimination, role stereotyping, and other gender issues.

155. Women advocates in media and a few advertising firms (such as McCann-Erickson and J&J) companies) have begun portraying women in more positive ways. For example, a laundry soap advertisement expounds that women can perform roles other than being housewives. The product also contributes to a fund for women interested in small business. Infomercials during women's month are shown highlighting the significant roles of women in society. Meanwhile, TV programs, such as, *By Demand*, have featured segments on VAW, annulment of marriage, the informal sector and family law.

156. Despite the initiatives and results outlined above, a lot more needs to be done. In terms of eliminating stereotyped roles of women and men, gender reforms in the educational system should be continuously pursued through the review of textbooks, instructional materials and school curricula as to their gender-responsiveness.

157. There is also a need to have more programs that will ensure and promote shared responsibility in the upbringing and development of children and more family-friendly policies and measures in organizations. Media has the capacity to influence how people look at the world, and as such, must promote a balanced and non-stereotyped image of women and men. Such a view promotes women's greater participation, allowing women to freely practice their rights to free speech and expression, avail of new communication technologies, or become key decision makers in the news desk or production room.

158. A positive media environment among media practitioners should be further strengthened. This would involve re-orienting/sensitizing women media practitioners on the important roles they play in highlighting women's issues vis-à-vis other human related issues, and setting up a database to determine the extent that tri-media advertisements portray women in sexist, demeaning and stereotypical roles.

159. The Interior and Local Government Department is implementing an anti-pornography drive in cooperation with NGOs. However, a more comprehensive approach to the problem of pornography is required, including an anti-pornography law. Pornography is linked to poverty, as it is viewed as a means of escape for those who are economically deprived. Cutthroat competition has encouraged the print media, the tabloids and the cinema in particular, to outsell each other by going into smut and pornography, perpetuating images of women and girls as rape victims and their bodies as commodities.

On the Development Plans for Women: accomplishments and challenges encountered in the implementation

160. The Philippine government through the National Commission on the Role of Filipino Women (NCRFW) developed three major plans all aimed at uplifting the status of Filipino women. These plans are products of intensive consultations with government GOs, NGOs, and CSOs.

1) Philippine Development Plan for Women (PDPW), 1989-1992

161. The PDPW was situated within the heart of the Medium Term Philippine Development Plan (MTPDP), 1987-1992 thrusts-alleviation of poverty; generation of more productive employment; promotion of equality and social justice; attainment of sustainable economic growth-the PDPW was situated. The PDPW main goal was to concretize these development thrusts into programs and policies addressing the needs and concerns of poor and marginalized women by integrating their concerns in the planning and programming processes.

Accomplishments

- (i) Demonstrated the acceptance of women's issues as a legitimate concern of national planning.
- (ii) Situated gender within the national priorities and launched the mainstreaming of gender in the government's development thrusts and work.
- (iii) Presented a comprehensive situationer on women that raised the consciousness of stakeholders.
- (iv) Identified pressing issues on women and necessary interventions to address the issues.
- (v) Created a productive relationship between government and NGOs.
- (vi) Presented programs and projects that became the government's major reference on concerns on gender and development.
- (vii) Instituted the establishment of focal points for women, promoted data disaggregation by sex, built trainers' pools, and developed a critical mass of gender advocates within the bureaucracy.
- (viii) Served as mechanism for the enactment of laws/policies that: penalized mail order marriages (RA 6955); strengthened the prohibition on discrimination against women with respect to terms of employment (RA 6725); and called for annual celebration of women's day, women's week and women's month.
- (ix) Promoted gender responsive measures in government such as flexi-time, day care, career advancement for women in government, and equality advocates (EQUADS).

Challenges

- (i) Absence of baseline information on the situation of women during the Plan's initial year of implementation.
- (ii) Lack of funding to implement programs and projects.
- (iii) Lack of institutional support in raising training on gender consciousness among gender focal points, and appropriate methods or technology to review existing government policies and programs to enhance their positive impact on women.
- (iv) Implementation of the Local Government Code (1991), which shifted the locus of power from the national government to local government units (LGUs).

2) Philippine Plan for Gender and Development (PPGD), 1995-2025

162. The PPGD is the translation of the Beijing Platform for Action into policies, and programs, and projects for Filipino women with broad goals and strategies to attain the vision of women's empowerment and gender equality. It has a 30-year time frame deemed essential to completely transform the deeply rooted traditional misconceptions about women and their stereotypical roles and status in society, enable them to participate in development and benefit from it. The Plan was borne out of collaborative effort among women advocates and activists in government, the civil society and academe. Executive Order 273, approving and adopting the PPGD, directs all government agencies to take appropriate steps in ensuring the implementation of the plan.

Accomplishments

- (i) Institutionalized gender and development efforts in government by incorporating GAD concerns in planning, programming and budgeting processes.
- (ii) Instituted GAD budget policy ensuring that laws, policies, plans and programs for women are implemented.
- (iii) Instituted GAD in the key result areas (KRAs) of government agency heads, making them personally accountable to the President for GAD implementation in their respective agencies.
- (iv) Strengthened the GAD Focal Point System and established special mechanisms for women's concerns at the agency level ensuring responsive bureaucracy for women in development.
- (v) Initiated policy and research studies that translated gender issues into concrete policies

and legislations and enriched the expertise of the government on responding to needs of women.

- (vi) Created the Inter-agency Committee on Gender Statistics, which recommends the adoption of sex-based system of data collection and generation in all data-producing government agencies. This became essential for monitoring, assessing and updating development plans for women and in measuring whether government policies, programs and strategies as well as laws and regulations have responded to gender concerns.
- (vii) Adopted laws/policies that penalized sexual harassment (RA 7877); instituted support mechanism for victims of rape and other forms of violence (RA 8508); provided assistance to women engaging in micro and cottage business (RA 7882); instituted the rural women's day celebration (Proclamation 1105), called upon government officials to act on domestic violence, provided for gender responsive programs for overseas Filipino workers (RA 8042), provided for women as one of the sectors who could form sectoral parties (RA 7941), granted paternal leave (RA 8187), created family courts (RA 8369), provided for women's representation in the national anti-poverty council (RA 8425), and promoted equal opportunities for women in the Philippine National Police.
- (viii) Enjoined government agencies to make a conscious effort in ensuring women's representation in various decision-making bodies, especially at the local levels. This led to the issuance of the Department of the Interior and Local Government (DILG) of an administrative order that encouraged a 30 per cent representation of women in barangay assemblies and in mandatory consultations.
- (ix) Established women's and children's desks in all Philippine National Police (PNP) precincts staffed by policewomen who went through gender sensitivity training and orientation programs.
- (x) Established hospital-based crisis centers that offer treatment, counseling and temporary shelter for women victims of violence.
- (xi) Expanded loan windows and loosened lending procedures for women.
- (xii) Developed gender-mainstreaming modules and guidelines and continuously provide technical assistance to government agencies and on GAD.
- (xiii) Established gender and development resource centers in the regions that can provide technical assistance to local governments in their gender programs, projects and activities

Challenges

- (i) Although progress has been made to produce sex-disaggregated data, efforts are still needed for sex-disaggregation and statistics for identifying interventions appropriate to the needs of women.
- (ii) Lack of effective monitoring and evaluation systems tools for the successful implementation of gender mainstreaming.
- (iii) Lack of skilled human resource base for gender mainstreaming.

3) Framework Plan for Women (FPW), 2001-2010

163. The FPW is the time-slice of PPGD with strategies and interventions consistent with what the latter had outlined, however, more specific, doable, and results-focused. The strategies and interventions are directed to address the critical gender issues through three areas of concern namely economic empowerment, governance, and human rights, emphasizing the importance placed by the government on eradicating the structural causes of poverty and unresponsive governance. The FPW also stresses the active involvement in all stages of development process² of intended beneficiaries so as benefits are obtained and sustained. Further, it provides the standards and mechanisms to fulfill the country's commitments to international agreements such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), and the Beijing Platform for Action and the Beijing +5 Outcome Document.

Accomplishments

Economic Empowerment •

- (i) More women are employed, and more (new or continuing) efforts are being made to improve workers' competencies, aid workers find gainful employment, and assist workers in their childcare responsibilities.
- (ii) Credit programs have benefited a large number of women.

² The five development process considered in the framework plan are: level 1) Welfare, where the gap in the material well-being between women and men such health and nutritional status; level 2) Access, where the gap at the welfare level from inequality of access to resources; level 3) Conscientization, where women are becoming aware of the extent to which problem arise not so much from individual's inadequacies but rather from the systematic discrimination against a social group; 4) Participation, which having to share or take part in the decision making process and; 5) Control, which means the ability to direct or influence events to protect one's interests.

- At least 62,000 rural women (or 1.1 percent of total rural women workers) had received production loans from programs of the agriculture department.
- Various lending programs have benefited numerous women living in poverty as well as women micro-entrepreneurs.
- (iii) Efforts have been made to protect and promote women worker's welfare and interests, including addressing gender issues in the workplace.
- (iv) Participation of women in agricultural development programs has been noted, although women have rarely accounted for more than 30 percent of participants, beneficiaries, or members.
- (v) There has been some progress in efforts to improve working conditions and support system for the increasing number of Filipino workers overseas that include country's labor and social security agreements with several countries, and welfare programs, such as those implemented by the social welfare department, and other new initiative (such as the competency-certification program of the Technical Education and Skills Development Authority [TESDA]) need to be monitored for results as well as abuses.
- (vi) Government has paid attention to women in small and medium enterprises (SMEs) and some of the accomplishments in this connection were: a) continuing operation of the Women's Business Council of the Philippines, which serves as an important forum for women in SMEs and; b) women in SMEs and micro-entrepreneurs have received training and nontraining support from government programs that aim to provide new skills or upgrade skills; share information regarding markets, technologies, and product design; and facilitate market linkages.

Specific Challenges

Economic Empowerment

- (i) Improving social protection and access to credit (beyond minimalist microfinance schemes), markets, and information for women in the informal sector.
- (ii) Minimizing, if not eliminating altogether, the advantages suffered by poor women in rural areas as a result of the concentration of growth and development in a few urban and regional centers.
- (iii) Addressing the perennial high unemployment of young people, partly because of the rapid growth of the youth labor force, and the large number of working children, some in highly hazardous occupations.

- (iv) Reviewing labor standards and other laws concerning women, clarifying responsibilities of agencies for enforcement and monitoring, and closely monitoring enforcement of labor standards and other laws.
- (v) Minimizing hiring and pre-employment biases and improving worker's placement, including the deregulation of the industry; gender-sensitizing officials and frontline workers in agencies tasked to assist or protect women workers, including OFWs; and funding and providing more services to OFW survivors of violence against women.
- (vi) Reviewing and reconsidering policies that have discontinued livelihood assistance schemes that probably serve people living in poverty better than the single-focused credit or skills development programs.
- (vii) Monitoring how resources of livelihood-related programs and projects are being used, generating sex-disaggregated data on beneficiaries and amounts, and assessing how they are affecting beneficiaries; in the case of training participants, tracking whether or not they found work and how long this took.
- (viii) Establishing effective safety nets for agricultural procedures and workers, including women who are affected by the liberation of the agriculture and fishery sectors.
- (ix) Reviewing and reconsidering such policies as unilateral reduction of tariffs that threaten domestic industries and agriculture and, ultimately, women, men and children.

Accomplishments

Human Rights

164. Achievements in the area of human rights of women and girls have been considerable as results of long years of advocacy and preparatory work. These are:

- (a) Passage of RA 9208 or the Anti-Trafficking in Persons Act of 2003. The law defines as criminal the acts of trafficking in persons, and acts to promote trafficking in person, and redefines prostitution from a crime committed by women only to any act, transaction, or design involving the use of a person by another for sexual intercourse or lascivious conduct in exchange for money, profit, or any other consideration, with the criminal liability assigned to those who promote it through trafficking in persons. Its other main features include: penalties for various types of offenses related to trafficking, with the fines to be placed in a Trust Fund that will cover the costs of implementing the mandatory programs for preventing trafficking in persons and rehabilitating and reintegrating victims into the mainstream of society; commitment of the state to provide trafficked persons as victims of trafficking; and the creation of the Inter-Agency Council Against Trafficking (IACAT), which includes relevant government agencies and three NGOs representing women, children and migrant workers.
- (b) Passage of RA 9262 or the Anti-Violence Against Women and their Children Act of 2004. Its main features include the criminalization of violence against women and their children (VAWC) and protection of women and their children in the context of a marital, dating, or common-law relationship and; declaration of VAWC as a public crime; provision for a wide range of assistance, including "protection orders" to stop the violence and prevent the recurrence of future violence; provision for the recognition of VAW or "battering" as a public health issue, hence, women who have suffered violence may claim paid emergency leave from their employers; instruction to concerned line agencies to provide mandatory services to women and children victims of violence, from counseling to shelter and legal assistance; and creation of an Inter-Agency Council on VAWC to formulate programs and projects to eliminate VAW, develop capability programs for its frontline people to become more sensitive to the needs of their clients, and monitor VAW-related initiatives.
- (c) A VAW Coordinating Committee (VAWCC) was created and the NCRFW oversight function pertaining to VAWC strengthened.
- (d) The Supreme Court Committee on Gender Responsiveness in the Judiciary (SC-CGRJ) has initiated reforms in judicial doctrines and court procedures. Family courts were reinstated, new rules of domestic violence were instituted to facilitate the filing of cases, and the issuance of emergency protection orders.
- (e) There has been continued support for government programs aimed at preventing VAW or providing specific services to VAW survivors: the social welfare department's rehabilitation of women in extremely difficult circumstances, operation of 23 "Havens" around the country, and operation of a crisis intervention unit per region; the health department's women and child protection program; the justice department's task force on child protection; the interior and local government department's capacity development of agency personnel for the management of VAWC cases; advocacy, led by NCRFW, in conjunction with the women's movement; and local government programs to combat VAW.

- (f) Integration of gender-related topics or modules and introduction of teaching aids for teaching gender issues in specific learning areas at the basic education level and; integration of GAD topics (such as VAW) into the medical curricula in participating universities and opening up of more Women's Studies programs or centers.
- (g) School participation rate of girls at lower levels has been increasing.
- (h) Improvements in life expectancy and health condition are more emphasized among women than among the men.
- (i) In connection with the minimum basic needs, gains have been noted in access to jobs, education for children, and electricity.

Specific Challenges Human Rights

- (i) Continued enforcement and enhance monitoring of the implementation of laws.
- (ii) Geographical spread of VAWC services and matching these with VAW incidence per region or province.
- (iii) Prevalence of VAW cases and the need for wider gender-responsive judicial and non-judicial interventions.
- (iv) Special needs for rehabilitation and post-conflict care of women and children in vulnerable situations and conflict areas.
- (v) Population growth due to high fertility rates, particularly in rural areas and some regions.

Accomplishments Gender-responsive Governance

- (i) Strengthened structures and mechanisms to sustain GAD mainstreaming in government.
- (ii) Expanded GAD mainstreaming beyond the executive and the legislative branches to also include the judiciary. The move of the Supreme Court in 2003 to create a Committee on Gender-Responsive Judiciary strengthens the campaign to instill awareness and commitment in government to women's concerns and gender issues.
- (iii) Increased evidence of GAD mainstreaming at the local level. The advocacy of local GAD advocates and women's movement activists, working in conjunction with like-minded people in local government units and agencies, the support of the interior and local government department and relevant national agencies, and the technical assistance of NCRFW have made possible the adoption of GAD codes and GAD budgets, passage of local ordinances, creation of local women's councils, and implementation of programs that

address gender issues, such as violence against women.

- (iv) More and easily accessible guides for GAD mainstreaming. The past three years have added materials – manuals, handbooks, methodologies, and tools – that can be applied to national and local development planning, agency and local government budgeting, program design and implementation in key sectors, and agency-specific operations, be these on health, statistics, police, agriculture, or social welfare. A considerable body of materials has been produced and distribution on VAW, including manuals on handling sexual harassment in government, methodology for generating statistics on VAWC, handbook on handling and preventing domestic violence cases in the barangay, protocol for medical management of women and children survivors of VAWC, and similar outputs.
- (v) Although the figures are still low, there have been more women elected or appointed to decision-making positions or bodies. In 2007 national election, four women (10.8%) out of 37 candidates won the senatorial bid, 54 women or (21.25%) elected representatives out of 240 seats, and 6 (28.57%) out of 21 seats given for party list represented by women representing women's organization.
- (vi) Stronger partnership with members of the media. This has resulted in the slow but increasing airing of women's concerns and gender issues in the national and local media, production of materials for print and broadcast media in support of GAD campaigns (especially on VAW), and efforts of government (principally NCRFW and the Philippine Information Agency), NGO and the private sector (private media companies and advertising firms) to make media practitioners aware of gender issues in the media and to help them produce more gender-sensitive materials and shows.

Specific Challenges Gender-responsive Governance

- (i) Instituting a thorough evaluation of the efficiency and effectiveness of the use of the GAD budget.
- (ii) Creating a stronger and broader mandate for NCRFW to oversee the GAD mainstreaming efforts and providing it with the corresponding budget.
- (iii) Ensuring that GAD mainstreaming gains in agencies or branches of government withstand the upheavals attendant to changes in leadership and the desire of new leaders to always start anew, and enabling GAD focal points to convince and secure the support of new leaders.

- (iv) Recognizing the need for funding periodic GAD campaigns with local government officials, as the holding of the local elections every three years often means another set of officials that needs to be made aware of gender issues and convinced the gender-responsive governance is an essential part of good governance.
- (v) Helping women who are elected or appointed to decision-making positions create an autonomous women's voice in government.
- (vi) Examining the performance of women and men in power to gain a sharper focus on the campaign to secure a better gender balance in the key political institutions of the country.
- (vii) Passing of pending bills that would institute women's representation in local legislative councils, as provided for the Local Government Code.
- (viii) Continuing vigilance to minimize, if not altogether eliminate sexism and VAW in Philippine Media.

165. The Department of Social Welfare and Development also has a Parent Effectiveness Service (PES), which provides knowledge and skills on parenting to parents and caregivers. PES enables them to respond to parental duties and responsibilities along early childhood development behavior, management of younger and older children, husband-wife relationship, prevention of child abuse, and health care.

The local government units (LGUs) are the implementing arm of the Parent Effectiveness Service.

Question 15. Please provide information on the mandate of, and the resources allocated to, the National Commission on the Role of Filipino Women (E/C.12/PHL/4, para 72).

National Commission on the Role of Filipino Women

Programs	Total
a) General Administration and Support Services	18,553,000
b) Maintenance of a Data Bank on Gender and Development (GAD)	3,212,000
c) Conduct of Policy Researches, Provisions of Technical Services and Coordination and Monitoring Activities on Gender & Development	8,002,000

166. The NCRFW was established on January 7, 1975 through Presidential Decree No. 633 as an advisory body to the President. It was mandated to "review, evaluate and recommend measures, including priorities to ensure the full integration of women for economic, social and cultural development at national, regional and international levels, and to ensure further equality between men and women." It was further strengthened by the issuance of EO 208 and 268.

NATIONAL COMMISSION ON THE ROLE OF FILIPINO WOMEN SOURCES OF FUNDS					
Source	Fund	2006	2007	2008	Remarks
GAA CIDA @	General 171	29,178,000.00	30,507,000.00 36,929,495.00	30,871,000.00 74,752,486.00	NCRFW Operating Budget NCRFW-CIDA Project (Gender Responsive Economic Actions for the Transformation of Women (GREAT))
UNFPA-PMO	171	9,500,021.18	5,117,144.00	3,485,500.00	NRFW-UNFPA Project (Strengthening Gov't Mechanism in Mainstreaming Gender Perspective in Population, Reproductive Health and Anti-VAW Programs)
UNIFEM-CEDAW	171	245,120.68			CEDAW Orientation and Mentoring
UNIFEM-CEDAW	171	732,437.72			Preparation of the Bridge Report
UNIFEM-CEDAW	TRUST FUND		672,660.00	672,660.00	UN Joint Programme to Facilitate Implementation of CEDAW Concluding Comments
SPANISH AGENCY FOR INT'L COOPERATION	(AECI) TRUST FUND		751,625.00		National Consultation on Gender in the Context of Islam
UN JOINT PROGRAMME	UN TRUST FUND			2,799,200.00	UN joint Programme for VAW
Total		39,655,579.58	73,977,924.00	112,580,846.00	

III. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (Articles 6-15)

1. A. Article 6: The right to work

Question 16. In addition to the information provided in paragraphs 87 to 93 of the report, please provide updated information on the measures adopted by the State Party to reduce the unemployment rate in the State Party, with a particular regard to measures aimed at increasing employment opportunities for young, unskilled and inexperienced workers and persons living in urban areas (E/C.12/PHL4, paras 87-93).

167. President Gloria Macapagal-Arroyo has dedicated 10-billion pesos for 2008 towards poverty eradication. GRP has pursued an integrated and comprehensive national anti-poverty strategy called the Kapit-Bisig Laban sa Kahirapan. ("Linking Arms Against Poverty"), which focuses on asset reform, human-development services, employment and livelihood, social protection and participatory governance.

168. The Department of Labor and Employment (DOLE) has adopted employment-promoting strategies both at the national and regional levels. In 2007, the average growth of employment accelerated by 2.3% with a commensurate decline to 6.3 % as of October 2007 in the unemployment rate.

Question 17. In addition to the information provided in paragraphs 94-99 of the report, please provide updated information on the measures adopted by the State Party to tackle the phenomenon of under-employment, with a particular regard to measures aimed at increasing employment opportunities for persons working in rural areas, and especially in the agriculture sector.

169. Laws have been enacted to ensure protection of worker's rights, viz: 1987 Philippine Constitution, Labor Code of the Philippines, Revised Penal Code, special laws (SSS Law, GSIS Law, 13th-Month Pay Law, Eight-Hour Workday Law, special laws for the Disabled, House helpers, Minors and Women). Measures are also being undertaken and resources are being utilized to address labor problems. As of 2007, average growth of employment accelerated by 2.3%. On the other hand, the unemployment rate for 2007 has improved to 7.3% vis-à-vis 7.9% in 2006. The summary of labor and employment indicators shows that there has been an improvement in the general state of labor and employment.

170. As part of the GOP's initiative, the issue on Livelihood or Labor and Employment in the

MTPDP is included as one of the 10-point agenda of the Arroyo Administration. Under Chapter 9, the DOLE has adopted the following programs and projects consistent with its 4 major employment-promoting strategies: (a) employment generation, (b) employment preservation, (c) employment facilitation, and (d) employment enhancement.

171. On employment generation, 100% of targeted Poverty Free Zones (PFZ) or a total of 59 PFZ sites were established in 2004-2006, generating employment for 1,545 self-employed workers with increased income of an average P2,141.23 per month, as of 2004. This initiative was undertaken in order to provide alternative employment and additional income in poor communities. To help augment the income of OFWs, the DOLE promoted the "Enhanced Reintegration Program" and the "OFW Groceria", an entrepreneurship program among OFWs which granted interest-free loans to qualified OFW Family Circles in the form of PhP50,000 worth of grocery items and goods as start-up entrepreneurial capital. To further ensure sustained improvement in the coming years, the Labor Code is currently being reviewed so as to address the need for new administrative guidelines and proposed legislative amendments to recognize flexible work arrangements with consideration to the promotion of decent work and respect for core labor standards.

172. As to employment preservation, industrial relations can be characterized as generally peaceful, partly due to the fact that workers were able to obtain wage increases through the creation of the Regional Wage Boards. As reported by authorities, the average strike prevention rate was 97 percent, 3 percentage points higher than target. The incidence of actual strikes was notably reduced from 25 strikes declared in 2004 to 12 strikes in 2006, the lowest annual record of labor cases resulting in strikes within the last 53 years. This resulted to significant reduction of man-days loss of 150,000 in 2003 to 44,000 in 2006. Moreover, labor dispute resolutions also improved as the disposition rate of actual strikes, the rate of affirmation of appealed compulsory arbitration (CA) cases and the percent of CA cases disposed thru settlement were within the targets. In line with the promotion of industrial peace, there was the adoption of alternative dispute resolution mechanisms such as conciliation and mediation, voluntary arbitration, institutionalizing/advancing/strengthening of grievance machineries and labor management councils (LMCs), and the promotion of alternative dispute resolution mechanisms such as Administrative Intervention for Dispute Avoidance (AIDA). The Case Management System's Modernization Program was

set up and became operational in 2007 in order to improve case disposition at the NLRC. In minimizing the friction between management and labor, on the other hand, the DOLE intensified the conduct of labor education and management seminars nationwide and enhanced the Labor Education Program with the adoption of a new framework that integrated essential employment relations areas such as Labor Relations, Human Relations and Productivity (LHP). Additionally, the National Tripartite Advisory Committee was also created.

173. Moreover, in December 2004, the labor, management and government representatives signed the Social Accord on Industrial Peace and Stability which contained agreements on maintaining industrial peace, minimizing job losses, and setting-up of a fund for quick response interventions for displaced workers as a result of company closure or retrenchment. From 2004 to 2006, total of 123,630 displaced workers were provided with a package of interventions through the Quick Response Teams in all regions, such as job facilitation, organization formation to strengthen their chances of obtaining alternative livelihood, business and credit assistance; and assistance in availing training, retraining and upgrading courses, among others.

174. Social dialogue and tripartism was also strengthened. The tripartite bodies (Tripartite Industrial Peace Councils (TIPCs) and Industry Tripartite Councils (ITCs)), which have served as venues for resolving employment and labor issues peculiar to the industries had evolved to cover broader issues and concerns and expanded representation to include the informal sector, rural workers and the civil society.

175. On the strategy of employment enhancement, the government continues to provide for technical-vocational and maritime trainings, scholarships in partnership with the private sector, expanded apprenticeship and learnership programs, special and emergency employment (for poor but deserving students and out of school youth, respectively). Productivity assistance interventions extended to company owners, workers and supervisors, and small and medium enterprises through trainings and consulting services, showcasing productivity improvement programs in micro, small and medium enterprises (MSMEs) as well as in barangay micro business enterprises (BMBEs) exceeded Plan target. Competitiveness of the workers and TVET graduates was also ensured through skills testing and certifications. In 2004-2006, the skills of almost 400,000 workers were assessed and certified and

thereby posting improvement on certification rate from 35% in 2003 to 62.4% in 2006.

176. For the 2004-2006 period, the government facilitated the enrollment of a total of 144,875 informal workers in SSS and PhilHealth. Compliance rate on inspection, albeit missing the target of 75-85 percent, improved to 61.0 percent in 2006 from 57.2 and 58.3 percent achieved in 2004 and 2005, respectively. Furthermore, to strengthen the monitoring of compliance with labor standards, the DOLE launched the "Project Inspection Blitz" in July 2007. This project seeks to inspect more establishments, determine violations of core labor standards (minimum wage, COLA, payment of holiday pay, service incentive leave) and enforce compliance thereto.

177. The DOLE through the National Wages and Productivity Commission (NWPC) and its Regional Tripartite Wages and Productivity Boards (RTWPBs) held consultations and dialogues with tripartite sectors on important socio-economic issues to map out strategic responses to the wage issue in the light of rapid developments in the country. In 2004-2006, the DOLE issued an average of 17 Wage Orders. In 2006, wage orders were issued in all regions of the country, granting increases in basic pay/cost-of-living allowance (COLA) for some 5.4 million private sector workers, ranging from P27.00- P30.00 per day.

178. In terms of employment facilitation, the DOLE's job search assistance services were enhanced. Data shows that from 2004 to 2007, a total of 3,068,281 jobseekers were facilitated for job placement through the network of almost 1,500 Public Employment Service Offices (PESOs) nationwide, the Private Recruitment and Placement Agencies (PRPAs) and the conduct of jobs fairs where 261,721 jobseekers were hired. The increase in local placement can be attributed to the expansion of PESO services to include information on where the jobs are via text messaging or the Trabaho...I-Text Mo facility.

179. The government also endeavored to simplify and shorten documentation process for departing OFWs through the e-Link for OFWs Project.

180. Moreover, through the Department of Labor and Employment, as the country's primary government agency for labor and employment, has held consultations and meetings as early as in 2003 to formulate the Philippine Labor Index to measure and monitor progress in decent work in the country. As follow up to such initiative, the DOLE formulated the Strategic Workforce Plan for 2006-2010, which is a

reiteration of the objectives of the country's decent work agenda.

181. As regards the special working group involving senior citizens, measures to achieve productive ageing through continued employment is being considered.

182. In the case of women workers, a study conducted by the NCRFW revealed that over the past three (3) years, more women have been employed and there are still new or continuing efforts being undertaken to improve women's working conditions. Also on a positive note, there were at least two (2) anti-violence against women laws passed- RA 9208 otherwise known as the "Anti-Trafficking in Persons Act of 2003", and RA 9262 known as the "Anti-Violence Against Women and Their Children".

183. These Government plans and policies are in place to ensure progress in the Filipino workers' working conditions; and indeed, as per the latest MTPDP update, improvements were observed in the country's labor market conditions in period covering 2004-2007.

184. The Philippines, through the leadership of the present administration, has remained resilient in confronting the issues affecting the labor sector. The government has committed itself to continue pursuing decent and productive employment for every working Filipino through the MTPDP 2004-2010. For 2008-2010, the government, in partnership with labor and management and the civil society shall intensify its efforts towards the achievement of its vision of "full, decent and productive employment for every Filipino worker" through the delivery of services that will contribute to achieving its four (4) strategic goals: (1) a gainfully employed workforce; (2) a globally competitive workforce; (3) a secure workforce; and (4) a safe and healthy workforce. The latest MTPDP update discussed these general plans to improve the over-all situation of the Filipino worker, as follows:

185. A Gainfully Employed Workforce means workforce with gainful employment, either as wage, locally or overseas, self-employed or entrepreneur.

186. Towards providing the Filipino workforce with gainful employment, the government shall deliver the following services: a) job search assistance services for wage employment; b) capacity-building services for livelihood/self-employment; and c) social partnership promotion and dispute resolution services to preserve employment.

187. To this end, the government with its partner stakeholders shall strengthen the capability of

employment exchange facilities on job matching, livelihood and other forms of services. The facilities are the Public Employment Service Office (PESOs), PHIL-JOBNET, Trabaho...I-text Mo, Jobs Fairs and Private Recruitment Agencies. The government shall strengthen career guidance/employment counseling and advocacy services, set-up employment kiosks, and intensify skills registry; facilitate the deployment of 1M OFWs, and promote migration and development for productive investments from remittances to address brain drain and brain gain. For the marginalized, vulnerable, disadvantaged and other workers from specific sectors which have difficulty in accessing to formal employment, including the informal sector workers, returning OFWs, indigent students and out-of-school youth (OSYs), the government shall provide workers in the informal and other specific sectors with capability training, access to livelihood and assistance package; provide reintegration services to OFWs and their families; provide the youth, OSYs and out-work youth (OWYs), with the opportunity to earn while they acquire work experience and positive work attitudes and other forms of assistance/support; establish additional Poverty Free Zone sites; reintegrate OFWs and their families through employment and entrepreneurial undertakings; and provide income augmentation interventions to workers in the informal and other specific sectors thru capability building services such as trainings, access to livelihood and assistance package through the Unlad Kabuhayan Program; and implement the Youth Employment Framework and the Strategic Plan for Child Workers.

188. To prevent job losses due to disputes, the government with the support of labor and management shall provide quick response assistance to 100% of reported displaced workers during work-to-work transition; keep the incidence of strikes at manageable level of not more than 6% of the total notices handled; promote alternative dispute resolution mechanisms such as Administrative Intervention for Dispute Avoidance (AIDA), conciliation and mediation, voluntary arbitration, grievance machineries and negotiations; strengthen coordinated team approach in resolving labor disputes; broaden the scope and reach of Labor and Management Education Program focusing on Human Relations, Labor Relations and Productivity; and intensify networking and strategic alliances on labor disputes settlement thru the adoption of tripartite-plus (3+) approach.

189. A Globally Competitive Workforce means workforce possessing skills and knowledge that are relevant to the needs of today's employers.

190. Towards providing the Filipino workforce with skills and knowledge, the government shall deliver the following services: technical-vocational education, skills competency and productivity trainings and services.

191. To equip workers with demand-driven skills, technical education and productivity improvement technology, the government shall prepare workers for future labor markets by addressing jobs-skills mismatch and exploring the opportunities in the local/global market; train at least 1.5 million persons in Technical Vocational Education and Training (TVET), with improved absorption rate of graduates to 60%; continue the provision of free assessment services to allow Filipinos to earn skills certificates at no cost; continue the Ladderized Education System allowing the hours spent in vocational training to be credited towards a college degree; continue the development of e-TESDA, an Electronic Portal that offers free on-line training to Filipinos using interactive software; continue the provision of scholarships and other student assistance/support programs such as PGMA-Training for Work Scholarship Project, Private Education Student Assistant Fund (PESFA), TESDA-ADB Scholarship Program, and scholarship programs for seafarers.

192. For the maritime sector, the government shall develop and conduct Management Level courses and other maritime training courses for merchant marine officers, ratings, maritime faculty and trainers in accordance with the latest national and international standards in Maritime Education and Training (MET); further improve the use of fast lanes for the issuance of IDs, State Board verifications, certification and authentication and introduce improvements in the licensure system and regulatory functions for 43 various professions; and pursue PRC's modernization program through the development of information systems.

193. In equipping the workforce with trainings and information on productivity technologies, the government shall expand the implementation of the Industrious Systematic Time-Conscious Innovative Strong Value for Work (ISTIV) Productivity Awareness Program (PAP) among Small and Medium Enterprises (SMEs).

194. A Secure Workforce means workforce accorded with fair and humane terms and conditions of work and social protection benefits.

195. To afford the Filipino workforce with fair and just terms and conditions of work and social protection

benefits, the government shall deliver the following services: e) services to safeguard fair and just terms and condition of employment; and f) social protection and welfare services.

196. To this end, to ensure fair and just terms and condition of employment, both for local and overseas workers, the government shall increase compliance to labor standards through inspection, self-assessment and technical assistance visits (TAVs)/assistance to micro-enterprises and BMBEs; continue the improvement of wages and productivity databases including the implementation of Wages Determination Process Implementation System (WageIS); review existing policies/standards to address new and emerging working conditions/environment/arrangements; implement/promote Recruitment Agency Education and Performance Evaluation Program; continue/strengthen Anti-Illegal Recruitment (AIR)/Pre-Employment Orientation (PEO) Management Program activities; and strengthen protective mechanisms for workers in the informal and other vulnerable/specific sectors.

197. To promote access of workers in specific sectors to health care, social security and housing as well as on-site aftercare protection for OFWs, the government shall implement interventions with partners to reduce the incidence of child labor particularly in its worst forms; continue to address vulnerabilities of working women by providing them livelihood opportunities, social protection and increased representation in decision-making; strengthen protective mechanisms for workers in the informal and other vulnerable/specific sectors; intensify advocacy on social security schemes for workers in the IS; continue provision of on-site and after care social protection and welfare services to OFWs and provide benefits and welfare assistance to sugar workers and their dependents.

198. A Safe and Healthy Workforce means a workforce with a safe, and healthy working environment.

199. Towards providing the Filipino workforce with safe and healthy working environment, the government with the assistance of other stakeholders shall deliver the following services: work accident/illnesses prevention, work compensation and rehabilitation services.

200. To this end, the government shall provide education, training and technical assistance to workers and employers to develop their capability in ensuring health and safety at the workplace; increase compliance to occupational safety and health standards through inspection, self-assessment

and TAVs; intensify the accreditation of safety and health practitioners for active occupational safety and health (OSH) intervention at the workplace; and provide compensation and rehabilitation services.

Question 18. Please provide further information on the scale of informal economy, and indicate which policies, programmes and mechanisms the State Party has adopted to improve social protection for those working in the informal economy (E/C.12/PHL/4, paras 164 and 233).

201. The informal sector plays a significant role in the country's economic and social development (NSO 2005). The informal sector, as officially defined by the National Statistical Coordinating Board (Resolution No. 15 Series of 2002), consists of "household, unincorporated enterprises engaged in the production of market and non-market goods and services with the primary objective of generating employment and income to the persons concerned in order to earn a living."

202. More Filipinos would have been mired in economic difficulty were it not for the contributions of the informal sector to the country's gross domestic product and employment. The NSCB estimated the share of the unorganized sector (another term for IS) to GDP at 43 percent in 2006. The unorganized sector refers to the sector not covered by the Philippines Statistical System. These are the: (1) underground/informal production activities of unincorporated household enterprises with some market production; (2) unrecorded production activities due to the limitations of existing surveys and administrative-based data, inter alia.

203. In terms of employment, the Bureau of Labor and Employment Statistics estimated that the informal sector accounted for 44.6 percent of the total number of workers, 40.6 percent of whom were women, for the period 2001-2007. The BLES estimated the size of the informal sector by aggregating the number of self-employed and unpaid family workers of the class of workers category.

204. In recognition of the indispensable role of the informal sector in nation-building and in pursuit of the efforts to uplift the living and working conditions of the informal sector workers, the DOLE, as early as the 1990's has implemented programs addressing the concerns of the workers in the informal sector. At present, the DOLE has further intensified and strengthened its social protection policies and programs for the informal

sector workers. The DOLE Roadmap 2008-2010, the Department's master plan for the next three (3) years, has explicitly identified the workers in the informal economy as a distinct major category whose needs and concerns will be addressed by a package of priority programs and services.

205. The Department of Labor and Employment, through its agencies, implements a number of programs and interventions for workers in the informal economy. One program exclusively addresses the concerns of women in the informal sector. This is the Women Workers Employment through Entrepreneurship Development (WEED) Program of the Bureau of Women and Young Workers. The rest, such as the Aksyon ng Sambayanan Laban sa Kahirapan (Concerted Citizenry Action Against Poverty) or Poverty-Free Zone Program (PFZP), Promotion of Employment through Self-Employment and Entrepreneurship Development (PRESEED) Program, DOLE Programa Para sa mga Manggagawang nasa Impormal na Sektor (Social Protection Program for Workers in the Informal Sector), Worker's Microfinance Program, Social Amelioration Program in the Sugar Industry (SAP), and Unlad Kabuhayan Program Laban sa Kahirapan (Livelihood Advancement to Fight Poverty)) of the Bureau of Rural Workers cover both women and men in the informal economy.

Question 19. Please provide detailed information on the efforts undertaken by the State Party to create employment opportunities at the national level and reduce the number of undocumented migrant workers, especially women that leave the country in search of better employment opportunities abroad. Please also provide information on the concrete measures adopted by the State Party pursuant to the Migrant Workers Act of 1995 and the various bilateral agreements concluded with countries of destination to protect the rights of overseas Filipino workers (E/C.12/PHL/4, paras 125-127).

206. At the heart of the Government's efforts to ensure non-discrimination of women in engaging in gainful employment is the enactment and sustained implementation of labor and other social welfare legislations. A package of interventions was established by the Labor Department in terms of job facilitation and generation to strengthen the chances of women and other returning Overseas Filipino Workers in obtaining alternative livelihood, business and credit assistance (notably in the field of micro-finance) not to mention assistance in availing themselves of training, retraining and upgrading courses, inter alia.

207. Job options for women through technical-vocational training and non-formal education programs are implemented by government agencies, notably the Labor Department, in collaboration with NGOs. Credit programs have reached over a million women in urban and rural areas, including women operating small and medium enterprises. In March 2007, the President instructed concerned agencies to work with cooperatives and NGOs to provide wider access to microfinance funds for women, and instructed the Philippine Credit and Finance Corporation (PCFC) to make microfinance available to women.

208. Section 2 (b) of the Migrant Workers and Overseas Filipino Act of 1993 declares that:

“The State shall afford full protection to labor, local and overseas, organized or unorganized, and promote full employment and equality of employment for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.”

209. The Social Security System of the Philippines, pursuant to the Migrant Workers Act and consistent with its mandate, adopted a two-pronged approach for the social security coverage of Filipino workers, both local and overseas:

(a) Forging of bilateral social security agreements. To provide workers with social security consistent with the standards set under ILO Conventions³ on the Establishment of an International System for the Maintenance of Rights in Social Security, the Philippine government has entered into several Social Security bilateral agreements with Austria, Belgium, Canada, Quebec, France, Spain, Switzerland and the United Kingdom. The negotiations for the forging of agreements with Republic of Korea and Israel are underway.

210. The bilateral agreements cover: a) mutual assistance in the field of social security; b) equality of treatment for nationals of both countries; c) export of social security benefits; and d) accumulation or totalization of membership periods in both the host country and the Philippines resulting in pro-rata sharing in the payment of benefits. There are also portability arrangements that guarantee the full employment by the workers of their social security rights.

3 No. 118 and on Equality of Treatment of nationals and Non-Nationals and ILO Convention No. 157

(b) Promotion of voluntary OFW programs. Since social security legislation of host countries often does not apply to non-citizens, OFWs end up working abroad without access to social security. Hence, since 1995, the SSS has offered its voluntary OFW coverage programs.

211. Unlike locally employed-members of the SSS, OFWs enjoy the benefits of a two-tiered social security scheme: the first layer is the Basic Pension Program, a voluntary defined-benefit scheme, which started in August 1995; and the second layer is the Flexi-Fund Program, a voluntary defined-contribution scheme, which started in July 2001 and which was adopted as the National Provident Fund for OFWs in May 2002.

212. To intensify promotion of its OFW programs and, at the same time, service the needs of the OFW-members where it is needed most, the SSS has set up representative offices in select countries with large concentration of deployed Filipino workers.

213. The SSS has 14 foreign representative offices, which are mostly housed at the Philippine embassies of consulates, as follows: Hong Kong, Taiwan, Brunei and Singapore in Asia; Riyadh, Jeddah and Al-khobar (Saudi Arabia), Kuwait, Abu Dhabi (UAE) and Doha (Qatar) in the Middle East; Rome and Milan (Italy), and London (UK) in Europe; and San Francisco (USA).

214. Recently, the Department of Health (DOH) also embarked on the E-Jobs for Health, a web-based job posting system which allows employers from the national agencies, local governments and private sectors to post their job vacancies for free.

215. The Government exerts all possible diplomatic and legal means and resources to assist its distressed migrant workers/nationals abroad.

216. The Philippines is also intensifying its capacity to fight human trafficking in its efforts to promote and protect the rights of migrant workers, while simultaneously integrating a gender perspective on the human rights of migrants and HIV/AIDS education.

217. As the Philippines strengthens its mechanisms at home and abroad to promote and protect the rights of migrant workers and their families, cooperation from receiving countries in the form of ratification of the Convention on the Rights of Migrant Workers and their Families and the establishment of assistance and service institutions locally would be a major achievement.

B. Article 7: The right of just and favorable conditions of work

Question 20. Please indicate whether the minimum wages fixed in accordance with the procedures described in paragraphs 1995 ff. of the State Party report are sufficient to enable workers and their families to enjoy an adequate standard of living in the poorest regions of the country. Please also provide information on the measures adopted by the State Party to prevent and punish violations of the minimum wage standards (E/C.12/PHL/4, paras 194-214).

218. The government has continued its affirmative and proactive stance on wages to provide positive impact on the quality of life of Filipino workforce. The Department of Labor and Employment (DOLE) through the National Wages and Productivity Commission (NWPC) and its Regional Tripartite Wages and Productivity Boards (RTWPBs) have been regularly conducting consultations and dialogues with tripartite sectors on important socio-economic issues to map out strategic responses to the wage issue in the light of rapid developments in the country. In 2004-2006, the DOLE issued an average of 17 Wage Orders. In 2006, wage orders were issued in all regions of the country, granting increases in basic pay/cost-of-living allowance (COLA) for some 5.4 million private sector workers, ranging from P27.00- P30.00 per day.

219. A culture of safety and health, self-regulation, and voluntary compliance to labor standards and productivity was promoted through the full implementation of new labor standards framework in 2004. Compliance rate on inspection, albeit missing the target of 75-85 percent, improved to 61.0 percent in 2006 from 57.2 and 58.3 percent achieved in 2004 and 2005, respectively.

220. Thus, in order to strengthen the monitoring of compliance with labor standards and further enhance the implementation of the Labor Standards Enforcement Framework (LSEF), the DOLE launched the "Project Inspection Blitz" in July 2007. This project seeks to inspect more establishments, determine violations of core labor standards (minimum wage, COLA, payment of holiday pay, service incentive leave) and enforce compliance thereto.

221. The Supreme Court in the case of the Philippine Agricultural Commercial and Industrial Workers Union (PACIWU)-TUCP vs. NLRC and Vallacar Transit Inc. (G.R. 107994), upheld the rights of the workers to receive a 13th-month pay, regardless whether they are receiving a commission in addition to a fixed

or guaranteed wage or salary. Thus, it is immaterial whether the employees concerned are paid a guaranteed wage plus commission or a commission with guaranteed wage inasmuch as the bottom line is that they receive a guaranteed wage.

Question 21. Please provide detailed information on the implementation of the legislation prohibiting discrimination against women and sexual harassment in the workplace, including information on the number of complaints brought before competent authorities (including the Committees on Decorum and Investigation established by the Anti-Sexual Harassment Act) and on the penalties imposed on employers (E/C.12/PHL/4, paras 140-145 and 215-225).

222. As part of its advocacy campaign to eliminate sexual harassment, the Department of Labor and Employment (DOLE) conducted a flash survey among 366 member-companies of the Employers' Confederation of the Philippines. This survey covered establishments in the manufacturing, hotel and restaurant, educational institutions, services, pharmaceutical and construction sectors. It was aimed at determining the extent of implementation of Republic Act 7877 ((Anti-Sexual Harassment Act of 1995).

223. The Labor Department has also undertaken the project entitled 'Elimination of Sexual Harassment at the Workplace' which aimed to enhance the ability of workers and management towards the improved productivity of workers. The project consisted of two phases:

- (a) Phase I has the following components:
 - (i) development of a general or model company policy and procedure on sexual harassment and workshops on policy and procedure on sexual harassment for the private sector;
 - (ii) conduct of a series of seminars/workshops on policy development and the prevention of sexual harassment in the workplace;
 - (iii) development of low-cost materials such as an information kit and a poster on sexual harassment and Republic Act No. 7877.
- (b) Phase II consisted of a training component in aid of setting up support structures for the members of the Committees on decorum and Investigation of private firms for victims of sexual harassment in the workplace. The training component involved the development of modules and the conduct of a series of training courses on gender sensitivity and counseling to combat sexual harassment.

224. Among the salient provisions of the Administrative Disciplinary Rules on Sexual Harassment is the creation of the Committee on Decorum and Investigation (CODI) in all government agencies. The CODI shall be responsible for receiving and investigating sexual harassment complaints. Capacity-building programs were designed for those who will conduct training programs on the anti-sexual harassment rules and policies. The training manual, with two versions prepared each for the trainer and the participant, was pilot tested in 2003 in Manila and Cebu. Complementary initiatives include the production and dissemination of communication support materials such as posters, stickers and comic books. A memorandum of agreement was signed with the Department of Education for the conduct of training on sexual harassment with the CODI of the agency's regional and division offices.

225. At the home front, a total of 108 rank-and-file employees attended the orientation on anti-sexual harassment organized by the Office for Personnel Management and Development.

Question 22. Please provide detailed information on the extent which persons employed in various export processing zones (EPZs) existing in the State Party enjoy in practice all of their rights under articles 7 and 8 of the Covenant.

226. On 27 March 2006, the Department of Labor and Employment (DOLE) entered into an agreement with the Philippine Economic Zone Authority (PEZA) to facilitate the settlement of labor disputes and ensure employers' compliance with labor laws in over a thousand firms situated in the country's industrial parks and economic zones.

227. The agreement intended to ensure an environment conducive to investments and the preservation and generation of jobs for the workers. It is also geared at preventing labor disputes in the ecozones to preserve jobs and promote the productivity of workers employed within these zones while sustaining the efforts to attract more investments and, thus, generate more employment.

228. The agreement underscores RA 7916 or the Special Economic Zone Act of 1995 which provides that the labor-management relations within the economic zones shall be governed by the Labor Code of the Philippines. The law also specifies that the employees of PEZA firms shall be entitled to salaries and benefits not less than those provided by the Labor Code.

229. Under the agreement, the Industrial Relations Division in each PEZA location and the National Conciliation and Mediation Board (NCMB) shall jointly provide immediate counseling, conciliation, and mediation services to contending parties in labor disputes that may arise within the ecozones. The NCMB and PEZA shall exhaust all means to settle the disputes amicably and shall also collaborate in the design and conduct of a systematic and intensified labor education program for workers and investors aimed at building labor-management harmony and cooperation in improvement of productivity, working conditions, and quality of work life in the ecozones.

229. The DOLE and PEZA shall also jointly undertake orientation programs for foreign employers in the ecozones on Filipino work culture and values as well as on Philippine labor laws and pertinent legislations. The two agencies shall also jointly enforce labor standards and occupational health and safety laws within the ecozones.

Question 23. Please provide detailed information on the measures the State Party has undertaken to enforce its national legislation on health and safety at work, and comment on the compatibility of the Labor Standards Enforcement Framework of 2004, which abandons the principle of government labor inspections for workplace with more than 200 workers, with the right to safe and healthy work conditions, enshrined in article 7(b) of the Covenant. Please also provide updated statistical data on the number of labor inspections carried out, on the number of work related accidents and illnesses occurred and on the number of prosecutions launched against perpetrators in recent years (E/C.12/PHL/4, paras 228-235).

230. The Declaration of State Policies of the 1987 Philippine Constitution provides that the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

231. The Constitution provides that "the State shall promote social justice in all phases of national development." Furthermore, the State affirms the labor as a primary social economic force. Therefore, it shall protect the rights of workers and promote their welfare.

232. Specifically, Section 3 Article XIII of the Constitution provides that State shall afford full

protection to labor and guarantee the right of all workers to humane conditions of work.

233. Accordingly, to affirm the aforementioned Constitutional provisions, the Labor Code provides, as a declaration of basic policy, that the State shall afford full protection to labor, full employment, ensure equal opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.

234. In implementing this mandate, particularly on the right to humane conditions of work, the Labor Code envisions two types of health and safety rules, those applicable generally and those with specific application depending on the nature of occupation.

235. The general requirements for enterprises are prescribed under Books III and IV of the Labor Code which regulate, among others, working hours, provision of safety gear, clinics, and access to hospitals or medical centers.

236. On an occupational basis, the minimum conditions of health and safety are prescribed in the Manual on Occupational Safety and Health Standards. These standards apply to particular occupations as determined by the inherent differences and risks in given work environments. For instance, RA 8558 amended Art. 287 of the Labor Code by reducing the compulsory retirement age of underground mine workers from 65 to 55 years of age, taking into account the health hazards associated with underground mining operations.

237. The DOLE administers and enforces safety and health standards and Articles 162 to 165 of the Labor Code outline the responsibilities of the DOLE in ensuring occupational health and safety of workers. The Secretary of Labor and Employment has the power to order the stoppage of work or suspension of operations of an establishment when non-compliance with the law or implementing rules and regulations poses grave and imminent danger to the health and safety of workers.

238. However, the occupational safety and health provisions of the Labor Code are applicable only to workers falling within an employer-employee relationship. Thus, workers in the informal sector are excluded from the coverage of the Labor Code.

239. To further guarantee the safe and healthy working conditions of workers, visitatorial and enforcement

power was accorded to the Secretary of Labor or his duly authorized representatives by the Labor Code. The pertinent portion of the law is hereunder quoted, to wit:

Article 128. Visitatorial and enforcement power. – (a) The Secretary of Labor or his duly authorized representatives, including labor regulations officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and any labor law, wage order or rules and regulations issued pursuant thereto.

240. The Labor Inspectors, the duly authorized representatives of the Secretary of Labor and Employment in the exercise of the visitatorial power, conduct inspection among establishments to determine compliance with minimum requirements of the law. Inspection covers General Labor Standards specifically wages and wage related benefits (including SSS, Pag-IBIG, PhilHealth) and Occupational Safety and Health Standards and shall prioritize the inspection of establishments particularly those engaged in hazardous and highly hazardous activities; those with the existence of complaints, imminent danger or imminent occurrence of accidents and illnesses/injuries; construction sites; and establishments employing women/child workers.

241. Furthermore, The Secretary of Labor and Employment has the power to order the stoppage of work or suspension of operations of an establishment when non-compliance with the law or implementing rules and regulations poses grave and imminent danger to the health and safety of workers.

242. However, while the DOLE implements and enforces the necessary protection laws to benefit the workers, the ratio of labor enforcement officers to the number of inspectionable establishments is presently not ideal to sustain an effective monitoring of labor standards compliance.

243. In order to address the issue, the DOLE has adopted a new approach to labor enforcement through the issuance of Department Order NO. 57-04 wherein two (2) new approaches were introduced, the Self-Assessment (SA) and Training and Advisory Visits (TAV).

244. Establishments employing 200 and above workers and those that are unionized with registered Collective Bargaining Agreement (CBA) are covered in SA while those ten (10) workers or less and registered

as Barangay Micro Business Enterprises (BMBE) will be subjected to TAV. Actual inspection shall be conducted on those establishments employing 10 to 199 workers.

245. Finally, to further enhance the implementation of LSEF, an extensive inspection strategy program was conceptualized, i.e., LSEF-Inspection BLITZ, now being implemented and is on-going in all regions nationwide to monitor compliance with core

labor standards and social welfare benefits and Occupational Safety and Health Standards.

246. The new LSF of 2004 has not abandoned the principle of government regulation but rather has set in place a mechanism to encourage voluntary compliance with labor standards. The Table below shows the extent of coverage of labor inspections conducted covering the period of 2004 to first semester of 2008.

A. Inspection on General Labor Standards (GLS) including Occupational Safety and Health (OSH)							
INDICATORS	2004	2005	2006	2007	1st semester of 2008		
					Complaint	BLITZ	TOTAL
1. Establishment Inspected	16,319	19,539	19,256	24,375	1,146	12,001	13,147
1.1 Workers Covered	551,720	668,949	590,418	651,916	68,747	280,275	349,022
2. Establishments Complying upon Inspection	7,334	9,004	9,479	13,794	378	6,836	7,214
2.1 Workers Benefited	250,720	364,696	286,165	393,473	17,742	193,367	211,109
2.2 Compliance Rate (%)	44.94	46.10	49.20	56.60	32.98	56.96	90
3. Establishments Found with Violation	8,985	10,535	9,777	10,581	768	5,165	5,933
3.1 Minimum Wage	2,923	3,661	3,349	4,666	442	1,900	2,342
3.2 Compliance Rate on Minimum Wage (%)	82.1	81.3	82.6	80.9	51.4	84.2	136
4. Establishment Complying within Plan Level	1,992	2,393	2,250	1,627	164	836	1,000
4.1 Workers Benefited	40,630	69,136	37,829	28,324	4,188	13,433	17,621
4.2 Correction Rate (%)	22.17	22.71	23.01	15.38	21	16	38
4.3 Amount of Restitution (Php)	23,259,891	32,965,294	23,445,925	29,492,089	6,732,993	11,095,989	17,828,982
5. Total Establishment Complying after Correction	9,326	11,397	11,729	15,421	542	7,672	8,214
5.1 Total Workers Benefited	291,350	433,832	323,994	421,797	21,930	13,433	35,363
5.2 Total Compliance Rate (%) after correction	57.15	58.33	60.91	63.27	47.29	63.92	111
6. Inspection Cases Handled	8,214	11,504	8,815	9,619	2,997	4,935	7,932
7. Cases Disposed	5,407	8,378	6,752	4,487	1,320	2,416	3,736
7.1 Disposition Rate (%)	65.82	72.83	76.60	46.65	44.04	48.96	93
7.2 Workers Benefited	80,394	54,762	55,084	50,778	12,279	25,470	37,749
8. Awards/Settlement (Php)	303,199,541	237,894,223	352,669,658	272,494,426	78,219,882	69,157,356	147,377,238

INDUSTRY	TOTAL		2005		2004		2003		2002		2001	
	CASES	%	CASES	%	CASES	%	CASES	%	CASES	%	CASES	%
ALL INDUSTRY	13,885	100.00	2,586	100.00	2,004	100.00	2,974	100.00	3,686	100.00	2,635	100.00
AGRICULTURE	5,650	40.69	788	30.47	493	24.60	1,376	46.27	1,891	51.30	1,102	41.82
FISHING	93	0.67	34	1.31	8	0.40	24	1.74	14	0.38	13	0.49
MINING & QUARRYING	261	1.88	81	3.13	31	1.55	50	208.33	77	2.09	22	0.83
MANUFACTURING	5,842	42.07	1,270	49.11	1,037	51.75	1,151	2,302.00	1,342	36.41	1,042	39.54
ELECTRICITY, GAS & WATER	233	1.68	36	1.39	21	1.05	37	3.21	80	2.17	59	2.24
CONSTRUCTION	378	2.72	53	2.05	38	1.90	42	113.51	70	1.90	175	6.64
WHOLESALE & RETAIL	732	5.27	109	4.22	177	8.83	170	404.76	148	4.02	128	4.86
HOTELS & RESTAURANT	97	0.70	37	1.43	31	1.55	25	14.71	4	0.11	0	0.00
TRANSPORATION & STORAGE & COMM	375	2.70	86	3.33	113	5.64	62	248.00	38	1.03	76	2.88
FINANCIAL												
INTERMEDIATION	6	0.04	4	0.15		0.00	1	1.61	0	0.00	1	0.04
REAL ESTATE	87	0.63	47	1.82	24	1.20	4	400.00	7	0.19	5	0.19
EDUCATION	1	0.01	0	0.00	0	0.00	0	0.00	1	0.03	0	0.00
PUBLIC ADMIN	1	0.01	0	0.00	1	0.05	0	0.00	0	0.00	0	0.00
HEALTH & SOCIAL WORK	24	0.17	21	0.81	3	0.15	0	0.00	0	0.00	0	0.00
OTHER COMMUNITY												
PERSONAL & SOCIAL ACTIVITIES	105	0.76	20	0.77	27	1.35	32	1.08	14	0.38	12	0.46

DISTRIBUTION OF WORK ACCIDENT BY INDUSTRY, Philippines (2001-2005)

Question 24. Does the State Party envisage the ratification of the Convention concerning Labour Inspection in Industry and Commerce (ILO Convention No. 81.)?

247. The Convention concerning Labour Inspection in Industry and Commerce (ILO Convention No. 81) is part of the ILO Priority Conventions of the Philippine government. To date, said convention is lined-up for study and review under the decent work common agenda by the tripartite body, the social partners-or labor, management and the government.

C. Article 8: Trade union rights

Question 25. Please provide detailed information on the measures adopted by the State Party to prevent and punish violations of trade union rights, including updated information on the efforts undertaken to investigate the killings, abductions, and other attacks carried out against several labor leaders and supporters since September 2005.

248. There is no Philippine Government policy to suppress political dissent or any other fundamental freedom. The Government neither supports nor condones political violence of any kind, including extrajudicial killings and enforced disappearances.

H.E. President Gloria Macapagal Arroyo and officials of her Administration have repeatedly condemned such human rights violations in no uncertain terms.

249. The Philippine Government has undertaken firm measures to address the problem of extrajudicial killings and enforced disappearances. Addressing the most-urgent concern, by bringing their perpetrators to justice and preventing such killings in the future, remains a priority of Government. Due to coordinated, multi-agency approach that gathered momentum in 2007, both government and civil society have indicated a significant drop in incidents for the past year. The PNP reported that the incidence of killings of activists and media dramatically declined from 2006 to 2007.

250. Workers' freedom of association and their right to organize are guaranteed by the following constitutional and legislative provisions, to wit:

A. The 1987 Philippine Constitution

(i) a.1 Section 8, Article III – The State affirms the right of the people including those employed in the public and private sectors, to form unions, associations or societies for purposes not contrary to law shall not be abridged.

- (ii) a.2 Section 18, Article II – The State affirms labor as a primary social economic force and undertakes to protect the rights of workers and promote their welfare.
 - (iii) a.3 Section 3, Article XIII (Social Justice and Human Rights) which mandates the State to (a) provides full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all; (b) guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful and concerted activities including the right to strike in accordance with law; (d) ensure workers' rights and benefits; (e) promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes; and (f) recognize the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns of investments, and to expansion and growth.
- (ii) Department Order No. 40-C, series of 2005, sets forth who may join labor unions and workers' associations. The rules specifically include foreign nationals with valid working permits as among those.
 - (iii) Those committing rebellion and other crimes penalized under the Revised Penal Code of the Philippines will be prosecuted, regardless of their leanings or advocacies. Any open, armed and organized resistance to the legally constituted government will be prosecuted under the rule of law. Where the police or military themselves breach constitutional and statutory boundaries in the discharge of their duties, they themselves are answerable to the State for their misdeeds and no appeal to the higher motive of fighting a cause can justify their nefarious deeds.
 - (iv) The Task Force Against Political Violence, created pursuant to Administrative Order No. 211 (Task Force 211) has successfully worked on twenty-seven (27) priority EJK cases since its inception on November 26, 2007 until its latest count on March 25, 2008. TF 211 was able to achieve the following: it located the whereabouts of PFC Roderick dela Cruz, the accused in the killing of peasant Ricardo Ramos, who surrendered to the National Bureau of Investigation on 21 May 2008. The case is now pending before the Regional Trial Court, Branch 65, Region 3. The accused is now detained at the Tarlac Penal Colony, Barangay Dolores, Tarlac City.
 - (v) Task Force 211 also caused the arrest of Nanding Bitinol, suspect in the killing of Enrico Cabarit on 11 January 2008. A case had been filed before the RTC Branch 34, Panabo City, docketed Criminal Case No. 333-2007 dated 06 November 2007 for murder. The warrant of arrest was issued by Hon. Judge Clemente A. Tajon, who recommended no bail for the accused. The accused is currently detained at Bureau of Jail Management and Penology, Panabo City.
 - (vi) Task Force 211 scored a victory in the case involving the killing of TIMAWA President and Bayan Muna Secretary General Jose Doton last May 16, 2006. The killer, Joel Flores, was meted the penalty of reclusion perpetua in a decision dated May 30, 2008 and promulgated last June 10, 2008 by Judge Ulysses Butuyan of Branch 51, Regional Trial Court in Tayug, Pangasinan.

B. Legislation

- (i) The Labor Code of the Philippines employing the constitutional mandates specifically provides legal protection to workers in the exercise of the right to self-organization.
- (ii) Republic Act No. 9481, or an "Act Strengthening the Workers' Right to Self-Organization, amending for the purpose Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines", lapsed into law on May 2007 and became effective on 14 June 2007. This law expands the capacity of legitimate federations and national unions to organize and help their local chapters acquire representation status for the purposes of collective bargaining. Any legitimate federation or national union can directly create a local chapter and vest it with a legal personality for purposes of filing a petition for certification election even without the statutory twenty percent (20%) minimum membership requirement (although this requirement still applies to independent unions).

C. Administrative Issuances

- (i) Department Order No. 40, series of 2003 sets up the mechanism for alternative modes of organizing for industry unions and mutual and associations. For this purpose, the rules clarify the distinction between organizations for collective bargaining (trade union) and the organizations for purposes other than collective bargaining (workers associations, including those in the informal sector).

D. Article 9: The right to social security

Question 26. Bearing in mind the Committee's General Comment No. 19 (2007) on the right to social security, please provide disaggregated data on the number of persons and families entitled to the various social security benefits recognized

under the State Party's social security system. Please also provide disaggregated data on the number of persons and families who are not covered by the social security system, for example persons working in the informal economy, and on the measures adopted by the State Party to ensure, to the maximum of its available resources, and adequate protection from social risks and contingencies (E/C.12/PHR/4, paras 312-401).

251. In line with its vision of universal coverage, the Social Security System (SSS) implemented the following coverage programs for self-employed persons in the informal economy:

(a) Circular 105-T - Effective January 1, 1980 - Compulsory coverage of all self-employed persons, who are not over 60 years of age with a gross income of at least P1,800 a year belonging to the following groups:

- (d) Members of the Philippine Bar;
- (di) Professional duly licensed by the Professional Regulation Commission;
- (dii) Business partners, single proprietors and board directors duly registered with the appropriate government agencies;
- (diii) Professionals/workers in the movie industry (e.g. actors, actresses, directors, make-up artists, stunt men, cinematographers, etc.);
- (div) Free lance writers, journalists, newscasters or news correspondents;
- (dv) Professional athletes, coaches, trainers and referees licensed by the Games and Amusement Board as well as jockeys and trainers licensed by the Philippine Racing Commission;
- (dvi) Real estate brokers, salesmen, sales brokers, real estate agents, appraisers or consultants registered with the Bureau of Domestic Trade or any other appropriate agency; and
- (dvii) Actuaries, insurance agents or brokers registered with the Insurance Commission

(b) Social Security Commission Resolution No. 466, s. 92 - Effective January 1, 1992 - Compulsory coverage of farmers and fishermen with a monthly income of at least P1,500.

(c) Social Security Commission Resolution No. 777, s. 95 - Effective October 15, 1995 - Expanded self-employed coverage of workers in the informal sector with a monthly income of at least P1,000 regardless of trade, business or occupation.

252. In addition, the following are the initiatives taken to ensure coverage of self-employed persons:

(a) Tie-up with the following government and non-government agencies:

Coverables	Government/Private Agencies
Jeepney/taxi drivers	Land Transportation Franchising and Regulatory Board (LTFRB) Land Transportation Office (LTO)
Sidewalk vendors	Business Permit and Licensing Office (BPLO)
Cooperatives	Cooperative Development Authority (CDA)
Farmers	Department of Agrarian Reform (DAR) Samahan ng Magsasakang Magkakabit-Bisig Samahan ng mga Magsasaka sa Bundok Antipolo
Fishermen	Bureau of Fishery & Aquatic Resources (BFAR) Different fisherfolk organizations and cooperatives based in the Bicol region
Business Operators	Department of Trade & Industry (DTI)
Workers in the movie industry	Film Academy of the Philippines (FAP) Kapisanan ng mga Artista sa Pelikulang Pilipino (KAPP) Professional Artists Managers, Inc. (PAMI)
Midwives	Integrated Midwives Association of the Philippines
Insurance agents/brokers	Insurance Commission
Nurses	Philippine Nurses Association
Sales persons	Avon Cosmetics, Inc. Triumph International (Phils.)
Lawyers	Integrated Bar of the Philippines
Market Vendors	National Market Vendors Cooperative, Inc. (NAMVESCO)
Veterinary	Phil. Veterinary Medical Association
Certified Public Accountants	Phil. Institute of Certified Public Accountants
Dentists	Phil. Dental Association
Golf caddies/ umbrella girls	National Golf Association of the Philippines
Jockeys and Trainers	Philippine Racing Commission

- (b) Intensified information dissemination
- Conduct of orientation seminars/special registration and action centers
 - Distribution of brochures, pamphlets and posters to the different agencies/associations
 - Publication of different coverage programs in widely-circulated dailies.

(c) Door-to-door saturation drive

Question 27. Does the State Party envisage ratification of the Convention concerning Minimum Standards of Social Security (ILO Convention No. 102)?

253. The Convention is among those agreements included in the Common Priorities in the Philippine Decent Work Agenda for 2005-2007. Multi-agency consultations are underway to discuss the Convention in accordance with the domestic ratification procedure of the Philippines.

E. Article 10: Protection of the family, mothers and children

Question 28. Please provide information on whether the State Party has considered introducing legislation concerning the legalization of divorce [and if not, why]

254. In 2005, Sectoral Representative Liza Masa of Gabriela filed a divorce bill. In 2001, similar bills were filed in the Senate (Bill No. 782), introduced by Senator Rodolfo G. Biazon, and House of Representatives (Bill No. 878), introduced by Honorable Bellaflor J. Angara-Castillo. In 1999, Representative Manuel C. Ortega filed House Bill No. 6993, seeking for the legalization of divorce.

255. Absolute divorce is a controversial issue in the Philippines. Proponents to the bill have not gathered enough strength to mount a campaign for its passage.

256. In the 14th Congress, the bill proposing Marital Infidelity to replace Arts. 333 and 334 (Adultery and Concubinage) of the Revised Penal Code (RPC) is seen by some groups as an entry point in bringing in divorce. These groups are proposing the repeal of Arts 333 and 334 of the RPC and instead introduce divorce as the legislation that will ensure the protection of women's rights. Many groups, including the National Commission on the Role of Filipino Women (NCRFW) feel the need to study this proposal much longer, before taking on a position.

257. PD 1083, which codified personal laws for Muslim Filipinos allows divorce (Talaq). Article 45 to 55 of P.D. 1083 provides for the conditions therefor.

Question 29. Please provide information on the implementation of the Anti-Rape Law of 1997 and the Anti-Violence against Women and their Children Act of 2004, including information on cases of rape and other forms of violence for which criminal proceedings were instituted and disaggregated data on the number of persons who have been victims of gender-based violence. Please also indicate which measures the State Party has adopted to raise awareness among judges, law enforcement agents, and other officials on the anti-violence legislations, as well as to provide counseling and temporary shelter to victims of domestic violence (E/C.12/PHL/4, paras 432-433)

258. The Philippine criminal justice system has legal mechanisms for the protection of women, migrant workers, youth, indigenous peoples, and other vulnerable groups. At least 15 laws have been passed during the last decade on the protection of their rights. The PNP and NBI have established mechanisms for dealing with women, youth and children. The PNP operates Women and Children Protection Desks in police stations staffed by accordingly-trained policemen/policewomen. As mentioned earlier, the DSWD and civil society also maintain institutions to address needs of women and children in conflict with the law or victims of crimes.

259. Violence against women (VAW) is an act of gender-based violence that results in, or likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. VAW likewise encompasses all forms of violation of women's rights, including threats and reprisals, exploitation, harassment, and other forms of control. Until 1997, rape was one of the acts under crime against chastity which was a private crime in nature under the Revised Penal Code (RPC) of the Philippines.

260. In 1997 Republic Act No. 8353 Redefining Rape as a Crime Against Person was passed into a law amending the provision of the RPC. This law recognizes rape as violation of the woman's well-being and not just her chastity. It also states that an woman, whether prostituted, non-virgin or one who has an active sexual life can be victimized by rape. It declares rape as a crime against person, thus, any person who has knowledge of the crime may file a case on the victim's behalf.

261. Similarly, this law recognizes rape within the context of marriage, as the wife being the victim and the husband as the perpetrator. The crimina

liability of husband, however, extinguishes when a subsequent forgiveness of the wife as the offended party has been made.

262. Subsequently, the Rape Crisis Assistance and Protection Act was signed into law to provide necessary assistance and protection for rape survivors by the establishment and operation of a rape crisis center in every province and city that shall protect and assist rape survivors in the litigation of their cases and recovery.

263. Since then, rape cases became part of the Philippine National Police (PNP) reporting system. From 1999 to 2006, reported rape cases accounted for about 14.7% of total reported VAW cases. There was, however, a downward trend on reported rape cases – from 946 in 1999 to 659 in 2006 at a rate of 5% per annum. The downward trend, though, does not necessarily indicate a decreasing VAW incidence in the country because data are based only from what was reported to PNP.

264. A number of programs and services to protect the victims and survivors of rape, particularly those agencies that provided direct services to rape victims and survivors were already instituted. These are:

- (a) The Department of the Social Welfare and Development (DSWD) as the lead agency in the implementation of RAs 8505 has initiated the following: a) policy guidelines and programs on rape; b) rape crisis center; c) center-based services; d) standard setting, accreditation and licensing services.
- (b) The National Bureau of Investigation (NBI) established the "One-Stop-Shop" for violence against women and children (VAWC) services. This "one-stop-shop" provides integrated support service for VAWC victims and survivors.
- (c) The Department of Justice (DOJ) has Victim's Compensation Program, Task Force on Women and Children and capacity-building for prosecutors. Family Courts that hears cases relates family and VAWC were also designated.
- (d) On the part of the Department of Health (DOH), they established the hospital-based Women and Child Protection Units (WCPUs) in key cities and regions nationwide. To date, there are forty plus operational WCPUs nationwide. These WCPUs provide multi-disciplinary approach, holistic and gender-sensitive health care services to women and children who are victims and survivors of violence. The East Avenue Medical Center WCPU is one of the models of collaborative efforts of government and non-government organizations

in operating a hospital-based crisis center.

- (e) The National Commission on the Role of Filipino Women (NCRFW) also shares its efforts in making the services to VAW victims and survivors, particularly the rape victims, rights-based and gender sensitive. It organized the Anti-Violence Against Women Coordinating Committee (AVAWCC). This Committee provides direction in relation to addressing the issues and concerns related to VAW including rape. It is composed of government agencies with VAW-related mandates. It also initiated the development VAW Performance Standards that would serve as benchmarks in providing services to VAW victims and survivors. It is a collaborative efforts of the following agencies: a) DSWD; b) PNP; c) DOJ; d) Department of the Interior and Local Government (DILG); and e) DOH. Just recently, the NCRFW facilitated the creation of Men Opposed to Violence Against Women Everywhere or MOVE. MOVE seeks to: a) speak out against VAW; b) examine, propose and formulate total male involvement and actions in the elimination of VAW; c) form partnerships and linkages with similar groups working on VAW, locally and internationally; d) organize and conduct researches, studies and fora in recognition of the social effects of VAW for policy and program development; and e) establish resource network on VAW. In response, to the CEDAW's Concluding Comments to look at the provisions of the Anti-Rape Law, particularly on marital rape, the NCRFW is currently studying possible amendments to the law.
- (f) The Philippine National Police (PNP) have systematized their reporting system, among others.
- (g) Non-government organizations (NGOs) have also established mechanisms to help the government in addressing the issues and concerns related to rape. Specifically, they provide legal, counseling and shelter services to VAW victims and survivors. Women's Crisis Center (WCC), Women's Legal Bureau (WLB) and SALIGAN are some of the few NGOs which are actively involve in VAW activities.
- (h) While there are efforts to address rape, a number of challenges were experienced by the above-mentioned agencies to fully implement RA 8353 and 8505 ranging from the victim's desistance/recantation to insufficient and/or lack of technical knowledge of service providers about VAW laws and its implementation.
- (i) On 08 March 2004 during the celebration of the International Women's Day, Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and their Children Act of 2004" was signed into law by President

play. Some of their psychosocial programs and services are Feminist Counseling, Medical and Health Assistance, Stress Management Services, Legal Assistance and Referral, Temporary Shelter and a Regular training and consciousness-raising activities for hospital personnel.

- (d) On policy development, the Civil Service Commission (CSC) issued "CSC Memorandum Circular No. 15, s. 2006 re: Guidelines on the Availment of the 10-day Paid Leave Under RA 9262" addressed to all heads of departments, bureaus, and agencies of the Non-Government Organizations (NGOs), LGUs, Government Owned and Controlled Corporations (GOCCs) with original charter and the State Universities and Colleges (SUCs) and sets out clear procedures and requirements that would enable women employees who are themselves or whose children are victims of violence to avail of the leave privilege.
- (i) The Department of Labor and Employment (DOLE) conducted monitoring visits in nineteen (19) private establishments in Regions 6, 8 and 9 and oriented the Family Welfare Committee (FWC) members, union members, nurses and DOLE regional program implementers on RA 9262.
- (e) As part of the IACVAWC's monitoring of the progress of implementation of the law, the Council instigated the submission by the member agencies of their respective Accomplishment Reports in relation to the implementation of the Law.
- (i) The NCRFW continued with the development of the VAW Documentation and Reporting System. It also developed an interim VAWC monitoring and reporting form to gather basic statistics on VAWC while the VAW Documentation System is not yet functional.
- (ii) The National Police Commission (NAPOLCOM) spearheaded the preparation of a Standard Reporting Format for the police in receiving complaints involving women and children, which aims to establish a uniform system of reporting cases to facilitate the monitoring and documenting VAW cases.
- (iii) As of 2007, all children in conflict with the law below 15 years of age have been relocated to more appropriate facilities. The challenge remains to establish more detention homes and rehabilitation centers at the local level.

268. In cognizance of the provisions of the Convention on the Rights Child, legislative gaps and issues

requiring review, reform and enactment have been identified in the 2005 UN Committee on the Rights of the Child Concluding Observations. The issues include a) minimum age of criminal responsibility, b) minimum age of sexual consent, c) prohibition of torture, d) lack of comprehensive juvenile justice system, e) discrimination against children born out of wedlock, f) use of children for pornography, and g) corporal punishment, among others.

269. The Juvenile Justice and Welfare Act of 2006 is expected to thousands of children in conflict with the law annually. Its provisions were adopted from key international instruments, such as the UN Standard Minimum Rules for the Administration of Juvenile Justice, UN Guidelines for the Prevention of Juvenile Delinquency, and the UN Rules for the Protection of Juvenile Deprived of Liberty. Concerns on cases of torture and other cruel, inhuman or degrading treatment or punishment of children, particularly of children in detention had also been addressed legally through the enactment of this law.

270. During the period 2004-2006, some other laws were passed such as: a) Republic Act 9255, An Act Allowing Illegitimate Children to Use the Surname of their Father; b) Republic Act 9262 or Anti-Violence Against Women and their Children Act of 2004, An Act protecting women and their children from physical, emotional, sexual, psychological and economic abuses; and c) Republic Act 9288 or the Newborn Screening Act of 2004, promulgating a comprehensive policy and a national system for ensuring newborn screening.

271. The Supreme Court has also promulgated rules focusing on children's rights, specifically the Rule on the Examination of a Child Witness (2000), Rule on Juveniles in Conflict with the Law (2002), Rule on Violence Against Women and their Children (2004), and Rule on Children Charged Under the Dangerous Drugs Act of 2002 (2007).

272. In 2007 a building was erected which now houses 154 Children in Conflict with the Law (CICL). Three jail facilities were built in the national capital region as well as Region IV-A and Region 7.

273. As of December 2007, all CICLs who are 15 years old and below have been released from jails and detention homes. Some 10.2 million pesos was allotted to repair city, district, and municipal jail facilities nationwide. The adoption of the 'Restorative Justice' approach has also been an effective means for inmates' reformation, rehabilitation, and integration into the mainstream of society.

274. In relation to the implementation of the Anti-Rape Law of 1997, one of the DSWD's special projects is the Rape Crisis Center. Aimed at providing comprehensive programs and services for the healing, recovery and reintegration of rape victims and their families, this "one-stop-shop" is where services of doctors, police officers, lawyers and social workers can be availed of in one set-up. Significantly, this logistical arrangement prevents the "re-victimization" of clients where the victim/survivor needs to repeat the story to different service providers in the course of their data-gathering and management of the case. This convergence of psychosocial services from local agencies helped facilitate the cases of rape victims.

275. For site demonstration, the project used existing facilities in cooperation/partnership with government agencies, NGOs and hospitals. In Region VII, the Center is located at the DSWD Home for Girls and the Vicente Sotto Memorial Hospital is the partner medical facility. For Region XI, the Centers are located at the DSWD Group Home for Girls and the Reception Study and Diagnostic Center in Mati, Davao Oriental. A total of 493 clients were served from 2005 to 2007, and the project is recommended for promotion and replication by other provincial governments.

276. As for the Anti-Violence against Women and Children Act of 2004, the DSWD has implemented the Community-Based Rehabilitation Project for Perpetrators of Domestic Violence. The CBRPPDV is a rehabilitation project for male perpetrators of domestic violence. It utilizes treatment modalities to correct the perpetrator's behavior and restore his social functioning. These modalities include Rational Emotive Behavior Therapy, Reality Therapy, Conjoint Therapy and Psycho-education Therapy. Through these modalities, the perpetrator learns self control, improves his attitude and becomes more responsible. The rehabilitated clients are trained and organized to undertake mobilized action to address domestic violence in their community. They could also facilitate the rehabilitation of other perpetrators in the community and the rehabilitated perpetrators become members of the Men's Support Group.

277. Program components include profiling of perpetrators; capability-building of implementers; organization of a men's support group who will serve as living examples of men who can control their anger and can survive life without hurting family members; delivery of rehabilitation services such as counseling and other psycho-social interventions; as well as sessions in psychotherapy and family healing.

Other support services being provided are livelihood and employment, skills development, education, medical parent effectiveness and community-building for peace activities that will form families as one community with a mission towards building peace and harmony.

278. The program was pilot-tested in nine regions, namely Regions III, IV-A, IV-B, V, VIII, X, XI, CAR and NCR since January 2005. As of December 2007, a total of 91 male perpetrators have been assisted and provided psycho-social treatment. Twenty-eight of them have fully recovered and have displayed improved behavior, while the remaining 63 clients are still undergoing therapeutic sessions. Said clients have reported to LGU social workers and have attended scheduled sessions. The LGU social workers have also conducted home visits to monitor the client's progress, as well as ensure that the client is achieving the goals of rehabilitation.

279. Several capability-building were likewise conducted. A Case Management Training for social workers as implementers of the CBRPPDV was conducted in Regions III, IV-A, IV-B, V, VIII, X, XI, CAR and NCR involving 24 social workers. The training aimed to enhance the capability of the participants and improve the case handling and management. There was also Training of Trainers for Enhancing Gender Sensitivity attended by 29 local Inter-Agency Committees against Trafficking (IACAT) and Violence against Women and Children (VAWC) focal persons for DSWD, LGUs, Commission on Human Rights, NGOs, and public health offices of Regions III, IV-A, V, VII, XII and NCR. In addition, there was a Gender Sensitivity Training for DSWD Assessors / Accreditors / Monitors of Residential Care Facilities for Women where 35 social welfare officers from the DSWD Central and Field Offices were involved.

280. Moreover, a joint project by the DSWD and the United Nations Fund for Population Activities (UNFPA) aimed to create an enabling environment that promotes and protects the rights of women and girls by advancing gender equity and equality. The project was implemented in 10 poorest provinces identified by the UNFP, namely Ifugao, Mt. Province, Masbate, Bohol, Eastern Samar, Sulu, Tawi-Tawi, Lanao del Sur, Maguindanao, and Sultan Kudarat.

281. Finally, various fora, technical lectures and orientation workshops helped popularize RA 9262, Anti-Violence against Women and Children Act. These included advocacy meetings with local legislators to generate support for Gender and Development-related laws.

prevent and punish worst forms of child labor - On 19 December 2003, Republic Act 9231, "An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for this Purpose Republic Act No. 7610, as amended, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act", was enacted.

283. Among the accomplishments on the implementation of the law include the following:

- (a) Towards strengthening the enabling environment for the elimination of the worst forms of child labor.
 - (i) The participation of the social partners of the Philippine Program Against Child Labor in the national development planning process has led to the inclusion of child labor concerns in the Medium Term Philippine Development Plan (MTPDP) 2004-2010. The provision of social assistance to working children has been included in the Plan as part of the goals and strategies for employment enhancement.
 - (ii) The program has been instrumental in the mainstreaming of data and information on child labor in national statistics. Through advocacy and pilot studies, the program has identified and justified the need for national data on child labor for policy formulation and development planning.
 - (iii) Public awareness and perceptions of the child labor phenomenon and its related issues have been sharpened. This was evident from the results of the opinion survey conducted by the Social Weather Station (SWS), a respected organization which regularly carries out opinion survey conducted in May 2005 has shown that across the country, the public is aware of the presence of child labor in their respective communities, the types of work as they are engaged, and the occupations which are regarded as hazardous to child workers. Additionally, the survey showed that a big majority of the survey respondents are aware of the existence of RA 9231.
 - (iv) The program's awareness raising and advocacy campaign had influenced the promulgation of local government ordinances that address the needs of child laborers, and in some areas specific types of worst forms of child labor.
 - (v) Child labor committees have been established at the national, regional, and local government levels. These committees serve as the institutional structure and delivery mechanism for addressing the child labor problem in the country, which increases the likelihood of sustainability.

- (vi) To curb illegal recruitment and prevent trafficking of children for worst forms of child labor, the DOLE regulates private recruitment and placement agencies for local, as well as overseas employment.
- (vii) A new framework for 2007-2015 has been formulated, which was a product of several activities - performance assessments, consultations, and planning workshops among the representatives of government agencies, non-government organizations, worker's organizations, employers' group, local government units, child laborers and their parents.
 - (b) Towards reducing the incidence of selected worst forms of child labor through the direct action for child laborers and their families
 - (i) Under the Sagip Batang Manggagawa (Save the Child Worker), a community-based mechanism for detecting, monitoring and reporting the most intolerable forms of child labor, a total of 792 rescue operations have been conducted with a total of 2,686 child laborers rescued, from 1993 to June 2008. The DOLE acted on administrative cases concerning violation of labor standards by requiring the erring employers to restate unpaid monetary claims due to the child labor victims. Most of the rescued child laborers have been integrated to their respective families and communities with the help of the DSWD. Some of them were provided with educational assistance, skills training and livelihood assistance.
 - (ii) The Philippine Time-Bound Program (PTBP) is being undertaken in relation to the Philippine Government's ratification of the International Labor Organization Convention No. 182 (Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor). The PTBP has identified six (6) priority sectors, namely: children in deep-sea fishing, mining, polytechnics production, prostitution, sugarcane plantations and domestic labor. The PTBP was supported by the US-DOL through the ILO-IPEC and World Vision.

As of April 2007, a total of 40,549 children have been withdrawn and prevented from the identified six priority sectors through the provision of various services such as non-formal education/alternative learning system, vocational training, psychosocial counseling, legal assistance, health services, and education support for enrollment in schools such as uniforms, books and school supplies under the ILO-IPEC support project.

Under its Pag-Aaral ng Bata para sa Kinabukasan (ABK) Initiative in support of the

PBTP, the World Vision Center, together with Educational Research Development Assistance Foundation, Children Children's Fund and Plan International, provided educational assistance to 16,253 child laborers for school year 2004-2005. For school year 2005-2006, the ABK Project enrolled 13,142 child laborers, 9,574 of whom are the PBTP targeted child laborers. Under the ABK2/TEACH Now Initiative which is being implemented from 2007-2011, a total of 30,000 children engaged in or at risk of the worst forms of child labor in 7 regions and 9 provinces will be withdrawn and educated in the priority sectors.

- (iii) The Eliminating Child Labor in the Tobacco Industry (ECLTI) Project aims to contribute to the elimination of child labor through a comprehensive program for children working in the tobacco industry in the Ilocos region. The project provides educational assistance to 286 children engaged in tobacco farming and alternative livelihood assistance to the families of these children.
- (iv) the Kabuhayan para sa Magulang ng Batang Manggagawa (KASAMA) Project is a strategic response to prevent and eliminate child labor through the provision of livelihood opportunities to families of child laborers.

As to number of prosecutions and Convictions/Sanctions imposed on perpetrators, as of September 2008, the Department of Labor and Employment had closed down fifteen (15) establishments for employing minors for prostitution or in obscene or lewd shows in violation of RA 9231. Prior to the enactment of RA 9231, there are a total of four (4) convictions of owners/employers of establishments (KTV bars, a piggery farm and manufacturing companies) for violation of RA 7610.

Question 32. Please provide updated information on the efforts undertaken by the State Party to prohibit corporal punishment in all settings, including the home.

284. The 2005 Philippine report to the UN Study on Violence Against Children (VAC) emphasized the need to address the issue of physical abuse, including corporal punishment, in the home, in school, and other institutional settings like detention facilities, rehabilitation centers, and child-care and placement agencies among others. In response to the UN Study, the VAC Core Group composed of different agencies (CWC, UNICEF, Save the Children -UK, Plan Phils., Open Heart Foundation, CCF, ECPAT, DSWD and PNP) developed the National Framework of Action to End Violence Against Children meant to guide the development and implementation of appropriate

and effective legislative, policy and programmatic initiatives towards the elimination of all forms of violence against children.

285. Thus, to curb corporal punishment in all settings within the State party, the Philippines enacted legislations to address the issue, viz:

- (a) The Revised Penal Code of the Philippines is comprehensive enough to cover the infliction of corporal punishment as a crime, provided the elements of the crime are met. And the liability may likewise extend to parents who will inflict such injury as the law does not distinguish who the perpetrators are. For instance, such infliction may constitute the crime of serious to less serious to slight physical injuries depending on the gravity of the injuries inflicted upon the victim.
- (b) Republic Act No. 7610 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act may also apply as it broadly defines child abuse to include corporal punishment and prescribing penalties therefor. Moreover, RA 7610 also increased the penalty resulting from such physical abuse if the offended party under Articles 248, 249, 262, paragraph 2, and 263, paragraph 1 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of murder, homicide, other intentional mutilation, and serious physical injuries, respectively, shall be reclusion perpetua is under twelve (12) years of age.
- (c) Republic Act No. 9262 or the Anti-Violence against Women and their Children Act of 2004 was enacted. Under the said law, it punishes individual who shall inflict or threaten to inflict physical violence against children. It is respectfully submitted that corporal punishment is not an exemption from liability under the said law as the term "physical violence" is defined broadly that includes any physical harm, and as the law does not distinguish we should not distinguish.
- (d) Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006 provides for the following – a) prohibits torture and other cruel, inhuman and degrading treatment or punishment; b) introduces restorative justice; c) provides for diversion programs for children in conflict with law; and d) prohibits detention of youth offenders below the age of 15 in jails. It enumerates the rights of the child in conflict with the law, including among others, 1) the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment; 2) the right not to be imposed a sentence of capital punishment or life imprisonment, without the possibility of release;

3) the right not to be deprived, unlawfully or arbitrarily, of his/her liberty, detention or imprisonment being a disposition of last resort, and which shall be for the shortest appropriate period of time; 4) the right to be treated with humanity and respect for the inherent dignity of person, and in particular, a child deprived of liberty shall be separated from adult offenders at all times.

- (e) RA 9344 also prohibits the following acts against children in conflict with the law: a) employment of threats of whatever kind and nature; b) employment of abusive, coercive and punitive measures such as cursing, beating, stripping and solitary confinement; c) employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive and harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity; and d) compelling the child to perform involuntary servitude in any and all forms under any and all instances.

286. It must be noted that these measures do not only entail criminal responsibility but civil liability as well upon the offender.

287. Article 233 of the Family Code of the Philippines provides that in no case shall the school administrator, teacher or individual engaged in child care exercising special parental authority inflict corporal punishment.

288. This measure serves to eliminate the previous practice in schools of inflicting corporal punishment upon students or pupils by teachers and other school administrators as a way of inculcating discipline upon them. Also, such enactment is so encompassing that it covers any individual exercising special parental authority engaged in child care.

289. The State's sincere efforts to completely eliminate corporal punishment is apparent in light of proposed House Bill No. 682, otherwise known as Anti-Corporal Punishment Law of 2007 pending before the Congress.

290. The bill defines corporal punishment as the infliction of physical or mental violence or blows upon a child as a form of punishment or chastisement including public humiliation, verbal abuse, and other forms of punishment that is considered abusive, degrading and not consistent with the child's human dignity considering his/her physical and mental immaturity.

291. The bill penalizes any parent or ascendant, teacher, or guardian who shall inflict corporal punishment upon his/her child or a descendant under his/her care, student, or ward, respectively if in consequence of such corporal punishment, the victim shall become insane, imbecile or blind; the victim has lost the use of speech or the power to hear or to smell, or shall the use of any such member, or shall have become incapacitated to engage in the usual physical activities of a child; the victim injured shall have become deformed, or shall have lost any part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated to engage in the usual physical activities of a child for a period of more than ninety days; the victim shall have become ill or incapacitated to engage in the usual physical activities of a child for a period of more than thirty days; the victim shall have become ill or incapacitated to engage in the usual physical activities of a child for a period of more than thirty days; the victim shall have become ill or incapacitated to engage in the usual physical activities of a child for a period of one to nine days; when the offender has caused physical injuries not requiring medical attendance; and if such corporal punishment does not cause any physical or mental injury.

292. The teacher who inflicts any corporal punishment shall likewise be liable provided he/she is a teacher in the same school where the child victim is enrolled and regardless of the place and time the corporal punishment was inflicted by the offender upon the child victim. The same treatment applies to other school employees and officials whether occupying a teaching position or not.

293. The foregoing provisions shall also apply to the custodians of children in the juvenile justice or correction institutions.

Question 33. In addition to the information provided in the report, please indicate what effective measures the State Party has adopted and implemented to combat the problem of trafficking in persons. Please provide statistical data, disaggregated on the basis of gender and country of origin on this phenomenon, as well as information on the number of prosecutions and convictions, and on the sanctions imposed on perpetrators (E/C.12/PHL/4, para 462).

294. The Philippines is considered as one of the leading source-countries of migrant workers all over the world. As of December 2003, the POEA reported some 7.76 million Filipinos working abroad. It also reported that the top 10 overseas destinations of undocumented Filipino workers include the United States, Singapore, Canada, Japan, Italy, United

Kingdom, Jordan, Malaysia, South Korea and Saudi Arabia. Other recently known destinations include Saipan, Nigeria, Syria, Cyprus, Australia, Indonesia, Brunei, Ivory Coast, Israel and Thailand.

295. The Commission on Filipinos Overseas (CFO) reported some 1,013 recorded cases of human smuggling from 1993-2002. Mass recruitment of young girls in poor communities is still pervasive according to Asia Against Child Trafficking (Asia ACTs).

296. The Inter-agency Council Against Trafficking (IACAT) monitors the implementation of prevention, protection, recovery and reintegration programs. Information dissemination campaigns, enforcement of local ordinance against trafficking in persons, and livelihood assistance for victims and families affected by trafficking continue to be done.

297. Based on the reports provided by the Task Force Against Trafficking in Persons of the DOJ, there is an increasing number of cases from 2003 to 2005. As the law had just been implemented in 2003, only 12 cases were received; while in 2004, the number increases 5 times; and in 2005, cases dramatically increases to 114; or a total of 186 cases. For the first half of 2006, the DOJ received 32 cases.

298. Of the 186 cases from 2003 to 2005, approximately 30 % are still pending in court; while roughly 40 % are either pending investigation by the handling prosecutor or pending resolution. The rest were either dismissed, dropped or withdrawn. Of the 2006 cases, 38 cases are pending preliminary investigation; while 34 have been filed in court; and 16 cases were dismissed for insufficiency of evidence. For half of 2007, aside for the 1 conviction, there are 14 cases pending preliminary investigation and 2 cases are now filed in court.

299. Majority of the cases were filed in Metro Manila, then Luzon, followed by Mindanao and Visayas.

300. The PNP and the NBI, however, conducted 25 rescue operations that led to arrest of 56 persons and the rescue of 137 victims. Filed were 22 cases out of 26 rescue operations. For the same period, both PNP and NBI investigated a total of 109 cases.

301. For the period 2006, the Anti-Human Trafficking Division (AHTRAD) of the NBI received 122 cases. Of those cases, 3 have been recommended for prosecution, 7 were subjected to inquest proceedings, 7 were closed, either for insufficiency of evidence of the failure of the complainants to pursue the cases, and 109 cases are still under investigation.

302. In the last quarter of 2005, 7 cases for violation of RA 9208 resulted in conviction, punishing 7 persons. In 2007, there was conviction of 3 persons. Description of these convictions as follows:

2005

- Zamboanga City (November 29, 2005)
3 persons sentenced to life imprisonment and Php 2M in fines for violations of Sec. 4 in rel. to Sec. 6 (c) and 10 (c) (Qualified Trafficking)
- Quezon City (December 8, 2005)
Spouses sentenced to 4 life imprisonment and pay Php 8M in fines for violations of Sec. 4 in rel. to Sec. 6 (a) and (c) (Qualified Trafficking)
- Batangas City (November 15 & 28)
2 persons sentenced to render 6 months of community service for pleading guilty to Sec. 11 (Use of Trafficked Persons)

2007

- Zamboanga City (March 27, 2007)
1 person sentenced to life imprisonment and to pay Php 6M in fines for violation of Sec. 4 in rel. to Sec. 6 (c) and 10 (c) (Qualified Trafficking)
- Cebu City (July 20, 2007)
2 persons sentenced to life imprisonment and to pay Php 3M in fine for violation of Sec. 6 (a) (Qualified Trafficking)
- Davao City (July 27, 2007)
1 person sentenced to life imprisonment and to pay the sum of Php 2M in fines for violation of Section 6 (a), (c) and (d) in relation to Section 3, 4 (a) and 10 (c) of RA No. 9208

Victim Protection and Assistance

303. The DSWD provide to a total of 1,449 victims of trafficking in their field offices for the period 2003-2006 (first half). These services include counseling, legal services, transportation assistance, family assessment, temporary shelter, referral for medical and dental examination, educational assistance, skills training, among others. The total number of victims served, majority are female at 1,175 (81 %) and only 274 (19 %) are male. The total number of victims served by DSWD, majority are children, aged 17 and below at 66.25 %.

Year	Sex		Total No. of Victims
	Male	Female	
2003	6	116	122
2004	23	141	164
2005	154	320	474
2006	69	120	189
NCR 2003-06	22	478	500
<i>Grand Total</i>	274	1,175	1,449

Year	Age Group						Grand Total
	Below 12	13-17	18-22	23-28	29-33	34-42	
2003	10	37	39	32	1	3	122
2004	42	7	69	38	4	4	164
2005	208	104	105	41	12	4	474
2006	24	109	30	20	4	2	189
NCR 03-06	27	392	22	25	24	10	500
Total	311	649	265	156	45	23	1,449

Victims' Origin Provinces

Trafficked victims served by DSWD come from many provinces and cities nationwide, as follows:

Region	Provinces and Cities
I	La Union; Pangasinan
II	Isabela
CAR	Baguio City
III	Zambales; Nueva Ecija; Pampanga; Tarlac and Bataan
NCR	Manila
IV	Rizal; Cavite
V	Masbate; Camarines Norte
VI	Aklan; Iloilo; Negros Occidental
VII	Cebu; Bohol
VIII	Tacloban City; Eastern Samar; Northern Samar; Leyte; Southern Leyte
IX	Zamboanga; Zamboanga Sibugay
X	Cagayan de Oro; Misamis Oriental; Bukidnon
XI	Davao del Norte; Davao del Sur
XII	South Cotabato; Gen. Santos City; Sarangani; Sultan Kudarat
CARAGA	Agusan del Sur; Agusan del Norte; Surigao Sur; Butuan City

304. Since the passage of RA 9208 in 2003, there have been efforts by concerned agencies to document cases of TIP. However, there are many more cases which are unreported. For the years 2003-2007, there were 315 cases reported and provided services by the Philippine embassies and consulates abroad. These cases are in the following countries:

CountryNo. of Victims Repatriated/Assisted

1. Middle East (Dubai/Manama)	76
2. Malaysia	71
3. Brunei	43
4. Cote d'Ivoire	27
5. Thailand	18
6. Turkey	18
7. Vietnam	8
8. UAE	8

9. China	7
10. Japan	7
11. Palau	7
12. Saipan (CNMI)	6
13. Greece	5
14. United States of America	4
15. Bangladesh	2
16. South Korea	2
17. Hong Kong	2
18. New Zealand	1
19. Australia	1
20. Singapore	1
21. Timor Leste	1
Total	315

F. Article 11: The right to an adequate standard of living

Question 34. Please provide information on the measures taken by the State Party to address the high rate of poverty in the State Party and to overcome the wide regional disparities between the National Capital Region and the pores regions of the country, in particular the Autonomous Region of Muslim. Does the State Party have a plan of action to combat poverty which integrates economic, social and cultural rights, in line with the statement adopted by the Committee on 04 May 2001 on Poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/PHL/4, paras 492-523).

305. President Gloria Macapagal-Arroyo has dedicated 10-billion pesos for 2008 towards poverty eradication. GRP has pursued an integrated and comprehensive national anti-poverty strategy called the Kapit-Bisig Laban sa Kahirapan. (Linking Arms Against Poverty), which focuses on asset reform, human-development services, employment and livelihood, social protection and participatory governance.

306. GRP has been implementing major programs and projects designed to fast-track poverty-reduction efforts in cooperation with Foreign partners. Foreign-assisted projects include the Autonomous Region in Muslim Mindanao (ARMM) Social Fund

for Peace and Development, Development of Poor Urban Communities Sector Project, Achieving the Millennium Development Goals and Reducing Human poverty Programme, and the KALAHI ("Brethren") Comprehensive and Integrated Delivery of Social Services.

307. GRP has initiated the implementation of the following:

- (i) microfinance and livelihood services,
- (ii) Poverty Free Zone Program,
- (iii) Unlad Kabuhayan ("Progressive Livelihood") Program, and Ahon-Pamilyang Pinoy ("Lifting the Filipino Family from Poverty") Project. The Accelerated Hunger Mitigation Plan was likewise launched to address the problem of hunger with the following programs: Self Employment Assistance – Kaunlaran ("Progress") Program, Tindahan Natin ("Our Store") Project, Gulayan ng Masa ("Backyard Gardening") and Barangay Food Terminal Program, emergency public work and food for work programs.

308. The Philippine Plan of Action for Nutrition 2005-2010 provides interventions to alleviate hunger and malnutrition. Through the institutionalized local nutrition committees, the National Nutrition Council and other national agencies are able to coordinate the formulation of plans at the local level and the implementation of various health and nutrition programs such as Garantisadong Pambata ("Guaranteed for Children"), the Salt Iodization Nationwide Act, Food Fortification, Nutrition Education, National Supplemental Feeding Program, and Food-for-School Program.

309. The Government has set up the Community-Based Monitoring System (CBMS) to better identify who and where the poor are and what their needs are. The CBMS is a poverty monitoring system that makes use of computer-based processing in generating the core local poverty indicators at the household level.

310. To date, the Government was able to establish 10,000 "Botika ng Bayan" (low cost pharmacies) throughout the country by providing subsidies. The Philippine Legislature is presently considering the passage of appropriate legislative measures to address the rising cost of medicines.

311. The Autonomous Region in Muslim Mindanao (ARMM) is one of the priority areas that the Philippine government wanted to address its problem, not only the socio-economic political but including the cultural aspect of the issue. Among the major steps of the Philippine government are the following:

- (a) The continuing negotiations on the peace

process with the Moro Islamic Liberation Front (MILF) to resolve the half a century old secessionist problem that adversely affected development programs in the Autonomous Region in Muslim Mindanao (ARMM). It continued to implement its previous agreement with another secessionist movement the Moro National Liberation Front (MNLF) that linked a Peace Accord with the Philippine government in 1996.

- (b) It continued to support the government of the Autonomous Region in Muslim Mindanao (ARMM).
- (c) Appointed/qualified Muslims in senior cabinet positions in the Philippine government, such as the Secretary of Agrarian Reform, the National Anti-Poverty Commission and the Office on Muslim Affairs.

Question 35. In addition to the information provided in the report, please provide detailed information on the housing situation existing in the State Party, including recent statistical data on (i) homeless persons and families, (ii) persons and families living in informal settings, (iii) persons and families who have benefited from the various Government programmes aimed at ensuring access to adequate housing form members of the most disadvantaged and marginalized groups.

312. In pursuit of the Millennium Development Goals (MDG) target, the Government, in partnership with the private sector, provided security of tenure or shelter security units (e.g., house and lot, house only or lot only) to 710,203 households from 2000 to 2006. The Government's main home loan facility has liberalized requirements, lowered interest rates, and extended its repayment period.

313. To reduce the number of Philippine families with substandard dwellings, the National Shelter Program launched by the Government implements the following: (a) resettlement; (b) slum upgrading; (c) sites and services development; (d) core housing; (e) Community Mortgage Program; and (f) asset reform program. In addition, the private sector implemented the Gawad Kalinga ("To Give Care"), a housing project initiated by the "Couples for Christ," and the Habitat for Humanity Projects.

314. During the 2005 to 2007 period, the government housing program provided direct housing in terms of security of tenure and affordable housing to a total of 374,170 households. In the same period, socialized housing programs which addressed the housing requirements of the bottom 30% of the income population, provided the same a total of 280,010

units, while low cost housing programs delivered 94,160 units.

315. The government relentlessly pursued a resettlement program for families living along the rail right-of-way and road projects, to protect them from danger and enable them to have safe dwelling places. The program also paved the way for the development of priority infrastructure projects in line with the President's program to decongest Metro Manila under her 10-Point Agenda and develop super-regions.

316. In the relocation and resettlement efforts for families affected by the rail projects, the NLEX-C5 project and the Pasig River Rehabilitation project, the HUDCC gave support by facilitating procedures and systems for project implementation and by enhancing overall community development efforts for the affected families. The HUDCC also networked with other agencies, academic institutions and civic groups, which led to the provision of medical missions, job trainings, placement and livelihood assistance to the families in resettlements in Laguna, Bulacan and Cavite.

317. The NHA continued the implementation of the Northrail and Rail Linkage Resettlement Projects, the most massive relocation project undertaken by the government so far. Through HUDCC funds were released for the resettlement projects, which resulted in safe and secure tenure being made available to 15,388 families. Constant dialogues led by the Vice President, HUDCC and NHA with the concerned local government units and most especially with the affected residents paved the way for the smooth relocation of 12,008 families in 2007. Since the start of the program, a total of 44,028 families have been given new settlements or were assisted in returning to their provinces.

318. Under the Northrail resettlement project, the relocation of families along the Pampanga segment was started in 2007, with 430 families actually resettled. This brought to 23,173 (55%) the total number of families relocated since the project started, which resulted in the complete clearing of the Metro Manila and Bulacan segments to pave the way for the construction of the Northrail project.

319. The Rail Linkage Project involves the rehabilitation of the existing 34-km. PNR Commuter Service Line from Caloocan to Alabang. For 2007, 7,685 families along Manila, Taguig and Muntinlupa were relocated. Another 3,893 families in Laguna affected by the Southrail Project have also been relocated, bringing

the total to 11,578 families relocated during the year. This brought to 20,855 the total number of families relocated since the project started, which resulted in the clearing of some Metro Manila segments to pave the way for the construction of the Rail Linkage and Southrail Projects.

320. Relocated families along North Luzon Expressway – Circumferential Road 5 (NLEX-C5). The project aims to connect C5 directly to NLEX using a cloverleaf interchange. The cloverleaf interchange will be constructed at Valenzuela City where a total of 3,347 Informal Settler Families (ISFs) located in three (3) barangays will be affected. For the year 2007, a total of 646 ISFs were already relocated in Barangay Lambakin, Malolos, Bulacan representing 19.30% of the total number of ISFs affected.

321. In addition to the rail projects, the government also pursued the development of resettlement sites to restore the living conditions of families who have been victims of typhoons, particularly in the Bicol region. The NHA is currently developing six (6) resettlement sites in Daraga, Sto. Domingo, Legaspi City, Camalig, Polangui and Ligao City in Albay Province that are projected to accommodate 4,153 families. Of this number, 888 have actually been relocated.

322. Another two resettlement sites are being developed after acquisition in Daraga and Guinobatan in Albay which are projected to accommodate 3,078 families. Of this number, 49 have been actually relocated.

323. In addition, 11,757 families in Legaspi City (1,500), Ligao City (1,000), Tabaco City (1,000), Naga City (1,500), municipalities of Albay (4,000) and Camarines Sur (2,757) have benefited from housing materials assistance of P2,000 each.

324. Other housing programs such as slum upgrading, core housing, medium rise housing and other local housing projects also benefited 9,582 poor families in 2007, bringing the total since 2004 to almost 75,000.

325. Recognizing that the private sector significantly contributes to housing development, including those for the marginalized sector, the Vice President and HUDCC Chairman directed the review of the compliance of the private subdivision developers to Section 18 of RA 7279 or the Urban Development and Housing Act which required them to put up an area for socialized housing equivalent to 20% of the cost or area of the main project.

326. To ensure that private sector compliance to the balanced housing requirement would result in

increased socialized housing stock or upgrading of slum areas, the HLURB, upon instruction of the Vice President and HUDCC Chairman, revised its guidelines and tightened its compliance monitoring. Similarly, the NHA issued guidelines that allowed the financing, development or improvement of resettlement sites and/or housing units in those sites as compliance to the balanced housing requirement. These measures are expected to result in additional socialized housing units constructed or more resources for slum upgrading and faster development of resettlement sites. Likewise, it is expected that the review would make the compliance process more transparent.

327. In line with the mandate given to local government units to be the prime movers in delivering housing services, the HUDCC and key shelter agencies have undertaken measures to build the capacity of LGUs.

328. For 2007, HLURB has assisted 108 LGUs all over the country in preparing and updating their Comprehensive Land Use Plans or a total of 447 LGUs since 2004. The HUDCC is also helping LGUs come up with their Comprehensive Shelter Plans that will assist them in determining and addressing their housing needs.

329. The National Housing Authority has likewise provided technical and tenurial assistance to LGUs through the Local Tenurial Assistance Projects, CMP origination, assistance to Group Land Acquisition and Development Project, and Cooperative Housing, among others.

330. Recognizing community and homeowners associations as partners in housing development and in achieving the vision of "Cities without Slums", the HUDCC, through the assistance of the Cities Alliance and UN-Habitat, has embarked on the capacity building of these associations to prepare them to be responsible recipients of housing finance. Under the "Integrated Approaches to Poverty Reduction at the Neighborhood Level - A Cities Alliance" program, the HUDCC has been instrumental in paving the way for formal institutions, like the Development Bank of the Philippines, to develop a lending modality for homeowners' associations (HOAs). This facility provides financial assistance to HOAs for site development and distribution of secure tenure, upgrading of existing slums and development of new sites, housing construction and home improvement loans.

331. Also please find following information regarding programs relating to housing finance:

(a) The Community Mortgage Program (CMP) enables informal settlers, slum dwellers or residents of blighted areas to purchase the privately-owned lands they occupy or they wish to be relocated to through their registered community associations under the concept of communal ownership.

332. Given the limited resources available, the Vice President and HUDCC Chairman initiated policy and operational reforms in the CMP, such as the proper targeting of beneficiaries, enhancing collection efficiency and improving the capability of originators, to maximize the available resources and to effect a more systematic and focused approach in reducing the housing backlog.

333. The Localized CMP (LCMP) was operationalized to enhance local governments' role in the delivery of housing and other services to their constituents. Under the LCMP, local governments may apply for an Omnibus Commitment Line up to P50 million that will enable them to finance their priority social housing projects that will provide secure tenure to their residents.

334. For 2007, the CMP enabled 11,822 families to own the land they occupy by providing more than P620 million in mortgage financing. Since 2004, a total of 53,933 informal settler families have benefited from the program.

b) Lowered Interest Rates of Home Financing Programs - reforms were also undertaken to make housing units more accessible and affordable for families in the formal sector. Through the initiative of the Vice President and HUDCC Chairman, the Home Development Mutual Fund (HDMF) or the Pag-IBIG Fund lowered the interest rates on its housing loan package of P300,000 and below from 9% to as low as 6% to make them even more affordable to low-income members. Moreover, the HDMF extended its repayment period to thirty years.

335. With the decrease in interest rates, monthly amortizations on loans valued at P300,000 have been reduced to P1,798.65 from P2,413.87. For loan packages above P300,000 up to P750,000, the interest rate was reduced from 10% to 7%, thereby decreasing monthly amortization from P4,387.86 to only P3,326.

336. The HDMF also lowered equity requirements for its housing loans. Pursuant to the instruction of the Vice President as Chairman of Pag-IBIG fund, a

review of the existing procedures and documentary requirements needed from borrowers was also undertaken to further streamline the system and fast track the processing of housing loans.

337. From January to December 2007, a total of P 22.589 billion was loaned out for housing, up by 40.3 percent over the P16.096 billion housing loan take-out for the same period last year. This increased the number of beneficiaries by nearly 10 percent to 32,745 from 29,835 for the same period in 2006.

- (c) In addition other government financing institutions extended affordable housing loans to a total of 881 families.
- (d) The SSS provides for housing loan programs for individual (trade union members and overseas Filipino workers) and institutional member through direct lending, and for other actively paying members as well as private entities and corporations through accredited/conduit banks.
- (e) The DSWD, in coordination with civil society and Habitat for Humanity is implementing the Core Shelter Assistance Project for people who were rendered homeless as a result of natural disasters or calamities.

338. As of September 30, 2008, the current statistics on the Project as implemented provides that there are already 4,857 core shelters built in Regions 2, 3, 4-A, 4-B, 5, 6 & 8. The total cost for the project has already reached P337,190,000.00.

Question 36. According to the information before the Committee, more than 14 thousand families have been subject to large-scale evictions during the period January 2006 to September 2007. Please provide detailed information, including disaggregated data on the number of affected persons and families, on the extent of this phenomenon, on whether such evictions were carried out in accordance with the safeguards referred to in the Committee's General Comment No. 7 (1997) on forced evictions, and on the measures adopted by the State Party to ensure the effective implementation of the Urban Development and Housing Act of 1992 (E/C.12/PHL/4, paras608-614).

339. From 2006 to 2007, there were 172 cases reported demolitions and evictions affecting 14,076 families. Of this figure, 65 cases were administrative demolitions benefiting 6,869 families as provided under the Urban Development and Housing Act of 1992 (UDHA). These families were provided with relocation and financial packages as mandated by RA 7279. The reported demotion cases also included 112 summary demolitions affecting 5,571 families, who were not entitled to relocation or financial assistance

pursuant to Section 30⁴ of the UDHA. Despite this, ten (10) summary demolitions affected by government infrastructure project and implemented by the Philippine National Railways were given relocation at Southville Housing Project in Cabuyao, Laguna. Nine hundred eighty six (986) families benefited from these activities.

340. PCUP is currently providing assistance to 27 communities affected by demolition and eviction comprising of 3,000 families. Provision of financial assistance of PHP 23,000.00 per family is being reviewed by the PCUP to provide these families seed money for lot acquisition, which could eventually be enrolled under the Community Mortgage Program.

REPORT ON DEMOLITION/EVICTION (2006-2007)

For the year 2006 to 2007, PCUP monitored 172 Demolition/Eviction cases affecting 14,076 families.

Demolition with PCUP Compliance Certificate (pursuant to EO 152):

For the year 2006: Monitored a total of 95 demolition cases affecting 4,120 families

Demolitions under Sec.28 UDHA: 36 demolition/1,688 families

Summary (Sec. 30 UDHA): 59 demolition/2,432 families

For the year 2007: Monitored a total of 82 demolition cases affecting 8,320 families

Demolitions under Sec.28 UDHA: 29 demolition/5,181 families

Summary (Sec. 30 UDHA): 53 demolition/3,139 families

4 Section 30. Prohibition Against New Illegal Structures – it shall be unlawful for any person to construct any structure in areas mentioned in the preceding Section. After the effectivity of this Act, the barangay, municipal or city government units shall prevent the construction of any kind of illegal dwelling units or structures within their respective localities. The head of any local government unit concerned who allows, abets or otherwise tolerates the construction of any structure in violation of this section shall be liable to administrative sanctions under existing laws and to penal sanctions provided for in this Act.

For the year 2008, PCUP is presently assisting 3,000 families affected by 27 Demolition/ Eviction cases.

19 administrative demolition affecting 2,370 families

8 court ordered demolition affecting 630 families

G. Article 12: The right to physical and mental health

Question 37. Please provide information on the programmes and health policies in place to ensure access to adequate health services, goods and facilities, in particular in the rural areas of the poorer provinces of the State Party, and provide statistical data on trained medical personnel, disaggregated by rural and urban areas, and by disadvantaged or marginalized individuals and groups.

341. In 2005, the DOH initiated health reform initiatives and adopted the FOURmula One for Health or F1 as the implementation framework for health sector reforms to achieve (1) better health outcomes; (2) more responsive health system; and (3) more equitable health financing. It is aimed at achieving reforms with speed, precision and effective management directed at improving the quality, efficiency, effectiveness and equity of the Philippine health system in a manner that is felt and valued by Filipinos, especially the underprivileged. The reform initiatives have four thrusts: (1) more, better and sustained financing; (2) regulation to ensure quality and affordability; (3) ensured access and availability of service delivery; and lastly, (4) improved performance in governance.

342. Part of these reforms is the adoption of DOH of the Sector Development Approach for Health whereby DOH takes the lead in effectively coordinating donor resources towards implementation of reform programs. A lot of the reform initiatives are also geared towards achieving the Millennium Development Goals (MDGs), such as the implementation of "disease-free zone" initiatives, intensified disease prevention and control, and emphasis on maternal and child health programs.

343. The DOH through the Health Human Resource Development Bureau (HHRDB) implements the following programs: Doctors to Barrios (DTTB), Rural Health Team Placement (RHTPP), Medical Pool Placement & Utilization Program (MPPUP) and the Specialist to the Province (STTP) Programs. The "Doctors to the Barrios" Program ensures

quality health care service delivery to depressed, marginalized and underserved areas through the deployment of competent and community-oriented doctors. The goal of the RHTPP is to augment the health human resource complement of public health facilities (Rural Health Units) with competent health professionals (Nurse, Dentist, Medical Technologist, Midwife) in areas where they are most needed. The MPPUP ensures the availability of competent medical human resource through the provision of Medical Officer/s as replacements for provincial and district hospitals while their service residents are on training or pursuing post – graduate studies. The program ensures the continuity of quality medical care to patients. It also provides the needed specialist to both local and national hospitals. The STTP is a program of the DOH in collaboration with the Philippine College of Surgeon, Philippine Society of Anesthesiologist and the United Laboratories that ensures the deployment of Medical Specialist to provide quality specialty care in the provincial hospitals. The Philippine College of Surgeons and Philippine Society of Anesthesiologists ensure the availability of doctors (specialists), while the salaries of the doctors are provided by the United Laboratories. In addition, Human Resources for Health (HRH) systems have been developed and advocated to the local government units to build their capacities in HR planning, career pathing, individual career planning, retention planning, training and development. The above existing programs and health policies ensure the access to adequate health services, goods and facilities focused on the poor, depressed and hard to reach areas of the country.

344. As to the statistical data of trained medical practitioners, the DOH, through the HHRDB, is still in the process of establishing a National Data Base of Selected Human Resources for Health (HRH) including medical personnel. In turn, HHRDB is currently in the process of collecting the needed data using the HRH stock survey tool to generate the following information:

- (a) Demographic Profile (Name, Birth Date, Civil Status)
- (b) Type of Employment (Public, Private)
- (c) Status of Employment (Permanent, Part-time, Contractual)
- (d) Type of Health Professional (Doctor, Dentist, Medical Technologist, Midwife, Nurse, Nutritionist/ Dietician, Occupational Therapist, Pharmacist and Physical Therapist) including the PRC license #
- (e) Type of Facility (e.g. Hospital, Clinic, Pharmacy, Rural Health Unit, etc.)
- (f) Location of Facility (Region, Province, Municipality)

345. The SSS has in its employ a total of 168 doctors and 41 nurses allocated in 159 branches all over the country. These personnel tend to members and their beneficiaries relative to their medical claims.

Question 38. In addition to information provided in the State Party Report, please provide detailed information, including recent statistical data disaggregated by provinces, on the main causes of the high maternal mortality rate existing in the State Party, and on measures adopted to improve access to sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to accurate and objective information about contraception and family planning methods (E/C.12/PHL/4, paras 705-707 and 772-776).

346. Family planning is a nationally mandated priority public health program to attain the country's national health development. It is a health intervention program and an important tool for the improvement of the health and welfare of mothers, children and other members of the family. It also provides information and services for the couples of reproductive age to plan their family according to their beliefs and circumstances through legally and medically acceptable family planning methods.

347. The program is anchored on the four basic principles of (1) responsible parenthood; (2) respect for life; (3) birth spacing; and (4) informed choice. Its goal is to provide universal access to family planning information, education and services whenever and wherever these are needed. The interventions are intended for women and men of reproductive age (15-49 years old), including adolescents.

348. Other programme strategies include: (1) Frontline participation of DOH-retained hospitals; (2) Family Planning for the urban and rural poor; (3) Demand Generation through Community-Based Management Information System; (4) Mainstreaming Natural Family Planning in the public and NGO health facilities; (5) Strengthening family planning in the regions with high unmet need for family planning: CAR, CHD 5, 8, NCR, ARMM; and (6) Contraceptive Interdependence Initiative.

349. Over the years, the government has responded to reproductive health programs through a variety of policies, programs and projects such as: (1) Ten-Year Reproductive Health Plan; (2) Philippine Population Management Program (PPMP); (3) PPMP Strategic Operation Plan and Population Investment Program, a companion document of the PPMP; (4) administrative

orders in support of family planning and safe motherhood.

350. Although there have been efforts to manage population, this remains to be a challenge.

351. Nevertheless, the most recent demographic and family planning surveys indicate a decline in maternal mortality rate (MMR). Estimates of MMR from the 1993 National Demographic Survey, the 1998 NDHS and the 2006 Family Planning Survey imply decreasing MMR: 209 per 100,000 livebirths for 1987-1993 to 172 per 100,000 for 1991-1997, to 162 per 100,000 for 1999-2006.

352. The major causes of maternal deaths in the country include post partum hemorrhage, eclampsia, and severe infection. The slow progress in the MMR decline can be attributed to inadequate prenatal care, high incidence of high-risk births, and lack of information and means to manage difficult pregnancies.

353. The government has addressed maternal health concerns through a two-pronged strategy involving the provision of health services to pregnant women (safe motherhood) and provision of family planning services. The government has carried out initiatives that promote women's health to ensure healthy newborns.

354. In family planning, four major principles have been adopted, namely, responsible parenthood, respect for life, birth spacing and informed choice. There is also a priority shift in terms of promoting facility-based delivery instead of home-based delivery.

355. Government, through the Department of Health has also introduced key policy reforms to reduce maternal mortality. There has been a major paradigm shift from the "risk approach," (which identifies high-risk pregnancies for referral during the prenatal period) to the "EmOC (emergency obstetric care) approach" which considers all pregnant women to be at risk of complications at childbirth. The BeMOC (Basic Emergency Obstetric Care) strategy entails the establishment of facilities which are located strategically, that provide emergency obstetric care for every 125,000 population. Currently, the country needs 177 Comprehensive EmOC and 710 Basic EmOC facilities.

356. Data from the Department of Health (DOH) show that the four major causes of maternal mortality include

- (i) Other Complications related to pregnancy occurring in the course of labor, delivery and puerperium,
- (ii) Hypertension complicating pregnancy, childbirth and puerperium,
- (iii) postpartum hemorrhage, and
- (iv) Pregnancy with abortive outcome.

**MATERNAL MORTALITY BY MAIN CAUSE
Number Rate/1000 Livebirths & Percentage
Distribution, Philippines, 2003**

Cause	Number	Rate	Percent
1. Other Complications related to pregnancy occurring in the course of labor, delivery and puerperium	811	0.5	45.1
2. Hypertension complicating pregnancy, childbirth and puerperium	479	0.3	26.6
3. Postpartum hemorrhage	319	0.2	17.7
4. Pregnancy with abortive outcome	189	0.1	10.5

* Percent share to total number of maternal death
Last Update: January 11, 2007

**MATERNAL MORTALITY BY MAIN CAUSE
Number Rate/1000 Livebirths & Percentage
Distribution, Philippines, 2003**

Cause	* Number	Rate	Percent
1. Other Complications related to pregnancy occurring in the course of labor, delivery and puerperium	779	0.5	43.3
2. Hypertension complicating pregnancy, childbirth and puerperium	533	0.3	29.6
3. Postpartum hemorrhage	327	0.2	18.2
4. Pregnancy with abortive outcome	161	0.1	8.9
5. Hemorrhage related to pregnancy	1	0.0	0.1

* Percent share to total number of maternal deaths

Question 39. Please provide detailed information on the current legal restrictions on abortion existing in the State Party. What steps have the State Party taken to protect women from pregnancy related deaths and morbidity due to unsafe abortion and to prevent discrimination and abuse in post-abortion facilities?

357. Section 12, Article II of the Constitution states that: "The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception."

358. It has been noted that there are two (2) points on the legal meaning and purpose of the protection that is guaranteed for the unborn under the afore quoted constitutional provision. First, it is not an assertion that the unborn is a legal person. Second, neither is this an assertion that the life of the unborn is placed exactly on the level of the life of the mother.

359. In this regard, Articles 256, 257, 258 and 259 of the Philippine Revised Penal Code provides for the imposition of penalties on (1) any person who shall intentionally or unintentionally cause an abortion, (2) a woman who undergoes an abortion, (3) as well as for any person who assists in the procedure, even if they be the woman's parents, a physician or midwife.

360. Albeit the lack of judicial precedents, there are views that had been proffered to the effect that if the abortion is induced by a physician to save the life of the mother, then there is no liability. This is known as "therapeutic abortion." But, an abortion without medical necessity to warrant it is punishable even with the consent of the biological mother or father.

361. Based on a study by the Department of Health (DOH), it was estimated that, despite legal restrictions, there were a significant number of abortions performed illegally in the Philippines, not to mention hospitalization of women for abortion-related complications. 12% of all maternal deaths in 1994 were due to unsafe abortion according to the Department of Health.

362. To address the complications of unsafe abortion, the DOH has created a program called Prevention and Management of Abortion and its Complications (PMAC). This program had been tested in 17 government-run hospitals by 2003.

Question 40. Please provide detailed information on the measures adopted and implemented by the State Party to combat the main environmental hazards, such as air pollution, pollution on water sources and solid waste generation, particularly in Metro Manila and in other major urban centres (E/C.12/PHL/4, paras 705-708 and 848-851).

363. Recent initiatives were undertaken to provide the conducive policy environment to sustainably manage critical biodiversity areas in the country particularly in the coastal and marine ecosystem. These include the issuance of the following policies: Administrative Order No. 171 creating the Presidential Task Force on Climate Change, Executive Order No. 553 adopting the Integrated Coastal Management Approach to ensure the sustainable development of the country's coastal and marine environment, and Executive Order No. 578 establishing the National Biodiversity Policy nationwide.

364. The Department of Environment and Natural Resources (DENR) is implementing the Pasig River Rehabilitation Project to restore the river to its former pristine condition. It is also implementing the Manila Bay Rehabilitation Project and has obtained support from various government agencies, the different Armed Forces services, Local Government Units (LGUs), major oil companies, and an NGO for the implementation of the Manila Bay Oil Spill Contingency Plan and an Integrated Environmental Monitoring Program for Manila Bay. The Manila Bay Coordinating Committee, a multi-sectoral body that will oversee all projects in and around Manila Bay, was created for this purpose.

365. The implementation of the Clean Air Act of 1999, which provides for a comprehensive framework for the management of air quality in the country, helped in curbing the increasing level of pollutants in the atmosphere. The "Linis Hangin Program" (Clean Air Program) resulted in a continuous improvement of Metro Manila's ambient air quality. Total Suspended Particulates (TSP) level was reduced by 12.35%, i.e., from 162 ug/Nm³ in CY 2003 to 142 ug/Nm³ in 2006. However, this is still not within the standard of 90 ug/Nm³.

366. Other DENR efforts to improve air quality include: (a) implementation of the "Green Philippine Highways Program"; (b) conduct of a study on "Biomass and Carbon Sequestration of Forest Tree Plantation Species in the Philippines"; (c) phasing-out of Ozone Depleting Substances (ODS); and (d) implementation of the "Huli-Smoke Program," which engages the proactive support of the public transport sector leaders.

367. On water resources, the DENR is implementing the "Sagip Ilog Program" (Save the River Program) under the Philippine Clean Water Act of 2004 (RA 9725). Nineteen rivers (19) have been identified as priority. The Biochemical Oxygen Demand (BOD) level of these rivers has been monitored and showed that 10 of the 19 rivers are already within standards.

368. For management of solid waste, a number of programs are being implemented by DENR in collaboration with Metro Manila Development Authority (MMDA), LGUs and NGOs to remedy the worsening garbage situation in many cities throughout the country. The basic policy for solid waste management is contained in the Ecological Solid Waste Management Act, which provides for waste reduction, recycling and proper disposal and treatment.

369. The DENR provided technical assistance (TA) to LGUs in the assessment of 187 potential sanitary landfill (SLF) and setting up of 1,265 materials recovery facilities (MRF) servicing 1,672 barangays. The Department, in partnership with the Philippine Business for Environment (PBE) and the LGUs, also launched the Recyclables Collection Event (RCE) in pilot areas to turn the country into a "recycling society". To investigate and prosecute violations against environmental laws, the DENR activated the National Anti-Environment Crime Task Force (NAECTAF) created on March 15, 2006 by virtue of EO 515.

370. Efforts along the following activities are being pursued to attain MDG Target 10 by 2015:

- (a) Update environmental data as reference and basis for environmental planning, decision making, monitoring and evaluation;
- (b) Support the implementation of environmental laws. The Philippines has crafted laws in each and every environmental areas (forest, biodiversity, air, water, solid waste, etc.) and only a strong-willed implementation is needed to ensure protection and preservation of the country's natural resources;
- (c) Prevent or reduce the occurrence of natural and man-made disasters and minimize the damage caused through reconstruction and rehabilitation of damaged areas coupled with the provision of alternative livelihoods for those affected;
- (d) Continue addressing poverty and population problems as this would translate into better quality of life and care for the environment. Lack of viable economic activities often leads to heavy exploitation of natural resources for livelihood;

- (e) Provide capacity-building for LGUs and other key partners on environmental management;
- (f) Integrate sustainable development into departmental plans/programs, performance assessment of executive departments, LGUs, and business entities; and
- (g) Set national targets in the key areas of concern for environmental sustainability.

H. Articles 13 and 14: The right to education

Question 41. Please provide information on the measures implemented by State Party to provide primary and secondary education to the most vulnerable and disadvantaged groups, including urban and rural poor and members of indigenous communities, as well as to reduce the high drop-out rates existing in the poorest regions, and especially in rural areas, of the country (E/C.12/PHL/4, paras 705-708 and 864-877).

371. The Government's education strategy flows from the Education for All (EFA) 2015 Program, the overarching framework for basic education. Proposed reforms under the Department of Education's (DepEd) Basic Education Sector Reform Agenda (BESRA) have also been undergoing refinements, e.g., the Schools First Initiative (SFI) and empowering the local communities to improve education.

372. To improve the quality and basic education, the latest draft of the Updated MTPDP 2008-2010 specifies the following:

- (a) While the need to improve government spending on basic education remains a priority, it must be done with deliberate steps towards fiscal discipline especially on efficient utilization of the basic education budget. It is to be emphasized that increasing the budget does not necessarily translate to expected outcomes. Thus, it is imperative that the DepEd continue to effectively and efficiently utilize resources within budget constraints and institutionalize cost-saving measures, as well as strengthen its overall accountability system.
- (b) In line with education fiscal reforms, the government shall also hasten efforts to enable the provision of basic education through contracting or purchasing of basic education services from qualified private providers, which would comprehensively include elementary education, early childhood education, and ALS on top of the existing one for secondary education.
- (c) The government must mainstream and scale-up in both internal planning and budgeting process

of the DepEd the utilization of validated or tested alternative delivery modes (ADMs) to address perceived lack of basic education inputs such as classroom, teachers and textbooks. ADMs also address the needs of children in difficult/different circumstances such as those who are not yet in school, already in school but at risk of dropping out and/or not performing well.

- (d) The School-Based Management (SBM) as provided in RA 9155 needs to be pursued as a foremost quality assurance measure to bring together the schools, school heads, teachers, students as well as parents, local government units and the community at large in promoting effective schools.
- (e) The strengthening of the ALS in the country needs to be accelerated under a broad-based multi-stakeholder policy-making in line with the EFA vision and the BESRA framework to ensure that "minimum learning achievement for functional literacy will be a reality for all Filipinos."
- (f) The fundamental tool to enhance the learning process itself and improve relevance of basic education is the effective utilization of the mother tongue in the early grades. The nationwide implementation of the recommendation of the BESRA on the learning strategies in both English and Filipino shall be complemented by an adequate provision of resources for the translation, development and dissemination of high quality learning materials.
- (g) Programs to address the basic education needs of indigenous peoples (IPs) and Muslims shall continue to be prioritized and refined. Along with the implementation of the different interventions identified in the Roadmap for Muslim Education and preparation of a clear and coherent policy on IP education, the long-term institutional and technical capacity of the DepEd in policy formulation and program implementation on these areas shall be strengthened.

373. Programs/projects/activities that will reduce the high drop-out rates existing in the poorest regions of the country:

- (a) Multi-grade Program in Philippine Education (MPPE) - The Multigrade Program in Philippine Education (MPPE) supports the DepED thrust to improve access, equity and quality in the delivery of basic education through capability building of multi-grade teachers, provision of support materials, documentation of effective practices in MG schools, provision of school buildings and facilities through Adopt-A-School program, and sustainability of the implementation through the awards and incentives system.

(b) Distance Education for Public Elementary School (DEPES)-The program aims to improve participation and cohort survival rate and to reduce incidence of dropouts through the establishment of a modified distance program for both regular children and those with special needs. It also provides opportunities for continuous upgrading of teachers' professional competence through self-instructional training modules.

(i) Modified In-School Off-School Approach (MIS-OSA)

374. The MIS-OSA is an alternative delivery mode of education serves children under difficult circumstances through community partnership. This project addresses the pressing problems of classroom and teachers shortage resulting to big class size, less contact time with pupils and absenteeism. The Project utilizes Self-Instructional Materials (SIMs) in the 5 learning areas that contain lessons to be learned for the day.

(c) Special Needs Education Package (SNEP) - To ensure that children with disabilities including the gifted and talented will be provided quality education, the Project Special Needs Education Package is conceptualized. This program package includes curriculum development, capability building, awards and incentives, monitoring and evaluation.

(d) Effective Alternative Secondary Education (EASE) - An alternative system to high school students who cannot afford to go to schools regularly through a modular approach.

(e) Development of Distance Learning Modules for Strong Republic Schools (SRS), Child-Friendly High Schools (CFHS) and Open HS Students.

375. This project is a response to learning needs of students who have difficulty attending regular classes due to unavoidable circumstances. The Distance Learning Materials for High School Students contain essential understanding with corresponding questions, concepts, culminating performance, performance standards, process of learning using the six facets of Understanding, instructional activities learning competencies and assessment methods such as self-check, formative and summative tests.

(f) Accreditation and Equivalency (A&E) Program - is a certification of learning for Out-of-School Youth and Adult aged 15 years and above, who are unable to avail of the formal.

(i) A&E Learning Support Delivery System - designed to provide learners a range of alternative pathways in order that they may continue their learning outside the formal system and upgrade their skills and competencies in preparation for taking the ALS A&E test through ALS Contracting Scheme.

(ii) Balik Paaralan Para sa Out-of-School (Back-to-School for Out-of-School Youths) - is a literacy program which utilizes ALS A&E system learning competencies and tasks equivalent to those of the 1st & 4th year high school levels. It provides learning opportunities to out-of-school adults to earn an equivalent secondary education.

(iii) Radio-Based Instruction (RBI) - Radio-Based Instruction is an alternative delivery mode utilizing the Accreditation and Equivalency (A&E) Program that provides learning opportunities to out-of-school youth and adults, who have no access to formal school system and no means to go to school. Radio broadcast is in coordination with Southern Broadcasting Network-NOM's technology in the ALS effectively introducing the use of media to reach the unreached population in the country.

(iv) Computer-Based Instruction (CBI) - The computer-based delivery provides learning opportunities through ALS that is characterized by the separation of the learning facilitator from the learner and use of mixed media software. The project targets OSY & adults above 15 years old as well as all other disadvantaged in-school age groups in cities and urban areas in the country.

(g) Assessment and Certification System - It is a sub-system of certification through successful completion of Alternative Learning System Accreditation and Equivalency (ALS A&E) Tests at two learning levels, Elementary and Secondary. The tests in both levels are standardized paper and pencil - based tests and composition writing. The test items are based on the expected learning outcomes stated in the five learning strands of the ALS A&E Curriculum Framework. It is given free to Learning Support Delivery System (LSDS) and Balik Paaralan Para sa Out-of-School (BP-OSA) learners, OSY and Adults and previous test takers. Successful passers of said test will have access to counseling for advice regarding option and possible pathways whether to re-enter/return to or shuffle from the ALS System to the formal system or they may choose to enter the world of work.

(h) Implementation of Programs for School Health and Nutrition

1) Breakfast Feeding

376. Program designed as a response to the elimination of "short term hunger" and improvement of the nutritional status of recipients. It will also improve the active learning capabilities of the school children.

377. Breakfast is provided to Grade 1 pupils in selected school in the form of a specially formulated instant noodles and biscuit. Each child provided with daily serving of 40 grams. Concomitant learning area is developed during feeding.

- (i) *Malusog Na Simula, Yaman Ng Bansa* (Healthy Beginnings, Wealth of the Nation) - A comprehensive school-based nutrition program that seeks to address the nutritional deficiency of school children and improve their attendance. It provides fresh milk, coco pan and eggs to grade I pupils in the Priority One Provinces. It is one of the programs implemented under the accelerated hunger mitigation plan to reduce the incidence of hunger and malnutrition among learners.
- (j) *Food For School Program* - Food for School Program (FSP) seeks to rescue poor families from hunger and under-nutrition. It is a food subsidy package for young learners who belong to poor families. It provides daily ration of one (1) kilo of rice to identified families through the child. As long as the child goes to school everyday, the family is assured of staple food on their table. It is one of the programs implemented under the accelerated hunger mitigation plan to reduce the incidence of hunger.
- (k) *Redesigned Technical-Vocational Education Program* - The program is designed to revive and strengthen the existing tech-voc high schools; provide students opportunities to acquire TESDA-certificate technical, vocational, industrial and other relevant skills; and provide relevant education and foundation skills for higher learning, for the world of work or for entrepreneurship opportunities.

378. Like the rest of the Regions in our country, the Autonomous Region in Muslim Mindanao (ARMM) and the Muslim population as a whole enjoys free access to primary and secondary education. In fact the Mindanao State University System provides Special Muslim grants that provide scholarship to Muslims specifically.

Question 42. Please provide detailed information on whether school curricula and textbooks for primary and secondary schools contain sufficient information

on the history and culture of the different ethnic and religious groups present in the territory of the State Party. Please provide detailed information on measures taken in the field of education to combat racial prejudices and to promote tolerance and friendship among ethnical and religious groups.

379. The DepEd has also incorporated basic human rights in both the elementary and secondary levels of the Philippine education system. Human rights values and principles are integrated into the school curricula to promote human dignity, humanism, and sense of nationhood, work ethics, and other similar values. Human Rights Education is provided in the non-formal system for out-of-school youths, children, and adults. Children and women's rights and their protection are also given emphasis.

380. The programs/projects/activities that will combat racial prejudices and promote tolerance and friendship among ethnical and religious groups are as follow:

- (a) *Career Pathways in the Enriched TLE Program for General High Schools*

381. Considering the 14.25% dropout rate at the public secondary level in 2005, there is a need for a livelihood education program that will build the capacity of high school student for self-employment, and will provide pathways for further education and training for those who can complete their basic education. This program is likewise perceived to provide a practical and relevant course offering that are responsive to individual and community needs and/or guiding the students with the opportunities to become economically productive even if they decide to leave the formal school system.

- (b) *Curriculum Indigenization and Localization*

382. The project is a venue for quality education. It works on the premise that a relevant and meaningful curriculum makes learning interesting, challenging and effective if it responds to the immediate life environs of the learners. It motivates and helps the learners understand fully the concepts, principles and messages that the teaching-learning process brings, more so, if the curriculum provides respect for culture attitudes and practices.

- (c) *Indigenous Peoples Education*

383. It aims in providing an education service and support acceptable to the IPs in general and specific IP communities in particular to capture the deeply

rooted culture of IPs in terms of needs, interest and aspirations.

(d) Basic Education Madrasah

384. The project aims to improve/upgrade quality of basic education of Muslim children, develop institutionalize and mainstream Madrasah Education as a component of the national system of basic Education and to lay an enduring basis for permanent peace in Mindanao and the entire country.

Foreign Assisted Fund

(a) Phil.-Australia Basic Education Assistance for Mindanao (PA-BEAM) Stage 2 (AusAID Grant)

385. The overall goal of the project is to improve the quality of teaching & learning in basic education in Regions XI, XII & ARMM. Specifically, the project aims to improve & enhance the skills & knowledge of teachers & educational managers and also hopes to address other community needs such as basic education for Indigenous Cultural Communities and Madaris.

386. The standard curriculum for elementary public schools and private Madaris had been approved and prescribed by the Department of Education under DepEd Order No. 51, s. 2004.

387. The Autonomous Region in Muslim Mindanao (ARMM) has adopted the national standard curriculum by virtue of ARMM RG Executive Order No. 13-A, s. 2004. With these issuances, Madrasah educational system has now been upgraded as a vital component of the national education system, similar to the Christian and Chinese schools systems.

388. Section 28 of the Indigenous People Rights Act (IPRA) provides a national basis for IPs right to education. It endeavors the State to 'provide a complete, adequate and integrated system of education, relevant to the needs of children and young people of IPs/ICCs'. This concern is being addressed through the NCIP Educational Assistance Program (NCIP- EAP). For SY 2006-2007, Php 52.621 million was released for the program for a total of 13,154 grantees/beneficiaries who hail from 75 IP inhabited congressional districts, Region VI and VII and were from the nationwide allocation for the Central Office. From the total number of grantees, 11,116 were for college (84.51%), 987 for High School (7.5%) and 1,051 were for elementary (7.99%). There were 611 Graduates as of April 2006.

389. Section 28 of the IPRA provides the national basis for IPs right to education. It endeavors the State to "provide a complete, adequate and integrated system of education, relevant to the needs of children and young people of IPs/ICCs".

390. Above-cited concern is being addressed through the following programs currently being undertaken by the Office of Education, Culture and Health of the NCIP: 1) Core Group Round Table Discussions and Multi-Stakeholder Workshops on IP Education; 2) Educational Assistance Program having serviced 25,637 grantees with 11,495 graduates and 14,142 current grantees; 3) Assisted 169 IP Community Schools; Documentation of 12 pilot projects on Indigenous Knowledge Systems and Practices (IKSPs) in support to policy formulation and legislation; Developed and Tested by the NCIP and ECIP-CBCP as partners a National IP Core Curriculum for the Alternative Learning Systems in coordination with the Department of Education; Developed with IPs and partner stakeholders 8 indigenized curricula and 52 learning materials; and, National IP Education Policy Framework developed with the Department of Education.

I. Article 15: The right to take part in cultural life

Question 43. Please provide detailed information on measures adopted by the State Party to promote and protect the right of indigenous peoples to enjoy their cultural rights under article 15(1)(a) of the Covenant.

391. The 1987 Philippine Constitution State Policies provides that the State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.

392. Article XIV on Education, Science and Technology, Arts, Culture And Sports Arts And Culture of the 1987 Constitution also provides:

- (a) Section 14. The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.
- (b) Section 17. The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.
- (c) Section 18. (1) The State shall ensure equal access to cultural opportunities through the educational

system, public or private cultural entities, scholarships, grants and other incentives, and community cultural centers, and other public venues.

393. Significantly, the rights to ancestral domains/lands (Chapter III, IPRA) and cultural integrity (Chapter VI, IPRA) sets the foundation for ICESCR Article 15. Cultural integrity and ancestral domains form much of the collective rights of IPs/ICCs that make them distinct or unique as communities or groups while recognizing their rights also as individuals. IP concepts of land ownership; ancestral lands/domains and resources; indigenous knowledge systems and practices (IKSPs); utilization of IP traditional justice systems, conflict resolution institutions and peace building processes among others revolve around these collective rights.

394. Survey, Delineation and Titling of ancestral domains is a major program of NCIP that concretizes the above cited ICESCR Article 15. Currently, out of the total estimated ancestral domains in the Philippines of 6,323,195 hectares, 1,209,479.2434 or 20% that covers CY2002-2007 are titled with 58 CADTs and 172 CALTs issued. With these, 263,060 IP rights holders benefited from the titling process.

395. This program comes with several challenges including policy guidelines that should be harmonized with other agencies. The NCIP has diligently kept up with its responsibility on this concern. A major breakthrough in persevering talks was a Joint NCIP-Land Regulation Authority (LRA) that provides supplemental guidelines that provides not only on the delineation and titling, but this time, included the registration of CADTs/CALTs with the LRA.

396. The NCIP's Rules on Pleadings, Practice and Procedure promulgated pursuant to Administrative Circular No. 01, Series of 2003 provides another measure that recognizes IP cultural processes. These Rules encourages conflicts or disputes to be resolved through customary laws or traditional processes before it reaches the halls of NCIP. Prior to accepting such cases, a certification should be issued that such case has not been resolved at the IP level. Though the process of resolving conflicts through the customary laws is the concern of the IPs involved themselves, several disputes were resolved by the customary processes. This process in the long run, helps save resources and minimizes cases piling up in the NCIP.

397. Other activities involves the support to cultural community festivals; on-going documentation of IKSPs within four (4) pilot areas in the Provinces of

Nueva Vizcaya, Bataan, Zamboanga City and Davao del Sur; and promoting indigenous health knowledge and the use of traditional medicines. In line with this, a National Training Workshop for technical personnel on documentation will be conducted within this year (2008).

398. Sustaining advocacy for indigenous peoples rights require extreme patience, perseverance and sacrifice. The NCIP is confronted by institutional and operational challenges in fulfilling its mandate.

399. On the institutional level, the Commission's budget and personnel complement should be augmented in order to better address the interests and welfare of IPs/ICCs in particular.

400. Operationally, NCIP is faced with the following challenges in its continuing efforts to accelerate its services to the IPs: 1) Titling of ancestral domains observing a meticulous process of delineation; 2) Negotiating for equitable benefit sharing; 3) Conflict with other laws and policies on tenurial security and resource rights; 4) Conflicts on IP leadership, territorial claims, priorities for development, etc.; 5) Multi-sectoral interpretation and appreciation of IPRA; 6) Conflicting territorial claims; 7) National development priorities - revitalization of mining industry versus agricultural development, inter alia.

401. For its future actions, the NCIP is geared towards achieving the following:

- (a) Accelerate delineation and titling of ancestral domains and lands;
- (b) Maximize equitable benefit sharing for IPs to translate to poverty reduction;
- (c) Standardization of Ancestral Domain recognition systems and processes;
- (d) Improved transparency on FPIC process;
- (e) Increase competence of IPs as development partners;
- (f) Strengthen the capability and involvement of IPs in governance, and human rights issues and concerns;
- (g) Step-up formulation and integration of ADSDPPs in local and national development plans;
- (h) Widespread exercise of conflict resolution mechanisms making use of customary laws and traditional agreements;
- (i) Social mobilization and external resource accessing;
- (j) Focused NCIP capability building;
- (k) Strengthen collaboration with the civil society organizations to include NGOs, the church, academe and IPOs; and

- (l) Accelerated involvement in international advocacy initiatives.

Question 44. Please provide detailed information on the measures adopted by the State Party to ensure that Muslim persons living in the Autonomous Region of Muslim Mindanao have the right to enjoy their own culture and to profess and practice their own religion (E/C.12/PHL/4, paras 984-985).

402. Laws that guarantee the right of the Muslim Filipinos to enjoy their own culture and to profess and practice their own religion have been enacted. The national normative framework for their human rights protection consists of the Constitution, legislation, jurisprudence, and customs and traditional practices. These are:

- (a) Article X, Section 15 of 1987 Philippine Constitution provides that there shall be created Autonomous Regions in Muslim Mindanao (ARMM) and in the Cordilleras consisting of provinces, cities, municipalities and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitutions and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

- (b) Republic Act no. 6734, entitled 'An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao'
- (c) Presidential Decree no. 1083, otherwise known as the Code of Muslim Personal Laws of the Philippines.
- (d) The Office on Muslim Affairs (OMA) - created in 1987 by virtue of Executive Order No. 122-A as amended by Executive Order No. 295. The Office is subject to the supervision and control of the Office of the President of the Philippines. Aside from being an agency mandated to uplift and improve the conditions of the Muslim Filipinos, OMA is also the main institution/agency created under the Philippine laws tasked to address the various issues involving Muslim Communities. OMA ensures the participation of Muslim Filipinos in nation building. The Charter of the Office provides mandates with broader and wider latitude of functions and responsibilities. On the other hand, OMA is further mandated by law to preserve and develop the culture, traditions, institutions and well-being of Muslim Filipinos in conformity with the country's laws and in consonance with national unity and development. OMA is also tasked with the formulation and implementation of State policies and programs affecting Muslims residing in the Philippines.

7

CHRP Response to List of Issues

COMMISSION ON HUMAN RIGHTS



CHR Mandate Over Economic, Social and Cultural Rights (CESCR)

ISSUE:

GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

- Whether the Covenant is regarded as a "generally accepted principle of international law" in accordance with Section 2, Article II of the Constitution.
- Whether Covenant provisions have been invoked before, directly or enforced by, the courts.
- Does the protection and promotion of ESC rights fall within the mandate of the CHRP vis-à-vis the decision in *Simon vs. CHR*. Provide concrete examples, if any.

CHR RESPONSE:

Whether the Covenant is regarded as a "generally accepted principle of international law" in accordance with Section 2, Article II of the Constitution.

Under the 1987 Constitution, it is a declared State Principle that the Philippines "adopts the generally

accepted principles of international law as part of the law of the land."¹ This is known as the *principle of incorporation*. Hence, in theory, there should be no issue as to the application of international human rights instruments in the country as an accepted law.

However, practical constraints prevent the Philippines from directly applying provisions of international human rights instruments without relevant domestic legislations translating the same considering that there is adherence to the principle that "there is no crime when there is no law punishing it" or "*nullum crimen sine poena lege*."

This boils down to the issue of the "justiciability of ESC rights."

In November 2004, the Commission on Human Rights hosted a "*Conference-Workshop for Judges and Lawyers on the Justiciability of Economic, Social and Cultural Rights in Southeast Asia*."

1 Paragraph 2, Section II, Philippine Constitution

Atty. Marvic Leonen, the current Dean of the University of the Philippines College of Law, citing *Simon vs. CHR*, has the following to say on the issue:

"The problem is not only how to make remedies for violations of ESCR plain, speedy and adequate BUT whether or not there is an available remedy. Not only is there no court or tribunal in the Philippines mandated to try on an exclusive basis, cases involving ESCR, the justiciability of ESCR is not quite settled. For one, unless there is a statute providing sanctions and penalties for violations of each provision touching upon an ESCR, it would appear that one cannot just go to court, invoke an ESCR demand that he be accorded the benefits, or recover damages, for a violation of such right."

Whether Covenant provisions have been invoked before, directly or enforced by, the courts.

Indeed, Philippine jurisprudence is scant in acknowledging and invoking provisions of the international covenants. However, the Commission can cite one case wherein the Supreme Court raised the provisions of the International Covenant on Economic, Social and Cultural Rights in its arguments in favor of the petitioners.

The case is *International School Alliance of Educators (ISAE), petitioner, vs. Hon. Leonardo B. Quisumbing in his capacity as the Secretary of Labor and Employment; Hon. Cresenciano B. Trajano in his capacity as the Acting Secretary of Labor and Employment; Dr. Brian Maccauley in his capacity as the Superintendent of International School-Manila; and International School, Inc., respondents.*²

Basically, the petitioners in the case raised the issue of grant of higher pay to foreign-hired teachers as compared to their local-hired counterparts in international schools in the country.

In resolving in favor of the local-hired teachers, the Supreme Court ruled that:

That public policy abhors inequality and discrimination is beyond contention. Our Constitution and laws reflect the policy against these evils. The Constitution in the Article on Social Justice and Human Rights exhorts Congress to "give highest priority to the enactment of measures that protect and enhance the right of all

people to human dignity, reduce social, economic, and political inequalities." The very broad Article 19 of the Civil Code requires every person, "in the exercise of his rights and in the performance of his duties, [to] act with justice, give everyone his due, and observe honesty and good faith."

International law, which springs from general principles of law, likewise proscribes discrimination. General principles of law include principles of equity, i.e., the general principles of fairness and justice, based on the test of what is reasonable. The Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Discrimination in Education, the Convention (No. 111) Concerning Discrimination in Respect of Employment and Occupation - all embody the general principle against discrimination, the very antithesis of fairness and justice. The Philippines, through its Constitution, has incorporated this principle as part of its national laws.

In the workplace, where the relations between capital and labor are often skewed in favor of capital, inequality and discrimination by the employer are all the more reprehensible.

The Constitution specifically provides that labor is entitled to "humane conditions of work." These conditions are not restricted to the physical workplace - the factory, the office or the field - but include as well the manner by which employers treat their employees.

The Constitution also directs the State to promote "equality of employment opportunities for all." Similarly, the Labor Code provides that the State shall "ensure equal work opportunities regardless of sex, race or creed." It would be an affront to both the spirit and letter of these provisions if the State, in spite of its primordial obligation to promote and ensure equal employment opportunities, closes its eyes to unequal and discriminatory terms and conditions of employment.

Discrimination, particularly in terms of wages, is frowned upon by the Labor Code. Article 135, for example, prohibits and penalizes the payment of lesser compensation to a female employee as against a male employee for work of equal value. Article 248 declares it an unfair labor practice for an employer to discriminate in regard to wages in order to encourage or discourage membership in any labor organization.

² G.R. No. 128845, June 1, 2000

Notably, the International Covenant on Economic, Social, and Cultural Rights, *supra*, in Article 7 thereof, provides:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

a.....Remuneration which provides all workers, as a minimum, with:

i.....Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

x x x.

The foregoing provisions impregnably institutionalize in this jurisdiction the long honored legal truism of "equal pay for equal work." Persons who work with substantially equal qualifications, skill, effort and responsibility, under similar conditions, should be paid similar salaries. This rule applies to the School, its "international character" notwithstanding.

Though an isolated decision, there is hope that such kinds of decisions coming from the highest court of the land is not far from reality considering the adeptness in human rights of some of the current Supreme Court Justices, including the Chief Justice himself.

Does the protection and promotion of ESC rights fall within the mandate of the CHRP vis-à-vis the decision in *Simon vs. CHR*. Provide concrete examples, if any.

Under the 1987 Philippine Constitution, the Commission on Human Rights was created independent³ with the following functions/mandates:⁴

1. Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
2. Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;

3 Paragraph 1, Section 17, Article XIII, Philippine Constitution

4 Section 18, *Ibid*.

3. Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection;

4. Exercise visitatorial powers over jails, prisons, or detention facilities;

5. Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights;

6. Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;

7. Monitor the Philippine Government's compliance with international treaty obligations on human rights;

8. Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;

9. Request the assistance of any department, bureau, office, or agency in the performance of its functions;

10. Appoint its officers and employees in accordance with law; and

11. Perform such other duties and functions as may be provided by law.

SECTION 19. The Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations.

Under the quoted provisions of the 1987 Constitution, and as reflected under Executive Order No. 163,⁵ the Commission was given a total of eleven (11) powers and functions. The first mandate given by the Constitution is "to investigate, on its own or on complaint by any party, all forms of human rights violations involving *civil and political rights*."⁶

Why limited to civil and political rights? It is well to remember that the Commission was an off-spring of the 1987 Constitution which was drafted right

5 series of 1987, issued by then President Corazon C. Aquino

6 Paragraph 1, *Ibid*.

after the end of the twenty year martial rule under the Marcos Regime. Hence, priority was given to violations of civil and political rights. Deliberations of the Constitutional Commissions further show that focus was to be made on the following: (1) protection of rights of political detainees; (2) treatment of prisoners and the prevention of tortures; (3) fair and public trials; (4) cases of disappearances; (5) salvagings and hamlettings; and (6) other crimes committed against the religious.⁷

While a very important mandate of the Commission, this bias made to civil and political rights had a debilitating effect on the Commission's *investigatorial powers*.

In the landmark case of *Simon vs. CHR*⁸ decided in 1994, the Commission tried to intervene on behalf of stall owners whose stalls, stores and carinderias were demolished, the Supreme Court said that the issue does **not** fall within the ambit of "human rights violations involving civil and political rights." Simply put, the Supreme Court decision was saying that the Commission has no business investigating ESC rights.

Refusing to have its hands tied and with the cognition of the universality, indivisibility and interdependence of human rights, the Commission, on December 1995, issued *CHR Resolution No. A95-069*, where it declared as one of its operational priorities,

"investigative monitoring of incidents and/or conditions obtaining in the country which are violative of concerns in both areas of civil and political rights and economic, social and cultural rights."

Not meaning to defy the delimitation set forth in the Constitution, the Commission, in the said resolution, invoked the international principles that "*human rights is concerned with issues in both areas of civil and political rights and economic, social and cultural rights founded on internationally accepted human rights obligations to which the Philippine Government is a state party.*"⁹

The Commission also invoked in the resolution the following international declarations:

First, the *Manila Declaration* adopted by thirty (30) countries which participated in the Third International Workshop of National Human Rights Institutions

conducted by the United Nations in the Philippines in April 1995 which cited the role of national institutions as that of "promoting enhanced respect for the *universality and indivisibility of civil and political and economic, social and cultural rights* particularly by ensuring that national legislation conforms to international obligations and that concrete measures are taken to ensure the enjoyment of rights in a non-discriminatory basis."¹⁰

Second, the *Vienna Declaration* confirmed during the World Conference on Human Rights held on June 1993 in Vienna Austria that "*all human rights are universal, indivisible and inter-dependent and inter-related*. The International community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect *all human rights and fundamental freedoms.*"¹¹

Further, the Commission used its other mandates under the Constitution as justification¹², to wit:

- to monitor Philippine Government's compliance with international treaty obligations on human rights;¹³
- to provide appropriate legal measures and services to the underprivileged whose human rights have been violated or need protection;¹⁴
- to establish a continuing program of research, education and information to enhance respect for human rights, or their families;¹⁵ and
- to recommend to Congress effective measures to protect human rights.¹⁶

Suffice it to say, the said CHR Resolution paved the way for the so-called "*investigative monitoring*" function which the Commission applies when it deals with human rights complaints involving ESC rights.

Records of the Commission since 2000 to present, especially those coming from the regional offices,

7 1986 Record of Constitutional Commission .vol. 3.731
8 229 SCRA 117
9 1st whereas clause, CHR Resolution No. A95-069

10 3rd whereas clause, *ibid.*
11 4th whereas clause, *ibid.*
12 2nd whereas clause, *ibid.*
13 Paragraph 7, Section 18, Article XIII, 1987 Philippine Constitution
14 Paragraph 3, *ibid.*
15 Paragraph 5, *ibid.*
16 Paragraph 6, *ibid.*

show various investigations and legal interventions conducted to promote and protect ESC rights. The records reveal an assortment of ESCR violations such as right to education, right to health, right to ecology, right to housing, right to just and favorable conditions of work, right to social security, domestic violence, violence against women and children and violations of the rights of indigenous peoples, among others.

One case in point is the investigative monitoring conducted by the Commission, through the Assistance

and Visitorial Office and the CHR Region III Office, on the complaints filed involving environmental rights. Specifically, this pertains to the problem of toxic wastes within the Clark Air Base area when the United States Bases left the Philippines in 1992 which affected the water system and caused health problems to the residents due to contaminations of drinking water by heavy metals such as mercury and nitrates. The Commission conducted investigations over the said complaints, prepared the reports and referred the matter to the appropriate agencies for action.

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8 CHRP Comments on the Implementation of the CDESCR

COMMISSION ON HUMAN RIGHTS



Comments on the Report on the Implementation of the Covenant on Economic, Social and Cultural Rights of the Government of the Philippines November 2008

The Commission on Human Rights of the Philippines (CHRP) is encouraged by the Government's submission of its consolidated second, third, fourth and fifth periodic report on the implementation of the United Nations Convention on Economic, Social and Cultural Rights (UNCESCR).

In its role as a national human rights institution, CHRP issues its comments and contributions on the following points:

- Response to List of Issues
- CDESCR Reporting Process
- Threats to the Independence of the CHRP
- Ensuring Continuity in Reporting Compliance to the ICESCR
- Impediments to measuring progressive realization
- CHRP Activities relating to the promotion and effective Implementation of the ICESCR

ESCR REPORT DRAFTING PROCESS

The Commission on Human Rights has been consulted and participated as advisor in the drafting of the Philippines' implementation report on the ICESCR. However, the following observations have been noted in the process:

- absence of the direct participation of, or consultation with, Civil Society in the drafting stage of the state reporting process;
- Government's hesitance to furnish the Commission and NGOs an official copy of the ESCR report upon submission to the Committee on Economic, Social and Cultural Rights.

The Commission recommends that the Committee consider underscoring in its concluding observations that the State's reporting obligation includes the immediate submission of an official copy of its report to NHRIs and Civil Society.

THREATS TO THE INDEPENDENCE OF CHRP

The Commission's powers in relation to Economic, Social and Cultural Rights have been considerably curtailed by jurisprudence. This also explains why the CHRP could not act *motu proprio* on such cases. In the case of *Simon vs. CHR*,¹ [Annex I] where the demolition activities by government agents were at issue, the Supreme Court of the Philippines categorically declared that:

1 G.R. No. 100150, 6 January 1994.

Recalling the deliberations of the Constitutional Commission, aforementioned, it is readily apparent that the delegates envisioned a Commission on Human Rights that would focus its attention to the more severe cases of human rights violations. Delegate Garcia, for instance, mentioned such areas as the "(1) protection of rights of political detainees, (2) treatment of prisoners and the prevention of tortures, (3) fair and public trials, (4) cases of disappearances, (5) salvagings and hamletting, and (6) other crimes committed against the religious." While the enumeration has not likely been meant to have any preclusive effect, more than just expressing a statement of priority, it is, nonetheless, significant for the tone it has set.

Why limited to civil and political rights? The Commission was created by the 1987 Constitution, which was drafted right after the end of the twenty-year martial law rule under the Marcos regime. Hence, the priority of the Constitutional Commission was to focus on preventing future recurrence of the common human rights violations committed under that regime.

In December 1995, under the leadership of Chairperson Sedfrey Ordoñez, the First Commission issued Resolution No. A95-069 [Annex II]. This landmark issuance declared, as one of the CHR's operational priorities: "*investigative monitoring of incidents and/or conditions obtaining in the country, which are violative of concerns in both areas of civil and political rights and economic, social and cultural rights.*"

It invoked, as its basis, the principle that "human rights is concerned with issues in both areas of civil and political rights and economic, social and cultural rights founded on internationally accepted human rights obligations to which the Philippine Government is a state party."² This, in conjunction with the Commission's Constitutional mandate to:

- monitor Philippine Government's compliance with international treaty obligations on human rights;³
- provide appropriate legal measures and services to the underprivileged whose human rights have been violated or need protection;⁴
- to establish a continuing program of research, education and information to enhance respect for

2 First whereas clause of CHR Resolution No. A95-069.

3 Paragraph 7, Section 18, Article XIII, 1987 Constitution.

4 Paragraph 3, *ibid.*

human rights, or their families;⁵ and

- recommend to Congress effective measures to protect human rights.⁶

Through this Resolution, the CHR paved the way to the so-called "investigative monitoring" function which it shall apply when dealing with human rights complaints involving ESC rights.

After overcoming the chilling effect brought about by the Supreme Court Ruling on *Simon vs. CHR*, the Commission is presently beset with difficulties brought about by the impact of the recent Supreme Court decision citing its 'limited fiscal autonomy'⁷ [Annex III].

Despite its minuscule budget share of .02% of the total government budget, savings generated from the appropriations of the Commission has been hampered by a veto message of the President citing the decision and conditioning the use of savings on a joint memorandum circular to be issued with the Executive's Department of Budget and Management in the 2007. The same veto message was in line with the 2008 General Appropriations Act. [Annex IV] CHR has acted upon this by meeting with the DBM early last 2007 and submitting a proposed memorandum circular. To date, the veto message has been unacted upon.

It is recommended that the veto message be lifted to enable the Commission to operate and decide on the utility of its own savings.

The Commission has also called on the Government to the proposed CHR Charter aimed to overcome its present difficulties to include the unequivocal elaboration of the intent of the framers of the constitution on the Commission's Fiscal Autonomy and granting Quasi Judicial Powers. We call on the Executive to certify this as an urgent legislative measure.

The Commission is concerned over the delay in the appointment of the last vacancy in the Commission. We call on the Executive to complete the Fourth Commission so that it can fully go about its role as a national institution for the promotion and protection of human rights.

5 Paragraph 5, *ibid.*

6 Paragraph 6, *ibid.*

7 GR No.155334, July 21, 2006

ENSURING CONTINUITY IN REPORTING COMPLIANCE

In ensuring that a mechanism is in place for continuity in reporting on the implementation of international human rights treaties, CHRP has actively engaged in government-led human rights inter-agency bodies, specifically, the Presidential Human Rights Committee (PHRC).

The Commission has been instrumental in its observer/advisor status in the PHRC having recommended its strengthening in three ways:

- Elevate the Chairmanship of the Committee in the person of the Executive Secretary;
- Expand the membership of the Presidential Committee to include relevant executive agencies tasked to promote and protect human rights and include the human rights-based approach in the drafting of a national human rights action plan;
- Embed in the strengthened Presidential Committee the inclusion of a mapping of lead agencies charged with the implementation of the eight core human rights instruments to which the Philippines is state party.

However, the Commission expresses concern over the exclusion of Civil Society Representation in the membership of the Presidential Committee. It is thus recommended that Civil Society Representation be restored in the PHRC.

IMPEDIMENTS TO MEASURING PROGRESSIVE REALIZATION OF ESC RIGHTS

The Commission notes factors that impede measuring the progressive realization of ESC Rights in the Philippines:

Changing measures

In 2005, the definition of 'unemployment' was revised by government citing compliance with international standards. Nevertheless, the human rights community raised the concern that this new definition should not be used to compare previous rates of unemployment as it uses a restrictive definition which had the impact of statistically removing those persons who seek

employment and have given up because of the lack in job availability.⁸

Appropriateness of Measures

For example, the Minimum Daily Wage measures (PhP 345 – 382 is the highest minimum wage rate for the National Capital Region) have been decried as not sufficient to meet the basic requirements of a family of five. Even in relation to a prisoner's food allowance pegged at PhP 40 per person which has been scored as insufficient as it is, a family of five will expend almost 60% of their income on food requirements alone.

Budgetary Allocations

The General Appropriations of government is a mechanism that will ensure proper allocation of resources for the welfare of the majority and rights safeguards for the vulnerable sectors. The budget can be an equalizing process that will distribute resources to all sectors especially vulnerable groups and ensure that basic rights to education, health, livelihood and standard of living are guaranteed.

Both Government and Civil Society recognize that debt servicing has been seen as an impediment in realizing ESC rights. It has consistently received the highest budgetary allocation, despite the Constitutional requirement prioritizing education.

Lack of a human rights framework in the development plan of Government

The Medium Term Development Plan of the Philippines fails to bring the Human Rights Agenda to the core of government planning. The MTPDP was criticized as not being rights based and lacked the language of human rights in its presentation. The previous development plan had been described as more

8 IBON Position Paper on Supreme Court Forum On Economic, Social, Cultural Rights provides an analysis: Recent officially released unemployment figures give the impression that unemployment rates have been improving since 2005. However this is misleading because of a change in the definition of unemployment in April 2005 that statistically "removes" long-discouraged jobseekers and those not available/willing to immediately take up work from the labor force by classifying them as "not in the labor force" (NILF). In 2007 this had the effect of dramatically reducing the number of reported jobless by some 1.4 million and the unemployment rate by 3.5 percentage points. This definitional change also obscures how unemployment has been more or less continuously rising from 8.4% in 1990 to around 10.8% in 2007, available at <http://info.ibon.org/index.php?option=com_content&task=view&id=314&Itemid=1>

attuned to rights having devoted a chapter on the concerns of vulnerable and marginalized groups.

The first Philippine Human Rights Plan (PHRP) maybe considered as a milestone undertaking that has elements of the rights-based approach to development since: (1) it focused on vulnerable and disadvantaged sectors; (2) it linked development issues with human rights; and (3) it based the sectoral plans of actions on the international human rights standards enunciated in the human rights instruments focusing on vulnerable sectors.

The evaluation of the first PHRP has put into context the proper role of the CHRP in human rights action planning. The results of the findings showed that the PHRP is not the CHRP's plan but the plan of the national government, and that human rights planning is a responsibility of the government. Ownership of both government and the people is the key to a viable human rights plan that is action driven. It sought to confirm the refocused role of CHRP as oversight body to assist national government in the implementation of Human Rights standards.

The Second plan is envisaged to serve as a roadmap for the national government planning, budgeting and policy-making. It is thus encouraged that government undertake measures to ensure that the NHRAP is rights-based in both content and process.

The abovementioned observations only calls for more constructive dialogue between government and civil society for a common understanding of the situation on the ground and to formulate responsive programs that enhance the respect and enjoyment of the Filipinos' right to economic, social and cultural rights.

CHRP ACTIVITIES RELATING TO THE PROMOTION AND PROTECTION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Cognizant of the Committee's General Comment No. 10 on the Role of National Institutions in the protection of ESCR, select activities outlined below demonstrate CHRP's action on the promotion and protection of economic, social and cultural rights:

Promotion of ESCR

On 'scrutinizing of existing laws and administrative acts, as well as draft bills and other proposals, to ensure that they are consistent with the requirements

of the ICESCR, the Commission issued a Human Rights-Based Legislative Agenda which underscored the need to frame legislative proposals within the scope of state obligations to harmonize local laws with human rights treaties. The legislative agenda was introduced in the context of a brief analysis of how issuances of the past Congress have been regarded in the human rights perspective[Annex V]

Rights-Based Approach to Legislation

Functioning as an advisor to the government⁹, the Commission has also placed itself in a position where it can integrate human rights in the policies, programs and plans of the government. The Commission has an on-going activity on mainstreaming human rights framework in governance. Since 2003, the Commission has been providing Rights-based Approach (RBA) training-workshops to different government offices, local government units and non-governmental organizations.

Specifically in the area of legislation, the CHRP is undertaking a continuing program of "Human Rights Based Approach to Legislation"¹⁰ (HRBA). This project is aimed at giving seminar-workshops for the following purposes:

1. to orient technical staff of various committees of both houses of Congress, legislative staffs of congressmen and senators, as well as local legislators, on basic human rights concepts, as well as international human rights principles, norms and standards under the eight core international treaties;
2. to discuss pressing human rights issues and concerns;
3. to introduce and provide working knowledge on the human rights based approach/framework in the context of legislation in order to ensure translation of international human rights principles to domestic legislation; and
4. to strengthen partnership between the CHRP and Congress in terms of relevant engagement in the process of legislation.

9 Paragraph 6, Section 18, Article XIII of the 1987 Constitution.

10 To date, the CHRP has already conducted three seminar-workshops on the HRBA to Legislation. Two of the three were participated in by technical staffs of the House of Representatives, while the other was conducted for local legislators in Iligan City and Lanao del Norte. In the last seminar-workshop, held last July for the House of Representatives, one of the issues discussed was the current rice crisis. We are pleased to say that all three seminar-workshops were well-attended and warmly received by the participant which has paved the way for a human rights consciousness in the Legislature.

In 2005, the Commission embarked on a "Pilot Study on the Rights-Based Indicators on Selected ESCR", particularly on the Right to Food.¹¹ The study aimed to generate a common set of indicators that would help the government in objectively reporting to fulfill its international obligations.

The pilot study found essential the identification of stakeholders who will facilitate the determination of indicators consistent with General Comment No. 12 elaborating on the normative content of right to adequate food. Representatives of different government agencies and non-governmental organizations were invited to participate.¹²

Most of the participants, particularly representatives from government agencies, were unaware of the State obligations under the ICESCR, which gave the CHRPA a first-hand glimpse of possible reason behind the apparent lack of conscious effort to fulfill ESCR rights on the part of the government agencies. The process of reviewing and analyzing existing indicators, therefore, had to be done even as the participants were still internalizing the concept of human rights and the integration of the rights-perspective in their respective agency plans and programs.

Thereafter, simultaneous discussions on human rights concepts and principles and the development of human rights indicators to right to food were conducted. But even before these discussions, there were already existing indicators. The challenge remains as to how to regard the indicators in the rights framework. Government agencies have their own set of indicators as well as definitions differing from what non-government

organizations including media would use in making government account for the situation of the Filipino in respect of the Right to Food.

The Pilot study, therefore, initiated a leveling off by review and analysis of existing indicators and has selected indicators that would reflect the core content of the right to food.

An important tool resulting from the pilot study was the mapping of government and non-government organizations on their respective duties in the respect, protection and fulfillment of the human right to food. This exercise helped the government agencies to view their mandates in a different light, in light of human rights.

Even as the categorization of indicators and responsibility areas were established, some contentious issues and concerns that surfaced during discussions were left unsettled. Since the conduct of this project in 2005, follow-up activities on the same have yet to be taken.

Protection of Economic, Social and Cultural Rights

Cases of ESCR Violations

The Commission's data bank of cases will be enhanced by our on-going project to install our information management system designed in light of human rights treaty framework.

Records of the Commission reveal various investigations and legal interventions in relation to ESC rights. There have been cases filed before or brought to the attention of the CHRPA by civil society organizations and non-governmental organizations in the country. The following may be regarded as examples of human rights violations rooted in the context of economic social and cultural rights.

Case of Enrico Cabanit

For instance, the FoodFirst Information and Action Network (FIAN) has actively lobbied for the vindication of the rights of a number of farmers that have been threatened by either the landlords or the government itself. One case, the case of Mr. Enrico Cabanit, a peasant leader advocating land redistribution to landless peasants within the framework of the Comprehensive Agrarian Reform Program (CARP), was killed last 24 April 2006 in Panabo City, Davao del Norte. At its core, the case

11 "Indicators on Right to Food". Terminal Report on the Pilot-Study: Rights-Based Indicators on Selected Economic, Social and Cultural Rights. Prepared by the Government Linkages Office of the Commission on Human Rights of the Philippines. Undated.

12 Government Agencies include Department of Agriculture, Department of Agrarian Reform, Department of National Defense, Department of Environment and Natural Resources, Department of Interior and Local Government, Department of Labor and Employment, Department of Health, Department of Public Works and Highways, Department of Science and Technology, Department of Social Welfare and Development, Department of Trade and Industry, National Anti-Poverty Commission, National Food Authority, National Economic Development Authority, Office of Muslim Affairs, National Commission on Indigenous Peoples and Non-Governmental Organizations include KAISAMPALAD, Food First Information Agency, Philippine Alliance of Human Rights Advocates, Philippine Human Rights Information Center, Task Force Detainees of the Philippines, INAM Philippines, Philippine Network on Rural Development Institute.

stemmed from a dispute as to the right to access to land of peasant farmers, which is, therefore, a case involving the right to food. However, the Commission considered this case as a case of extrajudicial killing first, because the case was brought to its attention when Mr. Cabanit was killed, and, second, because of the limited mandate of the CHR with regards to ESC Rights.

Case of Hacienda Luisita

Similarly, the CHRP also had the opportunity to investigate the land/labor dispute in the Hacienda Luisita, a sugarcane plantation in Tarlac City. Laborers have been protesting alleged violations of their labor rights, such as the failure of the management to grant their demands for improvement in working conditions and their standard living, and the failure of the authorities to place the Hacienda under the Comprehensive Agrarian Reform Program. Settlement of the dispute through collective bargaining was attempted. However, when the process failed, violence resulted, killing at least seven sugarcane workers and injuring more than 100 other workers. The incident happened when the workers were dispersed when they decided to stage a strike. The CHRP issued a Resolution condemning the incident as a violation of the right to life of the victims and violation of the right to public assembly.

On Labor-Related Human Rights Violation Cases

As of 28 October 2008, records show that there are 15 cases investigated and classified as 'labor - related extra-judicial killings' [Annex VI]

On Forced Evictions and Demolitions

The Commission has issued various advisories and resolutions that invoked Economic, Social and Cultural Rights obligations. Most recent is the result of the 'Forum on Forced Evictions and Housing Demolitions' held last 17 June 2008.

In its Resolution 'recommending the imposition of a moratorium on evictions and demolitions of structures used for dwelling purposes' [See Annex VII], the Commission amplified the Committee's General Comment No. 12 on the Normative Content of the Right to Adequate Housing.

The Way Forward

Difficulties remain for the Commission in line with efforts to respond to concerns on the respect, protection and fulfillment of economic, social and cultural rights. The Fourth Commission, is in the process of exploring cases that could bring the institution back to the courts and gain the opportunity to once again invoke CHRP's role in the promotion and protection of economic social and cultural rights. We are presently looking into reports of hunger in jails for the purpose.

9 Consideration of the State Report

UNITED
NATIONS



COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS EXAMINES REPORT OF THE PHILIPPINES*

* United Nations Press Release issued last 12 November 2008 available online at <<http://www.unhcr.ch/hurricane/hurricane.nsf/0/E145BFB7F56B427CC12574FF0049724F?opendocument>>

The Committee on Economic, Social and Cultural Rights has considered the combined second to fourth periodic reports of the Philippines on how that country implements the provisions of the International Covenant on Economic, Social and Cultural Rights.

Erlinda F. Basilio, Permanent Representative of the Philippines to the United Nations Office at Geneva, in her opening statement, said that the Philippines was a multi-ethnic, multi-cultural, multi-linguistic and multi-faith country. The great majority of the population belonged to indigenous groups. Attaining the goal of social progress and better standards of life posed serious challenges for a developing country like the Philippines. Despite this many achievements had been realized. Development efforts faced major challenges in the Philippines, including natural disasters and calamities brought about by volcanic eruptions, earthquakes, typhoons and other extreme conditions. Despite the challenges faced by the two active insurgencies – leftist rebels and Muslim separatists, the Government remained focused on its goal of providing a better standard of life for its people.

Among issues raised by the Committee Experts were questions regarding the National Commission on Human Rights; the implementation of the Covenant; integration policies for internally displaced persons; legalization of marriage for girls below the age of 18 and polygamy; anti-corruption strategies; the role economic, social and cultural development took in the 2004-2010 Medium-Term Philippine Development Plan; the Mineral Action Plan aimed at streamlining Government grants for mining projects, and the ratification of International Labour Organization Convention 169; Filipinos working abroad; social security for workers in the informal sector; bilateral agreements with countries where Filipinos worked; the rate of investment in the Philippines; and on the difficult conditions placed on the right to strike.

In her concluding remarks, Ms. Basilio said the dialogue with the Committee was thorough and extremely fruitful. Areas that needed to be addressed were identified and it was clear that there was room for improvement. The Government was committed to fulfilling these aims and looked forward to the Committee's concluding observations which

were to be used as a guide in the coming national consultations.

Philippe Texier, Chairman of the Committee, in conclusion said that the Philippines had shown a great interest in the implementation of the Covenant. This was illustrated through the very large delegation present and the presence of civil society, which was very well represented, and whose representatives voiced their views and provided additional information.

The delegation of the Philippines included representatives from the Permanent Mission of the Philippines to the United Nations Office at Geneva, the Presidential Human Rights Committee, the Department of Foreign Affairs, the Department of Social Welfare and Development, the Department of Justice, the National Economic Development Authority, the National Commission on the Role of Filipino Women, the National Commission on Indigenous People, Department of Interior and Local Government, and the Department of Labour and Employment.

The concluding observations and recommendations of the Committee on the report of the Philippines will be issued towards the end of the session, which concludes on Friday, 21 November.

When the Committee meets at 3 p.m. this afternoon, it will begin its consideration of the combined initial to third periodic report of Angola (E/C.12/ANG/3).

REPORT OF THE PHILIPPINES

The combined second to fourth periodic reports of the Philippines (E/C.12/PHL/4), presented in one document, notes that there are 110 ethno-linguistic groups in the country, which speak at least 70 recorded languages. As of 2005, the population of the Philippines was estimated at 88.5 million, and projected to reach 102.8 million by 2015. The country's real Gross National Product from 2001 to 2004 expanded at an average of 5.05 per cent, while real Gross Domestic Product grew by an average of 4.52 per cent, which was within the target set during the same period. The services sector has been the engine of growth which expanded at an average rate of 5.62 per cent over the said period. The agriculture sector also grew at an average of 4.05 per cent over the period 2001-2004. Despite the growth in some sectors of the economy, unemployment remained high at 10.9 per cent in October 2004 notwithstanding the 3.2 million jobs generated from 2001 to 2004. From January to July 2004, the average unemployment rate was 12 per cent. The latest Labour Force Survey,

conducted from October 2003 to October 2004, revealed that approximately 2.116 million or 9.1 per cent of the total 25.210 million children 5 to 17 years old were working.

Fundamental human rights are an integral part of the Philippine Constitution. Under the Philippine Rules of Court, a person who has been unlawfully detained or deprived in any other manner of his liberty may file before any Regional Trial Court or the Court of Appeals or directly with the Supreme Court, a petition for the issuance of a writ of habeas corpus to obtain his temporary release. The Philippines Commission on Human Rights established protective legal measures to safeguard the rights of Filipinos according to the principles guaranteed by the Philippine Constitution and international treaty obligations. It deals directly with any particular type of human rights violation, primarily those involving civil and political rights. The Office of the Ombudsman is another independent office dealing with human rights enforcement. The main function of this Office is to prevent abuse of power by government officials which adversely affects private rights. The 2004-2010 Medium-Term Philippine Development Plan adopted a framework for supporting employment generation with the following elements: adopt the philosophy of free enterprise; focus on high-value jobs; microeconomic strategic measures; improve productivity; and attract investments.

PRESENTATION OF THE REPORT

ERLINDA F. BASILIO, Permanent Representative of the Philippines to the United Nations Office at Geneva, in her opening statement, said that the Government of the Philippines attached great importance to the promotion and protection of economic, social and cultural rights and to the work of the Committee. As a founding member of the United Nations, the Philippines had played an active role in the drafting of the United Nations Charter and the Universal Declaration of Human Rights. In fact, the Philippines had been instrumental in having the phrase "self-determination of peoples" included as one of the main aims of the United Nations.

Sixty years ago as a member of the very first UN Commission on Human Rights, the Philippines had been among the small group of countries headed by the renowned Eleanor Roosevelt that had tested the limits of international commitment to the cause of human rights by framing a set of common standards for nations and peoples to live by and that would become the Universal Declaration of Human Rights, underscored Ms. Basilio.

Since then, the Philippines had signed and ratified all eight of the core human rights instruments, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination, the Convention on the Elimination of Discrimination Against Women, the Convention on the Rights of the Child, the Convention Against Torture, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and the Convention on the Rights of Persons with Disabilities. The Philippines was also a State party to other relevant international instruments including the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention relating to the Status of Refugees, the four Geneva Conventions of 1949, the International Labour Organization Fundamental Conventions No. 29, 87, 98, 100, 105, 111, 138, and 182 and the UNESCO Convention against Discrimination in Education, noted Ms. Basilio.

The Philippines was a multi-ethnic, multi-cultural, multi-linguistic and multi-faith country. The great majority of the population belonged to indigenous groups. While the vast majority of indigenous groups in the Philippines had adopted modern lifestyles, some small indigenous groups chose to maintain their traditional way of life. In recognition of this fact, and as affirmative action to promote and protect human rights of small indigenous groups in a fast changing world, the Philippines had enacted the 1997 Indigenous Peoples Rights Act that sought to recognize the ancestral domains and lands of small indigenous groups, preserved their distinct cultural identity and promoted and protected their human rights, including their means of livelihood, underscored Ms. Basilio. Since then a total of 71 certificates of ancestral domains benefiting 333,848 indigenous peoples and 180 certificates of ancestral lands benefiting 2,947 individual members of indigenous groups had been issued.

Attaining the goal of social progress and better standards of life posed serious challenges for a developing country like the Philippines, said Ms. Basilio. Despite this many achievements had been realized. The Philippines ranked 90 out of 177 countries covered by the Human Development Report and fell under the Medium Human Development category. Within this category the Philippine was in the upper range with the Human Development Index Value of 0.771. This was equal to the Human Development Index for East Asia and the Pacific and better than the Human Development Index for developing countries, which was only 0.691, and the world, which was only 0.743.

The Philippines ranked 77 out of 177 countries in terms of the Gender-related Development Index. Females in the Philippines enjoyed higher life expectancy, adult literacy and gross enrolment ratio than their male counterparts. In terms of the Gender Empowerment Measure, the Philippines ranked 45 out of 177 countries. There were more female professionals and technical workers, 61 per cent of the total, compared to males in those fields. In addition, the numbers of female legislators, senior officials and managers were higher than that of males, totalling 58 per cent, said Ms. Basilio. The area where females were at a disadvantage was in terms of estimated earned income, where more work needed to be done.

In terms of gender equality and women's empowerment, the Philippines had made laudable progress. It was ranked sixth in the World Economic Forum's gender parity index 2007 – the only developing country in the top ten. According to the World Economic Forum's report, the Philippines was the only country in Asia to close the gender gap in both education and health. In the survey's sub-indices, the Philippines ranked first in education attainment and health and survival of women, and second in economic participation and opportunity, said Ms. Basilio.

Development efforts faced major challenges in the Philippines, including natural disasters and calamities brought about by volcanic eruptions, earthquakes, typhoons and other extreme conditions, said Ms. Basilio. The Philippines was situated in the Pacific Ring of Fire and was prone to volcanic eruptions and earthquakes that caused untold devastation as shown during the Mt. Pinatubo eruption. In addition, on average it was visited by at least 12 typhoons annually. Poverty remained a serious challenge with 36 per cent of the population living below the poverty line. Infant mortality rates in the Philippines per 1,000 live births was 25; adult literacy for people aged 15 and above was 92.6 per cent; combined gross enrolment in education for men and women was 81.1 per cent; the percentage of one-year-olds fully immunized against Tuberculosis was 91 per cent; and the percentage of the population using improved sanitation was 72 per cent. Between 1990-1992 and 2002-2004, the Philippines reduced the incidence of under nourishment among the population from 26 to 17 per cent.

Despite the challenges faced by the two active insurgencies – leftist rebels and Muslim separatists, the Government remained focused on its goal of providing a better standard of life for its people, stressed Ms. Basilio. Military spending was below 1

per cent of the Gross Domestic Product, compared with education at 2.7 per cent and health at 1.4 per cent. Much remained to be done in every aspect of the promotion and protection of human rights of the Filipino people, and the Government of the Philippines had committed its full efforts to this end.

QUESTIONS BY COMMITTEE MEMBERS

Experts recalled that under the Paris Principles National Human Rights Institutions were to be set up with clearly outlined powers. Did the Human Rights Commission in the Philippines enjoy sufficient powers to implement economic, social and cultural rights? What Government policies had been taken to implement the International Covenant on Economic, Social and Cultural Rights and what additional powers had been given to the National Human Rights Commission to implement economic, social and cultural rights?

An Expert asked what specific measures had been taken by the State to integrate displaced persons in the Philippines. These people needed to be provided with housing, education and psychological assistance.

What was the system for giving concessions with regard to indigenous people's rights over ancestral territory in cases involving mining projects, asked one Expert. Had there been investigations in cases involving extrajudicial executions and disappearances?

On the Universal Periodic Review, one Expert asked what was the Philippines assessment of the process? It was noted that national benchmarks were of more interest to the Committee than world benchmarks. In addition, the data presented in the report was seriously outdated, going back to 1995. What were some recent statistics? The Government under the privy of Islam legalized marriage for girls below the age of 18 and polygamy, which was not a modern interpretation of Islam. In this regard was the Government considering adopting a modern conception of Islam?

Questions by Experts also related to the estimated loss of \$ 40 billion due to corruption in the country, and what anti-corruption strategies were planned or in place; budget allocations to debt servicing rather than social services; the role economic, social and cultural development took in the 2004-2010 Medium-Term Philippine Development Plan; and on how mining was being pushed as the main development strategy, which hindered the rights of indigenous communities.

Concerns raised by Experts included the Mineral Action Plan aimed at streamlining Government grants for mining projects, which resulted in the speeding up of grants for mining projects and left little time if any for consultations with the indigenous peoples affected; the freedom of the judiciary from political corruption; and the ratification of International Labour Organization Convention 169.

ANSWERS BY THE DELEGATION

In response to the questions raised, the delegation said that under the Constitution of the Philippines, international law was directly applicable and therefore the Covenant was also directly applicable.

Concerning forced disappearances and extrajudicial killings, the delegation said that the Government led detailed investigations of the cases of alleged extrajudicial killings. Only 14 percent of the cases were found to be probable extrajudicial cases, of those 80 percent were either misreported or nonexistent, which included 6 cases where the persons were found alive. With respect to 135 cases of forced disappearances, 69 per cent of the cases involving alleged victims were actually in detention for previous violations of the law, and 12 per cent were found to be dead. Moreover, 81 per cent of all cases of alleged victims did not actually disappear. An example of proactive measures taken by the Government of the Philippines to combat forced disappearances and extrajudicial killings was the creation of Task Force 211. The Task Force had arrested a number of persons within the military and the judiciary for extrajudicial killings, who were now undergoing trial hearings.

The Government of the Philippines took a rights-based approach to the protection and promotion of human rights, said the delegation. The National Human Rights Commission played an integral role in this regard. Some functions of the Commission included, among others: the right to investigate violations of civil and political rights; providing adequate legal measures for victims; providing legal aid services for underprivileged groups; exercising rights over detention facilities; enhancement and protection of privacy for victims; compensation for victims and their families; and granting immunity from prosecution in cases. Since the inception of the Commission of Human Rights, civil and political rights were guaranteed, however, new developments had taken place since then to include the protection of the economic, social and cultural rights of individuals, and the inclusion of all rights outlined in the provisions of international human rights instruments to which the Philippines was party to.

The National Human Rights Commission aimed to regularize the monitoring of cases and complaints through a rights-based approach and networking with concerned agencies; presenting an expanded monitoring procedure to the Commission that should not only update and present the progress of cases and complaints, but capacitate the Commission in initiating, recommending and developing the adoption of rights-based approach measures, in cooperation and collaboration with the judicial and quasi-judicial agencies, in improving the administration of justice; to establish a distinct relationship with the courts for the enforcement of Commission decisions by the courts through appropriate cooperation and collaboration; and to maintain a suitable documentation of cases and complaints being monitored to effectively carry-out its complementary role to the power enjoyed by the courts, especially in delivering rights-based resolution of cases.

On the independence of the Commission on Human Rights, the delegation said that they had a separate budget, and it was a matter between the Commission and Congress. In addition, \$ 25 million had been allocated to the Commission to handle cases involving extrajudicial killings.

On internally displaced persons, the delegation said that assistance packages prepared in coordination with the National Disaster Coordinating Council had been distributed. Safe spaces and locations had been identified for internally displaced persons to return to for reintegration to start. In addition, among other things, emergency shelters, food and agricultural support in the form of seeds and small plants had been distributed to internally displaced persons who had resettled in those safe spaces. Moreover, the National Disaster Coordinating Council had adopted the United Nations cluster approach to disasters.

After the adoption of the 1995 Mining Act, the mining industry experienced slow investments coming into the country. As this developed, a National Policy Action Plan was crafted which prompted the National Policy Agenda on Revitalizing the Mining Industry in the Philippines to boost investments in the industry. In 2004 a presidential decree established that all agricultural extraction projects must be carried out keeping in mind respect and preservation of the environment. The delegation said that all parties involved, including the indigenous communities, shared equally in the advantages of such projects. It was also stressed that indigenous groups were granted rights to be consulted and take part in the decision making process, and for any project to move

forward they had to be in full acceptance of the terms and conditions of the project.

With respect to International Labour Organization Convention no.169, the delegation said that the Convention needed to be updated to more realistic terms before the Philippines ratified it.

Efforts in Congress had been made to amend the legislation in the context of Islam with regard to early marriage and polygamy, among other things, said the delegation. It was now the aim of the Government of Philippines to develop constituencies for Muslim communities to discuss gender issues in the context of Islam. Additionally efforts taken also included the commencement of a dialogue on discrimination and gender equality with Islamic religious figures in the communities who were encouraged to discuss these issues during their Friday sermons. Twenty-eight Imams, men and women, and Muftis were brought together to discuss issues covering marriage, polygamy, property rights and decision making.

Corruption was universally condemned in the Philippines, said the delegation. The Government aimed to address this problem in the Medium Term Development Plan 2010 which used a multi prong approach. The plan included, among other things, punitive and enforcement measures; development of programmes to facilitate public participation; strengthening of accountability reforms; and the promotion of zero-tolerance reforms. The Integrity Development Action Plan which was an output of a Presidential Anti-Corruption Workshop held in December 2004 was adopted as the national anti-corruption framework of the Executive Branch. The Integrity Development Action Plan was composed of 22 specific anti-corruption measures clustered into strategies of prevention, education, investigation and enforcement and strategic partnership. To implement the plan, agencies were required to adopt several procedures which included the creation of Integrity Development Action Plan Committees; preparation of Integrity Development Action Plans; preparation of Integrity Development Action Plan Work Programmes; regular monitoring and assessment of implementation; and preparation of Integrity Development Action Plan Accomplishment Reports for submission to the Presidential Anti-Graft Commission. Additionally the Government received a \$ 300,000 loan from the World Bank for auditing purposes, which was completed in June 2004.

Contraceptive and elementary enrolment rates were an ongoing challenge in the Philippines, said the delegation.

On poverty reduction and fiscal deficits, the delegation said that the fiscal deficit emerged as the major macroeconomic problem. The consolidated public sector deficit was 5.52 per cent of Gross Domestic Product while the Government deficit surged to 3.8 per cent of Gross Domestic Product in 2004. Consequently, the rising deficit pushed the public sector debt to 101 per cent of Gross Domestic Product by 2003. The Government provided social services in the areas of health, nutrition, education, housing, safe water supply and sanitation. Basic services for children were a special concern. The Government was taking definitive steps to address human development concerns in an integrated manner, through the formulation of a social development framework which guided the planning and programming of human development-related activities. Starting in 1986, the Government focused on poverty alleviation as a goal of national development efforts. In 1988, poverty incidence among Filipinos was 45.5 per cent, 3.8 percentage points lower than it was in 1985. As of 2003, poverty incidence had gone down to 30.4 per cent. Moreover, the Presidential Commission for the Urban Poor 1986, the Presidential Commission to Fight Poverty 1993, and the National Anti-Poverty Commission 2000 were established by the Government as agencies to engage in poverty alleviation and people empowerment.

On the Universal Periodic Review, the delegation said that the Government sent a high level delegation to participate in the process. The intention of the review was to assist all countries in the assessment of human rights in their countries. The Government of the Philippines considered a number of recommendations made, and in fact accepted a large number of them.

Measures were being taken to ensure that the judiciary was free from corruption, keeping in mind that the judiciary was an independent branch of the Government, said the delegation. There were no guarantees that it was completely free from corruption. All branches of the Government took steps to curb corruption. The New Code of Conduct for the Philippine regulated conduct both inside and outside the confines of the judiciary.

LEILA M. DE LIMA, President of the National Human Rights Commission of the Philippines, said that the National Human Rights Commission's powers had been curtailed by jurisprudence in 1995, where the Supreme Court clarified that the Commission's mandate would cover cases involving civil and political rights. The 1987 Constitution was an offshoot of the dictatorial regime, which focused on those rights. The resolution of the first Human Rights Commission

had investigative and monitoring powers in regard to conditions and activities operating in the country that were in violation of both political and civil rights as well as economic, social and cultural rights. The Commission was also responsible for monitoring the Government's work on the application of international human rights instruments. With regard to fiscal autonomy, in 2004 and 2006 two Supreme Court rulings declared that while the Commission was considered a constitutional office and enjoyed fiscal autonomy it was not the same as other constitutional commissions which included: the Elections, Audit and Civil Service Commissions. The Supreme Court and the Ombudsman were the offices that enjoyed true fiscal autonomy. The Human Rights Commission only enjoyed limited fiscal autonomy, which meant it was entitled to the automatic release of funds approved by parliament. She requested specific details as to why there was a perception that the Commission was not autonomous, and requested that the Commission be examined based on its work.

The Urban Development Housing Act mandated housing policies in the Philippines, said Ms. De Lima. Forced evictions and demolitions posed a serious concern and the Commission was focused on improving this problem, and requested that a moratorium be imposed until proper guidelines were adopted. The Commission advised the Government to finalize the invitation for the Special Rapporteur on housing rights to closely look at the violations on housing rights, and called for amendments to law on housing, specifically with regard to informal settlers, who were regarded as nuisances. On deportees and migrant workers, she said based on reports from the regional office, complaints were received about the subhuman conditions in the Saba region. Complaints also registered physical beatings and ill-treatment. The Commission deployed a special mission to verify the reports of ill-treatment of deportees in the Saba region.

The Commission's main goal to date, underscored Ms. De Lima, was the push for the adoption of a National Commission on Human Rights Charter, which clarified expanded powers either prosecutorial or quasi-judicial powers, for engagement in combating violations of economic, social and cultural rights.

FURTHER QUESTIONS BY THE COMMITTEE MEMBERS

One Expert underscored that the high unemployed and underemployment rates were aggravated by trade policies since the Philippines joined the World Trade Organization. The numbers of overseas

workers had increased, especially for women who found work in domestic labour, and the conditions in many cases were not favourable. What was the latest on current or planned bilateral agreements? Many workers in the Philippines had very short work contracts, which led many workers to remain in the informal employment sector. In 2006, 45 per cent of workers comprised the informal employment sector. What was being done to address this staggering problem in the Philippines? The public social security system had improved, which only covered workers in the formal sectors. What was the position of the Government on social security for workers in the informal sector? Additionally was the Government planning to step up measures on unemployment, family and maternity leave policies.

The Department of Labour and Employment entered into an agreement in March 2006 with trade unions to settle labour disputes. One Expert asked what progress was achieved as a result of the agreement. Did all young and unskilled workers benefit from vocational and occupational training programmes without discrimination?

The economic model was a liberal model. Remittances were received from Filipinos working abroad.

The difficulties experienced and progress made by the Philippines had been welcomed by Experts. However, these changes also gave rise to social inequality and increased poverty, over 9 million Filipinos working abroad, and job cuts as a result of industrialized agriculture, among others. On the whole social expenditure decreased, despite some spending, said one Expert. What measures had been taken by the Government on social security, bilateral agreements with Israel and Saudi Arabia, and return policies for immigrants seeking to return to their country?

The rate of investment in the Philippines was less than 15 per cent in 2007, twice less than in neighbouring countries, noted one Expert. What was the reason for such low investment rates, which was directly correlated to, among other things, low economic growth and therefore decreased employment opportunities? What proportion of the population was covered by old age benefits?

Committee Experts asked for further information on measures provided for by the State to counter infractions of trade union rights, and the murder of trade union leaders; and on the difficult conditions placed on the right to strike, which was also not in accordance with the International Labour Organization standards on the right to strike.

ANSWERS BY THE DELEGATION

The delegation said that efforts had been made on social protection measures which were defined through labour market programmes, social welfare and social safety nets. Domestic workers were regarded by the Government as vulnerable workers and therefore there was a bill pending in Congress which protected the rights of domestic workers.

On bilateral agreements affecting employment and displacement, the delegation said that the Government had entered in a number of such agreements already, and was in the process of concluding agreements with a number of countries, including Qatar and Saudi Arabia. The Philippines set up a complete migration management system, whereby the citizens were protected prior to hiring and after deployment and included a system in which workers were reintegrated back into their country of origin. Regarding the use of contractual workers, if an entity was registered with the Department of Labour, and met all the requirements stipulated, they were allowed to obtain contractual workers; however, the mere supply of labour was considered illegal in the Philippines.

Regarding the setting of minimum wage, the delegation said wages were set through national and regional wage boards, in which all relevant parties were represented.

Concerning the training of unskilled workers and young people, the delegation said that in the Philippines technical education programmes were implemented already offering out of school youths the opportunity to gain competence in various skill sets, where upon completion they received a diploma that was equivalent to a high school diploma.

The three main social insurance schemes in the Philippines operated as saving mechanisms for retirement, social security and deaths, said the delegation. Social security was also recently expanded to workers in the informal sector.

On increasing employment opportunities, the delegation said that the 10 Point Legacy of the Royal Administration programme was the main measure taken by the Government to address employment. The plan aimed to increase employment opportunities from 6 to 10 million new jobs during the 10-year term of the President. The programme was launched in June 2004 and since then, up to June 2008, 9.78 million new jobs had been created.

On the rationale of the labour law, the delegation said that the 60-day waiting period before calling a strike was intended to act as a 'cooling period', in which the national conciliation and mediation board was able to mediate matters to avoid a strike. The success of the mediation was almost 90 per cent in all cases.

Cases involving crimes against members of syndicates was a priority of the Government of the Philippines, said the delegation. The vigorous prosecution of such cases hoped to send the message to others that crimes of this nature were taken very seriously in the Philippines.

QUESTIONS BY THE COMMITTEE EXPERTS

Committee Experts raised questions relating to the 'forgiveness clause' in the Penal Code; corporal punishment; the 4 million children working between the ages of 5-17 years; the sexual exploitation of children; violence against women; effects of the global financial crisis on the Philippines; the regulation of river water and access to clean water; on how much privately owned land had been redistributed; was adultery a crime under the Penal Code, considering that divorce was illegal in the Philippines; improvement of Government expenditure on education; the right to intellectual property for indigenous people; and the recognition of collective and individual rights of indigenous people.

One Expert asked what steps had been taken by the Government to ensure that free trade, import, and liberalization policies did not undermine small farmers' ability to earn a decent standard of living for themselves and their families? Housing was a major area of concern, with only 0.5 of Gross Domestic Product being allocated to housing, where 0.9 per cent was being allocated to military spending. With 30 per cent of the population living in informal settlements, only 20 per cent of the current housing budget was allocated to social housing.

There was no minimum guarantee on access to reproductive health services and education, said one Expert. This contributed to the high rate of maternal mortality and backstreet abortions. What happened in cases of divorce with respect to personal effects? What rights were granted to children in such cases? What regulations were in place for common law partnerships? It was evident that there was a serious need for preventative legislation. How many cases of trafficking in persons had been brought before the courts? What were some of the destination countries

for the trafficked women and children? Was there a difference in treatment vis-à-vis Islam, with regard to women and children?

Committee Experts also raised concerns on the right to food; natural disaster prevention measures; child labour; and the consideration of adopting legislation to make divorce legal.

ANSWERS BY THE DELEGATION

On employment and labour, the delegation of the Philippines said that there were 16 regional employment inspection offices throughout the country, which employed 208 work inspectors. In 2007, 24,000 companies had been inspected. In the first quarter of 2008, 13,000 companies had been inspected. Inspections took place either through scheduled routine inspections or through specific requests. If an inspector found there had been a violation of law, he/she notified the owner of the company who was given five days to modify practices. If no action was taken, the regional director of the employment inspection office was mandated to force the owner of the said company to conform to the law.

In response to these questions and others, the delegation of the Philippines said that a child was able to be employed with the permission of their parents. Parents were given leeway to have their children employed, and it was not against public policy. For example if a mother was employed as a domestic worker, and her child lived with her in her employers' home, she was allowed to ask her child to help with tasks at her discretion.

On the impact of trade liberalization on migrant workers and their remittances, the delegation said that the aging population around the world gave rise to the increase in demand of Filipino nurses and care givers. The official target for remittance was 10 per cent growth for 2008; thus far growth was 18 per cent, well over the set target. The Philippines remained secure in terms of its overseas workers and remittances.

Poverty in the Philippines was high, said the delegation, as of 2006 the poverty threshold was 32.9 per cent. Due to the increasing rate of poverty experienced between 2003-2006, the Government embarked on a programme that addressed social and economic measures that invested back to people in the areas of health, education, housing and hunger mitigation. The programme addressed both the

supply and demand side of poverty. It also included intervention measures to manage population growth.

The delegation said concerns were raised by the Committee with regard to housing and forced evictions. The Government agreed that there was a problem with inter-agency coordination in this regard. As a result investigations had been launched into alleged violations on housing and evictions. The Presidential Committee for the Urban Poor had established a working group which included the participation of the National Commission on Human Rights to launch investigations in cases involving demolitions. It was indeed a fact that there were incidents of violations, and these violations needed to be addressed and acted on appropriately. In terms of devolution in local municipalities, the Government also aimed at creating local housing boards in each local municipality to ensure equal and appropriate allocation of housing needs.

The underemployment rate in the Philippines for 2008 was 21 per cent and unemployment was 8 per cent, said the delegation. A total of 3.3 million families had experienced hunger within the third quarter of 2008, and the Government had launched an accelerated hunger programme that dealt took into account food demand and population growth. With respect to high food prices, the Government had initiated measures aimed at increasing accessibility for poor households to rice, and had placed regulations over hoarding of rice, among other things.

On access to clean water, the delegation said that the Government prioritized access to clean water to 2,000 waterless villages and 2,000 waterless municipalities. However, access to clean water was not just reliant on supply, but management of the water was of equal concern. The Government had placed stipulations to the granting water supplies, which included that these municipalities and villages were required to have adequate water management systems to deal with waste water.

With regard to the special law on rape, the delegation said that women's groups lobbied for the Anti Rape Law of 1997 to be reformed. The new law now allowed for anyone knowing of an incident of rape to be able to file a complaint, and the definition was expanded to include rape as the use of any object into any orophagus of the body, among other things.

On the concerns raised about the lagging efforts on cases involving trafficking in persons, the delegation said that the Interagency Committee for

Trafficking in Persons had set a strategic plan which covered measures on prevention, prosecution and recovery. In addition a number of non governmental organizations had established good practices in addressing preventative measures and the demand side of trafficking in persons. Penalties imposed for perpetrators of trafficking in persons and domestic violence included, among other things: imprisonment, community service, counselling and rehabilitation. In addition, the Law Enforcement and Prosecution manual provided step-by-step guidance for the prosecution of trafficking cases. Another important measure was a task force against trafficking, which was composed of members of the national bureau of investigations and the police, who had been posted at the airport in Manila. Statistics showed that the majority of cases involving trafficking in persons came from the Middle East and Malaysia.

On persons with disabilities, the delegation said that the Government supported private sector initiatives that created employment opportunities for persons with disabilities. The increasing information technology companies in the country provided a large number of employment opportunities for persons with disabilities. The National Council for Disability Affairs was the focal point for all matters concerning persons with disabilities. Its programmes strengthened institutional capacity and the skills of persons with disabilities to be integrated into the community.

The elderly community was one main priority of the Government of the Philippines. Grievances of the elderly community in the Philippines were handled and monitored by the National Monitoring Board. This ensured that elderly persons received all benefits provided for them by law, said the delegation. Congress was also currently pending a bill that outlined pension benefits for older persons.

On the rights of indigenous peoples, the Indigenous Peoples Rights Act protected both the collective and individual rights of indigenous peoples, said the delegation. This included the protection of their customs, institutions and ancestral lands. The rights were categorized into four collective rights, which included: the right to ancestral domains (providing security of tenure and use of lands and territorial integrity of their ancestral domains), the right to self governance and empowerment, the right to social justice and human rights, and the right to cultural integrity (the protection of indigenous cultures and systems, education, knowledge of systems and practices). This act was being slowly realized by the Government. The National Commission on Indigenous

Peoples aimed to certify 67 per cent of ancestral domain areas in the country by the end of 2008.

QUESTIONS BY COMMITTEE MEMBERS

One Expert asked if divorce was viewed as a right in the same way that marriage was viewed as a right. Since the Government had set up a National Commission on High Education for 2001-2010, the plan had been well under way, said one Expert. What had been achieved in the last eight years? The quality of basic education had been deteriorating exponentially, noted Experts. What steps had been taken to ensure that elementary education was compulsory? Was there a connection between drop-out rates and child labour?

Committee Experts also raised concerns related to parents being given leeway to put their children to work; and the cost gap between private and public education establishments.

ANSWERS BY THE DELEGATION

The delegation said that the Department of Education received the largest bulk of all appropriations. Seventy-six per cent of the educational budget was allocated to personnel services, ensuring an increase in the quality of skills of teachers, and an increase of salaries. The infrastructural components including, among other things, the building of classrooms, relied on the budgets of other departments and agencies. The drop rate decreased from 2.5 per cent in 2005 to 1.7 per cent in 2007. The Government provided scholarship and loan incentives to encourage students to complete higher education. Scholarships and loans were allocated to help a total of 62,000

students nationwide. Of those, 8,000 students were granted scholarships for their completion of a 4-5 year bachelor degree.

CONCLUDING STATEMENTS

In her concluding remarks, ERLINDA F. BASILIO, Ambassador and Permanent Representative of the Philippines to the United Nations Office at Geneva, thanked the Committee for their interest. The dialogue with the Committee was thorough and extremely fruitful. She appreciated the open and candid manner in which the discussion took place. Areas that needed to be addressed were identified and it was clear that there was room for improvement. The Government was committed to fulfilling these aims and looked forward to the Committee's concluding observations which were to be used as a guide in the coming national consultations. The participation of civil society in this process had been taken into serious consideration. The Government aimed to see all Filipinos enjoying all the rights under the International Covenant on Economic, Social and Cultural Rights.

PHILIPPE TEXIER, Chairman of the Committee, in conclusion said that the Philippines had shown a great interest in the implementation of the Covenant. This was illustrated through the very large delegation present and the presence of civil society, which was very well represented and whose representatives voiced their views and provided additional information. Additionally, the National Commission for Human Rights was also present and expressed its views which provided a convergence of views. The Committee hoped to see the Philippines back soon.

10 Concluding Observations of the CESCR Mapping of Responsible State Agencies

UNITED
NATIONS

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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Forty-first session
Geneva, 3-21 November 2008

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

PHILIPPINES

CONCLUDING OBSERVATIONS OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

1. The Committee on Economic, Social and Cultural Rights considered the combined second to fourth periodic reports of the Philippines on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/PHL/4) at its 39th, 40th and 41st meetings, held on 11 and 12 November 2008 (E/C.12/2008/SR.39-41), and adopted, at its 56th meeting held on 21 November 2008, the following concluding observations.

A. INTRODUCTION

2. The Committee welcomes the submission of the combined second to fourth periodic reports of the Philippines, which was generally prepared in conformity with the Committee's guidelines, but regrets the 11-year delay in its submission. The Committee also welcomes the written replies to its list of issues (E/C.12/PHL/Q/4/Add.1), and the open and constructive dialogue with the delegation of the State party, which included representatives of various government departments with expertise on the subjects covered by the Covenant.

3. The Committee notes with appreciation the participation of the Commission on Human Rights of the Philippines (CHRP) in the dialogue with the State party, and welcomes the oral presentation made by its chairperson during the consideration of the report.

B. POSITIVE ASPECTS

4. The Committee notes with satisfaction that the State party has ratified, or acceded to, all United Nations core human rights treaties.

5. The Committee notes with satisfaction the adoption of several measures to prohibit all forms of

discrimination against women and promote equality between men and women, including

- (a) the Philippine Plan for Gender-Responsive Development, 1995-2025;
- (b) the Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877);
- (c) the Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208); and
- (d) the Anti-Violence against Women and Their Children Act of 2004 (Republic Act No. 9262).

6. The Committee also notes with satisfaction the various legislative, administrative and policy measures adopted by the State party to recognise, protect and promote the individual and collective rights of the indigenous peoples living in the territory of the State party, including

- (a) the Indigenous Peoples Rights Act of 1997 (Republic Act No. 8371);
- (b) the Free and Prior Informed Consent Guidelines, adopted by the National Commission on Indigenous Peoples in 2002, which emphasise the right of indigenous peoples to participate in decisions affecting them; and
- (c) Executive Order 270-A, which aims at safeguarding the ecological integrity of indigenous lands and resources from the negative impact of mining operations.

7. The Committee welcomes the efforts undertaken by the State party to protect and promote the rights of overseas Filipino workers (OFWs), inter alia through the adoption of the Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act 8042), the conclusion of bilateral agreements with countries of destination and the promotion of voluntary social security schemes for OFWs.

8. The Committee notes with satisfaction the adoption of the Anti-Squatting Repeal Act of 1997 (Republic Act No. 8368), which decriminalises squatting as recommended by the Committee in its previous concluding observations (E/C.12/1995/7, para. 31).

9. The Committee notes with satisfaction the legislative framework and institutional mechanisms established by the State party for the protection of the environment and the improvement of environmental and industrial hygiene.

10. The Committee welcomes the recent ratification by the State party of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts and

on the sale of children, child prostitution and child pornography; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. It also notes with satisfaction the ratification of ILO Conventions No.

182 on Worst Forms of Child Labour and No. 29 on Forced Labour.

C. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE COVENANT

11. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in the State party.

D. PRINCIPAL SUBJECTS OF CONCERNS AND RECOMMENDATIONS

12. The Committee remains concerned that Covenant provisions are seldom invoked before or directly enforced by national courts, tribunals or administrative authorities, in spite of the fact that, pursuant to article II, section 2, of the 1987 Constitution, the Covenant is regarded by the State party "as part of the law of the land".

The Committee draws the attention of the State party to its General Comment no. 9 (1998) on the domestic application of the Covenant, and recommends that the State party take all appropriate measures to ensure the direct applicability of the Covenant provisions in its domestic legal order, including the organisation of training programmes for judges, lawyers and public officials. The Committee also request the State party to include detailed information on decisions of national courts, tribunals or administrative authorities giving effect to Covenant rights in its next periodic report.

13. The Committee is concerned that the protection and promotion of economic, social and cultural rights is not included in the mandate of the Commission on Human Rights of the Philippines (CHRP). It also notes with concern the lack of adequate financial resources available to the CHRP for the implementation of its investigative and monitoring functions.

The Committee recommends that the State party increase its efforts to strengthen the effectiveness of the Commission on Human Rights of the Philippines (CHRP), inter alia by including the protection and promotion of economic, social and cultural rights in its mandate and by allocating adequate financial

resources for the implementation of the Commission's investigative and monitoring functions. In this regard, the Committee calls on the State party to move expeditiously towards the adoption of the *CHRP Charter*.

14. The Committee notes with concern that, despite the efforts undertaken by the State party to curb corruption, including the establishment of a number of anti-corruption bodies such as the anti-corruption court, this phenomenon continues to be widespread.

The Committee recommends that the State party intensify its efforts to prosecute cases of corruption and review its sentencing policy for corruption-related offences. It also recommends that the State party train the police and other law enforcement officers, prosecutors and judges on the strict application of anti-corruption laws, conduct awareness-raising campaigns, and ensure the transparency of the conduct of public authorities, in law and in practice. The Committee request the State party to provide in its next periodic report detailed information about progress made, and obstacles encountered, in combating corruption and impunity.

15. The Committee remains concerned about reports that forced disappearances and extra-judicial killings of trade union activists, indigenous leaders, peasant activists advocating for the implementation of the agrarian reform and human rights defenders engaged in defending the economic, social and cultural rights of their communities continue to occur, despite the measures adopted by the State party – including the creation of the Task Force Against Political Violence – to tackle these phenomena. The Committee is particularly concerned about the limited progress made by the State party in investigating cases of forced disappearances and extra-judicial killings and in prosecuting the perpetrators of these crimes.

The Committee urges the State party to take all necessary measures for the protection of trade union activists, indigenous leaders, peasant activists and human rights defenders engaged in defending the economic, social and cultural rights of their communities against any intimidation, threat and violence, whether perpetrated by State security forces and agents or non-State actors. It also calls on the State party to ensure that all alleged cases of forced disappearances and extra-judicial killings are promptly and thoroughly investigated, and that alleged perpetrators are prosecuted and appropriately punished, if found guilty. The Committee requests the State party to provide, in its next periodic

report, detailed information on the progress made in preventing and punishing forced disappearances and extra-judicial killings.

16. The Committee notes with concern the adverse effects that economic activities connected with the exploitation of natural resources, especially mining operations, carried out in indigenous territories continue to have on the right of indigenous peoples to their ancestral domains, lands and natural resources, as recognised in the 1997 Indigenous Peoples Rights Act (IPRA). The Committee is concerned by the conflict of laws between the 1995 Mining Act and IPRA, and notes in particular that section 56 of the IPRA, which provides for the protection of property rights already existing within the ancestral domains, de facto risks to undermine the protection of the rights recognised to indigenous peoples under the Act. (articles 1, 11, 12 and 15)

The Committee urges the State party to fully implement the 1997 Indigenous Peoples Rights Act (IPRA), in particular by ensuring the effective enjoyment by indigenous peoples of their rights to ancestral domains, lands and natural resources, and avoiding that economic activities, especially mining, carried out on indigenous territories adversely affect the protection of the rights recognised to indigenous peoples under the Act.

17. The Committee notes with concern that, in spite of a high GDP growth rate, the national spending on social services such as housing, health and education remains low, and has in fact decreased over the years. (article 2, paragraph 1)

The Committee draws the attention of the State party to its statement on "An evaluation of the obligation to take steps to the 'maximum of its available resources' under an Optional Protocol to the Covenant" (E/C.12/2007/1), and recommends that the State party increase its national spending on social services such as housing, health and education so as to achieve, in accordance with article 2, paragraph 1, the progressive realisation of the economic, social and cultural rights provided for in the Covenant.

18. The Committee notes with concern that the State party has not made sufficient progress in reviewing and repealing discriminatory provisions against women still existing in national legislation. The Committee regrets that the Marital Infidelity Bill, which seeks to remove the discriminatory provisions in the Revised Criminal Code pertaining to "concubinage" and "adultery", has not yet been adopted. The Committee also regrets that the interpretation of the provisions of the Code of Muslim Personal Laws of the

Philippines (Presidential Decree No. 1083) permits polygamy and the marriage of girls under the age of 18, and that forced marriages are still tolerated in certain parts of the State party. (articles 2, paragraph 2, 3 and 10, paragraph 1)

The Committee urges the State party to undertake, as a matter of priority, a comprehensive review of its legislation with a view to ensuring de jure and de facto equality between men and women in all fields of life, as provided for in article 2, paragraph 2, and article 3 of the Covenant. In particular, it urges the State party to adopt the Marital Infidelity Bill, and to review the interpretation of the Code of Muslim Personal Laws of the Philippines. The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, and requests the State party to provide, in its next periodic report, detailed information on the progress made in the field of gender equality.

19. The Committee is concerned about the persistent high unemployment and underemployment rates in the State party. The Committee notes in particular that the lack of employment opportunities has led much of the population of working age to emigrate. (article 6)

The Committee urges the State party to increase its efforts to reduce unemployment and underemployment through specifically targeted measures, including programmes aimed at creating employment opportunities at the local level for young, unskilled and inexperienced workers living in urban areas and persons living in rural areas.

20. The Committee, while welcoming the efforts undertaken by the State party to address the concerns of persons working in the informal economy and to facilitate their enrolment in the social security system and PhilHealth, continues to be concerned about the large number of persons working in the informal economy, an estimated 44.6 per cent of the total number of workers who continue to be excluded from the coverage of existing labour and social security legislation. (articles 6, 7, 8 and 9)

The Committee recommends that the State party intensify its efforts to regularise the situation of persons working in the informal economy, by ensuring adequate protection provided by the existing labour and welfare legislation.

21. The Committee notes with concern that, despite efforts undertaken by the State party, overseas Filipino workers (OFWs) continue to face

discriminatory treatment and abuses in many countries of destination. It notes in particular that women migrant workers, especially those employed as domestic workers, nurses and care-givers, often become victims of psychological abuse, physical and sexual violence and slavery-like working conditions. The Committee is also concerned that OFWs, in particular those with an irregular status, encounter obstacles in obtaining legal protection and redress

in cases of discriminatory treatment and abuse at the workplace. (articles 6, 7 and 10)

The Committee recommends that the State party implement effective policies to protect the rights of overseas Filipino workers (OFWs), inter alia by

- (a) improving existing services, such as counselling and medical assistance, provided by the Office for the Legal Assistance for Migrant Workers Affairs and diplomatic missions in countries of destination;*
- (b) concluding and invoking bilateral agreements with those countries of destination where discriminatory treatment and abuse are more frequent; and*
- (c) providing legal and consular assistance to its nationals seeking justice in case of discriminatory treatment and abuse at the workplace, including rape and sexual violence against women migrant workers, and ensuring that reports are investigated by competent authorities of the countries of destination.*

22. The Committee is concerned that the low levels of minimum wages, particularly in the agricultural sector, are insufficient to provide an adequate standard of living for workers and their families. The Committee is also concerned that the minimum wage legislation does not apply in some important sectors, including government employment and export-oriented and labour-intensive manufacturing, and that its enforcement is made difficult especially by the shortage of labour inspectors. (articles 7 and 11)

The Committee recommends that the State party take all appropriate measures to ensure that the minimum wages fixed by the Regional Tripartite Wages and Productivity Boards provide workers with an adequate standard of living for themselves and their families, in accordance with article 7 (a) (ii) of the Covenant. The Committee also recommends that the State party extend the applicability of the minimum wage legislation to those sectors where it does not apply, and intensify its efforts to enforce legal minimum wages through increased labour inspections and fines or other appropriate sanctions

for employers who fail to comply with the minimum wage legislation.

23. The Committee notes with concern that inspections of workplaces for promoting compliance with the occupational health and safety legislation are infrequent and ineffective. It also notes that the self-assessment mechanism introduced by the 2004 Labour Standards Enforcement Framework (Department Order No. 57-04) for establishments with more than 200 workers risks undermining the effective realisation of the right to safe and healthy working conditions provided in article 7 (b) of the Covenant. (article 7 (b))

The Committee recommends that the State party provide sufficient human and financial resources to the Department of Labour and Employment (DOLE) to enable regular and independent inspections aimed at ensuring compliance with the occupational health and safety legislation. It also recommends that the State party monitor closely the implementation of the 2004 Labour Standards Enforcement Framework so as to ensure that the application of the self-assessment mechanism does not undermine the effective realisation of the right to safe and healthy working conditions in establishments with more than 200 workers.

24. The Committee notes with concern the absence of legislation on divorce. (article 10)

The Committee recommends that the State party adopt legislation recognising the right of men and women to divorce, to obtain the legal severance of marital ties and to remarry after divorce.

25. The Committee, while welcoming the fact that the Act Redefining Rape as a Crime against Person of 1997 (Republic Act No. 8353) redefines and expands the crime of rape and recognises marital rape, is concerned that the subsequent forgiveness of the wife, as the injured party, extinguishes the criminal liability of the husband. (article 10)

The Committee recommends that the State party strengthen the protection afforded by the Act Redefining Rape as a Crime against Person to women victims of marital rape by repealing the possibility that the criminal liability of the husband be extinguished by the subsequent forgiveness of the wife.

26. The Committee notes with concern that, notwithstanding the various legislative, administrative and policy measures adopted by the State party to combat trafficking, a high number of women and

children continue to be trafficked from, through and within the country for purposes of sexual exploitation and forced labour. The Committee is particularly concerned about the low number of prosecutions and convictions of traffickers. (article 10)

The Committee recommends that the State party intensify its efforts to combat trafficking in human beings, especially women and children, for purposes of sexual exploitation and forced labour, inter alia by supporting programmes and information campaigns to prevent trafficking, providing mandatory training for law enforcement officials, prosecutors and judges on the anti-trafficking legislation and increasing the provision of medical, psychological and legal support to victims.

27. The Committee remains concerned that despite the State party's efforts to combat child labour, a large number of children between the age of 5 and 14 work in the informal economy. The Committee is particularly concerned that many of these children work in hazardous or dangerous conditions and are exposed to various forms of sexual and economic exploitation, including the worst forms of child labour. (article 10)

The Committee urges the State party to intensify its efforts to combat child labour and protect children from all forms of sexual and economic exploitation, including the worst forms of child labour, inter alia through

- (a) strengthening its national legislation prohibiting child labour in accordance with international standards;*
- (b) increasing the number of labour inspections in order to ensure the respect of its national legislation prohibiting child labour;*
- (c) ensuring the imposition of fines and criminal sanctions to persons making use of illegal child labour;*
- (d) organising mandatory training for law enforcement officials, prosecutors and judges; and*
- (e) adopting all appropriate measures to facilitate recovery and access to educational opportunities for former child workers.*

The Committee recommends that the State party undertake a national survey on the nature and extent of child labour, and include information on progress made in combating child labour in its next periodic report.

28. The Committee is deeply concerned that, in spite of the high rate of economic growth achieved in

recent years, the percentage of persons living below the official poverty line has actually increased to an estimated 36 per cent of the population in 2007. The Committee also notes with concern the wide regional disparities between the National Capital Region and the poorest regions of the country, in particular the Autonomous Region of Muslim Mindanao, and the significant inequalities in income distribution, especially between urban areas and poor rural areas. (article 11)

The Committee recommends that the State party allocate sufficient funds for the implementation of its poverty eradication strategy, and ensure the full integration of economic, social and cultural rights in the strategy, as recommended by the Committee in its Statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2001/10). The Committee requests the State party to include in its next periodic report detailed information on the results of the measures adopted under the strategy, including updated statistical data, on an annual basis, on the percentage of the population living in poverty, disaggregated by gender, age, number of children per household, number of single-parent households, rural/urban population, and ethnic group.

29. The Committee notes with concern that an estimated 16.5 million, roughly 30 per cent, of the urban population continue to live in informal settlements and slums, sometimes built on riverbanks, railroad tracks and other high-risk areas, with no or limited basic infrastructures and services, without legal security of tenure and under constant threat of eviction. The Committee also notes with concern that the percentage of the national budget allocated to the realisation of housing programmes aimed at providing security of tenure and affordable housing, such as the Presidential Land Proclamation, is not sufficient to increase the supply of social housing units for members of the most disadvantaged and marginalised groups. (article 11)

The Committee requests the State party to allocate sufficient funds for the realisation of programmes aimed at providing security of tenure and affordable housing, particularly to members of the most disadvantaged and marginalised groups, in line with its General Comment No. 4 (1991) on the right to adequate housing.

30. The Committee regrets that most of its previous recommendations relating to the prevention of illegal forced evictions (E/C.12/1995/7, paras. 31 and 32) have not been acted upon by the State party, and

remains deeply concerned about the large-scale forced eviction of urban families carried out for the purpose of urban renewal and beautification, which has reportedly affected over 1.2 million people in the period between 1995 and 2008. It is also concerned about the lack of effective consultation of, and legal redress for, persons affected by forced evictions, and the inadequate measures to provide sufficient compensation or adequate relocation sites to families who have been forcibly removed from their properties. (article 11)

In line with the recommendations contained in paragraphs 31 and 32 of its previous concluding observations, the Committee urges the State party, as a matter of priority, to

- (a) *ensure the effective implementation of the Urban Development and Housing Act (UDHA) of 1992 (Republic Act No. 7279) and other laws and regulations prohibiting illegal forced evictions and demolitions;*
- (b) *reinforce the mandate of the Presidential Commission for the Urban Poor "as the sole clearing house for the conduct of demolition and eviction", in accordance with Executive Order No. 152 of 2002;*
- (c) *undertake open, participatory and meaningful consultations with affected residents and communities prior to implementing development and urban renewal projects;*
- (d) *ensure that persons forcibly evicted from their properties be provided with adequate compensation and/or offered relocation, in accordance with section 28 of the UDHA and the guidelines adopted by the Committee in its General Comment No. 7 (1997) on forced evictions; and*
- (e) *guarantee that relocation sites are provided with basic services (including drinking water, electricity, washing and sanitation facilities) and adequate facilities (including schools, health care centres and transportation) at the time the resettlement takes place.*

31. The Committee notes with concern that, under the State party's legal system, abortion is illegal in all circumstances, even when the woman's life or health is in danger or pregnancy is the result of rape or incest, and that complications from unsafe, clandestine abortions are among the principal causes of maternal deaths. The Committee is also concerned

about the inadequate reproductive health services and information, the low rates of contraceptive use and the difficulties in obtaining access to artificial methods of contraception, which contribute to the high rates of teenage pregnancies and maternal deaths existing in the State party. (article 12)

The Committee draws the attention of the State party to its General Comment No. 14 (2000) on the right to the highest attainable standard of health, and urges the State party to adopt all appropriate measures to protect the sexual and reproductive rights of women and girls, inter alia through measures to reduce maternal and infant mortality and to facilitate access to sexual and reproductive health services, including access to family planning, and information. In particular, the Committee encourages the State party to address, as a matter of priority, the problem of maternal deaths as a result of clandestine abortions, and consider reviewing its legislation criminalising abortion in all circumstances.

32. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them

in its next periodic report. It also encourages the State party to continue engaging non-governmental organisations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

33. The Committee encourages the State party to consider ratifying ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

34. The Committee also encourages the State party to consider ratifying ILO Conventions No. 81 (1947) concerning Labour Inspection in Industry and Commerce, and No. 102 (1952) concerning Minimum Standards of Social Security.

35. The Committee invites the State party to submit a common core document in accordance with the 2006 harmonised guidelines on reporting to the international human rights treaty monitoring bodies (HRI/GEN/2/Rev.5).

36. The Committee requests the State party to submit its combined fifth and sixth periodic reports by 30 June 2013.

**SUMMARY OF THE COMMITTEE
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS'
CONCLUDING OBSERVATIONS
ON THE 2ND - 4TH PERIODIC REPORT OF THE PHILIPPINES
ON THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
AND MAPPING OF RESPONSIBLE STATE AGENCIES**

PRINCIPAL SUBJECTS OF CONCERNS AND RECOMMENDATIONS

SUBJECT INDEX	RESPONSIBLE STATE AGENCIES			CONCERNED CIVIL SOCIETY GROUPS	TEXT OF THE CONCLUDING OBSERVATIONS
	EXECUTIVE	LEGISLATIVE	JUDICIARY AND INDEPENDENT CONSTITUTIONAL BODIES		
<p>Direct Application of the Covenant through jurisprudence</p> <p>GC No. 9 on the domestic Application of the UNCESCR</p> <p>Training Programs for judges, Lawyers, and Public Officials</p>	<p>Department of Justice (DOJ)</p> <p>Public Attorney's Office (PAO)</p>		<p>Supreme Court</p> <p>Office of the Court Administrator (OCAD)</p> <p>Philippine Judicial Academy (PhilJA)</p> <p>Integrated Bar of the Philippines (IBP)</p> <p>Civil Service Commission (CSC)</p> <p>Career Executive Service Board (CESB)</p>		<p>1. The Committee remains concerned that Covenant provisions are seldom invoked before or directly enforced by national courts, tribunals or administrative authorities, in spite of the fact that, pursuant to article II, section 2, of the 1987 Constitution, the Covenant is regarded by the State party "as part of the law of the land".</p> <p>The Committee draws the attention of the State party to its General Comment no. 9 (1998) on the domestic application of the Covenant, and recommends that the State party take all appropriate measures to ensure the direct applicability of the Covenant provisions in its domestic legal order, including the organisation of training programmes for judges, lawyers and public officials. The Committee also request the State party to include detailed information on decisions of national courts, tribunals or administrative authorities giving effect to Covenant rights in its next periodic report.</p>

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<p>ESCR not included in the Mandate of the CHRP</p> <p>Allocation of Adequate Financial Resources for the Implementation of Investigation and Monitoring Functions</p> <p>Passage of the CHRP Charter</p>	<p>Department of Budget and Management (DBM)</p>	<p>Senate Committee on Justice and Human Rights</p> <p>Senate Committee on Appropriations</p> <p>House Committee on Human Rights</p> <p>House Committee on Appropriations</p>	<p>Commission on Human Rights (CHRP)</p>	<p>Philippine NGO Network for ESC Rights</p>	<p>2. The Committee is concerned that the protection and promotion of economic, social and cultural rights is not included in the mandate of the Commission on Human Rights of the Philippines (CHRP). It also notes with concern the lack of adequate financial resources available to the CHRP for the implementation of its investigative and monitoring functions.</p> <p>The Committee recommends that the State party increase its efforts to strengthen the effectiveness of the Commission on Human Rights of the Philippines (CHRP), inter alia by including the protection and promotion of economic, social and cultural rights in its mandate and by allocating adequate financial resources for the implementation of the Commission's investigative and monitoring functions. In this regard, the Committee calls on the State party to move expeditiously towards the adoption of the CHRP Charter.</p>	
<p>Widespread corruption</p> <p>Prosecution of cases, Review of sentencing policy for corruption - related offenses</p>	<p>Department of Interior and Local Government (DILG)</p> <p>Philippine National Police (PNP)</p>	<p>Senate Blue Ribbon Committee</p> <p>House Committee on Good Governance and Public Accountability</p>	<p>Office of the Ombudsman</p> <p>Supreme Court</p> <p>Sandigan Bayan</p>		<p>3. The Committee notes with concern that, despite the efforts undertaken by the State party to curb corruption, including the establishment of a number of anti-corruption bodies such as the anti-corruption court, this phenomenon continues to be widespread.</p>	

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Training of Police and Other Law Enforcement Officers Prosecutors, Judges Awareness Raising Campaigns Transparency in conduct of public authorities in law and practice	Philippine Public Safety College (PPSC) DOJ Office of the Press Secretary (OPS) Public Information Agency (PIA)	Senate Committee on National Defense and Security House Committee on Civil Service and Professional Regulation House Committee on Public Accountability House Committee on Higher and Technical Education	OCAD Philija Commission on Audit (COA) CSC		The Committee recommends that the State party intensify its efforts to prosecute cases of corruption and review its sentencing policy for corruption-related offences. It also recommends that the State party train the police and other law enforcement officers, prosecutors and judges on the strict application of anti-corruption laws, conduct awareness-raising campaigns, and ensure the transparency of the conduct of public authorities, in law and in practice. The Committee request the State party to provide in its next periodic report detailed information about progress made, and obstacles encountered, in combating corruption and impunity.
Enforced disappearances and Extra-judicial Killings of Trade Union Activists, Indigenous Leaders, Peasant Activists for agrarian reform and HR Defenders in ESCR	Department of National Defense (DND) Armed Forces of the Philippines (AFP) DILG Office of the Executive Secretary Presidential Human Rights Committee (PHRC)	Senate Committee on Justice and Human Rights House Committee on Human Rights House Committee on Justice	Supreme Court OCAD	Philippine Alliance of Human Rights Advocates (PAHRA) Families of Victims of Involuntary Disappearance (FIND) Task Force Detainees of the Philippines (TFDP) Free Legal Assistance Group (FLAG) Partnership for Rural Reform and Development Services (PARRDS)	4. The Committee remains concerned about reports that forced disappearances and extra-judicial killings of trade union activists, indigenous leaders, peasant activists advocating for the implementation of the agrarian reform and human rights defenders engaged in defending the economic, social and cultural rights of their communities continue to occur, despite the measures adopted by the State party – including the creation of the Task Force Against Political Violence – to tackle these phenomena. The Committee is particularly concerned about the limited progress made by the State party in investigating cases of forced disappearances and extra-

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	Department of Agrarian Reform (DAR) PNP DOJ			Task Force Mapalad KARAPATAN	judicial killings and in prosecuting the perpetrators of these crimes. The Committee urges the State party to take all necessary measures for the protection of trade union activists, indigenous leaders, peasant activists and human rights defenders engaged in defending the economic, social and cultural rights of their communities against any intimidation, threat and violence, whether perpetrated by State security forces and agents or non-State actors. It also calls on the State party to ensure that all alleged cases of forced disappearances and extra-judicial killings are promptly and thoroughly investigated, and that alleged perpetrators are prosecuted and appropriately punished, if found guilty. The Committee requests the State party to provide, in its next periodic report, detailed information on the progress made in preventing and punishing forced disappearances and extra-judicial killings.
Adverse Effects of exploitation of natural Resources especially Mining Operations	DILG DAR National Commission on Indigenous Peoples (NCIP)	Senate Committee on Environment and Natural Resources House Committee on Natural Resources House Committee on Ecology		Alyansa Tigil Muna (ATM) Legal Resource Center (LRC) Philippine Miserior Partners (PMP)	5. The Committee notes with concern the adverse effects that economic activities connected with the exploitation of natural resources, especially mining operations, carried out in indigenous territories continue to have on the right of indigenous peoples to their ancestral domains, lands and natural resources, as recognised in the 1997 Indigenous Peoples Rights Act (IPRA). The

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Conflict between Mining Act and IPRA Section 56					<p>Committee is concerned by the conflict of laws between the 1995 Mining Act and IPRA, and notes in particular that section 56 of the IPRA, which provides for the protection of property rights already existing within the ancestral domains, de facto risks to undermine the protection of the rights recognised to indigenous peoples under the Act. (articles 1, 11, 12 and 15)</p> <p>The Committee urges the State party to fully implement the 1997 Indigenous Peoples Rights Act (IPRA), in particular by ensuring the effective enjoyment by indigenous peoples of their rights to ancestral domains, lands and natural resources, and avoiding that economic activities, especially mining, carried out on indigenous territories adversely affect the protection of the rights recognised to indigenous peoples under the Act.</p>
Progressive Realization of ESCR	<p>National Economic Dev't Authority (NEDA)</p> <p>Dept. of Budget and Management (DBM)</p> <p>Department of Education (DEPED)</p> <p>Comm. on Higher Education (CHED)</p> <p>Department of Health (DOH)</p> <p>Housing & Urban Dev't. Coordinating Council (HUDCC)</p>	<p>Senate Committees on Ways and Means, Health, Higher & Technical Education, Urban Planning, Housing & Development</p> <p>House Committees on Appropriations, Health, Education, Arts & Culture, Urban Planning & Development.</p>	COA	<p>Freedom from Debt Coalition</p> <p>Action for Economic Reform</p>	<p>6. The Committee notes with concern that, in spite of a high GDP growth rate, the national spending on social services such as housing, health and education remains low, and has in fact decreased over the years. (article 2, paragraph 1)</p> <p>The Committee draws the attention of the State party to its statement on "An evaluation of the obligation to take steps to the 'maximum of its available resources' under an</p>

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	Office of the Vice President (OVP) Pagibig Social Security System (SSS) Government Service Insurance System (GSIS) Philippine Health Insurance Corp. (PHIC/PhilHealth)				Optional Protocol to the Covenant" (E/C.12/2007/1), and recommends that the State party increase its national spending on social services such as housing, health and education so as to achieve, in accordance with article 2, paragraph 1, the progressive realization of the economic, social and cultural rights provided for in the Covenant.
Discriminatory Provisions against women: Passage of Marital Infidelity Bill PD 1083 on Code of Muslim Personal Laws permitting polygamy, marriage of girl under 18, forced marriages GC 16 on the Equal Right of men and women to enjoyment of all ESCR	NCRFW/ Philippine Commission on Women Office on Muslim Affairs (OMA) National Commission on Muslim Filipinos	Senate Committee on Youth, Women and Family Relations House Committee on Women and Gender Equality House Committee on Muslim Affairs	Supreme Court SC Gender Committee PhilJA Shariah Courts	Sarilaya WCIRAC Women's Legal Bureau WomenLead Pambansang Kilusan ng mga Kababaihan sa Kanayunan (PKKK) Moro Human Rights Center (MHRC) Bangsa Bai Pinay Kilos (PINK) Lihok Filipina	7. The Committee notes with concern that the State party has not made sufficient progress in reviewing and repealing discriminatory provisions against women still existing in national legislation. The Committee regrets that the Marital Infidelity Bill, which seeks to remove the discriminatory provisions in the Revised Criminal Code pertaining to "concubinage" and "adultery", has not yet been adopted. The Committee also regrets that the interpretation of the provisions of the Code of Muslim Personal Laws of the Philippines (Presidential Decree No. 1083) permits polygamy and the marriage of girls under the age of 18, and that forced marriages are still tolerated in certain parts of the State party. (articles 2, paragraph 2, 3 and 10, paragraph 1) The Committee urges the State party to undertake, as a matter of priority, a comprehensive review of its legislation with a view to ensuring de jure and de facto

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Persistent High Unemployment and under-employment	Department of Labor and Employment Regional Wage Boards Bureau of Women and Young Workers / Bureau of Workers with Special Concerns Presidential Assistant on Jobs Creation	Senate Committee on Labor, Employment and Human Resource Development House Committee on Labor and Employment		SALIGAN Center for Migrant Advocacy (CMA) KAKAMPPPI Bukluran ng Manggagawang Pilipino (BMPP) Partido Manggagawa (PM) Alliance of Progressive Labor (APL)	equality between men and women in all fields of life, as provided for in article 2, paragraph 2, and article 3 of the Covenant. In particular, it urges the State party to adopt the Marital Infidelity Bill, and to review the interpretation of the Code of Muslim Personal Laws of the Philippines. The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, and requests the State party to provide, in its next periodic report, detailed information on the progress made in the field of gender equality. 8. The Committee is concerned about the persistent high unemployment and underemployment rates in the State party. The Committee notes in particular that the lack of employment opportunities has led much of the population of working age to emigrate. (article 6) The Committee urges the State party to increase its efforts to reduce unemployment and underemployment through specifically targeted measures, including programmes aimed at creating employment opportunities at the local level for young, unskilled and inexperienced workers living in urban areas and persons living in rural areas.

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Informal Sector inclusion from labor and social security legislation	National Anti-Poverty Commission (NAPC) PHIC/PhilHealth SSS DOLE	Senate Committee on Labor House Committee on Labor		Homenet Philippines Visayan Forum Magkaisa Panday	20. The Committee, while welcoming the efforts undertaken by the State party to address the concerns of persons working in the informal economy and to facilitate their enrolment in the social security system and PhilHealth, continues to be concerned about the large number of persons working in the informal economy, an estimated 44.6 per cent of the total number of workers who continue to be excluded from the coverage of existing labour and social security legislation. (articles 6, 7, 8 and 9) The Committee recommends that the State party intensify its efforts to regularise the situation of persons working in the informal economy, by ensuring adequate protection provided by the existing labour and welfare legislation.
Discriminatory treatment of OFWs in countries of destination especially Women Migrant Workers	DOLE Philippine Overseas Employment Administration (POEA) Overseas Workers Welfare Administration (OWWA)	Senate Committee on Labor, Employment and Human Resources Development Senate Committee on Youth, Women and Family Relations House Committee on Overseas Workers Affairs		CMA Kakampipi Kanlungan Unlad Kabayan	21. The Committee notes with concern that, despite efforts undertaken by the State party, overseas Filipino workers (OFWs) continue to face discriminatory treatment and abuses in many countries of destination. It notes in particular that women migrant workers, especially those employed as domestic workers, nurses and care-givers, often become victims of psychological abuse, physical and sexual violence and slavery-like

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	<p>Bureau of Women and Young Workers / Bureau of Workers with Special Concerns</p> <p>Department of Foreign Affairs Office of the Undersecretary for Migrant Workers Affairs</p> <p>Commission on Filipinos Overseas</p> <p>Philippine Commission on Women</p>	<p>House Committee on Women and Gender Equality</p>			<p>working conditions. The Committee is also concerned that OFWs, in particular those with an irregular status, encounter obstacles in obtaining legal protection and redress in cases of discriminatory treatment and abuse at the workplace. (articles 6, 7 and 10)</p> <p>The Committee recommends that the State party implement effective policies to protect the rights of overseas Filipino workers (OFWs), inter alia by</p> <p>(a) improving existing services, such as counselling and medical assistance, provided by the Office for the Legal Assistance for Migrant Workers Affairs and diplomatic missions in countries of destination;</p> <p>(b) concluding and invoking bilateral agreements with those countries of destination where discriminatory treatment and abuse are more frequent; and</p> <p>(c) providing legal and consular assistance to its nationals seeking justice in case of discriminatory treatment and abuse at the workplace, including rape and sexual violence against women migrant workers, and ensuring that reports are investigated by competent authorities of the countries of destination.</p>

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Low levels of Minimum Wage	<p>Department of Agriculture (DA)</p> <p>Department of Labor and Employment Regional/Wage Boards</p> <p>Presidential Committee on the Urban Poor (PCUP)</p> <p>National Anti-Poverty Commission (NAPC)</p>	<p>Senate Committee on Labor, Employment and Human Resources Development</p> <p>House Committee on Labor and Employment</p>		<p>SALIGAN</p> <p>CMA</p> <p>KAKAMMPPI</p> <p>BMP</p> <p>PM</p> <p>APL</p> <p>Philippine Network of Rural Development Institutions (PhiNet RDI)</p>	<p>22. The Committee is concerned that the low levels of minimum wages, particularly in the agricultural sector, are insufficient to provide an adequate standard of living for workers and their families.</p> <p>The Committee is also concerned that the minimum wage legislation does not apply in some important sectors, including government employment and export-oriented and labour-intensive manufacturing, and that its enforcement is made difficult especially by the shortage of labour inspectors. (articles 7 and 11)</p> <p>The Committee recommends that the State party take all appropriate measures to ensure that the minimum wages fixed by the Regional Tripartite Wages and Productivity Boards provide workers with an adequate standard of living for themselves and their families, in accordance with article 7 (a) (ii) of the Covenant. The Committee also recommends that the State party extend the applicability of the minimum wage legislation to those sectors where it does not apply, and intensify its efforts to enforce legal minimum wages through increased labour inspections and fines or other appropriate sanctions for employers who fail to comply with the minimum wage legislation.</p>

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<p>Infrequent and Ineffective Labor Inspection</p> <p>Self Assessment mechanism undermines realization of right to safe and healthy working conditions</p>	<p>DOLE</p> <p>Bureau of Labor Inspection</p> <p>DBM</p>	<p>Senate Committee on Labor, Employment and Human Resources Development</p> <p>House Committee on Labor and Employment</p>		<p>SALIGAN</p> <p>CMA</p> <p>KAKAMMPPI</p> <p>BMP</p> <p>PM</p> <p>APL</p>	<p>23. The Committee notes with concern that inspections of workplaces for promoting compliance with the occupational health and safety legislation are infrequent and ineffective. It also notes that the self-assessment mechanism introduced by the 2004 Labour Standards Enforcement Framework (Department Order No. 57-04) for establishments with more than 200 workers risks undermining the effective realisation of the right to safe and healthy working conditions provided in article 7 (b) of the Covenant. (article 7 (b))</p> <p>The Committee recommends that the State party provide sufficient human and financial resources to the Department of Labour and Employment (DOLE) to enable regular and independent inspections aimed at ensuring compliance with the occupational health and safety legislation. It also recommends that the State party monitor closely the implementation of the 2004 Labour Standards Enforcement Framework so as to ensure that the application of the self-assessment mechanism does not undermine the effective realisation of the right to safe and healthy working conditions in establishments with more than 200 workers.</p>

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Absence of Divorce Legislation	National Commission on the Role of Filipino Women / Philippine Commission on Women	Senate Committee on Youth, Women & Family Relations House Committee on Women and Gender Equality House Committee on Population & Family Relations			24. The Committee notes with concern the absence of legislation on divorce. (article 10) The Committee recommends that the State party adopt legislation recognising the right of men and women to divorce, to obtain the legal severance of marital ties and to remarry after divorce.
Marital Rape and extinguishing criminal liability with wife's forgiveness	National Commission on the Role of Filipino Women / Philippine Commission on Women	Senate Committee on Youth, Women & Family Relations House Committee on Women and Gender Equality House Committee on Population & Family Relations	Supreme Court PhilJA	Sarilaya WCIRAC Women's Legal Bureau WomenLead PKKK MHRC Bangsa Bai PINK Lihok Filipina	25. The Committee, while welcoming the fact that the Act Redefining Rape as a Crime against Person of 1997 (Republic Act No. 8353) redefines and expands the crime of rape and recognises marital rape, is concerned that the subsequent forgiveness of the wife, as the injured party, extinguishes the criminal liability of the husband. (article 10)The Committee recommends that the State party strengthen the protection afforded by the Act Redefining Rape as a Crime against Person to women victims of marital rape by repealing the possibility that the criminal liability of the husband be extinguished by the subsequent forgiveness of the wife.
					26. The Committee notes with concern that, notwithstanding the various legislative, administrative and policy measures adopted by the State party to combat trafficking, a high number of women and children

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Trafficking of Women and Children Mandatory Training for Law Enforcement Officials, Prosecutors, Judges Increase Medical, Psychological, legal support provisions	DILG DOJ IACAT DOLE DSWD CWC DILG PNP	Senate Committee on House Committee on	Supreme Court PHILJA	Sarilaya WCIRAC Women's Legal Bureau WomenLead PKKK MHRC Bangsa Bai PINK Lihok Filipina	continue to be trafficked from, through and within the country for purposes of sexual exploitation and forced labour. The Committee is particularly concerned about the low number of prosecutions and convictions of traffickers. (article 10) The Committee recommends that the State party intensify its efforts to combat trafficking in human beings, especially women and children, for purposes of sexual exploitation and forced labour, inter alia by supporting programmes and information campaigns to prevent trafficking, providing mandatory training for law enforcement officials, prosecutors and judges on the anti-trafficking legislation and increasing the provision of medical, psychological and legal support to victims.
Child Labor and Number of children between 5-14 in the informal economy	DOLE Bureau of Women and Young Workers Bureau of Labor Inspections ILS	Senate Committee on Family, Labor House Committee on Family, Labor		Visayan Forum Kamalayan Educational and Research Development Assistance (ERDA) Foundation	27. The Committee remains concerned that despite the State party's efforts to combat child labour, a large number of children between the age of 5 and 14 work in the informal economy. The Committee is particularly concerned that many of these children work in hazardous or dangerous conditions and are exposed to various forms of sexual and economic exploitation, including the worst forms of child labour. (article 10)

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Strengthening national legislation on child labour in accordance with international standards Increasing number of labour inspections to ensure no child labour	CWC DSWD DOJ SC Philja DILG PNP PPSC DepEd NSCB NSO			NGO Coalition on the Convention on the Rights of the Child Lingap Pangkabataan World Vision PLAN International	The Committee urges the State party to intensify its efforts to combat child labour and protect children from all forms of sexual and economic exploitation, including the worst forms of child labour, inter alia through (a) strengthening its national legislation prohibiting child labour in accordance with international standards; (b) increasing the number of labour inspections in order to ensure the respect of its national legislation prohibiting child labour; (c) ensuring the imposition of fines and criminal sanctions to persons making use of illegal child labour; (d) organising mandatory training for law enforcement officials, prosecutors and judges; and (e) adopting all appropriate measures to facilitate recovery and access to educational opportunities for former child workers. The Committee recommends that the State party undertake a national survey on the nature and extent of child labour, and include information on progress made in combating child labour in its next periodic report. 28. The Committee is deeply concerned that, in spite of the high rate of economic growth achieved in recent years, the percentage of

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	<p>High percentage of persons living below the poverty line</p> <p>CESCR Statement Poverty and ESC Rights</p>	<p>NEDA</p> <p>DBM</p> <p>NAPC</p> <p>OMA</p> <p>NSCB</p> <p>NSO</p> <p>PHRC</p> <p>League of Cities Municipalities Provinces</p>	<p>Senate Committee on</p> <p>House Committee on</p>			<p>Global Call to Action Against Poverty (GCAP)</p> <p>Philippine Rural Reconstruction Movement (PRRM)</p>	<p>persons living below the official poverty line has actually increased to an estimated 36 per cent of the population in 2007. The Committee also notes with concern the wide regional disparities between the National Capital Region and the poorest regions of the country, in particular the Autonomous Region of Muslim Mindanao, and the significant inequalities in income distribution, especially between urban areas and poor rural areas. (article 11)</p> <p>The Committee recommends that the State party allocate sufficient funds for the implementation of its poverty eradication strategy, and ensure the full integration of economic, social and cultural rights in the strategy, as recommended by the Committee in its Statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2001/10).</p> <p>The Committee requests the State party to include in its next periodic report detailed information on the results of the measures adopted under the strategy, including updated statistical data, on an annual basis, on the percentage of the population living in poverty, disaggregated by gender, age, number of children per household, rural/urban population, and ethnic group.</p>

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Informal Settlements and national budget for housing GC 4 on the Right to Adequate Housing	PCUP HUDCC OVP Pag-ibig			Urban Poor Associates (UPA) Kongreso ng Pagkakaisa ng mga Maralita ng Lungsod (KPML) SALIGAN Co-Multiversity Philssa Community Organizing for People's Enterprise (COPE)	<p>29. The Committee notes with concern that an estimated 16.5 million, roughly 30 per cent, of the urban population continue to live in informal settlements and slums, sometimes built on riverbanks, railroad tracks and other high-risk areas, with no or limited basic infrastructures and services, without legal security of tenure and under constant threat of eviction. The Committee also notes with concern that the percentage of the national budget allocated to the realisation of housing programmes aimed at providing security of tenure and affordable housing, such as the Presidential Land Proclamation, is not sufficient to increase the supply of social housing units for members of the most disadvantaged and marginalised groups. (article 11)</p> <p>The Committee requests the State party to allocate sufficient funds for the realisation of programmes aimed at providing security of tenure and affordable housing, particularly to members of the most disadvantaged and marginalised groups, in line with its General Comment No. 4 (1991) on the right to adequate housing.</p>
					<p>30. The Committee regrets that most of its previous recommendations relating to the prevention of illegal forced evictions (E/C.12/1995/7, paras. 31 and 32) have not been acted upon by the State party, and</p>

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Illegal Forced Evictions	OVP HUDCC MMDA PCUP League Of Cities, Municipalities League of Provinces	Senate Committee on House Committee on		UPA KPML SALIGAN Co-Multiversity Philssa COPE	remains deeply concerned about the large-scale forced eviction of urban families carried out for the purpose of urban renewal and beautification, which has reportedly affected over 1.2 million people in the period between 1995 and 2008. It is also concerned about the lack of effective consultation of, and legal redress for, persons affected by forced evictions, and the inadequate measures to provide sufficient compensation or adequate relocation sites to families who have been forcibly removed from their properties. (article 11) In line with the recommendations contained in paragraphs 31 and 32 of its previous concluding observations, the Committee urges the State party, as a matter of priority, to (a) ensure the effective implementation of the Urban Development and Housing Act (UDHA) of 1992 (Republic Act No. 7279) and other laws and regulations prohibiting illegal forced evictions and demolitions; (b) reinforce the mandate of the Presidential Commission for the Urban Poor "as the sole clearing house for the conduct of demolition and eviction", in accordance with Executive Order No. 152 of 2002; (c) undertake open, participatory and meaningful consultations with affected residents and communities prior to implementing development and urban renewal projects;

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					<p>(d) ensure that persons forcibly evicted from their properties be provided with adequate compensation and/or offered relocation, in accordance with section 28 of the UDHA and the guidelines adopted by the Committee in its General Comment No. 7 (1997) on forced evictions; and</p> <p>(e) guarantee that relocation sites are provided with basic services (including drinking water, electricity, washing and sanitation facilities) and adequate facilities (including schools, health care centres and transportation) at the time the resettlement takes place.</p>
<p>Illegality of Abortion in all circumstances</p> <p>GC no. 14 on the right to the highest attainable standard of health</p>	<p>DOH</p> <p>NCRFW</p> <p>DILG</p> <p>League Of Cities, Municipalities</p> <p>League of Provinces</p>	<p>Senate Committee on Health</p> <p>House Committee on Health</p>	<p>Supreme Court</p> <p>Philija</p>		<p>31. The Committee notes with concern that, under the State party's legal system, abortion is illegal in all circumstances, even when the woman's life or health is in danger or pregnancy is the result of rape or incest, and that complications from unsafe, clandestine abortions are among the principal causes of maternal deaths. The Committee is also concerned about the inadequate reproductive health services and information, the low rates of contraceptive use and the difficulties in obtaining access to artificial methods of contraception, which contribute to the high rates of teenage pregnancies and maternal deaths existing in the State party. (article 12)</p>

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					<p>The Committee draws the attention of the State party to its General Comment No. 14 (2000) on the right to the highest attainable standard of health, and urges the State party to adopt all appropriate measures to protect the sexual and reproductive rights of women and girls, inter alia through measures to reduce maternal and infant mortality and to facilitate access to sexual and reproductive health services, including access to family planning, and information. In particular, the Committee encourages the State party to address, as a matter of priority, the problem of clandestine deaths as a result of clandestine abortions, and consider reviewing its legislation criminalising abortion in all circumstances.</p>
Dissemination of the Concluding Observations	PHRC			<p>Philippine NGO Network for ESC Rights Philippine Human Rights Information Center (PhilRights)</p>	<p>32. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging non-governmental organisations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.</p>

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Ratification of ILO Convention No. 169	NCIP DOLE DFA PHRC PLLO LEDAC	Senate Committee on Foreign Relations IPs				33. The Committee encourages the State party to consider ratifying ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.
Ratification of ILO Conventions 81 on Labor Inspection on Industry and Commerce and No. 101 on Minimum Standards of Social Security	DOLE DFA PHRC PLLO LEDAC	Senate Committee on Foreign Relations IPs		SALIGAN CMA KAKAMPPPI BMP PM APL Homenet Philippines Visayan Forum Magcaisa Panday Panlipi		34. The Committee also encourages the State party to consider ratifying ILO Conventions No. 81 (1947) concerning Labour Inspection in Industry and Commerce, and No. 102 (1952) concerning Minimum Standards of Social Security.
Common Core Document	DFA PHRC					35. The Committee invites the State party to submit a common core document in accordance with the 2006 harmonised guidelines on reporting to the international human rights treaty monitoring bodies (HRI/GEN/2/Rev.5).
Next Submission 30 June 2013	PHRC DFA					36. The Committee requests the State party to submit its combined fifth and sixth periodic reports by 30 June 2013.



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